CCPR

International Covenant on Civil and Political Rights

List of Issues to be taken up in connection with the Consideration of the initial report of Republic of China (Taiwan)

Replies of Republic of China (Taiwan) to the list of issues

[8 February 2013]

Review of Taiwan's Initial State Reports under the ICCPR and the ICESCR

Part I
List of Issues Relating to the Core Document and Replies from the Government of ROC (Taiwan)

1) National Institution for the Protection and Promotion of Human Rights (preface and para. 143)

Taiwan has not yet established a national human rights institution that complies with the Paris Principles adopted by United Nations General Assembly resolution 48/134 of 1993. What progress is being made towards the setting up such an institution?

1. An impromptu motion was raised in the 6th meeting of the Presidential Advisory Committee on Human Rights to "request the national Advisory Committee on Human Rights(總統府人權諮詢委員會) to discuss a proposal that aims at establishing a task force to plan for a national human rights institution". It was decided in the meeting to "establish a research and planning task force for a national human rights institution". In the 7th meeting on "the review of the incorporation of the two Covenants into domestic laws", it was decided "the necessity of establishing a national human rights institution can be discussed at the next committee meeting". Following the above decision, the Conference Service Section(議事組) proposed "the draft of establishing a research and planning task force for a national human rights institution" in the 8th meeting of the Presidential Advisory Committee on Human Rights. It was decided in the meeting that "the proposal was passed and staff support for the research and planning task force will be assumed by an agency designated by the Executive Yuan." On Aug 22, 2012, the Executive Yuan designated the Ministry of Justice (MOJ) as the staff unit(幕僚) to assist the task force. The MOJ, also functioning as the Conference Service Division of the Presidential Advisory Committee on Human Rights, follows the instructions of the Executive Yuan and the 8th meeting of the Presidential Advisory Committee on Human Rights on June 13, 2012, to do planning accordingly. (Please see the ANNEX 1)
2. Based on the planning, to establish a national human rights institution involves the organization of government agencies and procedures to amend the Constitution and laws, and the Presidential Advisory Committee on Human Rights undertakes

the mission to provide policy advice to the President. The research and planning results for each stage by the task force shall be compiled by the Conference Service Section (i.e. MOJ), discussed by all committee members and proposed to the President as policy advice. The next-stage research and planning depends on the President's instructions, and if a policy is shaped to establish a national human rights institution, the Executive Yuan will start the preparatory work. Since the R.O.C has signed and ratified the ICESCR, a national human rights institution, if established, will include economic, social and cultural rights analysis.

2) United Nations core instruments in the field of human rights (para. 97 and table 53)

Taiwan has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Covenant on Economic, Social and Cultural Rights (CESCR), the Covenant on Civil and Political Rights (CCPR) in the last few years. Is it envisaged to ratify other more recent UN core instruments, notably the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC), the Convention on the Rights of Persons with Disabilities (CPD), and the International Convention for the Protection of All Persons from Enforced Disappearance (CPED)?

3. **Convention against Torture (CAT):**

(1) In 1984, the UN passed the Convention against Torture (CAT) and other instruments against atrocity and inhumanity and also the conventions against humiliation and penalty. Our country is not a US member, so that we are not able to join in the signing of these documents, but still we have left no stone unturned in preventing atrocity, upholding human dignity and protecting human rights. As evidence, we have made laws and statutes to prevent extracting confession through torture. Besides, we have refused to adopt lash punishment under any circumstances.

(2) To prevent torture confession, the Criminal Code of our country provides:

A. "A public official charged with the duty of bringing offenders to justice who commits one of the following offenses shall be punished with imprisonment for not less than one year but not more than seven years: (i) Abusing his authority in arresting or detaining a person, (ii) Using threat or violence to extract evidence, (iii) Unknowingly causing an innocent person to be prosecuted or punished or causing a guilty person not be prosecuted or punished (Paragraph 1). If death results from the commission of the offense,

the offender shall be punished with imprisonment for life or for not less than three but not more than ten years."

B. Article 126 of the same law states: "A public official charged with the custody, conveyance, or detention of prisoners who commits an act of violence or cruelty to a prisoner shall be punished with imprisonment for no less than one year but not more than seven years. If death is resulted from the commission of the offense, the offender shall be punished for life or for not less than seven years; if serious bodily harm results, the offender shall be punished with imprisonment for not less than three but not more than ten years (Paragraph 2)." This is to say such crimes are to be punished in our country. Article 6 of the Criminal Code stipulates that this Code shall apply to a public official of the Republic of China who commits same crime beyond the territory of the Republic of China, indicating our law is consistent with the UN convention.

(3) The Code of Criminal Procedure of our country strictly defines the confessions good for proof and the burden of proof. Article 156 provides that confession of an accused not extracted by violence, threat, inducement, fraud, exhausting interrogation, unlawful detention or other improper means and consistent with facts may be admitted as evidence. Confession of an accused, or a co-offender, shall not be used as the sole basis of conviction and other necessary evidence shall still be investigated to see if the confession is consistent with facts. If the accused states that his confession has been extracted by improper means, his confession shall be investigated prior to investigating other evidences; if the said confession is presented by the public prosecutor, the court shall order the public prosecutor to indicate the method to prove that the confession is obtained under the free will of the accused." This is to say that if a confession is disputed by a defendant, the court shall make an investigation, in which the burden of proof falls on the shoulder of the prosecutor so that unlawful extraction of confession can be avoided.

(4) Our media have repeatedly urged the application of lashing as punishment for sexual assault criminals. But we know correction has replaced retribution in modern criminology and this has become the trend of crime penalty. Punishment by lashing, as a product of feudal period, is inconsistent with the thought of modern terminology. More than 90% of world nations have not adopted lashing punishment and, still, our country has endorsed two UN conventions, and Article 7 of the International Covenant on Civil and Political Rights states that nobody shall have the "Right to Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment." Consequently, our government always believes the

introduction of lash punishment is inconsistent to the foregoing Covenant and, therefore, we have not adopted lash punishment.

(5) To sum up, the spirit of banning the use of torture and other atrocious and inhumane punishment has been carried out in our country and, therefore, there is no need to set up a committee on banning the use of torture. At present, we have no plan to endorse the Covenant.。

4. **the Convention on the Rights of the Child (CRC) :**

(1) The Convention on the Rights of the Child was adopted by the United Nations in 1989. As not a member state of the United Nations, Republic of China (Taiwan) has not yet signed up the Convention but has always upheld the spirit of the Convention and devoted itself to the protection of children's rights and interests. Taiwan has been far ahead of the other Asian countries in the legislation of various laws and acts to protect the human rights of children and adolescents. With a quality in legislation rivaling that of the advanced countries in Europe and America, Republic of China (Taiwan) has already stipulated many laws related to children's human rights, including the Sexual Assault Prevention Act, the Domestic Violence Prevention Act, the Family Education Law, the Protection of Children and Youths Welfare and Rights Act, and Gender Equity Education Act. It is hoped that every child and adolescent can grow safely, healthily, and happily under by the education, welfare, health care, culture and family care systems planned and designed by the government.

(2) To fulfill the spirit of Convention on the Rights of the Child and respond to the trend of international child welfare development, Taiwan declared in its Child Welfare Act amended in 1993 that the aim of adding a special chapter to the Act is to maintain the physical and mental health of children, to promote the normal development of children, and to protect the welfare of children. Moreover, with reference to the spirit of Convention on the Rights of the Child adopted by the United Nations, all the measures to protect the interests of children were included in our Child Welfare Act. The Child welfare Act and Youths Welfare Act were amended and consolidated into the Child and Youths Welfare Act in 2003, so that our children and adolescents can be taken care of in accordance with a more comprehensive, specific and consistent specification, which is also more in line with the spirit of Convention on the Rights of the Child adopted by the United Nations on the custody of children under the age of 18. It was in 2004 that 13 sub-laws, including their Enforcement Rules, were completed.

(3) To more actively protect the basic human rights of children and youths, respond to the changing trends in social and family structure, and align the human rights of children and adolescents with the international standards, the government

amended and announced its Protection of Children and Youths Welfare and Rights Act on November 30, 2011. With its contents increased from 75 to 118 articles, aiming to reach the same connotation as the UN Convention on the Rights of the Child, we have added into the Act such contents as identity, health, safety, education, social participation, ideography, welfare, protection, recreation, leisure, and development opportunities. We have also legalized all the basic rights, privacy protection, care for high-risk families, media management and standards, negative qualification for professionals to serve at the child and youth agencies, ideographic rights for children and teenagers, and rights for social participation. We have also included domestic adoption as the priority principle. It is hoped that we can fulfill the UN Convention on the Rights of the Child to improve the welfare of our children and adolescents and safeguard their rights and interests.

(4) Our country has not only set relevant laws through legislative processes to protect the human rights of children to meet the requirements of the Convention on the Rights of the Child but has also actively promoted various Child Welfare Policies to safeguard the human rights of children and adolescents, provide them with welfare services, and create a safe environment for the growth of children and adolescents. With regards to children's nationality, identity protection, prohibition against separation from parents, family reunion, and curb on illegal transfer to foreign countries stipulated by Articles 7 to 11 of the Convention on the Rights of the Child, our country has been implementing them in accordance with the provisions of our relevant laws and regulations.

(5) Child-care service：According to Article 23 of the Act of Gender Equality in Employment, employers hiring more than two hundred and fifty employees are required to set up child-care facilities or provide suitable child-care measures, and competent authorities will provide certain subsidies. Acting in accordance with the Act of Gender Equality in Employment, we has enacted the Rules for the Standards of Establishing Child-Care Facilities and Measures and Providing Subsidies and subsidies are given accordingly to enterprises that provide child-care service, regardless of the number of their employees. The policy is to encourage employers to set up child-care facilities or provide suitable child-care measures to help their employees who are in need of child care, in order to develop friendly environments where work and family can be balanced and gender equality in employment can be ensured.

(6) Labor Standards Act：To protect the rights and interests of workers under 16 years of age, there are regulations and corresponding penalty provisions set forth in Articles 44 to 48 of the Labor Standards Act with regard to the age of children

who are permitted to work, the types of work they are permitted to do, the requirement of a letter of consent from their legal guardians, their work hours, and the prohibition of child workers to work the night shift. The said regulations are in compliance with Paragraph 2, Article 32 of the Convention on the Rights of the Child. As for whether the government intends to ratify the said Convention, due to the comprehensiveness of the issues involved, it requires further review and assessment.

5. **the Convention on the Rights of Persons with Disabilities (CPD):**

(1) The disabled filing early claims for Labor Insurance old-age pensions

A. Workers who have had Labor Insurance coverage for 15 years and reached the age of 60 may file claims for full-amount old-age pensions. Those who are physically disabled and have the need to make early claims may file claims for a reduced amount of pension benefits 5 years earlier. The CLA is currently making plans to establish an assessment mechanism for the payment of disability pensions to extend the coverage of workers entitled to file disability pension claims. In the future, insured persons having been assessed by physicians as suffering work capacity impairment to a certain percentage may file their disability pension claims.

B. Labor Insurance is to provide the insured with proper protection so that they can meet their everyday needs. However, it is only one link in the social security system. The work of looking after the life of the disabled should be evaluated comprehensively with social insurance, social welfare, vocational rehabilitation, and healthcare systems all taken into consideration.

(2) When the People with Disabilities Rights Protection Act was amended in 2007, it had not only referred to the spirit of the Convention on the Rights of Persons with Disabilities, also transferred the spirit from CRPD to People with Disabilities Rights Protection Act. We prefer to implement People with Disabilities Rights Protection Act rather than to ratify the Convention on the Rights of Persons with Disabilities in the near future.

6. Since the R.O.C is not a member state of the UN, the instrument of ratification or accession cannot be deposited at the UN and therefore the elements for international treaties to become effective in the State are incomplete. To address this issue, the R.O.C has drafted the "Conclusion of Treaties Act"[1] and the "Provisional Act Governing the Incorporation of Multilateral Conventions into Domestic Laws"* to guide the practice before the R.O.C can reinstate its representation at the UN. It is expected that these Acts will provide a solution to

[1] This is translator's translation.

the issue of not being able to deposit the instruments of ratification, accession, acceptance and approval after signing international treaties. Before the two drafts are officially passed into laws and in order to keep up with the international community during this time, the R.O.C has established a task force that takes charge in selecting the approaches of incorporating international conventions into domestic laws. The task force has the responsibility to promote local implementation of international conventions and is actively doing so with the following international treaties: Convention on International Trade in Endangered Species of Wild Fauna and Flora, Vienna Convention on Consular Relations, Optional Protocol to the Vienna Convention on Consular Relations concerning Acquisition of Nationality, Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes, Vienna Convention on the Law of Treaties, United Nations Framework Convention on Climate Change, International Convention for the Suppression of the Financing of Terrorism, UN Convention Against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, UN Convention Against Corruption, and Chemical Weapons Convention. The Convention for the Protection of All Persons from Enforced Disappearance (CPED) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC) will be included in the review conducted by the task force in the future.

3) Domestic Implementation of both Covenants (preface and para.99)

According to Article 8 of the Implementation Act all levels of governmental institutions and agencies should review laws, regulations, directives and administrative measures within their functions for any revision or amendments within a period of two years after the Implementation Act entered into effect (i.e. by 10 December 2011). Please provide information about progress made and difficulties encountered in this review process.

7. In order to meet the requirement of Article 8 of the Implementation Act of both Covenants, the Ministry of Justice (MOJ) has been responsible for the review of relevant laws, regulations and administrative measures since 2009 and has collected 263 review cases, which include 219 cases submitted by various government agencies and 44 cases proposed by private organization Covenants Watch. Among these cases, 165 are relevant to laws, 49 are relevant to directives, 46 are relevant to administrative measures and 3 are relevant to policies.
8. Since the Implementation Act of both Covenants has come into force on December 10th, 2009, government authorities concerned have been actively

reviewing the laws, regulations, directives and administrative measures within their functions. By January 28th, 2013, out of the 263 cases mentioned above, 198 (75.29%) cases have been reviewed while the other 65 (24.71%) cases have not yet been reviewed as originally scheduled. Among the 65 cases, 48 are relevant to laws (22 are currently reviewed by the Legislative Yuan, 2 are studied by the Judicial Yuan, and 24 are studied by government agencies concerned), 16 are relevant to directives and 1 is relevant to administrative measures.

9. Although the agencies have submitted the revision drafts to the Legislative Yuan within a two-year period, the Legislative Yuan has not been able to finish the review process. The reason for most cases of law revision that cannot be completed as scheduled is due to the expiry of tenure of the Legislators. The authorities concerned have already re-submitted the cases to the Executive Yuan for review before passing on to the Legislative Yuan. As to the cases that are still under discussion, consensus has not yet been made due to the concern for interest of relevant entities and the authorities concerned are currently communicating and negotiating with various entities. As to the cases relevant to directives, the review process has not been completed due to the pending of the parent laws.
10. As to the cases that cannot finish the review process as scheduled, MOJ has requested the authorities concerned to propose concrete responsive measures and invited scholars and experts in the field of human rights to host a review meeting during November 14th and 30th, 2011 to discuss whether these laws and regulations meet the requirement of the two Covenants and decide whether the responsive measures proposed by the authorities concerned are appropriate and to ensure that the delay of revision would not harm the right and benefits of the people. MOJ also requested the authorities concerned to actively promote the revision of relevant laws and regulations and fulfill the protection of human rights according to Article 4 of the Implementation Act mentioned above which stipulates that governments of all levels shall meet the requirement of human right protection of the two Covenants when exercising their rights and fulfilling their responsibilities.
11. According to Article 3 of the Implementation Act for the ICCPR and the ICESCR, laws and regulations that are applicable to the two Covenants should refer to the legislation intent and the interpretation of the Human Rights Committees of the two Covenants, which should include the interpretation of the Committee on Economic Social and Cultural Rights (CESCR).

4) Human Rights Protection Committee established by the Control Yuan (para.149)

Please provide more specific information on the activities carried out by this

Committee. Does it conduct such activities only at the request of the Control Yuan or also on its own initiative? Would the Committee be entitled to investigate presumed corruption practices that adversely affect human rights?

12. Under Section 3, Article 2 of the Organic Law for Control Yuan Committees, the Control Yuan shall establish special committees if necessary (in addition to standing committees). To safeguard human rights, the Control Yuan established the Human Rights Protection Committee in 2000, following the enactment of the "Regulations for Establishing Control Yuan's Human Rights Protection Commission". It is chaired by the Vice President of the Control Yuan and consists of nine to eleven members directly appointed by the President of the Control Yuan from among incumbent Control Yuan Members.
13. Control Yuan's Human Rights Protection Commission serves to: 1) Identify and investigate cases involving violations of human rights; 2) Deliberate and advise on matters relating to human rights investigation reports; 3) Propose changes to existing human rights regulations; 4) Establish and maintain contact with human rights organizations in Taiwan and around the world; 5) Promote human rights awareness.
14. For cases of alleged corruptions that infringe upon human rights and require further examination, the Committee may form a task force by recommending or appointing on a rotational basis at least one of its sitting Members to investigate. The Members may also launch own-motion investigations of their own accord. The seven standing committees regularly inform the Committee of any human rights investigations having been reviewed and passed during their monthly committee meetings. Having selected significant cases from the above investigations, the Committee then puts together an annual report documenting important human rights investigations carried out by the Control Yuan, so as to raise public awareness of human rights protection works at different government levels.

5) Corporate responsibility relating to human rights

While the corporate sector contributes in many instances to the realization of the rights enshrined in the Covenants, there may also be corporate activities that are detrimental to the enjoyment of these rights. Examples may occur in such matters as unsafe labour conditions, restrictions on trade union rights, discrimination against female workers and migrant workers, corruptive practices. Please provide information on measures taken with regard to the role and impact of the corporate sector on the enjoyment and the realization of the rights included in the Covenants.

15. **discrimination against female workers**

(1) To reinforce maternity health protection and eliminate all forms of discrimination against women, as well as to maintain the balance between maternity protection for female workers and equality in employment, the Council of Labor Affairs, taking into consideration the development in medicine and technology, promotion of gender equality and women's labor force participation, and the

Enforce Act of Convention on the Elimination of All Forms of Discrimination against Women that had already taken effect on Jan. 1, 2012, the Council of Labor Affairs has made the decision and removed the provision on prohibition of female workers to engage in dangerous and hazardous work from the draft revision of the Labor Safety and Health Act. Meanwhile, regulations on the protection of female workers who are pregnant or have given birth less than one year ago have been added respectively and the level of danger or hazard of work female workers are allowed to do has been redefined. Employers are required to make risk assessment and control and adopt classified management measures for work entailing potential maternity health risks. For female workers who are pregnant or have given birth less than one year ago, work adjustment or change or other health protection measures must be adopted according to suggestions from physicians who have conducted fitness evaluation.

(2) The draft was already presented on Nov. 22, 2012 to the Legislative Yuan for review.

16. **unsafe labour conditions**

(1) The Labor Standards Act：The Labor Standards Act has been enacted to provide minimum standards for working conditions, protect workers' rights and interests, strengthen employee-employer relationships, and promote social and economic development. In addition to regulations on minimum wages, work hours, breaks, various types of leave, retirement, minimum compensation for occupational accidents, there are also provisions particularly stipulated for the protection of child and female workers in the said act. All workers employed by business entities to which the Labor Standards Act applies, regardless of their nationality, are protected by the act. The terms and conditions of any agreement between an employer and a worker shall not be below the minimum standards. Employers who violate any of the mandatory regulations and prohibitions shall be penalized according to related regulations.

(2) The Act of Gender Equality in Employment：

A. The Act of Gender Equality in Employment applies to people who are already employed and those applying for employment. According to Articles 7 to 11 of the Act of Gender Equality in Employment, employers shall not discriminate against applicants or employees because of their gender or sexual orientation in the course of recruitment, screening test, hiring, placement, assignment, evaluation and promotion, when organizing or providing education, training, other related activities and various welfare measures, or when making decisions regarding wages, retirement, severance and discharge from employment. However, when the work only suits a specific gender, the said regulation shall not apply. Employees who find their

employers to be in violation of the aforesaid regulation may file complaints with the local labor authority. If the violation is confirmed, the corresponding penal sanction will be imposed according to law.

B. To reinforce the awareness and knowledge of the contents of the Act of Gender Equality in Employment in various sectors, the Council of Labor Affairs has worked with local labor authorities and given presentations on gender equality in employment on an annual basis since the act took effect in 2002. Meanwhile, starting in 2009, gender equality in employment and workplace sexual harassment prevention seed teacher training workshops have been conducted each year to improve the skills and knowledge of personnel responsible for work associated with gender equality in employment. Scholars and specialists are invited to lecture on regulations regarding gender equality in employment and related practices. Those attending the courses are the personnel in charge of work related to gender equality in employment and the members of the gender equality committee in county and city governments, and the supervisors of related departments and labor union staff members of business entities. The objective is to improve the ability of related personnel to investigate and handle cases of gender discrimination when they happen

17. **union rights**：

(1) Regarding the range in which teachers are allowed to exercise their labor rights as indicated in Article 6 of the Labor Union Act, the issue was discussed on Apr. 18, 2012 in the preliminary meeting of the 20th Conference of the Human Rights Protection Subcommittee of the Executive Yuan and the decision was that a gradual approach would be adopted to revise the act. It is expected to be completed by May 20, 2016.

(2) The Council of Labor Affairs approved at the end of May 2012 to put together a team composed of scholars and specialists to revise the three major labor laws. The members will first collect related information before the first meeting is convened. Currently, they are drawing up their opinions with regard to the revision to be conducted.

18. **discrimination against migrant workers**

(1) The basic rights and interests of foreign workers are protected by labor laws and regulations during their work periods in Taiwan. All workers, local or foreign, are equal before the law and equally protect by the law. The minimum wages, work hours and other labor conditions of those employed in businesses to which the Labor Standards Act applies are protected. The Labor Insurance Act and the Employee Welfare Fund Act also provide protection of the basic human rights and labor rights of foreign workers who will not be discriminated against

because they are foreigners. For example, it is stipulated that employers are required to pay wages in full amount to foreign workers without subtracting any service fee on behalf of an employment agency or collecting loan payments for any creditor overseas; those who violated the regulation will be sanctioned on the grounds of overcharging.

(2) Business entities and private employers that hire foreign workers are required to abide by labor laws and regulations as well as the Employment Services Act and its related regulations. Business entities and private employers found to have violated any related law and regulation will be subject to fines and have their permit for recruitment or employment of foreign workers revoked, and their applications for employment of foreign workers in the future will be rejected.

19. To strengthen corporate governance and business ethics, enterprise internal and external oversight and to protect the interests of investors and employees, the Executive Yuan has amended and adopted the incorporation of “Enterprises Integrity Promotion “into " National Integrity Building Action Plan" as well issued letter to each competent agency to implement on December 28, 2012.

(1) The preceding Plan clearly expresses seven specific strategies, eleven implementation measures, performance targets and executing units. Specific strategies are as follows:

A. Enhance the corporate governance and ethics by promoting relevant measures, strengthening internal and external supervision, as well as protecting best interests of the investor and employees.

B. Promote Corporate Social Responsibility (CSR); enhance communication between enterprises and public; as well as consolidating mutual understanding of anti-corruption between enterprises and private sectors.

C. Guide and reward the enterprises to establish ethics regulation and mechanism of internal control.

D. Establish the mechanism for corporate governance, honesty and ethics assessment, so the general public and employees can supervise the corporate operation easily.

E. Enhance communication and seminar with managers and employees from international corporate and institutes to improve the factors that obstructing the competitiveness.

F. Strengthen clues excavations, evidence collections and investigations of enterprise corruptions.

G. Strengthen management supervision of government owned enterprises to promote the integrity of management.

(2) Furthermore, with a view to guiding enterprises to gradually implement the business philosophy of integrity so as to protect interests of investors and employees, the Financial Supervisory Commission has enacted rules of

“Corporate Governance Best-Practice Principles for TWSE/GTSM Listed Companies” and “Corporate Social Responsibility Best Practice Principles for TWSE/GTSM-Listed Companies” on October 4, 2002 and February 6, 2010, and amended them on November 22, 2012 and August 22, 2011, respectively.

Part II
List of Issues Relating to ICCPR and Replies from the Government of ROC (Taiwan)

【Articles 1 and 27】

1) Please explain the current situation concerning the final disposal site for low-level radioactive waste in an aboriginal region, the hotel and resort development project at the Dulan Bay and Shan-Yuan Coast of Taitung, and the "controversial" development of the Luming Hydropower Plant along Lakulaku River. In this connection, please explain why the Draft of Indigenous Land and Sea Territory Act has not been approved by the Executive Yuan. (Government Report paras. 7 & 8)

1. According to 'The Indigenous Peoples Basic Law' (Article 31), the government shall not store hazardous materials in the indigenous peoples' regions without the agreement of the indigenous peoples. In the future, when the Ministry of Economic Affairs (MOEA) holds a local referendum based on the 'Act on Sites for Establishment of Low-Level Radioactive Waste Final Disposal Facility' (Article 11), that referendum will not be approved if less than 50 percent of the votes cast are 'yes' at the indigenous township of the recommended candidate site. In addition to the aforementioned, the MOEA may obtain indigenous peoples' consent by holding a Tribe Meeting or other measures.
2. In May, 2006, the "Act on Sites for Establishment of Low Level Radioactive Waste Final Disposal Facility" became effective. In accordance with the Act, the implementing authority of site selection is the Ministry of Economic Affairs (MOEA), and Taipower is designated as Site Selection Operator to assist the MOEA. On July 3, 2012, the MOEA publicized the "Recommended Candidate Sites" in which two candidate sites, Daren Township in Taitung County and Wuchiou Township in Kinmen County. As stipulated in the Act, referendum is part of the procedure for site selection. After a candidate site is accepted by the local public through referendum, environmental impact assessment shall be conducted..
3. Luming hydro project is a run-off-river hydraulic which is located at downstream of Lakulaku River in Hsiukuluan tributaries, and will set 6 meters high weir diversion to power. The project is about 0.5 hectares in Jhuosi Aboriginal reserves, with installed capacity of 7,540 kw, less than 20,000 kw. According to the previous EIA standard, this project didn't need the implementation of the EIA. However, due to the EPA August 9, 2010 announcement, the development of hydroelectric power, in hillside construction or expansion of dams (weir), should implement the EIA. Considering the time-consuming effort, Taipower(TPC) decided to suspend the implementation.
4. At present, the progress of work is as follows:

(1) low-level radioactive waste final disposal sites: Currently, Daren Township, Taitung County is one of the candidate sites, has been announced to the public by the Ministry of Economic Affairs, and will process the referendum work.

Council of Indigenous Peoples has sent out governmentals to Ministry of Economic Affairs at July 20 2012, in accordance with the coordination meeting resolutions at 2009, the process of the referendum, priority should be given to Daren Township, if the Daren Township voting results is more than 50 percent agreed, the referendummay pass.

(2) the hotel and resort development project at Dulan Bay and Shan-Yuan Coast of Taitung:

A. About Shan-Yuan Coast case, Taitung County government through the EIA with conditions，Council of Indigenous Peoples has sent out governmentals to Taitung County government at December 12 2011,even Minister Sun Ta-chuan went to the Taitung County government and meet the county magistrate Huang Jian-ting at December 25 2012,hope this case should follow the The Indigenous Peoples Basic Law.

B. The Dulan Bay development case, the participation in EIA, Council of Indigenous Peoples always communicate cases should follow the The Indigenous Peoples Basic Law。

(3) Luming Hydropower Plant: Council of Indigenous Peoples do not handle any cases related the Luming Hydropower Plant.

(4) The Draft of Indigenous Land and Sea Territory Act:

A. Because of the impact of the current law of the government organs, the draft is highly controversial, consultation with the other government organs will take longer time, it's very difficult to control the schedule.

B. After many consultations, Council of Indigenous Peoples submitted the amended Draft again to the Executive Yuan at 13 November 2012, The Executive Yuan send the Draft back again at November 30, 2012, Council of Indigenous Peoples is active handle follow-up jobs.

2) With respect to reconstruction of the disaster-ridden areas, please explain in more detail why the Sanying Tribe in the water resource land along Duhan River rebuilt their houses after they were dismantled by the government. Also, please clarify the composition and competence of the "planned" Indigenous Peoples' Court. (Ibid., paras. 9 and 359)

5. According to Article 30, Paragraph 2 of The Indigenous Peoples Basic Law, the government may establish an indigenous peoples' court or tribunals for the purpose of protecting indigenous peoples' judicial rights. Although the indigenous peoples' court is not yet established in the consideration of the convenience for litigation and caseload, the Judicial Yuan, in the light of specialty of indigenous peoples' affairs and respecting traditional customs, cultures and values of indigenous peoples, has designated 9 District Courts, including Taiwan Taoyuan, Hsinchu, Miaoli, Nantou, Chiayi, Kaohsiung, Pingtung, Taitung and

Hualien District Courts, on October 8th, 2012 to establish the indigenous peoples' tribunals or sections to hear the civil and criminal cases concerning indigenous peoples from January 1, 2013.

3) Considering the number and diversity of foreign immigrant workers in Taiwan, please explain how their human rights are protected and remedies guaranteed if their rights are violated. (paras. 352-354)

6. To protect the rights and interests of foreign workers and provide channels for filing of complaints and corresponding remedies, the Council of Labor Affairs has set up the '1955' 24-Hour Foreign Labor Consultation and Protection Hotline, while each county or city also has created a consultation service center for foreign workers to provide consultation service and accept complaints. Foreigners can go through these channels to acquire assistance to solve their problems, including labor-management disputes with their employers, physical abuse, questions about related laws and regulations, etc.
7. To protect foreign workers from forced and unjustified repatriation by their employers, the Council of Labor Affairs has instituted an early contract termination verification mechanism. All employers and foreign workers intending to terminate their contracts before the established expiration date are required to have their contract termination verified by the local labor authority in advance. The objective is to make sure that it is the true intention of the foreign worker to terminate the contract. Meanwhile, there are temporary shelters for foreign workers to protect them from their employers. Interpreters are provided to accompany them throughout investigation procedures, whereas legal assistance and medical aid are also available. The Council of Labor Affairs has also set up a foreign worker service station at international airports to allow foreign workers to file complaints with regard to unresolved labor-management disputes or other work related issues before leaving Taiwan. The local labor competent authority will look into the matter and take necessary action to, for instance, retrieve wages owed to them from the employers or employment agencies or settle other labor-management disputes.

【Articles 2,3,4,5 and 26】

Article 2

4) Initial Report of ROC (Taiwan), Paragraph 10, states that the Legislative Yuan approved the "Enforcement Law for the Two Covenants" which carries the power of a domestic law. However, according to Paragraph 12, while most of the Covenants provisions are visible in the ROC domestic laws, complete protection of individual rights under the ICCPR has not been possible. So the questions are:

5) What is the exact status of the ICCPR in the ROC domestic legal system? In this connection, please explain the following sentence in Paragraph 13: "The Ministry of Justice is in charge of…improving regulatory and administrative measures non-compliant with the Covenant, which shall survive the two-year deadline indicated in the Enforcement Law of the Two Covenant". Please indicate if the

ICCPR is below the Constitution but above the ordinary laws. If it has the same status as the ordinary laws, can subsequent law override ICCPR provisions?

8. J.Y. Interpretation No. 329holds that the President may exercise the power to conclude treaty following the stipulation in the Constitution. The Premier and heads of ministries/agencies shall discuss and decide on, during Executive Yuan meetings, treaty proposals to be submitted to the Legislative Yuan. The legislative body then has the right to vote on the treaty. Any treaties concluded through this process shall have the same status as R.O.C laws. The Legislative Yuan finished the review on the ICCPR and the ICESCR (hereafter "the Two Covenants") on March 31, 2009. The President promulgated the "Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights" ("the Implementation Act") on April 22, 2009. The Act was ratified on May 14, 2009, and became effective on Dec 10, 2009. Article 2 of the Implementation Act stipulates: "Human rights protection provisions in the Two Covenants have domestic legal status." Therefore, the ICCPR has domestic legal status in the R.O.C.
9. As stipulated in Article 8 of the Implementation Act: "All levels of governmental institutions and agencies should review laws, regulations, directives and administrative measures within their functions according to the Two Covenants. All laws, regulations, directives and administrative measures non-compliant with the Two Covenants should be amended within two years after the Act enters into force by new laws, law amendments, law abolitions and improved administrative measures." So, in cases of incompliance of domestic legislation with the ICCPR, the legislation should be corrected. This Article indicates that when domestic laws are non-compliant with the Two Covenants, the Covenants enjoy prior application. Therefore, the ICCPR is below the Constitution but above ordinary domestic laws.

6) Please clarify the jurisdiction and competence of the Presidential Human Rights Advisory Committee, Grand Justices, courts, the Control Yuan and the Ministry of Justice. (See also Core Document, Paragraph 50.)

10. **Presidential Advisory Committee on Human Rights**：As stipulated in Item 2 of Guidelines for Establishment of the Presidential Advisory Committee on Human Rights: "The responsibilities of the Committee are to 1) promote and provide advice to the formulation of human rights policies; 2) submit the State Report on Human Rights; 3) conduct research on international human rights systems and legislation; 4) research and consult on international human rights exchanges and 5) provide consultation to the President on human rights related issues."
11. **Grand Justices**：According to the Constitution of the Republic of China and its Amendments, the Justices of the Constitutional Court （previously translated as Grand Justices）have the power to rule the following four categories of cases：

(1) Interpretation of the Constitution；

(2) Uniform Interpretation of Statutes and Regulations；

(3) Impeachment of the President and the Vice President of the Republic of China；

(4) Declaring the Dissolution of Political Parties Violation the Constitution.

12. **Courts handle adjudication**：According to the Court Organic Act, District

Courts, High Courts and the Supreme Court hear civil cases, criminal cases, administrative summary proceeding cases, other litigation and non-contentious cases stipulated by laws; High Administrative Courts and the Supreme Administrative Court are established to hear administrative cases; The Intellectual Property Court is established to hear intellectual property cases; The Juvenile and Family Court is established to hear juvenile and family cases. In principle, three instances and three levels system is adopted, and the Supreme Court and the Supreme Administrative Court are the final instance court. (See also Core Document, Paragraph 43 to 46)

13. **Control Yuan：**

(1) As stipulated in Article 90 of the Constitution: "The Control Yuan shall be the highest control organ of the State and shall exercise the powers of consent, impeachment, censure and auditing." As stipulated in Article 97 of the Constitution: "The Control Yuan may, on the basis of the investigations and resolutions of its committees, propose corrective measures and forward them to the Executive Yuan and the Ministries and Commissions concerned, directing their attention to effecting improvements. When the Control Yuan deems a public functionary in the Central Government or in a local government guilty of neglect of duty or violation of law, it may propose corrective measures or institute an impeachment. If it involves a criminal offense, the case shall be turned over to a law court." As stipulated in Article 2 of the Organic Law of the Control Yuan: "The Control Yuan shall exercise function and power as mandated by the Constitution"

(2) As stipulated in Article 2 of Guidelines for Establishment of the Committee on Human Rights Protection[2] under the Control Yuan: "The tasks of the Committee are, to A) increase exercise of the control power so as to optimize function in human rights protection and; B) research, plan and prepare for affairs related to the establishment of a human rights protection agency, at the Ministerial level, under the Control Yuan." Also, as stipulated in Article 3: "The duties of the Committee are to A) expose and motion investigation on cases of human rights violation; B) consult and provide suggestions for the Control Yuan's Investigation Report on Human Rights Protection; C) provide suggestions related to the drafting of human rights protection bills; D) contact and collect relevant information on foreign and domestic human rights groups; E) research and consult on the promotion tasks of human rights protection education and; F) other human rights protection related affairs."

[2] **This is translator's translation.**

(3) The Control Yuan is the National Ombudsman of the Republic of China (Taiwan). Pursuant to the five-power Constitution of the Republic of China, the Control holds independent powers in receiving public complaints and conducting investigations. In doing so, it supervises government agencies and civil servants at all levels. In practice, the Control Yuan partly functions as a national human rights institution, as more than fifty-percent of its investigations involve human rights issues. The ratification of ICCPR and ICESCR has provided solid grounds for the Control Yuan in carrying out its supervisory functions and to audit government agencies' compliance with the international human rights obligations.

14. **Ministry of Justice**

(1) As stipulated in Article 2 of the Organic Law of Ministry of Justice: "The duties of the Ministry are to, A) comprehensively research, plan, supervise and evaluate judiciary policies; B) research legislation formulation and consult on legislation adequacy for the Executive Yuan and its affiliated agencies; C) promote, coordinate and act as communications channel for human rights protection related affairs; D) research, formulate, supervise, and implement civil, criminal and administrative legislation; E) map out policy and formulate, guide and supervise legislation on procuratorial administrations such as criminal investigation, performance of public prosecution, and criminal execution; F) manage and supervise lawyers and forensic investigators; G) plan policy and formulate, guide and supervise legislation on justice protection measures such as protective custody, rehabilitation protection, crime victim protection, crime prevention, law-related education, legal aid and services, and litigation counseling; H) plan policy, formulate legislation, provide external consultation, and carry out international and cross-strait mutual legal assistance; I) research and development in forensic inspection, personnel training and forensic science; J) guide and supervise affiliated agencies in matters of crime investigation, administrative enforcement, anti-corruption, correction, criminal investigation, performance of public prosecution, and procuratorial administrations; K) evaluate and implement judicial personnel cultivation and training courses and; L) other legal and administrative affairs."

(2) Furthermore, the Ministry of Justice acts as the Conference Service Division for the Presidential Advisory Committee on Human Rights and consultant to Executive Yuan's Group for Promotion and Protection of Human Rights. Responsibilities of the Presidential Advisory Committee on Human Rights are as

aforementioned, whereas responsibilities for the Executive Yuan's Group for Promotion and Protection of Human Rights are to "A) conduct research on international human rights protection practices and also systems of respective countries, and promote exchange and cooperation amongst different organizations; B) research and promote the establishment of a national human rights protection agency; C) conduct research on human rights protection policies and legislation; D) negotiate and promote human rights protection measures; E) conduct research on human rights education policies and advocate human rights protection values and; F) other human rights protection related affairs."

(3) A Human Rights Task Force[3] has also been established within the Ministry of Justice; responsibilities are as follows: "A) Act as contact window for the Executive Yuan's Group for Promotion and Protection of Human Rights; B) Collect and compile human rights protection issues related to the Ministry; C) Supervise and coordinate human rights protection affairs of the Ministry; D) Integrate and divide work amongst staff on the promotion of human rights protection and; E) other human rights protection related affairs."

7) Please indicate if there has been any court's decision citing any provision of ICCPR. In this connection, please clarify the following description of Core Document, Paragraph 128: "The Judicial Yuan Interpretation No.392 by Grand Justices, prior to the enactment of the Act to Implement the Two Covenants, cited Paragraph 3, Article 9 of the ICCPR…. The reasoning of the Judicial Yuan Interpretation No.582 by Grand Justices involved citation of Subparagraph 5, Paragraph 3, Article 14 of the ICCPR…. In addition, judgments rendered by courts at all levels that have cited the Two Covenants include: The Supreme Court: Tai-Shang No.2364 (2011), Tai-Shang No.1045 (2011), Tai-Shang No.8223 (2010), Tai-Shang No.5079 (2010) And Tai-Shang No.5283 (2009); and Hualien Branch, Taiwan High Prosecutors Office: Appeal No.253 (2009)".

15.

(1) The Judicial Yuan Interpretation No.392 indicated：According to Article 9 Paragraph 3 of the International Covenant on Civil and Political Rights(herein after as ICCPR),the Judicial Yuan Interpretation No.392 indicated that the prosecutor shall not have the detention power enumerated in the Code of Criminal Procedure.

(2) The Judicial Yuan Interpretation No.582 indicated：According to Article 14

[3] **This is translator's translation.**

Subparagraph 5 Paragraph 3 of the ICCPR. The Judicial Yuan Interpretation No.582 indicated that it is the universal and fundamental right of an accused to examine a witness.

16. Courts' decisions citing Articles of the ICCPR could be categorized into 3 different types. Type A is those citing the Articles and interpretations by the Human Rights Committee in the ICCPR for clarification of the meaning and fundamental principle in existing Taiwan legal system. This type is the most common one, which cites Article 14 of the ICCPR to interpret the principle of presumption of innocence, highlight prosecutor's responsibility of proof and persuation, and dismiss appeals from prosecutors wiyj procedures. Type B is those citing the Articles of the ICCPR or general opinions of Human Rights Committee to revise existing law. For example, a Taipei district court decision cited Article 19, Paragraph 3 of the ICCPR and the content of general opinion No. 34 of the Human Rights Committee and deemed that offense against reputation and credit in Article 310 of the Criminal Code shall not be sentenced to imprisonment. Another group of examples best illustrating this type is Supreme Court decisions citing Article 6 and 14 to remand capital punishment verdicts without thoroughly conducted sentencing argument. Type C is those court decisions in which the Parties citing ICCPR in their arguments, and the courts either wrongfully deems ICCPR irrelevant, or not evade to deal with the legal issues. The amount of this type of court decisions are sharply declining. The following chart further illustrates the courts decisions mentioned in the Report.

No	Case No.	Articles in the ICCPR cited	Type	Outcome of the verdict
1	Tai-Shang No.2364 (2011)	Article 14, Paragraph 2	A	Appeal Dismissed
2	Tai-Shang No.1045 (2011)	Article 14, Paragraph 5	C	Appeal Dismissed
3	Tai-Shang No.8223 (2010)	Article 6, Paragraph 1	B	Case Remanded
4	Tai-Shang No.5079 (2010)	Article 14, Paragraph 3, subparagraph 4	B	Case Remanded
5	Tai-Shang No.5283 (2009)	Article 14, Paragraph 3, subparagraph 7	B	Case Remanded
6	Taiwan High Court, Hualien Branch, Shang-Su No.253 (2010)	Article 24, Paragraph 1	B	Appeal Dismissed

17. After searching judgments from courts at all levels, one civil case judgment Chong-Lao-Su-Zi No. 3 from Taiwan Taipei District Court in 2010 cited the contents of ICCPR. See the text of judgment as attached.
18. Administrative court, Public Functionaries Disciplinary Snactions Commission, Intellectual Property Court, abbreviated as IPC and ordinary court cited the International Covenant on Civil and Political Rights in the following decisions：

Number	Case No.	Article
1	IPC 2012 Xing-Zhi-Shang-Yi-Zi No.10 criminal case decision	Article 14, Paragraph 2
2	Public Functionaries Disciplinary Snactions Commission 2009 Jiàn–Zi No.11520 case decision	Article 14, Paragraph 3, Subparagraph 7
3	IPC 2011 Xing-Zhi-Shang-Yi-Zi No.14 criminal case decision	Article 15
4	Taiwan Taipei District Court 2008 Yi-Zi No.500 and 2010 Su-Zi No.356 criminal case decision	Article 15
5	Taipei High Administrative Court 2012 Su-Zi No.1200 case decision	Article 23, Paragraph 1

Article 3

8) Initial Report, Paragraph 16 states that the Legislative Yuan approved the "Enforcement Act of CEDAW", but it also states that, while the Executive Yuan has had the gender equality complaint box set up since 2010 to accept related complaints, there are no administrative dispositions, substantial punishments, and court decisions available yet on violations on CEDAW. So, the following questions:

9) If there has been any subsequent development, please specify.

19. Our country's gender equality complaint was set up in 2010. At present, the Executive Yuan's Department of Gender Equality is responsible for handling the complaint cases. A total of 164 complaint cases have been received as of the end of December 2012. The subjects of these cases include workplace discrimination, pregnancy discrimination, gender equality education, sexual harassment and other gender equality related topics. If a complaint is a workplace gender discrimination case, it is transferred to labor administration authorities to be handled in accordance with the Act of Gender Equality in Employment, Employment Services Act and other related regulations. If a case is related to gender equality education, then it is transferred to the Ministry of Education for handling in accordance with the Gender Equity Education Act and other related regulations. If a case is related to sexual harassment or personal safety, it is passed to the Ministry of the Interior to be handled in accordance with the Sexual Harassment Prevention Act, Domestic Violence Prevention Act, Sexual Assault Crime Prevention Act and other related regulations. For other cases related to gender equality and this subject, the competant authorities handle the cases in accordance with relevant laws and regulations within a given period. The Executive Yuan's Department of Gender Equality continually follows up on the status of complaint cases handled by competent authorities and examines if the response from the authorities is appropriate. In the future, reviews will be held to determine whether our country's current complaint mechanism is comprehensive enough and pollicisation will be strengthened so that the public knows that this complaint mechanism exists.
20. In addition, Gender Equity Education Act and Act of Gender Equality in Employment also stipulate the gender equality complaint mechanism as the

followings:

(1) Gender Equity Education Act: When the school violates regulations in this Act, the victim or his or her guardian may apply for an investigation to the competent authority supervising the school. After receiving an application or offense report, the school or competent authority shall turn over the case to its Gender Equity Education Committee within three days and may form an investigation team for investigation and handling. After the investigation is complete, the Gender Equity Education Committee shall submit a written report to its school or competent authority regarding the investigation and suggestions for handling. After receiving the aforesaid investigation report, the school or competent authority shall put forth a disposition or turn it over to the pertinent authority for a decision within two months according to this Act or pertinent laws or regulations. The school or competent authority shall notify in writing the applicant, offense-reporter and offender of its handling conclusion, facts established and grounds. The court shall consult the investigation reports provided by the Gender Equity Education Committee at different levels in establishing facts.

(2) Act of Gender Equality in Employment: When employees find out that employer contravene the stipulations of Articles 14 to 20 of the Act, they may file complaints to the local competent authorities. When they file complaints to the Central Competent Authority, the Authority shall refer the complaints to the local competent authorities after it receives the complaint or within seven days after the date it has found out the above-mentioned contraventions. Within seven days after the local competent authorities have received the complaints, they shall proceed to investigate and may mediate the matters for the both parties in accordance with their competences and authorities. The measures for handling the complaints referred to in the preceding paragraph shall be prescribed by the local competent authorities. After employees or applicants find out that employers contravene the stipulations of Articles 7 to 11, Article 13, Article 21, or Article 36 of the Act and file complaints the matter to the local competent authorities, if the employers, employees or applicants are not satisfied with the decisions made by the local competent authorities, they may apply to the Committee on Gender Equality in Employment of the Central Competent Authority for review or file an administrative complaint directly within ten days. If the employers, employees or applicants are not satisfied with the decisions made by the Committee on Gender Equality in Employment of the Central Competent Authority, they may file administrative complaints and proceed administrative lawsuits pursuant to the procedures of the Administrative Appeals Act and the Administrative Lawsuits Act. When courts or competent authorities

determines the facts of discriminatory treatments, they shall examine the investigation reports, rulings and decisions rendered by the committees on gender equality in employment.

10) How do you explain a very large percent of recent complaints about employment discrimination is based on "gender"? (See Table 9, Initial Report)

21. Equality in employment is a fundamental human right for workers as the International Labor Organization has emphasized. In both developed and developing countries, all forms of discrimination in employment are prohibited and the significance of this prohibition has gradually transcended that of conventional labor-management dispute issues. In particular, after the speed of globalization was accelerated, state power has begun to intervene in employee-employer relations that are regulated in so-called "public-interest labor laws" and laws are enacted to regulate various relations between employers and employees. Among them, the establishment of laws against discrimination in employment is the most valued, such as the regulation forbidding discrimination in employment set forth in Paragraph 1, Article 5 of the Employment Services Act in Taiwan (the article states: For the purpose of ensuring equal opportunity in employment for the people, employers are prohibited from discriminating against any job applicant or employee on the basis of race, class, language, thought, religion, political party, place of origin, place of birth, gender, gender orientation, age, marital status, appearance, facial features, disability, or past membership in any labor union.)
22. After the amendment to Paragraph 1 of Article 5 of the Employment Services Act went into effect on May 23, 2007, all recruitment and employment conducted by all government agencies, public and private enterprises and institutions, and private organizations and groups must comply with the regulation set forth in this paragraph and the protection of people's rights and interests in employment has been greatly improved. As the laws and regulations and related assessment mechanisms have gradually become complete, the CLA and its subsidiaries and local governments have stepped up the promotion work in the past years and most people are now aware of and understand the related regulations. Therefore, the number of complaints filed has gone up year after year, especially those concerning gender discrimination.

11) In civil matters, gender equality in law seems to have been gradually promoted about such issues as the choice of domicile, children's surname and marital property. Is this true with transmission of parent's nationality to children? And, how about in fact as compared with "in law"?

23. Regards the transmission of the parents' nationality to children, according to article 2 of Nationality Act that revised and promulgated on February 9, 2000, A person shall have the nationality of the Republic of China (R.O.C.)under any of the conditions provided by the following subparagraphs: (1)His/Her father or mother was a national of the R.O.C. when he/she was born. (2)He/She was born after the death of his/her father or mother, and his/her father or mother was a national of the R.O.C. at the time of death. (3)He/She was born in the territory of the R.O.C., and his/her parents can't be ascertained or both were stateless persons.

Therefore, the acquisition of our inherent nationality mining the parents lineage 'main, supplemented by jus soli. That means the child can obtain our nationality, if one of his/ her father / mother is a national of Republic of China. The real situations are consistent with the law.

12) The report under article 3 uses both expressions gender equality and gender equity . The title of the act on education reads Gender Equity Education Act. Please explain why both expressions are used. Is there any difference between gender equality and gender equity or are these terms used interchangeably.

24. Though the report under article 3 uses both expressions gender equality and gender equity, there are no differences in meaning but are different translations. "Gender Equality" is proper translation.
25. In order to implement the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to guarantee the various rights of women, our country began implementation of the Enforcement Act of Convention on the Elimination of All Forms of Discrimination against Women on January 1, 2012. Article 4 of this Act states "Upon exercising its authority, all government units shall do so in accordance with all rules and regulations regarding protection to genders and human rights specified in the Convention, eliminate gender discrimination, and actively promote the realization of gender equality." The gender equality that our country wishes to realize is substantive equality by addressing different gender's differences to solve structural inequality problems so this work does not just stop at formal equality/ equity. Our country conducts examinations to determine if regulations / administrative measures conform to the provisions of CEDAW. The examination process not only requires that administrative agencies at all levels examine laws themselves to determine if they conform to CEDAW regulations, but also requires that they submit related gender statistics to learn if the implementation results of the laws and regulations meet gender substantive equality requirements or if there are non-conforming areas that require improvement. During this kind of examination process, it is not just meaningful in that public servants at government agencies are able to study and learn about substantive equality, but our country's current gender equality conditions may be referenced during future implementation by government agencies.

Articles 2, Paragraph 1, and 26

13) Persons with Disabilities;

A NGO report (The League of Welfare Organizations for the Disabled) indicates that disabled persons are often abused by discriminatory languages or frequently protested by local communities. What specific measures are the government taking against this? In this connection, please explain the cases mentioned in Paragraph 22. In addition, how are Hansen Disease patients dealt with in ROC?

26. Lo-Sheng Sanatorium, built in 1930, is the only government-run leprosy institution which provides acute and long-term care exclusively for Hansen disease patients. Before 1962, the inhumane centralized compulsory quarantine treatment policies were adopted over a long term to treat people with Hansen's

disease, resulting in extreme discrimination against and pain suffered by the patients. The Executive Yuan apologized publicly in 2009 and expressed its desire to offer better medical care.

27. Article 82 from "Law of Protection for the rights and interests of the people with disabilities" stipulated that if the municipal and county (city) competent authorities, related welfare care facilities／institutions for people with disabilities, encounter opposition from the dwellers in any pattern whatever when provide residence arrangement service for people with disabilities in a community, the competent municipal and county(city) governments shall provide assistance to expel the opposition.

14) Foreign Workers and their Families;

ROC has been inviting many foreign workers to cope with the shortage of its labor force, and Paragraph 53 and Table 11 show that large numbers of them switch their employers rather often and the government has set up a fund to take care of marital immigrants and their families (Paragraphs 50 to 56). In this connection, while Paragraph 27 states that one discrimination case each in 2009, 2010 and 2011 was handled by a Review Panel of the National Immigration Agency, the number looks too small. Therefore, more information is required with regard to their actual situation and the related problems, including long working hours.

28. In Taiwan, the supplementarity principle is adopted to bring in only enough foreign workers to meet the needs in areas where the domestic labor force is inadequate. The accumulated time of work in Taiwan for each foreign worker may not exceed twelve years. To protect the rights and interests and job security of foreign workers, it is regulated that foreign workers who become unemployed before the contract expires for causes not attributable to them (such as the employer or the care receiver has deceased or emigrated; the boat they work on was seized, sank or is being repaired, and they cannot continue to work; the factory where they work has shut down or suspended operation; the employer has not paid their wages as stipulated in the contract and the contract has been terminated, or other causes not attributed to the workers), with the approval of the Council of Labor Affairs, may change employers. For example, when a foreign worker hired as a domestic caregiver and the care receiver has recovered or deceased (more than 10,000 people each year) and the employment contract is terminated because the caregiver is no longer needed, the foreign worker may apply for change of employers according to related regulations so that the rights and interests of the worker can be protected. The success rate of change of workers has been over 90%.
29. The 27th paragraph in the National Report on Human Rights is about the review by the National Immigration Agency of complaints filed by Taiwanese citizens. It does not concern workers.
30. Current policies of the ROC do not allow people from the Mainland Area to work in Taiwan; therefore no relevant information or data can be provided.

Article 4

15) Paragraph 73 states that Constitutional emergency mechanisms include the

Martial Law and emergency decrees. Please explain how to guarantee the non-derogable rights.

31. According to 《Martial Law》Article 11

(1) paragraph VIII, "In area of martial, force investigation is allowed in suspicious house, boat, building; But intentional damage is not allowed."

(2) Paragraph X, "For imminent reason, damage building of people is allowed; but damages shall be returned opportunely."

(3) Paragraph XI, "In area of martial, people's food, source, goods are able to supply to military, investigation and enrollment are allowed, transportation is able to ban in necessary, when food, source, goods need to be levy, damages shall be returned opportunely."

32. Article 2 of the Additional Articles of the Constitution of the Republic of China stipulates: "To avert imminent danger affecting the security of the State or of the people or to cope with any serious financial or economic crisis, the President may, upon resolution of the Executive Yuan Council, issue emergency decrees and take all necessary measures…" Since the R.O.C has signed and ratified the two Covenants and Article 2 of the Implementation Act stipulates: "Human rights protection provisions in the two Covenants have domestic legal status", the R.O.C shall abide by Article 4 of the ICCPR: "…the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin" and "No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision".

【Article 6】

15) In para 94, the State Report affirms that the „death penalty is brutal from the perspectives of humanity and the Covenant". Nevertheless, policies on how to abolish the death penalty "are yet to take shape". Which efforts have been undertaken by the current Government of Taiwan to abolish the death penalty and to reduce the number of death sentences and to at least introduce a moratorium in accordance with various UNGA resolutions? Why were the meetings of the Research and Implementation Group on Gradual Abolishment of Death Penalty unsuccessful?

33. Taiwan has taken the following measures to abrogate and reduce death penalty:

(1) Revise the related substantive laws to reduce death convictions. At present, Taiwan has no absolute death penalty for a crime, i.e., no crime is punished solely by death.

(2) Restrict the number of criminals subjected to death penaltys. No criminals under the age of 18 or over the age of 80 can be sentenced to death or life imprisonment.

(3) Currently death penalty in the substantive law is under review. Unless the crime committed is extremely heinous, the provision for death penalty is deleted.

(4) Raise the parole threshold for life imprisonment and the combined punishment for multiple offenses to allow the judge to consider a specific case and decide whether he or she can substitute life imprisonment for death penalty.

(5) Study to amend the law to ensure the procedural correctness of a death penalty. This includes provisions that a definitive death sentence must be approved unanimously by five judges of the Supreme Court, that a death sentence is subjected to full defense, and that the justification for stopping death execution is provided for in the law.

(6) Obligate the prosecutor to be extremely scrupulous before requesting a death sentence.

(7) Canvas as many opinions as possible to forge a consensus.

(8) Strengthen the protection for victims.

(9) Promote amended justice.

(10) Intensify crime investigation and increase the crime solution rate to deter the offenses and improve peace and order.

(11) Entrench the concept of human rights through energetic advocacy.

34. Set strict criteria and efforts to establish due procedure for sentencing death penalty.

(1) The Supreme Court now follows criteria set by Article 6 of the ICCPR, recognizing that sentence of death may be imposed only for the most serious crimes. The sentencing hearing for crimes punishable by death penalty shall be held separately from the hearing deciding the guilt of the defendant. For the Supreme Court to determine whether to uphold the verdict sentencing death penalty, it has heard oral argument in 3 cases as of December 2012.

(2) According to statistics provided by Statistics Division of Judicial Yuan, the percentage for the number of inmates with confirmed death penalty verdicts in all inmates convicted of offenses punishable by death penalty is below 0.68％ since 2007, with a few exceptions: 1.37% in 2009(the number of inmates with confirmed death penalty verdicts is 13 , while the number for all inmates convicted of offenses punishable by death penalty is 946), 1.33％ in 2011(the number of inmates with confirmed death penalty verdicts is 16 , while the number for all inmates convicted of offenses punishable by death penalty is 1203).As of year 2006, the percentage is 1.48%(the number of inmates with confirmed death penalty verdicts is 11 , while the number for all inmates

convicted of offenses punishable by death penalty is 744).The statistics data shows that the criteria for sentencing death penalty is strict and cautious.

(3) Judicial Yuan has completed the amendment draft of Article 388 and Article 29 of Code of Criminal Procedure. Under the proposed new scheme, mandatory defense is now applied to the third instance, and the Supreme Court is required to appoint a public defender or an attorney to defend for the defendant if no defense attorney has been retained. According to Article 289 of the same draft, oral argument for sentencing shall be conducted after the evidence check and trail of fact and law are completed in all trial cases.

(4) It is on the Judicial Yuan agenda to further enhance the due process for sentencing death penalty, and to ensure that only the most serious crimes may be sentenced death sentence.

35. The remedial procedures and legal rules of the death row inmates：

(1) Retrial：Article 420 of the Code of Criminal Procedure：

A. After a guilty judgment has become final, a motion for retrial may be filed for interests of the convicted under the following circumstances:

1. Where exhibits on which the original judgment is based have been proven fabricated, or altered;
2. Where material testimony, expert opinion, or interpretation on which the original judgment is based has been proven false;
3. Where the convicted has been proven maliciously accused.
4. Where judgment by a common court or special court on which the original judgment is based on has been changed in a final judgment;
5. If a judge participating in the original judgment, judgment before the trial or investigations before the judgment, or prosecutor participating in the investigation or the prosecution commits offenses in his/her post out of the case and the offenses have been proved; or he/she neglect the duties out of the case and has been “administrative punished” but the behaviors are sufficient to affect the original judgment.
6. Where the discovery of new evidence is sufficient to show that the convicted shall be acquitted, exempt from prosecution, remitted the punishment, or sentenced an offense less serious than the one in the original judgment.

B. Under the manifestation of situations of the preceding Paragraph, sub-paragraph 1 to 3 and 5, after the judgment is final, a motion for retrial can be filed if insufficient evidence is not the reason for not able to begin the criminal procedure or continue the trial.

(2) Extraordinary appeal：Article 441 of the Code of Criminal Procedure：After a judgment is final, if the trial of a case is found to be in contravention of laws, Prosecutor General of the Supreme Prosecutors Office may file an extraordinary appeal to the Supreme Court.

(3) Petition for the Interpretation of Constitution：Article 5 of the Constitutional Interpretation Procedure Act：

A. The grounds on which the petitions for interpretation of the Constitution may be made are as follows :

1. When a government agency, in carrying out its function and duty, has doubt about the meanings of a constitutional provision; or, when a government agency disputes with other agencies in the application of a constitutional provision; or, when a government agency has questions on the constitutionality of a statute or regulation at issue.
2. When an individual, a legal entity, or a political party, whose constitutional right was infringed upon and remedies provided by law for such infringement had been exhausted, has questions on the constitutionality of the statute or regulation relied thereupon by the court of last resort in its final judgment; or
3. When one-third of the Legislators or more have doubt about the meanings of a constitutional provision governing their functions and duties, or question on the constitutionality of a statute at issue, and have therefor initiated a petition.

B. When the Supreme Court or the Supreme Administrative Court opines in good conscience that the statute or regulation at issue before court is in conflict with the Constitution, the court may adjourn the proceedings sua sponte and petition the Justices to interpret the Constitution.

C. Petitions that do not meet the aforementioned requirements shall be dismissed accordingly.

(4) According to the Amnesty Act, the death row inmates have the right to apply for pardon or commutation of sentence.

36. The reviewing and moratorium of the execution of death sentences

(1) Article 465 of the Code of Criminal Procedure：The highest judicial authority may order to suspend the execution if it is found the one whom death penalty is pronounced is insane. The highest judicial authority may order to suspend the execution of a sentence of capital punishment on a pregnant woman before she delivers. Unless ordered by the highest judicial authority, suspension on capital punishment pursuant to the preceding 2 paragraphs may not be resumed after the subject recovers or delivers.

(2) The MOJ created the Guidelines for Reviewing the Execution of Death

Sentences, so that the strictest standards are followed in death penalty cases and human rights are protected. In accordance with Article 2 of the Guidelines, when the Supreme Prosecutor's Office receives a death penalty case from the Supreme Court, it shall confirm that prosecutors, defendants and criminal defense lawyers have received the court's verdict. It shall then submit the verdict to the MOJ after it has confirmed that there are no reasons for retrial or extraordinary appeal and that there are no relevant issues as stipulated in the Amnesty Act and Article 465 of the Code of Criminal Procedure. If defendants have applied for a retrial, have made an extraordinary appeal, or have applied for an interpretation by the Grand Justices of the Judicial Yuan, the Supreme Prosecutor's Office shall not submit the death penalty cases to the MOJ when these processes are still ongoing. Even if applications for retrial, extraordinary appeals or applications for an interpretation from the Grand Justices of the Judicial Yuan are rejected, the death sentence cannot be carried out if the defendant applies for retrial, makes an extraordinary appeal or applies for an interpretation from the Grand Justices of the Judicial Yuan based on a different reason.

(3) When the MOJ receives a death penalty case form the Supreme Prosecutor's Office, in accordance with Article 3 of the Guidelines it will still need to review whether or not there are any conditions stipulated in Article 2. The MOJ adopts a rigorous and pragmatic approach when reviewing death penalty cases. If legal procedures on behalf of the defendant are still ongoing, the MOJ shall suspend the implementation of the death penalty.

37. Whether Taiwan should suspend the execution of death penalty

(1) Abrogation of death penalty and suspension of death penalty execution are different subjects and, therefore, should be discussed separately. Abrogation of death penalty may be discussed rationally in forums and subject to public debates to reach maximum consensus through dialogs. As for a definitive death sentence, it has to be implemented by the prosecutor according to the Code of Criminal Procedure unless it is otherwise provided for in the law. Before death penalty is abrogated, the Ministry of Justice (MOJ) has no reason to violate the law by not implementing definitive death sentences.

(2) Our country is ruled by law, and acting in accordance with the law is the basic principle of government in a country ruled by law. This is also the consistent principle of MOJ administration. According to the Code of Criminal Procedure, a judge shall mete out a sentence according to the law while the implementation of the sentence is the responsibility of the prosecutor. Consequently, to implement a definitive death sentence in accordance with the law is not only a respect to the judge but also the fulfillment of duty by a prosecutor. This is to say that unless the law gives the reasons for suspending the implementation of a definitive death

sentences, death sentences should be implemented in accordance with the law.

38. The cause for the repeated abortion of the meeting of the death penalty abrogation group：The group takes the form of a committee and can meet on if more than half of the members (14 persons) are to be present. When the group came into being, the support unit surveyed is members on the time of a meeting and selected a time when the maximum number of member would be able to attend and notified in advance the members of the meeting dates in a year in the hope that they would be able to attend. If fewer than half of the members agreed to be present, the meeting could not be held.

16) According to para 83, the family is not informed before the convict on death row is executed. What are the reasons for this practice?

39. When the final verdict of a death penalty is handed down, it is not enforced immediately. Before it is enforced, the inmate on the death row is treated like all other inmates in term of guard, education, medical care as well as their rights to visits by family and friends. Besides, we offer him or her psychological lessons in consideration of his or her psychological conditions during the waiting period. In that period we have never deprived them of their opportunity for visits by their family. As for the enforcement procedure for death penalty, we have established the Key Points for Enforcing Death Penalty, which provides that we must make sure whether said inmate has applied for interpretation by Grand Justices, retrial, extraordinary appeal, and whether he or she has lunacy or pregnancy in case of a female inmate, but when the decision of execution is approved, it must be carried out immediately. As the time between approval and execution is very short, we can only inform the inmate about the decision. We should not inform their family either because of the disruption of contact for a long time or because of the need to avoid controversies a leak of information may cause.

17) In para 85, the State Report refers to the method of execution of organ donors. Are organ donations by death row prisoners legal in Taiwan? What are the incentives for death row prisoners to donate organs? Can you provide statistics about the number of death row prisoners having donated organs before their execution?

40. Organ donation is a right that any citizen may exercise; however, in principle, organ donations from inmates on death row are limited by the related provisions of the Human Organ Transplantation Act, the Implementation Regulations of the Human Organ Transplantation Act, the Regulations Governing Permission from a Living Donor for Liver Donation for Transplantation, and the Funeral Subsidy Standards of Organ Donation Transplant Donors.
41. The government, as a rule, neither encourages, voluntarily solicits, nor promotes organ donations from inmates of correctional facilities in the country. However, where an organ donation decision is made from the free will of a prison inmate and the surrounding circumstances meet the governing legal or regulatory requirements, the correctional facility administration will not deprive the inmate's right to donate organs. As for inmates in death row voluntarily expressing the intent to donate organs for transplantation, the correctional facility merely assists the inmate in filing and completing the preliminary procedures, such as

comparative tests, etc. Majority of death-row inmates applying for organ donation make them to achieve some peace of mind and to satisfy a desire for atonement. No concrete rewards are granted to the donations; moreover, no attempts are made to urge or lure them into making donations. A donation application is born from the free will of an inmate.

42. To date, there was only one case of organ donation from a death-row inmate before execution of the death sentence in Taiwan. The older sister of the inmate suffered from a dysfunctional kidney and urgently needed kidney transplantation; on the other hand, the inmate voluntarily conveyed the intent to donate his kidney to his sister. After determining consistency of inmate's request with established laws and regulations and confirming kinship through the kinship test, in light of a respect for life and humanitarian considerations, request was evaluated and approved in accordance with the laws governing organ donations from prison inmate donors.
43. Our country do not initiate the death row prisoners to donate organs. But to respect their wishes and human rights of the death row prisoners, when they are without trading organs and being forced. If they donate organs voluntarily to express to contribute to the community and in accordance with the conditions of organ donation in the meantime, we will help them according to the human rights and ethical norms. According to Article 5 of the Human Organ Transplantation Act, the physician who make the death determination, shall not participate in the removal of the organ and transplantation. Death row prisoners who want to donate their organs need to fill out a format of the letter of consent in accordance with the Article 6 of the Human Organ Transplantation Act. After execution in accordance with Article 5 of the Regulations of the execution, death is determinated by forensic medical experts and prosecutors. Then they are moved to the hospital. Because we do not distinguish the identity of the donors, we have no the statistics about the number of the death row prisoners who has donated organs.

18) What are the detention conditions of death row prisoners? Are they kept under stricter conditions than other prisoners regarding constraints (shackles etc.), solitary confinement, rights of correspondence, visits etc.?

44. On the matter of the prison cell environment, death-row inmates are held in prison cells similar to those holding prison inmates. The sector is equipped with electric fans and exhaust fans.
45. No restraints are used on inmates on death row; however, if an inmate manifests a tendency to escape, commit suicide, resort to violence, or disrupt peace and order in the facility, restraints would be applied for his own safety and protection. Cases like these have been quite rare.
46. As a rule, visitations and communication are limited to next of kin and closest relatives; however, under special circumstances, we allow the inmates to receive letters or visits from other parties. Normal frequency of visits is once a week, and normal duration of each visit is thirty minutes; however, where circumstances require, visitation frequency and period may be increased and prolonged.
47. Generally, no stricter rules or limitations are imposed on inmates on death row.

19) Can persons with mental or intellectual disabilities be sentenced to death?

Have there been such cases in the past?

48. According to Article 63 of Criminal Code of Republic of China, death penalty or life imprisonment shall not be imposed on an offender who is under the age of eighteen or over the age of eighty.
49. Article 19 of Criminal Code of Republic of China stipulates that "An offense is not punishable if it is committed by a person who is mentally disorder or defects and, as a result, is unable or less able to judge his act or lack the ability to act according to his judgment. The punishment may be reduced for an offense committed for the reasons mentioned in the preceding paragraph or as a result of obvious reduction in the ability of judgment. Provisions prescribed in the two preceding paragraphs shall not apply to a person who intentionally brings the handicaps or defects." Sentence for defendants with mental or intellectual impairment may be commuted mutatis mutantis. Combined with Article 6 paragraph 2 of the ICCPR, only the most serious crime may be imposed death sentence. Once the court finds the defendant mentally disorder or defects, death penalty will not be imposed. There is no such case death penalty is sentenced.
50. The major issue might be that the parties argue whether the defendant is mentally disorder or defects. This fact is to be determined by the court with the help of expert witness.

20) Do death row prisoners in Taiwan enjoy the full right to seek pardon, amnesty or commutation of the sentence in accordance with Article 6(4) CCPR? Have the nine convicts executed in 2010 and 2011 as well as the six convicts executed in 2012 submitted petitions for amnesty, pardon or commutation to President Ma Ying-jeou? If so, had these petitions been answered before their executions?

51. The Amnesty Act does not limit the applicant's qualification for amnesty. All inmates on the death row have the legal right to beg the president for amnesty, but whether the president agrees to use his right depends on his judgment of the situation and factors as a whole.
52. If the president decides to remit an inmate, he would inform the MOJ in writing to let MOJ follow on the procedure in accordance with the provisions of Article 7 of the Amnesty Act. But MOJ has never been noted that the president has agreed to make an amnesty before the moment of execution. Under such circumstances, the MOJ has to go ahead to carry out the execution in accordance with the law.

21) In para 95, the State Report states that the actual conditions on abortion and the number of abortions "may require precise investigations and more proactive solutions". What is meant by more proactive solutions? What is the policy of the present government in relation to abortion?

53. There are three ways of collecting world abortion data: initiative reporting, researches conducted on the service providers or women, insurance or hospital statistic reporting, etc. Moreover, legal law and regulations are required to mandate initiative reporting, and the data collected should be used for reporting legal abortion. The relevant web pages and references showed that countries or regions including UK, Scandinavia, Canada, and etc are currently mandated initiative reporting, and the purposes are to establish the basic data of abortion for

the long term follow-up trace and comparison. However, incomplete or miss reporting, incomplete data collected, inconsistent data quality or low credibility on data were often appeared. Therefore, other ways of obtaining information were required to readjust and rectify the data, especially the mandatory report. It could only provide the estimates of the legal abortion, but not data or cases of illegal abortion.

54. Estimates of abortions: there is no women pregnancy or abortion notification system in Taiwan due to privacy issue, therefore it is hard to know the actual data relating to abortions. However, there are researches or surveys on women, for example, 10th Family Fertility Survey by Bureau of Health Promotion (BHP) in 2008, health insurance notification data from the Bureau of National Health Insurance and the usage of restricted drugs, RU486 by Food and Drug Administration. Compared the result from BHP fertility survey in 2008 and the latter two data, it was estimated that about 70 thousand abortions in Taiwan every year.
55. Present government policy in relation to abortion: Induced abortion may be conducted for a pregnant woman, subject to her own accord, if she has been diagnosed or proven to meet any one of the following:

(1) She or her spouse acquires genetic, infectious or psychiatric disease detrimental to reproductive health.
(2) Anyone within the fourth degree of kin relative of herself or her spouse acquires a genetic disease detrimental to reproductive health.
(3) By medical consideration, pregnancy or delivery is may cause life threatening risk or detrimental to her physical and mental health.
(4) By medical consideration, risk of teratogenesis may present for the fetus.
(5) Pregnancy as a result of being raped, lured into sex intercourse or in sex intercourse with a man prohibited to lawfully marry her.
(6) Pregnancy or childbirth is likely to affect her mental health or family life.

56. 2012 April 5 corrected Genetic Health Law Enforcement Rules Article 13 of amendment draft "of this Law Article 9.1 6th paragraph are given due to pregnancy or childbirth, will affect their mental health or family life shall not fetal gender differences as identified reason. "of regulations. Avoid selective abortions due to the sex of the fetus.

【Articles 7 and 10】

22) Is there a separate crime of torture under the Criminal Code of Taiwan? If not, is the Government planning to criminalize torture?

57. Article 126 of the Criminal Code provides: A public official charged with the custody, or conveyance of prisoners who commits an act of violence or cruelty to a prisoner shall be sentenced to imprisonment for no less than one year but not more than seven years. (Paragraph 1)If death results from the commission of the offense, the offender shall be sentenced to life imprisonment or with imprisonment for not less than seven years; if aggravated injury results, the offender shall be sentenced to imprisonment for not less than three years but not more than ten years. (Paragraph 2)
58. According to 《International Covenant on Civil and Political Rights》article 7, "Prohibits torture and cruel, inhuman or degrading punishment." Torture" in

《Criminal Code of Armed Forces》, such as Article 44 "A Leader tortures followers shall be punished with imprisonment for not less than three years and not more than ten years. If death result from the commission of an offence specified in the preceding paragraph, the offender shall be punished with imprisonment for life or for not less than seven years. If serious bodily harm results, the offender shall be punished with imprisonment for not less than five years and not more than twelve years. A led official or a senior soldier who with intent torture armed services shall be punished with imprisonment not more than five years. If death results from the commission of an offence specified in the preceding paragraph, the offender shall be punished with imprisonment for life or for not less than seven years. If serious bodily harm results, the offender shall be punished with imprisonment for not less than three years and not more than ten years. A Led official who harbors an armed service who commits an offence specified in one of the paragraphs I or II of the preceding article shall be punished with imprisonment for not more than three years, detention, or a fine of not more than 300,000 Yuan may be imposed." "Torture" in this article denotes "It is not necessary of violation of cruel or inhuman, Only to be enough to make people feel cruel abstractly."

23) In para 100, the State Report refers to "allegations and cases of extraction of confessions by means of torture, criminal dismemberment, corporal punishment, and abuse against people with mental disorders". Can you specify such cases? Have the perpetrators been brought to justice? Have the victims received adequate reparation for the harm suffered?

59. No cases of confessions extorted through torture or Prisoner abuse complaints had been received, neither had there been complaints regarding corporal punishment or abuse on inmates with mental illnesses.
60. Patients with severe mental illness often occur hurting or self-injurious behavior due to without insight of diseases or lack of proper medical treatment access. Hence, it's necessary to assist patients with severe mental illness in obtaining medical services through the public power. Mental Health Act was revised and implemented on July 4, 1997., and the biggest change is the system of mandatory treatment of patients with severe mental illness, including extremely restriction on the standard of compulsory hospitalization, clearly regulating applying procedure and the mechanism of the permission of the compulsory hospitalization, the method of the compulsory treatment, the period of the compulsory hospitalization, the access of applying relief toward the court, and punishment rules when violating the Act etc. not only to further protect the patients' right, but also to comply with the United Nation's principle of protecting patients with mental disorders. As the issue dealing with the accusation of abusing a mental-handicapped person mentioned in this report, after scrutinizing the whole issue, abusing that mental-handicapped person was not the fact, for the procedure that person was arranged to accept the compulsory hospitalization was in compliance with the regulations, including applying procedure and being viewed and allowed. In view of Mental Health Act's regulations of compulsory hospitalization is related to the restriction of people's personal freedom, therefore, the competent administrative authority will continuously view and review of the current examination procedures and operations, allow the parties to fully present

their views in the examination procedures and forte<http://tw.rd.yahoo.com/_ylt=A3eg.83Otv9QZ24AYZDhbB4J/SIG=12nmnl0gr/EXP=1358964558/**http%3a/tw.dictionary.yahoo.com/dictionary%3fp=forte%26docid=1039624> ly inform the parties of the right of applying relief. Besides, 039624> we4> will refer to the Convention's interpretation of the general opinions and view that the relevant binding personal freedom is whether to comply with the Convention's norms or not.

61. Under Article 6 of the Regulations for Evaluating Teacher Performance in Public Schools and Article 7 of the Performance Assessment Regulations for Principals of Public Schools for Grades K-12, educators who administer corporal punishment should receive a reprimand, record a minor or severe demerit, or receive other due punishment. An educator involved in a serious offence will be considered incompetent and disqualified from teaching under Article 14 of the Teachers' Act. In 2011, as many as 109 teachers nationwide received punishment for corporal punishment and undue discipline. Between 2006 and 2011, five state compensation claims were approved.
62. Our Military law agency has promoting and imposing right safeguard in military as possible. For past 10 years, there was only one case about a public official maltreats an offender. Following this case is from Northern Region Military Detention Center, November 2002, Corrections Sergeant Yen and Corrections Sergeant Shi force victim Goa smokes three cigarettes in same time, then injuring body of victim. Defendants are accused with Code of Criminal Article 126 "A public official charged with the custody, conveyance, or detention of prisoners who commits an act of violence or cruelty to a prisoner" and punished imprisonment for one year and two mouths, and punishes may be suspended for two years. These actors have been punished. And questions about victim recover the damages; this responsibility is not belonging to Military law agency, so Ministry of National Defense does not retain these dates.

24) In para 103, the State Report states that neither corrective institutions nor police supervisory authorities had received any complaints of torture from 2006 to 2011. Are these complaints procedures effective and do prisoners and detainees in police custody enjoy effective access to such procedures without fear of reprisals? The CW Shadow Report (p 49) comments in this respect that there are doubts as to whether there have not been any cases of illegal treatment. By way of example, it refers to the treatment of the Taipei prisoner Chen Chin-yi in 2010, which has led to corrective action by the Control Yuan against the Taipei Prison. Did Chen Chin-yi receive adequate reparation for the harm suffered and have the responsible prison officers been brought to justice? When are shackles used in prison? When is the use of shackles mandatory? Are death row prisoners shackled? Have there been other similar cases of ill-treatment of prisoners which have not been included in the report because the victims had not filed an official complaint?

63. On December 16, 2009, the Ministry of Justice issued instructions to all correctional facilities for the implementation of a plan for the improvement of discipline and enhancement of administration performance" in the hope of establishing accessible complaints channels for prison inmates; such as: (1) The

respective disciplinary teams were requested to conduct an evaluation of the living and work conditions of inmates at least once in every three months, thereby providing inmates a chance to voice their opinions. Moreover, correctional facilities should follow up the processing of the opinions presented by inmates during the meetings and announce the processing results. (2) Correctional facilities were requested to set up at least one opinion box in each sector; moreover, boxes were installed on places easily accessible to inmates where inmates may drop their opinion in secrecy; e.g., inside bathrooms, etc. Boxes were locked and designed such that it would be impossible to view box contents from the outside. Furthermore, an administration staff member holding the position of secretary or higher has been assigned to open and check the boxes at least once a week. Treatment of each opinion is recorded and the treatment and control measures are tracked. (3) A complaint processing team was organized as regulated. Moreover, inmates were informed to file an appeal within the regulated ten-day appeal period if they would be dissatisfied with the treatment or complaint processing results. Complaints processing measures include the registration of complaints, recording of meeting sessions, issuance of notification letters advising inmates of evaluation results, inmate's signing record for acknowledgement of acceptance, and reporting of matter to the supervisory authority. (4) Correctional facilities are not entitled to deny or limit under any circumstances the inmates' rights to acquire petition forms. (5) Prison administration personnel are requested to see to the immediate and proper processing of reports or applications filed by inmates through the normal procedures without undue pressure, arbitrary rejection, or arbitrary amendment of the related treatment procedure. To date, correctional facilities have established diverse complaint processing channels. Furthermore, a total of 94 cases, 106 cases, and 80 cases of complaints had been processed by the various correctional facilities in the years 2009, 2010, and 2011, respectively. No voices or complaints expressing concern or receiving retaliatory action had been heard or received from inmates during and after the investigation of complaints.

64. The Control Yuan holds sufficient investigation powers and administrative resources. It has investigated many cases involving human rights violation. Human rights groups or the public may lodge a complaint with the Control Yuan should they discover any government malfeasance or nonfeasance conducive to human rights infringement. Once receiving the complaint, the Control Yuan will assess its jurisdiction for the case before launching an investigation or taking other necessary measures. Aside from receiving public complaints, Control Yuan Members can conduct own-motion investigations into alleged human rights violations and any deficiencies within the public sector. The case of Chen Jing-Yi specified in Question 24 is an example of an investigation following a complaint by the person concerned. Control Yuan's investigation has led to proposition of corrective measures towards Taipei Prison and letters issued to the Ministry of Justice and the Executive Yuan urging for review and rectification.
65. As regards the correction cases, Chen Chin-Yi has filed an application for the state compensation, and the first instance verdict ruled out compensation; however, contesting decision of the court, inmate Chen filed an appeal; case is currently under litigation. Furthermore, disciplinary actions taken by Taipei Prison authority included an official warning issued to the Security Section Chief, Mr. Lee Chin-Te and a reprimand each to the on-duty officers Chan Chao-Nung and Kuo Yung-Kai.

66. Article 22 of the Prison Act stipulates that "Where an inmate manifests a tendency to escape, commit suicide, become violent, or commits acts disturbing peace and order in the facility, instruments of restraint may be used, or the inmate may be incarcerated in a pacification ward." Hence, the correctional facility may only apply the instruments of restraint to inmates manifesting tendencies to escape, commit suicide, become violent, or committing acts disturbing peace and order in the facility. However, no case had been reported that instruments of restraint were regularly used on death-row inmates.
67. On the question regarding other inmates suffering improper treatment but cases are not included in the national report since inmates failed to file an official complaint, pursuant to Article 8 Paragraph 2 of the Guidelines for the Inspection of the Correctional Facilities of the Agency of Corrections (MOJ), "an inspection officer is required to institute the following acts during the implementation of his/her inspection rounds: (2) Meet or interview inmates or other concerned parties and related parties." The inspection officer of the Agency of Corrections (MOJ) may meet and interview inmates while conducting his/her inspection around the correctional facilities pursuant to the regulations, thereby providing inmates a channel through which inmates may submit their complaints or opinions. From our understanding of the situation, no inmate had encountered any improper treatment but did not file an official complaint.

25) Have there been any cases or complaints of excessive use of force by the police which may amount to cruel, inhuman or degrading treatment?

68. There are no records of excessive use of force by the police which may amount to cruel, inhuman or degrading treatment.
69. In order to prevent the officers use unlawful means torture to extracting confessions, the National Police Agency, Ministry of Interior promulgated "Directions governing recording and videotaping during Police Investigations". It required that all the process of questioning have to be recorded, or videotaped if necessary. Video recording should be used throughout the questioning during any of the following circumstances:

(1) Serious case which attract the society's attention;

(2) Controversial case;

(3) Requested by officers involved in investigation who thinks it is necessary.

26) In para. 102, the State Report explains that confessions extracted by improper means (including torture) shall not be admitted as evidence. In this respect, the CW Shadow Report refers to the cases of the Su Chien-ho trio (pp 47 and 48), whose torture had been clearly established and who were nevertheless convicted and to the well-known case of Chiou Ho-shun, who had spent already 23 years in detention before his death sentence was finally certified by the Judicial Juan in July 2011 despite the fact that his confession was extracted by torture (see also shadow report at pp 33 and 55 et seq.). Which actions does the Government intend to undertake to provide these persons with an adequate remedy and reparation for the harm suffered? Are there other cases of convictions based on

evidence extracted by torture?

70.

(1) Criminal Compensation Act stipulates the procedure and elements for claiming criminal compensation. Take Su Chien-Ho's case for example, he could file a suit to claim for everyday he has been incarcerated, including days detained and served before he was found innocent. The amount of compensation for every day his freedom deprived ranges from NT.3,000 to 5,000. The amount granted will be subject to Judge's discretion. Taiwan High Court, which found him innocent, has the jurisdiction. The amount the three innocent claim amounts to NT$61,650,000, and NT$20,550,000 for each one.

(2) The fact that confession was extracted by torture will certainly influence the outcome of judge's discretion on the compensation. According to Article 8 of Criminal Compensation Act, the illegality of the behavior of law enforcement is a one of the determinant factor judges have to take into account deciding the amount for compensation. Another factor is whether the defendant is culpable to the wrongful conviction.

71. Are there any cases the defendant is convicted on the basis of confession extracted from torture?

(1) Chiang Kuo-ching Case. Chiang Kuo-Ching (江國慶), who was serving in the air force in 1996, was found guilty after a month-long investigation and sentenced to death after a girl, surnamed Hsieh (謝), was found dead in an air force base in Taipei. Chiang was charged with raping and killing Hsieh on Sept. 12, 1996, trialed in military court, and executed on Aug. 13 the following year.

(2) 15 years later, Investigation was reopened and investigators reviewed material evidence in the case, including fingerprints, a bloody palm print and DNA from a pubic hair found on the girl's right thigh.

(3) They compared that evidence with the prints and DNA of soldiers serving in the air force at the time, which eventually led to the conclusion that Chiang was wrongfully convicted and found the real offender, another air force serviceman, Hsu Jung-chou (許榮洲), whose DNA and palm print matched those left at the scene of the crime.

(4) According to the report by Control Yuan, Chiang was imprisoned and asked leading questions in a 37-hour-long interrogation session. Chiang wrote in notes he kept while in prison that he was threatened with an electric baton, exposed to strong lights and forced to undergo physical activities all night during questioning. Chiang's mother claimed the compensation for NT 103,185,000, the highest amount ever.

27) In para 108, the State Report admits that there are presently no adequate laws

implementing the principle of non-refoulement. Have there been recent cases of deportation of aliens to countries in which they faced a serious risk of torture? If so, which actions has the Government taken to provide reparation to the victims? Are legislative changes planned to bring the law of Taiwan in conformity with the principle of non-refoulement derived from Article 7 CCPR?

72. There have not been any relevant cases about foreigners being deported out of the country to any other countries which might have cruel torture up to now.

28) In para 110, the State Report states that an amendment of the Educational Fundamental Act of 2006 had been promulgated "to prevent students from any corporal punishment that results in physical and mental harm". Does this mean that corporal punishment which does not result in physical or mental harm is still permitted in Taiwanese schools? Which forms of corporal punishment are permitted and/or practiced in Taiwan in other environments, such as in the military?

73. To reinforce the prohibition of corporal punishment stipulated by the Educational Fundamental Act, the MOE promulgated Guidelines for School Establishment of Regulations for Teachers Counseling and Student Discipline. As defined in Point 4, Paragraph 4 of the Guidelines, unlawful punishment includes corporal punishment, slandering, insulting in public, extortion, and physical or mental abuse. Corporal punishment, as defined in Point 4, Paragraph 5, refers to the physical punishment that involves inflicting physical or mental pain for the purpose of discipline by the teacher, the wrongdoing student, or a third person. The types include beating, whipping, slapping, striking the hand, buttocks, or other body part, forcing the student to slap himself/herself or slap another student, perform a split squat jump, half squat, frog jump, rabbit jump, or duck walk, or kneel down, lift heavy objects overhead, stand on one leg, or perform other sustained physical movements. Corporal punishment is banned and in Point 42, it is stipulated that when a teacher administers undue punishment to students, he or she will face corresponding administrative punishment based on the level of seriousness. A severe offence will lead to disqualification from teaching under the Teachers' Act or Act of Governing the Appointment of Educators. These regulations are enacted to ensure students' rights.
74. According to "Act of Military Education" Article 2, "Military Education" is a part of whole national education system. Ministry of National Defense as a competent authority follows concerning acts of education and receives instruction by Ministry of Education. "Act of Military Education" draws up the act of graduates of Military school and makes this act as a basic legal source of acts for every military school. These acts which about rewards, punishments and appeals are used to safeguard the rights of Military students.
75. Our ministry also published "Direction on Relieving Sexual-bullied Sexual Harassment and Sexual Assault for Military School" in 5 October 2012 to draw up rules about school security, education, social interaction for military students to avoid school violation.

29) The CW Shadow Report (pp 51 et seq.) refers to grave infringement on the

health rights of detainees and mentions several cases in this respect. Do the conditions in Taiwanese prisons and other detention facilities, and the medical treatment of detainees in particular, conform to the prohibition of inhuman and degrading treatment and punishment in Article 7 CCPR and to the right of detainees under Article 10 CCPR to be treated with humanity and dignity? If there were violations of these human rights of detainees, did the victims receive adequate reparation and have the perpetrators been brought to justice?

76. Majority of the inmates held in Taiwan's correctional facilities today enjoy the same National Health Insurance coverage as the ordinary citizen and thus, may avail of medical care and services of Bureau of National Health Insurance (BNHI) contracted hospitals. Prison incarceration is never a ground for depriving inmates of their rights to medical care and treatment; hence, prison administration measures are in compliance with the provisions of Article 7 and Article 10 of the *International Covenant on Civil and Political Rights*.
77. Torture, cruelty, inhumane or derogatory treatment or punishment of correctional facility inmates have stopped becoming a practice in Taiwan for a good number of years, and in the event of such a case, matter is treated according to the provisions of Taiwan's *Criminal La*w. Where it is determined that a crime is committed, the victim may demand for compensation from the agency or department to which the perpetrator belongs under the provisions of the *State Compensation Act.* The perpetrator shall be subject to criminal penalty, and the perpetrator's agency is entitled to claim compensation against the perpetrator.
78. Based on the provisions of Prison Act and Detention Act, the Ministry of Justice have rights and responsibilities to prisons' and detainees' health and medical treatment. However, to improve the medical conditions of inmates in correctional institutions, health authorities will comply with prison's needs to assist and improve medical and health matters within the correctional institution. Competent health authority will supervise the health and medical affairs of correctional institutions regularly to ensure the medical treatment and medical human rights of inmates.

30) According to the US State Department Report 2011, prisons in Taiwan operated at 122.2 percent of designed capacity. The CW Shadow Report speaks of chronic overcrowding and a "deleterious detention environment that violates the stipulations of Article 10(1)" CCPR (pp 93 et seq., 99 and 105). Para 146 of the State Report also admits that the "issue of crowdedness at jails is an urgent problem". Which measures have been taken or are envisaged by the Government of Taiwan to address the problem of overcrowded prisons?

79. Based on the official statistics of the Agency of Corrections, as of yearend 1998, the total inmate population of correctional facilities amounted to 48,326 inmates; that is, population exceeded normal capacity by 7,754 inmates, or 16%. As of January 24, 2013, total inmate population of correctional facilities reached 54,593 inmates; that is, population exceeded normal capacity by 10,653 inmates, or 19.51%. Despite the construction of 30 new correctional facilities had been constructed for relocation, expansion, or restructuring purposes in the interim period, facility could not keep up with the growth of inmate population, which

increased by 6,267 inmates (or a growth rate of 12.97%) in the interim.

80. In an effort to resolve this overcapacity holding problem, the AOC enhanced implementing the diversion treatment (such as, suspended prosecution, short-term penalty to social labor services, suspended sentence, and commutation of sentence to fines) of the Front-door Policies of the prosecution and judicial system and the parole system and flexible prison transfer of the Backdoor Policies of the correctional system. Moreover, the AOC studied and proposed a ten-year plan for the improvement of prison facilities, and through the plan, AOC reviewed the feasible factors, such as regional holding capacity requirement, prison cell classification, land acquisition difficulty, public reaction, and financial planning, and based on which implemented the facility expansion, relocation, renovation and construction plans in phases. To date, construction plans currently under way or under planning are the Taichung Women's Prison Expansion Plan, the Taipei Prison expansion plan and the Ilan Prison expansion plan, etc. The AOC shall also promoted the relocation plans for the Changhua Detention Center, the Taipei Detention Center, the Hsinchu Prison, Taoyuan Prison facilities and the new construction plan of the 2nd Taipei Prison. The total budget is estimated at NT$15,391,799,000. The successful completion of these projects shall increase the holding capacity of correctional facilities by 10,427 inmates and help alleviate the current overcrowding problems in many areas.

31) Para 150 of the State Report states that "Article 38 of the Detention Act is unspecific about the treatment of detained defendants" …and " is against the Covenant and presumption of innocence". Can you please explain what this means and what measures are envisaged by the Government of Taiwan to address this problem?

81. A defendant of a criminal case placed under detention shall receive a limitation of his/her freedom and the corresponding essential basic rights in the period of incarceration for the fulfillment of the required incarceration objectives and maintenance of peace and order in the facility; however, in light of the principle of presumption of innocence, the detained defendant is entitled to the rights of protection which is in principle the same as those enjoyed by an ordinary citizen. Moreover, the detained defendant has entitlements not available to incarcerated convicts, such as the civil rights, political and economic rights, right to use cultural resources, right for personality development, information rights, privacy rights, right to uphold reputation, freedom of religion, and other basic human right entitlements of an ordinary citizen. Despite the fact that "detention" and "execution in prison" are by nature two different types of incarceration, under Article 38 of the existing *Detention Act*, the provisions of the Prison Act still apply mutatis mutandis, quite a violation of the principles assuring the freedom and human rights of individuals.
82. The *Detention Act* is the basic law governing the treatment of criminal case defendants under detention and an important legal instrument safeguarding the rights of a criminal case defendant and maintaining the smooth facilitation of litigation proceedings. However, in the six decades following its enactment on January 19, 1946 and its implementation on June 10, 1947, no major amendment had been made on its provisions despite the huge changes in the nation's political environment, social sentiment, and world trends. Today, the detention policies

and national criminal jurisdiction of democratic countries are exercised under the vigilant scrutiny of human rights protection watchdogs; hence the current *Detention Act* is undergoing an overall evaluation and examination and heading for a major amendment in face of changes in the nation's detention policies and practices and the current human right protection requirements.

83. Regarding the *Bill for the Amendment of the Detention Act* of the Ministry of Justice, the bill was forwarded to the reading of the Legislative Yuan on July 15, 2010; unfortunately, bill amendment failed to reach completion before the end of the term of the 7th Legislative Yuan Assembly. The bill was resubmitted to the Legislative Yuan on May 29, 2012 and is currently under the deliberation of the 8th Legislative Yuan Assembly. Before the Dentention Act has not been amended, the Ministry of Justice has notified correctional facilities that Article 38 of the Dentention Act, part favorable to the defendant, shall apply mutatis mutandis for the Prison Act, while part unfavorable to the defendant, shall not apply mutatis mutandis for the Prison Act. In addition, when whether the situation is favorable or not is not clear, the correctional facilities should report the Agency of Correction, MOJ for approval.

32) The CW Shadow Report alleges that there is "no clear regulation to segregate juvenile offenders from adult inmates", in particular in drug rehabilitation facilities (pp 96 et seq. and 104). Which measures are envisaged to comply with the respective provisions in Article 10(2) and (3) CCPR?

84. Regulations concerning the separate detention for juvenile and adult defendants are stipulated in Juvenile Delinquency Act (Article 26, Paragraph 6 of Article 26-2, Paragraph 2 of Article 71), and these regulations correspond with Article 10, Paragraph 2 and 3 of ICCPR. Besides, relevant regulations are also stipulated in Detention Act, Prison Act, and Act of Execution of Rehabilitation Treatment. Relevant Articles are as follows:

(1) Juvenile Delinquency Act

Article 26	**(Order for Custody or Detention)** **The juvenile court may pronounce the following measures by ruling when necessary:** **1. Order the custody to the juvenile's statutory agent, parents, closest relatives, a person who currently protects the juvenile, or other proper institution, organization, or individual; and may hand the juvenile to a juvenile investigator for consulting before the case closes;** **2. Order to send a juvenile to a juvenile detention center; provided that it is limited to where the juvenile cannot be ordered for custody or an order for custody is obviously improper, and that the detention is necessary.**
Article 26- 2	(Period of Detention) **The organization of a juvenile detention center shall be stipulated by laws.**
Article 71	(Restrictions on Detention) **A juvenile defendant shall be detained in a juvenile detention center; once**

	reaching 20 years of age, he/she shall be send to a detention center.

(2) Detention Act

Article 3	A defendant who has not completed the eighteenth years of age shall be detained separately with others.

(3) Prison Act

Article 3	An inmate who is under eighteen years old shall be accommodated in juvenile correctional institutions. When an inmate has become over the eighteenth year of age; moreover, the remnant term of sentence is less than three months, the inmate may be accommodated in juvenile correctional institutions until his sentence is expired. For educational reason, an inmate who has completed the eighteenth but not yet reached his twenty-three years of his age may be accommodated in juvenile correctional institutions until the stage of education is over. The establishment of juvenile correctional institutions and enforcement of correctional education is to be drawn up by related laws.

(4) Act of Execution of Rehabilitation Treatment

Article 5	Delinquents under observation or rehabilitation shall be detained in a drug abstention and rehabilitation center for execution of rehabilitation treatment. For juvenile delinquents, the juvenile court shall decide other proper locations for execution of the rehabilitation treatment. Where the drug abstention and rehabilitation center is an affiliated facility of a detention center or juvenile detention house, the detention area of the juvenile delinquents receiving rehabilitation shall be separated from that of other defendants or juveniles. Strict gender segregation shall be implemented in the drug abstention and rehabilitation center.

85. Under the provisions of Article 3 of the *Prison Act*, an inmate under the age of 18 years should be incarcerated in a juvenile correctional facility. The AOC had likewise established juvenile detention houses, juvenile correctional schools and juvenile reform schools for the incarceration of juvenile inmates serving different types of sentences for varying types of treatments. Under Article 5 of the Act of Execution of Rehabilitation Treatment, delinquents under observation or rehabilitation shall be detained in a drug abstention and rehabilitation center for execution of rehabilitation treatment. For juvenile delinquents, the juvenile court

shall decide other proper locations for execution of the rehabilitation treatment. Where the drug abstention and rehabilitation center is an affiliated facility of a detention center or juvenile detention house, the detention area of the juvenile delinquents receiving rehabilitation shall be separated from that of other defendants or juveniles. It is therefore apparent that distinctive laws have been established to separate the governance of adult and juvenile delinquents.

86. Moreover, for the optimization of the welfare of juvenile delinquents, effective from October 1, 2011, the government started construction of a centralized correctional facility with segregated sectors for juvenile delinquents in the western region of the country. The facility will be equipped with a detention center, and facility will be run through a sectional treatment system. Furthermore, to realize the proper supervision of the law observance practices of the respective correctional facilities, the respective jurisdictional courts and prosecutors offices regularly assign inspectors to inspect the correctional facilities within their areas of jurisdictions and prepare the pertaining inspection reports. To date, no violations of the *International Covenant on Civil and Political Rights* had been noted.

33) According to the US State Department Report 2011, more than 100.000 cases of domestic violence were reported in 2011 in Taiwan, and 2.469 persons were convicted for this crime, usually to less than six months in prison. Which measures, in addition to criminal prosecution of perpetrators and protection orders to victims, does the Government of Taiwan take to reduce the widespread problem of domestic violence?

87. The Ministry of the Interior proactively promotes three levels of prevention. (1) Primary prevention: In order to encourage people to report within the local communities, promotion of the protection hotline 113 is reinforced through newspapers, TV, radio, and the Internet, among other communication platforms. From 2007 to 2011, promotional audio and video clips aired approximately 220 million times. (2) Secondary prevention: Reporting mechanisms have been improved, The 113 hotline received a total of 1,720,344 calls in 2011. (3) Tertiary prevention: Crisis management mechanisms have been put in place to strengthen personal safety of the victim and enhance processes used to deal with the perpetrator. Various subsidy standards for victims have been established. Individual protection centers are given assistance in providing victims with emergency rescue, medical care, medical examinations, and collection of evidence, emergency relocation, psychological therapy and legal consultation. Governments at the special municipality, city, and county levels provide various forms of protection and support to victims in accordance with the Domestic Violence Prevention Act. A total of 2,852,541 cases of domestic violence were processed from 2006 to 2011, among which 624,834 were men and 2,227,707 were women. The total value of support and assistance reached NT$1.56 billion.

88.

(1) The National Police Agency enhanced the police forces on the education and training of the domestic violence prevention .The cases of suspected domestic violence were reported legally to the local domestic violence and sexual assault

prevention center by the police. The local domestic violence and sexual assault prevention center should assess whether to open a case or through the social worker's special assistance to solve the domestic problem.

(2) The National Police Agency would deal legally with the cases of domestic violence and violation of protection order.

【Article 8】

34) Para 120 of the State Report explains that hard labour is the "alternative punishment when the criminal is unable to pay the fine". Which authorities decide to impose hard labour? For which type of criminal offences (e.g. crimes, misdemeanors, petty offences) may hard labour be applied? How is hard labour defined in Taiwanese law?

89. Commuting a sentence to labors shall be decided by the prosecutor. If the inmate refuses to accept the decision, he or she may declare his or her objection to the court.
90. Commuting a sentence to labors is not restricted by the nature of the crime committed. It is applied to those who are punished by the court to pay fines but they cannot afford to pay.
91. In practice, commuting a sentence to fines is right another form of imprisonment implementation.

35) Para 115 of the State Report refers to problems under the business-education cooperation projects, and the CW Shadow Report refers to student apprentices as "slave labor" (p 62) and recommends, inter alia, that the work day of the student apprentices should be limited to eight hours. Does the Government of Taiwan agree with this recommendation? Which other measures are envisaged to reduce the risk of exploiting student apprentices as "slave labor"?

92. Cooperative Education in High Schools and Co-op Students Rights Protection Law is enacted in hopes of strengthening business-education cooperation and ensuring the rights of student apprentices. The Law, with an advanced standing in the authority hierarchy, aims to specify the obligations and rights of student apprentices, schools, and companies and to help optimize the development of the apprenticeship mechanism. The Law was adopted by the Legislative Yuan on December 24, 2012 and its enforcement became effective as of the date of promulgation by Presidential order, January 2, 2013, Ref. Hua Zong Yi Yi Zi No. 10100290761. The Law is expected to create a better apprenticeship system to ensure the rights of the student apprentices on top of what has been provided by the Labor Standards Act.
93. The fourth chapter of the Law provides regulations governing the rights of student apprentices. As for training hours, Article 24 provides the following:

    Student apprentices shall not work more than 8 hours every day and the working hours per two weeks shall not be greater than 80 hours. Working between 8 p.m.

and 6 a.m. is prohibited

(1) Student apprentices shall have a 30-minute break every 4 training hours.

(2) Student apprentices shall have one day off at least every 7 days.

(3) Student apprentices shall have the entitlement to public holidays stipulated in the Labor Standards Act.

(4) Female apprentices may take a one day menstrual leave each month when having difficulty in training during the menstrual period.

94. As different industries and businesses have varying needs arising from operation modes, seasons, and localities, the apprenticeship companies may apply to competent authorities for special apprenticeship hours. The following requirements shall be met:

(1) Student apprentices shall be at least 16 years of age.

(2) The company shall provide the necessary safe and sanitary facilities.

(3) If there is no means of public transport available, the company shall provide means of transport or accommodation.

(4) Although special apprenticeship hours may be contracted, working between 10 p.m. and 6 a.m. is still prohibited.

(5) The total hours at work (including training and breaks) shall not be greater than 12 hours per day.

36) In para 116, the State Report admits that violations of rights of alien workers "have never stopped". In its 2011 Report, Amnesty International states: "Migrant workers in Taiwan faced multiple abuses of their rights, including the right to transfer between employers and to form unions. Harsh and discriminatory working conditions, and exorbitant brokers' fees contributed to large numbers leaving their original employer and becoming undocumented. The CW Shadow Report recommends (p 74) that the Council of Labour Affairs (CLA) should severely penalize those employers that confiscate the documents and valuables of their employees, putting into practice the regulation stated in the Employment Services Act (ESA). Does the Government of Taiwan agree with this recommendation? Which other measures are envisaged to address the slavery-like exploitation of migrant workers?

95. According to Article 42 of the Employment Services Act, use of foreign labor must be done with the protection of the right to employment of the ROC citizens, social stability, and the stability of hiring foreign workers taken into consideration. Therefore, in Articles 53 and 59 of the same act, it is stipulated that when foreign workers lose their employment due to causes not attributable to them, with the approval of the central competent authority, they may change employers or work. To improve the employer change mechanism, the Council of Labor Affairs set up in 2008 a foreign worker-employer matching information platform to increase transparency in change of employers for foreign workers. Employers and foreign workers are now able to find the right match through the

platform. On the other hand, change of employers can also be carried out through trilateral or bilateral arrangements, meaning that the original employer, the foreign worker and a qualified new employer can consult with one another to reach agreement and the new employer applies to the Council of Labor Affairs for permission to hire the foreign worker, or when the Council of Labor Affairs has terminated the employment permit and approved the foreign worker to change employers due to unlawful conduct of the original employer or causes not attributable to the worker, the foreign worker and a qualified new employer have reached agreement and the new employer applies to the Council of Labor Affairs for permission to hire the worker. Therefore, as described above, foreign workers do have the freedom to change employers to a certain extent. Meanwhile, due to the current regulation that foreign workers are disallowed to change employers in principle, foreign workers encountering employee-employer disputes sometimes choose to escape and become difficult to track down. In the future, taking in to consideration the rights and interests of both the employee and the employer as well as the principle of not increasing the total number of foreign workers in the country, the Council of Labor Affairs will refer to the circumstances in which workers may terminate the contract without giving advance notice as set forth in Article 14 of the Labor Standards Act and approve applications for change of employers from foreign workers when there are problems attributable to the employer but not serious enough for the competent authority to revoke the employment permit.

96. Regarding enforcing the regulation in the Employment Services Act of imposing severe sanctions on employers who withhold the identification documents and belongings of their employees, as the rights and status of foreign workers and their employers are unequal, if an employer demands to take in custody the identification document, work permit and other proof documents of a foreign worker, the worker often finds it impossible to refuse while it is also difficult for local labor authorities to initiate an investigation with nothing to start with. Hence, the Council of Labor Affairs has been working on feasible approaches to revise the related regulations in the Employment Services Act to forbid employers from keeping the identification documents and other proof papers of their employees to protect the right of workers to guard their own papers; those violating the regulation will be sanctioned according to law. However, when there are legitimate reasons for an employer to keep the identification papers of job applicants or employees, such as the employer being delegated by a job applicant or employee to apply for passport extension or renewal or resident certificate renewal, the regulation will not apply. The Executive Yuan already convened the "Meeting for the Review of the Partial Amendment to the Employment Services Act" with related ministries and councils and local governments to deliberate on the draft of partial amendment to the Employment Services Act.

37) In para 116(3), the State Report states that for "alien workers engaged in domestic work, there are no applicable requirements under the LSA at the moment". The CW Shadow Report adds that according to statistics from the CLA, "42.4% of all migrant workers working in the home do not get any holidays or rest days in a given year" (p 66). The Amnesty International Report 2011 states: "Domestic workers are not protected by the Labor Standards Law, and are

particularly vulnerable to sexual harassment, inadequately paid overtime and poor living conditions" (p 316). The Amnesty International Report 2012 adds that domestic migrant workers and care-givers were often forced to work without adequate rest (p 329). Which measures of the Government of Taiwan are planned to prevent slavery-like practices relating to domestic migrant workers? Has there been any progress in adopting the "Labor Protection Act for Domestic Workers" mentioned in para 116(3) of the report?

97. At present, the regulations in the Labor Standards Act regarding minimum wages, work hours, leave, and etc. do not apply to domestic workers. The wages, work hours and other labor conditions of foreign domestic workers in Taiwan are established through negotiation between the foreign worker and the employer before the worker enters the country. According to Article 27-2 of the Regulations on the Permission and Administration of the Employment of Foreign Workers (hereinafter referred to as the RPAEFW), when checking the expenses accrued for a foreign national to enter the country to work and his or her wages, the local competent authority is required to inspect the information registered in the affidavit of wages turned in within three days after the worker's arrival in Taiwan to be verified by the authorities in order to make sure that no alterations disadvantageous to the foreign worker have been made. In other words, once the labor contract is signed, whether in Taiwan or overseas, the contents may not in contradiction with the clauses set forth in the affidavit that has been verified by the competent authority in Taiwan. Employers found to have appointed an employed foreign worker to engage in work that is not within the sphere of the permit in violation of Subparagraph 3, Article 57 of the Employment Services Act either through complaints filed by their foreign workers or inspections by the authorities, the competent authority may impose on such employers a fine no less than NT$30,000 and no more than NT$150,000 in accordance with Article 68 of the same act and at the same time order them to improve within a specified period. With employers failing to improve within the specified period and found by the local government to have violated the aforesaid regulation again, the Council of Labor Affairs, in addition to fine imposition again, will act according to Subparagraph 3, Article 72 of the Employment Services Act and revoke the recruitment and employment permits.
98. As for the prohibition of employers from forcing foreign workers to do work not specified in the contract, it is already set forth in Subparagraph 7, Article 57 of the Employment Services Act: "(Employers may not) exert coercion, threat, or any other illegal means upon the employed foreign worker(s) to force him/her/them to engage in work contrary to his/her/their free will." With those violating the regulation, the competent authority will apply Subparagraph 2, Article 72 of the same act as well as Point 12 of the "Criteria for the Decision of Revocation of Recruitment and Employment Permits of Type-B Foreign Workers' Employers in Violation of Article 72 of the Employment Services Act and reduce the number of foreign workers such employers are permitted to recruit and employed by five persons for every worker to whom the violation has been made.
99. To prevent foreign workers from being forced to perform work outside the range specified in the permit and unable to file complaints, the Council of labor Affairs has set up service stations at airports and pamphlets carrying information on

related laws and regulations, the 24-hour toll-free hotline, and approaches to seek assistance when falling prey to human traffickers are distributed to foreign workers when they arrive in the country.

100. To protect the rights of and ensure acceptable working conditions for domestic workers, the Council has invited organizations from laborers and employers, scholars and other government agencies for a good number of rounds of discussions before formulating the Draft of Labor Protection Act for Domestic Workers for further reviews by the Executive Yuan. The abovementioned draft had been put for discussions through two review meetings convened by the Executive Yuan and reasonably revised by the Council based on the conclusions of above review meetings. The revised draft has consequently been submitted to the Executive Yuan for new rounds of reviews on September 21, 2012, regarding which the Executive Yuan has delivered official documentation on January 22, 2013 to the Council, demanding opinions from the outside circles shall be sought and a consensus shall be achieved. Hence the Council will continue engaging discussions with outer fields so as to seek a consensus and working practically toward the legalization of Labor Protection Act for Domestic Workers.

【Article 9】

38) Para 140 of the State Report explains that a "total of 7.655 illegal aliens were placed in major NIA temporary shelters in 2011…. Those who disagree with the placement decision may file a petition with the NIA, and those who do not agree with the petition decision may file for administrative remedy." This regime of administrative detention of foreign nationals is strongly criticized by the CW Shadow Report as violating the right to a "speedy court hearing" in Article 9(3) CCPR (p 81) and the right to habeas corpus in Article 9(4) CCPR (p 82). Article 9(4) requires that anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that "court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful". How long does it until an illegal alien in Taiwan may challenge his or her detention by the National Immigration Agency (NIA) before an independent court? What measures are envisaged to bring this situation in line with the requirements of habeas corpus under Article 9(4) CCPR?

101. According to the regulation of Administrative Appeal Act, an illegal alien in Taiwan may challenge his or her detention to the National Immigration Agency within 30 days after the following day of the expiration date of detention. The adjudication should be within 3 months after the appeal is received.

102. Anyone who wishes to challenge the detention can apply for appeal to the Administrative Court after the process of the adjudication by the National Immigration Agency is released.

103. Administrative appeal is heard by Administrative Court and is observe the right to habeas corpus in Article 9(4).

104. Article 38, Paragraph 3 of Immigration Act stipulates that " Any detainee or his/her spouse, lineal relative, legal representative, or sibling may file a petition

against a detention decision within seven (7) days from the start of the detention to the National Immigration Agency." However, this is only for agency self-review. For filing for a administrative remedy, the plaintiff will have to file administrative appeal first. That will take at least 1 month. Another fast track to seek judicial intervention is to seek a court order to suspend the enforcement. Yet cases approved by the court are very few in practice.

105. As for the writs of Habeas Corpus, it is not applicable to foreigners or mainlanders placed in NIA shelters. According the dominating opinion, the writs of Habeas Corpus is only applicable in detention or arrest for criminal causes.

106. The constitutionality of Article 38 of Immigration law and existing practice is being deliberated by Grand Justices. Judicial Yuan just issued Interpretation No.708 on February 6th 2013, declaring that Article 38 of Immigration Act is in contradiction with the Due Process of Law and the Protection of personal freedom implicit in Article 8 of the Constitution and shall become invalid no later than two years since the issuance of this Interpretation. The holding of Grand Justices in Interpretation 708 could be summarized as follows: (1) The placement of aliens waiting to be deported is a serious interference with personal freedom. The procedure to make the placement decision shall satisfy Due Process of Law required by Article 8 of the Constitution. However, since the nature and its purpose are different from criminal procedure, the standard could be different from the way how criminal defendants are treated. (2) Since the purpose of placement of aliens is deportation, a reasonable length of placement allowing the NIA to complete the process is necessary. To this extent, it is constitutional for NIA to make the temporary placement decision. (3) Time limit for temporary placement is to be determined accordingly. Based on the statistics provided by NIA, the length of temporary placement shall not exceed 15 days. The temporarily placed aliens may file a petition against the placement decision to the court. When the placed alien does so , NIA shall submit the petition to the court for review within 24 hours , and the remedy provided by court shall be efficient and without delay. Aliens shall be informed the placement decision and the above mentioned rights to judicial review in the language his or she is familiar with. (4) When it is necessary to prolong the placement period beyond 15 days, this decision shall be made by the court so as to conforming to the Due Process of Law under Article 8 of the Constitution.

107. Following the issuance of Judicial Yuan Interpretation 708, Immigration Law and relevant regulations will be amended accordingly to meet the standard of Article 9, Paragraph 3 and 4 of the ICCPR.

39) The CW Shadow Report (p 83) states that aliens without valid travel documents (e.g. stateless persons) and PRC nationals can be held indefinitely in administrative detention. Is this true? If so, what measures are envisaged to address this situation and bring it in line with the requirements of Article 9 CCPR?

108. Based on the Article 38 of the Immigration Act, the length of detention is up to 120 days （Starting from December 9th 2011）under any legal circumstances.

109. According to the current Administrative detent mechanism, the infinite length of detention is no longer exists, which is observe with the requirements of Article 9 CCPR.

40) Article 9(3) CCPR stipulates that it shall "not be the general rule that persons awaiting trial shall be detained in custody". The CW Shadow Report (pp 83 et seq.) provides evidence that for persons accused of a serious crime, remand detention seems to be the rule in Taiwan since prosecutors and courts consider that with regard to these persons risk of flight is very high. Is this observation correct? If so, which measures are envisaged by the Government of Taiwan to bring the system of pre-trial detention in line with the requirements of Article 9(3) CCPR?

110. According to Grand Justice Interpretation No.665, accused of serious crime shall not be the sole reason to detain the defendant. The fact that the defendant accused of serious crime can not presume risk of flee. To clarify this point, Judicial Yuan has proposed a draft of Article 101, Paragraph 1, Subparagraph 3, which is now pending in the legislative Yuan for deliberation.

111. According to statistics in year 2012, District Courts detained 8017 people in total, while the number of those detained solely under the reason of being accused of serious crime is 3373. The approval rate is 42.07% among all detention order filed by the prosecutor. It is not 100 percent true for stating that "for persons accused of a serious crime, remand detention seems to be the rule in Taiwan."

112. In an explanatory letter bearing Grand Justice Interpretation No.665, the Judicial Yuan said: "The detention provided for in Article 101, Paragraph 1, Subparagraph 3 of the Code of Criminal Procedure refers to a defendant whose crime is culpable for death penalty, life imprisonment or, in the lightest case, an imprisonment for no less than 5 years. As the expected punishment is severe, the defendant would interfere with the pursuit of crime in an effort to dodge the punishment. As a result, the trial procedure may lengthen, putting at risk the nation's exercise of the power of rendering punishment. This provision is mainly for ensuring the smooth legal proceedings and the fulfillment of the nation's power for rendering punishment. The intention is deemed proper because it is designed to maintain social order and to promote major public interest. Furthermore, in view of the spirit of the Constitution for safeguarding physical freedom of the people, when a defendant is seriously suspected of having violated the foregoing legal provisions, there is ample ground to believe that the defendant is at risk of escape and obliterating, forging, or modifying evidence or colluding and coordinating with accomplices or witnesses. Therefore it is not sufficient to ensure the smooth pursuit, trial and implementation of sentence if the law court orders to put the defendant on bail, in trusted custody or restrict his or her place of residence. Unless the defendant is detained, it is hard to satisfy the primary conditions of the article for ensuring the smooth going-on of pursuit, trial and sentence execution."

113. After the foregoing explanatory letter was published, the Ministry of Justice sent a circular letter to various Prosecutors Offices to ask them bringing the letter to the knowledge of all prosecutors so that when they apply to the court for detaining a defendant suspected of having committed a crime that is culpable for a punishment of at least five years' imprisonment, they, in addition to presenting the evidence of felony, must also, based on Judicial Yuan explanation, provide related evidence and reasons that make them to believe the defendant is indeed at risk of escape, obliterating, counterfeiting, forging evidence or colluding and coordinating with accomplices and witnesses.

41) The CW Shadow Report also alleges that there are no clear time limits for court review proceedings required by Article 9(3) CCPR (p 85). Which measures are intended to address this problem?

114. Time needed for court review proceedings varies from case to case. Criminal Speedy Trial Act was promulgated on May 19, 2010 to address this issue. The Act is enacted to ensure fair, legitimate and speedy criminal trials so as to protect human rights and the public interest. Article 7 stipulates that the maximum length of a trial is 8 years. Where no final judgment is made after eight years from the date the case is pending in the first instance, except when a not guilty verdict shall be rendered, the court may, upon the request of the accused, reduce the sentence at discretion if the court concludes that the accused right to a speedy trial is gravely violated so that remedies shall be provided. Article 8 further limits the prosecutor's right to appeal. A case shall not be appealed to the Supreme Court if it had been handled for more than six years from the date the case is pending in the first instance and after being remanded by the Supreme Court for the third time, the court of second instance upholds the not-guilty judgment rendered by the first instance or its not guilty judgment has been upheld by courts of the same instance for more than twice before remanding.

42) The CW Shadow Report further alleges that the application of Article 5 of the Criminal Speedy Trial Act, which stipulates a maximum period of eight years of detention without a final judgment being reached, violates the "reasonable time limit" required by Article 9(3) CCPR? Which measures are envisaged by the Government of Taiwan to address this problem?

115. Article 5, Paragraph 1 of the Criminal Speedy Trial Act stipulates that where the accused is in detention, the court shall give priority to the trial of the case and conduct continuous trials at the shortest time limit. As to the limit for the extension of detention, for ordinary cases, Article 108, Paragraph 5 of Code of Criminal Procedure stipulates that "Extension of the period of detention, during the investigation stage, may not exceed two months, and only one extension is allowed; during the trial stage, each extension may not exceed two months; if the maximum punishment for the offense charged does not exceed imprisonment of ten years, extension may be allowed three times during the first instance and the second instance, and one time only during the third instance ;for serious crimes, article 5 paragraph 2 of criminal speedy trial act stipulates that "Where the accused has committed an offense punishable with the death penalty, life imprisonment, or a minimum punishment of imprisonment for no less than ten years, the extension of detention may be allowed 6 times during the first instance and the second instance respectively, and one time only during the third instance."
116. Article 108, Paragraph 1 of the same Act stipulates that detention of an accused may not exceed two months during the stage of investigation and three months during the stage of trial.
117. The above laws combined constitute commands requiring judges perform their duty to ensure fair, legitimate and speedy criminal trials so as to protect human rights and the public interest.

43) The CW Shadow Report also alleges that the administrative detention regimes under the Act of Punishment of the Armed Forces, the Communicable Disease Control Act, the Child and Youth Sexual Transaction Prevention Act and the Protection of Children and Youths Welfare and Rights Act violate the requirement the right to habeas corpus (court review procedures "without delay") in Article 9(4) CCPR (pp 87 to 91). How does the Government of Taiwan respond to this criticism?

118. Referring to Article 56 of "The Protection of Children and Youths' Welfare and Rights Act", and Article 16 of "Child and Youth Sexual Transaction Prevention Act", the term "placement" is a measure to protect children and youths in accordance with Article19 of the United Nation's "Covenant of the Rights of the Child".

(1) The covenant stipulated that a government is required to take measures to protect the child from all forms of physical or mental violence, injury or abuse, abandon or negligent treatment, maltreatment or exploitation, sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. The purpose is to protect the children from all forms of dangers, and provide assessment for their living condition.

(2) Municipal county (city) governments offer urgent protection, placement or any other necessary actions to protect child or youth if his/her life, body or freedom may suffer from immediate danger or if engaged in sexual transaction.

(3) Nevertheless, urgent placement should not exceed 72 hours. If the concerned competent authority thinks that 72 hours are not sufficient for the protection of the children and youths, they should petition the Court for continuing the placement.

(4) Furthermore, for the children and adolescents engaged in sexual transaction and sent to the emergent sheltering center, a formal report should sent to the court for judgment within 72 hours after settlement, that is used to prevent the violation of personal freedom.

119. For the treatment of patients with communicable diseases that require immediate and professional judgment, the competent authorities shall enforce patient isolation according to the Communicable Disease Control Act, the Administrative Procedure Act, and the medical experts' evaluation report. If, however, the patient is concerned with the duration of the isolation treatment issued, he or she can seek administrative and legal determination of the action.

120. "Confinement" is ruling by a single military officer in the past, and this procedure is defective. To promote the safeguards of military rights, after 《Act of Punishment of Armed Forces》amended in 21 January 2009, article amended from "Criminal punishment first, administer punishment later" to "Criminal punishment and administer punishment execute simultaneously". Amended code also stipulated "limitation of the right of prosecution", "The research of no double jeopardy clause", "Duty of positive investigation". After investigation, if offender shall be punished with dismiss, record demerits, fine, control, demote or confinement, court will convene the panel of judges and accord the parties an

opportunity to be heard; as result of amending the method to seek remedies through.

【Article 11】

44) Para 159 of the State Report provides figures in relation to cases of court rulings of taking debtors into custody. It is doubtful whether this practice is in conformity with the requirements of Article 11 CCPR. Has the Government of Taiwan reviewed the relevant legal provisions and practice in relation to the requirements of Article 11 CCPR?

121. In order to protect human rights and practice Article 11 of ICCPR, which is "No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation," the Judicial Yuan formed "Research Group for Revision on Compulsory Enforcement Act" in September 2009, and this group consulted regulations on the elements and procedures for apprehension and detention, and the revision is promulgated by the President of the Republic of China on June 29, 2011. Responding to the promulgation and implementation of revised Articles, relevant sub-regulations and enforcement samples like "Precautionary Matters on Handling Compulsory Enforcement" and "Directions for Compulsory Enforcement" are also revised to facilitate courts to properly adopt revised regulations and protect litigants' rights.

122. Article 11 of the ICCPR stipulates that "[N]o one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation", shall be interpreted as the way which applies to the situation that people shall not be stripped of his/her physical liberty arbitrarily only because he/she could not perform his/her civil obligation(s) due to the debt(s) pursuant to the private contract(s). The administrative execution of the obligation(s) of monetary payment under public law is to apply to the situation that because the obligator who bears the obligation(s) of monetary payment under public law such as tax revenues, fines, or fees cannot fulfill the obligation(s) within the deadline and after the case has been transferred to each branch (within its own jurisdiction) of Administrative Enforcement Agency, Ministry of Justice, according to the legal procedures, the branch may compulsorily enforce the relevant laws to require the obligator to fulfill his/her obligation(s). The prerequisite for taking the obligator into custody is only when he/she violates the obligation(s) defined by the relevant laws and the application must be made to the court for an order of custody. Although taking the obligator into custody is not concerning the ICCPR, the Ministry of Justice has discussed and analyzed whether the Article 17, the sixth paragraph, the third and fourth subparagraphs (regarding the "custody" regulations) of the Administrative Execution Act (hereafter referred to as "this Act") contradict the Article 11 of the ICCPR. For serious consideration, the issues have been even referred to the experts and scholars in the research and amendment committee, in the Ministry of Justice, for amending the Administrative Execution Act. After reviewing by the Human Rights Protection and Promotion Committee ,Executive Yuan in 2011, it was concluded that the foregoing custody regulations do not contradict the ICCPR and the International Covenant on Economic Social and Cultural Rights and therefore there is no need for the regulations to be amended.

123. According to the Article 17, the sixth paragraph, the third and fourth

subparagraphs of this Act, for taking the obligator into custody, the justified reasons as the prerequisite(s) shall be that the obligator is apparently able to perform but intentionally does not perform his/her obligation or has concealed or disposed of the assets that are subject to the compulsory execution. The second subparagraph of the same paragraph, "the obligor apparently is likely to abscond," as one of the reasons for taking into custody, shall apply to the situation that the obligator does not fulfill his/her obligation(s) of monetary payment under public law and has already hided or fled, which may cause that the enforcement procedures cannot be executed. Hence, the foregoing regulations shall certainly meet the Article 9, the due process provisions, and the Article 11 of the ICCPR. Also, the execution of the obligation(s) of monetary payment under public law the obligator bears has closed relationship with the public interests such as the enhancement of the public authority, the enrichment of the National Treasury, the fulfillment of the social justice, and the cultivation of compliance with laws for the public. Therefore, the administrative execution here is highly public welfare. In addition, the Judicial Yuan interpretation No. 588 has also recognized that the measures for taking the obligator into custody in this Act are not disallowed by the Constitution. Hence, the enforcement of the Article 17, paragraph 6 of this Act does not contradict the requirements of the Article 11 of the ICCPR.

124. According to the statistic IPC's, there were no case concerning apprehension and custody.

【Article 12】

45) According to para 162 of the State Report, ROC citizens are entitled to enter their country without a permit only if they have a residence registered in the Taiwan area. How many ROC citizens applied for a permit to enter Taiwan during the last five years? In how many cases was the permit refused? What are the reasons to refuse such a permit?

125.

(1) For citizens who hold a valid passport of Republic of China, are free to enter and leave Taiwan by his or her own free will. According to the Article 7 of the Immigration Act, only a small minority of the citizens who without Household Registration falls within any of the following circumstances, the National Immigration Agency will deny or prohibit him or her from entering the State:

A. Has joined a violent or terrorist organization or has participated in its activities.

B. Has been strongly suspected to be involved in turmoil or foreign aggression.

C. Has been suspected to be involved in major crimes or to be a habitual criminal.

D. Has used a passport or entry permit that is illegally acquired, counterfeited, or tampered with, or that belongs to another person.

(2) The National Immigration Agency shall deny or prohibit from a national from

entering the State if such a national has never registered his/her permanent residence at any household registry in the Taiwan Area, possesses a foreign nationality concurrently, and causes a circumstance which falls under one of the circumstances set forth in each Subparagraph of the preceding Paragraph or each Subparagraph of Paragraph 1, Article 18.

126.

(1) Article 18 National Immigration Agency shall prohibit an alien from entering the State if he/she meets one of the following circumstances:

A. Does not carry his/her passport or refuses to submit it for inspection.

B. Has used an illegally acquired, counterfeited, or altered passport or visa.

C. Has used another person's passport or a fraudulently claimed passport.

D. Has used a passport that is invalid, lacks a required visa, or a passport that bears an invalid visa.

E. Has made a false statement or hidden important facts about his/her purposes to apply for entry into the State.

F. Has carried contraband.

G. Has a criminal record in the State or foreign countries.

H. Has suffered from a contagious disease, a mental disease, or other diseases that may jeopardize public health or social peace.

I. Is believed, on the basis of sufficient factual proof, to be incapable of making a living in the State, save the circumstance that he/she seeks shelters from his/her dependent relative with registered permanent residence in the Taiwan Area and has been assured by the relative.

J. Has used a visitor visa but does not have an air ticket or a steamer ticket for a return trip or a trip to the next destination or has not secured an entry visa for the next destination.

K. Has been denied entry, ordered to leave within a certain time, or deported from the State.

L. Has overstayed his/her visit or the period of his/her residence or has worked illegally.

M. Is believed to endanger national interests, public security, public order, or the good customs of the State.

N. Hinders good social customs.

O. Is believed to engage in terrorist activities.

(2) If a foreign government bans nationals of the State from entry pursuant to reasons other than those reasons set forth in the each Subparagraph of the preceding Paragraph, National Immigration Agency can use the same reasons to ban that country's nationals from entering the State after negotiating with the Ministry of Foreign Affairs of such a ban.

(3) The period of entry as banned under Subparagraph 12, Paragraph 1 shall be one (1) year or up from the second day of the date of an alien's exit of his/her country and shall not be more than three (3) years.

127. There were 133,214 Taiwanese Nationals without household registration applied to enter Taiwan in the past five years. However, the National Immigration Agency does not have the count of the rejection cases.

46) According to Table 22 on p 70 of the State Report, more than 50.000 citizens of the ROC were prevented from leaving their own country in 2011. How many of these restrictions were issued by administrative authorities? Can these decisions be appealed to the courts? If so, does the appeal have suspended effect? What are the 21.826 "protection cases" mentioned in Table 22?

128. Base on each ministry's respective jurisdiction, the agency may make requests to deny, revoke, or limit citizens' rights to leave the country when charged with violations of administrative acts or regulations (e.g., Tax Collection Act, Communicable Disease Control Act, Administrative Procedure Act, and …etc); however, citizens may file an administrative appeal to the Executive Yuan against an administrative action according to the Administrative Appeal Act , or file an administrative action for revocation to an administrative court according to the Administrative Litigation Act.

129. In 2011, more than 50,000 citizens were prohibited to leave Taiwan, and of which 22,978 are made at the requests of administrative agencies exercising their administrative mandates.

130. According to Article 116 of the same Act, the enforcement of the Act shall not be affected by the administrative remedies. Before the case is brought to the court or during the pending action, if the administrative court thinks that the original order will cause irreparable damage, or there is urgent situation, the administrative court may grant the verdict to suspend the restriction of leaving Taiwan, its enforcement, or its following procedures as a whole or a part.

131. A person who is on probation or released from a prison on parole shall be subjected to protective measures. Most parolees who serve their probations were originally found guilty in a criminal court for such criminal conviction as possession of illegal drug, robbery, adverse possession, or sexual harassment.

47) Para 164 refers to a highly restrictive policy relating to HIV positive aliens and states that this policy is being discussed in light of international human rights requirements. According to the CW Shadow Report (p 110), all foreign nationals who intend to stay for three months or more must undergo HIV testing. Those testing HIV positive are required to leave the country or forcibly deported. This would even apply to foreign spouses of ROC nationals. Is this information correct? Which measures does the Government of Taiwan envisage to bring its HIV policy in line with UNAIDS standards and human rights requirements?

132. In accordance to Article 18, Paragraph 1, Subparagraph 1 of the Immigration Act, National Immigration Agency shall prohibit an alien from entering the State if National Immigration Agency has been informed by the Departmental Health that

this alien has contracted contagious disease or suffered from mental disease, or any other diseases that may jeopardize public health or social peace. In response to the trending international human rights, competent authorities will revoke the restriction of non-national HIV-infected patients and revert it to the Immigration Act. It has been included in the legislation procedure for the amended draft of the "HIV Infection Control and Patient Rights Protection Act".

【Article 13】

48) When does the Government of Taiwan intend to enact an asylum law?

133. Political asylum in Taiwan for people of the Mainland Area

(1) According to Article 17 of the " Act Governing Relations between the People of the Taiwan Area and the Mainland Area (hereinafter the "Cross-Strait Act") " and Article 18 of "The Permit Guidelines for the Permanent Residency or Permanent Stay in the Taiwan Area of People of the Mainland Area", Persons from the Mainland Area who meet these regulations may be permitted by Ministry of the Interior, on a case by case basis to reside long-term in Taiwan due to political considerations.

(2) In order to strengthen mechanisms for handling Mainlanders seeking political asylum, the Mainland Affairs Council (MAC) formulated draft amendments to Article 17 of the Cross-Strait Act in reference to the spirit of international refugee conventions and the MOI-drafted Refugee Act. The amendments widen the provisions for applying residency in Taiwan due to the political considerations.

(3) The amendments also stipulate that proof of cancellation to original household registration is not required in long-term residency applications, and applicants are exempt from criminal responsibility for prior unapproved entry into Taiwan. The aforementioned draft was approved by the Executive Yuan and submitted to the Legislative Yuan for deliberation on December 31, 2009. Due to the operations time frame for the sessions of the Legislative Yuan, the Executive Yuan submitted amendment of Article 17 of Cross-Strait Act to Legislative Yuan again on March 5, 2012.

134. The process of pushing the draft of the Refugee Act in Taiwan:

(1) The draft of the Refugee Act was established and released in 2003.

(2) Executive Yuan delivered the latest draft of the Refugee Act to the Legislative Yuan on February 23rd 2013.

49) Can you please explain the legal procedure regarding expulsion of aliens? At which point are the persons concerned detained? What are the legal rights of aliens to contest an expulsion or deportation order? Is the principle of

non-refoulement taken into account?

135. Foreigners who have been violated any circumstances noted on the Paragraph 1 of Article 36 of the Immigration Act (thereafter referred to the Act). The National Immigration Agency (NIA) shall use force to deport him or her out of the country. NIA shall notify judicial authorities in the special circumstances that the violation is currently going through judicial procedure. In addition to Paragraph 3 of Article 36, if the foreigner violates Subparagraph 2, 4 to 11 of Paragraph 1 of Article 36 of the Immigration Act, NIA should make the foreigners to leave the country individually within 7 day(s), or NIA shall use force to deport the individual.
136. According to the investigation of the NIA, it is necessary to detent the individual. Otherwise the NIA will be unable to deport him or her out of the country within the regulated date.
137. The individuals who do not accept the punishment of deportation can challenge the decision by filing a petition to the Minister of the Interior through the NIA within 30 days following the decision is received in accordance with the Petition Act
138. In order to accompany to the CCPR, before NIA deports a foreigner who has permanent residency (APRC) or residency (ARC), NIA should first form hearing to examine the case and offer the individual an opportunity to speak in defense of him or herself to protect human rights.

【Articles 14-16】

50) Judiciary (paras 199, 201)

Please provide further information on the procedures for selecting judges and the training of judges. What measures are being taken to ensure the impartiality of the judiciary, especially in politically sensitive criminal cases? What measures are being taken to protect the judiciary against corruption? The newly-passed Judges Act has introduced evaluation of judges and new grounds for disciplinary actions. What is the impact of this new system in terms of increasing the competence of the judiciary and protecting judicial independence?

139. Judges, on behalf of the country, exercise powers independently with great responsibility. Judges Act, promulgated by the President of the Republic of China on July 6, 2011, indicates the milestone of judicial reform after 20 years of effort by the Judicial Yuan. People's rights to fair trials are assured with sound judge system that protects the judicial independence, Elimination mechanism for judges stipulated in Judges Act is divided into front-end and back-end elimination mechanism, and the back-end elimination mechanism refers to judge evaluation and the Court of the Judiciary stipulated in Chapter 5 and 7 of Judges Act. The judicial reform on the back-end elimination mechanism for judges in Judges Act focuses on the Judicial Evaluation Committee, and there are 5 key aspects:

(1) Reinforcing elimination mechanism for unqualified judges: A party or a victim of a crime may file a asking to agencies, including the local bar association to the jurisdiction of a court with which the judge to be evaluated is affiliated or the

national bar association, a foundation or an incorporated charitable association, the affiliated agency, the superior agency or the counterpart prosecutorial office of the court where a judge is to be evaluated, three or more judges of the agency with which the judge to be evaluated is affiliated, to request the Judicial Evaluation Committee to initiate an individual evaluation. Where disciplinary measures are necessary for that judge, the Judicial Evaluation Committee may forward the discipline case to the Control Yuan, and the case may be referred to the Court of the Judiciary for a review if the Control Yuan should deem it necessary to impeach after its review.

(2) Broadening the scope of the basis of the judicial evaluation and clarifying behaviors for unqualified judges.

(3) External members are introduced to the Judicial Evaluation Committee, and the introduction promotes the proportionality and impartiality.

(4) Designing comprehensive evaluation for judges and group performance rating for courts. Judge's evaluation is performance-oriented, and the result of comprehensive evaluation for a judge serves as the reference for judge's performance rating. Once a judge is found eligible for individual evaluation due to the rating results from the evaluation, the Judicial Yuan shall transmit the evaluation to the Judicial Evaluation Committee for individual evaluation.

(5) Installing the Court of the Judiciary to be in charge of disciplinary actions against judges and stipulating regulations governing judges transferring to attorneys after disciplined.

140. The Judicial Evaluation Committee, which is a permanent committee with a fix-tenure system, started to operate officially on January 6, 2012, and this committee grammatically increases the participation of external committee members. The resolution of the evaluation has the authority of submitting the case for punishment or forwarding the case for disciplinary actions, which may bring the functions of evaluation into full play. The individual evaluation for judges evaluates judge through impartial and objective procedures based on substantive fact, and the proper disposition will be carried out in accordance with the result of the evaluation. In discharging its duties, the Judicial Evaluation concurrently reconciles both the full play of evaluation functions and the procedural protection to the judge under evaluation while not impacting on judicial independence. For all individual evaluation cases received by the Judicial Evaluation Committee in 2012, applicants range from foundations that have received permission from the competent governmental authority, the Judicial Yuan, and the courts that the judge under evaluation affiliated. This result reveals that judiciary agency as a whole actively submits judges to evaluations based on the spirit of self-discipline. Through the rigid siftings and checks by highly professional agencies that request for evaluations, requests for evaluations will be prevented from being over-excessive and impacting on judicial independence of judges. In October 2012, the Judicial Evaluation Committee issued official letters to agencies and organizations, stipulated in Subparagraphs, Paragraph 1, Article

35 of Judges Act, and request such agencies and organizations to submit individual cases for judges in accordance with Article 35 of the same Act and Article 2 of Regulations Governing Evaluation Implemented By The Judicial Evaluation Committee if situations stipulated in Paragraph 2, Article 30 of Judges Act occur. The Judicial Evaluation Committee hopes each agency with the right to request for evaluation may actively submit cases to the Committee and help bring the functions of the evaluation system into full play.

141. Since the foundation on January 6, 2012 until December 31, 2012, the Judicial Evaluation Committee has received 6 evaluation cases which comply with Article 35 of Judges Act, 5 of 6 evaluation cases thereof comply with regulations of "Guidelines Governing Case Distribution for The Judicial Evaluation Committee". Evaluation case Ping-Zi No. 2 in 2012, requested by "Taichung Judicial Reform Society" (without mailing address), is unable to be reached for correction due to no registration and contact information of that Society available, the Judicial Evaluation Committee decides to close the case and posts the case publicly on the website.

142. 3 resolutions of prescribed paragraph suggest for punishment and discipline actions in accordance with the severity of damaging the defendants' rights to litigate, contravening the impartiality of the court and abusing public resources for private purpose, and the case, which was suggested for discipline actions, has been impeached by the Control Yuan and forwarded to the Court of the Judiciary for a review. The combination of the Judicial Evaluation Committee and the Court of the Judiciary strengthens judicial accountability and reforms judge's back-end elimination mechanism that has been long criticized.

143. Since the foundation on January 6, 2012 until December 31, 2012, the Judicial Evaluation Committee has received 62 evaluation cases requested by individuals. The ground for evaluation application includes a party refusing to accept judgments against the party, non-litigants filing pleadings voluntarily, requesting for evaluations to non-judges, and requesting agencies to convey petitions. Since the foresaid applicants are not individuals, agencies or organizations, who are eligible to request for judge evaluation, stipulated in Article 35 of Judges Act, the Judicial Evaluation Committee shall notify such applicants with official letters, stating that the case will be forwarded to the Judicial Yuan and handled following petition regulations, in accordance with Article 3 of Regulations Governing Evaluation Implemented By The Judicial Evaluation Committee. By taking such actions, the legislative purpose of Judges Act, which stipulates that rigid siftings and checks performed by highly professional agencies requested for evaluations may prevent the requests for evaluations from being over-excessive, may be implemented, and the Judicial Yuan may also handle petitions promptly. People, on the other hand, may comprehend correct procedures for requesting judge evaluations, which strengthens rights protection, other than original petition channels.

144. Since the implementation on January 6, 2012, the judge evaluation still needs to establish standard by the accumulation of evaluation cases. It is believed that the judge evaluation system will be improved by accumulating experiences of reviewing substantive individual cases in order to attain the function of people checking and balancing judicial power. The participation of non-judge external members of the Committee establishes objective standards for the Judicial Evaluation Committee to follow. Vigilance against some unworthy judges is brought about by effective punishment and discipline actions through legitimate

procedures. The protection for people's rights to judiciary written in the Constitution is fully implemented by respecting a party as the subject of procedure.

145. Information about the selecting and training procedure for prosecutors and judges

(1) According to Article 5 and 8 of Judges Act, Justices, attorneys, professors, associate professors, assistant professors and Academia Sinica fellows, associate fellows or assistant fellows may transfer to judge position in accordance with "Regulations Judge Selection" and "Regulations for Selection of Persons Transferring to Judge Position without Possessing the Qualifications for the Designated Positions" in order to facilitate the principle of multi-employment for judges. Currently there are 3 ways to transfer to judge position, including participating public selection held by the Judicial Yuan, voluntary application, and the Judicial Yuan's voluntary selection. Persons, who apply for transferring to judge position and approved by the Judicial Yuan, may not be qualified as a judge unless pre-job trainings, including interning in District Courts and passing the examinations of the Judicial Personnel Study Institute of the Judicial Yuan and approved by the Personnel Review Committee of the Judicial Yuan, are completed within the period of time stipulated by the Judicial Personnel Study Institute of the Judicial Yuan.

(2) Judges of the Administrative Court

A. On-the-job training courses for judges of the Administrative Court (an annual event of 5 days)：This course is designed to assist the judges of Administrative Court at all levels to solve practical significant or controversial legal issues and to provide judge and scholar with the opportunity to interact. Apart from holding symposium, which invites experts and scholars to have a briefing that serves as the reference for judges when hearing cases, experts and scholars from each field are also invited to the course to conduct special report in order to improve the literacy of the judge in the administrative Law, promote the judgment quality, and to bring judicial efficiency into full play.

B. Training courses for judge theory of the administrative courts in High Court, Administrative Court and the District Courts (an annual event of six weeks and a total of 181 hours)：This training course is designed to help reserve judges for the High Administrative Court and administrative litigation courts in the District Courts and to improve literacy the Administrative Law professionalism for judges of the courts at all levels

(3) Judges of the intellectual iroperty professional

A. On-the-job training for judges of the Intellectual Property Court judge (an annual event of three days)：This course is designed to improve the literacy

of judges of the Intellectual Property Court, promote judgment quality. Apart from inviting scholars commissioned to research to have a briefing on the results of research, experts and scholars in the field of intellectual property professionals are also invited to give a speech on the academic opinion and the development of foreign practice on intellectual property cases in the topic of in-depth issues that are necessary for practical case-hearing. These measures are taken to improve the functions of the judges handling intellectual property cases and to reach the ultimate goal of resolving intellectual property rights disputes in no time.

B. Training course for judges of intellectual property professional (once every two years, with a period of nine weeks and a total of 210 hours)：According to the policy that professional cases shall be tried by professional courts promoted by the Judicial Yuan, District Courts shall establish professional courts or sections to handle intellectual property cases in the allocation of judicial affairs, and judges with intellectual property certificate of professional judges shall be selected in priority, In response to rapid growth of the intellectual property litigations and the demand for judge professionalization, the Judicial Yuan aims to train more judges with professional intellectual property functions as the reserves of future judge selection for Intellectual Property Court and intellectual property courts or sections in the District Courts .

C. Intellectual property professional theory and practical courses lecture tour： The Intellectual property professional theory and practical courses lecture tour is designed to cultivate the professional competence for judges of intellectual property courts or sections handling intellectual property cases. The courses are divided into three different levels of beginner, advanced, and high-end levels in accordance with the demand and actual intellectual property business conditions of the courts. Domestic and foreign scholars or officials of the government agencies, non-governmental organizations with professional knowledge are arranged to give speeches or hold symposiums relevant to intellectual property in courts.

(4) After the Judge Act came into effect, prosecutors and judges are recruited through examinations and also by selection：In compliance with Clause 8 of Article 88 of the Judge Act, the Ministry of Justice prescribed the“guidelines for setting up a prosecutor selection committee,” which is tasked with the selections. When the committee goes to select a prosecutor, it must seriously consider his or her integrity, ability, physical and psychological conditions, devotion, specialty, aspiration and other qualifications. Also considered is their ability to prepare

documents and the books they have authored. They are also subject to a face-to-face interview. If their integrity is in doubt or their devotion is unsufficient or there are other problems that make them improper to serve as prosecutors,they will be flunked.

146.About measures to ensure judicial independence

(1) There are 28 Articles in the Code of Conduct for Judges (hereinafter the Code), which was promulgated on January 5, 2012. The Code regulates judges' code of conducts, including that a judge shall conduct duties in accordance with impartiality, neutrality, no prejudice nor discrimination, and a judge shall maintain judiciary quality (Article 3-5); concerning pending or impending cases, a judge shall not make any public statement that might reasonably be expected to affect the outcome of such proceeding or impair the fairness of the process (Article 17); general principles are stipulated concerning judge's extrajudicial activities, and judges are restrained from participating political activities that conflict with their identity (Article 18-21).

Code of Conduct for Judges and Judges Act were simultaneously implemented on January 6, 2012. According to Article 35 of Judges Act, in case where a judge violates the Code in a severe way, the individual evaluation for that judge may be initiated by the three or more judges of the agency with which the judge to be evaluated is affiliated, the affiliated agency, the superior agency, the counterpart prosecutor's office, the local bar association, the National Bar Association, or by a foundation with evaluation permit or incorporated charitable association. The Judicial Evaluation Committee shall initiate evaluation on indiscretions of that judge to ensure the judicial neutrality.

(2) Paragraph 1 of the Judge Act provides: A prosecutor pursues and punishes crime in accordance with the law on behalf of the nation and is the representative for public interest in maintaining law and social order. A prosecutor must stay away from any political party, be devoted to the Constitution and other laws in protecting public interests, be fair, and be independent and diligent in carrying out his or her duties.

Paragraph 1 of Article 89 of the Judge Act, which follows, mutatis mutandis, the provisions of Paragraph 1 of Article 15 of the same law, says: During his or her service period, a prosecutor shall not join a politic party, a political body and participate in their activities. If he or she has joined the political party or body before taking office, he or she should withdraw from it. Item 2 of the Code of Ethics for Prosecutors also says: A prosecutor is the guardian and representative for public interest of a country ruled by law; hence, he or she shall abide by the Constitution, act in accordance with the law and conscience, and be fair, objective, independent and diligent in carrying out his or her duties. Item 3 of the

same Code provides: A prosecutor shall make it his or her mission to protect human rights, maintain social order and peace, carry out justice, promote public interests, and perfect the development of the judicial system. Item 4 prescribes: The prosecutor general and a chief prosecutor shall direct the prosecutors under their command to jointly ensure the independent exercise of prosecutorial power by preventing the interference and intrusion from undue force and influence. Under the command and supervision of their higher-up, all prosecutors shall fulfill their duties properly and promptly. In the course, they shall not bow to the influence of any individual, organization, the public, or the media. Item 6 of the ethic code stipulates: A prosecutor must embrace the idea that everyone is equal before the law and not be biased against gender, race, geography, religion, nationality, age, sexual preference, marital status, social and economic standing, political relations, cultural background, and physical and psychological conditions to allow discriminations. Item 11 illustrates: When exercising his or her duties, a prosecutor shall not let intercession to compromise his or her justness, separateness, independence and integrity. Item 12 states: When fulfilling duties, prosecutors shall separate themselves from the case and prevent suspicions on their justness. If this happens, the said prosecutor shall immediately report it to their high-up for action.

147. The Judicial Yuan established specific solutions to prevent judicial personnel from corruptions, including establishing mobile investigation teams, tracking civil servants doubted of probity actively, enacting entreaties or lobbying regulations, implementing registrations guidelines for ethics events, tracing judicial scalpers and severely punishing those undermining the judicial credibility, promoting diverse impeachment channels and encourageing people to be willing to report the illegitimacy as well.

148. The Judges Act has established disciplinary matters of judges. What impact does the introduction of the new mechanism bring to improve judge suitability and protect the judicial independence?

(1) Improvement on the judge suitability：In the past, disciplinary actions against judges are handled by the Public Functionary Disciplinary Sanctions Commission in accordance with the Public Functionaries Discipline Act. Judges Act stipulates that such actions shall be handled by the Court of the Judiciary. Hereby introducing the functions of the new Court of the Judiciary established by Judges Act:

A. Strengthening discipline actions：Compared with the Public Functionaries Discipline Act, the types of disciplinary actions are reduced to five types, but more polarized. More actions that are stricter than dismissal are implemented while intermediate types, such as suspension from duty and demotion, are deleted. Judges Act stipulates that judges, who are disciplined for removal from judgeship duties and loss of civic servant appointment qualifications or

dismissal, may not serve as attorneys; person who is subject to dismissal or removal and transferred to other positions may not be reinstated as a judge.

B. Enhencing judges evaluation launching disciplinary procedures：Although the judge evaluation system has existed in the past, but the evaluation results are not directly connected with the disciplinary procedures. Judges Act provides the Judicial Evaluation Committee with legal status and adds external members, and the resolution of the evaluation reported to the Judicial Yuan may be transferred to the Control Yuan for a review, which strengthens the active function of the evaluation committee launching the disciplinary procedure.

C. Strengthening the plaintiff status of the Control Yuan in judge disciplinary cases：Judges Act stipulates that the Control Yuan is a party in the judge discipline cases. The Control Yuan is required to state and debate in judge discipline cases in order to strengthen its plaintiff status, play the function of the trial system, help improve the efficiency of investigating the facts and evidences of discipline.

D. Specifying subjects of judge discipline：Judges Act stipulates subjects of judges disciplinary, including: having sufficient facts to conclude the existence of obvious and significant error(s), committed intentionally or with gross negligence, thereby causing serious damage to the right of the people, violating of the duties of a judge, carrying out dutie in tardiness or misconducting in a severe way. The subjects of discipline are more definite.

(2) Protection for judicial independence：Unlike general public functionaries who have to obey orders from superiors, the Judges Act stipulates that judges enjoy the protection of judicial independence by the Constitution. Within the scope that does not affect judicial independence, judges are required to be under the appropriate supervision of duties to avoid the illegal abuse of power, tardiness in carrying out duties; administrative dispositions of judicial personnel often interact with the independence of judge’s identity, which is closely related to judicial independence. Therefore, the Court of the Judiciary, which is responsible for protecting judicial independence, is established ad hoc by judges at all levels and instances. Apart from hearing aforementioned judges discipline cases, the Court of the Judiciary also hears judge’s complaint toward the revocation of appointment qualifications, removal from office, suspension of duty, discharge of duty, transfer or detail to positions other than judgeship and comfirms pperformance supervision that impacts on trail independence of the judge. The Court of the Judiciary, which is expected to protect the judicial independence, not only plays a role of remedy function of judicial review in duty disposition

remedy cases that ensures the independence of judge identity, but also lays out and confirm the boundary of the protection for judicial independence in the cases of performance supervision affecting judicial independence. So that judges may properly hear cases without being interfered by external forces, and supervisors, on the other hand, may bring its function into full play without invading judicial independence, which allows the judicial function to operate properly and being trusted.

(3) About the performance evaluation system provided for in the Judge Act and its effect on the competency of prosecutors and the maintenance of judicial independence Paragraph 4 of Article 89 of the Judge Act provides: If any one of the following situations has happened to a prosecutor, he or she shall be subjected to evaluation: …(3) Having gravely violated the provisions of Paragraph 1 of Article 15 of the Act …(7) Having gravely violated the provisions of the Code of Ethics for Prosecutors：When any one of the foregoing offenses occurs, the offending prosecutor shall be disciplined if the discipline is warranted. If the performance evaluation committee for prosecutors considers discipline is necessary, it may decide to refer the case through the Ministry of Justice to the Control Yuan for review and in this case it may recommend the disciplinary measure that the Yuan shall take. If the Ministry of Justice finds a prosecutor has anything to be disciplined, it can also send the case to the Control Yuan for deliberation. To discipline a prosecutor, the Control Yuan must impeach him or her first and then refer the case to the functional court of the Judicial Yuan for trial. If there are facts that prove the incompetency of the said prosecutor, he or she may be dismissed. If he or she has been transferred to a non-prosecutorial post or if he or she is dismissed from the prosecutorial post, he or she shall not serve as a prosecutor again.

(4) Judges exercise powers independently on behalf of the country with great responsibility, and the relationship between judges and the country is a special appointment relationship, which is different from the relationship between general public functionaries and the country who have to obey post orders. The newly-passed Judge's Act stipulates the judges' appointment, protection, evaluation and elimination, perfects judge system, safeguards the spirit of independent trail for judges protected by the Constitution, protects judges' status while ensuring people's rights to fair trials, and establishing elimination mechanisms for unqualified judges and protection mechanisms for quality judges.

149. The Judge's Act is a significant milestone for judicial reform, builds up a solid foundation thereof. Judge's Act expressly stipulates the evaluation mechanisms and disciplinary matters for judges. Parties and victims may file an asking to

specific agency or organization to request the Judicial Evaluation Committee to initiate an individual evaluation. The review mechanisms of the Control Yuan and the Court of the Judiciary discipline or eliminate unqualified judges, broaden evaluation subjects, establish external supervision, perfect elimination mechanisms for judges, and to be tally with public opinions.

51) Delays in criminal proceedings (para 218)

The Legislature has passed the Criminal Speedy Trial Act to respond to the problem of prolonged trials and prolonged detention before the final judgment on appeal. Please explain the causes for delays in criminal proceedings and provide further information on the extent to which the Criminal Speedy Trial Act has addressed such problems in practice. What other measures are being taken? Are the current resources and judicial staff sufficient to handle trials without delay?

150. Criminal Speedy Trial Act takes the total mass control approach to regulate the time limit for criminal trials. To prevent trials delayed without causes, measures taken are as follows:

(1) Monitor the progress of high-profile cases, especially corruption, and violation of Civil Servants Election And Recall Act.

(2) Remind Judges that cases are already delayed and conduct examinations of delayed or prolonged pending cases periodically, to see whether any progress is made.

(3) Provide human resources to heavy case load courts to clean up delayed cases.

(4) In some cases, cases are delayed because of lack of expert witness in certain fields. As highest judicial Organ, Judicial Yuan will help to coordinate resources to facilitate the process.

52) Checks on prosecution

What procedures exist to protect against prosecutors' abuse of the power to indict? Please elaborate on the conditions under which the prosecutor can file an appeal and what procedures exist to protect against prosecutors' abuse of appeals? The Supreme Court recently passed a resolution abandoning the practice of ex officio court investigation of evidence against the defendant. Further information is needed on the impact of this resolution on the prosecution's burden of proof and the current practice.

151. As mentioned above, Article 8 of Criminal Speedy Trial Act limit prosecutor's right to appeal. In addition, Article 9 of the same act prescribe that "Except for the ircumstances provided for in the preceding Article, if the court of second instance reaffirms the not guilty judgement rendered by the first instance, the reasons for appeal are limited to the following conditions: (1) The law or order applied in the judgement is inconsistent with the Constitution; (2) The judgement is in contradiction to the Interpretation of the Judicial Yuan; (3) The judgement is in contradiction to the precedent. This also limit prosecutor's right to appeal.

152. As to the procedure to protect defendant against prosecutor's abuse of appeals, Article 161 paragraph 2 of Code of Criminal Procedure prescribe that prior to the first trial date, if it appears to the court that the method of proof indicated by the public prosecutor is obviously insufficient to establish the possibility that the accused is guilty, the court shall, by a ruling, notify the public prosecutor to make it up within a specified time period; if additional evidence is not presented within the specified time period, the court may dismiss the prosecution by a ruling. Article 163,paragraph 2 of Code of Criminal Procedure stipulates that the court may, for the purpose of discovering the truth, ex officio investigating evidence; in case for the purpose of maintaining justice or discovering facts that are critical to the interest of the accused, the court shall ex officio investigate evidence. Before the Supreme Court's resolution, the definition of "maintaining justice" is still not clear. The Supreme Court resolution further clarifies that courts' ex officio investigation power shall be limited to evidences for the defendants. The resolution cited the ICCPR, based its argument on the principle of presumption of Innocence and the values manifested by the Criminal speedy trial act and Article 163 of Code of Criminal procedure, emphasizing that prosecutors shall bear the material burden of proof in criminal cases, lest the criminal procedure will go back to the inquisitorial system rather than the modified adversarial system. According to this resolution, if the court ex officio investigates evidence against the defendants, or dies not intervene to investigate evidence for the defendants, the litigation process will be in contravention of the laws or regulations. The resolution is now cited by court's decisions, to define the borderline for courts exercise its ex officio investigation power. Taiwan High Court Shan-Su No.3054 (2012) is an example.
153. Although Paragraph 1 of Article 251 of the Code of Criminal Procedure says that a prosecutor may make a prosecution if the evidence he or she has gathered is enough to determine a person is suspect of committing a crime, the Ministry of Justice, in a letter dated July f, 2009 and bearing the file number of *fa jian* 0980802583, requested prosecutors to strengthen the gathering of evidence and take a comprehensive judgment of all the evidence gathered. The MOJ advised that a suspect can be prosecuted only if the prosecutor firmly believes that a conviction of the defendant by the court is highly possible. This MOJ advice was intended to raise the conviction rate, and establish the judicial prestige. On May 28, 2010, the MOJ announced the "Implementation Key Points for Prosecutorial Organizations to Promptly and Properly Handle Criminal Cases." Item 6 of the guidelines explicitly says that it requests prosecutors to be scrupulous in making prosecutions in order to cut down on the rate of innocence convictions in order to protect the innocent people and human rights. In 2011, the rate of conviction topped 96.1%, indicating there were no wanton, wrong prosecutions.
154. Article 344 of the Code of Criminal Procedure provides that if a prosecutor objects the rulings of a district court, he or she may appeal the case to the higher court and that if the victim is unhappy with the rulings he or she may present the reasons to the prosecutor and request him or her to make an appeal. To protect the interest of a defendant, the prosecutor may also make an appeal on his or her own right. Item 19 of the "Implementation Points for Prosecutorial Organizations to Promptly and Properly Handle Criminal Cases" prescribes a prosecutor should immediately accept the original copy of judgment and examine whether there is any fault in proceedings, in judging the facts, in the application of law and in the decision on penalty in order to decide whether an appeal or a counter appeal is

required. No delay is allowed. If the new reasons are not included in the appeal, a supplementary appeal should be presented within 20 days and 10 days as provided for in Paragraph 3 of Article 361 and Article 382 of the Code of Criminal Procedure respectively. Item 20 provides that if an innocence ruling is made by the courts of first instance and second instance and it is considered nothing wrong in the recognition of fact and the application of law, there is no need to make an appeal. In this case, the prosecutor shall submit his or her reasons and views to the chief general for approval before deciding on not making an appeal. When an accuser or victim requests the prosecutor to make an appeal, the said prosecutor shall scrutinize the petition and if there is no reason for an appeal, the petition shall be rejected.

155. Paragraph 2 of Article 361 of the Code of Criminal Procedure says: An appeal must give the reasons. Article 8 of the Criminal Speedy Trial Act provides: If a case has lasted for six years since the first instance trial and has been remanded by the Supreme Court three times and if the second instance court upholds the innocence ruling of the first instance court or if a court has made innocence ruling twice, it shall not make an appeal to the supreme court. Article 9 of the Criminal Speedy Trial Act provides that if the court of second instance upholds the innocence judgment made by the court of first instance, the reasons for an appeal are limited to the following: (1) the law used for the judgment contradicts the Constitution, (2) the ruling violates the interpretations made by the Judicial Yuan, and (3) the ruling has violated legal precedents. All this restricts prosecutors making an appeal.

156. As for the decisions made by the second criminal trial by the Supreme Court in 2012 for narrowing down the law court's scope of evidence investigation, its practical impact is pending to be further evaluated.

53) Media influence and leaks of investigation information (para 209)

There is grave concern about media influence over ongoing criminal investigation and trials and especially leaks to the media of investigation information. Under what conditions and to what extent can investigating agencies reveal information about ongoing investigation? What measures are taken in practice to prevent leaks and media reporting that undermine the principle of presumption of innocence? Are individual leaks of investigation information investigated and punished in practice? Is new legislation necessary to improve the situation?

157. Article 245, Paragraph 1 of Code of Criminal Procedure prescribes that an investigation shall not be public; Paragraph 5 authorizes Judicial Yuan and Executive Yuan to enact an implementation regulation concerning this matter. Article 8 of the Regulations for Non-Public Investigation stipulates that sensitive information shall not be disclosed to the public unless laws prescribing otherwise. The sensitive information includes the confession of the accused, and whether the accused has confessed, investigation methods employed, the progress and conclusion of investigation, information which might induce the risk of destroying, forging, or altering evidences, or make defendant conspire with a co-offender or witness, information which might endanger the welfare of taken hostage if disclosed , documentation, photograph or other evidence in the possession of prosecutor, information that identifies the victim or defendants, the identity of the whistle blower, recordings etc.

158. It also strictly forbids the media accompany any investigation actions or allowing the media taking pictures of the defendants or interviewing them.
159. Violation of the implementation regulation shall be sanctioned by relevant laws.
160. Besides, the Supreme Prosecutors Office proclaimed the "Key Points for Handling News about Criminal Cases under Investigation by the Prosecutors Office, Police, Bureau of Investigation and Agency of Anti-corruption," prescribing the dos and don'ts for news release on cases under investigation.
161. Those who unlawfully leak investigation information may fall foul of the provisions of Article 132 of the Criminal Code governing the exposing of national secret unrelated to national defense. If the person who makes the leak is a staff member of the court or an investigation organization, he or she will be held in administrative account and subjected to investigation by competent authorities.

54) Pre-trial detention's impact on a fair trial (paras 125, 211)

Please elaborate on the procedures of detention hearings and the standards for detention. How much information, time and legal assistance are available to suspects before detention hearings? Are they adequate for the defence to argue in favour of bail and other opportunities for pre-trial release? What measures are being taken to ensure that detained defendants receive legal assistance sufficient to enable them to obtain a fair trial?

162. Since Judicial Yuan Interpretation No.392, an accused may be detained only by detention order issued by the court.
163. An accused or a suspect who is arrested with or without a warrant shall be examined immediately. At the stage of investigation, the public prosecutor shall, if he deems a detention is necessary after examining the arrestee, apply for a detention order from the court, having jurisdiction over the case, within twenty-four hours from the time of making the arrest with or without a warrant. Unless a detention order has been applied for under the provision of the preceding section, the public prosecutor shall release the accused immediately. If it is considered that application for detention is not necessary notwithstanding the existence of one of the circumstances listed in section I of Article 101 or section I of Article 101-1, the arrestee may be released on bail, to the custody of another, or with a limitation on his residence.
164. The Interrogator is obliged to inform the defendants his right to a defense lawyer. A defense attorney may not examine the case file and exhibits or make copies or photographs thereof. The prosecutor bears the burden of proof to convince the judge that the evidence is enough to satisfy the standard of issuing detention order.
165. The Standard is not the same as convicting the defendant. It does not require the fact to be proved beyond reasonable doubt. It only has to be convincing that the defendant committed the offences.
166. However, the prosecutor may be present at the hearing and state the reason for applying detention order and present necessary evidence. The accused and his defense attorney shall be informed of the facts based to support the detention of an accused as specified in section I of this Article. The same shall be stated in the record.
167. When the defendant is intellectually challenged or is aboriginal, the prosecutor or

law enforcement is obliged to notify the legal aid Institution to appoint a defense lawyer to the defendant if he is unable to afford one.

168. The interrogation shall stop immediately because of waiting for the presence of the appointed defense lawyer, provided that the waiting time shall not exceed four hours.

169. The Judicial Yuan proposed draft of Article 101 of Code of Criminal Procedure further confirms that Judges are also obliged to appoint a defense lawyer to the defendant in the detention hearing in cases where the minimum punishment is no less than three years imprisonment, where a high court has jurisdiction over the first instance, or where the accused is unable to make a complete statement due to unsound mind, or the defendant is aboriginal, or the defendant is unable to afford a defense lawyer and applied for one, or in other cases the judge deems necessary. The proposed draft also prescribes that the defendant or defense lawyer may request the judge allow them to have reasonable time for preparing the detention hearing.

55) Special problems of legal assistance (paras 212-216)

Mandatory defence is available in the investigation stage only for people with intellectual impairments. Please indicate whether the government plans to expand mandatory defence for the investigation phase. Please provide information on access to legal aid of people who have mental health conditions, in addition to people with intellectual impairment. In capital cases, mandatory defence is provided in the courts of first and second instances. While the government plans to revise the Criminal Procedure Code to expand free legal representation to capital defendants in the Supreme Court, what measures are being taken now to ensure free legal aid in capital cases in the Supreme Court (see General Comment 32, paras 10 and 51)? What measures are taken to ensure the quality of the legal aid?

170. The Legal Aid Foundation (hereinafter the LAF), funded by the government, launched the project of "Lawyer Accompanying Criminal Defendants to the First Investigation by Prosecutors and Police" for mandatory defense cases in investigation period: The LAF has tried out the project of "Lawyer Accompanying Criminal Defendants to the First Investigation by Prosecutors and Police" since September 17, 2007. In case that applicants, who are suspected to commit crimes that are punishable for more than 3 years, are apprehended or arrested by crime investigation authority, requested to be interrogated or inquired all of a sudden without receiving summons or a letter of notice, the LAF provides people with legal aid of counsels for the first investigation.

171. After the amendment of The Code of Criminal Procedure, the mandatory defense in the investigation period is now applied to indigenous defendants and suspects, the LAF also broaden the scope of not considering financial capacity: According to Article 31, Paragraph 5 of amended "The Code of Criminal Procedure," if defendants or suspects, who are unable to express clearly due to mental retardation or who are indigenous, do not retain attorneys in the investigation, prosecutors, judicial police officers or judicial police shall notify legal aid institutions founded in accordance with laws, to assign attorneys for such defendants or suspects.

172. Death penalty cases in the Supreme Court granted for free legal aids: For referral of defense in death penalty cases being heard by the Supreme Courts, the LAF shall grant legal aids in accordance with Article 14 of Legal Aids Act and Article 4 of Review Directions for Foundation Review Committee. With the Supreme Court's decision that all death penalty cases decided by second instance courts and appealed to the Supreme Court shall proceed oral argument from December 2012, the LAF's Taipei Branch Office assigned lawyer Yu, Bo-Xiang, Chou, Han-Wei and Li, Ai-Lun to defend for the defendant in the Wu, Min-Chen case where the defendant is under death penalty sentence by the high court and the referral of mandatory defense was made by the Supreme Court to the LAF's Taipei Branch Office aimed to proceed arguments for sentencing.

173. Measures implemented by the LAF to ensure the quality of legal aids: The LAF controls the quality of legal aids by doing case management before legal aid cases proceed, collecting complaints during proceedings, and evaluating lawyers after the legal aid cases are closed. Legal aid lawyers in LAF must have minimum 2 years of practice. In the future, the LAF will promote the quality of legal aids by improving case management, monitoring progress of legal aids cases, perfecting case closure system, strengthening lawyer evaluation system, and enhancing the development of professional lawyer system.

174.

(1) Article 31, Paragraph 2 and 3 of the Code of Criminal Procedure promulgated on January 23, 2013 stipulates that under the following circumstances, the presiding judge is obliged to appointed a public defender or a lawyer to defend the accused if no defense attorney has been retained:

   A. The minimum punishment is no less than three years imprisonment
   B. The offense the defendant is accused of is one that a high court has jurisdiction over the first instance
   C. The accused is unable to make a complete statement due to unsound mind
   D. The defendant is aboriginal, and the case is indicted or for on regular procedure.
   E. The defendant is low income household or mid-income household applying for a defense attorney.
   F. Other cases that the presiding judge deems it necessary to appoint a defense attorney to the defendant.

(2) In case that defense attorney fails to appear without good reason on the trial date, the presiding judge may appoint a public defender.

(3) Article 95, Paragraph 1, Subparagraph 3 of the Code of Criminal Procedure stipulates that the interrogator is obliged to inform the accused that he or she is entitled to public defender or lawyer if he or she is low or mid-income household, aboriginal, or other cases prescribed by law entitling the defendant to legal aid.

(4) The above amendments to the Code of Criminal Procedure combined enhance the protection of the social vulnerable groups when accused.

56) Foreign populations (paras 216-217)

Please elaborate on whether court interpretation is available and sufficient for the increasing populations of foreign migrant workers and foreign spouses. Please provide statistics on the legal aid provided to foreigners. What is the meaning of the State Report's statement that "legal aid will be discussed" in the case of certain victims of human trafficking? Should not legal aid be made available to all aliens who wish to contest the government claim that they are illegally residing in Taiwan?

175. The NIA established the Interpreters Talent Database in 2009 to safeguard the interests of new immigrants, provide timely language interpretation, tap into the language skills of new immigrants, and encourage their public participation. Providing translation services in 18 languages for ten main spheres in public affairs, health, law enforcement, labor affairs, etc., the database are open to all sectors that require these services, and submit applications to use the aforementioned database.

176. In order to protect the rights to judiciary for nationals and foreigners who do not speak Mandarin and to promote the standard of court interpretation service, the Judicial Yuan stipulated "Guidelines for High Court and its Branch Courts Establishing Lists of Contracted Interpreters and the Payment for Remuneration of Day Fee and Travel Expenses" and "Regulations for Intellectual Property Court Employing Contracted Interpreters". Taiwan High Court and its branch courts have established lists of court interpreters in language basis to facilitate the selection and employment of contracted court interpreters. The lists are published on the website for judges and civil groups to consult and select from and satisfy people's demand for interpreters. For now, the Judicial Yuan has classified 177 interpreters of 16 languages, including sign language, Hakka, indigenous languages, Cantonese, English, Japanese, Vietnamese, Indonesian, Thai, Filipino, Cambodian, Malay, Spanish, Portuguese, French, and German, so people who do not speak Mandarin or immigrants are able to participate in proceedings. If interpreters are required by litigants and relative parties, besides the advanced application for interpreters, each court will voluntarily ask litigants or relative parties for the demand of interpreters when foreigners, indigenous people or mute people are litigant, witness, expert witness or other litigation party in proceedings, and each court will acknowledge litigants their rights to interpreters.

177. The prosecutorial organizations under the Ministry of Justice are restrained by the size of their staff and the shortage of interpreters to cope with the multi-language requirement, the indigenous peoples and the dumb and deaf people. To protect the rights and interests of foreigners and indigenous people who do not understand the national language, the Taiwan Supreme Court and its branches are recommended to recruit different language speakers and make a name list for reference by various Prosecutors Offices.

178. To thoroughly protect the rights of the people, including the dumb and deaf people, who are not versed in Mandarin and to raise the level of interpretation in prosecutorial affairs, the Ministry of Justice has drawn up the "Key Points for Compiling the Contract Interpreters into a List as Well as Solving Their Travelling Expenses and Payment." This document clearly prescribes the interpreter must acquire a certificate issued by a language-testing organization to show their language proficiency is above the middle level. It will also do for

them to have other related certificates. The Prosecutors Office will issue a letter to them as contract after they have attained a seminar for at least four hours. The letter contract is valid for two years. During the period they may be asked to attend additional seminars. The per diem, travel expense, and lodging and board fees are to be budged by various Prosecutors Offices.

179. At present, the numbers of interpreters under the Taiwan High Prosecutors Office and its branches are as follows: The Taiwan High Prosecutors Office, 79; the Taichung Branch, 40; the Tainan Branch, 29; the Kaohsiung Branch 37; the Hualien Branch 24. These organizations can still cope with their needs, and an increase of the numbers is underway.

180. Statistics of Legal Aid Foundation providing legal aids to foreigners:

Aids to Foreigners, Classified Based on Aids Types						
Types	General Cases	Cases of Debt Elimination	Cases of Council of Labor Affairs	Cases of Broadening Legal Advice	Cases of Prosecu-tors and Police	Cases of Indige-nous Prosecu-tors and Police
Cases of Aids to Foreigners	1,445	0	17	691	5	-
Aids Approved	26,005	4,983	1,991	54,427	533	-
Ratio of Aids to Foreigner Account For Total Aids Approved	5.56%	0.00%	0.85%	1.27%	0.94%	-
Note：The Legal Aid Foundation tried out the Indigenous Prosecutors and Police Project on July 15, 2012. Only applicants with indigenous identity are classified to case of indigenous prosecutors and police. No foreigners are counted in the case of indigenous prosecutors and police.						

181. According to Article 15 of Legal Aids Act, foreigners, who legally reside in Taiwan and pass the financial capacity and case review regardless of their nationalities, are usually granted for legal aids. In order to assist victims of human trafficking applying for legal aids, the LAF loosens the review standard that applicants must possess legal identities in Taiwan. For applicants who are identified as victims of human trafficking and sheltered in the country, the LAF regards the applicants conform to the regulation of legal residence in Article 15 of Legal Aids Act. The LAF received 312 cases applied by victims of human

trafficking, 294 cases thereof were granted for total aids, 5 cases for providing legal advices, and only 13 cases were denied. The ratio for granting legal aids is 96%.

57) Confessions (paras 102-104)

To what extent are convictions based on confessions? To what extent are allegedly coerced confessions challenged and excluded from evidence? What measures, such as training, evaluation and punishment of law enforcement officers, are currently taken to implement legislative prohibitions against coerced confessions? In practice, how do courts investigate defendants' allegations of coerced confessions?

182. In order to prevent the officers use unlawful means torture to extracting confessions, the National Police Agency, Ministry of Interior promulgated "Directions governing recording and videotaping during Police Investigations". It required that all the process of questioning have to be recorded, or videotaped if necessary. Video recording should be used throughout the questioning during any of the following circumstances: (1)Serious case which attract the society's attention; (2)Controversial case; (3)Requested by officers involved in investigation who thinks it is necessary.
183. Article 98 of the Code of Criminal Procedure stipulates that an accused shall be examined in an honest manner; violence, threat, inducement, fraud, exhausting examination or other improper means shall not be used; Article 100 of the same Act stipulates that the confession of an accused and other statements unfavorable to him as well as facts stated in his favor and the method of proof indicated shall be clearly noted in the record; Article 100-1, Paragraph 1 and 2 of the same Act stipulate that the whole proceeding of examining the accused shall be recorded without interruption in audio, and also, if necessary, in video, provided that in case of an emergency, after clearly stated in the record, the said rule may not be followed. Except for the circumstances prescribed in the Proviso of the preceding section of this article, if there is an inconsistency between the content of the record and that of the audio or video record regarding the statements made by the accused, the said portion of the statement shall not be used as evidence. The recording shall be stored separately to prevent it being tempered or falsified with.
184. According to Paragraph 1 of Article 156 of the Code of Criminal Procedure, if a defendant's confession is not extracted through the use of violence, coercion, inducement, deception, exhausting interrogation, unlawful detention, or other unlawful means, it may be taken as evidence so long as it is consistent with facts. Paragraph 1 of Article 158-2 of the Code of Criminal Procedure provides that interrogation beyond barrier time is not permitted and that the onfession and other unfavorable statement obtained by interrogation at night cannot be used as evidence. This provision, however, does not apply, if the confession is made on the defendant's own accord and not obtained through malevolence. Paragraph 1 of Article 100 of the Code of Criminal Procedure provides an interrogation of a defendant must be audio-recorded from beginning to end and, if necessary, it has to be video-recorded consecutively. Paragraph 2 of the same Article stipulates that this provision applies mutatis mutandis to police and judicial police interrogations. If this provision is thoroughly observed, the practice of unlawful obtaining confessions can be terminated.
185.

(1) In procedure of Military count trial, if no parties argue with effective of confession evidence before the conclusion of the oral-argument sessions, gaining confession evidence legally, and being true after Military count investigated, These confessions could be evidence of guilty sentence.

(2) According to《Code of Count Martial Procedure》Article 125 mutatis mutandis《Code of Criminal》Article 156 paragraph I, confessions from defendants could be effective evidence unless gaining with forcing, duress, fraud, extort, illegal detaining, or other illegal ways and being true with fact. Confession of defendant shall be ineffective, if these confessions gained illegally after count investigating.

(3) In procedure of Military count trial, confession is true to be a fact or not is a necessary and important class in Judge Advocate training for strengthening correctness of evidence rule.

(4) In procedure of Military count trial, when defender defenses been extort, according to《Code of Count Martial Procedure》Article 125 mutatis mutandis《Code of Criminal》Article 156 paragraph III. If confession mention by Military Prosecutor, Military court should order Military Prosecutor to prove for investigation. (such as mention voice, video, or witness).

58) Review by a higher tribunal (para 224)

The report indicates that there are cases where the defendant may not be able to appeal a guilty verdict for a substantive review, including cases where the court of second instance reverses the acquittal of the lower court. Please elaborate on aspects of the domestic legal system that prevent the defendant from seeking a substantive review in ordinary courts and military courts (see General Comment 32, paras 47-48). What steps are being taken to amend existing legislation so as to be in conformity with Article 14 paragraph 5?

186. According to Article 7 paragraph of the ICCPR, "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law."Article 14, paragraph 5 is violated not only if the decision by the court of first instance is final, but also where a conviction imposed by an appeal court97 or a court of final instance, following acquittal by a lower court, according to domestic law**,** cannot be reviewed by a higher court. Where the highest court of a country acts as first and only instance, the absence of any right to review by a higher tribunal is not offset by the fact of being tried by the supreme tribunal of the State party concerned; rather, such a system is incompatible with the Covenant, unless the State party concerned has made a reservation to this effect .For offenses stipulated in Article 376 of Code of criminal procedure, the decision by the appellate court is final. These offenses include :(1). offenses with a maximum punishment of no more than three years imprisonment, detention, or a fine only;(2) Offense of theft specified in Articles 320 and 321 of the Criminal Code;(3). Offense of embezzlement specified in Article 335 and Paragraph 2 of Article 336 of the Criminal Code;(4). Offense of

False Pretense specified in Articles 339 and 341 of the Criminal Code;(5). Offense of breach trust specified in Article 342 of the Criminal Code;(6). Offense of extortion specified in Article 346 of the Criminal Code;(7). Offense of swag specified in Paragraph 2 of Article 349 of the Criminal Code.These offenses are relatively minor offenses. However, motion for retrial may still be filed for interests of the convicted under the circumstances stipulated in Article 420 and 421 of the Code of Criminal procedure. In addition, pursuant to Article 441 of code of criminal procedure, after a judgment is final, if the trial of a case is found to in contravention of laws, the chief-procurator of the Supreme Prosecutors Office may file an extraordinary appeal to the Supreme Court.

187. Article 14 paragraph 5 of the ICCPR collides with the criminal procedure system. According to Grand Justice Interpretation concerning the right of instituting legal proceedings as guaranteed under Article 16 of the Constitution is aimed to ensure that when the people's rights are infringed, they may institute legal proceedings pursuant to procedures set by the law, and shall be entitled to fair trials. In respect of the procedures to be followed and the relevant requirements, however, the legislature may set forth reasonable and equitable rules after weighing such various factors as the type and nature of cases, the functions of a litigation system, as well as the statutory means to resolve a dispute out of court. As long as the relevant provisions tally with the aforesaid intentions and are necessary, they are not contrary to the constitutional intent to guarantee the right of instituting legal proceedings. The scheme formulated by Article 14 paragraph 5 of the ICCPR shall be subject to the legislator’s discretion. In its nature, it could be said that this part of the ICCPR should have been reserved when incorporating the ICCPR and all general comments into our domestic legal system before the new scheme of Code of criminal procedure in this respect is reorganized.As for now, almost all amendment aiming to make the Code of Criminal Procedure conforming to the standard of ICCPR is still under deliberation in Legislative Yuan, there are no further progress made concerning amendment to the existing legislation in this regard, so as to be in conformity with Article 14 paragraph 5 of the ICCPR.

188. According to 《International Covenant on Civil and Political Rights》Article 7 paragraph V, “Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.” Right safeguard of defender in martial procedure, for example the Presumption of innocence, right of defense, cross-examination, that is no different between criminal court and military court unless existing special rule of Code of Court Martial Procedure and special law. And according to 《Council of Grand Justices》 number 436, Code of Court Martial Procedure amended and becoming effective in 3th October 1999, according to Article 181 paragraph III, IV, any reason which contravened laws and regulations may appeal Supreme court unless detention, fine, or imprisonment. As result 《Code od Court Martial Procedure》about supreme court rule does not contrary Covenant.

【Article 17】

59) The report states that regulations on the protection of and non-interference with people’s privacy are available in the Criminal Code and in several other laws.

(para 238) Please provide information on the conditions under which this right may be legally restricted and how any abuse of power under such legal provisions is monitored and what action has been taken in case of abuse. Please provide information on the complaints that may have been filed by individuals whose right to privacy under the various laws has been violated and the results.

189. Violations of the Criminal Code Article 315 (governing offense against mail privacy), Article 315-1 (governing offense against peeping and eavesdropping), Article 315-2(governing offense against facilitating peeping and eavesdropping), Article 316 (governing offense against revealing an individual's secrets obtained during the carrying out of a profession), Article 317 (governing offense against revealing commercial secrets), Article 318-1 (governing offense against revealing an individual's secrets obtained by the use of computers) and Article 318-2 (governing offense against revealing secrets of an individual by the use of computers) are punishable by imprisonment, detention, fine or confiscation. The individual whose privacy is infringed is entitled to file a criminal complaint.

190. In addition, Article 245-1 and 245-3 stipulates" Investigation should not be publicized. Prosecutors, assistant prosecutors, police officers, defense attorneys, legal representatives who filing criminal complainants on the victims' behalf or other officials carrying out their duties during investigation, unless otherwise permitted by law or considered necessary measures to safeguard public interests, shall not publicize or disclose whatever information obtained during investigation to officials with no clearance to it.

191. According to Article 5 of the Personal Information Protection Act" Personal information should be collected, handled and utilized in the manner of respecting each individual's rights and interests, consistent with the principle of bona fide, not exceeding the scope of its original purpose and reasonably related to the purpose of collection. "

(1) A government agency should be held liable if it fails to abide by the provisions stipulated in the Law and leads to illegal collection, processing and utilization of personal information or other infringement of the rights of an individual. However, damages caused by natural disaster, incident or other force majeure should be excluded. Victims are entitled to request a maximum monetary compensation of two hundred million NT dollars and proper restorative measures to restore reputation if their reputations are infringed.

(2) A non-government agency, unless proven to be unintentional or negligent, should be held liable if it fails to abide by the provisions stipulated in the Law and leads to illegal collection, processing and utilization of personal information or other infringement of the rights of an individual. Victims are entitled to request a maximum monetary compensation of two hundred million NT dollars and proper restorative measures to restore reputation if their reputations are infringed.

(3) Compensation should be claimed in accordance with the provisions of the Law. Compensation for damages caused by a government agency should be claimed in accordance with the State Compensation Law while compensation for damages

caused by a non-government agency should be claimed in accordance with the Civil Code.

(4) Violations of the abovementioned provisions are punishable by imprisonment and fine.

192. According to Paragraph 1 of Article 5 of the Communications：Monitoring Act, the primary condition on monitoring communications is that there is no other means or it is impossible to gather evidence. This is to say, Communications monitoring is the last resort. Before the method is employed, all other means for gathering evidence must be considered and tried. Only when evidence cannot by gathered by other means, can communications monitoring be used. As to the crime involved, it must be one listed in Article 5 of the Act. Besides, before using communications monitoring, it must be proved by facts that the targeted person is suspected of involvement in a crime. Unless in an emergency, a warrant must be applied with the court before monitoring can be conducted. To protect people's privacy, Articles 19-26 provide that if people's privacy is infringed by the monitoring and if the provisions of the Act are violated as a result of monitoring, the monitoring organization must bear the civil and criminal responsibilities.

193. According to Communication Protection and Surveillance Act, the content or evidences derived from the outcome of surveillance obtained in violation of the procedure prescribed by the Act is not admissible in criminal procedure. When the illegal surveillances intrude individual's right of privacy, the individual is entitled to file claims for damages pursuant to Article 19 to 23 of the Communication Protection and Surveillance Act. Person who violates the regulation shall bear criminal responsibility arising therefrom.

194. MOJ's supervisory measures taken for monitoring communications

(1) Ordering the prosecutorial organizations to abide by the provisions of Paragraph 4 of Article 5 of the Communications Protection Act and Paragraph 1 of its Rules of Enforcement by filing at least one "mid-term report" during the communications monitoring period and file a "final report" within 7 days after the end of the operation for deliberation by the court.

(2) Inspecting prosecutorial organizations to see whether there is illegal communications monitoring. MOJ dispatches prosecutors to audit the operation every half month and uses the Supreme Prosecutors Office's online systems to make automatic checks. So far, no illegal practice has been found.

(3) According to Paragraph 2 of Article 16 of the Communications Protection and Monitor Act and Item 6 of the "Implementation Key Points for Communications Monitoring by Prosecutorial Organizations," a prosecutorial organization shall assign a prosecutor or a prosecutorial assistant to check, at least once every season, the operations of the organizations where communications monitoring is conducted. The prosecutor in charge shall file a report to the chief prosecutor on his or her findings. All prosecutorial organizations shall do the same accordingly and conscientiously.

195. MOI's supervisory measures taken for monitoring communications

(1) According to Article 15 of the Communications Monitoring Protection , Police enforcement must file a "final report" within 7 days after the end of the operation for deliberation by the court. National Police Agency makes restrict ask for belonged police agencies to follow directions involved. According to statistics, the latest percentage of which the police report to the prosecutor to give court notice of objected person is 97%, the rest of 3% results from the death of objected person, or some related to other acting cases. (the number of statistic is floating at any time)

(2) According to Enforcement Rules of the Communications Monitoring Act, National Police Agency sets various directions to monitor someone's communications with strict audit and control, prohibit any illegal monitoring. So far, no illegal practice has been found. After mission clearing, policeman should report to the prosecutor to give court notice of objected person, completing statistics and monthly report. MOJ dispatches prosecutors to audit the operation every half month and uses the Supreme Prosecutors Office's online systems to make automatic checks.

60) Please provide details of various types of personal data collected, the purposes and the agencies, governmental or non- governmental authorised by law to do this. Is there a monitoring of abuse or CCPR List of Issue 10 misuse of such authority and practices and is there a dedicated agency to ensure protection of personal information and compliance with the law.

196. Taiwan's Personal Data Protection Act does not set up a dedicated agency. Each government angency is monitored by its superior administration. Besides, to ensure the protection of personal data, government authorities in charge of subject industry are responsible for monitoring and investigating relevant industry sectors.

197. The Ministry of Health: In order to secure and promote the individual health of nationals, personal data will be collected by the Department of Health for investigation and research according to law when necessary. Measures will be taken to prevent leakage of personal data to secure the privacy of the nationals. As to electronic database, the Department of Health will proceed on a variety of encryption measures to avoid hacking and leakage. Additionally, a team of specialists are assigned to secure personal information of nationals.

198. The Ministry of the Interior :The Information Security Management System of Household Registration and Conscription Information System obtains the international certification ISO-27001 on May 30, 2008. The system is re-examined and certified every six month so that it can be confirmed the appropriateness and effectiveness. The Ministry of the Interior builds up the Security Operation Center (SOC) of Household Registration and Conscription Information System according to the standard operating procedures for log collection, network monitoring, information security event detection and system services status monitoring. In addition, it automatically establishes the alert

mechanisms by sending SMS and the email. The security auditing affairs were applied for the operating units of National Household Registration and Conscription Information Systems and the linked government organizations. The possible imperfection will be controlled and timely corrected by actions and track confirmations. It ensures the confidentiality, integrity and availability of the information assets and guarantees the information security management.

199. Financial Supervisory Commission: The financial service enterprises are in compliance with the "Personal Information Protection Act" when conducting the collection of personal information. The Financial Supervisory Commission (FSC) had issued regulations governing the security of personal data files for the banking, securities and futures, and insurance industries to follow according to the Protection of Computer Processed Personal Data Act which was replaced by the "Personal Information Protection Act" on October 1, 2012. These regulations establish financial clients' personal information files security protection scheme and prevent financial clients' personal data from theft, alteration, damage, loss, or disclosure. As the "Personal Information Protection Act" became effective, the FSC is currently drafting new regulations to implement the Act and to enforce the security protection scheme of the financial clients' personal information files.For the insurance industry, the FSC has amended the "Directions and a Standard Model for the Proposal of Life Insurance Products". We also enforce the insurance employees' recognition of personal information and their awareness to protect privacy by inviting insurance-related associations and their corporate members to attend "Personal Information Protection Act promotional seminars" hosted by our Insurance Bureau. The associations of life insurance, non-life insurance, agency, broker and surveyors are required to enforce the compliance education of their own staff, and to study the making of a reference model for notification for the persons involved in a insurance contract, with an aim to implement the compliance by the insurance employees and to protect persons involved in a insurance contract as well.

200. National Archives Administration: Government agents must follow related codes of Personal Data Protection Act to collect and protect personal data. When an application for viewing, copying or duplicating records in government agents is filed, every individual agency should review all required records based on its authority. Records with personal information should be restricted from making available to the public or provided under Article 18 of Archives Act, Article 18 of Freedom of Government Information Law, and other laws such as Personal Information Protection Act.

61) In particular, the report states that the communication surveillance petition filed by judicial police to facilitate criminal investigation goes through two levels of judicial control (para 238). Please provide data on petitions filed by judicial police for communication surveillance and percentage approved. Please provide information on complaints that may have been filed by individuals on the misuse of the communication surveillance procedures and the results.

201. According to Article 5, Paragraph 2 of the Communication Surveillance Act, only prosecutor has the standing to file communication surveillance petition. There is no statistics concerning the petition initiated by the judicial police. No information concerning the complaints filed by individuals.

202. The statistics of applications for communications monitoring in the last three years is as follows: 33,382 in 2010, 35,540 in 2011, and 37,475 in 2012. Of these applications, 387 were rejected in 2010, 405 were rejected in 2011 and 387 were rejected in 2012 by prosecutorial organizations as a preliminary measure. In the end, 4,103 were turned down in 2010. 4,016 in 2011, and 4,075 in 2012 by the law courts.
203. The number of cases received by Telecommunication Surveillance Center of National Police Agency was 17458 in 2012, 1034 more comparing to 2011. The number of telephone lines monitored was 41,599 in 2012, 629 more comparing to 2011.

【Article 19】

62) Please provide information on the ownership of various media institutions- print as well as electronic inclusive of ownership by conglomerates. Is there a law that prevents anti -monopoly of the media?

204. According to the current structure of cable TV industry market, there are no multi-system operators (MSO) having a controlling number of cable TV system operator and whose subscribers is greater than one-third of the total number of subscribers nationwide, and the number of channel programs exceeds one-quarter of available channels that obviously restrict competition.
205. According to the website statistical information of the National Communication Commission (hereinafter referred to as the "NCC"), the market concentration of the cable TV industry in Taiwan whose Herfindahl-Hirschman Index (hereinafter referred to as the "HHI") is 1977 in Year 2011 and 1953 in the first half of Year 2012. In referring to Horizontal Merger Guidelines issued and amended on August 19, 2010 by U.S. Department of Justice and the Federal Trade Commission, the market concentration of the cable TV industry in Taiwan belongs to moderately concentrated markets.
206. Regarding to the newspaper and the media enterprises merger cases, the Fair Trade Commission (hereinafter referred to as the "FTC") has established the Guidelines to provide precise standards in review of merger filings as well as for businesses to observe. According to Fair Trade Act and related regulations, the merger enterprises must notify the FTC when reaching the threshold. To review the merger cases, the FTC also has established the "Directions for Enterprises Filing for Merger", "FTC Guidelines on Handling Merger Filings" and "Procedure for Enterprises Filing of Merger" etc. To review cable TV industry merger case, the FTC has established "FTC disposal directions (Policy Statements) on cable television and related industry". When reviewing the media merger cases, the FTC also invite the NCC to provide their examining opinions. Besides, according to article 12 of Fair Trade Act, the FTC may approve an application for merger filed pursuant to the preceding article if the overall economic benefit of the merger outweighs the disadvantages resulted from competition restraint. When taking account of the other conditions about industry policy and financial policy, the industry competent authorities will handle it by related law or regulation and the FTC will be no opinion.
207. Although as of yet there is no specific anti-monopoly law governing the media in Taiwan, there are certain stipulations in the existing radio and television

regulations towards media (cross-media) ownership. For example, there are limits that ensure persons do not hold more than a certain percentage of shares of newsprint, radio, or television enterprises. Furthermore, the vertical integration limit states that the number of channels or programs provided by cable TV system operators and their affiliated enterprises shall not exceed one fourth of the available channels, and whenever the person in charge of the broadcasting business or the operational plan changes, approval must be gained from the commission (NCC).

208. However, it has become apparent that existing laws are challenged as they still cannot effectively regulate mergers and acquisitions of news channels or newspapers by conglomerates. Consequently, the public has expressed its concern about the possible threat to freedom of speech due to heavy concentration of media ownership. In response to this issue, we are in the process of drafting an anti-monopoly law of the media. The new law will include regulating the recent phenomenon of horizontal and vertical mergers and acquisitions (cross-media ownership) and will take into account the consolidation issue. The process of drafting this regulation involves referring to the experience of other advanced countries with regard to determining the potential influence a single media enterprise group may have on freedom of speech in order to ensure diversity and plurality of the media. The process of drafting and the promulgation of the an anti-monopoly law will ascertain public opinion and supervise public affairs with the ultimate target of maintaining normal development of a democratic society and minimizing the harm of excessive concentration of media ownership.

63) Please provide an explanation of the reasons for the disputes over the operation of the Public Television Board of Directors (para 258).

209. As stated in the Public Television Act, the Public Television Service (PTS) Foundation is to consider "gender and ethnic representation" as well as "balanced representation from education, the arts, literature, academia, broadcasting, and other professional fields" in selecting its board of directors. Candidates for all directors and supervisors thus far have been nominated in line with these principles. Concerns voiced by the Review Committee that candidates are insufficiently different to one another, and that nominees are too mainstream or are insiders will be incorporated into the broad range of opinions being collected for further consideration.

210. Other difficulties with board selection:

(1) The term of office for the fourth set of PTS directors and supervisors ended on December 3, 2010. So as to allow a smooth and timely selection of a fifth set of officials, the Government Information Office (GIO) held meetings on the selection of said officials on November 22, 2010 and January 24, 2011. Following the central government's May 20, 2012, restructuring [as the result of which the Ministry of Culture took over responsibility for the PTS from the now-defunct GIO], the Ministry of Culture held meetings on the board's selection on June 29, July 11, and August 20, 2012, and January 18, 2013. Only 13 directors have been selected thus far (four fewer than the legally required minimum), while three supervisors have been selected (meeting the legally

required number).

(2) The PTS Foundation's board of directors is empowered to determine the organization's operational direction, while the supervisors are empowered to audit the Foundation's use of funds. The selection of both directors and supervisors is a key element ensuring the normal operation of the PTS, as these figures play a critical role. However, as the Public Television Act requires that three-quarters of the Review Committee consent to the nomination of a candidate for director or supervisor, a very high degree of consensus must exist among Review Committee members on candidates' qualifications for the positions of director and supervisor. This has resulted in a failure to provide, to date, a quorum for the fifth set of directors and supervisors. To ameliorate this situation, the Ministry of Culture will press for revisions to the Public Television Act and engage in a systemic and structural review so as to create a more complete set of rules governing the selection of directors and supervisors. This will create a reasonable threshold for selecting these officials, one that is in line with the public's wishes.

(3) The MOC will continue to implement related procedures in accordance with the law, and strive to make the Public Television Act a priority in the next session of the Legislative Yuan so that the threshold for selecting PTS Foundation directors and supervisors may be revised and a reasonable review mechanism implemented, thus allowing the PTS to develop in a more robust fashion.

64) The report under article 19 provides information on regulations restricting freedom of speech and its rationale (table 34). Please provide information on prosecutions for violations of these regulations. Who has been prosecuted, for what violations and what are the findings.

211. Article 11 of our Constitution clearly says that "The people shall have the freedom of speech, teaching, writing and publication." This is to say freedom of speech is a fundamental right of our people and, therefore, the government gives it the maximum protection. We hope by so doing we can realize ourselves, communicate among us, pursue our truths, and supervise, to the maximum extent, the social and political functions. Nevertheless, freedom of speech is not without restrictions. It must be regulated by the law in order to prevent the intrusion on the freedom of other, ward off crises and disasters, maintain social order and peace and promote public well-being.

212. The table below shows how and why freedom of speech is restricted by the Criminal Code and the Public Office Election Act:

Number	Name of law	Article	Crime name	Reason for restriction
1.	Criminal Code	Paragraphs 1 & 2 140	Insult Public Official	To protect national sovereignty, government power and prestige

2	Criminal Code	153	Incitement of others to the commission of offences	To maintain social order and peace
3	Criminal Code	155	Incitement of armed persons to mutiny	For national security and social order and peace
4	Criminal Code	157	Instigation or Contracting for a Lawsuit	To avoid impairment on social order
5	Criminal Code	Paragraph 1 246	Defamation of religious buildings and ideological locations	To maintain religious freedom and good customs
6	Criminal Code	309	Insult	To safeguard personal reputation
7	Criminal Code	310	Defamation	To ensure personal integrity and privacy
8	Criminal Code	312	Insult Dead	To protect the reputation of family, deceased, bereaved and social respects to the deceased
9	Criminal Code	313	Injures the Credit	To maintain victim's credibility
10	Public Office Electoral Act	104	Disseminates rumors or Spreads false sayings	To ensure electoral fairness

213.The number of prosecutions from 2006 to 2011 based on Articles 309, 310, 312 of the Criminal Code and Article 104 of the Public Office Electoral Act.

Defamation Cases Disposed in District Public Prosecutors

(case、person)

Year	Prosecution(cases)					Prosecution(persons)				
	Total	Prosecution			Summary Decisions Requested	Total	Prosecution			Summary Decisions Requested
		subtotal	Sentencing proposed by prosecutor	No sentencing proposed by prosecutor			subtotal	Sentencing proposed by prosecutor	No sentencing proposed by prosecutor	
2006	627	176	8	168	451	737	224	8	216	513
2007	876	310	7	303	566	1,008	373	10	363	635
2008	941	305	11	294	636	1,111	371	11	360	740
2009	1,044	364	3	361	680	1,206	442	3	439	764
2010	1,331	488	7	481	843	1,501	571	8	563	930
2011	1,657	716	7	709	941	1,888	858	10	848	1,030
2012	1,689	786	2	784	903	1,896	928	3	925	968

Cases of Article 104 of Civil Servants Election Disposed in District Public Prosecutors

(case、person)

Year	Prosecution(cases)					Prosecution(persons)				
	Total	Prosecution			Summary Decisions Requested	Total	Prosecution			Summary Decisions Requested
		subtotal	Sentencing proposed by prosecutor	No sentencing proposed by prosecutor			subtotal	Sentencing proposed by prosecutor	No sentencing proposed by prosecutor	
2006	-	-	-	-	-	-	-	-	-	-
2007	1	1	-	1	-	1	1	-	1	-
2008	20	19	-	19	1	23	21	-	21	2
2009	6	5	1	4	1	6	5	1	4	1
2010	18	13	-	13	5	21	16	-	16	5
2011	38	35	1	34	3	50	46	1	45	4
2012	12	12	1	11	-	12	12	1	11	-

【Article 21】

65) Para 268 of the report acknowledges the shortcomings of the Assembly and Parade Act which are in violation of the Covenant. Since the Covenant takes legal precedence over domestic laws please indicate reasons for the continued use of the Assembly and Parade Act by the authorities. Please indicate what plans are in place for reform of this Act and related administrative rules and procedures including the time frame.

214.Reasons for the continued use of the Assembly and Parade Act

(1) The current Assembly and Parade Act is still in effect.

A. The Assembly and Parade Act is reviewed by Human Rights Protection and Promotion Committee, Executive Yuan. According to Article 21 of the International Covenant on Civil and Political Rights (ICCPR), the right to peaceful assembly, the Act is in violation of the Covenant. The amendment of the Assembly and Parade Act failed to be ratified at the last session of the 7th-term legislature (December 10, 2011).

B. The Central Regulation Standard Act shall be accorded for application and amendment of a central regulation. The amendment has been submitted to the Legislative Yuan. The current Assembly and Parade Act are still in effect until the amendment is ratified.

(2) The NPA has launched the directions governing assembly and parade activities on November 22, 2011 and demanded that all police departments practice the ICCPR and take concrete action to protect human rights.

215. The time frame for ratifying the Assembly and Parade Act.

(1) The amendment of the Assembly and Parade Act, changing the permit system to a notification system, was approved by the Executive Yuan on December 4, 2008, and the next day was submitted to the Legislative Yuan. On March 10, 2009, the amendment passed its initial review at the legislature's Internal Administration Committee. However, the amendment failed to be ratified at the last session of the 7th-term legislature due to no consensus to be reached.

(2) The amendment has been reviewed again and submitted to the Legislative Yuan on May 28, 2012. The Executive Yuan will strengthen communication with the Legislative Yuan to pass the amendment as soon as possible.

【Article 23】

66) Please inform the Committee whether the national census captures the diversity of sexual identities and orientations prevalent in the country, or partnerships or families formed other than through heterosexual relationships or through cohabitation. If so, provide demographic data on such populations. Please provide information on the problems or difficulties faced by such people in exercising the rights contained in the Covenant if such an assessment has been done by any agency governmental, non-governmental or academic.

216. After our country's Executive Yuan Department of Gender Equality was established in 2012, cabinet officials of the Executive Yuan met together in August of the same year to study and discuss the various rights of LGBT groups. In addition to learning about the current protection that our country's legal and administrative system provides to LGBT groups, the direction of further efforts were actively studied such as whether identification card regulations of related government agencies (Department of Health, Ministry of the Interior and Ministry of Justice) could be relaxed for transgender persons and the feasibility and methods of legalization of homosexual marriage and partner rights. Of these, the relaxation of regulations to allow transgender identification registration has been submitted to the Presidential Office Human Rights Consultative Committee in our country for follow-up reporting and management at regular meetings of this committee. Current results include acceptance of identification card photos for transgenders that match their appearance in everyday life to prevent transgenders from suffering from discrimination due to the difference between identification photos and their real appearance. Our country's Gender Equity Education Act and Act of Gender Equality in Employment guarantees the education and employment rights of LGBT groups. In addition, there is no rule in same-sex couples or same-sex marriage in Civil Code. In order to survey more information about this issue, we have a study of the same-sex couple legislation

of German, French and Canada. In addition, we are planning to have a survey of public opinion about legal system of the same-sex couples.

217. Due to the short establishment period of the Executive Yuan Department of Gender Equality, research findings from collaboration with non-government organizations and academic institutions on the difficulty of LGBT in exercising related rights is still lacking. In the future, more effort will be made to further guarantee and promote the rights of LGBT groups.

67) Has the proposed gender equality and sexual diversity education programme in schools been implemented? If not please provide reasons for the delay.

218. To promote substantive gender equity, eliminate gender discrimination, uphold human dignity, and to ensure the ESC-rights of those who have a different gender identity from their biological sex, Gender Equity Education Act was enacted and promulgated on June 23, 2004 as the legal base for Taiwan's gender equity education. As defined by the Act, gender equity education refers to the development of respect for gender diversity, the elimination of gender discrimination, and promotion of substantive gender equality by means of education. The Act prescribes that the learning environment and resources, curriculum, teaching materials and instruction should consider and respect gender differences, characteristics, identification, and orientation.

219. Article 17 of the Gender Equity Education Act prescribes that elementary and junior high schools, in addition to integrating gender equity education into their curriculum, shall provide at least 4 hours of courses or activities on the topic of gender equity each semester; that senior high schools shall integrate gender equity education in the curriculum, that five-year junior colleges shall do so in the first three years of their curriculum; and that universities and colleges shall provide a wide range of courses on gender studies. Article 13 of the Enforcement Rules for the Gender Equity Education Act provides that curriculum on the topic of gender equity shall include courses on affective education, sex education, and homosexuality education to enhance students' consciousness about gender equity.

220. The integration of gender equity topics into school curriculum aims to enhance the public's consciousness about gender equity. The following are the details.

(1) Junior high and elementary schools: Grade 1 to 9 Curriculum Guidelines prescribes that gender equity education shall be one major topic, and three core capacities shall include "self concept and understanding of gender", "gender and self-other relationship", and "self-breakthroughs and gender". Indicators for different levels are also prescribed. In the cognitive dimension, by understanding the meanings, roles, and development of different genders, students can better understand the relation between gender and society. In the affective dimension, the purpose is to help form accurate concepts about gender and values. In the operational dimension, the aim is to develop critical thinking, introspection, and practice.

(2) Senior high and vocational schools: The curriculum outline of the 2006 school year has required schools to incorporate gender equity topics into relevant courses in the first year and adopt materials on gender equity in relevant

materials.

(3) Universities and colleges: The design of curriculum is part of the school's autonomy and the MOE respects the school's expertise and independence in this regard. However, to promote the schools' continuing attention to gender equity, the MOE encourages the schools, public or private, to provide relevant courses so that students can form better concepts about gender equity. For example, during the school years between 2009 and 2011, more than 1,400 courses on gender equity and similar topics were offered by universities and colleges nationwide.

(4) Gender equity is taught using the infusion approach. To support teachers, the MOE has commissioned academics to prepare instruction demos and resource handbooks. Many teaching methods are used to activate gender equity education and bolster respect for diversity on campus.

68) The report states that for division of matrimonial property, there are three regimes: statutory regime, and the contractual regime whereby the latter is further divided into the community of property regime and the separation of property regime (para 292). Please provide data showing percentages regarding the regime chosen by couples and correlated by the socio-economic status of the couples. Please provide information on how or which party makes the decision as to which regime is to be decided on –if such information is available.

221. The husband and the wife may, before or after getting married, adopt by contract one of the contractual regimes provided by this Code as their matrimonial property regime. If the husband and the wife have not contracted the holding of matrimonial property, unless otherwise provided by this Code, the statutory regime shall be applied.

222. We have amended the Civil Code to prohibit the creditors to request the remainder of the property acquired by the husband or wife in marriage in 26 Dec. 2012,the summary of amendment as follow：

(1) Before the amendment, when a creditor could not be satisfied in the attachment of the property of either the husband or the wife, the court may, at the instance of the creditor, order the application of the separation of property regime,. This provision is repealed now.

(2) The remainder of the property acquired by the husband or wife in marriage is an exclusive right in Article 1030-1, and it could not be requested by a creditor.

(3) The cases of requested to the court by the creditors before 26 Dec. 2012 also apply to the new provisions, so that, there will be nearly 6,000 cases shall be applicable totally.

223. The statistical view from 2001 to 2011 for the applications district courts received for the separation or community of property regime, whether the conclusion, modification or termination of a contract for the holding of matrimonial property

registered at court process is as follows.

Number of the Holdings of Matrimonial Property Registered at District Courts

Year	Community of Property Regime	Separation of Property Regime
2001		1,339
2002		1,144
2003		1,060
2004		984
2005		1,176
2006		1,178
2007		1,103
2008	1	1,361
2009		1,901
2010	1	1,894
2011	7	4,369
2012	33	7,449

69) The report states that the government provides various child and teenager benefits and subsidies to ease burden of single parent families (see para 303). Please provide information on the percentage of single parents needing such assistance disaggregated by sex. Please also provide the quantum of such assistance provided and the categories of assistance.

Measures to assist children and youths of single-parent families are described as follows(the applicant can only choose one of the three options below whichever is more appropriate for him or her):

224.Compensations for disadvantaged children and youths

(1) Candidates for subsidy: A child or youth whose parent(s) are/is dead, or seriously ill missing, or imprisoned, or unmarried pregnant teenager caught in life's difficulties.

(2) Qualifications: after averaging the total income in the family, if the revenue per person per month does not exceed 1.5 times of the minimum living standard, and the values of the family's real estate do not exceed the amount set by the government.

(3) Amount of compensation: amount of NT$1,900 to NT$ 2,300 is granted to every child or every juvenile every month. (The amount may vary slightly among municipalities, counties and cities).

225.Urgent compensation for children and youths of disadvantaged families:

(1) Candidates for compensation: A child or youth, whose parent meets any of the

following criterions AND assessed to have encountered economic difficulties:

A. Loses his or her job;
B. Is imprisoned;
C. Suffers from major illness, injuries or mental illness;
D. Being treated for drug and/or alcohol addiction;
E. Divorce, death, or disappearance and other hardship circumstances.

(2) Qualifications: after averaging the total income in the family, if the revenue per person per month does not exceed 1.5 times of the minimum living standard; the values of the family's real estate do not exceed the NT$6.5 millions; and every family members' asset value do not exceed NT$150,000

(3) Amount of compensation: amount of NT$3,000 is granted to every child or juvenile every month for 6 to 12 months.

226. Act of Assistance for Family in Hardship

(1) Candidates for compensation: A child or youth whose family's income does not meet the minimum standard set by the government, and meets any of the following criterions:

A. Single-parent family ;
B. Skip-generation families;
C. Unmarried pregnant women;
D. Victims of domestic violence;
E. The spouse sentenced with at least one year of imprisonment; or
F. Family in hardship in the past three months.

(2) List for Services or compensations:

A. provide emergency compensations (according to the minimum living standard of that year, and three months only per person),
B. child living allowance(10% of minimum monthly wages for every child under 15),
C. Subsidy for child care (for applicant's children or grandchildren under 6, and study in private nursery institution, up to NT$1500 per person per month),
D. children' s education subsidy（subsidies 60% of tuition fees for children or grandchildren who study in senior high school or college）,
E. medical assistance(for applicants and their children or grandchildren from 6 to 18, at most 70% reduction of grant for over NT$ 30,000 medical expenses about persons from the co-payment; for every applicant's children or grandchildren under 6, up to NT$ 120,000 can be subsidized for medical expanse per person per year),
F. litigation subsidy(up to NT$ 50,000), and
G. subsidy for business start-up loan（business loan subsidy for 7 years

maximum and up to NT$ 1 million for interest subsidy）

70) Is legal aid available to women seeking divorce or custody of child or under the domestic violence act? If so, please provide information on quantum of legal aid so provided to women as against the total legal aid dispersed.

227. The Ministry of the Interior proactively promotes three levels of prevention. Tertiary prevention: Crisis management mechanisms have been put in place to strengthen personal safety of the victim and enhance processes to deal with the perpetrator. Various subsidy standards for victims have been established. Individual protection centers are given assistance in providing victims with emergency rescue, medical care, medical examinations, and collection of evidence, emergency relocation, psychological therapy and legal consultation. Governments at the special municipality, city, and county levels provide various forms of protection and support to victims in accordance with the Domestic Violence Prevention Act. A total of 150,105 victims of domestic violence were supported legal consultation from 2008 to 2011, among which 17,277 were men and 132,828 were women. The total value of support and assistance reached NT$38.37 million.

228. Quantum of legal aids provided to women by the Legal Aid Foundation:

Case Types	Cases Granted for Legal Aids by the LAF to Women Seeking Divorce or Custody of the Children or Due to Domestic Violence	Cases Granted For Legal Aids	Ratio
General Cases	2304	26005	8.86%
Cases of Broadening Legal Advice	4047	54427	7.44%
Total	6351	80432	7.90%

【Article 24】

71) Please provide data on the number of abandoned, orphaned or destitute children in the country and the types of institutional programmes and services including coverage, implemented for their protection and developmental needs.

229. Statistics of abandoned children and orphans

Year	2006	2007	2008	2009	2010	2011	2012
Number of abandoned children and orphans	35	60	40	37	26	13	18

230. Child protection and the service measures and assistance programs we have

developed

(1) The Standard Operation Procedures for child protection are in accordance with Articles 49, 53, 56, and 57 of The Protection of Children and Youths Welfare and Rights Act: Authorized municipal agencies and county (city) governments are required to take immediate actions to look after the children in danger or involved in domestic violence in no longer than 24 hours after acknowledging or receiving such a report. It is also stipulated by Regulations for Reporting and Processing Protection of Children and Youths that the social workers must conduct face-to-face interviews with the children and submit the investigation report within four days after accepting the cases.

(2) For those children and youths whose cases have entered a government protection system and for those who have witnessed domestic violence, the authorized municipal agencies and county (city) governments must provide them with family treatment programs in accordance with Article 64 of The Protection of Children and Youths Welfare and Rights Act. With reference to the family preservation and restructuring models from other countries, the treatment program will include an assessment of family functionality, children and youths' safety and placement, parental education, psychological guidance, mental health, drug addiction treatment or assistance and welfare services relating to the protection of children and youths.

(3) In order to provide proper sheltering and care to the abused children and youths in need of urgent placement, 1,237 foster families and 279 reserved foster homes were set up. In addition, there are 120 placement and correctional institutions, which can accommodate 3,760 children and youths. Moreover, to enhance the quality of outside placement, we intend to expand the recruitment of foster families by taking following measures: deliberate a subsidy-grading system, strengthen the screening process for recruitment, establish training courses and specifications, implement the supervisory and supporting system for foster families. For institutional placement, we hold regular training programs for the professionals and make regular evaluation on the institutions to enhance their capabilities to protect and educate the children and youths in their care.

(4) Those parents prone to abuse or beat their children may be ordered to accept mandatory parenting education according to Article 102 of The Protection of Children and Youths Welfare and Rights Act. Moreover, pursuant to Article 14 of the Domestic Violence Prevention Act, the Court may issue a civil protection order to command the abuser to complete a treatment program so as to improve and strengthen his/her parenting capacity; enhance the parent-child relationship, and protect children and adolescents from further

abuse and negligence.

231.Measures for child and youth protection in schools：

(1) The Ministry of Education (MOE) subsidized local governments to promote the protection of children's and youth's welfare and rights ; hold events on caring for high-risk families and corresponding management in an effort to enhance educators' knowledge about child and youth protection.

(2) In order to promote the regulations for child and youth protection. All schools are required to conduct the regulations based on the "Guidelines and Procedures for Reporting Abuse, Domestic Violence, and Sexual Assault on Children or Youth Attending Kindergartens or Schools" which was established by MOE.

(3) The local governments' performance in reporting child and youth protection cases are included in the MOE's general evaluation; it is intended to push local governments to reinforce the protection mechanism and evaluation system.

(4) The MOE established and provided "online courses on the mechanism of school child and youth protection" for educators. According to the statistics , between July 1 2011 and December 28, 2012, as many as 75.78% (120,112) of teachers from high schools and schools at lower levels enrolled in programs on child and youth protection, accumulated 341,617 training hours in total. The average training hours was 2.16.

(5) The MOE has prepared guidelines for the reporting child abuse, such as the "Handbook for Professionals in Domestic Violence Prevention--Response to Child/Youth Abuse" and "Exposed to Parental Violence; Domestic Violence and Sexual Assault Prevention and Resolution: Handbook for Teachers Nationwide" (Inclusive of Reporting procedure); and "Child and Youth Protection: a Handbook for Educators". The guidelines serve to help for educators to improve their identifying skills, legal knowledge, and access to resources, risk management, and relevant expertise.

(6) In order to assure the mental and physical well being of children and youth, MOE provides various resources to educators such as counseling support and 9 e-books for counseling programs which are available on the website. Those resources are meant to improve the educator's skills in counseling, discipline, class management, and teacher-parent communication.

(7) Under Article 10 of the Civil Education Act, professional full-time counseling staff should be employed and student counseling centers should be established to reinforce the three-tiered protection system on campus. The MOE supported local governments to establish a multi-tiered assistance mechanism and counseling centers, devised plans for dispatching, training, and the

evaluation of counseling professionals. The MOE also serves as the platform for resource integration and communication to assist junior and elementary schools nationwide with counseling. For any case that has been confirmed by the school as in need of professional referral and counseling, the school should seek support from the three-tiered protection system or the student counseling center.

72) Please provide information on the implementation of the Human Trafficking Act with regard to children below 18 years such as the number of children who are benefiting, whether male or female, types of services provided and the success of this programme.

232. As the protection measures of children and youth protective legal system and mechanism is completed, when a child or youth suffers in human trafficking sex exploitation, the Child and Youth Sexual Transaction Prevention Act will taken precedence over the article 20 of the Human Trafficking Prevention Act to provide the placement for the victim.

233. According to the statistics from human trafficking cases in 2011 and 2012, there are 177 female victims under the age of 18, and involved in sexual transaction. By children and sexual transaction prevention act, the placement of 158 people are arranged by local government, 13 are released to the custody of family members and 6 grow ups are handed over to their families.

234. Pursuant to Human Trafficking Prevention Act, each municipal or county (city) government is required to provide necessary financial aid to the abused children and youths under the age of 18. Aids include emergent living assistance, placement subsidies, grants for legal proceedings, medical aids, and psychotherapy subsidies.

73) Paras 313 to 316 detail incidents of bullying and sexual assault in schools. Please provide information on what action has been taken against the perpetrators and what concrete measures are being implemented such as penalties for perpetrators, remedies for victims or to protect victims who complain.

235. Penalties for and actions taken against perpetrators

(1) The disposal and penalties for an incident of sexual assault, harassment, or bullying on campus is described in Article 25 of the Gender Equity Education Act. Once the incident has been investigated and recognized by the school gender equity education committee, the committee shall advise the school on the disposal, then the competent unit of the school (such as the faculty evaluation committee, student disciplinary committee, or the performance appraisal committee) shall impose penalties on the perpetrator under pertinent laws and regulations.

(2) If an incident where a teacher is involved in sexual assault has been investigated

and recognized, the teacher shall be disqualified under Article 14, Paragraph 4 of Teachers' Act. If an incident where a teacher is involved in sexual harassment or bullying has been investigated and recognized, the teacher's employment shall be dismissed, suspended or declined of renewal, depending on the severity of the offense. The penalty for students involved in sexual assault, harassment, or bullying on campus should follow the school's rules. The punishment may include reprimand, minor or severe demerit, or expulsion. When the offender's status is changed, he/she shall be entitled to make a written statement.

(3) Also, under the Gender Equity Education Law, the school, competent authority or other authority with jurisdiction, in addition to directing the perpetrator to receive psychological counseling, may impose one or more of the following punitive measures: (A) apologizing to the victim upon the consent of the victim or his/her guardian; (B) attending 8 hours of courses on gender equity education; and (C) other measures that serve an educational purpose. In cases where the incident of sexual harassment or bulling on campus is not severe in nature, the school, competent authority, and other authority of jurisdiction may only impose penalties prescribed above.

236. Measures taken for the protection of the complainant: Under Articles 23 and 24 of the Gender Equity Education Act and Articles 25 to 27 of the Regulations on the Prevention of Sexual Assault, Sexual Harassment, and Sexual Bullying on Campus, during the response process of claims of sexual assault, harassment, or bullying, the gender equity education committee shall discuss and decide to provide protection for the victim (such as flexibly handling the attendance record or achievement assessment of the victim, or preventing or reducing the possibility of further assault or harassment by the offender) to protect the victim's rights to education or work.

237. Compensation for victims: As prescribed in the Gender Equity Education Act, the school's investigation and disposal of incidents of sexual assault, harassment, or bullying is based on its administrative authority and the school shall provide necessary assistance to the victim by integrating administrative resources. In the case a victim feels his/her rights are damaged due to any intention or negligence during the school's disposal process and the conditions meet the provisions in Article 2 or 3 of the State Compensation Law, the victim may file for compensation under the State Compensation Law.

238. Disposal of the sexual abuse scandal in at a special school in southern Taiwan

(1) The MOE activated a risk management mechanism, setting up a professional counseling team and a designed administrative supervising team to offer help:

A. Professional counseling team: ⅰ.The team was made up of academics and experts in four groups (counseling and guidance, teaching and guidance, gender empowerment and incident management, environment and space) to support gender equity education staff at the school with counseling and resources. Meetings have been held in the presence of social workers (from the Tainan City Domestic Violence and Sexual Assault Prevention Center);

ii .In the 2011 school year, the MOE subsidized and commissioned a national university to establish a counseling manpower integration platform and recruit 27 members to help support and provide counseling to people involved in the incident, hoping to help victims heal and resume normal lives.

B. Designated administrative supervising team: The team was composed of senior principals, relevant MOE officials, and academics, and was divided into nine groups on the topics of campus safety, gender equity case disposal, gender equity education in instruction, school operation, dorm management, school bus management, student guidance and discipline, parents' association operation, and clarification of responsibilities. Twenty meetings were held between September 2011 and December 2012.

(2) State compensation: A. As of the present, five claims for state compensation have been negotiated; B. Four meetings for state compensation claims have been held. The MOE prompted the school to try its best to provide due remedy after counseling proper cases and considering the situations of the victims (age, number of victims, and the difficulty and harms they were forced to experience) in order to help them heal and resume normal lives.

74) What education awareness raising on child abuse/assault or child labour is provided and for whom as well as the scale and scope of such programmes.

239. In order to ensure children and adolescents grow up in a healthy environment, The government co-operated with various organizations and formulated polices which are listed below: (1) Providing funds for non-government organization to co-operate with local governments and local community to conduct events that educate children and their parent about the Child Welfare law and Children's Right Protection Law; (2) Emphasizing that children under 15 are not eligible to work; (3) For the children who are 15 and above, if they wish to work, organizations will provide information regarding the working environment; (4)Prevent the child abuse or illegal treatment at work.

240. The government also takes the following measures to raise the public awareness of child abuse: (1) Educational advocacy to prevent child abuse: Using the media and various non-governmental organizations, the government strengthens the propaganda of "child protection", "domestic violence prevention" and"113 Protection Hotline", calling upon the public to pay attention to the problem of child abuse and domestic violence. It is hoped to reinforce the concepts of the general public to protect children and prevent domestic violence; (2) Deepening public awareness to report child abuse cases: Education and training programs on how to handle child abuse cases and watch out for high-risk families are offered to the borough chiefs, village officials, volunteers, and the general public. It is hoped that everyone in a community is sensitive enough to perceive any signs of child abuse and inadequate care of children at the high-risk families; and report to competent authorities for referral, intervention, and assistance; (3) Promotion of parenting education to transform parental rearing concepts: To advocate zero

corporal punishment and positive parenting methods, the government co-operates with the local communities, schools and the media to transform the traditional upbringing concept to many parents, so that their children are not harmed by improper parenting.

241. To improve employers' and laborers' understanding of the Section regarding child workers in Labor Standards Act, the Council joins the efforts of all cities and municipalities in conducting sessions to help citizens better understand Labor Standards Act, and supervises the city/ municipal governments along with agencies in charge of labor inspections to undertake inspections throughout workplaces, so as to implement the rules. Meanwhile, the Council and local administrative labor-related agencies will take active actions and ensure child workers' rights once receiving complaints about employment of underage workers.

242. In addition to supporting the Ministry of Interior, the competent authority for child and youth rights protection, the MOE has reinforced the child/youth abuse reporting mechanism, devised training systems, subsidized and held training programs, provided counseling resources, implemented supervision and assessments to protect the rights of students and safeguard their mental and physical health. To promote educational personnel's observance of the obligation to report suspected child abuse, the MOE has adopted Guidelines and Procedures for Reporting Abuse, Domestic Violence, and Sexual Assault on Children or Youth Attending Kindergartens or Schools at All Levels for the schools to follow. To help individuals responsible for dealing with child and youth protection to develop better identification abilities, legal knowledge, access to resources, risk management, and other relevant skills and counseling, the MOE has prepared several guidebooks, such as "Handbook for Professionals in Domestic Violence Prevention", "Domestic Violence and Sexual Assault Prevention and Resolution: Handbook for Teachers Nationwide", and "Child and Youth Protection: Handbook for Educators" for the reference of teachers and educational professionals. The idea of e-learning is also incorporated. One example is the establishment of "online courses on the mechanism of school child and youth protection," which is part of the effort to encourage on-the-job training and improvement of professional knowledge among educators. The Ministry has supported and subsidized local governments in holding relevant promotions and training sessions on the topic of child and youth protection to enhance educators' knowledge of child and youth protection.

243. The Ministry has been actively pushing parent education and the idea of positive discipline in hopes of promoting children's and youth's rights to bodily integrity and personality development.

75) Please provide information on the state policy and support services in place to assist working parents to combine work and child upbringing /family responsibilities.

244. According to Article 23 of the Act of Gender Equality in Employment, employers hiring more than two hundred and fifty employees are required to set up child-care facilities or provide suitable child-care measures, and competent authorities will provide certain subsidies. Acting in accordance with the Act of Gender Equality in Employment, the Council of Labor Affairs has enacted the Rules for the Standards of Establishing Child-Care Facilities and Measures and

Providing Subsidies and subsidies are given accordingly to enterprises that provide child-care service, regardless of the number of their employees. The policy is to encourage employers to set up child-care facilities or provide suitable child-care measures to help their employees who are in need of child care, in order to develop friendly environments where work and family can be balanced and gender equality in employment can be ensured.

【Article 25】

76) Please provide comprehensive information on any factors that may impede citizens from exercising the right to vote including in referenda and the positive measures which have been adopted to overcome these factors.

245. In Taiwan, polling stations are set up based on boroughs. Most polling stations are within 10 minutes of walking distance from voters' residency and convenient for voting. Electors should cast their ballots at the polling station of the area of household registration on the polling day. However, due to the lack of absentee voting system, for electors such as staff working in public and private sectors who are on duty ; hospitalized patients; people under detention; students pursuing their studies or attending in-service training and citizens overseas and etc., will not be able to exercise their voting right. The government will promote the absentee voting (includes electronic voting) actively in the future.

77) Please describe the legal provisions which establish the conditions for holding elective public office, and any limitations and qualifications which apply to particular offices including conditions relating to nomination dates, fees or deposits.

246. Both Presidential and Vice Presidential Election and Recall Act and Civil Servants Election and Recall Act regulate the positive and negative requirements for candidacy. According to the law, citizens who are eligible to vote and meet the qualifications listed in the following may run for the elective public offices:

(1) Age: A candidate for President and Vice President shall be 40 years of age or older; 30 or older for the governor of a municipality or a county (city) chief candidate; 26 or older for the chief of a township (city) and at least 23 for any other elective public offices.

(2) Period of residency: A candidate for President and Vice president shall have lived in ROC for no less than 6 consecutive months, and set his/her domicile in the ROC for no less than 15 years. Candidates for other public offices shall have been living for no less than 4 consecutive months in the electoral district where he/she is eligible to vote.

(3) Nationality: The ROC nationality is required to be a candidate. Anyone who has restored the ROC nationality for 3 years or has acquired the ROC nationality by naturalization for 10 years may be registered as a candidate. Anyone who restores the ROC nationality or acquires the ROC nationality by naturalization or residents from the People's Republic of China, Hong Kong and Macao who are permitted to enter Taiwan may not be registered as the candidate for President or Vice President.

(4) Ways of registering as candidates: Candidates for President or Vice President

shall be recommended by their political party or by the means of joint signature of the signers. Those parties, of which the sum of the candidates recommended reaches not less than 5% in the total effective ballots of the latest election of President, Vice President or election for members of the Legislative Yuan, may recommend the candidates for President and Vice President. For those who apply for candidacy for President and Vice President by the way of joint signature shall, within 5 days after the public notice for election is issued, apply to the Central Election Commission for candidacy. Applicant must present a list of endorsing electors, and pay the deposit of NT$1,000,000. The number of endorsing signers must reach 1.5% of the total electors in the latest election of the members of the Legislative Yuan. Candidates for other public offices may be recommended by political parties or freely register by themselves.

(5) Deposit: A person shall pay the deposit while registering as candidate. Required in accordance with the Presidential and Vice Presidential Election and Recall Act, when applying for candidacy for President and Vice President, each pair of candidates shall pay the security pond of NT$15,000,000. Amounts of deposit for other public office elections shall be calculated and publicized by the election commission in advance. For example, when being registered as the candidate for member of the 8th Legislative Yuan, each one of candidates shall pay the security pond of NT$200,000. When being registered as the candidate for municipality mayor in 2010, each one of candidates shall pay the security pond of NT$2,000,000. In another case a candidate for county and city mayor in 2009, each one of candidates shall pay the security pond of NT$200,000.

(6) Period of registration: The candidates shall prepare the forms as well as the deposit set forth by the election commissions to apply for registration within a specified time limit. The period of registration of the election of the representatives of a township (city) council, the chief of a county (city) and the chief of villages (boroughs) shall be not less than 3 days. However, for the election of the others, the period of registration shall be no less than 5 days.

78) Please provide data disaggregated by sex as well as rural /urban on voter turn out at the latest general election.

247. The 13th Presidential and Vice Presidential Election was held on January 14st, 2012. The voter turnout data based on special municipalities and county (city) is shown as following:

special municipality/ county(city)	electors			gender proportion of electors		voters			gender proportion of voters		proportion of vote turnout by gender	
	male (A)	female (B)	total (C)	male (D=A/C)	female (E=B/C)	male (F)	female (G)	total (H)	male (I=F/H)	female (J=G/H)	male (K=F/A)	female (L=G/B)
Total	8,971,504	9,114,951	18,086,455	49.60%	50.40%	6,591,407	6,860,234	13,451,641	49.00%	51.00%	73.47%	75.26%
Taipei City	991,711	1,110,953	2,102,664	47.16%	52.84%	754,137	860,262	1,614,399	46.71%	53.29%	76.04%	77.43%
New Taipei City	1,502,460	1,572,389	3,074,849	48.86%	51.14%	1,124,510	1,209,256	2,333,766	48.18%	51.82%	74.84%	76.91%
Taichung City	989,148	1,029,010	2,018,158	49.01%	50.99%	736,808	792,268	1,529,076	48.19%	51.81%	74.49%	76.99%
Tainan City	740,040	745,007	1,485,047	49.83%	50.17%	548,044	553,637	1,101,681	49.75%	50.25%	74.06%	74.31%
Kaohsiung City	1,086,220	1,105,785	2,192,005	49.55%	50.45%	816,857	847,194	1,664,051	49.09%	50.91%	75.20%	76.61%
Taoyuan County	748,861	757,450	1,506,311	49.71%	50.29%	556,945	568,051	1,124,996	49.51%	50.49%	74.37%	75.00%
Hsinchu County	196,192	188,069	384,261	51.06%	48.94%	146,831	145,482	292,313	50.23%	49.77%	74.84%	77.36%
Miaoli County	225,344	210,875	436,219	51.66%	48.34%	166,022	159,539	325,561	51.00%	49.00%	73.67%	75.66%
Changhua County	512,366	493,348	1,005,714	50.95%	49.05%	372,086	366,721	738,807	50.36%	49.64%	72.62%	74.33%
Nantou County	211,347	200,135	411,482	51.36%	48.64%	149,220	144,372	293,592	50.83%	49.17%	70.60%	72.14%
Yunlin County	293,323	269,711	563,034	52.10%	47.90%	199,176	188,879	388,055	51.33%	48.67%	67.90%	70.03%
Chiayi County	225,035	206,553	431,588	52.14%	47.86%	162,474	150,351	312,825	51.94%	48.06%	72.20%	72.79%
Pingtung County	350,300	334,217	684,517	51.17%	48.83%	251,763	245,663	497,426	50.61%	49.39%	71.87%	73.50%
Ilan County	181,149	176,910	358,059	50.59%	49.41%	129,080	130,661	259,741	49.70%	50.30%	71.26%	73.86%
Hualien County	135,207	128,681	263,888	51.24%	48.76%	81,867	88,723	170,590	47.99%	52.01%	60.55%	68.95%
Taitung County	93,539	85,399	178,938	52.27%	47.73%	54,637	55,941	110,578	49.41%	50.59%	58.41%	65.51%
Penghu County	39,804	38,013	77,817	51.15%	48.85%	23,255	22,666	45,921	50.64%	49.36%	58.42%	59.63%
Keelung City	150,973	151,166	302,139	49.97%	50.03%	106,310	111,493	217,803	48.81%	51.19%	70.42%	73.76%
Hsinchu City	152,299	159,819	312,118	48.80%	51.20%	115,018	121,186	236,204	48.69%	51.31%	75.52%	75.83%
Chiayi City	99,098	106,613	205,711	48.17%	51.83%	73,394	76,432	149,826	48.99%	51.01%	74.06%	71.69%
Kinmen County	42,391	41,558	83,949	50.50%	49.50%	19,929	19,246	39,175	50.87%	49.13%	47.01%	46.31%
Liang-Jiang County	4,697	3,290	7,987	58.81%	41.19%	3,044	2,211	5,255	57.93%	42.07%	64.81%	67.20%