

Taiwan International Review Process
List of Issues
ICCPR & ICESCR

28 February 2022

Additional Documents received by the International Review Committee:

Government Replies:

- Replies from Republic of China (Taiwan) to the List of Issues to be taken up in Connection with the Consideration of its Third Report (ICCPR)
- Replies from Republic of China (Taiwan) to the List of Issues to be taken up in Connection with the Consideration of its Third Report (ICESCR)

NHRI Report:

- Responses to the List of Issues for the Third National Report on the ICCPR and ICESCR, National Human Rights Commission

21 Parallel Responses from Civil Society:

- The League for Persons with Disabilities, ROC, Eden Social Welfare Foundation, Tawian Access for All Association, Sunshine Social Welfare Foundation, Parents Association for the Visually Impaired, Taiwan
- Kaohsiung City Readjustment Self-Help Club
- Anti-71st Kaohsiung City Office Redesignated Self-Help Association
- Gangshan Anti-Eviction Self-Help Association
- Taichung City Dongshi District Shancheng Science and Technology Park Anti-Self-Organised Rezoning and Self-Help Association
- Ishioka Anti-Expropriation Joint Self-Help Association
- Association of World Citizens (Taiwan), Research Center for Department of Financial and Economic Law, National Chung Cheng University, Taiwan, Taiwan Association for the Study of Finance Criminal Law, Chinese Association for Human Rights, Tax and Legal Reform League
- Covenants Watch, Environmental Jurists Association (EJA), Judicial Reform Foundation, Organization of Urban Reformers (OURs), Rerum Novarum Center, Taipei Bar Association, Taiwan Alliance to End the Death Penalty, Taiwan Association for Human Rights (TAHR), Taiwan Criminal Defense Attorney Association (TWCDA), Taiwan Education Association, Taiwan Innocence Project, Vietnamese Migrant and Immigrant Office
- Anti-Tainan-Underground-Railway-East-Moved Association, Taiwan Land Justice Action Union
- Amnesty International
- Danhai Phase II Anti-Expropriation and Self-Help Society
- Taichung Dali Children's Park 15 Anti-Redrawing Self-Help Association
- Anti-Kaohsiung City's 84th Phase of Self-Owned City Rezoning
- Shezidao SOS (Save Ourselves)
- Sanmin Farmland Rezoning and Self-Help Society in Tianzhong Town
- Ping Tie's Anti Movement
- Honfgu's Self-Organized City Rezoning and Self-Rescue Association
- Taiwan Mothers Shield Alliance
- ROC Association of HIV/AIDS and Child Care (non-public)
- Taiwan Association for Parents Protection of Women and Children's Rights (non-public)
- Pro Femina Taiwan (non-public)

International Covenant on Civil and Political Rights (ICCPR)

Articles 2 and 3

1. Under Article 2 in the first list of issues, several questions were raised for which an adequate response has not been given. Raising those questions again: What is the time frame for the enactment of a comprehensive anti sex discrimination / equality law? Has this been done now?
2. It is stated in the government replies that “on November 27, 2019, the Executive Yuan convened the “Meeting on Legislation Recommendations for the Establishment of a Comprehensive Anti-Discrimination Law”. At the meeting, a resolution was made to accept the recommendations of the research project completed in June 2019 to discuss and establish a comprehensive equity law. Currently, there is a draft still under review which will be sent to the legislature for review in 2021-2024.” What is the current title of the law that is being drafted? Is it called an equity law? Equity and equality are two different concepts.
3. The government replies also state that “meanwhile in Taiwan, laws and regulations in relation to anti-discrimination are provided by various government entities which address related issues with entity-specific laws and regulations.” This will create disparities in the understanding of the principle of equality and non-discrimination if different government entities address related issues with entity specific laws and regulations. Is this currently the case?
4. In terms of the content of the law has there been progress: has a definition of discrimination as per article 1 of CEDAW been included? Will the law provide for competent tribunals for the adjudication of complaints and for adequate remedies? Will the law provide adequate remedies when discrimination has been established? Have effective provisions been established in the law to give effect to the rights provided in this Convention?
5. In the list of issues, in relation to the question on violence against women whether there was a policy or law against emerging forms of violence such as stalking or cybercrime (including digital sexual violence), the response was that “on October 2020, the “Definition, Types, and Description of Digital/Internet Gender Violence” was promulgated in January 2021, and the relevant ministries and commissions were instructed to conduct legal and regulatory reviews, education and promotion, and survey statistics.” Has there been a monitoring of the implementation of the above instructions by the relevant ministries and an assessment of their achievements?
6. The government report indicates that the prevention and control of digital/internet gender violence will be tabled into the Executive Yuan-level key issues for gender equality for 2022-2025, and many aspects of this endeavour such as legal, educational and statistical are provided. However, a precise time frame is not indicated when these will take place. Please provide a tentative time frame for the prevention and control of digital/internet gender violence as planned.

7. On the request to provide information on the number of compensations and quantum paid out in the year 2018-20, the government reply is that there is no data to provide. Is there such data now? If not, why not?
8. Since the Ministry of Health and Welfare (MHW) regularly collects statistical data regarding cases of domestic violence, sexual assault prevention, sexual harassment prevention relating to abuse against women please provide data on the identities of women victims, their ethnicity, nationality, minority status, age, educational level and location such as urban/ rural.

Article 4

9. The Replies from the Government to issues raised in connection with measures taken in order to stop the spread of COVID-19 (pages 11-16), as well as relevant information submitted by the National Human Rights Commission (NHRC) and NGOs, clearly show that the Government has severely restricted various human rights, such as the right to privacy, freedom of movement, freedom of expression, as well as human rights of prisoners and migrant workers. Has the Government officially proclaimed a state of public emergency in accordance with Article 4 ICCPR in order to derogate from its obligations under the Covenant? If so, when was this done and in relation to which human rights and for which period? If not, how does the Government justify these far-reaching restrictions under the respective provisions of the Covenant?

Articles 6 and 7

10. The Replies from the Government relating to the death penalty (pages 17-18, 27-28) suggest that Taiwan is on the way toward the “gradual elimination of the death penalty” with effective achievement. The Taiwan Alliance to End the Death Penalty states, however, that the “MOJ remained extremely passive in the past few years, and failed to take any positive measures to abolish the death penalty or introduce a moratorium”, and that it “is only because of NGOs’ persistent advocate, the issue of the death penalty was added in the National Action Plan on Human Rights”. Can you please explain which measures the MOJ has taken to gradually eliminate the death penalty?
11. The Replies of the Government (page 27) refer to two cases of persons sentenced to death, where a re-trial was successfully granted and both defendants were eventually found not guilty. According to the Government, these “are best examples to illustrate Taiwan’s careful execution, respect for life, and protection of human rights”. How is it possible that these two persons, who were later found not guilty, were originally sentenced to death? Are these not rather “best examples” of miscarriage of justice to support the argument that the death penalty should be eliminated without further delay or at least that a moratorium on executions should be implemented immediately in order to avoid that further innocent people will be sentenced to death with irreversible consequences?

Article 7

12. The Replies of the Government to the strong recommendation of the Review Committee to incorporate torture, as defined in Article 1 CAT and required by Article 4 CAT, as a separate and specific crime into the Criminal Code of Taiwan (pages 18-19) are vague and unclear. Can you please explain why a specific crime of torture has not yet been included in the Criminal Code? When will this happen?
13. The Replies of the Government to the recommendation of the Review Committee that all allegations of torture shall be promptly investigated by an independent and impartial body with full investigation powers are fairly vague and refer to the Prosecutors Evaluation Commission and the Control Yuan as the competent bodies (pages 20-21). Can you please explain how many complaints of torture, cruel, inhuman or degrading treatment or punishment by the police, prosecutors or other public officials have been submitted during recent years to the Prosecutors Evaluation Commission and/or the Control Yuan? In how many of these cases was torture or any other ill-treatment established? Have the perpetrators been brought to criminal justice and sentenced? Have the victims received any form of reparation?

Articles 7 and 10

14. The Replies of the Government (pages 22-26) and of the NHRC (pages 10-13) indicate some progress and the reduction of prison overcrowding and conditions of detention. Nevertheless, both sources as well as NGOs agree that there is still much room for improvement. Can you please explain when the 5-year target of the MOJ to reach a staff-to-prisoner ratio of 1:5 will be reached? When will the salary for prisoners' work be raised so that the basic monthly cost of living for prisoners of NT \$3,000 will be covered?

Articles 9 and 10

15. The Replies of the Government concerning statistical annual data on children in detention show a slight increase of children in juvenile detention houses and reformatory schools between 2018 and 2020. Can you please provide the Review Committee with the total number of children (up to the age of 18 years), disaggregated by age, gender and types of disability, who are at a snapshot date (between now and the time of the Review) detained in juvenile detention houses, in reformatory schools, in juvenile rehabilitation centers, in prisons, in police custody, psychiatric hospitals and special detention facilities for children with disabilities?

Article 14

16. According to the Parallel Report of the Chinese Association of Human Rights (CAHR) Taiwanese law does not indicate how long time the judge is left to make a

ruling after accepting the request for detention and that an excessively long waiting period may violate the personal freedom of the defendant and the principle of «presumption of innocence ». Is the current practice compatible Article 14 of ICCCR and is the Government in any event willing to consider legislative measures in order avoid violations of the Article?

17. It is alleged in the Report of the CAHR that persons who have been sentenced to death but are later acquitted have a less favourable access to protective measures to return to society than that of guilty persons who have completed their imprisonment. Is the allegation correct and if so will the Government consider to rectify it?
18. Is the case-law of Taiwanese courts restricting the right to cross-examination in respect of statements of a hearsay character incompatible with ICCPR Article 14 para. 4, section 5, as alleged by the Taiwan Criminal Defence Attorney Association and the Taipei Bar Association?
19. Is it compatible with ICCPR Article 14 para.5, that a violation of that Article has not been remedied in respect of cases which were pending before November 17th 2017?
20. Was the draft of the Criminal Compensation Act submitted by the Judicial Yuan to the Legislative Yuan in 2019 compatible with Article 14 para. 6 of the ICCPR? What were the reasons for its withdrawal?
21. Is it correct as alleged by the Taiwanese bar associations that the right of persons found guilty in criminal proceedings to request DNA identification is ineffective as most of such evidence has been destroyed? If so, are any measures being considered by the Government to remedy the situation and if not why? What has been the Government's reaction to the investigative report 00632020 from the Control Yuan? Will the Government consider establishing an explicit legal framework for the custody of such exhibits?

Article 19

22. In the government responses, para. 1 on pp. 70-71 explains about legislation prohibiting dissemination of rumours or false information about COVID-19 but it does not indicate whether there have in fact been any prosecutions. Please indicate whether there have been any prosecutions and, if so, provide details about the nature of the offence, the proceedings and the sanction imposed.

Article 21

23. For what reasons is the draft submitted to the Legislative Yuan in 2016 aiming at rectifying a violation of Article 21 of the ICCPR by the Assembly and Parade Act not yet adopted by the Legislative Yuan? In this connection the Government is asked to explain why it has been necessary to take more than 6 years to clarify the meaning of the terms “security distance” and “compulsory exclusion” in the draft bill of the

Assembly and Parade Act submitted to the Executive Yuan in January 2016 taking into account that the existing legislation is in violation of ICCPR Article 21?

Article 23

24. To the question in the list of issues as to whether there are circumstances that would impede certain individuals or couples from benefitting from the same sex marriage law Judicial Yuan Interpretation 748, it appears that this is the case. For example, if one partner in a same sex marriage is from a country where same sex marriage is not legal, the couple cannot register their marriage in Taiwan. Further, same sex marriage between a Taiwanese and Chinese is also prohibited. So there is an inadequacy in the legal protection of transnational same-sex couples. Has this changed? If not, is there an explanation or rationale for the inadequacy in the legal protection of transnational same-sex couples and for perpetuating marriage inequality? What is the intention of the Executive Yuan and the Judicial Yuan in eliminating such inequality? If law reform in this context is intended as indicated, has this progressed? What is the plan for accelerating the reform?

25. In the answers to the list of issues, it is indicated that there is an integrated domestic violence safety net programme with a multi-agency programme. Has this programme been evaluated for its impact and is there data now on the trends in domestic violence prevalence? Can victims of domestic violence bring their cases to court and is there adequate support services, welfare and legal, for victims?

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 2(1)

1. Please describe the concrete steps that the Government is actually undertaking "...to ensure that all stakeholders reach the consensus upon the internationally recognized human rights and standards as stated in the Universal Declaration of Human Rights" as quoted from page 1, para. 2 of *Replies from ROC (Taiwan)*.
2. In reference to page 2, para. 3 of the *Replies from ROC*, a list enumerates eight issues that will be included in the *National Human Rights Action Plan*: three general principles that underpin all human rights – strengthening the mechanisms for human rights protection, human rights education, equality and non-discrimination – and five specific rights protected under the ICCPR. Please explain why the list does not include any of the specific rights protected under the ICESCR, such as the right to work and the right to health.
3. Please clarify Taiwan's intended meaning of the terms "gender equality" and "gender equity" used interchangeably in many parts of the *Third State Report* and in the *Responses to the Concluding Observations and Recommendations*.

Article 6

4. The information on issue number 8 on page 12 of *Replies from ROC* regarding the long-promised adoption of the *Domestic Workers Protection Act*, states among other things that, the Ministry of Labor "...has set up a task force on migrant domestic workers' protection, relevant ministries and academic experts to participate in the task force which will gradually (emphasis provided) enhance the rights and interests of migrant domestic workers in line with the promotion of the long-term care system in Taiwan." Please clarify whether this proposed task force is the same one that is referred to in para. 73, page 41 of the previous *Responses to the Concluding Observations and Recommendations Adopted by the International Review Committee on January 20, 2017*. If that is the case, please provide information on
 - (a) the timeframe for completion of the work of this task force; and
 - (b) progress thus far in the work of this task force since it was established.
5. While taking into account the information received relating to the numerous Government initiatives towards the protection of the rights of workers, it is noted that there is no reference made to the decision-making process. In this regard, please discuss the actual consultation process undertaken by Government if any, including the meaningful participation of all affected stakeholders such as the domestic and migrant workers, their representatives, as well as their employers.

Article 7

1. Please discuss the contents of the “*Action Plan for Fisheries and Human Rights*” formulated by the Fisheries Agency to put an end to the various human rights abuses of foreign crew members aboard Taiwanese vessels at sea, as stated in page 23 para. 2 in *Replies from ROC*.
2. Please explain the unequal wages paid to foreign caregivers and domestic workers that are reported to be significantly lower than the wages stipulated in Taiwan’s *Labor Standards Act*.

Article 10

1. Please provide information on maternity and paternity protection for families in Taiwan, in law and in practice. Please include information on the extent to which new immigrant families enjoy the same protection regardless of their countries of origin and their social status.

Article 11

6. While noting the various data that have been provided in the *Replies of the ROC* and previous sources, they still do not provide a sufficiently clear picture of the actual scale and scope of informal settlements. In this regard, please provide more detailed and comprehensive information on each of the following four types of settlements found in both public and private ownership in land:
 - (a) State-owned public use of land;
 - (b) State-owned non-public use of land;
 - (c) Local government public use of land;
 - (d) Local government non-public use of land.
7. The Government states on page 40, para. 1 of the *Replies from ROC* that “in the past five years, there have been no cases of evicting people from their homes in development plans of the Ministry of the Interior.” Please clarify why civil society documented reports claim otherwise.
8. Please discuss the step-by-step procedure before, during and after a forced eviction is carried out. Please include information on how the Government decides on carrying out eviction, and how and where those who are affected are given prior notice and their resettlement provided for in accordance with international standards.
9. Since the issuing of the first LOIs, a number of urgent situations have arisen resulting in inadequate notice, evictions and inadequate resettlement. According to civil society reports the following examples are referred to:

- (a) The Underground Railway Project in Tainan: The Railway Bureau had torn down the final resistant household (Huang) in their third attempt in August 2021. This project affected over 300 households (para. 256 in the 2020 Parallel Report).
- (b) The Taoyuan Aerotropolis (para. 33 in the NGO Replies to ICESCR LOIs, No. 8; para. 255 in the 2020 Parallel Report): the largest zone expropriation case in Taiwan, with its first phase of expropriation of 2.600 hectares of private land, affecting more than 3,600 households.
- (c) The Lo-Sheng Sanatorium: the restoration of the old sanatoriums may cause forced eviction (paras. 325–328 in the 2020 Parallel Report).

Please comment on these examples.

- 10. In answer to question 25 of the ICESCR List of Issues, the Government states that “[t]he fertilization policies will be applied according to local conditions and its corresponding cases”. How, and how frequently, is the monitoring control mechanism applied?
- 11. According to the Government Replies since 2016 EPA has carried out resource re-use and a number of cases are described. Please provide information, on an annual basis, how this affects the total number of cases in Taiwan, showing whether there have been increases or decreases over the past six years, and who actually carries out controls under Art.6 of the ‘*Soil and Underground Water Pollution Remediation Act*’, in relation to groundwater management and prevention of farmland pollution.

Article 12

- 12. Please provide further detailed information, on an annual basis, on the health care situation of juvenile inmates in prisons, pre-trial detention facilities, police and administrative custody, as well as migration-centred detention centres.
- 13. Please also explain how health problems of inmates with mental disabilities are being addressed.
- 14. In view of the fact that bullying and fighting incidents with injuries occur in juvenile correctional facilities, how are these issues being dealt with, ensuring that the right to health of each individual inmate is properly protected? [cf. information received from Covenants Watch, Responses to LOIs, No. 8, in answer to LOIs Nos.18 and 28]
- 15. In relation to the Nuclear Waste Storage Site on Orchid Island (question 29 LOIs):
 - (a) Please explain why the relocation of affected persons after more than six years still has not yet been settled adequately, considering the health risks for the people affected.
 - (b) How has the “*Compensation Foundation for the Loss of Lands Reserved for Indigenous People due to the Construction of Nuclear Waste Storage Site on Lanyu Island*” been applied to members of the Tao/Yami People of Lanyu by 2021?

16. Noting that the figures relating to HIV/AIDS have decreased in recent years, while those relating to sexually transmitted diseases (STDs) have increased significantly:
- (a) Please explain in more detail, and on an annual basis, how the measures of health education advocacy and promotion efforts of safe sexual behaviour have been carried out in schools, further education and health care institutions, and what concrete results have been achieved? [Answer to question 30 LoIs].
 - (b) Apart from HIV/AIDS cases, a number of STDs, foremost amongst them Gonorrhoea and Syphilis, have increased dramatically among teenagers. While infection rates for adults merely increased by 50 % in 2020, teenage infection rates with Gonorrhoea and Syphilis increased by more than 90 % (cf. ROC Association of HIV/AIDS and Childcare, Parallel Responses to LoIs, No. 9). Should sex education be reviewed, instead of merely relying on Pre-Exposure Prophylaxis for the Prevention of HIV Infection on Sexual Risk Behaviour (PrEP)?
17. In answer to question 31 LoIs on teenage pregnancy and abortion, the Government describes key points of assistance that schools should provide. What results have actually been achieved so far? How is the MOHW dealing with the issue that apparently the figures on teenage abortions are not reflecting the actual number of cases, estimated by doctors and NGO assessments to exceed 300 000 per year? (cf. submission of Pro Femina Taiwan, Parallel Responses to LoIs, No.21).

Article 13

18. Please indicate the specific topics that are studied under the subject of human rights education in the national basic education program. Please include information regarding at which level the students learn about the Universal Declaration of Human Rights (UDHR) which contains the concept of the universality and indivisibility of all human rights; and that identifies the universally recognized human rights principles and standards.
19. Please outline the details of the human rights education program in both the primary and in the junior high school levels, to supplement the general information provided in Taiwan's Common Core Document. Please include information focusing on the content of what the students are being taught.
20. Please provide information on the teacher-training program on the specific topic of *education for*, and *education about*, Indigenous Peoples.
21. In answer to Question 37, the Review Committee has been given data from the Ministry of Education from 2018 indicating a drop-out rate of students with disabilities of 10% compared to 2.34% for those without disabilities; and 10% dropout from colleges and universities, while that for non-disabled student was 6%. Covid may well have exacerbated those differences. Are there more up-to-date figures? What policies and

programmes are aimed at reducing the differences in drop-out rates?[League of Persons With Disabilities & related NGOs page 7]

22. In reference to para. 2, page 71 of *Replies from ROC*, please describe what the public feedback has been to the Ministry of Education amendment of Article 13 of "...the Implementation Rules of the Gender Equality Education Act on April 2, 2019, which is part of the National Proposal No. 11 reason statement, and in accordance with the Gender Equality Education Act to enrich the gender equality education in national primary and secondary schools". Please include in particular, information on the progress that has been made so far, and the difficulties and challenges that remain.
23. What are the comparative completion rates of the education programs among working students within the past five years?

Article 15

24. While taking into account the numerous programs to disseminate information to persons with visual and hearing impairments as described in *Replies from the ROC*, it is noted that these programs are reportedly difficult to access particularly for persons with multiple disabilities. Please clarify how the Government's assistance program if any, is addressing this issue.