

**Review of the Second Reports of the Government of Taiwan
on the Implementation of the International Human Rights Covenants**

**Concluding Observations and Recommendations adopted by the
International Review Committee
Taipei, 20 January 2017**

A. INTRODUCTION

1. In 2009, the former President of Taiwan announced the ratification, as a matter of domestic law, of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Act to implement the two Covenants also provided that a reporting system would be created to monitor the Government's compliance with the obligations it has undertaken.

2. In 2011, the Government initiated the process of preparing detailed initial reports on the rights contained in each of the Covenants, and in 2013, an independent Review Committee, from ten different countries, was invited to review these reports in light of information from all available sources, and especially civil society. The Committee consisted of the following ten independent experts, working in their personal capacities: Philip Alston, Nisuke Ando, Virginia Bonoan-Dandan, Theodor van Boven, Jerome Cohen, Shanthi Dairiam, Asma Jahangir, Manfred Nowak, Eibe Riedel and Heisoo Shin. On 1 March 2013, the group adopted a comprehensive set of Concluding Observations and Recommendations.

3. In April 2016, the Government of Taiwan prepared a detailed Response to the Concluding Observations and Recommendations, along with Second Reports on both Covenants and a Common Core Document forming part of the Reports. On the invitation of the Government these Reports were subjected to review in Taipei from 16 to 20 January 2017 by a Review Committee consisting of the following ten independent experts, working in their personal capacities: Virginia Bonoan-Dandan, Jerome Cohen, Shanthi Dairiam, Miloon Kothari, Jannie Lasimbang, Peer Lorenzen, Manfred Nowak, Eibe Riedel, Sima Samar and Heisoo Shin. The Committee divided itself into two groups, one dealing with the ICCPR, chaired by Manfred Nowak, and one with the ICESCR, chaired by Eibe Riedel.

4. As during the first review, the Review Committee followed established international monitoring procedures in all relevant respects and applied the accepted international legal interpretations of the relevant rights. Its work involved no comparison with the situation prevailing in other countries, and these concluding observations focus solely on the situation in Taiwan.

5. The Review Committee expresses its appreciation that the Government and the people of Taiwan continue to demonstrate their exemplary commitment to the process of monitoring compliance with the relevant human rights obligations. The Government has again provided valuable and detailed reports, following international precedents, and has engaged in a highly constructive manner with the Committee. Each of the sessions held over a period of three days (16-18 January 2017), was attended by a large number of Government officials, representing all of the relevant departments of the Executive Yuan, as well as representatives of the Office of the President, the Legislative Yuan, the Judicial Yuan, the Control Yuan and the Examination Yuan. The proceedings were webcast live and followed closely by civil society. The Committee is especially grateful to Public Prosecutor Wen-Hsiang Chou and his

colleagues from the Ministry of Justice for their highly efficient and helpful coordination of the overall endeavour.

6. The Review Committee commends the very active engagement of a wide range of civil society groups in all aspects of the review process. The Committee received a large number of detailed alternative reports and supplementary information, and held focused hearings to enable non-governmental organisations to provide inputs into the process. The response was remarkable and enabled the Committee to develop a deeper understanding of many complex issues.

7. The Review Committee wishes to underscore that these Concluding Observations and Recommendations do not deal with all of the very large number of issues presented to it. As this is an on-going process, the Committee put particular focus on assessing the progress achieved in implementing its first set of recommendations from March 2013. It considers that the value of the overall process goes far beyond what is contained in these Concluding Observations and Recommendations.

8. Finally, the Review Committee emphasizes again that the purpose of the Concluding Observations and Recommendations is primarily to identify areas in which the Government of Taiwan should consider further measures in order to promote full compliance with its obligations. The observations do not, therefore, provide any systematic recognition of the many positive achievements that have occurred in recent years, including the four years under review. The Committee is, however, deeply impressed by the dramatic progress that has been made since 1987, when Taiwan began to emerge from a long and dark period of martial law. With respect to the recent period under review, the Committee wishes to note that, despite major progress achieved in some areas, other developments envisaged by the Government have not yet materialised. It therefore encourages the new Government under President Tsai Ing-wen to take a more proactive attitude towards the full implementation of international human rights law.

B. GENERAL ISSUES

National Human Rights Institution

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

United Nations Core Human Rights Treaties

10. The Review Committee warmly welcomes Taiwan's acceptance, without reservations, of the obligations contained in six of the core human rights treaties of the United Nations: the two Covenants (ICCPR and ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD).

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

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

Equality of all Human Rights

13. The Vienna World Conference on Human Rights in 1993 explicitly confirmed the universality, equality, indivisibility and interdependence of all human rights. Consequently, the Review Committee is deeply concerned that the Supreme Administrative Court in August 2014 effectively ruled out the applicability of the ICESCR before domestic courts. The Committee therefore strongly recommends that the authorities of Taiwan take all necessary measures to ensure the direct and equal applicability and justiciability of all rights contained in both Covenants before domestic courts, in accordance with General Comment Nr. 3 of the UN Committee on Economic, Social and Cultural Rights.

Human Rights Education and Training

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

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

Corporate Social Responsibility

16. The Review Committee reiterates its previous recommendation that the Government pay all due attention to the issue of corporate social responsibility, including the need for binding legislation providing for monitoring and control. The Committee reminds the Government of

its obligation under international human rights law to ensure that Taiwanese corporations, whether operating in Taiwan or abroad, as well as foreign corporations operating in Taiwan, respect all human rights. In particular, these business activities affect labour conditions, the position of female and migrant workers, trade union rights, housing rights, land rights and environmental rights.

Transitional Justice

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

Economic Growth and Income Inequality

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

Equality and Non-Discrimination

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

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

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

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

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

Domestic Violence

24. The Review Committee acknowledges the numerous initiatives, such as reporting systems, domestic prevention offices, setting up of shelters and hotlines, to address violence against women in the country, especially domestic violence, which was also reported during the 2013 review. It expresses its appreciation that the Government has conducted research on the prevalence of violence between intimate partners, as recommended in the 2013 Concluding Observations and Recommendations.

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

Rights of Persons with Disabilities

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

Rights of Indigenous Peoples

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

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

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

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

C. SPECIFIC ISSUES RELATING TO THE ICESCR

Right to Work and Rights in Work (Articles 6 and 7)

Household Foreign Workers

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

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

Foreign Fishers in Taiwanese Fishing Vessels

33. While the Government has already provided some information regarding a new relevant law that has just taken effect in the beginning of 2017, the Review Committee nevertheless expresses its continuing concerns regarding the accountability of the Government for failing to effectively enforce its laws on Taiwanese-flagged fishing vessels that are reportedly engaged in illegal, unreported and unregulated (IUU) fishing, and in that serious crimes have been reported to occur including labour and human rights abuses inflicted on the foreign workers who man these vessels. The Committee notes with concern that Taiwan is currently

operating under formal warnings from international organizations for failing to take sufficient measures in the global fight against IUU fishing, which has serious impacts on the environment and the survival of endangered marine species.

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

Equality between Men and Women

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

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

Child Labour (Article 10)

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

Right to Housing and Land (Article 11)

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

database that establishes the number of people in Taiwan that are designated as informal settlers and as homeless.

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

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

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

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

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

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

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

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

Right to Health (Article 12)

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

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

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

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

Sexual and Reproductive Health

50. The sex education currently provided at different levels of school education is not comprehensive enough and raises disputes among different groups of people regarding the appropriateness of its contents. The Review Committee recommends the Government of Taiwan to:

a) provide for both boys and girls at different levels of education a curriculum on the right to sexual and reproductive health, which is comprehensive, scientifically accurate and up-to-date, engaging various stakeholders for consultation;

- b) conduct research into the situation of intersex people, and formulate policy guidance including prohibition of medically unnecessary operations of removing otherwise healthy reproductive organs;
- c) take into account General Comment No. 22 (2016) of the UN Committee on Economic, Social and Cultural Rights on the right to sexual and reproductive health in implementation of Taiwan's obligation to respect, protect and fulfil the right to sexual and reproductive health.

Mental Health

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

D. SPECIFIC ISSUES RELATING TO THE ICCPR

Right to Life (Article 6)

Death in Custody

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

Death Penalty

See the recommendations under Article 7.

Prohibition of Torture, Cruel, Inhuman or Degrading Treatment or Punishment (Article 7)

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

54. The Review Committee also recommended that all allegations or suspicions of torture shall be thoroughly and promptly investigated by an independent and impartial body with full criminal investigation powers with a view to bringing the perpetrators to justice with adequate

punishment. The Committee regrets that no progress has been achieved in implementing this recommendation, which is herewith reconfirmed.

Principle of Non-Refoulement and Refugee Act (Article 7)

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

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

Corporal and Capital Punishment (Article 7)

57. The Review Committee congratulates the Government of Taiwan for having prohibited all forms of corporal punishment in all sectors of society, including the police, the military, in schools, in the family and as a judicial or disciplinary sanction. This is in full compliance with the absolute prohibition of corporal punishment under international law and jurisprudence.

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

59. The Review Committee urges the current Government of Taiwan and President Tsai Ing-wen to take the lead in raising public awareness against this cruel and inhuman punishment, rather than being exclusively concerned with public opinion. To this end, the Committee strongly recommends that the Government take decisive steps by immediately introducing a moratorium on executions with the aim of full abolition of capital punishment in the near future.

Right to Personal Liberty (Article 9)

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

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

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

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

Conditions of Detention (Article 10)

64. The overcrowding of prisons was already recognized by the Government of Taiwan as an "urgent problem" in its initial report of 2012. In its second report of April 2016, the Government acknowledged an overcrowding rate of 13.23% (63.045 inmates compared to a total capacity of 55.676 places in correction institutions as of 22 December 2015). The Government further stated as follows: "Correction institutions mostly consist of old buildings characterized by small confined spaces, and there will be no immediate improvement to the over-crowdedness due to lack of human resource, budget, and protest from local residents wherever prisons are relocated."

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

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

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

Administration of Justice (Article 14)

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

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

Right to Privacy (Article 17)

Adultery

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

Surveillance

71. In the 2013 Concluding Observations and Recommendations, the Review Committee raised concerns about the extensive telecommunication surveillance activities of the National Police Agency. In its Response the Government provided statistics relating to criminal investigations, which show that the number of court approved tapings of telephone lines has significantly increased in the meantime. No statistics have been provided, however, on surveillance measures by Intelligence Agencies, which moreover are not subjected to court approval. Therefore, the Committee reiterates its concerns about the high degree of

surveillance, which cannot be effectively monitored by the courts and which constitutes a threat to the right to privacy of Taiwanese citizens as well as foreigners.

Sexual Orientation and Gender Identity

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

Freedom of Expression (Articles 19 and 20)

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

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

Freedom of Assembly (Article 21)

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

Right to Marriage and Family Life (Article 23)

Age of Marriage

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

Same-Sex Marriage

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

E. FOLLOW-UP

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