

## **Taiwan Association for Human Rights**

### **A CEDAW Shadow Report in Response to the Republic of China (Taiwan)'s Third CEDAW National Report**

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After finishing the CEDAW shadow report in response to the Republic of China (Taiwan)'s second CEDAW national report, the Taiwan Association for Human Rights continues to pay attention to gender and human rights issues. Between the second and the third examination of Taiwan's CEDAW national report, Taiwan has already held review meetings under CRC, CRPD, ICCPR and ICESCR; and many issues have been raised in the past three to four years as well. Therefore, following the previous CEDAW shadow report, the Taiwan Association for Human Rights keeps discussing issues that we care the most, including how the government sets up human rights protection mechanisms at the national level. We also focus on issues related to female migrant workers, stateless children, discrimination against female protesters, gender discrimination in the police force, and issues regarding passing the Refugee Act and the principle of non-refoulement. This shadow report provides detail responses to each and every point in the third CEDAW national report. For things that are not included in the national report, this shadow report also addresses the actual human rights situations in Taiwan in order to let members of the international review committee know that there are more human rights and gender related issues left out by the official national report that are needed to be seen and changed. As a result, this shadow report will focus on the six above mentioned topics and discuss the issues related in the following sections:

### **3. Reducing Discrimination against Female Migrant Workers Can Help Protect the Rights of Stateless Children**

In response to sections 9.5 to 9.7 in the national report regarding protection measures for stateless children and youth without household registration, the root cause of this issue in

Taiwan is actually structural discrimination and exploitation of migrant workers. For example, migrant workers in Taiwan cannot change their jobs freely; there are no effective ways to stop agencies from making profits by exploiting migrant workers; migrant workers are not fully protected under the Labor Standards Act; and some employers and agencies prohibit female migrant workers from getting pregnant. As a result, many migrant workers choose to run away from their employers and become illegal, undocumented workers.

These female migrant workers are given a stigmatized name called “escape migrant workers.” They have no other ways but to risk their health to try dangerous methods of giving birth. They also sacrifice their rights to be with their babies by leaving these stateless children to social welfare organizations that are willing to adopt them such as the Harmony Home Association, Taiwan. According to the official statistics, presently in Taiwan, there are about one thousand migrant workers who had given birth to stateless children. But the real unreported numbers must be higher. Because the Control Yuan<sup>1</sup> and the media<sup>2</sup> have been following and investigating this issue, the Ministry of Labor started to allocate the Employment Stability Fund to subsidize the placement of stateless children. The government estimates that the number of stateless children and youth who require placement in 2017 is 45 and will allocate a budget of NTD 5,512,500 to subsidize child placement agencies, foster care organizations and families. However, this budget is insufficient for the needs as the required fund for non-Taiwanese children and youth who need placement is NTD 17,500 per person per month.<sup>3</sup>

As a result, we suggest that the government should ban the regulation prohibiting migrant workers from changing their jobs freely. Also, we agree with the No. 33 recommendation from the Concluding Observations on Taiwan’s initial CRC national report in 2017: “the

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<sup>1</sup> 請見監察院的新聞稿：<https://goo.gl/mSUFua>

Please refer to press release of the Control Yuan: <https://goo.gl/mSUFua>

<sup>2</sup> 請見獨立媒體「報導者」的深入報導「無國籍的移工小孩——『沒有名字』的孩子們」，網址：<https://www.twreporter.org/a/stateless-children-of-migrants>

Chien, Y. T. (2016) Stateless children born to migrant workers – children without names. Webpage, on website *The Reporter*. Available at <https://www.twreporter.org/a/stateless-children-of-migrants>.

<sup>3</sup> 請見聯合新聞網的「外勞懷孕分娩 雇主不得解聘」，網址：<https://udn.com/news/story/7314/2425940>

United Daily News (2017) Employers are not allowed to fire pregnant migrant workers. Webpage, on website *United Daily News*. Available at <https://udn.com/news/story/7314/2425940>.

government should enable more stateless children who are not adopted to acquire the nationality of the Republic of China (Taiwan), ensuring that these children are not deprived of any services, benefits, education and health care resources to which other children in Taiwan are entitled.”<sup>4</sup>

#### **4. Discrimination against Female Protesters in Demonstrations**

CEDAW Article 3 points out that women should enjoy human rights and fundamental freedoms on a basis of equality with men; and CEDAW Article 15 states that women should be treated equally with men before the law. Although the national report does not mention the situation of female protesters in demonstrations, the government should refer to CEDAW Article 3 and 15 when assessing situations of discrimination against women. When doing so, the government has to face the issue of discrimination against female protesters in demonstrations.

The first case happened during an anti-nuclear demonstration on April 27th, 2014. The police used powerful water cannon to attack unarmed protesters on the scene, particularly focusing on one female protester, Miss Liu, on purpose. Her shirt was flipped up by water, leaving bruises on her back and blood in her urine. Not only that, the police even circulated the video of this accidental body exposure within their instant messaging group; moreover, some netizens left improper jokes publicly, which all encourage the act of sexual harassment.<sup>5</sup>

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<sup>4</sup> 根據法律扶助基金會與台灣人權促進會共同出版的《國界上的漂流者》第 144 頁：「移民署同意，從 2017 年 2 月開始發給無國籍的兒童『暫時居留證』，衛福部和台北市衛生局也接著給他們兒童健康手冊.....接著才能打疫苗，維持基本健康。」

“NIA finally agreed to give the stateless children a ‘temporary resident certificate’, starting from February, 2017. Subsequently the Ministry of Health and Welfare and the Department of Health, Taipei City Government started to give them Children’s Health Booklets... allowing the children to be vaccinated to maintain basic health.”- Yang, N. (2017) Children stuck by nationality. In *Drifters between National Borders*. Taipei: the Legal Aid Foundation and the Taiwan Association for Human Rights, 144.

<sup>5</sup> 請參閱自由時報「驅離走光影片外流 女學生控警性騷擾」

<http://news.ltn.com.tw/news/focus/paper/778543>

Liberty Times Net (2014) Female student accuses the police of sexual harassment and circulating her wardrobe malfunction video during dispersion. Webpage, on website *Liberty Times Net*. Available at <http://news.ltn.com.tw/news/focus/paper/778543>

The second case is about death penalty. Because the support for capital punishment in Taiwan remains high, many people will point to civil groups that support the abolishment of death penalty every time when a major crime happens. Offices of these human rights groups often receive many protesting phone calls when those crimes get more and more media coverage. Although, some protesters are willing to communicate with human rights workers, most of them use angry and cursing words to blame crimes on human rights workers. They tend to release their emotion with speech full of gender discrimination especially when female human rights workers pick up their calls. For instance, on the evening of June 5th, 2015, human rights groups gathered in front of the Ministry of Justice to call a press conference to condemn the execution of six people in Taiwan early that day. At that time, there were onlookers who verbally abused female human rights workers, "Talk when you are raped." Ms Hsin-yi Lin, Executive Director of the Taiwan Alliance to End the Death Penalty also says that she has received many similar protesting phone calls with sexual violence speech.<sup>6</sup>

The third case happened during the demonstration of "Anti the Amendment to the Labor Standards Act" initiated by many union groups on December 23rd, 2017. Although the main rally ended on schedule, many people participated in the demonstration did not willing to leave. In order to keep protesting against the DPP government for passing the revision draft of the Labor Standards Act, they randomly blocked traffic at the Taipei Main Station, in Ximending and on Civic Boulevard. When the night went darker, protesters gradually left the scene. However, the last 64 protesters including lawyers were encircled by 1,900 policemen at East Gate 3 of the Taipei Main Station around midnight. Through the live broadcast, it was clear that all protesters were asking to take the MRT home; nevertheless, the police still used their force to restrict protesters' personal freedom up to two hours without specific authorization. In the end, the police even took protesters away in police cars, violating protesters' personal will; and later abandoned them in four different suburbs. There were two female protesters that night whose clothes fell off, exposing their body parts when male police officers dispersed

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<sup>6</sup> 請參閱 ETtoday 的「廢死聯盟遭噏「被強暴再講理」 林欣怡：聽到還是顫抖」，網址：  
<https://goo.gl/Af8qYt>

Su, S. Y. (2015) TAEDP got dissed, "Talk when you are raped"; Hsin-yi Lin, "I tremble every time I heard this kind of expression." Webpage, on website *ETtoday*. Available at <https://goo.gl/Af8qYt>.

protest gatherings, causing serious violation of these two ladies' physical autonomy and privacy.<sup>7</sup>

From the above cases, we can see that it is necessary to raise public awareness on gender equality, human rights and rule of law. We need to train not only the general public but also government officials and police officers especially. Moreover, for those who showed apparent discrimination against women should take responsibility and receive punishment accordingly.

## **5. The Case of Junior Police Officer Chi-yuan Yeh Uncovers Gender Discrimination Issues in the Police System**

This section continues to discuss the above mentioned topic regarding gender equality education in the police force. Although section 10.7 in the national report points out that there is no gender discrimination during the recruitment process of Taiwan Police College; however, the national report does not state honestly that junior police officers can still face structural gender discrimination in the workplace when they enter the official police system. For example, male police officer Chi-yuan Yeh who was punished due to having long hair has been struggling to fight against gender discrimination regulations. His situation can be seen as a typical case in the police force.<sup>8</sup>

“My name is Chi-yuan Yeh. My currently job is a policeman. I was born a male. Based on the principle of gender equality, I am, like my female counterparts, entitled to freedom of gender expression and physical autonomy. However, my attempt at having long hair is prohibited according to the Police Appearance and Dress Code Regulations. I have received many

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<sup>7</sup> 請參閱台灣人權促進會與各團體的聲明，網址：<https://www.tahr.org.tw/news/2157>

Please refer to the statement made by Taiwan Association for Human Rights and various groups:

<https://www.tahr.org.tw/news/2157>

Taiwan Association for Human Rights (2017) Taiwan declines in a full speed after the DPP takes full control of the government – a joint declaration on the issue of police arresting protesters and lawyers after the Labor

<sup>8</sup> 請參閱台權會副秘書長施逸翔的文章「歧視的警察髮律與人權捍衛者葉繼元」，網址

<https://www.tahr.org.tw/news/1673>

Shih, Y. H. (2015) Human rights protector, Chi-yuan Yeh, fighting against the discrimination of policemen's hairstyle. Webpage, on website *Taiwan Association for Human Rights*. Available at

<https://www.tahr.org.tw/news/1673>.

reprimands during the process of growing long hair,” Chi-yuan Yeh said. This statement points out that even though Taiwanese government has been promoting gender mainstreaming and reviewing the gender impact of laws and regulations, still, there are regulations based on gender stereotype inside the police force that violates CEDAW Article 5. Yeh almost got fired due to this gender discrimination regulation. Although it is clear that he will not be discharged at the moment, he is still filing a lawsuit against his unit in which he received 17 written warnings and a "C" grade for his annual evaluation in 2015.<sup>9</sup>

As a result, we suggest that the National Police Agency, MOI to abolish the Police Appearance and Dress Code Regulations immediately as it repeats gender stereotype and violates CEDAW; and rescind all reprimands Yeh has received due to the violation of this regulation in order to bring Yeh justice. Furthermore, as per the above suggestion, the government should provide police officers more education on gender equality and raise their awareness on human rights.

## **6. Taiwan Should Pass the Refugee Act Immediately, Providing Female Refugees and Asylum Seekers Basic Human Rights Protection**

The Legislative Yuan started to draft the Refugee Act in 2011. On July 14th, 2016, the Refugee Act has passed the initial review by the Internal Administration Committee and the Foreign and National Defense Committee; however, it just stopped right there. We do see asylum seekers from all over the world flee to Taiwan. They often overstay because they have been oppressed in their home countries due to their LGBT identity or political factors. Nevertheless, Taiwan does not have a procedure and mechanism to deal with refugees and asylum seekers, let alone protecting their human rights. As a result, the situation of refugees and asylum seekers in Taiwan is very difficult. The Taiwan Association for Human Rights had dealt with a case before: a lesbian woman from east Africa was forced to get married when she was still underage and then she gave birth to three children. Because she had been suffering from domestic violence and sexual assault, she decided to leave her husband and go back to live with a partner

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<sup>9</sup> 請參閱中央社報導「考績被打丙提告 長髮警察葉繼元敗訴」，網址：

<http://www.cna.com.tw/news/firstnews/201710260145-1.aspx>

Wang, Y. Y. (2017) Court rules against police officer Chi-yuan Yeh who received a “C” grade for his annual evaluation. Webpage, on website CAN. Available at <http://www.cna.com.tw/news/firstnews/201710260145-1.aspx>.

in her home village. Unfortunately, one day, her partner was killed by anti-homosexuality people and she also got injured in the incident. After that, she fled to Taiwan, hoping to seek asylum; however, as Taiwan has not yet passed the Refugee Act, whether or not the Taiwanese government can assist this lady is still unknown.

In early 2017, Taiwan held its second review meetings under ICCPR and ICESCR. Following the Concluding Observations and Recommendations from the first review meeting, members from the review committee appealed to the Taiwanese government again to pass the Refugee Act as soon as possible. They also reminded the Taiwanese government that whether Refugee Act passes or not, ICCPR and ICESCR were passed and implemented in Taiwan as domestic laws. According to CCPR General Comment No. 20, “States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement,” we appeal to the CEDAW review committee to continuously promoting refugee issues and the principle of non-refoulement listed in the Concluding Observations and Recommendations from the review meeting under ICCPR and ICESCR. We hope that the CEDAW committee can provide a strong suggestion to the Legislative Yuan to pass the Refugee Act immediately. Moreover, the Executive Yuan should also provide relative human rights protection measures prior to the legislation of the Refugee Act. Based on the spirit of ICCPR Article 7, it is strictly prohibited to deport asylum seekers back to their home countries. The Taiwanese government should protect asylum seekers like the lesbian woman from east Africa so that they will not have to go back to their home country and face any torture or other kinds of improper treatment in the future.