

# Response to the Concluding Observations and Recommendations Adopted by the International Group of Independent Experts on March 1, 2013

Republic of China (Taiwan) 



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## **Points 8 and 9**

### **Discussions on the Establishment of a National Human Rights Institution**

1. For the National Human Rights Institution Research and Planning Task Force, Vice President Wu, Chairman of the Presidential Office Human Rights Consultative Committee, appointed committee member Mab Huang as convener of a related task force and committee members Huang Chun-chie, Wang Yu-Ling, Li Nien-tsu, and Chang Chueh as members of the same task force. The Executive Yuan designated the Ministry of Justice as the competent authority in this matter.
2. The National Human Rights Institution Research and Planning Task Force, following a year of collecting data, soliciting various opinions, and examining feasible solutions, submitted a research proposal in July 2014 to the Presidential Office Human Rights Consultative Committee. The Conference Service Section of the Presidential Office Human Rights Consultative Committee held six meetings between May 1 and June 30, 2013, and consulted with foreign ambassadors based in the Republic of China (Taiwan), the five Yuans, nongovernmental organizations (NGOs), scholars, and experts between September and December 2013, so as to begin related research and planning. The National Human Rights Institution Research and Planning Proposal was put forward in the 16th meeting of the Presidential Office Human Rights Consultative Committee on December 5, 2014, for discussion and resolution. The Executive Yuan (Ministry of Justice) was asked to consider feasible options to establish a national human rights institution in accordance with the preliminary opinions from the task force. The Conference Service Section sent official letters on February 3, 2015, to authorities concerned, i.e., the Control Yuan, the National Development Council, the Directorate-General of Personnel Administration, the Ministry of Civil Service, and the Ministry of Civil Service, asking them to express opinions on the National Human Rights Institution Research and Planning Proposal introduced by the task force and the feedback of the Control Yuan on establishing a national human rights institution in full compliance with the Paris Principles. It also organized a workshop on July 8, 2015, to solicit opinions from NGOs, during which a resolution was reached whereby the Control Yuan was to



come up with a substantial and feasible solution on the establishment of a national human rights institution in accordance with the Paris Principles, with reference to the three proposals introduced by the task force.

3. In order to deliberate on the said issue, the Control Yuan held three meetings between September and October of 2015 where representatives of NGOs were invited to take part in the discussions. The Control Yuan introduced the draft Organic Law of Control Yuan National Human Rights Commission on December 10, 2015. The draft law was brought forth for discussion during the 20th meeting of the Presidential Office Human Rights Consultative Committee on January 8, 2016.

## **Points 10 and 11**

### **International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)**

4. On November 4, 1970, Taiwan was admitted as member of the ICERD, which took effect on January 9, 1971. As for whether an enforcement act would be established separately, experts and scholars were invited to discuss this issue six times between April 2014 and October 2015. An examination of existing laws and regulations, as well as a special report on anti-discrimination laws in other countries, will be provided later.

### **Convention on the Rights of the Child (CRC)**

5. The Implementation Act for the CRC was announced on June 4, 2014, and was implemented on November 20, 2014.
6. The Executive Yuan submitted a traditional Chinese version of the CRC to the Legislative Yuan for deliberation on November 20, 2014.
7. The Ministry of Health and Welfare, in accordance with a program by an Executive Yuan task force on the rights of children and teenagers to promote the CRC, has compiled teaching materials, organized training courses, established information systems, and reviewed laws and regulations. It has also encouraged the drafting of national reports on related issues.

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

8. The Ministry of Labor completed its assessment on how to incorporate the ICRMW into domestic law on December 27, 2014. Related regulations governing fundamental human rights, judicial rights, labor conditions for foreign workers, social security and medical care, status, education and cultural protection, residence, preferential tax rates, family reunion, and protection of family members of migrant workers, as well as domestic employment and national security, were examined, and short, mid, and long-term policies were recommended. All of these were submitted to related government agencies to facilitate subsequent planning to turn them into domestic law. The Ministry of Labor will discuss adequate adjustments of wages and related measures with countries of origin, and establish or revise labor contract templates, so as to protect the labor conditions of foreign workers.

### **Convention on the Rights of Persons with Disabilities (CRPD)**

9. The Act to Implement the CRPD was announced on August 20, 2014, and enforced on December 3, 2014.
10. The Executive Yuan submitted the traditional Chinese version of the CRPD to the Legislative Yuan for deliberation on November 27, 2014.
11. The Ministry of Health and Welfare, in accordance with a program by an Executive Yuan task force on the rights of persons with disabilities to promote the CRPD, has compiled teaching materials, organized training courses, established information systems, and reviewed legislation and administrative measures, and submitted a national report. It has also encouraged the drafting of national reports on related issues.

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

12. According to existing applicable laws in Taiwan, there is no government agency that can restrict personal freedoms illegally. In other words, the core obligations under the ICCPED have been fulfilled substantially in Taiwan. Further deliberations are required to see whether it is necessary to incorporate the ICCPED into domestic law.

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

13. The Ministry of the Interior already produced an enforcement act (draft) and held a meeting in September 2015. Scholars and experts, related government agencies, and NGOs were invited to discuss the draft. Further deliberations and planning would be conducted according to the opinions expressed during the meeting. As is required by the Optional Protocol, a national preventive mechanism (NPM) for the prevention of torture should be established. The draft Enforcement Act places the related committee under the Control Yuan.

## **Point 12**

### **Reflections on Laws Related to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)**

14. See Notes 5 to 9 of the second national report on the ICCPR.
15. The Executive Yuan amended laws and the Gender Impact Assessment Review Form on August 15, 2014, to establish a specialist assessment mechanism on the impact of laws on human rights. Respective government agencies should review whether laws are in compliance with the Constitution, interpretations of the Judicial Yuan, the Two Conventions, and the general comments of the United Nations Human Rights Committee and the Committee on Economic, Social and Cultural Rights.
16. Since October 1, 2013, laws under the jurisdiction of respective agencies affiliated with the Executive Yuan that had been submitted to the Legislative Yuan for review have had to be evaluated for their impact on human rights, except for abolished laws, organization laws to be processed coordinating with the organization reform timetable, and laws that only involve changes to the wording without substantial regulatory changes. Between October 2013 and October 2015, human rights impact assessments were completed for a total of 169 laws submitted by the Executive Yuan to the Legislative Yuan for deliberations.

## **Points 13 to 17**

### **Quotations of the Two Covenants by Judicial Authorities**

17. See Note 113 of the common core document for the second national reports on the ICCPR and ICESCR.

### **Education on the Two Covenants**

18. See Notes 122 to 135 of the common core document of the second national reports on the ICCPR and ICESCR.

19. The Education and Training Section of the Presidential Office Human Rights Consultative Committee held seven meetings between June 2013 and July 2014. The Ministry of Justice was the competent authority tasked with consulting with related agencies concerning education and training on human rights, and responding to recommendations. In March 2015, the Education and Training Section submitted a critical report, which will serve as reference for respective authorities that are organizing education and training.

## **Point 18**

### **Education on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

20. See Note 2.18 of the second national report on CEDAW.

## **Point 19**

### **Human Rights Education**

21. The Human Rights Education Consultancy Panel provides junior high and elementary schools in municipalities, cities, and counties with guidance on designing curricular activities that include regulatory concepts related to human rights. In senior high schools, education on human rights is consolidated in accordance with the existing Citizen and Society Syllabus. Courses on human rights are generally available in universities and vocational colleges.

22. The syllabus for the 12-year basic education program was expected to be announced in February 2016. In the process of producing this syllabus, cross-disciplinary teams were employed in addition to individual syllabus production groups. These were further supported by a working group. Together they integrated issues into respective fields. A gender equality team drafted key ideas and learning points, which were discussed and confirmed in the working group and then provided to the individual syllabus groups. These individual groups also had to submit integration updates to the working circle for further review and reference.

## **Points 20 and 21**

### **Disclosure of Government Information**

23. The Ministry of Justice reiterated the spirit and purpose of the Freedom of Government Information Law on August 15, 2013, and asked related agencies to precisely follow the requirements of the law by consolidating the government information release system, providing feedback on response measures concerning disclosure of government information, assisting in the organization of training courses, and providing practical cases for reference, in order to reinforce communication with the general public.

### **Citizen Involvement in Decision-making Processes**

24. Urban renewal

(1) The Executive Yuan submitted a draft amendment to the Urban Renewal Act to the Legislative Yuan for deliberation on December 7, 2012. Highlights of the amendment include reinforced links between urban renewal and the public interest as well as urban planning; reinforced information openness and citizen participation; normalized involvement of public land in the urban renewal mechanism; review of the majority-based compulsory mechanism; improved right transfer mechanism; comprehensively reinforced protective measures over the right to take part in urban renewal; and improved handling of disputes and difficulties involved in practical implementation. In addition, in response to the indication that the Urban Renewal Act does not ensure that stakeholders are aware of related information and given the

opportunity to adequately express their opinions, which is not in line with the administrative procedures required by the Constitution as per the No. 709 Interpretation of the Judicial Yuan, revised articles were included on August 7, 2013, in the version to be deliberated by the Legislative Yuan.

- (2) Before the act was amended, the Ministry of the Interior amended the Enforcement Rules for the Urban Renewal Act on April 25, 2014. As part of the amendment, renewal-related information will be sufficiently disclosed to enhance information openness; public hearings will be held to maximize public involvement; any people or group will be able to put forward opinions to be taken into consideration during deliberation; hearings will be held before an urban renewal business plan and right transfer plan is approved with attendees including affected stakeholders, experts and scholars, representatives from related agencies and groups, and members of urban renewal review committees; and the number of parties to be notified of reviewed and approved urban renewal business plans will be increased. The competent authorities should weigh all results of hearings and explain reasons for adopting or not adopting them before rendering an administrative sanction. As of October 2015, a total of 222 rounds of hearings were organized at local governments.
25. Land expropriation: In order to consolidate protection of people's right to property, the Ministry of the Interior completed amendments to the Land Expropriation Act and its Enforcement Rules, promulgating them on January 4, 2012, and June 27, 2012, respectively.
26. Regional plans: Regional plans are comprehensive national (or regional) development plans that do not specify utilization of land. While the Ministry of the Interior was organizing regional plans across the nation, public hearings were held in northern, central, and southern parts of Taiwan to extensively collect public opinion. Related information was posted online to facilitate downloading by parties concerned. In addition, NGOs were invited to take part in the meetings, so that all sectors of society were given the opportunity to express their views. For subsequent amendments to regional plans, the Ministry of the Interior will seek further improvements in accordance

with existing practices.

## 27. Homeless people

(1) A survey of homeless people's living conditions commissioned by the Ministry of Health and Welfare was completed in June 2013. Through in-depth interviews with and questionnaires filled out by homeless people and those providing services to them, the government gained a better understanding of the needs of homeless people. The study advised that, based on the principle that first homes are sought for homeless people before services are provided to them, issues concerning living conditions, mental health, and welfare eligibility should be taken into account, so as to provide integrated services and formulate related policies.

(2) In 2012, the Ministry of Health and Welfare funded 26 programs aimed at helping homeless people rebuild their lives, totaling more than NTD 20.53 million. It funded 29 such programs in 2013, totaling more than NTD 20.26 million; 33 programs in 2014, totaling more than NTD 17.21 million; and 32 programs in 2015, totaling more than 16.83 million. These programs were supported through lottery proceeds.

(3) With regard to the placement of homeless people, a total of 1,419 beds were available as of October 2015. Among these, 416 beds belonged to state-owned yet privately run shelters; 757 to social welfare institutions authorized by local governments; and 246 to NGOs. As of October 2015, no homeless people had applied for social housing.

## 28. Rights of persons with disabilities

(1) As stated in Article 6 of Act to Implement the CRPD, committee for the promotion of the rights of persons with disabilities was established by the Executive Yuan and meets periodically in order to promote tasks related to the Convention. Among the 24 committee, 2 are persons with disabilities (both have physical disabilities).

(2) Committee for the protection of the rights of persons with disabilities established by the Ministry of Health and Welfare, meets periodically to conduct tasks relating the rights of persons with disabilities (two with physical disabilities and one with visual impairment).

(3) When the Ministry of Health and Welfare formulates laws and policies related to

disabilities, organizations of persons with disabilities (groups of related disabilities) are invited to take part in discussion meetings and provide their opinions, so as to adopt their views in amendments to these laws and policies.

29. Indigenous peoples

- (1) The Council of Indigenous Peoples (CIP) released an interpretation of Article 21 of the Indigenous Peoples Basic Law on October 7, 2014, and comprehensively discussed and amended the implementation guidelines for indigenous tribal meetings. When governments or private parties plan to engage in land development, resource utilization, ecology conservation, or academic research on indigenous land, local people may attend tribal meetings and participate in decisions whether to allow such activities.
- (2) In accordance with the concluding observations and recommendations on the initial national reports concerning the two covenants, consolidated by the CIP, an experimental program was implemented with regard to related hearings to facilitate the exercise of the right of consent as per Article 21 of the Indigenous Peoples Basic Law, thereby encouraging conversations between administrative authorities and local people and soliciting opinions from various parties.
- (3) As required by Article 21 of the Indigenous Peoples Basic Law, when the actions of governments or private parties, or applicable laws and regulations, result in restrictions for indigenous peoples to utilize land and natural resources, indigenous tribes shall be consulted and their consent or involvement shall be requested.
- (4) With regard to the co-management mechanism of Article 22 of the Indigenous Peoples Basic Law, the prohibition to store hazardous materials on indigenous land without the consent of indigenous peoples as indicated in Article 31, and the prohibition to forcefully evict indigenous people from their land as indicated in Article 32, indigenous people should be involved in decision-making processes before related operations can begin.
- (5) Indigenous tribes created tribal meetings in accordance with implementation Notes on Tribal Council of Indigenous Peoples promoted by the CIP, so as to clearly express



the views of tribes on matters discussed in the above paragraphs. Meanwhile, tribes can take part in planning concerning the distribution of benefits through the tribal meeting mechanism and aforementioned guidelines. Until January 2015, among the 731 recognized tribes, 308 had created tribal meetings. The CIP continues to proactively organize workshops and seminars to promote these issues.

(6) The Dongpu Activity Center is located within the Dongpu Hot Spring area in Xinyi Township, Nantou County, and had been in use for nearly 30 years until 2015. A lot of hardware equipment had been damaged and become inoperable after many years of use. In June 2014, the CIP started procedures to outsource related renovation work as required by the Act for Promotion of Private Participation in Infrastructure Projects and obtained local indigenous people's consent through tribal meetings as required by Article 21 of the Indigenous Peoples Basic Law. A proposal was voted on and approved during the Dongpu Tribal Meeting on August 17, 2014, after which the CIP was given permission to start outsourcing operations.

30. The Administrative Procedure Act contains stipulations concerning hearings and statements of opinion according to the needs and tasks of respective administrative agencies. The Ministry of Justice has added a section on public hearing procedures to the General Provisions of the Administrative Procedure Act.

### **Environmental Impact Assessment**

31. See Notes 227 to 228 of the second national report on the ICESCR.

### **Points 22 and 23**

#### **Fulfillment of the Obligation of the State to Protect Human Rights by Revising Laws and Regulations and Consolidating Their Implementation**

32. The Financial Supervisory Commission (FSC) proactively promotes corporate governance evaluation and relevant measures, and supervises the Taiwan Stock Exchange (TWSE) and Taipei Exchange (TPEX) in accordance with the Corporate Governance Roadmap 2013. The Corporate Social Responsibility Best Practice Principles for

TWSE/TPEX listed companies was amended in 2014 to require that companies disclose their implementation status of social responsibilities and that TWSE/TPEX listed companies shall explain their implementation differences in accordance with the international practice of “Comply or Explain.”

33. The FSC has mandated that TWSE/TPEX listed food, financial, and chemical industries and companies with a paid-in capital size of NTD 10 billion and above must prepare the corporate social responsibility report according to the latest sustainability reporting guidelines of the Global Reporting Initiative (GRI). As of October 2015, 159 companies have prepared the said reports according to the GRI requirements. The requirement for publishing the said reports will also cover TWSE/TPEX listed companies that have capital of over NTD 5 billion but less than NTD 10 billion, effective in 2017.
34. The FSC has taken note of applicable guidelines and operating procedures in the spirit of the Equator Principles by ROC bankers, non-life and life insurance associations, which are amended to require that borrowers should be evaluated for their fulfillment of requirements regarding environmental protection, corporate integrity management, and social responsibilities during project financing reviews.
35. The Ministry of Transportation and Communications supervises and controls businesses in free trade zones as required by the Act for the Establishment and Management of Free Trade Zones. A minimum wage requirement has been put in place for related businesses hiring foreign workers. In addition, there are set ratios for the number of indigenous employees.
36. The amendment to the Business Mergers and Acquisitions Act under the Ministry of Economic Affairs was completed in 2015. For workers who are unwilling to remain in their job because of personal reasons before a merger or acquisition goes into effect, despite the fact that they are being retained following discussions between the new and old employers, the employer prior to the merger or acquisition shall terminate the labor contract and ensure that these workers’ rights are protected in accordance with the Labor Standards Act.
37. The Environmental Protection Administration of the Executive Yuan has established

sound environmental protection regulations to protect the environment against harmful effects of business operations. These include the Basic Environment Act, which stipulates the obligations and responsibilities of citizens, businesses, and governments at all levels in terms of environmental protection; the Air Pollution Control Act, which stipulates that governments may mandate that necessary measures be taken in cases of sudden events that occur in public or private places and order the discontinuation of operations of polluting entities; the Water Pollution Control Act, which requires that waste water (sewage) treatment facilities be equipped with sufficient features and maintain normal operations, and clearly stipulates requirements and penalties against uncontrolled dilution or release; the Waste Disposal Act, which contains clearing requirements and penalties for waste generated by enterprises; and the Toxic Chemical Substances Control Act, which requires that enterprises must fulfill their environmental protection duties with regard to toxic chemicals. In addition, the Greenhouse Gas Reduction and Management Act includes mechanisms to accredit voluntary efforts in order to encourage enterprises in the participation of reduction and accreditation activities, air pollution prevention and control fees, soil and groundwater pollution restoration fees, and recycling and disposal fees, among others, are collected from enterprises in accordance with the polluter pays principle, providing enterprises with economic incentives to include environmental protection in their business considerations. Meanwhile, the Water Pollution Control Act was amended to reinforce risk management and clarify criminal liability and penalties, collect unlawful gains, encourage reporting of unlawful acts, and promote information openness.

38. The Environmental Protection Administration of the Executive Yuan fines and demands improvements from environmental testing institutions that violate rules, so as to maintain a high level of testing. Fines were handed out in a total of 134 cases between 2012 and October 2015, totaling NTD 15 million.

### **Reinforced Requirements for Corporate Social Responsibility in Government Procurement Cases to Protect People's Rights**

39. The Ministry of Labor revised review items for tenders in 2014 and added indicators for

corporate social responsibility, including salary increases for employees, reduction of working hours and implementation of a five-day work week, and measures helping employees find a balance between their professional and private life. Companies participating in a tender must provide the said information during the bidding process, so that the Executive Yuan's goal of encouraging salary increases among enterprises can be realized.

40. The Public Construction Commission of the Executive Yuan informed procuring entities in 2015 of that where a procurement conducted through evaluation and scoring procedures, the evaluation items and evaluation criteria prescribed in the tender documentation may include corporate social responsibilities indicators and their weightings. During the period from September through November 2015, among the 10,961 procurement cases evaluated awarded to the most advantageous tender or the lowest tender not less than a certain qualified score, there were 515 cases involving the use of corporate social responsibility indicators, accounting for 4.7% of all cases.

### **Proactive Communication and Promotion of Corporate Responsibility Concerning Human Rights**

41. From 2012 to 2015, the Ministry of Economic Affairs organized one round of corporate social responsibility-related seminars each year, at which representatives from industry, government, and academia exchanged opinions on relevant issues, as well as implementation aspects.
42. In 2014, the FSC, TWSE, and TPEX held eight major workshops on integrity management and corporate social responsibilities for TWSE/TPEX listed companies. A total of 2,100 persons in charge or high-ranking supervisors of TWSE/TPEX listed companies attended the workshops, and 15 companies were invited to share their experiences in fulfilling their corporate social responsibilities.
43. In response to the aforementioned workshops held between 2013 and 2014, the Ministry of Labor also organized 14 similar workshops, which were attended by more than 3,000 people. Business owners shared their practical experiences to help TWSE/TPEX listed companies plan and fulfill their corporate social responsibility.

44. In January 2012, the Agency Against Corruption under the Ministry of Justice joined forces with the FSC, as well as government employee ethics units of competent authorities, for organizing activities aimed at conveying the importance of integrity to enterprises and manufacturers. The Executive Yuan also included business ethics for private sectors in its National Integrity Building Action Plan in 2014.
45. In order to encourage newly established businesses to value corporate social responsibility, create a working environment marked by gender equality, hire people with disabilities, and emphasize environmental protection, relevant items have been included in the assessment indicators for the Business Startup Award since 2013. A total of 36 enterprises received the Award between 2013 and 2015. Among these, 21 had created friendly working environments marked by gender equality, and 29 had proactively generated local employment opportunities by signing the Crop Guarantee Contract.
46. To help enterprises consolidate environmental protection and encourage them to fulfill their responsibilities toward society and the environment, the Environmental Protection Administration of the Executive Yuan has offered various awards, such as the Enterprises Environmental Protection Award and National Sustainable Development Award, and provided incentives for companies that perform well in dealing with toxic chemicals.

## **Points 24 and 25**

### **Compensation and Recovery Measures for Victims**

47. The families of those who lost their lives during the 228 Incident, as well as people who were physically injured, had their freedom infringed upon, and lost property as a result of actions by civil servants or public institutions, can apply for compensation and restoration of reputation with the Memorial Foundation of 228, in accordance with the February 28 Incident Disposition and Compensation Act. As of October 2015, a total of 2,797 applications for the said compensation had been submitted. Among these, 2,285 were approved. The value of compensation totaled NTD 7.19 billion. In addition, as of October 2015, a total of 1,003 certificates had been issued to restore people's reputations.
48. Through the National 228 Memorial Museum and the Memorial Foundation of 228,

financial assistance continues to be provided during the three main Lunar calendar holidays, as well as the Chung Yeung Festival, to victims and their families, and scholarships continue to be offered to students from affected families. Extensive campaigns to create awareness also continue to be held.

49. On July 31, 2013, at the National 228 Memorial Museum, a public hearing exploring the acts of the government in the midst of transitional justice in Taiwan took place. During the hearing, the Ministry of National Defense, Ministry of Justice, Ministry of Culture, Ministry of Education, National Archives Administration, and Ministry of the Interior gave presentations. A total of 20 scholars, experts, and representatives of civic organizations attended the hearing.
50. The Memorial Foundation of 228 collaborated with Academia Sinica to analyze and interpret historical materials related to the 228 Incident collected by Professor Hsu Hsueh-chi in 2008, and compiled *Secrets Bureau, Taiwan Branch, 228 Incident (I)*, which was published in June 2015.
51. The Juridical Foundation for the Compensation of the Wrongly Charged People during the Period of National Mobilization for Suppression of the Communist Rebellion was established on March 9, 1999. Its mandate expired on March 8, 2014, and it was disbanded on September 8 of the same year. The Ministry of Culture took over related tasks, such as caring for the victims, organizing events to remember the events and restore affected people's reputations, and advocating human rights. A total of 10,067 cases were processed by the foundation, with the value of compensation handed out amounting to NTD 19.91 billion. The number of cases involving the restoration of people's reputation totaled 4,055.
52. After the foundation was disbanded, tasks involving appeals, administrative lawsuits, reissuance of reputation restoration certificates, and related petitions were transferred to the Memorial Foundation of 228.
53. The 2014 Memorial Service for Political Victims during the Period of National Mobilization for Suppression of the Communist Rebellion was held at the Jingmei Human Rights Memorial and Cultural Park of the Preparatory Office of the National

Human Rights Museum on October 25, 2014. Mr. Tsai Kuan-yu, Chairman of the Taiwan Political Victims Care Association, and Chairman Wu Sheng-jun and General Director Chang Ying-yu of the Foundation for Promoting Redress of Cases during the Period of National Mobilization for Suppression of the Communist Rebellion of the 1960s were invited to take part in the service. Other people invited for the memorial service included political victims Su Yo-peng and Tsai Kun-lin, as well as victims' family members Ms. Huang Chun-lan and Mr. Huang Da-yi. More than 100 political victims attended the event.

54. A memorial service for political victims during the Period of National Mobilization for Suppression of the Communist Rebellion era was held on March 22, 2015, which was jointly organized by the three major political victims groups, i.e., the Political Victims Mutual Aids Association of Taiwan Area, the Taiwan Political Victims Care Association, and the Foundation for Promoting Redress of Cases during the Period of National Mobilization for Suppression of the Communist Rebellion. Mr. Chen Ming-chung and Chairman Tsai Yu-lung of the Political Victims Mutual Aids Association of Taiwan Area, former Chairman Tsai Kuan-yu and incumbent Chairman Liu Chen-dan of the Taiwan Political Victims Care Association, and General Director Chang Ying-yu of the Foundation for Promoting Redress of Cases during the Period of National Mobilization for Suppression of the Communist Rebellion, as well as approximately 120 other guests, were invited to attend the event.
55. The Juridical Foundation for the Compensation of the Wrongly Charged People during the Period of National Mobilization for Suppression of the Communist Rebellion presents reputation restoration certificates each year on the Abolishment Day of the Period of National Mobilization for Suppression of the Communist Rebellion, i.e., July 15. The Preparatory Office of the National Human Rights Museum is planning a ceremony—featuring music and dance performances—during which the president personally presents such certificates to express the government's support for substantive actions in memory of the Period of National Mobilization for Suppression of the Communist Rebellion.

## **Open Access to National Archives**

56. A draft amendment to some articles of the Archives Act was submitted by the Executive Yuan to the Legislative Yuan for deliberation in 2013. As part of this amendment, victims of the 228 Incident or the Martial Law Period may be given access to items in archives that directly relate to their cases, and read, transcribe, or copy such items. Based on practices of domestic and foreign archives, measures would be taken to facilitate the reading, transcription, or reproduction of relevant content, excluding items affecting people's privacy.
57. The Operation Directions for Applications for the Return of Private Documents in the Archives to Victims of Political Oppression were promulgated on July 14, 2011. Archives were examined and related family members were contacted to prepare for the return of personal documents. The examination revealed a total of 779 pages of private documents that could be returned in accordance with the aforementioned directions. These documents belonged to 179 political victims as determined by the Memorial Foundation of 228 and the Juridical Foundation for the Compensation of the Wrongly Charged People during the Martial Law Period. As of October 2015, 170 victims or family members had been contacted, and applications from 105 people (involving 116 cases) had been processed.
58. Between 2013 and October 2015, 95 victims or family members applied for access to archives, involving a total of use of national archives, that is, 6,325 items. CD-ROMs were provided free of charge to people concerned.
59. As of October 2015, all of the specific event archives on the 228 Incident and the Martial Law Period acquired by the National Archives Administration of the National Development Council, except for those determined to be permanently confidential or required for reference by authorities concerned as per Article 12 of the Classified National Security Information Protection Act, had been transferred. Among them, archives on the 228 Incident totaled 219.50 meters and those on the Martial Law Period totaled 174.09 meters. In total, there were 393.59 meters of archives.
60. Open access to archives and protection of personal privacy are based on the principles of



maximum possible openness and a minimum of restrictions. With regard to archives from archives, those directly related to a person concerned will be provided in full following applications for access by such person or family members. Applications by the general public for access to archives in volumes that involve the privacy of third parties will be dealt with separately when consent or authorization from the said third party has not been obtained. Between 2012 and October 2015, a total of 92,693 items from 815 people were processed. Among these, 88,611 items were approved. For 88,532 items, the archives were provided, while for 4,082 items approval was pending. For 79 items, archives were not provided to the applicants in accordance with specific law stipulations.

61. With regard to archives in national archives that are over 30 years old, to meet the needs of academic research and the need to contact clients involved in the archives, the academic research institution shall submit an application in writing, enclosing a research protocol and affidavit and indicating whether there is a need to provide names of people in related archives. The National Archives Administration may decide whether or not to provide clients with information such as addresses, and telephone numbers.
62. Except for classified files yet to be declassified, all national archives were made available for borrowing. Between 2012 and October 2015, a total of 66,730 items from 72 agencies were processed. Among these, 65,618 items were approved and for 65,573 items were provided, while for 1,112 applications approval was still pending. For 45 items, access was denied in accordance with specific law stipulations.
63. Article 22-2 of the draft amendment of the Archives Act submitted by the Executive Yuan to the Legislative Yuan on May 27, 2013, stipulates that, if the use national archives is required for academic research, relevant files may be reviewed, transcribed, or copied, except for parts involving personal privacy, after supporting documents have been submitted and approved as part of the application.
64. Political archives on the 228 Incident and the Period of Mobilization for Suppression of the Communist Rebellion are kept with the National Security Bureau. These archives were being screened by the National Archives Administration of the National Development Council. Between 2012 and June 2015, 11 volumes involving 589 cases

were completely transferred to the National Archives Administration of the National Development Council.

65. The 318 volumes of historical materials on the 228 Incident and 105 volumes on related political interrogations and trials—amounting to a total of 423 volumes containing 4,077 records—were completely transferred from the Ministry of National Defense to the National Archives Administration for centralized management. Among the 419 historical files on the 228 Incident kept with the Military Intelligence Bureau of the Ministry of National Defense, 380 had been made public as of May 9, 2013, while the remaining 39 were determined to contain classified information in accordance with the Classified National Security Information Protection Act, to be kept confidential permanently.
66. The transfer of archives in the custody of the Investigation Bureau of the Ministry of Justice, including files on the 1210 Formosa Incident, the major political incident about Ya-Tsan Bai and others, archival files housed at the Ankeng Guest House, documents before 1949, interrogation and trial cases during the Period of National Mobilization for Suppression of the Communist Rebellion, and the four-year plan of national archives collection, will gradually be completed.

## **Points 26 and 27**

### **Review of CEDAW Laws and Regulations**

67. See Note 2.18-2.23 of the second national report on CEDAW.

## **Points 28 and 29**

### **Diversified Gender Protection Measures**

68. The Gender Equity Education Act was amended on June 22, 2011, to include sexual bullying as a key target of prevention and control efforts on campuses. Schools should make clear, through various activities, that discriminatory language or behavior concerning the opposite gender, gender traits, gender identity, or sexual orientation is prohibited, and should provide assistance to vulnerable students.

69. Based on Article 8 of the Educational Fundamental Act, the Campus Bullying Prevention and Control Guidelines, and the Campus Bullying Prevention and Control Plans for Schools at All Levels, 238 cases of bullying were confirmed in 2014, and counseling was completed in all of these cases. Between January and October 2015, 158 cases were confirmed, and as of October 2015, counseling was completed for 85% of them.
70. Since 2011, efforts have been made to promote various ways of reporting bullying on campus, e.g., (1) informing a counselor or parent; (2) filing a complaint to the school's mail box; (3) mentioning it in surveys; (4) reporting to special hotlines set up by counties and cities; (5) reporting it to the Ministry of Education through its hotline 0800-200-885; (6) posting a message on the Ministry of Education's anti-bullying bulletin board; and (7) others (e.g., informing classmates or friends).
71. Related confidentiality measures are detailed in subparagraph 4 of Article 15, as well as Article 16, of the Campus Bullying Prevention and Control Guidelines. For documents prepared for external use from original copies, the real name of the person who submitted the report, as well as other data that might reveal his or her identity, should be deleted and replaced by a code. When people divulge confidential information and thereby breach their confidentiality obligation, punishment shall be handed out in accordance with the Criminal Code and other applicable laws and regulations.
72. With regard to criteria for registration of change of gender with the Household Registration Office, the Ministry of Health and Welfare held a discussion meeting on December 9, 2013, and sent an official letter to the Ministry of the Interior to indicate the consensus reached during the meeting on June 26, 2014. It was advised that sex reassignment surgery was not mandatory for such registration, but that a determination should be made by two psychiatrists. As to whether the criteria should be relaxed and whether requirements related to sex reassignment surgery should be abolished, legal, military service, social, and cultural aspects are involved. The Ministry of the Interior will conduct a comprehensive review in order to formulate new regulations and measures.
73. The Ministry of the Interior has stipulated procedures to determine and register gender

change. Related authorities, NGOs, and experts and scholars were invited to discuss and reach a conclusion on important points. Critical rights of transsexual people should be protected by law, and relevant agencies were asked to introduce related measures within the scope of their jurisdiction. In addition, on June 4, 2015, relevant agencies were asked to supplement opinions on the scope of their jurisdiction. Since this issue involves cross-agency discussions and policy decisions, the Ministry of the Interior prepared a project report and submitted it to the Executive Yuan for approval on September 16, 2015.

### **Diversified Gender Education and Training**

74. Gender equity education attainment rating scales for elementary school students, junior high school students, and teachers at senior high schools and lower-level schools have been completed. In addition, gender equity education attainment surveys continued to be conducted among elementary school students, junior high school students, and teachers at senior high schools and lower-level schools in 2015.
75. The Ministry of Education holds gender equity education committee meetings once every three months as required by the Gender Equity Education Act. Committee members stipulate and implement annual gender equity education action plans. Through various seminars, workshops, and symposiums, as well as inclusion of related information in curriculums, these plans aim to promote prevention of gender bullying.
76. A gender equality education video produced by the National Academy for Educational Research in 2014 was distributed to junior high and senior high school counseling offices and other educational institutions, and was made available for downloading free of charge on the website of the National Academy for Educational Research and other relevant platforms such as I-Fun Learning.
77. Gender equality was already integrated in teaching resources and curriculums in the 2015 action plan of the Civics and Society Resource Center for regular senior high schools. In addition, events such as teacher empowerment workshops have been organized.
78. At the central government level, a team of teachers, who providing assistance and guidance on curriculum and pedagogy concerning gender equity education issues under

the K-12 Education Administration, organized nationwide counseling workshops on gender equity education and exchange activities to facilitate information sharing among counties and cities.

79. The handbook on campus bullying cases commissioned by the Ministry of Education was completed in 2015. Campus bullying and sexual harassment case study seminars will be organized in 2016 and results of the publication of the handbook will be announced online for reference by teachers at all school levels and included in teaching materials.
80. The Ministry of Education provides funding to universities and colleges to organize gender equity education courses each year. Knowledge of issues such as gender identity and sexual orientation is thereby reinforced among university and college students, and a respectful and tolerant attitude is created. A total of 35 projects were funded in 2015, and this program will continue throughout 2016.
81. The Ministry of Education plans to organize a project for professionals investigating gender-related incidents on campus in 2016. Sexual bullying issues will be included in development courses at various stages, as well as seminars on counseling for perpetrators.
82. The Ministry of Education compiles gender equity education attainment rating scales for teachers and students to investigate their level of gender equity awareness. Results will serve as reference for schools at all levels, so as to seek improvements in the future. The rating scales will be used in 2015 and 2016 for relevant surveys.
  - (1) For junior high schools and elementary schools, the team of teachers providing assistance and guidance on curriculums and pedagogy at the central government level, as well as the gender equity panel under the compulsory education counseling group at the county and city level, have organized 169 empowerment seminars, campus visits, and workshops, with 880 people participating in these events.
  - (2) As required by curriculum guidelines for regular senior high schools, schools are asked to submit curriculum plans to the K-12 Education Administration for reference. Visits are conducted from time to time to gain a better understanding of the status of implementation.
  - (3) In existing curriculum guidelines for vocational schools, gender equity issues have

been integrated in Topic 1 of the Civics and Society Syllabus and Topic 6 of the Daily Life Syllabus.

- (4) Assistance was provided to universities and colleges in 2015 to organize education curriculum and pedagogy-related activities. A total of 23 such events were held. A research project on pedagogical development and implementation strategy for equity education courses, and a research and development plan for the pedagogical promotion of gender equity education courses, are still being reviewed.
83. The Ministry of Labor and local competent authorities jointly organized seminars on gender equity and sexual harassment prevention in the workplace. In total, 25 rounds of such seminars were held between May and September 2014, with 2,464 participants, 28% of whom were men and 72% were women. Between January and November 2015, 24 of such seminars were held, with 2,320 participants.
84. The Ministry of Labor has also organized professional training courses. Two seminars on employment equity laws and regulations and two on seed staff training were held in 2014, with 197 and 203 participants, respectively. Two seminars on workplace equity laws and regulations for supervisors in labor unions were held in 2015, with a total of 172 participants. Two seminars to train seed teachers on workplace equity and sexual harassment prevention and control were organized in 2015, with a total of 124 participants.

## **Point 30**

### **Rights of Indigenous People**

85. 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 Wuchiou Township in Kinmen County would be the two candidate sites on July 3, 2012. Subsequently, letters sent to the Taitung and Kinmen county governments on August 17, 2012, called for local referendums. The Kinmen and Taitung county governments replied on September 26, 2012, and October 9, 2012, respectively, to deny the request. The Ministry of Economic Affairs will continue to

communicate with these two county governments to seek their permission for holding local referendums.

86. The Ministry of Economic Affairs invited the Atomic Energy Council under the Executive Yuan, the Ministry of the Interior, and the Central Election Commission for a referendum assessment meeting. For the site referendum, the Ministry of Economic Affairs will continue to seek a solution and urge Taiwan Power Company to continue to communicate with the Taitung and Kinmen county governments.
87. For communication on a referendum for the low-level radioactive waste final disposal facility, there are six major modules at present, i.e., advertisement and promotional material, survey and investigation, event sponsorship, care for public interest, issue management, and organized mobilization. Under the said modules are 38 separate action plans. As far as Taitung County is concerned, house-to-house communication 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 reaching a 50% approval in the referendum, or obtain consent from indigenous people through tribal meetings or other ways.
88. The Council of Indigenous Peoples held a public hearing on August 28, 2013, and reached the conclusion that the referendum should not be limited to villages within the township chosen to be the disposal site but should include areas that are also impacted by the chosen site. Indigenous townships agreed that the approval threshold should be two-thirds of the votes, and that the relocation of nuclear waste from Orchid Island should not be linked with the site selection for the final disposal of low-level radioactive waste. Taiwan Power Company was asked to remove such waste from Orchid Island immediately.

## **Points 31 and 32**

### **Traditional Land of Indigenous People**

89. Article 2 of the Indigenous Peoples Basic Law stipulates that indigenous land refers to the traditional land and reserve land of indigenous peoples. Traditional land, as defined

by the draft Act of Indigenous Peoples Land and Maritime Area formulated by the Council of Indigenous Peoples (CIP), refers to the public land assigned in accordance with regulatory procedures to indigenous people to facilitate traditional rituals concerning ancestral worship and others, and their surrounding hunting areas or cultivated land. The CIP released results of a survey on traditional land conducted between 2002 and 2006 on its website on April 3, 2013.

90. Paragraph 1 of Article 21 of the Indigenous Peoples Basic Law stipulates that when governments or private parties intend to engage in land development, resource utilization, ecology conservation, and academic research on land of indigenous peoples or tribal areas and surrounding public land, they shall consult with and obtain consent from indigenous people, invite them to take part in such activities, and share related benefits. Paragraph 2 of the same article stipulates that when governments, through laws or regulations, impose restrictions on indigenous people's utilization of the land defined in the previous sentence and natural resources, the government shall consult with indigenous people. With regard to governmental or private development plans on indigenous land, the CIP issued an interpretation of Article 21 of the Indigenous Peoples Basic Law on October 7, 2014, and organized a discussion meeting on July 17, 2015, on the guidelines (draft) for consultation with, obtaining consent from, and participation by indigenous people, so as to define related mechanisms.
91. With regard to mining, approval must be sought before actual operations begin. When mining projects are to be conducted on indigenous land, approval from competent indigenous authorities must be obtained. Among the mining applications submitted between 2012 and 2015, one involved indigenous land and was handled in accordance with the Indigenous Peoples Basic Law.

### **Indigenous Reservation Land**

92. When the government was assigning the indigenous reservation land, it mostly used borderlines from the Japanese colonial period. The indigenous reservation land system has been in place since the colonial period. Semi wild land was defined as mountain reserve land, totaling more than 240,000 hectares. Registration of mountain reserve land



took place between 1962 and 1975 to classify it under ROC ownership. The Bureau of Civil Administration of the Taiwan Provincial Government became the competent authority. It was defined as mountain reserve land in land registration records (i.e., Indigenous Reservation Land). After that, more than 20,000 hectares have been registered as the reservation land of indigenous peoples. Therefore, the total area of the reservation land of indigenous peoples nowadays is more than 260,000 hectares in total.

93. Land still to be added to indigenous reservation land can be divided into two categories, i.e., land for which related applications have already been submitted to the village (township, city, district) and land for which such applications have not yet been submitted. With regard to the former, the CIP will coordinate with local governments and competent authorities with regard to public property and implementation issues, so as to ensure that related procedures are completed on schedule. The CIP has asked local governments to hold meetings at related tribes to ensure that their rights are respected. A total of 1,414 such meetings were organized by local governments between 2013 and October 2015.
94. The Council of Agriculture under the Executive Yuan organized a supplemental addition of indigenous reserve land in response to efforts of the CIP in 2007. Following the submission of relevant paperwork with village (township, city, district) offices, if related land was national forest land under the jurisdiction of the Forestry Bureau, the bureau would be informed so that it could send staff to inspect the land concerned. Once verified, reviewed, and approved by the village (township, city, district) office, an index of the land would be prepared and submitted to the competent authority for approval for the addition to indigenous reserve land, and later submitted to the municipal or county government and the CIP.
95. Between 2007 and 2014, applications for a total of 2,004 pieces of land (totaling 1,942 hectares in area) involving the Forestry Bureau were submitted to village (township, city, district) offices. As of October 2015, approval had been given for addition to indigenous reserve land for a total of 822 pieces of land (totaling 679 hectares in area). Applications for a total of 1,180 pieces of land (totaling 1,263 hectares in area) had been rejected or

were pending clarification.

96. Construction of Shihti Fishing Port was completed by the Hualien Harbor Bureau between 1959 and 1963. Between 1980 and 1986, existing facilities were restored and expanded. No expansion was done thereafter. Registration of reserve land by the Amis between 1990 and 1993 with the village office thus happened after the development project of the port. According to the Hualien Fisheries Association, 70% of its members are indigenous people who engage in such activities as spear fishing for sailfish, long-line fishing, and coastal harvesting. Shihti Fishing Port offers a convenient docking environment for fishing vessels. In addition, there is ecological tourism that provides indigenous people with job opportunities and promotes Amis culture. There is thus a close connection between the port and indigenous culture.

## **Points 33 and 34**

### **Identity Determination of Indigenous People**

97. Recognition of Ping Pu Peoples: (1) Acknowledged of the historical facts supporting the existence of Ping Pu Peoples; (2) Full support will be provided on the cultural and historical aspects to help Ping Pu Peoples restoring culture and language; (3) Recognition proposals and rights protection measures for the identity of Ping Pu should follow the differential principle and that existing benefits of indigenous peoples are not undermined to serve as the criteria for recognizing the identity of Ping Pu Peoples; they will be submitted to the Executive Yuan for approval after policy suggestions are provided.
98. The Ping Pu Peoples Affairs Task Force was established in 2010 to organize a survey of the status of Ping Pu people, promote their language and culture, and formulate tribe revitalization plans. For the 2011 survey, 368 tribes across the nation were investigated according to population and tribal information of 1935. Ping Pu people were asked whether they would be willing to register their indigenous status. Estimates showed that around 80,000 people would be willing to do so. The number of tribes and population size of Ping Pu lowland indigenous people are presented in Table 1. Meanwhile, a task force was established concerning letters of intent on status determination, which held

three meetings in 2015. Once this task force completes initial policy directions, it will submit them to the Executive Yuan for reference.

**Table 1 Number of Tribes and Population Size of Ping Pu People**

Unit: tribes; persons

<b>Region</b>	<b>County / City</b>	<b>No. of tribes</b>	<b>Estimated population</b>
Northern Region I	Keelung, Taipei, New Taipei, Taoyuan	46	900
Northern Region II	Hsinchu, Miaoli	16	4,450
Central Region I	Sanyi Miaoli, Taichung, Nantou	46	5,884
Central Region II	Taichung, Changhua, Yunlin, Chiayi	32	1,890
Southern Region I	Tainan	47	7,517
Southern Region II	Kaohsiung	22	7,655
Southern Region III	Pingtung	92	45,660
Eastern Region	Hualien, Taitung	67	6,763
Total		368	80,724

Source: Tribe status survey of Ping Pu lowland indigenous people, authored by Lin Ching-tsai and others, 2011, page 30

## **Point 35**

### **Consolidation of the Indigenous Peoples Basic Law**

99. The Act of Indigenous Peoples Land and Maritime Area was submitted to the Legislative Yuan for deliberation on July 17, 2015, to define the range of traditional land of indigenous people.

100. The Land Policy Implementation Center for Indigenous Traditional Territories of indigenous people was established as per instructions of the Council of Indigenous

Peoples (CIP) in 2015 to take charge of formulating subsidiary legislation, implementing policies, providing operational guidance, conduct consultations concerning traditional land. Some tribes were chosen to confirm the scope of land involved, facilitating the planning and recovery of traditional land following the approval of the indigenous land and maritime area act as well as further involving local indigenous people. In addition, results of traditional land surveys were confirmed through tribal meetings.

101. The CIP started traditional land surveys in 2002 and has completed initial investigations of such items as the range of traditional land, background of place names, natural and cultural resources, and land history. Information on 7,684 place names, 3,219 background stories, and 325 boundaries have been compiled. The total area measures around 1.8 million hectares.
102. Regional Planning of the Nation was announced on October 17, 2013, that the Ministry of the Interior and Council of indigenous peoples as well as other authorities concerned would establish indigenous land and seas area planning before the exclusive land law for indigenous peoples is established and completed.
103. The National Land Use Planning Act—submitted to the Legislative Yuan for deliberation on July 28, 2014—was amended and announced on January 6, 2016. Article 11 stipulates that if specific regions contain indigenous land or waters, the requirements under Article 21 of the Indigenous Peoples Basic Law shall be followed and the Ministry of the Interior shall formulate plans in coordination with competent authorities on indigenous affairs at the central government.
104. Paragraph 2 of Article 6 of the draft of the Regional Plan Act—submitted to the Legislative Yuan for deliberation on January 27, 2014—stipulates that if regions contain indigenous land or waters, the requirements under Article 21 of the Indigenous Peoples Basic Law shall be followed and the Ministry of the Interior shall formulate plans in coordination with competent authorities on indigenous affairs at the central government.
105. National land under the jurisdiction of the Ministry of Finance was added to the reserve land of indigenous peoples. Among the pieces of land transferred to become part of indigenous reserve land under the jurisdiction of the CIP, 454 were transferred in 2012,

totaling 127 hectares; 414 were transferred in 2013, totaling 115 hectares; 889 were transferred in 2014, totaling 195 hectares; and 1,477 were transferred between January and October of 2015, totaling 398 hectares.

## Points 36 and 37

### Women's Employment

106. The National Development Council has completed the report on related policies to help improve female labor force participation after research and analysis of materials such as trend of female labor force participation rate in Taiwan, related publications on how to enhance female labor force participation, and related policies; the highlights are summarized in Table 2.

**Table 2 Policies Concerning Women's Participation in the Workforce**

<b>Policy</b>	<b>Implementation strategy</b>	<b>Concrete measures</b>	<b>Competent Authority</b>	<b>Timetable</b>
White Paper on Female Labor Policy	Comprehensive discussion and review on laws and policies promoting female employment	Reviews and policy proposals on flexibility of women's employment to create measures with regard to women working during certain hours and certain jobs	Ministry of Labor, Ministry of Economic Affairs	2008-2013
	Reinforcement of social security and social welfare system for women	Discussions on protection of right to labor insurance of women who need to temporarily exit the labor market in order to take care of their family, as well as the protection of labor insurance for part-time workers	Ministry of Labor	
	Reinforcement of assistance for disadvantaged women	Apply hiring incentives, multiple employment incentives, and employment allowance to increase employment opportunities for	Ministry of Labor	

		disadvantaged women		
	Creation of a national support system for family care	Implement parental leave allowance, encourage enterprises to provide child-rearing women more flexible working hours, create sound community-based after-school day care services, and community-based care services	Ministry of Labor, Ministry of National Defense, Ministry of Civil Service	
	Increased incubation opportunities, assistance, and training programs for women wishing to start up their own business	Flying Geese Program and Phoenix Micro Start-up Program	Ministry of Economic Affairs, Ministry of Labor	
	Reinforced implementation of occupational training for women	Survey of issues women are facing and establishment of tailored training services for women	Ministry of Labor	
White Paper on Labor Policy in Aging Society	Creation of flexible and diversified working opportunities	Development of care-oriented service industries, silver industries, part-time working opportunities; consideration of specific needs due to family factors; removal of employment and training barriers; establishment of supportive measures for women who need to take care of their family; promotion of lending and counseling mechanism for business starters	Ministry of Labor, Ministry of Economic Affairs	2008-2015
White Paper on Population Policy	Creation of fairly priced, high-quality, diverse, accessible, and convenient childcare systems	Provision of home-based and institutional dual-track care services; addition of public-private collaborative childcare resources centers, non-profit kindergartens, and diversified and non-profit after-school care	Ministry of Health and Welfare, Ministry of Education	2013-2016
	Creation of a family-friendly workplace	Formulation of incentives for enterprises to provide childcare options, joint childcare by multiple	Ministry of Labor	

		enterprises; promotion of flexible working hours; support of enterprises that initiate family-friendly measures exceeding regulatory requirements; encouragement for enterprises to establish employee assistance solutions and mechanisms		
	Development of financial support measures for families with young children	Provision of parental leave allowance, babysitting and childcare subsidies for working parents, and pre-school education subsidies	Ministry of Labor, Ministry of Health and Welfare, Ministry of Education	
	Reinforced family and community-based care and health systems	Active promotion of long-term care services, long-term care insurance, respite services, and cultivation of manpower needed for care services	Ministry of Health and Welfare	
National Development Program	Creation of a family-friendly workplace that promotes family-work balance stimulates women's employment	Creation of an enterprise childcare resources platform; promotion of employment-integrated programs and various allowances; assistance to specific groups of disadvantaged women; organization of the Phoenix Micro Start-up Program and the counseling service program	Ministry of Labor	2013-2016

Source: National Development Council

107. Through nationwide employment service sites, the Taiwan Jobs network (website: [www.taiwanjobs.gov.tw](http://www.taiwanjobs.gov.tw)), the 24/7 0800-777-888 call center, and the kiosk systems at more than 10,000 convenient stores of the four major convenience store groups, employment information is provided to job seekers. Mobile, one-stop tailored services and related employment promotion measures help provide extensive and diversified employment opportunities. Between 2012 and October 2015, a total of 866,496 women successfully landed a job through these channels: 258,712 in 2012; 235,142 in 2013;

198,866 in 2014; and 173,776 between January and October 2015.

108. According to a 2013 survey of the Ministry of Civil Service under the Executive Yuan, women were often forced to exit the labor market and tended to have a relatively low participation rate because of marriage, childbirth, family affairs, and the need to take care of family members. As far as the link between marriage, childbirth (pregnancy), and employment is concerned, 26.8% of women left their job because they got married; among these women, the return rate was 44.0%, and the average interval between resignation and return was approximately seven years and one month. The rate of women leaving their job because of the birth of their first child was 21.0%; among these women, the return rate was 53.3%.
109. Article 24 of the Employment Service Act was amended on June 17, 2015, to make it a priority to encourage women to return to the job market. After the amendment, employment promotion measures such as temporary work allowances and allowances to cover living expenses during occupational training can be applied. The number of people successfully referred by public career service institutions was 1,754 in 2012, 2,195 in 2013, 4,073 in 2014, and 14,973 from January to October 2015.
110. In response to the Executive Yuan's promotion of care service welfare, industrial development plans, as well as five community-based welfare proposals, the Ministry of Labor has encouraged people to take part in occupational childcare training and promoted employment of middle- to old-aged people, women, and unemployed people. In 2012, 10,555 people were trained; in 2013, 10,415; in 2014, 10,229; and between January and October 2015, 9,616 people.

### **Improvement of Childcare Environments**

111. The National Development Program (2013 to 2016) has set enhanced female labor force participation rate as an important employment policy. The Executive Yuan urged related ministries to promote new projects to build up more friendly and supportive nurturing environments. The National Development Council has compiled related ministerial current policies and collected international practices with substantial proposals completed and submitted to the Executive Yuan.



112. Friendly workplace: Between December 2013 and December 2014, the Act of Gender Equality in Employment and its Enforcement Rules went through multiple amendments. Related actions and measures are summarized as follows:

- (1) The Act of Gender Equality in Employment was amended and announced on June 18, 2014. Besides including interns and dispatched workers under protection provisions, the act clearly defines job reinstatement upon the expiration of parental leave. In addition, the ceiling of the fine for employers violating the act's provisions concerning gender equality in employment has been increased to an amount ranging from NTD 20,000 to NTD 300,000. Moreover, the competent authority is given the power to announce the name and title of the violator as well as the name of the person in charge, and to impose penalties per each occurrence.
- (2) Article 7 of the Enforcement Rules of the Act of Gender Equality in Employment was amended and announced on October 6, 2014, to relax the timeframe of paternity leave for employees. It was changed so that employees can take paternity leave anytime in the period 15 days prior to and 15 days after childbirth.
- (3) The Act of Gender Equality in Employment was amended and announced on December 11, 2014, stipulating that salary is to be reduced by half for menstruation leave that is taken separately from sick leave; employees will be entitled to five days of prenatal checkup leave; and paid paternity leave is extended to five days. The restrictions for parental leave with regard to seniority are relaxed. People who adopt children less than three years old may apply for parental leave. Provisions were also added whereby employers of 250 employees or more are required to provide a breastfeeding (breast milk collection) room and gender discrimination fines are increased.
- (4) For working parents with young children, friendly workplace measures have been instituted that cover such aspects as pregnancy, childbirth, and childcare.
- (5) According to a 2014 survey on equality in gender and management by the Ministry of Labor on employment, management, and the workplace, among the 2,814 businesses with 250 employees or more, those equipped with childcare facilities or providing

childcare measures accounted for 81.4%, an increase of 4.7 percentage points from 2012.

(6) From 2012 to 2015, 408 business entities were subsidized, totaling NTD 27,961,000.

In order to understand the status of subsidies, the local competent authorities were asked by the Ministry of Labor to supervise and check business entities subsidized in the previous year from January to May each year. From 2012 to 2015, a total of 299 business entities were supervised and checked. All of them followed the subsidized plan. Subsidies for child care facilities or measures and subsidies check for business entities are summarized in Table 3.

**Table 3 Subsidies for Childcare Facilities and Measures for Businesses**

Unit: number of businesses; NTD thousand

Year \ Item	Number of subsidized businesses	Value of subsidies	Number of businesses rated
2012	96	6,915	96
2013	99	8,769	99
2014	104	5,701	104
2015	109	6,576	-
Total	408	27,961	299

Source: Ministry of Labor

(7) Events organized between 2012 and September 2015 to promote childcare among enterprises are summarized in Table 4.

**Table 4 Events Organized to Promote Childcare among Enterprises**

Unit: Round; Person(s)

Year \ Round	Promotional events		Expert consultation and counseling
	Round	Person(s)	
2012	5	298	-
2013	3	204	5
2014	6	242	8
2015 (Jan.-Sep.)	5	362	5
Total	19	1,106	18

Source: Ministry of Labor

### 113. Improvement of teaching and nursing environments

(1) In 2012, efforts were made to seek funds for local governments to set up public-private collaborative childcare and infant care centers through lottery proceeds. As of June 2015, 87 public-private collaborative childcare centers had been opened to benefit people on 1.04 million occasions. The establishment of public-private collaborative childcare centers between 2012 and June 2015 is summarized in Table 5.

**Table 5 Establishment of Public-Private Collaborative Infant Care Centers**

Unit: person; center

Year	Children less than two years old	Accumulated number of centers	Number of available spots	Actual number of infants given care
2012	419,670	13	805	-
2013	421,039	46	2,320	-
2014	396,866	72	3,605	3,486
2015 (Jan.-Jun.)	403,752	77	3,820	3,751

Source: Ministry of Health and Welfare

(2) The new home-based and institutional (infant care centers) dual-track care system was implemented on December 1, 2014. The number of people providing home-based childcare services between December 2014 and June 2015 are shown in Table 6. The number of children being cared for at home or at institutions (infant care centers) is summarized in Table 7. The coverage rate of various measures available for children less than two years old and the number of beneficiaries are shown in Table 8.

**Table 6 Number of People Providing Home-based Childcare Services**

Unit: person; %

Person(s) /ratio Gender	Non-relatives		Relatives	
	Persons	Ratio	Persons	Ratio
Male	546	2.43	1,568	7.07
Female	21,882	97.57	20,598	92.93
Total	22,428	100.00	22,166	100.00

Source: Ministry of Health and Welfare

**Table 7 Number and ratio of Children Cared for at Home or at Institutions (Infant Care Centers)**

Unit: Person(s); %

Person(s)/ ratio Gender	At home		At an institution (infant care center)	
	Persons	Ratio	Persons	Ratio
Male	34,023	51.82	8,433	52.18
Female	31,632	48.18	7,727	47.82
Total	65,655	100.00	16,160	100.00

Source: Ministry of Health and Welfare

**Table 8 Coverage Rate of Various Care Measures Available for Children Less than Two Years Old and the Number of Beneficiaries**

Unit: Person(s); %

Item Method	Number of spots available	Provision rate (%)	Actual number of children given care	Coverage rate (%)
Home-based care (excluding care by relatives)	44,856	11.11	37,560	9.30
Institutional care	23,045	5.71	16,160	4

Source: Ministry of Health and Welfare

- Notes:
1. As of June 2015, there were 403,752 children less than two years old.
  2. Each family childcare provider takes care of two children on average, as a result, the children number of family childcare providers taking care is twice the holders number of service registration certificates.
  3. The number of openings for institutional child care services is that approved.

(3) Local governments started to receive funds in 2000 to help set up additional kindergartens. In 2014, 142 classes were added, and the accumulated number of added classed had reached more than 1,000. The establishment ratio of kindergartens under elementary schools in indigenous regions had already reached 84%. In the academic year 2014, there were more than 440,000 preschool children. Among them, more than 130,000 children were attending public kindergartens. Governments and public interest entities joined hands to run not-for-profit kindergartens; a total of 10 such kindergartens were

founded in Taipei City, Kaohsiung City, Tainan City, and Hsinchu City in 2014, offering a total of 1,526 spots.

114. The government offers people financial support during the relatively costly child-rearing period. Related measures available include the following:

(1) In 2009, parental leave allowance was added as an item in various types of occupational insurance. Both the father and the mother can apply for such an allowance, which has a maximum duration of six months. Women account for more than 80% of the total applications, and laborers accounts for more than 90% of the insured. Employment insurance started to be implemented on May 1, 2009. Between 2012 and September 2015, the number of beneficiaries was more than 252,000; among them, 211,521 were women (84%) and 41,183 were men (16%). The paid value totaled more than NTD 23.53 billion. Civil servant insurance started to be implemented in August 2009. The number of applicants increased from approximately 3,000 a year to more than 5,000 a year. As of April 2015, the accumulated number of people for whom the insurance was approved to be paid had reached 26,182, and the value of approved payments had reached NTD 2.24 billion. Military insurance began in May 2010. As of 2014, 442 people had applied for it; among them, 135 (31%) were men and 307 (69%) were women.

(2) Since December 1, 2014 of enacting the system for registering the family childcare service, a total of 22,428 people had been issued the service registration certificate in June 2015. Since 2008, for children under two years old taken care by family childcare providers or registered infant centers, the working parents have received subsidies on a monthly basis in the value of NTD 2,000 to NTD 5,000 for childcare cost. Since July 2012, family childcare providers have been qualified in a triple-track way, namely certification, education, and training and the childcare subsidies coverage increased from 9.18% to 15.81% in 2014. Statistics of beneficiaries for child-care subsidy for employed parents with qualified childcare providers between 2012 and October 2015 are shown in Table 9.

**Table 9 Beneficiaries of Childcare Subsidies**

Unit: person; %

Year \ Item	Children less than two years old	Number of beneficiaries of care subsidies	Accumulative number	Subsidy coverage ratio
2012	419,670	38,516	110,630	9.18
2013	421,039	59,370	170,000	14.10
2014	396,866	62,744	232,744	15.81
2015 (Jan.-Oct.)	409,504	66,410	299,154	16.22

Source: Ministry of Health and Welfare

(3) Education subsidies: Subsidies are available for children aged five attending kindergartens, i.e., NTD 14,000 per semester for children attending public kindergartens. Disadvantaged children can receive an additional NTD 12,000, or in some cases even obtain a full exemption of fees. The subsidy for children attending private kindergartens is NTD 30,000, with an additional NTD 10,000 to NTD 30,000 for disadvantaged children. Implemented comprehensively in August 2011, the number of beneficiaries each year has been around 190,000, and around NTD 6.9 billion has been paid in subsidies each year. The kindergarten enrollment rate of children in ordinary, economically disadvantaged, and indigenous areas remained above 95% of the assessment baseline, and the difference between boys and girls at the age of five has remained within 0.5%. Municipal, county, and city governments were given guidance throughout 2015 to encourage public kindergartens to organize after-class services and subsidize necessary expenses for economically disadvantaged children. Around 28,000 economically disadvantaged children benefited in 2014.

115. Due to the proactive promotion of childcare support measures by the government, the female labor participation rate in Taiwan has grown over the past few years, increasing from 50.19% in 2012 to 50.64% in 2014.

## **Points 38 and 39**

### **Measures to Protect the Rights and Interests of Foreign Workers and Insurance**

#### 116. Measures related to ensuring the rights and interests of migrant workers

- (1) Verification of the wage affidavit is done through bilateral meetings with source countries, who are also asked to thoroughly assess the fees collected by overseas agencies. In addition, checks are made on agencies in Taiwan to root out overcharging. Between 2012 and October 2015, a total of 40 agencies were fined, with 7.72% of agencies inspected. An average of ten agencies were fined each year, or around 0.7% of all agencies.
- (2) The Employment Service Act clearly stipulates that employers shall pay wages in full directly to foreign workers, except for fees payable by the workers according to the law, which employers can deduct. A total of 67 employers were fined between 2012 and October 2015, accounting for 0.55% of all employers investigated. On average, 16 employers were fined each year, accounting for around 0.007% of all employers with foreign domestic workers.
- (3) The 1955 hotline, foreign worker service stations at airports, and consultation service centers in various locations give foreign workers channels for filing complaints. In addition, a mechanism has been set up to monitor the early termination of employer-employee contracts, and a bilingual handbook of important facts published for foreigners working in Taiwan.
- (4) In addition to ongoing efforts to educate people about the law, in accordance with the Labor Insurance Act, local or foreign fisheries workers are required to be insured under the labor insurance scheme, with fines imposed if failure to comply remains an issue after a letter of notification of such is sent based on a register of foreign fishermen provided by the Workforce Development Agency, the National Health Insurance Administration, and related authorities.

117. As is required by the Regulations Governing Management of the Health Examination of Employed Aliens, foreign workers should receive health examinations within three days of entering the country, and again after six months, 18 months, and 30 months. If they fail

certain tests, they may receive treatment and repeat the tests. The Ministry of Health and Welfare amended the regulations on July 31, 2015, to allow treatment and repeat tests for people found within three days of entry to the country to be suffering from pulmonary tuberculosis, amoebiasis, and Hansen's disease. Between January and October 2015, of those qualifying for repeat tests were 2,573 people with parasites, 31 with syphilis, 103 with amoebiasis, and 138 with pulmonary tuberculosis.

118. For foreign migrant workers who have come to Taiwan legally and obtained a government-issued alien resident certificate, employers are required by law to have them insured as soon as they are hired. Foreign workers are entitled to the same National Health Insurance benefits as local people. As of September 2015, the number of foreign domestic caregivers with insurance had reached 174,012.
119. If foreign migrant workers who have come to Taiwan legally and obtained an alien resident certificate are unable to be hired for some reason or other, and the legal duration of stay has not expired, they should go to the village (township, city, district) administrative office indicated on their alien resident certificate while between jobs to get insured as category six individuals. As of November 2015, 60,798 foreigners were insured this way.
120. People regardless of their nationality are equally treated under Taiwan's medical laws and regulations. Workers without an ID card, entitled to the same treatment and protections with regard to their right to healthcare. This was not originally the case, with foreign workers who had come to Taiwan legally but were not employed, and whose length of stay shown on the alien resident certificate had expired, not being eligible for enrollment in the National Health Insurance.
121. The National Health Insurance Administration checks the register of foreign fishermen provided by the Workforce Development Agency each month to verify that all have been enrolled in the National Health Insurance scheme. The number of such people stood at 6,688 as of October 2015.
122. The Labor Contract entered into by and between owner of the fishing vessel and crew regulates the wage, personal liability and health insurance, labor benefits, and



accommodations, among other rights of crew from mainland China; the content needs to comply with the requirements indicated in the Cross-Strait fishing vessel crew's Labor Collaboration Agreement entered into on December 21, 2010.

123. When hiring foreign crew overseas, the owners of deep-sea fishing vessels shall abide by the requirements and matters needing attention stipulated in the Regulations on Overseas Employment of Foreign Crew Members by Owners of Fishing Vessels. Owners and crew must enter into a contract that protects the rights and interests of foreign crew, including wages, the provision of commercial insurance, compensation for breach of contract, and other matters that the parties shall abide by.
124. Mainland China or other foreign crew who have not entered the territories of the ROC for work but have been hired by our fishing vessel owners to work in non-territorial waters are not governed by the Employment Service Act and Labor Standards Act. The protection of the basic rights of mainland China crew hired by Taiwanese owners of fishing vessels shall be based on the Cross-Strait crew's Labor Collaboration Agreement, whereas those of other foreign crew shall be governed by the Regulations on Overseas Employment of Foreign Crew Members by Owners of Fishing Vessel.
125. When foreign and mainland China crew require medical treatment due to accidents or illness, the commercial insurance will cover the cost of medical care, with the cost of any deductibles or shortfalls borne by the fishing boat owner. Both foreign and mainland China crew hired overseas must be covered by commercial insurance. The total number of foreign and mainland China crew hired is 15,929 and 2,734, respectively.

#### **Management of and Protections for the Illegal Foreign Population in Taiwan**

126. See Note 138 of the second national report on the ICCPR.
127. Specialized Operational Brigades at the National Immigration Agency periodically check places within their respective jurisdictions where members of the foreign population who have violated the law (regulations) tend to gather, as well as circulate information on missing foreign workers to hospitals and clinics. On receiving reports of missing foreign workers from the general public or healthcare facilities, Specialized Operational Brigades are dispatched to investigate.

128. When workers without an ID card fall victim to human trafficking, the National Immigration Agency will provide them with a place in a shelter and protections according to the law. Four hundred and sixty-two such victims were placed in shelters in 2012, 366 in 2013, 292 in 2014, and 144 between January and October 2015, for a total of 1,264 people. During their stay in shelters, victims are ensured their personal safety and necessary medical assistance, among other protective services, to safeguard their human rights.
129. Detainees have the freedom to receive visitors and communicate with the outside world, and their ethnic culture is respected. Government offices of countries such as Indonesia, Vietnam, and Thailand often send representatives to the various detention centers to visit detainees. In addition, NGOs and religious groups help provide such services as medical care and emotional support at the larger detention centers. Moreover, workshops are held periodically, and there are celebrations during the three major festivals and on special holidays, outings, visitor receptions, phone calls, and access to TV, books, newspapers, and magazines, as well as classes for them to gain different skills.
130. The government has configured a chip-based app to increase administrative efficiency and help with such objectives as preventing forgeries of resident certificates, verifying the identity of foreigners working in Taiwan, and the opening of bank accounts. The convenient services made possible with the innovative mobile technology can expedite matching employees with employers, and reduce the time required for different review operations, offering real-time digital services that help correctly identify both ROC nationals and foreigners alike. This app is a digital service meant to confirm the identity and status of all foreigners in Taiwan, and does not target any particular group within this demographic.

#### **Point 40**

##### 131. Minimum wage

- (1) On November 26, 2013, the Ministry of Labor held a public hearing on what constitutes a living wage. Members of the Presidential Office Human Rights Consultative Committee,

citizen groups, scholars and experts, related ministries, and members of the general public concerned about the issue were invited to take part in discussions. The conclusion reached was that, from the perspective of international experience and existing regulations, it was difficult to clearly define a living wage. However, many participants agreed that driving up overall salary levels was the most fundamental goal for enhancing the living standards of workers, and this should come from increasing the competitiveness and productivity of businesses, and growing the economy.

- (2) The Ministry of Labor held three working group meetings to exchange opinions and reach a consensus on issues relating to a minimum wage. These took place on November 4, 2014, March 4, 2015, and June 30, 2015.
- (3) Minimum wage adjustments made by the minimum wage review committee of the Ministry of Labor between 2012 and 2015 are summarized in Table 10.

**Table 10 Minimum Wage Adjustments**

Unit: NT dollars

Time	Minimum Wage	
	Monthly pay	Hourly pay
January 1, 2012	18,780	103
January 1, 2013	-	109
April 1, 2013	19,047	-
January 1, 2014	-	115
July 1, 2014	19,273	-
July 1, 2015	20,008	120

Source: Ministry of Labor

132. On May 20, 2015, the Ministry of Labor announced that it had amended the Company Act to include Article 235-1 on the distribution of employee remuneration, which stipulates that companies shall specify in their articles of incorporation the volume or ratio of profits for the current year to encourage enterprises to share profits with their employees. On January 6, 2016, an amendment to the Act for Development of Small and Medium Enterprises in the form of Article 36-2 on the provision of preferential tax treatment for small and medium-sized enterprises increasing employee salaries was

promulgated.

133. Paragraph 1 of Article 40 of the People with Disabilities Rights Protection Act stipulates that protections over the basic right to work of people with disabilities shall be no different to that of people without disabilities, except that the wages of people with disabilities under sheltered employment may be calculated according to their productivity, and are therefore likely to be below the minimum wage. The salary brackets for people with disabilities under sheltered employment between 2012 and June 2015 are shown in Table 11. At least once every two years, the Ministry of Labor conducts on-the-spot inspections of workplaces offering sheltered employment to ascertain that the way productivity is calculated, and wages and treatment provided to people with disabilities, is fair.

**Table 11 Salary Brackets for People under Sheltered Employment**

Unit: %

Salary \ Year	2012	2013			2014			2015 (Jan.-Jun.)		
		M	F	Subtotal	M	F	Subtotal	M	F	Subtotal
NTD 3,000 and less	9.8	4.7	4.1	8.8	4.8	3.8	8.6	5.4	3.9	9.3
NTD 3,001-6,000	39.7	17.5	18	35.5	17.1	16	33.1	17.4	15.9	33.3
NTD 6,001-9,000	28.4	16	15.4	31.4	15.3	16	31.3	16.6	17.5	34.1
NTD 9,001-12,000	10.4	6.5	6.2	12.7	7.5	6.4	13.9	7.2	7.5	14.7
NTD 12,001-15,000	3.7	2	2.4	4.4	2.4	3.1	5.6	2.5	3.0	5.5
NTD 15,001-19,046 (NTD 15,001-18,779 in 2012)	5.1	2.4	1.4	3.8	1.6	1.6	3.2	0.7	1.1	1.8
NTD 19,047 and up (NTD 18,780 and more in 2012)	2.9	2.6	0.8	3.4	3.2	1.2	4.4	0.7	0.6	1.3

Source: Ministry of Labor

## **Point 41**

### **Extended Applicability of the Labor Standards Act**

134. Finding ways to extend the reach of the Labor Standards Act continues, with the

following sectors and workers being included in succession. Table 12 below shows that around 100,000 people have benefitted.

**Table 12 Sectors and Number of Workers Incorporated into the Labor Standards Act since 2012**

Unit: person(s); %

No.	Sector or worker	Effective date	No. of beneficiaries	No. as a percentage of all workers in the sector
1	Lawyers in the legal services sector	April 1, 2014	Approximately 7,524	100
2	Non-staff workers in private schools at all levels (excluding teachers exclusively devoted to teaching)	August 1, 2014	Approximately 63,122	60.98
3	Building management committees not categorized under other social service industries	(1) July 1, 2014, for committees established under the Condominium Administration Act Building Administration Division and reported to the authorities as such (2) January 1, 2015, for those not established under the said act and reported as such	Approximately 6,000	100
4	Farmers groups (excluding irrigation associations)	January 1, 2015	Approximately 18,920	100
5	Irrigation associations within farmers groups	July 1, 2016	Approximately 6,797	100
Total			Approximately 103,000	

Source: Ministry of Labor

135. The Ministry of Labor announced in June 2015 that special education professionals and assistants hired under the Guidelines for Hiring Related Special Education Professionals and Assistants (including teaching assistants) would be covered under the Labor Standards Act.

136. For workers yet to be included under the Labor Standards Act, the Ministry of Labor has adopted the approach that further applicability will be considered in stages, by sector and by category. As long their inclusion is not overly problematic, all workers will be deemed to be eligible for gradual inclusion in order to gradually maximize coverage of the act. For those whose inclusion is not yet deemed feasible, communication with the various parties will continue and step-by-step consideration given to the feasibility of including them.

## Points 42 and 43

### Fixed Quota Hiring of People with Disabilities

137. There were 15,776 institutions by the end of 2012, 16,116 by the end of 2013, 16,401 by the end of 2014, and 16,306 by the end of September 2015 throughout the nation that were obligated to implement the quota openings system. Statistics of people with disabilities hired under the fixed employment openings system by the type of disability between 2012 and August 2015 are shown in Table 13. Statistics of people with disabilities hired under the quota openings system by the gender are shown in Table 14.

**Table 13 Statistics for People Hired under the Fixed Quota Hiring System by Type of Disability**

Unit: person(s)

Categories in the old system	Year	2012		2013		2014		2015 (Jan.-Aug.)	
		No. of people in labor force with this disability	Fixed quota for these people	No. of people in labor force with this disability	Fixed quota for these people	No. of people in labor force with this disability	Fixed quota for these people	No. of people in labor force with this disability	Fixed quota for these people
Visual impairment		26,862	3,326	26,709	3,852	26,624	4,183	26,445	4,231
Hearing impairment		40,942	6,293	40,160	6,918	39,614	7,395	38,869	7,378
Balance impairment		2,132	118	1,954	124	1,827	131	1,757	125

	Vocal and speech impairment	8,803	1,073	8,958	1,192	9,227	1,245	9,502	1,275
	Physical disability	230,847	29,004	227,251	32,031	224,010	32,722	220,960	32,164
	Learning disability	81,237	5,159	82,406	5,995	83,966	6,784	84,366	7,154
	Severe organ impairment	74,376	7,748	76,150	9,066	78,305	10,041	79,952	10,364
	Facial deformity	3,853	573	3,804	658	3,753	714	3,720	728
	Vegetative state	2,357	19	2,356	33	2,344	32	2,270	26
	Dementia	5,199	108	5,232	145	5,280	147	5,336	158
	Autism	5,211	221	5,836	315	6,451	430	6,850	547
	Mental disorder	107,880	3,201	106,953	4,033	108,657	4,318	108,808	4,483
	Multiple disorders	62,604	3,448	62,626	3,873	63,461	4,155	64,574	4,190
	Stubborn epilepsy	4,541	440	4,321	466	4,361	497	4,433	493
	Rare disease	1,094	160	1,151	177	1,063	180	1,061	168
	Others (chromosomal abnormalities, congenital metabolic disorders, other congenital defects)	2,246	430	2,352	483	2,488	543	2,577	370
	Disabilities that do not correspond between old and new systems	800	8,454	1,217	2,729	1,621	821	1,729	872
	Disabilities not in time to be	–	48	–	42	–	73	–	74

	switched to the old system								
	Total	660,984	69,823	659,436	72,132	663,052	74,411	663,209	74,800

Source: Ministry of Labor

- Notes:
1. Source of data: the national system under the Ministry of Health and Welfare for comparing allowances, the ICF authentication platform, and the fourth generation of the information management system for fixed quota hiring of the Ministry of Labor.
  2. This table was prepared using the old categories (including those holding a certificate under the new system). The Minister of Health and Welfare plans to completely replace the old system in 2019; the table will be renewed under the new system then.
  3. According to the Ministry of Health and Welfare, people with disabilities are authenticated under the new system at present. However, if they have special needs, such as the needs for contents of subsidies or service being applied for to be assessed by the old system, the certificate issuing authority will refer to the categories under the old system with assistance from the authenticating authority (that is, it is allowed to switch between new and old systems). If people with disabilities are not authenticated under the old system through the authenticating authority, however, it happens that the new system will not match the old system. Another example is a patient with dementia under Category 10 of the old system. If he/she also has balance impairment and physical impairment, he/she will fall under three categories of disabilities (Category 1: neurological system structure and psychiatric, mental functions; Category 2: eyes, ears, and related structures and sensory functions and pain; and Category 7: neurological, muscular, and skeletal movement-related structures and functions); this is where categorization is impossible during the switch between old and new systems.

**Table 14 People with Disabilities Hired under the Fixed Quota System by Gender**

Unit: person(s)

Year	Gender		Subtotal
	Male	Female	
2012	45,533	24,290	69,823
2013	46,992	25,140	72,132
2014	48,420	25,991	74,411
2015 (Jan.-Aug)	48,741	26,059	74,800

Source: Ministry of Labor

### Promoting the Employment of Disabled Persons

138. Increasing the employment rate among disabled persons: By means of vocational



rehabilitation case management and occupational assistance evaluations, the individual needs of disabled persons who wish to work but are incapable of finding a job on their own in a competitive job market are taken into consideration before individualized career placement, training, and other types of assistance, including general employment services, supported employment, sheltered employment, home-based employment, and assistance in starting up a business are provided. Meanwhile, the redesign of job responsibilities, hiring subsidies (grants), and fixed quota hiring, among other things, are promoted to help people with disabilities find a suitable job.

- (1) Vocational rehabilitation case management service: The Ministry of Labor sponsors local governments to establish a vocational rehabilitation service window for people with disabilities so as to provide an individualized service that accommodates the needs of disabled persons and promotes a diversified employment service model that reflects local governments' ability to help people with disabilities find suitable jobs. In 2012, 7,010 disabled people (4,229 men and 2,781 women) received consultation services, 6,994 (4,200 men and 2,794 women) in 2013, 7,197 (4,236 men and 2,961 women) in 2014, and 5,618 (3,281 men and 2,337 women) from January to October in 2015.
- (2) General employment service: For people with disabilities who are capable of working and willing to work, employment information and services are provided so that they can work independently in the competitive job market. In 2012, the number of people using the service to find a job was 48,896 (31,933 men and 16,963 women), with 21,816 (14,496 men and 7,320 women) successfully finding employment. The figures for 2013, 2014, and from January to October 2015 were, respectively, 43,917 (28,544 men and 15,373 women) and 19,962 (13,247 men and 6,715 women), 37,751 (24,092 men and 13,659 women) and 19,263 (12,513 men and 6,750 women), and 31,979 (20,402 men and 11,577 women) and 16,715 (10,722 men and 5,993 women).
- (3) Supported employment services: The Ministry of Labor sponsors career service staff under local governments to help people with disabilities find a job through professional assessment and referrals. The number of people with disabilities successfully referred to a job and the number of those who remained stably employed were 3,904 (2,328 men and

1,576 women) and 2,244 (1,346 men and 898 women) in 2012; 5,016 (3,007 men and 2,009 women) and 2,010 (1,206 men and 804 women) in 2013; 4,725 (2,795 men and 1,930 women) and 2,068 (1,190 men and 878 women) in 2014; and 3,529 (2,049 men and 1,480 women) and 1,486 (844 men and 642 women) from January to October 2015.

(4) Sheltered employment service: In order to protect the rights of those in sheltered employment and provide an appropriate level of service, the Ministry of Labor sent a letter to local governments on June 5, 2015, requesting that they inform sheltered employment workplaces within their jurisdictions to perform work competency assessments of people hired under sheltered employment at least once every two years and, based on the assessment outcome and the willingness of people to continue working, either continue to provide sheltered employment, hire them as ordinary employees, or refer them to the normal job market. The number of people in sheltered employment accounted for approximately 0.9% of people with disabilities working in 2014 (1,785 people in sheltered employment out of the 188,843 disabled in work). The number of workplaces offering sheltered employment and number of people in sheltered employment between 2012 and October 2015 are shown in Table 15.

**Table 15 Number of Workplaces Offering Sheltered Employment and Number of People in Sheltered Employment**

Unit: number of workplaces; opening(s); person(s)

Year	Item	No. of businesses	Number of openings	Number of employees
2012		118	1,765	1,639
2013		127	1,883	1,770
2014		137	1,952	1,781
2015 (Jan.-Oct.)		135	1,907	1,779

Source: Ministry of Labor

(5) Job redesign: Following an assessment of people's disabilities, such as their physical strength, perceptiveness, and other factors such as work experience and expectations, the nature of their work can be adjusted, appropriate tasks assigned, the working environment improved, and special aids or equipment provided. Statistics for subsidies

provided for job redesign between 2012 and October 2015 are shown in Table 16.

**Table 16 Job Redesign Subsidies**

Unit: person(s)

Year \ Item	Improve work environment	Improve work equipment or tools	Provide special aids	Improve work terms	Adjust work methods	Others	Subtotal
2012	78	133	400	432	19	0	1,062
2013	105	172	443	573	30	0	1,390
2014	66	157	648	1,054	49	90	2,117
2015 (Jan.-Oct.)	83	127	867	1,041	124	61	2,303

Source: Ministry of Labor

139. The employment rate among people with disabilities was 17.53% in 2014 (188,843 people out of 1,077,249), an increase of 0.77% from 16.76% (173,785 out of 1,036,422) in August 2011.

#### **Prohibiting Workplace Discrimination against People with Disabilities**

140. Paragraph 1 of Article 5 of the Employment Service Act stipulates that employers may not discriminate against job seekers or hired employees because of their disabilities. Violators will be subject to a fine of NTD 300,000 to NTD 1.5 million as per Article 65 of the act.

#### **Reintegration into Society of People with Mental Disorders**

141. See Note 137 of the second national report on the ICCPR.

142. There are currently some 8,775 patients (beds) at psychiatric rehabilitation institutions nationwide. Rehabilitation available at these institutions targets patients with stable psychotic symptoms who have the potential to recover, and aims to help these patients return to their families and communities. Teams at the institutions draw up rehabilitation treatment plans after evaluating the patients' condition, individual rehabilitation needs,

and ability to function in everyday life. They then provide individualized rehabilitation, treatment, and training (covering social skills, stress management, everyday living, interpersonal skills, and working habits and attitudes).

#### **Point 44**

##### **Amendments to Laws Safeguarding Labor Unions and other Concrete Measures**

143. Refer to Notes 311 to 315 of the second national report on the ICCPR, Notes 99 to 113 and Note 104 of the second national report on the ICESCR, and Notes 117 and 118 of the initial national report on the ICESCR.

#### **Point 45**

144. In addition to finishing reviewing the four ratified core International Labor Organization (ILO) conventions (the Convention Concerning the Right to Organization and Collective Negotiation Principles, the Convention Concerning the Elimination of Forced Labor, the Equal Remuneration Convention, and Convention on Hiring and Occupational Discrimination) on March 29, 2012, the Ministry of Labor invited the Presidential Office Human Rights Consultative Committee, citizen groups, experts, and scholars to workshops on both June 28 and December 27, 2013, to review Taiwan's labor laws and regulations, and explain the other four core ILO conventions (Convention on Freedom of Association and Protection of the Right to Organization, Convention Concerning Forced Labor, Minimum Age Convention, and Worst Forms of Child Labor Convention) yet to be signed. Work on reviewing ROC labor laws and the eight core conventions of the ILO has been completed.

#### **Point 46**

145. The Ministry of the Interior plans to amend Article 9 of the Nationality Act to require that foreigners submit proof, within a year of becoming naturalized citizens, that they have renounced their original nationality, with failure to do so resulting in cancellation of their naturalization status. In addition, people shall not be allowed to reside in Taiwan until

proof of renunciation of original nationality is forthcoming. The draft amendment to the Nationality Act is currently being deliberated in the Legislative Yuan.

146. Between 2012 and October 2015, a total of 68 foreign spouses were denied ROC nationality because they did not meet the naturalization requirements under the Nationality Act despite the fact that they had already renounced their original nationality, including 12 in 2012, 17 in 2013, 20 in 2014, and 19 between January and October 2015. As of October 2015, however, a total of 28 out of these 68 foreign spouses had already acquired ROC nationality after having subsequently fulfilled the requirements of the Nationality Act.
147. For those who have renounced their original nationality but not yet acquired ROC nationality, their rights of residence, work, and health in Taiwan are still protected. In the event that foreigners have not reinstated their original nationality or acquired another nationality after their naturalization permit was revoked, they may still apply to stay in Taiwan legally. The Ministry of Labor handles the applications and issuance of work permits for such people as special cases, as required by subparagraph 1 of paragraph 1 of Article 51 of the Employment Service Act, by referring to past administrative precedents. In light of the fact that the said foreigners may continue to be enrolled in the National Health Insurance program starting on the date that their alien resident certificate is reissued by the National Immigration Agency, the requirement that they can only apply for National Health Insurance after they have stayed in Taiwan for six months or longer by presenting documents supporting their residency does not apply.
148. The inspection and accreditation of businesses approved to arrange cross-national (cross-border) marriages has continued. Forty-one businesses were evaluated in a pilot scheme in 2013. Of the 40 evaluated in 2014, nine were given an A rating, eight a B rating, and 18 a C rating, while five were not rated. In 2015, 42 businesses were accredited, with two rated as excellent, 11 given an A rating, 11 a B rating, and 11 a C, while seven were not rated. This information is published on the website of the National Immigration Agency and individual businesses are notified of areas for improvement suggested by members of the review teams. Those given a C rating for three consecutive

years will have their permit annulled. Businesses that are found to have violated regulations must make improvements by a given deadline, with failure to do so resulting in their permit being annulled. In 2014, there were 49 violations of the Immigration Act relating to cross-national (cross-border) marriages, with fines of NTD 5,875,000 meted out. Between January and October 2015, there were 21 cases and fines of NTD 2,525,000.

## **Points 47 through 49**

### **Resettlement of Families Forcefully Evicted**

149. In order to protect the right of urban Indigenous Residency Rights, in the event that local governments have found alternative housing for families to relocate to and have finished making the necessary arrangements, the Council for Indigenous Peoples (CIP) will subsidize part of the cost of public housing and offer adequate assistance as needed. In November 2013, 40% of the budget required for public housing in Sanxia and Xizhou Cultural Parks was approved for the New Taipei City Government and assistance with applying for project loans (of around NTD 35.3 million) was provided. A total of 76 indigenous families were helped with securing alternative housing.

150. Low income families governed by the Public Assistance Act, people with disabilities receiving living subsidies, and old people with medium-to-low incomes on living allowances who occupy informal settlements on public land may apply for placement and subsidies/allowances for public housing or community housing before their occupancy is ended by the competent authority. The competent authority may also postpone the collection of compensation from occupants for the use of the informal settlements, and allow them to pay in interest-free installments.

151. According to the Urban Renewal Act, any renewal plans drawn up shall include alternative housing placement, while tenants may request compensation from the landlord as per Article 37 of the act.

152. According to the Land Expropriation Act, where there is fact of residency one year prior to a forced eviction for low-income families or medium-to-low income earners who

become homeless because their constructional improvements were expropriated, as well as for those in similar situations that can be verified after checks by municipal or county (city) government social workers, the party needing the land shall establish a resettlement plan and describe it clearly in the broader expropriation plan. The resettlement includes alternative housing, mortgage interest reimbursement, and rent subsidies. These protections apply to low-income families, medium-to-low income earners, or those in similar situations where there is fact of residency, and are not limited to owners or other rights holders.

### **Airport MRT Station A7**

153. Land surrounding the airport MRT A7 station is being developed using the zone expropriation approach. Public hearings were held as required by Article 38 of the Land Expropriation Act. The government has released related news bulletins and information on the government website, and owners of the land and land improvements have been notified in writing of the following: (1) the need for and purpose of zone expropriation; (2) the various compensation criteria; (3) the application procedure and ratio of land for compensation; (4) waivers and deductions of land value tax and land value increment tax; (5) handling of leases for agricultural land; (6) handling of other rights and other expenses; and (7) a resettlement plan. In other words, the land owners and existing residents were fully informed and consulted before the land and land improvements were expropriated.

154. Stage one of the expropriation process began in October 2011. Residents with households demolished within the area were given not only two years' worth of rent subsidies, but also priority for affordable housing if they qualified. Within this development area, 79 qualifying households applied to purchase and be placed in affordable housing. In addition, in order to give priority over the assignment of land for building to owners of legal constructional improvements that were demolished, the drawing of placement lots for land assignment was completed in February 2014. All existing residents within the development area were placed in adequate alternative housing.

### **Shaoxing Complex**

155. National Taiwan University is handling the issue of housing for occupants of the land it owns on Shaoxing South Street in Taipei City. As planned for by the university, the setting of surface rights adopted in the Urban Renewal Act will be followed, and the private developer will build rental housing for placement purposes to be rented by residents on the land for a limited period of time.
156. National Taiwan University plans to submit to the Executive Yuan for approval its application for the trial social housing project.
157. The Ministry of Education has already asked National Taiwan University to use this for evaluating the feasibility of using Zhongqin Second Village under the Ministry of National Defense as interim housing. If it is considered impossible after assessment, Zhongqin Third Village will be used for placing the residents.

### **Huaguang Community**

158. Negotiations, mediations, and lawsuits, among other procedures, between agencies under the Ministry of Justice and residents of the Huaguang Community are based on applicable laws and regulations. The obligation to eliminate illegitimate gains, as required by law, was discussed during negotiations.
159. The Ministry of Justice and its affiliated agencies do not have the resources and are not empowered to resettle people. When illegal occupants of buildings are found to be members of disadvantaged groups, in addition to notifying social welfare institutions to help take care of the individuals during forced evictions, the courts will also arrange for the relevant authorities to find alternative housing on a case-by-case basis. When the illegal occupants being removed are elderly, live alone, or are bedridden due to chronic illness and require social aid, an official letter will be sent to the relevant authorities, such as the departments of social welfare in Taipei City Government or New Taipei City Government, or the Veterans Affairs Council, requesting assistance in arranging nursing or placements for these people. To care for its citizens, Taipei City Government indicated recently that it would provide fair-priced housing and interim housing for existing residents of the Huaguang Community. The Ministry of Justice has also mandated that its



affiliated agencies cooperate closely with Taipei City Government on related matters.

160. The Huaguang Community was originally legally home to 335 households (194 for those on active service and 141 for dependents), the illegal living quarters for 75 households, and 175 illegally occupied households. Determining whether someone is a member of a disadvantaged group is part of social welfare. The competent authority, the Department of Social Welfare under Taipei City Government, visited each household according to the register of residents still living in the community as provided by the Ministry of Justice, and found that a total of 21 households required housing and other assistance. Of these, nine were low-income families that are eligible to apply for fair-priced housing.
161. The Ministry of Justice sent the register of residents wishing to rent to Taipei City Government. Residents submitted applications and went through eligibility reviews. It was decided that six state-owned interim housing units would be rented from the Department of Urban Development of Taipei City Government, four of which would be used to place disadvantaged families free of charge for a year, while the other two would be reserved for emergency placements.

### **Points 50 and 51**

162. There are three main ways to track down homeless people on the streets and provide them with follow-up counseling services:
- (1) Street visits by social workers: Since homeless people often gather in parks, bus stations, and underpasses, social workers will periodically visit these places to provide counseling. In the event that they come across new cases, names will be added to the register of homeless persons to facilitate the provision of services. Care visits were provided on 163,075 occasions in 2012, 201,425 occasions in 2013, 199,064 in 2014, and 213,826 between January and September 2015.
  - (2) Referrals through related service networks: Examples include hospitals referring individuals who have collapsed on the street or referrals from the police. Once cases of homelessness are discovered, they are immediately referred to the competent social administrative authority for intervention and counseling.

- (3) Reports from the general public: The general public can report cases of homelessness to the department (bureaus) of social affairs or police stations, or through a citizen hotline. Once a report is received, the department (bureaus) of social affairs will pay a visit to the homeless to evaluate their individual needs.
- (4) Between January and September 2015, a total of 2,644 people were registered as homeless in the various counties and cities around Taiwan. While there were no homeless people registered in Penghu County, Kinmen County, and Lienchiang County, for the other counties and cities, the number of homeless people registered, from highest to lowest, were: 723 in Taipei City, 393 in Kaohsiung City, 192 in New Taipei City, 184 in Tainan City, 178 in Taoyuan City, 161 in Taichung City, 140 in Pingtung County, 132 in Changhua County, 98 in Chiayi City, 86 in Hsinchu City, 80 in Hsinchu County, 76 in Yilan County, 63 in Keelung City, 42 in Taitung County, 34 in Hualien County, 20 in Yunlin County, 17 in Miaoli County, 14 in Nantou County, and 11 in Chiayi County.
163. Due to the high level of heterogeneity among homeless people, in order to meet their individual needs, the Ministry of Health and Welfare introduces services and measures in three stages:
- (1) Meeting essential needs: To meet the basic needs of homeless people, local governments join in the efforts of NGOs in providing hot food, sleeping bags, a place for washing, short-term placement, medical care (medical care was provided to homeless people on 3,122 occasions in 2012, 2,576 in 2013, 5,929 in 2014, and 4,591 between January and September 2015) and locker services (which became available for homeless people in Taipei City and Keelung City in October 2015). The Ministry of Health and Welfare and respective local governments also activated cold-weather measures, such as providing sleeping bags, hot food, clothes, short-term placement services, and subsidizing NGOs. The number of cases in which subsidies were provided, and the budgets involved, were 36 and NTD 9.46 million in 2012, 36 and NTD 8,188,000 in 2013, 37 and NTD 6,488,000 in 2014, and 32 and NTD 5,014,500 between January and October 2015.
- (2) Short-term placements: For individuals wishing to be placed, short-term placement services are provided. There were a total of 10 public shelters for homeless people

throughout Taiwan as of October 2015, including two in Taipei City, three in New Taipei City, one in Keelung City, two in Kaohsiung City, one in Pingtung County, and one nursing home for the elderly in central Taiwan that is owned by the Ministry of Health and Welfare. For counties and cities without shelters for homeless people, shelter and placement services are also made available with the help of social welfare organizations. The number of instances in which people were placed was 1,551 in 2012, 1,508 in 2013, 1,632 in 2014, and 2,362 in 2015 (up to September).

- (3) Rehabilitation: Homeless people that are capable of working and willing to work are referred to labor administration authorities (who provide employment information or occupational training), and given assistance with renting a place in the community and finding a job. The number of instances in which people received such help was 7,628 in 2012, 5,561 in 2013, 3,792 in 2014, and 2,078 between January and September 2015.

## **Points 52 and 53**

164. There is still no legal basis for an artificial abortion reporting mechanism in Taiwan. The artificial abortion (abortion) experiences of teenage girls between 15 and 17 years old are observed simply through health habit surveys of students in senior high schools, vocational high schools, and junior colleges, done once every two years. Comparison of findings from surveys done in 2011 and 2013 adolescents shows that the rates of students who had had sexual intercourse went from 11% to 10.2%, that the rates of those using contraception during their last sexual encounter went from 75.6% to 85.2%, that the pregnancy rate jumped from 0.4% to 0.7%, and the abortion rate jumped from 0.4% to 0.6%. Analysis shows no significant difference in the rates of students who had had sexual intercourse, the pregnancy rate, or the abortion rate, while the rates of contraceptive use during the last sexual encounter had increased significantly. In the future, facilities providing prenatal checkup services will be encouraged to register pregnancies and establish data estimates for artificial abortion. Meanwhile, a monitoring system is in place in Taiwan to periodically evaluate the efficacy of sex education.

165. According to the Gender Equity Education Act, schools should proactively protect

students' right to education and provide necessary assistance. The Ministry of Education amended the Guidelines for Protecting Pregnant Students' Right to Education and Providing Counseling Assistance as required by the Gender Equity Education Act on August 5, 2015. Statistics for pregnant students at schools of all levels in the 2011 and 2012 academic years are shown in Table 17.

**Table17 Pregnant Students at Schools of All Levels**

Unit: person(s)

Year \ Item	Colleges and universities	Senior high and vocational high schools (including special education schools)	Elementary schools and junior high schools	Total
Academic year 2011	484	261	185	930
Academic year 2012	502	297	132	931

Source: Ministry of Education

Note: The statistics for pregnant students that schools are aware of according to the School Guidelines for Sex Education and Care of Pregnant Students include those known because of male students asking for help; for colleges and universities, the statistics include pregnancies after marriage.

166. Sex education programs have been proactively promoted over the past few years. The Taiwan Association for Sexuality Education was authorized to implement a sex education program on campuses for the 2013 academic year. Action items included evaluation of the efficacy of sex education on campuses in preventing teenage pregnancies. The study revealed that respondents who had fallen pregnant or impregnated their partners had relatively undesirable peer relationships; students may have started dating the opposite sex to gain satisfaction from intimate interpersonal relationships due to the lack of support from their peers. Plus, the lack of knowledge on protection and safe behavior, and the lack of a correct attitude toward the use of condoms, resulted in unexpected pregnancies. In other words, implementing sex education helps students develop a correct attitude toward using condoms during sexual intercourse, as well as related life skills. With education, students are more likely to support their peers in a positive way, which will have a positive influence on preventing pregnancy among teenage girls.

## **Point 54**

### **Diverse Gender Identities and Sexual Preferences**

167. After considering international experiences and the distribution of the lesbian, gay, bisexual, transgender (LGBT) population in Taiwan, the Ministry of Health and Welfare began establishing community-based service centers for the LGBT community in 2010 to provide a friendly and diverse health service environment, and communicate information on the prevention and treatment of sexually transmitted diseases. Between 2012 and 2015, peer groups were authorized to establish and run five core community-based service centers for LGBT health. These are located in Taipei City, New Taipei City, Hsinchu City, Taichung City, and Kaohsiung City. An average of 3,000 to 4,000 visits were made to these centers each month, and collaboration with public health centers on setting up community-based service stations for LGBT health in the various counties and cities began in 2015. As of October 2015, such efforts had begun in 13 counties and cities. Telephones, Internet service, and mobile phone apps are also being utilized to overcome location constraints and continue increasing the number of LGBT people receiving related services.
168. The Ministry of Health and Welfare jointly organizes related events for members of the LGBT community with NGOs. In 2013, a total of 164 rounds of group health promotion services were organized, with 2,460 places taken up. In 2014, a total of 51 rounds were held jointly with LGBT rights groups, with 627,267 places taken up. In 2015, 76 rounds of integrated online educational training are expected to offer 1,062 places. These services help boost self-esteem among older LGBT people or those with disabilities, and provide relevant public health and social welfare information.
169. The Ministry of Health and Welfare plans to establish a mechanism to monitor the mental health of ROC nationals that also takes into consideration data of people with multiple gender identities through including related statistical items for revision in order to understand their mental health status.
170. Related gender and science studies reports have been made available on the website of the Ministry of Science and Technology for academic subsidies and incentives, and are

accessible by the general public

(<http://statistics.most.gov.tw/was2/award/AsAwardMultiQuery.aspx>).

171. The Ministry of Education promotes gender equity education on campuses. In order to effectively reduce the number of students self-harming or committing suicide, a three-level prevention plan has been promulgated. This will help schools create a three-level prevention model and analyze incidents of students harming themselves to root out the causes of their behavior. In addition, to understand self-harming tendencies among students, sexual bullying has been included as one of the causes, and resultant data will serve as reference in the promotion of gender equity education.
172. Continue to promote the concepts of anti-cyberbullying, legal knowledge, and cyber-ethics, in order to create a multiple gender friendly Internet environment.

## **Point 55**

### **Training on Gender Identity Issues for Healthcare Professionals**

173. With on-the-job training of healthcare professionals, gender-related issues have been included as part of required courses in their continuing education. Courses held for relevant groups of healthcare professionals now cover the provision of medical care for people with different gender identities. Between 2012 and October 2015, 340 rounds of training were held for a total of 24,583 people. The number of rounds and participants involved are as follows: 13 rounds with 2,589 participants in 2012; 45 rounds with 2,670 participants in 2013; 143 rounds with 8,947 participants in 2014; and 139 rounds with 10,377 participants between January and October 2015.
174. Healthcare professionals wishing to renew their licenses between 2012 and 2015 were all required to have earned credits on continuing education related to gender issues.
175. Article 2 of the Gender Equity Education Act was revised on June 22, 2011, to include the definition of sexual bullying as the belittling of others due to their gender, sexual orientation, or gender identity through language, gestures, or violence.

## **Point 56**

176. See Notes 57 to 60 and Notes 66 to 73 of the second national report on the ICCPR.

177. The ICCPR does not negate the legitimacy of carrying out death sentences before the death penalty has been abolished. It only requires that the death penalty be imposed with caution and should be limited to severe crimes such as homicide. The second Optional Protocol of the United Nations in 1989 and Resolutions No. 62/49 of December 8, 2007, No. 63/168 of December 18, 2008, and No. 65/206 of December 21, 2010, approved by the 67th General Assembly of the United Nations in December 2012 call upon countries (its member states) where the death penalty is still used to suspend the carrying out of death sentences. The goal is to abolish the death penalty instead of regulating it in a compulsory way. In other words, the said documents cannot, for the time being, serve as the legal basis for our country to suspend the death penalty. As a country ruled by law, administration according to the law is a fundamental principle in Taiwan. Court cases resulting in a death penalty verdict, unless their execution is postponed as required by law, shall be carried out accordingly. The Ministry of Justice reviews the imposition and execution of death penalty cases in accordance with the Guidelines for Reviewing Execution of Death Penalty Cases. In addition, as established in the Amnesty Act and Article 465 of the Code of Criminal Procedure, if a prisoner files for interpretation by the Grand Justices of the Judicial Yuan, a retrial, or an extraordinary appeal, and the procedure is still ongoing, or if a prisoner has mental or intellectual disabilities, or is pregnant, execution will be postponed as required. After giving birth, mothers may not be executed unless an order from the Ministry of Justice is forthcoming. In other words, the death penalty is carried out with caution in Taiwan.

178. In order to protect the human rights of inmates on death row, the Ministry of Justice stipulated principles for managing such inmates in 2013 to clarify procedures for handling their correctional education, work, use of electronic equipment, and receiving of visitors and correspondence, and to emphasize that the emotional and situational responses of inmates should be paid attention to and adequately managed.

## **Point 57**

### **Prohibition of Obtaining Confessions through Torture**

179. The Guidelines for Recording and Videotaping Crime Suspects during Interrogation require that police record the whole interrogation process without interruption, videotaping it also, again without interruption, if necessary. The recordings and videotapes of interrogations should be submitted to the prosecutor's office or court. In cases of missing segments or incomplete content, parties at fault will be disciplined accordingly after an investigation into the causes.

180. The Ministry of the Interior holds two national-level workshops for law enforcement personnel each year. Training focuses on requirements relating to the production and submission of written interrogation records, with the principle of proportionality while on duty also elaborated.

### **Hearing of Death Penalty Cases**

181. Testimony evidence obtained through illegal interrogation may never be admitted in death penalty cases. The applicable requirements are contained in Article 156 and Article 158-2 of the prevailing Code of Criminal Procedure.

182. In recent years, some cases where the final verdict given is a death sentence were weighed in court with reference to the ICCPR. In other words, the ICCPR has gained traction in practice, and has been adhered to in the weighing of death sentences. In addition, Article 289 on the weighing of sentences and deliberation procedures has been added in the draft amendment to the Code of Criminal Procedure, and is now being reviewed at the Legislative Yuan. Before the amendment is completed, in accordance with the legal procedures for protecting the basic right of the accused to file an appeal, for cases where a death sentence can be handed down according to the law, it is clearly indicated in the verdict of the supreme court that the presiding judge shall inform both the prosecutor and the defender that the evidence used for sentencing will be deliberated over once again (paragraph 4 of Article 288 of the Code of Criminal Procedure), sentencing before the judges determines a suitable sentence.

183. In order to meet the requirement of Article 6 of the ICCPR on the protection of the right



to life, the Supreme Court has repeatedly held that the death penalty is an extreme and irreversible punishment that deprives people of the right to life. Therefore, judges should carefully refer to the stipulations of the ICCPR when handling mandatory death penalty cases, and a death penalty verdict shall be rendered only when the crimes are indeed cruel and when the accused is confirmed to be liable. Also, judges shall consider comprehensively the 10 of Article 57 of the Criminal Code are thoroughly evaluated to fully support that the circumstances, illegality, and liability are indeed severe, and to ensure that the accused is by no means educable and would require permanent separation from society if social order is to be sufficiently maintained. The stipulations of the ICCPR regarding substantial and rigid procedural protections for the accused in cases where a death penalty verdict is to be handed down shall be adequately followed in practice.

184. In order to the proportionality for mandatory death penalty to protect human rights, Judicial Yuan make efforts to collect court verdicts on serious crimes, such as homicide, and to establish a sentencing information system continued in 2014. Focus groups consisting of judges, prosecutors, defense lawyers, scholars, and related NGOs were invited to establish aggravating/mitigating factors to be deliberated in sentencing that serves as a guide for judges at the time of sentencing. Sentencing guidelines were established taking into account factors recommended in the meeting of the focus groups, as well as the level of their influence, so that the judge's sentencing is in line with social fairness and justice.

185. Between 2012 and October 2015, the number of death sentences handed down by district courts was 17, the number handed down by high courts was 36, and nine were handed down by the Supreme Court. The numbers of death penalty verdicts reached by courts of first instance and overturned by the Supreme Court were 20 in 2012, 10 in 2013, 11 in 2014, and eight between January and October 2015, totaling 49. The numbers of death penalty verdicts reached by courts of second instance and overturned by the Supreme Court are shown in Table 18.

**Table 18 Death Penalty Verdicts Reached by Courts of Second Instance and Overturned by the Supreme Court**

Unit: cases

Year	Item	Original verdict is overturned				Total
		Sent for retrial		Motion for judgment as a matter of law		
		All	Part	All	Part	
2012		7	3	0	0	10
2013		7	0	2	1	10
2014		1	2	0	0	3
2015 (Jan.-Oct.)		2	3	0	0	5
Total		17	8	2	1	28

Source: Judicial Yuan

186. Article 420 of the Code of Criminal Procedure was amended and promulgated on February 4, 2015, to specify that the new facts and new evidence requiring a retrial under subparagraph 6 of paragraph 1 of the article are not limited to those that already existed or that existed but have not yet been investigated and weighed before a verdict is finalized. Rather, they can also include those that come into existence or are established after a verdict is finalized, significantly relaxing the applicability of requirements for the right to petition for a retrial.

**Mental Disorders and the Death Penalty**

187. When perpetrators have mental or intellectual disabilities at the time of their crime, they will not be punished or will have the punishment reduced as per Article 19 of the Criminal Code. In cases of loss of mind that occurs after the court verdict is finalized, the carrying out of the sentence will be suspended as per Article 465 of the Code of Criminal Procedure.

188. In the event that the accused have mental or intellectual disabilities, this can serve as a reason for expressing opinions over the scope of sentencing as per paragraph 3 of Article

289 of the Code of Criminal Procedure, and become the foundation for the court to determine the sentencing factors as per Article 57 of the Criminal Code.

189. In cases where perpetrators have mental or intellectual disabilities, and are not yet 18 years old at the time of their crime, they will either not be punished or the punishment will be reduced, and a death penalty verdict may not be given according to Articles 19 and 63 of the Criminal Code. In the event that defendants suffer a loss of mind during trials, a death penalty verdict may not be handed down before they recover since the trial procedures cannot be continued. In the event that the accused lose their mind during execution of the sentence of death, there will be a stay of execution. When executing death sentences, the Ministry of Justice follows the Guidelines for Reviewing Execution of Death Penalty Cases and will also check if inmates have any mental disorders that disqualify them from being executed.

#### **Right of People Sentenced to Death to Request Amnesty or Reduced Sentence**

190. Under the ROC Constitution, the power to grant pardons and remit sentences is an exclusive prerogative of the President, also known in legal theory as an Act of State that is not subject to judicial review. The President has broad discretionary power, and by law is under no obligation to approve or deny such requests. The Amnesty Act in Taiwan also gives prisoners rights. The exercise of the right to grant amnesty is the intrinsic weight of the president. If the president exercises the right, death sentences cannot be executed according to the Guidelines for Reviewing Execution of Death Penalty Cases of the Ministry of Justice.

### **Point 58**

#### **Laws against Torture and Cruel Treatment**

191. The Criminal Code Research and Amendment Group under the Ministry of Justice has embarked on preliminary research and amendment of the elements constituting the crime of breach of privilege as indicated in Article 125 of the Criminal Code. Abusing 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, on the

other hand, perpetrators involved in an act of violence or cruelty to 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 according to law.

192. Laws against torture and cruel treatment: (1) Articles 125, 126, 134, 277, 286, 296, 296-1, 302, 304, 305, and 231-1 of the Criminal Code; (2) Articles 2 to 5 of the Mass Atrocity Punishment Act; (3) Article 44 of the Criminal Code of the Armed Forces; (4) Article 36 of the Human Trafficking Prevention Act; and (5) Article 41 of the Child and Youth Sexual Transaction Prevention Act.

193. Between 2006 and October 2015, the numbers of public officials prosecuted following the conclusion of investigations according to Article 125 (crime of breach of privilege) of the Criminal Code were three in 2006, three in 2007, four in 2008, two in 2012, and one in 2013. The numbers found guilty were one in 2009 and one in 2014. One public official was prosecuted following the conclusion of an investigation according to Article 126 (violence or cruelty to a prisoner) of the code in 2007, and one in 2011. The numbers of public officials found guilty were one in 2011 and one in 2012. In 2009, two public officials were placed on probation for torturing the accused or prisoners at the conclusion of an investigation according to Article 134 (offense of malfeasance) and Article 277 (causing bodily harm) of the Criminal Code. No public officials have been found guilty over the past 10 years.

### **Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

194. See Note 13 of this report.

195. The Ministry of the Interior held a public hearing on August 14, 2013, on the necessity of the ROC government signing the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, reaching the consensus that our government should sign (become party to) the Convention against Torture and Cruel Treatment and the Optional Protocol. A meeting was held on September 15, 2014, to discuss matters involved in incorporating the Convention against Torture and Cruel Treatment into domestic law. It was decided during the meeting that the Enforcement Act of the

Convention against Torture Other Cruel, Inhuman or Degrading Treatment or Punishment would be established and a draft would be submitted within six months to be reviewed by scholars and experts to expedite the implementation process. The contract for stipulating the Enforcement Act of the Convention against Torture and Cruel Treatment was fulfilled in 2015 and the Enforcement Act of the Convention against Torture and Cruel Treatment was officially promoted.

### **Measures against Torture and Cruel Treatment**

196. The Guidelines for Recording and Videotaping Crime Suspects during Interrogation were promulgated to require that all police record the whole interrogation process without interruption, also videotaping it without interruption if necessary.

197. There were four cases between 2012 and October 2015 of improper treatment involving torture and injury caused by law enforcement personnel reported by the general public, including two in 2012, one in 2013, and one between January and October 2015. There was, however, no substantial evidence of torture and harm done by police.

198. A criminal defendant may assign a defender at any time to prevent against interrogation under torture. Torture victims may file a criminal charge or information with the prosecutor, submit a petition, or report cruel treatment to the prosecutor or judge. Prisoners who are treated cruelly may file a complaint with the jail or its regulatory authority. There were, however, no such complaints received by the correction agencies or police administrative authorities between 2013 and 2015.

### **Point 59**

#### **Implementation and Stipulations of the Refugee Law**

199. The draft Refugee Law was submitted by the Executive Yuan on February 23, 2012, to the Legislative Yuan for review. Article 3 of the draft clearly stipulates that foreigners or stateless persons may file with our government to have their refugee status determined when they are forced to leave their country of origin or country of residence and cannot live or remain protected in the said country as a result of wars or large-scale natural disasters. Articles 5, 8, and 11 of the draft meet the principle of non-refoulement as

mentioned in the concluding observations and recommendations. The National Immigration Agency will work with other relevant government authorities to enforce this principle.

200. Before the draft Refugee Act is passed, and in light of the fact that there is no UN Refugee Agency (UNHCR) office in Taiwan, applications for refugee asylum in Taiwan will be handled through the liaison mechanism that has been established with UNHCR offices in adjacent countries to facilitate the sharing of resources and information by the National Immigration Agency. For people from mainland China, Hong Kong, and Macau applying for refugee asylum, there are adequate regulations in the Act Governing Relations between the People of the Taiwan Area and the Mainland Area and the Laws and Regulations Regarding Hong Kong & Macao Affairs to deal with asylum requests. As for other foreigners applying for refugee asylum, placement can be done with assistance through non-governmental organizations.

201. The draft amendment to Article 17 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area submitted on March 5, 2012, to the Legislative Yuan for review includes the essence and related procedures concerning the principle of non-forced repatriation. For people admitted to Taiwan from mainland China without permission, besides the existing regulation that the competent authority can approve for them to reside in Taiwan permanently taking special consideration of political factors, there is the addition that they do not need to present evidence of loss of their original nationality at the time of applying for permanent residence in Taiwan, and that their criminal liability or punishment associated with the unauthorized entry to Taiwan may be waived. In addition, the Ministry of the Interior and other authorities concerned are authorized to include details involved in the initial review of the duration of long-term stays for applications involving political concerns in the applicable guidelines.

### **Human Rights Protections for Illegal Immigrants under Management**

202. Specialized Operational Brigades at the National Immigration Agency shall be sincere in their attitudes and give the persons involved illegal immigration the right to express opinions, inform them of their rights, including the right to legal aid and the right to

real-time judicial remedies. In additions, members of the Specialized Operational Brigade will conduct investigations the persons involved in illegal immigration in accordance with the standard operating procedures reflective of their duties. Members of Specialized Operational Corps at the National Immigration Agency hold related workshops regularly on laws governing interviews and arrests.

203. Detainees are entitled to the freedom to see visitors and correspond with people in the outside world at detention centers under the National Immigration Agency, and their particular ethnic culture is entitled to respect as well. Furthermore, government representative offices of countries such as Indonesia, Vietnam, and Thailand often send representatives to detention centers to visit the detainees. Medical services and necessary care are available at detention centers by combining private resources along with assistance from religious groups. The National Immigration Agency periodically holds workshops for detainees and creates bilateral communication channels in order to understand the needs of the detainees and improve the environment and quality of life at the detention centers. The detention centers under the National Immigration Agency are managed in a personalized way that features love, care, and heart to serve the detainees and periodically provide educational training concerning human rights and the rule of law.

## **Point 60**

### **Crowding in Prisons**

204. See Notes 153 to 156 of the second national report on the ICCPR.

### **Drugs**

205. For users of Class 1 and Class 2 narcotics, the Narcotics Hazard Prevention Act contains the policy of waiving the sentence, but not the offense, with rehabilitation taking the place of criminal punishment. For users of Class 3 and Class 4 narcotics, the 2006 annual report of the International Narcotics Control Board is referred to. The report mentions that administrative sanctions are imposed on individuals in Europe using narcotics as opposed to criminal punishment. For people found to be in possession of or using drugs,

a fine will apply and workshops on the hazards associated with narcotics will be organized to help users understand the risks, and associated health and safety factors. That is, education takes precedent over punishment. With the implementation of the I Don't Use Drugs anti-narcotics campaign approved by the Executive Yuan on June 16, 2015, individual measures and performance indicators are examined on a yearly basis in order to accomplish the goal of reducing the number of drug users.

206. Since using narcotics is a victimless crime, it is relatively not harmful. To encourage offenders to turn over a new leaf, the Agency of Corrections of the Ministry of Justice includes drug use in the list of matters to be handled leniently in pre-trial bail and parole reviews. However, in light of the fact that the repeat offense rate for narcotics users is relatively high, this has a limited effect in addressing the excessive number of prisoners in jails. It may also have an adverse effect on public order. It is recommended that Taiwan make the most of the policy of waiving punishment, along with supplementary addiction cessation measures.

### **Health and Medical Care**

207. To maintain a healthy environment for prisoners, jails are cleaned every day and periodically disinfected. Doctors are available to check the inmates' health to minimize the possibility of their contracting infectious diseases. Medical care services at jails have improved the quality of medical care available to prisoners. After prisoners are enrolled in the National Health Insurance program, the Ministry of Health and Welfare is responsible for having NHI-affiliated healthcare facilities provide medical care services at correctional institutions.

208. The medical parole of former President Chen Shui-bian was approved on January 5, 2015, since he qualified under Article 58 of the Prison Act, which recognizes that adequate medical treatment is impossible in jail when the health condition of a prisoner is worsening. In the case of former President Chen, an extended team of medical experts compared his condition before and after imprisonment, and medical parole was approved for one month. This was later extended to three months based on feedback from prison staff sent to visit him at home, as well as the assessment report produced by the



Kaohsiung Chang Gung Memorial Hospital medical team, which determined his condition to be complex and difficult to manage, and that he was at risk of dying at any time. These circumstances are covered in Article 58 of the Prison Act, and Point 5 of the Ministry of Justice Reference Guidelines for Reviewing Compassionate Release for Medical Care. The medical parole was first extended to May 4, 2015, to August 4, 2015, the second time, and to November 4, 2015, the third time. Taichung Jail sent staff to observe changes in former President Chen's condition on August 26, September 25, and October 26, 2015, and to understand his health condition and treatment status. Combining findings from these visits and the certificate of diagnosis, condition evaluation form, and medical care protocol from Kaohsiung Chang Gung Memorial Hospital, his medical parole was extended a fourth time, for another three months, to February 4, 2016. During the extension period, Taichung Jail continued to send staff to visit former President Chen to collect additional data that will serve as the criteria for the subsequent termination or extension of his medical parole.

### **Pre-trial Bail**

209. Detention order applied by prosecutors of cases that were being investigated by courts between 2012 and October 2015 are summarized in Tables 19 and 20.

**Table 19 Detention Orders Applied by Prosecutors In District Courts**

Unit: person(s); %

Year	Item persons ;%	Total	Request approved	Detained because of inability to post bail or impose limitations on residence	Cases Overruled	Mandated bail	Mandated release to family	Mandated imposition of limitations on residence	Mandated bail and imposition of limitations on residence	Mandated release and imposition of limitations on residence	Request withdrawn	Others
2012	Person(s)	9,887	8,017	40	569	626	22	270	326	4		13
	%	100.00	81.09	0.40	5.76	6.33	0.22	2.73	3.30	0.04		0.13
2013	Person(s)	8,683	6,768	24	585	611	15	281	381	8		10
	%	100.00	77.95	0.28	6.74	7.04	0.17	3.24	4.39	0.09		0.12
2014	Person(s)	7,978	6,162	26	615	496	18	218	426	11		6
	%	100.00	77.24	0.33	7.71	6.22	0.23	2.73	5.34	0.14		0.08
2015 (Jan.-Oct.)	Person(s)	6,659	4,992	24	567	468	16	214	370	5		3
	%	100.00	74.97	0.36	8.51	7.03	0.24	3.21	5.56	0.08		0.05

Source: Judicial Yuan

**Table 20 Detention Orders Applied by Prosecutors in High Courts and Their Branches**

Unit: person(s); %

Year	Item persons;%	Total	Request approved	Cases Overruled	Mandated bail and limitations on residence
2012	Person(s)	7	6	1	0
	%	100.00	85.71	14.29	0
2013	Person(s)	4	3	0	1
	%	100.00	75.00	0	25.00
2014	Person(s)	3	1	2	0
	%	100.00	33.33	66.67	0
2015 (Jan.-Oct.)	Person(s)	1	1	0	0
	%	100.00	100.00	0	0

Source: Judicial Yuan

210. Detentions during investigation, cancellations of detention ordered by courts, extended detentions, or suspended detentions as well as their outcomes between 2012 and October 2015 are summarized as follows:

(1) Outcomes of requests for cancellation of pre-trial detention are summarized in Tables 21 and 22.

**Table 21 Requests Filed with District Courts for Detention in Cases Being Investigated and Outcomes**

Unit: person(s); %

Year	Item Person(s); %	Total	Request approved	Detained because of inability to post bail or impose limitations on residence	Cases Overruled	Mandated bail	Mandated release to family	Mandated imposition of limitations on residence	Mandated bail and imposition of limitations on residence	Mandated release and imposition of limitations on residence	Request withdrawn	Others
2012	Person(s)	1,068	1,010	0	51	0	0	0	1	0	6	0
	%	100.00	94.57	0	4.78	0	0	0	0.09	0	0.56	0
2013	Person(s)	798	751	0	38	0	0	0	0	0	9	0
	%	100.00	94.11	0	4.76	0	0	0	0	0	1.13	0
2014	Person(s)	838	803	0	32	0	0	0	0	0	3	0
	%	100.00	95.82	0	3.82	0	0	0	0	0	0.36	0
2015 (Jan.- Oct.)	Person(s)	712	664	0	44	1	0	0	0	0	3	0
	%	100.00	93.26	0	6.18	0.14	0	0	0	0	0.42	0

Source: Judicial Yuan

**Table 22 Requests Filed with High Courts and their Branches for Detention in Cases Being Investigated and Outcomes**

Unit: person(s); %

Year	Item	Total	Request approved	Cases Overruled
	persons;%			
2012	Person(s)	0	0	0
	%	0	0	0
2013	Person(s)	1	1	0
	%	100.00	100.00	0
2014	Person(s)	2	1	1
	%	100.00	50.00	50.00
2015 (Jan.-Oct.)	Person(s)	0	0	0
	%	0	0	0

Source: Judicial Yuan

(2) Outcomes of requests filed with district courts for extended detention for cases being investigated are summarized in Table 23. There were only two such requests filed with high courts and their branches in 2012 and 2013, with both eventually approved.

**Table 23 Requests for Extended Detention Filed with District Courts for Cases Being Investigated**

Unit: person(s); %

Year	Item persons; %	Total	Request approved	Detained because of inability to post bail or impose limitations on residence	Cases Overruled	Mandated bail	Mandated release to family	Mandated imposition of limitations on residence	Mandated bail and imposition of limitations on residence	Mandated release and imposition of limitations on residence	Request withdrawn	Others
2012	Person(s)	1,905	1,831	0	51	6	0	0	13	0	4	0
	%	100.00	96.12	0	2.68	0.31	0	0	0.68	0	0.21	0
2013	Person(s)	1,804	1,722	0	47	22	0	0	2	1	9	1
	%	100.00	95.45	0	2.61	1.22	0	0	0.11	0.06	0.50	0.06
2014	Person(s)	1,308	1,245	0	43	14	0	0	2	0	4	0
	%	100.00	95.18	0	3.29	1.07	0	0	0.15	0	0.31	0
2015 (Jan.- Oct.)	Person(s)	1,188	1,113	0	50	7	0	9	4	0	5	0
	%	100.00	93.69	0	4.21	0.59	0	0.76	0.34	0	0.42	0

Source: Judicial Yuan

(3) Outcomes of requests for discontinued detention: Outcomes of requests filed with district courts for discontinued detention for cases being investigated are summarized in Table 24. There was only one such request filed with high courts and their branches in 2012 and one between January and October 2015, with both eventually approved.

**Table 24 Requests Filed with District Courts for Discontinued Detention for Cases under Investigation and Outcomes**

Unit: person(s); %

Date	Item	Total	Request approved	Detained due to inability to post bail or impose limitations on residence	Cases Overruled	Mandated bail	Mandated release to family	Mandated imposition of limitations on residence	Mandated bail and imposition of limitations on residence	Mandated release and imposition of limitations on residence	Request withdrawn	Others
	Person(s);%											
2012	People	2,444	2	0	1,544	479	8	33	176	1	183	18
	Ratio	100.00	0.08	0	63.18	19.60	0.33	1.35	7.20	0.04	7.49	0.74
2013	People	2,250	2	2	1,333	478	2	31	222	0	174	6
	Ratio	100.00	0.09	0.09	59.24	21.24	0.09	1.38	9.87	0	7.73	0.27
2014	People	2,280	1	0	1,388	415	1	33	232	2	202	6
	Ratio	100.00	0.04	0	60.88	18.20	0.04	1.45	10.18	0.09	8.86	0.26
2015 (Jan.- Oct.)	People	1,676	0	0	1,051	361	2	11	121	2	120	8
	Ratio	100.00	0	0	62.71	21.54	0.12	0.66	7.22	0.12	7.16	0.48

Source: Judicial Yuan

### Relaxation of Parole

211. Statistics on parole reviewed between January and October 2015 are summarized in Table 25. The total approval rate of parole in 2015 was gradually increased from 31.62% to 37.14%.

**Table 25 Statistics of Reviewed Parole Cases**

Unit: persons; %

Term \ Item	Number of parole reviews	Number of approved parole reviews reported to MOJ	Number of reviews approved by MOJ	Approval rate of initial parole reviews	Approval rate by MOJ	Overall approval rate
Jan. 2015	2,759	1,212	961	43.93	79.29	34.83
Feb. 2015	2,606	1,068	824	40.98	77.15	31.62
Mar. 2015	2,525	1,091	815	43.21	74.70	32.28
Apr. 2015	2,372	1,069	777	45.07	72.68	32.76
May 2015	2,547	1,152	872	45.23	75.69	34.24
June 2015	2,553	1,175	868	46.02	73.87	34.00
July 2015	2,648	1,212	956	45.77	78.88	36.10
Aug. 2015	2,676	1,216	994	45.44	81.74	37.14
Sept. 2015	2,668	1,248	985	46.78	78.93	36.92
Oct. 2015	2,443	1,119	866	45.80	77.39	35.45

Source: Ministry of Justice (MOJ)

**Point 61****Shelter and Retention by Judge**

212. Interpretation No. 708 of the Judicial Yuan gives inmates the right to receive real-time judicial remedies and express opinions. Interpretation No. 710 provides people from mainland China who entered Taiwan legally and were forced to leave Taiwan under Article 18 of the Act Governing Relations between People of the Taiwan Area and Mainland Area the opportunity to express opinions. It also requires, *inter alia*, that reasons for temporary shelter be specified, real-time judicial remedy procedures be provided, and reasonable processing time for shelter be established.

213. In response to Interpretation No. 708 of the Judicial Yuan, some of the articles of the Immigration Act were amended and promulgated on February 5, 2015. If a detainee does

not agree with the detention decision, he/she may file a challenge verbally or in writing in person or through a relative. After receiving a challenge believed to have merit, the National Immigration Agency may cancel or rescind the detention decision. If the objection is believed to be groundless, however, related materials must be submitted within 24 of receipt of the challenge to the administrative court possessing jurisdiction over the detainee's area of residence so that it can make a determination on whether to detain the person. In addition, for those having been detained for more than 15 days, review and approval by the administrative court for a continuation or extension of the detention is required.

214. Articles 18, 18-1, 18-2, and 87-1 of the Act Governing Relations between People of the Taiwan Area and Mainland Area and Articles 14, 14-1, 14-2, and 47-1 of the Laws and Regulations Regarding Hong Kong and Macao Affairs were all amended and enforced on July 3, 2015. The articles contain statutory causes that require people from mainland China, Hong Kong, and Macau to leave Taiwan and that, beforehand, they must be given the opportunity by the Ministry of the Interior to express opinions. For those people from mainland China, Hong Kong, and Macau who have already possess an alien residence certificate or permanent residence certificate, a review meeting must be held for before they are required to leave Taiwan. In addition, applicable procedures and requirements have been established regarding temporary shelter, continued shelter, and extended shelter, abolishment of temporary shelter, and discontinuation of shelter for people from mainland China.

215. To meet the requirement that detainees under temporary shelter be entitled to real-time judicial remedy and that the court review be completed for the period exceeding the scope of temporary shelter as per Interpretations No. 708 and 710 of the Judicial Yuan, the articles stipulate that temporary shelter should follow the administrative shelter approach. In other words, if detainees dispute the temporary shelter decision, they may file a complaint and, if the Ministry of the Interior then finds the dispute to be groundless, the complaint may be submitted to the court, which can make the final decision at its discretion. For continued shelter and extended shelter cases, the judicial review process is



adopted. The Ministry of the Interior must offer an explanation within five days prior to expiration of the shelter period and file a request for continued shelter or extended shelter with the court. In the meantime, the Judicial Yuan must add an exclusive chapter on shelter request procedures to the Administration Litigation Act to help establish court review and appellate review mechanisms.

216. The Habeas Corpus Act was amended and announced on January 8, 2014, and enforced on July 8 of the same year. Interpretations No. 708 and 710 of the Judicial Yuan stipulate that detainees deprived of freedom are entitled to judicial reviews in time, Article 1 of the Habeas Corpus Act stipulates that arrested or detained people, regardless of whether they are crime suspects or they are ROC nationals or foreigners, are to enjoy the right of habeas corpus in order to fully ensure the right to liberty. District courts handled five habeas corpus cases in 2012, 10 in 2013, 244 in 2014, and 371 between January and October 2015. Starting on July 8, 2014, parties of civil, domestic, juvenile, and administrative cases may apply for writ of habeas corpus. The various types of habeas corpus writ handled by district courts between July 2014 and October 2015 are summarized in Table 26.

**Table 26 Number of Habeas Corpus Requests Finalized and Overruled by District Courts**

Unit: cases

Type of case	Closed cases	Cases Overruled	Reason for being overruled						
			Arrested and detained by the court	Real-time review by court may be applied for under other laws	Arrested and detained person regained freedom	Personal freedom deprived through court judgment	Lack of facts on arrest and detention	Arrest and detention are expected following court review	Other
Domestic	81	65	0	0	0	10	13	41	1
Civil	3	3	0	1	0	0	2	0	0
Criminal	469	341	4	14	49	98	58	118	0
Juvenile	2	0	0	0	0	0	0	0	0
Administrative	41	29	0	0	1	1	5	22	0

Source: Judicial Yuan

## **Point 62**

217. Some of the articles of the Act Governing Relations between People of the Taiwan Area and Mainland Area were amended and promulgated on July 3, 2015. In practice, detainees from mainland China area are handled in line with the current Immigration Act, which stipulates that foreigners may be detained for up to 100 days.
218. As it can take the authorities of mainland China a long time to finish investigations, more time is needed for the arranging of related operations. It is often not possible to force people from mainland China to leave Taiwan under these special circumstances. Consequently, the National Immigration Agency may detain such persons for a maximum of 150 days.
219. Articles of the amended Act Governing Relations between People of the Taiwan Area and Mainland Area clearly stipulate that people from mainland China may be provided shelter for a maximum of 150 days and that the duration of all shelter instances for a particular case must be consolidated and kept to the 150-day maximum. For people from mainland China, continued shelter and extended shelter are both judicially reviewed and decided by the court, except in the event of temporary shelter in the form of administrative shelter. Once the duration of shelter expires, the Ministry of the Interior may make an alternative shelter decision and then release the detainee. According to the amended articles, shelter may not be imposed infinitely in the future.

## **Point 63**

220. The Judicial Yuan drafted amendments to Article 101 of the Code of Criminal Procedure and submitted them to the Legislative Yuan for deliberation on April 27, 2012. Although the amendment procedure has yet to be completed, the Judicial Yuan has issued Interpretation No. 665, stating that a felony may not be the only reason for detention.
221. The in-trial detention period may not exceed eight years in aggregate under paragraph 3, Article 5 of the Criminal Speedy Trial Act. This is based on the consideration that the

current second instance in Taiwan still adopts the reexamination style (that is, both the first and second instances are facts-oriented). Compared to the single facts-oriented instance adopted in common law jurisdiction, the time needed for a court to hear a case in Taiwan is typically longer. Therefore, this eight-year total takes into consideration the first, second, and third instances, while helping protect the right of a detainee to a speedy trial. At the early stage of the new system, there were 23 defendants who had been in detention for more than five years, but there has not been a single case like that since December 2013. In the end, the accelerated final decision process has helped prevent people from being burdened by extended court cases.

## **Point 64**

### **Right to a Speedy Trial**

222. Article 7 of the Criminal Speedy Trial Act was amended and announced in 2014. Should a court be in charge of a case that fails to reach a verdict within eight years, the court must reduce the defendant's sentence as appropriate or as requested by the defendant, assuming that the delays were not somehow caused by the defendant. This supplemental regulation of the Criminal Code aims to provide the defendant with certain remedies through the sentencing compensation mechanism with respect to excessively lengthy and undecided cases, thereby further protecting the right of the defendant to a speedy trial. It was not adopted in order to extend the duration of criminal trials to eight years, and the eight-year limit includes the trial period at the Supreme Court. Cases receiving a reduced sentence as per Article 7 of the Criminal Speedy Trial Act between 2012 and October 2015 are shown in Table 27. Verdicts rendered by a court for its criminal cases over an eight-year period by quoting and not quoting Article 7 of the Criminal Speedy Trial Act are shown in Tables 28 and 29.

**Table 27 Cases at Courts of All Levels that Quote Article 7 of the Criminal Speedy Trial Act**

Unit: cases

Date	Court level			
	Supreme Court	High Court and Branch Court	Intellectual Property Court	District Court
2012	2	63	0	2
2013	3	61	0	3
2014	5	62	0	0
2015 (Jan.-Oct.)	5	50	0	5
Total	15	236	0	10

Source: Judicial Yuan

**Table 28 No. of Defendants Involved in Supreme Court Criminal Cases Finalized after more than Eight Years**

Unit: Person(s)

Date	Item	Number of defendants affected		
		Total	Article 7 of the Criminal Speedy Trial Act quoted	Article 7 of the Criminal Speedy Trial Act not quoted
2012		0	0	0
2013		218	4	214
2014		168	9	159
2015 (1-10)		120	5	115
Total		506	18	488

Source: Judicial Yuan

**Table 29 Number of Defendants Involved in High Court and District Court Criminal Cases Finalized after more than Eight Years**

Unit: Person(s)

Date	Court level		High Court	District Court
	Item			
2012	Total		424	584
	Article 7 of the Criminal Speedy Trial Act quoted		166	12
	Article 7 of the Criminal Speedy Trial Act not quoted		258	572
2013	Total		397	664
	Article 7 of the Criminal Speedy Trial Act quoted		171	5

	Article 7 of the Criminal Speedy Trial Act not quoted	226	659
2014	Total	430	584
	Article 7 of the Criminal Speedy Trial Act quoted	195	0
	Article 7 of the Criminal Speedy Trial Act not quoted	235	584
2015(1-10)	Total	292	510
	Article 7 of the Criminal Speedy Trial Act quoted	153	41
	Article 7 of the Criminal Speedy Trial Act not quoted	139	469
Total	Total	1,543	2,342
	Article 7 of the Criminal Speedy Trial Act quoted	685	58
	Article 7 of the Criminal Speedy Trial Act not quoted	858	2284

Source: Judicial Yuan

223. Article 16 of the Constitution of the Republic of China protects the right to litigation.

Interpretations No. 446 and No. 530 of the Judicial Yuan also stress that people are entitled to a fair, lawful, and speedy trial. In other words, although the right to a fair, lawful, and speedy trial is a fundamental right, one must take into consideration complex legal and real circumstances, other factors attributable to the clients and the judicial authority during litigation procedures, etc., with regard to the time needed for a case. The European Court of Human Rights holds that violation of the requirement to have a hearing within a reasonable time occurs only if all the court proceedings take more than ten years (ECHR, 15.07.1982, *Eckle V. Germany*, Nr80.), making the eight-year limit in Article 7 of the Criminal Speedy Trial Act rather reasonable.

## **Point 65**

### **Reform of Appeals**

224. Article 441 of the Code of Criminal Procedure stipulates that, when a trial's proceedings

were found to be legally flawed after a final verdict was made, the chief prosecutor at the Supreme Prosecutors Office may file an extraordinary appeal with the Supreme Court. Paragraph 5 of Article 14 of the ICCPR is not identical in nature to the Code of Criminal Procedure in Taiwan. The committee at the Judicial Yuan researching the Code of Criminal Procedure and identifying needed changes has advised that the requirements of Article 376 of the Code of Criminal Procedure be deleted and the requirements of Article 377 be amended so that the prerequisites for appeals in the third instance are governed by the grounds for the appeal and not restricted by the type of case and severity of sentence.

225. The draft amendment to some articles of the Code of Criminal Procedure submitted by the Executive Yuan to the Legislative Yuan for review calls for the deletion of the compulsory defense requirement in the third instance under Article 388. It also stipulates that a verdict may not be rendered for cases subjected to compulsory defense under Article 31, paragraph 1 of the same Code unless the defense attorney submits an appellate brief or a statement of defense. When a defense attorney is not chosen for a case, the presiding judge at the original court must assign a public defender or lawyer to defend the accused. Until Article 388 of the Code of Criminal Procedure is amended, defendants will continue to choose their attorneys according to Article 27 of the same Code. In the event that a defendant is financially incapable of hiring a lawyer, the defendant may request that the Legal Aid Foundation assign one to him/her. When necessary or the defendant is financially incapable, the high court may assign, either on its own or as requested, a lawyer or public defender at a lower-level court to defend him/her.

## **Point 66**

### **Private Investigation**

226. The Agency Against Corruption under the Ministry of Justice has promulgated the Guidelines on Ensuring Human Rights Protection in Corruption Investigation Procedures, stipulating the principles of secret investigation and presumption innocence. The Ministry of Justice Investigation Bureau issued the Enforcement Guidelines Governing News Handling and Coordination, strictly prohibiting its special agents to be together with

media workers while taking action on investigations and prohibiting the release of interview audio and video files. These not only abide by the principle of secret investigation, but also to protect the privacy of the party concerned. Besides following the principles of private investigation, the privacy of the client is protected. The National Police Agency under the Ministry of the Interior promulgated the Precautions for Police Agencies to Handle News on Criminal Cases under Investigation, instructing police officers to strictly abide by applicable private investigation stipulations. The Ministry of Justice not only requires police officers to precisely follow its Private Investigation Operation Procedure, but also reports private investigation violations through various channels to remind them to uphold these requirements. The Command and Control Center under the National Police Agency also monitors staff performance. When there is a new private investigation violation or an inappropriate disclosure of measures taken by law enforcement investigators, a letter may be sent to request reflections, improvements, and punishment of the officers at fault. Statistics on violations of private investigation and associated punishments between 2012 and October 2015 are shown in Table 30.

**Table 30 Violations of Private Investigation and Associated Punishments**

Unit: cases; persons

Date \ Item	Number of investigations	Number of violations	Number of people punished
2012	70	43	49
2013	89	57	64
2014	51	29	29
2015 (Jan.-Oct.)	54	29	29
Total	264	158	171

Source: Ministry of the Interior

227. The Ministry of Justice adopted the Guidelines for Processing News of Criminal Cases Investigated by Prosecution, Police, Investigation, and Anti-corruption Agencies. Before an investigation is completed, a spokesperson may release news to protect the public's interests and rights, but the principle of private investigation must still be followed. The

Taiwan High Prosecutors Office includes the News on Under-investigation Cases Supervisory Group. Should any affiliated prosecution authority be found to violate the said requirements through news coverage, the head of the said authority will be informed and asked to make corrections right away. Individual agencies should also begin an investigation and adopt effective preventive measures immediately. In addition, the group must submit case summaries to the Ministry of Justice on a quarterly basis.

228. The Judicial Yuan and Executive Yuan jointly released the Private Investigation Operation Procedure on December 5, 2012. Private investigation violators who disclose secrets or undermine someone's reputation may be punished under Articles 132, 316, or 310 of the Criminal Code, and possibly under other laws, as appropriate.

229. The Judicial Yuan has issued the Operating Guidelines for the Judicial Yuan and Its Affiliations to Hire Spokespersons and News Liaisons to Reinforce News Release and Correspondence. It also has made spokespersons and news liaisons available to speak to the public through a newsletter or press conference and provide real-time explanations regarding major cases or ones that receive extensive media coverage after a judgment is issued.

## **Point 67**

### **Retrial**

230. Statistics of requests for a retrial, whether to the advantage or disadvantage of the defendant, processed by the court between 2012 and October 2015 are shown in Table 31. A draft amendment to the Code of Criminal Procedure on requirements for a retrial request in the event of a verdict disadvantageous to the recipient has been submitted to the Legislative Yuan for review.



**Table 31 Finalizations of Requests for a Retrial of Criminal Cases at District and High Courts**

Unit: cases

Item	Cases processed Cases accepted			Closed cases						Cases	Requesters for a retrial of finalized cases										
	Date	Total	Existing cases	New	Total	Request for cancellation and retrial	Request for overrule and retrial	Start a retrial	Others		Total	Requests for the advantage of the judgment recipient							Requests for the disadvantage of the judgment recipient		
Subtotal										Prosecutor		Judgment recipient	Legal representative	Spouse	Lineal relative	Others	Subtotal	Prosecutor	Private prosecutor	Others	
<b>Finalizations of requests for a retrial of criminal cases at district courts</b>																					
2012	501	39	462	470	5	449	10	6	31	470	436	7	418	2	1	3	5	34	3	10	21
2013	495	31	464	469	9	445	12	3	26	469	446	8	432	0	1	1	4	23	2	6	15
2014	454	26	428	426	7	406	10	3	28	426	391	9	373	2	0	1	6	35	5	21	9
2015 (1-10)	440	28	412	390	4	368	12	6	50	390	359	10	341	0	1	2	5	31	11	7	13
<b>Finalizations of requests for a retrial of criminal cases at high courts</b>																					
2012	1,379	43	1,336	1,337	1	1,330	4	2	42	1,337	1,316	3	1,300	0	13	0	0	21	6	9	6
2013	1,554	42	1,512	1,496	4	1,479	10	3	58	1,496	1,465	7	1,441	1	10	5	1	31	5	14	12
2014	1,267	58	1,209	1,222	3	1,209	9	1	45	1,222	1,202	7	1,189	0	4	1	1	20	5	6	9

2015 (1-10)	1,119	45	1,074	1,040	5	1,026	6	3	79	1,040	1,025	9	1,010	0	4	1	1	15	2	1	12
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Source: Judicial Yuan

## **Point 68**

### **Immigration Freedom**

231. The Ministry of Finance promulgated the Directions Governing the Restriction of Exit from the Country by Taxpayers or Responsible Persons of Profit-seeking Enterprises Liable for Overdue Tax on December 31, 2014, which took effect on January 1, 2015. This affected 8,912 individuals or responsible persons of profit-seeking enterprises liable for overdue taxes (the total number of people restricted from exiting the country within the five-year period, not the number of people restricted from exiting the country each year) in 2012. The figure dropped to 7,390 in 2013 and 6,150 in 2014. The restriction was lifted on 4,279 (69.57%) of these people by January 2015 after clearance was completed in accordance with the Directions. As of October 2015, there were still 1,676 people restricted from exiting the country.

232. On December 31, 2014, the Ministry of Finance promulgated the Implementation Directions Governing Restricted Departure Cases, which took effect on January 1, 2015. Based on the overdue tax amount, different brackets apply, while criteria for restricted departure are taken into consideration. In addition, substantial and specific terms are defined separately. The Customs Authorities restricted from exiting the country 313 people in 2012, 252 in 2013, and 201 in 2014. After these Directions were implemented, 125 people (62.19%) were lifted from the restriction in January 2015. As of October 2015, there were still 69 people restricted from exiting the country. The number of people for whom the exit restriction was removed and that for whom it was lifted because they had paid off or provided collateral were 113 and 3 (2.65% of 113) in 2012; 131 and 6 (4.58%) in 2013; 91 and 1 (1.10%) in 2014; and 145 and 2 (1.38%) as of October in 2015.

233. If the taxpayer or the responsible person of a profit-seeking enterprise falls under any of the conditions in Paragraph 7, Article 24 of the Tax Collection Act or Paragraph 9, Article 48 of the Customs Act (such as the restriction from exiting the country beyond five years), or whose responsibility in the profit-seeking enterprises has changed, the Ministry of Finance shall lift departure restrictions immediately. The said two directions define

specific terms and follow the principle for prioritizing preservation of properties in terms of preserving tax and tariff claims. Only when this approach is insufficient to keep things intact will a case be submitted to the Ministry of Finance requesting the National Immigration Agency of the Ministry of Interior to restrict the said taxpayer from exiting the country. In addition, departure restriction cases handled by the taxation authority and Customs shall be classified into three brackets according to the confirmed and yet-to-be-confirmed overdue tax amounts for individuals or profit-seeking enterprises (corporations, partnerships, sole proprietorships, or non-corporation groups) in order to apply different restriction conditions. Furthermore, the outstanding balance must meet the criteria indicated in Paragraph 7, Article 24 of the Tax Collection Act or Paragraph 9, Article 48 of the Customs Act.

234. If the obligors violate their obligations stipulate in the Administrative Execution Act (hereinafter refer to as the Act) article 17.1, the Branches of the Administrative Enforcement Agency of the Ministry of Justice (hereinafter refer to as the Branches) may issue the order to restrain the above obligors from leaving the R.O.C. temporarily if the measure of restraining is in conformity with the rule of proportionality which is stipulated in the Act of article 3. Therefore, the officers' decision of issuing of the order above shall follow the rule of fairness and proportionality.

235. The Administrative Enforce Agency not only has ordered the officers of the Branches shall be completely in conformity with the Act and related regulation in issuing the above order, it also regulated the cases which the unpaid amount is less than NTD 300,000 shall be reviewed and authorized by the Administrative Enforce Agency before the Branches can issue an restraining order. The number of people receiving the order of restraining issued by the Branches was 356 in 2013, accounting for only 0.03% of all obligors for the same year (1,358,556), 592 in 2014, accounting for only 0.04% of all obligors for the same year (1,443,607), 604 from January to October 2015, accounting for only 0.03% of all obligors in the same period (1,965,899).

## **Point 69**

### **Amendment to the HIV Infection Control and Patient Rights Protection Act**

236. The HIV Infection Control and Patient Rights Protection Act was amended, deleting Articles 18 to 20, and promulgated on February 4, 2015. The Ministry of the Interior subsequently removed arrival controls on people with HIV. Before this, the number of HIV positive non-citizens with restrictions on their length of stay was 31 in 2012, 45 in 2013, 63 in 2014, and 5 between January and February 3, 2015. The National Immigration Agency allowed foreigners, nationals without household registration in the Taiwan Area, and residents from Hong Kong, Macau, and mainland China who overstayed prior to the amendment to apply for a six-month alien residence certificate (ARC), giving them time to apply for a regular ARC through normal means.

237. The Ministry of Labor has worked with the Ministry of Health and Welfare to request that individual local governments, agency associations (societies), employer groups, and overseas missions of foreign workers in Taiwan help educate the public that foreign workers may not be forced to test for HIV or provide confidential information unrelated to their employment. Government agencies checking for contagious diseases at the border are to follow the related disease prevention policies and measures of the competent health authorities. In particular, they are to only restrict the entry of foreigners with infectious disease that are sufficient to harm public health or social stability, as stipulated by the competent health authority.

## **Point 70**

### **Discussions over Decriminalization of Adultery**

238. Adultery is currently classified within the scope of “no trial without complaint” under the prevailing Criminal Code. State power is already restricted from interfering with an individual’s private life. Spouses or family members of defendants are also given the freedom to decide whether to press a criminal charge. The state can neither become involved in domestic or personal affairs, nor counter the modesty principle of the Criminal Code.

239. Of the indicted defendants in adultery cases between January 2008 and October 2015, 2,409 (52%) were women, and 2,192 were men. Gender statistics in adultery cases are shown in Tables 32 and 33. Gender statistics on guilty verdicts are shown in Table 34.

**Table 32 Number of People Indicted and Deferred in Indictment by the District Prosecutors Office as per Article 239 of the Criminal Code**

Unit: person(s)

Item Date	Indicted			Expedited verdict and sentencing requested			Indictment deferred			Total		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
2008	218	108	110	344	157	187	0	0	0	562	265	297
2009	244	121	123	319	145	174	3	1	2	566	267	299
2010	276	130	146	345	165	180	3	2	1	624	297	327
2011	316	155	161	247	122	125	2	1	1	565	278	287
2012	397	193	204	247	112	135	1	0	1	645	305	340
2013	305	145	160	209	104	105	1	0	1	515	249	266
2014	418	201	217	237	108	129	0	0	0	655	309	346
2015(Jan.-Oct.)	305	144	161	163	78	85	1	0	1	469	222	247
Total	2,479	1,197	1,282	2,111	991	1,120	11	4	7	4,601	2,192	2,409

Source: Ministry of Justice

**Table 33 Gender Ratio of People Indicted and Deferred in Indictment by the District Prosecutors Office as per Article 239 of the Criminal Code**

Unit: %

Item Date	Indicted		Expedited verdict and sentencing requested		Deferred in indictment		Total	
	Male	Female	Male	Female	Male	Female	Male	Female
2008	49.5	50.4	45.6	54.4	-	-	47.1	52.8
2009	49.6	50.4	45.6	54.6	33.3	66.7	47.1	52.8
2010	47.1	52.9	47.8	52.2	66.7	33.3	47.6	52.4

2011	49.1	50.9	49.4	50.6	50.0	50.0	49.2	50.8
2012	48.6	51.4	45.3	54.7	-	100.0	47.3	52.7
2013	47.5	52.5	49.8	50.2	-	100.0	48.3	51.7
2014	48.1	51.9	45.6	54.4	-	-	47.2	52.8
2015 (Jan.-Oct.)	47.2	52.8	47.9	52.1	0.0	100.0	47.3	52.7

Source: Ministry of Justice

**Table 34 Number and Ratio of People by the Gender Ruled to be Guilty under Article 239 of the Criminal Code**

Unit: person(s); %

Item Date	Male		Female	
	Person(s)	Ratio	Person(s)	Ratio
2008	183	46.7	209	53.3
2009	139	42.2	190	57.8
2010	151	45.9	178	54.1
2011	154	44.8	190	55.2
2012	155	46.3	180	53.7
2013	162	47.6	178	52.4
2014	131	41.6	184	58.4
2015(Jan.-Oct.)	111	46.1	130	53.9

Source: Ministry of Justice

240. The higher number of women than men ruled to be guilty of adultery stems from the population structure and other complex issues, such as specific traditional culture in society and economic positions of men and women. In addition, as adultery is not subjected to trial without complaint, the difference between genders with respect to guilty verdicts can be affected by the actual numbers of charges pressed and cancelled. Cases that were canceled before the end of their investigation between 2012 and October 2015 are shown in Table 35.

**Table 35 Statistics of Charges Filed with District Prosecutors' Offices and Canceled before Investigation Completion under Article 239 of the Criminal Code**

Unit: cases

Category		Date					Total
		2012	2013	2014	2015 (Jan.-Oct.)		
Canceled by the wife	Canceled only for the husband	133	108	123	90	454	
	Canceled for both the husband and the third party	162	155	174	136	627	
Canceled by the husband	Canceled only for the wife	87	77	84	68	316	
	Canceled for both the wife and the third party	95	94	102	71	362	

Source: Ministry of Justice

Note: Among the charges canceled, whether the complainant was the wife or the husband, the ratio of charges canceled for both the spouse and the third party was always higher than that for only the spouse, and the ratio of charges canceled for only the wife was higher than that canceled for only the husband.

241. The Ministry of Justice will continue to heed opinions from all strata of society on whether adultery discriminates against women and violates privacy and whether criminal punishment is required to protect the institution of marriage and the family system, when seeking common ground that can serve as reference in decisions made on whether to amend applicable laws.

242. Ratio of men and women prosecuted for adultery between 2012 and October 2015 are shown in Table 36.



**Table 36 Gender of Defendants Violating the First or Second Half of Article 239 of the Criminal Code in Criminal Cases  
Handled at Courts of All Leve**

Unit: person(s); %

Level of court	Date	Number of defendants violating the first half of Article 239 of the Criminal Code					Number of defendants violating the second half of Article 239 of the Criminal Code				
		Total	Male		Female		Total	Male		Female	
			Person(s)	Ratio	Person(s)	Ratio		Person(s)	Ratio	Person(s)	Ratio
Supreme Court	2012	1	0	0	1	100.00	0	0	0	0	0
	2013	0	0	0	0	0	0	0	0	0	0
	2014	0	0	0	0	0	0	0	0	0	0
	2015 ( 1-10 )	0	0	0	0	0	0	0	0	0	0
High Court	2012	22	15	68.18	7	31.82	73	25	34.25	48	65.75
	2013	28	20	71.43	8	28.57	71	27	38.03	44	61.97
	2014	24	16	66.67	8	33.33	73	25	34.25	48	65.75
	2015 ( 1-10 )	22	12	54.55	10	45.45	52	22	42.31	30	57.69
District Court	2012	228	141	61.84	87	38.16	329	126	38.30	203	61.70
	2013	239	148	61.92	91	38.08	334	130	38.92	204	61.08
	2014	228	128	56.14	100	43.86	331	121	36.56	210	63.44
	2015 ( 1-10 )	184	104	56.52	80	43.48	264	120	45.45	144	54.55

Source: Judicial Yuan

Notes: 1. Data shown in this table is on criminal cases finalized at the first instance in district courts, second instance in high courts, and at the Supreme Court.

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2. The number of defendants by the complaint is based on the most severe complaint about the defendant.

## **Point 71**

### **Judicial Supervision and Inspection Mechanism**

243. Starting on December 11, 2007, interception warrants for cases under investigation are now issued by a judge. Regarding the number and ratio of communication surveillance requests filed by prosecutors with courts that were approved or overruled between December 2007 and October 2015, 80,690 were approved; 28,113 were denied; and 12,898 were partially denied. The approval rate reached 71.60%, with partially denied cases counting as 0.5 of an approved case. The court approved the tapping of 289,919 lines and denied that of 110,457 lines, for a 72.41% approval rate (excluding cases with ongoing surveillance). Communication surveillance cases approved by district courts between 2012 and October 2015 are shown in Table 37. Among the communication surveillance cases filed with the Supreme Court, only one on treason was approved in 2013, making the approval ratio 50.00%. Eight lines were approved and six lines were overruled, for an approval ratio of 57.14%.

244. Courts may instruct enforcement authorities at any time to submit a report for review to determine whether to discontinue communication surveillance, assign staff to conduct surveillance at the authority where surveillance equipment is set up or implementation site, and use electronic equipment for online surveillance. The Taiwan High Court established the online inspection system for communication surveillance in 2008 in accordance with the law so as to better monitor the implementation of communication surveillance cases. The real-time management and regular inspection modes are inspected and checked periodically every day according to the surveillance warrant data entered by the responsible people at the respective courts and all information received through online and off-line surveillance from the Investigation Bureau under the Ministry of Justice and the Communication Surveillance Center under the Criminal Investigation Bureau of the National Police Agency of the Ministry of the Interior. When discrepancies are found, warnings are signaled and responsible people at respective courts are assigned to investigate. Investigations conducted by representatives sent by courts of all levels to the Communication Surveillance Center or enforcement authorities double check: (1)

documentation in journals at machine rooms and their access control; (2) presence of legal interception warrants or lack thereof; (3) documentation of the name of and time, method, and content of notification by prosecutors in case of emergency communication surveillance; (4) surveillance beyond the approved time, if any; (5) implementation assistance notification letter sent to telecommunications service providers, as required; and (6) other necessary matters subjected to surveillance. Courts perform monitoring mainly by means of real-time inspections through computers and secondarily by means of artificial surveillance and inspections. No illegal surveillance instances had been found as of 2015. Durations of communication surveillance for cases finalized by the High Court and respective district courts between 2012 and October 2015 are shown in Table 38.

245. The communication surveillance system configured by the National Police Agency under the Ministry of the Interior shuts off automatically, discontinuing surveillance, as soon as the duration of approved communication surveillance expires. Respective police authorities are required to strictly review, control, and implement communication surveillance in accordance with the law.

246. Article 15 of the Communication Security and Surveillance Act requires that enforcement authorities should, when a communication surveillance instance ends, report to the prosecutor, who in turn must report it to the court, so that the person under surveillance may be notified. If the enforcement authority fails to file the report one month after the completion of the communication surveillance, the court will notify the person under surveillance within 14 days. The Criminal Investigation Bureau under the National Police Agency of the Ministry of the Interior has also established precautions that police authorities handling reports on persons under surveillance need to take in order to govern and control the notification made to the persons after communication surveillance ends.

247. In addition to monitoring the implementation of communication surveillance through electronic online surveillance equipment, the Judicial Yuan and the Supreme Prosecutors Office also send representatives to perform on-site monitoring. Representatives were sent by prosecution authorities 197 times in 2012, 182 times in 2013, 215 times in 2014, and 152 times between January and September 2015. Monitoring at the authority where

surveillance equipment is set up or the implementation site of communication surveillance conducted by courts for communication surveillance cases filed with district courts occurred 117 times in 2014 and 208 times between January and October 2015.

248. The Judicial Yuan and the Ministry of Justice follows the requirements in the Communication Security and Surveillance Act that were amended and enforced on June 29, 2014. It must gather and submit applicable statistics data on communication surveillance (including causes and types) to the Legislative Yuan for reference and announce the statistics on the official Ministry of Justice website.

### **Remedies for Communication Surveillance**

249. Articles 404 and 416 of the Code of Criminal Procedure were amended and announced on January 29, 2014, allowing the person under surveillance to apply for remedies in accordance with counter-appeal or quasi-counter-appeal procedures, should he/she disagree with the communication surveillance decision.

250. Criminal cases finalized through counter-appeal by a high court between April 2014 and October 2015 are summarized in Table 39. Cancellations of criminal communication surveillance decisions filed with high courts and district courts are summarized in Table 40.

251. Article 15 of the Communication Security and Surveillance Act requires that the enforcement authority should, when the communication surveillance is over, submit a report to the prosecutor or the authority overseeing national intelligence. It should include the name, permanent address or contact address of the person under surveillance, the subparagraphs of paragraph 1 of Article 11 that are applicable to the surveillance case, and the reference number of the authority issuing the interception warrant. It should also state the actual period of surveillance, whether communication corresponding to the purpose of the surveillance was obtained, and the remedy procedures. The prosecutor or authority overseeing national intelligence should then report to the court, so that the person under surveillance may be notified. The report should also include the reasons that such a notification would be interfering with the purpose of the surveillance or that the person should not be notified. Should the reasons for not notifying the subject cease to

exist, the enforcement authority should submit a report to the prosecutor or the authority overseeing national intelligence, so that the court may issue notification. Should the reason continue to exist, the status of the case must be updated with the court once every three months after submission of the initial report.

**Table 37 Cases Approved by District Courts for Communication Surveillance**

Unit: cases; line number; %

Date	Top 10 causes	Total			Cases requested by prosecutors												Cases approved by the judge according to his/her power			
					Total			Request approved		Overruled		Partially overruled		Approval ratio		Cases	Lines		Approval ratio	
		Cases	Lines		Cases	Lines		Cases	Lines	Cases	Lines	Cases	Lines		Cases		Lines	Approved	Overruled	Lines
			Approved	Overruled		Approved	Overruled						Approved	Overruled						
2012	Narcotics Hazard Prevention Act	9,767	26,026	6,655	9,765	26,009	6,655	7,019	21,900	1,537	3,994	1,209	4,109	2,661	78.07	79.63	2			
	Fraud	1,529	6,643	2,152	1,529	6,643	2,152	1,006	5,072	245	1,269	278	1,571	883	74.89	75.53	0	0	0	0
	Controlling Guns, Ammunition and Knives Act	1,075	2,257	1,133	1,072	2,253	1,130	674	1,928	287	878	111	325	252	68.05	66.6	3	0	3	57.14
	Anti-Corruption Act	862	2,635	616	862	2,635	616	648	2,266	116	390	98	369	226	80.86	81.05	0	0	0	0
	Organized Crime Prevention Act	859	2,730	1,652	859	2,730	1,652	507	2,242	233	1,230	119	488	422	65.95	62.3	0	0	0	0
	Obtaining property through threats	533	1,252	833	533	1,252	833	290	1,040	173	644	70	212	189	60.98	60.05	0	0	0	0

	Murder	147	436	136	147	436	136	107	372	26	86	14	64	50	77.55	76.22	0	0	0	0
	Election and Recall Act	145	482	103	145	482	103	118	412	18	60	9	70	43	84.48	82.39	0	0	0	0
	Robbery	131	343	109	131	343	109	93	295	21	80	17	48	29	77.48	75.88	0	0	0	0
	Sexual exploitation of children	80	227	63	80	227	63	57	191	13	36	10	36	27	77.5	78.28	0	0	0	0
2013	Narcotics Hazard Prevention Act	9,973	23,267	8,200	9,970	23,254	8,200	6,805	19,651	1,949	5,349	1,216	3,603	2,851	74.35	73.93	3	0	0	100
	Fraud	1,215	4,576	1,660	1,215	4,576	1,660	803	3,807	225	1,077	187	769	583	73.79	73.38	0	0	0	0
	Controlling Guns, Ammunition and Knives Act	1,071	2,029	1,217	1,071	2,029	1,217	624	1,770	334	963	113	259	254	63.54	62.51	0	0	0	0
	Anti-Corruption Act	852	2,012	751	852	2,012	751	592	1,767	175	549	85	245	202	74.47	72.82	0	0	0	0
	Organized Crime Prevention Act	666	1,893	1,557	666	1,893	1,557	351	1,586	227	1,223	88	307	334	59.31	54.87	0	0	0	0
	Obtaining property through threats	455	1,003	688	455	1,003	688	253	830	153	567	49	173	121	60.99	59.31	0	0	0	0
	Smuggling Penalty Act	153	378	146	153	378	146	102	308	28	86	23	70	60	74.18	72.14	0	0	0	0
	Murder	145	439	124	145	439	124	109	405	22	66	14	34	58	80	77.98	0	0	0	0
	Robbery	125	235	166	125	235	166	75	210	37	136	13	25	30	65.2	58.6	0	0	0	0



	Sexual exploitation of children	77	184	101	77	184	101	50	152	19	76	8	32	25	70.13	64.56	0	0	0	0
2014	Narcotics Hazard Prevention Act	11,070	16,099	6,236	11,066	16,092	6,236	7,533	14,134	2,819	4,798	714	1,958	1,438	71.3	72.07	4	0	0	100
	Fraud	2,024	3,142	1,559	2,024	3,142	1,559	1,351	2,768	563	1,260	110	374	299	69.47	66.84	0	0	0	0
	Controlling Guns, Ammunition and Knives Act	1,132	1,277	938	1,132	1,277	938	625	1,096	432	761	75	181	177	58.52	57.65	0	0	0	0
	Election and Recall Act	929	650	619	929	650	619	441	612	459	609	29	38	10	49.03	51.22	0	0	0	0
	Organized Crime Prevention Act	869	797	806	869	797	806	392	680	427	717	50	117	89	47.99	49.72	0	0	0	0
	Anti-Corruption Act	833	1,042	503	833	1,042	503	577	958	223	425	33	84	78	71.25	67.44	0	0	0	0
	Obtaining property through threats	576	537	592	576	537	592	249	458	294	512	33	79	80	46.09	47.56	0	0	0	0
	Smuggling Penalty Act	158	174	106	158	174	106	98	153	48	82	12	21	24	65.82	62.14	0	0	0	0
	Sexual exploitation of children	120	145	58	120	145	58	87	141	29	52	4	4	6	74.17	71.43	0	0	0	0
	Murder	103	115	97	103	115	97	54	110	47	95	2	5	2	53.4	54.25	0	0	0	0

2015 (Jan. - Oct.) 1-10	Narcotics Hazard Prevention Act	10,427	10,336	4,469	10,426	10,335	4,469	7,145	9,897	2,982	4,138	299	438	331	69.96	69.81	1	0	0	100
	Fraud	2,442	2,697	1,020	2,442	2,697	1,020	1,796	2,582	594	915	52	115	105	74.61	72.56	0	0	0	0
	Controlling Guns, Ammunition and Knives Act	1,196	1,104	566	1,196	1,104	566	793	1,072	375	544	28	32	22	67.47	66.11	0	0	0	0
	Organized Crime Prevention Act	1,143	728	604	1,143	728	604	608	703	511	598	24	25	6	54.24	54.65	0	0	0	0
	Anti-Corruption Act	981	767	507	981	767	507	590	752	379	493	12	15	14	60.75	60.20	0	0	0	0
	Obtaining property through threats	744	432	473	744	432	473	341	418	392	465	11	14	8	46.57	47.73	0	0	0	0
	Forest Violation Act	337	308	82	337	308	82	261	303	72	79	4	5	3	78.04	78.97	0	0	0	0
	Robbery	214	144	144	214	144	144	108	144	106	144				50.47	50.00	0	0	0	0
	Election and Recall Act	213	273	12	213	273	12	203	263	7	9	3	10	3	96.01	95.79	0	0	0	0
	Smuggling Penalty Act	151	157	39	151	157	39	123	152	26	34	2	5	5	82.12	80.10	0	0	0	0

Source: Judicial Yuan

**Table 38 Durations of Communication Surveillance for Cases Finalized by High Courts and Respective District Courts**

Unit: case(s); line number

Court level	Item  Date	Communication surveillance									Cases requested by prosecutors							Surveillance by judge within his/her power													
		Cases	Lines	Duration of surveillance						Cases	Lines	Duration of surveillance					Cases	Lines	Duration of surveillance												
				Up to one month	Over one month but less than three months	Over three months but less than six months	Over six months but less than nine months	Over nine months but less than one year	Over one year but less than 18 months			18 months or longer	Up to one month	Over one month but less than three months	Over three months but less than six months	Over six months but less than nine months			Over nine months but less than one year	Over one year but less than 18 months	18 months or longer	Up to one month	Over one month but less than three months	Over three months but less than six months	Over six months but less than nine months	Over nine months but less than one year	Over one year but less than 18 months	18 months or longer			
High Court	2012	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	2013	1	8	1	0	0	0	0	0	0	1	8	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	2014	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	2015 (-Oct.)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
District Court	2012	12,815	45,221	5,890	4,441	1,673	437	194	121	59	12,811	45,200	5,890	4,437	1,673	437	194	121	59	4	21	0	4	0	0	0	0	0	0	0	0
	2013	12,118	39,332	5,314	4,347	1,685	436	159	128	49	12,114	39,295	5,314	4,343	1,685	436	159	128	49	4	37	0	4	0	0	0	0	0	0	0	0
	2014	12,719	29,249	6,296	4,436	1,415	308	141	90	33	12,715	29,238	6,293	4,435	1,415	308	141	90	33	4	11	3	1	0	0	0	0	0	0	0	0
	2015 (-Oct.)	12,939	17,811	6,353	4,507	1,482	377	135	81	4	12,938	17,810	6,352	4,507	1,482	377	135	81	4	1	1	1	0	0	0	0	0	0	0	0	0

Source: Judicial Yuan

Note: The average duration of communication surveillance was 66 days and the longest duration of was 1,565 days (from May 13, 2008 to August 24, 2012).

**Table 39 Criminal Cases Finalized through Counter-appeal by High Courts**

Unit: Cases

Date	New cases	Closed cases	Finalization status			
			Total	Request withdrawn	Overruled for illegality	Overruled without a reason
2014 (Apr.-Dec.)	8	8	8	0	0	8
2015 (Jan.-Oct.)	6	6	6	0	0	6

Source: Judicial Yuan

Note: Counter-appeal against surveillance was added as a type of document in April 2014.

**Table 40 Cancellations of Criminal Communication Surveillance Decisions****Filed with High Courts and District Courts**

Unit: cases

Court level	Date	New cases	Closed cases	Finalization status					
				Total	Request approved	Partially approved and overruled	Overruled	Canceled	Other
High Court	2014 (Apr.-Dec.)	0	0	0	0	0	0	0	0
	2015 (Jan.-Oct.)	0	0	0	0	0	0	0	0
District Court	2014 (Apr.-Dec.)	1	1	1	0	0	0	0	1
	2015 (Jan.-Oct.)	1	1	1	0	0	0	1	0

Source: Judicial Yuan

Notes: Quasi-counter-appeal cases were added to communication surveillance decisions in April 2014 under the category of request; that is, requested cancellation of communication surveillance decisions.

**Point 72****Anti-media Monopoly Measures**

252. The Fair Trade Commission amended and released its explanations of regulations governing cross-industrial management behavior of digital convergence-related businesses on July 3, 2013, and explanations of regulations governing businesses related to cable TV on March 13, 2015.

253. Seven substantial measures were taken on the media monopoly issue between 2012 and 2015, such as the joint broadcasting of the 2012 Olympics by four wireless TV stations.

## **Stipulation of Anti-media Monopoly Laws**

254. The National Communications Commission drafted the Act for the Prevention of Broadcasting and Television Monopoly and the Maintenance of Diversity Act and submitted it to the Legislative Yuan for consideration on April 26, 2013. The Act would allow the National Communications Commission to mandate that related businesses provide necessary information. It may also authorize professional institutions or academic units to conduct television rating, radio ratings, and daily newspaper and weekly journal readership surveys. The Act also covers integration patterns of broadcasting and television businesses, scope of related people, disclosure of important information to the public or competent authority, integration of broadcasting and television businesses, the types of business that need to seek the approval with the competent authority, regulations governing the horizontal and cross-over integration of broadcasting and television businesses, and restrictions over the integration of broadcasting and television businesses, as well as daily newspapers and weekly journals.

## **Point 73**

### **Laws Restricting Freedom of Speech**

255. Article 246 of the Criminal Code prohibits publicly insulting a shrine, temple, church, grave, or public memorial and interfering with a funeral, burial, sacrifice, religious service, or worship. This is to protect people's freedoms of religion and assembly and help maintain public order. There is no differential treatment for the object of a protective behavior and the subject of a disciplinary behavior; everyone is treated equally. Although Article 11 of the Constitution upholds the freedom of speech, Article 23 stipulates that this freedom may still be restricted by law in order to prevent the obstruction of someone else's freedom, avoid emergencies and crises, maintain public order, or boost the public's interests. According to Interpretation No. 509 of the Judicial Yuan, legal punishments for speech or actions that defame others are not unconstitutional. Paragraph 3 of Article 19 of the ICCPR also stipulates that to respect people's rights or reputation and protect national security, public order, public health or culture, the freedom of speech may be restricted by

law. Article 246 of the Criminal Code is a restrictive regulation established to protect someone else's right of religious beliefs and reputation, as well as public order and security, and should not be considered contrary to the ICCPR.

256. Article 104 of the Civil Servants Election and Recall Act is meant to correct election practices and maintain the fairness and impartiality of elections. Anyone who spreads rumors or lies in order to build support for or undermine a candidate is subject to punishment. Such offenses have to be found playing a role in the successful or failed election of a candidate and significantly hurt the public or other people. Besides protecting the legal rights of candidates, the article aims to protect public interests as well. Between 2012 and October 2015, 67 people were indicted for the said offense by prosecution authorities. Of them, 15 were found to be guilty, and 80% of those received a jail sentence of six months or lower. With reference to the Criminal Code stipulations on freedom of speech and the statistics on charges and verdicts above, regarding the content of regulations on spreading rumors or untruths in laws governing defamation during elections, the circumstances necessitating punishment is already well defined, and the degrees of related offenses and measures for protecting the public's interests are not excessive in nature and should not violate the ICCPR.

## **Point 74**

### **Applicable Laws Prohibiting Promotion of National, Ethnic, or Religious Hatred**

257. The Criminal Code details punishments 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 insult, defamation, obstruction of freedom, harm, murder, or public incitement of another person into committing the said offenses. In addition, Articles 2 and 3 of the Mass Atrocity Act heavily punish such acts as harming or instigating the harm of someone emotionally or physically, causing his/her death, or obstructing his/her freedom with the aim to destroy all or part of a particular people, ethnicity, or religion.

258. 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 organized activities to carry out racial discrimination can be sentenced up to a maximum of three years in prison as per Article 154 of the Criminal Code. The mastermind of such activities can be sentenced between one and seven years in prison. If an organization has an internal management structure and aims to commit the crime of persecuting an ethnicity (population), incite another person to commit a crime against a specific ethnicity or incite another person to violate anti-racial discrimination laws or is a gang that habitually engages in threatening or violent behavior, the person forming, presiding over or exerting command of the organization, the participants, a public official harboring the organization, and sponsors of the organization are to be severely punished under paragraph 1 of Article 3, as well as Article 4 and Article 6 of the Organized Crime Prevention Act. As there are applicable requirements about penalties and punishments for anyone promoting national, ethnic, or religious hatred that constitutes instigation of discrimination, hostility, or violence, it is unnecessary to establish criminal laws specifically for this form of crime.

## **Point 75**

### **Amendment to the Assembly and Parade Act**

259. The draft amendment to the Assembly and Parade Act was submitted to the Legislative Yuan for review on May 28, 2012. Highlights of the amendment include: (1) the freedom of expression is consolidated; (2) approval through an application system is changed to a filing system; (3) peaceful assemblies and parades are ensured; (4) protection of public interest is also maintained; (5) disperse commands are to be executed proportionally; (6) related criminal law regulations are abolished and common law applied; and (7) the floor for administrative fines is abolished. In addition, according to Interpretation No. 718 of the Judicial Yuan, some articles of the Assembly and Parade Act have been rendered unconstitutional. A new set of amendments was finished on August 18, 2014, and

submitted to the Legislative Yuan for consolidated review. Highlights of the second set of amendments include (1) the regulation that occasional assemblies and parades need not be filed is added; (2) the period for filing emergency assemblies and parades is adjusted; (3) restrictions on occasional and emergency assemblies and parades are added; and (4) the stipulation that the person in charge must make an announcement when an assembly or parade is discontinued or completed is added.

260. The National Immigration Agency, in consideration of opinions from all parties, revised Article 29 of the Immigration Act so that aliens staying or living in Taiwan legally may accordingly participate in petitions and legal and peaceful assemblies and parades, except for the activities covered by Article 45 of the Civil Servants Election and Recall Act.

## **Point 76**

### **Discussions on Age of Marriage**

261. In light of the requirements of international conventions, the public health of the nation and society, and overseas legislative practices, the Ministry of Justice prepared in 2011 draft amendments of Articles 973 and 980 of the Civil Code, revising the minimum age of engagement and marriage for men and women as 17 years old and 18 years old, respectively, and submitted them to the Legislative Yuan for review, as jointly requested by the Executive Yuan and Judicial Yuan. However, because the legislators hold different opinions, the draft amendment will be reviewed again once consensus is reached.

262. The Ministry of Justice called a meeting to discuss the minimum age for engagement and marriage in the Civil Code on March 21, 2014. Due to the complex issues involved, required careful deliberations, and respect for the Legislative Yuan, the Ministry of Justice will not submit more draft amendments until consensus is reached.

263. The Legislative Yuan reviewed draft amendments to the Civil Code introduced by legislators on December 22, 2014. The Ministry of Justice stated the opinion that the amendment to the minimum age for the engagement and marriage of men and women as submitted by the legislators met the requirements of international conventions, such as Article 23 of the ICCPR, Articles 15 and 16 of CEDAW, and Article 1 of the CRC.



## **Point 77**

### **Statistics on Violence Against Women**

264. The Ministry of Health and Welfare conducted the Technology Research Program for Establishing Violence against Women Prevention Measures Indicators and the survey on violence against women in an intimate relationship in Taiwan. The results from the 2014-2015 surveys are summarized as follows:

- (1) The Taiwan Coalition Against Violence was authorized in 2014 to conduct the Technology Research Program for Establishing Violence Against Women Prevention Measures Indicators. Applicable violence indicators and statistics and survey guides introduced by the United Nations and/or the Organisation for Economic Co-operation and Development were adopted to design the prevalence/incidence surveys and questionnaires on violence against women in Taiwan. They were also used to formulate the structure, items, and objectives of effectiveness measures in the prevention and control of gender violence in the social welfare, political, health, and police administration fields of Taiwan.
- (2) National Taiwan Normal University was authorized in 2015 to conduct the survey on violence against women in an intimate relationship in Taiwan. For the project, data on women aged 18 to 74 in Taiwan who are currently experiencing or have experienced violence in an intimate relationship was gathered.
- (3) The Domestic Violence Prevention Act was amended and announced on February 4, 2015, requiring that the central competent authority periodically investigate and study the issue of domestic violence, the efficacy of ongoing prevention efforts, and needed amendments to the act.
- (4) The survey of violence against women in an intimate relationship in Taiwan was completed on August 31, 2015. Certain demographics of the victims and the offenders, such as gender, ethnicity, and nationality, were included in the survey. As people with disabilities, were not included, amendments will be made so as to include them in future surveys.

265. The National Police Agency prepared the Handbook against Domestic Violence for the reference of police authorities in 2010 and revised related procedures for handling domestic violence cases in 2014. When restructuring the national police administration, the action level of police administration for women and children at the subsidiary agency (Criminal Investigation Bureau) was elevated to the Women and Children Security Section under the Crime Prevention Division of the National Police Agency. As of October 2015, there were 449 police officers serving in brigades dedicated to serving women and children at police departments. Another 206 officers were arranged to help prevent domestic violence at respective branches of police precincts (two more domestic violence prevention officers may be added within a jurisdiction, depending on the type of area covered, population size, and quantity of related cases). In addition, there were a total of 1,514 community-based domestic violence prevention officers at individual police stations. All of these staff members are responsible for handling domestic violence and cases involving women and children. They also perform risk assessments of domestic violence cases to jointly discuss effective protective measures and preventative actions for highly dangerous cases. Victims and perpetrators of domestic violence are visited to show care and give warnings, respectively.

266. The police administration created the Women and Children Reporting System on December 28, 2012, to help police record cases concerning women and children online and create a database for inquiries on domestic violence. Data on domestic violence cases handled by municipal and county police departments is compiled monthly. Domestic violence cases handled by police authorities between 2012 and October 2015 are shown in Table 41.

**Table 41 Domestic Violence Cases Reported by Police Authorities**

Unit: cases; occurrences

Date	Item	Domestic violence handled (cases)	Request for restraining order (cases)	Implementation of restraining order (occurrences)	Violations of restraining orders (cases)
2012		43,380	13,840	19,647	3,893
2013		48,119	13,450	19,818	3,800
2014		52,105	13,527	21,975	4,398
2015 (Jan.-Oct.)		47,662	12,235	18,901	4,465

Source: Ministry of the Interior

### **Protective Measures for Victims of Domestic Violence**

267. See 2.66-2.69.4 of the second national report on CEDAW.

268. The Employment Service Act was amended and announced on June 17, 2015. In particular, victims of domestic violence are to receive help in finding employment and having job barriers to them removed. Employers are encouraged to hire such victims for temporary, supportive, and diverse jobs, with the government making available short-term employment subsidies and diversified employment services. Meanwhile, temporary work stipends are utilized to create employment opportunities and increase their willingness to find a job. In addition, other stipends are available for victims receiving occupational training to help cover their living expenses. Various public career service institutions also refer domestic violence and sexual assault victims to partner employers and organize integrated housing subsidies on a yearly basis.

### **Points 78 and 79**

#### **Research on a Legal System that Supports Alternative Families**

269. See Notes 327 to 329 of the second national report on the ICCPR.

#### **Protective Measures for Alternative Families**

270. See Notes 340 (5) of the second national report on the ICCPR.

## **Gender Equity Education**

271. See 5.15.1-5.16.6 of the second national report on CEDAW.

## **Point 80**

### **Autonomy of Pregnant Women Getting an Abortion**

272. See 16.29-16.33 of the second national report on CEDAW.

## **Point 81**

### **Follow-up Oversight and Evaluation of Conclusive Opinions and Suggestions**

273. On March 12, 2013, a meeting was held to decide matters concerning the competent authorities responsible for the concluding observations and recommendations reached in the international review meeting on our first national human rights report. The responsible authorities were asked to submit preliminary response measures and completion timeframes for the concluding observations and recommendations to the Presidential Office Human Rights Consultative Committee so as to facilitate the eventual establishment of an oversight and evaluation system.

274. The human rights deficiencies and matters pending improvement indicated by the Conference Service Section of the national report on human rights were approved in the 11th meeting of the Human Rights Consultative Committee on April 9, 2013. An improvement, monitoring, and supervisory mechanism will be established in order to uphold the regulations in the two covenants. In addition, a laws and regulations review group, education and training group, national human rights research group, and human rights evaluation group will be established under the committee in order to realize the correction of human rights deficiencies.

275. The Conference Service Section of the Human Rights Consultative Committee, as authorized through resolution at the 11th meeting of the Committee, held 22 rounds of meetings between May and October 2013 to review the responsible authorities' preliminary responses to concluding opinions and recommendations. Advisory

Committee members, scholars, experts, NGOs, and related authorities reviewed the responsible authorities' responses to concluding opinions and recommendations at meetings that were chaired by a committee member. The results were submitted to the Human Rights Consultative Committee, which confirmed them at its 13th meeting on December 17, 2013. Responsible authorities must periodically report the implementation status of responses to the concluding observations and recommendations.

276. For concluding observations and recommendations that involve regulatory amendment, the laws and regulations review group has urged government agencies of all levels to discuss the possibility of improvements in order to normalize the regulatory system and consolidate protections of human rights. The laws and regulations review group held a preparatory meeting on August 15, 2013, and seven official meetings between 2014 and 2015 to review the organizational status of respective authorities and accordingly urge them to complete the review of laws and regulations.