

Parallel Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women Foreign Spouses

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Abstract

This article points out the long-standing negative discrimination and labelling of foreign spouses who immigrate to Taiwan for marriage in our predominantly patriarchal society, based on a number of individual cases. In their marital relationships, foreign spouses easily encounter domestic violence and gender inequality. In order to gain citizenship, isolated, helpless foreign spouses can only patiently bear their predicament when facing domestic violence. The restrictive conditions currently attached to naturalization and the different review standards used by the various executing agencies make naturalization an even greater challenge. This also leads to the violation of human rights and family integrity.

The problems described above violate CEDAW Article 2, Article 5, Article 9, and Article 15, General Recommendation No. 19.7 (d), 19.7 (e), 19.7 (f), 19.7 (g), 19.11, 19.23, as well as CEDAW General Recommendation No. 19.24 (b). Therefore, we urge the government to act and implement the following recommendations: 1. Strengthen the Nationality Act regulations and case analysis training for local government staff. 2. The government shall investigate the causes of domestic violence for foreign spouses, and propose specific measure. 3. Strengthen domestic violence prevention work as well as encourage and implement a pluralistic culture and gender equality.

I. CEDAW Background

1. CEDAW Article 2, Article 5, Article 9 and Article 15

2. General Recommendation No. 19

-19.7: Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:

- (d) The right to liberty and security of person;
- (e) The right to equal protection under the law;
- (f) The right to equality in the family;
- (g) The right to the highest standard attainable of physical and mental health;

-19.11: Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence, the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to the low level of political participation and to their lower level of education, skills and work opportunities.

-19.23: Family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality.

-19.24 (b): States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention;

II. Current Situation and Problem Analysis

1. Explanation of Current Situation and Individual Cases

Cases of domestic violence continue to occur frequently. Figures by the Department of Statistics of the Ministry of the Interior (Mol)¹ show that a total of

¹ Department of Statistics, Mol, *Mol Statistics Week 8, 2013 (Summary of Reported Domestic Violence Cases in 2012)*, <http://sowf.moi.gov.tw/stat/week/list.htm> (original in Chinese)

115,203 cases of domestic violence were reported to authorities in 2012 compared to 2011, the cases increased 10.4%. More than half of the cases, 53.2 percent, involved violence against a spouse, an ex-spouse or a live-in partner. Women accounted for 71 percent of the 98,399 reported victims of domestic violence. Statistics by the Domestic Violence and Sexual Assault Prevention Committee under the MoI show that marital violence leads domestic violence statistics, regardless of the nationality of the victim. Marital violence is involved in more than 90 percent of domestic violence cases involving foreign or mainland Chinese victims. In the following, we selected only cases that were handled by YWCA of Taiwan to illustrate the overlapping problems created by marital violence against foreign spouses:

Explanation of individual cases

A-Qiu², an Indonesian national, came to Taiwan in 2009 to work as a caregiver. She looked after the grandmother of her employer A-Jun³. During her contract, she developed an intimate relationship with A-Jun, decided to marry him and emigrated to Taiwan. After getting married, A-Qiu still looked after her husband's bedridden grandmother and her young second son Xiao Yu⁴. A-Jun, a temporary worker, was the family's main breadwinner. Aside from shouldering living costs and rent, he sometimes also financially supported a sister in law. Since the family could not make ends meet, A-Qiu thought about looking for a job outside the home to help cover living costs.

However, A-Jun and the paternal sister in law had long treated A-Qiu like a maid, using physical and verbal cruelty against her. Burdened with financial difficulties and caretaker stress, the couple often clashed with each other. In 2012, A-Qiu turned to the 113 hotline for help as she could no longer bear the lack of psychological support and felt mentally and physically drained. The hotline notified the local domestic violence prevention center. After an investigation and home visit found that A-Qiu is a new immigrant, her case was referred to the Foreign Spouse Family Service Center.

Before getting married, A-Qiu got pregnant with her first-born son Xiao Yan⁵. When Xiao Yan was born in Indonesia, A-Qiu did not register his birth, because of the complicated red tape involved in obtaining and authenticating relevant certificates. As a result, Xiao Yan is an Indonesian national so that A-Qiu was forced to leave him behind in Indonesia in the care of her parents.

Social workers had previously provided information on long-term care and respite care services to the family, but the family rejected such support because the services were not available round-the-clock. On top of that, the family did not have a permanent address registered in the said county or city and was therefore not eligible to apply for relevant long-term care services and other social benefits such as stay-at-home parent subsidies and allowances for women in special circumstances.

After further home visits, social workers found out that A-Qiu had been married long enough to qualify for naturalization. However, since A-Qiu's spoken Chinese was poor and she could not read Chinese characters she was not able to prove the basic language skills that are required for naturalization. The social workers provided relevant language course information and asked A-Jun to help his wife gain citizenship. Yet handicapped by the family's caregiver burden, A-Jun did not

2 The Foreign Spouse Family Service Center started to deal with A-Qiu's case from 2012. For privacy reasons, this report does not use the woman's real name and does not give her place of residence.

3 For privacy reasons, the pseudonym A-Jun is used instead of the man's real name.

4 For privacy reasons, the pseudonym Xiao Yu is used instead of the child's real name.

5 For privacy reasons, the pseudonym Xiao Yan is used instead of the child's real name.

allow A-Qun to attend the 72-hour Chinese language course.

After A-Qiu applied for a protection order, A-Jun's violent behavior toward his wife slightly subsided. With the assistance of social workers, A-Qiu found a job and began to work as a machine operator at the end of 2012. The family also hired a foreign caregiver for the grandmother and the young child. However, after A-Qiu started to work outside the home, A-Jun stopped working and spent his days drinking and gambling. Since he controlled A-Qiu's salary bank account and cash card, he was able to clean out her bank account. When drunk, A-Jun would sometimes curse A-Qiu or behaved inappropriately, but A-Qiu decided to put up with her predicament because she thought her husband's violent behavior was not severe.

Just before the Lunar New Year 2013, A-Qiu quit her job because she did not feel well, leaving the family without a source of income. Social workers helped the family look for social assistance and counseled the couple to improve their mutual communication, but not to much avail. As a result, A-Qiu again turned violent against his wife in March 2013. When the devastated A-Qiu filed a report with police and asked for help, she was shocked to find out that her husband was listed as a wanted criminal. As her husband was arrested and sent to prison A-Qiu and her younger son were sent to a shelter. The sister in law, who had not offered any assistance to A-Qiu, cancelled A-Qiu's mobile phone number and ended the rental contract for the family home. Escorted by a social worker, A-Qiu later on went to see the landlord who agreed after negotiations to let her enter her former home to look for relevant evidence and personal belongings. Again, the penniless A-Qiu depended on social welfare for her living. When the three-month tenancy period in the shelter came to its end, she had found a new home and a new job. With a monthly salary of NT\$20,000 she had to shoulder expenses for rent, Xiao Yu's childcare and remittances to Indonesia to cover the living costs for her first-born son Xiao Yan whom she had left in the care of her parents. Given her heavy financial burden, A-Qiu did not dare to take a day off and worked hard in a noodle shop for a monthly wage slightly above NT\$20,000. But the emotional trauma resulting from her domestic violence history, the problems surrounding her marriage and naturalization keep coming back and remain unresolved.

2. Problem Analysis

(1) Domestic violence and gender inequality encountered by foreign spouses

Fueled by sensationalist media coverage, Taiwan's traditional, patriarchal mainstream society has long negatively discriminated and labeled foreign spouses. Controlling men will attempt to use various forms of manipulation to keep close tabs on a spouse's activities and to thwart her contacts with the outside world, not treating her as an equal but as a purchased accessory.

In the joint family, the main caregiver role is shifted onto the foreign spouse's shoulders. She usually partially or entirely assumes the caregiver responsibilities of the other women in the family which leads to obvious differences in status and role expectations although all are women. Consequently, the foreign spouse's status within the family is further undermined. Left without necessary support, the women are physically exhausted and mentally worn out which ruins their physical, mental and spiritual health, not to speak of the cynical treatment and beating that they encounter at home for many years.

In this case, A-Jun and the aunt viewed A-Qiu as a foreign domestic helper and treated her violently. Given their low level of social support, foreign spouses are in a weak position when encountering domestic violence. A-Qiu, who has not

yet gained Taiwanese citizenship, can only grit her teeth and bear her predicament for the sake of her children's future. Even though A-Qiu starts all over again and lives an independent life after receiving shelter and other assistance to leave her violent home, she still lives under the shadow of possible further violence, intimidation and threats from her husband so that her personal safety remains a matter of concern.

While Taiwan has meanwhile set up a foreign spouse protection and counseling hotline (0800-088885) and a women and children protection hotline (113) as well as legal norms such as the *Domestic Violence Prevention Act*, in real life many battered women are not well informed about the subsequent legal procedures and content of treatment services. Out of fear of hurting innocent people in the aftermath and due to their own helplessness and terror they curtail their own rights.

(2) External obstacles to the naturalization of foreign spouses

Article 3 and Article 4 of the Nationality Act stipulate that the foreign spouse of a national of the Republic of China can apply for naturalization: if he/she has legally resided in the territory of the ROC for more than 183 days every year for more than 3 consecutive years; is above 20 years of age and has the capacity to act in accordance with both the laws of the ROC and the laws of his/her own country; behaves decently; and has no criminal record. A-Qiu meets all these requirements. However, she also needs to possess basic language ability in the language of the ROC, and have basic common knowledge of a national citizen's rights and obligations. Since A-Qiu's ability in reading Chinese and expressing herself in the language is very limited, she cannot directly participate in the naturalization test. Without the family support, it is difficult for A-Qiu to attend a 72-hour language course to apply for naturalization eligibly.

Moreover, the government has amended the Enforcement Rules of the Nationality Act to relax the conditions of citizenship naturalization examination, foreign spouses still would face the situation that different review standards by the various executing agencies while applying naturalization. For example, the local government agency may request "proof of financial means" as necessary for the foreign spouses who divorced and have gained custody of their own children. It shows that the decree did not deliver the central government policies and strategies to the local governments. The local government staff cannot review professionally that will damage the right of foreign spouses.

(3) Foreign spouses do not enjoy real equality at home

Foreign nationals who immigrate to Taiwan for marriage heavily depend on their Taiwanese spouses because they do not speak the local language, lack strong social support and are not familiar with how to access social resources. However, in a male-dominated society influenced by various traditional worldviews, stereotypes and gender ideology, woman often do not enjoy many rights with regard to participation in various fields and making choices. The families of most foreign spouses belong to the working class and are not very

well off. When a woman switches roles from an economically dependent person to an economically independent one, her status and right to expression within the family is usually not improving or rising correspondingly.

III. Recommendations

A-Qiu's story is just the tip of the iceberg when it comes to the unequal relationships that foreign spouses encounter in Taiwan. Countless domestic violence tragedies, unequal treatment in binational marriages, and discrimination are common occurrences in Taiwan. Based on Article 2 of CEDAW we make the following recommendation:

With regard to policy implementation, there should be no differences between the central government and the local governments or between local governments when it comes to standards for reviewing applications such as checking financial means or registering permanent addresses. When government agencies adopt such differential, unequal treatment they violate Article 2 of CEDAW with their actions. We recommend that the **strengthen the Nationality Act regulations and case analysis training for local government staff** to understand the standards adopted for dealing with the same kind of case.

Personal safety is a basic human right. CEDAW General Recommendation No. 19 (t) states that states parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia: (i) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including inter alia violence and abuse in the family, sexual assault and sexual harassment in the workplace; Therefore we recommend:

- (1) For high proportion of domestic violence for foreign spouses, **the government shall investigate the causes of domestic violence for foreign spouses, propose specific strategy, and periodic assessment reports**, in order to protect the personal safety of foreign spouses.
- (2) **Provide personal safety education and information on treatment processes for foreign spouses** so that victims of domestic violence can get fully informed for clearer judgments and better self-protection, which will boost their courage, rights and ability.
- (3) **Intensify domestic violence prevention work and the promotion and implementation of a pluralist culture and gender equality**. Human rights should be taught as part of daily life from childhood on. By enlisting the support of schools and the mass media, social stereotypes should be dismantled and the concept of gender equality should be established to deconstruct gender ideology and traditional gender roles. We hope to achieve this goal on the legal, education and other fronts through the promotion of CEDAW.