

**Response to the Concluding Observations and  
Recommendations Adopted by the International  
Review Committee on January 20, 2017**

Republic of China (Taiwan) 



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## Preface

1. The International Review Meeting for the Second National Reports on the Two Covenants concluded on January 18, 2017. The Presidential Office Human Rights Consultative Committee organized a press conference to publicize its concluding observations and recommendations on January 20, 2017, at which the members of the international review committee adopted 78 concluding observations and recommendations (hereinafter referred to as the “concluding observations and recommendations”). Having been key points of concern to the members of the international review committee, the shortcomings mentioned in the concluding observations and recommendations are items that require improvements in terms of Taiwan’s implementation of human rights safeguards. To remedy Taiwan’s shortcomings with regard to human rights and elevate human rights standards in line with international trends, representatives of civil society and human rights scholars and experts hope that the relevant government authorities in Taiwan can focus on the implementation, management, and evaluation of the concluding observations and recommendations.
2. The Plan for the Implementation, Management, and Evaluation of the Concluding Observations and Recommendations of the International Review Meeting for the Second National Reports on the Two Covenants (hereinafter referred to as the “Plan for the Implementation, Management, and Evaluation”) formulated by Taiwan was submitted to the 27th meeting of the Presidential Office Human Rights Consultative Committee and confirmed and passed on June 29, 2017. After the meeting, the competent authorities responsible for each point were given a response form and asked to suggest related plans and measures, the human rights indicators to be attained through the implementation of these plans and measures, and estimated schedules for their completion in accordance with the regulations in the abovementioned Plan for the Implementation, Management, and Evaluation. The indicators were given specific definitions, based on desired target values, so that the effectiveness of the plans and measures could be evaluated post implementation, with the results to be used to formulate appropriate structural indicators, process indicators, and outcome indicators for the competent authorities responsible for items in each point.



**3. Review mechanisms for stage 1 of the response form:**

- (1) After the competent authorities for each point responded to the contents of the response form, the Executive Yuan organized seven sessions of a stage 1 review meeting across different government agencies, based on the nature of each point in the response form and in accordance with the regulations set forth in the Plan for the Implementation, Management, and Evaluation. For points that involved individual government agencies, the competent authority organized 14 separate sessions of a stage 1 review meeting for the response form. These review meetings were convened between August 30 and November 15, 2017. The dates of, and related information about, the meetings are published on the Human Rights in Taiwan website.
- (2) The members of the Presidential Office Human Rights Consultative Committee, civil society, members of the Executive Yuan's Human Rights Promotion Task Force, and related authorities were invited to all review meetings in this stage. The members and civil society contributed their professional knowledge and provided valuable recommendations for sectors they have long been dedicated to. As they were mostly participants with first-hand experience of the issues at hand, they provided related authorities with plenty of feedback on the implementation of policies and issues to be considered in policymaking. To enhance their improvement plans and measures, and human rights indicators, related authorities used the meetings to fully exchange ideas, communicate, and discuss the human rights deficiencies described in the concluding recommendations.

**4. Review mechanisms for stage 2 of the response form:**

- (1) After referencing the recommendations from the review meeting for the stage 1 and revising the contents of their response forms, related competent authorities submitted their response forms to the respective unit of the Presidential Office Human Rights Consultative Committee for stage 2 review in accordance with the Plan for the Implementation, Management, and Evaluation.
- (2) The units of the Presidential Office Human Rights Consultative Committee sorted the concluding recommendations and convened eight review meeting sessions, by topic, from December 20, 2017 to January 16, 2018 for the members of the Committee to conduct the stage 2 review of the revised response forms. This stage of reviews focused on whether the

competent authorities had revised their response forms in accordance with the resolutions of review meetings organized with the participation of civil society in stage 1, and the extent to which opinions proposed by civil society had been adopted. This review ensured that the competent authorities had implemented follow-up items in accordance with the resolutions of the review meetings in stage 1 and listened to and respected public will by incorporating both the opinions of civil society and human rights indicators into their plans and measures for improving human rights shortcomings.

- (3) After units within the Presidential Office Human Rights Consultative Committee completed the stage 2 review of response forms, the competent authorities revised the response forms once again in accordance with stage 2 review recommendations. The revised response forms were submitted to the 31st meeting of the Presidential Office Human Rights Consultative Committee, and confirmed and passed, on March 30, 2018.

#### 5. Follow-up management and evaluation

Sixty-seven of the 78 points in the concluding observations and recommendations required Taiwan to make improvements. This report will focus on responding to these points. (The other 11 points affirmed positive achievements by Taiwan and did not call for improvements.) Some 389 human rights indicators were proposed based on the implementation and promotion of related plans and measures in the response forms drafted by related authorities. To manage and evaluate the implementation status of these response forms, Taiwan established a related management and evaluation system and adopted human rights indicators as part of the inception of projects, for related authorities to fill out the implementation progress every six months.

6. The semiannual reports on the implementation of the 389 human rights indicators are published on the Human Rights in Taiwan website and made available to the public. As the data on the implementation status take up substantial space, the implementation results and specific implementation status for related concluding recommendations cannot be fully included in the Response to the Concluding Observations and Recommendations Adopted by the International Review Committee and are hereby summarized by the relevant competent authority.

7. For the procedures for the implementation, management, and evaluation of the concluding observations and recommendations adopted by international experts on the second national reports on the Two Covenants, refer to Figure 1 on page 112.

## Point 9

In 2013, the Review Committee recommended the establishment of an independent national human rights commission in accordance with the Paris Principles as a priority objective. Despite various initiatives taken in the period under review, Taiwan has not yet decided whether it should establish a completely independent institution or to subordinate it to either the Presidential Office or the Control Yuan. The Committee recommends establishing, without further delay, a completely independent and pluralistic national human rights commission in full compliance with the Paris Principles.<sup>1</sup>

1. The Control Yuan established a National Human Rights Commission by submitting three relevant bills—the Organic Law of the Control Yuan National Human Rights Commission, the amended Organic Law of the Control Yuan, and the amended Organic Act of the Control Yuan Committees—to the Legislative Yuan, for review on June 19, 2019. The laws were passed in their third reading in the Legislative Yuan on December 10, 2019, and promulgated by the president on January 8, 2020. The amended Organic Law of the Control Yuan includes a new provision that promotes membership to individuals who specialize in human rights protection, are renowned in the field of human rights, or are from nongovernmental organizations involved in human rights protection. Beginning with the sixth term, the 29 members of the Control Yuan must include seven representatives from different ethnic groups or the field of human rights. The Organic Law of the Control Yuan National Human Rights Commission stipulates that the commission shall have 10 members. The President of the Control Yuan and seven members of Control Yuan with the aforementioned human rights qualifications are ex-officio members and the other two members shall be designated annually by the President of the Control Yuan from members other than the ex-officio members. The President of the Control Yuan shall serve as its chair and the vice chair shall be elected from the members. The duties of the commission include: handling and investigating incidents involving human rights violations, proposing recommendations or reports to government

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<sup>1</sup> The framed text for each point contains the concluding observations and recommendations of international experts on the second national reports on the Two Covenants.

agencies, assisting in Taiwan's incorporation of international human rights instruments, publishing thematic reports on major human rights issues and an annual national human rights status report, assisting the government in drafting state reports, supervising the promotion of human rights education, and engaging in international human rights exchanges and cooperation. The draft amendments to the Control Act were resolved at the 62nd plenary meeting of the fifth-term Control Yuan on June 11, 2019, and to be further discussed by the Human Rights Protection Committee. The Control Yuan is now working on the amendments as specified in the attached resolution of the Legislative Yuan.

### **Point 11**

In this spirit, the Review Committee wishes to encourage the Government of Taiwan to accelerate the efforts to also accept the remaining three core human rights treaties: Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol (convention against torture and cruel treatment; CAT, OPCAT), the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (CMW) and the Convention for the Protection of all Persons from Enforced Disappearance (CED). This will ensure full coverage of the core international human rights framework.

#### **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**

2. See Note 57 of the third national report on the International Covenant on Civil and Political Rights (ICCPR).

#### **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)**

3. The Ministry of Labor conducted a study into the incorporation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) into domestic law in 2014. Since the incorporation of the ICRMW would necessitate adjustments in overall cross-border labor policy and regulations requiring public consensus, this required careful evaluation based on national population policies,

immigration policies, and labor force policies. The Ministry of Labor organized interministerial meetings, expert and scholar meetings, and workshops to jointly discuss issues relating to the implementation of the ICRMW and its incorporation into domestic law.

4. The ICRMW's introduction of principles for upholding citizens' welfare rather than minimum standards represents a gap between the ICRMW and Taiwan's domestic legislation. Related authorities have raised reservations about certain clauses, including: (1) the fact that the court may, based on a petition from a prosecutor or its authority, deny a detained party the right to correspond or meet with a diplomatic authority or representative of his or her country of citizenship, citing the need to protect both the interests of the defendant and public interests; (2) the fact that where a migrant worker has violated laws or where his or her children do not have the legal right to residency, the receipt of such life necessities as education, health care, insurance, and residence by such children in Taiwan would need to be reevaluated in line with overall policy; (3) the right to political participation; (4) the extension, to migrant workers, of services normally provided to citizens, such as public housing, unemployment payments, participation in public employment plans for mitigating unemployment, employment services, and vocational training for their family members shall be evaluated based on the limited resources of the state and the principle of using migrant workers as supplementary labor; and (5) the provision for allowing migrant workers to gain the freedom to choose paid work after they have resided in their country of employment and engaged in paid work in accordance with the laws and regulations of that country for two years being different from prevailing regulations allowing migrant workers to change their employer if certain legal conditions are met, and the regulations allowing for the renewal of employment or a change in employer after a three-year period. In an effort to continue to incorporate the ICRMW into domestic legislation, the Ministry of Labor will work with the related authorities to reevaluate the necessity of these reservations.

#### **International Convention for the Protection of All Persons from Enforced Disappearance**

5. As Taiwan is not a member state of the United Nations, it is unable to complete the storage procedures for the ratification of international conventions after signing them. In addition, the

procedures specified in the Conclusion of Treaties Act require fewer administrative procedures and diplomatic resources. Therefore, the procedures in the Conclusion of Treaties Act have been adopted to incorporate the convention into domestic law. A request was submitted to the Legislative Yuan to review and incorporate the convention into domestic law on September 7, 2017.

## **Point 12**

With regard to the Two Covenants, the Review Committee wishes to commend the on-going efforts of the Executive Yuan, the Legislative Yuan and the Judicial Yuan to bring domestic law into compliance with the respective rights and obligations. However, the Committee notes that it is unclear to what extent the domestic courts have the power to give precedence to the Covenants in case of a conflict with either pre-existing or subsequent legislation. The Committee therefore recommends that the Covenants be deemed part of the Constitution of Taiwan. It further encourages the Government to strengthen the process of domestic implementation of the Covenants and the other core UN human rights treaties.

### **6. Legal practices based on the Two Covenants**

- (1) Based on laws applicable to individual cases, the citation of the Two Covenants in judicial judgments is within the scope of courts' independent review of cases. Since the promulgation of the Two Covenants in 2009, administrative courts have cited regulations in the Two Covenants, and it is clear that the implementation of the Two Covenants has been noted by the judges of administrative courts and implemented in their judgments. As to what extent judgements represent a direct application of the covenants, the Judicial Yuan maintains a list of the numbers of judgments that have cited the covenants on the human rights section of its website; this list continues to be updated. Where the Two Covenants have not been embraced, or where they have been adopted in error and the judgment is deemed to be in violation of domestic law, a party may file for litigation relief. Where a judge deems that domestic laws are sufficient for mitigating infringements in a case, the spirit of the covenants is taken into consideration in citing suitable laws even when the covenants are not themselves expressly cited. Furthermore, on July 4, 2019, the Supreme Court and Supreme Administrative Court

formed a Grand Chamber, which may have the opportunity to accept related cases in the future, or render a unified interpretation of legal disputes.

- (2) The Judicial Yuan appointed National Taiwan University to compile and analyze the adoption of the Two Covenants by domestic courts since the incorporation of the Two Covenants into domestic law in order to understand judges' attitudes to the adoption of the Two Covenants, and their blind spots; to encourage judges to embrace the spirit of the Two Covenants in reviewing cases; to ensure the contents of the Two Covenants are correctly adopted and interpreted; and to propose recommendations that would rationalize their further application. The report, a preliminary examination of the implementation of the Two Covenants based on judgments in domestic courts, has been published on the human rights section of the Judicial Yuan's website. Regarding the implementation of the Two Covenants in domestic courts, the report shows that in terms of the volume of citations by type of case, the Two Covenants were most frequently cited in criminal judgments, followed by administrative judgments, with civil judgments having the lowest number of citations. The report also revealed that the number of judgments citing the Two Covenants had increased each year, and that in terms of the quality of judgements, the courts had intentionally sought to interpret the rights and meanings specified in the general comments of the Two Covenants, and used them in their interpretation and application of domestic laws, the logic of their adoption in individual cases, or as the basis for conviction and sentencing in courts' criminal cases. For the most part, domestic courts cited the covenants in order to specify the content of rights and clarify or expand the scope of coverage of rights, to speedily prove the existence of an infringement of rights, or to strengthen the protection of rights.
- (3) Based on a preliminary review by the Judicial Yuan, cases where the Two Covenants or other international human rights conventions were cited in Judicial Yuan interpretations include Interpretation Nos. 392, 549, 578, 582, 587, 623, 678, 709, 710, 719, 728, 756, and 775. Related interpretations and arguments have been placed on the Constitutional Court's website for reference.



7. Organization of international conferences and seminar courses, and publication of papers
- (4) From 2015 to 2019, the Judicial Yuan organized related international conferences and seminars to actively assist judges in correctly adopting the Two Covenants and other international human rights conventions.
  - (5) Judicial Yuan-appointed scholars also published a paper on the applicability of international human rights conventions to administrative court trials to help administrative court judges of all levels understand the Two Covenants and other international human rights conventions, and help them correctly adopt their regulations. The paper was published in the government's eighth volume of papers on administrative litigation.

### Point 13

The Vienna World Conference on Human Rights in 1993 explicitly confirmed the universality, equality, indivisibility and interdependence of all human rights. Consequently, the Review Committee is deeply concerned that the Supreme Administrative Court in August 2014 effectively ruled out the applicability of the ICESCR before domestic courts. The Committee therefore strongly recommends that the authorities of Taiwan take all necessary measures to ensure the direct and equal applicability and justiciability of all rights contained in both Covenants before domestic courts, in accordance with General Comment No.3 of the UN Committee on Economic, Social and Cultural Rights.

8. The Supreme Administrative Court recognized the enforceability of the protection of human rights enshrined in the Two Covenants in domestic laws in a resolution in August 2014. It also specified the conditions and requirements under which appealing to the right of claim can be considered valid under the covenants, and the purpose of making a right of claim under public laws. The applicability of the International Covenant on Economic, Social and Cultural Rights (ICESCR) before domestic courts has not been ruled out.
9. To ensure the consistent application of the law by the Supreme Administrative Court, ensure the stability and predictability of its judgments, and promote the further development of the law, appropriate judgment mechanisms must be established for matters within its jurisdiction.

The Grand Chamber system of the Supreme Administrative Court was thus formed to provide a unified legal interpretation of ambiguous proposals, cases of principle importance, and disputes involving claims based on the Two Covenants.

### **Points 14 and 15**

The appropriateness and effectiveness of human rights education and training continue to be a serious concern. There appears to be little improvement since the initial review in 2013, when the Review Committee noted the “over-emphasis on quantity rather than quality” in the relevant programmes.

The Review Committee strongly recommends that Government authorities prioritize attention to human rights education and training, relevant and suitable for each intended target group. It wishes to stress and remind the Government that the objective of human rights education and training is to instill awareness of the human rights principles and values, and of how they can be enjoyed, respected, protected and fulfilled by the various sectors of society. The Committee also calls upon the Government to launch an intensive training programme for Government personnel on the human rights-based approach to governance in general and in particular to the design, planning, implementation and evaluation of all Government projects and activities. The Committee requests that a detailed progress report on this recommendation be included in the next report.

### **Improvements and Progress regarding the “Over-emphasis on Quantity Rather than Quality” in Human Rights Education and Training**

10. The Ministry of Justice has continued to supervise central government authorities in the implementation of education and training on the Two Covenants since 2011, and continued to work with local governments to organize innovative and diverse human rights education and training on the Two Covenants from 2016 to 2019. The previous statistical model used by central authorities to promote education and training on the Two Covenants that had focused on quantity was gradually revised in the second half of 2016 to focus on the quality of coverage. From the second half of 2016 to the first half of 2019, the average coverage rate was 63.42%. We will continue to work hard to intensify human rights education.

11. In 2018, the Ministry of Justice formulated a plan for evaluating the effectiveness of human rights education and training on the Two Covenants. Covering the period 2018-2020, the contents of the plan included human rights education and training materials, a breakdown of teacher qualifications, implementation methods, and a performance analysis. It was submitted to the Executive Yuan's Human Rights Promotion Task Force for initial approval and then delivered to government authorities requesting that they cooperate with and act upon the plan. The plan was also sent to the Office of the President, the Legislative Yuan, the Judicial Yuan, the Control Yuan, and the Examination Yuan for reference and implementation. The plan's outcome indicators are as follows: (1) the proportion of human rights education materials referencing the Two Covenants compiled by central government authorities must exceed 80% before December 31, 2018; (2) the proportion of seed teachers trained on the Two Covenants by central government authorities must exceed 80% before June 30, 2019; and (3) the coverage rate of training provided for personnel at all levels in government authorities must exceed 60% from July 2019 to December 2020 (including two hours of physical or online courses per person). In addition, the ratio of physical courses (fewer than 50 people per session) must exceed 40% and the average score for post-training effectiveness must exceed 75 points.

**Providing Human Rights Education and Training that is Relevant to and Suitable for Each Intended Target Group**

12. See Notes 135, 136, and 138 to 144 of the Common Core Document of the third national reports on the Two Covenants.

**Incorporating Human Rights Education and Training Implementation Plans into Annual Compulsory Courses for Civil Servants**

13. The Directorate-General of Personnel Administration made international human rights conventions a mandatory aspect of competent authorities' annual training plans from 2013 to 2016. To ensure that civil servants adopt appropriate perspectives regarding human rights and governance, and apply such perspectives to policy planning and its implementation, education on human rights has been included in the 10 hours of mandatory courses for civil servants since 2017.

14. The Civil Service Development Institute follows the policy implementation plan and related policy training plans issued by the Directorate-General of Personnel Administration each year, and incorporates human rights education and training into its annual training implementation plans. For example, from 2017 to 2019, it organized 36 sessions of human rights education and training for 3,242 participants. The institute has institutionalized and improved human rights values and concepts among civil servants working in agencies under the Executive Yuan and in local government.

**Arranging Human Rights Courses as Part of Basic Training for Civil Servants Accepted through Public Examinations, Civil Service Promotion Training**

15. Since the implementation of the Two Covenants in Taiwan, training organized by the Civil Service Protection and Training Commission (CDPTC), including basic training for civil servants accepted through public examinations, and other training, such as the training provided to officials upon promotion, has incorporated courses on human rights and related issues. These courses cover the history and significance of five conventions—the ICCPR, the ICESCR, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities—and their core contents. In 2017, to ensure attendees are able to exchange ideas and participate in a dynamic teaching experience, the CDPTC also referenced related practices adopted by other countries and the recommendations of attendees, institutions, scholars, and experts in order to change from lecture-based teaching to individual classes and provide a more suitable selection of seminars, case studies, and case analyses. The latest changes, drafted in 2018 and implemented in 2019, specified the design of courses for trainees of senior, junior, and elementary rank corresponding to their duties, together with course titles and goals.

**Enhancing Human Rights Awareness of Civil Servants in the Preparation, Review, Management, and Evaluation of Government Policies**

16. To enhance civil servants' awareness of human rights during the promotion of various government initiatives, in December 2018 the National Development Council produced a

series of educational materials on human rights principles and values in government projects. In 2019, these were integrated into the preliminary operations of government public construction operations, important social development projects, the control and evaluation of individual projects, government authorities' performance evaluation operations, and related seminars and courses. The materials are available on the National Development Council's website for access by the employees of all government authorities.

## **Point 16**

The Review Committee reiterates its previous recommendation that the Government pay all due attention to the issue of corporate social responsibility, including the need for binding legislation providing for monitoring and control. The Committee reminds the Government of its obligation under international human rights law to ensure that Taiwanese corporations, whether operating in Taiwan or abroad, as well as foreign corporations operating in Taiwan, respect all human rights. In particular, these business activities affect labour conditions, the position of female and migrant workers, trade union rights, housing rights, land rights and environmental rights.

### **Implementing Corporate Social Responsibility in Foreign Investments**

17. The government rigorously reviews foreign investment applications and adds clauses to the cases it approves. According to the Regulations Governing the Management of Corporate Foreign Investments, companies making foreign investments exceeding NTD 1.5 billion must apply for and obtain Ministry of Economic Affairs approval. Where a company's foreign investment would violate international treaty obligations, the application is denied, while clauses for fulfilling corporate social responsibilities are added into approved applications. The Ministry of Economic Affairs' Investment Commission approved (registered) 638 cases for foreign investment in 2018, and 670 cases in 2019. When approving (registering) a company's investment, the commission specifies in the approval (registration) that the company must comply with its host country's regulatory requirements in terms of its own management and that of businesses it is investing in, and actively fulfill its corporate social responsibilities.

18. Actively promoting corporate social responsibility: The requirement that companies fulfill their corporate social responsibilities in their overseas operations, as enshrined in the Two Covenants, is promoted in business investment seminars. To implement corporate human rights protections, the ramifications of a company's failure to abide by the aforementioned regulations are also reiterated. The Investment Commission organized 22 business investment seminars from 2018 to 2019, increasing awareness of corporate social responsibility as set out in the Two Covenants among participating companies and personnel. Regarding the pollution caused following Formosa Group's investment in a steel plant in Ha Tinh, Vietnam, in 2016, the Ministry of Economic Affairs will strengthen the company's corporate social responsibility education so as to prevent any infringement of human rights from reoccurring.

#### **Evaluating and Promoting National Action Plan on Business and Human Rights**

19. The government has formulated a National Action Plan on Business and Human Rights in accordance with the UN Guiding Principles on Business and Human Rights. The Ministry of Economic Affairs conducted a preliminary study and asked related government institutions and authorities to review legislation under their jurisdiction in accordance with these principles. It has since received related results from preliminary studies, and will continue to itemize regulations and administrative measures, reference the National Action Plans of EU member states, and conduct exchanges with the EU on related implementation as a reference for future plans.

#### **Requiring that Companies Fulfill Social Responsibilities following the Amendment of the Company Act**

20. An amendment to the Company Act on November 1, 2018, introduced the concept of corporate social responsibility and provides the specific legal basis for the fulfillment of corporate social responsibility among all companies operating in Taiwan.

#### **Encouraging the Financial Services Industry to Practice Corporate Social Responsibility**

21. The Financial Supervisory Commission has established management regulations relating to corporate social responsibility, and has overseen the Bankers Association of the Republic of China, the Taipei Bills Finance Association, insurance companies, and securities and futures

firms in establishing self-governing rules designed to improve and facilitate the implementation of corporate social responsibility policies.

22. When a bank extends corporate credit and conducts loan reviews, it is expected to review whether borrowers have fulfilled environmental protection, ethical corporate management, and social responsibilities in order to comply with the Equator Principles. In addition, when an insurance company organizes project financing and conducts investment plans, it is expected to review whether borrowers and investees have fulfilled environmental protection, ethical corporate management, and social responsibilities. The Financial Supervisory Commission has also overseen work by trade unions to complete the drafting of guidelines for the adoption of the new five-day working week system.

### **Requiring that Listed Companies Produce Corporate Social Responsibility Reports;**

#### **Ensuring Companies Respect Human Rights**

23. To encourage listed companies to disclose corporate social responsibility practices, the Financial Supervisory Commission requested that the Taiwan Stock Exchange Corporation and Taipei Exchange establish rules for the preparation and filing of corporate social responsibility reports by TPEX listed companies. This required all TWSE/TPEX-listed food, financial, and chemical industries, and companies with a paid-in capital of NTD 10 billion and above, to prepare corporate social responsibility reports according to the latest sustainability reporting guidelines of the Global Reporting Initiative. In 2015, this policy was expanded such that TWSE/TPEX-listed companies with a paid-up capital of between NTD 5 billion and NTD 10 billion would be required to prepare corporate social responsibility reports from 2017, and companies with cumulative losses from 2019. These regulations adhere to the spirit of the ICESCR by incorporating disclosure requirements and performance indicators for such issues as labor practices and companies' respect for labor and human rights. As of 2019, 314 TWSE/TPEX-listed companies were producing corporate social responsibility reports.

### **Protecting Migrant Workers' Rights to Work**

24. See Notes 67 to 83 of the third national report on the ICESCR.

### **Protecting Workers' Right to Exercise Group Powers; Encouraging Workers to Form Unions**

25. See Note 94 of the third national report on the ICESCR.

### **Reviewing whether Environmental Protection Laws and Related Interpretations Meet Regulations in the Two Covenants, including Environmental Human Rights**

26. From 2015 to 2019, the government established (enacted), amended, abolished, and suspended the application of seven laws, 226 environmental protection regulations, and 194 administrative rules, and completed 20,734 interpretations of regulations or case studies meeting conditions set out in the Two Covenants.

### **Reducing the Pollution caused by Business Activities by Levying Pollution Prevention (Control) Fees from pollution sources in accordance with the law**

27. To improve air quality, since July 1995 the government's environmental control strategy has sought to adopt the environmental control strategies and economic tools employed by advanced countries. This includes the collection of air pollution control fees from stationary sources of pollution, and various review systems. In addition, because mobile pollution is closely related to oil consumption, the government levies air pollution control fees from sellers or importers whose oil products are sold domestically, while exempting products intended for export. The collection of water pollution control fees began in separate phases starting from May 1, 2015.

### **Enforcing Environmental Protection Laws**

28. Gains made through the violation of environmental protection laws are included in the scope of penalties in the Administrative Penalty Act, but not limited by the maximum statutory fine. Penalties totaling NTD 151.72 million were imposed for 130 violations of environmental protection laws from 2015 to 2019 (including more than NTD 50.7 million in illegal gains).



**Publicly Praising Companies' Material Contributions to Environmental Protection;  
Encouraging Other Companies to Follow Suit**

29. The 2019 National Sustainable Development Awards, held on November 25, 2019, recognized outstanding performance in the field of sustainable development in 2019. Three companies were awarded corporate sustainable development awards.

**Point 17**

The Review Committee recognizes the fundamental value of transitional justice in the process of overcoming past wrongdoings. The Government's legislative proposals need to effectively and directly address the right to truth and the restoration of the access to justice after the lift of martial law. In this regard, the effective access of victims and researchers to all archives should be guaranteed. The Review Committee strongly recommends that the Government, in a timely manner, initiates an inclusive truth and reconciliation process, involving also the security forces, to discuss and reflect on collective memory.

**Ensuring Victims and Researchers are Able to Access All Archives Effectively**

30. Access to political archives; transfer plans: The National Development Council's National Archives Administration (hereinafter referred to as the "NAA") has, since the establishment of its preparatory office in 2000, triaged the archives based on level of risk and importance of retention, and collated political archives through six projects. These archives included materials on the February 28 Incident, the Formosa Incident, and material political incidents involving Henry Liu (劉宜良), Lin Yi-hsiung (林義雄), Chen Wen-chen (陳文成), Cheng Nan-jung (鄭南榕), and Liu Tzu-jan (劉自然), as well as investigatory and security archives relating to intelligence operations during the Martial Law Period, surveillance by police institutions, and investigation and arrest procedures. The sixth of these projects saw the transfer of more than 130,000 files. The archives of the Ministry of Justice's Investigation Bureau were transferred in two stages, in December 2018 and December 2019, based on trilateral negotiations between the NAA, the Transitional Justice Commission, and the Investigation Bureau. Files from other agencies were scheduled to be transferred between June 2018 and the end of June 2019. The fifth and sixth transfers of political archives, completed from 2015 to 2019, amounted to approximately 1,877 meters of material.

**31. Open access to political archives:**

- (1) After the NAA completed the compilation of national archives, the catalog was published on the Archives Access Service. As of 2019, 105,962 catalogs had been published for study and use by all. After the promulgation of the Political Archives Act on July 24, 2019, procedures for the use of archives were simplified to expressly differentiate files by user. Parties mentioned in a file are provided the maximum possible access, and given first option to view and copy such files, which has shortened application approval and denial procedures. To protect third-party privacy alongside the right to freedom of information, the act expressly states the retention period of various documents to be viewed, transcribed, or duplicated, and adopts the earliest document date in a volume as the basis for calculating such periods, so as to provide the earliest possible access to archives. From 2015 to 2019, the NAA received 1,399 applications for use of the political archives. These applications covered 136,030 cases, of which information on 135,615 cases was provided. In addition, processing authorities (agencies) filed 396 applications for 417,046 cases, for which information on 416,983 cases was provided.
- (2) To promote the opening and use of its archives, the NAA added a Political Archives Application Section to its online Archives Access Service in 2017. This provides an introduction to the political archives collection, catalogs, index inquiries, and full-text image file applications.

**32. Private document inventory and return:** To uphold the universal values of democracy and human rights, and respond to society's expectations regarding transitional justice, the NAA established Operation Directions for Applications for the Return of Private Documents in the Archives to Victims of Political Oppression. Archives were examined and family members of victims of political oppression were contacted to prepare for the return of personal documents. From 2015 to 2019, 99 additional pages of personal documents that could be returned were found. These documents belonged to 26 political victims. The victims or their family members were contacted, and applications from 12 people (involving 12 cases) were processed.

## **Initiating Truth and Reconciliation Procedures**

- 33.** The families of those who lost their lives during the February 28 Incident, as well as people who were physically injured, had their freedom infringed upon, or lost property as a result of actions by civil servants or public institutions, can apply to the Memorial Foundation of 228 for compensation and restoration of reputation in accordance with the February 28 Incident Disposition and Compensation Act (formerly known as the February 28 Incident Disposition and Reparation Act). From 2015 to 2019, a total of 77 applications for compensation were received, of which 42 were approved, for a total value of NTD 65.2 million. For those who applied for the restoration of their reputation and received approval, the president personally presented reputation restoration certificates to the victims or their family members during 228 anniversary ceremonies or other important ceremonies. From 2015 to 2019, a total of 44 certificates were issued to restore people's reputations.
- 34.** Previous compensation and restoration of reputation for wrongful conviction for sedition and espionage during the Period of Mobilization for the Suppression of the Communist Rebellion
- (1) To process applications for compensation and restoration of reputation for wrongful convictions for sedition and espionage during the Period of Mobilization for the Suppression of Communist Rebellion, the Executive Yuan previously established the Compensation Foundation for Wrongful Trials on Charges of Sedition and Espionage during the Martial Law Period in accordance with the Compensation Act for Wrongful Trials on Charges of Sedition and Espionage during the Martial Law Period. The foundation was responsible for matters related to compensation, research, and the restoration of reputation. From its establishment in 1999 to its dissolution on September 8, 2014, the foundation processed a total of 10,067 compensation applications and approved payments of NTD 19.9 billion. After the liquidation of the foundation, the Ministry of the Interior assumed responsibility for processing appeals, administrative lawsuits, the reissuance of reputation restoration certificates, and related petitions by convicted individuals and their family members in accordance with regulations. On December 10, 2014, such matters were transferred to the Memorial Foundation of 228, which processed two appeals, six administrative lawsuits, and 66 petitions between 2015

and 2019. For those who applied for the restoration of their reputation and received approval, the president personally presented reputation restoration certificates to the victims or their family members during important ceremonies. From 2015 to 2019, a total of 22 certificates were issued to restore people's reputations.

(2) Between 2012 and 2019, the Ministry of National Defense processed and concluded 52 cases, and approved 12 cases (persons) (23%) for compensation through its military courts and prosecutors' offices. Related compensation totaled NTD 9.69 million. In accordance with the relevant laws, the ministry also reviewed investigators' responsibilities in cases of administrative oversight, and internal compensation claims.

**35.** Promotion of transitional justice: Regarding annulments of wrongful convictions and the expunging of criminal records, announcements were made on October 4 and December 7, 2018, and February 27 and May 30, 2019, annulling the wrongful convictions of 5,837 persons. The Transitional Justice Commission also requested that the Judicial Yuan, the Ministry of National Defense, the Ministry of Justice, the Taiwan High Prosecutors Office, and the Ministry of the Interior's National Police Agency proceed to expunge related criminal records. The Transitional Justice Commission has also promoted therapy for the victims of political violence. The outline of a training course on healing political trauma was formulated with the collaboration of experts from different fields, including clinical psychology and counseling, psychiatry, social work, and law. Based on this outline, two rounds of training were implemented, with 59 professionals completing the training and becoming ready to assist in the psychological recovery of political victims and their family members.

### **Discussing and Reflecting on Collective Memory**

**36.** At the request of the Compensation Foundation, the Ministry of National Defense, the NAA, and the Supreme Prosecutors Office provided access to more than 70,000 official letters and 10,067 files. These were transferred to the Ministry of Culture on August 29, 2014, for its National Human Rights Museum to continue the collection and research of historical documents relating to the Martial Law Period, as well as associated education programs. In 2019, the museum created a Historical Records Archive System, and continues to engage

victims and family members, historians, lawyers, and other experts to provide records for study and use by the public while also protecting the privacy of those involved. Through comprehensive archive maintenance and promoting accessibility to files, the National Human Rights Museum is seeking to preserve important aspects of human rights history and the memories of the state.

37. In its efforts to restore historical truth, the Transitional Justice Commission compiles concluding reports on transitional justice and has integrated the archives and documents of such government agencies as the National Human Rights Museum and the NAA to create the Taiwan Transitional Justice Database. This has been crucial in identifying the perpetrators of, and participants in, mechanisms of oppression, and thereby assigning accountability.

### **Point 18**

The Review Committee expresses serious concern about the growth of income inequality in Taiwan. Recent figures show that Taiwan's wealth is increasingly becoming concentrated among the top 1% of its population. Such growing income inequality threatens the social stability, democratic coherence and the general realisation of human rights. The Review Committee calls on the Government to reformulate its national economic policies including its taxation system and domestic and global trade regimes. These steps are particularly essential for the full realisation of economic, social and cultural rights.

### **Continuously Advancing Policies for Improving Income Distribution by Government Agencies**

38. The government is actively consolidating improvements to income distribution by focusing on social welfare, education and employment, salaries, and taxation, with related government agencies promoting various associated tasks. Taiwan's Gini coefficient has gradually declined since 2010, and dropped to 0.338 in 2018, lower than before the global financial crisis. The Gini coefficient has remained lower than 0.35 for many years, which is lower than the international alert line of 0.4. These changes represent a relatively steady trend.

## **Establishing a Fair and Reasonable Income Tax System in Line with International Trends and Competitiveness Requirements**

39. The Income Tax Act was amended to implement optimizations to Taiwan's consolidated income tax system from 2018. Personal standard deductions for a single taxpayer's consolidated income tax rose from NTD 90,000 to NTD 120,000; deductions are doubled for taxpayers filing with their spouses. The special deduction of income from salaries/wages and the special deduction for the disabled were increased from NTD 128,000 to NTD 200,000, while the special deduction for preschool children was raised significantly, from NTD 25,000 to NTD 120,000. These deductions, which represent increases of between 33% and 380%, have benefited 5.42 million households and were implemented to relieve the tax burden on salary earners, those on medium to low incomes, and families raising children. To rationalize tax burdens on salaries/wages, starting from 2019 taxpayers may choose between a special deduction of income from salaries/wages of NTD 200,000 or deductions of expenses when calculating salaries/wage incomes.
40. Taiwan regularly adjusts consolidated income tax exemptions, special deductions, tax brackets, and fixed tax-exempted amounts for separation pay and pensions in response to changes in the Consumer Price Index. In 2017, consolidated income tax exemptions reached the required benchmark for adjustment (following a rise in the Consumer Price Index of 3.06%), and exemptions were increased from NTD 85,000 to NTD 88,000 per person per year. Where a taxpayer or spouse is over 70 years old or where a taxpayer or spouse's lineal ascendant is over 70 years old and is a dependent of the taxpayer, the exemption amount was increased from NTD 127,500 to NTD 132,000 per person per year.

## **Increasing Employment Opportunities in Remote Areas by Assisting Local Industries**

41. To increase employment opportunities in remote areas, the Ministry of Economic Affairs provides local companies with substantive or short-term counseling according to need. Before providing the more substantive forms of assistance, the local government organizes a public hearing so that local operators can understand assistance mechanisms and confirm their requirements, filtering out the candidates who will go on to receive counseling. These

measures are followed up by courses on technical services and applications (QR codes, AR, and online or mobile apps), narrative-driven social media marketing, brand value intensification, and other know-how. The Ministry of Economic Affairs also conducts onsite visits to the stores receiving assistance to understand the effectiveness of its measures and establish a basis for adjusting future plans. The ministry helped 85 companies in disadvantaged, remote areas in 2016, and completed 100 instances of substantive or short-term counseling in 2017.

## **Points 19 and 20**

The Review Committee commends the Government for the efforts taken to ensure legislative compliance with the principles of equality and nondiscrimination. However, the Committee expresses its concern that while antidiscrimination clauses are scattered in several acts, there is no comprehensive antidiscrimination legislation covering all grounds of discrimination in all contexts.

In the 2013 Concluding Observations and Recommendations, the Review Committee recommended the enactment of comprehensive legislation covering all fields of gender equality, with a view to implementing gender mainstreaming and gender budgeting. While reiterating this recommendation, it further recommends that the Government consider adopting a comprehensive antidiscrimination law. This law should cover all grounds of direct and indirect discrimination, and positive obligations that are binding on both the public and private sectors and placing an obligation on the Government to ensure *de jure* and *de facto* equality.

### **Considerations for Enacting a Comprehensive Anti-Discrimination Law**

42. In June 2019, the Ministry of Justice concluded a subcontracted research project on whether Taiwan should enact a comprehensive antidiscrimination law, and recommendations for legislation. Its research unit has also completed a draft of the Equality Act, which provides specific definitions for direct and indirect discrimination and stipulates related remedial procedures, including complaints, objections, applications for review, and appeals. The ministry has issued letters to related authorities soliciting their opinions on this. In addition,

the Executive Yuan invited the Equality Act research team, the Executive Yuan's Department of Gender Equality, and other related authorities (units) that had been involved in drafting antidiscrimination laws to participate in a meeting on November 27, 2019, to discuss the enactment of a comprehensive antidiscrimination law. These discussions and evaluations will be referred to in drafting future legislation. The Department of Gender Equality, the Ministry of the Interior, the Ministry of Education, the Ministry of Labor, the Ministry of Health and Welfare, the Council of Indigenous Peoples, the Ministry of Justice, and other authorities responsible for antidiscriminatory matters and equality laws have a hand in processing current antidiscrimination issues.

### **Point 21**

The Review Committee commends the Ministry of Education for implementing the previous recommendation for developing and implementing effective information and awareness-raising initiatives on equal rights of all persons regardless of gender identity, as well as for the implementation of the Gender Equality Education Act. The Committee urges the Government to continue its efforts to promote, protect and ensure respect for the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons.

### **Continuing to Promote Gender Equity Education in Accordance with the Gender Equity Education Act**

43. The Gender Equity Education Act stipulates that elementary and junior high schools must incorporate gender equity education into their curricula, and teach at least four hours of courses or activities on gender equity every semester. This covers such issues as emotional education, sex education, learning about and respecting different genders, gender characteristics, gender features, gender identity, sexual orientation, sexual abuse, sexual harassment, and the prevention of sexual bullying, thus improving students' awareness of gender equity.
44. Gender equity education is an important topic in the nine-year curriculum outline used by elementary and junior high schools. The outline is used to develop indicators for skills at



various levels; these indicators are then integrated into courses across academic subjects. In 2019, a 12-year compulsory education curriculum outline was implemented across the different stages of education. Course design must incorporate suitable gender equality issues and schools are required to plan courses as part of their curriculum, if necessary. To ensure that education gives full play to the topic of gender equity, issues have been appropriately adapted and incorporated into the curriculum outlines of every academic subject.

45. To help schools teach gender diversity, the drafting, review, and selection of educational materials in schools must satisfy gender equity education principles, reflect the historical contributions and life experience of different genders in a balanced manner, portray diverse gender viewpoints, and dispel gender stereotypes and associated hierarchies so as to adequately portray gender equality and diverse values and provide students with appropriate messages, explanations, and accounts. The terminology used in textbooks has been discussed and clarified by review committees and the National Academy for Educational Research's gender equity education consulting team. Textbook publishers are expected to use online resources made available on the websites of related government authorities, and to ensure the accuracy and appropriateness of other sources of information by considering the suitability and necessity of other online links. Textbook publishers have reexamined and updated gender-related content in this way.
46. In response to the dissemination of false information on gender equity education intended to spread social disorder, and attempts to distort the value and significance of gender equity education, the Ministry of Education has resolutely defended gender equity education and requires that all local government representatives attending National Education Bureau Directors Meetings provide full support to the hard work and dignity of first-line professional educators, and solemnly attest that no inappropriate gender equity education of the form alleged by those disseminating false rumors is presented in classrooms.
47. To provide a gender-friendly environment on campuses, the Ministry of Education will use the establishment of, or plans to establish, gender-friendly restrooms as an indicator for measuring related subsidies. It also issued letters to colleges and universities that have not yet set up gender-friendly restrooms asking that they consider promoting such restrooms on campuses after

weighing up both their requirements and the principle of autonomy. According to the results of a survey in 2018, 96 colleges and universities had established gender-friendly restrooms.

### **Improving Equality Awareness**

48. To promote and uphold equal public participation in culture and access to culture, and ensure that citizens are not treated differently due to social or gender-based factors, the Ministry of Culture established Operating Guidelines for the Promotion of Cultural Equality Subsidies and each year solicits cases to receive subsidies by serving as cultural equality demonstration projects. The National Communications Commission regularly invites professionals from the radio and television industries to gender equality seminars, aiming to enhance their conception of gender equality, and prevent gender objectification and stereotypes and the broadcasting of discriminatory material.

### **Point 22**

The Review Committee nevertheless remains concerned about the life situation of LGBTI persons. Like in many other countries, such persons frequently face exclusion, marginalization, discrimination, harassment and aggression by large parts of the general population and in schools, resulting in high suicide rates and physical and mental health problems. While noting that the Government has taken considerable steps to establish training programmes for doctors, nurses and other hospital staff, as well as teachers at all levels of education on the full respect of human rights for LGBTI persons, the Committee recommends that public large scale and sustained information campaigns in the mass media be carried out as a parallel activity, in order to enhance general awareness of the human rights situation of LGBTI persons in Taiwanese society.

### **Enhancing Gender Equity Education in All Stages of Education in Accordance with the Gender Equity Education Act**

49. Promoting gender equity education in all stages of education
- (1) At elementary, junior high, and senior high school levels: A central government-local government-school three-tier assistance system helps local governments promote gender equity education and provides professional consulting services regarding curricula,

education materials, and education, thus improving teachers' professional knowledge. Educational materials are continuously uploaded to a website operated by the Curriculum and Instruction Consulting Committee on Gender Equity Education, K-12 Education Administration, Ministry of Education, for reference by the public and teachers. A Gender is Here—Gender Video and Audio Sharing Site was also established to provide a diverse range of materials that encourage people to consider related gender issues and increase gender awareness.

- (2) In tertiary education: Each year, the government formulates gender equity education work plans, and employs contractors or subsidies work to provide gender equity education training or studies. Such courses promote full respect for the human rights of LGBTI persons.
- (3) In special education institutions: The Ministry of Education's K-12 Education Administration appoints contractors to develop various gender equity education materials for learners with various disabilities, publishing such materials on its own website and the Special Education Transmit Net. To improve teachers' gender equity and incident investigation skills, the administration also organizes gender equity knowledge and empowerment seminars on a yearly basis.

**50.** To ensure a correct public understanding of gender equity education, the Ministry of Education has produced educational materials that clarify misunderstandings or myths regarding gender equity education, among which it promotes the rights of students of different genders to be respected.

### **Implementing Preemployment and On-the-Job Training Systems for Teachers**

**51.** To enhance trainees' and teachers' professional skills in terms of providing gender equity education, the Ministry of Education has established a comparison table of professional education courses and credits for preemployment training courses, and incorporated gender equity education into professional education courses. Universities can also run related gender equity education courses for trainee teachers. The Ministry of Education has listed gender equity education as a prioritized, subsidized item in its operating guidelines for on-the-job training for teachers in schools and kindergartens below senior high school-level, as well as

prioritized the allocation of subsidies to gender equity education courses offered by universities.

### **Promoting Good Mental Health among LGBTI Persons**

- 52.** To promote good mental health in Taiwan’s gay communities, the Ministry of Health and Welfare subsidized the 2018 Gay Mental Health Promotion Project organized by the Chinese Physical and Mental Health Promotion and Research Association, for which results were as follows: organized 20 sessions of mental health promotion seminars for gay people, for a total of 379 participants; used an online questionnaire to conduct surveys on the mental health requirements and status of LGBTI persons, with 912 respondents and 909 valid questionnaires; organized large-scale activities to promote mental health and self-diagnosis among gay people, with three large-scale activities providing services in 111 cases; collated the mental health service resources available to LGBTI persons in Taiwan (including service outlets) to produce a gay-friendly mental health resources handbook, which was published on the Ministry of Health and Welfare website for people to download and use; scheduled mental health promotion work for LGBTI persons with three private associations for 2019, including general mental health promotion for Taiwan’s LGBTI communities, the provision of mental health consultation hotline services for LGBTI persons, and the continuous collection of LGBTI mental health service resources.

### **Point 23**

The Review Committee reiterates the previous recommendation that the Government upgrade the Gender Equality Department so that it has the power, authority and budget to enable it to effectively carry out its mandate in data collection, gender impact assessment and the formulation and implementation of policies on gender equality.

- 53.** The Executive Yuan’s Department of Gender Equality was elevated from ministerial level (level 2) to Yuan level (level 1) during its planning and establishment in 2012. In 2019, the department’s budget for gender issues saw an increase over the two previous years. To ensure adequate use of government resources and maximize effectiveness in the future, new operations will be given additional budgets as they develop, or organized jointly with other authorities.

## Point 25

The Review Committee further reiterates its earlier recommendation that the impact of the various initiatives be assessed, and on the basis of this assessment a comprehensive plan be developed to address domestic violence by adopting an interdisciplinary and multi-sectoral approach. It also recommends that the Government pay additional attention to the vulnerable groups of women, such as women with disabilities and the new immigrants who arrive as brides.

**54.** In terms of constructing a family-centric, community-based service model, related strategies and the status of their implementation are as follows:

- (1) Replenishing social work-related human resources in local government: Provided subsidies to local governments to hire 342 additional social workers to implement integrated protective and high-risk family services. In addition, to the avoid duplication of labor, coordinate issues between different units, and expedite the processing of cases, all local governments have established centralized case reporting and screening mechanisms.
- (2) Strengthening the promotion of preventative education: Since 2016, provided subsidies for the organization of a Zero Violence—Zero Tolerance social education program and promotional activities designed to encourage communities to more actively disclose all forms of gender violence and consider their cultural and ethnic diversity (including women, children and adolescents, men, indigenous peoples, new immigrants, the elderly, and people with disabilities), thus underpinning the organization of local gender violence prevention education. As of 2019, subsidies had been provided for 238 projects.
- (3) Strengthening public and private sector cooperation model: Reconstructed the division of roles in the public and private sectors for adult protective systems so as to facilitate smoother cooperation between the sectors; reviewed the advantages of the private sector in terms of how its diversity and flexibility is suited to the processing of nonurgent cases and to meeting expectations for personalized services, and thereby able to strengthen service performance. Through the promotion of this project, local governments have gradually adjusted their model for cooperating with civil associations in separate phases, with all adjustments due to be completed before 2020.

(4) Expanding safety net for domestic violence:

- ① To strengthen the effectiveness of follow-up visits and treatment for the perpetrators of domestic violence and those suffering from mental illness, the Ministry of Health and Welfare has invited local governments to domestic violence safety net expansion working group meetings to study the mechanisms by which victims of domestic violence can cooperate with social workers and psychiatric social workers. Local governments have also been asked to incorporate Level A cases—cases made by psychiatric social workers where the respondent suffers from a mental health disorder—into the scope of services in this plan. Social workers and psychiatric social workers have also been required to carry out joint visits and implement joint management service models for dealing with domestic violence. Local governments have incorporated these cases into the scope of services under their 2019 domestic violence safety net. The Ministry of Health and Welfare will also organize regular review meetings to inspect local governments' implementation of all of these matters.
- ② To date, local governments have sought to evaluate violent incidents involving intimate partners, and assessed those at a high risk of mortal danger for inclusion in regular cross-network meetings that review evaluation reports, the service implementation status of different systems, and future work strategies. This information is then used to formulate a comprehensive safety plan through the full exchange of professional opinions on social administration, health administration, police administration, education, and the legal system. Local governments will continue to expand the family-centric domestic violence safety net and promote synergy through cooperation between different units.

55. In 2019, based on the research recommendations made to the Ministry of Health and Welfare in a preliminary study into the services available to new immigrant victims of domestic violence, cooperation mechanisms with new immigrant family service centers became one of the personal safety evaluation indicators in the onsite evaluation indicators and scoring standards table used to measure the effectiveness of the care services provided to new

immigrants by special municipality and county (city) governments. These indicators have mainly been used to justify the implementation of mechanisms that facilitate cooperation between various domestic violence and sexual assault prevention centers, department (bureaus) of social affairs, and new immigrant family service centers, as well as to increase service connectivity and integrity through the integration of related online resources.

### **Point 26**

The Review Committee is concerned that only 5% of persons of the population are registered as persons with disabilities, far below the national average of 10% to 15%. It recommends that the Government of Taiwan conduct a national census to determine the actual number of persons with different disabilities, including those in their old age. It further recommends that Taiwan formulate policies in line with the result of the census data, with the full participation of people with disabilities, and allocate adequate budget to meet their needs.

56. To meet the requirements of Notes 76 and 77 of the Concluding Observations and Recommendations regarding the first national reports on the Convention on the Rights of Persons with Disabilities, in August 2018 the Ministry of Health and Welfare recommended to the Executive Yuan's Directorate General of Budget, Accounting and Statistics that questionnaires designed by the Washington Group on Disability Statistics be included in its 2020 population and residence surveys.

## Point 27

The Review Committee welcomes the historic apology to indigenous peoples by President Tsai Ing-wen in August 2016. It recommends the effective enforcement of Taiwan's Indigenous Peoples Basic Law (IPBL) and the implementation of revised policies and administrative measures undertaken by the Government in connection with the 2013 Concluding Observations and Recommendations. In particular, the Committee recommends that the ongoing identification and recognition of traditional lands and territories by the Council of Indigenous Peoples be carried out in consultation with, and with the direct participation of, indigenous peoples.

### **Implementing the Indigenous Peoples Basic Law More Effectively**

57. In accordance with the Indigenous Peoples Basic Law, the Executive Yuan drafted Guidelines for the Establishment of the Indigenous Peoples Basic Law Promotion Committee, Executive Yuan. The Indigenous Peoples Basic Law Promotion Committee was thus established in 2006, to review and coordinate tasks set out under the law, and take stock of related regulations to ensure the law could be implemented in a more thorough and comprehensive manner. It identified 89 related subregulations requiring development (enactment) and amendments. As of 2019, 82 items had been completed and seven items had not yet been completed. The Council of Indigenous Peoples also compiles and edits publications describing major judgments involving indigenous people and analyzing their practical legal implications. These publications are distributed to related units and courts as a reference so that the legal system can come to better protect the rights of indigenous peoples.

### **Identifying, Recognizing Traditional Lands and Territories through Consultation with, Direct Participation of, Indigenous Peoples**

58. The Regulations Governing the Surveying and Delineation of Indigenous and Tribal Land (hereinafter referred to as the Land Delineation Regulations) state that indigenous communities or ethnic groups recognized by the central competent authority may organize their own delineation teams through which to engage in the delineation of land. Members of the local community council or representatives are nominated by the chieftain such that



indigenous peoples directly participate in the survey, confirmation, and delineation of their traditional territories, and at least half of team members should be those with indigenous status. The regulations also require teams to submit the results of their work to the community council and to discuss their results publicly. Subsequent proclamations can only be made after the results have been passed in a resolution.

- 59.** The Council of Indigenous Peoples organized an Indigenous and Tribal Land Survey and Delineation Project from 2017 to 2019, requesting that 55 indigenous township offices communicate with the indigenous communities under their jurisdiction and invest in the funding and manpower required to engage in the delineation of traditional land. They were also asked to significantly simplify operating procedures and shorten the delineation timeline. When reviewing subsidy applications, authorities should be aware that local governments (townships, cities, and district offices) can only provide assistance, and may not influence the autonomy of indigenous communities in their delineation efforts. For instance, when a certain government office failed to consult and consolidate the opinions of the community before submitting its delineation proposal to the Council of Indigenous Peoples during a project in 2017, its proposal was rejected after review.
- 60.** Between 2017 and 2019, the Council of Indigenous Peoples organized at least three sessions of education and training each year to clarify the delineation procedures for traditional territories, mapmaking methods, the collection of literature on indigenous land, survey methods, and the difficulties communities may face as part of the delineation process. Working meetings continued to be held from 2017 to 2019 to actively communicate and resolve issues arising from tribe-organized plans. The council published the results of the delineation of indigenous lands for various Atayal communities in Wulai District; however, due to restrictions in the authorization granted in the parent legislation, the delineation only applies to public land. As certain indigenous organizations have expressed different opinions and believe that indigenous land must include both public and private land, the Council of Indigenous Peoples will conduct a comprehensive review after the Land Delineation Regulations have been under implementation for a certain period of time. Opinions from all sectors must be collected and consensus reached through discussions before any related legislation is implemented.

## Point 28

The Review Committee strongly recommends that the Government urgently develop, together with indigenous peoples, effective mechanisms to seek the free, prior and informed consent of indigenous peoples on development plans and programmes that are affecting them to ensure that they do not infringe on the right of indigenous peoples, and to provide access to effective remedies in instances where such infringements have already occurred. Such mechanisms should comply with the United Nations Declaration on the Rights of Indigenous Peoples and other international standards.

- 61.** The Council of Indigenous Peoples has published Regulations Governing the Consultation, Consent, and Participation of Indigenous Communities to specify clear, open, and democratic procedures for notifying indigenous peoples and obtaining their approval regarding matters relating to them. From the promulgation date of the regulations to 2019, township offices reported receiving a total of 67 cases for their approval. Of these, nine cases failed to reach a quorum, three cases were vetoed, and 55 cases were approved. Any developer failing to consult an indigenous community and obtain its approval and involvement before initiating a development or imposing restrictions on the land will be deemed to be in violation of the law. Administrative penalties for related violations and the remedial measures to be implemented are covered under the Administrative Procedure Act, the Administrative Appeal Act, and the Administrative Litigation Act. If institutions violate laws or impose inappropriate administrative penalties that cause damage to a person's interests as part of the aforementioned developments or restrictions, parties may file appeals or engage in further litigation.
- 62.** The Council of Indigenous Peoples provides legal aid to indigenous peoples to protect their legal rights and interests. The scope of such assistance includes legal consultation, representation in mediation (settlement), the drafting of legal documents and litigation, representation in nonlitigious procedures or arbitration, and legal defense or assistance. The council approved 14,392 cases of legal aid from 2015 to 2019, and provided legal aid in three cases concerning the development of indigenous peoples' land. To encourage indigenous peoples to make good use of legal aid and promote basic legal concepts, the council has

adopted a diverse range of methods in enhancing the promotion of and support for its programs, including television, radio, online, and touring promotions.

63. The Council of Indigenous Peoples completed draft regulations regarding compensation for restrictions imposed on indigenous peoples' use of land in June 2016. However, as certain regulations are closely related to provisions concerning delineation regulations, they must be adjusted before interministerial and local consultation meetings can be convened. These regulations will be submitted to the Executive Yuan for approval after this legislative process is completed.

### **Point 29**

The Review Committee notes with appreciation the steps taken by the Government to recognise the status of the Ping Pu peoples, and the efforts towards their identity recognition system. However, it remains concerned that the current classification of indigenous peoples into three categories of mountain peoples, plain peoples and Ping Pu peoples, partly a legacy of the Japanese colonial period, does not correspond with the present situation of the 16 recognized indigenous peoples. The Committee recommends that the Government of Taiwan apply the classification of indigenous peoples as identified by themselves and guarantee them full and equal participation and representation.

64. A draft amendment to the Status Act for Indigenous Peoples has been reviewed by the Legislative Yuan. However, the Legislative Yuan is also required to set a schedule for completing negotiation procedures. After the law is passed, the Council of Indigenous Peoples will invite scholars, experts, and members of civil society to establish regulations for the identification of Ping Pu lowland indigenous people. In addition to using the classification agreed by scholars and experts, the establishment of corresponding regulations will also be based on ethnic groups' subjective identities and objective boundaries, allowing people to register their ethnicity based on self-identification in accordance with measures currently applying to other indigenous peoples. Information about registering and restoring Ping Pu lowland indigenous identity will be pursued through multiple strategies and marketing channels when the Ministry of the Interior's Department of Household Registration announces itself open to registration.

65. The current system for protecting the rights of indigenous peoples was designed to support the long-term requirements of mountain indigenous peoples and plain-land indigenous peoples. Therefore, the government will investigate plain-land indigenous peoples' requirements in terms of their culture, language, society, history, economy, education, and political participation. For instance, to ensure Ping Pu lowland indigenous people enjoy substantive and equal ethnic rights, the government will ascertain the size of the electorate in local public elections and seek to safeguard local political participation. At present, approximately 283 regulations touch upon the rights of indigenous peoples. The government will review each of these regulations once it has confirmed plain-land indigenous peoples' requirements and policy targets, gradually establishing a system of ethnic rights for lowland indigenous peoples.

### **Point 30**

The Review Committee recommends the Government to ensure that traditional health and learning practices of indigenous peoples are preserved and promoted. At the same time, the Review Committee encourages the Government to ensure that health care and education services are culturally-appropriate. Adequate resources should be provided and the participation of indigenous peoples ensured throughout the process of designing, implementation and evaluation of these programmes.

### **Drafting the Indigenous Peoples Health Act**

66. The Indigenous Peoples Basic Law requires that the Ministry of Health and Welfare "formulate public health and medical policies for indigenous peoples in accordance with the characteristics of indigenous peoples." The government will respect the traditional medicine and approach to health of indigenous peoples and undertake associated research and promotion, and the Ministry of Health and Welfare has formulated a draft Indigenous Peoples Health Act. This is currently under review by the Executive Yuan, and will be delivered to the Legislative Yuan for further review at a later date.

## **Setting Up Tribal Health Promotion Centers**

**67.** The government integrates local resources to organize top-down health education suited to the local environment, using local resources to distribute health know-how to communities, enhance the health of tribes, and facilitate the development of their unique traits. It has also organized family health care activities to understand tribes' use of public health services during the different stages of life, provided information services and referrals for health requirements or anomalies, and consolidated family connections and levels of demand for integration or referral. To encourage local people to provide local health care services and create a supply and demand model for the provision of health care, the government has also established informal interfaces for identifying health care-related human resources. Some 53 tribal health promotion centers had been established as of 2019.

## **Providing Sufficient Resources and Ensuring the Participation of Indigenous Peoples in Planning Healthcare and Education Service Policies for Indigenous Peoples**

- 68.** To ensure that long-term care for indigenous peoples is culturally appropriate and ensure their participation, the government has encouraged the participation of indigenous experts and scholars or representatives of civil society in its interministerial meetings, including the Executive Yuan's Long-term Care Promotion Task Force Committee, the Indigenous Peoples Long-term Cooperative Platform Meeting, and the Council of Indigenous Peoples' Long-term Care Promotion Task Force Committee. Indigenous experts and scholars and representatives of civil society were also invited to jointly formulate the chapter on the long-term care of indigenous peoples in the government's 10-Year Long-Term Care Plan 2.0 for 2017 to 2026.
- 69.** To ensure that the traditional health education of indigenous peoples is preserved and promoted, the Council of Indigenous Peoples planned an Indigenous Peoples Traditional Medicinal Knowledge Revival Program with the aim of organizing long-term care and health culture seminars for indigenous peoples in five areas, indigenous peoples social welfare policies and practice seminars, and indigenous peoples traditional health culture seminars for participating social workers, caregivers, and supervisory personnel, improving their health care know-how and cultural sensitivity.

- 70.** Per the requirements of the Education Act for Indigenous Peoples, organizations involved in assisting indigenous peoples' education and the design of associated curricula are being improved to ensure course goals are met. A central and local curriculum research and development and education consultation network for indigenous peoples has also been established; its objective is to provide the fundamental pedagogy and policy research necessary for the development of indigenous peoples' education, and support the development of such education at all stages. National Taichung University of Education has also established the Indigenous Curriculum Development Collaboration Center. To help indigenous peoples' experimental schools and coordinate regional operations, the center has been divided into a General Center, Western Center, Southern Center, Yilan and Hualien Center, and Taitung Center based on regional and territorial (ethnic community) assistance mechanisms. Models for the development of curricula for indigenous peoples have been consolidated so that research and development into related course modules can be provided to indigenous peoples' experimental schools and key indigenous schools. These are then used to develop courses centered around indigenous culture, promoting autonomy in indigenous peoples' education while passing down the culture of different tribes.
- 71.** The Ministry of Education and the Council of Indigenous Peoples jointly convene indigenous education policy meetings. In order to ensure a suitable input into indigenous policy planning, at least half of the committee members formed to hold these policy meetings must have an indigenous identity. The local governments of special municipalities, and the areas and cities under their jurisdiction, with indigenous peoples' regions, or counties or cities with indigenous key schools, must also convene indigenous education councils, at least half of whose members must have an indigenous identity. In addition, when schools at senior high level and below in indigenous peoples' regions are setting up a curriculum development committee and selecting and compiling teaching materials for ethnic education courses, they must engage representatives of local indigenous peoples or tribes to join the committee.

## Points 31 and 32

It is a cause of serious concern that since the initial review, very little has changed in the situation of foreign workers in the household category, including the caregivers and domestic workers who continue to be excluded from the Labor Standards Act. Furthermore, there has been no action taken on the long-promised Domestic Workers Protection Act despite the serious concerns expressed during the initial review in 2013.

The Review Committee renews its call on the Government of Taiwan to effectively remove, without further delay, the obstacles that hinder the passage of the Domestic Workers Protection Act. In addition, the Committee requests the Government in its next report, to provide a detailed account of the progress achieved on this issue, as well as an assessment of its impact on the rights of migrants.

72. The Labor Standards Act does not apply to domestic workers of either R.O.C. or foreign nationality. Employers and employees clarify their respective rights and obligations in labor contracts in accordance with related regulations in the Civil Code. Furthermore, the Employment Service Act and related regulations already require employers to establish written labor contracts when appointing migrant workers, with contracts to be provided with translations in the foreign worker's native language, and specifying salary, working hours, and annual leave. Other documents, such as labor contracts verified by their a workers' country of origin and the Foreign Worker's Affidavit for Wage / Salary and Expenses Incurred before Entering the Republic of China for Employment, must also be respected. The labor contracts signed with foreign workers engaged in the provision of domestic help must note the salary, and provide for sufficient rest time and one day of leave every seven days. Taiwan has also negotiated related protection measures with workers' countries of origin. However, workers employed by individuals to provide domestic help by engaging in caregiving, supporting a person's daily life, and handling family matters have distinctively different working patterns, working hours and rest time to those of workers contracted by companies. Their duties are difficult to clarify, hindering the application of the Labor Standards Act in such cases.

- 73.** To protect migrant workers' basic needs in Taiwan, the Ministry of Labor has convened multilateral meetings with countries of origin, including Indonesia, the Philippines, Thailand, and Vietnam, reaching consensus with their respective representative offices regarding labor contracts. Salaries have been adjusted to a minimum of NTD 17,000 per month, and verification mechanisms designed to improve migrant domestic workers' labor conditions have been implemented. To protect migrant domestic workers' right to a reasonable salary, the government will continue to review their salaries relative to their countries of origin, referencing consumer price indices and other data while also giving due consideration to employers' economic burden.
- 74.** To enhance employers' understanding of regulations for hiring foreigners and their associated duties, the Ministry of Labor has since July 1, 2016, required employers to take part in pre-hiring seminars before they hire foreigners to provide family care work or domestic help. These seminars focus on related regulations for hiring migrant workers, health examinations for migrant workers, procedures for helping them if they contract communicable diseases, matters to be dealt with when a migrant worker enters the country, and the protection of their interests. These measures help employers understand migrant workers' rights and obligations, help protect their human rights, and create harmonious labor-employer relations. As of 2019, 188,310 employers had completed pre-hiring seminars.
- 75.** The government has promoted the expanded use of household respite care for households employing foreign household caregivers. If a person cared for by a foreign household caregiver is assessed by a long-term care management center as having a grade 7 or 8 disability and requiring long-term care because of living alone or having a primary caregiver who is over the age of 70, a household may apply for funding to cover respite care expenses. This protects foreign domestic caregivers' right to take leave while safeguarding the needs of the recipient of care. As of August 2019, services had been provided to 641 individuals in 6,225 cases.
- 76.** The Ministry of Labor completed a draft Domestic Workers Protection Act on March 15, 2011, and submitted the draft to the Executive Yuan for review on September 13, 2013; however,



this must be reviewed again to ensure it meets the long-term needs of the care system. To protect the rights of applicable individuals, the Ministry of Labor has established a Domestic Workers Protection Task Force and convenes meetings on related regulations at appropriate intervals. Different sections of the public have different opinions on protecting the rights and interests of domestic workers, and it is difficult to clarify their working hours, rest time, and standby hours. If the standards stipulated in the Labor Standards Act were adopted, substitute labor may be insufficient, which would increase the burden on the families of care recipients. Given that legislation requires societal consensus, the Ministry of Labor will continue to listen to public opinion regarding the matters discussed above.

### **Point 33**

While the Government has already provided some information regarding a new relevant law that has just taken effect in the beginning of 2017, the Review Committee nevertheless expresses its continuing concerns regarding the accountability of the Government for failing to effectively enforce its laws on Taiwanese-flagged fishing vessels that are reportedly engaged in illegal, unreported and unregulated (IUU) fishing, and in that serious crimes have been reported to occur including labour and human rights abuses inflicted on the foreign workers who man these vessels. The Committee notes with concern that Taiwan is currently operating under formal warnings from international organizations for failing to take sufficient measures in the global fight against IUU fishing, which has serious impacts on the environment and the survival of endangered marine species.

77. The Executive Yuan has established a Cross-ministerial Task Force on Combating Illegal, Unreported and Unregulated Fishing and adopted a National Plan of Control and Inspection (hereinafter referred to as the “NPCI”) for fisheries. The Act for Distant Water Fisheries, the revised version of the Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels, and the Fisheries Act have all be enacted and promulgated with the efforts of the Council of Agriculture. Some 15 subsidiary items of legislation and five announcements have also been promulgated under its purview. The government has also promoted such measures as the installation of electronic catch logbooks, catch landing declaration mechanisms, the

designation of 32 foreign ports for transshipment and landing, port state measures on foreign fishing vessels entering ports of Taiwan, the establishment of a 24-hour fisheries monitoring center, and the establishment of an integrated data system for marine fisheries. The goals and standards set forth in the NPCI, such as inspection rates at domestic and foreign ports and observer coverage, were reached in 2018 and 2019 thanks to various inspection and management measures. The government also exchanges information on fisheries products and relevant documentation with important international partners, and has implemented a Strategic Plan for Auditing Industries with Interests in Distant Water Fisheries and a catch documentation verification scheme. As a result, 37 audits were conducted on domestic exporters in 2018 and 2019. Taiwan also cooperates with states with which it enjoys strong fisheries-related connections. To 2019, Taiwan had engaged in cooperation in fisheries management with 22 states. The government also promotes the compliance of Taiwanese fishing vessels with regulations set forth by regional fisheries management organizations (RFMOs), and in 2018 and 2019, Taiwan performed well in compliance reviews undertaken by RFMOs operating in the world's three major oceans.

### **Point 34**

The Review Committee urges the Government of Taiwan to conduct an inquiry into the fishing operations, recruitment and employment practices in these Taiwanese-registered fishing vessels, especially the long-liners which sail out to sea and do not return to harbour for long periods of time. The Review Committee further requests that the Government in its next report, provide detailed first-hand information regarding the measures undertaken to strictly monitor and curb IUU fishing; to protect the rights of all workers including foreign workers employed in these fishing vessels, and to ensure adequate standards of work and living conditions.

- 78.** Based on a fishing vessel's operations, the hiring of foreign crew members by the owner of a Taiwanese fishing vessel for offshore fishing operations can be categorized as domestic hiring (for near-shore fishing vessels) or offshore hiring (for deep-sea fishing vessels). Domestic hiring is regulated by the Employment Service Act and its subsidiary regulations. The Labor

Standards Act, which falls under the purview of the Ministry of Labor, also applies to such employment. Offshore hiring refers to the hiring of fishing vessels in other countries for offshore operations, with any foreign crew members being directly repatriated to their home country after operations are wound up. Given the location of hiring and type of employment, the Labor Standards Act does not apply to such operations. The offshore hiring of foreign crew members is regulated by the Act for Distant Water Fisheries, which falls under the purview of the Council of Agriculture.

- 79.** The government has given due consideration to the domestic hiring of foreign crew members. These employees are required to go out to sea and live on fishing vessels for long periods of time, in confined quarters that can afford limited space and a poor quality of life. The operations and working environment of the fishing industry are unique, and port calls are not made according to any fixed schedule. The industry offers poor guarantees regarding personal safety, food, and accommodation. In view of such shortcomings, the government revised the Foreigner Worker's Care Service Plan on January 1, 2018, making foreign crew members eligible for reasonable improvements in the allocation of space on fishing boats. The government has also raised inspection budgets and implemented routine and ad hoc visits to ensure employers are providing foreign crew members with adequate food, accommodation, and facilities, and performing their obligations in accordance with labor contracts. The government also inspects the payment of salaries by employers and the collection of brokerage fees, thus preventing any violation of associated regulations. From 2015 to 2019, local governments inspected a total of 882,855 entry reports as part of routine inspections, and conducted 161,459 ad hoc inspections.
- 80.** The Ministry of Labor continues to provide foreign crew members with general care services. In the event of labor disputes, such as being required to sign unreasonable contracts, the nonreceipt of salaries, or being subject to unfair treatment or excessive brokerage fees, foreign crew members can use a 24-hour bilingual toll-free 1955 labor consultation and complaint hotline that provides migrant workers with legal consultation and complaint services in their native languages. The ministry also provides subsidies to local governments to appoint inspectors and provide general care for migrants after they enter Taiwan; it also

imposes penalties on violations of laws, and provides subsidies to NGOs to help accommodate migrant workers subject to personal attacks and provide support and assistance to switch employers. It also established a system for interpreters to accompany migrant workers being questioned, and verification mechanisms for the early termination of contracts that protect them from forcible repatriation by their employer. The ministry also produced radio programs in Mandarin, Filipino, Indonesian, Vietnamese, and Thai to increase awareness of the law among employers, brokerages, and migrant workers.

- 81.** To protect the rights of foreign crew members hired abroad by Taiwanese-flagged deep sea fishing vessels, the Council of Agriculture will continue to review the laws and regulations under its jurisdiction and promote the incorporation of the contents of the Work in Fishing Convention (C188) relevant to the competent authorities involved in labor, navigation, fisheries, and sanitation into domestic law. The council provides guidance and assistance to ensure that newly constructed fishing vessels meet the requirements of International Labor Organization conventions and has revised the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members. The council has also strengthened interview and investigatory operations to ensure that relevant regulations are enforced, and improved the management of employment agencies. The government continues to enhance the rights and interests of foreign crew members and the prevention of human trafficking (including forced labor) on deep-sea fishing vessels. The Executive Yuan-convened Human Trafficking Prevention Coordination Meeting has also established a task force to oversee the labor rights of foreign crew members hired abroad, with meetings often being organized to discuss review the implementation of, and possible amendments to, the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members.

## Point 35

The Review Committee is concerned that the job segregation by sex, both vertical and horizontal, results in gender pay gap. It is also concerned about the gender role stereotypes in the Taiwanese society, which puts child care and other family responsibilities primarily on women. The Committee recommends the Government of Taiwan to:

- a) develop and implement a system to realize the principle of equal pay for equal work and work of equal value;
- b) step up its efforts to mitigate the sex segregation on the job and take measures, including temporary special measures, to encourage women to pursue careers into non-traditional areas for women;
- c) undertake effective measures to eliminate persisting gender role stereotypes in society, such as incentives for fathers to increase their participation in childcare and parental leave; regularly conduct time-use survey for both men and women; and awareness-raising programmes on the shared responsibilities of both men and women in the family and society.

82. The Ministry of Labor plans to complete the appointment of experts and scholars to draft regulations on equal remuneration inspection tables for domestic businesses before December 31, 2022. Every year, the ministry works with local labor administration authorities to organize workplace equality and sexual harassment prevention seminars. This enhances the promotion and implementation of gender discrimination prohibitions, reduces sexual harassment in the workplace, and promotes various workplace equality measures in accordance with the Act of Gender Equality in Employment. To create a friendlier workplace, employers are also reminded to abide by laws and regulations, and to encourage male employees to take unpaid parental leave.
83. A monthly Manpower Utilization Survey gathers sex-disaggregated data about employment and unemployment status, and occupation types. The survey targets everybody aged 15 years or above among approximately 20,000 households. A monthly Survey of Family Income and Expenditure is conducted among 11,000 households. The Directorate General of Budget, Accounting and Statistics collects sex-disaggregated data on employees and their salaries.

The results of these two surveys are published each month, and annual gender analysis reports are provided to the National Development Council, the Ministry of Labor, and other competent authorities for their analysis and use.

84. In 2016, married (cohabiting) women aged 15 and above spent 3.81 hours per day performing unpaid work, including 2.19 hours on housework and 1.11 hours taking care of children; married (cohabiting) men spent 1.13 hours per day performing unpaid work, including 0.62 hours on housework and 0.33 hours taking care of children, which is significantly lower than that of women.
85. The Ministry of Health and Welfare has created a wealth of courses on its children's education network, providing childcare videos that show fathers playing the role of caregiver to promote the importance of their participation. The ministry also works with civil society to promote nontraditional approaches to sharing housework, and gender equality activities that promote the joint participation of men and family members in housework. A social welfare evaluation methodology established in 2019 also helps local governments enhance the sharing of housework between genders, thus promoting the transformation and advancement of gender awareness throughout society.

### **Point 36**

The Review Committee has received information regarding the situation of students between 16 and 18 years of age, who reportedly work to pay for school tuition and related expenses. Apparently, there is a growing number of under-aged students who also work in spite of an existing ban. Furthermore, it is reported that these working students do not receive a minimum wage, have no insurance, and often work long night hours. The Review Committee strongly recommends a thorough study on this issue. It would appreciate detailed information in the Government's next report, regarding the actual situation, including the measures undertaken by authorities to protect these students from exploitation and abuse.

## **Organizing an Off-Campus Labor Conditions Survey and Research into Students Aged 18 and Below in Continuing Education Courses at Senior High Schools**

**86.** The Ministry of Education commissioned an investigative research project into students aged between 16 and 18 years old enrolled in continuing education courses (night schools) between March 21, 2018, and March 20, 2019. The research showed that these students hail from relatively more vulnerable social and economic backgrounds. Most worked in the catering industry, but also of note was that some were employed in special workplaces such as small-scale manufacturing plants. It is difficult for teenagers to seek employment; working conditions are not ideal for a variety of reasons, including the low availability of jobs in certain regions, employers' reluctance to hire youths below the age of 18, limited access to transportation, the inability to work full shifts due to school hours, and the relative lack of work-related skills possessed by those of a young age. Teenagers who work long hours while trying to keep up with classes will face a significant physical and mental impact, and may fail their academic studies by prioritizing employment.

## **Amending the K-12 Education Administration's Implementation Guidelines for Providing Subsidies for Working Senior High School Students**

**87.** Amendments have been made to the K-12 Education Administration's Implementation Guidelines for Providing Financial Assistance to Working Senior High School Students to define eligibility for and the nature of financial assistance provided to working students, and the inclusion in labor and labor pension insurance schemes of students working on campuses. The Ministry of Education also sent official letters to public and private senior high schools advising them to complete their 2019 funding applications in accordance with these guidelines.

## **Methods for Protecting the Labor Rights of Student Workers**

**88.** The labor conditions of workers over 16 but under 18 are handled in accordance with the Labor Standards Act (including working hours, salaries, and related regulations). Persons under 18 may not engage in potentially dangerous or hazardous work. To strengthen the protection of labor rights of workers younger than 18 years of age, employers must keep a record of proof of age and the signed consent of the legal guardian of any employees younger

than 18 years of age. See Notes 254 to 257 of the Third National Report on the ICCPR for remarks regarding child labor.

- 89.** In 2018, the Ministry of Labor carried out 151 special inspections of part-time working conditions and 155 special inspections of student working conditions, noting 56 and 31 violations, respectively (the highest numbers of violations involved 38 violations for failing to provide one day of rest day every seven days, 30 violations for failing to provide additional wages for extended working hours, and 18 violations for failing to provide additional wages for working on holidays or rest days). To protect the rights of teenage workers, violators were ordered to implement immediate improvements and the local competent authorities imposed penalties in accordance with the law.
- 90.** The Ministry of Labor's Bureau of Labor Insurance audits employer reports on insurance coverage provided to employees. Employers failing to report such coverage are fined in accordance with associated regulations. To protect the rights of student workers under the age of 18, the bureau has selected industries with higher employment rates for such individuals, including the retail and catering industries, to receive enhanced assistance and auditing, helping employers apply for insurance coverage for their employees in accordance with industrial regulations (including student workers less than 18 years of age and workers aged 18 and above). The Bureau of Labor also operates an auditing program designed to strengthen assistance regarding employers' insurance coverage and their declaration of insured salaries. In 2018, 474 companies in the category of retail sales in nonspecialized stores with food or beverages predominating (e.g., convenience stores) were provided with general and auditing assistance; 60 were found to be in violation of the Labor Insurance Act or the Employment Insurance Act and fined as a result of these auditing procedures. Among audits of 174 companies that had not established labor (employment) insurance units, 163 companies did not hire employees or had suspended business operations, and 11 were provided with assistance to establish insurance units. In 2019, 298 catering companies were provided with general and auditing assistance; 38 were found to be in violation of the Labor Insurance Act or the Employment Insurance Act and fined as a result of these auditing procedures. Among



audits of 138 companies that had not established labor (employment) insurance units, 75 did not hire employees or had suspended business operations, 52 were provided with assistance to establish insured units, and audits on 11 companies remain underway.

### **Improving Students' Awareness of Labor Rights**

91. The Ministry of Labor seeks to improve students' awareness of labor rights and promotes labor-related education for students in compulsory education. Its diverse range of methods designed to improve knowledge about work includes reviewing textbooks, providing supplementary educational materials and online learning, and organizing labor-related teacher training and campus tours. Every year, the Ministry of Labor's Bureau of Labor Insurance also contacts colleges and universities to inform them that they can request that bureau offices assign personnel to their school to organize on-campus labor protection seminars. (Senior high schools and vocational senior high schools may also apply). In addition to publishing handbooks designed for those new to the workplace, which are provided for students' reference, the Bureau of Labor Insurance also uses such channels as its website, newsletters, Facebook, radio, and newspapers to ensure that employers and working students understand the correct concepts regarding insurance. Before the peak season for the hiring of student workers each summer, the bureau also issues official letters to employers, to help them understand that they are required to enroll student workers in labor insurance and employment insurance schemes on their first day at work. To encourage students to understand their personal insurance status and protect their own interests, the bureau also encourages student workers to use labor guarantee cards, Chunghwa Post bank cards, and citizen digital certificates to inquire about personal insurance.

### **Continuously Promoting Job Search Safety and Fraud Prevention**

92. The Ministry of Labor provides information about searching for jobs safely on the TaiwanJobs website, reminding teenagers to take preventive measures before searching for jobs and exercising vigilance so as to avoid fraud. Subsidies have also been provided to local governments to enhance education, with such diverse channels as radio, television, other media, and various education information and seminars helping protect teenagers from employment fraud.

### **Point 37**

The Review Committee is concerned with the thrust of Taiwan’s economic policies that are dictating a ‘market’ solution to the housing and land crisis which has resulted in a lack of available and affordable housing and speculation of housing, property and land. The Review Committee observes that a national regime has emerged that gives priority to ‘the right to property’ over the ‘right to adequate housing and land’. The Review Committee recommends a reorientation of Taiwan’s housing and land regime that is consistent with its international human rights commitments including a focus on ensuring security of tenure and protection against displacement and evictions. The first step in this direction would be a more accurate database that establishes the number of people in Taiwan that are designated as informal settlers and as homeless.

### **Diverse Housing Policy**

- 93.** To provide citizens of different income levels, physical and mental conditions, gender, age, household composition, and ethnicity with an appropriate and dignified living environment based on the protections afforded to basic human rights as enshrined in the R.O.C. Constitution, a combination of government and private resources are being employed in implementing plans designed to improve the rental and housing market, protect rental- and lease-related housing rights, improve the quality of the living environment, and promote diverse housing assistance and public housing projects. To help people find suitable housing, the government has enacted the Housing Act, the Rental Housing Market Development and Regulation Act, and 12 subsidiary items of legislation. This has provided a supply of leasable housing, improved housing stock and its environment, and provided subsidies and discounted rents. As of June 2019, the national residential ownership rate was 84.52%. With 8,211,885 regular households and 8,877,047 units of residential stock, Taiwan is a country with high housing ownership. The residential housing supply rate is 108.1%, which means that supply exceeds demand. Furthermore, according to data on power usage from November and December 2018, Taiwan had approximately 916,383 low-use residences—10.56% of all residential stock. Taiwan’s medium-term goal has been to construct approximately 40,000

residences and 40,000 guaranteed lease and management units for a total of 80,000 public housing units by 2020. As of 2019, 50,652 residences had been completed for an implementation rate of 63.3%.

94. In 2019, applications for housing subsidies continued to be accepted as part of the implementation of overall housing policy. Rent subsidies were provided for 65,963 residences following 87,337 applications; subsidies for home mortgage interest payments were provided for 4,000 residences following 9,171 applications; and subsidies for renovation loan interest payments were provided for 2,000 residences following 1,199 applications. In addition, the Ministry of the Interior's Construction and Planning Agency completed an outsourced research program on tiered subsidies. After reviewing subsequent plans for associated measures, and progress on the implementation of public housing and guaranteed lease and management residences, the agency will continue to negotiate with local governments to reach consensus on the issue. After all corresponding measures have been adequately implemented and the timing is right, it will submit a proposal to the Executive Yuan for approval before implementation.

#### **Illegal Occupation of Real Estate for National Public Use**

95. To obtain data about the illegal occupation of real estate allocated for national public use for use as housing, the competent authorities have consulted one another on an annual basis since 2018, investigating the previous year's data on illegal occupations, including the total occupied area and the area occupied for residential use; assisting occupiers to relocate; and helping disadvantaged occupiers (not limited to those using such properties as residences) apply for related relief, subsidies, or allowances. Table 1 shows cases of illegal occupation of national public use real estate, and investigations into and litigation claiming the return of such property from occupiers, from 2017 to 2018.

**Table 1 Illegal Occupation of Real Estate for National Public Use, Investigations into and Litigation Claiming the Return of Property from Occupiers**

Area unit: hectares

Year	Total occupied area		Total area occupied for residential use		Litigation claiming the return of property from occupiers (including cases closed during the year and those remaining open as of the end of the year)			
	Land	Building	Land	Building	Area		Cases	Number of People
					Land	Building		
2017	5,768	0.80	1,038	0.38	7.07	0.05	282	753
2018	5,245	0.82	1,065	0.38	4.87	0.06	172	592

Source: Ministry of Finance

### Number of Homeless People and Related Assistance

**96.** As defined in the Public Assistance Act, a homeless person refers to someone who regularly lives on the street or in public areas, or is without a fixed residence. As of June 2019, Taiwan had 2,776 registered homeless persons, including 2,410 men (86.8%) and 366 women (13.2%), and of whom 2,107 lived on the street and 669 were accommodated in shelters. A total of 10 state- and privately run shelters have been established in Taipei City, New Taipei City, Keelung City, Kaohsiung City, and Pingtung County, providing a total of 482 beds for people who regularly live on the street or in public areas, or do not have a fixed residence, without imposing restrictions relating to household registration. Homeless persons in counties and cities that have not established shelters are sheltered by social welfare institutions. Since 2016, the proceeds from the public welfare lottery fund have also been used to subsidize county (city) governments and civil society in providing homeless shelter services, which offer employment assistance and life-rebuilding services. The government also provides homeless people who have found jobs with general and rent subsidies, and provides the homeless with rented housing. Subsidies totaling more than NTD 19.42 million were provided in 36 cases throughout 2019.

## Points 38 and 39

The Committee continues to be concerned about the frequency of evictions and land dispossessions that are occurring in Taiwan. The processes of expropriation, urban land consolidation, urban renewal and other policies are leading to violations of housing and land rights across the country. The Committee is also concerned about ‘private-led’ land consolidation and zone expropriation that leads to forced evictions.

The Review Committee recommends that a moratorium be called on all forms of displacement until a National Displacement, Resettlement and Rehabilitation Act is established that is consistent with the Government’s international human rights obligations, including General Comment No. 7 of the UN Committee on Economic, Social and Cultural Rights and the UN Basic Principles and Guidelines on Development based Displacement and Evictions (hereinafter "the UN Evictions Guidelines").

97. Various reviews have been conducted into the forms of resettlement employed in Taiwan, including land expropriation, urban land consolidation, urban renewal, and removal from occupation of public land. Given that the reasons for resettlement and the regulations concerning the methods for settlement and processing are covered in different laws, it is difficult to establish a unified National Displacement, Resettlement and Rehabilitation Act. Additional explanation regarding expropriation, urban land consolidation, and urban renewal is provided below.

- (1) Land expropriation: To improve the land expropriation system, pursue due legal processes as required under the R.O.C. Constitution, and consolidate safeguards to people’s property rights, the Ministry of the Interior has actively reviewed the current Land Expropriation Act. In 2017, it invited experts and scholars to form an amendment consultation team, which has since convened five meetings. To improve the land expropriation system, Taiwan will aim to enhance the legitimacy of business plans, improve expropriation compensation mechanisms, enhance information disclosure and civic participation, strengthen due process for zone expropriation, and expand resettlement plans and care measures. The Notice Regarding Land Expropriation Applications has been revised to provide applicants with a basis for conducting a range of expropriation operations and to implement legitimate legal procedures.

- (2) Urban land consolidation: The Ministry of the Interior has drafted an amendment to the Urban Land Consolidation Act to account for both the administrative procedures as required in the R.O.C. Constitution and the principles of legal reservation, and to respond to operational needs. Scholars and related institutions will be invited to discuss related matters. The Regulations Governing Landowner Incentives in Urban Land Consolidation Projects have also been amended and promulgated, increasing the threshold required for the launch of a landowner-led preparatory committee for urban land consolidation. Preparatory committees must also apply to have the scope of their urban land consolidation and plans approved, as well as organize public hearings, thus expanding public participation and enhancing government supervision mechanisms. The amendment effectively improved both the transparency of landowner-led urban land consolidation and the government's administrative performance, while reducing public doubt over, and dissatisfaction with, land consolidation procedures. Landowner-led urban land consolidation is now subject to more rigorous and prudent procedures.
- (3) Urban renewal: To strengthen procedural justice, information disclosure, and public participation in all phases of urban renewal projects, amendments to the Urban Renewal Act have strengthened the connections between urban renewal and urban planning, requiring that the government solicit the approval of urban planning commissions for areas it designate for renewal. To protect all parties' and stakeholders' right to be heard, the competent authorities are required to organize hearings before approving disputed urban renewal projects and rights transfer plans. Business summaries, urban renewal business plans, and rights transfer plans must be reviewed by urban planning commissions for approval. If a dispute arises after a plan has been approved but before any demolition has taken place, the competent authority must negotiate the dates and methods of demolition or relocation, and resettlement or other related matters, before setting a deadline for the demolition or relocation. To strengthen measures protecting economically and socially underprivileged households, where such people would no longer qualify for occupancy after the implementation of an urban renewal program, the

government provides public housing or rent subsidies. The competent authorities are also expected to help parties lacking financial means to seek legal protection.

#### **Point 40**

The Review Committee recommends, in this context, the creation of an overarching National Housing and Land Policy that is consistent with its international human rights commitments and contains elements outlined in the following paragraphs. As an important step in this direction the Government should confer security of tenure to all residents in Taiwan in accordance with international human rights instruments including General Comment 4 of the UN Committee on Economic, Social and Cultural Rights and Article 25 of the UN Evictions Guidelines.

- 98.** Land policy is a foundation of state-building efforts, and the government is actively adopting comprehensive measures relating to land management, land expropriation, and land development. This includes improving the development of the housing rental market, establishing deliberative civil participation mechanisms, implementing procedural justice, and amending regulations. To make full use of Taiwan's limited land resources while promoting public construction, protecting the public interest, and avoiding forced displacement, the Land Expropriation Act specifies the review mechanisms and evaluations under which land expropriation may be deemed necessary and in the public interest. The act also provides specific regulations for the protection of high-quality farmland, a public hearing system for the expropriation of farmland in special agricultural zones, and mechanisms for the estimation of market prices in compensating for expropriated land. Despite this, there have been calls from the public to protect housing rights by conducting an overall review of the expropriation system's prevailing regulations, and respond to a demand for civil participation and information disclosure by reviewing the public interest and necessity of development plans, and thus avoid arbitrary expropriations.
- 99.** Improvements made to safeguard occupants' security of tenure:
- (1) See Notes 93 and 94 of this report regarding improvements in the development of the rental housing market and housing subsidies.

- (2) Implementation of legitimate legal proceedings, expansion of civic engagement, and expansion of settlement plans: See Note 97 of this report for amendments to legislation regarding land expropriation and urban land consolidation.
- (3) The Ministry of the Interior promulgated the Executive Yuan-approved National Spatial Plan to promote the sustainable development of national land. The ministry will assist local governments to implement spatial plans at special municipality or county (city) level and assist plans to zone national land by function. The ministry will also cooperate in the formulation of related subsidiary legislation.

### **Point 41**

The Review Committee is also concerned about the practice of civil lawsuits being filed by authorities against informal settlers. The RC recommends that such practices be reviewed so that the housing rights of informal settlers are respected in accordance with international human rights standards.

### **Housing Rights of Disadvantaged Groups**

**100.** To help all citizens live in appropriate housing and enjoy a dignified living environment, the Housing Act specifies that at least 30% of public housing be leased to economically or socially disadvantaged persons. See Notes 93 and 94 of this report for the measures taken by the Ministry of the Interior based on Taiwan's overall housing policy approved by the Executive Yuan.

### **Processing the Illegal Occupation of Real Estate for National Public Use**

**101.** The government uses meetings, education, and training to enhance the knowledge of central and local competent authorities. Regulations such as the Principles for the Disposal of Occupied National Public Use Real-Estate Managed by Administrative Authorities do not exempt authorities from imposing deadlines on occupation. The relevant authorities are required to pay attention to the requirements protecting the right to housing in the Two Covenants, and should avoid displacing occupants, with illegal occupations being dealt with cautiously in accordance with the authority's duties, and not necessarily by pursuing litigation and forced removal in all cases. Occupants that meet regulatory criteria for leasing such



properties should be provided with assistance so that they can pursue the right to use them legally. Where administration authorities have initiated litigation to remove someone occupying real estate for national public use, they may suspend proceedings after coming to an agreement with occupiers on a case-by-case basis, and withdraw the case per the court's determination. To provide operational flexibility, the timing of any compulsory execution in a case should also be determined on a case-by-case basis.

**102.** The Ministry of Finance organized a meeting to discuss the resettlement of occupants of national real estate, establish resettlement and remedial measures that meet international human rights principles and standards, and review the difficulties surrounding current practices. The ministry then summarized recommendations that authorities had made in terms of prevailing difficulties in resettling occupants for use by authorities in their operations. A summary of information on the social welfare measures falling under the jurisdiction of the Ministry of the Interior, Ministry of Health and Welfare, and Veterans Affairs Council was also provided, and letters were issued to the administrative authorities overseen by the competent authorities in order to facilitate timely assistance for occupants and disadvantaged occupants.

#### **Point 42**

The Review Committee is concerned that legislations such as the Land Expropriation Act, the Urban Renewal Act, the Regulation of Urban Land Consolidation, the Regulations for Urban Land Consolidation Led by Land Owners and the Disposal Guidelines for Occupation of State-Owned Real Estate of Public Use contain provisions that are not human rights based and are being used to dispossess people and communities across Taiwan. The Committee recommends that all local and national legislation that has a bearing on housing and land policy in the country be amended to comply with Taiwan's international human rights obligations.

#### **Amending Legislation relating to Land Expropriation, Urban Renewal, and Urban Land Consolidation**

**103.** See Note 97 of this report.

## **Amending Principles relating to the Processing of Occupied Real Estate**

**104.** The Ministry of Finance amended the Principles for the Disposal of Occupied National Public Use Real-Estate Managed by Administrative Authorities and the Disposal Guidelines for Occupation of State-owned Real-estate Not in Public Use. The amendments require that the authorities responsible for a property being occupied carefully evaluate whether the use of such real estate is necessary, and seek to understand the cause(s) of occupation and handle the matter accordingly. Authorities are also enhancing resettlement assistance and expanding measures for assisting disadvantaged occupiers to apply for relief, subsidies, or allowances in accordance with the law. If certain conditions are met, the compensation charged for the use of property may be exempted, reduced by half, or deferred. The government also established mechanisms for payment in installments (including cases where a court judgment confirms the requirement that compensation be paid), with the number of installments based on the occupant's economic capacity. See Notes 93, 94, and 100 of this report for comments regarding resettlement operations.

### **Point 43**

The Review Committee recommends the formulation of a National Homelessness Welfare and Human Rights Act that contains a comprehensive definition of homelessness, provisions for the prevention of homelessness and calls for adequate budgetary resources to ensure the human rights of all homeless people in Taiwan.

**105.** With regard to the formulation of a National Homelessness Welfare and Human Rights Act, in 2018 the Ministry of Health and Welfare initiated a program to inventory homelessness services, and plan for and research associated improvements, including the establishment of a unified standard for minimum services for homeless persons. Feasibility studies regarding the introduction of specific legislation will be completed by March 2020.

## Point 44

The Review Committee is concerned about the state of housing and living conditions of the 47 percent of indigenous peoples who are now living in urban areas such as the Happy Mountain and Ljavek communities. The Committee recommends that the cultural and collective needs of indigenous peoples and communities are taken into account in providing adequate housing as required by Article 16 of the Indigenous Peoples Basic Law (IPBL). The Committee also urges the Government to ensure that no forced evictions occur, to ensure that any temporary relocations of indigenous peoples related to disaster risk operations do not lead to permanent land dispossessions.

- 106.** To protect indigenous peoples' right to housing, the Indigenous Peoples Basic Law expressly provides protection for their right to housing and lifestyle. The Housing Act also requires that housing policies include requirements based on indigenous peoples' cultures. To protect indigenous peoples' right to collective housing, the government may also build public housing specifically for lease to them. In addition, to create residential landscapes and promote certain architectural styles, the government may also provide subsidies or incentives for the construction, expansion, modification, refurbishment, or repair of residences with unique local or ethnic features, or of historical significance.
- 107.** To implement both its overall housing policy and the Four-year Indigenous Peoples Housing Program, Taiwan provides economically disadvantaged indigenous peoples with subsidies for the construction and purchase of housing; it also improves the physical housing environment, and provide subsidies for interest payments and favorable rent for refurbishment and housing purchases. An Urban-dwelling Indigenous Peoples Development Plan and Urban-dwelling Indigenous Peoples Building Plan have also been established to protect the right to housing of indigenous peoples living in urban areas and to help extend indigenous cultures into urban areas. In addition, after amendments to the Housing Act, the proportion of public housing leased to economically and socially disadvantaged groups such as indigenous peoples will rise from 10% to more than 30%, benefitting more indigenous peoples. The Ministry of the Interior will also provide financing and subsidies for the up-front planning fees, loan interest, and non-self-liquidating expenditures that local governments incur as part of public housing

projects for indigenous peoples. The government's adoption of a scoring system for housing subsidies also provides indigenous peoples with better opportunities for receiving subsidies, since an indigenous background provides additional weighting in the scoring. From 2007 to 2019, the government helped 38,853 indigenous families reduce their housing costs. Taoyuan City government is also working with Shihmen Irrigation Association to construct public housing exclusively for indigenous peoples, and will participate in its guaranteed lease and management plan from 2020 to 2021.

- 108.** Post-disaster relocation and the reconstruction of indigenous peoples' land should be implemented in accordance with the Disaster Prevention and Protection Act and the Principles for the Resettlement of Disaster Victims and Housing Reconstruction. The related decisions and actions that local governments take must also be based on Article 32 of the Indigenous Peoples Basic Law and the principle of avoiding disasters but staying in the village. To achieve consensus and avoid disputes, the government must fully communicate with, and explain its decisions and procedures to, indigenous communities.
- 109.** The indigenous peoples living in the Happy Mountain community hope to be resettled on site. With regard to the lease of the land, the Ministry of Finance's National Property Administration plans to lease the land to indigenous peoples, and is now implementing the preliminary procedures necessary to do this. The Council of Indigenous Peoples has requested that New Taipei City Government adopt the land usage change model already adopted in dealing with the Sanying and Xizhou tribes, and help the indigenous peoples affected complete land leasing procedures in a spirit of local governance. Kaohsiung City Government's Indigenous Affairs Commission has communicated with indigenous peoples living in Ljavek community, who have continued to push for a relocation and resettlement plan. The Council of Indigenous Peoples has obtained funding for an Indigenous Peoples Construction Program under the special budget of the Forward-Looking Infrastructure Project, and requested that Kaohsiung City Government submit plans based on council requirements in order to protect indigenous peoples' right to housing.

## Point 45

The Review Committee urges the Government to ensure that women's rights to housing and land are realised. This would include ensuring processes to protect their rights to security of tenure, including protection from forced evictions. This applies especially to women with particular housing needs such as single women, single mothers, widows, indigenous women and those with special needs including homeless and disabled women and victims of domestic violence.

### Provision of Public Housing and Housing Subsidies

**110.** See Notes 93 and 100 of this report for comments on the construction of public housing by the Ministry of the Interior.

**111.** Assistance for housing special disadvantaged groups:

- (1) Where victims of domestic violence do not meet the qualifications specified in Ministry of the Interior public housing lease regulations, they are prioritized for placement in shelters provided by local governments, or provided with assistance to rent public housing. Where a local government is required to lease public housing constructed by the Ministry of the Interior in its jurisdiction to victims of domestic violence who do not meet the qualifications specified in the regulations, the Ministry of the Interior processes such leases on a case-by-case basis.
- (2) Housing subsidies are also provided for economically or socially disadvantaged families or other families with special circumstances (families in hardship, indigenous peoples, victims of domestic violence or sexual assault and their children, single-parent families, the homeless, those under the age of 25 who were placed in juvenile education institutions or foster homes but are unable to return home after the end of the tenure, and people with disabilities) by awarding weighted scores to help them obtain such subsidies. The government also provides disadvantaged families with preferential interest rates to reduce the burden of interest payments.

## **Promoting the Four-year Indigenous Peoples Housing Program and Related Education and Training**

- 112.** The Council of Indigenous Peoples' Four-year Indigenous Peoples Housing Program is providing subsidies for housing construction, purchases, and refurbishment to approximately 450 economically disadvantaged women with indigenous backgrounds per year, and promoting a public housing complex at Huadong New Village in New Taipei City's Xizhi district. The government also provides accommodation for approximately 30 single women, single mothers, widows, disabled women, or victims of domestic violence each year.
- 113.** The Council of Indigenous Peoples has organized training for personnel involved in providing housing assistance, and training and business review meetings for indigenous peoples' housing projects. Housing service personnel and local government officers responsible for these projects are expected to provide indigenous peoples with housing and public housing resources, as well as courses on services for indigenous women with special housing requirements. These courses help service providers assist indigenous women and protect their right to housing by making better use of housing resources.

### **Related Housing Assistance for Single Mothers**

- 114.** Certain homes provide short-term housing at low rents for single mothers and their children. These homes also work with other social networks to create a stable living environment for single mothers, reduce their economic burden, and gradually help them stand on their own feet. As of 2019, there were seven homes for single mothers in Taiwan, which had provided assistance in 404 cases as of June of that year. Single mothers who need medium- to long-term housing services are given assistance in making applications for affordable housing, rent subsidies, and other welfare resources.

### **Inventory of Housing Resources for Homeless Women as Reference for Policymaking**

- 115.** The Ministry of Health and Welfare organized a consultation meeting on the placement of persons of unknown identity, procedures for assistance in searches, and homeless service improvement measures, so as to discuss the protection of the right to housing of homeless women. A resolution was reached in the meeting to conduct an inventory of residential

housing resources for homeless women, which was to serve as reference for the Ministry's policymaking. A recommendation was also made in the meeting that local governments prioritize subsidies for rent and related housing assistance for homeless women. Most counties and cities do not differentiate between genders when providing resources, but they do implement separation and protective measures in shelters. For instance, women are provided with separate bathroom facilities and placed on different floors.

### **Development of Medium- to Long-Term Shelter Services for Victims of Domestic Violence to Increase Diversity in Shelter Services**

**116.** The Ministry of Health and Welfare utilized proceeds from the Taiwan Lottery to provide funds to civic associations and local governments to create shelters for victims of domestic violence requiring medium- to long-term assistance. As of the end of 2019, the establishment of eight such shelters had been approved.

### **Point 46**

The Review Committee notes with concern that life expectancy in different regions of Taiwan reaches 85.3 years in the most affluent areas, while in least affluent areas only 62.5 years. The Committee recommends that the Government take steps beyond cooperation and consultation between different departments and agencies to address risk reduction.

### **Increasing Life Expectancy of Indigenous People**

**117.** According to plans to increase life expectancy at birth from 2006 to 2015, the government set a goal for 2019 to increase life expectancy of indigenous men by 0.5 years more than the increase for all male citizens and increase the life expectancy of indigenous women by 0.15 years more than the increase for all female citizens. In 2018, life expectancy was 77.55 years for all male citizens and 84.05 years for all female citizens. The average life expectancy was 68.28 for indigenous men and 76.86 years for indigenous women. Compared with the life expectancy in 2016, the life expectancy for all citizens had increased by 0.74 years for all men and 0.63 years for all women, and by 0.8 years for indigenous men and 0.43 years for indigenous women.

## **Maintaining Infant Mortality Rates in Indigenous Areas and Outlying Islands in 2020 at Levels Lower than the Average of the Past Three Years**

**118.** Health management pilot program for at-risk mothers: The program has been gradually implemented since 2017. Six public health departments were given funds to work in cooperation with 24 medical institutions in 2018 to provide health services to pregnant women with health risk factors (tobacco, alcohol, betel nut use; multifetal pregnancy; history of premature births; verified gestational hypertension; verified gestational diabetes; drug abuse; mental health problems), socioeconomic risk factors (pregnancy under the age of 20; lower socioeconomic status; low education level), or those who do not receive prenatal examinations, including health education, follow-up care, and referral services from the start of the pregnancy to six weeks after delivery. The target number in 2018 was 1,424 persons, and actual assistance was provided in 1,212 cases for a rate of 85.1%; 352 cases involved indigenous women (29%). The target number in 2019 was 1,946 persons and actual assistance was provided to 2,074 cases for a rate of 106.6%; 382 cases involved indigenous women (18.4%).

**119.** Pilot program concerning follow-ups and care of preterm babies with very low birth weight: In 2017, for premature babies with extremely low birth weight (<1,500 grams) after discharge from the hospital, telephone follow-up was implemented to provide related care, evaluation, health education, and referral services. Assistance was provided to 2,948 individuals and the target achievement rate was 75.1%. In 2018, a project was implemented to gain a better understanding of the utilization of preventive healthcare services for prematurely born children.

## **Active Tuberculosis Screening and Treatment in Indigenous Areas and Preventing Community Transmission**

**120.** Local public health departments in Taiwan have continuously promoted tuberculosis screening in 30 mountain indigenous areas to achieve early detection of tuberculosis cases, accelerate consolidation of medical care resources, and provide proper treatment and care to prevent community transmission. In 2018, 41,512 screenings were conducted, as a result of which 51 tuberculosis cases were detected.



- 121.** The government engages medical institutions to increase access to screening for people living in mountain indigenous areas. When people living in such areas seek medical services at partner hospitals, the hospitals actively provide chest X-ray scans. Medical institutions may also conduct screenings based on symptoms and refer people to hospitals for X-ray examinations. In addition, the government continues to organize mobile chest X-ray services in these areas and provide screening for people whose households are not registered there.
- 122.** The government has enhanced connections between the public health and education systems. Public health personnel provide health education and distribute evaluation questionnaires for tuberculosis symptoms. They encourage schoolchildren to explain the importance of chest X-ray screening to their families and help them complete questionnaires for tuberculosis symptoms. Those with symptoms are encouraged to take chest X-ray scans. For those living in areas not visited by mobile X-ray service vehicles, or who have difficulty moving or are bedridden, public health personnel will collect sputum samples at their residence and deliver them for examination. People with abnormal test results are referred to medical services by public health personnel.

### **Mental Health Issues among Indigenous People**

- 123.** In 2019, the government studied suicide trends among indigenous people in Taiwan from 2013 to 2018. It will provide the results to the Council of Indigenous Peoples as reference for related prevention strategies.

### **Continuous Implementation of Plan to Improve the Effectiveness of Medical Benefit Payments under the National Health Insurance in Mountain Regions and Outlying Islands**

- 124.** The National Health Insurance Administration of the Ministry of Health and Welfare seeks to promote medical services in mountain regions and outlying islands and since 1999 has been working to improve the effectiveness of medical benefit payments under the NHI in these areas. It organized 30 programs with 26 contracted hospitals in 50 mountain regions and outlying islands in 2019 to provide services to more than 470,000 locals. Services included special clinics, emergency medical care (nighttime and holidays), preventive care, in-home care, health education, mobile medical services, and medical referrals. Special medical services were provided over 1,900 times each month.

## **Continuous Implementation of Program to Cultivate Medical Personnel in Indigenous Areas and Outlying Islands**

- 125.** Phase 4 of the program to cultivate medical personnel in indigenous areas and outlying islands (2017 to 2021) is expected to train 580 students with government funds. From 1969 to 2019, 1,106 personnel (including 593 doctors, 107 dentists, 44 pharmacists, 23 medical examiners, 37 medical radiologists, 15 physical therapists, three nutritionists, 272 nursing staff, five functional therapists, one respiratory care specialist, five speech therapists and one psychologist) were trained. The government will continue to strengthen the cultivation of medical personnel. The retention rate upon expiry of the mandatory service period was 70% in 2019.
- 126.** To allow government-sponsored students to be assigned to the counties and cities of their household registration to provide services after completing related training and improve local healthcare, the government has completed the amendment to guidelines for the training, assignment, and service management of government-sponsored students in the program. The sequences of application and assignment of government-sponsored graduates were adjusted to strengthen local governments' management of them.

## **Implementation of Prevention Plan to Reduce Accidental Injuries in Indigenous Areas**

- 127.** The Indigenous Communities Accidental Injury Prevention Plan was included in the Action Plan to Eradicate Health Disparity for Indigenous Communities. The government analyzed related data and selected two tribes with high risks of injuries in 2018 to implement the accidental injury prevention plan. The government also inventoried and consolidated resources that can be used to promote accident prevention and adopt a top-down approach for implementation. The government continues to organize accident injury prevention activities, interdepartmental (county/city) cooperation and communication meetings, and interviews for injury-related deaths and major injuries/illnesses, in order to analyze the causes of accident deaths and formulate implementation strategies for 2019. The plan has continued in 2019.

## Point 47

In response to the 2013 Concluding Observations and Recommendations, a public hearing was held by the Council of Indigenous Peoples (CIP) where the Taiwan power company was asked to immediately remove the low-level radioactive waste from Orchid Island. The subsequent process for referendums by the Ministry of Economic Affairs (MOEA) to determine a new site for the disposal of the radioactive waste has stalled. The Review Committee recommends that the MOEA set a concrete plan and specific time frame to decide on the radioactive waste disposal and that the solution would not jeopardise other indigenous communities.

### **Consolidate Social Consensus and Prioritize the Construction of Temporary Storage Facilities for Radioactive Waste**

- 128.** As required by the Act on Sites for Establishment of Low Level Radioactive Waste Final Disposal Facility, the Ministry of Economic Affairs finalized and announced that Daren Township in Taitung County and Wuqiu Township in Kinmen County would be the two candidate sites on July 3, 2012. Subsequently, letters sent to the governments of Taitung and Kinmen Counties on August 17, 2012, and May 5, 2016, called for local referendums. The two county governments responded by denying the request. The Ministry of Economic Affairs will continue to communicate with these governments to seek their permission for holding local referendums. The Ministry invited the Atomic Energy Council under the Executive Yuan, the Ministry of the Interior, and the Central Election Commission for a referendum assessment meeting on March 4, 2013. For the referendum, the Ministry will continue to seek a solution and urge Taiwan Power Company to continue to communicate with the governments of Taitung and Kinmen Counties and win the support of citizens there.
- 129.** For communication on a referendum for the low-level radioactive waste final disposal facility, there are six major modules, i.e., advertisement and promotional material, survey and investigation, event sponsorship, care for public interest, issue management, and organized mobilization. Under these modules are 38 separate action plans. In Taitung County, door-to-door canvassing was initiated and completed throughout villages in Daren Township. Feedback and related concerns were carefully considered, collected, and compiled, so as to

accomplish the goal of attaining 50% approval in the referendum.

- 130.** The President organized a meeting with residents of Orchid Island on August 15, 2016, and made the following decisions in the meeting: (1) The relocation of nuclear waste will be processed through a platform established by Taiwan Power Company, the government, and civil society, which will study the issue of nuclear waste storage, prepare to create a nuclear-free homeland, and make the disposal of nuclear waste on Orchid Island a top priority; (2) With regard to the infringement of the rights of the Yami (Tao) tribe on Orchid Island, a Minister without Portfolio of the Executive Yuan will form an investigation team composed of members of the Yami (Tao) tribe, related authorities, Taiwan Power Company, and scholars and experts to issue a report with the participation and supervision of the tribe; the results of the investigation will be adopted as the basis for equal negotiations with the Yami (Tao) tribe on settlement and compensation issues before the final disposal of the nuclear waste.
- 131.** The Executive Yuan followed the decisions of the President and established the Nuclear-Free Homeland Project Task Force under its Sustainable Development Committee on November 3, 2016. It convened the first meeting on May 3, 2017, which covered topics such as nuclear waste processing, storage, and disposal and relocation of the Orchid Island storage site. The Task Force resolved in its fourth official meeting on March 15, 2019, to prioritize the construction of temporary storage facilities for radioactive waste. The Ministry of Economic Affairs will supervise Taiwan Power Company's active implementation of the plan and conduct communication. Once a consensus is formed in society, the Ministry will prepare related legislation for the final disposal facilities for low-level radioactive waste and related matters for siting operations.

### **Plans for the Relocation of Nuclear Waste Storage Site on Orchid Island**

- 132.** To supervise Taiwan Power Company's implementation of the relocation of the storage facility on Orchid Island, the Atomic Energy Council of the Executive Yuan reviewed Taiwan Power Company's report on the matter in February 2017 and requested that the Ministry of Economic Affairs supervise Taiwan Power Company in the implementation of the relocation of the nuclear waste facility on Orchid Island. To provide related regulations for the

management of low-level radioactive waste final disposal facilities, the Atomic Energy Council completed the amendment to the Standards of Scope and Criteria for the Prohibition of Sites for Establishment of Low Level Radioactive Waste Final Disposal Facility in March 2017 and added provisions that if certain indigenous peoples' areas are selected as candidate sites for the facility, the government must comply with regulations of Article 31 of the Indigenous Peoples Basic Law, which states that "the government may not store toxic materials in indigenous peoples' regions in contrary to the will of indigenous peoples." This means that the government must obtain the approval of indigenous tribes before proceeding with development in their areas. This is to protect their rights and interests.

**133.** The Council of Indigenous Peoples published the Investigation Report on the Facts in the Establishment of the Nuclear Waste Storage Facilities on Orchid Island in September 2018, detailing its assistance to surveys on the storage of nuclear waste on Orchid Island since November 2016. The report was distributed to related authorities and local governments of indigenous peoples for reference. The investigation showed that the Yami (Tao) people were unaware of the decision-making process for setting up the storage facilities on Orchid Island before the decision was made. Related departments, experts, and scholars only considered technical aspects of the plan and processed the plan through confidential official documents, which prevented the Yami (Tao) people from obtaining accurate information. The investigation report included four additional recommendations for damage compensation, acceleration of the relocation of the storage facilities, replenishment of medical resources and facilities on Orchid Island, and planning for its future development. Competent authorities will continue to conduct related work based on the additional recommendations.

**134.** The resolution passed in the fifth meeting of the Indigenous Historical Justice and Transitional Justice Committee under the Office of the President on March 29, 2018, included matters to be implemented following the investigations of the facts in the establishment of the nuclear waste storage facility on Orchid Island. The government is required to implement the relocation of the storage facility as quickly as possible. The Atomic Energy Council and Ministry of Economic Affairs jointly supervised Taiwan Power Company in implementing the plans as quickly as possible and required the Nuclear-Free Homeland Project Task Force

to monitor the progress. The Atomic Energy Council invited the Ministry of Economic Affairs, the Council of Indigenous Peoples, and Taiwan Power Company to meetings for discussions on relocation and compensation issues following the investigations on July 31 and December 25, 2018, and July 4 and December 26, 2019. The Atomic Energy Council resolved to follow the decisions made in the aforementioned meetings and continue to supervise Taiwan Power Company in actively implementing the relocation of the storage facility on Orchid Island.

**135.** The relocation of the storage facilities on Orchid Island is a government policy. However, before completing the final disposal facilities for low-level radioactive waste, Taiwan Power Company is required to maintain positive interactions with Orchid Island for the continued operations of the Orchid Island storage site. Taiwan Power Company and the local township office completed the renewal of the land lease for the Orchid Island storage site on September 10, 2018, to prevent protests by local citizens and protect public interests. The Executive Yuan approved the Directions for the Compensation of Losses in the Use of Indigenous Land of Orchid Island Nuclear Waste Storage Site on October 18, 2019.

#### **Point 48**

The Review Committee remains concerned about the high incidents of sexually transmitted diseases among adolescents, and the alarming increase in the number of syphilis and gonorrhoea cases in relation to boys between the age of 15 and 19. The Committee also notes that unsafe sex practices are on the increase. While acknowledging that the Government is taking various steps to provide sex education for adolescents, the Committee recommends that school teaching on all aspects of sexual education be further enhanced, and that parents, teachers and medical professionals should also be actively involved in that process. The Committee recommends that the Government broadens its strategies, programmes and campaigns in this area, particularly by engaging civil society organizations and stepping up public debate via the mass media.

#### **Statistics of Sexually Transmitted Diseases Involving Adolescents**

**136.** There was no significant increase in the number of teenage males suffering from syphilis in 2018 and the number of gonorrhoea cases was significantly reduced. Table 2 shows statistics

of sexually transmitted diseases involving adolescents between 2015 and 2018.

**Table 2 Cases of Sexually Transmitted Diseases Involving Adolescents**

Unit: Person(s)

Year	Age	Syphilis		Gonorrhoea		HIV	
		10-14	15-17	10-14	15-17	10-14	15-17
2015	Female	0	1	7	24	0	1
	Male	0	20	3	75	1	12
2016	Female	2	2	23	26	0	0
	Male	1	29	2	95	0	17
2017	Female	0	1	17	33	0	1
	Male	2	25	4	93	1	23
2018	Female	0	3	7	20	0	0
	Male	2	26	3	76	0	18

Source: Ministry of Health and Welfare

Note: According to the Protection of Children and Youth Welfare and Rights Act, children are defined as people under the age of 12 and youth as people between the ages of 12 and 18. The Convention on the Rights of the Child defines children as “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” The original 15 to (at least) 19 years of age was revised to 15 to 17 years of age.

### **Prevention of HIV/AIDS and Improvement of Adolescents’ Understanding of Sexually Transmitted Diseases**

**137.** Efforts to prevent the spread of HIV/AIDS in Taiwan are based on changes in the HIV/AIDS epidemic and various strategies and methods. The main framework consists of case prevention, detection, management, and care. The government actively promotes comprehensive prevention work. Currently, the main prevention tasks are enhancement of screening and reporting. The government will continue to promote HIV/AIDS prevention measures to attain the 90-90-90 targets of WHO recommendations. This means that 90% of all people living with HIV will know their HIV status; 90% of all people with a diagnosed HIV infection will receive sustained antiretroviral therapy; and 90% of all people receiving antiretroviral therapy will have viral suppression. The Taiwan CDC estimated that Taiwan improved from 75-84-88 in 2016 to 84-88-94 in 2018.

**138.** The government continues to promote sexual health education to improve adolescents’ awareness of sexually transmitted diseases. The Taiwan CDC works with the Ministry of Education in organizing HIV/AIDS prevention on campus, building an HIV/AIDS-friendly

environment in colleges and universities, and organizing creative promotional campaigns. The government assigns NGOs to establish community-based health service centers to create a gender-friendly environment and services. It also organizes health seminars, free telephone consultations, screenings, and referrals for medical services.

### **Implementation of Campus Sexuality Education (Including HIV/AIDS Prevention) Program**

**139.** In 2013, the Ministry of Education formulated the Campus Sex Education (Including HIV/AIDS Prevention) Program to integrate Taiwan's sex education resources so as to simultaneously address underlying causes and effects. It is designed to equip students with the knowledge and skills necessary to deal with sex-related health topics and assist them in properly responding to and handling related issues. It also seeks to raise students' ability to exercise critical thinking and self-management regarding erotic and pornographic media content. The Ministry has reinforced advice that schools formulate specific indicators to address students' sexuality-related problems and assists schools in preparing comprehensive plans for dealing with students' issues.

**140.** Senior high schools and lower education levels: The Ministry promoted sex education on campus through the Campus Sex Education (Including HIV/AIDS Prevention) Program in 2017. It provided sex education teachers with resources to help students develop correct concepts. Diverse channels were used to promote youth health, such as health promotion school models. A total of 24 campus sex education (including HIV/AIDS prevention) education programs were organized across Taiwan in 2019 to improve the knowledge of teachers.

**141.** Tertiary institutions: Colleges and universities continue to implement the Campus Sex Education (Including HIV/AIDS Prevention) Program. In terms of specialized courses, institutions with medicine, public health, or education departments include sex education into their courses. General education courses also include sex education (including HIV/AIDS prevention and drug abuse). Courses related to parent education, gender relations, gender equality, and cultural diversity are organized through immersive education. The institutions seek to improve the effectiveness of related sex education courses and improve students' ability to understand related issues in order to help them develop healthy attitudes and values.



## Point 49

The Review Committee notes that the Government has published a White Paper on Mental Health Promotion in 2015 and a National Health Action Plan for the years 2017-2021. Considering the multifaceted problems connected with the mental health situation in the country, the Committee recommends that a mechanism be established to assess the results of measures taken at regular intervals.

- 142.** Phase 2 of the National Mental Health Action Plan has been listed as one of the main tasks of the Ministry of Health and Welfare since 2017. The Ministry works with related agencies and county/city governments to provide comprehensive, long-term, and all-encompassing mental health services to enhance people's mental health.
- 143.** The Ministry has established indicators for the plan's structure, process, and results to manage and evaluate its effectiveness. It also conducts evaluations in April, July, September, and December each year. Key results include the following: (1) In 2018, the standardized suicide mortality rate was 12.5 persons per 100,000. A total of 3,865 people committed suicide (six fewer compared to the 3,871 deaths by suicide in 2017). Furthermore, 2,550 people committed suicide from January to August 2019 (25 fewer compared to the 2,575 deaths by suicide in the same period in 2018). Suicide ranks 11th among causes of death, and has not been among the top-ten causes of death for nine consecutive years from 2010 to 2018. (2) The central government designated local governments to implement the Mental Health Promotion Network Plan. As of 2019, counties and cities across Taiwan have completed the establishment of mental health networks and more than half of the administrative regions in each county provide free (or discounted) mental health consulting services. (3) The government has promoted the Community Tracking and Caring Quality Improvement Plan by Medical Institutions for Mental Health Patients in 2019. The number of home visits reached 2,722 visits. (4) The draft amendment to the Mental Health Act was completed in 2019. (5) Alternative treatment medicine dispensing services were provided by 20 counties and cities and 58 institutions as of 2019. (6) The government organized nationwide drug hazard prevention center operations, case management information systems, and 24-hour toll-free hotlines in 2019, as well as increased case management and supervision personnel in

county/city governments to 607. (7) The government provided services for respondents of domestic violence affairs in 21 municipalities in 2019. (8) The percentage of sexual assault perpetrators at medium to high risk of recidivating who accepted community treatment within two weeks of leaving prison between January and September 2019 was 98.9%.

## **Point 50**

The sex education currently provided at different levels of school education is not comprehensive enough and raises disputes among different groups of people regarding the appropriateness of its contents.

The Review Committee recommends the Government of Taiwan to:

- a) provide for both boys and girls at different levels of education a curriculum on the right to sexual and reproductive health, which is comprehensive, scientifically accurate and up-to-date, engaging various stakeholders for consultation;
- b) conduct research into the situation of intersex people, and formulate policy guidance including prohibition of medically unnecessary operations of removing otherwise healthy reproductive organs;
- c) take into account General Comment No. 22 (2016) of the UN Committee on Economic, Social and Cultural Rights on the right to sexual and reproductive health in implementation of Taiwan's obligation to respect, protect and fulfill the right to sexual and reproductive health.

### **Promote Courses on Sex and Childbirth Health Rights**

**144.** See Notes 139 to 141 of this report.

### **Promotion of Health Education in Elementary and Junior High Schools**

**145.** The current nine-year curriculum outline for health, sport, and gender equality education in elementary and junior high schools already includes sex education indicators to cultivate students' positive gender concepts and gender relations, helping them understand physiological differences, protect and defend their physical autonomy, respect others' physical autonomy, and create harmonious, respectful, and equal gender relations.

**146.** The Health and Sports and Gender Equality Education Consultancy Panels and Central

Consultancy Panels of the K-12 Education Administration under the Ministry of Education used the three-tier assistance system (central government-local government-school) to help local governments promote sex education and provide professional consulting services for curriculums, education materials, education, evaluations, and behavioral research to improve teachers' professional knowledge and fully implement sex education in elementary and junior high school courses. The Ministry also organized workshops, seminars, and committee member learning activities in 2019. It developed course education demonstrations for sex education and placed related education resources under the Curriculum & Instruction Resources Network (CIRN) for the reference of teachers who provide onsite sex education to help them improve their professional skills.

### **Promotion of Health Education in Senior High Schools**

- 147.** The current senior high school curriculum outline and the 12-year compulsory education curriculum outline to be implemented in the 2019 academic year require schools to include gender equality education in related courses. The health and sport curriculum outline was published on June 8, 2018. The courses cover physical, mental, social, and spiritual aspects of sex education, with topics such as physiological and psychological development, sex values, establishment of relations, sexual health promotion, sex and social culture, and others.
- 148.** To implement gender equality education and help teachers improve their professional knowledge and skills, the K-12 Education Administration of the Ministry of Education established the Gender Equality Education Resources Center in 2018. Its missions include implementing curriculum studies, coordinating related work, and collecting recommendations for teaching practices and reforms in senior high schools; establishing professional support mechanisms for subject/group consultation and guidance, creating seed teacher communities, and assisting schools in promoting communities of professional teachers and collaborative curriculum preparation mechanisms for teachers; developing education materials and methodology, compiling the contents and issues of the curriculum outlines and including them into various education plans, and striving to become a national learning resource center; improving teachers' education skills, organizing professional courses for teachers across Taiwan, helping promote related courses in the curriculum outline,

and organizing contests and activities; adopting a joint operation model for curriculum formulation, promoting an integrated 12-year compulsory education curriculum, and strengthening vertical connections between education stages.

### **Promotion of Sex Education in Higher Education**

**149.** Between 2013 and 2017, the Ministry of Education provided assistance to universities and colleges in training 47 teachers to teach sex education courses, encouraging all universities and colleges to offer sex education courses among their general courses. The Ministry also commissioned professional teams to complete the development of guidelines and teaching and reference materials for sex education in universities and colleges (including HIV/AIDS prevention). These were provided to universities and colleges, which were encouraged to use them to set up specialized or general sex education related courses.

**150.** From 2013 to 2019, 13 workshops were conducted for directors of student affairs, counselors, heads of health service divisions, and nursing personnel to enhance the knowledge and skills of university and college administrators, familiarize them with the Guidelines for Sex Education in Universities and Colleges, and encourage use of certain models for promoting sex education.

### **Publication of the Commonality Principle for Recommendations of Corrective Medical Surgeries for Intersex Minors**

**151.** The Ministry of Health and Welfare formulated the Commonality Principle for Recommendations on the Timing of Gender Correction Surgeries for Intersex Minors and published the Commonality Principle for Recommendations of Corrective Medical Surgeries for Intersex Minors on October 11, 2018. The Ministry also established a list of hospitals for referrals and sent letters to local health departments, medical associations, medical institutions, and their members to request compliance.

### **Regarding the Recognition of Free Choice of Transgender Persons**

**152.** See Notes 205 and 206 of this report.

## Point 51

The Review Committee remains concerned about the state of housing and living conditions of the residents of Lo-Sheng Sanatorium, due to the construction of the Mass Rapid Transit Depot, that have had an adverse impact on their mental and physical health. The Review Committee recommends that the original landscape of the sanatorium be restored and the Mass Rapid Transit Depot construction not be allowed to violate the right to health of the patients. The Review Committee further recommends that the Government follow the procedure laid down in General Comment No. 7 of the UN Committee on Economic, Social and Cultural Rights and the UN evictions guidelines in all activities related to the Lo-Sheng Sanatorium.

### **Lo-Sheng Sanatorium Overall Development Project Organized by the Ministry of Health and Welfare**

- 153.** The Executive Yuan approved the Lo-Sheng Sanatorium Overall Development Project and allocated NTD 1,073,334,000 in funding from 2017 to 2024, with a self-liquidating ratio of 3.97%. The plan is being implemented to gradually restore the wards and important architecture of the Sanatorium for short- and medium-term phases. The goal is to allow the residents under care to return to the old wards they are familiar with and provide them with care in their old age. Long-term goals include the completion of repairs of all equipment and environment preparation tasks and the official establishment of the National Hansen's Disease Medical Care Human Rights Park, which is to include the Lo-Sheng Plaza, Lo-Sheng Village, Hansen's Disease Medical History Museum, and Lo-Sheng Human Rights Forest Park. Professional teams will be appointed to operate the museum and organize displays, tours, international exchanges, and reuse of historical spaces. All of these will provide educational functions that preserve the Lo-Sheng Sanatorium and highlight its role in the history of medical services, human rights, and architecture in Taiwan.
- 154.** Procedures for preserving historical buildings in the park have been fully implemented in accordance with related regulations and procedures in the Cultural Heritage Preservation Act. Related plans and design drawings are to be submitted to the Cultural Affairs Department of the New Taipei City government for review before implementation. The Ministry of Health

and Welfare will adopt the most rigorous attitude in repairing historical buildings in the Lo-Sheng Sanatorium and continue to provide care for residents for their medical and other needs.

#### **Assistance Provided by the Ministry of Culture**

**155.** The Lo-Sheng Sanatorium and some of its buildings were registered as cultural landmarks and historic buildings in 2009 as testament to the medical and public health development history of Hansen's Disease in Taiwan. The managing authority is the Ministry of Health and Welfare (Lo-Sheng Sanatorium and Hospital) and the competent authority for cultural heritage aspects is the New Taipei City government. The Ministry of Culture paid subsidies to the New Taipei City government for the completion of the Lo-Sheng Sanatorium Cultural Landscape Preservation Project in 2012 and provided oversight and protection. According to the Cultural Heritage Preservation Act, the competent authority of cultural heritage is the New Taipei City government and the managing authority is the Ministry of Health and Welfare (Lo-Sheng Sanatorium and Hospital). They are to perform tasks related to management and maintenance and jointly preserve the Lo-Sheng Sanatorium.

**156.** The Ministry of Culture assigned personnel to attend all meetings of the Hansen's Disease Human Rights Protection and Promotion Team and Lo-Sheng Sanatorium Overall Development Project Promotion and Supervision Team to learn about the status of restoration, care provided for residents, and issues of concern, as well as provide related recommendations for the preservation of cultural heritage. The Ministry of Culture also assisted the Ministry of Health and Welfare in implementing the Lo-Sheng Sanatorium Overall Development Project to plan its revitalization.

## Point 52

The Review Committee is concerned about the comparatively high rate of recent deaths in custody. It recommends that all cases of death in custody, including apparent cases of suicide, shall be fully investigated by an independent body that also looks into the underlying reasons and root causes of each incident with a view to preventing future cases of deaths in custody. In addition, the Committee urges the Government to ensure sufficient medical, psychological and social staff within the prison personnel to prevent inter-prisoner violence and suicides.

### **Investigation and Prevention of Deaths in Custody and Improvements in the Allocation of Social Workers and Psychologists**

- 157.** The rate of deaths in custody in 2015 was higher than usual due to an incident of armed escape at Kaohsiung Prison in 2015. The death rate of inmates in correctional institutions in Taiwan between 2015 and 2019 was 2.04%, which was lower than the citizens' average death rate of 7.28%, indicating that inmates did not face higher rates. As for the medical services provided by correctional institutions, hospitals have offered outpatient services since 2013 to achieve the goal of integration with community medical service resources. Taiwan is now the fourth country in the world to include inmates of correctional institutions in the National Health Insurance (mainstreaming healthcare in prisons).
- 158.** The causes and timing of inmate deaths in correctional institutions from 2015 to 2019 are shown in Tables 3 and 4. When a death occurs in a correctional institution, it is processed in accordance with the Inmate Death Incident Operating Procedures promulgated by the Agency of Corrections of the Ministry of Justice, regardless of whether it is caused by an illness or other factors. In addition to cooperating with the prosecutor in the examination of the remains and providing explanations to the inmate's family on how the incident occurred and how it is being processed, the correctional institution must also produce a special review report and submit it to the Agency of Corrections. The Agency of Corrections then enhances supervision on items listed in the special review report (e.g., hardware equipment, guard duty regulations, screening of high-risk cases, or timely referrals) to prevent further suicides.

**159.** When an inmate dies, the case is transferred to a prosecutor’s office for an impartial and independent examination of the person’s remains. Taiwan has fully implemented investigation procedures by independent organizations and upholds inmates’ right to life. The Agency of Corrections established external visit mechanisms for the Group on Corrections Innovation in 2016. The members of this group include NGOs, scholars, experts, and government agencies. Committee meetings are convened once every six months. Data on the deaths of inmates are submitted for review and related records are published after meetings for the general public’s reference.

**Table 3 Causes of Inmates’ Deaths in Correctional Institutions**

Unit: person(s)

Year	Total	Natural deaths	Suicides	Homicides	Deaths by accident
2015	148	138	7	0	3
2016	128	127	1	0	0
2017	135	126	4	1	4
2018	128	123	5	0	0
2019	117	111	3	1	2

Source: Agency of Corrections, Ministry of Justice

**Table 4 Timing of Inmates’ Deaths in Correctional Institutions**

Unit: person(s)

Year	Total	Death before arrival	Death after arrival	Deaths in the course of medical treatment outside prison under guarded escort
2015	148	44	0	104
2016	128	27	2	99
2017	135	26	17	92
2018	128	19	12	97
2019	117	18	23	76

Source: Agency of Corrections, Ministry of Justice

Note: If correctional institutions escort inmates to medical facilities for treatment, and if the inmate dies during transportation or treatment, the death certificates issued by doctors in the hospitals distinguish between death before arrival and death after arrival. Therefore, the subcategories for the statistics above are therefore not death in custody or death en route to hospital.

**160.** The Ministry of Justice considered the nature of operations, types of cases, and operational requirements of the Agency of Corrections and the correctional institutions under its authority and estimated that the ideal ratio of clinical psychologists and social workers to inmates was 1:300. The average number of inmates jailed for drug abuse, driving while drunk, sexual



assault, and domestic violence, as well as juvenile inmates, in correctional institutions in the past three years (2016 to 2018) totaled 41,882. The correctional institutions require 140 clinical psychologists and 140 social workers, totaling 280 personnel, based on the aforementioned ratio. The prisons and rehabilitation centers of the Agency of Corrections currently employ 43 clinical psychologists and 38 social workers. Therefore, they are required to appoint another 97 clinical psychologists and 102 social workers. The replenishment shall be gradually completed by hiring 66 people in 2019, 66 in 2020, and 67 in 2021, so as to improve consultation assistance and treatment. The professional treatment at juvenile correctional institutions must be prioritized for improvement and personnel must be assigned based on the requirements of each institution.

### **Provision of Suicide Prevention Education Materials and Courses to Correctional Institutions**

**161.** The Ministry of Health and Welfare has provided suicide prevention education materials (e.g., suicide prevention manuals and suicide prevention gatekeeper education and training materials) and course instructors to the Agency of Corrections for reference and use by correctional institutions.

### **Organization of Medical Services for Insurance-Covered Inmates Held in Correctional Institutions**

**162.** The National Health Insurance Act included inmates in correctional institutions as insured individuals on January 1, 2013, and the National Health Insurance Administration of the Ministry of Health and Welfare implemented a program to accommodate this change. In 2019, 34 medical teams from 113 medical institutions were mobilized to provide medical services to more than 60,000 inmates held at 51 correctional institutions and three branch institutions throughout the nation. See Notes 106 to 109 of the third national report on the ICCPR for information on the health and medical treatment of inmates.

## Point 53

In 2013, the Review Committee recommended that the Government insert the crime of torture (as defined in Article 1 CAT) as a separate crime with adequate penalties in its Criminal Code. The Committee notes with regret that this recommendation has not been implemented. Since fighting impunity for perpetrators of torture is one of the most effective means to eradicate torture and other forms of ill-treatment, it strongly reiterates its recommendation to incorporate a separate and specific crime of torture with adequate penalties into the Criminal Code of Taiwan.

- 163.** Regulations that expressly prohibit and impose penalties on torture and cruel treatment in Taiwan include: (1) Article 125 of the Criminal Code regarding public officials charged with the duty of investigation or bringing offenders to justice who abuse their authority in arresting or detaining a person; use threats or violence to extract confessions; knowingly cause an innocent person to be prosecuted or punished or cause a guilty person not be prosecuted or punished; (2) Article 126 of the Criminal Code regarding public officials charged with the custody or conveyance of prisoners who commit an act of violence or cruelty against a prisoner; (3) Article 44 of the Criminal Code of the Armed Forces regarding commanders who abuse subordinates; senior officers or senior soldiers who find an excuse or take advantage to abuse soldiers; commanders who know about a soldier's offense but still do not report it. The term *abuse* indicates actions related to education, training, missions, or operations that are considered inhuman treatment of soldiers.
- 164.** Taiwan already has laws that prohibit crimes described as torture in Article 7 of the ICCPR and Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Meanwhile, the Ministry of Justice's task force on Criminal Code improvements is actively amending the provisions of the Criminal Code to incorporate the description of torture included in UNCAT. The government has embarked on preliminary research and explored amendments to actions that constitute the crimes indicated in Article 125 of the Criminal Code. Abusing one's authority in arresting or detaining a person and using threats or violence with the purpose of extracting a confession have been added. For

Article 126 of the Criminal Code, perpetrators involved in an act of violence or cruelty against a prisoner can now be any public official with the duty to place someone under custody, with the victims including anyone whose freedom is restricted by law. Advance notice will be provided for related drafts. Related studies will continue to be conducted.

#### **Point 54**

The Review Committee also recommended that all allegations or suspicions of torture shall be thoroughly and promptly investigated by an independent and impartial body with full criminal investigation powers with a view to bringing the perpetrators to justice with adequate punishment. The Committee regrets that no progress has been achieved in implementing this recommendation, which is herewith reconfirmed.

#### **Incorporation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment into Domestic Law**

**165.** See Note 57 of the third national report on the ICCPR.

#### **Investigations of Torture Accusations**

**166.** Prosecutors are independent and impartial judicial authorities responsible for criminal investigations. Paragraph 1 of Article 228 of the Code of Criminal Procedure states that if a public prosecutor, because of complaint, report, voluntary surrender, or other reason, knows there is a suspicion of an offense having been committed, he or she shall immediately begin an investigation. The person responsible for the investigation and prosecution of crimes in Taiwan is the prosecutor. According to Judicial Yuan Interpretations nos. 13, 325, 392, and 729, as well as the legislative intent of Article 86 of the Judges Act, prosecutorial rights in Taiwan are part of the judicial rights of the state. Prosecutors are by law judiciary officers and enjoy the same protection accorded judges under the Constitution. Prosecutorial agencies in Taiwan can investigate and prosecute crimes independently and impartially without interference. The Ministry of Justice will continue to uphold prosecutors' judiciary roles in order to provide them with space for independent and impartial investigations free from interference.

## Point 55

In 2013, the Review Committee recommended the speedy adoption of a Refugee Act, which should also include the principle of non-refoulement. Despite certain efforts undertaken in this respect, the Committee notes with concern that to this date no such act has been adopted and that the principle of non-refoulement has not been incorporated into domestic law. This has led to the return of asylum seekers to their countries of origin, despite the risk of being subjected to torture or other forms of ill treatment, including capital punishment.

**167.** The draft of the Refugee Act was submitted by the Executive Yuan to the Legislative Yuan for review on February 1, 2016, and was reviewed in the second joint session meeting of the Internal Administration Committee and Foreign and National Defense Committee on July 14 of the same year. Cross-party negotiations are not required. The Executive Yuan will continue to work with the Legislative Yuan on legislative procedures.

## Point 56

The Review Committee therefore reiterates its previous recommendations and reminds the Government of the fact that Article 7 ICCPR already provides an absolute prohibition to extradite, expel or return any person to another country or jurisdiction where he or she would face a serious risk of being subjected to torture or other forms of ill treatment, including capital punishment.

**168.** The Immigration Act expressly provides that unless a foreigner has presented a written statement waiving his or her rights to file a claim or having chosen to exit the country voluntarily; has been sentenced to deportation as a result of a final court decision; has been ordered to exit the country pursuant to other laws and regulations; or has been found guilty of endangering national interests, public safety, or public order or engaging in terrorist activities, the National Immigration Agency must provide the foreigner with an opportunity to submit claims before deportation is enforced. If the foreigner does not agree with the deportation decision imposed by the competent authority, he or she may, after the appeal procedure, file a lawsuit with the Administrative Court to seek to have the penalty withdrawn.

If the implementation of the original decision to deport the foreigner would result in irrecoverable damage, if the suspension of implementation does not impact the public interest, or if the defendant's suit is not devoid of merit, the Administrative Court may rule to suspend the deportation and respect the principle of nonrefoulement.

**169.** The Ministry of Justice has completed the amendments to the Law of Extradition and has submitted them to the Executive Yuan for further review. The principle of nonrefoulement against torture was adopted in the amendments and Article 9 allows Taiwan to reject extradition requests of foreign entities if there are substantial grounds for believing that the extradited person has previously been, or would be in danger of being, subjected to torture or other cruel, inhuman, or degrading treatment or punishment.

**170.** Prior to the enactment of the Refugee Act, reviews for determining refugee status in accordance with existing regulations are conducted by interministerial meetings. The government clarifies the cases, visits the parties concerned, investigates the facts, and organizes coordination meetings between different agencies. These procedures are conducted in accordance with the principles of the draft Refugee Act, the two covenants, and the principle of nonrefoulement. Assistance is provided through the Ministry of Foreign Affairs for referrals to third countries and the United Nations High Commissioner for Refugees for queries on the determination of refugee status. If results are not obtained through the referral before the expiry of the applicant's stay, if there is legitimate reason to believe that the person may be subjected to torture or other inappropriate treatment, and if the person does not wish to return to his or her country of origin or country of residence, Taiwan may temporarily suspend the deportation or send the person to another country or region based on his or her wishes. Although the aforementioned mechanisms process cases individually, they provide optimal outcomes for the parties. As of 2019, no individuals had been repatriated to countries or regions where they could have subjected to torture or other cruel, inhuman, or degrading treatment. Taiwan thus actively upholds the spirit of the draft Refugee Act and the two covenants.

**171.** Taiwan has established mechanisms for processing political asylum applications by people from China. Such applications are processed by the Ministry of the Interior in accordance with the Act Governing Relations between the People of the Taiwan Area and the Mainland Area and the Regulations Governing Dependent, Long-term and Permanent Residency of Mainland Residents in Taiwan. Individuals may be granted long-term residency in Taiwan on a case-by-case basis based on political considerations. Therefore, individuals may file applications to the competent authority in accordance with the regulations and are entitled to file for administrative relief in response to the competent authority's approval or rejection of their application. To improve mechanisms for people from China seeking asylum, the Mainland Affairs Council referenced related regulations in the draft Refugee Act and proposed an amendment to Article 17 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, which allows people from China, even if they entered Taiwan in an unauthorized manner, to be eligible for existing regulations on special long-term residency based on political concerns. It also specifies that they do not have to present evidence of losing their original nationality when applying for permanent residency in Taiwan and waives the criminal liability associated with unauthorized entry. The preliminary review of the draft amendment was completed by the Legislative Yuan on June 27, 2016; it awaits the completion of further procedures in the Legislative Yuan.

### **Points 58 and 59**

The Committee, however, strongly regrets that there has been no progress in the abolition of capital punishment as the utmost form of corporal punishment. Despite the fact that international law is increasingly recognizing the death penalty as contrary to the right to human dignity, the number of executions has remained roughly the same in recent years and the Government continues to justify its retentionist attitude by opinion polls, which allegedly prove that a large majority of the population remains in favour of the death penalty.

The Review Committee urges the current Government of Taiwan and President Tsai Ing-wen to take the lead in raising public awareness against this cruel and inhuman punishment,

rather than being exclusively concerned with public opinion. To this end, the Committee strongly recommends that the Government take decisive steps by immediately introducing a moratorium on executions with the aim of full abolition of capital punishment in the near future.

### **Gradual Abolition of the Death Penalty**

- 172.** Even though abolition of the death penalty is an international trend, it involves a wide range of issues and cannot be achieved overnight. As the general public remains skeptical about abolishing the death penalty and has yet to reach a consensus on alternatives, Taiwan is committed to further consolidating a public consensus on the matter and mitigate people's concerns. Various measures will be introduced and rigorous trial proceedings for death penalty cases will be implemented, with the aim of gradually abolishing the death penalty.
- 173.** Communication and dialogue on abolishing the death penalty and formulating alternatives will be facilitated between people with different points of view. The Ministry of Justice reactivated the Task Force to Research the Gradual Abolition of the Death Penalty on December 5, 2017, and invited representatives from the Association for Victims Support, White Rose Social Care Association, Taiwan Innocence Project, Taiwan Alliance to End the Death Penalty, Chinese Association for Human Rights, and Taiwan Bar Association, as well as scholars, experts, public figures, and representatives of government agencies to serve as committee members. More than 20 meetings have been convened and the Ministry will continue to organize such meetings when necessary and study alternatives to the death penalty and related feasible measures with the aim of consolidating a public consensus on the death penalty and mitigating people's concerns.
- 174.** Many scholars and legal professionals believe that according to the ICCPR, criminals should not be subject to the death penalty unless they can no longer be reformed. With regard to the conditions listed in the ICCPR, many have dissenting opinions on whether the death penalty can be imposed on people with mental disabilities, what the criteria are to determine whether a defendant can be reformed, and what the methods are for such assessments. How to determine mental disabilities has been an issue of contention among legal and medical practitioners. Therefore, to ease concerns among academics, practitioners, and the general

public regarding the applicability of the two covenants, the Ministry of Justice organized an academic seminar on the possibility of reform and mental assessments on November 17, 2017, and a series of legal and human rights courses in 2019 to facilitate rational discussions among different groups in society about the right to life, educate them on human rights principles and values, and help them reach a consensus. The Ministry also continues to organize seed teacher training for human rights education for judicial personnel to enhance prosecutors' knowledge of international human rights conventions.

**175.** The current domestic debate on the death penalty focuses mainly on the protection of the human rights of criminals on death row and less on the rights and feelings of victims and their family members. The Ministry of Justice has followed the resolution of the National Conference on Judicial Reform held by the Office of the President and officially endorsed restorative justice, which is used as a basis to increase the possibility of dialogue between victims or their family members and the defendant. It provides the defendant with an opportunity to understand the trauma suffered by victims and their family members and apologize to and comfort them. If the defendant earns forgiveness, it would help him or her reform and also truly realize the aim of using punishment as a form of education and correction. Pursuant to the resolutions of the meetings of the Task Force to Research the Gradual Abolition of the Death Penalty, correctional institutions under the Agency of Corrections selected suitable cases and planned the implementation of restorative justice for defendants on death row. The Agency surveyed the inmates on death row in March 2018 and 39 individuals expressed willingness to participate. Following evaluations, three individuals were referred to the restorative justice facilitators who attempted to conduct preliminary counseling. However, no cases were formally opened after the preliminary interviews and there had been no successful cases as of 2019.

**176.** To help enhance the positions of victims and their family members in criminal proceedings, the Ministry of Justice has cooperated with the Judicial Yuan and promoted a system that allows victims to be part of legal proceedings so that their opinions and emotions can be expressed during trials. This system not only provides for appropriate punishment of



defendants but also takes into account the calls for justice from society, victims, and their family members. The Judicial Yuan passed amendments to certain articles of the Code of Criminal Procedure on March 14, 2018, and added related clauses for victim participation in legal proceedings. The amended Code was passed by the Legislative Yuan on December 10, 2019, following three readings and promulgated by the President on January 8, 2020.

### **Cautious Use of the Death Penalty**

**177.** Although the Ministry of Justice is the highest administrative organ in the judicial system for approving the implementation of death penalties, whether death penalties are carried out and whether to retain or abolish the death penalty are different issues. Taiwan is a country ruled by law. Governing in accordance with the law is a fundamental principle in Taiwan that is upheld by the Ministry of Justice. According to the Code of Criminal Procedure, judges are responsible for rendering judgments in criminal cases in accordance with related laws, while the implementation of the sentence is the responsibility of the prosecutor. Therefore, death penalty verdicts reached at the end of court cases should be carried out, unless the execution is postponed as required by law.

**178.** Taiwan has already explained in Note 177 of the Response to the Concluding Observations and Recommendations Adopted by the International Group of Independent Experts on the initial national reports on the two covenants that the Second Optional Protocol of the ICCPR of 1989 and UN General Assembly resolutions on temporary death penalty moratoriums do not constitute mandatory regulations and cannot be used as legal basis for Taiwan to temporarily suspend the use of the death penalty.

## Point 60

The Review Committee welcomes the significant progress that has taken place in expanding the scope of habeas corpus since the previous review. It acknowledges the very important role that Judicial Yuan interpretations 708 and 710 have played in stimulating the Legislative Yuan to amend the Habeas Corpus Act in 2014 to assure detainees of all types, not only those criminally detained, and including nationals of the People's Republic of China (PRC) and foreigners, of their right to obtain timely judicial review of the legality, reasonableness, necessity and proportionality of their detention. The Committee is glad to learn that these reforms, so crucial to human liberty, have been increasingly implemented in the District Courts.

**179.** To implement substantive due process as laid out in Article 8 of the Constitution, protect human rights as detailed in Paragraph 4 of Article 9 of the ICCPR, and uphold Judicial Yuan Interpretations nos. 708 and 710, detainees deprived of their freedom are entitled to judicial reviews in a timely manner. The amendment to the Habeas Corpus Act was passed by the Legislative Yuan in 2013 following three readings and promulgated by the President in 2014. To protect the rights of detainees, the Administrative Litigation Act added provisions giving detainees or certain relatives the right to challenge the National Immigration Agency's detention decisions. Upon receiving such challenges, the National Immigration Agency has to transfer the detainee to a court within 24 hours. These judicial relief measures meet the requirements for the protection of personal freedoms specified in the covenant.

## Point 61

The Committee also welcomes the recent legislative amendments that limit the duration of the time that PRC nationals can be detained by immigration authorities. On the other hand, the Committee remains concerned about the comparatively high number of foreigners, including asylum seekers, who are detained by immigration authorities. It recommends that the Legal Aid Foundation provide legal assistance not only to foreigners with legal status, but also to asylum seekers without such status.

## **Protection of Detainees' Rights**

**180.** The National Immigration Agency of the Ministry of the Interior issued official letters to the Border Affairs Corps to inform detainees that they may direct their requests for legal aid to management personnel. The NIA also requested the Legal Aid Foundation to provide legal assistance and consulting services. In addition, it publishes notices for detainees in recreation areas of detention centers and provides printed copies to detainees for reference at any time. As of 2019, the average number of days foreigners were detained was 28. Due to the short detention period, the number of legal aid applications was also reduced.

## **Legal Assistance for Asylum Seekers without Legal Status**

**181.** Asylum seekers without legal status may apply for legal aid from the Legal Aid Foundation. If they meet criteria specified in Paragraph 1 of Article 14 of the Legal Aid Act, the Foundation will provide legal assistance accordingly. Subsequent processing and follow-up for legal aid applications are done in accordance with the Legal Aid Act.

## **Point 62**

In 2013, the Committee found that the "reasonable time" limit of Article 9(3) ICCPR was violated by Article 5 of the Speedy Trial Act of 2010, which stipulates a maximum period of eight years of detention pending trial, and it recommended that this time limit be significantly reduced. So far, no amendments of the Act in this respect have been made. Although the Committee has been informed that detention pending trial rarely exceed five years, it considers even such a period to be excessive and repeat its recommendation to reduce the time limit.

**182.** The regulations in the Code of Criminal Procedure and the Criminal Speedy Trial Act regarding the detention period in investigations or trials were established based on the framework in which the prosecutor remains the main entity leading the investigation process, the adoption of reexamination of procedures in the court of second instance, and the significant reliance on the determination of facts within the scope of review of the court of third instance. According to the amendment to Paragraph 3 of Article 5 of the Criminal Speedy Trial Act promulgated on June 19, 2019, the detention period for trials was lowered

from no more than eight years to no more than five cumulative years. The amendment will enter into force one year after its promulgation to strengthen the protection of human rights.

### **Point 63**

The Review Committee recognizes that compulsory hospitalization for the allegedly mentally ill in accordance with the Mental Health Act is not merely a medical matter. The Committee received information that it has been abused on occasion as a measure for the arbitrary detention of controversial but not mentally ill persons. It recommends that the procedures for compulsory hospitalization be revised in several respects to assure confined persons' prompt access to fair administrative and judicial review, including habeas corpus. Furthermore, the Legal Aid Foundation should revise its requirements and procedures in order to facilitate the earliest opportunity for detained persons to receive legal assistance.

### **Amendment to the Mental Health Act**

**183.** The current Mental Health Act already has measures to protect the rights of patients suffering from mental illnesses. If the patient or his or her guardian deems that the mental health care institution infringes upon his or her rights, he or she may file a complaint in writing to the local public health department. The number of applications by psychiatric institutions for mandatory hospitalization was 677 in 2015, 725 in 2016, 818 in 2017, 642 in 2018, and 725 in 2019. The number of approved applications totaled 634 in 2015, 686 in 2016, 752 in 2017, 592 in 2018, and 683 in 2019. Psychiatric institutions received 21 complaints from 2016 to 2019. Local public health departments did not find evidence of infringement of patients' rights in investigations and they have requested the institutions to strengthen communication between medical personnel and patients. With regard to the appraisal of mental health hospitals, regulations have been established to require regular assessments of the need to restrain patients or limit their freedom of activity.

**184.** The Ministry of Health and Welfare reviewed the Mental Health Act and invited the Judicial Yuan and experts and scholars on mental health, law, and human rights to multiple rounds of legislation amendment meetings regarding the assessment of and relief procedures for psychiatric institutions' petitions to courts for compulsory hospitalization and community

treatment. The Judicial Yuan proposed that the legislation must include procedures and mechanisms for providing people with mental disabilities with the right to access legal resources (i.e., immediate legal aid and right to informed consent), diverse channels for treatment other than compulsory hospitalization, and alternative treatments. The Ministry of Health and Welfare formulated amendments to 82 articles of the Mental Health Act in May 2019 and submitted the amendments to the Executive Yuan for review.

### **Right to Access Legal Resources**

- 185.** With regard to emergency placement and compulsory hospitalization of people with mental disabilities in Taiwan, the current system allows the person with mental disabilities, his or her guardian, other individuals, or organizations promoting patient rights recognized by the central competent authority to petition for habeas corpus or request suspension of emergency placement or compulsory hospitalization in accordance with the Habeas Corpus Act and Mental Health Act. The system includes judicial review procedures.
- 186.** If persons subject to compulsory hospitalization in accordance with the Mental Health Act require legal aid, they may choose between a petition for habeas corpus assisted by the Legal Aid Foundation or general legal aid. From 2014 to 2019, the Legal Aid Foundation has provided the service of assigning lawyers to be present at the proceedings of petitions for Habeas Corpus in eight cases, and general legal aid service in 13 cases related to the Habeas Corpus Act. The number of applications is extremely low mainly because it requires a writ of habeas corpus to have been issued by the court. The Legal Aid Foundation already revised the criteria (review of applicants' financial status remains unnecessary) to the following: (1) The applicant must be the arrested or detained person or his or her relative or friend. (2) The applicant is arrested or detained by any authority other than the court. (3) A writ of habeas corpus has been issued by the court; this restriction shall not apply if the court has not served a writ of habeas corpus but the applicant has clearly stated the facts, time, and place of the arrest and detention, and the proviso in Paragraph 1 of Article 5 of the Habeas Corpus Act applies. These provisions are implemented to protect personal freedoms specified in Article 8 of the Constitution and Article 9 of the ICCPR.

**187.** As a recognized service provider, the Legal Aid Foundation provides several types of legal consultation for people with disabilities—including telephone, onsite, and home visit consultation—on behalf of the Ministry of Health and Welfare. From the launch of the Legal Aid Program for People with Disabilities to 2019, the Legal Aid Foundation assigned attorneys to provide legal consulting services in 18 cases in medical institutions. In addition, the legal aid services under the Legal Aid Program for People with Disabilities began on December 1, 2019. As of December 31 of the same year, the Legal Aid Foundation had provided assistance in 13 cases.

### **Points 64 and 65**

The overcrowding of prisons was already recognized by the Government of Taiwan as an “urgent problem” in its initial report of 2012. In its second report of April 2016, the Government acknowledged an overcrowding rate of 13.23% (63,045 inmates compared to a total capacity of 55,676 places in correction institutions as of December 22, 2015). The Government further stated as follows: “Correction institutions mostly consist of old buildings characterized by small confined spaces, and there will be no immediate improvement to the over-crowdedness due to lack of human resource, budget, and protest from local residents wherever prisons are relocated.”

As the Review Committee noted in its 2013 Concluding Observations and Recommendations, over-crowded prisons lead to a variety of human rights problems, such as poor hygienic and health standards, lack of privacy, and increase of violence and often to conditions of detention that can only be qualified as inhuman or degrading treatment.

**188.** Taiwan has adopted a bipolar policy for processing criminal cases by imposing severe penalties for major crimes and light penalties for minor crimes, adopting both leniency and strictness. Taiwan has adopted severe penalties for criminals who commit serious offenses or repeat offenders based on the theoretical basis of retributive justice and taking offenders out of society. Following amendments to the Criminal Code, the sentences for inmates have been extended and the number of inmates serving long sentences has increased. In addition, the number of criminal offenses has increased in Taiwan each year including a high proportion

of crimes involving drug abuse, larceny, and public endangerment involving drunk driving. This has led to an increasingly serious situation of overcrowding in correctional institutions. Unless social trends or criminal policy changes lead to drastic reductions in the number of offenders, these conditions will continue to cause challenges.

**189.** The Agency of Corrections continues to promote medium- to long-term expansion, relocation, and refurbishment projects (refer to Note 95 of the third national report on the ICCPR).

### **Point 66**

In addition to the measures already taken by the Government of Taiwan, including the construction of new prisons, the Committee again strongly recommends effective measures to reduce the number of prisoners by, inter alia, liberalizing its harsh policy towards drug users, introducing less restrictive provisions on pre-trial bail and parole and other non-custodial measures. The Committee further recommends improvements in the prison health services by transferring the responsibility to the Health Department.

### **Leniency in Parole Reviews**

**190.** The government makes full use of backdoor policies to improve review mechanisms for paroles. It has referenced the opinions of experts, scholars, and practitioners and established parole review baseline standards for inmates' crimes, behavior following the crime (including behavior in prison), and risks of recidivism (including prior offenses). These are further complemented by expanded interview mechanisms, including interviews with 1,457 persons in 2018. The system provides preferential parole reviews for inmates serving sentences of less than three years, first-time offenders, accomplices, delinquents, occasional offenders, other criminals with minor offenses, inmates in minimum security prisons, the elderly, the weak, women, juveniles, those with forgivable motives, and those with strong rehabilitation and care networks after release from prison. According to statistics, the total parole approval rate in 2019 was 35.76%, which was higher than the average of 33.98% from 2009 to 2018.

### **Promotion of Antidrug Strategies for a New Era**

**191.** According to Executive Yuan policies, drug abusers are regarded as patients. The Ministry of Health and Welfare formulated numerous rehabilitation measures as part of its antidrug

strategies for a new era, so as to actively provide medical and professional treatment services and resources in Taiwan for drug abuse and help drug addicts return to society. The measures include: providing subsidies for the establishment of six integrated drug abuse medical treatment demonstration centers to develop a range of medical services to treat different types of drug addictions; contracting third parties for the establishment of the Professional Drug Abuse Treatment Training System Development Plan and working with psychologists and mental health professionals on the creation of a training curriculum for drug abuse prevention staff; advocating the Drug Abuse Treatment Community Service Model Diverse Development Program to expand subsidies for shelters and increase the capacity of social rehabilitation services; bolstering the Nationwide Methadone Cross-Region Medicine Dispensing Service and providing subsidies to increase alternative treatment involving methadone; organizing nationwide drug hazard prevention center operations in 2018 and expanding subsidies for community-based drug abuse case management personnel to reduce the proportion of follow-up assistance cases and improve service quality for individual cases; and commencing a subsidies program for treatment expenses of drug addicts in May 2019 to make it easier for them to obtain medical services and improve coverage of professional services.

### **Point 67**

The Review Committee also wishes to stress that in a highly developed country, such as Taiwan, the lack of human resources and financial restraints can never be accepted as an excuse for inhuman and over-crowded prison conditions.

**192.** The Agency of Corrections of the Ministry of Justice also referenced the UN Standard Minimum Rules for the Treatment of Prisoners and the UN's 2016 Technical Guidance for Prison Planning to formulate the Reference Principles for Architectural Design of Correctional Institutions (refer to Note 95 of the third national report on the ICCPR). In addition, the Agency began implementing a plan to ensure a bed for each prisoner in May 2016. As of 2019, it had set up 46,099 beds for use by inmates. The bed allocation rate (number of beds/actual number of inmates) was 75.63% and 23 correctional institutions have



attained the goal of one inmate per bed. The design of new and expanded group cells has incorporated the one-inmate-per-bed concept, while also ensuring desk and chair space, shelves to place items, bookshelves, and other hardware. Correctional institutions that cannot attain the one-inmate-per-bed-plan goal in the current stage will gradually improve inmate space allocation in different phases to mitigate overcrowding and plan additional beds.

**193.** See Note 114 of the third national report on the ICCPR for information on the hiring of additional educational staff at correctional institutions.

### **Point 68**

The Review Committee concluded in the first review that the maximum length of criminal proceedings of eight years in the Speedy Trial Act is incompatible with the right to be tried "without undue delay", as stipulated in Article 14(3)(c) ICCPR, and recommended legislative changes aimed at reducing the length of criminal proceedings. The Committee notes with satisfaction that a great number of cases are terminated within a considerably shorter period of time. It regrets, however, that many trials, on the other hand, do not respect the "reasonable time" limit, often because of repeated appeals from prosecutors or cases being remanded back from higher courts to lower courts for retrial. The Committee therefore reiterates its recommendation that further legislative changes be made, aimed at reducing the length of criminal proceedings and providing adequate reparation in cases of excessive length of detention.

### **Improve Trial Efficiency**

**194.** The Judicial Yuan established the Criminal Appeals System Reform and Research Committee in 2017 and organized multiple meetings to complete a preliminary draft. The mission of the court of second instance was changed to both postsentence review and continuative trial while the mission of the court of third instance was changed to strict legal reviews as well as discretionary reviews that help courts process judgment procedures quickly, improve trial performance, and protect people's litigation rights. The draft is already being deliberated in the Legislative Yuan. If the legislation passes, it would greatly improve the effectiveness of trials and shorten their duration.

**195.** The Criminal Speedy Trial Act was implemented on September 1, 2010. As for statistics from 2009 and 2019, the number of criminal cases completed by District Courts was 203,957 in 2009 and 216,544 in 2019; the average number of days required for completing cases was 61.11 days in 2009 and 85.72 days in 2019. The High Court completed 22,103 cases in 2009 and 19,033 cases in 2019. The average number of days required for completing cases was 82.74 days in 2009 and 110.46 days in 2019. The Judicial Yuan will consider amendments to relevant regulations in a timely manner. For the average number of days required for completing criminal cases in different courts from 2015 to 2019, please refer to Note 74 of the common core document of the third national reports on the two covenants.

### **Careful Indictments and Appeals to Protect Human Rights**

**196.** The Ministry of Justice is committed to improving the quality of cases handled by prosecutors and encourages them to file indictments and appeals with caution to conserve legal resources and protect human rights. The conviction rate following indictments filed by prosecutors in the court of first instance in recent years has remained above 96% and the ratio of cases where defendants were found not guilty was approximately 3%. With the implementation of the Criminal Speedy Trial Act, the number of cases submitted by prosecutors to the court of second instance, which had been above 1,000 cases each year prior to 2011, has declined significantly to approximately 500 cases each year. The work done by prosecutors touches on people's rights and can lead to complaints. The Ministry of Justice will continue to request that prosecutors file indictments and appeals with caution.

**197.** Paragraph 1 of Article 251 of the Code of Criminal Procedure states that if the evidence obtained by a public prosecutor in the course of an investigation is sufficient to show that an accused is suspected of having committed an offense, a public prosecution may be initiated. However, the Ministry of Justice has always required prosecutors to enhance collection of evidence of criminal offenses when processing cases. They are required to carefully evaluate all evidence obtained from investigations and only file public prosecutions when they firmly believe there is a high probability the court will render a guilty verdict. These requirements reduce the ratio of cases where defendants are found to be innocent and prevents prosecutions

of innocent people. Prosecutors are also urged not to abuse their right to file appeals.

- 198.** To implement the two covenants and Judicial Yuan Interpretation no. 670, if the state's exercise of penal authority or implementation of detention, mandatory placement, detention for observation, sentencing, or security penalties causes to people's right to freedom protected by the Constitution to be constrained beyond generally tolerable levels, the state must provide compensation in accordance with the law. Therefore, if a prosecutor petitions for the detention of a defendant in a criminal prosecution and the court approves the detention but the prosecution was later dropped or withdrawn, or if the defendant was found innocent, the victim may request the state to pay compensation in accordance with the Criminal Compensation Act. These measures help make up for losses or damages caused by the exercise of state power and compels judicial personnel to be more cautious.

### **Point 69**

In 2013, the Review Committee recommended, in order to vindicate the right to higher review of any criminal conviction prescribed by Article 14(5) ICCPR, that Article 376 of the Code of Criminal Procedure (CCP) be amended so that every defendant found guilty in the court of second instance after a not guilty verdict in the court of first instance be guaranteed the right to appeal to the court of third instance. Moreover, the Committee recommended that Article 388 of the CCP be amended to require the appointment of counsel for any defendant who lacks counsel and wishes to appeal his conviction to the court of third instance. Yet, four years later, the Legislative Yuan has failed to comply with these recommendations. The Review Committee urgently requests the Legislative Yuan to respect its recommendations.

- 199.** To meet the requirements for the establishment of a tiered trial system and protect the people's constitutional litigation rights, Article 376 of the Code of Criminal Procedure was amended and promulgated on November 16, 2017. Cases which previously could not be appealed to the court of third instance may now be appealed if the judgment of the court of first instance was not guilty, acquittal, dismissal, or jurisdictional error, and is revoked by the second instance court and a guilty ruling is pronounced.

**200.** The Judicial Yuan established the Criminal Appeals System Reform and Research Committee in 2017 and organized multiple meetings to complete a preliminary draft, which included enhancement of defendants' right to counsel. The draft is now being reviewed in the Legislative Yuan.

### **Point 70**

In the 2013 Concluding Observations and Recommendations, the Review Committee recommended that the Government should take steps to abolish the crime of adultery as this constitutes a violation of the right to privacy. During the current review, the Government justified its non-compliance by referring to opinion polls, which indicate that there is currently no consensus on the abolition of the crime of adultery. The Committee stresses, however, that it is the responsibility of the Government to bring its legal system in line with international human rights law and to take the lead, by means of awareness raising and other initiatives, to dispel concerns among the general public related to the protection of marriage and the family system. The Committee therefore reiterates its recommendation to decriminalize adultery and expresses its concern about its disproportionately negative impact on women.

**201.** Article 239 of the Criminal Code penalizes sexual intercourse out of marriage. The purpose is to protect the happiness and harmony of marriage life, ensure the purity of sexual life between husband and wife, and build a healthy monogamous family system. However, there has been no evidence that the criminalization of adultery is a necessary regulation to protect marriage, the family system, and social order. The intervention of the Criminal Code not only fails to fulfill its desired legal effects but also may cause broken marriages and other unfortunate outcomes. It thus causes more harm than good. When acts of adultery are prosecuted and brought to trial in accordance with this provision, the cases generally end in divorce. Therefore, the criminalization of this act does not attain its goal of protecting marriages and families. Instead, it has devastating effects on marriages and families. Imposing penalties on such actions through state power is evidently a violation of the restrained approach of the Criminal Code. There must be adequate boundaries between law and morals

and it is inappropriate to use penalties as a weapon for moral accusations.

**202.** The retention or abolition of the criminalization of adultery is an issue of concern in society that affects moral values. The Judicial Yuan has followed the resolution of the National Conference on Judicial Reform of the Office of the President and established the Criminal Procedure System Discussion Committee to discuss related issues (Judicial Yuan). The Ministry of Justice also convened discussions in meetings of the Criminal Code Research and Amendment Team and committee members failed to reach a consensus on this issue. A survey was commissioned in May 2013. It started by informing people about regulations in the Criminal Code and Civil Code on the act of adultery and inquired about their reasons for approving or disapproving of the decriminalization of adultery. The survey also included gender equality principles and international legislative trends and asked the people about their views on the decriminalization of adultery in terms of possible amendments to civil liabilities with regard to adultery (including adding fixed-sum compensation to resolve the difficulties of proving damages and adding regulations requiring that adulterers offer apologies). The survey showed that 77.3% of people did not approve of the decriminalization of adultery; even if the related provisions were provided in the Civil Code, nearly 70% of people surveyed opposed decriminalization. It is evident that society in Taiwan has yet to reach a consensus on decriminalization and that it is necessary to seek more views on this issue. If Taiwan proceeds with law amendments to decriminalize adultery, it may be difficult for people to accept. The Ministry of Justice maintains a cautious attitude and continues to monitor changes in public opinion by proposing amendments that meet the needs of the people.

### **Point 71**

In the 2013 Concluding Observations and Recommendations, the Review Committee raised concerns about the extensive telecommunication surveillance activities of the National Police Agency. In its Response the Government provided statistics relating to criminal investigations, which show that the number of court approved tappings of telephone lines has significantly increased in the meantime. No statistics have been provided, however, on surveillance measures by Intelligence Agencies, which moreover

are not subjected to court approval. Therefore, the Committee reiterates its concerns about the high degree of surveillance, which cannot be effectively monitored by the courts and which constitutes a threat to the right to privacy of Taiwanese citizens as well as foreigners.

**203.** The National Security Bureau follows regulations in Article 7 of the Communication Security and Surveillance Act. If a surveillance case involves a citizen, the National Security Bureau is required to submit a request to the responsible judge of the Taiwan High Court before the Director General of the National Security Bureau may issue an interception warrant. In addition, the continuation of the surveillance must also be reported to the judge of the Taiwan High Court for approval. The procedures for notifying the person under surveillance at the end of the surveillance period should be carried out by the court. Therefore, cases are supervised by the court from beginning to end and there are no cases where surveillance is implemented without court supervision.

**204.** In addition to court supervision, the National Security Bureau is also required to produce communication and surveillance annual reports and submit them to the Legislative Yuan each year in accordance with Article 16-1 of the Communication Security and Surveillance Act. The contents of the report include conditions under which communication surveillance was conducted by the National Security Bureau. External supervision thus exists as well. In addition, Paragraph 2 of the same Article states that “regular online publication shall not be applicable to communications surveillance under Article 7.” This means that the statistics compiled from intelligence and surveillance may not be published. As intelligence surveillance involves counterintelligence operations for protecting national security, the movements of the target must be integrated with other sources of intelligence before operations. The information on actions involved are extremely sensitive and countries often adopt protective measures for secrecy. As these cases involve foreign countries and hostile foreign actors, exposure of such information may cause leaks in intelligence operations.

## Point 72

The Review Committee welcomes the various activities of the Government to combat homophobia and to raise awareness for gender diversity. With respect to transgender persons the Committee recommends, however, that the Government provide for explicit legal recognition of their freely chosen gender identity, without unnecessary restrictions.

**205.** The Ministry of the Interior wrote the Report on the Proposed Policy Formulation of the Criteria for Gender Change Recognition and submitted it to the Executive Yuan on September 16, 2015. The Report calls for the classification of gender changes into three categories and the implementation of legislation in two stages. (1) Recommendations for the first stage include an amendment to the regulations in the interpretation of the Ministry of the Interior dated November 3, 2008, according to which those with sexual organs removed require only a record of surgery completion and not an assessment by two psychiatrists. Those with intersex characteristics are not required to provide either a record of surgery completion or an assessment by two psychiatrists; they are only required to provide a diagnosis of intersex characteristics issued by a domestic medical institution in the previous six months to determine their gender. (2) Recommendations for the second stage include the establishment of a dedicated gender recognition law. As there may be greater disputes in the physiological and psychological facts about those whose sexual organs have not been removed, to protect human rights and maintain social order the government will assign related agencies to establish a dedicated law to specify the criteria for gender recognition and changes and verify people's rights, obligations, and identity. Interpretations of the first stage will be included in the dedicated law.

**206.** The Executive Yuan organized meetings on September 4, 2017, and June 28, 2018, regarding the Report on the Proposed Policy Formulation of the Criteria for Gender Change Recognition formulated by the Ministry of the Interior. The conclusions of the meetings included adopting a third gender for documents such as National ID Cards and a requirement for agencies to conduct a comprehensive review of documents, forms, and related regulations before July 31, 2018, and verify whether amendments are required. They must also provide a schedule for the inclusion of a third gender option and adding a third gender on the National

ID Card, criteria for gender recognition and changes, and related measures for facilitating the changes. The Ministry of the Interior was to report the status of the review to the Executive Yuan before July 31, 2018. As the Ministry is still required to coordinate with related government agencies on universal principles in the regulations, it will conduct follow-up operations in accordance with specific policies, criteria, and schedules after further studies and discussions.

### **Point 73**

In 2013, the Review Committee called upon the Government to immediately take preventive steps to block any merger or acquisition of news channels or newspapers that will result in putting dissemination of public information under heavy concentration of a handful of entities. It further recommended the enactment of a comprehensive law on ensuring that the diversity of media is encouraged to protect free speech and the right to seek, receive and impart information and ideas of all kinds. The Committee has not received information to the effect that media concentration has increased in the meantime. It takes note of legislative initiatives taken by the Government to comply with its former recommendation.

**207.** The National Communications Commission has passed a draft for the Act for the Prevention of Broadcasting and Television Monopoly and the Maintenance of Diversity and submitted it to the Executive Yuan for review. The draft specifies that the competent authority is required to set up a special fund to facilitate balanced development of diverse cultures in the media environment and improve the quality of news and other programs. It also includes the promotion of media literacy into the scope of incentives provided by the Communications Supervision Management Fund and specifies subsidies provided for professional training, career assistance, and related exchange activities for news reporters' associations, with the aim of improving the professional skills of journalists. With regard to maintaining the autonomy and professionalism of news media, the NCC requires news and finance channels and channels that produce news programs to establish measures for content involving their own interests, systems of independent reviewers, ethics committees, and complaint



mechanisms to improve the quality of news programs and professionalism. The control over media concentration is only a supportive measure to protect diversity and freedom of speech. The NCC seeks to maintain the professionalism and independence of news media, promote balanced development of diverse cultures, and protect minorities' right to access media.

- 208.** In cases of share conversion, mergers, and acquisitions of media companies, the NCC follows related regulations of the NCC Organization Act and convenes meetings. It also upholds its own requirements for rigorous and open procedures, administrative efficiency, and independent deliberation.
- 209.** If a major investment or merger of a cable broadcast television company reviewed by the NCC involves foreign investors, the NCC shall, pursuant to Article 15 of the Cable Radio and Television Act, verify that the investment does not affect national security, impair or disadvantage overall industrial development, hinder fair competition, or limit competition. Furthermore, pursuant to Paragraph 4 of Article 23 of the Cable Radio and Television Act, the approval and rejection standards for mergers and investments contained therein, and several review criteria (i.e., openness of public access, diversity of channel content, protection of consumer interests, enhancement of operating efficiency, influence on media-related markets, and other matters that the NCC deems necessary to safeguard the public interest), it shall take into account the needs for the promotion of effective market competition, protection of consumer interests, and other public interests, and fully consider the maintenance of appropriate operation capacity (buyer) and performance status of the commitments of the original operating plan (seller) in accordance with Article 7 of the Cable Radio and Television Act, order the applicant to issue related explanations, evidence, and information, and conduct an independent review based on its own rigorous and open procedures and focus on administrative efficiency in accordance with related regulations and related administrative procedures (i.e., public hearings, hearings, administrative investigations, professional appraisals) under the Cable Radio and Television Act.

## Point 74

In its 2013 Concluding Observations and Recommendations, the Review Committee recommended the enactment of a law that makes it a crime under the Criminal Code to advocate national, racial or religious hatred in accordance with Article 20 ICCPR. The Government has submitted that many regulations on anti-discrimination already exist and that a number of bills with the same aim are pending before the Legislative Yuan. While welcoming these initiatives, the Committee considers that a specific provision in the Criminal Code would be preferable in order to assure that such acts are generally prohibited.

- 210.** Taiwan's Mass Atrocity Punishment Act imposes penalties on any person who intends to exterminate whole or part of an ethnic group or religious organization or who conspires in, prepares, or attempts such a crime, or who incites others to commit such a crime. The Criminal Code details punishments for when anyone discriminates against another person through words or actions; is hostile to, threatens, or coerces another person; or instigates or encourages acts that constitute public insults, defamation, obstruction of freedom, harm, murder, or public incitement of another person into committing the said offenses.
- 211.** People found guilty persecuting a people, ethnicity, or religious group (population) or inciting another person to discriminate against a people, ethnicity, or religious group through criminal means, or inciting another person to form an association and engage in or lead organized activities to carry out racial discrimination shall be punished in accordance with the Criminal Code. If a structured, permanent or profit-seeking organization is formed to commit the crime of persecuting an ethnic group (population), incite another person to commit a crime against a specific ethnic group, or incite another person to violate discrimination laws by implementing violence, threats, fraud, intimidation, or offenses that carry a maximum punishment of more than five years' imprisonment, the person forming, presiding over, manipulating, or exerting command of the organization, the participants, recruiters, public officials harboring the organization, and sponsors of the organization shall be punished in accordance with the Organized Crime Prevention Act. There are regulations on penalties and

punishments for anyone promoting national, ethnic, or religious hatred that constitutes instigation of discrimination, hostility, or violence.

### **Point 75**

During the first review proceedings in 2013, the Government acknowledged that Article 29 of the Assembly and Parade Act is in breach of Article 21 ICCPR and committed itself to change the approval system to a registration system, to limit the power of the police to mandate dispersal and to follow the principle of proportionality, to delete criminal punishment from the Act, to relax the registration deadline and to reduce the upper limit while deleting the lower limit for administrative fines. Amendments already proposed to the Legislative Yuan in these respects had previously failed to be ratified. In 2013, the Review Committee recommended that the Legislative Yuan without further delay adopt the required amendments in order to bring the Act in conformity with Article 21 ICCPR. The Committee is gravely concerned that so far the necessary amendments have not been adopted with the consequence that Article 29 of the Act is still in force and being applied. It was also informed that the requirement for urgent and spontaneous rallies to be approved by the authorities is still being applied. In light of this background the Committee urges the Government to immediately take action in order to bring this long-lasting violation of Article 21 ICCPR to an end by getting the necessary amendments of the Assembly and Parade Act adopted by the Legislative Yuan.

**212.** The amendment to the Assembly and Parade Act was reviewed by the Internal Administration Committee of the Legislative Yuan and its title was changed to Assembly and Parade Protection Act. The government will continue to work with the Legislative Yuan on the amendments and related decisions.

## Point 76

In the 2013 Concluding Observations and Recommendations, the Review Committee considered the age difference between men (18) and women (16) to be discriminatory and recommended relevant legislative changes. It welcomes the initiatives of the Executive Yuan and Judicial Yuan in this respect and urges the Legislative Yuan to speedily adopt a law that would raise the minimum age of marriage of women to 18.

- 213.** Regarding the inconsistencies of the age for marriage of males and females in the regulations, the Judiciary and Organic Laws and Statutes Committee of the Legislative Yuan reviewed the matter on December 26, 2016, along with the draft amendment to the Civil Code initiated by legislators. The amendment to Article 980 of the Civil Code was passed in the preliminary review and states that “persons under the age of 18 may not conclude a marriage.” The amendment was discussed by political parties. As the draft amendment is related to an amendment regarding gay marriage and the Act for Implementation of Judicial Yuan Interpretation no. 748 was promulgated on May 24, 2019, the Ministry of Justice plans to complete the amendment to Article 980 of the Civil Code before July 2020 to specify the same marriageable age for men and women. The marriageable age for men and women will be 18.

## Point 77

The Review Committee notes with appreciation the initiatives taken by the Government of Taiwan aimed at introducing same-sex marriage into Taiwanese law. The full realisation of these legislative changes would be a manifestation of Taiwan as a pioneer in the Asia-Pacific region, in combating discrimination on the basis of sexual orientation and gender identity.

- 214.** The Legislative Yuan passed the Act for Implementation of Judicial Yuan Interpretation no. 748 on May 17, 2019, following three readings. It was promulgated by the President on May 22, 2019, and entered into force on May 24. It allows two persons of the same sex to form a permanent union of intimate and exclusive nature for the purpose of living a common life and provides them with legal recognition. Taiwan became the first country in Asia to provide such legal protection.

## Point 78

Once more, the Review Committee appreciates the initiative of the Government of Taiwan to accept obligations under the core United Nations human rights treaties and to voluntarily subject their implementation to a unique and creative international review process. It has already yielded positive results, due to an inclusive, participatory and transparent approach. The Review Committee recommends that the Government of Taiwan formulate a National Human Rights Action Plan, with concrete targets, indicators and benchmarks, to implement the obligations under both Covenants and the recommendations of this Review Committee. It also recommends that sufficient human and budgetary resources be allocated for the implementation of this Action Plan.

### **Establishment of the National Human Rights Action Plan**

**215.** The Ministry of Justice has created the Plan for the Establishment of Mechanisms for Drafting the National Human Rights Action Plan in accordance with the recommendations in the *Handbook on National Human Rights Plans of Action* published by the Office of the United Nations High Commissioner for Human Rights. The Plan was discussed and passed in the meeting of the human rights protection and promotion task force of the Executive Yuan on March 25, 2019. According to the Plan, the Consultative Committee for the Establishment of the National Human Rights Action Plan was established at the Executive Yuan to convene related meetings and the National Human Rights Action Plan is scheduled to be completed and published in 2020.

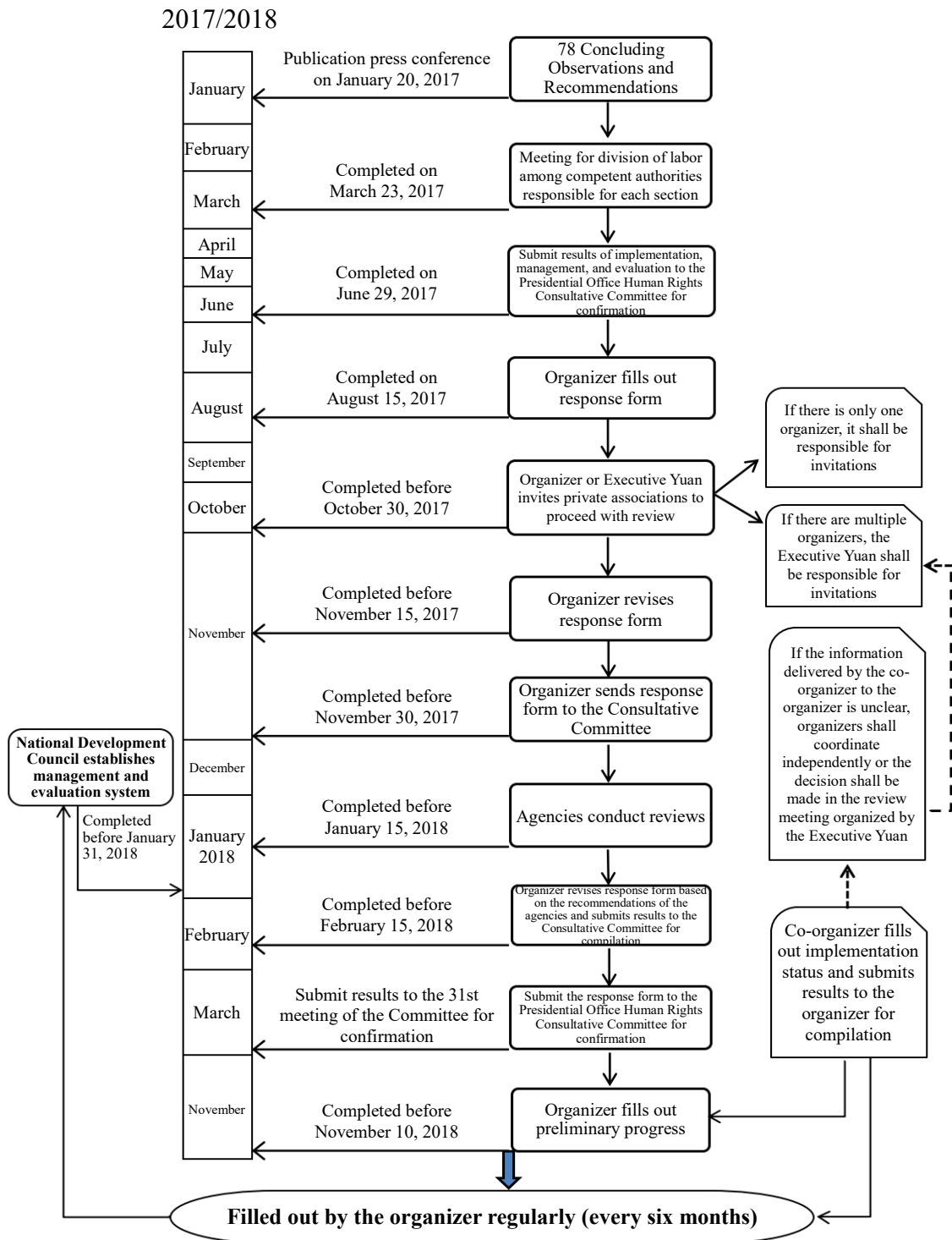
**216.** In response to the Concluding Observations and Recommendations issued by the international experts after their review of the second national reports on the two covenants, the Ministry of Justice has established a plan for their implementation, management, and evaluation and requested that competent authorities propose specific plans and establish measures, human rights indicators, and estimated schedules for the completion of human rights indicators and implement follow-up management and evaluation. Throughout this process, the competent authorities are required to invite related civil society groups and members of the Presidential Office Human Rights Consultative Committee to take part in the review. The plans, measures, and human rights indicators proposed by the competent

authorities must be fully communicated in order to improve the human rights deficiencies described in the Concluding Observations and Recommendations. A total of 21 sessions of the review meeting were organized with the participation of the aforementioned civil society groups. The competent authorities shall discuss the opinions collected in the review mechanisms and amend related plans, measures, and human rights indicators before reporting to members of the Presidential Office Human Rights Consultative Committee. The members shall review whether the competent authorities have revised the response form in accordance with resolutions of the aforementioned civil review meetings and the status of the adoption of opinions proposed by civil society groups, so as to ensure that the competent authorities have implemented follow-up items in accordance with the resolutions of the review meetings.

#### **Allocation of Sufficient Budget for the National Human Rights Action Plan**

**217.** The agencies under Taiwan's central government have allocated budgets in accordance with the Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and related regulations to fulfill related requirements for the protection of human rights specified in the two covenants. The government allocated NTD 1.3494 trillion in 2019 for promoting human rights protection and will allocate sufficient budgets in response to related proposals by competent authorities to facilitate continuous implementation of human rights activities in Taiwan.

**Figure 1 Procedures for the Implementation, Management, and Evaluation of the Concluding Observations and Recommendations from International Experts on the Second National Reports on the Two Covenants**



Source: Ministry of Justice