

Review Meeting of the ROC's Initial Reports under the ICCPR and ICESCR

公民與政治權利國際公約 經濟社會文化權利國際公約

中華民國初次報告國際審查會議

日期：2013年2月25日至27日

地點：公務人力發展中心福華國際文教會館

Venue：Howard Civil Service International House, Taipei, Taiwan

Date：25– 27 February 2013

作為簽約國報告組成部分的核心文件

簽約國根據《經社文公約》第16條及第17條提交之初次報告

經社文公約審查委員會提出之問題清單

**Consideration of reports submitted by States parties under article 16&17 of the Covenant
Republic of China(Taiwan)**

the list of issues to be taken up in connection with the consideration of its initial report

[21 January 2013]

經社文公約審查委員會提出之問題清單內容(List of Issues submitted by Review Committee for Initial ICESCR Report)

條文	編號	問題內容(原文)	中文參考翻譯
共同核心文件	1.	Taiwan has not yet established a national human rights institution that complies with the Paris Principles adopted by the United Nations General Assembly Resolution 48/134 of 1993 (cf. Report, preface and para.143).Please report on the progress made in setting up such an institution, and will it include economic, social and cultural rights (esc-rights) analysis?	台灣尚未建立與聯合國大會 1993 年 48/134 號決議通過之「巴黎原則」相符的國家人權機構(參照國家報告前言及第 143 段)。請說明為建立此等機構已取得之進展，以及說明該機構是否將包含經濟、社會與文化權利之分析?
	2.	Taiwan has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the two Covenants ICESCR and ICCPR. Is it envisaged to ratify other more recent UN core human rights instruments, notably the Convention against Torture (CAT), the Convention on the Rights of the Child (CRC), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC), the Convention on the Rights of Persons with Disabilities (CPD), and the Convention for the Protection of All Persons from	台灣已經批准《消除對婦女一切形式歧視公約》(CEDAW)，以及《公民與政治權利國際公約》(ICCPR)、《經濟社會文化權利公約》(ICESCR)兩人權公約。貴國政府是否預定將批准其他聯合國核心人權公約，特別是《禁止酷刑公約》(CAT)、《兒童權利公約》(CRC)、《保護移徙工人及其家庭成員權利國際公約》(MWC)、《身心障礙者權利公約》(CPD)，以及《保障所有人不受強迫失蹤公約》(CPED)?

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		Enforced Disappearance (CPED)?	
	3.	According to Article 8 of the Implementation Act all levels of governmental institutions and agencies should review laws, regulations, directives and administrative measures within their functions for any revision or amendments within a period of two years after the Implementation Act entered into effect (i.e. by 10 December 2011). Please provide information on progress made and difficulties encountered in this review process (Preface and para. 99).	根據兩公約施行法第 8 條，各級政府機關必須在施行法施行後兩年內(亦即在 2011 年 12 月 10 日)，檢討所主管之法律、命令、指令與行政措施。請提供資訊，說明在檢討過程中，有哪些進展，遭遇何種困難(國家報告前言與第 99 段)。
	4.	Please provide more specific information on the activities carried out by the Human Rights Protection Committee established by the Control Yuan (para.149). Does it conduct such activities only at the request of the Control Yuan or also on its own initiative? Would the Committee be entitled to investigate presumed corruption practices that adversely affect human rights?	請提供具體資訊，說明監察院下設置之人權保障委員會(第 149 段)辦理之工作。該委員會是只依監察院之要求辦理，或是自行辦理?該委員會是否有權調查不利人權之可疑貪腐行為?
	5.	While the corporate sector contributes in many instances to the realization of the rights enshrined in the Covenants, there may also be corporate activities that are	儘管許多事例指出企業部門對於公約權利的實踐有所助益，但是企業活動亦可能危害權利的享有。此等案例包括不安全的勞動條件、限制工會權利、歧視女性

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		detrimental to the enjoyment of these rights. Examples may occur in such matters as unsafe labour conditions, restrictions on trade union rights, discrimination against female workers and migrant workers, and corruptive practices. Please provide information on measures taken with regard to the role and impact of the corporate sector on the enjoyment and the realization of the rights enshrined in the Covenants.	勞工與外籍勞工，以及貪腐行為。請提供資料說明，針對本公約所保障的權利之享有及實現，(政府)*採取何種做法，(以規範)企業部門的角色及其影響。 * 括號內文字為譯者所加
經社文 第 1 條	6.	The various thresholds required for the success of a referendum under the Referendum Act have been widely criticized as being too stringent. Would it be appropriate to lower the relevant thresholds in order to strengthen the internal dimensions of the right to self-determination?	公投法為成功舉行公投設下種種門檻，被批評為限制太嚴格。降低門檻以強化自決權的國內向度是否適當?
	7.	To what extent does national law and policy provide for meaningful consultation with indigenous groups, when the latter's interests are affected by projects with important national benefits?	當原住民團體的權益受到對國家有重大效益的(開發)計畫影響時，國家法律和政策如何規定要與原住民團體進行有意義的諮商? * 括號內文字為譯者所加
經社文 第 2 條 第 1 款	8.	The 2009 Act to implement the two Covenants provides that both have domestic legal status and that interpretations of both Covenants by the Human Rights	兩公約施行法(2009 年)規定各級政府應參照人權事務委員會對兩公約的解釋。請舉出重要事例說明法院和行政機關引用經濟社會文化權利公約的條文，或參照

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		Committee should be taken into account by domestic authorities. Please list the principal instances in which the courts and the administrative authorities have invoked specific provisions of the ICESCR, or referred to the relevant international interpretations. Did the 2009 Act intend that account should also be taken of interpretations adopted by the Committee on Economic, Social and Cultural Rights (CESCR); if not, why not; if so, why is it not specifically stated?	相關的國際解釋。兩公約施行法是否亦將參照經濟社會文化權利委員會之解釋?若為否,請解釋;若為是,為何未於施行法中明確陳述?
	9.	Please indicate which laws were found by the Executive Yuan, in applying Article 8 of the Implementation Act, to be inconsistent with the ICESCR, and indicate what subsequent amendments were made.	請指出依照兩公約施行法第 8 條,行政院發現哪些法律不符經濟社會文化權利國際公約,並請說明後續做了哪些修正?
	10.	What actions have been taken by the Control Yuan specifically designed to promote implementation of the ICESCR? What alleged violations of esc-rights have been investigated by the Human Rights Protection Committee operating under the auspices of the Control Yuan?	監察院採取了哪些特定行動以提升經濟社會文化權利公約之落實?監察院人權保障委員會曾經針對哪些可能違反經社文權利公約的事例進行調查?
	11.	Paragraph 10 of the Report describes how foreign aid	國家報告第 10 段描述台灣如何運用外援進行經濟建

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		<p>was utilized largely for economic development, and Taiwan's provision of foreign aid to various causes which are laudable. In line with the CESCR treaty-specific Guidelines on Reporting (E/C.12/2008/2) please indicate the impact of international assistance and cooperation, whether received or provided, on the realization of the Covenant rights in Taiwan and, as the case may be, in other countries.</p>	<p>設，並因各種理由提供對外援助，值得讚賞。依照經社文權利公約報告指引(E/C.12/2008/2)，請指出國際援助與合作，無論是接受或提供，對實現台灣或其他國家的經社文公約權利有何效果？</p>
經社文 第 2 條 第 2 款	12.	<p>In Taiwan, discrimination against different groups of people is dealt with by different bodies created by different laws, such as Task Force, Review Committee or Review Panel, and in a very limited way. Has there been any discussion on the need to enact a comprehensive Anti-Discrimination Act which encompasses all grounds of discrimination and in all areas?</p>	<p>在台灣，對不同群體的歧視是由根據不同法律所成立的各種機構處理，例如任務小組、審查委員會、審查小組，並且處理範圍有限。是否曾經討論需要制定一部完整的反歧視法，以涵蓋各領域、基於各種原因之歧視？</p>
	13.	<p>From Table 2 (p. 12) of the Report on ESC-Rights, when the Employment Discrimination Review Committee decides on the complaints that there were in fact violations, the penalty is only fines. What remedies are provided to the victims of discrimination? To be</p>	<p>由經社文公約報告表 2(第 12 頁、中文第 7 頁)，當就業歧視評議委員會議決申訴案確實成立時，其處罰僅限於罰款。對於遭受歧視的受害者有何補救？受害人是否必須尋求其他法律途徑，例如民事訴訟，才能復職或得到補償金？</p>

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		reinstated and/or to get compensation, do the victims have to pursue another legal procedure such as filing a civil lawsuit?	
經社文 第3條	14.	Bearing in mind that in the Covenant, the equal enjoyment of men and women of economic, social and cultural rights is not an “ideal” (Report, para.32) but a human rights standard, and that the State’s obligation is to ensure that this standard is enjoyed in law and in fact, please provide information as to how the numerous initiatives to promote equality are being implemented, the impact on the ground, and the difficulties encountered.	請銘記在心：公約中關於男女平等享有經濟、社會與文化權利的規範並非僅是「理想」(國家報告第32段)，而是人權標準，國家的義務是必須確保該標準能在法律與現實中落實。請提供資訊，說明各種促進平等的措施是如何實施，產生哪些效果，以及遭遇何種困難。
	15.	The principle of equality that applies to men and women is similarly applicable to those whose gender identities are different from their biological sex. Please describe to what extent the Government has taken into consideration the enjoyment by these groups of their esc-rights.	適用於男性與女性的平等原則也同樣適用於性別認同不同於生理性別的人們。請描述為使這些族群享有經濟社會文化權利，政府做了哪些考量。
	16.	Throughout the report, gender equality and gender equity are used interchangeably. While appreciating the explanation given (Report, para.32), ICESCR prescribes	在整份國家報告中，性別平等(gender equality)與性別公平(gender equity)交替使用。雖然(審查委員)對報告提供之解釋表示感謝，但是經社文公約規定婦女平等

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		women's equal enjoyment of esc-rights – thus gender equality should not be replaced with the term gender equity. Has there been any consultation with the women's rights and human rights organizations on this issue?	享有經濟社會文化權利，因此不應以性別公平來替代性別平等。對於此議題，是否曾經諮詢婦女權利與人權團體? * 括號內文字為譯者所加
	17.	For equal rights of women in the enjoyment of the esc-rights it is essential to eliminate gender role stereotypes. What efforts has the Government taken to change the stereotyped gender roles in the family, as well as in society in general?	為使婦女平等享有經濟社會文化權利，必須去除性別角色刻板印象。政府已經做了哪些努力，以改變家庭、以及社會中對性別角色的刻板印象?
經社文 公約 第 6 條 至第 9 條	18.	To what extent do workers in the informal economy share in the enjoyment of basic esc-rights (see Report, paras. 59 and 122-123), such as equal pay for work of equal value, adequate social security coverage, notably health insurance and national pension insurance, safe and healthy working conditions (cf. CESCR General Comment 19, para.34)?	非正式經濟部門勞動者享有基本經濟社會文化權利的程度如何(請見國家報告第 59、以及 122-123 段)，例如同工同酬、適足之社會保障、特別是健康保險以及國民年金保險，安全與健康之勞動條件 (參照經社文公約第 19 號一般性意見第 34 段)?
	19.	Describe the role of the judiciary and of other competent authorities in settling labour disputes and provide an overview of the nature of cases that were	說明司法部門以及其他主管機關在勞資爭議處理的角色，並提供進入勞資爭議訴訟之案件性質概觀 (國家報告第 63-67)。

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		subject to labour dispute litigation (Report, paras.63-67).	
	20.	While the Labour Standards Act applies to a large majority of the working population, some categories of professional and other workers do not fall under the coverage of this Act. What measures are being taken that the protection provided by the Act will apply to all who are part of the labour force, including dispatched workers (Report, paras. 72-74)?	儘管勞動基準法適用於大部分的勞動人口，某些特定行職業與其他勞動者並未被涵蓋在內。政府目前採取哪些措施，以期讓所有勞動者都能受到勞動基準法保障，包括派遣勞工(國家報告第 72-74 段)?
	21.	What steps is the State Party taking to raise the minimum wage levels (Report, para.81) to meet the minimum requirements of an adequate standard of living?	締約國採取那些做法來提高最低工資水準(國家報告第 81 段)，以滿足適當生活水準之最低需求?
	22.	Please provide information on the so-called “de-linking” of wages of foreign labourers from the basic wage.	請提供所謂外籍勞工工資與基本工資「脫鉤」之資訊。
	23.	The Report expresses concern about wages being insufficient for workers and their families to maintain an adequate standard of living (paras. 81-83). This applies in particular to persons with disabilities who generally receive lower wages. What measures are taken to remedy this poverty gap? (see also Core Document, para. 215 on the rights of low income families).	國家報告對於工資不足以滿足勞動者及其家庭成員維持適當生活水準之狀況，表示關注(國家報告第 81-83 段)。此關注更應給予身心障礙者，因為他們普遍而言薪資較低。政府採取哪些措施來彌補此貧窮落差?(請同時參見核心文件第 215 段關於低收入家庭之權利)。

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	24.	It is submitted that correctional and remedial measures are being taken in connection with sexual harassment in the working place (Report, paras.39-41, 86 and 103,as well as Tables 4-6).Please elaborate more in particular what preventive measures are taken.	根據國家報告，政府就工作場所性騷擾已採取矯正與補救措施 (國家報告第 39-41、86 和 103 段，以及表 4-6)。請再詳加說明採取了哪些預防措施。
	25.	Please provide further information on legal and other measures to expand the coverage of the Labour Safety and Health Act to all the categories of workers not yet covered by the Act (Report, paras. 87-88).	請提供更多資訊，說明採取哪些法律及其他措施，使勞工安全衛生法得以適用至尚未涵蓋之各行業勞工 (國家報告第 87-88 段)。
	26.	Does not the current policy on importing foreign workers (Report, paras 92-94), notably the role of brokerage firms that often levy excessive fees, lead to treatment of these workers as commodities? (i)What measures are being taken to protect foreign workers against exploitation and unfair practices? (ii) While foreign workers employed by industries to which the Labour Standards Act applies are entitled to the protection of their working conditions, what are the rights of foreign workers employed by industries to which the Labour Standards Act does not apply? (iii) Further, to what	當前進用外籍勞工之政策(國家報告第 92-94 段)，特別是經常收取過高費用的仲介公司角色，豈不造成這些勞工被視為商品？(i) 目前採取哪些措施以保障外籍勞工不受剝削或不公平對待？(ii) 雖然產業外籍勞工之勞動條件受到勞動基準法保障，受雇於不適用勞基法行業之外籍勞工有哪些權利？(iii) 更進一步，外籍勞工享有哪些就業服務法的權利？(參見公政公約國家報告第 31、116 段)。

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		extent do foreign workers have the benefit of the Employment Services Act? (see ICCPR Report, paras. 31 and 116)	
	27.	To what extent are basic human rights, such as those relating to food, health care, shelter and protection against exploitation and abuse, ensured and respected with regard to non-documented migrant workers? (see ICCPR Report, para.140).	無工作許可之移工(無證外勞)之基本人權，例如涉及食物、醫療、庇護、以及免於剝削和虐待之權利，是如何被保障與尊重?(參見公政公約國家報告第 140 段)
	28.	Some categories of workers and workers in special circumstances are excepted from the right to strike (Report, para.118). Explanation is needed why members of the teaching profession – together with employees of the Ministry of National Defence – find themselves in this category? (see ICCPR Report, para.282).	某些類別之勞動者，或處於特殊情況之勞動者未能享有罷工權(國家報到第 118 段)。請解釋為何教師，以及國防部員工不能擁有罷工權 (請見公政公約國家報告第 282 段)。
	29.	Article 115 of the Constitution provides for the establishment of a social insurance system. (Report, paras. 119 et seq.) More information is needed to what extent the social security system applies to workers and their families who fall into the categories of part-time, casual, self-employed and home workers, workers in the	中華民國憲法第 115 條規定必須建立社會保險制度(國家報告第 119 段起)。請提供更多資訊，說明部分工時、臨時工、自營作業、在家工作之勞動者及其家庭成員，以及非正式經濟部門勞工、原住民族與少數族群、外國人 – 包括移工、難民、尋求庇護者以及無國籍人士，適用社會安全制度之程度。(請同時參見

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		informal economy, indigenous peoples and minority groups, non-nationals - including migrant workers, refugees, asylum seekers and stateless persons- (see also in this context CESCR General Comment 19, paras.33-38).	經社文權利委員會第 19 號一般性意見第 33-38 段)。
經社文 第 10 條	30.	Please provide annual statistics on the proportion of international marriages out of total marriages for the past ten years, disaggregated by country of origin of women. What are the situations of the foreign immigrant wives of Taiwanese men, and what laws, policies and programmes does Taiwan have to protect their equal rights?	請提供過去十年，跨國婚姻佔所有婚姻之年度統計資料；統計資料應按女性之來源國分類。嫁給台灣男性之女性外籍配偶處境如何？台灣有哪些法律、政策和計畫以保障他們的平等權利？
	31.	Compared to Taiwan's economic development, eight weeks of maternity leave seem rather short. Is the Government intending to increase the length of maternity leave? Also, how much is the allowance to the parent while the mother or father is on child care leave without pay?	相較於台灣經濟發展，8 周的產假似乎過短。政府是否打算延長產假？另外，當父或母親請休無薪育嬰假時，政府提供多少津貼給這位父/母？
	32.	What has been the accommodation rate of the child care facilities from infants up to the age of 5?	從嬰兒到五歲的兒童托育設施容納率是多少？
經社文	33.	In the Report, para. 207, it is stated that measures are	國家報告第 207 段提及，政府已採取措施以確保有充

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第 11 條		being taken to secure sufficient food supply: (i) How does the Government influence the decisions of the competent local authorities in this matter? (ii) What programmes are in place regarding disaster risk management and disaster recovery in Taiwan, a country often beset by intense weather events?	足的糧食供應： (i) 政府如何影響地方主管機關之糧食決策? (ii) 台灣是極容易受強烈天候影響的國家，目前有哪些計畫/方案來處理災害風險管理與災後重建?
經社文 第 11 條	34.	Is the Government planning to adopt a national housing survey and housing policy, addressing in particular the situation of marginalized and disadvantaged groups of society (cf. Report, paras. 215-218)?	政府是否打算通過全國住屋調查與住屋政策，來特別處理社會邊緣與弱勢族群所處之狀況(參照國家報告第 215-218 段)?
	35.	Please provide information on the situation of the homeless. What steps is the Government taking in that respect?	請提供無家可歸者/遊民的現況資訊。政府目前採取了那些做法?
	36.	Please provide further details, particularly as regards forced evictions (Report, para. 217). Does the State Party provide alternative housing for those forcibly evicted, in line with CESCR General Comments 4 and 7)?	請提供更詳細的資料，特別是與迫遷 (國家報告第 217 段)有關的資訊。締約國是否依據經社文委員會第 4、7 號一般性意見，提供被迫遷者其他住處?
經社文 第 12 條	37.	What measures is the Government taking to address the high pregnancy and abortion rate amongst female adolescents, and how is teenagers' sexual health	政府採取哪些措施，來解決青少年高懷孕與墮胎率問題? 如何有效確保青少年接受性教育? 是否提供醫療人員性健康議題方面之訓練課程? (國家報告第

條文	編號	問題內容(原文)	中文參考翻譯
		education effectively guaranteed? Are there training courses on sexual health issues for health care personnel? (Report, paras. 237-239).	237-239 段)
	38.	Please provide information on mental health problems generally, beyond prevention and control of occupational accidents (Report, paras. 252-253), explaining the ratio of in-patients and out-patients, and availability of ambulatory care, and on affordability of such care (cf. CESCR General Comment 14).	請提供職業災害的預防與控制之外、有關心理健康問題的綜合性資訊 (國家報告第 252-253 段)，解釋門診病人與住院病人的比值，以及門診服務的可取得性與此種服務的可負擔性 (請參照經社文委員會第 14 號一般性意見)。
	39.	Please provide further information on the availability and accessibility of health care for persons with disabilities, and what steps is the State Party taking to improve the health care situation of these individuals (report, para. 233)?	請提供身心障礙者使用健康服務之可取得性與可近性之資料，並說明締約國採取了那些做法來改善身心障礙者之健康服務使用情況(國家報告第 233 段)。
	40.	According to information received, only a reduced rate of water is available for the agricultural sector. Please explain the fallow land policy begun as early as the 1973 Agricultural Development Act, and what steps is the Government taking to secure sufficient access to water?	根據審查委員會收到的資訊，農業用水的比例有所下降。請說明 1973 年農業發展條例實施後之休耕土地政策，以及政府採取了那些做法來確保(農業)有充分用水? * 括號內文字為譯者所加
	41.	Please explain further the effects of monitoring of	請進一步解釋監測農業用地污染控制的成效 (國家報

條文	編號	問題內容(原文)	中文參考翻譯
		pollution amelioration on agricultural land (Report, para. 211).	告第 211 段)
	42.	Please explain the ruling of an administrative court on the cancellation of an environmental impact assessment of the stage III Project of the Central Taiwan Science Park. Why were the construction operations of the contractors not stopped ?(Report, para. 212), considering the health risks of contaminated agricultural irrigation water, as evidenced in the high dioxin level in the blood of Houli District residents, as compared with the rest of the country.	請解釋行政法院撤銷中科三期環評審查之裁定。為何未中止承攬單位之施工?(國家報告第 212 段), 鑒於農業灌溉用水遭污染(造成)之健康風險, 如后里地區居民較全國其他地區民眾血液中有較高濃度的戴奧辛所顯示。 * 括號內文字為譯者所加
	43.	What measures is the Government taking to raise the rate of water pipeline connections in the eight counties and cities mentioned in the Report, para. 214?	政府採取了那些措施, 以提高國家報告第 214 段指出之八縣市自來水管接管率?
經社文 第 13 條	44.	Please provide comparative information regarding teachers' wages, benefits and working conditions, in the public/private education system, including the urban/rural, in all levels of education (cf. CESCR General Comment 13).	請提供各級教育中, 公/私立教育體系、以及城/鄉之教師之薪資、福利以及工作條件之比較(請參照經社文委員會第 13 號一般性意見)。
經社文	45.	Please indicate the difficulties encountered, if any, in	請指出在確保各種文化--包括移民之文化--在國內和

條文	編號	問題內容(原文)	中文參考翻譯
第 15 條		ensuring harmony among the diverse cultures in the country, including immigrant cultures.	諧並存，遭遇哪些困難。
	46.	It has been estimated that nine of Taiwan's 42 indigenous languages are endangered. What steps has the Government taken to preserve or encourage the use of these languages?	據估計台灣 42 種原住民語言中，有 9 種瀕臨滅絕。政府已經採取了那些做法來保存、或者鼓勵使用這些語言？

