

Parallel Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women Sexual Assault

Authored by The Garden of Hope Foundation

Liao Mei-shu, Iris Wang

(Contact:master@goh.org.tw)

Translated by Susanne Ganz

Abstract

Sexual assault crimes have complex, distinct characteristics. The judicial principle of the presumption of innocence tends to protect the rights of the offender, since the victim must shoulder the legal burden of proof and, as a result, is interrogated and held accountable [for what happened]. During prolonged legal proceedings, a sexual assault victim might face threats and harassment from the offender, but the judicial system does not provide a single measure to protect the victim. In case of sexual assault on school campuses, victims are often forced to repeatedly recount their ordeal as different systems conduct their own investigations, causing the victims enormous physical and mental harm.

The problems mentioned above contravene CEDAW Article 2 and Article 15. CEDAW General Recommendation No. 19.7, 19.8, 19.24(f), 19.24 (g), 19.24 (h), 19.24 (i), 19.24 (k). Therefore the Garden of Hope Foundation makes the following recommendations and urges the government to: 1. Establish a special certification system for judges and prosecutors in sexual assault trials and a corresponding incentive system. 2. Establish preventive detention for sexual offenders or other systems similar to protection orders in domestic violence cases to protect the victims. 3. Separate the reporting of cases involving adult survivors of childhood sexual assault from access to support services so that victims can obtain services even if they chose not to report the assault. 4. When sexual assault occurs on school campuses, the education system, the Ministry of Health and Welfare, and the judicial system could launch a joint investigation mechanism to reduce the number of times that a victim has to recount her or his ordeal.

CEDAW Background

1. CEDAW Article 2, Article 15

2. General Recommendation No. 19 Violence against Women

- 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: ... (g) The right to the highest standard attainable of physical and mental health; ... 19.8 The Convention applies to violence perpetrated by public authorities. Such acts of violence may breach that State's obligations under general international human rights law and under other conventions, in addition to breaching this Convention. 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... 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... 19.24 In light of these comments, the Committee on the Elimination of Discrimination against Women recommends that: (f) Effective measures should be taken to overcome these attitudes and practices. States should introduce education and public information programmes to help eliminate prejudices that hinder women's equality (g) Specific preventive and punitive measures are necessary to overcome trafficking and sexual exploitation; (h) States parties in their reports should describe the extent of all these problems and the measures, including penal provisions, preventive and rehabilitation measures that have been taken to protect women engaged in prostitution or subject to trafficking and other forms of sexual exploitation. The effectiveness of these measures should also be described; (i) Effective complaints procedures and remedies, including compensation, should be provided; (k) States parties should establish or support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling;

II. Current Situation and Problem Analysis

Sexual assault crimes come with complex, distinct characteristics since the relationships between the two persons involved differ and therefore lead to different types of sexual assault cases. Correspondingly their implied significance is also different. When our judicial system with its male-dominated thinking faces sexual assault cases, it often overlooks their particularities. Rulings are made based on gender stereotypes and myths. The judicial principle of the presumption of innocence tends toward protecting the rights of the offender, whereas the victim is required to shoulder the burden of proof. Therefore, cases focus on whether evidence provided by the victim constitutes the elements of a crime. Contrary to what should be done, this leads to the phenomenon of victims being interrogated and held accountable [for what happened], which adds insult to injury for victimized

under-age children and women, and violates their rights. The following cases illustrate that Taiwan does not yet provide the safeguards and measures against sexual assault mentioned in CEDAW.

Case 1: The White Roses Movement

In 2010 several rulings in sexual assault cases involving child victims made the headlines. Since these rulings failed to meet social perceptions, they caused a major public outcry and sparked citizens to stage street protests in what became known as the “White Roses Movement.” On Feb. 6, 2010, a man surnamed Lin sexually assaulted a six-year-old girl near a local library in rural Kaohsiung and was arrested by police after being caught red-handed. Prosecutors indicted the man on charges of “aggravated forced sexual intercourse” [against a person under the age of fourteen] which carries a minimum sentence of not less than seven years, demanding a prison term of seven years and ten months. In the first instance ruling, the district court determined in its verdict that the offender had “not acted against the girl's will,” citing the defendant's own confession, in which he stated that he had not used violence, and testimony of witnesses who said they had not seen the girl resist or cry for help. Therefore, the court found the offender guilty of “sexual intercourse with a male or female under the age of fourteen,” which carries a statutory sentence of not less than three years but not more than ten years, and sentenced him to a prison term of three years and two months. The ruling triggered widespread misgivings. On Aug. 5, 2010, the joint chambers of the Supreme Court with one presiding judge and five other judges tried another sexual assault case involving a three-year-old girl. Their ruling found that “the girl's testimony and the injury certificate could not prove that the defendant had acted against the girl's will.” Arguing that “since the offense was actually not committed against the will of the victim, only the offense of sexual intercourse with a male or female under the age of fourteen can be established,” the Supreme Court ordered a retrial. This ruling again sparked public indignation and made people take to the streets in protest.

Case 2: Sexual assault or child and youth sexual transaction?

Among the cases handled by the Garden of Hope Foundation is the case of a girl under the age of 16 who was sexually assaulted by a neighbor surnamed Wen in a rural area in southern Taiwan. The victim's petition for compensation was rejected among others on the ground that the offender had bought the consent of the victim before having sexual intercourse with her five times between 1999 and 2011. Since the petitioner was not mentally and physically disabled, mentally challenged or in any other similar condition and was not victimized as a result of illegitimate means such as promise of gains or deception at the time, she does not belong into the category of sexual offense victims listed in the Crime Victim Protection Act. Therefore, this petition for compensation is not granted, the court ruled. Moreover, [the court argued] if a juvenile engages in a love affair with another person or engages in sexual transactions such as sexual intercourse or obscene acts without subjectively feeling like a victim, but is, nonetheless, awarded compensation from the state, then the legislation's goal of reducing similar offenses and protecting juveniles would not be possible to achieve. Instead, it would be tantamount to encouraging such behavior, which would lead to moral risk and go against social perceptions.

Problem analysis:

(1) The appropriateness of legal clauses used by judges and prosecutors

Article 221 of the Criminal Code of the Republic of China states that the constituting elements of the offense of forced sexual intercourse are: “a person who

by threats, violence, intimidation, inducing hypnosis, or other means against the will of a male or female has sexual intercourse with such person... While judges who hand down light sentences do not violate the law, they fail to consider the mental development of children and that an adult who commits a sexual offense against a child causes a great impact on his or her body and mind. Common sense regards this as a severe misdeed that should be punished with a heavy sentence. Regarding children who are not able to judge sexual autonomy, judges consider as constituent element of sexual assault whether the act was committed against the will of the victim. They hand down comparatively light sentences, which is clearly against common sense and out of sync with society, and therefore triggers strong public protests. This issue has to do with the appropriateness of the use of certain legal clauses by judges as well as by prosecutors. In order to calm public outrage, the Judicial Yuan once suggested to abolish the phrase “against his or her will” as a constituent element of sexual assault which drew protests from women’s groups. They argued that during the legislative process it transpired that the majority of sexual assault cases actually occur between people who know each other well. The offender uses power control and gradual advances to get his way and not stereotypical, strongly violent behavior to suppress the victim. If the phrase were abolished, this would severely undermine the spirit of protecting a person’s sexual autonomy, a major focus of the bill at the time. Subsequently, the Ministry of Justice amended the law, adopting a heavier penalty for aggravated sexual assault against children under the age of seven. Since this initiative failed to comprehensively consider relevant supplementary measures and only differentiated the penalty based on age, the protesting voices from the outside world were not completely silenced.

(2) Judges’ knowledge regarding the nature of sexual assault

The first incident pertaining to this case happened in 2007. When the concerned person, a girl under the age of 14, urinated at the streetside, the offender committed obscene acts against the will of the victim. Subsequently, the offender against engaged in obscene behavior when the person involved was sick and did not know how or was not able to resist. In early 2008, the offender used pocket money as bait to engage in sexual behavior with the concerned person on 10 occasions. Since victim compensation under the *Crime Victims Protection Act* was implemented only Aug. 1, 2009, it cannot be retroactively applied to previous cases. The focus of this case was on whether the sexual behavior that occurred five times between 2009 and 2011 was “sexual intercourse” after all or whether it amounted to “victim behavior committed under the promise of gains.” This was the controversial point of this case because it pertained to whether the *Crime Victims Prevention Act* was applicable. Article 2 of the *Child and Youth Sexual Transaction Prevention Act* defines the term sexual transaction as “sexual intercourse or obscene act for a consideration.” The concerned person in this case was a teenage girl under 16. She had no intention to conduct a sexual transaction with the offender and did not engage in any behavior that could be described that way.

When the first instance of sexual assault occurred, the concerned person was only a little older than 10 years of age (not yet knowing about sex). During the period between 2009 and 2011 when the *Crime Victims Prevention Act* applies, the victim was only between 14 and 15 years old, more than 45 years younger than the offender. When the offender forced the petitioner to have sexual intercourse and endure obscene acts in the absence of an affectionate boyfriend-girlfriend relationship he was fully aware that he acted against the will of the concerned person. Moreover, he clearly knew that he committed the acts against a person under the age of 14. In prosecuting the case, the district court used Article 222 (aggravated forced intercourse), Article 225 (taking advantage of the victim's inability to resist obscene acts) and Article 227, Paragraph 2 (sexual intercourse with a person under the age of 14) of the Civic Code, but did not use the *Child and Youth Sexual Transaction Prevention Act*. When the incidents occurred, the concerned person was a minor, lived an innocent life, had no idea about "sexual transactions", and was not in a sex industry related environment. The offender was able to take advantage of the concerned person because she lacked awareness and education on self-protection. He subjected her to forced sexual intercourse and obscene behavior and construed it as consensual because he had given the victim pocket money as bait. In other words, from the concerned party's stance sexual intercourse was never perceived as the target of a transaction, much less was she motivated by the idea of taking money as remuneration. Therefore, this case is simply an example for sexual assault of a victim under the promise of pocket money.

In our practical experience the Garden of Hope Foundation social workers have seen that many child sexual assault cases happen between people who know each other well. The offender uses power control and gradual advances to get his will and not stereotypical, strongly violent behavior to suppress the victim. In court trials sexual assault cases are nonetheless often tried based on gender stereotypes, especially in the above case, which was prosecuted under the *Child and Youth Sexual Transaction Prevention Act* because the victim was judged to have willingly entered into a transaction. The court overlooked the background history of long-term criminal sexual assault by a familiar figure, and misunderstood the true nature of child sexual assault. This absurd situation was a major source of secondary trauma for the victim and her family.

Case 3: Sexual assault in the community

Most sexual assault cases are quite complex and diverse such as this case, which happened in an area with indigenous inhabitants. Presently the government provides shelter assistance to minors who suffer sexual assault within their biological family. But no shelter assistance is granted if the sexual

assault occurs within the local community. The said case occurred in an indigenous community, the victim was an underage girl and the offender a neighbor. The living conditions and neighborly relations in an indigenous community are different from what we generally perceive as a neighborhood, in that interpersonal relations are much more closely knit. As a result, it was impossible for the victim to evade the offender after the sexual assault had occurred. The offender also made the victim see his hunting rifle, filling her with fear. Since the sexual assault did not occur within the family, it was impossible to move into a government shelter, but the victim's family also lacked the resources to move away. Presently, preventive detention in connection with sexual assault requires very clear evidence and a high probability of a repeat offense. In contrast to domestic violence cases, protective orders cannot be used as a legal instrument in sexual assault cases in Taiwan so far. Therefore, the victim's family was forced to put up with the situation, living with fear and worry day in and out.

Case 4: Victim services with hands tied by judicial system

For many years, the Garden of Hope Foundation has provided services to victims who were sexually assaulted as children but came forward to ask for help only as adults. In these cases more than ten years or several decades have passed since the childhood sexual assault. The victims come to us and seek help for various reasons. While all hope to receive services the vast majority have the same request: They do not want us to report their cases. The problem is that professional staff has the responsibility to report a sexual assault case as soon as he or she hears about it. This point is well meant but lacks professional flexibility, when it comes to adult survivors of childhood sexual assault. Victims who require services easily turn them down because their cases would have to be reported.

Problem analysis:

The complexity and diversity of sexual assault calls for more flexible support services

While case 3 involves sexual assault in the local community and not within the family, the Garden of Hope Foundation concluded during its services that the victim still required shelter services due to the special nature of the local area and the situation. However, due to our rigid laws it was impossible to gain appropriate assistance. The victim in this case did not qualify for the sheltering services that are invariably granted when sexual assault occurs within the family. However, given the distinct nature of sexual assault as such, the government must plan more support services that are flexible and meet victim needs. Based on the actual victim needs, the government should also plan relevant protection services similar to the protection order in domestic violence cases or preventive detention to increase protective measures for victims within the judicial system. Case 4 is the best example to demonstrate that the government needs to plan more flexible support services. For adults survivors of childhood sexual assault the government should consider more flexible support services that really help the victims, instead of making the reporting of the assault the only option.

Case 5: Investigation of sexual assault on school campuses

Presently, when sexual assault occurs on a school campus, the school will activate its gender equality education committee mechanism. At the same time, the case will be referred to the domestic violence and sexual assault prevention center in the respective county or city, while legal proceedings are launched. Due to such parallel systems, the victims suffer a second time because they are

repeatedly questioned again about their ordeal. Usually sexual assault incidents are only exposed when a student confides in a teacher. Once a teacher has learned about an incident, he or she reports it to authorities inside and outside of school. In order to assess whether the incident has truly happened, school personnel will conduct a second questioning [of the victim] which might be carried out by gender equality education committee contact persons such as a military education officer, school counselor, or other staff from the student affairs department. At this point, one or several persons might contact the victim for questioning. The third round of questioning starts after an investigation task force has been put together. Then the victim might be questioned again once or several times. After authorities outside the school have received the report, social workers from the domestic violence and sexual assault prevention center of the respective county or city will make preliminary contact to assess the situation, which requires a first questioning. Subsequently police will conduct a second questioning, at the investigation stage prosecutors conduct the third questioning, which is followed by a fourth questioning during the court trial. During the forensic investigation, the victim is often questioned more than once, depending on the actual situation. Conservatively estimated, the victim must endure a replay of the same questioning five to ten times in the course of the entire process described above, which means that the victim is forced to recount the sequence of events over and over again, which causes great harm to the victim's physical and mental health.

Problem analysis:

Since 2005 the judicial system has begun to promote the *Directions on Relieving the Victims of Sexual Assault from Repeated Statements* during the investigation process, but the directions are only used within the judiciary. It is understandable that investigations within the education system, assistance by domestic violence and sexual assault prevention centers and investigations by the judiciary do not pursue the same goal and cater to different needs. But it should fall on the shoulders of the different systems to reconcile their different needs instead of shifting such responsibility to the sexual assault victim, forcing her or him to recount the course of events over and over again in order to respond to the different investigations. For sexual assault victims such cruel treatment by government authorities amounts to a secondary injury that causes great psychological damage.

II.CEDAW

Article 15

1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

General Recommendation No. 9 (eighth session, 1989)

Statistical data concerning the situation of women

The Committee on the Elimination of Discrimination against Women,
 Considering that statistical information is absolutely necessary in order to understand the real situation of women in each of the States parties to the Convention,

Having observed that many of the States parties that present their reports for consideration by the Committee do not provide statistics, Recommends that States parties should make every effort to ensure that their national statistical services responsible for planning national censuses and other social and economic surveys formulate their questionnaires in such a way that data can be disaggregated according to gender, with regard to both absolute numbers and percentages, so that interested users can easily obtain information on the situation of women in the particular sector in which they are interested.

General Recommendation No. 19 (11th session, 1992) Violence against women

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:

- (a) The right to life;
- (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
- (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;
- (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;
- (h) The right to just and favourable conditions of work.

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.

24. In light of these comments, the Committee on the Elimination of Discrimination against Women recommends that:

- (f) Effective measures should be taken to overcome these attitudes and practices. States should introduce education and public information programmes to help eliminate prejudices that hinder women's equality (recommendation No. 3, 1987);
- (g) Specific preventive and punitive measures are necessary to overcome trafficking and sexual exploitation;
- (h) States parties in their reports should describe the extent of all these problems and the measures, including penal provisions, preventive and rehabilitation measures that have been taken to protect women engaged in prostitution or subject to trafficking and other forms of sexual exploitation. The effectiveness of these

measures should also be described;

(i) Effective complaints procedures and remedies, including compensation, should be provided;

(k) States parties should establish or support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling;

III. Recommendations

Based on the cases described above and the problem analyses, we make the following recommendations:

The government should establish a specialist certification system for judges and prosecutors who handle sexual assault trials in order to achieve a higher level of professionalism in such cases.

2. In order to safeguard victims' rights, the government should establish a system for the preventive detention of sexual offenders or protection orders similar to those issued in domestic violence cases to truly protect the victims.

3. The government should squarely look at the complexity and diversity of sexual assault cases and provide appropriate and more flexible support services. Many victims only hope to obtain relevant services, but do not want their case to be investigated. However, presently Taiwan's official assistance mechanism inevitably makes access to official resources contingent on the reporting of a case to authorities. As a result, if the sexual assault victim does not want a criminal investigation, she or he is not able to obtain official assistance. Therefore, we recommend that the government delink support services from the forensic investigation so that all sexual assault victims who need relevant services can obtain them. For example: If the two issues were separated from each other, adult survivors of childhood sexual assault would be able to obtain services and professional staff would also be free to decide whether to report such cases. Victims of sexual assault outside the family should be granted shelter services if needed to achieve the goal of CEDAW General Recommendation No. 19.24 (b) which states "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..."

4. When sexual assault occurs on a school campus, the education system, the Ministry of Health and Welfare, and the judiciary could launch a joint investigation system to relieve sexual assault victims of the burden of making repeated witness statements.

Parallel Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women Domestic Violence

Authored by The Garden of Hope Foundation

Tu Ying-chiu

(Contact:master@goh.org.tw)

Translated by Susanne Ganz

Abstract

This article uses real cases to illustrate the predicament of battered women in Taiwan. A host of problems can be generally

found in every corner of Taiwan particularly when it comes to governmental violence recovery programs and support services. In Taiwan services for victims of domestic violence and relevant budget appropriations focus on dealing with the acute crisis phase while placing less emphasis on the recovery of battered women and their children. Domestic violence is not an individual or family problem, but a problem of society at large. The rights of battered women, be it the right to employment, childcare and housing, are quite inadequate and limited.

The problems mentioned above actually violate Article 2 and Article 11 of CEDAW as well as General Recommendation No. 19.7, 19.23, 19.24 (p), 19.24 (r) and other articles. We therefore give our government the following recommendations:

1. The government should target landlords, companies, organizations and citizens with various measures such as information campaigns, labor inspections, public education and incentives to eliminate all forms of discrimination against battered women.
2. Battered women, in particular, require a sound, affordable childcare system. Many battered women have great difficulties entering the labor market because they have several young children but cannot afford costly childcare.
3. It is high time that the housing needs of battered women are addressed. Battered women need more considerate policies such as priority status in social housing allocation. On the open rental housing market, single mothers with a domestic violence history are easily forced to choose low-rent housing in an adverse environment because of their tight budget and since landlords discriminate against battered single parents.

I. CEDAW Background

1. CEDAW Article 2, Article 11

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: (h) The right to just and favorable conditions of work.
- 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. (Comments on specific Articles of the Convention, Article 16 and Article 5)
- 19.24 (p) Measures to protect them from violence should include training and employment opportunities and the monitoring of the employment conditions of domestic workers; (r) Measures that are necessary to overcome family violence should include: (i) Criminal penalties where necessary and civil remedies in cases of domestic violence; (ii) Legislation to remove the defence of honour in regard to the assault or murder of a female family member; (iii) Services to ensure the safety and security of victims of family violence, including refuges, counseling and rehabilitation programs; (iv) Rehabilitation programs for perpetrators of domestic violence;

II. Current Situation and Problem Analysis

Case No. 1:

Hsiao-chiu, a mother of two children ages two and five, has lived with domestic violence for a long time. After social workers come to her assistance, Hsiao-chiu wants to leave her husband, taking her two children with her to live on her own and find work. Hsiao-chiu has only a vocational high school degree and some work experience before her marriage, but became a fulltime homemaker taking care of her home and children after getting married. When Hsiao-chiu left the family home with her two children, it did not enter her mind that finding a place to live would prove very difficult and that she would need at least NT\$20,000 to pay rent and deposit. At the same time, she would have to find daycare for her two children before she could work a job. A daycare provider for the little one would cost NT\$10,000 per month and enrolling the older one in a public kindergarten would involve a long search and waiting time. After finding a place, the monthly kindergarten fee would also be NT\$5,000. Before even adding living costs, utility fees, cooking gas and transportation, Hsiao-chiu would need at least NT\$20,000 for rent and childcare (day nanny/kindergarten). On top of that, finding a daytime job would not be easy, because many jobs require working on holidays, in the evening or working overtime, while childcare providers and

kindergartens are not available in the evening or on holidays. The government pays actually a monthly emergency subsidy to battered women of NT\$30,000 – NT\$40,000 for about three months (granted only once in a lifetime), and also grants an allowance for disadvantaged children or for children in special circumstances of NT\$2,000 – NT\$5,000 per month, which helps to get over the first and second month. However, after the second month these women are left with nothing but the children living allowance and their salary, which is not enough to cover living costs. Uncertain what she should do, Hsiao-chiu is forced to return to her husband and depend on him economically at the price of continued abuse.

Problem Analysis:

Numerous studies and real cases show that battered women are unable to leave their abuser mainly because of economic factors, their children or housing. If we want to assist battered women to get away from domestic violence, we should provide them with economic support, employment, child assistance and housing assistance. Just as stated in CEDAW General Recommendation No. 19.23: “Measures that are necessary to overcome family violence should include: Criminal penalties where necessary and civil remedies in cases of domestic violence; Legislation to remove the defense of honor in regard to the assault or murder of a female family member; Services to ensure the safety and security of victims of family violence, including refuges, counseling and rehabilitation programs;”

(1) Battered women should enjoy the right to work and equal opportunity

1. CEDAW Article 11.1 states: 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - a. the right to work as an inalienable right of all human beings;
 - b. the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
 - c. the right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

General Recommendation No. 19.24 (p) mentions that measures to protect them from violence should include training and employment opportunities and the monitoring of the employment conditions of domestic workers.

2. Due to traditional attitudes, battered women are forced to care for their home and children after marriage, or to leave their jobs because their spouse or other family members do not allow them to work. As a result, they depend on the abuser for their income and are not able to enjoy economic independence by supporting themselves. When an unemployed battered woman wants to look for a job, she does not only need her abuser’s approval, but often faces the demand that she must first arrange adequate childcare before she is allowed to work.

Even if she is allowed to work, her work time is usually restricted because she needs to escort her children to daycare or school and back again.

3. Since the majority of battered women have finished senior or vocational high school education, they are mostly older than 35 when trying to find work. The current labor market offers many jobs in the service sector such as the hospitality industry. However, such jobs involve working on holidays and in the evenings. Even in industrial parks and factories, employees are required to work on holidays or need to work overtime on weekdays. As long as the childcare problem remains unresolved there are only few jobs that meet the women's needs. In more remote areas, there are virtually no employment opportunities so that women who want to work need to leave their hometowns and move to the cities to find a job.
4. Only very recently the government launched a supportive employment system for victims of domestic violence – the *Spread Your Wings* project under the *Multiple Employment Development Program* – which provides temporary jobs to assist insufficiently skilled women in finding employment. In the very beginning, quite a number of civic groups applied for participation in the *Spread Your Wings* program, but over time only one or two organizations continued to apply. A closer look at the reasons shows that massive human, material and fiscal resources are needed to remove the external and internal obstacles that hinder the employment of battered women in the first place. Non-governmental organizations that gained approval for continued partnering with the program did so because they can provide somewhat more comprehensive supplementary support measures and professional working methods, including social workers specializing in employment (partially subsidized by the government), are supported by donations from the parent organization, coordinate teamwork online and so on. It is quite clear that providing employment services for battered women is not easy.
5. Second, the government organizes a wide array of vocational trainings that are tuition-free for battered women and come in a package with a 60 percent living allowance. These vocational training courses are run by private organizations or the government, are shortterm or longterm, include weekday and weekend courses, but do not come with childcare arrangements or childcare allowances. Battered women living on their own must look after their children. Unless they are supported by friends or relatives or do not face any livelihood problems in the first place, it is impossible to get by on a 60 percent living allowance. Moreover, it is difficult for battered women who want to escape from violence to apply for these vocational training-related living allowances because they are not the main breadwinner in the family, but depend on the abuser for their livelihood.
6. Third, the government provides various measures to bring people in employment such as job training and readjustment subsidies, temporary jobs and hiring incentives, but these are all granted only for a short period of three to six months. Battered women face many internal and external obstacles. Unless social workers specializing in employment assist them in solving these problems

and coach them for returning to the job market, they will end up unemployed again after three to six months. Many landlords in Taiwan still hold prejudiced, unsubstantiated, stereotypic views towards battered women which adds insult to injury for such women when they want to reenter the workplace. We have also found that in practice many employers employ battered women to collect the hiring incentives so that the women lose their jobs as soon as the incentives end.

CEDAW Article 2 states: States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: e. to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

Practical experience also shows that many employers and coworkers use discrimination in all its forms because they are prejudiced against battered women, which makes life at work difficult for the women so that they feel compelled to quit.

Therefore, the government should target landlords, enterprises, organizations and citizens with various measures such as information campaigns, labor inspections, public education and incentives to eliminate all forms of discrimination against battered women.

(2) With childcare unresolved, employment remains elusive for battered women

1. Upon marriage, women are often given the mission and responsibility to care for the children. Battered women usually leave their jobs to stay at home after marriage or they probably never entered the labor market before getting married. Due to the violence that they encounter at home, their interpersonal support systems of friends and relatives tend to be weak or inadequate. If we want to assist women, who are forced to shoulder all responsibilities and pressure of raising children on their own, to find employment we need to give priority to solving the childcare problem.
2. Cases comparable to Case No. 1 can be found all across Taiwan. Many battered women have great difficulties entering the labor market because they have several young children. The government's labor affairs agencies provide subsidies to enterprises for childcare facilities, but battered women stand little chance of getting into such companies. The Child Welfare Bureau under the Ministry of the Interior is planning a community-based daycare provider system. Families in special circumstances can be granted up to NT\$5000 in childcare allowances for children under the age of 2 per month and a monthly childcare allowance of NT\$1,500, or priority enrollment in a public kindergarten for older children. In fact, assuming the lowest market price of NT\$10,000 for a daycare nanny, Hsiao-chiu would still have to pay at least NT\$5,000 per month out of her own pocket for her younger child, even if she were granted the highest NT\$5,000 allowance through the daycare provider system. Enrollment in a public kindergarten for her older

child hinges on whether there is a public kindergarten nearby in the town or county where she lives, and, if yes, whether there is a waiting list. Once her child has gotten in, he or she might be able to stay for extended hours until 6:30 p.m. free of charge because of her “special circumstances” status. Should Hsiao-chiu need to work in the evenings or on holidays there is no childcare facility that is open. On top of that, she faces the problem of where to send her child when the public kindergarten remains closed during the summer and winter breaks.

Public kindergartens are found in every county and city in Taiwan, but only a handful accept children under the age of two. Private kindergartens (including privately run public ones) cost between NT\$4,000 and NT\$8,000 per month and at the beginning of each term parents must pay a registration fee of NT\$10,000 – NT\$30,000. Childcare expenses for Hsiao-chiu’s two children total at least NT\$14,000 to NT\$18,000 per month. If she is granted the highest possible childcare allowance of NT\$6,500 (NT\$5,000 plus NT\$1,500), she will still be left with childcare expenses of NT\$7,500, not including expenses for formula and diapers.

3. The nine-to-five jobs that Hsiao-chiu might be able to find with her level of education pay a monthly salary of probably NT\$19,000 to NT\$22,000. If she works in the service industry and needs to work on holidays and in the evenings she might get a monthly pay of NT\$25,000 - NT\$30,000, but for the evenings and holidays at work she will have to find a babysitter/child sitter. In Taiwan, childcare facilities with evening and holiday services are extremely rare. Some counties and cities offer temporary childcare services, but these can be only used for a certain number of hours, which makes them a limited option.

Therefore, the only way out for battered women, who need to take care of two or more young children, yet lack a strong interpersonal support system so that they cannot easily find family or friends who could help out with childcare, is to enter the childcare system. But with a meager salary and meager childcare allowances it is very difficult to cover childcare costs for two children on top of living expenses.

Case No. 2:

Social Housing Project in Taipei City Rejects People Living with HIV/AIDS March 2, 2013

277 units released, exclusion of homeless and six other categories denounced as discrimination

Taipei City Government exhibits model of Youth Park public rental housing project, will exclude people living with HIV/AIDS and other groups from moving in after completion.

Tsai Ya-hua, Taipei – The Executive Yuan has marked five locations in Taipei City and New Taipei City as premises for social housing projects. Ten percent of these units are to be reserved for twelve special tenant categories. In response to protests from residents in the neighborhood of the chosen locations, the Taipei City Government has reduced the number of qualified categories from twelve to five. Still qualifying are low-income households and families with three and more children under 18, while seven more controversial tenant categories such as people living with HIS/AIDS or homeless have been excluded. The new policy will be first applied in the public housing project next to Youth Park in Wanhua District, whose construction will start at year-end at the earliest. But citizens and HIV/AIDS pressure groups have been criticizing the move as discrimination. The five delineated locations include

in Taipei City: the site neighboring Youth Park and a plot in Jiankang Road in Songshan District, and in New Taipei City: an area near Xiufeng Road in Yonghe District and two abandoned military dependents villages in Sanzhong District.

The Taipei City Government announced in early January that it will spend NT\$800 million on the construction of the public housing project right next to Youth Park. Consisting of two buildings connected with a skywalk, it will be Taiwan's greenest public housing complex. Construction will start at the end of the year at the earliest and the first tenants will be able to move in in 2016. The 277 units will be only for rent, not for sale and will rent to young families at 70 percent of the market rent. The monthly rent for a one-room apartment will be less than NT\$10,000. But 10 percent of the units are reserved for special tenant groups. In order to gain support from local residents, the Department of Urban Development decided against renting to all twelve categories of persons with special conditions or status listed in the Housing Act. Taipei Mayor Hau Lung-pin was recently asked to give his approval. Excluded are: domestic violence or sexual assault victims, families in special circumstances, homeless people, disaster victims, persons living with HIV or AIDS and two other categories, while the remaining five categories, including low income households, families with three or more children, persons with disabilities, indigenous peoples and senior citizens of ages 65 and above are still eligible to move in. A Department of Urban Planning official noted that local residents voiced concern at a public hearing held by the department that the quality of the residential environment would be dragged down if no restrictions were placed on the status of future social housing tenants. Therefore, the department came up with the exclusion proposal after asking the Ministry of Justice to confirm that such a move would not violate the law.

Problem Analysis:

It takes housing to get away from violence

1. In fact, battered women with underage children face the housing problem when they want to leave a violent home or the shelter to strike out on their own. On the rental housing market, single mothers with a domestic violence history very easily feel compelled to choose low-rent housing in an adverse environment because they are on a tight budget. Such housing is usually inconveniently located in the outskirts of big cities in illegally added small rooftop or basement apartments that are in bad condition and do not comply with building codes and fire safety regulations. Second, the majority of landlords is not willing to rent to a battered single mother with children, or agrees only to six-month leases, so that she is forced to frequently move to another home with her children, or for want of an alternative and lack of money, even chooses to return to her abuser where she again suffers domestic violence. Hsiao-chiu's case is not different. Taking into account childcare expenses and living costs, she is forced to select a place to live that is cheap and in an adverse environment.
2. The government points out that battered women can apply for the rent subsidies that it presently provides. But in reality applications for these subsidies can be filed only once per year during a period of 36-40 days, whereas the review process takes 2-4 months. With short application deadlines and long waiting periods such subsidies are hardly timely and the approval rate stands at a very low 1 percent.

Eligible for the subsidies are women who have been placed under police protection and who have suffered domestic violence within the past year (counting from the time when a report was filed and the local domestic violence prevention center accepted the case). Applying for a second year (the rent subsidies are granted for a maximum of two years) is more difficult. Battered women who are new immigrants and have not yet been granted citizenship cannot apply for the said rent subsidies because they do not have a Taiwanese identity card.

3. The Taipei City Government announced in March 2013 that it will exclude certain groups from qualifying for the 10 percent of city-built social housing units that are reserved for disadvantaged groups. The Department of Urban Planning noted in a letter “resources are not allocated twice.” As a result, seven categories - victims of domestic violence or sexual assault, families in special circumstances, persons under the age of 25 who are unable to return home after being placed in a residential institution or foster family, people living with HIV or AIDS, homeless people, and disaster victims - are not eligible for the 10 percent quota. This illustrates very clearly that the government takes the lead in discriminating against battered women and other disadvantaged persons.
4. The government has drawn up the *Regulations Governing Guidance and Incentives for the Private Sector to Establish a Rental Housing Services Platform*. The plan is that such a platform solicits support from compassionate landlords and assists disadvantaged people in navigating the rental market and related paperwork. While the platform is slated to be launched soon, it is foreseeable that its effects will be limited, since the participating landlords will be required to pay tax on their rental income.
5. While each county or city government provides shelter services, the vast majority of such refuges are only shortterm. Only very few local governments offer longterm transitional housing with great differences in the possible length of stay, depending on the respective local government’s budget. By the end of the year some counties and cities have no money left for sheltering women and are forced to deny sheltering and placement services or demand that women leave three days after arriving in the shelter. Once a battered woman has left the shelter, she needs to wait until the once-a-year application period for rent subsidies arrives. During this period she needs to beg the landlord to provide relevant information about the rented property to be able to register it as her permanent address. Should she miss the application deadline, or should the landlord refuse to provide the required information, she will not be able to apply for the subsidy. At the same time she needs to wait three to four months before she knows whether her application passed the review.

III. Recommendations

In 2011, Taiwan announced the *Enforcement Act of Convention on the Elimination of All Forms of Discrimination Against Women*. Article 2 of that Act states that all terms and conditions specified in the Convention regarding protection to

human rights of different genders and promotion of sexual equality shall have the same effect as domestic laws. Article 2 of CEDAW also states that States Parties condemn discrimination against women in all its forms and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women. CEDAW General Recommendation No. 19 gives specific comments and recommendations regarding violence against women and demands that governments take responsibility for eliminating gender-based violence.

Domestic violence is not an individual or family problem, but mirrors problems in society at large. Cases like Hsiao-chiu's are found in every corner of Taiwan. In Taiwan, services for victims of domestic violence and relevant budget appropriations focus on dealing with the acute crisis phase and place less emphasis on rehabilitation programs for battered women and their children. While relevant subsidies exist, these are often insufficient or cannot be used. Against this backdrop, we would like to make the following recommendations:

1. The government should target landlords, companies, organizations and citizens with various measures such as information campaigns, labor inspections, public education and incentives to eliminate all forms of discrimination against battered women.
2. Battered women, in particular, require a sound, affordable childcare system. Many battered women have great difficulties entering the labor market because they have several young children but cannot afford costly childcare.
3. It is high time that the housing needs of battered women are addressed. Battered women need more considerate policies such as priority status for social housing quotas. On the open rental housing market, single mothers with a domestic violence history are easily forced to choose low-rent housing in an adverse environment due to their socio-economic situation and because landlords discriminate against battered single parents.

Annex

References about relevant government action

(1) Council of Labor Affairs

In order to eliminate obstacles to employment and encourage employers to hire victims of domestic violence, the Council of Labor Affairs (CLA) provides the following employment services to help them ease into work.

1. Provision of specialist, individualized one-stop services: These services are targeted at victims of domestic violence who are willing and able to work and whose cases are handled by domestic violence prevention centers in special municipalities, counties and cities across Taiwan, have been referred to authorized non-governmental organizations or are independently supported by public employment services centers. Through individualized, specialist employment services the women are assisted in deciding on a treatment plan and making use of all forms of employment measures. These services aim to help victims of domestic violence to solve their employment needs at different times, and provide

- them with diverse job opportunities and appropriate employment measures.
2. Improved arrangement of supplementary measures for vocational training: If victims of domestic violence fall into one of the target groups that qualify for free participation in training or living allowances during vocational training (including specific target groups and persons subject to involuntary termination), they may be assisted in participating in vocational training courses and in applying for vocational training living allowances.
 3. Provision of temporary employment opportunities: Temporary jobs are provided to victims of domestic violence with weak employability skills, who face immediate economic pressure and childcare needs and urgently need flexible parttime jobs. If victims of domestic violence fall into one of the target groups that qualify for temporary job allowances (including specific target groups and persons subject to involuntary termination), the said allowances may be applied to provide shortterm jobs and enable the women to quickly return to the workplace.
 4. Establishment of a supportive employment system for victims of domestic violence: In 2008, CLA launched the *Spread Your Wings* project to create jobs for victims of domestic violence. The project provides employment services and measures to help the women adjust to the workplace and rebuild their self-confidence and skills. The program is still active.
 5. Provision of job training and readjustment subsidies: Job training and readjustment subsidies are provided to victims of domestic violence who lack confidence in finding a job and have weak employability skills. Through various avenues for job training and readjustment, they gain work experience and skills directly at the workplace, strengthen their willingness and ability to work in order to improve their employability and achieve the goal of returning to the workplace.
 6. Use of hiring incentives to encourage employers to hire victims of domestic violence: Enterprises or organizations are encouraged to provide jobs in order to assist battered women to smoothly return to the workplace, solve their economic problems, leave their abusive environment or relationship and live on their own.
 7. Arrangement of loan subsidies for victims of domestic violence who found their own business: These loan subsidies serve to assist battered women in setting up a business and improve their livelihood.

(2) Ministry of Education

1. Under the *Guidelines for Ministry of Education Subsidies for Extended Hours Care at Public Kindergartens* announced June 27, 2006, the governments of all special municipalities, counties and cities encourage public kindergartens within their jurisdiction to offer extended hours care services from 4:30 p.m. to 6:30 p.m. In order to reduce families' financial burden, children from low income households and medium-low income households, children in special economic circumstances, and five-year-olds from households with less than NT\$300,000 annual income have access to the extended hours care free of charge at the kindergarten where they are enrolled. The same applies also after the implementation of the *Early Childhood Education and Care Act* in 2012.
2. On March 19, 2012, the Ministry of Education (MoE) also announced the *Regulations Governing Parallel After School Care Programs at Kindergartens*.

With the introduction of the new system, kindergartens with under-enrolled programs may use the remaining slots for parallel after school care programs, provided kindergartners and school-age children stay in clearly separated areas and the competent authority of the special municipality, county or city has approved a relevant application so that parents have more choices for after school care programs.

3. Since 2011 a tuition-free education program is in place for all five-year-olds which provides free preschool education. Economically disadvantaged families are granted further subsidies for other education expenses to effectively narrow the tuition gap between public and private schools and markedly reduce the financial burden of childrearing. A mechanism for cooperation with private kindergartens has been established to safeguard parents' right to subsidies and to fulfill the ideal of public childcare in the broader sense.
4. Special municipalities, county or city governments are encouraged to set up additional public or non-profit kindergartens. In the future, the MoE will look into the feasibility of extending tuition-free education to children of younger ages, while taking into account the nation's fiscal situation. The ministry will continue to assist local governments in setting up affordable kindergartens after evaluating the special characteristics of and demand in undersupplied areas.
5. Since 2007, the MoE promotes the *Friendly Early Childhood Education Program* which encourages special municipalities, counties and cities to commission public interest organizations to run non-profit kindergartens. So far, 10 kindergartens with 27 groups have been set up in 6 counties and cities.

(3) Child Welfare Bureau, Ministry of the Interior

1. Since April 2008 the Bureau conducts the *Building a Friendly Childcare Environment – Implementation Program for Childcare Management and Childcare Fee Subsidies*. The program targets families with one or two working parents who place children under the age of two with a daynanny within the Community Childcare Provider System or a licensed infant daycare center. At the same time, the family's total income in the previous year must have been below the minimum income for income tax to be withheld, or taxed at a withholding rate of less than 20 percent. Ordinary families are granted a monthly subsidy of NT\$3,000, low-medium income families NT\$4,000 and a monthly subsidy of NT\$5,000 is given to disadvantaged families such as low-income families, families with children under the age of two with developmental delays, physical or mental disabilities, families in special circumstances and high-risk families.
2. In order to promote affordable and widely available preschool childcare and education services, the Mol in cooperation with the MoE aggressively pushed for the *Early Childhood Education and Care Act* to integrate preschool education and nursery care resources and provide excellent educare services. The Act was paired with *The Protection of Children and Youths Welfare and Rights Act* to push for the regulation of in-home childcare services.
3. The ministry assists local governments in opening infant daycare centers in cooperation with non-governmental organizations to provide affordable, accessible infant care services and help meet demand for infant and child daycare

so that all young children have access to excellent childcare services and parents can take jobs without having to worry about backup care.

4. Islandwide a total of 846 after-school programs have been set up to assist families with after school childcare needs. The Child Welfare Bureau has launched a *Program for the Promotion of Community Care Services for Disadvantaged Children and Youth*, which assists local governments to join hands with non-governmental organizations to provide relevant community-based supportive, supplementary services and measures to disadvantaged families with weak family support systems. The program aims to ease stress resulting from parenting and childcare, prevent the neglect of children and youth, and forestall family problems. In 2011, the said program granted a total of NT\$37.076 million in subsidies to 65 families. In 48 of these cases, after school care services were provided to children of disadvantaged families in the community, such as families with insufficient resources or dysfunctional families.

(4) Construction and Planning Agency, MOI

1. The current *2012-2015 Implementation Program for Comprehensive Housing Policy* and the *Housing Act* both provide various forms of assistance for victims of domestic violence such as interest on loans for self-built homes, interest on loans for purchased homes, rent, interest on loans for home renovation, simple home renovation expenses, and social housing assistance. The order in which persons receive the said housing assistance is based on rating results. Victims of domestic violence and their children have a higher rating weight, which means that applicants of the said status have priority in receiving subsidies. On top of that, the *Housing Policy Implementation Program* and the *Integrated Housing Subsidization Implementation Program* both aim to assist citizens to live in livable homes and are targeted toward the entire nation.
2. Article 3 of the *Housing Act* states that social housing “refers to housing built by the government or private sector with subsidies from the government that is primarily rented, and should rent at least 10% to persons with special conditions or identities.” Since these matters are clearly stated in the *Housing Act*, social housing built in the future will be handled according to these regulations.
3. Based on Article 44 of the *Housing Act*, the Construction and Planning Agency has formulated the *Regulations Governing Guidance and Incentives for the Private Sector to Establish a Rental Housing Services Platform*, in a bid to support and encourage private sector companies (such as real estate agents or property management companies) or non-profit organizations (such as public interest organizations) to establish rental services platforms. Initial planning of functions that said rental services platforms could provide include information brokering services (encouraging landlords to commission the rental services platform to rent their property), soliciting support from compassionate landlords, assisting with the issuance of rent or renovation subsidies, and providing housing services such as relocation assistance, rent subsidy applications, rent dispute mediation and social welfare services.
4. The policy intention of the *Integrated Housing Subsidization Implementation*

Program is to assist citizens to live in livable housing and targets the entire nation. The said program provides for monthly rent subsidies of NT\$3,600. On Jan. 19, 2012, the MoI has already finalized a draft amendment (one of the main points of the amendment is a rise of the rent subsidy from NT\$3,600 to NT\$4,000) and submitted to the Executive Yuan. So far, the amendment has not yet been approved.

5. Since the government has only limited resources for subsidies, restrictions have been placed on the number of households that can be covered by the said program. Based on the principle of fairness, the method of application is as follows: "The applicant fills out an application and prepares relevant documents during the application period and sends them by registered mail or delivers them by hand to the competent authority in the special municipality, county or city of the applicant's registered address before the application deadline expires." Moreover, a point-based rating system has been adopted. Should the number of qualified applicants exceed the planned number of households, the competent authority of the special municipality, county or city will send out "rent subsidy approval letters" in the order of the rating results. Factors taken into account for the rating are the applicant's income, whether he or she meets disadvantaged status conditions, the number of household members, the applicant's age, whether he or she receives governmental housing subsidies etc. Therefore, applications that are filed after the application period are not accepted. Unfortunately, a flexible handling of rent subsidy measures is not feasible due to the restrictions described above. Since the county and city governments receive a huge number of applications during the application period and every single review item is warranted a certain review period must be set.

(5) Domestic Violence and Sexual Assault Prevention Committee (DVSAPC), MoI

1. Following is a profile of shelters run by special municipality, county or city governments: All battered women shelters accept cases round the clock. Emergency and shortterm shelters offer a tenancy of at least one month. When necessary, tenancy may be extended to up to one year in principle, after the needs of each individual case have been assessed by a local government-run prevention center.
2. The majority of counties and cities have developed diverse shelter services programs and established methods to assist battered women find an appropriate shelter by combining resources such as rent subsidies, referral to single parent housing and cooperation with civic groups.

In order to help battered women leave shelters and live in communities on their own, the governments of Taichung City and 15 other counties and cities have already earmarked funds from their own budgets to provide rent subsidies. These subsidies vary from NT\$3,000 to NT\$6,000 per person and are paid for a period of about one year.

CEDAW: Adolescent Pregnancy Report

Authored by The Garden of Hope Foundation

Chiu Hsiao-ying and Wang Yu-ju

(Contact:master@goh.org.tw)

Translated by Carrie Wen and Lynn Miles

Abstract

The several case studies in this article related to teenage pregnancy in Taiwan show that the traditional stereotypes of a society can contribute to bad consequences. From traditional culture to the education system, we can see that what the government is doing to prevent adolescent pregnancy is only superficial and does not practically solve the problems nor show any positive effect on adolescent pregnancy prevention. When it comes to assisting the pregnant adolescent, in all respects the government agencies are, while protective in name, actually discriminatory, and do not insure the basic human rights of the female adolescent.

The above-mentioned situation has violated the principles of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), specifically Articles 5, 10, and 12; and General Recommendations No. 9; No. 24, items 18, 23, and 31; and No. 25, item 31. Therefore, the Garden of Hope Foundation (GOHF) urges the government to take the following courses of action:

- A. Reconsider gender equality for inclusion in the sex education curriculum so as to reinforce its practical implementation;
- B. Establish all sorts of long-term statistical data on adolescent pregnancy;
- C. Provide comprehensive assistance to teenage parents.

I. Related CEDAW Articles and General Recommendations

1. CEDAW Articles 5, 10, and 12

2. General Recommendation No. 9: Statistical Data Concerning the Situation of Women

3. General Recommendation No. 24 CEDAW Article 12, Items 18, 23, and 31 – Women and Health

4. General Recommendation No. 25: CEDAW Article 4, Paragraph 1, Item 12 (Temporary Special Measures)

II. Current Situation and Analysis

A. Current Situation and Case Studies

When girls grow up in a traditional patriarchal society and under the influence of oriental social thinking, they may encounter all sorts of problems after they start having sex and once they are pregnant. In the last three years, about 3,000 babies were born to women aged 15 to 19, not including some adolescents who sought abortions. The case studies below explain how pregnant adolescents in Taiwan have not come under the protections and assistance called for by CEDAW.

Three Cases

On 25 August 2011, a young girl from Pingtung gave birth at home. After her menstrual cycle had begun showing irregularity and before her pregnancy came to full term, she had thought that she was merely gaining weight. She and her 19-year-old boyfriend did not know what to do so they decided to put the baby boy into a plastic bag and then abandoned the bag in a park nearby. Both of them were charged with child abandonment causing death to the child.

On 29 February 2012 in Taichung, a 19-year-old high school girl gave birth to a baby boy in the bathroom. Her mom, who lives with her, did not even know she was pregnant because of negligence and the fact that the girl had been wearing baggy clothing to conceal her pregnancy. The girl student panicked, and reached out to her aunt and her boyfriend for help. Fortunately, firefighters came for help, too. Both she and the newborn were sent to the hospital.

On 27 May 2012, a Taipei Municipal Jianguo High School boy who had just been admitted to National Taiwan University committed suicide by jumping off a building. Thinking that this was the end of the world and blaming himself for both his and his girlfriend's parents having agreed on the telephone to have his girlfriend seek abortion after he got her pregnant.

Problem Analysis

Obstacles in Chinese Traditional Culture

In Chinese society, sex and reproduction are considered as private and secret topics and no one will talk about them. From childhood through adulthood, the amount of education and resources devoted to sex and gender are far less for girls than they are for boys. The culture also distinguishes good from bad women by their sex life, which causes females to lose the power to control their own sexual behavior, contraception and child-bearing decisions. Men hold the power over women's sexual behavior and their bodies. In fact, most pregnant adolescents are those who have fallen in love with adult men. Female adolescents do not take the initiative in using condoms because of age differences and gender inequality. Since many adolescents have sex without any protection, once a pregnancy occurs, the female adolescent has to bear the physiological consequences alone. In fact, when unintended pregnancy occurs, the female adolescent's parents do not want to see their child pregnant and unmarried, as it will have a dire influence on their child's career and life planning. All they want to do is to make everything go away quickly, thereby leaving insufficient time and opportunity for their daughter to think about the next step of her life. They listen to friends' advice to buy abortifacient in drug stores or find an illegal practitioner for induced abortion, which means the chance had already been lost to teach young people about correct sexual knowledge, gender equality and life education. It's all because the education authorities in Taiwan educate teenagers in a conservative way. They ask students to not get involved in a relationship, and to not get pregnant before marriage or their life will be over. Until now, there is still a lack of health education concerning physical boundaries in an emotional relationship, the male's emotional education and methods of contraception. Therefore, when adolescent pregnancy occurs, both the male and the female are beside themselves with worry. The young male does not want to face the music, and the young female becomes a victim and only wants to get rid of the problem. On top of the already-existing social mores concerning sexuality, the GOHF thinks that the lack of sex education and teaching related to teen pregnancy by the education authorities lies within the scope of CEDAW and its General Recommendations.

What the Statistics Say

According to a 2009 survey by the Bureau of Health Promotion (BHP) of the Executive Yuan's Department of Health (since re-organized as the Health Promotion Administration of the Ministry of Health and Welfare), on average, male adolescents have sex for the first time at age 15.97, while for female adolescents it is age 16.15. And the sexual activity permissibility rate is obviously higher than previously: for male adolescents it is 43% and for female adolescents it is 25%. For male adolescents whose first sexual experience is without use of any protection, the rate is as high as 58.7%, as compared to 55.1% for female adolescents. However, a 2011 BHP survey shows the rate of male adolescents who have had sex between the ages of 15 and 17 is 12.9%, while for female adolescents it is 8.8%, which compared to the 2009 survey shows a 1% to 5% drop. 74.1% of male adolescents and 77% of female adolescents used contraception during their most recent sexual intercourse, which, as compared

to 2009, showed an increase in the contraception rate of between 5.7% and 8.4%. Therefore, the government has indicated that the adolescent childbearing rate at age 15 to 19 has dropped by 0.005% to 0.368% in recent years, and that the adolescent contraception rate has increased 1% annually; that such Asian countries as Japan, China and Singapore have higher adolescent childbearing rates than Taiwan; that so too do such developed countries as the U.S., and Australia have higher adolescent childbearing rates than Taiwan; and that statistics show that the problems of high percentage of adolescent pregnancy and high abortion rate are not present in Taiwan.

Analysis:

Government Statistics Do Not Reflect Reality

The Health Promotion Administration (HPA) of the Ministry of Health and Welfare does not pay much attention to the policies and measures of adolescent sexual health, and thinks the responsibility for actively promoting adolescent sex education lies with the Ministry of Education. This is not hard to discover from official government information published on the Internet. We must ask whether the fall in the adolescent childbirth rate is really thanks to the effectiveness of sex education, and whether the surveys on adolescent sexual attitudes conducted by the government every year reflect the reality. When measured against GOHF's own actual experience, why do we see such a yawning discrepancy between the reality portrayed by these government surveys and the lack of sex-related knowledge we see in practice? The government indicates a high rate of contraceptive use by female adolescents, so why is it that the majority of those phoning the GOHF for help or seeking information on our website have adopted unsafe sexual practices, and why are so many of them unsure whether they are pregnant or not? All such questions should have been covered by basic national health education.

Ineffective Sex Education

Moreover, the adolescent female discovers that rarely does decision-making power lie with herself, and much less does she, in times of increased intimacy, have the wherewithal to demand of her partner that he wear a condom, so lacking is she in knowledge concerning how to prevent pregnancy, such as through use of birth control pills.

The HPA should take responsibility for Taiwan adolescents' health in body, mind and sex. They should be more active in promoting the Teen's Happiness Plan No. 9 by setting up more community clinics offering adolescent medical care. However, of the 22 cities and counties in Taiwan, only 13 provide adolescent service centers, without a doubt a factor in the medical resources gap between urban and rural areas. That's why the adolescent childbearing rates in Taitung and Hualien are still high. For adolescents in the rural areas, health education consultation and medical services are not easy to access, nor do any provide the sought-after health education or medical services, as what they should be providing might better include information regarding safe sexual practices methods of contraception, and what methods to follow to end a pregnancy and psychological counseling as follow-up. Therefore, the HPA should end the stigma of abortion in Taiwan society, begin an investigation into

the adolescent pregnancy termination rate, boost adolescents' concept of sexual health and offer legal pregnancy termination methods. The GOHF thinks the HPA should actively take the lead in the establishment of the first cooperative mechanism involving health policy, social policy and education. And it should allow non-governmental organizations the opportunity to participate in the discussion so that the gap between policy and reality may be closed, thereby rendering adolescent sex education more effective.

Overview: School Dropouts

In Taiwan, most students aged 18 to 21 manage to get their undergraduate degree without any problem thanks to the financial support of their parents in seeing them through. Besides, the Taiwan government is about to start implementing the new 12-year basic universal education program, with free senior high school tuition and open admission for most schools, so it looks as if in Taiwan public education through the end of high school is on the cusp of becoming available to anyone who wants it. And yet, one of the biggest difficulties pregnant adolescents and teenage parents encounter is how to finish their high school. By law the Ministry of Education must secure the educational rights of pregnant adolescents but sometimes the school authorities convince pregnant adolescents to drop out of school and stay home to carry their pregnancy to term. According to the Ministry of Education, it has carried out survey studies showing that students who have dropped out of school during pregnancy have resumed their studies later. In 2010, for example, 282 out of 346 pregnant adolescents returned to school, which indicated a resumption rate of 81.5%. But these survey data are nowhere to be found in the published national statistics, nor do they match reality. This situation raises many concerns that the Taiwan education authorities in charge of equal education opportunity and strengthening national competitiveness as goals seemingly fail in their duty to encourage pregnant adolescents to return school once they get married or give birth, and fail to actively provide any guidance such as parenting or career planning.

Analysis:

Pregnant Adolescent Educational Rights Not Guaranteed: Related Follow-up Not Provided

In Taiwan, the pregnant adolescent's right to an education has yet to be totally secured. In fact, 50% of the pregnant adolescents who came to the GOHF had become pregnant when in junior high school and the other 50% when in senior high school. Of those deciding to keep the child, half had dropped out or been suspended from school. Half of them hoped to go back to school to complete their education after the baby was born, but only a small minority — 19% — were able to realize their dream of finishing school. Besides, under the influence of their social environment, whether adolescent mother or teenage parents, people think that the man should go out and earn the bread while the woman should stay home and take care of the children, meaning that the responsibility for rearing the children must be entirely shouldered by the adolescent mother. The parents of the adolescent mother will ignore her desire to continue her education before the child is old enough for school, which shows that the Taiwan education authorities do not recognize the

disadvantaged situation of the female adolescent owing to her gender, age and the existing social and cultural stereotype. The right to an education of the pregnant adolescent amounts to some promises on the law books, nothing more. Without stronger supportive measures, obstacles remain for the pregnant adolescent to continue her education. All of the foregoing points out the education authorities' neglect of the educational rights of the female adolescent and how no positive action is being taken.

Financial Struggles

The phenomenon of stigmatization of pregnancy before marriage in Taiwan society regards teenage parents as manifesting socially deviant behaviors. If they insist on keeping the child, they are forced to do it on their own. Most family members and friends will give them a cold shoulder and will not support them, while the public thinks they are dependent on social welfare and a waste of social resources. In fact, as may be discovered from actual cases encountered by GOHF, while the proportion of teenage parents who opt to keep the child has over the years risen to 60%, the young parents are struggling to deal with diapers and milk formula and such financial struggles to raise their children. On 1 September 2001, a 15-year-old father robbed someone in order to be able to buy baby formula powder. Adolescent parents are stressing over financial struggles and the daily grind of parenting soon teaches them that raising a child is much harder than giving birth, while with the children getting older and older, more living and education expenses are required, the government only provides an early childhood education voucher for five-year-old children. But even before the child reaches age five, there are still obstacles for the adolescent mother that stand in the way of her finishing her basic education. In the face of the burden imposed on her by both society at large and her own parents in the form of expectations concerning her maternal duties, the adolescent mother is forced to take care of the child. And her lower education level means that she can only be hired for a low-income or temporary job to support her family. It is not easy for her to obtain a steady income sufficient to hire a babysitter or secure a stable home. We cannot help but ask the government why it cannot provide cheap rental housing and affordable babysitting services for teenage parents when they fall into a cycle of poverty from which it is difficult to extract themselves.

Analysis

Lack of Concrete and Adequate Policies to Support Teenage Parents

The government should take the lead in learning from advanced countries with human rights about dealing with adolescent pregnancy and teenage parents. They should establish child-care policies suited to the needs of teenage parents. Because of the decline in Taiwan's birth rate, the central and local governments offer a lot of incentives calculated to boost procreation, such as childbirth subsidies, child-care allowances, and supplemental nutrition programs for the newborn. However, until now there are still those local governments which have yet to change the qualifications, which currently mandate that the applicants must be married and have reached the age of 18 by the time they give birth. It is not fair that teen parents

are totally excluded from these support programs. The government should encourage adolescents to take responsibility by offering teenage parents financial aid, supporting them in continuing their education, and providing child-care subsidies when they choose to remain in high school. The government should open vocational training courses suited to their career requirements so that they will be more competitive in the employment market so as to not give poverty a new lease on life. Moreover, parenting education programs should be provided to teenage parents while teenage parent support groups should be launched, as well as part-time child-care services to allow teenage parents to take a break to release them from the pressures attendant upon taking care of a child, thereby lowering the child abuse rate among teenage parents — perhaps even saving an innocent little life.

III. Recommendations

Based on the foregoing cases and analyses, we conclude with some suggestions:

- A. The education authorities should reexamine and reorganize the curriculum to include sex education, courses on the relationship between the sexes, and the educational concept of gender equity. They should strengthen practical implementation, for example by use of condoms as contraception. Therefore, condoms should be affordable and accessible.
- B. About adolescent pregnancy, the education authorities should follow CEDAW General Recommendation No. 9 to establish complete and reliable national statistical data that reflect the reality. The statistical data should include the number of female adolescent high school dropouts caused by pregnancy, giving birth or marriage, the number of people with repeat pregnancies, and the number of female adolescents who have terminated pregnancy.
- C. Offer concrete support measures for adolescents who are pregnant, have given birth or who are married and are now teenage parents. Such measures should include child-care subsidies, part-time child-care services and affordable child care. A long-term tracking investigation study should be carried out, as should the publication of related evaluation reports.