

**中華民國(臺灣)政府對公民與政治權利國際公約審
查委員會提出第三次國家報告問題清單之回應**

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

2021 年 10 月

目 錄

第 1 條	7
第 1 點	7
第 2 點	8
第 3 點	11
第 2、3 條	14
第 4 點	14
第 5 點	17
第 6 點	20
第 7 點	20
第 8 點	22
第 4 條	23
第 9 點	23
第 10 點	29
第 6 條	33
第 11 點	33
第 7、9、10 條	35
第 12 點	35
第 13 點	37
第 14 點	39
第 15 點	41
第 16 點	45
第 17 點	49
第 18 點	53
第 19 點	56
第 20 點	57
第 8 條	59
第 21 點	59
第 12、13、14 條	67
第 22 點	67

第 23 點.....	73
第 24 點.....	74
第 14 條.....	77
第 25 點.....	77
第 26 點.....	78
第 27 點.....	82
第 28 點.....	87
第 29 點.....	89
第 30 點.....	92
第 16 條.....	95
第 31 點.....	95
第 17 條.....	100
第 32 點.....	100
第 33 點.....	101
第 34 點.....	104
第 35 點.....	107
第 36 點.....	110
第 37 點.....	111
第 38 點.....	112
第 39 點.....	116
第 18 條.....	117
第 40 點.....	117
第 19 條.....	119
第 41 點.....	119
第 42 點.....	121
第 20 條.....	122
第 43 點.....	122
第 21 條.....	124
第 44 點.....	124
第 45 點.....	126

第 46 點.....	128
第 47 點.....	130
第 48 點.....	131
第 49 點.....	132
第 50 點.....	135
第 23 條.....	137
第 51 點.....	137
第 52 點.....	140
第 25 條.....	141
第 53 點.....	141
第 54 點.....	143
第 27 條.....	145
第 55 點.....	145
第 56 點.....	152
第 57 點.....	160

Table of Contents

Article 1	7
1.....	7
2.....	8
3.....	11
Article 2、3	14
4.....	14
5.....	17
6.....	20
7.....	20
8.....	22
Article 4	23
9.....	23
10.....	29
Article 6	33
11.....	33
Article 7、9、10	35
12.....	35
13.....	37
14.....	39
15.....	41
16.....	45
17.....	49
18.....	53
19.....	56
20.....	57
Article 8	59
21.....	59
Article 12、13、14	67
22.....	67

23.....	73
24.....	74
Article 14.....	77
25.....	77
26.....	78
27.....	82
28.....	87
29.....	89
30.....	92
Article 16.....	95
31.....	95
Article 17.....	100
32.....	100
33.....	101
34.....	104
35.....	107
36.....	110
37.....	111
38.....	112
39.....	116
Article 18.....	117
40.....	117
Article 19.....	119
41.....	119
42.....	121
Article 20.....	122
43.....	122
Article 21.....	124
44.....	124
45.....	126

46.....	128
47.....	130
48.....	131
49.....	132
50.....	135
Article 23.....	137
51.....	137
52.....	140
Article 25.....	141
53.....	141
54.....	143
Article 27.....	145
55.....	145
56.....	152
57.....	160

公政公約問題清單及政府機關回應

ICCPR, List of Issues(LOIs) and Reply to LOIs

第 1 條		
Article 1		
點次	問題內容	
1	原文	Regarding Taiwan's referendum for the general population, please give details concerning amendments to the Referendum Act (2018) and the proposed amendment to the Referendum Act (2019), in particular how they address the issue of inconsistencies between referendum proposals. If public hearings are to be held for each referendum proposal, what are the guarantees for ensuring that they are consistent with human rights standards and contribute to the effective realization of the right of peoples to self-determination?
	中文參考翻譯	關於臺灣全民公投，請詳細說明 2018 年《公民投票法》之修正和 2019 年《公民投票法》之修正草案，特別是它們如何解決公投提案之間不一致的問題。如果每個公投案都要舉行公開聽證會，有什麼保障可以確保它們符合人權標準並有助有效實現人民自決權？

中文回應

1. 為避免公投提案主文及理由出現不一致，於 2019 年修正公民投票法第 9 條第 3 項及第 4 項，規定提案主文應簡明、清楚、客觀及中立；理由書之闡明及其立場應與主文一致。另增訂「全國性公民投票案主文與理由書文字用詞字數計算語法及其他相關事項辦法」，明確規範主文及理由書的用字語法，避免模糊語意不清，以求一致。
2. 全國性公民投票案依法如須辦理公開聽證會，係為釐清並確認公民投票案之提案是否符合公民投票法之相關規定以及協助提案之領銜人就此為必要之補正，以使提案順利成案；為確保人權，程序上在召開公開聽證會時，除邀請提案之領銜人(或其代理人)就相關法律爭點陳述意見、提出證據及詢問外，並由專家學者及權責機關提供專業法制意見；公聽會進行中全程網路直播並且嗣後將會議逐字稿刊登於中央選舉委員會網

站上，供全國人民閱覽、參考，使投票權人於取得充分的資訊情況下行使其投票權，實現人民自決。

英文回應

1. To avoid inconsistencies between the main text and reasons for the referendum proposal, the amendment to the Referendum Act (2019) amended the third and the fourth paragraphs of Article 9. The stipulation of the main text shall be concise, clear, and objectively neutral; the clarification of the grounds for the referendum and its position shall be consistent with the main text. We promulgated “Regulations Governing the Written Method, Word Count Calculation, Grammar and Other Related Matters in the Main Text and the Statement of Reasons for National Referendum” to clearly standardize the wording and grammar of the main text and its explanation, so that the ambiguity of the text could be significantly reduced.
2. If a national referendum case requires a public hearing in accordance with the law, it is to clarify and confirm whether the referendum proposal complies with the relevant provisions of the referendum law, and to assist the leading proponent to make necessary corrections. In order to ensure human rights, when a public hearing is held, we will invite experts, scholars and relevant authorities to offer their professional opinions on controversial issues. At the same time the leading proponents (or their agents) can present their opinions, providing evidences and inquiring the relevant others attending the hearing. The public hearing will be broadcast live on the internet and the verbatim record will be published on the website for reading and referencing. It will help voters exercise their voting rights, under adequately informed circumstances, so as to achieve the goal of self-determination.

第 1 條		
Article 1		
點次	問題內容	
2	原文	With reference to the Third Report (§§ 1-6, 276-280), bearing in mind the

		<p>Indigenous Peoples Basic Law, please provide information on the measures taken to ensure that (1) any plans concerning the development of the ancestral lands and other resources of indigenous peoples respect and comply with the principle of prior, free and informed consent from indigenous peoples; (2) categorization of indigenous peoples is based on their self-identification; and (3) safeguards are adopted to guarantee the political and other participation of indigenous peoples.</p>
	<p>中文參考翻譯</p>	<p>關於《公政公約第三次國家報告》第 1-6 點與第 276-280 點，在謹記《原住民族基本法》的前提下，請提供資訊說明為確保下列事項而採取之措施：(1)任何有關祖靈土地和原住民族其它資源的開發計畫尊重並遵守原住民族事前、自由和知情同意的原則；(2)原住民族分類基於其自我認同；(3)採取保障措施確保原住民族的政治參與和其它參與。</p>

中文回應

1. 原住民族基本法為保障原住民族土地權利，參照聯合國原住民族權利宣言第 32 條第 2 項規定：「各國在批准任何影響原住民族土地或領土和其他資源的專案，特別是開發、利用或開採礦物、水或其他資源的專案前，應通過有關原住民族自己的代表機構，誠意與原住民族協商和合作，徵得他們的自由知情同意」，於原住民族基本法第 21 條第 1 項及第 2 項規定，政府或私人於原住民族土地或部落及其周邊一定範圍內之公有土地從事土地開發、資源利用、生態保育及學術研究，或政府或法令限制原住民族利用前項土地及自然資源，應諮商並取得原住民族或部落同意或參與。原住民得分享各項開發利用等相關利益，而原住民因法令限制利用土地及自然資源所受之損失，應由該主管機關寬列預算補償之。
2. 為落實部落事前、自由及知情同意，原住民族委員會依原住民族基本法第 21 條立法目的及該條第 4 項規定授權，業於 2016 年 1 月 4 日發布施行諮商取得原住民族部落同意參與辦法，具體規範諮商並取得部落同意相關程序。其中明定開發者在開發、利用原住民族土地前，為徵詢並取得原住民族或部落之同意或參與的法定程序。若開發者未踐行諮商同意程序而逕行開發或利用行為，即屬違法，原住民族或部落得依現行救濟法制，提起相關民事或行政訴訟，維護部落集體權利。

3. 我國憲法及原住民族基本法均有明文規範「民族」為權利主體，故民族認定是國家承認民族權利主體之具體表現。我國原住民族委員會本於民族認定應在主觀、客觀要件上，均具備認定為單一民族之條件，自 2001 年起由原本 9 族(阿美族、泰雅族、排灣族、布農族、卑南族、魯凱族、鄒族、賽夏族、雅美族)，陸續經行政院核定第 10 族至 14 族(邵族、噶瑪蘭族、太魯閣族、撒奇萊雅族、賽德克族)，另於 2014 年 6 月 26 日核定拉阿魯哇族、卡那卡那富族為臺灣原住民族第 15 族及第 16 族，以落實憲法要求國家尊重民族意願及民族認同的規範意旨。
4. 對於原住民族政策參與及各項保障措施，涵蓋了民意代表、專責行政機關、首長及其人員。各級民意代表保障規範於憲法增修條文及地方制度法，專責行政機關及人員則明定於原住民族基本法及公務人員考試相關法令，並於總統府、行政院分設有總統府原住民族歷史正義與轉型正義委員會及行政院原住民族基本法推動會，全方位地從中央到地方保障原住民族政治參與。

英文回應

1. Article 32(2) of the Declaration on the Rights of Indigenous Peoples, which states that “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources,” was referenced when formulating the following articles of the Indigenous Peoples Basic Law (“Basic Law”) to protect the land rights of indigenous peoples.
2. To ensure that the free and informed consent of indigenous peoples is obtained prior to the approval of any project, the Council of Indigenous Peoples announced the Regulations Governing Consent and Participation by Indigenous Communities on January 4th, 2016 with Article 21's purpose of statute and Article 21(4) serving as the legal basis, defining procedures for consulting and obtaining consent from indigenous communities.
3. The Constitution and Indigenous Peoples Basic Law both clearly state that “ethnic groups” are subjects of rights and therefore recognizing ethnic groups is a way to show a nation's recognition of its subjects of rights. The Council of Indigenous Peoples believes that

indigenous groups must meet objective and subjective conditions to qualify as an indigenous group. The Executive Yuan has expanded on the existing nine indigenous groups since 2001 (Amis, Atayal, Paiwan, Bunun, Puyuma, Rukai, Tsou, Sasiyat, and Yami) and recognized the 10th to 14th indigenous groups (Thao, Kavalan, Truku, Sakizaya, and Seediq). On June 26th, 2014, the Executive Yuan further recognized Hla'alua and Kanakanavu as the 15th and 16th indigenous groups of Taiwan in compliance with constitutional demands for our nation in accordance with the will of indigenous peoples and indigenous identities.

4. Legislators, competent authorities, political executives, and other personnel are engaged in indigenous policy discussions and various protection measures. Legislators of different levels focus on constitutional amendments and the Local Government Act while competent authorities and personnel define regulations for the Indigenous Peoples Basic Law and public servant examinations. The Office of the President and the Executive Yuan has established the Indigenous Historical Justice and Transitional Justice Committee and the Indigenous Peoples Basic Law Promotion Committee, respectively, to comprehensively ensure political engagement of indigenous peoples from the central to local governments, and our results precede the world.

第 1 條		
Article 1		
點次	問題內容	
3	原文	Please indicate the current situation concerning loss of reserved land caused by illegal trade or subleasing of indigenous land, and measures adopted to overcome financial difficulties faced by indigenous peoples in this regard.
	中文參考翻譯	請說明非法交易或轉租原住民土地造成原住民保留地流失的現狀，以及為克服原住民族這方面財務困難所採取之措施。

中文回應

1. 有關因非法交易或轉租原住民族土地造成原住民保留地流失，進而造成原住民族財務困難，為保障族人權益，宜先透過法律扶助，協助族人請求法律上的權利。
2. 另依山坡地保育利用條例第 37 條及原住民保留地開發管理辦法第 18 條分別規定略以，「山坡地範圍內原住民保留地，除依法不得私有外，應輔導原住民取得承租權或無償取得所有權。原住民取得原住民保留地所有權，如有移轉，以原住民為限」、「原住民取得原住民保留地所有權後，除政府指定之特定用途外，其移轉之承受人以原住民為限」，故原住民保留地依法不得移轉所有權予非原住民。
3. 但實務上，原住民保留地經取得所有權後，常藉由設定高額抵押權及長期租用等方式，以土地承租方式轉讓使用權，造成原住民保留地實質讓渡使用權於非原住民。上揭意圖規避不得移轉所有權規定而實質轉讓使用權之行為，已屬通謀虛偽意思表示，依民法規定應屬無效。惟土地承租屬人民私經濟行為，若當事人未自行承認或有明確事證，依現行法規尚難以查處。
4. 至國有原住民保留地如原住民於設定他項權利期間有轉租、轉讓使用權情事者，依原住民保留地開發管理辦法第 15 條及第 16 條分別規定略以，「原住民於原住民保留地取得承租權、無償使用權或依法已設定之耕作權、地上權、農育權，除繼承或贈與於得為繼承之原住民、原受配戶內之原住民或三親等內之原住民外，不得轉讓或出租」、「原住民違反前條規定者，除得由鄉(鎮、市、區)公所收回原住民保留地外，應依下列規定處理之：一、已為耕作權、地上權或農育權登記者，訴請法院塗銷登記。二、租用或無償使用者，終止其契約。」，鄉(鎮、市、區)公所得依該辦法第 16 條規定收回原住民保留地。

英文回應

1. Victims of illegal transactions or leasing of indigenous lands that have resulted in the loss of indigenous reserves and, therefore, financial difficulties are recommended to seek legal aid services.
2. In addition, Article 37 of the Slope Land Conservation and Utilization Act states that “indigenous reservation lands located within the slope land, unless prescribed by law for the prohibition of privately owned, shall guide the indigenous people to acquire the leasehold, or acquire ownership gratis. If the ownership of indigenous reservation lands

acquired by indigenous people transferred, the transferee shall be indigenous people” and Article 18 of the Regulations on Development and Management of the Lands Reserved for Indigenous People states that “after the indigenous people have acquired the ownership of a piece of land reserved for indigenous people, except for the special purposes designated by the government, the lands may be transferred to indigenous people only.”

3. As such, indigenous reserves are not transferrable to non-indigenous peoples but such transactions have always existed. These transactions are the product of their time and complex social factors. The Council of Indigenous Peoples and county/city governments do not have a legal basis within existing legal systems after indigenous peoples obtain land tenure and so when involved parties do not make voluntary admissions or provide clear evidence, such transactions are hard to investigate and punish.
4. Persons that lease or transfer the land tenure of indigenous reserves shall be handled in compliance with Article 15-16 of the Regulations on Development and Management of the Lands Reserved for Indigenous People, which states that “the indigenous people may not transfer or rent to others, the leasehold, the right to use free of charge, or any legally established farming, superficies, or agricultural rights to the lands reserved for indigenous people, unless the transferees or leaseholders are indigenous people entitled to the rights of inheritance, the indigenous people in the household to which the lands are allocated, or the relatives of the indigenous people within three degrees of kinship” and “where the indigenous people violates the provision of the preceding article, the Township/City/District Office may withdraw the lands reserved for indigenous people; besides, the case shall be handled in accordance with the following provisions: 1. If the registration of farming, superficies, or agricultural rights has been completed, the Office shall request the court to write off the registration. 2. If the lands are leased or used free of charge, the contract shall be terminated.” In compliance with the provisions set forth in Article 16 of the Regulations on Development and Management of the Lands Reserved for Indigenous People, Township/City/District Offices may withdraw the lands reserved for indigenous peoples.

第 2、3 條

Article 2、3

點次	問題內容	
4	原文	<p>In the responses to the 2017 Concluding Observations, it is stated that consultations are underway on the enactment of a comprehensive anti-discrimination law. Please provide further information on the contents of this law and its compliance with international human rights standards. Does it contain a definition of discrimination to cover direct and indirect discrimination, and does it apply an intersectional approach to discrimination? Does it encompass gender identity, sexual orientation, and gender expression? Does it include positive obligations as well as provisions for reasonable accommodation of difference that are binding on both the public and private sectors, and placing an obligation on the Government to ensure de-jure and de-facto equality? Does the law also contain provisions for adequate remedies and their enforcement, and indicate the agency responsible for the oversight of its implementation? Please further indicate whether civil society groups were invited to participate in the consultations and whether a time frame has been set for the completion of the draft law and its adoption.</p>
	中文參考翻譯	<p>對《2017 年結論性意見與建議》的回應中，表示正在就制定綜合性反歧視法進行諮詢。請進一步說明該法內容及其對國際人權標準的遵守情況。該法是否包括涵蓋直接與間接歧視的歧視定義，並且是否對歧視應用了交叉方法(intersectional approach)？是否包括性別認同、性傾向和性別表達？是否包括積極義務，以及對公私部門提出有約束力的規定要求其提供不同的合理調整，並使政府有義務確保法律上和事實上的平等？該法是否還包含適當救濟及其執行的規定，並指明負責監督法律落實的機構？請進一步說明是否已邀請公民社會團體參與諮詢，以及是否已為完成草案和通過該法設定期限。</p>

中文回應

1. 我國現行涉及反歧視之法規，散見於各機關主管法規，又反歧視議題分屬各機關負責，是否制定專法或分別制定法律，各界意見不同。法務部於 2019 年 6 月完成「我國是否應制定綜合性反歧視法及立法建議」委託研究案，本委託研究參考 2012 年由 Anette Borchorst, Lenita Freidenvall, Johanna Kantola, Liza Reisel, and Mari Teigen 等人所撰之「Institutionalizing Intersectionality in the Nordic Countries: Anti-Discrimination and Equality in Denmark, Finland, Norway, and Sweden, in: Institutionalizing Intersectionality- The Changing Nature of European Equality Regimes」，該國外文獻係應用交叉方法研究丹麥、芬蘭、挪威和瑞典等國之反歧視法規，從而本委託研究案提出「平等法草案」(下稱草案)。該草案除明定直接及間接歧視方式，並定有得申訴、異議、申請審議及訴願等救濟程序(請參見「回應兩公約第二次國家報告結論性意見與建議」點次 42 第 2 行及第 3 行)，作為我國立法之參考。
2. 有關本草案規定內容說明如下：
 - (1) 草案規定已包括性別認同、性傾向和性別表達等內涵；並明定雇主、學校及主管機關等之積極作為義務；對公私部門提出有約束力的規定要求其提供不同的合理調整，禁止各公私部門、公私立學校、醫院、傳播媒體等，乃至於任何個人，均不得有歧視性言論或行為。
 - (2) 草案明定行政機關或公務人員於執行職務時，應確保法律上和事實上的平等之義務，不得基於歧視為行政行為。
 - (3) 草案明定監督平等及人權事務之機構為監察院國家人權委員會。
3. 行政院前於 2019 年 11 月 27 日召開「研商制定綜合性反歧視法之立法建議會議」、復於 2021 年 1 月 20 日召開「研商立法院內政委員會審查『反族群歧視法』草案之處理事項會議」，決議參採上開 2019 年 6 月委託研究案之建議，研議制定綜合性之平等法草案。目前國家人權行動計畫草案業將「制定平等法」納為議題之一，期於 2021 年至 2024 年將草案送至立法院審議。因草案仍於委託研究案結論階段，尚未邀請公民社會團體參與諮詢；至我國現行已有之禁止歧視或平等之相關規範，由各該法案之主管機關據以落實、執行。

英文回應

1. Currently in Taiwan, laws and regulations in relation to anti-discrimination are provided by various government entities which address related issues with entity-specific laws and regulations. Hence, different parts of society hold different views on the need to establish a specific law or different laws. In June 2019, Taiwan's Ministry of Justice (MOJ) completed the research project "Necessity in establishment of a comprehensive anti-discrimination law and recommendations for legislation". In this project, MOJ made reference to Kantola, J., Borchorst, A., Freidenvall, L., Reisel, L., & Teigen, M. (2012). Institutionalizing Intersectionality in the Nordic Countries: Anti-Discrimination and Equality in Denmark, Finland, Norway and Sweden. In A. Krizsan, H. Skjeie, & J. Squires (Eds.), *Institutionalizing Intersectionality: The Changing Nature of European Equality Regimes*. Palgrave Macmillan. In this article, cross validation was applied to study the anti-discrimination laws in Denmark, Finland, Norway, and Sweden. With such, this project proposed the Equity Act Draft (hereinafter called the "Draft"). Apart from stating direct and indirect ways of discrimination, the Draft has also stipulated remedial procedure, including complaints, objection, application for review, and appeals (please refer to lines 2-3, number 42, Review of the Second Reports of the Government of Taiwan on the Implementation of the International Human Rights Covenants) for the reference of anti-discrimination legislation in Taiwan.
2. The contents of the Draft are described as follows:
 - (1) Besides including content such as gender identification, gender orientation, gender expression, and stipulating the obligations to take active actions of employers, schools, and competent authorities, the Draft also covers regulations requiring the private sector to make reasonable adjustments and prohibiting the private sector, public and private schools, hospitals, the media, and individuals from engaging in speeches or acts of discrimination.
 - (2) According to the Draft, both administrative entities and civil services should ensure the da facto and da jure equity obligation and no discrimination while carrying out their duties.
 - (3) The Draft also stipulates that the National Human Rights Commission, Control Yuan, is the responsible authority for overseeing affairs in relation to equity and human rights.

3. On November 27, 2019, the Executive Yuan convened the “Meeting on Legislation Recommendations for Establishment of a Comprehensive Anti-Discrimination Law” and on January 20, 2021 a meeting to review the affairs in relation to the draft of the Act Against Ethnic Discrimination with the Internal Administration Committee of the Legislative Yuan. At the meeting, a resolution was made to accept the recommendations of the research project completed in June 2019 to discuss and establish a comprehensive equity law. Currently, the “establishment of the Equity Act” has been included as one of the topics of the National Human Rights Action Plan Draft, and the Draft will be sent to the legislature for review in 2021-2024. While the Draft is still under research and discussion, no consultation with civic and social groups has been made. As a result, regulations in relation to anti-discrimination are currently enforced and implemented by respective competent authorities in Taiwan.

第 2、3 條		
Article 2、3		
點次	問題內容	
5	原文	Please indicate if there is a policy or law against emerging forms of violence such as stalking or cybercrime (including digital sexual violence).
	中文參考翻譯	請說明是否有針對新興形式暴力的政策或法律，例如跟蹤或網路犯罪(包括數位性暴力)。

中文回應

1. 關於新興數位/網路性別暴力防治政策，依據 2020 年 10 月行政院召開「推動跨部會數位/網路性別暴力防治第 2 次研商會議」決議，2021 年 1 月函頒「數位/網路性別暴力之定義、類型及其內涵說明」，責請相關部會據以辦理法規盤整、教育宣導及調查統計等項，並將防治數位/網路性別暴力納入 2022-2025 年性別平等重要議題之院層級議題推動列管，俾臻完善防治體系，分述如下：

(1) 法規面：

- ① 研修刑法及性侵害犯罪防治法等相關法規：針對未經同意散布性私密影像防治事宜，研議修正刑法增訂罪名並納入性侵害犯罪防治法適用範疇，及於性侵害犯罪防治法訂修是類影像之移除或下架規定，並提供被害人保護措施。
- ② 研定跟蹤騷擾防制法草案：將利用網際網路或電子通訊方式為跟蹤騷擾行為視為犯罪，並配合警察書面告誡及法院保護令制度，落實被害人保障。

(2) 教育面：採行多元方式進行教育宣導：規劃工作坊、研討會、認知課程、教育訓練、宣導活動、研發教案與綜整部會推動成果之多樣管道及途徑，推動數位/網路性別暴力防治教育宣導，植基民眾及公部門防治觀念，藉由點線面構成防治教育宣導架構。另就易於工作場所、學校及其他場域肇生之數位/網路性騷擾，強化相關主管機關之事前預防教育宣導作為。

(3) 統計面：

- ① 辦理「我國數位/網路性別暴力狀況調查」：期能瞭解我國數位/網路性別暴力類型、發生因素、樣態模式等，以提供部會政策之參據。
- ② 相關部會建置數位/網路性別暴力統計，以監測防治成效，據以規劃相關防治策略。

英文回應

1. Regarding the emerging digital/internet sexual violence prevention and control policies, according to the resolutions of the “2rd Inter-Agency Consultation Conference on Digital/Internet Gender Violence Prevention and Control” held by the Executive Yuan in October 2020, the “Definition, Types, and Description of Digital/Internet Gender Violence” was promulgated in January 2021, and the relevant ministries and commissions were instructed to conduct legal and regulatory reviews, education and promotion, and survey statistics. The prevention and control of digital/internet gender violence will be tabled into the Executive Yuan-level key issues for gender equality for 2022-2025, so as to enhance prevention and control system, as follows:

(1) Legal Aspect:

- ① Revision of the Criminal Code and the Sexual Assault Crime Prevention Act and

related laws: To address the prevention and control of the distribution of private sexual images without consent, amendments are proposed to the Criminal Code to include new criminal charges and expand scope of application of the Sexual Assault Crime Prevention Act. Amendments are also proposed for the Sexual Assault Crime Prevention Act to provide for the removal of illegal images and content, as well as protection measures for victims.

② Drafting the Stalking and Harassment Prevention Act: the use of the Internet or electronic communication methods for stalking and harassment will be considered a crime. Written warning letters from the police and a court protection order system help ensure the protection of victims.

(2) Educational Aspect: Adopt multiple approaches to education and awareness: planning for workshops, seminars, awareness courses, education training, promotion activities, developing teaching programs, and integrating the results of inter-ministerial campaigns. We will promote the prevention of digital/internet sexual harassment education and awareness, and build up the concept of prevention among the public and the public sector, and to form a holistic education and promotion framework. In addition, we will strengthen the prevention/promotion efforts of relevant authorities regarding digital/internet sexual harassment that can tend to occur, such as in workplaces, schools, and other places.

(3) Statistical Aspect:

① Conduct the “Survey on the Status of Digital/Internet Sexual Violence in Taiwan”: to understand the types, occurrence factors, and patterns of digital/internet sexual violence in Taiwan, so as to provide a reference for formulating ministry policies.

② Relevant ministries and commissions will establish digital/internet sexual violence statistics to monitor the effectiveness of prevention and treatment and to plan for relevant strategies.

第 2、3 條		
Article 2、3		
點次	問題內容	
6	原文	In § 18 of the Third Report, it is stated that “victims of sexual harassment may claim for reasonable monetary compensation for pecuniary and other damages”. Please provide information on the number of compensations and quantum paid out in the years 2018-2020 as against the number of claims for compensation.
	中文參考翻譯	《公政公約第三次國家報告》第 18 點指出「遭受性騷擾之被害人，得請求合理的金錢賠償及其它損害賠償」。請提供 2018-2020 年的賠償案件數和支付金額之資訊，並與提出的賠償請求案件數對照。

中文回應

無相關統計資料可資提供。

英文回應

There is no relevant statistics data to provide.

第 2、3 條		
Article 2、3		
點次	問題內容	
7	原文	Does statistical data collected on reported cases of various forms of violence include an intersectional analysis across various identities of the victims and other variables? If so, please provide this data.
	中文參考翻譯	就各種形式暴力通報案件蒐集的統計資料是否包括對受害者不同身分和其它變量的交叉分析？若有，請提供此資料。

中文回應

1. 各警察機關受理民眾報案，其中「暴力犯罪」(包括故意殺人、擄人勒贖、強盜、搶奪、重傷害、重大恐嚇取財、強制性交等7種案類)統計資料，於內政部警政署警政統計查詢網(網址-<https://ba.npa.gov.tw/npa/stmain.jsp?sys=100>)「暴力犯罪總數被害人」項下，針對被害人身分列有年齡、教育程度、職業等統計項及直轄市、縣(市)警察機關別、性別等複分類，可依不同組合之統計項及複分類設定條件(如統計期、週期等)產製交叉統計表。
2. 衛生福利部持續定期蒐集各直轄市、縣(市)政府受理家庭暴力、性侵害防治、性騷擾防治及兒少保護等相關案件統計資料，並再就其性別、國籍別與年齡等不同變項進行交叉分析，相關統計表請參見衛生福利部保護服務司網站/統計資訊(網址-<https://dep.mohw.gov.tw/DOPS/lp-1303-105.html>)。

英文回應

1. An intersectional analysis of violent crimes by definition, which are part of all the cases reported to the police forces in Taiwan, and include seven types of cases such as murder, kidnapping for ransom, robbery, abrupt taking, causing serious physical injury, aggravated intimidation for money, and rape, can be conducted on the webpage of Policing Statistics Website of National Police Agency, Ministry of the Interior (PSW) at <https://ba.npa.gov.tw/npa/stmain.jsp?sys=100>. On the PSW, go to its subpage of Violent Crime Sum and then Victim, select the variables/boxes of Age, Educational Level, Occupation, Sex, and City/County Police Department, and choose Period, Frequency, etc. in the drop-down lists, the intersectional analysis can thereby be performed along with a spreadsheet that is downloadable.
2. The Ministry of Health and Welfare (MHW) regularly collects statistical data regarding cases of domestic violence, sexual assault prevention, sexual harassment prevention, and child and youth protection reported to municipality and county/city governments. Cross analyses can then be conducted using variables such as Gender, Nationality, and Age of Victims and Offenders. For relevant statistics, please refer to the website of the Department of Protective Services, Ministry of Health and Welfare: <https://dep.mohw.gov.tw/DOPS/lp-1303-105.html>

第 2、3 條		
Article 2、3		
點次	問題內容	
8	原文	In compliance with the Review Committee's recommendation in 2017 for the Government to upgrade the Gender Equality Department so that it has the power, authority and budget to effectively carry out its mandate, it is reported in the Response that in 2019, the department's budget for gender issues saw an increase over the two previous years. Please provide information on the percentage of increase in budgets over the last two years.
	中文參考翻譯	為符合審查委員會 2017 年關於政府提升性別平等處層級，以使其擁有效執行任務的權限、職權和預算該點建議，《回應兩公約第二次國家報告結論性意見與建議》中稱 2019 年該處的性別議題預算較前兩年增加。請提供資訊說明過去兩年預算增加之百分比。

中文回應

有關委員關切預算增加之百分比，行政院性別平等處 2019 年預算 18,685 千元，較 2018 年(14,298 千元)及 2017 年(15,031 千元)分別增加 30.7 個百分點及 24.3 個百分點。

英文回應

Regarding the percentage increase in the budget, the Executive Yuan's Department of Gender Equality had a budget of NTD 18,685,000 in 2019, representing an increase of 30.7 and 24.3 percentage points from 2018 (NTD 14,298,000) and 2017 (NTD 15,031,000), respectively.

第 4 條		
Article 4		
點次	問題內容	
9	原文	With reference to the Third Report (§ 28), please provide information on the measures taken to address the COVID-19 pandemic. In particular, please specify whether any such measures derogate from Taiwan's obligations under the ICCPR, including with respect to the rights to freedom of expression, freedom of peaceful assembly/association and freedom of movement. Please give details of how the Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens impacts human rights, in particular in relation to the provisions concerning quarantine, control and prevention measures, and personal data collection, storage and usage.
	中文參考翻譯	關於《公政公約第三次國家報告》第 28 點，請提供為應對 COVID-19 疫情而採取的相關措施資訊。特別是具體說明任何此類措施是否減免了臺灣根據《公政公約》承擔的義務，包括言論自由、和平集會/結社自由和遷徙自由。請詳細說明《嚴重特殊傳染性肺炎防治及紓困振興特別條例》如何影響人權，特別是有關檢疫、控制和預防措施以及個人資料收集、儲存和使用的規定。

中文回應

1. 為阻絕 COVID-19 疫情蔓延、降低社會恐懼不安，依傳染病防治法第 58 條第 1 項規定，旅客入境我國前，需檢附 3 日內 COVID-19 核酸檢驗報告、完成入境檢疫系統線上申報，並於抵臺後搭乘防疫車輛至民眾自行選擇之「防疫旅宿」或「集中檢疫所(具重點高風險國家旅遊史者)」完成 14 天居家檢疫。另針對與 COVID-19 確定病例之接觸者，依同法第 48 條第 1 項規定實施 14 天居家隔離。如於居家檢疫/隔離期間違反相關規範者，則須至集中檢疫場所完成檢疫/隔離，期間不得離開檢疫場所指定範圍。為確保得順利執行之相關防疫措施，於檢疫/隔離期間輔以電子圍籬系統，協助確認民眾在符合法令規範下的移動。

2. 查公政公約第三次國家報告第 28 點(對於公政公約第 4 條之意見):「我國自 2009 年公約國內法化以來,未曾宣告或解除依本條規定而減損公約保障權利之義務。」次查公政公約第 4 條第 1 項規定:「如經當局正式宣布緊急狀態,危及國本,本公約締約國得在此種危急情勢絕對必要之限度內,採取措施,減免履行其依本公約所負之義務,但此種措施不得牴觸其依國際法所負之其他義務,亦不得引起純粹以種族、膚色、性別、語言、宗教或社會階級為根據之歧視。」同條第 3 項規定:「本公約締約國行使其減免履行義務之權利者,應立即將其減免履行之條款,及減免履行之理由,經由聯合國秘書長轉知本公約其他締約國。其終止減免履行之日期,亦應另行移文秘書長轉知。」
3. 按嚴重特殊傳染性肺炎防治及紓困振興特別條例第 7 條規定:「中央流行疫情指揮中心指揮官為防治控制疫情需要,得實施必要之應變處置或措施。」次按臺灣地區與大陸地區人民關係條例第 10 條第 1 項規定:「大陸地區人民非經主管機關許可,不得進入臺灣地區。」再按傳染病防治法第 58 條第 1 項第 6 款規定:「主管機關對入、出國(境)之人員,得施行下列檢疫或措施,並得徵收費用:……六、商請相關機關停止發給特定國家或地區人員之入國(境)許可或提供其他協助。」又爰政府基於公共利益,並為杜絕傳染病之蔓延,於疫情期間對中國大陸人民之入境許可及相關管制措施,相關主管機關具有裁量權。
4. 此次 COVID-19 疫情係於 2019 年底在中國大陸爆發,有關對於中國大陸人士之邊境管制政策,係由中央流行疫情指揮中心(下稱中央疫情指揮中心)與相關部會,基於維護公共利益、整體國家安全及防疫量能等考量,及視中國大陸疫情發展、防控措施與國際疫情相關情勢,依科學基礎視整體疫情考量作出專業評估決定。
5. 對於人民和平集會及自由結社之規範,悉依中央疫情指揮中心為因應 COVID-19 疫情變化發布之集會指引措施而調整,人數限制是必要的,但並未影響人民集會及結社之自由。
6. 中央疫情指揮中心依據嚴重特殊傳染性肺炎防治及紓困振興特別條例,針對「疫情分級」及「疫情警戒標準及因應事項」訂有相關規範,其中,二至四級警戒均有「停止室內○人以上、室外○人以上之聚會」等規範。
7. 因本限制措施係依據前揭振興特別條例第 7 條「中央流行疫情指揮中心指揮官為防治控制疫情需要,得實施必要之應變處置或措施」規定辦理,在疫情期間,相關集會遊行均需遵行,各主管機關(警察局、分局)於審核相關申請時會依據限制措施來要求符

合規範，否則將依集會遊行法第 11 條第 2 款「有明顯事實足認為有危害國家安全、社會秩序或公共利益者」不予許可。而目前之措施並未減免我國根據公政公約承擔的義務。

8. 有關因應 COVID-19 疫情而採取之邊境管制措施決策，係中央疫情指揮中心邀集各該外來人口政策主管機關，綜合考量我國整體防疫能量及針對國內、外疫情等層面進行專業評估，內政部移民署配合執行相關入出境管制。
9. 交通部因應中央疫情指揮中心防疫政策，配合執行各項防疫作為，並依疫情警戒標準機動調整各項規定，其中對於陸運車班及海空運航班降低承載量部分，仍維持基本民行及必要性運輸服務，對於人民遷徙自由並無限制。
10. 中央疫情指揮中心 2020 年 4 月 4 日，針對 11 個熱點風景區傳送防疫警報，希望民眾不要前往，若已在當地，則在室內要維持 1.5 公尺、室外 1 公尺以上的社交距離並戴口罩，若身體不適就要立刻就醫，並主動告知旅遊史。教育部配合進行學校教職員工生清明連假期間國內旅遊史調查。
11. 因調查內容涉及個資及隱私，調查未有強制性，中央疫情指揮中心表示蒐集資料是希望監測疫情，若發現疫情陡升才會將相關旅遊史註記到健保卡內，在疫情沒有大的變化下暫不會實施。
12. 教育部續函文提醒學校，各機關配合防疫政策依法辦理相關措施所蒐集之個人資料，依個人資料保護法第 11 條，應於防疫特定目的結束後辦理刪除。

英文回應

1. In order to stop the spread of COVID-19 and reduce fear in society, travelers entering our borders must provide a COVID-19 nucleic acid test report from within 3-days, complete the Quarantine System for Entry online, and ride a quarantine vehicle to complete 14 days of home quarantine at the traveler's selected "quarantine hotel" or "group quarantine facilities (for travelers from high-risk countries)" in accordance with Article 58 Subparagraph 1 of the Communicable Disease Control Act. Those who have come in contact with confirmed cases of COVID-19 must undergo a 14-day home isolation in accordance with Article 48 Subparagraph 1 of the same law. Violators of home quarantine/home isolation must complete their quarantine period at group quarantine facilities and may not leave the designated area of the quarantine site. In order to

successfully execute relevant prevention measures, an electronic fence system will be used during the quarantine period to confirm that the movement of citizens are in compliance with legal regulations.

2. The third national report on the International Covenant on Civil and Political Rights (ICCPR) Note 28 (explanation for Article 4 of the ICCPR) states that: “Since the incorporation of the Covenant into domestic legislation in 2009, Taiwan has never announced or rescinded its obligations for protecting the rights specified in the Covenant in accordance with the regulations of this Article.” Paragraph 1, Article 4 of the ICCPR further stipulates that: “In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, 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.” Paragraph 3 of the same Article states that: “Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.”
3. Article 7 of the Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens stipulates that: “The Commander of the Central Epidemic Command Center may, for disease prevention and control requirements, implement necessary response actions or measures.” Paragraph 1, Article 10 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area (hereinafter referred to as the “Cross-Strait Act”) stipulates that: “No people of the Mainland Area may enter into the Taiwan Area without permission of the competent authorities.” Item 6, Paragraph 1, Article 58 of the Communicable Disease Control Act further states that: “Competent authorities may impose the following quarantine or measures on persons entering, exiting the country (border), and may collect associated

fees……6. Request organizations concerned to stop issuing permits for entering the country (border) to persons of certain countries or areas or providing other assistance.” Lastly, to protect public interests and curb the spread of infectious diseases, relevant competent authorities shall exercise administrative discretion during the pandemic over entry permit issuance and related control measures on mainland Chinese persons applying to enter Taiwan.

4. The COVID-19 pandemic broke out in mainland China at the end of 2019. All border control measures that affect mainland Chinese persons are decisions made by the Central Epidemic Command Center (hereinafter referred to as CECC) and related ministries and agencies en masse with the purpose of ensuring public interests, overall national security, and epidemic control capacity in view of mainland China’s pandemic situation and control measures and international COVID-19 trends. The decisions are science-based professional assessments with full consideration of the overall pandemic situation.
5. The regulations for the freedom of peaceful assembly/association are all according to the Guidance about Assembly from Central Epidemic Command Center for COVID-19. To limit the number of assembly is for the safety of people, but not restrict their freedom of assembly.
6. In accordance with the Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens, the Central Epidemic Command Center (CECC) has introduced the Epidemic Warning Standards and Guidelines, in which the regulation of “outdoor activities of more than ___ people and indoor activities of more than ___ people are prohibited” will be enforced when warning level 2 to 4 is declared.
7. We adopt the above restrictive measure in accordance with the provision, “the Commander of the Central Epidemic Command Center may, for disease prevention and control requirements, implement necessary actions or measures”, of Article 7 of the Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens. During the COVID-19 pandemic, the same restriction also applies to assemblies and parades. The competent authorities (local police departments and precincts), therefore, will examine each application based on the prescribed regulations, and, if it does not meet the requirements, the application may not be approved on the grounds of

“sufficiently obvious evidence suggesting that it is likely to endanger the national security, social order or public interests” under Paragraph 2 of Article 11 of Assembly and Parade Act. The current restrictive measure, however, does not derogate Taiwan’s obligation under the ICCPR.

8. The National Immigration Agency implements the border control measures imposed by the Central Epidemic Command Center (CECC). The CECC, synthesize perspectives includes the resurgence of COVID-19 infections and the capacity in containing the spread of the virus, ensures that measures taken are continually supported by the best evidence and continually recalibrated to avoid unnecessary interference with civil liberties.
9. Following the guidance from the Central Epidemic Command Center (CECC), the Ministry of Transportation and Communications (MOTC) has implemented a wide variety of epidemic prevention and control measures, and adjusted relevant regulations in accordance with the current epidemic alert level. While capacity of highway bus, railway transport, maritime shipping and flights has been reduced, basic civilian and necessary transportation services remain in operation. People’s freedom of movement is not limited.
10. On April 4, 2020, the Central Epidemic Command Center sent epidemic prevention warnings to 11 hotspots and hoped that people would not go there. If they are already in the local area, they should maintain a social network of 1.5 meters indoors and 1 meter outdoors. Wear a mask and seek medical advice immediately if you feel unwell, and take the initiative to inform the travel history. The Ministry of Education cooperated with the command center to investigate the domestic travel history of the school faculty and staff during the Qingming holiday.
11. Because the content of the investigation involves personal information and privacy, the investigation is not compulsory. The command center stated that the information collected is to monitor the epidemic. If the epidemic is found to rise sharply, the relevant travel history will be noted in the health insurance card. There is no major change in the epidemic. It will not be implemented for the time being.
12. The Ministry of Education renewed a letter reminding schools that the personal data collected by various agencies in accordance with relevant measures in accordance with the anti-epidemic policy should be deleted after the specific purpose of epidemic prevention is completed in accordance with Article 11 of the Personal Data Protection Law.

第 4 條		
Article 4		
點次	問題內容	
10	原文	If those measures derogate from Taiwan's obligations under the ICCPR, please specify whether the measures are strictly required by and proportionate to the exigencies of the situation and limited in duration, geographic coverage and material scope, as outlined by the Human Rights Committee in its statement on derogations from the Covenant in connection with the COVID-19 pandemic (CCPR/C/128/2) and whether in this regard other obligations under the Covenant have been fulfilled.
	中文參考翻譯	<p>如果這些措施減免了臺灣在《公政公約》下的義務，請具體說明這些措施是否在此種危急情勢絕對必要之限度內並符合比例，並且是否如人權事務委員會在其針對 COVID-19 疫情的公約義務減免相關聲明 (CCPR/C/128/2)* 中所述，在時間長度、地理範圍、實質範圍皆有所限，以及在這方面是否已履行公約規定的其它義務。</p> <p>*註：請參閱人權事務委員會「關於在 COVID-19 疫情方面克減公約的聲明」</p>

中文回應

1. 承上，相關防疫措施，均有法律明文作為防疫行為之授權依據，目的係為保護人民生命、身體、健康等重大公益，相關防疫措施為實現上開目的所必要之手段，中央疫情指揮中心亦會隨時因應國內、外疫情之發展滾動式調整，以符合憲法第 23 條比例原則之要求。
2. 中央疫情指揮中心與相關部會，基於維護公共利益、整體國家安全及防疫量能等考量，及評估中國大陸與國際疫情相關情勢等因素，於 2020 年 2 月 6 日中央疫情指揮中心及內政部移民署分別宣布除居留陸配外，全面暫緩中國大陸人士入境；隨後中央疫情指揮中心考量國內疫情趨緩，經評估國內外整體疫情狀況後，基於弱小優先原則及為兼顧疫情防控，陸續於同年 7 月 16 日起逐步放寬陸籍子女返臺；另於同年 9 月 24 日放寬持團聚證之陸籍配偶返臺。

3. 惟隨國內疫情變化，相關境管措施須滾動式檢討，中央疫情指揮中心宣布自 2021 年 5 月 19 日起全國疫情警戒升至第三級，且未持有居留證之非本國籍人士，除緊急或人道考量等經專案許可者，均暫緩入境；隨著國內疫情逐步趨緩，中央疫情指揮中心宣布自同年 7 月 27 日起調降全國疫情警戒至第二級，惟考量全球 COVID-19 疫情回升且 Delta 變異株持續傳播，爰目前仍持續執行邊境嚴管措施。
4. 但如民眾於疫情管制期間有人道、特殊急迫之需求，例如家人死亡奔喪、重大傷病等情形，基於人道考量，經由中央疫情指揮中心與相關機關會商後，在兼顧防疫考量下，將視個案情形需求性及必要性予以審酌處理。
5. 因 COVID-19 具強烈傳染性，一旦傳染病爆發，國民聚集將存在立即危害。依據公政公約第 37 號一般性意見(2020 年)對第 21 條的解釋第 45 點意見，因已依據公共衛生機關專業意見訂定「疫情分級」及「疫情警戒標準及因應事項」，且人民之集會遊行權利未被全然剝奪，仍能依據不同分級而為不同人數之集會，已履行公約規定之義務。
6. 有關因應 COVID-19 疫情而採取之邊境管制措施決策，係中央疫情指揮中心邀集各該外來人口政策主管機關，綜合考量我國整體防疫能量及針對國內、外疫情等層面進行專業評估，內政部移民署配合執行相關入出境管制。
7. 資訊公開、透明，使民眾知悉邊境管制措施：
 - (1) 內政部移民署全球資訊網設有「境管防疫專區」，配合中央疫情指揮中心政策，即時更新相關境管措施訊息。查衛生福利部業建立 1922 免付費疫情通報及諮詢專線之單一窗口，內政部移民署亦設有外來人士在臺生活諮詢服務熱線，提供多國語言免付費諮詢有關疫情入出境相關問題；該署於全省各直轄市、縣(市)之服務站亦受理民眾電話、臨櫃諮詢及陳情。
 - (2) 另內政部移民署將專案許可案件之態樣及相關申請方式，置於內政部移民署全球資訊網「境管防疫專區」防疫 QA，並同步連結至衛生福利部疾病管制署防疫網站公告，以便民眾查詢。
8. 有關陸運車班及海空運航班降低承載量部分，仍維持基本民行及必要性運輸服務，並未限制人民遷徙自由。
9. 教育部所採取之出國限制或校園防疫措施，均基於公共衛生之防疫必要，在疫情危急情勢絕對必要之限制內，以符合比例、與人民權利不牴觸之限度下執行。符合人權事務委員會在其針對 COVID-19 疫情的公約義務減免相關聲明。

英文回應

1. As mentioned previously, the relevant prevention measures against the pandemic are authorized and based on legal text for the purpose of major public benefit and the protection of people's lives, bodies, and health. The relevant prevention measures are a necessary tactic to achieve the aforementioned purpose of which the COVID-19 Central Epidemic Command Center will perform rolling adjustments based on the epidemic's progress both domestic and abroad to meet the requirements of the principle of proportionality as stated in Article 23 of the constitution.
2. In light of the CECC and related ministries and agencies' consideration of factors such as protecting public interests, overall national security, epidemic control capacity, and assessments of the pandemic situation in mainland China and the world, on February 6, 2020, both the CECC and National Immigration Agency (NIA) under the Ministry of the Interior announced the sweeping suspension of entry to Taiwan by all mainland Chinese persons except for spouses with a resident permit. Months later, given that the pandemic continued to subside in Taiwan, the CECC gradually lifted restrictions for children of mainland Chinese spouses to enter Taiwan beginning from July 16 of the same year based on assessments of the overall pandemic situation at home and abroad and in line with the principle of prioritizing vulnerable groups and ensuring pandemic control. In addition, regulations were further relaxed on September 24 of the same year to allow mainland Chinese spouses with family reunion permits to return to Taiwan.
3. However, the developing COVID-19 situation in Taiwan has necessitated a rolling review of relevant border control measures. On May 19 this year (2021), the CECC raised the nationwide COVID-19 alert to Level 3; as a result, entry to Taiwan was suspended for foreign nationals without a valid R.O.C. (Taiwan) Resident Certificate while exceptions are being considered on a case-by-case basis for emergencies or on humanitarian grounds. On July 27 of the same year, as the pandemic further abates in Taiwan, the CECC lowered the nationwide COVID-19 alert to Level 2, but border control measures still remain in place given the resurgence of COVID-19 infections and the ongoing transmission of the Delta variant around the world.

4. In case of foreign nationals requiring entry to Taiwan on humanitarian grounds or for emergencies such as attending a funeral of family members or due to critical illness, out of humanitarian concerns, the CECC shall discuss with relevant agencies to make appropriate decisions that ensure disease control while accommodating the needs of the applicants and the necessity of granting a permit.
5. Given that COVID-19 is highly infectious, following an outbreak, an assembly of people may immediately become a health hazard. In terms of the 45th comment of General Comment No.37 on Article 21 of the International Covenant on Civil and Political Rights, Taiwan's obligation under the ICCPR is fulfilled in that the Epidemic Warning Standards and Guidelines were formulated based on assessments of public health professionals. People still have the rights to organize an assembly with a provided number of participants which is in compliance with the present warning level and associated guidelines.
6. The CECC emphasizes the importance of policy agility in the COVID-19 response. All of polices must also reconcile civil liberties and the collective goals of public health.
7. The NIA, besides implements the border control measures imposed by the CECC, also works closely with other agencies to provide the public with the updated information on border control measures and other services as below:
 - (1) Latest News and relevant restrictions of entering Taiwan are updated in the "COVID-19 EPIDEMIC NEWS" in the National Immigration Agency website. The Ministry of Health and Welfare created toll-free services (1922) for pandemic report and consulting. The National Immigration Agency also built a hotline for foreigners in Taiwan, providing several languages services about pandemic situation and entry restriction information. Besides, phone calls, face-to-face consulting and complaints and petitions are available in the service centers of National Immigration Agency in every county.
 - (2) National Immigration Agency also provides information about entry permission for emergency or humanitarian reason in the Question and Answer (Chinese version) in the "COVID-19 EPIDEMIC NEWS" area. Press releases of Taiwan Centers for Disease Control are linked to the website for people to inquire about.

8. While capacity of highway bus, railway transport, maritime shipping and flights has been reduced, basic civilian and necessary transportation services remain in operation. People's freedom of movement is not limited.
9. The travel restrictions or campus epidemic prevention measures adopted by the Ministry of Education are based on public health epidemic prevention needs. They are implemented within the limits that are absolutely necessary in the critical situation of the epidemic, and in compliance with the limits of the people's rights. Compliance with the declaration of the Human Rights Committee on the reduction and exemption of obligations under its conventions against the COVID-19 epidemic.

第 6 條		
Article 6		
點次	問題內容	
11	原文	The Third Report (on page 21) indicates a decline in the number of persons sentenced to death and executed. Over the quinquennium 2015-2019, there were four death sentences and eight executions. By comparison, over the quinquennium 2010-2014, there were 31 death sentences and 26 executions. The Third Report speaks of the 'gradual elimination' of the death penalty. Please confirm whether these statistics reflect an official policy promoting abolition of the death penalty and if so, indicate when Taiwan expects to be in a position to impose an official moratorium and proceed to de jure abolition, as requested by the Review Committee in 2013 and 2017. In the past, Taiwan has resisted calls to reduce the use of capital punishment by invoking public opinion. Does the decline in death sentences and executions reflect a change in public opinion?
	中文參考翻譯	《公政公約第三次國家報告》第 21 頁(指英文版)*指出被判處死刑和執行死刑的人數有所下降。2015 至 2019 年的 5 年間，共有 4 件死刑判決，執行 8 人。相較之下，2010 至 2014 的 5 年間，共有 31 件死刑判決，執

		<p>行 26 人。《公政公約第三次國家報告》提及「逐步廢除」死刑，請確認這些統計數字是否反映出有官方政策正推動廢除死刑。若是如此，請說明臺灣預計何時能夠按照審查委員會在 2013 年和 2017 年的要求正式暫時停止死刑並進行法律上的廢除死刑。過去臺灣一直援引輿論而抵抗減少死刑的呼籲，目前死刑判決和執行的減少是否反映了輿論變化？</p> <p>*註：秘書處補充說明</p>
--	--	--

中文回應

1. 近年判決死刑確定之人數與執行死刑之人數，較諸以往均呈現顯著下降之趨勢，代表我國持續朝向推動「逐步廢止死刑」之政策目標前進，並已獲致成效。
2. 廢除死刑雖係國際趨勢，惟死刑之廢除，牽涉層面甚廣，並非一蹴可幾，此由英、法、瑞士、義大利等歐洲國家，歷經長久時間方廢除死刑，即可證明。我國民意多數仍反對廢除死刑，在民眾對於死刑存廢仍有相當疑慮，且就廢除死刑之替代方案仍未有共識前，尚無法全面廢除死刑。
3. 目前我國的死刑政策，係採取逐步廢止死刑，現階段則是「減少使用死刑」、「審慎執行死刑」，以兼顧社會正義及人權保障。至國際審查委員會於 2013 年、2017 年所提「暫停執行死刑」與「進行法律上的廢除死刑」等建議，均會納入我國死刑政策考量，以期完善處理死刑存廢之議題。
4. 社會大眾及輿論對於死刑存廢之態度，係國家推動制定死刑政策的重要參考指標，為此，我國草擬中之國家人權行動計畫草案已增列生命權保障之議題，並將於 2022 年至 2024 年間委託學術或中立機構就「民意對死刑制度與替代方案之態度及意見」針對 18 歲以上之公民進行意見調查，以瞭解最新民意趨向，並作為研擬死刑政策與死刑替代方案之重要參考。

英文回應

1. While the number of both sentences and executions of the death penalty in recent years has reduced significantly, suggesting that Taiwan is on the way toward the “gradual elimination of the death penalty” with effective achievement.
2. Although the abolition of the death penalty is an international trend, given the wide range issues it involves, there is no overnight success, as proven by the long-term effort it took in

European countries such as the UK, France, Switzerland, and Italy. Given the majority opinion against the abolition of the death penalty, most people in Taiwan are still highly doubtful about the retention or abolition of the death penalty. Hence, the total abolition of the death penalty is unachieved before a consensus over the alternative for the death penalty has been reached.

3. While gradual elimination of the death penalty is the policy we currently adopt in Taiwan, “reduction” and “careful execution” of the death penalty are the basic principles at the moment to maintain social justice and protect human rights at the same time. The “moratorium on executions” and “proceed to de jure abolition” as recommended by the International Review Committee in 2013 and 2017 will be included in Taiwan’s consideration of the death penalty policy, hoping to smoothly settle the issue regarding the retention or abolition of the death penalty.
4. While people’s attitude and the public opinion toward the retention or abolition of the death penalty are important references for making death penalty policies, we have already added issues on the right to life to the National Human Rights Action Plan Draft. In addition, in 2022-2024, we will hire academic or third-party institutions to conduct the Attitude and Opinion Toward the Death Penalty and Alternatives survey on citizens aged over 18 to discern the trend of the latest public opinion and provide a reference for drawing up death penalty policies and alternatives.

第 7、9、10 條		
Article 7、9、10		
點次	問題內容	
12	原文	In 2013 and 2017, the Review Committee strongly recommended to incorporate torture, as defined in Article 1 CAT, as a separate and specific crime into the Criminal Code of Taiwan. In its Response (§§ 163 and 164), the Government stated that it is “actively amending the provisions of the Criminal Code” without, however, providing any clear answer. Could you

		please explain whether a specific crime of torture, as defined in Article 1 CAT, has been included in the Criminal Code? If so, has anybody been investigated or sentenced under this provision?
	中文參考翻譯	審查委員會於 2013 年和 2017 年強烈建議將《禁止酷刑及其他殘忍不人道或有辱人格之待遇或處罰公約》第 1 條定義之酷刑新增至《刑法》作為一種獨立且特定的犯罪類型。在《回應兩公約第二次國家報告結論性意見與建議》第 163 與 164 點中，政府表示正在「積極研修刑法」，但沒有提供任何明確答覆。請說明《刑法》中是否新增了《禁止酷刑及其他殘忍不人道或有辱人格之待遇或處罰公約》第 1 條定義的特定酷刑罪？若是如此，是否有人根據這項規定受到調查或判刑？

中文回應

1. 我國現行刑法及刑事特別法已有與禁止酷刑相關之處罰規定，例如刑法第 125 條、第 126 條，以及公務員假借職務上之權力、機會或方法故意犯刑法第 277 條、第 286 條、第 296 條、第 296 條之 1、第 302 條、第 304 條、第 305 條、第 231 條之 1 罪者，依第 134 條規定，加重其刑至二分之一；另陸海空軍刑法第 44 條亦有處罰規定。
2. 2018 年間法務部為符合公政公約中禁止酷刑的精神，曾預告擬修正刑法第 125 條第 1 項之規定，預告期滿後因外界有許多寶貴建議，法務部為求周延，持開放態度，仍持續蒐集相關法制資料。禁止酷刑，舉世皆然，「禁止酷刑和其他殘忍不人道或有辱人格的待遇或處罰公約」亦有明文規範，我國基於人權立國，對於國際人權義務亦責無旁貸，我國政府為呼應國際審查委員之建議，不論院檢警調及其他行使公權力之同仁，均嚴守法律規定，遵守正當法律程序，消弭任何酷刑等不當作為，已獲民眾肯定。

英文回應

1. Currently, regulations to ban torture-related punishments have been stipulated in Taiwan's Criminal Code and Act on Special Measures Concerning Criminal Cases, such as Articles 125 and 126 of the Civil Code. In addition, Article 134 of the Civil Code stipulates: "A public official who takes advantage of his authority, opportunity, or means afforded by his official position to intentionally commit an offense as prescribed in Articles 277, 286, 296, 296-1, 302, 304, 305, and 231-1 [of the Civil Code] shall be subject to the punishment

prescribed for such offense by increasing it up to one half.” Article 44 of the Criminal Code of the Armed Forces also stipulates related punishments.

2. During 2018, to comply with the torture elimination spirit of the International Covenant on Civil and Political Rights (ICCPR), the Ministry of Justice notified the plan to amend Article 125, paragraph 1, of the Civil Code. After receiving many valuable opinions during the notification period, we decided to keep gathering related legal data with an open mind for greater inclusiveness. Torture elimination is a universal value, and “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” is an express provision. By founding the country upon human rights, it is our responsibility and obligation to maintain human rights. In response to the recommendations of the International Review Committee, the judiciary, prosecution, police, investigation authority, and other law-enforcement officers in Taiwan all abide by the law and follow the related legal procedures to eliminate torture and other improper acts, and our efforts have earned public recognition.

第 7、9、10 條		
Article 7、9、10		
點次	問題內容	
13	原文	In § 57 of the Third Report, it is stated that “the Control Yuan will be designated as the National Preventive Mechanism (NPM) to inspect related sites and facilities where public authorities have deprived people of their personal freedoms allowing it to play a greater role in preventative monitoring”. Could you please explain whether such an NPM has already been established? If so, does this NPM comply with the requirements enlisted in OPCAT, above all its independence? Who appoints the members of the NPM? How many visits to detention facilities has the NPM conducted since its establishment? Were these visits unannounced? What were the findings and recommendations of the NPM?

	<p>中文參考翻譯</p>	<p>《公政公約第三次國家報告》第 57 點指出「監察院將執行國家防制酷刑機制 (NPM)工作，訪查公權力剝奪人身自由之相關處所及設施，以發揮預防性監督功能」。請說明是否已建立 NPM？若是如此，此 NPM 是否符合《禁止酷刑及其他殘忍不人道或有辱人格之待遇或處罰公約任擇議定書》(OPCAT)之要求，尤其是其獨立性？由誰任命 NPM 成員？自 NPM 成立以來，對拘留設施進行了多少次訪視？是否為未經宣告的訪視？NPM 的調查結果和建議為何？</p>
--	----------------------	--

中文回應

「禁止酷刑及其他殘忍不人道或有辱人格之待遇或處罰公約及其任擇議定書施行法」草案於 2020 年 12 月 10 日修正，規定監察院國家人權委員會應建立專責之酷刑防制機制。惟該草案立法院尚未審查通過，故目前係依據監察院國家人權委員會組織法，推動酷刑防制機制，並由國家人權委員會議決成立防制酷刑執行專案小組，已訂定「2021 年度國家防制酷刑機制訪視試行計畫」，針對法務部及衛生福利部所屬 8 所兒少安置機構進行訪視，今(2021)年因受 COVID-19 疫情影響，迄至 8 月份，僅於 8 月份無預警訪視 1 所兒少安置機構。

英文回應

The draft Implementation Act of the OPCAT was amended in December 10, 2020, and stipulates that the National Human Rights Commission (NHRC) shall establish a dedicated torture prevention mechanism. Since the Legislative Yuan has not yet reviewed and passed the Implementation Act of the OPCAT, Taiwan's torture prevention mechanism is currently carried out in accordance with the Organic Act of the Control Yuan National Human Rights Commission. The NHRC has already established a task force for the prevention of torture and formulated the 2021 Trial Plan for Inspections by the National Preventive Mechanism, under which the task force will visit and conduct inspections of eight child and youth placement agencies affiliated with the Ministry of Justice and the Ministry of Health and Welfare. However, due to the COVID-19 pandemic this year (2021), only one unannounced inspection of a child and youth placement agency has been conducted as of August this year.

第 7、9、10 條

Article 7、9、10

點次	問題內容	
14	原文	In 2013 and 2017, the Review Committee recommended that all allegations or suspicions of torture shall be thoroughly and promptly investigated by an independent and impartial body with full criminal investigation powers. In its Response (§ 166), the Government reaffirms that the ordinary prosecutors are “independent and impartial judicial authorities”. Since torture is a special crime usually committed by law enforcement authorities (police, prosecutors etc.), the investigation and prosecution of allegations of torture is only effective if it is conducted by authorities fully independent from such law enforcement authorities, including prosecutors. Could you please explain whether the Government has taken any efforts to establish a truly independent specialized body responsible only for the investigation and prosecution of torture and similar misconduct by law enforcement authorities?
	中文參考翻譯	審查委員會於 2013 年和 2017 年建議所有酷刑的指控或犯罪嫌疑應由具完全刑事調查權限、獨立而公正的組織展開澈底且迅速的調查。在《回應兩公約第二次國家報告結論性意見與建議》第 166 點中，政府重申一般檢察官「為獨立公正的司法機關」。由於酷刑是一種通常由執法機關（警察、檢察官等）實施的特殊罪行，因此對酷刑指控的調查和起訴只有由完全獨立於此類執法機關（包括檢察官）的機關進行才有效。能否說明政府是否已採取任何措施建立一個真正獨立的專門機構，該機構唯一職責為負責調查和起訴執法機關實施的酷刑和類似不當行為？

中文回應

1. 依我國現制，檢察官為刑事案件的唯一偵查主體，指揮並監督司法警察從事犯罪偵查，並負責所有罪行的追訴。我國檢察官與法官同具司法官屬性，為確保檢察官職權

之公正行使，不僅對檢察官有身分上之保障，就其職權之行使，亦擔保其獨立性，不受非法或不當之干涉。目前對於檢察官違失行為的監督調查，除了檢察機關內部的職務監督處分外，尚有監察院的彈劾、司法院職務法庭的懲戒，以及檢察官評鑑委員會的個案評鑑。檢察官評鑑委員會的唯一職責，就是調查檢察官有無違失或不當行為，該委員會之評鑑委員共 13 人，其中檢察官僅 3 人，外部委員共 10 人，且逾四分之三，包括法官 1 人、律師 3 人、學者專家 6 人，足見該委員會之客觀性、中立性、獨立性及公正性。自 2020 年 7 月 17 日起，個案當事人可以直接向檢察官評鑑委員會請求個案評鑑，不必再透過律師公會或其他團體，如能持續落實相關制度，應可懲處或汰除不適任之檢察官。

2. 監察院依據我國憲法規定為最高監察機關，就公務人員或機關違法失職情事行使監察權，進而保障人權。任何人於國際人權公約所保障之權利遭受侵害或有受侵害之虞時，得向監察院提出陳情。

英文回應

1. With respect to Taiwan's current system, the prosecution is the only authority responsible for criminal investigation, commanding and overseeing judicial police to engage in criminal investigation, and the prosecution of crimes. In Taiwan, both prosecutors and judges are part of the judiciary. To ensure that prosecutors can maintain impartiality when exercising their power, besides providing them with the relevant protection, we also ensure their independency against illegal or undue interference while carrying out their duty. Currently, in addition to the internal oversight and disciplinary action of the prosecution authority, the impeachment of the Control Yuan, the disciplinary action of the court of the judiciary, and the case evaluation of the Prosecutors Evaluation Commission are responsible for the malfeasance in the office of prosecutors. To investigate the malfeasance in office or misconduct of prosecutors is the sole duty of the Prosecutors Evaluation Commission. The commission is formed by 13 members, including only three prosecutors and ten external members, exceeding three quarters of the total. These external members include one judge, three lawyers, and six scholars and experts to ensure the commission's objectivity, neutrality, independency, and impartiality. Since July 17, 2020, the concerned parties of each case can directly apply for a case evaluation to the Prosecutors Evaluation

Commission without hiring a lawyer or going through a other organizations. By continuously implement related systems, it is believed that inappropriate prosecutors will be punished or eliminated.

2. According to the Constitution, the Control Yuan is the highest ombudsman institution in the country. It exercises the power of supervision over violations of the law and negligence of public servants or agencies, thereby protecting human rights. Anyone who has been infringed or is in danger of being infringed on the rights set forth by the international human rights conventions may submit a complaint to the Control Yuan.

第 7、9、10 條		
Article 7、9、10		
點次	問題內容	
15	原文	With a total population of 23.6 million people (Common Core Document, Table 1), and a total prison population of roughly 61,000 prisoners and pre-trial detainees (Third Report, § 95), Taiwan continues to have a comparably high incarceration rate of around 260 prisoners per 100,000 inhabitants, as is also confirmed by the statistics of the World Prison Brief. This high incarceration rate results from “tough on crime” policies (see also Covenants Watch, §§ 375 ff) and leads to overcrowding of prisons and inhuman prison conditions, which have been strongly criticized by the Review Committee in 2013 and 2017. In § 46 of its Independent Opinion, the Taiwan National Human Rights Commission (NHRC) concludes that “at least 20% of the prisoners were unable to satisfy their basic needs when serving their sentence.” This would amount to a violation of their right to human dignity, as stipulated in the Constitution of Taiwan and Article10 ICCPR. The Third Report acknowledges again prison overcrowding (§ 95), a serious shortage of prison staff (§§ 112 ff) and other problems related to imprisonment. Which measures have been taken to address this problem?

<p>中文參考翻譯</p>	<p>臺灣總人口為 2,360 萬人(《兩公約第三次國家報告共同核心文件》表 1)，監所總人數約為 61,000 名受刑人和審前受羈押者(《公政公約第三次國家報告》第 95 點)，臺灣的監禁率仍然較高，每 100,000 名居民中有 260 名受刑人，《世界監獄簡報》(World Prison Brief)的統計數據也證實此點。這種高監禁率源於「嚴罰」政策(另見《人權公約施行監督聯盟平行報告》第 375 點)並導致監獄超收和不人道狀況，在 2013 年和 2017 年受到審查委員會的強烈批評。臺灣國家人權委員會(NHRC)在其《兩公約第三次國家報告獨立評估意見》第 46 點中得出結論「至少 2 成以上的受刑人在監服刑無法滿足基本生活需求。」此現象違反臺灣憲法及《公政公約》第 10 條人性尊嚴之規定。《公政公約第三次國家報告》再次承認監獄超收(第 95 點)、監獄工作人員嚴重短缺(第 112 點)以及其它與監禁相關的問題。已採取了哪些措施來因應問題？</p>
---------------	--

中文回應

1. 為解決矯正機關超額收容問題，法務部除加強「前門政策」(如緩起訴、易服社會勞動、緩刑、罰金刑、易科罰金等措施)及「後門政策」(2020 年假釋總許可率為 40.32%，較 2017 年至 2019 年平均總許可率 38.21% 為高)外，法務部矯正署亦透過機動性調整移監，有效運用各矯正機關舍房空間，另研提「矯正機關擴、遷、改建評估方案」之政策亮點，陸續推動各項擴、遷、改建中長程個案計畫，包括臺北監獄及宜蘭監獄擴建工程已落成啟用，及刻執行中之八德外役監獄、雲林第二監獄及彰化看守所等 3 所機關新(擴、遷)建工程。經查矯正機關實際收容人數已逐年下滑，2020 年底 5 萬 8,362 人為近年來最低；又核定容額逐步提升，整體超額收容比率亦隨之下降，顯示相關策略逐漸發揮成效。
2. 為建立符合基本生活需求的矯正環境，自 2016 年 5 月起積極推動「一人一床政策」，截至 2021 年 7 月底矯正機關計有 4 萬 7,107 個床位可供收容人使用，並已有 23 個機關達成「一人一床」設置目標，占核定容額 80.50%；另自 2020 年 1 月起推動全面使用自來水，截至 2021 年 7 月底，計有 32 所矯正機關全面使用自來水；此外，輔以每年挹注經費持續改善既有房舍設施及設備，以強化收容人之生活照護。
3. 自 2015 年起，因應部分矯正機關新(擴)建及超額收容嚴重、戒護外醫勤務量增長等所需戒護及教化人力，法務部研提矯正機關管教人員增補計畫，並經行政院同意核給

700 名人力(正職人員 550 人、約僱人員 150 人)，截至 2020 年底，矯正機關戒護人力為 5,778 人(含約僱人員 177 人)，教化人力(教誨師、調查員、輔導員、導師、訓導員、教導員)預算員額為 404 名，收容人數為 5 萬 8,362 人，戒護人力比約為 1：10.1，教化人力比約為 1：144，相較以往已有改善。

4. 為提供收容人更為適切之處遇環境，矯正署賡續推動「矯正機關擴遷改建計畫」，其中雲林第二監獄及八德外役監獄改建工程完工後，預計增加共 3,843 名容額，刻正研擬前開二所機關人力請增計畫，期能增補合適戒護、教化及各類專業人力，以提升矯正效能。

英文回應

1. In order to solve the problem of over-accommodation in correction institutions, the Ministry of Justice has enhanced the “front door policy” (such as deferred prosecution, commuting the punishment to community service, probation, fines, commuting the punishment to fines, etc.) and the “back door policy” (the approval rate of parole in 2020 is 40.32%, which is higher than the average approval rate of 38.21% from 2017 to 2019), the Agency of Corrections, Ministry of Justice has also made flexible adjustments on prisoner relocation to use the room and space of various correction institutions effectively. In addition, the policy highlight, the proposed “Assessment of the Expansion, Relocation, and Rebuilding of Correction Institutions” has also been started progressively, including the midterm and long-term individual plans of various expansion, relocation and rebuilding. The expansion projects of Taipei Prison and Yilan Prison have been completed, and the construction (expansion or relocation) projects for Bade Prison Camp, Yunlin Second Prison, and Changhua Detention Center have been implemented. After inspections, we found that the actual number of people accommodated in correction institutions has been declining. At the end of 2020, a total of 58,362 people accommodated in correction institutions was the lowest number in recent years; the overall exceeding accommodating rate has also decreased, due to the gradually increasing approved capacity. These stats show that relevant policies are gradually taking effect.

2. In order to establish a correction environment that meets the basic needs of life, the Agency has been actively promoted the “one person, one bed policy” since May 2016. As of the end of July 2021, the correction institutions have 47,107 beds available for inmates, and there are 23 institutions have reached the goal of “one person, one bed”. It has reached 80.50% of the approved capacity; in addition, since January 2020, the Agency started to promote the policy of fully using tap water. As of the end of July 2021, 32 correction institutions have fully used tap water; On the other hand, the Agency also use the fund from annual budget to continuously improve the existing accommodation facilities and equipment to enhance the life care of the inmates.
3. From 2015, in response to the construction (expansion) of some correction institutions, the status of exceeding the approved capacity, and the increasing need of guarding, education and instruction human resource for medical services outside the prison, the Ministry of Justice has proposed a plan to increase the disciplinary staff of the correction institutions, and the Executive Yuan has approved to provide 700 occupations for the staff (550 full-time staff and 150 contractual staff). As of the end of 2020, the guarding staff in correctional institutions number 5,778 (including 177 contractual staff), education and instruction staff have 404 (teachers, investigators, counselors, mentors, trainers, instructors), and the number of inmates is 58,362. The ratio of guarding staffs and inmates is about 1:10.1, and the ratio of education and instruction staffs and inmates is about 1:144. It shows an improvement from before.
4. In order to provide more adequate treatment environments to inmates, the Agency of Correction continues to promote the “Expansion and Rebuilding Project”. After the completion of the rebuilding of Yunlin Second Prison and Bade Prison Camp, it will increase a capacity of 3,843 people. Currently, the Agency is working on the plan to increase the human resource of the two institutions, and hope to provide more guarding, education and instruction and other professional staff to improve the effectiveness of correction.

第 7、9、10 條

Article 7、9、10

點次	問題內容	
16	原文	<p>In response to the recommendations of the Review Committee to reduce the prison population, the Government states that “Taiwan has adopted a bipolar policy for processing criminal cases by imposing severe penalties for major crimes and light penalties for minor crimes, adopting both leniency and strictness. Taiwan has adopted severe penalties for criminals who commit serious offenses or repeat offenders based on the theoretical basis of retributive justice and taking offenders out of society”. This “theoretical basis” seems to be in clear violation of Article 10 ICCPR. Will the Government of Taiwan reconsider its retributive criminal justice policy in order to bring it in line with the right of all detainees under Article 10 ICCPR to be treated with humanity, with respect for the inherent dignity of the human person and with the requirement that the penitentiary system shall aim not at retribution but at the reformation and social rehabilitation of prisoners?</p>
	中文參考翻譯	<p>針對審查委員會減少監獄人數的建議，政府表示「臺灣採重罪重罰、輕罪輕罰、寬嚴並進之兩極化刑事政策，對於重大犯罪者或習慣性犯罪人，本著應報、隔離之刑罰理論基礎，採取嚴格的刑事立法從重量刑」。此處「理論基礎」似乎明顯違反了《公政公約》第 10 條。臺灣政府是否會重新考慮其應報式刑事司法政策，以使其符合《公政公約》第 10 條規定的所有被拘留者應受合於人道及尊重其天賦人格尊嚴之處遇，並符合以下要求：監獄制度之目的並非應報而是使受刑人懺悔自新，重適社會生活？</p>

中文回應

1. 我國刑事政策係採取寬嚴並進之立場，近年來更以符合憲法罪責相當原則、比例原則為修法之基本原則，矯正業務早已從「監禁模式」的應報刑，轉為強調教育之「矯治模式」，進而協助收容人回歸家庭與社會的「復歸模式」。
2. 法務部矯正署近年來舉辦之各項藝文活動，及推動收容人之專案處遇計畫，分述如下：
 - (1) 藝文活動：積極發展各種藝術人文訓練班，參與社會各界社福團體舉辦之藝文比賽，如作文、書法、繪畫、音樂比賽，並定期舉辦藝文展或聯合展(售)會，讓收容人的創作有展出的舞臺，增進自我肯定及自信心，讓收容人在這些過程中，學習創作和表達其觀念與情感，引導其願意改變自我，啟動善良的因子。
 - (2) 處遇計畫：
 - ① 收容人自殺防治處遇計畫：2020年4月17日施行。
 - ② 受刑人個別處遇計畫：2020年7月20日施行。
 - ③ 死刑定讞待執行者個別處遇計畫試行方案：2020年10月14日施行。
 - ④ 身心障礙收容人處遇計畫：2021年4月7日施行。
 - ⑤ 家庭支持方案：持續結合民間熱心團體及公益資源，推展「愛，無礙——社會資源諮詢窗口」、「及時雨」、「收容人家庭援助與關懷方案」等措施，擴大辦理弱勢家庭援助方案，並於疫情期間辦理「嚴重特殊傳染性肺炎疫情收容人家庭援助方案」。
3. 基於社會復歸之目的，矯正機關依法使收容人參加作業，訓練其謀生技能，亦為矯治處遇一環：
 - (1) 長期結合社會資源，積極尋求企業廠商協助作業發展：目前計有120家廠商提供師資、設備、就業機會、資金或技術指導等資源協助35所矯正機關發展委託加工、自營作業、自主監外作業及技能訓練等項目，並與勞動部合作辦理職業訓練開辦木工、太陽能光電維運、手工電焊、氬氣鎢極電銲、水電裝修等室內水電配線等訓練班別，均為目前就業市場缺工較嚴重之職類，學員參訓後可依其意願再參加矯正機關內相關作業項目，進一步培養作業技能，提高勞作金收入，達到教訓用合一之目的。
 - (2) 協助受刑人階段性復歸社會：為使受刑人提早與社會接軌，避免長期監禁造成出監調適不良，自2017年6月起開辦「受刑人自主監外作業制度」，讓受刑人白天至監外合作廠商工作、晚上回監內休息，並通盤規劃未來出監之職場環境，該等

受刑人作業地點、作業內容、作業時間、紀律管理、待遇條件、安全衛生、膳食費等條件確實與一般勞工並無二致。2021 年度截至 4 月底，共計核准 4,219 人外出作業，每日出工人數約 1,200 人(因應全國進入三級疫情警戒，自 2021 年 5 月 19 日起監外作業全面暫停)，每月創造作業收入約 2,200 萬元，且受 213 間合作事業單位(民間企業廠商)稱許，也期能繼續幫助更多受刑人成功翻轉人生。

英文回應

1. In Taiwan, the bipolar criminal policy has been adopted. In recent years, the legal system has been amended with respect to the guilt principle (*nulla poena sine culpa*) and proportionality as stated in the constitution, the correction affairs has shifted from the “imprisonment mode” to the “correction mode” that emphasizes education and the “rehabilitation mode” that helps the inmates return to their family and the society.
2. The art and culture events and treatment plans that provides to the inmates held by the Agency of Correction, Ministry of Justice are as follows:
 - (1) Art and culture events: the Agency actively hold various arts and culture training courses, participate in multiple art and culture competitions organized by various social welfare groups, such as composition, calligraphy, painting, and music competitions, and regularly hold art and culture exhibitions or joint exhibitions (sales) to let the inmate have a platform to display their works, and enhance their self-affirmation and confidence. These events may allow the inmates to learn to create and express their ideas and emotions, provide guidance to them in these processes, and activate kindness factors.
 - (2) Treatment programs:
 - ① Suicide prevention treatment program for inmates: adopted from April 17, 2020.
 - ② Individualized treatment program for prisoners: adopted from July 20, 2020.
 - ③ Trial plan of individualized treatment program for inmates with pending death penalty rendered based on final judgments: adopted from October 14, 2020.
 - ④ Treatment program for physically or mentally challenged inmates: adopted from April 7, 2021.
 - ⑤ Family support programs: continue to combine civil groups and charitable resources

to promote the “Love without Obstacles—Consultation Service for Social Resources”, “Timely Assistance”, “Family Support and Care Program for Inmates” measures, expand the scale of support programs for underprivileged families, and provide the “Family Support Program for Inmates due to COVID-19”.

3. For the purpose of social rehabilitation, the correction institutions allow the inmates to participate in production in accordance with the law to train their life skills as part of the correction treatment.

(1) Integrating social resources for a long-term purpose, and actively seeking the assistance from corporations to provide assistance for the development of productions: currently there are 120 corporations providing resources to 35 correction institutions, including teachers, equipment, employment opportunities, funds or technical trainings to develop commissioned processing, self-productions, independent productions outside the prison and skills training. The Agency also cooperates with the Ministry of Labor to hold the vocational training for carpentry, maintenance and operation of solar photovoltaic, manual welding, Tungsten Inert Gas welding, plumbing and electrical decoration and other plumbing and electrical wiring training courses. Currently, the market faces a labor shortage among these vocations, and the trainees may attend other production programs provided by correction institutions to further train their production skills. It may help them increase their increase labor wage and reach the goal of combining education and training.

(2) Help the prisoner to complete social rehabilitations progressively: in order to help the prisoner to return to the society earlier, avoid long-term imprisonment resulting in poor adjustments after release from prison, the “Self-supervised Working System Outside the Prison” has been launched since June 2017. The system allows the prisoner to work outside the prison at the places of cooperated corporations daytime, and return to prison at night and rest. The system also makes the plan related to future workplace after their releases from the prison. The plan includes the location, the content of work, working hours, disciplinary management, wages and welfares, safety and health, meal allowance and other conditions, and the said items are no different from ordinary labor. As of the end of April 2021, there are 4,219 inmates that have

been approved to work outside the prison. The number of inmates working outside is about 1,200 per day (in response to the nationwide Level 3 epidemic alert, working outside prisons has been completely suspended from May 19, 2021). The total amount made from the work is around NTD 22,000,000 per month, and the work is highly praised by 213 cooperated business units (private corporations), and we also hope that the system may continue to help more prisoners to turn their life around successfully.

第 7、9、10 條		
Article 7、9、10		
點次	問題內容	
17	原文	<p>Similarly, the Review Committee in 2017 has again strongly regretted any lack of progress in the abolition of capital punishment. It urged the Government “to take the lead in raising public awareness against this cruel and inhuman punishment, rather than being exclusively concerned with public opinion”. In its Response (§ 172), the Government repeats that “even though abolition of the death penalty is an international trend, it involves a wide range of issues and cannot be achieved overnight”. Please explain why a moratorium on executions cannot be achieved overnight as has been the case in numerous other countries in all world regions. Rather than bringing its criminal justice system in line with the requirements of Article 10 ICCPR and thereby abolishing the death penalty as a cruel and inhuman punishment in violation of Article 7 ICCPR, or at least as a first step imposing a moratorium on executions, the Government hides behind opinion polls and the rights of victims to “restorative justice” (§ 175). Does “restorative justice”, in the opinion of the Government, mean that victims and their families have a right to determine whether perpetrators shall be sentenced to death?</p>

中文參考翻譯	<p>同樣，審查委員會在 2017 年再次對廢除死刑方面缺乏進展表示強烈遺憾。委員會敦促政府「帶頭提升公眾對於反對此殘忍酷刑及非人道處罰的認識，而非僅一味在意民意」。政府在《回應兩公約第二次國家報告結論性意見與建議》第 172 點重申「廢除死刑雖係國際趨勢，惟死刑之廢除牽涉層面甚廣，並非一蹴可幾」。請說明為何不能像世界所有地區的許多其它國家一樣即刻暫停執行死刑。政府未使刑事司法系統符合《公政公約》第 10 條要求，繼而廢除違反《公政公約》第 7 條所提殘忍和不人道懲罰的死刑，或至少以暫停執行死刑作為第一步，反而躲在民意調查和被害人獲得「修復式司法」的權利之後(第 175 點)。在政府看來，「修復式司法」是否意味著被害人及其家屬有權決定肇事者是否應被判處死刑？</p>
--------	---

中文回應

1. 「依法行政原則」是法治國家之基礎，也是我國不變的基本立場。死刑存廢及執行之議題，仍必須考慮我國國情、人民的觀感、歷史文化的影響，而不能完全漠視時空環境及社會現實的價值觀。在現有法律仍有死刑制度之前提下，貿然停止執行死刑，不僅無法獲得多數民眾的支持，亦不具正當性。因此，目前我國的死刑政策係「逐步廢止死刑」，現階段則是「減少使用死刑」、「審慎執行死刑」，以兼顧社會正義及人權保障。
2. 在「審慎執行死刑」方面，最高檢察署於 2016 年訂定「最高檢察署辦理爭議性死刑確定案件審查作業要點」，設立「爭議性死刑確定案件審查會」，審查爭議性死刑確定案件是否還有聲請非常上訴或再審的可能。在 2017 年(鄭性澤案)及 2020 年(謝志宏案)各有 1 名死刑犯，經檢察官重啟調查，成功聲請法院再審，並獲判無罪確定之案例。以上均是我國審慎執行死刑、尊重生命及保障人權的具體展現。
3. 我國仍將持續與國內外主張廢除或停止執行死刑之個人或團體溝通，並促進社會對話，期能消弭民眾疑慮以凝聚民意共識，在有合理、合宜之死刑替代方案下，逐步研議可行之具體措施，以符合國際人權趨勢及堅守法治國原則，達到逐步廢止死刑的政策目標。
4. 政府推動修復式司法之目的是在促進被害人與被告對話，藉以撫平被害人與家屬之創傷，並使被告有機會悔改及彌補其過錯，並可作為法院判決量刑時，審酌被告犯後態

度之重要依據，但並非意味被害人及其家屬有權決定被告是否應被判處死刑。

5. 聯合國經濟及社會理事會「刑事案件中使用修復式司法方案之基本原則」指出，以修復式司法處理犯罪，可達成提高當事人對犯罪處理結果的滿意度、降低再犯率以及減少社會對立及恐懼等效益，因此修復式司法讓犯罪不僅僅關注在如何懲罰或報復，同時提供在犯罪發生後，如何協助當事人療癒創傷、恢復平衡、復原破裂關係的另一種選擇，賦予「司法」在尋求真相、尊重、撫慰、負責與復原中實現正義的新意涵，故其制度目的、運作方式與象徵意涵均非由被害人及其家屬決定加害人判處死刑與否。而在「法務部推動修復式司法方案實施計畫」中，實施原則明定「適用修復式司法程序之案件，不影響其原有之刑事訴訟程序……」，爰無論在修復式司法程序中當事人雙方有無達成協議，被害人及其家屬皆無權決定加害人是否應被判處死刑，反而若被害人及其家屬在修復式司法程序中感受到尊重與正義，或許在訴訟程序中，更能降低其主張應判處死刑之堅持。

英文回應

1. The “law-based administration” is the foundation of the rule of law and the unchanged, basic principle of Taiwan. Instead of the total ignorance of time-space, the environment, social reality, and social value, it is necessary to take into account the national condition, people’s impression, and historical and cultural influences while addressing issues relating to the retention or abolition and execution of the death penalty. While the death penalty still exists in our law, premature cessation of execution not only fails to earn public support but also loses its legitimacy. Hence, “gradual elimination of the death penalty” is the policy we currently adopt in Taiwan, “reduction” and “careful execution” of the death penalty are the basic principles at the moment to maintain social justice and protect human rights at the same time.
2. In “careful execution”, in 2016 the Supreme Prosecutors Office established the “Directions for Reviewing Argumentative Death Convictions by the Supreme Prosecutors Office” to form the “Argumentative Death Conviction Review Committee” to review if there is a possibility to apply for an extraordinary appeal or re-trial of argumentative death convictions. After the re-investigation of prosecutors, re-trial was successfully granted to one case in each of 2017 (Hsing-Tse Cheng Case) and 2020 (Chi-Hung Hsieh case), and

the defendants in both cases were eventually found not guilty. These are the best examples to illustrate Taiwan's careful execution, respect for life, and protection of human rights.

3. We will continue to communicate with individuals and groups claiming the abolition of the death penalty or cessation of execution at home and abroad. We will also promote dialogue with society to ease the doubt and cohere the consensus of the public to progressively discuss feasible solutions after seeking reasonable and appropriate alternatives for the death penalty, in order to meet with the international trend of human rights and uphold the rule of law to progressively achieve the policy goal of death penalty abolition.
4. The aim to promote restorative justice is to encourage the dialogue between victims and defendants, in order to soothe the trauma on the victims and their family, to give an opportunity for the defendants to regret and compensate for their mistakes, and provide the court with a reference for sentencing based on the defendant's attitude after the offense. However, it never suggests that the victims and their family are entitled to determine if the defendant deserves the death penalty.
5. The "basic principles on the use of restorative justice programmes in criminal matters" adopted by the United Nations Economic and Social Council indicates that judgment against crimes under "restorative justice" may derive certain benefits, such as raising of concerned parties' satisfaction toward the criminal judgment, reduction in the rate of recidivism and mitigation of social conflict and fear. Therefore, restorative justice is a means focusing on punishment or retaliation and an option for concerned parties to help them heal wounds, recover balance, and restore broken relations upon occurrence of the crime. It brings the new implications about practicing "justice" at the same time when people are finding truth, respect, comfort, responsibility and restoration. Therefore, in terms of the purpose, operation and implications of such system, the Government would never uphold that victims and their families have a right to determine whether perpetrators shall be sentenced to death. The "Restorative Justice Programme Implementation Plan Promoted by Ministry of Justice" expressly defines that "the criminal procedures shall remain unaffected in any cases applying restorative justice." Given this, irrespective of whether both parties have reached an agreement during the restorative justice procedure, victims and their families retain no right to determine that perpetrators shall be sentenced

to death. Instead, if victims and their families can feel respect and justice during the restorative justice procedure, they might be less insistent on claiming the death penalty during the proceeding.

第 7、9、10 條		
Article 7、9、10		
點次	問題內容	
18	原文	Please provide precise statistics as to how many children (up to the age of 18 years) are currently (at a snapshot date before the Review) deprived of liberty in prisons, pre-trial detention facilities, police custody, migration-related detention centres, psychiatric hospitals and special facilities for children with disabilities, drug rehabilitation centres, juvenile correctional institutions, reform schools, correctional schools or other closed institutions? Please also provide statistics on the number of children deprived of liberty on an annual basis for the last years in order to show any significant trends.
	中文參考翻譯	請提供準確的統計資料，說明目前(在報告審查前的某日期前)有多少兒童(18歲以下)在監所、審前羈押設施、警察拘留所、移民相關拘留中心、精神病院和身心障礙兒童特殊設施、戒毒中心、少年矯正機構、輔育院、矯正學校或其它封閉機構而被剝奪自由？亦請提供過去幾年每年被剝奪自由的兒童人數統計數據，以顯示是否有任何重大趨勢。

中文回應

1. 矯正機關：

- (1) 2021年7月底矯正機關未滿18歲兒童收容人數總計504名，其中288名收容於矯正學校，216名收容於少年觀護所。

(2) 2018 年至 2020 年矯正機關未滿 18 歲兒童新收收容人數如下表：

單位：人

年別	總計	監獄	少年觀護所	少年勒戒處所	矯正學校
2018	2,829	2	2,586	9	232
2019	2,726	2	2,505	1	218
2020	2,949	-	2,647	5	297

註：未直接入矯正學校者，係由少年被告或受感化教育少年轉受刑少年身分時，因故無法於指揮執行當日護送至矯正學校，爰暫時收容於看守所或少年觀護所，再護送至矯正學校執行。

2. 警察拘留所及移民相關拘留中心：

(1) 按少年事件處理法第 3、18 條規定，司法警察官於執行職務時，知少年有觸犯刑法法律行為及曝險行為者，應移送該管少年法院；復依少年法院與相關機關處理少年事件聯繫辦法第 15 至 17 條規定，警察機關逮捕、逕行拘提觸犯刑罰法律之少年，應護送該管少年法院或填載不護送報告書，報請該管少年法院法官許可後，不予護送，逕行釋放；少年曝險行為則得移送少年法院。故警察機關若發現少年有觸犯刑罰法律或曝險行為，皆依前揭規定報請少年法院處理，將少年本人加以護送至少少年法院或逕行釋放，未有對少年拘留之情事。

(2) 內政部移民署大型收容所目前並未收容 18 歲以下之受收容人。

3. 查歷年精神疾病強制住院個案資料，並無兒童被許可強制住院。

4. 海巡署以偵辦人口販運案件為主，據 2018-2020 年統計，計查處人口販運案件共計 6 案，救護 19 名被害人，未有兒童(12 歲以下)；2021 年共計留置 157 人，均為大陸漁民，且年齡均 18 歲以上。

英文回應

1. Correctional institutions：

(1) As of July 2021, the total number of new child inmates, who are under 18 years old, accommodating by correction institutions is 504 people. 288 of them are accommodating in reformatory schools, and 216 of them are accommodating in juvenile detention houses.

(2) From 2018 to 2020, the total number of new child inmates, who are under 18 years old, accommodating by correction institutions is as follows:

Unit: person

Year	Total	Prison	Juvenile detention house	Juvenile rehabilitation center	Reformatory school
2018	2,829	2	2,586	9	232
2019	2,726	2	2,505	1	218
2020	2,949	-	2,647	5	297

Remarks: Some juvenile defendants or juveniles receiving reformatory education cannot be accommodated by reformatory schools when becoming juvenile prisoners on the date of instructing execution due to some reasons, and for those who are not directly accommodate in reformatory schools, while waiting to be sent to reformatory schools, they will be temporarily accommodated in detention centers or juvenile detention houses.

2. Police custody and migration-related detention centres :

- (1) In accordance with the provisions of Articles 3 and 18 of the Juvenile Justice Act, when a judicial police officer, while performing their duties, becomes aware of a juvenile who has violated the criminal laws or has committed acts of delinquency, he or she shall refer such a juvenile to a competent juvenile court. In addition, in accordance with Articles 15 to 17 of the Regulations Governing Liaison between Juvenile Court and Relevant Institutions on Juvenile Justice, a juvenile, who has violated criminal laws and thereby has been arrested or has been taken into police custody without a warrant, shall be escorted to the competent juvenile court, or, shall be released instead of being escorted if a non-escort report has been submitted to and approved by the competent juvenile court; a juvenile who has committed acts of delinquency may be referred to the competent juvenile court. When the police discover that a juvenile has violated the criminal laws and/or has committed acts of delinquency, they shall report it to the competent juvenile court in accordance with the guidelines set in the preceding paragraph, in which the juvenile shall be escorted to the competent juvenile court or released without being detained by the police.
- (2) The detention centers of the National Immigration Agency are not detaining any detainees who are under 18 years old at the present time.

3. According to the record, no child was permitted to mandatory hospitalization.
4. ROC Coast Guard Administration focuses on investigating and handling human trafficking cases. According to the statistics from 2018-2020, 6 cases of human trafficking were founded, 19 victims were rescued without children (under 12 years old). ROC Coast Guard Administration has detained 157 fishermen from Mainland China in 2021, and all of them are above the age of 18.

第 7、9、10 條		
Article 7、9、10		
點次	問題內容	
19	原文	Has the COVID-19 pandemic led to restrictions on the right to personal liberty? If so, which?
	中文參考翻譯	COVID-19 疫情是否導致人身自由權利受到限制？如果有，是哪些限制？

中文回應

1. 隔離治療措施：為保護 COVID-19 確診病人及其家人、親友或他人健康，依傳染病防治法第 44 條、第 45 條規定，確診病人依規定應於指定隔離治療機構或指定處所，施行隔離治療或隔離等必要措施，不得任意離開。另地方政府衛生主管機關將針對確診病人開立隔離治療通知書及提審權利告知。
2. 集中檢疫措施：針對違反居家檢疫/隔離規範者，須至集中檢疫場所完成檢疫/隔離，集中檢疫/隔離期間不得外出，並禁止外來訪客，活動範圍以檢疫者房間為限。

英文回應

1. Isolation care measures: In order to protect the health of patients confirmed with COVID-19, their family members, friends, or others, confirmed patients must go to treatment institutions or designated locations for the administration of isolation care or other necessary measures and may not leave at will in accordance with Article 44 and 45 of the Communicable Disease Control Act.

- Group quarantine measures: Violators of home quarantine/Home isolation must complete their quarantine period at group quarantine facilities; during the quarantine period, they may not leave, have visitors, and are restricted to the activity range of their quarantine rooms.

第 7、9、10 條		
Article 7、9、10		
點次	問題內容	
20	原文	Have prisoners and detainees been affected by COVID-19? If so, how many of them tested positive, how many have suffered from the disease, and how many died? Have detainees and prisoners, including children and elderly people, been released because of COVID-19 in order to reduce overcrowding and combat the danger of clusters?
	中文參考翻譯	受刑人和被拘留者是否受到 COVID-19 的影響？如果有，當中有多少人採檢陽性、多少人患有此病、多少人死亡？包括兒童和老年人在內的被拘留者和受刑人，是否因為 COVID-19 而被釋放，以減少超收和對抗群聚風險？

中文回應

- 為防範新冠肺炎傳染衝擊矯正機關，2020 年 1 月 20 日成立「法務部矯正署因應嚴重特殊傳染性肺炎指揮中心」，並訂定「法務部矯正署因應矯正機關發生嚴重特殊傳染性肺炎疫情預防及緊急處理計畫」，嚴密督導所屬機關加強防疫觀念宣導、澈底執行防疫措施及確實管控防疫物資，確保矯正機關防疫零破口，全面阻絕疫情入侵。經矯正機關持續辦理各項防疫措施迄今，並無收容人於矯正機關內感染 COVID-19 情形發生。
- 違反社會秩序維護法案件，並經法院裁定拘留之行為人進入拘留所執行前，均需查證有無染疫、疑似染疫、居家隔離或居家檢疫等疫情狀況，若查證無疫情狀況，始入所執行拘留。被拘留人入所後之拘留期間，亦遵守中央疫情指揮中心相關防疫規定及措

施，被拘留人並無另受感染之風險及可能。各警察機關執行社會秩序維護法行政拘留罰之人員，亦無染疫或疑似染疫之情形而有傳染被拘留人之風險或可能。

3. 社會秩序維護法第 8 條不處罰兒童，故社會秩序維護法行政拘留所內不可能有兒童；又社會秩序維護法第 9 條減輕處罰 70 歲以上之人(老年人)，且按照長年來實務運作情形，社會秩序維護法行政拘留所內不會有老年人。
4. 內政部移民署各大型收容所針對新收入所之外籍人士，均採取體溫測量初步檢疫措施並隔離收容。無人於收容所內遭 COVID-19 感染確診。
5. 艦隊分署所屬海巡隊依法查獲越界陸船時，如認為有留置調查必要，依現行防疫規定，人員入境時須實施 PCR 篩檢，檢測陰性始得進入留置室接受調查，並定期對大陸船員實施體溫量測、規範室內社交距離，目前未因疫情影響海巡署留置調查情形。

英文回應

1. In order to prevent the epidemic of COVID-19, the “Epidemic Command Center for COVID-19 of the Agency of Correction, Ministry of Justice” was established on January 20, 2020, and the “Prevention and Emergency Operation Plan for COVID-19 Epidemic within Correction Institution of Agency of Correction, Ministry of Justice” was enacted to strictly supervise the promotions of epidemic prevention of relevant authorities, fully implement the epidemic prevention measures, solidly control the epidemic prevention goods, ensure that there was no breach of epidemic prevention of the correction institutions and completely stop the intervention of epidemic. After various epidemic prevention measures have been implemented by correction institutions, so far, no inmates have been infected with COVID-19 in the correction institution.
2. An offender, who has violated the Act and thereby has been ruled by the court to be detained, is required to be examined prior to being admitted. If the examination confirms that the offender meets one of the conditions of having been infected, being suspected of having been infected, being under home isolation or home quarantine, he/she shall not be taken into custody until it is proved that he/she is free from the infection. During detention, detainees are required to abide by the regulations and guidelines issued by the Central Epidemic Command Center (CECC), so they shall not be susceptible to the risk or possibility of being infected. The custody officers, who implement the detention dictated

by the Social Order Maintenance Act, are free from infection or suspicion of having been infected, so there is no risk or possibility that they may spread the disease to detainees.

3. In accordance with Article 8 of the Social Order Maintenance Act, the penalties contained in the Act are not applicable to children, so no child would be admitted into the administrative custody dictated by the Social Order Maintenance Act. Furthermore, under Article 9 of the Social Order Maintenance Act, penalties for a person over 70 years of age may be mitigated, and according to our observation of years on custody practice, it is certain that no senior would be detained in the administrative custody dictated by the Social Order Maintenance Act.
4. All new detainees in the detention centers of the National Immigration Agency have to have their temperatures measured first and then quarantined. No detainees in the detention center have been infected by COVID-19.
5. If it is deemed necessary for a detention investigation, according to the current epidemic prevention regulations, people must undergo PCR screening when entering the country. They are allowed to be kept in the detention room for investigation if the PCR screening is negative. The body temperature of mainland seafarers is measured regularly, and indoor social distance is regulated. Currently, there is no COVID-19 infection cases within the the Coast Guard Administration (CGA) detention rooms.

第 8 條		
Article 8		
點次	問題內容	
21	原文	Since the Second Report, new legislation has been introduced to deal with the exploitation and inhumane working conditions of foreign crew on Taiwanese flagged vessels. Adoption of the new legislation amounts to recognition that there was a serious problem. Please explain how the legislation has been implemented. In particular, have there been prosecutions or other enforcement measures to address the violations of Article 8 ICCPR?

	中文參考翻譯	自《公政公約第二次國家報告》以來，已立新法來處理懸掛臺灣旗的船隻上外國船員受到的剝削和不人道工作條件。通過新法等於承認過去存在嚴重問題，請說明新法如何實施，尤其是是否已透過起訴或其它執法措施來因應違反《公政公約》第 8 條的行為？
--	--------	---

中文回應

1. 新法制定後，實施情形如下：

- (1) 行政院農業委員會於 2017 年依據「遠洋漁業條例」授權，訂定施行「境外僱用非我國籍船員許可及管理辦法」，規範境外僱用外籍船員之工資、薪資、保險等勞動條件，經營者依生活照護計畫書照顧船員生活及其他船員基本權益事項。用定型化契約來保障船員基本權益，在船員簽約前要求經營者或仲介應讓船員觀看船員權利義務多語言影片，並全程錄影，以確保完成告知義務。並分別於 2019 年及 2020 年 2 次修正「境外僱用非我國籍船員之遠洋漁船涉違反人口販運防制法爭議訊息受理通報及處理標準作業程序」，以加速對疑似人口販運案件，通報司法警察機關調查執法，以即時偵辦防制人口販運情事。
- (2) 現行依就業服務法引進之外籍船員，由勞動部主管，為勞動基準法適用對象，該法第 5 條已明定雇主不得以強暴、脅迫、拘禁或其他非法之方法，強制勞工從事勞動。另依遠洋漁業條例第 26 條規定，於境外聘僱之外籍船員，由行政院農業委員會主管，相關權益事項以行政院農業委員會訂定之境外僱用非我國籍船員許可及管理辦法予以規範。目前勞動部及行政院農業委員會分別依職掌法規，分流管理並協調合作，爰對於進入我國港口之遠洋漁船實施聯合稽查，分就其主管法令實施檢(訪)查；由地方勞政主管機關及勞動檢查機構分別就境內僱用漁工勞動條件及安全衛生實施檢查，以督促雇主提升漁工勞動條件及落實安全衛生設施等保障。

2. 因應違反公政公約第 8 條行為所做之措施如下：

- (1) 行政院農業委員會漁業署自 2017 年至 2020 年，已對 521 艘次漁船、2,152 名外籍船員進行訪查，約佔遠洋船數 49%(含被舉報漁船)、約佔總僱用人數 11%的船員以瞭解船員工作生活情形，以及漁船主遵守規定的情形。另船員可利用勞動部之 1955 勞工諮詢申訴專線(國外亦有專號打入)或向漁工宗教團體申訴，行政院農業委員會漁業署會受理並進行協調處理，如有違規疑義者將會專案調查。少數違反相關規定

之漁船主則予以行政處分，並在漁業署網站上公布，如疑涉人口販運情事，因屬刑事則移送地檢署偵辦。

- (2) 海洋委員會海巡署署高雄查緝隊 2020 年 11 月 11 日接獲情資，屏東籍漁船「金順滿壹號」(CT2-5539)船長涉嫌對旗下 3 名外籍漁工苛扣薪資及要求從事與契約項目不符之工作情形，案經檢方認有違法之虞，本案相關證卷後續交由臺灣屏東地方檢察署檢察官偵查，惟後續檢方以不起訴處分。
- (3) 2017-2020 年法務部各地方檢察署起訴人口販運案件數如下：

年度	件數	人數 (被告)	案件類型			
			勞力剝削		性剝削	
			件數	人數	件數	人數
2017	87	248	19	66	68	182
2018	71	113	24	40	47	73
2019	71	122	14	22	57	100
2020	78	132	18	31	63	105

- (4) 有關 2016 年至 2021 年 7 月地檢署辦理人口販運案件之偵查新收人數、偵查起訴人數及裁判確定有罪人數統計：

地方檢察署辦理人口販運案件統計									
單位：人									
項目別	偵查新收人數			偵查起訴人數			裁判確定有罪人數		
	小計	性剝削	勞力剝削	小計	性剝削	勞力剝削	小計	性剝削	勞力剝削
2016 年	617	394	228	171	132	45	162	153	22
2017 年	745	548	192	248	182	66	62	57	8
2018 年	550	375	175	112	72	40	50	45	5
2019 年	370	262	109	122	100	22	50	43	7
2020 年	536	377	159	132	105	31	55	51	5
2021 年 1-7 月	146	61	85	37	16	21	37	35	2

資料提供：法務部統計處
說明：人口販運類別包含性剝削、勞力剝削及器官剝削，自 2009 年 6 月起以「複選註記」方式統計。

- (5) 再者高雄地檢署於 2017 年查獲外籍漁工岸上安置處所非法拘禁案，救援越南、印尼、菲律賓、坦尚尼亞等國籍漁工共 81 人，起訴拘禁漁工並利用其脆弱處境強迫勞動涉嫌勞力剝削之被告計 19 人。宜蘭地檢署於 2020 年 12 月查獲不法仲介勞力業者，為擴充黑市移工市場，故意將合法外籍漁工通報為失聯，將之轉換至水產行勞力剝削控制；或趁為漁撈雇主辦理仲介之機會，冒以雇主名義訛報需求人力，後將虛增之入境漁工轉介至其他漁船作業牟利，檢察官依人口販運防制法起訴剝削漁工業者，維護外籍漁工在臺之基本人權。
- (6) 另為避免私立就業服務機構及其從業人員利用執行業務之便，對依就業服務法引進之外國人做出觸犯性侵害犯罪防治法、人口販運防制法、刑法重傷害罪之行為，爰於 2018 年 11 月 28 日修正發布就業服務法，針對第 40 條第 1 項增列第 18 款規定，規範私立就業服務機構及其從業人員從事就業服務業務不得對求職人或受聘僱外國人有性侵害、人口販運、妨害自由、重傷害或殺人行為；且考量私立就業服務機構及其從業人員依據與外國人簽署之服務契約具有生活照顧責任，於實務上極有機會成為率先發現問題之人，而其隱匿案情將致外國人持續遭受危害，爰於第 40 條第 1 項增列第 19 款規定，規範私立就業服務機構及其從業人員從事就業服務業務不得有知悉受聘僱外國人疑似遭受雇主、被看護者或其他共同生活之家屬、雇主之代表人、負責人或代表雇主處理有關勞工事務之人為性侵害、人口販運、妨害自由、重傷害或殺人行為，而未於 24 小時內向主管機關、入出國管理機關、警察機關或其他司法機關通報之情事。

英文回應

1. Following the enactment of the new law, the implementation is as follows:

- (1) Under the authorization of the Act for Distant Water Fisheries, the Council of Agriculture (COA) enacted the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members ("Regulations") to regulate the wages, salaries, insurance, and other labor conditions for foreign crew members employed overseas. It also specifies that operators shall take care of the living and provide the basic rights and benefits of their crew members. Numerous measures are also taken to protect the rights and benefits of the crews, including: using standardized contract template to ensure the basic rights and benefits of foreign crew members are

included; requiring operators or recruitment agents, before signing the employment contract with the foreign crew, to show the promotional video introducing rights and benefits of foreign crew employed overseas in the concerned crew member' language and videotape the whole video-watching process in an effort to fulfill the informing obligation. In addition, the "Standard Operation Procedures for Reporting and Processing Cases of Foreign Crew Members Employed Overseas Onboard Distant Water Fishing Vessels Suspicious of Violating Human Trafficking Prevention Act" were amended in 2019 and 2020 respectively to accelerate the procedures of potential human trafficking cases for notifying the judicial police authority for immediate investigations.

- (2) The foreign crew introduced according to the Employment Service Act are governed by the Ministry of Labor and considered as the subject to whom the Labor Standards Act may apply. Article 5 of the Labor Standards Act provides that no employer shall, by force, coercion, detention, or other illegal means, compel a worker to perform work. Further, according to Article 26 of the Act for Distant Water Fisheries, the foreign crew hired offshore shall be governed by the Council of Agriculture, Executive Yuan (hereinafter referred to as the "Council of Agriculture"), and the related interest and right issues shall be governed by the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members enacted by the Council of Agriculture. For the time being, the Ministry of Labor and Council of Agriculture separate the management and cooperate with each other in accordance with the laws and regulations governed by them respectively. Given this, they carry out the inspection on distant water fishing boats entering ports of Taiwan, in accordance with the laws and regulations governed by them respectively. The local labor competent authorities and labor inspection institutions check the employment conditions and safety & health of fishing crew hired domestically to urge employers to improve fishing crew' s employment conditions and practice safety and health facilities.

2. Measures taken in response to violations against Article 8 ICCPR:

- (1) Also, from 2017 to 2020, the Fisheries Agency (FA) of the COA had conducted interviews with 2,152 foreign crew members (accounted for 11% of employed foreign crew) onboard 521 fishing vessels (accounted for 49% of distant water fishing vessels, including accused fishing vessels) to understand their working and living conditions, as well as the vessel owners' compliance with the relevant regulations. Apart from making their voice heard through the interviews, crew members can also utilize the 1955 Counseling and Protection Hotline for Foreign Workers managed by the Ministry of Labor or contact religious groups for crew members. The complaints will then be referred to and dealt by the FA. If any potential violation is found, investigation will be launched. For vessel owners who breached the relevant regulations (only a few), administrative sanctions were given and such punishments were published on the FA's website; as for cases that are suspicious of involving human trafficking, as those are considered criminal cases, they were referred to the District Prosecutors' Office for further investigation.
- (2) According to the intel, which was received by the Kaohsiung Reconnaissance Brigade on Nov. 11th, 2020, the captain of the fishing boat "Jin Manshun No.1" was suspected of excessively deducting foreign fishermen's salary and requesting to engage in work that was inconsistent with the contract. After reporting the situation, the prosecutor believed that there is an illegal situation. The relevant files of this case were subsequently transferred to the Taiwan Pingtung District Prosecutors Office for further investigation, but the prosecutor chose not to prosecute in the end.

- (3) The prosecution statistical records on anti-trafficking cases from 2017 to 2020 are as follows:

Year	Cases prosecuted	Persons indicted	Type of cases			
			Labor exploitation		Sexual exploitation	
			cases	Persons	cases	Persons
2017	87	248	19	66	68	182
2018	71	113	24	40	47	73
2019	71	122	14	22	57	100
2020	78	132	18	31	63	105

- (4) The table below shows the number of newly arrested, newly charged, and newly convicted persons in human trafficking cases handled by the district prosecution from 2016-July 2021.

Statistics on Human Trafficking Cases Handled by District Prosecutor Offices									
Unit: person									
Item	Number of Newly Arrested Persons			Number of Newly Charged Persons			Number of Convicted Persons		
	Total	Sexual Exploitation	Labor Exploitation	Total	Sexual Exploitation	Labor Exploitation	Total	Sexual Exploitation	Labor Exploitation
2016	617	394	228	171	132	45	162	153	22
2017	745	548	192	248	182	66	62	57	8
2018	550	375	175	112	72	40	50	45	5
2019	370	262	109	122	100	22	50	43	7
2020	536	377	159	132	105	31	55	51	5
Jan-Jul 2021	146	61	85	37	16	21	37	35	2

Source: Statistics Office, Ministry of Justice

Note: The categories of human trafficking include sexual exploitation, labor exploitation, and organ exploitation. "Multiple selections" are accepted in statistics as of June 2009.

- (5) In a false imprisonment case tracked down in 2017, the Kaohsiung District Prosecutors' Office saved a total of 81 foreign fishing crew members from Vietnam, the Philippines, and Tanzania illegally held in onshore accommodations and charged 19 defendants of false imprisonment of victims in vulnerability who were exploited with forced labor. In a human trafficking case tracked down by the Yilan District Prosecutors' Office in December 2020, evil foreign worker agencies made false reports of missing foreign fishing crew and forced them to work at aquatic product factories through exploitation or made false workforce demand when applying for foreign workers for fishery employers and forced surplus foreign fishing crew members to work for other fishing vessels to expand the market of illegal foreign workers. Agencies exploiting foreign fishing workers were charged of human trafficking to maintain the basic human rights of foreign fishing workers in Taiwan.
- (6) In order to prevent private employment service institutions and their staff members from taking advantage of their job duty to commit a felony in violation of the Sexual Assault Crime Prevention Act, Human Trafficking Prevention Act and Criminal Code against foreigners introduced under the Employment Service Act, the Ministry of Labor promulgated the amended Employment Service Act on November 28, 2018, in which the subparagraph 18 is added into Paragraph 1 to govern that when processing employment services businesses, no private employment service institution or any staff member thereof may engage in committing sexual assault, human trafficking, offenses against personal liberty, severe injuries, or homicidal acts to the job applicant or employed foreign workers. Meanwhile, considering that private employment service institutions and their staff members shall be responsible for taking care of the workers' life according to the service contract executed by them with the foreign workers and, in practice, they are likely to be the first person to discover any problem, their concealment of truth will cause hazards to foreign workers. Given this, the subparagraph 19 is added into Paragraph 1 of Article 40 of the Act to govern that private employment service institutions and their staff members shall not, after acknowledging that the engaged foreign worker is suspected to suffer from sexual assault, human trafficking, offenses against personal liberty, severe injuries, or

homicidal acts committed by the employer, the cared or other co-living family members, representative/responsible person of the employer, representative, or personnel who deal with labor affairs on behalf of the employer, fail to report to the competent authority, the entry and exit administrative authority, police, or other judiciary authorities within 24 hours.

第 12、13、14 條		
Article 12、13、14		
點次	問題內容	
22	原文	Has the COVID-19 pandemic led to restrictions of freedom of movement? If so, which?
	中文參考翻譯	COVID-19 疫情是否導致遷徙自由受到限制？如果有，是哪些限制？

中文回應

1. 居家檢疫措施：依傳染病防治法第 58 條第 1 項規定，命旅客入境我國前後，應搭乘防疫車輛至「防疫旅宿」或「集中檢疫所(具重點高風險國家旅遊史者)」完成 14 天居家檢疫，並輔以電子圍籬措施確保其履行，其就醫或採檢，則由地方衛生單位安排。相關高風險對象另由內政部移民署進行出境管制。
2. 居家隔離措施：依傳染病防治法第 48 條第 1 項規定，針對 COVID-19 確診個案之接觸者等高風險對象，實施 14 天居家隔離，並輔以電子圍籬措施確保其履行，其就醫或採檢，則由地方衛生單位安排。
3. 中央疫情指揮中心與相關部會，基於維護公共利益、整體國家安全及防疫量能等考量，及評估中國大陸與國際疫情相關情勢等因素，於 2020 年 2 月 6 日中央疫情指揮中心及內政部移民署分別宣布除居留陸配外，全面暫緩中國大陸人士入境；隨後中央疫情指揮中心考量國內疫情趨緩，經評估國內外整體疫情狀況後，基於弱小優先原則及為兼顧疫情防控，陸續於同年 7 月 16 日、8 月 13 日、8 月 19 日及 8 月 24 日起逐步放寬陸籍子女返臺。另於同年 9 月 24 日放寬持團聚證之陸籍配偶返臺。

4. 惟隨國內疫情變化，相關境管措施須滾動式檢討，中央疫情指揮中心宣布自 2021 年 5 月 19 日起全國疫情警戒升至第三級，且未持有居留證之非本國籍人士，除緊急或人道考量等經專案許可者，均暫緩入境；隨著國內疫情逐步趨緩，中央疫情指揮中心宣布自同年 7 月 27 日起調降全國疫情警戒至第二級，惟考量全球 COVID-19 疫情回升且 Delta 變異株持續傳播，爰目前仍持續執行邊境嚴管措施。
5. 但如民眾於疫情管制期間有人道、特殊急迫之需求，例如家人死亡奔喪、重大傷病等情形，基於人道考量，經由中央疫情指揮中心與相關機關會商後，在兼顧防疫考量下，將視個案情形需求性及必要性予以審酌處理。
6. 中央疫情指揮中心邀集各該外來人口政策主管機關，綜合考量我國整體防疫能量及針對國內、外疫情等層面進行專業評估，因應 COVID-19 疫情而採取之邊境管制措施決策，內政部移民署配合中央疫情指揮中心決策，執行相關入出境管制。
7. 因應國內 COVID-19 疫情嚴峻，中央疫情指揮中心自 2021 年 5 月 19 日宣布全國第三級警戒標準與防疫措施，民眾於第三級警戒期間避免非必要外出及群聚限制，為我國境內之全體民眾，不分本、外國籍者受相同規範，均應遵守；地方主管機關採行之措施，應依中央疫情指揮中心指示辦理。惟有特定縣市首長因轄內發生科技大廠移工群聚感染事件，每日確診病例數以雙位數飆升，為避免疫情擴散，自 2021 年 6 月 7 日宣布轄內移工除上下班期間停止外出，生活採買由專責人員負責等防疫作為，業經中央疫情指揮中心 2021 年 6 月 9 日指示，請其遵照三級警戒標準實施防疫措施。
8. 勞動部已因應中央疫情指揮中心宣布全國第三級警戒標準與防疫措施，於 2021 年 6 月 6 日發布新聞稿，呼籲移工減少外出，請雇主及仲介公司善盡雇主照顧責任。另於 2021 年 6 月 21 日修正發布「因應嚴重特殊傳染性肺炎雇主聘僱移工指引：移工工作、生活及外出管理注意事項」，明列建議事項及雇主應辦理措施，指引中已建議雇主協助移工購買食物或日常用品，以減少移工外出，並不得禁止其放假，惟可協調移工避免於同一日集中放假。
9. 為利移工獲悉最新、正確之防疫資訊，勞動部前於 2021 年 5 月 17 日推出「Line@移點通」，主動推播母語防疫資訊和疫情足跡。為避免雇主或仲介公司於疫情期間可能發生管理措施限縮移工外出之疑慮，勞動部另於 2021 年 6 月 29 日發布新聞稿，再次聲明中央疫情指揮中心及勞動部未禁止移工休假或外出，若雇主或仲介公司對移工之管理措施有侵害人權、違反勞工法令之情事，經查證屬實者，將依法核處，以保障移工於疫情期間之勞動權益與基本生活安全。

10. 交通部因應中央疫情指揮中心防疫政策，配合執行各項防疫作為，並依疫情警戒標準機動調整各項規定，其中對於陸運車班及海空運航班降低承載量部分，仍維持基本民行及必要性運輸服務，對於人民遷徙自由並無限制。
11. 教育部為因應 COVID-19 疫情，所訂影響遷徙自由之防疫措施如下：
 - (1) 教育部為防疫控制疫情需要，自 2020 年 3 月 20 日起至 7 月 15 日，大專校院、高級中等以下學校、外國僑民學校、實驗教育機構、團體及教保服務機構之教職員工生，非經專案許可，應暫時停止出國(境)公告，並訂定得專案向各該主管教育行政機關申請之基準。
 - (2) 但若確有出國(境)之必要時，得專案向各該主管教育行政機關申請許可後始得出國(境)，有關確有出國(境)之必要情形，教育部已權衡公益與私益的衡平性，另定基準供各該主管教育行政機關參考。

英文回應

1. Home quarantine measures: Article 58 Subparagraph 1 of the Communicable Disease Control Act requires travelers entering the country to take a quarantine vehicle to a “quarantine hotel” or “group quarantine facilities (for travelers from high-risk countries)” and complete their 14-day quarantine which must be fulfilled with the assistance of the electronic fence system; the local department of health will arrange for all medical attention or testing. The National Immigration Agency will track all relevant high-risk targets exiting borders.
2. Home isolation measures: Article 48 Subparagraph 1 of the Communicable Disease Control Act requires high-risk targets who have come in contact with confirmed cases to perform a 14-day home isolation which must be fulfilled with the assistance of the electronic fence system; the local department of health will arrange for all medical attention or testing.
3. In light of the CECC and related ministries and agencies’ consideration of factors such as protecting public interests, overall national security, epidemic control capacity, and assessments of the pandemic situation in mainland China and the world, on February 6, 2020, both the CECC and National Immigration Agency (NIA) under the Ministry of the Interior announced the sweeping suspension of entry to Taiwan by all mainland Chinese

persons except for spouses with a resident permit. Months later, given that the pandemic continued to subside in Taiwan, the CECC gradually lifted restrictions for children of mainland Chinese spouses to enter Taiwan beginning from July 16, August 13, August 19, and August 24 of the same year based on assessments of the overall pandemic situation at home and abroad and in line with the principle of prioritizing vulnerable groups and ensuring pandemic control. In addition, regulations were further relaxed on September 24 of the same year to allow mainland Chinese spouses with family reunion permits to return to Taiwan.

4. However, the developing COVID-19 situation in Taiwan has necessitated a rolling review of relevant border control measures. On May 19 this year (2021), the CECC raised the nationwide COVID-19 alert to Level 3; as a result, entry to Taiwan was suspended for foreign nationals without a valid R.O.C. (Taiwan) Resident Certificate while exceptions are being considered on a case-by-case basis for emergencies or on humanitarian grounds. On July 27 of the same year, as the pandemic further abates in Taiwan, the CECC lowered the nationwide COVID-19 alert to Level 2, but border control measures still remain in place given the resurgence of COVID-19 infections and the ongoing transmission of the Delta variant around the world.
5. In case of foreign nationals requiring entry to Taiwan on humanitarian grounds or for emergencies such as attending a funeral of family members or due to critical illness, out of humanitarian concerns, the CECC shall discuss with relevant agencies to make appropriate decisions that ensure disease control while accommodating the needs of the applicants and the necessity of granting a permit.
6. The National Immigration Agency implements the border control measures imposed by the Central Epidemic Command Center (CECC). The CECC, synthesize perspectives includes the resurgence of COVID-19 infections and the capacity in containing the spread of the virus, ensures that measures taken are continually supported by the best evidence and continually recalibrated to avoid unnecessary interference with civil liberties.
7. On May 19, 2021, in response to the increased severity of the COVID-19 situation in Taiwan the Central Epidemic Command Center (CECC) announced the imposition of nationwide Level 3 COVID alert standards and pandemic prevention measures. During the

Level 3 alert, members of the public were asked to avoid going outdoor unless necessary and restrictions were placed on gatherings for all residents, with Taiwanese and foreign nationals required to observe the same regulations. The measures adopted by local competent authorities were executed in accordance with instructions from the CECC. However, following the occurrence of infection clusters among foreign workers and rapid double digit growth in daily infections at technology plants in certain counties and cities, on June 7 government heads in those locations announced a number of additional pandemic prevention measures. These included instructing foreign workers to remain indoors other than when traveling to and from work, and designating special individuals to help buy daily necessities. On June 9, 2021, the CECC ordered local governments to implement pandemic prevention measures in accordance with Level 3 COVID-19 alert standards.

8. Following the CECC's announcement of nationwide Level 3 COVID-19 alert standards and pandemic prevention measures, on June 6 the Ministry of Labor issued a press release calling on foreign workers to reduce the time they spend outdoors, while also asking employers and labor brokers to live up to their responsibility of care. On June 21, 2021, a revised version of the "Foreign Worker Employment Guidelines in Response to Severe Pneumonia with Novel Pathogens (COVID-19): Managing the Work, Life and Outdoor Activities of Foreign Workers" was issued, making clear proposals and detailing measures to be taken by employers. The Guidelines suggest that employers should help foreign workers buy food and daily necessities to reduce the time they spend outdoors. At the same time, employers are forbidden from canceling leave, but advised to coordinate so large numbers of workers do not have leave on the same day.
9. In order to ensure foreign workers have access to the latest and most accurate pandemic prevention related information, on May 17, 2021 the Ministry of Labor introduced 1955 LINE, which proactively provides pandemic prevention information in multiple foreign languages. To address concerns that employers or labor brokers could seek to limit foreign workers going outdoors during the pandemic, on June 29, 2021, the Ministry of Labor issued a press release reiterating that the CECC and the ministry have not issued bans on foreign workers taking leave or going outdoors. This also noted that where management

measures adopted by employers or labor brokers are shown to violate the human rights of foreign workers or labor laws, the matter will be dealt with in accordance with the law, to ensure the labor rights and basic safety of foreign workers are protected for the duration of the pandemic.

10. Following the guidance from the Central Epidemic Command Center (CECC), the Ministry of Transportation and Communications (MOTC) has implemented a wide variety of epidemic prevention and control measures, and adjusted relevant regulations in accordance with the current epidemic alert level. While capacity of highway bus, railway transport, maritime shipping and flights has been reduced, basic civilian and necessary transportation services remain in operation. People's freedom of movement is not limited.
11. In response to the COVID-19 epidemic, the Ministry of Education's epidemic prevention measures that affect the freedom of movement are as follows:
 - (1) For the needs of the Ministry of Education to prevent and control the epidemic, from March 20 to July 15, 2020, faculty and staff students of senior secondary schools, Universities and colleges, schools for foreigners, experimental education institutions, organizations, and education and insurance service institutions, without special programs, the announcement of going abroad (border) shall be temporarily suspended, and the criteria for applying for the project to the competent educational administrative agency shall be set.
 - (2) However, if it is necessary to go abroad (territory), the project may apply for permission from the competent educational administrative agency before leaving the country (territory). Regarding the necessary circumstances for going abroad (territory), the Ministry of Education has weighed public welfare and for the balance of private interests, another benchmark will be set for the reference of the competent educational administrative agency.

第 12、13、14 條

Article 12、13、14

點次	問題內容	
23	原文	In its Third Report, the Government reports a significant increase in the number of rejected visas (Table 14: from 4,934 in 2016 to 11,817 in 2019), in the number of expelled foreigners (§ 141: from 9,296 in 2015 to 16,577 in 2019) and in the number of foreigners held in large detention centres (§ 142: from 8,526 in 2015 to 13,585 in 2019). What is the reason for these rapidly growing numbers? What is the precise number of children (unaccompanied minors up to the age of 18 years and children with their families) who were expelled and/or detained in these years?
	中文參考翻譯	在《公政公約第三次國家報告》中，政府說明簽證拒發的人數(表 14：從 2016 年的 4,934 人增加到 2019 年的 11,817 人)、被驅逐外國人的人數(第 141 點：從 2015 年的 9,296 人增加到 2019 年的 16,577 人)以及大型收容所收容外國人人數(第 142 點：從 2015 年的 8,526 人增加到 2019 年的 13,585 人)顯著增加。人數快速增加的原因為何？這些年間受驅逐和/或收容的兒童(18 歲以下無人陪伴的未成年人以及與其家人在一起的兒童)確切人數是多少？

中文回應

因外國人來臺人次逐年增加，自 2015 年的 488 萬人次，增加至 2019 年的 751 萬人次，各年度逾期停留人數亦自 1 萬 8,033 人增加至 2 萬 9,817 人，近年來政府對於外籍人士申請來臺簽證採取更適當標準，以避免逾期停留狀況惡化，此措施亦為世界各國實務通例。另內政部移民署聯合各國安機關加強查處，查處人數逐年成長，致收容、遣送人數隨之增加。近年經內政部移民署收容遣送 18 歲以下之未成年人無人陪伴者，2018 年 2 位、2019 年 4 位；家人陪同收容遣送者，2020 年 1 位。

英文回應

Due to the annually increasing number of foreigners visiting Taiwan, from 4.88 million in 2015 up to 7.51 million in 2019, as well as the growing number of foreigners overstaying their visas, from 18,033 in 2015 to 29,817 in 2019, the government in recent years has adopted more stringent criteria for issuing visas to prevent the situation from worsening; this is common practice in nations around the world. And the National Immigration Agency (hereinafter referred to as NIA) is allied with other law enforcement agencies to enhance investigation and handling. As a result, numerous foreigners are administratively investigated and handled, which leads to augmenting the number of detainees and deportees. Upon thorough investigation, in the past few years, the toll of unaccompanied minors detained and expelled by the NIA is 2 in 2018 and 4 in 2019 whereas the toll with their families is 1 in 2020.

第 12、13、14 條		
Article 12、13、14		
點次	問題內容	
24	原文	Covenants Watch reports (§§ 526 and 527) that stateless children are often excluded from access to primary and other forms of education and national health insurance benefits, in violation of Article 24 ICCPR. Can you please explain whether this allegation is correct and which efforts the Government is taking to provide stateless children with equal rights aimed at satisfying their basic needs?
	中文參考翻譯	《人權公約施行監督聯盟平行報告》第 526 和 527 點指出無國籍兒童經常被排除在獲得基本和其它形式的教育以及健保之外，這違反了《公政公約》第 24 條。是否能說明此一指稱是否正確，以及政府正在採取哪些努力為無國籍兒童提供旨在滿足其基本需求的平等權利？

中文回應

1. 依全民健康保險法第 9 條規定，在臺灣地區領有居留證明文件者，應自在臺居留滿 6 個月之日起，參加本保險為保險對象。另該法 2017 年 11 月 29 日修正公布第 9 條第 3 款，凡在臺灣地區出生並領有居留證明文件之非本國籍新生嬰兒，應自出生日起參加健保(自 2017 年 12 月 1 日生效)。修法前在臺出生之非本國籍兒少，衛生福利部自 2018 年 4 月起同意該部社會及家庭署列管之「在臺出生非本國籍兒童及少年特殊個案」，於取得居留證明文件後亦可立即參加全民健康保險，無須 6 個月等待期。
2. 有關非本國籍無依兒少之身分居留問題，由內政部移民署依相關作業流程核發居留證，使其符合全民健康保險法之納保資格。未取得我國國籍或居留證時，仍可依「弱勢兒童及少年生活扶助與托育及醫療費用補助辦法」第 10 條第 1 項第 6 款及第 8 款規定補助其醫療費用，其醫療權益並未因未取得健保資格而有所影響。
3. 基於防疫考量及維護非本國籍或未具戶籍等收容機構兒童之健康權益，衛生單位於收到社政、警政、戶政、收容機構或監管單位通知轄區該等個案，即協同安排各項常規疫苗接種，以建立兒童免疫力，保障其與本國籍兒童獲得同等之預防接種保護。2019 年起為積極提供該等對象常規疫苗接種，政府部門如掌握到收容安置或開案輔導中之 13 歲以下非本國籍兒少，可造冊送衛生福利部疾病管制署轉知地方政府衛生局，協助個案完成常規疫苗接種。
4. 為保障無國籍或非本國籍未取得居留、定居許可之兒少之就學權益，依兒童及少年福利與權益保障法第 22 條、國民教育法及弱勢兒童及少年生活扶助與托育及醫療費用補助辦法等規定，由地方政府輔導入學。政府將持續協助及輔導無國籍學生就讀國民中小學，並持續研議將其就學權益納入國民教育法等相關法規之可行性。

英文回應

1. According to Article 9 of National Health Insurance Act(NHIA), those who have an alien residence certificate(ARC) and have established a registered domicile for at least six months in Taiwan become the beneficiaries of this insurance. Starting on December 1, 2017, according to Paragraph 3, Article 9 of the NHIA, newborns of foreign nationality born in Taiwan and having received documentary proof of residence shall enroll in the NHI program starting from the date of birth. The Social and Family Affairs Administration of Ministry of Health and Welfare collected the special case list of children and teenagers

who were born in Taiwan but of foreign nationality. Starting on April 1, 2018, those cases in the special list could enroll in the NHI program when they got the ARC and don't have to wait for 6 months.

2. For those children and teenagers who have no parents and of foreign nationality, the Ministry of the Interior National Immigration Agency formulated the plan and procedure to help them to get the national of ROC or ARC, then they could enroll in the NHI program. As those children and teenagers who have no national of ROC or ARC, according to Subparagraph 6 and 8, Paragraph 1, Article 10 of Regulations For Subsidizing Life Assistance As Well As Nursery And Medical Expenses Of Disadvantaged Children And Youth, if they need they still have the right to get medical services and get subsidies of medical expenses no matter they are the insured of NHI or not.
3. Due to considerations for the pandemic and protecting the health of children of foreign nationality, those without household registrations, or children in institutions, cases transferred from social, police, household registration, or shelter agencies to the department of health will be provided with arrangements to obtain standard vaccinations so that these children's immune systems are guaranteed to receive the same level of vaccination and protection as children who are citizens of this country. Since 2019, regular immunizations have been proactively administered to these types of subjects; when government agencies are able to identify children under the age of 13 with foreign nationalities within shelters or counseling cases, their names are placed on a list and submitted to the Centers for Disease Control so they may notify the local department of health to assist with performing the regular immunizations of individual cases.
4. In order to protect their enrollment rights, according to Article 22 of the "The Protection of Children and Youths Welfare and Rights Act", the "Primary and Junior High School Act" and "Regulations For Subsidizing Life Assistance As Well As Nursery And Medical Expenses Of Disadvantaged Children And Youth". The local government will help their enrollment. The government will continue to assist and counsel stateless students to attend national primary and secondary schools, and continue to discuss the feasibility of incorporating their school rights into the Primary and Junior High School Act and other relevant regulations.

第 14 條		
Article 14		
點次	問題內容	
25	原文	In the Parallel Report 2020 by the Association of World Citizen and other associations (pages 27-29), it is alleged that the requirement of impartiality under Article 14 is not complied with in the procedural laws of Taiwan, as a judge who was involved in the investigation or interrogation of the trial in a lower court is only excluded from hearing the case on appeal, if he or she was the ruling judge in the lower instance. The Government is requested to give information on how the recusal system works under Taiwanese law, when a judge has taken part in a case at various court levels. Is the system compatible with Article 14 ICCPR?
	中文參考翻譯	在世界公民總會和其它協會《2020 年影子報告》第 27-29 頁(指英文版)*中，稱臺灣的《刑事訴訟法》不符合公約第 14 條規定的公正無私要求，原因是法官曾參與下級審之調查程序、訊問被告且列名為裁判法官者才需要迴避參與上訴案件。請政府提供資訊說明當法官在各級法院參與案件時，迴避制度於臺灣法律下如何運作。該制度是否與《公政公約》第 14 條相符？ *註：秘書處補充說明。

中文回應

1. 刑事訴訟法第 17 條第 8 款規定，法官於該管案件，如曾參與前審之裁判，應自行迴避，不得執行職務。所謂曾參與前審之裁判，依最高法院的判例，係指同一法官，就同一案件，曾參與下級審之裁定或判決者而言，如果只有參與調查程序或訊問證人，但未參與該案之裁判，並不構成該款的迴避事由。
2. 前開迴避規定，係在防止裁判的預斷及偏見，僅僅參與調查程序或訊問證人，而未參與裁判，尚不致產生預斷及偏見，符合公政公約第 14 條關於公正中立法院之規定及第 32 號一般性意見所稱「法官為判決時，不得受其個人傾向或偏見之影響，不可對其審判的案件存有成見」。

英文回應

1. According to Article 17(8) of Taiwan's Code of Criminal Procedure (CCP, hereinafter), a judge shall recuse himself/herself from the case concerned on his/her motion and may not exercise his /her functions where he/she had participated in the decision at a previous trial. Taiwan's Supreme Court ruled in its precedent that a judge does not have to recuse himself/herself from the present case if he/she had participated in the proceedings of investigation or interrogation at a previous trial for which he/she did not make any decision.
2. The purpose of the above-mentioned provision is to prevent a judge from prejudgment or prejudice. Since a judge did not make any decision at a previous trial, he/she is free to judge the present case. Therefore, Taiwan's CCP and the court's jurisprudence comply with the requirement of Article 14 of ICCPR and General Comment No. 32 for impartiality.

第 14 條		
Article 14		
點次	問題內容	
26	原文	In the Concluding Observations of 2017, §§ 38-39, the CRPD International Review Committee has found that many laws in Taiwan deprive persons with disabilities of the right to justice. In addition, the Committee has found that a failure to distinguish between legal capacity and mental capacity deprives persons with disabilities of the right to access to justice. In both relations, they have found a violation of Article 12 of CRPD. The Government is requested to give information on what has been done with respect to the findings of the CRPD Committee and comment on whether they likewise constitute a violation of the right to an equal access to court and a fair trial under Article 14 ICCPR.
	中文參	《身心障礙者權利公約》(CRPD)國際審查委員會在 2017 年結論性意見

	考翻譯	第 38-39 點中指出，臺灣許多法律剝奪了身心障礙者的司法權。此外，委員會還發現未能區分法律行為能力和心智能力會剝奪身心障礙者近用司法的權利(right to access to justice)。以上兩點，委員會認為違反了《身心障礙者權利公約》第 12 條。就《身心障礙者權利公約》委員會的發現，請政府提供資訊說明已採取什麼措施，並說明這些發現是否同樣違反《公政公約》第 14 條獲得平等訴諸法庭和公平審判的權利。
--	------------	---

中文回應

1. 基於公平審判的要求，刑事訴訟法規定了數項保護身心障礙者的具體措施，包括法院或檢察官，為了身心障礙者的利益，在符合法律規定的情形下，應該：指定辯護人(第 31 條第 1 項第 3 款)；指定輔佐人(第 35 條第 3 項)；指定通譯(第 99 條第 1 項)；不得令其具結(第 186 條第 1 項第 2 款)；停止審判，直到其心智恢復正常；停止死刑、徒刑或拘役的執行(第 465 條第 1 項及第 467 條第 1 項第 2 款)，直到其心智恢復正常。透過上開措施，身心障礙可平等地參與訴訟程序，公平審判得以確保。因此，刑事訴訟法符合公政公約第 14 條關於任何人享有在法院前一律平等及公正審判的規定。
2. 依行政訴訟法第 27 條第 1 項：「能獨立以法律行為負義務者，有訴訟能力。」及同法第 28 條準用民事訴訟法第 47 條規定：「關於訴訟之法定代理及為訴訟所必要之允許，依民法及其他法令之規定。」在行政訴訟法內亦提供身心障礙者程序上適宜的對待措施，發揮司法保護之功能，包含 1. 尊重差異而為不同制度設計：(1)第 55 條輔佐人到庭、(2)第 64 條對無訴訟能力人之送達、(3)第 101 條訴訟救助及(4)第 150 條精神障礙為證人者，不得令其具結，均已尊重差異而為不同訴訟制度設計。2. 程序上適宜的對待措施：(1)第 55 條就身心障礙者，如無法在法庭上為事實上陳述時，得選任輔佐人到庭代為陳述，以載明聲請輔佐人事由之聲請狀向法院聲請、(2)第 64 條就訴訟文書送達部分，對於無訴訟能力之身心障礙者為送達，應向其全體法定代理人為之、(3)第 101 條如身心障礙者符合訴訟救助要件，行政法院應依聲請，以裁定准予訴訟救助、(4)第 150 條身心障礙者於法院當證人時，如不解具結意義及其效果者，不得令其具結。爰查行政訴訟法無涉及剝奪身心障礙者近用司法之權利部分。
3. 依家事事件法規定，身心障礙者即使無行為能力，但能證明其有意思能力者，除法律另有規定外，就有關其身分及人身自由之家事事件，有程序能力。該法並有社工陪同、選任程序監理人、應使用通譯、請相關專家協助表達意見、應訊問鑑定人後始得為監

護或輔助宣告等制度，亦準用「民事訴訟法」作證時不解具結意義者不得令其具結之規定，以尊重身心障礙等弱勢當事人之差異，使其有效、均等、無障礙參與訴訟程序（家事事件法第 11 條、第 14 條、第 15 條、第 19 條、第 108 條、第 165 條、第 167 條、第 176 條、第 178 條、第 185 條、民事訴訟法第 314 條等參照）。

4. 為修正現行刑事訴訟法對於身心障礙者出現歧視性之用語，並符合身心障礙者權利公約關於實質平等與司法保護之意旨，強化偵查及審判中之辯護倚賴權與程序保障，司法院已擬具刑事訴訟法部分條文修正草案，由司法院與行政院會銜函請立法院審議。

英文回應

1. Taiwan's Code of Criminal Procedure (CCP, hereinafter) provides several measures to ensure a participant with disability in the proceedings a fair trial. According to CCP, under specified circumstances, the court or a public prosecutor, on behalf of a participant with disability, shall: appoint a legal counsel (Article 31I(3)), appoint an assistant (Article 35(3)), appoint an interpreter (Article 99I), waive the obligation to take an oath before he/she testifies (Article 186I(2)), postpone trial proceedings until his/her sanity is restored (Article 294I), or postpone the execution of death punishment or imprisonment until his/her sanity is restored (Article 465I and 467I(2)). Through these protective measures, a participant with disability is able to participate in the legal proceedings equally and a fair trial is ensured. Thus, CCP is in compliance with Article 14 of ICCPR.
2. Article 27 of Paragraph 1 of the Administrative Litigation Act provides that "Any person who has the capacity to undertake obligations through independent juridical acts has the capacity to litigate." And the provision of Article 28 of the same act shall apply mutatis mutandis to Article 47 of the Code of Civil Procedure, provides that "The provisions of the Civil Code and other laws and regulations will govern the authority of a statutory agent of a person without the capacity to litigate and the necessary approval to initiate an action." The Administrative Litigation Act also provides appropriate measures regarding the litigation process for persons with disabilities to achieve the goal of providing necessary legal protection. (1) The following adjustments can be made to the litigation procedure to accommodate various disabilities: having an assistant be present at court (Article 55), modifying service of process for persons without the capacity to litigate

(Article 64), providing a litigation aid (Article 101), and exempting a witness who is mentally disabled from making an affidavit (Article 150). (2) Procedural modifications for persons with disabilities include the following: persons with disabilities who are incapable of making a full statement may file a motion, specifying in detail the reason(s) such an appointment is necessary, to have an assistant appointed to make statements on behalf of them in court (Article 55); service of process upon persons without the capacity to litigate shall instead be effectuated upon all of their statutory agents (Article 64); if a person with disabilities meets the criteria for a litigation aid, the administrative court shall grant a litigation aid according to the motion (Article 101); and a witness with disabilities that hinder his/her understanding of the meaning and effect of an affidavit shall not be ordered to make an affidavit (Article 150). There are no shows of depriving persons with disabilities of the right to access to justice in the Administrative Litigation Act.

3. According to the Family Act, a person with disabilities is not capable of bearing obligations independently by conducting a juridical act but is nonetheless capable of proving that he or she has the capability to make declaration of intention, except as otherwise provided in the statutory law, has the capacity to represent himself or herself in the proceedings provided in this Act with regard to matters concerning his or her identification and personal liberty. The Family Act also provide company of social workers, designation of guardian ad litem, appointment of interpreters and experts assistance in expressing opinions when necessary. The court shall examine the person who should be subject to the declaration of commencement of guardianship in the presence of an expert witness. In order to respect the differences of people with disabilities, the Taiwan Code of Civil Procedure shall apply *mutatis mutandis*, when he or she as a witness is mentally disabled to understand the meaning and the consequences of an oath, he or she shall not be ordered to make an oath by the court, thus he or she can participate the litigation proceeding effectively, equally and without barriers. (Refer to Article 11, 14, 15, 19, 108, 165, 167, 176, 178, 185 of Family Act and Article 314 of Taiwan Code of Civil Procedure).
4. To correct the inappropriate terms on persons with disabilities in the current Code of Criminal Procedure, comply with the intention to substantial equality and judicial

projection of The Convention on the Rights of Persons with Disabilities, and enhance the protection of the right to defense and procedure in investigation and trial, the judiciary has drafted the amendment to part of the Code of Criminal Procedure and inform the Legislative Yuan to review the amendment in writing in collaboration with the Executive Yuan.

第 14 條		
Article 14		
點次	問題內容	
27	原文	According to the Parallel Report of Covenants Watch, §§ 480-486, Article 159 of the Code of Criminal Procedure allows statements made by someone other than the defendant and documents made by a public official or a person in the course of performing professional duty to be used directly as evidence without confrontation and examination. The same practice is allowed with reports of an expert witness under Articles 206 and 208 of the Code of Criminal Procedure. It is alleged by the Covenants Watch that such a practice is in breach of the right to be presumed innocent and the right of confrontation, examination, and sufficient opportunity to make a statement under Article 14(2)-(3) 3 ICCPR. Similar violations are alleged under the Witness Protection Act and the Sexual Assault Crime Prevention Act. The Government is requested to give detailed information on how Taiwanese law is applied in the mentioned situations. Does the system comply with the requirements under Article 14?
	中文參考翻譯	根據《人權公約施行監督聯盟平行報告》第 480-486 點，《刑事訴訟法》第 159 條允許被告以外之人所為的陳述以及公務員及從事業務之人所做的文書，得未經對質詰問直接作為證據。《刑事訴訟法》第 206、208 條允許鑑定者報告採用相同作法。人權公約施行監督聯盟認為，這種做法違反無罪推定的權利，以及根據《公政公約》第 14(2)-(3)3 條進行對質、

	<p>詰問、有充分機會發表聲明的權利。《證人保護法》和《性侵害犯罪防治法》據稱也有類似的違反。請政府提供有關臺灣法律如何適用於上述情況的詳細資訊。該制度是否符合公約第 14 條要求？</p>
--	---

中文回應

1. 刑事訴訟法保障被告的對質詰問權利。2004 年的司法院釋字第 582 號解釋明示，被告就不利於己證人，訴訟上有對質詰問的權利。因此，即使該法第 159 條之 1 至第 159 條之 5、第 206 條、第 208 條在特定條件下承認法庭外陳述的證據，被告依然有權對於陳述之人行使對質詰問權。除此之外，該法第 155 條第 2 項規定，證據未經合法調查，不得作為證據；第 288 條之 1 第 1 項規定，法院每調查一證據畢，應詢問當事人有無意見；第 288 條之 2 規定，法院應予當事人辯論證據證明力之適當機會。從而，刑事訴訟法及其實務，符合公政公約第 14 條關於對質詰問的規定。
2. 為嚴謹證據法則，強化鑑定之程序保障，就鑑定人到庭以言詞說明等事項，司法院已擬具刑事訴訟法部分條文修正草案，由司法院與行政院會銜函請立法院審議。
3. 性侵害案件多發生於私密封閉而少有第三人在場之環境，惟被告於刑事訴訟程序上常需藉由對質、詰問以辯駁被害人證詞之可信性及真實性，致性侵害被害人需因面對被告、揭露個人私密資訊及重複陳述受害情節，而身心創傷加劇。考量性侵害案件之特性，及實現刑事訴訟發現真實並兼保護性侵害犯罪被害人之目的，爰於性侵害犯罪防治法第 17 條第 1 款明定被害人因性侵害致身心創傷，無法於審判中陳述者，法院就被害人於檢察事務官、司法警察官或司法警察調查中所為之陳述(下稱警詢陳述)，得於證明其具有可信之特別情況，且為證明犯罪事實之存否所必要之前提下，賦予該警詢陳述有證據能力。
4. 有關性侵害犯罪防治法第 17 條第 1 款所稱「因性侵害致身心創傷無法陳述」，係指被害人因所涉性侵害案件爭議，致身心創傷而無法於審判中陳述。該規定應僅限於被害人因其身心創傷狀況，客觀上已無法合理期待其就被害情形到庭再為陳述者，始有其適用。有爭議時，法院應依檢察官之舉證為必要之調查，被告亦得就調查方法、程序與結果等，行使陳述意見、辯論與詰問相關證人、鑑定人等防禦權；被害人之具體情況尚未能確認者，法院仍應依聲請儘可能傳喚被害人到庭。於個案情形，如可採行適當之審判保護措施，或利用聲音、影像傳送之科技設備等隔離措施而為隔離訊問或詰問等(性侵害犯罪防治法第 16 條第 1 項)，以兼顧有效保護被害人與刑事訴訟發現

真實之目的。至「經證明具有可信之特別情況」係指性侵害案件經適當之調查程序，依被害人警詢陳述作成時之時空環境與相關因素綜合判斷，足資證明該警詢陳述非出於強暴、脅迫、誘導、詐欺、疲勞訊問或其他不當外力干擾，並應個案斟酌詢問者有無經專業訓練、有無採行陪同制、被害人陳述時點及其與案發時點之間距、陳述之神情態度及情緒反應、表達方式及內容詳盡程度等情況，足以證明縱未經對質詰問，該陳述亦具有信用性之特別情況；檢察官對此應負舉證責任。上開警詢陳述應經全程連續錄音或錄影，被告於此等證據能力有無之調查程序中，亦得對被害人警詢陳述之詢問者、筆錄製作者或與此相關之證人、鑑定人等行使詰問權，並得於勘驗警詢錄音、錄影時表示意見。

5. 性侵害案件被害人無法到庭陳述並接受詰問，而例外依系爭規定以合於前述意旨之警詢陳述作為證據者，於後續訴訟程序，法院基於憲法公平審判原則，應採取有效之訴訟上補償措施，以適當平衡被告無法詰問被害人之防禦權損失。包括在調查證據程序上，強化被告對其他證人之對質、詰問權；在證據評價上，法院尤不得以被害人之警詢陳述為被告有罪判決之唯一或主要證據，並應有其他確實之補強證據，以支持警詢陳述所涉犯罪事實之真實性。依司法院釋字第 789 號解釋，性侵害犯罪防治法第 17 條規定目的核屬正當；倘被害人之警詢陳述，於符合前開意旨之前提下，業經法院為必要之調查，被告得行使各種防禦權以充分爭執、辯明其法定要件之存否，並為訴訟上採為證據之例外與最後手段，且訴訟上就被告因此蒙受之詰問權損失，已有適當之衡平補償，並非屬被告有罪判決之唯一或主要證據，則於此範圍內，系爭規定即與憲法第 8 條正當法律程序及第 16 條訴訟權之保障意旨均尚無違背，亦符合公約第 14 條規定。

英文回應

1. Taiwan's Code of Criminal Procedure (CCP, hereinafter) protects a defendant's right to confrontation and cross-examination. Interpretation No. 582 of Taiwan's Grand Justices declared in 2004 that a defendant shall enjoy the right to confront and cross-examine any witness against him/her. Hence, even though CCP (Article 159-1 to 159-5, 206 and 208) admits an out-of-court statement as evidence in specified circumstances, a defendant still has the right to challenge the one who made the statement. Besides, CCP also stipulates that any pieces of evidence cannot be adopted unless they are legally investigated by the

court (Article 155II) and are subject to both parties' examination during the court investigation (Article 288-1I). Furthermore, both sides of the parties are entitled to debate the probative value of any pieces of evidence (Article 288-2). Thus, Taiwan's CCP and its practice comply with the requirement of Article 14 of ICCPR for confrontation and examination.

2. To optimize the rules of evidence and improve the protection of the appraisal procedure, the judiciary has drafted the amendment to part of the Code of Criminal Procedure regarding the act of testifying of expert witness in a court of law and inform the Legislative Yuan to review the amendment in writing in collaboration with the Executive Yuan.
3. Most sexual assaults occur in a private, enclosed environment without a third party present. In criminal procedures, a defendant often attempts to refute the credibility and authenticity of a victim's testimony through questioning and cross-examination. Consequently, a victim of sexual assault must face the defendant, reveal private personal information, and repeatedly narrate the assault, resulting in exacerbated physical and mental trauma. Considering the characteristics of sexual assault cases, and to realize the purposes of discovering the truth in criminal proceedings and protecting the victims of sexual assault, according to Article 17 Paragraph 1 of the Sexual Assault Crime Prevention Act, if a victim "is unable to make a statement due to physical or psychological injury resulting from the sexual assault incident," a statement the victim made to the prosecuting officer, judicial police officer, or judicial policeman during investigation (hereafter "the Statement") can be used as evidence as long as it can be proven beyond a reasonable doubt.
4. The language "unable to make a statement due to physical or psychological injury resulting from the sexual assault incident" in Article 17 Subparagraph 1 of the Sexual Assault Crime Prevention Act refers to a victim's inability to make a statement at trial because of the dispute in the sexual assault case, which caused physical and psychological trauma. It is only applicable when, due to the victim's physical and mental trauma conditions, objectively he or she can no longer reasonably be expected to restate the situation(s) in which he or she was victimized at court. When a dispute occurs, based

on the evidence provided by the prosecutor, the court should conduct necessary investigations. The defendant may, on the basis of the investigation methods, processes, and results, exercise his or her rights by giving statements, making arguments, and questioning witnesses and appraisers. When the concrete situation of the victim has not yet been confirmed, the court should summon the victim. Depending on the situation of the case, suitable trial protection measures may be adopted. Inquiries or questioning of the victim may be conducted using equipment such as audio, video conference, or any other suitable means (Sexual Assault Crime Prevention Act Article 16, Paragraph 1) both to effectively protect the victim and to achieve the objective of discovering the truth via criminal proceedings. The language “can be used as evidence as long as it can be proven beyond a reasonable doubt,” refers to a situation in which the sexual assault case has been appropriately investigated, and, according to the temporal and spatial environments and related factors, it can be proven that when the victim made the Statement, he or she was not under rape, coercion, inducement, fraud, fatigue, interrogation, or other improper external interference. In addition, the prosecutor should be responsible for proving the merit of evidence regarding the credibility of a statement according to whether the person who questioned the victim had professional training, whether the victim had a companion when making the Statement, the temporal gap between the time the victim made the Statement and the time he or she was assaulted, the victim’s appearance and attitude when making the Statement, the manner in which the victim expressed himself or herself, and how detailed his or her Statement was may prove that although the victim did not undergo cross-examination. When the Statement is made, the entire process should be continuously voice- or video-recorded. In the determination of whether the victim had the ability to make the Statement, the defendant may question the person who asked the victim questions during the making of the Statement, the person who made the written record, and relevant witnesses. The defendant may also express his or her opinion when inspecting the voice or video recording.

5. Regarding sexual assault cases in which the victim cannot attend court to give statements and be examined and would like be exempt and use the Statement as evidence, on the basis of the fair trial principle of the Constitution, effective compensatory measures

should be provided to the defendant during proceedings so as to balance the loss of the defendant of his or her right to cross-examine the victim. For example, during the examination of evidence, the defendant's rights to question and cross-examine other witnesses will be strengthened. Also, in evaluating evidence, the court may not rely on the victim's Statement as the sole or preponderant piece of evidence in determining guilt. Other evidence must support the truthfulness of the incriminating facts in the Statement. According to Judicial Yuan Shi Zi No. 789, the objective of Article 17 of the Sexual Assault Crime Prevention Act is deemed appropriate. Under the premise that the victim's Statement satisfies the aforementioned and that it is considered by the court as essential to the investigation, the defendant may exercise various rights of defense to fully argue and clarify whether the legal imperative exists and whether it can be made an exception of being considered as evidence and the final means during the legal proceedings. Also, during proceedings, the defendant has suffered the loss of his or her right to cross-examination and has received compensation to balance out this loss. The Statement is not used as the sole or main evidence of guilt. Within this range, Article 17 will not contradict Article 8 of the Constitution of the Republic of China (Taiwan) regarding the procedure prescribed by law or Article 16 regarding the protection of rights in legal proceedings. It also meets the stipulations of the International Covenant on Civil and Political Rights.

第 14 條		
Article 14		
點次	問題內容	
28	原文	Following recommendations by the Review Committee to remedy a violation of Article 14(5) ICCPR, Article 376 of the Code of Criminal Procedure was amended on 16 November 2017, with effect from 18 November 2017, in order to allow persons who have been acquitted in the first instance but convicted by the second instance to appeal to the third

		instance. However, according to the Parallel Report of Covenants Watch, § 422, the right has not been made available “to cases before November 17th, 2017” which still follow the previous provisions. The Government is requested to explain why the right to appeal has not been granted in all pending cases and how such a limitation can be considered compatible with Article 14(5).
	中文參考翻譯	根據審查委員會就《公政公約》第 14(5)條受到違反而提出的建議，《刑事訴訟法》第 376 條於 2017 年 11 月 16 日修訂，自 2017 年 11 月 18 日起生效，允許一審獲判無罪但二審有罪判決者得向三審上訴。然而，根據《人權公約施行監督聯盟平行報告》第 422 點，該權利尚未提供給「2017 年 11 月 17 日以前的案件」，此類案件仍然適用舊法。請政府說明為何沒有在所有未決案件中給予上訴權，以及這種限制如何符合公約第 14(5)條。

中文回應

由於臺灣的特殊國際地位，臺灣無法批准公政公約並送交聯合國。臺灣是透過內國立法的方式，亦即制定公民與政治權利國際公約及經濟社會文化權利國際公約施行法，使該公約內容成為內國法的一部分。兩公約施行法第 8 條規定，政府機關應制定、修正或廢止不符兩公約規定之法令。關於刑事訴訟法第 376 條抵觸公政公約第 14(e)條關於有罪判決應至少有一次覆審機會之爭議，該法於 2017 年 11 月 18 日修正施行，已符合兩公約施行法的要求。由於兩公約施行法並未要求政府機關的修法必須溯及適用，故臺灣的刑事訴訟法修正，即便未有溯及適用的規定，亦未違反公政公約。

英文回應

Due to Taiwan’s special international status, Taiwan was unable to ratify ICCPR and then deposit the ratification to United Nations. Instead, the way Taiwan accepted ICCPR was to enact the “Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights” (the Act, hereinafter) which incorporated ICCPR into its domestic law. Article 8 of the Act provides that Taiwan shall review any law to see if it is contradicted with ICCPR and the government is obligated to fix

any contradiction by legislation. Regarding the contradiction between Article 376 of Code of Criminal Procedure (CCP, hereinafter) and Article 14(e) of ICCPR, Taiwan has passed the amendment to CCP in 2017. Under the Act, the amendment, effective on Nov. 18, 2017, has already honored Article 14(e) of ICCPR. Since the Act does not require any retroactive application, Taiwan’s CCP, though with no retroactive application, does not violate ICCPR.

第 14 條		
Article 14		
點次	問題內容	
29	原文	In the Parallel Report of Covenants Watch, §§ 471-472, it is alleged that the possibility to deny or reduce compensation under Article 14(6) ICCPR is used in a way not compatible with the principle of legal certainty and sometimes even used as a ground for reducing compensation based on a re-examination of the defendant’s guilt in violation of “constitutional principles such as the double jeopardy clause and the principle of presumption of innocence”. It is also criticized that no compensation is granted if the defendant has not been subject to restrictions on personal freedom or any legal sanctions. The Government is requested to comment on and provide relevant information concerning these allegations. Have the requirements of Article 14 ICCPR been complied with?
	中文參考翻譯	《人權公約施行監督聯盟平行報告》第 471-472 點指出，根據《公政公約》第 14(6)條而拒絕或減少賠償的可能性，被以不符合法律明確性原則的方式使用，有時甚至被用於再次審酌被告之殘餘犯嫌並據以作為減少賠償的理由，違反了「雙重危險禁止(double jeopardy)及無罪推定等憲法原則」。另外受到批評的是若被告沒有受到人身自由拘束或任何法律制裁，則不予賠償。請政府就以上指稱發表評論並提供相關資訊。《公政公約》第 14 條的多項要求是否受到遵守？

中文回應

1. 刑事補償法(下同)第 7 條係為避免補償失當或浮濫，並使補償金額之決定符合正義及合理之原則，規定如受害人對於損失之發生或擴大有可歸責事由者，就其個案情節，依社會一般通念，認為依第 6 條各項之標準支付補償金顯然過高時，應允許受理補償事件之機關得於較低額之範圍內酌定補償金額。惟經考量其中「依社會一般通念」之標準過於抽象，且補償金額之標準業有第 6 條規定可資規範，為避免第 7 條過度適用，並使補償金額標準回歸第 6 條之一般規定，刑事補償法部分條文修正草案已將第 7 條刪除。未來如獲立法通過，受害人縱有可歸責事由，亦僅能在第 6 條所定標準之範圍內，作為酌定補償金額之參考因子，而不能於較低額之範圍內酌定補償金額。
2. 依司法院釋字第 670 號解釋意旨，特定人民之自由權利，如因實現國家刑罰權之公共利益，受有超越一般應容忍程度之限制，構成其個人之特別犧牲時，應依法予以補償。人身自由受拘束之受害人依第 6 條請求補償，於衡酌受害人所受損失時，應注意其所受精神上痛苦(第 8 條立法理由參照)，業已考量人身自由以外人格法益之特別犧牲。然而未受人身自由拘束之受害人，於國家發動刑罰權起至其獲得無罪定讞期間，因其受有罪判決確定，於法律上及社會一般通念上，已足使他人認為受害人確有實施刑事不法犯行，其依再審或非常上訴程序裁判無罪確定前，縱未經羈押或執行，惟若因有罪確定案件之偵查、審判程序或判決結果，而受有人身自由以外諸如名譽權等人格法益之重大損失，且已達特別犧牲之情形者，本諸前開解釋意旨，亦應得請求補償。據此，刑事補償法部分條文修正草案第 6 條之 1 如獲立法通過，未受人身自由拘束之受害人亦可納入保障範圍。
3. 綜上，上揭刑事補償法部分條文修正草案如獲立法通過，將可更加落實公政公約第 14(6)條之規定。

英文回應

1. To avoid inappropriate or excessive compensation and to make the standard on determination of the compensation amount to be in according with justice and reasonable principle, Article 7 of Criminal Compensation Act, therefore, states”where the victim of the compensation claim is attributable, and the compensation to be paid according to the standard of Article 6 is obviously too high under the consideration of the circumstances of the individual case and based on the general situation of the society, the standard on

determination of the compensation amount may be made in accordance with the following criteria...”. However, considering the standard based on the general situation of the society is too abstract to determine and Article 6 has stipulated the standard on determination of the amount of compensation, so we have to avoid Article 7 to be applied excessively and should apply the standard on determination of the amount of compensation which has been written in Article 6. Article 7, accordingly, will be deleted in Criminal Compensation Act Draft Amendment. Once Criminal Compensation Act Draft Amendment is passed, even though the victim of the compensation claim is attributable, the compensation shall be in the range of Article 6 and shall not be lower than the range.

2. According to J.Y. Interpretation Nos. 670, for any individual whose specific physical freedom subject to legitimate restrictions by the public authority and for public interest, but under the special circumstances has exceeded the degree that should be endured by people under ordinary condition, and constitute special personal sacrifice, there shall be the right to petition for reasonable indemnification in accordance with the law. A person who has been deprived or restricted personal freedom may seek state compensation pursuant to Article 6 under this Act. When the agent accepts the compensation case, deciding on the compensation amount, it shall consider mental suffering (cf. the legislative explanation of Article 8), which means it has taken the special personal sacrifice into account, but not only the personal freedom. However, a person whose personal freedom is not restricted, from the beginning of national criminal law authority to a verdict of “not guilty” is rendered, has been judged guilty, according to law or general concepts in the society, misleadingly commits a crime. Even though he/she is not detained or is not executed, before the adjudication of not guilty is rendered and becomes final on the retrial, extraordinary appeal, if there is any injury of reputation and constitutes special personal sacrifice because of a guilty ruling, he/she may seek state compensation. Hence, once Article 6 of Criminal Compensation Act Draft Amendment is passed, a person whose personal freedom is not restricted is also protected.
3. In summary, once the above Criminal Compensation Act Draft Amendment is passed, Article 14(6) of International Covenant on Civil and Political Rights will be implemented more completely.

第 14 條

Article 14

點次	問題內容	
30	原文	According to the Parallel Report of Covenants Watch, §§492-495, the Asian Human Rights Court Simulation (AHRCS) ruled in July 2019 that there had been a violation of Articles 7 and 14 ICCPR in the case of Chioi Ho Shun who had been sentenced to capital punishment. The Government is requested to provide details about the findings in the ruling of the AHRCS. Have any measures been taken to comply with the ruling? If so, please provide information on what has been done. If not, please explain why. For how long time has Chioi been imprisoned?
	中文參考翻譯	根據《人權公約施行監督聯盟平行報告》第 492-495 點，模擬亞洲人權法院(AHRCS)於 2019 年 7 月做出判決，認為邱和順案違反《公政公約》第 7 條和第 14 條，本案中邱和順被判處死刑。請政府提供有關模擬亞洲人權法院判決中所述調查結果的詳細資訊。是否採取了任何措施來遵守此判決？如果有，請提供資訊。如果沒有，請說明原因。邱和順已被監禁多久？

中文回應

1. 有關亞洲人權法院判決中所述調查結果之詳細資訊部分，請參閱該判決英文摘要。針對該判決所指摘之意見，政府表示尊重。
2. 我國為法治國家，任何個案之審理及其救濟，均依相關法律程序，依法辦理。邱和順涉犯殺人等案件，經檢察官提起公訴後，歷審法院均認定邱和順有擄人勒贖、殺人等犯行，且均判處死刑，共經臺灣高等法院 12 次合議庭審判，最高法院於 2011 年 7 月 28 日駁回上訴確定。
3. 邱和順於法院審理期間雖提出刑求抗辯，惟查歷審法院經多次勘驗警詢、偵訊錄音暨現場錄影，均未發現有員警或檢察官對邱和順有不當取供或施以酷刑等不法情事。
4. 本案自判決確定後，邱和順曾先後提出 4 次再審及由最高檢察署檢察總長提起 1 次非

- 常上訴，均遭法院駁回。故有關本案事實上疑點及法律上爭點，包括模擬亞洲人權法院所提及之刑求自白、證物遺失等爭議，均經法院多次審酌，並依法予以駁回在案。
5. 邱和順自 1988 年 10 月遭羈押開始，迄 2021 年 8 月止，已遭關押近 33 年。邱和順目前收容在法務部矯正署臺北看守所暫待執行，其健康照護與一般受刑人相同，在看守所內能得到我國健保門診醫師入所提供應有的醫療照顧，必要時，亦會視病情戒護至所外醫院就醫，其矯正人權及醫療權益均獲得保障。
 6. 監察院於 2020 年 6 月 12 日針對邱和順案提出調查報告，並由法務部於同年 6 月 16 日函請臺灣高等檢察署「有罪確定案件審查會」調查相關疑點。邱和順案是否符合再審或非常上訴之要件，目前已由臺灣高等檢察署依「檢察機關辦理有罪確定案件審查作業要點」辦理中。
 7. 雖部分團體或人士對邱和順是否涉犯上開犯行仍有不同意見，然法務部基於遵守法治國原則，自當尊重法院之死刑判決，後續亦將依法維護其在監之醫療照顧及收容權益，確保其在監期間之矯正人權。
 8. 經查邱和順自 1999 年 9 月 4 日羈押於臺北看守所，並於 2011 年 7 月 28 日判刑確定，總監禁期間約 22 年。(邱和順之案件業經最高法院 100 年度台上字第 4177 號判決確定。)
 9. 內政部警政署於 2021 年 7 月訂頒「警察機關刑案證物管理注意事項」同時明定證物移送及承檢察官命令處置之基本原則，以避免發生保管缺失，並確保證物不被滅失；警察詢問犯罪嫌疑人錄音錄影要點，要求所有員警於詢問犯罪嫌疑人時應全程連續錄音，必要時並應全程連續錄影；詢問犯罪嫌疑人之錄音、錄影帶，應隨案移送地檢署或法院，如發現有未錄音、錄影或內容有不完整之情形，將於查明原因後，對於失職人員按其情節予以議處。

英文回應

1. Please refer to the English version of the summary of ruling for the details regarding the investigation results in the ruling of the Asian Human Rights Court Simulation. The government of Taiwan respects the ruling made by the Asian Human Rights Court Simulation.
2. Taiwan is a state of law, the ruling and relief of each case are subject to the related legal procedures and ruled by law. Chiu Ho-shun charged of kidnapping and murder by the

prosecutors and found guilty by trials at different levels has been sentenced with the death penalty. After 12 rounds of judicial panel by the Taiwan High Court, the Supreme Court confirmed the denial of this appeal on July 28, 2011.

3. Despite his claim of being tortured in the trials, after the repeated examinations of the audio and video recordings of the police interrogation and prosecutor investigation, no sign of forced confession or torture by either the police or the prosecution was found.
4. After the conviction, although Chiu has applied for retrial four times, and the prosecutor general of the Supreme Prosecutors' Office also filed one extraordinary appeal. The court denied them all. Hence, after considering many times the de facto doubts and de jure disputes of this case, including the forced confession and missing evidence disputes as claimed by the Asian Human Rights Court Simulation, the court has denied them all by law for the record.
5. Chiu was detained in October 1988, and it has been nearly 33 years in August 2021. Currently, Chiu is accommodated under temporary execution at the Taipei Detention Center, AOC, MOJ, and receives the same healthcare as other inmates. At the detention center, inmates are entitled to receive proper healthcare services provided by physicians of Taiwan's NHI outpatient clinics and, if necessary, get medical attention at hospitals under escort to ensure the protection of human rights and rights to medical attention at correctional facilities.
6. On June 12, 2020, the Control Yuan issued the investigation report of Chiu's case. On June 16 in the same year, MOJ wrote to the Taiwan High Prosecutors' Office to hold the "Convicted Case Review Meeting" to investigate related doubts. Currently, the Taiwan High Prosecutors' Office is reviewing if Chiu's case fulfills the requirements for a retrial or extraordinary appeal according to the "Directions for Reviewing Convicted Cases by Prosecution Authorities".
7. Although some groups or individuals have different opinions on whether or not Chiu has committed the charges, to abide by the rule of law, MOJ respects the death penalty sentenced by the court. In the future, MOJ will continue to maintain his healthcare and sheltering rights at the detention center to ensure his human rights at correctional facilities.
8. Upon investigation, it is found that Chiu Ho Shun was detained in Taipei Detention Center

on September 4, 1999, and convicted affirmatively on July 28, 2011. He was sentenced to 22 years in prison.(The judgment has become finalized by Supreme Court Criminal Judgment 100 Tai-Shang-Tzu 4177.)

9. The National Police Agency (NPA) enacted and promulgated the “Police Institutions Criminal Case Evidence Management Guidelines” in July 2011, which clearly stipulates the principles for transferring and handling evidence in compliance with prosecutors’ requests in order to avoid mishandling and loss of evidence; in terms of “Guidelines for Recording Audio and Video when Interviewing with Criminal Suspects,” police officers are required to record audio throughout the interview, and, when necessary, record video throughout the interview; the audio-recording and video-recording of the interview with a suspect are required to be enclosed in the case file and be transferred to the Prosecutors’ Office or Court of Law. Following the discovery of any failure to fully record the audio or video of the interview with criminal suspects, the cause to the failure will be ascertained and followed by disciplinary measures proportionately applied to the officer responsible.

第 16 條		
Article 16		
點次	問題內容	
31	原文	Please explain how the problem of birth registration of children born in Taiwan is being addressed in light of the circumstances of birth mothers who have an irregular immigration status. What measures can be taken to ensure that all children born in Taiwan are registered? Civil society organisations have proposed that addressing this issue requires a more relaxed policy with respect to migrant women who give birth in Taiwan. Is this proposal or similar measures being considered?
	中文參考翻譯	請說明在生母具備非正規移民身分時，如何因應在臺灣出生的兒童其出生登記問題。有何措施可確保所有在臺灣出生的兒童都獲得登記？公民社會組織提議，要因應這個問題必須對在臺灣生產的移民女性採取更寬鬆的政策。政府是否正在考慮這項提議或類似措施？

中文回應

1. 合法身分及出生登記

- (1)依「兒童及少年福利與權益保障法」第14條第1項：「胎兒出生後7日內，接生人應將其出生之相關資料通報衛生主管機關備查；其為死產者，亦同。」及第3項：「衛生主管機關應將第一項通報之新生兒資料轉知戶政主管機關，由其依相關規定辦理；……。」因此，於我國出生之新生兒，不論其生母國籍為何，皆須由接生人將出生資料通報予衛生主管機關，再由衛生主管機關將通報資料再傳送至內政部戶政司。
- (2)外來人口在臺醫療院所生產，不論身分合法與否，其外國籍新生兒出生資料均會通報內政部移民署，由內政部移民署進行維護、登記。依「入出國及移民法」規定，合法在臺居留之外國人，其在臺所生子女得申辦外僑居留證；至於逾期滯留外國人在臺生產子女，如經查獲，以母子一同遣返為優先處理原則。
- (3)內政部針對非正規移民在臺生育之非本國籍子女身分，依實際情形區分為4種樣態，分為：A.生母為外國人，生父為國人者，經生父認領，該兒少即可認定具有我國國籍。B.生母為外國人，生父為外國人或不詳者，該兒少即與生父或生母具有相同之外國國籍。C.生父及生母均無可考者，該兒少即可依「國籍法」第2條第1項第3款規定認定具有我國國籍。D.生父不詳，生母為外國人且行方不明者，如經協尋生母未果且生母原屬國不認該兒少具有該國國籍或無回應者，內政部即依相關流程認定該兒少為無國籍人，渠等得由國人養父、母或社會福利主管機關代其申請歸化成為我國國人。綜上，在臺出生之兒少，不論其係依「國籍法」相關規定被認定為具有我國國籍或歸化取得我國國籍，皆可依「戶籍法」相關規定辦理戶籍登記。另為落實兒童權利公約第7條保障兒童取得國籍權利意旨，刻正循法制程序辦理「國籍法」修正作業，明定未婚且未滿18歲之外國人或無國籍人，由社會福利主管機關或社會福利機構為其監護人者，得由社會福利主管機關或社會福利機構申請歸化。

2. 移工工作權

- (1)懷孕移工之工作權益受「性別工作平等法」保障；另移工如受僱於適用「勞動基準法」及「職業安全衛生法」之行業，亦有該法母性保護相關規定之適用。
- (2)基於保障雇主及移工權益，勞動部已針對移工受聘僱期間懷孕及其後續工作權益採行以下措施：

- ①禁止單方終止聘僱關係：當移工有懷孕、分娩等情事，雇主不得以上開事由終止聘僱關係。倘雇主強迫遣返移工時，移工得透過1955勞工諮詢申訴專線或向地方政府提出申訴；另地方政府受理雇主解約驗證申請時，應探求移工解約出國真意，以保障移工權益。
- ②移工得暫緩辦理轉換雇主：勞雇雙方合意終止聘僱關係並經勞動部廢止聘僱許可，懷孕移工有「就業服務法」第59條第1項第4款規定不可歸責之事由，勞動部將同意移工得轉換雇主或工作。另移工於轉換雇主期間如有身心不適之情事，移工應檢具醫療機構開具之懷孕診斷證明或孕婦健康手冊，向勞動部申請暫緩辦理轉換雇主，經核定同意後，得暫緩轉換雇主期間最長至妊娠結束日起60日。
- ③移工安置：為保障移工遭受人身傷害或發生勞資爭議、雇主違法等所衍生之安置問題，勞動部已訂有「受聘僱從事就業服務法第46條第1項第8款至第11款規定之外國人臨時安置作業要點」，遇有移工轉換雇主或工作、有勞資爭議等待協調處理或無法提供食宿時，即提供緊急安置，給予適時生活照顧及輔導。

英文回應

1. Legal identity and birth registration

- (1) According to The Protection of Children and Youths Welfare and Rights Act, Paragraph 1 of Article 14 stipulates that “the person who delivers the baby shall report the relevant birth information to the authorized agencies in charge of health for reference within seven days after the delivery of the baby. If it is stillborn, the same applies.”, and Paragraph 3 stipulates that “The authorized agencies in charge of health shall forward the birth report specified in Paragraph 1 to the authorized agencies in charge of household registration for handling in accordance with the relevant regulations”. This means that all babies who are born in the R.O.C, regardless of nationality of the mother, shall be reported to the authorized health agency by the person who delivers the baby. The data will then be forwarded by the authorized health agency to the Department of Household Registration, Ministry of the Interior.
- (2) All of information of foreign new born babies in Taiwan will be reported to the

National Immigration Agency (NIA) for record, regardless of their mothers' immigration status. Those foreigners with legal immigration status may apply for their new born babies' Alien Resident Certificate to the NIA. To those foreign mothers without legal immigration status, it is the NIA's policy to handle the case without separating children from parents, in particular when deporting those undocumented foreign mothers.

- (3) According to the actual situation, the status of non-national children of irregular immigrants born in Taiwan is divided into four types: 1. If the natural mother is a foreigner and the natural father is a national, the child who has been acknowledge by the natural father can be deemed to have ROC nationality. 2. If the natural mother is a foreigner, and the natural father is a foreigner or unknown, the child has the same foreign nationality as the natural father or natural mother. 3. If his parent can't be ascertained, the child can be recognized as having ROC nationality in accordance with subparagraph 3, paragraph 1, Article 2 of the Nationality Law. 4. If the natural father is unknown, the natural mother is a foreigner and whereabouts unknown, if the natural mother is not found through the cooperation of the MOI and the country of the natural mother does not recognize that the child has the nationality of that country or has no response, the MOI will determine that the child is stateless according to the relevant procedures, as well as his/her may be applied to naturalize as a ROC national by his/her adoptive father, mother or social welfare authority on his/her behalf. In summary, children born in Taiwan, regardless of whether they are deemed to have ROC nationality in accordance with the relevant provisions of the Nationality Law or naturalized to obtain ROC nationality, can register in accordance with the relevant provisions of the Household Registration Law. In addition, in order to implement Article 7 of the United Nations Convention on the Rights of the Child to protect children's rights to obtain nationality, the Nationality Law is amending in accordance with legal procedures. It is clearly stipulated that foreigners or stateless persons who are unmarried and under the age of 18 and whose guardians are social welfare authorities or social welfare institutions may apply for naturalization by social welfare authorities or social welfare institutions.

2. The rights of work

- (1) The work rights of pregnant foreign workers are protected by the Act of Gender Equality in Employment. In addition, if a worker is employed in an industry covered by the Labor Standards Act or the Occupational Safety and Health Act these laws also contain maternal protections.
- (2) In order to protect the rights of both employers and foreign workers, the Ministry of Labor has adopted the following measures to deal with foreign workers who fall pregnant during their period of employment in Taiwan and follow up work rights:
 - ① Unilateral termination of employment relationships is forbidden: When a foreign worker falls pregnant or gives birth, an employer cannot use either as a reason to terminate the employment relationships. In the event an employer seeks to forcibly repatriate a foreign worker, the worker can call the 1955 Counseling and Protection Hotline for Foreign Workers or appeal to the local government. In addition, when a local government receives an application for contract termination verification from an employer, it is required to determine the truth about the contract termination and return home of the worker, to ensure the rights of the foreign worker are protected.
 - ② Temporary postponement of foreign worker employer transfers: Where an employer and foreign worker agree to terminate an employment contract and the Ministry of Labor revokes an employment contract for reasons not attributable to the foreign worker falling pregnant, then in accordance with Subparagraph 4, Paragraph 1, Article 59 of the Employment Service Act, the ministry must allow the pregnant foreign worker to transfer employer or work. In addition, if the foreign worker falls ill during the employer transfer period, she can apply to the ministry to temporarily postpone the process by submitting a certificate of pregnancy diagnosis issued by a medical institution or a maternal health booklet. If approved, the transfer process can be postponed until a maximum of 60 days after giving birth.
 - ③ Foreign worker settlement: In order deal with the issue of foreign worker settlement which arises in the event of physical injury, labor dispute or the

illegal actions of an employer, the Ministry of Labor has drafted guidelines for the temporary resettlement of foreigners employed in positions detailed in items 8-11, Paragraph 1, Article 46 of the Employment Service Act. When a foreign worker is transferring an employer or work, but a labor dispute needs to be dealt with first or board and lodging cannot be provided, this ensures emergency settlement while also offering suitable life care and counseling.

第 17 條		
Article 17		
點次	問題內容	
32	原文	With reference to the Review Committee’s 2013 and 2017 Concluding Observations, the Committee reiterated its recommendations “to decriminalize adultery and expresses its concern about its disproportionately negative impact on women” (2017 Concluding Observations, § 70). Please provide information on developments since the last review to ensure compliance with human rights in this regard.
	中文參考翻譯	參考審查委員會 2013 年和 2017 年的《回應兩公約第二次國家報告結論性意見與建議》，委員會重申其「通姦除罪化的建議，並對於此項罪名造成對婦女不成比例的負面影響表達關切」（《2017 年結論性意見與建議》第 70 點）。請提供資訊說明自上次審查以來的發展情況，以確保在這方面遵守人權要求。

中文回應

因司法院釋字第 791 號解釋宣示有關刑法第 239 條通姦罪規定違憲，法務部業已擬具刪除刑法第 239 條通姦罪及其告訴乃論之第 245 條規定修正草案，經立法院於 2021 年 5 月 31 日三讀通過，經總統於 2021 年 6 月 16 日公布，已達公約要求。

英文回應

In response to the unconstitutional ruling of Article 239 of the Criminal Code according to Constitutional Interpretation 791, we drafted the amendment to abolish Article 239 and the no trial without complaint Article 245 the Criminal Code. The amendment was passed by the legislature on May 31, 2021 and promulgated by the president on June 16, 2021 to meet the ICCPR requirements.

第 17 條		
Article 17		
點次	問題內容	
33	原文	With reference to the Third Report (§§ 183-194), please provide information on (1) facial recognition technology being used in Taiwan, and (2) the new E-Identification (EID) system, with implications for surveillance and limitations imposed on the right to privacy. Please indicate whether those innovations are in accordance with the law and are strictly required by and proportionate to the exigencies of the situation, as well as in compliance with the principle of non-discrimination.
	中文參考翻譯	參考《公政公約第三次國家報告》第 183-194 點，請提供下列資訊：(1) 臺灣正在使用的臉部辨識技術，與(2)新的數位身分證(EID)系統，及其對監控和限制隱私權的影響。請說明這些創新是否合法、是否因危急情勢而絕對必要並符合比例，以及是否符合禁止歧視原則。

中文回應

1. 臉部辨識

- (1) 交通部自 2021 年 3 月於松山機場試辦 One ID 臉部辨識計畫，運作方式係由旅客依個人意願自行完成註冊，將護照、登機證及人臉結合成單一身分證件(One ID)。登機檢查時只要以人臉辨識即可，不必再出示護照，個人資料將於航班起飛後 1 小時自動刪除，符合「個人資料保護法」相關規定。

- (2) 內政部為規範戶政事務所使用輔助人員辨識確認系統，查驗當事人身分，防範冒辦或冒領情事，以保障民眾權益，已訂定「戶政事務所使用輔助人員辨識確認系統作業要點」。按該要點第 2 點第 1 項規定略以，戶政事務所受理民眾辦理業務，需經當事人之同意，始能取得其臉部影像，比對其本人檔存於戶政資訊系統之相片影像檔；倘當事人不同意，戶政事務所即不得取得其臉部影像進行比對。
- (3) 教育部目前無法規授權學校使用臉部辨識技術，學校如使用臉部辨識技術，應依「個人資料保護法」取得當事人同意，未成年學生，應取得其法定代理人同意後，始得合法蒐集。另為保護教職員生權益，於 2019 年 12 月 23 日訂定「校園使用生物特徵辨識技術個人資料保護指引」，第 5 點規範當事人不同意提供生物特徵個人資料時，學校應提供替代方案，以不影響教職員生之權益為原則，符合禁止歧視原則。

2. 新式身分證

- (1) 內政部為配合國家發展委員會推動智慧政府行動方案，爰規劃發行新式身分證(New ID)附加自然人憑證做為網路身分識別之用，民眾可利用 New ID 隨手取用智慧政府所提供的服務，並透過相關配套措施，落實個人隱私保護及資訊自主，達成智慧政府便捷智能服務之目標。惟因外界憂心中國滲透、近來駭客攻擊頻仍、擔心數位足跡被監控、對於新式身分證在應用上存有資安疑慮，爰行政院 2021 年 1 月 21 日決定，暫緩新式身分證之發行計畫，俟獲得國人共識與完備法制及相關程序後再推動。因此，為完善新式身分證之應用規範，目前由行政院副院長召集成立新式身分證專案小組，就政策面、資安面、應用面及法制面，持續分工研議及辦理相關作業，將於專法確立後，再依法推動新式身分證。相關系統對監控及隱私權的影響，須待計畫續行且規格確立後再行研議。
- (2) 有關數位身分證對監控和限制隱私權的影響及合法性，行政院 New eID 專案小組規劃研擬專法，專法內容包含數位身分證之資料蒐集、處理、利用等相關規範，俾保障民眾隱私權。另對於是否因危急情勢而絕對必要並符合比例原則，從網路犯罪之追查角度而言，數位跡證的保留是為必要，數位跡證之合理運用與保護亦規劃納入專法規範。

英文回應

1. Facial Recognition

- (1) Starting in March 2021, the Taipei SongShan International Airport launched the One ID facial recognition pilot project, adopting the new E-Identification (EID) system. With the system, passengers who complete the registration process could choose to combine their passports, boarding passes and face IDs into a single identity document (One ID). Passengers with One ID only need to go through a facial recognition inspection during boarding check, and do not need to present their passports. Their personal data is automatically deleted within one hour after take-off, in compliance with the relevant provisions of the Personal Data Protection Act.
- (2) In order to regulate the use of the auxiliary personnel identification and confirmation system by the household registration offices to verify the identity of the parties concerned, prevent fraudulent use of someone else's identity, and protect the rights of the people. Ministry of the Interior has stipulated “Regulations for the use of the auxiliary personnel Identification and Confirmation System by the Household Registration Offices”. In accordance with paragraph 1, Article 2 of the Regulations, the household registration office must obtain the consent of the party to take a picture of his/her face for comparison with the photos stored in the information system in the household registration office. If the party does not agree, the household registration office cannot obtain the image of his/her face.
- (3) Ministry of Education (MOE) doesn't authorize school to use Facial recognition system, school use facial recognition system to identify a natural person, school shall comply with Taiwan's Personal Data Protection Act (hereinafter, the “PDPA”) where consent has been given by the data subject. To protect the equity of faculties and students, MOE make an administrative guidance for school. School shall provide alternative solutions, where dissent has been given by the data subject. It compliance with the principle of non-discrimination.

2. New ID

- (1) In order to cooperate with the National Development Council to promote the smart government action plan, we plan to issue New identity card (New ID) with natural

person credentials for network identification. Related supporting measures implement personal privacy protection and information autonomy, and achieve the goal of smart government, convenient and smart services. However, because of the people outside concerning about China's penetration, recent hacking attacks, fearing of digital footprint being monitored, and doubts about the security of the New ID application, the Executive Yuan decided on January 21, 2021 to suspend the issuance of the New ID. The plan must be promoted after obtaining the consensus of the people and completing the legal system and related procedures. Therefore, in order to improve the application norms of the New ID, the Vice President of the Executive Yuan is currently convening a New ID task force to continue to divide the work and discuss and handle related tasks on policy, information security, application and legal aspects. After the establishment of the exclusive Act, the New ID will be promoted in accordance with the law. The impact of related systems on monitoring and privacy rights will be discussed after the plan is renewed and the specifications are established.

- (2) Regarding the implications for surveillance and limitations imposed on the right to privacy of the new E-Identification (EID) system, the New EID task force of the Executive Yuan is actively preparing for the law of the new E-Identification. The content of the law includes the data collection, processing, and use of the new E-Identification to protect people's right to privacy. As to whether it is strictly required by and proportionate to the exigencies of the situation. From the perspective of cybercrime tracing, the preservation of digital evidence is deemed necessary, and the reasonable use and protection of digital evidence will also be regulated in the law.

第 17 條		
Article 17		
點次	問題內容	
34	原文	Please specify further whether there are any measures to prevent personal data from being misused by the public and private sectors; an effective

	system for conducting risk assessment concerning those innovations and monitoring of their operationalization; and a mechanism to receive complaints and ensure corrective action in conformity with human rights. Please provide information on incidents of abuse about the scope, use, access and storage of such data, and related remedial measures.
中文參考翻譯	請進一步說明是否有任何措施防止個人資料被公私部門誤用；是否有一個有效的系統，對這些創新進行風險評估並監督其運作；是否有接受申訴並確保採取符合人權之矯正行動的機制。請提供關於此類資料在範圍、使用、存取和儲存上之濫用，以及相關救濟措施的資訊。

中文回應

1. 臉部辨識

- (1) 旅客依個人意願，自行於松山機場 One ID 臉部辨識系統註冊之個人資料，僅提供航空公司用於當次航班之旅客登機檢查，並於航班起飛後1小時自動刪除，如有不當使用情形，旅客可依個人資料保護相關法令救濟。
- (2) 學校使用臉部辨識均依「個人資料保護法」辦理，「個人資料保護法」有行政檢查之機制，且教職員生亦可透過「行政程序法」之陳情申訴機制，防止個人資料被公私部門誤用。

2. 個資保護

- (1) 按我國「個人資料保護法」之性質為普通法，倘其他法規對於個人資料之蒐集、處理或利用有特別規定者，依特別法優於普通法之法理，應優先適用各該特別規定。另目前個人資料保護法係採分散式管理，有關公務機關之個人資料蒐集、處理或利用，係由各該公務機關或其上級機關負責監管；而非公務機關之個人資料蒐集、處理或利用，則係由其所屬之中央目的事業主管機關負責監管，合先敘明。
- (2) 次按個人資料保護法就公務機關及非公務機關蒐集、處理及利用個人資料，已明定應具有特定目的及法定要件並符合比例原則之規定，始得為之(個人資料保護法第6條、第15條、第16條、第19條、第20條及第5條等規定參照)；另有關個人資料之保存，個人資料蒐集主體於個人資料蒐集之目的消失或期限屆滿時，原則即應主動或依當事人之請求將個人資料刪除(個人資料保護法第11條第3項規定參照)。

- (3) 倘公務機關或非公務機關違法蒐集、處理或利用個人資料，亦負有民事及刑事責任(個人資料保護法第28條、第29條、第41條及第42條等規定參照)；另非公務機關違反上開規定，由其所屬之中央目的事業主管機關或直轄市、縣(市)政府處以行政罰鍰(個人資料保護法第47條及第48條規定參照)。

英文回應

1. Facial Recognition

- (1) The personal data provided voluntarily by passengers to register for the One ID facial recognition system at the Taipei Songshan International Airport, is only used by airline companies for boarding check for the current flight, and is automatically deleted within one hour after take-off. In case of any unlawful use of personal data, passengers could apply for relief in pursuant with relevant laws and regulations on personal data protection.
- (2) School use Facial recognition technology shall comply with Taiwan's Personal Data Protection Act(hereinafter, the "PDPA").Data subject is entitled to present to competent authorities petitions in accordance with Article 168 of the Administrative Procedure Act. The central government authorities in charge of the industries concerned or the municipality/city/county governments deem necessary or suspect any possible violation of the PDPA, they concerned conduct the inspections in accordance with Article 22 of the PDPA. It prevent personal data from being misused by the public and private sectors.

2. Personal Data Protection

- (1) Taiwan's Personal Data Protection Act (the Act hereafter) is general law. If other regulations make special stipulations for the collection, processing and use of personal data, as the legal principle of special law takes precedence over general law, the special regulations should be applied on a priority basis. Also, at present, the Act adopts a decentralized framework for the management of data protection measures, with public agencies themselves or their superior agencies responsible for supervision of the collection, processing and use of personal data; the collection, processing and use of personal data of non-public agencies is supervised by the competent central authority for each industry concerned.

- (2) The Act stipulates that collection, processing and use of personal data by public agencies and non-public agencies should have a specific purpose and legal imperative and match the principle of proportionality before being conducted (refer to articles 5, 6, 15, 16, 19, and 20 of the Act); also, regarding the storage of personal data, when the purpose of personal data collection disappears or time limit expires, in principle, the personal data of the subject of personal data collection should be immediately deleted or deleted at the request of the involved person (refer to paragraph 3, Article 11 of the Act).
- (3) If public or non-public agencies collect, process and use personal data illegally, they bear civil and criminal liability (refer to articles 28, 29, 41 and 42 of the Act). If non-public agencies violate the aforementioned regulations, they shall be penalized by the competent central authority for each industry concerned or special municipality/city/county government (refer to articles 47 and 48 of the Act).

第 17 條		
Article 17		
點次	問題內容	
35	原文	What are the means to ensure that laws and policies ordering persons to submit to physical examination, such as in relation to drug-related offences, comply with their right to privacy?
	中文參考翻譯	有什麼方法確保要求人民接受身體檢查的法律和政策(例如毒品相關犯罪)符合其隱私權?

中文回應

1. 法務部說明隱私權雖非「憲法」明文列舉之權利，惟基於人性尊嚴、個人主體性之維護及人格發展之完整，並為保障個人生活私密領域免於他人侵擾及個人資料之自主控制，隱私權乃為不可或缺之基本權利，而受「憲法」第22條所保障(司法院釋字第585號解釋參照)。

2. 國防部訂定「國軍特定人員濫用藥物尿液篩檢作業規定」，律定特定人員採隨機抽驗，每月抽驗率為30%以上，建立正確尿液採檢方式及送檢程序，以保障官兵隱私權。
3. 海洋委員會辦理各類查緝案件時，依照「個人資料保護法」及「偵查不公開作業辦法」，以保障相關涉案人員隱私。
4. 內政部警政署訂頒「執行搜索扣押作業程序」，規定於搜索經逮捕之被告、犯罪嫌疑人其身體、隨身攜帶物件、所使用交通工具及其立即可觸及之處所時，應保守秘密，並注意受搜索人之名譽。
5. 法務部矯正署依「監獄行刑法」規定，如須脫衣檢查時，應於有遮蔽之處所進行，並注意維護受刑人隱私及尊嚴。男性受刑人應由男性職員執行，女性受刑人應由女性職員執行，收容人隱私權已受相當程度保障。
6. 衛生福利部說明醫療機構提供藥癮治療屬醫療服務，應依「醫療法」及各醫事人員法之相關規定，保護個案醫療隱私；「毒品危害防制條例」亦規定，施用第一、二級毒品者於犯罪未發覺前，自動向衛生福利部指定之醫療機構請求治療，醫療機構免將請求治療者送法院或檢察機關；另外，針對 COVID-19 確診個案進行隔離治療前，並無對其進行隨身物件檢查。檢疫/隔離對象入住集中檢疫場所時，為維護檢疫場所之公共安全，則提供入住須知請其配合行李檢查，並主動繳交危險清單所列物品，危險物品由檢疫場所協助造冊封存保管，於退房時歸還，亦未對其進行身體檢查。

英文回應

1. The Ministry of Justice stated that although the right to privacy is not among those rights enumerated in the Constitution of the Republic of China (Taiwan), considering human dignity, individuality, and the integrity of personality, as well as the protection of the private sphere of personal life from intrusion and autonomy for personal, it should nonetheless be protected under Article 22 of the Constitution (with reference to Judicial Yuan Interpretation No. 585).
2. The Ministry of Defense has enacted the Regulations Governing Urine Tests for Substance Abuse by Specific Military Personnel, under which over 30% of the specific military personnel are subject to a monthly random test and a standard procedure has been established to accurately collect and deliver urine samples, in order to protect the privacy of military personnel.

3. The Coast Guard Administration, Ocean Affairs Council, whenever it conducts any investigations, always comply with the Personal Data Protection Act and the Regulations Governing the Disclosure of Investigatory Information, thereby protecting the privacy of the people involved in the cases.
4. The National Police Agency, Ministry of the Interior has enacted the Operating Procedure for Conducting Searches and Seizures, which dictates that police officers who perform a search of the arrested suspects' or defendants' bodies, the items that they are carrying, the vehicles that they are using, and the spaces that are within their immediate control shall keep it secret and be mindful of their reputation.
5. The Agency of Corrections, Ministry of Justice acts pursuant to the provisions of the Prison Act that in case an inmate is required to strip for a physical inspection, it shall be conducted in a shielded area with due care to protect the privacy and dignity of the inmate. Besides, the inspection of male inmates shall be conducted by male officers, while the inspection of female inmates shall be conducted by female officers. The privacy of the inmates is thereby protected to a certain degree.
6. The Ministry of Health and Welfare dictates that the treatments for drug addictions provided by the medical institutions are within the scope of medical services, so, under the Medical Care Act and relevant laws and regulations of each type of medical personnel, those institutions are required to protect the privacy of their patients. In addition, the Narcotics Hazard Prevention Act has provided that users of Category One and Two Narcotics may voluntarily request treatment from medical institutions designated by the Ministry of Health and Welfare before the crimes they committed haven't been uncovered. Following the request, the medical institution shall not referred the said users to the court or an investigation agency. Furthermore, with regard to confirmed cases of COVID-19, their personal belongings are not required to be inspected prior to being isolated for treatments. Nonetheless, in order to preserve the public safety of the centralized quarantine facilities where the individuals under quarantine or isolation requirements are to be admitted, they are provided with a notice requiring them to be subject to the luggage inspection, and submit items listed dangerous, if any, which will then be recorded and temporarily stored by the staff of the quarantine facilities and will be returned to their owners when they are discharged. However, none physical inspection is required during the quarantined period.

第 17 條

Article 17

點次	問題內容	
36	原文	With reference to the Review Committee's 2017 Concluding Observations, the Committee recommended the provision of explicit legal recognition of people's freely chosen gender identity, without unnecessary restrictions (§ 72). Bearing in mind the work of the UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity, and the international position that the gender identity of transgender persons should be recognized without coerced surgery and psychological assessment, please indicate developments concerning the preparation of a law to recognize gender identity in this respect.
	中文參考翻譯	參考審查委員會 2017 年的《回應兩公約第二次國家報告結論性意見與建議》第 72 點，委員會建議以法律明文承認人民自由選擇的性別認同 (gender identity)，不受非必要的限制。謹記聯合國基於性傾向和性別認同歧視問題獨立專家的工作，以及國際上認為跨性別者之性別認同應在無需強制手術和心理評估的情況下得到承認的立場，請說明在這方面制定承認性別認同的法律之進展。

中文回應

1. 涉及跨性別者性別變更、認定，衛生福利部主管之法規並無限制性規定。
2. 對於跨性別者性別問題，係針對醫療措施介入，按雙性人之醫療照護或全民健康保險，均不因性別、性傾向而有所差別；但為避免雙性嬰兒或兒童過早接受非緊急和不可逆轉之性別手術，2018 年訂定未成年雙性人之醫療矯正手術共同性建議原則，並建立「未成年雙性人之醫療矯正手術」轉介建議醫院名單(16 家)。
3. 為了避免雙性或性別不明嬰兒與兒童過早不可逆轉的性別手術，衛生福利部業公告「未成年雙性人之醫療矯正手術共同性建議原則」，規範經由專業醫學、心理、社會評估，以保障其權益。

英文回應

1. The Ministry of Health and Welfare has no restrictive regulations regarding the gender change and determination of transgender persons.
2. The gender issues relating to transgender persons are addressed with respect to the medical care or National Health Insurance for intersex persons in medical measures intervention. No differential treatment is engaged based on gender and sexual orientation. To prevent non-urgent and irreversible gender reassignment surgery (GRS) for non-adult intersex persons, the Ministry of Health and Welfare established the “Recommended common principles Regarding Corrective Surgery on Non-Adult Intersex Persons” in 2018 and later the “List of Recommended Hospitals (16 total) for Referral of Corrective Surgery on Non-Adult Intersex Persons”.
3. In order to avoid children or babies who are bisexual or unknown gender to receive irreversible transgender surgery, MOHW had announced Recommended common principles Regarding Corrective Surgery on Non-Adult Intersex Persons, which regulates the surgery should be performed after medical, mental and social evaluation. So that their rights could be ensured.

第 17 條		
Article 17		
點次	問題內容	
37	原文	Regarding intersex persons, please indicate whether there are developments to prevent surgery concerning their sex characteristics from being imposed on them from a young age and to ensure their autonomy of choice in relation to those characteristics, bearing in mind the evolving capacities of the child.
	中文參考翻譯	關於雙性人，請說明是否有任何進展防止在年幼時就對其性別特徵進行手術，以及確保他們在這些特徵方面的自主選擇權，同時考慮到兒童不斷發展的能力。

中文回應

為避免雙性或性別不明嬰兒及兒童過早接受非緊急和不可逆轉之性別手術，而產生不必要之傷害，衛生福利部於 2018 年 10 月 11 日公告「未成年雙性人之醫療矯正手術共同性建議原則」供民眾參考，並於 2020 年 1 月 8 日周知未成年雙性人之醫療矯正手術轉介建議醫院(16 家)之就診掛號科別資訊於該部官網。

英文回應

To prevent non-adult intersex persons from receiving unnecessary injury due to non-urgent and irreversible GRS, apart from promulgating the “Recommended common principles Regarding Corrective Surgery on Non-Adult Intersex Persons” on October 11, 2018 for public reference, the Ministry of Health and Welfare also disclosed the “List of Recommended Hospitals (16 total) for Referral of Corrective Surgery on Non-Adult Intersex Persons” on the ministry’s website on January 8, 2020.

第 17 條		
Article 17		
點次	問題內容	
38	原文	Concerning gender markers, please provide information on developments to promote non-discrimination and measures to foster empathy for gender diversity.
	中文參考翻譯	關於性別標記(gender markers)，請提供資訊說明關於推動禁止歧視之發展和促進對多元性別之同理的措施。

中文回應

1. 關於推動禁止歧視之發展：

- (1) 2020 年 4 月 24 日召開「研商『性別變更認定要件法制化政策方向』」會議決議，由行政院規劃委託研究，行政院於 2020 年 10 月委託世新大學進行「行政院『性別變更要件法制化及立法建議』研究案」，研究內容包括，蒐集國外文獻及法制、

研析適合我國性別變更模式及可行性評估，並研提適合我國國情之法制化建議及法律草案，預計於 2022 年 1 月完成。倘未來明定性別之認定標準及認定機關，內政部將配合辦理後續戶籍登記事宜。

- (2) 2019 年 11 月 27 日研商制定綜合性反歧視法之立法建議會議決議，有關制定「平等法草案」納入制定國家人權行動計畫草案中處理；「平等法草案」之受保護之特質部分，包括：族群、宗教或信仰、身心障礙、性別或性別認同、性傾向、年齡、思想、婚姻、容貌、前科等特質。該計畫目前刻正制定中。

2. 關於促進對多元性別之同理的措施：

- (1) 訂定性別平等重要議題，積極破除性別刻板印象與偏見，引導各部會於推動提高民眾對多元性別及多元家庭之認識與接受度。
- (2) 「CEDAW 教育訓練及宣導計畫(2020-2023 年)」納入多元性別權益保障課程，拍攝「多元性別宣導影片-XX 的房間」、建置「多元性別權益保障」教材。
- (3) 2019 年與歐洲經貿辦事處共同主辦「臺歐盟亞洲地區 LGBTI 人權推動工作交流研討會-婚姻平權與同志人權保障」，邀請歐亞各國代表交流研討，2022 年將持續辦理。
- (4) 預計 2022 至 2023 年透過辦理「我國多元性別(LGBTI)者生活狀況調查」研究計畫，擴大蒐集國內多元性別者生活狀況及需求，並依據調查結果辦理發布記者會、編製相關宣導短片，以提升社會大眾對性別平權議題之認識。
- (5) 2021 年辦理性別平等觀念電話民調顯示，民眾認同同性伴侶應享有合法結婚權利者達 60.4%，較同婚法案通過前(2018 年)提升 23 個百分點。另有 67.2%的民眾同意「同性配偶應該有領養小孩的權利」；有 76.0%的民眾同意「跨性別者可以選擇自己最舒服自在的打扮在學校讀書或在職場工作」，可見民眾對多元性別(LGBTI)的友善程度持續提升。
- (6) 為提供家庭暴力、性侵害等多元性別者被害人更友善且符合其多元需求之服務，透過經費補助民間團體推動相關服務方案及製作相關宣導短片、手冊，減少其求助時遭遇性別歧視或差別待遇，提供適切合宜的回應及處遇。
- (7) 「醫事人員執業登記及繼續教育辦法」已將性別議題課程(包含多元性別課程)，列為所有醫事人員執業每 6 年應完成繼續教育之必修課程。

英文回應

1. Regarding to the development of anti-discrimination measures and policies:

- (1) On April 24, 2020, a meeting was held to discuss the “Direction of Legal Elements Required to Recognize Gender Change Policy,” and it was resolved that the Executive Yuan would plan and commission a study. The Executive Yuan subsequently commissioned Shih Hsin University to conduct a study on “Legalization of Gender Change Requirements and Legislative Proposals” in October 2020. The study includes collecting overseas literature and legal precedents, analyzing suitable models and feasibility of gender change in Taiwan, and recommending and drafting of legal proposals which is suitable for Taiwan. The study is expected to be completed by January 2022. The Ministry of the Interior will cooperate with adjustments to household registration if the recognition criteria and the recognition authority are specified in the future.
- (2) The resolution of the November 27, 2019 meeting is to discuss the legislative proposal for enacting a comprehensive anti-discrimination law includes the enactment of a “draft equality law” as part of the national action plan on human rights. The anti-discrimination categories included in the “draft equality law” cover: ethnicity, religion or belief, physical or mental disability, gender or gender identity, sexual orientation, age, ideology, marriage, appearance, and prior criminal records. The project is currently under development.

2. Measures to Promote Empathy for Gender Diversity:

- (1) To define important issues of gender equality, actively eliminate gender stereotypes and prejudices, and guide ministries in promoting greater awareness and acceptance of gender diversity and diverse families.
- (2) The “CEDAW Education and Advocacy Plan (2020-2023)” includes a course on gender diversity rights protection, the production of a “gender diversity advocacy video – XX’s Room”, and the development of “gender diversity rights protection” teaching materials.
- (3) In 2019, we co-hosted the “Taiwan-European Union Asian Regional LGBTI Human Rights Promotion Exchange Seminar - Marriage Equality and LGBTI Human Rights

Protection” with the European Economic and Trade Office (EETO), inviting representatives from European and Asian countries to exchange and discuss relevant issues. The event will continue to be held in 2022.

- (4) From 2022 to 2023, we expect to conduct the research project “Survey on the Living Conditions of LGBTI People” to expand the collection of the living conditions and needs of LGBTI people in Taiwan, and to hold press conferences and produce promotional videos based on the survey results to raise public awareness of gender equality issues.
- (5) A telephone poll on gender equality in 2021 shows that 60.4% of the public agree that same-sex couples should have the right to marry legally, an increase of 23 percentage points from before the same-sex marriage bill was passed (2018). Another 67.2% of the public agreed that “same-sex couples should have the right to adopt children,” and 76.0% agreed that “transgender people can choose to dress in the way they are most comfortable when studying in school or the workplace, “ showing that the public's positive perception towards the LGBTI community continues to increase.
- (6) In order to provide better services for victims of domestic violence and sexual assault that meet their diversified needs, we provide subsidies to civil organizations to promote relevant service programs and produce related promotional videos and manuals, so as to reduce gender discrimination or differential treatment when they seek assistance and provide appropriate responses and proper treatment.
- (7) The “Regulations for Qualification Registration and Continuing Education of Medical Practitioners” has made gender issues courses (including gender diversity courses) mandatory for all medical practitioners to complete continuing education every six years.

第 17 條		
Article 17		
點次	問題內容	
39	原文	What are the measures to ensure that the Consumer Debt Clearing Act, which can publish debtors' information online, protects the identity of debtors' children from being exposed in breach of their rights?
	中文參考翻譯	有哪些措施確保可於網路公布債務人資訊的《消費者債務清理條例》保護債務人子女的身分不受揭露以免侵害其權利？

中文回應

為保護債務人子女的身分不受揭露，以免侵害其權利，司法院於2018年4月17日修正公布消費者債務清理條例施行細則第8條第1項，規定：「依本條例規定應公告之文書，除下列情形者外，應公告全部內容：(一)債務人以外之兒童及少年姓名、身分證統一編號及其他足資識別該個人資料部分，應為適當遮隱。(二)其他法院認為不宜公開事項，得予遮隱。」為使個資之遮隱標準明確，司法院另訂定消債事件文書公告之個資遮隱標準表，明定消費者債務清理事件文書所載之兒童或少年，應遮隱名字、出生年月日之數字及身分證統一編號，俾供各該法院有所遵循。前已公告之文書，亦應依相同方式遮隱完畢。另自2018年4月17日起，通知各地方法院就消費者債務清理事件公告揭示於資訊網路之期間，改為自揭示日起1年，縮短消費者債務清理事件公告之期間，以加強保護債務人子女之隱私權。

英文回應

To protect the debtor's children from identity disclosure and avoid infringement of their rights, the amendment to Article 8 paragraph 1 of the Enforcement Rules of the Consumer Debt Clearing Act was promulgated by the Judicial Yuan on April 17, 2018, stating: " Except for the following circumstances, for documents that shall be announced in accordance with the provisions of this Act, all the content shall be announced: (1) For children and juveniles other than the debtor, their names, ID numbers, and other information sufficient to identify the

personal data shall be appropriately concealed. (2) Matters that are considered inappropriate to disclose by courts may be concealed.” To clarify the concealment standards for personal information, the Judicial Yuan has formulated the personal information concealment standard table for the official notice document of the Consumer Debt Clearing event for court’s reference, which clearly specified that when children or juveniles are mentioned in the document, their names, dates of birth, and ID numbers should be concealed. Also, documents previously announced should be concealed in the same way. In addition, from April 17, 2018, to strengthen the protection of the privacy of the debtor’s children, district courts have been notified to curtail the announcement period of the Consumer Debt Clearing event online to one year from the date of publication.

第 18 條		
Article 18		
點次	問題內容	
40	原文	With reference to the Third Report (§§ 195-201), please provide details of the draft Religious Group Act and whether there has been effective consultation with the various religious groups on the substance of the law, bearing in mind administrative, tax and other measures which may have impact on freedom of religious belief.
	中文參考翻譯	關於《公政公約第三次國家報告》第 195-201 點，請提供《宗教團體法》草案的細節，以及是否與各宗教團體就法律實質內容進行了有效協商，同時考慮到行政、稅賦和其它可能影響宗教信仰自由的措施。

中文回應

1. 內政部研擬「宗教團體法」草案，是為了回應社會各界要求推動立法規範宗教團體之建議，同時兼顧宗教界希望政府尊重宗教組織自主、自律原則之意見，規劃創設兼具人與財產之宗教法人，規範其組織運作得依其教制或傳統於章程自定，並可取得法人資格，將外界捐獻之財產登記於法人名下；對於目前登記有案的寺廟，亦將維護其既

有權益，準用草案對宗教法人之相關規定。另外，宗教團體符合「所得稅法」、「印花稅法」、「土地稅法」及「房屋稅條例」等規定者，可享受相關之賦稅減免，不因宗教信仰不同而有差別待遇。據此，「宗教團體法」草案及現行稅制並無影響宗教信仰自由。

2. 至部分宗教界人士認為「宗教團體法」草案尚有爭議，內政部也將賡續透過交流廣徵宗教界意見，俟有相當共識後再行推動相關立法工作。

英文回應

1. The Ministry of the Interior is drafting the Religious Organization Act. In response to the pleadings from various communities of our society to move forward with the religious group legislation, and to accommodate the request from religious community to respect the autonomy and self-discipline of religious groups, a new form of “religious legal entities” combining people with property is created under this Act. This new “religious legal entity” may be organized and operated according to its constitution stipulated based on its religious orders or customs. It could obtain the status of a juridical person with the ability to receive and own all contributions and endowment under its name. For currently registered temples, in order to maintain their existing rights and interests, will be under relevant regulations of religious legal entities. In addition, religious groups that meet requirements in the Income Tax Act, Stamp Tax Act, Land Tax Act, and House Tax Act may apply related tax deductions and exemptions, and there is no difference in tax treatment due to different religious beliefs. Accordingly, the Religious Organization Act and Taiwan’s tax system regulations have no different treatment on the freedom of religious belief.
2. As the draft is considered controversial by the religious community, the Ministry of the Interior will continue to solicit their opinions by communicating. When there is considerable consensus, the Ministry of the Interior will implement related legislative work again.

第 19 條

Article 19

點次	問題內容	
41	原文	Please provide information about limitations or restrictions on freedom of expression related to the COVID-19 pandemic, including any prosecutions of journalists and media.
	中文參考翻譯	請提供與 COVID-19 疫情有關的言論自由受限制或約束的資訊，包括對記者和媒體的任何起訴。

中文回應

1. 因應 COVID-19 疫情嚴峻，發表錯誤或不實之傳染病流行疫情訊息，倘引發民眾陷入錯誤或恐慌，導致相關傳染病防治政策無法有效落實，進而造成社會或他人之損害，即具備法律問責的必要性。故依據行政院針對假訊息提出「惡、假、害」的建議定義，亦即「出於惡意、虛偽假造、造成危害」，於「傳染病防治法」第63條及「嚴重特殊傳染性肺炎防治及紓困振興特別條例」第14條定有刑事責任規定。
2. 主管機關針對有關疫情防治之資訊進行謠言及不實消息監測，並藉由輿情聲量評估影響範圍，必要時對外澄清說明；另就散播有關 COVID-19 流行疫情之不實訊息，足生損害於公眾或他人者，移送檢警機關進行偵辦，檢警機關則排除明顯係個人對相關公共事務之評論或質疑、無涉虛假訊息或危害之情形者，依所涉違反法令進行偵處。
3. 監察院針對警察機關查處「社會秩序維護法」第63條第1項第5款案件提出調查意見，於查處是類案件時，除應確實參照法院裁判通說見解，並依法院不罰4原則((1)如「有所本」即非謠言、(2)可受公評之事，攸關公共利益「如政府政策」、(3)個人意見表達與合理評論自屬言論自由、(4)縱引起不特定人瀏覽、回應、分享、討論、爭議，亦難認定足以使聽聞者均產生畏懼或恐慌等負面心理，而有影響公共安寧之情事)，檢視要件不符者，不應任意移送法院，以維護人民憲法第11條言論自由。
4. 自2020年1月1日迄今，經查司法機關偵處疫情假訊息案件1,491件，其中依刑事法令起訴82件88人，緩起訴327件399人，不起訴499件607人；依違反「社會秩序維護法」第63條第1項第5款處以罰鍰者37件，不罰者49件。另上述案件中尚無記者或媒體因發表疫情相關言論而遭起訴之情形。

5. 國家通訊傳播委員會依據「廣播電視法」及「衛星廣播電視法」監理廣播電視節目，基於憲法對言論自由的保障，廣播電視內容無需事先審查，惟廣播電視內容倘有違反法令情事，將循行政程序依法核處。至 COVID-19 疫情期間，國家通訊傳播委員會並無起訴任何記者或媒體。

英文回應

1. At a time when the COVID-19 pandemic is still raging, those who disseminate incorrect or false information regarding the pandemic should be held legally responsible, if this causes the public to be misled or get into a panic, resulting in the impossibility to effectively implement relevant policies designed to prevent contagious diseases and then causing damage to the society in general or some individuals in particular. Therefore, as defined by the Executive Yuan, “evil, fake, and damage” mean things done “with malicious intents, faked or falsified, or causing damage.” They are punishable under Article 63 of the Communicable Disease Control Act and Article 14 of the Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens.
2. The competent authorities monitor information related to the prevention and treatment of the pandemic to identify rumors and disinformation. They assess public opinion volume to determine the scope of influence of any piece of disinformation, and, when necessary, clarify it for the general public. In addition, people who disseminate disinformation regarding COVID-19 pandemic and are likely to cause damage to the public or individuals, after excluding information that is obvious to be personal comments or doubts on public affairs and has nothing to do with false information or has not caused any damage, shall be referred to police or prosecutors’ office to conduct investigation in accordance with relevant laws and regulations.
3. The Control Yuan has probed into the police investigation of cases which violated subparagraph 5, paragraph 1, Article 63 of the Social Order Maintenance Act and has concluded that the police should not only accurately refer to the axioms which are widely held by judicial rulings, but also follow the four non-punishment principles when they investigate similar cases, including 1) rumor per se does not contain grounds, 2) matters that affect public interests (e.g. government policies) are subject to public comments 3)

personal opinions and reasonable comments that are seen as part of freedom of speech, and 4) information that may intrigue other people to browse, respond, share, discuss, or dispute, but is unlikely to cause fear, panic or negative mentality in people who become aware of it and thus disturb peace. If the legal requirements are not met, the case shall not be arbitrarily referred to the court, in order to defend the freedom of speech stipulated in Article 11 of the Constitution.

4. From January 1 2020, a total of 1,491 disinformation cases regarding the pandemic, had been investigated by the judicial departments, among which 82 cases committed by 88 suspects were prosecuted, 327 cases committed by 399 suspects entered into deferred prosecution agreements, and 499 cases committed by 607 suspects were not prosecuted; with respect to the cases in violation of the Social Order Maintenance Act, 37 cases were punished by a fine and 49 cases were exempted. In the above cases, nonetheless, no journalists or media were prosecuted for disseminating pandemic-related information.
5. The National Communications Commission oversees radio and TV programs in accordance with the Radio and Television Act and Satellite Broadcasting Act. Due to the freedom of speech safeguarded by the Constitution, the content of radio and TV programs does not need to be reviewed in advance. If program contents violate the laws or regulations, however, they will be dealt with in accordance with applicable laws following administrative procedures. During the period affected by the COVID-19 pandemic, the NCC has not been observed to have pressed charges against journalists or the media.

第 19 條		
Article 19		
點次	問題內容	
42	原文	Section 309 of the Criminal Code makes ‘public insult’ an offence. This appears to be incompatible with Article 19 ICCPR. Please indicate whether there are plans to repeal section 309 or, at least, to direct law enforcement authorities to ignore it.

	中文參考翻譯	《刑法》第 309 條將「公開侮辱」入罪，這似乎與《公政公約》第 19 條不符。請說明是否有計畫廢除第 309 條，或至少指示執法單位忽略該規定。
--	---------------	---

中文回應

我國於2018年底因應行政院有關防制假消息之政策而為通盤討論，基於國家及社會法益之保護而修訂相關遏止假訊息之刑事處罰規定，經法務部綜合考量並送請該部刑法研究修正小組討論後，對於保護個人法益之妨害名譽罪將來是否保留或除罪，認仍需充分討論，詳為研議。法務部將持續廣泛蒐集各界意見，審慎研議，以兼顧國家社會秩序之維護及言論自由。

英文回應

In response to the Executive Yuan's policy to control disinformation, a general discussion was conducted at the end of 2018 on the amendment to the regulations related to the criminal punishment to stop disinformation in order to protect national and social legal interest. After comprehensive consideration and the discussion of the criminal code amendment team, further discussion on the retention or abolition of the offenses against reputation is required in order to protect individual legal interest. We will continue to hear and carefully consider the opinions from different parts of society to maintain national and social order and freedom of speech.

<p>第 20 條</p> <p>Article 20</p>		
點次	問題內容	
43	原文	Why is there no Criminal Code provision addressing advocacy of national, racial or religious hatred? If other legal provisions address the requirements of Article 20 ICCPR, please provide examples of their implementation.
	中文參考翻譯	為何《刑法》中沒有針對鼓吹民族、種族或宗教仇恨的規定？如果其它法律規定涉及《公政公約》第 20 條的要求，請提供其實施範例。

中文回應

1. 我國制定有殘害人群治罪條例，第 2 條規定「意圖全部或一部消滅某一民族、種族或宗教之團體，而有左列行為之一者，為殘害人群罪，處死刑、無期徒刑或 7 年以上有期徒刑：一、殺害團體之分子者。二、使該團體之分子遭受身體上或精神上之嚴重傷害者。三、以某種生活狀況加於該團體，足以使其全部或一部在形體上歸於消滅者。四、以強制方法妨害團體分子之生育者。五、誘掠兒童脫離其所屬之團體者。六、用其他陰謀方法破壞其團體，足以使其消滅者。前項之未遂犯罰之。預備或陰謀犯第 1 項之罪者，處 1 年以上、7 年以下有期徒刑。」第 3 條規定「公然煽動他人犯前條第 1 項之罪者，處無期徒刑或 7 年以上有期徒刑。」已符合公約要求。
2. 我國是政教分離的國家，依憲法第 7 條及第 13 條，人民無分宗教在法律上一律平等，且人民有信仰宗教之自由。我國並未設立國教，基於宗教平等原則，並無任何優勢宗教，亦無僅對特定宗教之補貼、禁止或處罰。
3. 根據皮尤研究中心的調查，我國宗教多樣性指數全球排名第 2，另外，也由於文化上的包容性，我國宗教間並無宗教仇恨或歧視，反而是互相尊重與融合。無論是自然崇拜、儒家文化、佛教、道教、天主教、基督教、伊斯蘭或新興宗教等都能和睦相處或巧妙地融為一爐，並呈現在宗教建築物外觀或宗教儀式上，更有同一神祇以不同名稱出現在不同宗教，而且各宗教間也會合作攜手推動慈善公益與社會教化事業。
4. 內政部移民署業管之入出國及移民法，尚無涉及公政公約第 20 條之要求。

英文回應

1. With respect to Article 2 of Taiwan's Act of Prevention and Punishment of the Crime of Genocide: "Any one of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group shall be deemed as genocide and punished by the death penalty, life imprisonment, or term imprisonment with a minimum of seven years, as such: I. Killing members of the group. II. Causing serious bodily or mental harm to members of the group. III. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part. IV. Imposing measures intended to prevent births within the group. V. Forcibly transferring children of the group to another group. VI. Damaging the group with other conspiratorial means sufficient to exterminate the group. Any attempted commission thereof. Preparation or

conspiracy to commit the offenses stated in paragraph 1 shall be punished by term imprisonment of one to seven years. Article 3 stipulates “Direct and public incitement to commit the offenses stated in paragraph 1 of the preceding article shall be punished by life imprisonment or term imprisonment with a minimum of seven years.” The Act has complied with the ICCPR.

2. Taiwan is a country separated from church and state. Articles 7 and 13 of the Constitution say that the people, regardless of their religion, are equal before the law and are entitled to the freedom of religious belief. Taiwan has no state religion and prevailing religion that based on the principle of religious equality. Therefore, it does not sponsor, prohibition or penalty a specific religion.
3. According to a survey conducted by the Pew Research Center, Taiwan’s religious diversity index ranks 2nd in the world. In addition, due to cultural tolerance, there is no religious hatred or discrimination among religions in Taiwan, but there are mutual respect and syncretism. Whether it is nature worship, Confucian culture, Buddhism, Taoism, Catholicism, Protestantism, Islam, New Religions, etc., which can coexist in harmony or be integrated into one ingeniously. And they are presented on the appearance of religious buildings or religious ceremonies. Not only there are the same deity appearing in different religions under different names, but also different religions will facilitate or sponsor charities and social education together.
4. There is no provision addressing advocacy of national, racial or religious hatred in the Immigration Act which is enforced by the Ministry of the Interior.

第 21 條		
Article 21		
點次	問題內容	
44	原文	For what reasons has the Assembly and Parade Act, which the Government in the 2013 review proceedings already acknowledged was in violation of Article 21 ICCPR, not yet been amended despite the draft which was submitted to the Legislative Yuan in 2016? Does the draft comply with the

		requirements which must be respected in accordance with the interpretation of Article 21 in General Comment No. 37 (2020)?
	中文參考翻譯	政府在 2013 年的審查程序中已經承認《集會遊行法》違反《公政公約》第 21 條，儘管修正草案已於 2016 年提交立法院，但出於什麼原因仍未修訂？根據《公政公約第 37 號一般性意見》(2020 年)對第 21 條的解釋，草案是否符合必須遵守的要求？

中文回應

1. 「集會遊行法」修正草案前於2016年1月13日陳報行政院審查，於2016年2月1日送立法院審議，業經立法院第9屆第1會期內政委員會於2016年5月12日審查完竣，並於同年7月1日及11月4日進行政黨協商，已完成一讀程序，惟仍有「安全距離」、「強制排除」等條文保留，後未能完成三讀程序。
2. 草案修法重點有「廢除許可制，改採報備制」、「限縮命令解散之範圍，並訂定相關限制要件」、「刪除禁制區，改以安全距離概念」及「刪除刑罰、行政罰規定，回歸適用相關法律」等，已考慮社會現況，並符合公政公約必須遵守的要求。

英文回應

1. The amendment draft bill of the Assembly and Parade Act has completed its first reading after it was submitted to the Executive Yuan for a review on 13 January 2016, and then was proposed to the Legislative Yuan for deliberation on 1 February 2016, and then was examined in the first session of the 9th Internal Administration Committee of the Legislative Yuan on 12 May 2016 in addition to the cross-party negotiations on 1 July and 4 November 2016. However, due to the reservations about the terms of “security distance,” “compulsory exclusion,” etc., contained in the bill, its third reading has yet to be completed.
2. The principal amendments proposed to the Act, including “replacing the authorization regime by notifications,” “narrowing the scope of ordered dispersal with relevant limitations provided,” “replacing the concept of prohibited area with security distance,” and “abolishing administrative and criminal punishments in the Act and addressed by relevant laws if applicable,” etc., have considered the current social milieu and are in conformity with the requirements of the ICCPR.

第 21 條		
Article 21		
點次	問題內容	
45	原文	According to Interpretation No. 718 by the Constitutional Court, the right to hold urgent and spontaneous rallies is granted by the Constitution. In the Parallel Report of Covenants Watch (§435), it is alleged that systemic problems have persisted in the last four years and that “protests are typically hotspots for confrontations and plentiful limitations remain on people’s rights to assemble and march”. The Government is requested to comment on how the Interpretation has been applied by the authorities in the last four years and whether the application is in conformity with the constitution and ICCPR.
	中文參考翻譯	根據《司法院釋字第718號》，舉行緊急性及偶發性集會的權利受到憲法保障。《人權公約施行監督聯盟平行報告》第435點稱過去4年間仍然存在系統性問題，「在抗爭現場發生最多衝突、限制人民集會遊行權甚多」。請政府就主管機關過去4年如何適用該大法官解釋，以及其適用是否符合憲法和《公政公約》提出意見。

中文回應

1. 「司法院2014年3月21日釋字第718號解釋，以集會遊行法第8條第1項規定，室外集會、遊行應向主管機關申請許可，未排除緊急性及偶發性集會、遊行部分，同法第9條第1項但書與第12條第2項關於緊急性集會、遊行之申請許可規定，已屬對人民集會自由之不必要限制，與憲法第23條規定之比例原則有所抵觸，不符憲法第14條保障集會自由之意旨，認應自2015年1月1日起失其效力。」內政部警政署已妥為因應處理，目前施行上尚無窒礙難行之處，作為如下：
 - (1) 積極推動「集會遊行法」修正作業，並研議改採「報備制」，同時增訂偶發性集會、遊行之必要規範。
 - (2) 內政部於2014年12月29日訂定發布「緊急性及偶發性集會、遊行之處理原則」，並自2015年1月1日生效，以指引社會各界及要求執法機關遵循。

2. 承上，現行民眾舉行緊急性及偶發性集會的權利均受到憲法保障，並符合公政公約之要求：

- (1) 偶發性集會、遊行若符合「聚集舉行集會、遊行前，具有特殊原因」、「因特殊原因而自發性聚集，事實上未經召集」及「聚集舉行集會、遊行前，事實上無發起人或負責人」情形者，無須申請許可。
- (2) 緊急性集會、遊行之申請，要求主管機關應於收受申請書即時核定，並以書面通知負責人。

英文回應

1. “ Interpretation No. 718 made by the Constitutional Court of the Judicial Yuan on 21 March 2014 indicated that, in accordance with the provisions of paragraph 1, Article 8 of the Assembly and Parade Act, organizers of outdoor assemblies and processions shall apply to the competent authorities for approval, which are also applicable to urgent and spontaneous assemblies and processions. However, the provisions of paragraph 1, Article 9 and paragraph 2, Article 12 in relation to the application for approval for urgent assemblies and processions, are contradictory to the Proportionality Principle of Article 23 of the Constitution, and not in compliance with the spirit of the protection of Freedom of Assembly of Article 14 of the Constitution, so they shall lose their effect from 1 January 2015.” This Interpretation has been properly addressed and there is no predicament in relation to its implementation as of now. To implement it, we have made the following efforts:

- (1) We have actively promoted amendments to the Assembly and Parade Act, in which the adoption of a notification regime is considered. In addition, we are planning to enact additional rules to regulate spontaneous assemblies and processions.
 - (2) The Ministry of the Interior enacted and promulgated the “Regulations Governing the Identification and Handling of Urgent and Spontaneous Assemblies and Processions” on 29 December 2014, which came into effect on 1 January 2015, and has served as a guideline for all sectors of society as well as law enforcement agencies to abide by.
2. With reference to the aforementioned rules, people’s rights to urgent and spontaneous assemblies and processions are protected in accordance with the Constitution and are in conformity with the requirements of the ICCPR as below:

- (1) Spontaneous assemblies and processions need not apply for permission if they meet any of the following conditions: “There is a special cause prior to the gathering for assemblies and processions,” “The gathering takes place spontaneously out of a special cause and, in fact, is not organized in advance,” and “Prior to the gathering for the assemblies or processions, there is, in fact, no person calling for them or being responsible for them.”
- (2) Upon receiving the application for an urgent assembly or procession, the competent authority is required to review it immediately and then notify the responsible person in writing.

第 21 條		
Article 21		
點次	問題內容	
46	原文	In the Parallel Report of Covenants Watch (§§ 437-438), it is alleged that enforcement against assemblies by the police is often chaotic due to a lack of legal standards and as a result police officers largely rely on administrative rules and standard operating procedures. This structural problem leads police officers in charge to act out of control and with limited accountability and possibility for citizens to get compensation for illegal behaviour. In the same context Amnesty International in its report point 7.2. underlines that at present there is no regulation to ensure that the use of less lethal weapons, even if they can cause severe damage, complies with international human rights standards, in particular the principle of proportionality, cf. in this respect the General Comment No. 37 (§§ 85-87). The Government is requested to comment on these allegations and indicate whether it should be considered to introduce legislation in order to avoid uncertainty about enforcement procedures.
	中文參考翻譯	《人權公約施行監督聯盟平行報告》第437-438點稱由於缺乏法源標準，警察對集會的執法往往混亂，因此警察在很大程度上依賴行政規則

	<p>和標準作業程序。這種結構性問題導致負責之員警失控且難以究責，公民因此類違法行為獲得賠償的可能性有限。在同一脈絡下，國際特赦組織於其報告第7.2點強調縱使低致命性武器可能造成嚴重傷害，但目前沒有對低致命性武器的使用訂定任何法律規範，確保符合國際人權標準，特別是比例原則(參見《第37號一般性意見》第85-87點)。請政府對這些指稱發表意見，並說明是否應考慮立法避免執法程序的不確定性。</p>
--	--

中文回應

1. 有關集會遊行保障及執法，主要是依循「集會遊行法」規定，並參照公政公約意涵執行；另訂定「警察機關辦理人民申請集會遊行作業規定」、「民眾抗爭事件處理程序及聯繫作業要點」、「偶發性及緊急性集會遊行處理原則」等法令及行政規則指導要求主管機關及警察，以積極保障人權，合於當前集會遊行處理機制，並與憲法保障集會自由基本人權意旨相符。
2. 有關警械使用部分，均依照「警械使用條例」之規範，並注意比例性、適當性及必要性，另將持續並滾動式修正相關規範，以符合最新情勢。
3. 上揭作法已遵守公政公約要求。

英文回應

1. The protection of and enforcement against assemblies and processions mainly follow the Assembly and Parade Act and refer to the ICCPR. In addition, laws and regulations, such as the “Regulation Governing the Processing of People’s Application of Assembly and Procession by the Police Institutions,” “Regulation Governing the Handling Procedure and Liaison for Protests by the Public,” and “Regulations Governing the Handling of Urgent and Spontaneous Assemblies and Processions,” etc., were enacted to guide the competent authorities and the police to actively safeguard human rights, to comply with the current assembly and procession handling mechanism and to conform with the protection of human rights of free assemblies guaranteed by the Constitution.
2. In respect of the use of police weapons, the Act Governing the Use of Police Weapons will apply, with a caveat to the principle of proportionality, suitability, and necessity. In addition, relevant regulations are to be constantly reviewed for amendments to keep them suitable for the latest developments.
3. The above efforts have been made to meet the requirements of the ICCPR.

第 21 條		
Article 21		
點次	問題內容	
47	原文	Covenants Watch furthermore criticizes that penalties are still applied to protesters despite recommendations by the Committee of Experts to abandon this practice, cf. also General Comment No. 37 (§ 67). Would the Government consider bringing this practice to an end, irrespective of whether a draft bill has been adopted?
	中文參考翻譯	人權公約施行監督聯盟進一步批評，儘管審查委員會建議捨棄此做法，但目前處罰仍適用於抗議者(同樣參見《公政公約第37號一般性意見》第67點)。不論是否通過草案，政府是否會考慮終止這種做法？

中文回應

1. 人權、法治均為我國重要施政理念，行政機關盱衡實況依法行政，對於違反法律者仍須做出適當處置。
2. 經過多年努力，我國目前研擬之「集會遊行法」修正草案已朝「刪除刑罰、行政罰規定，回歸適用相關法律」方向落實，以充分融入公政公約理念。

英文回應

1. Human rights and the Rule of Law are two important values of the Republic of China, Taiwan, so the government performs administrative duties in accordance with the law after weighing the situation and is legally bound to properly deal with violations.
2. After years of hard work, the current amendment draft bill of the Assembly and Parade Act has been proposed in order to “abolish its administrative and criminal punishments and make relevant laws applicable,” as our ways to incorporate the implications of the ICCPR.

第 21 條		
Article 21		
點次	問題內容	
48	原文	Please provide information and comment on the allegations in the Parallel Report of Covenants Watch (§ 437) concerning the so-called Labour-law incident. Did the authorities act in accordance with their obligations under Article 21 ICCPR?
	中文參考翻譯	請就《人權公約施行監督聯盟平行報告》第437點中所提關於《勞動基準法》修法抗議*事件，提供資訊和意見。主管機關是否按照《公政公約》第21條規定的義務行事？ *註:秘書處補充說明。

中文回應

1. 2017年12月23日「反對勞基惡法修法、保障勞工權益」集會遊行活動，本案主辦單位宣布活動結束後，部分群眾拒不離去，持續以「不依核定路線遊行」、「推擠執勤員警」、「滯留路口影響交通」等一連串影響公益行為逾7小時。
2. 主管機關臺北市政府警察局始終採取柔性勸導方式，惟群眾違法失序四處移動，甚至企圖衝向火車站，嚴重危害警察自身安全、交通秩序與公共安全；為確保公共安全，始依「集會遊行法」第25條第1項：「經許可之集會、遊行而有違反許可事項、許可限制事項及有其他違反法令之行為者，主管機關得予警告、制止或命令解散」及第2項：「前項制止、命令解散，該管主管機關得強制為之」規定，完成警告、制止及命令解散程序，經先予圍圍保護，並以最柔性之強制力予以「安全帶離」，才避免不法的危險抗爭繼續擴大，執法過程適當、必要，過程持續遵循公政公約要求。

英文回應

1. The demonstration staged “to oppose the nefarious amendments to Labor Standards Act and protect workers’ rights” was held on 23 December 2017. Although the announcement made by the organizer to end the demonstration, a group of demonstrators refused to leave.

They continuously posed a series of actions for more than 7 hours affecting public interests, which included “parading outside the approved routes,” “pushing and shoving police officers,” “lingering at intersections and thus obstructing traffic,” etc.

2. Despite the fact that the competent authority, the Taipei City Police Department, had consistently adopted a soft approach to persuade them to leave, the illegal crowd still lost control, stormed around, and even attempted to raid the train station, thus putting their safety, traffic order, and public security in severe jeopardy. For the purpose of ensuring safety, the police, in accordance with paragraph 1, Article 25 of the Assembly and Parade Act, which dictates that “the competent authority may warn, stop demonstrators, or order them to dismiss if the approved assembly or parade is found to have failed to comply with the requirements or restrictions imposed on the approval and/or have acted to violate the law, and paragraph 2, Article 25 of the Act, which dictates that “the order to stop and to dismiss prescribed in the preceding paragraph shall be forcibly enforced by the competent authority,” surrounded the illegal crowd for their protection, and then used the most soft approach and the minimum force to escort them away after having warned, stopped them and ordered them to dismiss. Our soft approach succeeded in averting the continuing expansion of the illegal and dangerous protest, and our enforcement was proper, necessary, and in conformity with the requirements of the ICCPR.

第 21 條		
Article 21		
點次	問題內容	
49	原文	The Government is requested to provide information and comment on the incident concerning the Sunflower movement which led to prosecution and was decided by a High Court judgment in April 2020. Is the judgment final? Have the authorities as alleged by Amnesty International in its report point 7.3 failed to comply with their obligations under Article 21 ICCPR?

	中文參考翻譯	請政府就導致起訴並由高等法院於2020年4月作出判決的太陽花運動事件提供資訊和意見。該判決是否定讞？主管機關是否如國際特赦組織在其報告第7.3點中所指稱，未能遵守其根據《公政公約》第21條承擔的義務？
--	--------	--

中文回應

1. 2014年3月18日，不滿立法院試圖通過服貿協議的群眾占據立法院，並於3月23日深夜侵入行政院院區和建築物。臺北地方檢察署認時任「黑島青」總召集人等8人，以臉書、群組號召群眾，在行政院、立法院持擴音器發言，號召指揮群眾前往占領行政院等情事已違法，將該等群眾依涉犯之相關法律予以起訴。臺北地方法院於2017年3月31日判決被告等人均無罪，臺北地方檢察署認適用法律尚嫌未洽，對於原判決此部分聲明不服，於2017年5月19日提起上訴。
2. 高等法院於2020年4月宣判，被以「煽惑他人犯罪」起訴的其中7人，由一審「無罪」被改判為「有罪」，被判處2至4個月徒刑。後被告等人再提起上訴，最高法院於2021年1月18日以「人民行使抵抗權或公民不服從得阻卻違法或減免刑責」為由，撤銷原判決發回高等法院更審，目前全案尚未定讞。
3. 本案於2014年3月18日發生後，因案件持續進行，以國家為訴追主體持續與相關參與者進行訴訟程序，嗣後我國行政院以站在尊重言論自由的高度及創造社會大眾互相諒解立場，營造更和諧社會的善意，於2016年5月24日針對其中涉及侵入住宅及毀損等告訴乃論罪之126人撤銷刑事告訴，惟部分如同前述係涉及非告訴乃論罪者，則仍交由司法機關進行認定，均遵循公政公約要求。

英文回應

1. The crowd who disapproved of Legislative Yuan's attempt to pass the Cross-Strait Service Trade Agreement took over its office buildings on 18 March, 2014, and then intruded into the Executive Yuan and its surrounding area on 23 March. Subsequently, a group of 8 people from The Black Island Nation Youth Front, including its leader, who gathered the crowd by using the Facebook and social media groups, gave speeches at the Executive Yuan and Legislative Yuan, and incited the crowd for the forcible take-over, was

considered having broken laws and then was prosecuted by the Taiwan Taipei District Prosecutors Office in accordant with the violated laws. However, on 31 March, 2017, the defendants were found not guilty by the Taiwan Taipei District Court. The Taiwan Taipei District Prosecutors Office, nevertheless, said that the laws were wrongly applied and appealed against the judgment on 19 May 2017.

2. The Taiwan High Court pronounced its judgment for the case in April 2020 which overrode the judgement made by the first trial for having found guilty of inciting people to commit offenses, and 7 out of the 8 defendants were sentenced to imprisonment for 2 to 4 months. The defendants then appealed again to the Supreme Court, and, on 18 January 2021, the case was overturned and remanded to the Taiwan High Court for a re-trial on the grounds that the acts of the people, who exercise their rights of resistance or civil disobedience, may be justified or their punishment may be reduced. As a result, the case is still not final.
3. The litigations, in which the state acts as a party and undergoes the legal procedures with involved parties in the trials, have proceeded since the incident that occurred on 18 March 2014. Subsequently, the Executive Yuan, with the attitude of respecting freedom of speech, the stance of creating a mutual understanding atmosphere in the society, and the good will of fostering a society that is more harmonious, withdrew the criminal complaints against the 126 people accused of offenses that are indictable upon complaint, including intruding into a residence, criminal damages, etc. However, people who are charged with offenses that are not indictable upon complaint, as stated above, are subject to the evaluation of the judiciary. All the acts taken by the government are in conformity with the requirements of the ICCPR.

第 21 條		
Article 21		
點次	問題內容	
50	原文	The Government is requested to provide information and comment on the incidents mentioned in the Independent Opinion §§ 126-127 of the NHRC, cf. also § 130 of the Opinion. Were the rights granted by Article 21 ICCPR respected?
	中文參考翻譯	請政府提供關於國家人權委員會《兩公約第三次國家報告獨立評估意見》第126-127點所提「特貿4B」區域住戶強制執行拆遷，及《勞動基準法》修法抗議*事件之資訊與意見(亦參見《兩公約第三次國家報告獨立評估意見》第130點)。《公政公約》第21條賦予的權利是否得到尊重？ *註:秘書處補充說明

中文回應

1. 高雄市前鎮區中華五路拉瓦克部落自救會、正勤第五號船渠自救會及市有土地綠美化工程占用戶，因不滿市府公告2018年3月21日起開始強拆違建屋，多次號召相關團體前往市政府與市議會陳抗，市政府於2018年4月2日執行拆除部落11戶建物；自救會成員遂利用2018年4月13日市長出席活動，至活動會場向市長提出停止拆屋訴求。當日活動成員舉白布條、訴求標語、擴音器喧鬧抗議，影響人行道通行，並有成員突然衝至機慢車道奔跑喧鬧，主管機關高雄市政府警察局為顧及安全公共，對該成員依「警察職權行使法」第19條執行保護管束。後因現場員警受傷，以涉嫌「刑法」妨害公務罪、傷害罪現行犯偵辦，均依法治程序辦理，並遵循公政公約要求。
2. 2017年12月23日「反對勞基惡法修法、保障勞工權益」集會遊行活動，本案主辦單位宣布活動結束後，部分群眾拒不離去，持續以「不依核定路線遊行」、「推擠執勤員警」、「滯留路口影響交通」等一連串影響公益行為逾7小時。主管機關臺北市政府警察局始終採取柔性勸導方式，惟群眾違法失序四處移動，甚至企圖衝向火車站，嚴重危害警察自身安全、交通秩序與公共安全；為確保安全，始依「集會遊行法」第25條第1項：「經許可之集會、遊行而有違反許可事項、許可限制事項及有其他違反法令之行

為者，主管機關得予警告、制止或命令解散」及第2項：「前項制止、命令解散，該管主管機關得強制為之」規定完成警告、命令解散及制止程序，經先予圈圍保護，並以最柔性之強制力予以「安全帶離」，才避免不法的危險抗爭繼續擴大，執法過程適當、必要，過程持續遵循公政公約要求。

英文回應

1. The Ljavek Tribe Self-help Association located on Zhonghua 5th Road, the Zhengqin Road to Canal No. 5 Self-help Association, and the occupants of the city government-own property which was under environmental maintenance in Qianzhen District, Kaohsiung City condemned the pronouncement by the City Government that the illegal houses on the property were to be demolished starting from 21 March, 2018, and had gathered relevant groups to protest at the City Government and City Council many times. Then, following that 11 tribe houses were torn down by the City Government on 13 April 2018, the members of the self-help groups protested at the venue where the then City Mayor participated in an event, and requested the then mayor to stop the demolition of their residences. Based on the observation that the protesters on the day were holding white banners, raising placards, shouting with loudspeakers, obstructing sidewalks, and one of them even dashed into the motorcycle and slow-moving vehicles lanes running and shouting, the competent authority, Kaohsiung City Police Department, for the purpose of ensuring safety, therefore brought the particular protester under control in accordance with Article 19 of the Police Power Exercise Act. Subsequently, due to the injuries inflicted on some police officers, the police investigated the offender caught in the act of committing the crime of interference with public function and causing injuries. Everything that was done on that day in compliance with the legal procedures and the requirements of the ICCPR.
2. Despite the fact that the competent authority, the Taipei City Police Department, had consistently adopted a soft approach to persuade them to leave, the illegal crowd still lost control, stormed around, and even attempted to raid the train station, thus putting their safety, traffic order, and public security in severe jeopardy. For the purpose of ensuring safety, the police, in accordance with paragraph 1, Article 25 of the Assembly and Parade

Act, which dictates that “the competent authority may warn, stop demonstrators, or order them to dismiss if the approved assembly or parade is found to have failed to comply with the requirements or restrictions imposed on the approval and/or have acted to violate the law, and paragraph 2, Article 25 of the Act, which dictates that “the order to stop and to dismiss set forth in the preceding paragraph may be forcibly enforced by the competent authority,” surrounded the illegal crowd for their protection, and then used the most soft approach and the minimum force to escort them away after having warned, stopped them and ordered them to dismiss. Our soft approach succeeded in averting the continuing expansion of the illegal and dangerous protest, and our enforcement was proper, necessary, and in conformity with the requirements of the ICCPR.

第 23 條		
Article 23		
點次	問題內容	
51	原文	It is commendable that Taiwan has legalised same sex marriage through Judicial Yuan Interpretation No. 748. Investigating the de facto situation, has there been monitoring of the implementation of the law to ascertain whether there are circumstances that would impede certain individuals or couples from benefitting from this law? If so, please explain such circumstances and whether there are plans to circumvent them.
	中文參考翻譯	臺灣透過《司法院釋字第748號解釋》將同性婚姻合法化，值得稱許。在調查實際情況時，是否對法律的實施進行了監督，以確定是否存在妨礙某些個人或伴侶從該法律中受益的情況？若存在，請說明此類情況以及是否有計畫防止這些情況。

中文回應

1. 關於對法律的實施進行監督：配合「司法院釋字第七四八號解釋施行法」(下稱同婚專法)施行，各機關共盤點 3,023 件表單(須調整 599 件)、盤點 235 筆資訊系統(須調整

33 筆)，除涉及現行法規(如：人工生殖法共 12 筆)外，其餘須調整之 620 筆表單及資訊系統均已調整完成。

2. 防止妨礙某些個人或伴侶從同婚專法中受益之計畫：

- (1) 訂定性別平等重要議題，積極破除性別刻板印象與偏見，引導各部會於推動提高民眾對多元性別及多元家庭之認識與接受度。
- (2) 教育宣導：將「CEDAW 教育訓練及宣導計畫(2020-2023 年)」納入多元性別權益保障課程，並已拍攝多元性別宣導影片、建置多元性別權益保障教材及數位課程。另已將各部會及地方政府相關宣導納入性平考核指標，鼓勵推動。
- (3) 依現行涉外民事法律適用法第 46 條規定，我國國民與未承認同性婚姻國家人士，在我國可能無法辦理結婚登記。司法院已通過涉外民事法律適用法修正草案，該草案已函送行政院會銜中，完成後將提請立法院審議。至兩岸同婚部分是否須修正臺灣地區與大陸地區人民關係條例，及兩岸同婚所涉及之入境事由、面談機制、登記程序等行政配套，大陸委員會刻召開跨部會研商會議，配合涉民法整體修法作業時程辦理。
- (4) 姻親關係：依同婚專法辦理結婚登記之當事人一方，並未與他方之血親成立姻親關係，於同婚專法草案審議期間，行政院已邀請相關主管機關檢視相關配套法規及因應措施，並就現行法規有無擴大適用對象之必要(例如家庭暴力防治法第 3 條所定家庭成員或政府採購法第 15 條之利益迴避規定)，請各該主管機關本於權責考量。
- (5) 女同志人工生殖：衛生福利部委託研究研議修正「人工生殖法」。

英文回應

1. As regards the supervision of the implementation of the law: In conjunction with the implementation of the “Act for Implementation of J.Y. Interpretation No. 748” (hereinafter referred to as the “Same-Sex Marriage Law”), cross-ministerial agencies have taken stock of 3,023 forms (599 need to be adjusted) and 235 information systems (33 need to be adjusted). Except for existing laws and regulations (e.g., 12 forms for the Assisted Reproduction Act), the other 620 forms and information systems needs to be adjusted have been completed.

2. With regard to circumstances that would impede certain individuals or couples from benefiting from the Same-Sex Marriage Law:

- (1) We have defined important issues of gender equality and actively seek measures to eliminate gender stereotypes and prejudices, and guided ministries in promoting greater awareness and acceptance of gender diversity and diverse family structures.
- (2) Education advocacy: gender diversity rights protection has been incorporated into the “CEDAW Education train and Advocacy Plan (2020-2023)” curriculum. Awareness and educational videos on gender diversity advocacy have been produced, teaching materials and digital courses on gender diversity rights protection have been developed. In addition, all ministries and local governments have been included in the gender equality assessment index to encourage promotion.
- (3) According to the provision of Article 46 “Act Governing the Choice of Law in Civil Matters Involving Foreign Elements” (hereinafter referred to as the Civil Law for Foreign Matters), nationals of Taiwan and persons from countries that do not recognize same-sex marriages may not be able to register for marriage in Taiwan. The draft amendment to the Civil Law for Foreign Matters has been approved by the Judicial Yuan. It will be sent to Legislative Yuan for consideration after co-signing by the Executive Yuan. As for whether same-sex marriages between cross-strait couples require the amendment of the Act Governing Relations and the People of the Taiwan Area and the Mainland Area, as well as the administrative support for cross-strait same-sex marriages, such as the entry permits, interview mechanisms, registration procedures, etc., the Mainland Affairs Council has convened an inter-ministerial meeting to study and discuss relevant matters, in line with the schedule for the overall revision of the Civil Law for Foreign Matters.
- (4) Marriage Relationship: If one of the parties to a marriage registered under the Special Law on Same-sex Marriage (Act for Implementation of J.Y. Interpretation No. 748) has not established a relationship by marriage with a blood relative of another party, the Executive Yuan has invited the relevant competent authorities to review the relevant complementary laws and regulations and response measures during the examination of the draft of the Special Law on Same-sex Marriage, and to consider

whether there is a need to expand the scope of application of the existing laws and regulations (e.g., family members as stipulated in Article 3 of the Domestic Violence Prevention Act or the interest avoidance provision in Article 15 of the Government Procurement Act). The competent authorities are requested to take these into account.

- (5) Artificial reproduction for lesbians: The Ministry of Health and Welfare commissioned a study to propose amendments to the “Assisted Reproduction Act”.

第 23 條		
Article 23		
點次	問題內容	
52	原文	Numerous initiatives have been reported which are addressing violence against women in Taiwan, especially domestic violence. Please indicate whether the impact of the various initiatives has been assessed, and on the basis of this assessment, whether a comprehensive plan has been developed to address domestic violence by adopting an interdisciplinary and multi-sectoral approach.
	中文參考翻譯	據悉在臺灣有許多倡議正因應對女性的暴力，尤其是家庭暴力。請說明是否評估了各種倡議的影響，而在此評估的基礎上，是否制定了綜合計畫，透過跨學科和多部門的方法來因應家庭暴力問題。

中文回應

為有效促進家庭暴力防治，家庭暴力防治法第 4 條中已明定主管機關及衛生、教育、勞工、警政、法務、移民、文化、通訊傳播及戶政等目的事業主管機關，並針對家庭暴力防治之需要，就其權責範圍，規劃辦理各項預防、宣導、倡議及保護扶助，以透過跨學科和多部門的方法來因應家庭暴力問題。基此，衛生福利部及相關主管機關規劃執行整合性家庭暴力安全防護網計畫，並配合辦理相關教育訓練，提升是類責任人員處遇敏感度，協調跨網絡合作機制，強化資源統合運用，以確保被害人安全並預防加害人再犯。

英文回應

To effectively prevent domestic violence, Article 4 of the Domestic Violence Prevention Act has been enacted to solve domestic violence through interdisciplinary and multisectoral approaches. The article states that the Ministry of Health and Welfare, health, education, labor, police, legal, immigration, culture, communications, and household registration competent authorities shall take the initiative to plan and organize various programs related to domestic violence prevention, advocacy, protection, and assistance within the scopes of their responsibilities. Therefore, the Ministry of Health and Welfare and other related competent authorities have executed an integrated domestic violence safety protection net program. Education and training are coordinated and organized to improve the sensitivity of responsible personnel to cases of domestic violence, coordinate the cross-network cooperation mechanism, and reinforce the integrated use of resources, thereby safeguarding the safety of victims of domestic violence and preventing the repeat offense by perpetrators.

第 25 條		
Article 25		
點次	問題內容	
53	原文	In the Common Core Document, Table 18 (page 24) shows the number of elected local administrators, chiefs of villages, and local representatives. Please provide a breakdown of elected representatives based on gender, ethnicity, disability or other minority status.
	中文參考翻譯	在《兩公約第三次國家報告共同核心文件》中，表18(第24頁)(指英文版)*顯示地方行政首長、村(里)長和地方民意代表應選名額。請提供應選代表的細目分類，即基於性別、種族、身心障礙或其它少數族群身分的分類。 *註：秘書處補充說明。

中文回應

地方制度法第 33 條明定地方民意代表原住民應選名額及婦女保障名額。有關兩公約第三次國家報告共同核心文件表 18 地方民意代表原住民及婦女應選名額的細目分類統計資料如下，另公職人員選舉罷免法未規定候選人登記時應提供是否具身心障礙身分之資料，爰無相關統計資料可資提供。

各地方行政首長、村(里)長及地方民意代表應選名額

單位：人

直轄市				縣(市)			
行政首長		民意代表		行政首長		民意代表	
市長 6	市議員 380			縣(市)長 16	縣(市)議員 532		
	區域 358	平地 原住民 11	山地 原住民 11		區域 485	平地原 住民 23	山地原 住民 24
	應有婦女當選名額				應有婦女當選名額		
	68	1	0		84	3	3
區長 (市長指 派)	山地原 住民區 長 6	(無)	山地原住民 區民代表 50	鄉(鎮、市)長 198	鄉(鎮、市)代表 2099		
			應有婦女當選名 額 5		區域 2028	平地原住民 71	
					應有婦女當選名額 222	9	
里長 4157				村(里)長 3597			

資料來源：中央選舉委員會

英文回應

Article 33 of the Local Government Act stipulates the number of indigenous members and the quota of seats reserved for female in all levels of local council. Table 18 Number of elected local administrators, chiefs of villages, and local representatives is updated as followings. When registering to stand for an election, the Civil Servants Election and Recall Act does not require an individual to disclose a disability status to the election commissions. Election commissions do not have a statistical breakdown based on disability status.

Number of elected local administrators, chiefs of villages, and local representatives

Unit: persons

Municipality				County (City)					
Local administrator		Local representatives		Local administrator		Local representatives			
Mayor 6		City Councilors 380		Magistrates (Mayors) of Counties (Cities) 16		County (City) Councilors 532			
		District 358	Lowland Indigenous 11			Mountain Indigenous 11	District 485	Lowland Indigenous 23	Mountain Indigenous 24
		Seats reserved for female				Seats reserved for female			
		68	1	0	84	3	3		
District executives (assigned by Mayor)	Indigeno us peoples district executives 6	(None)		Mayors of Townships (Cities) 198	Township (City) Council Representatives 2099				
		Mountain Indigenous District Council Representatives 50			District 2028	Lowland Indigenous 71			
		Seats reserved for female 5			Seats reserved for female				
					222	9			
Village Chief 4157				Village Chief 3597					

Source: Central Election Commission

第 25 條		
Article 25		
點次	問題內容	
54	原文	The number and gender distribution of elected legislators in 2012 and 2016 are presented in Table 20 (page 25). Please provide a breakdown of elected legislators based on ethnicity, disability or other minority status.
	中文參考翻譯	2012年和2016年立法委員選舉當選人數及性別比率見於表20(第25頁)(指英文版)*, 請提供立法委員選舉當選人的細目分類, 即基於種族、身心障礙或其它少數族群身分的分類。 *註:秘書處補充說明

中文回應

憲法增修條文第 4 條第 1 項、第 2 項規定，自由地區平地原住民及山地原住民選出之立法委員各 3 人；全國不分區及僑居國外國民選出之立法委員 34 人，各政黨當選名單中，

婦女不得低於二分之一，表 20 中 2012 年及 2016 年立法委員選舉平地原住民、山地原住民及婦女當選人數統計資料如下，另公職人員選舉罷免法未規定立法委員候選人登記時應提供是否具身心障礙身分之資料，爰無相關統計資料可資提供。

立法委員選舉當選人數及性別比率

單位：人；%

年別	選舉別		總計	男性	女性	女性當選人數比率
2012	總計		113	75	38	33.63
	全國不分區及僑區國外國民立法委員選舉		34	16	18	52.94
	區域立法委員選舉		73	54	19	26.03
	原住民立法委員選舉	平地原住民	3	3	0	16.67
		山地原住民	3	2	1	
2016	總計		113	70	43	38.05
	全國不分區及僑區國外國民立法委員選舉		34	16	18	52.94
	區域立法委員選舉		73	50	23	31.51
	原住民立法委員選舉	平地原住民	3	2	1	33.33
		山地原住民	3	2	2	

資料來源：中央選舉委員會

英文回應

Article 4 of the Additional Articles of the Constitution of the Republic of China provides that, among the members of the Legislative Yuan, three members each shall be elected from among the lowland and mountain indigenous. The same Article stipulates that a total of thirty-four members shall be elected from the lists of political parties in proportion to the number of votes won by each party and the quota of female electees of each political party list shall not be less than 50%. The number of elected lowland and highland indigenous legislators in 2012 and 2016 in Table 20 has been updated accordingly. When registering to stand for an election, the Civil Servants Election and Recall Act does not require an individual to disclose a disability status to the election commissions. Election commissions do not have a statistical breakdown of elected legislators based on disability status.

Election of Legislators -- Number Elected and the Sex Ratio

Unit: persons; %

Year	Type of election		Total	Male	Female	Female percentage
2012	Total		113	75	38	33.63
	At-large and oversea compatriot legislator elections		34	16	18	52.94
	Regional constituent legislator elections		73	54	19	26.03
	Indigenous legislator elections	Lowland Indigenous	3	3	0	16.67
		Mountain Indigenous	3	2	1	
2016	Total		113	70	43	38.05
	At-large and oversea compatriot legislator elections		34	16	18	52.94
	Regional constituent legislator elections		73	50	23	31.51
	Indigenous legislator elections	Lowland Indigenous	3	2	1	33.33
		Mountain Indigenous	3	2	2	

Source: Central Election Commission

第 27 條

Article 27

點次	問題內容	
55	原文	With reference to the Third Report (§§ 275-280), please provide information on access by persons belonging to minorities and by indigenous peoples to healthcare and other social, cultural, political and economic supports interfacing with the COVID-19 pandemic.
	中文參考翻譯	參照《公政公約第三次國家報告》第275-280點，請提供關於少數族群和原住民族獲得醫療照護以及與COVID-19疫情相關的其它社會、文化、政治和經濟支持的資訊。

中文回應

- 為確保原住民族獲得適切及可近性醫療照護，2018 年 5 月起衛生福利部推動原鄉健康十大行動計畫，以促進原住民族健康平等；另為建構發展符合原民自覺自決及文化

健康照護政策，業於 2020 年 9 月邀請健康照護相關原住民族專家學者共同參與研擬「原住民族健康照護中長程計畫」。

2. COVID-19 疫情期間，中央疫情指揮中心視疫情召開直播記者會，同步提供手語及 AI 字幕，及時傳達最新防疫訊息，另製作多款宣導品，如海報單張及防疫大作戰宣導影片等，利用各式媒體平臺強化訊息傳播，並歡迎民眾下載利用。
3. 衛生福利部為提升山地離島地區當地醫療可近性與品質，自 1999 年起持續辦理「山地離島地區醫療給付效益提昇計畫」，2020 年於 50 個山地離島地區共有 26 家特約醫院承作 30 個計畫，服務當地民眾 48 餘萬人，提供專科門診、緊急醫療照護(夜間及假日)、預防保健、居家照護、衛生教育宣導、巡迴醫療、轉診後送等服務。每月專科診次大於 1,700 診次。
4. 原住民族委員會為補助因經濟困難致無法參加全民健保之原住民，以維護其就醫權益，特訂定「原住民族委員會補助原住民全民健康保險保險費實施要點」，補助對象為「未滿 20 歲、年滿 55 歲以上且投保於第 6 類第 2 目之原住民、設籍蘭嶼鄉且投保於第 2、3 類、第 6 類第 2 目之原住民」。另為加強原住民醫療衛生保健服務，特訂定「原住民族委員會原住民結核病患補助要點」，凡具原住民身分，因患有結核病而於衛生福利部疾病管制署全國結核病資料庫登記列管之個案經治癒者，得依本要點規定申請完治獎金 5,000 元整。
5. 因應 COVID-19 疫情，原住民族委員會各項防疫措施如下：
 - (1) 原住民族部落文化健康站於全國疫情三級警戒期間全面停止長者到站，採取電話問安並針對弱勢長者進行「無接觸」送餐服務關懷；對照顧服務員在職訓練，採取遠距線上訓練以精進專業知能。
 - (2) 因應全國疫情警戒降至二級，中央疫情指揮中心訂定「文化健康站因應 COVID-19 防疫管理指引」。
 - (3) 協調中央疫情指揮中心宣布將全國文化健康站照顧服務員及原住民族家庭服務中心社工員列入公費疫苗第 5 類接種對象，截至 2021 年 8 月 2 日施打率已達 9 成。
 - (4) 協助推介族人申請勞動部「安心即時上工計畫」，且協調勞動部優先核定原住民族地區職缺，截至 2021 年 7 月 31 日，原住民族地區鄉(鎮、市、區)公所共計 2,387 名族人上工，透過安心上工的人力，協助公所推動防疫相關工作。

- (5) 補助直轄市及縣(市)政府推動原住民族家庭服務中心社工員提供個案服務工作，協助媒合紓困補助及轉介物資等，穩定原住民族家庭支持功能。截至 2021 年 6 月底止共設置 61 處，培力及運用原住民族社工人力計 201 人，提供一般個案輔導計 3,496 案及辦理活動方案 816 場，計 1 萬 9,794 人次受益。
 - (6) 另函知全國原住民族地區 55 鄉(鎮、市、區)公所防疫經費，補助之基本設施維持費移緩濟急優先勻支，補足其防疫物資以解決原住民族地區防疫人力不足之困境。
6. 另因應 COVID-19 疫情，原住民族委員會推動經濟振興措施如下：
- (1) 推動金融紓困 4.0 方案，自 2021 年 7 月 1 日起提供原住民族綜合發展基金貸款戶、企業貸款信用保證戶及儲蓄互助社原住民族專案貸款戶金融紓困措施至 2022 年 6 月 30 日；2020 年度金融紓困方案實施至 2021 年 6 月底止，已核定利息全免計 1 萬 4,254 件，減免利息約 4,662 萬元，並核定本金寬緩 588 件、延長繳款期限 622 件。
 - (2) 函知各縣(市)政府及原住民族地區鄉(鎮、市、區)公所，針對經管國有原住民保留地出租案件辦理減租、緩繳等紓困措施，降低疫情影響。
7. 行動支付回饋：為實質提升商家營業額及經濟收入，及配合行政院「振興三倍券」方案，於 2020 年 7 月 15 日啟動行動支付回饋；截至 2021 年 8 月底止，已公告認證店家 826 家，營業額逾 4.45 億元，回饋金達 2.11 億元。
8. 客庄地區推動「伯公照護站」計畫以健康或亞健康之客庄銀髮族為主體，針對高齡化嚴重、長期照顧及醫療資源貧乏之客庄，結合衛生福利部及地方政府資源，善用客庄換工及伯公信仰文化的特殊性，以期在全國一致性的長期照顧服務下，兼顧客家地區之差異性，使資源不足之客庄，得以獲得政府因地制宜之照顧服務。
9. 針對設籍前新住民如有經濟困難補助之需求，新住民發展基金原即訂有遭逢特殊境遇扶助計畫，因 3 個月內生活發生重大變故導致生活、經濟困難者，且其重大變故非因個人責任、債務、非因自願性失業等事由，經地方政府評估後得申請補助，最高可獲發最低生活費 3 個月。2020 年度核定補助 11 個地方政府，金額約 302 萬元，服務人次計 376 人次；2021 年度已核定補助 11 個地方政府，金額約 325 萬元。
10. 在少數族群醫療照護以及與 COVID-19 疫情相關協助，文化部委託「財團法人蒙藏基金會」辦理「2021 年在臺藏胞及居留藏人關懷專案」，聘請專業社工協助在臺藏胞及居留藏人生活適應與家庭發展，提供電話諮詢、訪視輔導、開案等服務。鑒

於 COVID-19 疫情爆發社區感染，中央疫情指揮中心發布第 3 級警戒，社工人員主動通知在臺藏胞各項防疫、紓困及疫苗施打等各項資訊，並聯絡部分因工作職場染疫確診案例而須居家隔離者，關懷確診者及其家人身體狀況、進行正確防疫衛教宣導、生活所需及協助補償申請等相關事宜。另因疫情嚴重影響家庭收入，針對經濟特別困難之家戶，由專款專戶提供補助以協助度過危機。

英文回應

1. To ensure the accessibly proper medical care for indigenous peoples, “10 Major Indigenous Area Health Action Plan” are used to promote health equities of Indigenous people since May,2018. In Addition, establishing and developing of health care policy are in line with self-decision making require and cultural aware for indigenous people. In September,2020, indigenous experts health care related have been invited to participate the evaluation and research of “Med-Long Term Health Care Plan for Indigenous People”.
2. During COVID-19, the COVID-19 Central Epidemic Command Center hosted live press conferences with sign language and AI subtitles depending on circumstances to convey the latest information regarding the pandemic. Also, propaganda such as posters and videos to promote the efforts against COVID-19 were produced and disseminated through various media platforms to enhance messaging; the public is welcome to download and use the materials.
3. In order to improve the accessibility and quality of local medical services in the mountain areas and offshore islands, the National Health Insurance Agency has continued to implement the Integrated Delivery System(IDS) since 1999. In 2020, there were 50 townships in the outskirts of the country. A total of 26 contracted health institutions have undertaken 30 projects, serving more than 480,000 people. They provide services such as specialized medical service, emergency services, and preventive care, overnight care...etc...More than 1,700 specialized medical service per month.
4. Indigenous people who are not covered by National Health Insurance (NHI) due to financial difficulties, to ensure indigenous people's right to access to medical care, the Council of Indigenous Peoples (CIP) has specially formulated Implementation Guidelines for National Health Insurance Premium Subsidies to Indigenous People by the Council of

Indigenous Peoples. Following are the eligible persons for the subsidies: indigenous persons under the age of 20 or over 55 years of age who qualify for item 2 under NHI Category 6 and indigenous persons with household registration set up in Lanyu Township who qualify for NHI category 2, 3 or item 2 under Category 6. Also, Directions for Subsidies for Indigenous Tuberculosis Patients was also developed to enhance the medical and health care services for indigenous people. Those who have the status of indigenous persons and are registered as cured tuberculosis patients in the National Tuberculosis Registry of Centers for Disease Control, Ministry of Health and Welfare are eligible to apply for the reward for completion of treatment according to the directions.

5. Following are the epidemic control measures CIP has put in place in response to the COVID-19 pandemic:

- (1) During the national level three alert, Cultural and Healthcare Service Stations in indigenous communities fully suspended senior on-site services and instead took telephone call approach to check on them. Vulnerable seniors were provided with no-contact meal delivery service. The on-the-job training for nurse aides were provided online to continue their professional education.
- (2) Central Epidemic Command Center (CECC) devised COVID-19 Epidemic Control Guidance for Cultural and Healthcare Service Stations and was announced after the commander's approval as the national alert level was downgraded to level 2.
- (3) After liaison with CECC, it was announced that nurse aides of Cultural and Healthcare Service Stations and social workers of Indigenous Family Service Centers across the country were listed as the fifth priority group. As of August 2, 2021, the vaccination rate has reached 90%.
- (4) CIP promoted and helped indigenous people to apply for Relief and Just-In-Time Work Project launched by the Ministry of Labor. As of July 31, 2021, a total of 2,387 indigenous persons in the indigenous regions (townships, cities, districts) have found employment and the workforce provided by the project supported local government offices' efforts of epidemic control.
- (5) CIP subsidizes municipalities and county (city) governments to facilitate client services provided by social workers of Indigenous Family Service Centers by

matching relief subsidy programs and referring relief supplies to stabilize the support function of indigenous families. As of the end of June 2021 161 locations were set up, a total of 201 social workers were trained and deployed to counsel 3,496 cases and supported 816 events, benefiting a total of 19,794 headcounts.

(6) CIP also notified the 55 townships of the indigenous regions (towns, cities, districts) the infrastructure maintenance subsidies in the epidemic control budget to be reallocated to priority items to supplement epidemic control supplies as a way to solve the lack of epidemic control manpower in the indigenous regions.

6. Following are economic revitalization measures promoted by CIP in response to the COVID-19 pandemic:

(1) Promoted COVID Relief Stimulus Package 4.0. The stimulus package provides financial relief measures for Indigenous Peoples Comprehensive Development Fund loan borrowers, corporate loan credit guarantee borrowers, and credit unions indigenous special loan borrowers from July 1, 2021 to June 30, 2022. The 2020 financial relief program ran until the end of June 2021. 14,254 cases of interest exemption have been approved. The amount of interest reduction of was approximately NTD 46.62 million. 588 principal reliefs and 622 cases of extension of payment period have been approved.

(2) Notified county (city) governments and township (town, city, district) offices in the indigenous regions to provide relief measures like rent reduction, deferred payment for the lease of state-owned lands reserved for indigenous people to mitigate the impact of the pandemic.

7. Mobile payment rewards: to substantially increase business turnover and financial income, and in line with the Executive Yuan's "Triple Stimulus Voucher" program, CIP launched mobile payment rewards on July 15, 2020. As of the end of August 2021, 826 certified stores have been announced, with a turnover exceeding NTD 445 million and reward amount of NTD 211 million.

8. Putting the healthy and sub-healthy senior Hakka villagers as the main focus, the "Bagong Care Station" program is promoted in the Hakka regions where the population is severely aging and resources of long-term care and medical treatment are lacking. Combining

resources of the Ministry of Health and Welfare (MOHW) and local governments, the Hakka senior stations take advantage of the unique culture of bagong (the earth god) belief and “labor exchange”—a kind of traditional mutual aid practice in Hakka settlements—in the hope to provide Hakka villages that are short of resources with the government’s healthcare services in different Hakka areas under the country’s long-term care system.

9. To help those newly arrived immigrants before acquiring the permanent resident status who are encountering major changes in life caused by force majeure circumstance re-sulting in extreme economic hardship, the New Immigrant Development Fund has set up a program to provide them with financial assistance. They may submit a financial assistance applications to the Township/City/District Of-fice in the locality where they reside, and may receive a subsidy that is equivalent to 3 months of the minimum cost of living. The New Immigrant Development Fund has granted 11 local government the subsidies of NTD 3,002,000 in 2020 for 376 cases. The New Immigrant Development Fund has granted 11 local governments the subsi-dies of NTD 3,250,000 in 2021.
10. As concerns COVID-19 assistance and medical care for minorities, the Ministry of Culture commissioned the Mongolian and Tibetan Foundation to host the “2021 Project to Assist Tibetan Compatriots and Resident Tibetans.” For this, professional social workers were hired to help Tibetan compatriots and Tibetans resident in Taiwan adapt to life in Taiwan and with family development through telephone inquiries, counseling visits, and opening cases. When the Central Epidemic Command Center declared a Level 3 alert indicating community spread of COVID-19, social workers communicated with Tibetans in Taiwan about pandemic prevention, economic relief, and immunization measures. They also contacted people named as confirmed cases who had contracted the disease at their place of work and were thus under quarantine at their homes to express concern and ask about their family members’ health. Thus, they shared accurate antipandemic and health information, inquired about their living needs, and provided assistance with applying for subsidies. As the pandemic seriously affected family incomes, funds were remitted to dedicated accounts set up for families having special difficulty getting through the crisis.

第 27 條

Article 27

點次	問題內容	
56	原文	In particular, on the basis of non-discrimination, please indicate how migrant workers, including seafarers, from other countries have such access, and provide information on the measures adopted to assist them, the challenges faced and related adjustments and solutions.
	中文參考翻譯	特別是在禁止歧視的基礎上，請說明來自其它國家的移工(包括船員)如何獲得上點所述支持，並提供資訊說明為幫助他們而採取的措施、面臨的挑戰以及相關的調整和解決方案。

中文回應

1. 在臺工作之移工自入境日起，依法均須由雇主提供相關生活照顧服務，並以雇主為投保單位參加全民健康保險，與國人同享有各項醫療給付權利，不因其為外國人而有所歧視。
2. 另依據就業服務法相關規定，在臺合法工作之移工自入境日起，雇主即有提供生活照顧之義務，且移工享有全民健保各項就醫與照護權利，與國人無差別待遇。另經由入國健檢與定期健檢措施，罹病移工得以及早治癒康復，保障其個人、雇主及其他共同生活者之健康安全。全民健康保險為強制性社會保險，國人及外籍人士凡符合參加本保險資格，依法即應參加健保。外籍移工(船員)與國人享有相同且平等之健康保險權益保障，政府部門對合法在臺受僱而未加保者，辦理輔導納保工作，並製作多國語言宣導單張，同時建置於健保署全球資訊網，加強周知全民健康保險權益事宜。全民健康保險基本精神，強調就醫公平性，具中華民國國籍者應參加全民健康保險，提供醫療服務不因地理區域、種族或性別而有差異。依全民健康保險法第 1 條，他國移工如屬本保險之保險對象，於發生疾病、傷害、生育事故時，依本法規定給予保險給付。
3. 為因應 COVID-19 疫情對移工造成影響與衝擊，勞動部已視疫情啟動以下因應作為：
 - (1) 落實移工入境檢疫：我國因應 COVID-19 疫情採行邊境管制措施，對於入境者落實 14 日檢疫及 7 日自主健康管理，為本、外國籍者受相同規範。勞動部依中央

疫情指揮中心指示，社福新聘移工、返鄉休假移工及菲律賓籍、印尼籍移工入境後統一安排集中檢疫；另產業新聘移工採居家檢疫，由地方政府事前實地檢查移工居家檢疫場所，各業別移工於檢疫期滿後再自主健康管理 7 日，以符合國內防疫規範。

- (2) 落實移工宿舍防疫管理：考量移工宿舍群聚情形，配合中央疫情指揮中心修正發布「因應嚴重特殊傳染性肺炎雇主聘僱移工指引」與生活照顧服務計畫書裁量標準，督促雇主與仲介落實移工健康監測、禁止不同雇主之移工混住、落實宿舍分艙分流、設置備援隔離場所，避免移工群聚感染，並督促地方政府稽查處分違法業者。
- (3) 補償移工延後或取消請假返國之交通必要費用：為保障移工健康權，鼓勵雇主與移工協商延後或取消請假返國休假，補償移工因配合防疫延後或取消航班所衍生之交通必要費用損失。
- (4) 暫緩移工轉換及調派：鑒於移工轉換及調派情形都將使移工移動至新工作場所，原工作場所如有疫情，移工移動將造成疫情再擴散而形同防疫破口，對移工本身或承接之雇主都具染疫風險。在三級疫情警戒下，勞動部依中央疫情指揮中心指示，自 2021 年 6 月 6 日起暫緩移工轉換雇主或調派至其他工作場所，以減少人員流動，降低感染風險。但考量部分轉換起因於雇主或被看護者死亡、公司關廠歇業或移工有遭受人身暴力的不當對待等不可歸責移工情事，且原雇主已無法再聘僱移工或雇主違法無聘僱資格，此類轉換仍會同意。另依國內疫情發展情形及中央疫情指揮中心指示，分別自 2021 年 7 月 1 日與 7 月 13 日起恢復家庭類移工與其他各類別移工轉換雇主或工作。
- (5) 規範新雇主應安排移工檢驗 PCR 之防疫措施：依嚴重特殊傳染性肺炎防治及紓困振興特別條例第 7 條規定，指揮官為防治控制疫情需要，得實施必要之應變處置或措施。考量移工從事工作或集體宿舍有其特殊性，如家庭類移工需密切接觸照顧重度失能或身心障礙者，產業類移工多數居住雇主安排之宿舍，居住空間較為密集，其群聚感染及伴隨轉換雇主而生疫情擴散感染風險確有需特別規範保護之必要，爰依中央疫情指揮中心指示移工恢復轉換雇主之疫情因應措施，移工於轉換雇主時，由新雇主安排 PCR 採檢，以保護移工疫情防疫，採檢 PCR 所生費用並由雇主負擔。依此，移工轉換雇主或工作時由雇主安排移工辦理 PCR 採檢，對移工確有防疫保護實益，且國內亦有相同措施，包含預定(非緊急)住院者及其

陪病者，應於入院前 3 天內進行 PCR 採檢，定期(5-7 天)針對高風險單位醫療照護相關工作人員(如急診、加護病房及專責病房等)進行鼻咽或深喉唾液採檢，尚非對移工有所歧視與不平等限制。

- (6) 移工同國人享有公費疫苗接種：中央疫情指揮中心陸續開放各類別及 18 歲以上民眾可至「COVID-19 疫苗施打意願登記與預約系統」預約登錄，並依簡訊通知預約接種日期，持我國居留證及健保卡之移工比照國民待遇亦得上線登錄取得預約資格，其接種疫苗順序及方法，均與國人相同。勞動部為使移工瞭解疫苗施打意願登記，與預約系統的操作程序及步驟，已製作多國語「COVID-19 疫苗施打意願登記與預約系統」的操作步驟懶人包(含中文、英文、印尼文、越南文及泰文)供移工自行預約接種。
 - (7) 失聯移工就醫協助計畫：考量失聯移工無健保身分，無法實名制購買口罩，且可能擔心查緝不願就醫，勞動部前於 2020 年 5 月 12 日經中央疫情指揮中心同意所提失聯移工協助購買口罩及就醫方案，委託民間團體協助失聯移工購買口罩、就醫及安置，如有疑似症狀，將可洽受託單位(英文、越南文、印尼文、泰文等 4 國語言)協助送 163 家採檢醫院，採檢結果為確診者將送醫治療，並於治療完畢後讓其自行離開，採檢結果為非確診者，亦同意讓其自行離開，不通報相關機關。
 - (8) 強化宣導移工防疫資訊：勞動部自 2020 年 1 月 20 日起將衛生福利部提供之移工防疫資訊譯為 4 國語言(英文、印尼文、越南文、泰文)，並採取入境講習、外語廣播、1955 專線發送防疫簡訊及語音防疫資訊、建置多國語之「嚴重特殊傳染性肺炎防疫專區」、社群平臺刊登防疫資訊等措施。另為加強移工即時接收訊息，於 2021 年 5 月 17 日上架「Line@移點通」，並於 6 月 1 日推出 1955 文字客服及「1955hotline 移工專線」臉書專頁，以母語向移工推播最新防疫資訊。
 - (9) 移工協助方案：勞動部針對家事移工前往採檢期間，已建議衛生福利部提供喘息服務；至於若受照顧者之家屬有親自照護需求，得請家庭照顧假、特別休假或事假，薪資則依各該規定給付。另為關懷並協助受隔離移工身心健康，已發送防疫關懷包，陪伴移工安心度過必要的防疫隔離期間。
4. 為避免失聯移工因 COVID-19 防疫資訊不足而未出面採檢就醫，內政部移民署於 2021 年 5 月 14 日起配合中央疫情指揮中心防疫政策推動「外來人口安心採檢防疫專案」，鼓勵及策動有疑似感染症狀之失聯移工出面採檢就醫，不用擔心因為出面採檢而被查處。

5. 自 2020 年 COVID-19 疫情爆發，行政院農業委員會報請中央疫情指揮中心同意，自 2020 年 4 月 1 日實施遠洋漁船境外僱用外籍船員入境防疫措施，協助遠洋漁船境外僱用外籍船員隨船返港，由地方衛生單位確認健康狀況及辦理入境檢疫事宜，依不同檢疫模式，補貼船員上岸入住防疫旅館及採檢送驗費用，並採防疫車輛之交通方式入住防疫旅館，確保外籍船員獲得完善的檢疫住宿環境，如有身體異常，亦請船主協助通報衛生單位就醫。完成居家檢疫自主健康管理期間，宣導船主及外籍船員，落實疫情警戒等措施，並請船主協助船員生活照顧及物資採購，以落實船員健康管理。

英文回應

1. Migrant workers working in Taiwan are required by law to be provided by their employers with relevant living assistance from their date of entry into Taiwan. The migrant workers are also required to join the national health insurance with their employers as the insured entity. They are entitled to the same medical benefits as Taiwanese citizens without any discrimination as foreigners.
2. The regulations of the Employment Service Act state that upon the migrant worker's legal entry date into the country, their employer is required and obligated to provide care for worker's lives; migrant workers enjoy identical treatments and rights to care as Taiwanese citizens under National Health Insurance. Additionally, health inspections upon entry and regular examination measures allow sick migrant workers to quickly receive treatment and recover so that the health and safety of migrant workers, employers, and other people that live together can be protected. The National Health Insurance program is a compulsory social insurance program. By law, every Taiwanese citizen with official residency or foreign national living in Taiwan with an Alien Resident Certificate (ARC), regardless of age, gender, or employment status, must enroll in the program and enjoy equal rights to healthcare. Government authorities provide assistance for comprehensive enrollment of foreigners who work in Taiwan legally but not enroll in the NHI program. The information of the NHI program is also translated into several languages and made public online. The National Health Insurance program is compulsory for all citizens starting from birth. It is founded on the concept of mutual assistance and depends on the insured paying their premiums according to regulations. When people fall ill, the

government uses the premiums it receives to help patients pay part of their medical and medication costs to contracted health care institutions.

3. In response to the impact of the COVID-19 epidemic outbreak on migrant workers, the Ministry of Labor has initiated the following actions based on the state of the epidemic:

(1) Implementation of inbound quarantine for migrant workers: In response to the COVID-19 epidemic, Taiwan has adopted border control measures and implemented mandatory 14-day quarantine and 7-day self-health management for anyone entering the country, regardless of nationality. In accordance with the instructions of the Central Epidemic Command Center (CECC), the Ministry of Labor has arranged centralized quarantine for newly hired migrant workers employed in caregiving and domestic help, migrant workers returning to Taiwan after vacationing in their home country, and migrant workers of Filipino and Indonesian nationality upon entry; in addition, newly hired migrant workers in the industry are required to undergo home quarantine, with local governments inspect migrant workers' home quarantine sites beforehand. After the expiration of the home quarantine period, the migrant workers will undergo self-health management for another 7 days in order to comply with Taiwan' s epidemic prevention regulations.

(2) Implement migrant worker dormitory epidemic prevention management: Considering the situation of migrant worker dormitory clusters, we have worked closely with the CECC to revise and publish the “Foreign Worker Employment Guidelines in Response to Severe Pneumonia with Novel Pathogens (COVID-19)” (hereinafter referred to as migrant worker epidemic prevention guidelines) and the standards of the Living Assistance Service Plan. We have compelled employers and migrant labor agencies to implement migrant worker health monitoring, prohibit mixed accommodation for migrant workers working for different employers, implemented dormitory triage and isolation measures, and set up backup isolation sites to avoid migrant worker infection clusters. We have also urged local governments to investigate and punish illegal actions among employers.

(3) Compensate migrant workers for the incurred costs for delaying or canceling leave to return home: To protect migrant workers' health rights, employers are encouraged to

negotiate with migrant workers to delay or cancel home leaves and compensate migrant workers for the necessary transportation costs resulting from delaying or canceling flights due to epidemic prevention measures.

- (4) Temporary suspension of migrant worker transfer and assignment: Since migrant worker transfer and assignment will result in migrant workers moving to new workplaces, if there is an epidemic in the original workplace, the movement of migrant workers will cause the epidemic to spread again and presents a risk of breaching epidemic prevention measures, thus posing a risk of infection to both the migrant workers themselves and the employers they work for. Under a Level 3 Alert, the Ministry of Labor, in accordance with the instructions of the CECC, has suspended permissions for the transfer of migrant workers to other employers or other workplaces since June 6, 2021 to reduce the movement of workers and reduce the risk of infection. However, considering that some of the changes are due to the death of the employer or the person being cared for, closure of factories or businesses, or improper treatment of the migrant worker by physical violence, which cannot be attributed to the migrant worker, and the original employer is no longer able to hire the migrant worker or the employer is not qualified to hire the migrant worker due to violation of the law, such applications will still be approved on a case by case basis. In addition, based on the epidemic situation and the instructions of the CECC, the transfer of migrant domestic workers and other types of migrant workers to other employers or jobs resumed on July 1, 2021 and July 13, 2021, respectively.
- (5) Under the latest regulations, the new employer shall arrange for migrant workers to undergo PCR testing: In accordance with Article 7 of the Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens, the CECC Commander may implement necessary contingency measures for the prevention, treatment and control of the epidemic. In view of the special characteristics of migrant workers' employment or group clusters, such as migrant domestic workers who need to be in close contact with and care for the severely disabled or physically and mentally handicapped, and industrial migrant workers who mostly stay in dormitories arranged by their employers with dense living quarters, the

risks associated with cluster infections and spread of infection with a change of employer requires special regulation and protection. According to instructions from the CECC on epidemic prevention measures when migrant workers change employers, the new employer will arrange for PCR testing to protect migrant workers, and the employer will bear the cost of PCR testing. Accordingly, it is beneficial for migrant workers to arrange PCR testing when they change employers or work. The same measures are in place for Taiwanese nationals, including PCR testing for scheduled (non-emergency) inpatients and their caretakers within 3 days prior to admission, regular (5-7 days) nasopharyngeal or deep throat saliva testing for health care workers in high-risk units (e.g., emergency, intensive care units, and specialized wards). Therefore these should not be deemed as discriminatory measures or unfair restrictions on migrant workers.

- (6) Migrant workers are entitled to publicly funded vaccinations: The CECC is gradually opening up the “COVID-19 Vaccination Registration and Booking System” for all group categories and people over 18 years of age to register for vaccination appointments and to be notified of the appointment date through SMS. Migrant workers holding a residence permit and a health insurance card can also register online to obtain an appointment as if they were nationals. The order and method of vaccination are the same as those for Taiwanese nationals. In order for migrant workers to understand the operation procedures and steps of the vaccine administration wish registration and appointment system, the Ministry of Labor has produced a multi-language “How to Use COVID-19 Vaccination Registration and Booking System” (available in Chinese, English, Indonesian, Vietnamese and Thai) for migrant workers to make their own appointments for vaccination.
- (7) Undocumented migrant workers medical assistance program: Considering that undocumented migrant workers do not have health insurance status, cannot purchase masks by real-name registration, and may not be willing to seek medical treatment for fear of detection, the Ministry of Labor agreed with the CECC on May 12, 2020 to propose a program to assist undocumented migrant workers in purchasing masks and seeking medical treatment, and entrusted private organizations to assist undocumented

migrant workers in purchasing masks, seeking medical treatment, and placements. If they have symptoms, they can contact the designated units (in English, Vietnamese, Indonesian, and Thai) to assist in sending them to 1 of 163 hospitals for medical checks. If an infection is confirmed, the migrant will be sent to the hospital for treatment and will be allowed to leave after the treatment is completed. If the migrant worker is confirmed as not having been infected with COVID-19, we also agree to let them leave on their own and not report them to the relevant authorities.

- (8) Strengthen the promotion and awareness of epidemic prevention information to migrant workers: Since January 20, 2020, the Ministry of Labor has translated migrant workers' epidemic prevention information provided by the Ministry of Health and Welfare into four languages (English, Indonesian, Vietnamese, and Thai), and adopted measures such as inbound health lectures, foreign language broadcasting, distributing epidemic prevention newsletters and epidemic prevention information through the 1955 hotline, establishing a multilingual "COVID-19 Epidemic Prevention Zone" on MOL's website, and posting epidemic prevention information on social media platforms. In addition, to enhance migrant workers' instant access to information, "Line@MigrantWorker" (Line@移點通) was launched on May 17, 2021, and a 1955 text-based customer service and "1955 Migrant Worker Hotline" (1955hotline 移工專線) Facebook page was launched on June 1 to disseminate the latest epidemic prevention information to migrant workers in their native language.
- (9) Migrant worker assistance program: The Ministry of Labor has recommended the Ministry of Health and Welfare to provide respite services to migrant domestic workers during their visits for COVID-19 checks. If the family members of the care recipient have caregiving needs during this period, they may take family care leave, special leave or personal leave from their employer and salary should be paid according to respective regulations. In addition, to care for and assist the physical and mental health of the migrant workers under quarantine, we have distributed care packages to accompany the migrant workers during their required quarantine period.
4. To ensure the undocumented migrant workers with the same access to the screening for COVID-19, the NIA has worked with the CECC and launched the "Carefree COVID-19

Screening Program for Foreign Nationals” program on May 14, 2021. The purpose of this program is to encourage undocumented migrant workers with suspicious symptoms of COVID-19 to be screened without worrying about being investigated and punished.

5. Since the outbreak of the pandemic in 2020, the Council of Agriculture of the Executive Yuan has implemented epidemic prevention measures for foreign crew employed overseas on distant water fishing vessels entering Taiwan starting from 1st April 2020, with the approval from the Central Epidemic Command Center. The measures require that when foreign crew onboard fishing vessels enter Taiwan, the local public health authority should verify their physical condition and carry out quarantine for entry. Based on the difference in quarantine status, the expense for quarantine hotel accommodation and for physical sampling and inspection will be subsidized by the government, and vehicles for epidemic prevention will be arranged to transfer them to the quarantine hotel, so that the foreign crew can have appropriate accommodation for quarantine. In case of any physical abnormality, the vessel owner should report to the public health authority to provide the appropriate medical treatment. During the period of self-health management, the vessel owner and foreign crew will be well informed to fully comply with the epidemic prevention measures, and the vessel owner is responsible for the living care and goods supply for their crew, so that the crew can follow the necessary measures for self-health management.

第 27 條		
Article 27		
點次	問題內容	
57	原文	Please give details of how the languages of persons belonging to minorities and indigenous peoples, and other aspects of their culture, are respected in a spirit of inclusion and are guided by the concept of “Leave No One Behind” as advocated by the UN Sustainable Development Goals.

	中文參考翻譯	請詳細說明如何本著包容精神以尊重少數民族語言和原住民族語言及其文化之其它面相，並以聯合國永續發展目標倡導的「不遺漏任何人」(Leave No One Behind)為指引。
--	--------	--

中文回應

1. 我國於 2019 年 6 月 5 日公布施行文化基本法，以作為國家文化施政綱領，調和各項文化政策、法制，積極落實多元文化、多樣性與永續發展。其中第 2 條揭櫫國家應肯認多元文化，保障所有族群、世代與社群之自我認同，建立平等、自由參與之多元文化環境，且應保障及維護文化多樣性發展，提供多元化公共服務，鼓勵不同文化間之對話、交流、開放及國際合作，其中多元文化政策亦包括原住民族及少數民族文化政策。另外第 6 條規定，人民享有選擇語言，進行表達、溝通、傳播及創作之權利，國家應予尊重，各固有族群語言及臺灣手語，國家應定為國家語言，以促進其保存及永續發展。此尊重少數民族與原住民語言精神與聯合國永續發展目標倡導的「不遺漏任何人」(Leave No One Behind) 宗旨不謀而合。另外，鑑於國際人權理念推動語言文化權之保障，我國於 2019 年公布「國家語言發展法」，尊重語言文化多樣性，使國民使用國家語言不受歧視與限制，另就少數民族、原住民族語言等面臨傳承危機之國家語言，本法規定政府應優先推動其傳承、復振及發展等特別保障措施；期能透過本法之制定與規定，促進我國各語言永續發展，豐富國家文化內涵。
2. 2022 年起依國家語言發展法規定，於國民基本教育各階段，將國家語言列為部定課程，學校教育得使用各國家語言。
3. 國民小學本土語文課程，應依學生實際需求，選擇閩南語文、客家語文、原住民族語文或新住民語文其中一項進行學習，意指每位國小學生在正式課程中均需學習本土語文或新住民語文。
4. 教育部致力於本土語文推廣學習、編纂臺灣閩南語常用詞辭典、臺灣客家語常用詞辭典，建置豐富學習資源；舉辦「教育部閩客語文學獎」及「教育部原住民族語文學獎」鼓勵各界以閩、客、原語創作；表揚於本土語言創作、展演、傳播、復振或出版推廣等面向有傑出貢獻之團體及個人等。

5. 本著包容、多元的精神，內政部移民署自 2008 年起每年結合公私部門共同舉辦移民節慶祝活動，以表彰新移民的貢獻；又為使各縣市政府重視移民節，近年活動更每年選擇於不同縣市舉辦，讓新移民更融入在地生活。
6. 為追求臺灣各族群共存共榮、實質平等之目標，尊重客家族群於公共領域之語言權、文化權，將持續落實「客家基本法」與「國家語言發展法」，營造客語友善環境，提升以客語提供公共服務之能力，讓人民都能自由自在的講客語，增加整體客語社群活力，藉此達到聯合國永續發展目標不遺漏任何人之宗旨。
7. 推動「逆寫客家開發史」計畫，研究團隊檢視地方志內容對原住民有較偏頗陳述並評估改寫之可能性，進一步建議應採原客互為主體的史觀作為「準則式」的修志規範，例如原住民族應有專篇、關於「地方開發史」之史實不可以漢人中心觀點敘事與評論、不可欠缺對當前原住民族生活與文化等現況討論等，建議未來地方政府以此準則納入修志之計畫中。
8. 結合客家博物館及圖資中心軟硬體資源，以客家及族群關係為題，透過國際交流、調查研究、蒐整與典藏運用、出版活動、導覽展示服務、遊客服務、客家文化體驗活動等策略與服務，累積客家研究、運用、推廣與展示能量，並融合在地客庄文化及產業元素，進而達到文化推廣、傳承與扎根及多元族群文化交流之效益，接軌世界客家及族群博物館之合作。
9. 為保障原住民族語言保存及發展，原住民族委員會前於 2006 年 10 月即依原住民族基本法第 9 條第 3 項規定，草擬「原住民族語言發展法」報請行政院審議，歷經十二年的立法，於 2017 年 5 月 26 日立法院三讀通過，並於 2017 年 6 月 14 日由總統公布施行，原住民族語言正式成為國家語言。「原住民族語言發展法」施行以來，原住民族委員會透過族語推廣、傳習、保存與研究等 4 大面向制定推動族語復振的方案如下：
 - (1) 原住民族語言是國家語言之一。
 - (2) 預算大幅成長，由 1 億 1 千萬元增為 5 億元 380 萬元，增加 4.6 倍。
 - (3) 族語老師改任專職。
 - (4) 全國設置族語推廣人員。
 - (5) 推動語言文化復振傳習師和學習員制度。
 - (6) 設置原住民族 16 族語言推動組織。
 - (7) 設立財團法人原住民族語言研究發展基金會。

- (8) 公費留學考試、原民特考、師資公費生入學應取得族語認證。
 - (9) 原住民族電視台及廣播電台族語節目 50%以上。
 - (10) 補助原鄉公所營造族語友善環境。
10. 臺灣是個移民文化的組合，在原住民、早期移民、新移民、及日漸增加的新住民與移工組成下，形成多元族群文化並存的臺灣社會。為真正展現我國原住民族文化特質與獨特性，加強對於原住民族文化的認識、尊重及包容，積極辦理事項如下：
- (1) 確保原住民族文化不被誤用，邀請具原住民族身分、長期研究原住民族文化之工作者及熟稔原住民族文化領域之專家學者參與該管所屬機關(構)及學校於活動前期規劃及意見諮詢，或擔任審查委員。
 - (2) 視活動辦理規模聘請專業藝術總監，就原住民族樂舞、表演藝術、服飾穿(配)戴、傳統文化等進行整體規劃，以增進國人對於原住民族文化之認識。
 - (3) 如活動內容涉及原住民族文化，包括原住民族傳統之宗教祭儀、音樂、舞蹈、歌曲、雕塑、編織、圖案、服飾、民俗技藝或其他形式與種類之文化成果的表達，應依「原住民族傳統智慧創作保護條例」之規定，應先諮詢使用之所屬族群意見或取得其授權及同意，以避免展演內容未能正確表達原住民族文化。
 - (4) 外界對於原住民族文化之理解不足，源於欠缺原住民族史觀，對於原住民族議題，經常帶有階級意識和殖民主義思維，原住民族委員會已於 2021 年發表原住民族重大歷史事件系列叢書，經與教育部協調，原住民族重大歷史事件將納入 12 年國教課綱原住民族教育教材的重要參考，提供作為教材研發，讓更多的學生認識原住民族的歷史文化。
 - (5) 與文化部啟動建構歷史紀念空間，設置紀念碑的機制，可使國人更能認識原住民族史觀下的歷史真相。未來原住民族委員會與教育部將持續依「原住民族教育法」第 43 條規定，鼓勵、補助非營利之機構、法人或團體對社會大眾進行原住民族及多元文化教育，促進全體國民認識與尊重原住民族。

英文回應

1. The Cultural Fundamental Act was promulgated on June 5, 2019, to establish a general national framework for cultural policy, to synchronize cultural policies and legal structures and to implement multiculturalism, diversity, and sustainable development. Article 2 of the Act calls for the nation's affirmation of all cultures, and protects the right to

self-identification of all groups, generations, and social groups. The nation, it goes on, shall create an environment conducive to a multicultural society in which individuals may freely participate. Moreover, the development of cultural diversity will be protected and maintained through the provision of varied public services, encouraging dialogue, exchanges, openness, and international cooperation involving different cultures. Multicultural cultural policy includes indigenous and minority cultural policy. Article 6 mandates that the nation respect the people's right to choose their language of expression, communication, broadcasting, and creation, and treat all natural languages already in use in Taiwan, as well as sign language, as national languages. In so doing, it promotes the preservation and development of these languages. The Act thus respects the "Leave No One Behind" spirit of the United Nations' Sustainable Development Goals and respects the languages of minorities and indigenous people. Based on the international human rights concept of protecting the right to language and culture in 2019, the Development of National Languages Act was promulgated that calls for respect for variety among languages and cultures and states that nationals using a national language shall not be discriminated against or face restrictions. For national languages that are in critical danger of not being passed on, the government shall prioritize their transmission, revitalization, and development. Through the framework and regulations created by this Act, sustainable development of the nations' various languages and an enrichment of the nations' culture will be seen.

2. Since 2022, any national language can be included and used as the language of instruction. Therefore, schools belonged to the compulsory education can implement required course in national languages.
3. The native language courses of the primary schools should provide Minnan language, Hakka language, indigenous language or new inhabitant language base on the students' need. It means each of the primary student needs to learn native (or new language) language in the formal courses.
4. In order to advocate learning of national languages, the Ministry of Education (MOE) compiles the " Dictionary of Frequently-Used Taiwan Minnan " and " Dictionary of Frequently-Used Taiwan Hakka ", and establishes various platforms for accessing rich

learning resources. Besides, MOE sets up the “Ministry of Education Minnan Hakka Languages Literature Award” and the “Ministry of Education Indigenous Languages Literature Award” for people having innovative works in Minnan, Hakka, and Indigenous languages. Furthermore, MOE manifests the groups and individuals having outstanding contributions with national languages in composition, performance, dissemination, rehabilitation, or publication promotion...etc.

5. In line with the spirit of inclusiveness and diversity, the National Immigration Agency (NIA) has been celebrating International Migrants Day since 2008 to recognize contributions made by new immigrants. To help the local governments raise awareness and improve the integration and inclusion of all migrants, the NIA worked with different local governments for the celebration.
6. To pursue the goal of coexistence, co-prosperity and substantive equality of all ethnic groups in Taiwan and to respect the linguistic and cultural rights of the Hakka group in the public domain, the Hakka Basic Act and National Language Development Act will be continuously implemented to create a Hakka-friendly environment and improve capacities for providing public services in the Hakka language, allowing people to speak Hakka freely and increasing the vitality of the overall Hakka community so as to achieve the objective of the United Nations’ Sustainable Development Goals (SDGs)—“leave no one behind (LNOB).”
7. To promote the “Rewriting Hakka Reclamation History” program, the research team evaluates the possibility of rewriting the content of local records that have biased statements about indigenous peoples and further suggests the historical perspective of indigenous-Hakka intersubjectivity be adopted as the criterion to revise local records. For instance, local records should include special articles about indigenous peoples, avoid Han-centered narratives and commentaries on reclamation history, and contain discussions about the current situation of native Taiwanese’ s life and culture. It is advised that local governments may incorporate the criterion into the project of revising local records in the future.
8. Taiwan Hakka Museum integrates the facilities and resources of Hakka museums and library and information centers, focusing on Hakka culture and ethnic relationships.

Through international exchanges, investigation and research, collection and archives, publication, guided tour services, visitor assistance services, and Hakka cultural activities, the Museum accumulates the vital energy to study, apply, promote, and showcase Hakka. Additionally, it incorporates cultural and industrial elements of local Hakka villages to obtain the benefits of cultural promotion, transmission, development, and multi-ethnic cultural exchanges, connecting with the global Hakka community and collaborating with ethnic museums in the world.

9. To preserve and develop indigenous languages, the Council of Indigenous Peoples drafted and submitted the Indigenous Languages Development Act for review at the Executive Yuan in October 2006 in accordance to Article 9(3) of the Indigenous Peoples Basic Law. The Indigenous Languages Development Act was passed by the Legislative Yuan on May 26th, 2017 at the third reading and announced and enacted by the president on June 14th, 2017 after twelve years of legislative discussions, thereby recognizing indigenous languages as official languages in Taiwan. Since the Indigenous Languages Development Act was enacted, the Council of Indigenous Peoples has been striving to revive indigenous languages through four major directives measures for promotion, apprenticeship, preservation and research as follows:

- (1) Indigenous languages are now the official languages of Taiwan.
- (2) Large budgetary increase of 4.6 times from NTD 100.1 million to NTD 538 million.
- (3) Indigenous language teaching positions are now full-time positions.
- (4) Set up Indigenous Language Advocates around Taiwan.
- (5) Promoted mentorship and apprenticeship system for language and culture revitalization.
- (6) Established 16 indigenous peoples language advocacy groups.
- (7) Established the Foundation for the Research and Development of Indigenous Languages.
- (8) Examination of Government Sponsorship for Overseas Study, Special Examination for Indigenous Persons, and Government-Funded System Teacher Preparation now require an indigenous language certificate.
- (9) More than 50% of programs on indigenous TV channels and indigenous radios are in indigenous languages.

- (10) Indigenous township offices are graded for creating a friendly environment for promote indigenous languages.
10. Taiwan is a combination of cultures of immigrants. Indigenous peoples, early settlers, late settlers, and the increasing number of new immigrants and migrant workers together form a Taiwanese society where diverse ethnic cultures coexist. In order to truly demonstrate the cultural characteristics and uniqueness of the indigenous peoples of our country, and to strengthen the understanding, respect and inclusiveness of the indigenous peoples' cultures, the following efforts are actively promoted:
- (1) To ensure that the indigenous cultures are not misappropriated, cultural workers who are of indigenous status and have long term experiences in the research of indigenous cultures as well as experts and scholars who are familiar with the subject matter of indigenous cultures are invited to serve as advisors or review committee members for consultation and initial event planning for the associated agencies/ institutions or schools.
 - (2) Depending on the scale of the event, professional art directors are hired to make overall plans for indigenous music and dance, performing arts, costumes, traditional cultures, so as to enhance Taiwanese people's understanding of indigenous cultures.
 - (3) If the program of the activity involves indigenous cultures, including traditional religious rituals, music, dance, songs, sculptures, weaving, patterns, costumes, folk skills, or other forms and types of cultural expressions, the opinions of the indigenous group in question should be consulted or approval and authorization should be obtained in accordance with Protection Act for the traditional intellectual creations of indigenous peoples to ensure proper and accurate indigenous cultural expression.
 - (4) The outsiders' lack of understanding of indigenous peoples' cultures stems from the lack of indigenous people' s historical perspectives, and the issue of indigenous peoples is often perceived with class-conscious and colonialist thinking. CIP has published a series of titles on major historical events of indigenous peoples in 2021. After liaison with the Ministry of Education, the major historical events of indigenous peoples will be included as important reference material for the

indigenous education textbooks of the 12-year Curriculum for Basic Education, serving as a resource for the development of teaching materials so that more students can learn about the histories and cultures of indigenous peoples.

- (5) Initiated the mechanism to construct historical memorial space and monuments together with the Ministry of Culture to improve Taiwanese people's understanding of the historical truths under the historical perspective of indigenous peoples. In the future, CIP and the Ministry of Education will continue to encourage and subsidize non-profit organizations, legal person entities or organizations to provide education about indigenous peoples and multicultural awareness to the public in accordance with Article 43 of Education Act for Indigenous Peoples to promote the awareness of and respect toward indigenous peoples.