

Parallel Report on CEDAW State Report
Collective Sexual Assault Against Students with Physical and
Mental Disabilities

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I. Case Description:

On Sept. 21, 2011, the Humanistic Education Foundation (HEF) held a press conference that exposed sexual assault and sexual harassment on a massive scale at a school for the deaf and hearing impaired in southern Taiwan. Under the title: "Turning a Deaf Ear and a Blind Eye, Covering up Without Lifting a Finger to Assist Students in Distress! Is School a Jungle or Purgatory?," HEF made public that 128 incidents had been brought to the attention of the school's gender equality education committee, involving 38 victims and 38 offenders, roughly one quarter of the school's students. The places where the incidents occurred included classrooms, restrooms, dormitories, bathrooms, the library, school buses, trains as well as the homes of teachers and students. Among these, 39 incidents occurred on campus, 50 incidents occurred at dormitories, 31 on the school bus (with a driver and two teachers as escorts on board). On Feb. 1, 2012, the Ministry of Education turned the said school into an affiliate of the National University of Tainan. However, by October 2013 another 34 incidents had been reported which shows that the situation is still not under control.

The most outrageous and preposterous part in this entire string of incidents is that teaching staff reacted to the sexual assaults on students with utter indifference as if inured to such excesses. Some would even condone such behavior, saying: "It's just kids having fun," "These are basic human biological urges," or "They don't

necessarily consider painful what we consider painful," and assigned blame to the individual children. They also ignored the children's open and silent cries for help, such as self-mutilation. Although these teachers have been impeached, they are still teaching. Much to the shame of the entire teaching profession, this demonstrates that our government and the school are wantonly abandoning these children! These educators do not admit their mistakes and do not repent. Instead, they believe they are the unlucky ones and force the children to move out of the dormitory or use all means to make them transfer to other schools. Some even bide their time to take revenge and purge those who hold different opinions. They search for pretexts to punish teachers, who participated in the investigation of the incidents by the gender equality education committee, and look for excuses to take legal action against the former chairperson of the school's parent teacher association, who had attended in the HEF press conference.

The official report on the incidents, published Sept. 27, 2011, states the following: The said school entered false information in its reports, made false reports, did not properly file cases, failed to investigate and provide counseling, and ignored for a long time that students were repeatedly victimized and that victims became victimizers. There are structural factors behind this. Generally, teaching staff exhibits an insufficient level of caring for the students; lacks gender sensitivity and gender awareness; has insufficient pre-service and on the job teacher training; the dormitories are rundown and badly designed; the school lacks adequate leisure activities and entertainment facilities; boarding school life is dull and boring. In form and situation the incidents went far beyond mutual frolicking or exploration of the body or body parts among students, they involved acts against the will of the victims, made people feel uncomfortable and even caused severe harm. Counseling outcomes are dismal, members of the gender equality education committee rotate, some long-serving teachers still do not master sign language, and newly hired teachers are not required to have sign language skills, making communication with the students difficult. Many dormitory managers, bus escorts and teaching assistants do not master sign language and have no basic special education background or experience; management measures are inappropriate, and many measures have proven useless.

In an unprecedented move, the Control Yuan impeached 16 people on July 2012 on the following grounds: At the said school, "164 incidents of sexual assault and sexual harassment allegedly occurred between 2001 and January 2012, inflicting severe physical and mental trauma on 92 students. Given that oversight and

management by the Ministry of Education and the school were lacking and gravely negligent..., 16 persons are impeached, including Lan Shun-te, director of the MoE Central Region Office, and two former principals of Tainan School for Students with Hearing Impairments, Lin Hsi-chen and Chou Chih-yueh. The entire case is transferred to the Commission on the Disciplinary Sanctions of Functionaries under the Judicial Yuan.”

The Control Yuan pointed out that 44 of the 164 alleged incidents of sexual assault or sexual harassment had not been investigated or dealt with, whereas 68 incidents were investigated and the facts of the case established. There were around 92 victims and some 90 victimizers involved. Relevant persons committed gross negligence with regard to management and follow-up counseling. Control Yuan member Kao Feng-hsien noted: “This is the most painful, saddest case I have seen since becoming a Control Yuan member four years ago. For a long time, the school turned a deaf ear to the heartfelt wishes of these victimized children, it took an investigation by outside investigation commissioners to get the children’s voices heard.” Ma Yi-gong, another Control Yuan member, said: "This is an extremely shocking story, since relevant persons didn’t act when they were supposed to take action and even wanted to cover things up.”

Control Yuan documents show that the Ministry of Education and the school violated the law and committed gross negligence as follows:

1. Relevant school personnel failed to establish a safe school environment as required by law so that sexual assault and sexual harassment continued to occur on campus, in the dormitories, restrooms etc. Relevant personnel that should have checked whether the campus environment is safe and should have overseen the establishment of a safe campus have all breached the law through dereliction of duty.
2. The majority of the sexual assault and sexual harassment incidents occurred in the school dormitories and on the school bus. To protect the safety of its students the school mentioned above has hired dormitory managers and school bus escorts while also keeping a daily work log. Yet relevant personnel adopted an indifferent, wait and see approach toward the sexual assault and sexual harassment incidents, failing to meet their responsibility to report and deal with these cases or exert supervisory control. As a result, sexual assault and sexual harassment kept occurring over again.
3. Seventy of the sexual assault or sexual harassment incidents that occurred at the school were not reported to the local competent authority as required by law. As many as 87 cases were not reported to the MoE according to the law. It is obvious

that relevant personnel who were obliged by law to report these incidents breached the law through dereliction of duty.

4. The school failed to provide timely psychological counseling and other assistance to the victimizers and victims. As a result, sexual assault and sexual harassment continued at the school with some students suffering repeated, severe harm and some students turning from victim to victimizer. The nonfeasance of staff in charge of counseling services clearly constitutes a breach of law through dereliction of duty.
5. The MoE failed for a long time to verify the sexual assault and sexual harassment incidents at the school and to list the cases for regular follow-up. It also failed to evaluate the school as required by the *Special Education Act* and did not appoint principals who fulfilled the qualifications required by the *Act of Governing the Appointment of Educators*.

HEF believes that then Education Minister Wu Ching-ji already knew when he convened the Commission for Gender Equity in Education on Dec. 15, 2010, that 12 cases had occurred at the said school. When the Commission held another session on June 20, 2011, the number of cases had soared to 51. Although the minister was clearly aware that the sexual assault and sexual harassment situation was quite severe at the said school, and that it should be handled speedily and professionally to protect the students' rights, no immediate, effective response was forthcoming. He even failed to urge the staff at the Central Region Office to act quickly for the sake of the students' rights. Only after the media reported about the case, did he launch the ministry's emergency response mechanism and replaced the principal. It is exasperating that Wu, in his capacity as education minister and chairperson of the central government's Commission for Gender Equity in Education, failed to take any aggressive, effective action for the physical and mental safety of the student victims. Moreover, the *Special Education Act* stipulates that the MoE evaluate all special education schools nationwide every three years, yet no evaluations have been conducted for nine years. Article 6-1 of the *Act of Governing the Appointment of Educators* states that principals of special education schools "should hold a Teacher's Certificate for the highest level of education available at schools, expertise and knowledge of special education" and meet certain other requirements. Nevertheless, neither former principal Chou Chih-yueh nor Acting Principal Wang Chun-cheng was sufficiently qualified. Then Minister Wu failed to conduct his office according to the law in a clear failure to perform his duties properly.

On Aug. 16, 2013, the Public Functionary Disciplinary Sanction Committee

concluded its deliberations, slapping the disciplinary measure of demotion by one level on principals Lin Hsi-chen and Chou Chih-yueh, directors Huang Ching-huang and Chang Musheng as well as section chief Chen Wen-tung. (Since Principal Lin had already retired, his rights were not affected by the impeachment; some of the other officials successfully appealed the committee decision). Directors Dai Chien-hsiu and Tsai Yu-chen as well as section chief Chen Cheng-chun were recorded one demerit. Section chiefs Lin Mei-hui and Yang Hui-hui were recorded two demerits. Not only was not a single person in the entire case removed from office, but no disciplinary measures were taken at all against Central Region Office Director Lan Shun-te, Division Chief Luo Ching-yun, Executive Officer Hung Miao-yi, Inspector Lin Chung-bin, and Tsai Pi-e, one of the school's directors, perpetuating the untouchable mentality of smug officials.

The MoE's administrative and formal intervention as well as the renovation of the school facilities cannot change the environment as a whole at all. Without actual policy intervention and the stationing of a professional team at the school, it will be impossible to break the collusive structure that has become deeply engrained over decades. We believe that unless we change the environment as a whole, the quality of our children's education is unlikely to improve and the number of cases that will have to be reported to gender equality education committees is unlikely to decline.

II. Response to the State Report

[Translator's note: the passages in blue are quoted from the State Report]

2.5.3

The government has begun to promote the *Program on Relieving the Victims of Sexual Assault from Repeated Statements*. The aim is to prevent children and teenagers under the age of 18 as well as persons with intellectual disabilities from being traumatized all over again, because they are required to make repeated statements about the details of the sexual assault in the course of criminal investigations and court proceedings. With the assistance of professional personnel, the number of interview and questioning sessions sexual assault victims are required to undergo between the reporting of the incident and the court judgment has been reduced to protect the rights of the victims.

Since the school refused to hand the investigation report by the gender equality education committee to the local government's social affairs bureau, the social affairs bureau was not able to get the concrete facts of the case after being notified

about the incidents. HEF staff, who accompanied victims during questioning numerous times, has found that at the district prosecutor's office social workers from the social affairs bureau first interview the victims. Then police officers from the women and children protection brigade question them before prosecutors conduct the final questioning. Transcripts of the interviews are made. Since the deaf or hearing impaired child victims require the assistance of a sign language translator such interviews often last from 9 a.m. to noontime. This process is not only extremely exhausting but due to the multiple recounting of the assault, the victims suffer severe physical and psychological trauma. It has happened that a police officer from the women and children protection brigade directly interviewed victims in the open-plan office instead of taking them to a private interview room. As reason the officer cited "I am more familiar with my own computer."

2.9

The MoE trains experts who handle incidents involving sexual assault, sexual harassment or sexual bullying on campus to strengthen their competencies establishes a talent pool of specialist investigators.

The training offered by the MoE lacks special education expertise. Therefore, those who investigate the cases do not necessarily have a special education background - a factor that negatively affects the investigation progress. The investigators are, for instance, not able to use sign language, they do not understand the culture of the deaf, they are prejudiced against deaf or hearing impaired students, and therefore investigate carelessly or put together disputable investigation reports. At Chishan Agricultural and Industrial Vocational Senior High School, a student with Asperger's syndrome was involved in a sexual harassment case, but no one on the investigation team understood the characteristics of the said disorder which led to the violation of the said student's rights.

2.62

Across Taiwan 22 counties and cities are implementing the Program on Relieving the Victims of Sexual Assault from Repeated Statements. Children and teenagers under the age of 18 as well as persons with intellectual disabilities or adult victims, who following an evaluation are willing to participate, can join the said program to prevent them from being traumatized all over again, because they are required to make repeated statements about the details of the sexual assault in criminal investigations and court proceedings.

These are just empty words, since in the sexual assault cases at the special education school none of the victims was informed about this evaluation process.

2.63

With regard to protective services and measures for child and teenage sexual assault victims, demand is highest for consulting as well as psychological counseling and guidance services. In order to reinforce psychological counseling for child and teen sexual assault victims in remote areas, relevant specialist training courses will become creditable as part of continuing education programs for psychologists. We are also building a psychological counseling talent pool.

Psychologists do not master sign language and rely on the assistance of sign language translators when counseling deaf or hearing impaired students. As a result, it is not easy for them to establish a trusting relationship with their clients, which negatively affects the therapy outcome.

10.4

The Special Education Act guarantees the right of physically or mentally impaired as well as talented and gifted citizens to receive adequate education. In 2009, the Act was revised in the direction of inclusive education. Statistics for the 2008-2011 period on the number of physically and mentally impaired students graduating from school show that a higher percentage of female students with physical or mental disabilities chose to attend a special education school than chose to attend an ordinary school (Table 10-4).

Although the MoE wants to pursue an inclusive education policy, it still establishes special education schools in every county and city most of which use centralized boarding school systems [Translator's note: students from across a county or city are enrolled in a centralized school] that run counter to inclusive education. The MoE has the responsibility to look into the damage that centralized boarding school settings inflict on students, to establish classes for the hearing impaired on a broad scale, to provide equal and nearby access to school for hearing impaired students and ordinary students alike. At the same time, the scope of those who qualify for boarding at special education schools must be tightly restricted to students with multiple severe disabilities. On top of this, special education teachers are not able to design Individual Education Plans (IEP); they are not capable of setting out targets and actions for individual special education students, severely affecting their

learning outcomes.

10.7

In order to deliver gender equality education, the General Guidelines of Grade 1-9 Curriculum of Elementary and Junior High School Education, implemented in 2011, incorporated 69 gender equality related competence indicators. Three major topics “gender-related self-understanding,” “gender-related self-other relationships,” and “gender beyond the self” have been incorporated into the elementary and junior high school education curriculum to be taught in school.

Many special education teachers are not able to teach sex education and gender equality education or even discriminate sexually active special education students, ignoring the students’ sexual urges and need for intimacy. The MoE provides only very few such teaching materials for special education students.

10.8

In order to broaden the aspects of gender equality on campus, the *Gender Equity Education Act* was amended in 2011 by adding the following definition for the term “sexual bullying”: “Ridicule, attacks, or threats directed at another person’s gender characteristics, gender temperaments, sexual orientation, or gender identity by using verbal, physical or other forms of violence will be under the category of sexual bullying not sexual harassment.” Sexual bullying will become part of preventive education. Homosexuality will be included in gender equality education at school to teach students to know about and respect people with a different sexual orientation or gender identities, enabling them to enjoy equal rights to education ⁷².

Many teachers at schools for the deaf are not able to teach gender education and even lack gender equality awareness themselves. When the MoE conducts relevant continuing education trainings, the teachers read magazines and play with their mobile phones during class so that the outcome is questionable.

III. Recommendations

1. The Ministry of Education should completely revise the special education policy that groups such students together in boarding schools and instead allow hearing impaired students to attend schools in the neighborhood.
2. The vast majority of deaf and hearing impaired students are intellectually

normal adolescents. However, since the teaching efficacy of teachers at schools for the deaf and hearing impaired is not being monitored and teachers are not able draw up IEP students' learning outcomes are not good which also affects their sexual cognition and ability to protect themselves against sexual assault. The MoE should set up a full-fledged archive for gender equality education lesson plans tailored to hearing impaired special education students, including visual learning style materials. It should also examine the professional communication skills of teachers for the deaf and hearing impaired (ability to express themselves through sign language), the outcomes of their gender equality teaching as well as their ability to draw up IEP.

3. When school-based gender equality education committees investigate incidents involving special education students, at least one expert or teacher who understands the type of the said students' disability and its special characteristics should join the investigation team, or else it will not be possible to clarify the facts and make proper suggestions for punishment.
4. The *Program on Relieving the Victims of Sexual Assault from Repeated Statements* is a mere formality, since social workers and police officers with the women and children protection brigade will not tell the victims about this regulation. The government should make it compulsory that a person, who qualifies for the program but does not feel the need to join, signs an informed consent form stating he or she does not join the said program.