

**The Convention on the Elimination of All
Forms of Discrimination against Women
(CEDAW)**
The 3rd National Report, Republic of China

【Shadow Report】

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The rise of anti-rape/anti-sexual harassment awareness movements, such as #MeToo and Time's Up, has ignited an explosive global change on gender-based violence awareness; that is, the focus on the "prevention of gender-based violence" will affect various issues on the denial of human rights and fundamental freedoms caused by sexism. According to the agenda of the Sustainable Development Goals (SDGs), which came into force in 2016, "gender equality" is the issue most in need of improvement. In the latest CEDAW General Recommendation No. 35 (updating general recommendation No. 19), it is reiterated that the state obligations should include strengthening the measures of prevention, protection, prosecution and punishment, reparations, data collection and monitoring of these measures, in regards to "gender-based violence prevention".

In further analysis of the above issues, we will point out two key areas that affect Taiwan's implementation of CEDAW. First, gender-based violence against women of specific groups (of different ages) is rooted on the socio-economic paradigm of unequal power between the sexes. Second, the central government policy action plans should seek to guide legislative / judicial / educational / culture / labor / welfare system, and local government organizations into developing implementation mechanisms and measures.

A. Taiwan Lacks the Overall Strategic Action Plan Required to Develop the Prevention Blueprint of Gender-based Violence

As the first nation in the Asian region to have an integrated sexual assault crime prevention law, and a domestic violence prevention law that, includes a personal safety protection order, Taiwan jumps ahead, surpassing its personal safety and prevention work of the past that focused on legalization, welfare and networking. In particular, private initiatives, bottom-up campaigns and movements now lead the state-level enactment of laws and policies. Under social pressure from the general public and the advocation of women's groups, a series of legislations and enactments of law starting in 1997: Sexual Assault Crime Prevention Act, Domestic Violence Prevention Act (1998), Act of Gender Equality in Employment (2003), Sexual Harassment Prevention Act (2005), Gender Equity Education Act (2006), Human Trafficking Prevention Act (2006), Child and Youth Sexual Exploitation Prevention Act (2016 replacing the Child and Youth Sexual Transaction Prevention Act of 1993), and most recently, the Enforcement Act of the Convention on the Elimination of All Forms of Discrimination against Women (2011), present a complete "blueprint for legislation on gender-based violence prevention". In particular, the design of the Sexual Harassment Prevention Act now focuses

on incorporating social leadership / medical examination of injuries / evidence in judicial proceedings / privacy protection in regards to the media, and other such protections which guard the victim's rights and interests. Subsequently, the protection order and compulsory notification systems are introduced into the Domestic Violence Prevention Act, and gender discrimination and employer workplace sexual harassment prevention, as well as investigative obligations, are incorporated into the Sexual Harassment Prevention Act. These are positive characteristics of Taiwan's legal system.

The recent amendments of the Domestic Violence Prevention Act (2015-2017) expand the protection scope to include children exposed to domestic violence, and the unmarried cohabitation of couples, strengthen safety systems of protective custody and immediate notification, and establish domestic sexual assault prevention funds; additionally, the Sexual Assault Crime Prevention Act legislation includes a professional interrogation clause to protect young children and mentally and physically disabled persons, and prohibits gender discrimination statements in judicial trials. However, in spite of the special legislation in these areas, Taiwan has yet to come up with a short, mid- or long-term action plan that can be used as a policy guideline for the implementation of sexual assault prevention, and the mechanisms of the subsequent monitoring and evaluation. In responding to the provisions of CEDAW General Recommendation No. 19, concerning the state's due diligence obligations in sexual assault prevention, and CEDAW General Recommendation No. 35, concerning the accelerated efforts to eliminate gender-based violence against women, we adopt the framework of CEDAW General Recommendation No. 35, in conducting issue reviews and making recommendations on the various aspects of "prevention", "protection", "prosecution and punishment", and "reparations/data collection and monitoring". As such, we may be able to ensure the dominant position of victims'/survivors' rights, enhance their ability to maintain dynamic roles and independence, and finally reach the goals of eliminating gender-based violence.

B. 【Prevention】

◆ Elimination of gender stereotypes and the advocacy of and education on gender equality

Status of analysis and recommendations on this issue:

- I. In the elimination of gender stereotypes in people in the middle and senior age groups, and adolescents in Taiwan, additional work is required.¹ In addition, due to factors, such as: the

¹ The 3rd National Report/Convention-specific Document 2.18 (page 5): In 2016, "A Survey of Public Attitudes on Violence Against Women" was conducted on people above 18 years old in Taiwan. The results show that the male population, between 18 and 19 years old, as well as those who are more than 56 years old, with low-levels of education, unemployed, low monthly income, and married, are more inclined to identify with male-centric discipline, rationalize gender-based violence, and are more conniving concerning the occurrence of gender-based

urban-rural disparity in information access, traditional attitudes of different Hakka and indigenous peoples,² the derogatory attitude towards women from Mainland China and foreign workers working/getting married in Taiwan,³ and media's gender discrimination in news coverage,⁴ long term commitment and regular assessments for effectiveness are still required in the advocacy of gender equality and in the education of gender-based violence prevention.

- II. Whether it is the central or other levels of government, all levels of agency advocacy activity are in the form of entertainment or amusement, lacking the essence of experiential education. The establishment of a relevant punishment mechanism is yet to be seen, and as a result, the number of cases in the complaint and relief channels, instead of rising, is declining.
- III. When looking at the primary prevention situation,⁵ there are four aspects of the issues relating to "gender-based violence" to review: First, "gender-based violence" is a gender inequality issue; Second, "gender-based violence" is a human rights issue; Third, "gender-based violence" is a crime issue, pertinent to the criminal justice system; and Fourth, "gender-based violence" is a public health prevention issue. It is possible to bring about a comprehensive and effective change, if the central government would devise teaching modules by first providing each of the aforementioned aspects with a comprehensive plan for module development that includes: unbiased attitudes, resource injection and service development; then, each city/county/ethnic group could adapt the modules in accordance with their requirements, and supplement them with technology applications (such as: APPs).

IV. From the secondary prevention aspect, especially concerning issues relating to specific

violence.

² The 3rd National Report/Convention-specific Document 5.1 (page 14): Traditional festivals, customs, ceremonies and many cultural activities that have passed down in our country for many years contain rigid and stereotypical gender implications that virtually enforce and encourage the ideology of male superiority/female inferiority. 5.4 (page 14): To highlight the breaking of the "patriarchal" tradition of Hakka culture, starting in 2013, the organizers of twelve major Hakka festivals are reminded by official governmental letters, that in the planning for Hakka festivals, to hold a gender equality perspective, and to encourage female participation, as well as to stress the positive cultural implications of gender equality in the festivals.

³ The 3rd National Report/Convention-specific Document 9.12 (page 33): In 2013, a survey was conducted on the difficulties encountered by new residents living in Taiwan, "Summary of the Survey on Living Requirements by Foreign and Mainland Chinese Spouses". The results show that 68.1% of new residents said that their living in Taiwan has no difficulties; while, causes for those with difficulties are, sequentially: "financial problems" (15.4%); "employment problems" (7.4%); "children's education or communication problems" (5.4%) and "the rights and interests of living in Taiwan" (5.1%).

⁴ The 3rd National Report/Convention-specific Document 5.31 (page 18): To reduce gender discrimination in print media coverage, the government is using the occasional administrative guidance approach to urge local governments to step up their efforts on the inspection of print media pursuant to existing laws and to strengthen their advocacy of media self-discipline. In 2016, the government also subsidized the National Press Council's efforts to establish a gender-equality complaint panel to handle complaints from the public. In 2016, there was one complaint case.

⁵ For example: the book "2014: Brothers and Sisters Fight Against Gender-based Violence" is a civil society's CEDAW report, which is co-authored by nine major domestic civilian groups with the Coalition Against Violence as the lead, focusing on the theme, "Discrimination in Laws and Practices against Women Victimized by Violence". It truthfully presents the status of gender-based violence and discrimination against women in our country, and urges the government to vigorously implement CEDAW, particularly the provisions of General Recommendation No. 19, so that the state's obligations are implemented, and the human rights of the violated women are maintained and protected.

ethnic groups, the current national report is not entirely accurate concerning the preparation and provision of teaching materials, and the implementation of sexual assault prevention education. For example:

1. Sex education for adolescent girls

Concerning the effort of assisting teenage girls with their sex health, pregnancy, and birth control information, only 12.43 of the National Report mentioned that the government built the website, "Youth Websites (Sexual Happiness e-Learning)",⁶ to provide Q&A, but made no reference to the status of schools making a first-line promotion of gender equality education (including keeping a close watch over the curriculum content and teacher qualifications, and the valuation / assessment / recognition for teacher performance), in particular, there is little description concerning the content of sexual assault prevention education, making it very difficult to confirm the implementation commitment of the government.

2. Prevention education concerning sexual assault crimes against people with mental or physical disabilities

There are three obstacles concerning cases of sexual assault against people with mental disabilities: First, personnel of the network system (social workers, police, judicial personnel) do not understand the specifics of mental disabilities; Second, the communications between people with mental disabilities and task workers are problematic; Third, due to the short-term memory issue of many of the victims, each interview transcript reflects a different answer, and the testimony is easily contaminated. Therefore, the incarceration and prosecution rates of assailants in sexual assault against mentally disabled persons cases are very low. We recommend that the network system should work with relevant departments at the college level and NGO groups to devise preventive curriculum and experimental courses.

3. Education on regulations of violence prevention against elderly women

Taiwan will be a hyper-aged society by 2025. Yet, a review of the statistics of the Ministry of Health and Welfare⁷ shows that violence against elderly women is already a sever problem. Whether it is intimate partner violence, or offspring violence, due to issues such as: individual needs of elderly women (concerns over deteriorating relationships with

⁶ According to the Education Statistics Website of the Department of Statistics of the Ministry of Education, there were a total of 3,070,086 students enrolled in junior high school between 2013 and 2016. However, there were only 480,000 people visiting the website, "Youth Websites (Sexual Happiness e-Learning)". Assuming that everyone who visited this website is a junior high school student, the number of visitors only accounts for 15% of all junior high students (not considering repeat visits of the same person). The state's effort in the provision of sex education information seems ineffective for adolescents (especially for female adolescents). As such, more than 85% of students may receive sex education information from other sources.

⁷ Reference the statistics in the 3rd National Report/Convention-specific Document 2.13 to 2.16, and 2.18

abusers, loss of economic support, loss of long-term care for dementia, lack of legal understanding and welfare resources access, etc.), the reception/acceptance level of information, unfamiliarity with Mandarin, and the approach and the content of advocacy, are all detached from victims' living experiences, the results are disappointing volume of reported cases.

- V. The development of teaching materials and professional reference manuals regarding gender-based violence prevention for professional bodies such as judicial personnel, the content of which should focus on the international development of human rights, such as CEDAW, and should include information, such as: gender stereotype, the misconception of gender-based crimes, and the status of female victims in Taiwan.

◆ Media coverage lacks gender awareness, and reinforces gender discrimination

Status of analysis and recommendations on this issue:

- I. Radio and television media coverage often contain gender-discrimination content, for example: reports are usually focused on the victims' "sexual" traits such as clothing and facial features. Today, there are a large number of exaggerated reports on multi-ethnic family conflicts, sexual assaults in religious groups, murders by caregivers, and murders by parasitic singles. However, the number of cases listed in the national report⁸ is obviously too low. According to "2015 Case Examples of Radio and Television Media Violating Broadcasting Guidelines on Gender-related Content", whether the broadcast is a regularly scheduled program or commercial advertisement, the disposition of these violations is confined to warnings, administrative guidance, or discussions with professionals, scholars and practitioners, which can not effectively prevent the media from using sensational gender-discriminating content to attract the public.
- II. We recommend that the media should receive gender equality related training, and establish self-discipline committees. To date, only "Apple Daily" has setup a self-

8. Reference the 3rd National Report/Convention-specific Document 5.25 to 5.35. Such as the Information in 5.25 (Page 17): Provide supervisory management on radio broadcast and televised content, pursuant to the provisions of the Radio and Television Act, and Satellite Broadcasting Act. In 2016, the "Radio and Television Media Broadcasting Guidelines on Gender-related Content" was amended, where 10 prohibited items are devised, including: no disclosure on the identity of juvenile victims of sexual harassment, sexual assault and persecution, and no conjecture or implication on the identity of victims of sexual assault, or indecent photos. In addition, regular reviews will be held and cases that do not comply with the "Radio and Television Media Broadcasting Guidelines on Gender-related Content" will be published each year. There were 28 cases of radio and television media violation between 2013 and 2016. All relevant records are included in the reference for license-renew assessment. 5.28 (Page 18): Establish "Broadcast Content Complaints Network" to process complaints concerning the content of radio and television broadcast contents. There are a total of 15,874 cases between 2013 and September 2016. In 2016, the complaint categories were expanded to include cases "involving gender discrimination". The complaints of such category in 2016 totaled 563 cases. 5.30 (Page 18): Between 2013 and 2016, there were 7 adjudicated radio and television content cases that were gender related and violated victim's protection rights, and the combined penalty was NT\$693,000. 5.31(Page 18): To reduce gender discrimination in print media coverage, the government is using occasional administrative guidance approach to urge local government to step up on the inspections of print media pursuant to existing laws and to strengthen the advocacy of media self-discipline. In 2016, the government also subsidized the National Press Council to establish a gender-equality complaint panel to handle complaints from the public. In 2016, there was one complaint case.

discipline committee in the print media industry. The “Citizen Media Watch” composed articles in 2013, calling for Newspaper Associations to establish self-discipline mechanisms following "Apple Daily's" model, but failed to catch their attention. Although there is a "Self-discipline Committee on Children and Adolescent News", it cannot process all the newspaper-related inappropriate content. Thus, government should require all media to establish self-discipline committees, hold regular workshops, and take part in citizen-group supervision mechanisms.

C. 【Protection】

◆ Dark Figures in sexual assault statistics-cases involving incest/sexual assault in an organization and gender inequality in the military

Status of analysis and recommendations on this issue:

- I. According to statistics from the Ministry of Health and Welfare,⁹ in 2016, 8,141 sexual assault victims were reported, of which 64% were under 18 years of age, 74.6% were assaulted by an acquaintance, with only 2.28% assaulted by strangers, and 23.12% were ambiguous reports. If categorized by the relationship between the parties, then, 35 percent are intimate partners, 26 percent are friends, and 12 percent are families. Secondary school students in a heterosexual relationship are easily abused due to their lack of self-protection awareness. The family relationship, the category in which 37% of victims are children under 12, shows that the enclosed interactive system of a family is making it difficult to discover domestic sexual assault cases. In addition, similar circumstances are adopted in criminal cases where acquaintances lure and rape juvenile victims, making it difficult for children to be on alert or get help.
- II. Domestic sexual assault: According to the statistical analysis of the Ministry of Health and Welfare on reported sexual assault cases between 2012 and June of 2017, cases where the perpetrators are direct or collateral relatives account for 10.95% of overall reported sexual assault cases. A majority of cases where children under 12 are sexually assaulted are domestic sexual assault cases.¹⁰

⁹ The 3rd National Report/Convention-specific Document 2.29 (page 7): Between 2013 and 2016, the reported sexual assault cases are 13,928, 14,215, 13,415 and 10,610 respectively; the number of victims are 10,901, 11,086, 10,454 and 8,141 respectively. According to the data of victim count, 73% of the reported sexual assault cases are perpetrated by acquaintances, accounting for an average of 7,395 people a year. In terms of the relationship between two parties, intimate partner relationship, such as (ex-) spouse, fiancé, and (ex-) boy/girl friends, takes the lead (27%); followed by friendship (18%); campus relationship (schoolmates, teacher/student relationship) (12%); kinship (11%); and workplace relationship (5%). In the reported sexual assault cases between 2013 and 2016, female victims account for 80-85%; average female sexual assault rate is 0.07%, and sexual assault rate for female below the age of 18 is 0.26%.

¹⁰ Reference the first meeting record of the Third Session of Domestic Violence and Sexual Assault Prevention Promotion Team of the Ministry of Health and Welfare

- III. Online Sex Crime: There is no specific statistical data available from the relevant governmental departments for reference on the reported sexual assault cases (Article 227 of the Criminal Code or none-Article 227 related) and crime patterns (using smart phone Apps or online dating, etc.).¹¹
- IV. Sexual Assaults in Juvenile Institutions: According to the statistics of the Ministry of Health and Welfare, in 2016, there were 142 total reported sexual assault cases in the 121 juvenile placement agencies in Taiwan, a significantly higher incident rate than the societal average. In March 2017, there was news about group sexual assaults occurring among juveniles being accommodated in a placement home in Nantou County. There were about 10 sexual assault cases among almost a hundred juveniles. In the same year, 23 hearing impaired school children complained about being sexually assaulted by a volunteer (who is also hearing impaired) in the summer camp of a "Disability Development Organization" in Taichung. Further investigation found that some children were assaulted continuously for six years.¹²
- V. Sexual Offenses in Correctional Institutions (Facilities): Currently, there is no detailed research or investigative data available to report on concerning the proportion of prisoners who had been sexually assaulted in the institution. Prisoners may be subjected to sexual assaults in prison because of the crowded environment or disparate power relations; but, such complaint cases highlight the crudeness and inappropriateness of how the institutions handle their affairs. To date, there have been no detailed investigations or studies conducted on the sexual assaults in these institutions in Taiwan. Thus, sexual assault in correctional institutions has become one of the dark figures of sexual assault cases.¹³
- VI. Gender Inequality in the Military: According to the statistics of the Ministry of National Defense, there were 120 reported sexual harassment cases in the military from 2006 through 2016, and after investigation, a total of 118 cases were prosecuted. Members of the Control Yuan point out that there are no relevant statistics on the status of sexual assault cases after the Ministry of National Defense hands them over to the judicial organizations. This clearly shows that it failed to implement the relevant inspection and investigation tracking, or to formulate meaningful penalties and countermeasures; there is obvious negligence. In addition, the "Regulations on Sexual Harassment Process and Sexual Assault Prevention of Military Personnel", as issued by the Ministry of National

¹¹ Reference the fifth meeting record of the First Session of Domestic Violence and Sexual Assault Prevention Promotion Team of the Ministry of Health and Welfare

¹² Source: Taiwan Version of Movie "Silenced", Predatory Volunteer Sexually Assaulted 4 Hearing Impaired Students - ETtoday News

¹³ Source: the fourth meeting record of the First Session of Domestic Violence and Sexual Assault Prevention Promotion Team of the Ministry of Health and Welfare/Proponent: The Garden of Hope Foundation

Defense, only stipulates procedures relating to sexual harassment cases, and merely provides prevention procedures in response to sexual assault cases that are more violent and damaging to victims. No provisions relating to complaints, investigations and handling procedures are stipulated. It is clear that the Ministry is severely imbalanced in handling these cases, and that the protection provided for victims of sexual assaults is limited; it is obviously inadequate.¹⁴

◆ Premarital Teenage Pregnancy, Juvenile Sex, Juvenile Intimate Partner Violence

Status of analysis and recommendations on this issue:

- I. When comparing the statistics in the National Report (12.40 and 12.41: page 62-63) we find that, while the sexual activity rate among teenage girls is increasing, the contraceptive rate is declining. Subsequent issues, that require attention as a result of teenage girl premarital pregnancy or sexual assault, include sexual health, sexually transmitted diseases or AIDS,¹⁵ newborn adoption, finances, schooling and others; additionally, less than 80 percent¹⁶ of pregnant students continue to enroll in school. According to the statistical data published by the Ministry of Interior, although the birth rate by underage girls is decreasing each year, there are still about 3,000 babies being born each year by underage girls.¹⁷ This finding means that many teenage girls lack proper sex education and information, and are at risk of issues, such as: unsafe sex, date rape, premarital pregnancy and others.

◆ Sexual assault by an authority figure, Sexual assault by an acquaintance—Predatory teacher issue

Status of analysis and recommendations on this issue:

- I. According to the statistics published by the Ministry of Health and Welfare, there were a total of 1705 sexual assault cases reported that were a "teacher/student relationship", between 2008 and 2016; while, on average, only 40 to 50 teachers are dismissed every year due to these sexual assault incidents, and these numbers do not include cram schools,

¹⁴ Source: The Control Yuan censures the Ministry of National Defense for not providing sexual assault reporting procedures - The Central News Agency

¹⁵ Reference The 3rd National Report/Convention-specific Document 12.41 (page 63): In 2016, the reported percentage of females contracting syphilis, gonorrhea and AIDS accounts for 17%, 7%, 3% respectively of the total reported cases; while in 2013, the percentages are 22%, 7%, 2% respectively.

¹⁶ Reference The 3rd National Report/Convention-specific Document 10.16 (pages 38-39): The reported number of elementary and junior high school students that dropped out of school due to "pregnancy and childbirth" are: 4 students in 2012 academic year, 7 students in 2013 academic year, 7 students in 2014 academic year, and 8 students in 2015 academic year. 10.17 (page 39): High and vocational school students who dropped out of school due to pregnancy are: 82 students in 2012 academic year, 40 students in 2013 academic year, 63 students in 2014 academic year, and 34 students in 2015 academic year. The percentages of pregnant students continue with schooling are: 68.8% in 2012 academic year, 74.6% in 2013 academic year, 70.7 % in 2014 academic year, and 78.1% in 2015 academic year.

¹⁷ Reference meeting records of the 2nd session of the "Hualien County Women's Rights Promotion Committee" in 2015.

kindergartens and other non-standard education institutions. To properly handle this complex issue, we need to unite the efforts of gender-equality professionals and education professionals on these tasks.¹⁸

◆ Sexual harassment in the workplace (including foreign migrant workers)

Status of analysis and recommendations on this issue:

- I. According to the provisions of the Act of Gender Equality in Employment, employers must promptly initiate investigations when they "know" about employees being sexually harassed in the workplace, irrespective of the authenticity of the sexual harassment claim. In the event of a violation, a complaint may be filed with the Labor Department to confirm and then penalize the employer for this violation of law. In reality, according to the investigation of a job search network, the sources of the "perpetrator" in a sexual harassment case are: "colleagues" (54.3%); "bosses" (37%); "supervisors" (32.6%); while the attitudes of the "victims" being harassed include, sequentially: "being resentful after the fact" (41.3%); "enduring quietly" (30.4%), "face-to-face protesting" (28.3%); "passive non-responding" accounts for over seventy percent of the resulting attitudes.¹⁹
- II. In contrasting with the National Report data in 11.22 (page 49) to the aforementioned data: "There were increasing numbers of workplace gender-equality complaint cases being processed between 2014 and 2016, where complaint cases relating to measures of gender discrimination, sexual harassment prevention and workplace equality in 2014 are 194, 127, and 68 cases respectively; and in 2016, 218, 146, and 119 cases respectively"; so the number of cases in the National Report are clearly too low. They are Dark Figures of these criminal cases.
- III. Most of the family caregivers²⁰ are girls, who cannot speak Chinese, and live with the elderly after coming to Taiwan (even high-risk families can hire foreign workers directly through the employment agencies). Upon being sexually harassed/assaulted, many foreign migrant workers turn to the 1955 helpline. However, the respondents on the helpline are not civil servants, and may be unfamiliar with the process, so they tend to close the case by treating the call for help as a consultation matter.²¹ If the workers turn to their employment

¹⁸ Source: How to Deal with Sexual Harassment against Children/Workshop co-sponsored by Humanistic Education Foundation and Shih Hsin University-Living-Liberty Times Net.

¹⁹ Source: 25% of people have experienced workplace sexual harassment! 59 percent of people have been bullied-SETN.com

²⁰ Reference the 3rd National Report/Convention-specific Document 11.59 (page 55): As of the end of 2016, the total number of foreign workers is 625,000 and the number of these who are women is 350,000 (56.1%). To Categorize by industry, foreign workers in industrial labor number 387,000 in total, with 115,000 being female (29.7%); in social welfare there are 237,000 in total, with 236,000 being female (99.3%). Most of them are between 25 and 34 years old. A majority of female foreign workers are employed in "healthcare and social services, other services" (67.2%), in which the primary job category is home-based care-giving (93.3%).

²¹ Source: When female migrant workers encounter sexual harassment in the workplace, but our laws appear to only serve Taiwanese - Key Comments, The News Lens.

agency for help, they only receive words of consolation. For these migrant workers, it is difficult to present evidence in sexual harassment cases, let alone face the difficult judicial proceedings and the serious gender stereotype and misconceptions existing in the justice system. The government should propose more effective measures to help keep foreign migrant workers free from the harm of sexual harassment and sexual assault.

◆ The legislation on harassment and stalking

Status of analysis and recommendations on this issue:

- I. According to the current laws in Taiwan, if a long-term stalking victim has not cohabited with, or dated the perpetrator, the victim cannot apply for a protection order. To date, the victim can only take legal action pursuant to the Social Order Maintenance Act, the penalty of which does not have a deterrent effect and cannot effectively retrain the stalking behavior. According to the case information collected by the Modern Women's Foundation on 256 victims, it was found that 90% of the victims were women, and 43% of the victims were under the age of 30, and that 92% of the stalkers were acquaintances, of which 60% were partners or ex-partners, with the remaining being suitors, neighbors, or colleagues. The longest stalking case reported was 35 years. According to the survey statistics collected by Modern Women's campus advocacy in 2014, about 13% of young women have the experience of being stalked, equivalent to one in eight girls having such an experience.²²
- II. We recommend that an anti-stalking law should be promoted as soon as possible, and that a social (campus, community) safety net should be established.²³

D. 【Prosecution and Punishment】

◆ Domestic Female Victims and the Justice System

Status of analysis and recommendations on this issue:

1. Each segment of the statistics on domestic violence, from the number of reported cases, the number of cases applying for protection order, the prosecution rate, the conviction rate, the sentencing, to the treatment of case respondents of domestic violence, is an issue worthy of discussion:

【Reporting Rate】 : Though Taiwan has adopted a strict compulsory reporting

²² Source: Being stalked, as if plagued by evil spirits, troubles of one in eight young women-Apple Daily

²³ Source: At wits end after being stalked for five years/Expert: the legislation of "Anti-stalking Law" is snail-paced-UDN.com

system, judging from the death and injury cases resulting from domestic violence between 2013 and 2016, there are still a considerable amount of unreported cases, showing that there is still room for improvement in social awareness and the gender sensitivity of the relevant professional personnel.

【Issuance of Protection Order】 2.27 (page 5-6) of the National Report: According to the statistics of the Judicial Yuan, the average length of time for the processing and issuing of each temporary protection order was 25.27 days in 2016, and 48.87 days for each ordinary protection order. In addition, there was an average of 3,244 cases per year requiring court issued protection orders for offender treatment programs between 2013 and 2016. In the issuance of temporary protection orders, there are courts still following the non-unilateral written review method that causes delays, and fails to respond to victim's expectations of protection order issuance within one week.

【Prosecution Rate】 : The data from the concluded investigation reports of domestic violence by the District Court Prosecutor's Office in 2016 shows that the prosecution rate was only 48%; deferred prosecution rate, 2%; non-prosecution rate, 43.3%; withdrawn rate, 21.2%; and others, 6.6%.

【Conviction Rate】 : The statistics of the Ministry of Justice show that, for domestic violence cases ending with a conviction, 63.6% of the perpetrators were sentenced to short-term imprisonment, this number climbed to over 65% in the last three years; and 27.8% of them were sentenced to fixed-term imprisonment of less than six months, and this number declined to less than 26% in the last three years. In Taiwan, domestic violence is a criminal offense, but the primary charge of the crime is the act of committing bodily harm, and this behavior is a category of crime that is indictable only upon a complaint; while, the violation of a protection order is an indictable crime. According to scholar gathered and reported statistics, over 480,000 domestic violence cases were reported in Taiwan in the past 10 years, of which only just over 40,000 cases where people chose to enter the criminal justice system and the cases were transferred by the police. In the end, fewer than 20,000 people were convicted and sentenced, and that number is less than 4% of the reported cases. Therefore, the actual proportion of criminal conviction is low.

II. However, domestic violence arises from many causes, such as, the power-control relationship imbalance due to gender inequality between the perpetrator and the victim, the resolution of which requires long-term behavior-pattern observation. Due to this phenomenon, strategies must be developed for a more effective

professional training program on investigation and penalization within the criminal justice system, and an improved domestic violence offender treatment program.

III.In addition, the issues of domestic violence involve the entanglement of "conflict", and "violence", which cannot be resolved merely by the issuance of protection orders from the justice system or treatment programs. Thus, in order to achieve the restoration of an intimate family relationship and to properly handle the conflicts, it is necessary to break the dualism of "perpetrator" and "victim", and provide various levels of family-oriented training in accordance with the categorization and classification of the reported cases, teaching both parties the skills required to handle conflicts, while offering relevant assistance resources.²⁴

IV.The reporting rate of disabled female victims is still low; in part, because the justice system is very unfriendly to disabled victims.²⁵

◆ Female Sexual Assault Victims and the Justice System

Status of, analysis and recommendations on this issue:

1. The revelation of statistics on sexual assault cases: The sexual assault crime enforcement in Taiwan adopts a mandatory reporting system, where most of the charges are indictable crimes. Following issues are found after analyzing the available data:

【Reporting Rate】 : The data from the Ministry of Health and Welfare and the National Police Agency show that a physically/mentally disabled female is 6.8 times more likely than the average female to become a crime victim, and that 50% of the victims of sexual assault cases are between 12 and 17 years old.²⁶

²⁴ Qiu Wei-zhen, Huang Shu-juan, Wang Lan-xin, Zhuo Ya-ping (2016), A Longitudinal Study of the Domestic Violence Perpetrators Treatment Project in Chung-Hua County, Community Development Journal Quarterly, 156, 347-361.

²⁵The subject of this domestic violence case, where her husband battered her physically, resulting in a large visible bruise, has a mental disorder. The subject went to the police station to apply for a protection order the same day she was battered, and provided pictures, medical inspection and other relevant proof. After the brutal attack, her physical and mental condition was affected, and when she lost emotional control the next day, she was ordered to receive medical treatment. While she was in treatment, the court hearing for the protection order was in session. Although her daughter appeared in court to explain to the judge about the case subject's compulsory medical treatment, which prohibited her from appearing in court that day, and petitioned for a delay, the judge treated her absence as, "missing the court date", and dismissed the case after hearing only her husband's statements.

²⁶ A commissioned research by the Executive Yuan, "The Construction of Women's Human Rights Index and its Status Investigation in

【Prosecution Rate】 For many years the prosecution rate remained flat, at around 45%, and recently it even shows a gradual downward trend. The prosecution rate is highly affected by prosecutors' opinions during the investigation phase, including that, "the statements are inconsistent", and "there are conflicting statements and unusual behavior". Additionally, prosecutors attitudes in questioning sexual assault victims actions for not fighting back/running away from the scene, their unfamiliarity with the interrogation procedures with children/mental or physical disabled persons/assaulted women/migrant workers, their beliefs in considering the interests of the offenders first pursuant to the law, their tendency to advise reconciliation, and their lack of gender awareness, affect the prosecution rate.

【Conviction Rate】 The conviction rate of sexual assault crime in Taiwan is 86%. It seems high, but when compared to the 96% conviction rate of other criminal cases, the rate is low. The key factors are still in the inconsistency of statements, and the questioning of a victim's character; for example: the victim didn't disclose the incident right away, or contact the police, or have the injury inspected; the interaction between the victim and the defendant, particularly after the incident, whether the victim tried to avoid contact with the defendant and leave the scene, as well as the defendant's and the victim's emotional responses after the incident; whether there is evidence of forced trauma; the interaction between the victim and the defendant in general; and assuming a victim's willingness in the incident, based on circumstances before the incident.

- II. Therefore, there is still room for improvement in increasing the gender awareness of professionals involved in criminal justice procedures, and in the amendment of relevant laws (such as: the testimony of victims of sexual assault can be the sole evidence, and there is no need for cross-examination of children).

III.

As mentioned earlier, around 50% of the victims are 12-17 years old, yet, the penalties for the perpetrators are primarily covered by Article 227 of the Criminal Code, resulting in light penalties for a serious crime. In addition, after the settlement, judges tend to show sympathy to the offender by ordering the suspension of punishment,²⁷

Taiwan", June 2017, p 97.

²⁷ Between 2007 and the end of February 2014, a total of 12,740 punishment rulings were pronounced, in which punishment rulings

which not only fails to adequately punish sexual assault crime against minors, but also conveys a wrong message to the society. Such actions not only challenge the limits of legal punishment, but also encourage the misconception, with the public and the perpetrators, that sexual assault crime is forgivable and carries no penalty in the justice system. Therefore, there should be ad hoc projects set up to devise countermeasures to the amendment of provisions relating to the Offense Against Sexual Autonomy of the Criminal Code, and in requiring judge's rulings on penalties that fit the sexual assault crime.

E. 【Subsidy/Data Collection and Monitoring】

◆ Domestic Violence and Sexual Assault Prevention Fund

Status of analysis and recommendations on this issue:

I. Reference the National Report:

2.20 (page 6): The amendment of the Domestic Violence Prevention Act in 2015 allows the setup of a domestic violence and sexual assault prevention fund. In 2016, the budget of the prevention fund was over 240 million NT dollars, which was used to supplement local governments' efforts in recruiting social workers, strengthening the victim and perpetrator interventions, and implementing three levels of violence prevention tasks. In addition, social welfare subsidies and Taiwan Lottery rebates are used to help local governments, together with civilian groups, to promote various domestic violence prevention tasks, which include a total of 182 programs, such as: sheltering services, legal assistance, direct services to victims, aborigine domestic violence prevention, employment assistance and a counseling program for juveniles exposed to violence,

pursuant to the provision of Article 227 Paragraph 3 of the Criminal Code: sexual intercourse with a male or female who is over the age of fourteen but under the age of sixteen, totaled 2,819 times (22.13%). The average length of punishment was 6.8 months (the statutory punishment of Article 227 Paragraph 3 is imprisonment for not more than seven years), and the rate of suspended punishment was 42.7%. The rate of applying Article 59 in the ruling for sentencing reduction due to pitiful circumstances was 0.99%. A total of 1,515 (11.90%) punishment rulings were pronounced pursuant to Article 227 Paragraph 1: sexual intercourse with a male or female under the age of fourteen. The average length of punishment was 29.1 months (the statutory punishment is imprisonment for not less than three years), and the rate of suspended punishments was 44.9%. The rate of applying Article 59 in the ruling for sentencing reduction due to pitiful circumstances was 52.68%.

with the total subsidies exceeding 100 million NT dollars.

- 2.26 (page 6): According to the "Statistics Survey of Taiwan Women that Suffered Violence from Intimate Partners" in 2016, women respondents over 18 years old are persistently trapped in a vicious circle of violence, probably due to their inability to get out of financial confinement imposed by their intimate partner. In order to assist battered women in living independently and in staying away from a violent environment, the government will continue to provide help to all local governments in their continuous development of versatile sheltering services and housing programs, in addition to integrating labor resources, while supporting and working with civilian groups, to promote women's employment assistance programs.
- II. In 2016, the central government's budget for its gender-based violence fund was NT\$241,085,000.²⁸ By comparison that is less than the 260 million or so NT dollars for 2014, and the 240 million or so NT dollars for 2015.²⁹ What's more worrisome is that, with the number of domestic violence cases increasing each year, the service audience, after the amendment was enacted, has been expanding (the inclusion of juveniles exposed to violence and victims of violence over 16 years old from non-cohabited intimate partners), making the already tight budget even more constricted. We suggest that the government should reference relevant research to help estimate a more accurate prevention budget, and then increase the budget earmark annually to match the actual needs.

◆ Data Collection and Monitoring-Risk Control

Status of analysis and recommendations on this issue:

- I. The information integration policy of the central government (including case reporting, treatment status, pertinent resources, and others) should evolve from the concept of risk control, and instead of simply accruing information that merely consumes manpower in the filling out of reports, become involved in conducting further analysis, researching and advocating the issues, planning service programs, and then assessing their efficacy.
- II. We recommend that a measure on gender-based violence prevention be constructed as soon as possible, and that the status of various aspects of its implementation, such as: resource allocation, professional establishment, service provisions, and prevention effectiveness, be regularly published as the basis for reviews, so that a complete system of inspections, that is built on an objective and evidence-based foundation, can be

²⁸ The Ministry of Health and Welfare, records of "Conference to discuss the management and operation of domestic violence and sexual assault prevention fund" (September 16, 2015)

²⁹ The Garden of Hope Foundation press release "Where is the violence prevention fund to save a hundred thousand families battered by violence?" Press Conference (January 20, 2015)

established.

F. 【International Cooperation】

Since UN's Sustainable Development Goals have become one of the major governance directions in Taiwan, tasks relating to the strengthening of Goal 5: Achieve gender equality and empower all women and girls and Goal 16: Promote just, peaceful and inclusive societies, should be integrated with the overall planning of the blueprint for gender-based violence prevention. These actions should support the formulation of national plans to promote more effective participation by civil society and women's organizations in relevant issues and actions, and strengthen cooperation between civil society organizations and the international community in implementing gender equality and preventing Gender-based violence.