

Oct, 2022

**NHRC's Parallel Response to the List of Issues with  
the Consideration of the CEDAW Fourth Report**



國家人權委員會  
NATIONAL HUMAN RIGHTS  
COMMISSION, TAIWAN

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## Article 2

### LGBTQI

<b>LOI</b>	<p>6. Please explain what general legal framework exists to protect LGBTQI from discrimination, beyond the areas of education and employment (under the Gender Equity Education Act and the Gender Equality in Employment Act). Are there measures being developed to protect them from discrimination in the area of services provision and from hate speech? Please explain whether the binary household registration is being reconsidered, especially in light of the legalization of same-sex marriages in 2019?</p>
<b>NHRC response</b>	<p><b>The current gender binary registration and ID card system does not address the problem of early genital corrective surgery for intersex children and forces transgender people to reveal their gender privacy in both the public and private spheres.</b></p> <p><b>1. Violation of the rights of intersex children:</b></p> <p>(1) In 2018, the Government announced the "Common Recommended Principles for Medical Corrective Surgery for Underage Intersex People", suggesting that medical corrective surgery should not be performed on underage intersex people or people of unknown gender who are under 12 years of age. However, the Government has not been able to demonstrate any subsequent improvement.</p>

(2) The NHRC, based on the Control Yuan investigative report *Rights of Intersex People* approved on Jun 14, 2018, believes that as the current gender binary household registration, ID card, and birth registration only provide the option of "male" or "female", parents decide on the gender of intersex children too early due to the gender binary framework and social pressure, since they lack consultation resources, guidelines and social support.

(3) In its 2022 Independent Opinion on the Implementation of CEDAW, the NHRC cites national health insurance data that the actual number of victims of early genital corrective surgery in intersex children is likely to be underestimated.

(4) Therefore, the NHRC reiterates the Government should engage in a dialogue with intersex population to develop constructive statistics on which to base relevant human rights measures and monitoring practices. It is also recommended that the Government should provide consultation, guidelines and support to parents of intersex children to prevent unconsented and unnecessary surgeries on intersex children under the age of 12.

## **2. Violation of the rights of transgender people:**

(1) The NHRC believes that the current gender binary household registration and ID card system expose transgender people to discrimination and violence as they are forced to reveal their gender privacy in public

and private spheres.

(2) The NHRC added that the Control Yuan investigative reports in 2022, such as *The Case of Sexual Discrimination in the Dormitory Arrangement of the Academy for the Judiciary* approved on May 11, 2022 and *The Case of Transgender Student Rights Protection at Chang Gung University* approved on Jun 16, 2022, point out that the lack of gender-friendly space and facilities (such as toilets and dormitory beds) for transgender people while receiving training in public institutions and education in colleges/universities has affected their rights to education and work.

(3) In addition, the Executive Yuan adopted the recommendations from the "Commissioned Study on the Legalization of Gender Change Requirements and Legislative Proposals" in 2022, which proposes a soft medicalization model for gender change requirements, adds a third legal gender, and suggests a draft of *Gender Confirmation Act*. The Government will invite relevant agencies to meetings to discuss legislation and complementary measures.

(4) The NHRC recommends that the Government should continue to promote legislative efforts and complementary measures, as well as strengthen gender diversity awareness and human rights education for public employees, and actively advocate with the public to eliminate social discrimination and prejudice against transgender people. Pending the legislation, it is recommended that the Government should actively

	<p>cooperate across departments and take all appropriate measures to improve gender-friendly spaces and facilities in public institutions and colleges; actively eliminate discrimination in laws against transnational same-sex couples in accordance with paragraph 89 of the "Concluding Observations and Recommendations adopted by the International Review Committee for the Review of the 3rd Reports of the Government of Taiwan on the Implementation of ICCPR and ICESCR".</p>
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### Article 3

#### Government mechanisms to promote and safeguard the rights of women

<b>LOI</b>	<p>7. Under the establishment of guidelines for the Control Yuan Task Force on Gender Equality chaired by the Control Yuan President, please provide details of the investigation findings for each government agency highlighting the various shortcomings identified and the type of improvements they were required to make, key improvements made as well as follow-up and full compliance strategies of the Control Yuan and how the mechanism has helped to ensure GEWE across sectors in line with the principles of CEDAW Article 3.</p>
<b>NHRC response</b>	<ol style="list-style-type: none"><li>1. According to the resolution accompanying the <i>Enforcement Act of CEDAW</i> passed by the Legislative Yuan in 2011, the five branches of Government should establish a CEDAW monitoring mechanism. The NHRC believes the current gender equality mechanism established by the five branches, with the exception of the Executive Yuan, has not yet served the function of monitoring the government's implementation of CEDAW and lacks a clear plan to ensure its commitment to CEDAW-related obligations.</li><li>2. The NHRC re-emphasizes that the CEDAW monitoring mechanism established by the five branches should focus on gender inequality and discrimination caused by inadequate legal framework or lack of implementation. The Commission will continue to monitor the government's implementation of CEDAW through</li></ol>



	research, seminars, interviews, collection of public statistics or related information, and communication with the five chambers.
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## Article 5

### Gender-based violence against women with disabilities

<b>LOI</b>	<p>17. While the state report (para. 2.14) says violence against women in intimate relations is the same for women with disabilities and without disabilities, there is some information, from relevant NGO sources, that women with disabilities experience a higher rate of violence in intimate relations. It is also indicated that such higher rate of violence faced by women with disabilities in intimate relations is also increasing. Please provide accurate and up-to-date information in this regard.</p> <p>There is also some information that the national categorization of people with different kinds of disabilities places an unusually large number of people in “Unknown Disability” category. This prevents accurate understanding of the relationship between different kinds of disability and gender-based violence against women. Does the government intend to put in place a more inclusive statistical database that reflects the disability by sex, types of disability and other relevant characteristics?</p>
<b>NHRC response</b>	<p>1. According to the MOHW, the percentage of women with disabilities in the total female population from 2017 to 2021 ranges from 4.29% to 4.54%. However, the percentage of reported domestic violence incidents in which the victims were women with disabilities increased from 7% to 7.69% during the same period, and sexual assault incidents in which the victims were women with</p>

disabilities even exceeded 10% on average, with women with mental/intellectual disabilities being the high-risk groups for intimate relationship violence. This shows that women with disabilities face violence and abuse, and that public preventive measures are inadequate to protect people of disabilities from violence and abuse.

2. According to NHRC's Opinions on the Second National Report on the Rights of Persons with Disabilities, women with disabilities are more likely to be at risk of domestic violence and sexual assault than women in general, and are at high risk of being treated with violence. The Commission believes that central competent authorities should pay active attention to the special needs and dual vulnerabilities of women with disabilities and propose specific preventive strategies that eliminate violence, and should comprehensively review all channels of help, shelter placement and support services to ensure full accessibility, and should meet the different needs of people with different disabilities and enhance gender/disability sensitivity of service providers.

## Sexual assault

<b>LOI</b>	<p><b>18.</b> The 4th Report states that while gender-based violence against women is, in general, not condoned or supported by the public (para. 2. 20), it appears that when it comes to sexual assault, public attitudes are less critical and often “victim-blaming” exists to justify it. Community-based programs by the Ministry of Health and the Welfare are implemented for prevention and awareness raising in the public, but numbers of reported sexual assault cases have not declined from 2017 to 2020 (para. 2.26). It is also reported that (para. 2.27) foreign migrant workers, particularly domestic caregivers, are the most prevalent victims. How does the government explain the slow change in this area as seen in the information provided in the 4th Report? Also, the 4th Report mentions (para. 2.31) that a draft amendment to Sexual Assault Crime Prevention Act was sent to Executive Yuan in 2018 aimed to strengthen reporting responsibilities, to bring protection orders and increase criminal penalties for violation. What has happened to that draft? Are there any plans to prioritize the issue?</p> <p>There is also some information regarding the inadequacy of the judicial response to the sexual assault cases. While there is some information about the fact that courses were designed to include the topic at the Judges Academy (para. 2.32), please provide information on the impact of these on judicial attitudes.</p> <p>Please elaborate if any of the training programs or public</p>
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	<p>campaigns approach sexual assault as a form of gender discrimination and a consequence of gender inequality. Do they elaborate the link between gender-based violence against women and sexual assault?</p>
<p><b>NHRC response</b></p>	<p><b>1. Access to justice for sexually assaulted migrant domestic workers:</b></p> <p>(1) In its 2022 Independent Opinion on the implementation of CEDAW, the NHRC notes that migrant domestic workers are at higher risk of sexual violence because they work full-time and live in employer's home, and ineffective judicial interpretation has led to lack of access to justice for the workers who have been sexually assaulted.</p> <p>(2) The NHRC recommends that the Government should incorporate the labor rights of migrant domestic workers into the legal protection in accordance with paragraph 44 of the "Concluding Observations and Recommendations for the Review of the 3rd Reports of the Government of Taiwan on the Implementation of ICCPR and ICESCR" in 2022, and seriously consider incorporating migrant workers into long-term care services. The Government should establish a diversified service model and provide care to the families with people with disabilities either jointly or in shifts, and gradually change the work pattern of domestic workers who need to live in their employers' homes, so as to remove them from the high-risk closed environment.</p> <p>(3) The NHRC reiterates that the Judicial Yuan and the</p>

Executive Yuan should integrate resources, provide pre-service and on-the-job training for interpreters, ensure the quality and accuracy of interpretation, establish a professional interpretation and competency grading certification mechanism, set reasonable compensation for interpreters, and implement an examination, training, and dismissal mechanism for interpreters.

**2. Judicial statistics on sexual assault and other gender-based violence:**

(1) In order to understand the implementation of paragraph 29(e) of the "Concluding Observations and Recommendations for the 3rd CEDAW Report" in 2018, the NHRC has asked the Judicial Yuan about adding relevant fields in the judicial trial system to compile statistics on cases of sexual assault and sexual harassment of migrant domestic workers, and asked the branch to provide the amount of damages requested in civil cases of sexual assault and sexual harassment.

(2) The Judicial Yuan replied, "Because the identity of the victim is not a matter to be included in the judgment, and the victim is not such as the accused who in principle should be present at the trial, it is difficult to know from the proceedings if the victim is a migrant worker. Also, information on sexual assault and sexual harassment victims should in principle be sealed in accordance with the law, and the judgment does not include enough information to identify their identity, so it is impossible to accurately record the information."

(3) The Judicial Yuan also stated, "Currently, there is no specific code and cause of action for civil damages for sexual assault/harassment, so it is impossible to directly obtain the case numbers of such cases and provide relevant statistics on the amount of damages. The nature of this type of case is civil damages, and if the keywords are used to search for information, irrelevant cases will be included, which may lead to a huge discrepancy with the realities and will not present the full picture of this type of case. The approximate statistics obtained may be misleading."

(4) The NHRC reiterates that the Judicial Yuan should actively study the feasibility of systematically collecting statistical data on the reporting, prosecution, conviction, and sentencing of all forms of gender-based violence crimes, as well as the amount of compensation received by victims. A monitoring mechanism should also be established to track the implementation of the IRC's previous Concluding Observations and Recommendations in accordance with the resolutions accompanying the *Enforcement Act of CEDAW*.

## Sexual assault involving authority

<p><b>LOI</b></p>	<p><b>19.</b> Sexual assault cases complicated with abuse of authority are reported by the alternative sources. This matter is also acknowledged in the response of the government to the List of Issues and Questions by the previous International Review Committee. Out of the 1,263 cases of women 18 years or over who experienced sexual assault (2014–2018), 211 cases involved abuses of authority by the perpetrator over the victim. These cases, it has been reported, occurred in education, care, or occupational relationships. Alternative sources have claimed that this is only the “tip of the iceberg”.</p> <p>Does the law (Article 228 of the Criminal Code) ask for hard evidence of violation of victims’ will rather than evidence of her open consent? How does Article 228 of the Criminal Code impact the consideration of the authority relationship in judging cases of sexual assault?</p> <p>Please also provide detailed information on how sexual assault in cases involving people in positions of authority is handled by the media and how the victim’s personal information is treated. Are there any training and awareness raising programs about this type of sexual assault in the media?</p>
<p><b>NHRC response</b></p>	<p><b>1. Structural dilemmas in sexual assault through authority:</b></p> <p>The NHRC supplemented the Control Yuan investigative report <i>Structural Dilemmas of Victims of Sexual Assault</i></p>



*Through Authority* approved on Jun 22, 2022, by analyzing the cause of low prosecution rate under Article 228 of the *Criminal Code* for such cases. It may be associated with the subsumption of criminal elements and difficulty in obtaining evidence:

**(1) The question of the subsumption of criminal elements:**

Article 228 of the *Criminal Code* criminalizes sexual intercourse between the victim and the accused, which is not apparently against the victim's will or where the victim's consent has been obtained, but obtained by using authority or opportunity to create a situation or an irresistible circumstance in which the victim reluctantly submits (with forced obedience or tolerance); the consent is defective and the accused has not obtained full consent. However, in practice, some judicial officers are not sensitive to the application of Article 228, and are not sufficiently aware of the distinction between the use of authority or opportunity, and still use the victim's will as the criterion for subsuming the elements of the crimes stipulated in Articles 221, 227 and 228 of the *Criminal Code*.

**(2) Difficult to prove "taking advantage of authority":**

Article 228 of the *Criminal Code* requires proof of "taking advantage" of "authority", as the two elements. However, there may not be an obvious one-on-one power relationship in many cases. The perpetrator may be an opinion leader in the industry or have significant socio-cultural influence, so it is difficult to prove that he/she is

using authority. And if reported, the victim will be discredited by the industry and unable to get a job. For example: the sexual assault cases involving celebrities in the arts and culture sector, the case of Lin Yi-han, and several cases of sexual assault in the religious sector.

**(3) Difficult to "investigate evidence":**

This includes cases where the victim does not immediately file a complaint when a sexual assault through authority occurs, making it difficult to preserve evidence; or the crime is committed in a closed room, without witnesses; or the victim's allegations are inconsistent, and there is a lack of additional evidence.

**(4) Presumption of a perfect victim:**

The judicial system presumes that after an incident occurs, the victim must run away, resist, and be fearful. If the victim does not resist or run away, but continues to have a relationship and interact with the offender, the system tends to conclude it is not a sexual assault case through authority. The victim's interaction with the accused afterwards is used to infer the victim's will at the time of the incident.

**2. NHRC recommends:**

(1) It is appropriate for the Judicial Yuan and the Ministry of Justice to strengthen judicial officers' literacy of possible contexts and peculiarities of sexual intercourse and obscenity through authority, and they should conduct case

	<p>studies. During investigation and trial, a comprehensive evaluation of evidence available should be made to determine the circumstances of the offense and subsumes the elements of the crime, so as to ensure sexual autonomy and protection of the human rights of the disadvantaged.</p> <p>(2) The Judicial Yuan and the Ministry of Justice promise to implement the "Concluding Observations and Recommendations for the Review of Taiwan's Third Report on the Implementation of CEDAW" in 2018, to build the capacity of judicial officers on women's rights and gender equality, to eliminate stereotypes and gender bias of victims in sexual assault cases through case studies, and to study the psychological mechanisms of victims to reverse the myths of sexual assault.</p>
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## Gender-based cyberviolence

<p><b>LOI</b></p>	<p><b>21.</b> Information is provided as to increase in digital and cyberviolence against women and adults. The 4th Report also contains statistics on women constituting the most number of victims. As cyberviolence can impact large numbers of women in different localities (transborder included), there are complications related to the applicability of different laws. Cyberviolence is also more likely to impact the young and as well as involve child age perpetrators. There is information that existing regulations are not able to control digital/cyberviolence and the victims cannot secure protection orders for these. What are the government’s plans to enact and implement specific legislation to protect the rights of victims adequately and prevent gender-based digital/cyberviolence?</p>
<p><b>NHRC response</b></p>	<p><b>1. Legislative progress related to the distribution of sexually intimate images of adults without consent:</b></p> <p>(1) The Executive Yuan proposed four draft amendments in March 2022 to the <i>Criminal Code</i>, the <i>Sexual Assault Crime Prevention Act</i>, the <i>Crime Victim's Rights Protection Act</i>, and the <i>Child and Youth Sexual Exploitation Prevention Act</i>, but they are still under deliberation of the Legislative Yuan.</p> <p>(2) In addition, the National Communications Commission (NCC) proposed a draft <i>Digital Intermediary Service Act</i> (formerly known as <i>Digital Communication Act</i>) in</p>

June 2022 to bridge the function laws of various ministries. However, due to public concerns about the risk of restricting freedom of speech, the NCC has suspended the public hearing.

**2. Although civil protective order can be used to prohibit the perpetrator from harassing, contacting, or stalking the victim in cases of gender-based violence, opinions differ as to whether the violence can be immediately terminated by criminal measures such as arrest, detention, or custody, as laws are not consistent.**

(1) Under the *Domestic Violence Prevention Act*, a victim of domestic violence may apply to the court for a civil protection order against family members, or current or former intimate partners who do not live together with the victim. However, Chapter 3 "Criminal Procedure" of the *Act* (which authorizes the police and prosecution to arrest upon the offense, arrest with a warrant, or take into preventive detention the perpetrator of domestic violence to terminate violence immediately) does not apply mutatis mutandis to a partner who does not live with the victim. Some women's groups and legislators advocate that the *Act* should be amended so that Chapter 3 would also apply to non-cohabiting couples. However, there are different views among legal professionals on how to balance the protection of victims of sexual violence and the rights of perpetrators in criminal proceedings.

(2) According to the *Stalking and Harassment Prevention Act*, if within two years after the perpetrator has been

warned in writing by the police in accordance with the *Act*, the victim may apply to the court for a protection order. In addition, the *Act* provides that for offenses such as "stalking and harassing with lethal weapons or other dangerous objects" and "violating a protection order", if after interrogation, the court believes that the accused is, beyond a reasonable doubt, suspected to have committed the crimes and the facts are sufficient to believe that there is a risk of criminal recidivism and detention is necessary, the accused may be detained in a preventive manner.

(3) In addition, the draft amendment to the *Crime Victim's Rights Protection Act*, which was submitted by the Executive Yuan in March 2022, adds a new Chapter 3 "Protection Order for Crime Victims". If the accused in a case of intentional criminal conduct resulting in death, serious injury, or violation of sexual autonomy is granted the suspension of detention, the court may, in its discretion, issue a protection order for the victim on its own initiative or upon request of the prosecutor; if the accused violates a protection order, he or she may be arrested with a warrant or detained again. However, there is no consensus on whether the victim can apply for a protection order and whether the accused can be ordered to give the sexual images of the victim in his/her possession to the victim or to destroy them, so the whole amendment is reserved and sent to the parties in the Legislative Yuan for negotiation.

3. The NHRC reiterates that the Legislative Yuan and the Executive Yuan should accelerate to improve the legal

	<p>framework for the prevention of digital gender-based violence. Pending the improvement of laws and regulations, the Government should expand and flexibly apply existing legislation related to sexual violence to provide protection, assistance and support to victims in order to reduce harm. The Government should also prioritize education and training for police, judicial, medical, social, education, and media personnel to develop their competence in addressing this issue.</p>
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## Article 7

### Women's representation in political and public decision-making

<b>LOI</b>	<p>23. There is much to be commended in Taiwan's performance regarding the implementation of CEDAW Article 7. However, some of the improvements appear to be uneven; a fact that requires serious attention by the government.</p> <p>a) Despite the 25% women required by the Local Government Act, only lower levels of representation of women among Special Municipal Mayors and Magistrates of Counties have been achieved. Have there been any studies done to explain such persistent gender inequality in local politics? Are there any plans to amend Article 33 of Local Government Act to increase women's representation in these electoral districts?</p> <p>b) As there is persistence of women's low representation in these districts, have any studies been conducted on the possible social or cultural reasons for the matter and/or have any policies been designed or measures implemented to counter it?</p> <p>c) In general, the one third quota has been in operation for representative positions, for some time. Since this threshold is accepted as the minimum for women's meaningful participation in politics and decision-making structures, are there any plans to amend it to require parity?</p>
<b>NHRC</b>	<b>1. Low level of representation of women in local primary</b>



<p><b>response</b></p>	<p><b>public institutions:</b></p> <p>The NHRC's 2022 Independent Opinion on the implementation of CEDAW points out the percentage of women representatives at the most primary level of township (town and city) is less than 25%, and 15 local councils have no women representatives elected, 7 of which do not even have any women running for election.</p> <p><b>2. The dilemma of amending the <i>Local Government Act</i> has not been overcome for more than 10 years:</b></p> <p>(1) The <i>Gender Equality Policy Guidelines</i> promulgated by the Executive Yuan in 2011 and amended in 2017 stipulates that the <i>Local Government Act</i> should be amended to change the quota for women from number-based to gender-ratio-based, with 30% as the midterm goal and 40% as the ultimate goal.</p> <p>(2) The Ministry of the Interior has held seminars, public hearings, and consultation meetings related to the amendment of the <i>Local Government Act</i> in 2012, 2013, 2017 and 2019. Although the Department of Gender Equality of the Executive Yuan, the Central Election Commission, and gender equality experts and scholars supported the amendment in the meetings, public representatives from local and township councils held opposing views.</p> <p>(3) In addition, on July 13, 2020, the Executive Yuan requested the Ministry of the Interior to expeditiously review and amend Article 33 of the <i>Local Government</i></p>
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*Act* in its "Midterm Review Meeting for the Implementation of the Concluding Observations and Recommendations of the CEDAW". The Ministry of the Interior has planned the amendment schedule and specific promotion goals for the *Act* in its "Gender Equality Promotion Program (2019-2022)". However, the Ministry has not proposed a timetable for the amendment in the "Gender Equality Promotion Program (2022-2025)", nor has it planned any proactive measures such as allocating resources to enhance the ability and opportunities for women in rural areas to participate in politics. It only plans to subsidize one academic seminar or symposium per year from 2022 to 2025 at universities or academic research institutions on issues related to gender equality in politics or the protection of citizens' right to participate in politics, in order to continue to foster a consensus among all sectors to amend the *Act*.

(4) The NHRC is concerned that Government actions are not yet sufficient to increase women's representation in local public bodies, and that it will be difficult to reduce gender inequality in local politics.

3. The NHRC reiterates that the Government should allocate resources to enhance the political participation capacity of women in rural areas in accordance with *CEDAW* Articles 4 and 7, General Recommendation No. 23, and the *Gender Equality Policy Guidelines*, and to increase the opportunities for diverse participation in economic and public affairs decision-making; to amend gender ratio in the *Local Government Act* to actively accelerate the

	realization of substantive equality in political participation for women in rural areas.
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<p><b>LOI</b></p>	<p>24. The 4th Report states that the Ministry of the Interior is working with political parties to ensure that they also allocate their funds for the training of women. Moreover, it is reported that there is a Draft Amendment to the Political Parties Act (sent to the Executive Yuan on Sept. 2020) to make parties' allocation of subsidies to women's training, obligatory. Can you provide information on what has happened with this amendment?</p>
<p><b>NHRC response</b></p>	<p>1. <b>Progress of the amendment of the <i>Political Parties Act</i>:</b></p> <p>The Ministry of the Interior has submitted the draft amendment to the <i>Political Parties Act</i> to the Executive Yuan for review in September 2020, but as of September 15, 2022, the draft amendment has not yet been sent to the Legislative Yuan for deliberation.</p> <p>2. <b>Effectiveness of current measures to encourage political parties cannot be evaluated:</b></p> <p>(1) At present, the Government encourages political parties to allocate a certain percentage of their subsidies, which are public resources, to enhance political participation opportunities and capacity of the disadvantaged groups and different genders in society. Political parties are also requested to prepare a plan for the use of the funds and to include the expenditure items in their annual financial declarations in the following year.</p> <p>(2) However, the Government has not provided consistent criteria or formats for the "Political Party Subsidies Utilization Plan". As a result, the use of subsidies by</p>

political parties to promote women's political participation varies greatly. Some political parties explicitly state that subsidies are used to plan "programs to promote the disadvantaged and women's participation in politics"; however, some parties include the amount spent on female personnel expenses, office and business expenses, and subsidies for party candidates (regardless of gender) to run for election as part of the promotion of women's participation in politics; other parties do not state the amount or percentage of funds used to promote women's political participation.

3. Therefore, the NHRC reiterates that existing measures to encourage political parties to promote women's participation should be standardized or evaluated to examine actual effects. It is also recommended that the Government should expedite the amendment of the *Political Parties Act*.

<p><b>LOI</b></p>	<p>26. Another area of concern is the underrepresentation of women from diverse, particularly disadvantaged, backgrounds in the making and implementation of gender equality policies. Alternative sources draw attention to the fact that women of rural, indigenous backgrounds as well as women with disabilities, elderly women and LGBTI+ women are not represented in the gender equality policy-making. Are there any programs to remedy this situation in a timely manner?</p>
<p><b>NHRC response</b></p>	<ol style="list-style-type: none"> <li>1. Paragraph 42 of the "Concluding Observations of the second report of the Republic of China (Taiwan) on the Convention on the CRPD adopted by the IRC" states that the <i>Gender Equality Policy Guidelines</i> amended in 2021 still fail to adequately address the multiple forms of discrimination faced by women and girls with disabilities, and that there is a lack of time-bound targets and specific plans that comprehensively improve the disadvantages faced by women and girls with disabilities.</li>   <li>2. The NHRC recommends that the Government should take temporary special measures or other positive actions to enable full and diverse participation of women representatives of rural areas, indigenous communities, population with disabilities, the elderly and LGBTI+ in the formulation and implementation of gender equality policies to eliminate multiple forms of discrimination against women and its compounded negative impact on women, in accordance with the Concluding Observations and Recommendations for the Review of Taiwan's Third Report on the Implementation of CEDAW, and paragraph 43a of Concluding Observations of the Second Report on</li> </ol>

	the CRPD.
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## Article 9

### New immigrant dependent visa, temporary entry, and residency rights

<b>LOI</b>	<p>33. What are the major findings of the study on residency and parental rights of divorced new immigrants commissioned from 2020 to 2021 and how will it better uphold CEDAW provisions, principles and standards? Does the provision not to revoke residency if a spouse remarries the original spouse within 30 days of the divorce not promote coercive marriages and reinforce existing stereotypes on marriage contrary to CEDAW ideals?</p>
<b>NHRC response</b>	<ol style="list-style-type: none"><li>1. The NHRC's 2022 CRC Independent Opinion states that according to Article 14 of the 2019 amended <i>Regulations Governing the Residency, Long-term Residency or Residency for Naturalization of the People of the Mainland China Area Living with a Relative in the Taiwan Area</i>, spouses from Mainland China who do not have custody of their children at the time of divorce but have visitation rights and support their children may continue to reside in Taiwan, but Article 23 of the <i>Immigration Act</i> does not apply to other new immigrants.</li><li>2. The amendment to the <i>Immigration Act</i> has been slow. Under current regulations, unnaturalized immigrants who divorce by agreement and have not obtained custody of their minor children from their current marriage or have children will face a deadline to leave the country, resulting in separation of parents and children. Although</li></ol>



	<p>the Ministry of the Interior issued a letter in September 2018 ordering local service stations to provide assistance on a project by project basis, divorced immigrant women who need to take care of their adult children with disabilities who are unable to take care of themselves are not yet protected by current regulations.</p> <p>3. The NHRC recommends that relevant provisions of the <i>Immigration Act</i> be amended as soon as possible to protect the right of immigrant women to family reunion.</p>
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## Article 11

### Work-family balance

<b>LOI</b>	<p>36. The National Report mentions that already in 2018 a commissioned study recommended amending legislation to standardize the legal system governing the protection of maternity leave rights and interests in Taiwan and establish a public system for paying out maternity leave. Will the Government proceed with this project?</p> <p>The report is not very clear when it comes to fathers taking parental leave. There are some numbers provided (para. 11.36), but it is not clear when the father alone is taking parental responsibilities and when both parents are on leave at the same time. Please clarify the role and statistics relating to male parents taking leave. There is information that more flexibility was introduced in 2021. Is there still a need to introduce further flexibility?</p>
<b>NHRC response</b>	<p>1. The NHRC again stressed that there is still room for improvement in the current system of parental leave without pay. Given the sporadic and variable nature of childcare and the impact of taking time off for childcare on family finances, the Government should actively review the need to make parental leave without pay more flexible and mitigate the loss of income caused by the difference between parental allowance and real wage, so men with higher average income will be more willing to apply for parental leave without pay.</p>

	<p>2. The NHRC also reminds the Government to take active measures to break through the traditional stereotypes of the gender division between fatherhood and motherhood and to establish a culture of support for gender-neutral parenting in order to effectively promote shared parental responsibilities, in accordance with paragraph 50 of the Concluding Observations and Recommendations for the Review of the 3rd Reports on the Implementation of ICCPR and ICESCR.</p>
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## Domestic workers

<p><b>LOI</b></p>	<p>37. There are approximately 250,000 domestic (female) workers in Taiwan. Since 2011 legislation has been in the pipe-line to improve the labour conditions of domestic workers with very small results. From alternative resources there are alarming reports on gender-based violence and discrimination towards domestic workers. The government gives information that an employer who “discriminates against or arbitrarily dismisses” a migrant worker who is pregnant “will be punished by law”. Please provide information on the numbers of cases heard and punishments issued as a consequence of such behaviour.</p>
<p><b>NHRC response</b></p>	<p>1. The NHRC's 2022 Independent Opinion on CEDAW states that the <i>Act of Gender Equality in Employment</i> already prohibits arbitrary dismissal of workers by employers on the grounds of marriage, pregnancy, childbirth or childcare. According to the information provided by the Ministry of Labor, from 2017 to 2020, 1,564 migrant domestic workers terminated their contracts with employers by mutual agreement due to pregnancy. However, complaints made to the 1955 hotline shows migrant domestic workers are treated unreasonably due to their pregnancy. There is no way to know from the statistics whether local governments truly verify such termination and whether pregnant workers know that they are not required to leave their jobs by law. As there are no statistics on the number of workers who continue to work in Taiwan, there is no way to know</p>

if the *Act of Gender Equality in Employment* has actually been implemented to protect the right to work of pregnant domestic workers.

2. The NHRC supplements the Control Yuan investigative report *Pregnancy Cases of Female Migrant Workers* approved on Apr 20, 2022:

(1) Although the *Act of Gender Equality in Employment* is also applicable to migrant domestic workers, in practice, some employers and brokers, upon learning a migrant worker is pregnant, request or persuade her to return to the home country before the seventh month of pregnancy, or terminate or not renew the contract for other reasons, such as the cared-for person does not require care anymore, or the migrant worker's performance fails short of assessment standards. Furthermore, some pregnant migrant workers are worried about contracts being terminated, so they hide their pregnancies or do not go to pregnancy checkups.

(2) Although employers can use extended respite services during workers' pregnancy and childbirth, the effectiveness of such a measure is limited by the employer's unwillingness to apply, limited amount of public payment, and the lack of replacement or support staff during workers' leave for childbirth. It is clear this measure is insufficient to meet the needs

of domestic workers for flexible work arrangement, leave, checkup leave and maternity leave. As a result, once pregnant, workers often have to terminate contracts and return to home countries, or even run away or go into hiding.

(3) If migrant workers want to take care of their children while working in Taiwan, they are faced with the dilemma of not being able to afford childcare costs. Meanwhile, workers need to live in the care recipient's home and be on call 24 hours a day, and the Government has not come up with solutions and supporting measures.

(4) Although pregnant migrant workers can file a complaint with the 1955 hotline if they are treated unreasonably, the results of more than 60% of the 226 complaints in 2020 and 2021 are "migrant workers have already left the country or are waiting to leave" and "migrant workers agree to close (withdraw) the case". This, coupled with the lack of a spot check mechanism by the Ministry of Labor, might distort the number of complaints and make it impossible to know the actual discrimination against pregnant migrant workers.

3. The NHRC recommends that the Government should address and solve the problem of under-reporting of pregnancy discrimination among migrant domestic

	<p>workers, enhance the sensitivity of labor officials in handling cases, and propose effective protection measures for pregnant workers.</p>
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## Article 12

### Health care for women with disabilities

<b>LOI</b>	<p>39. There is worrying information that women with disabilities do not have accessibility to medical facilities, for example, unable to receive pelvic examinations and pap smear screening because the examination tables are too high and transfer aids are unavailable. Has there been research on the special health care needs of women with disabilities and difficulties they are facing? Please provide information whether the current health care system is properly responding to the needs of women with disabilities and whether regular consultations are held with women with disabilities to find out what specific problems they encounter.</p>
<b>NHRC response</b>	<ol style="list-style-type: none"><li>1. The NHRC's 2021 <i>CRPD Independent Opinion</i> indicates a lack of accessibility to health care facilities and equipment, as well as a lack of easy-to-read and interpreted health education and adult health screening notices for women, resulting in inconvenience and difficulty in accessing health care resources for women with disabilities, exclusion or delay in access to health care, and even difficulties and risks in childbirth and preventive screening.</li><li>2. The NHRC recommends that the authorities start by "seeing" the situation and needs of women with disabilities, and set specific goals and timeline to actively take stock of and supervise the provision of relevant equipment and support services (e.g., communication assistance for the</li></ol>



	<p>hearing/visually impaired) by medical institutions. The Government should track the actual usage to ensure women with disabilities have easy access and their rights to medical care and health are protected.</p>
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## Article 14

### Livelihood, property and economic opportunities

<b>LOI</b>	<p>45. To provide indigenous peoples with a more robust social safety net, and to safeguard and promote their right to transparency and access to information, the Council of Indigenous Peoples has granted local government approval to set up 63 Indigenous Peoples Family Service Centers as of the end of 2020. How many of such centers have been set up and are fully operational in 2022? Also provide gender breakdown of the 631 indigenous medical personnel (including 310 physicians, 75 dentists, 186 nursing staff, and 60 other medical personnel) trained to date.</p>
<b>NHRC response</b>	<ol style="list-style-type: none"><li>1. In its 2022 Independent Opinion on the implementation of CEDAW, the NHRC reminds that the 2018-2020 national maternal mortality rate has tripled compared to that of 2010; during the same period, the rate in the three counties of Taitung, Penghu, and Nantou (which overlap with some indigenous areas) is much higher than the national average by 5-6 times.</li><li>2. The Independent Opinion also notes the lack of resources for obstetrics and gynecology across the country and there is a gap between urban and rural areas. In 2020, for example, there were 23,132 medical institutions nationwide, of which only 262 were in the outlying islands and rural areas; in terms of obstetrics and gynecology medical resources, there were 990 OB/GYN medical</li></ol>

institutions nationwide, with 1,185 full-time obstetricians and gynecologists, but more than 70% of them were concentrated in 6 major cities; in addition, there were 134 practicing midwifery personnel nationwide in 2020, of which only 2 worked in the outlying islands and rural areas, indicating an urban-rural gap in medical resources.

3. The NHRC reiterates that Government should conduct an in-depth study on the causes of high maternal mortality in rural areas and formulate strategies to solve the problem accordingly. It is also important to address the inequality in medical resources for obstetrics and gynecology, to evaluate the effectiveness of various programs that subsidize or support OB/GYN services in rural areas, and to emphasize the importance of midwifery personnel's guidance and support for women in rural areas.

## Article 16

### Marital property regimes

<b>LOI</b>	<p><b>53.</b> Please provide information as to the amendment to the Civil Code mentioned in para 2.2 of the Report, prepared to conform to CEDAW’s General Recommendation 29, and if possible, please provide an English version of the amendment.</p> <p>Articles 1004-1005 of the Civil Code provide for the possibility of husband and wife to contract one of the contractual regimes provided by Section 4 of the Civil Code (community or separate property), instead of the statutory regime to be applied as the default regime. How does the government ensure that women are aware of these options and of the consequences of these choices? Are there mechanisms in place to ensure that power differences are not abused, for instance, to induce women into contracting a separate property regime?</p> <p>Article 1030-1 of the Civil Code provides for courts to consider factors such as “household labor, caring and nurturing of the child, the collaboration of contribution to the family” when distributing the remainder of the property acquired by the couple during marriage. Have there been studies on the usage of this judicial discretion? Have there been studies on the economic outcomes of divorce? Does the amendment to the Civil Code include recognition of increased earning potential and human capital as a property to be taken into consideration and</p>
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	distribution upon divorce, in line with CEDAW's GR 29?
<b>NHRC response</b>	<ol style="list-style-type: none"> <li data-bbox="432 315 1361 645">1. The NHRC is concerned that women's atypical employment or withdrawal from the labor market due to unpaid domestic work and caregiving responsibilities during marriage leaves middle-aged and elderly women vulnerable to economic disadvantage due to lack of pension protection after the dissolution of marriage.</li> <li data-bbox="432 712 1361 1512">2. The NHRC recommends that pensions should also be included in the distribution of assets after divorce. Although the regulations for divorced spouse's claim to pension distribution for military, public, and educational personnel have been implemented since 2018, there are no corresponding regulations for labor pensions. As to whether one may claim part of the spouse's pension upon a divorce, a distinction must be made depending on the type of occupation of both parties. If one of the spouses is a member of the military, public, or educational institution, the other party's claim to his/her military, public, or educational pension is denied in the spirit of "principle of reciprocity" until the rules for claiming the pensions of other occupations are established.</li> <li data-bbox="432 1579 1361 1966">3. In order to protect the financial security of economically disadvantaged divorced spouses in their senior years, the Government should promptly enact legislation on the right for a party to claim labor pension of their divorced spouse. This can address differences in the permissibility and manner of claiming pension among different occupations.</li> </ol>

**NHRC's Parallel Response to the List of Issues with the Consideration  
of the CEDAW Fourth Report**

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Adopted at the 33rd meeting of the 1st National Human Rights  
Commissioners on September 27, 2022