

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

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## I. CEDAW Background

1. CEDAW Articles 2 to 5, Article 16
2. General Recommendations No. 12 and No. 19

### **CEDAW General Recommendation No. 12**

1. The legislation in force to protect women against the incidence of all kinds of violence in everyday life (including sexual violence, abuses in the family, sexual harassment at the work place etc.);
2. Other measures adopted to eradicate this violence;
3. The existence of support services for women who are the victims of aggression or abuses;
4. Statistical data on the incidence of violence of all kinds against women and on women who are the victims of violence.

### **CEDAW General Recommendation No. 19**

Specific recommendation

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

24 (e) States parties in their reports should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women and the kinds of violence that result. They should report on the measures that they have undertaken to overcome violence and the effect of those measures;

## II. Current Situation and Problem Analysis

Although Taiwan has been implementing the Sexual Assault Crime Prevention Act for more than 17 years, devoting considerable efforts to policy and service delivery systems, relevant statistics and responses from people with practical experience show that our sexual assault prevention work is still riddled with problems and obstacles. The two major problems are: (1) An unfriendly criminal justice system that makes it difficult to meet the needs of female victims and delivers legal justice regardless of gender. (2) Since offender treatment is not fully

implemented there are prevention loopholes. In the following we will analyze and discuss the problem from two major aspects to explain why sexual assault prevention as practiced now is not able to address the challenges to the physical safety of women and discrimination against women.

## **1. An Unfriendly Criminal Justice System**

### **(1) Explanation of Current Situation and Data**

Traditional patriarchic thinking often blames the female victim for all incidents of sexual violence, demanding that the “victim” take responsibility for the occurrence of sexual assault. In the past, the Criminal Code therefore adopted as essential element in determining whether the crime of rape occurred that “the victim was rendered unable to resist.” Thanks to advocacy by women’s groups, the Sexual Assault Crime Prevention Act was subsequently adopted and new offenses were added to the Chapter on Offenses Against Sexual Autonomy of the Criminal Code. Not only provided these moves protection for the victims, but the essential element in determining sexual assault was amended to say the act took place “against the individual’s will.” At the same time, all sexual assault offenses were turned into offenses that are automatically prosecuted [ex-officio, the offense is prosecuted by authorities, even if the victim does not report it] in order to use court decisions to deliver justice and compensation to the victims. However, 17 years after the Sexual Assault Crime Prevention Act was adopted, the Taiwan Coalition Against Violence (TVAV) has found that a low number of cases are accepted by police and that the conviction rate for sexual offenses remains equally low in comparison to ordinary crimes. When handling and understanding incidents of sexual assault against women, criminal justice personnel remains beholden to general criminal justice concepts and traditional patriarchal thinking as before. They adopt a form of justice that is based on formal equality and fail to consider when determining whether sexual assault occurred the special nature of such cases, given that sexual assault harms and affects women. As a result, they are unable to respond to women’s needs and protect women’s rights, and even harm these women once more when interpreting or applying relevant clauses. They are unable to ensure that court trials are conducted in a spirit that takes into account the predicament of women as emphasized by CEDAW. Following are statistics of overall number of sexual assault cases reported by the government and handled by prosecutors, police and courts to illustrate the current problems and explain why the criminal justice system is unable to respond to threats to women’s physical safety as well as the discrimination of women.

#### **Explanation of data: Overall reporting by the government and handling of cases by prosecutors, police and courts**

In 2012 the number of reported sexual assault cases increased to 15,102 cases, an increase of 1,416 reported cases over 2011 (13,686 reported cases). Compared to five years earlier (8,521 reported cases in 2008), 6,581 more cases were reported in 2012, which is nearly a 40 percent increase. Aside from the steep increase, it deserves our attention that the gap between the reported

number of sexual assault cases and the number of cases actually handled by police continues to widen. Based on statistics for 2012, police handled only less than one third of reported cases (4,058 of 13,686 cases) (Table 1). An analysis of the reasons shows that in 3,597 of the cases, or 37.4 percent, the offenders were aged 12-17, while in 1,249 cases or 13% the age of the offender was not known. Given that the two categories account for around 50 percent of all cases, we infer that criminal proceedings are not initiated in the majority of sexual assault cases involving minors (such as in the case of consensual sex between two minors). However, a considerable number of victims are still not willing to press charges. The judicial agencies have no relevant research data that could explain this phenomenon.

According to Ministry of Justice information, the indictment rate and the conviction rate for sexual assault cases have gone up slightly during the past decade (2001-2005 average indictment rate 48.8%, 2006-2011 rise to 51.2%, up 2.4 percentage points; 2001-2005 conviction rate 88.9%, 2006-2011 rise to 89.2%, up 0.3 percentage points). During the past five years, the indictment rate for sexual assault cases (51.2%) was 9 percentage points higher than for all criminal cases (42.2%), whereas the conviction rate for sexual assault cases (89.2%) was 6.6 percentage points lower than for all criminal cases (95.8%). This shows that prosecutors, police and courts have been making progress, but that prosecutors and police have improved much more than the courts. Based on TCAV observations, the possible reasons behind this lack of progress are an insufficient establishment and enforcement of relevant mechanisms for training, assignment of specific responsibilities to designated experts, online participation, control, special projects, research and development. Moreover another topic deserves our attention, namely that criminal justice personnel define so-called "acts of sexual intercourse," either as causing penetration or physical contact. Behind different standpoints there exists differing gender awareness which against influences how criminal justice personnel interpret and apply relevant clauses.

## **(2) Problem Analysis**

1. Judicial agencies and healthcare institutions lack consensus as to defining, determining and punishing sexual assault.

Since the majority of sexual assault cases occur behind closed doors between persons who know each other well, collecting evidence is not easy. Actual criminal investigation heavily depends on medical certificates documenting injuries or relevant testimony. However, medical experts (Hwa Hsiao-lin 2003) point out that children, who account for a high 20 percent ratio of all sexual assault victims, do not sustain visible injuries in 93-95 percent of all cases because they do not resist (not knowing what sexual assault is). In the case of adult victims physical injuries can only be easily be detected within 72 hours of the assault. Moreover, violence is usually only involved in a certain percentage of sexual assaults involving adult victims, while in a much higher percentage of cases threats, intimidation, hypnosis, drugs and consensual intercourse are employed. In these cases it is unlikely that sexual organs or other body parts sustain injuries, the same goes for obscene acts. In other words, only in a limited number of cases the evidentiary weight of injury certificates can be applied. Should it be impossible to rely on the evidentiary weight of injury certificates alone, other evidence must be used. Therefore the focus of the criminal investigation must be on the victim's testimony, the search for relevant circumstantial

evidence and their overall interpretation.

Still, presently there are not many judicial interrogators, who are able to understand the cognitive development of young or mentally disabled victims and also have good communication skills. Mainly, there is a lack of professional interrogators with integrated expertise in the judicial system as well as the physical and mental development of the victims. While the judicial agencies heavily depend on the evidentiary weight of injury certificates, the judicial and medical agencies lack consensus as to establishing their relevant content such as whether the visible sexual organs include the labia majora and other sexual organ related body parts. Presently no final conclusion has been reached in the debate over whether contact and penetration should be distinguished or whether contact is tantamount to penetration. As a result, there might be different outcomes with regard to deciding whether to file an indictment, or determining guilt and the severity of punishment when different judicial personnel investigate similar cases (TCAV 2013) with huge implications for the safeguarding of victims' rights.

## 2. Verification of testimony difficult due to inefficient questioning

When sexual assault cases involve child victims or victims with mental deficiencies their [limited] cognition and ability to express themselves verbally not only often makes interrogations and the establishment of written records difficult, but also frequently throws into doubt the evidentiary weight of written police records. As practical experience shows, when courts or district prosecutors, believing that a victim needs to undergo assessment, commission a medical institution to conduct such forensic assessment, often a long period of time has elapsed since the assault occurred. Not only is the victim forced to recall the unbearable situation of being victimized but the effect of the assessment is also greatly reduced due to the temporal distance to the events. The Ministry of the Interior began to promote the "Program to Reduce Repeat Interrogations of Sexual Assault Victims" in 2001 and launched the "Integrated Services Team Program for Sexual Assault Cases" to develop a victim-centered professional online cooperation for prosecutors, police, social workers and medical personnel in 2007. These programs did not only have the effect of increasing victims' willingness to cooperate and to reveal more facts but also prevented the contamination of testimony (Chang Ching-li, Yen Yu-ju, Liao Mei-ling, Wei Ai-mei, Liu Chen-ju, Yao Shu-wen 2011). However, we still need to overcome another problem: since it is not easy to interrogate child victims and mentally disabled victims and verify their testimony, getting indictments and convictions is difficult.

## 3. Insufficient implementation of the "Program to Reduce Repeat Interrogations of Sexual Assault Victims" and "Integrated Services Team Program for Sexual Assault Cases"

So far, prosecutors, police, courts and other judicial agencies do not attach enough importance to the two programs mentioned above. Authority to promote these programs lies with the city and county governments or - in the central government - with the Ministry of Health and Welfare. There is a lack of evaluation and incentive mechanisms such as regular reviews and an even greater lack with

regard to committing relevant resources. The Judicial Yuan is completely out of the loop, very much unaware that the aforementioned programs' ultimate goal is improving victim protection and raising the conviction rate, both issues that are inseparable from judicial administration.

## **2. Prevention Loopholes Due to Inadequate Offender Treatment**

### **(1) Explanation of Current situation and Data**

As for sexual offender treatment, Taiwanese law provides for three programs: in-prison treatment, post-prison treatment in a residential facility, or community-based counseling upon completion of a sentence. Still, no matter what kind of treatment or counseling program is chosen, all programs require resources and personnel, separate treatment areas, education and training, monitoring mechanisms and evaluative research and other strategies to deliver treatment. With regard to the content stated above current treatment in Taiwan is extremely inadequate.

#### **1. In-prison treatment lacks resources and has little effect**

According to Ministry of Justice statistics of the currently eight dedicated institutions treating incarcerated sex offenders, as many as 4,420 convicted sex offenders were serving sentences in special prisons as of March 2013. However, just 21 specialists, including 12 clinical psychologists and 9 social workers, were based on site (Ministry of Justice, 2013). Therefore, these facilities heavily rely on hiring psychologists from outside. Yet external psychologists are paid NT\$400 less per hour than what is standard for general psychological counseling (the general hourly rate in the profession is NT\$1,200, whereas treatment in prison is remunerated with just NT\$800 per hour). Presently standard procedures, evaluation tools, professional monitoring and effectiveness evaluation regarding offender treatment are all inadequate.

#### **2. Post-prison treatment venues**

Post-prison treatment requires venues. Since sexual offenders have been stigmatized for a long time, most citizens have misgivings about venues with special areas for compulsory treatment and do not want to see such facilities in their neighborhood. As a result, premises for treatment areas are hard to find. On top of that, the existing special treatment zone, namely the Central Taiwan Medical Treatment Special Quarter and Pei-de Hospital in the Taichung Prison, is already overcrowded and unable to accept more highly dangerous repeat offenders. Since these highly dangerous re-offenders are unable to enter the special quarter to undergo therapy, they roam local communities. The Ministry of Health and Welfare as the competent authority for hospitals and clinics and the Ministry of Justice, which controls the prisons, have failed to reach an agreement in several rounds of negotiations. As a result, the safety of women, who are all potential victims, is ignored.

#### **3. Education and training**

Continued education year after year is extremely important for therapeutic personnel, particularly because evaluation tools before and after treatment as well as strategic methods differ for different types of offenders. Yet so far, prisons have not determined curriculum content and the number of hours of continued education that therapeutic personnel ought to take.

## **(2) Problem Analysis**

In-prison treatment and post-prison treatment both fall under the authority of the Ministry of Health and Welfare as well as the Ministry of Justice. The two ministries must complement each other and make concerted efforts or else their measures will not be successful. However, due to these overlapping authorities it is very easy for either side to shift responsibility onto the other. Moreover, there is presently no consultation and liaison mechanism between the two ministries so that we end up with a no man's land. It is time that the duties and functions of each ministry and areas of cooperation and division of labor are redefined, agreements worked out and documents signed, and regular meetings held to monitor and solve relevant problems to protect the safety of women as potential victims.

## **III. Recommendations**

### **1. The Judiciary Should Intervene Actively and Take Responsibility**

**(1) Aggressively develop effective witness interrogation and assessment systems to guarantee vulnerable victims' right to file a criminal complaint.** Following is an explanation of relevant systems:

- 1. Forensic interviewer system:** Victims should be interrogated at special venues by experts who have been accredited by local prosecutor's offices and courts. These experts must undergo relevant forensic training and must have professional knowledge and skills to conduct victim interviews. When victims are interrogated at special venues, relevant judicial personnel watching from behind a one-way mirror may inform the forensic interviewer of the main points that they wish to ask the victim to develop professional interrogating and ensuring effective testifying. The entire interview process must be videotaped and audiotaped.
- 2. Early assessment system:** Assessment system means that a team of psychiatrists (including psychiatrists, psychologists, social workers and other medical personnel as needed in individual cases) conducts assessments of child victims or mentally disabled victims. The course of action for such services begins when social workers from a local social welfare bureau receive a report [about a sexual assault] and then evaluate whether the recipient of such services requires assessment by an expert team. Should an assessment be deemed necessary, police informs the prosecutor and the assessment team who conduct an evaluation/assessment and assist with compiling a written report within one week after the medical examination and evidence collection. Within one month after the assessment, the victim's assessment report is sent to police for attachment to the case file, which is then transferred to the criminal justice agencies to serve as reference during the investigation. The objective of an early assessment system is to assist children

or persons with mental defects who are victims in sexual assault cases to put together written records of police interrogations. Also assessed are their immediate responses to the traumatic event of sexual assault, their intelligence, their developmental stage based on verbal expression, as well as the credibility of their testimony (Yeh Yu-ju 2013).

**(2) Implementing the “Program to Reduce Repeat Interrogations of Sexual Assault Victims” and the “Integrated Services Team Program for Sexual Assault Cases”** Developing and promoting integrated forensic programs is not easy. It takes positive monitoring and encouragement to implement such programs. Therefore, regular evaluative research as well as control and reward mechanisms are essential.

## **2. Establishing a Forensic Education and Training System Centered on the Protection of Vulnerable Victims**

Since education and training of lawyers lacks gender sensitivity, their mindset and behavior subsequently also fails to focus on victim protection. Trapped in traditional ideas, they believe that prosecuting defendants is a lawyer’s sole vocation and thereby easily overlook the need for victim protection. This is the double predicament that vulnerable female victims face within the justice system. When training lawyers, universities and colleges should therefore review whether training content covers gender equality awareness and gender sensitivity, places too much attention on the defendant at the expense of the complainant, or even gives little thought to the predicament of vulnerable victims. After the review, new training materials should be put together and a new curriculum designed to conform with modern victims’ rights. Moreover, the Academy for the Judiciary under the Ministry of Justice probably faces the same problems as described above with regard to in-service education. Reexamining and establishing gender equality values and victims’ rights and actively developing practical actions to protect vulnerable victims is content that urgently needs to be reconstructed in current education and training.

## **3. Establishing Professional Certification and R&D Systems**

Presently the National Police Agency, the Ministry of Justice and the Judicial Yuan all require a certain number of hours of course work for investigators of domestic violence and sexual assault cases. But there is still no systematic curriculum planning and teaching research. And regarding the controversial content described above, including protection orders, the yardstick for sexual assault or the lack of evaluative research on major judicial programs that are being promoted and other problems there is no relevant research and innovative development. Therefore, the National Police Agency, the Ministry of Justice and the Judicial Yuan should actively develop professional certification and a system for research and development on issues concerning the protection of women and children. They should also amend or revise the law in order to keep pace with the times and lead the online children and women’s organizations into a new era for the protection of children and women.

## **4. Committing Resources to Offender Treatment**

### **(1) Increasing Budget and Personnel for Offender Treatment**

Presently the budget for offender treatment is extremely low so that the participation rate of physicians and capable psychologists is insufficient. In the early days, the Ministry of the Interior still devoted funding to enable therapists to go abroad for visits and study stints, while the then Department of Health never granted any subsidies. Now that the health and welfare portfolios were merged, the new Ministry of Health and Welfare should increase the budget and commit more funds to the long underfunded field of offender therapy to safeguard the safety of the victims.

**(2) Establishing a Liaison Mechanism Between the Ministry of Justice and Ministry of Health and Welfare for Cooperation and Division of Labor on In-Prison and Post-Prison Treatment**

The in-prison and post-prison treatment mentioned above pertains to the responsibilities of the two ministries. So far, however, these responsibilities have not been clearly delineated so that there is neither division of labor nor cooperation. Therefore, regular meetings should be held to determine the handling of mutual divisions of labor on the one hand and to monitor unresolved problems in cooperation on the other side. At the same time, a protocol on division of labor and cooperation should be signed to guarantee the promotion of offender treatment work.

**(3) Establishing a Monitoring Team Mechanism**

Since there is no monitoring system for offender treatment as described above, therapists will have blind spots during the treatment process and will not be able to improve its effects. Most likely, they will follow their own preferences while neglecting that the ultimate goal of therapy is the protection of victim safety. In order to improve the situation, a monitoring team mechanism could be established. The team could include psychiatrists, psychologists, social workers etc. to prevent personally biased monitoring. Usually the therapist can videotape or audiotape the treatment sessions, provided the offender gives his consent. These recordings could be given to the monitoring team for viewing, and serve as basis for encouraging further treatment.

**(4) Establishing and Implementing Systematic Offender Treatment Training Courses**

In a bid to improve offender treatment knowledge and skills across the board the Ministry of Health and Welfare has gradually promoted continuing education courses for therapists. However, presently there is still no systematic course planning. In the future course content and hours of continued education should be prescribed for novice as well as experienced therapists to ensure effective therapy.

**IV. Attached Tables**

Table 1 Comparison of number of sexual assault cases reported by ordinary citizens and number of cases handled by police

Year	Reported Cases	Handled Cases
2007	7703	3615
2008	8521	3447
2009	9543	3502

2010	10892	3647
2011	13686	4058

Source: Compiled by the authors from Ministry of the Interior data

### **Works Cited**

- Taiwan Coalition Against Violence. *Program Outline of the TCAV Forensic Symposium on the Protection of Children and Women's Rights*. 2013. pp. 1-4 (original in Chinese)
- Ministry of Justice of the Republic of China. *Information from the 22<sup>nd</sup> Meeting of the Ministry of Justice Taskforce on Gender Equality*. 2013. p. 33 (original in Chinese)
- Chang Chin-li, Yen Yu-ju, Liao Mei-ling, Wei Ai-mei, Liu Chen-ju, Yao Shu-wen. *Gender Equality and Violence Prevention*. Taiwan Police College. 2011 (original in Chinese)
- Hwa Hsiu-ling. *Looking at the Definition of Sexual Assault from a Medical Perspective – Emergency Treatment After Sexual Assault and the Annotation of Medical Certificates*. Announced at the TCAV Forensic Symposium on the Protection of Children and Women's Rights. 2013 (original in Chinese)
- Yeh Yu-ju. *An Initial Study of Using Early Assessment by an Expert Team in Sexual Assault Prosecutions*. Announced at the TCAV Forensic Symposium on the Protection of Children and Women's Rights. 2013. pp. 43-58 (original in Chinese)
- Liao Shu-wen. *Police Difficulties in Enforcing Protection Orders and Counter Measures*. Announced at the Taiwan Police College Symposium on the Protective Aspects of Protection Orders. 2012 (original in Chinese)

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## I. CEDAW Background

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2. General Recommendations No. 12 and No. 19

#### **CEDAW General Recommendation No. 12**

1. The legislation in force to protect women against the incidence of all kinds of violence in everyday life (including sexual violence, abuses in the family, sexual harassment at the work place etc.);
2. Other measures adopted to eradicate this violence;
3. The existence of support services for women who are the victims of aggression or abuses;
4. Statistical data on the incidence of violence of all kinds against women and on women who are the victims of violence.

#### **CEDAW General Recommendation No. 19**

Specific recommendation

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

24 (e) States parties in their reports should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women and the kinds of violence that result. They should report on the measures that they have undertaken to overcome violence and the effect of those measures;

24(j) States parties should include in their reports information on sexual harassment, and on measures to protect women from sexual harassment and other forms of violence of coercion in the workplace;

24(p) Measures to protect them from violence should include training and employment opportunities and the monitoring of the employment conditions of domestic workers;

## II. Current Situation and Problem Analysis

Although Taiwan has been implementing the *Domestic Violence Prevention Act* for more than 15 years and has made serious efforts in terms of policy and service

delivery systems, statistics and practical experience show that numerous problems and obstacles remain in our domestic violence prevention work. The three main problems are as follows: (1) Due to insufficient gender awareness within the criminal justice system, meeting victims' needs and delivering gender justice proves difficult. (2) Since workplace policies for the prevention of domestic violence are inadequate, battered women are not able to become economically independent and to exit a violent environment. (3) Offender treatment has not been put in place which constitutes a prevention loophole. In the following we will analyze and discuss current problems from these three aspects and explain why the domestic violence prevention work of the current government is not able to respond to the current situation, be it women's personal safety or discrimination against women.

## **1. Due to insufficient gender awareness within the criminal justice system, meeting victims' needs and delivering gender justice proves difficult**

### **1.1 Explanation of current situation and individual cases**

In a patriarchal framework, the predominantly male criminal justice personnel and justice system are unable to understand and respond to women's needs. Although Taiwan has already adopted the *Domestic Violence Prevention Act* and other laws to respond to the problem of gender violence against women, criminal justice personnel still remains beholden to ordinary forensic thinking and patriarchal traditional attitudes when handling and interpreting incidents of violence against women. As a result, they are not able to meet women's needs, safeguard women's rights and even inflict further harm on women when interpreting or applying relevant legal clauses. In the following, we explain and discuss examples of court rulings, the circumstances surrounding the issuance of protection orders and their enforcement by prosecutors.

#### **Case 1: Criminal injury classification does not take into account the particular predicament and needs of women**

A 39-year-old man poured toilet bowl cleaner on his wife because he suspected her of having an extramarital affair, causing third-degree burns on her upper body and disfiguring her face. Prosecutors charged the man with assault resulting in serious bodily injury, but the court held after several hearings that the victim's injuries could be treated with cosmetic surgery. Therefore, the man was only convicted of assault causing bodily injury. Since the couple subsequently reconciled, the court eventually rendered a not guilty verdict.

In the text of the ruling, the judge emphasized that while third-degree burns may leave scars, these could be treated with cosmetic surgery and later on covered with clothing. He argued that while the woman's scalp had been damaged so that no new hair would grow temporarily, a tissue expander could be used later on to let new hair grow. Therefore, he ruled that the injuries were only ordinary injuries.

#### **Case 2: Issuance and enforcement of protective orders deficient**

"Yesterday morning, Wang XX took advantage of the window period before the issuance of a protection order to return home, carrying gasoline with him to punish [his wife and son for

reporting him]. Ms. Hong, the wife, said Wang returned home and questioned her and her son “Why do you need to report me?” The son responded: “You wanted to chop us into pieces, of course, we need to report to police.” Then Wang shouted “the whole family shall die together” and wanted to beat her up. ...Unexpectedly, Wang took a rice porridge can out of his bag, spilling its content toward her and her son. As the son moved forward to protect his mother, the gasoline in the can spilled all over his body. Wang immediately lit a match and set the gasoline on fire, turning the son into a ball of fire....” (Apple Daily Oct. 4, 2009)

"On the day when the incident occurred, Ms. Zhong went to the district court's family matters chamber for a hearing on the domestic violence charges against her husband Mr. Huang. When she returned home, Mr. Huang suddenly barged into the room and reproached his wife that she should not have broken off their relationship so cruelly. The pair got into a heated argument and Mr. Huang took a PET bottle containing 600 ml of gasoline, pouring it all over Ms. Zhong. He set the gasoline on fire and Ms. Zhong instantly went up in flames, threw herself to the ground and rolled around in great pain..." (Apple Daily, Sept. 2, 2009)

“Mr. Zeng habitually battered his wife Ms. Shi. When Mr. Zeng again beat up Ms. Shi in April 2009, Ms. Shi filed a petition for an ordinary protection order and filed for divorce. The court had already scheduled to open trial on May 21, when Mr. Zeng took a knife on the eve of the court hearing, first killing Ms. Shi and then himself. In recent years, Mr. Zeng had often fought with Ms. Shi over money problems, turning violent against his wife many times. Four years earlier the social affairs department had received a domestic violence report and subsequently the couple kept splitting up and reconciling again. In March 2007, Ms. Shi petitioned for a protection order, which expired in March 2008, but the social affairs department still received domestic violence reports once in a while. In April 2009, Ms. Shi again filed a petition for a protection order and filed for divorce. At the time, social workers assisted her in petitioning for an ordinary protection order. On May 12, 2009, the protection order went into force, but due to document transfer problems, the local police station had not received the approved protection order before the incident occurred and had therefore not been able to publicly announce it...” (China Times, March 22, 2009)

## 1.2 Problem analysis

### 1.2.1 The classification of criminal injuries fails to take into account the particular predicament and needs of women.

The ruling in Case 1 shows that in current criminal law and court trials a traditional male perspective is used to interpret and apply relevant laws and that this perspective forms the trial standard. It fails to take into account that the possible physical and mental damage as well as the psychological trauma differ depending on the victim's gender. Therefore, the ruling contains two contentious points:

**1.2.1.1 Scars should be considered as irreparable damage to a woman.** There is the saying “women doll themselves up for their lovers.” For a woman, the loss of her looks is as serious as injuries to other bodily organs. In contrast to what the judges think it does not only take cosmetic surgery and clothing to cover up the scars to restore a woman's beauty.

**1.2.1.2 The entire ruling contains merely an explanation describing the said injury, but does not mention at all the nature and context of power control**

**and intimidation in the marital relationship, which sparked the husband to pour toilet bowl cleaner on his wife with the intent to disfigure her face to demonstrate his male sovereignty over her.** This ruling exemplifies the typical difficulties that battered women currently face. This single incident shows that in the eyes of the judge, or from a traditional criminal law perspective, the victim's injury is only an ordinary injury, and not a serious injury. In the ruling, the longstanding power control relationship behind the toilet bowl cleaner attack is not important. For the same reason, the vast majority of injuries in domestic violence cases are considered minor injuries. As could be expected, research by Wei Ai-mei (2010) found that just 4.1 percent of domestic violence cases, in which the victim filed a complaint or which are indictable without a victim complaint, end with a guilty verdict in court after police has sent the case to the prosecutor and the district prosecutor's office has concluded its investigation. This extremely strong judicial funnel effect clearly shows that the thinking of judicial personnel does not take into account the real nature of longstanding, unequal gender relations and violent power control that we find in domestic violence cases. Not surprisingly, domestic violence always only constitutes the offense of general bodily harm.

## **1.2.2 Deficiencies in protection order issuance and enforcement**

### **1.2.2.1 Issuance takes too long, relevant protection measures inadequate.**

Presently the issuance of protection orders by district courts involves a quite time-consuming procedure. Usually it takes six weeks until an ordinary protection order is issued. In more urgent cases, when a provisional protection order is sought, which can be issued without a court hearing, it still takes more than two weeks. While the *Domestic Violence Prevention Act* clearly states that an emergency protection order must be issued within four hours of application, issuance is actually delayed to between two to three days (Table 1). It is discomfoting that the time between the petitions and issuance of protection orders has been steadily growing longer. Given such lack of administrative efficiency, how can we convince citizens to believe that the judiciary is determined to protect them and make them readily cooperate with judicial agencies?

According to research by Wang Pei-ling (2012) there have been numerous cases in which the offender took revenge on the victim for applying for a protection order by killing the victim or her children, or even committing suicide during the window period when the petition had been filed but the protection order had not yet been approved. Once the protection order is issued, police take too much time delivering it so that protection is not provided on time and the victim's life is on the line.

**1.2.2.2 Content of civil protection orders too narrow, fails to meet victims' safety needs.** Contentwise, the approved protection orders presently focus on "ban on domestic violence"(14,250 cases in 2011), "ban on harassment" (13,292 cases in 2011), "order to stay away"(3,130 cases in 2011), "offender treatment program" (3,138 cases in 2011). Protection orders with any of the

other nine content items number only in the hundreds or even less. The question is whether protection orders covering such content can actually really protect citizens who are threatened with violence. Wang Pei-ling (2012) also points out that in some cases “the victim has a history of severe battery, but the protection order covers only one or two items so that protection is clearly inadequate.” In 18 of the fatal domestic violence incidents that Wang collected a protection order had been issued. In 12 out of these 18 cases, the protection order covered only one or two items. (Table 2) In other words, the current design and actual enforcement of protection orders is not able to provide timely protection for domestic violence victims at high risk. According to research by Liao Shu-wen (2012), a rising number of nations stipulate in their laws that emergency protection orders are immediately issued when there is an imminent risk of violence. In Austria and several other European countries such as Germany, the Czech Republic and the Netherlands, the law stipulates that police can issue an order at its discretion to a person who poses a threat to the life, body or liberty of another person to move out of the joint residence for 10 days.

**1.2.2.3 Withdrawal rate for civil protection orders too high, reasons difficult to nail down.** In as many as 5,526 domestic violence cases the victims withdrew their protection order petitions after having mustered the courage to file one. This represents nearly one fourth of all protection order applications filed in 2011 (23,063 cases). (Table 3) The reasons are hard to find out. It is not known whether the victims voluntarily withdrew their petitions or under threat from the offender or his family, or whether the time-consuming procedure and difficult preparation of documents for such a petition sparked the move. So far, the Judicial Yuan has not undertaken any research and analysis to explain relevant problems.

**1.2.2.4 Too few criminal protection orders issued.** Article 31 of the *Domestic Violence Prevention Act* states if the court shows there is no necessity to take into custody a defendant, who has committed a domestic violence offense or violated a protection order, and orders the defendant’s release on bail, or into the custody of a designated person or organization for supervision, or with a restriction on his residence, or upon interrogation, the judge or prosecutor may prescribe one or several conditions (up to five items) that the defendant must observe. This is called a criminal protection order. Its objective is to prevent the defendant from committing another serious domestic violence offense. However, the Taiwan Coalition Against Violence has observed that judges and prosecutors issue just over 100 criminal protection orders per year, a figure that is much too low (detailed explanations on the prosecution’s part follow below). So far, relevant Judicial Yuan statistics are inadequate since the ratio of protection order petitions that are approved by judges is too low. A possible reason may be that judges at criminal courts are not familiar with the *Domestic Violence Prevention Act* and, having not undergone any professional training in that regard, therefore lack gender sensitivity.

**1.2.3. Too few criminal protection orders issued as prosecutors favor**

### **conciliation**

- 1.2.3.1 Inappropriate conciliation practices: Aside from the rulings described above, the Taiwan Coalition Against Violence has observed that when dealing with criminal complaints in domestic violence cases district prosecutor's offices very easily encourage conciliation between the litigant and the defendant, pushing the victim to withdraw her charges. The reason for this is that most domestic violence cases fall into the category of general injury offenses (and not severe bodily injury). However, in marital violence cases with extremely strong power control characteristics where the offender exerts extremely strong, violent control over the victim through threats and intimidation, the victim often worries that the offender will strongly retaliate, if there is a difference of opinions. Therefore, she feels compelled in front of the prosecutor to settle out of court and withdraw her petition. For the victim, who has come a long way overcoming many difficulties on the road to her criminal complaint, eventually all comes down to nothing. From the victim's stance, this is without doubt another kind of threat, a judicial threat. As a result, female victims get disappointed with the judiciary and no longer trust it, becoming uncooperative victims.
- 1.2.3.2 Too few criminal protection orders issued. Ministry of Justice figures show that prosecutors handling domestic violence cases issued just 318 criminal protection orders against defendants between January and April 2013. Item 1, ban on domestic violence, ranked top with 288 cases, followed by item 2, ban on contact and harassment, with 102 cases, order to stay away ranked third with 63 cases, followed by order to vacate the victim's home with 31 cases. Given that more than 20,000 petitions for criminal protection orders are filed per year, the approval rate is much too low.

## **2. Since workplace policies for the prevention of domestic violence are inadequate, battered women are not able to become economically independent and to extricate themselves from a violent environment.**

### **2.1 Explanation of current situation and individual cases**

For many battered women a job is crucial for gaining a chance to escape the abuser's control. However, intimate partner violence victims face substantial difficulties when it comes to employment. While relevant cabinet agencies do not have any exact statistical figures on reported cases of workplace domestic violence, an online survey by the *Modern Women's Foundation* (Intimate Partner Violence at the Workplace – Current Situation and Damage Control, 2010) found: 25.8 percent of the survey respondents said their intimate partner had turned violent against their friends or coworkers at the workplace. Some 5.6 percent of the women said they had themselves been attacked at the workplace. Such working women who are mistreated or violently injured by their abusers hope that their ordeal meets with empathy and consideration at the workplace. They hope to work safely without having to worry [about potential violence] in a discrimination-free environment, to obtain adequate support (such as flexible work hours) and friendly treatment.

Unfortunately, relevant laws and approaches are presently inadequate since they lack measures that meet the economic needs of the victims and ensure their safety at work. Consequently, the safety of the victims and other workers is in great jeopardy. The following cases explain the impact of domestic violence on the victims' right to work and the problems resulting from insufficient policy measures for the prevention of domestic violence at the workplace.

### **Case 3: Domestic violence impacts workplace**

“News of a ‘breakup murder’ shocks Neihu Technology Park!” Coworkers of the victim confirmed that the couple had had several arguments because the victim wanted to separate. On the day of the incident, the doorbell rang at an after-school care center and Ms. Huang immediately went down to the first floor after taking a phone call. Much to her surprise, she heard gunshots outdoors. In broad daylight, Mr. Wu, the perpetrator, had fired two shots from close distance at the head of a female teacher. When the other teachers went outside to check the situation, they were shocked to find the victim lying on the red-tiled walkway. The woman was pronounced dead upon arrival at the hospital... (Liberty Times, Dec. 2, 2009)

“Female employee of Taichung City Government disfigured and killed by boyfriend in crime of passion. After work on Sept. 21, Mr. Wu, the 29-year-old perpetrator, intruded into the Taichung City Government building where his girlfriend worked. Inside the elevator, he brutally stabbed his 38-year-old girlfriend, Ms. Chen, with a craft knife, inflicting several wounds to her face, neck and hands. Bleeding profusely, Ms. Chen escaped back to her office on the third floor of the building, where coworkers immediately called the police and sent for an ambulance to take her to the hospital...” (China Television System online news, Dec. 13, 2011)

“Within 24 hours of the big blaze in Keelung, police arrested a male suspect named Lin. Lin is the husband of a waitress who works in a karaoke bar on the second floor [of the burnt building]. Lin suffers from manic-depressive psychosis and has made a scene at his wife’s workplace many times. A surveillance camera had shown footage of Lin buying gasoline...” (TVBS, June 18, 2004)

## **2.2 Problem analysis**

### **2.2.1 Concept of “economic abuse” not yet included in definition of intimate partner violence**

In domestic violence cases, the abuser uses physical, verbal, emotional and other forms of abuse to achieve his goal of controlling and threatening the victim. Among the various forms of abuse, economic abuse is a form of non-physical violence. Due to its hidden, elusive nature, the concerned person and people in society around her find it difficult to become aware of such violence, particularly in a traditional, patriarchal society. Economic abuse in

connection with domestic violence or intimate partner violence may involve the following behavior: preventing a partner from gaining access to economic resources, preventing a partner from using resources and exploiting economic resources of the victim. The most common form of economic abuse is that the abuser prevents the victim from finding work or makes it difficult for her to keep a job. Typical moves include: undermining the victim's job; visits to the victim's workplace for harassing, stalking or destructive activities; restricting or obstructing the victim from going to work; frequent phone calls, SMS, FAX or e-mail messages to the victim during work; surprise visits to the workplace; beating the victim so that she is unable to go to work or other behavior that interferes with the spouse's work performance and might eventually cause her to lose her job. Moreover, the victim might have to face drawn out, complicated procedures after having been battered such as seeing a doctor for an injury certificate, taking the abuser to court, and moving to a safe place. In the end, the victim might lose her job because she is forced to ask for leave too often.

However, Taiwan's *Domestic Violence Prevention Act* defines domestic violence as "any act of exercising any infringement, mentally or physically, amongst family members." While this definition is quite broad, it makes it difficult to clearly identify and control behavior that infringes on the right to work and the economic rights of a spouse such as preventing or restricting her from working or from obtaining resources as described above. Yet when such malicious behavior, which violates the right to work of the female victim, a human right, as part of domestic abuse cannot be punished more severely, this constitutes gender violence and discrimination in violation of CEDAW Article 11 and General Recommendation No. 19.

### **2.2.2 Incomplete laws and regulations neglect setting rules for protecting safety and safeguarding rights in connection with intimate partner violence at work**

A closer look at the *Domestic Violence Prevention Act* and relevant labor laws and regulations shows that there are no concrete rules with regard to workplace response to domestic violence involving employees. Regarding the protection of the right to work of victims, the *Domestic Violence Prevention Act* states only in Article 8 that the county and city-run domestic violence and sexual assault prevention centers shall provide gradual, supportive and multiple vocational training and employment services to victims. It does not stipulate workplace responsibility for taking precautions against domestic violence.

In the area of labor law, *the Labor Standards Act* merely states in Article 12 and Article 14 that where an employer or worker commits a violent act against or grossly insults the other side, the concerned party may terminate a labor contract without giving advance notice. But these safeguards only apply to violent incidents between employer and workers and do not regulate intimate partner violence at the workplace.

In recent years, labor policy has attached considerable importance to the safety of workers, which led to further amendments of the *Labor Safety and Health Act* concurrently with the *Labor Standards Act* to cover more target groups and expand its protective scope. In the draft revision, which has been

sent to the Legislative Yuan for deliberation, a clause has been added which states “In order to prevent the unlawful physical or emotional infringement of workers by another person as they carry out their duties, the employer should appropriately plan and adopt necessary safety and health measures.” While the said amendment incorporates workplace violence into the law, such broad definitions do not specifically meet the needs of domestic violence victims. As a result, it is not possible to express the dangerousness and distinct nature of domestic violence precisely and clearly and to provide relevant response strategies when a court orders a defendant to stay away from a victim’s workplace. Given the male-centered thinking in the labor market, employers and enterprise units neglect or are not able to satisfy women’s needs when interpreting or applying legal clauses, severely undermining women’s rights.

### **2.2.3 Employers lack knowledge and responses about orders to stay away.**

The “order to stay away” as part of domestic violence-related civil protection orders can be used to order the abuser to stay away from the victim’s workplace to protect the personal safety of the victim and prevent domestic violence incidents from affecting her performance at work. But in practice, employers, business units or enterprises do not seem to have a clear response strategy. Moreover, they lack proactive, friendly workplace response measures that enable the victims and her coworkers to work safely with their minds at ease.

### **2.2.4 Lack of workplace protection and supportive programs for battered women**

In accordance with the *Act of Gender Equality in Employment* the Labor Affairs Council has begun to promote employee assistance programs (EAP) to increase women’s labor participation and willingness to work as well as to help women balance work and family. Particularly with regard to work-life balance, the programs include measures that allow employees to apply for transfer to parttime positions or workplaces without a shift system, worktime reduction or adjustment as well as earlier or later start of work. However, in terms of target groups, employee assistance programs are limited to a small number of enterprises at the current stage so that most victims do not receive any real, substantial assistance at all. In terms of content, employee assistance programs are meant to encourage employment of ordinary women and to provide a friendly workplace and work-life balance. Therefore, these programs do not consider the special needs of domestic violence victims such as protection of personal safety. As long as only few enterprises participate and program content does not meet the needs of domestic violence victims, the women still remain trapped in a dangerous and unfriendly work environment.

## **3. Prevention loophole due to failing offender treatment**

### **3.1 Explanation of current situation**

Based on the *Domestic Violence Prevention Act* offenders enter a treatment program in the following situations: when the victim is willing to apply for a offender

treatment protection order and the court approves and issues it, participation in an offender treatment program is mandatory for the offender. When the victim is not willing to apply for an offender treatment order or where the victim has filed an application but the court has not approved it, participation in an offender treatment program is not mandatory, yet the offender is, nonetheless, ready to receive treatment and counseling. Still, the ratio of voluntary participation is extremely low. No matter whether treatment is mandatory or voluntary, the implementation of treatment programs requires administrative staff, therapeutic and support personnel at the treatment venue, community care workers for periodic inspections, education and training, a team supervision mechanism, evaluative research on the effectiveness of the treatment and other resources and strategies.

Court statistics (Table 2) show that annually 2,000, 2,602 and 3,138 offender treatment orders were issued respectively between 2009 and 2011, amounting to roughly one third of the annual number of such protection order petitions. In 2011, as many as 104,315 domestic violence reports were filed (Ministry of Health and Welfare, 2012) so that in just 3 percent of all reported cases the offenders actually receive treatment. After all the red tape involved in petitioning for a protection order and having a court order offender treatment, less than 50 percent of these offenders actually complete their treatment programs because the no-show rate for appointments is quite high. Moreover, treatment effectiveness usually leaves much to be desired.

### **3.2 Problem analysis**

So far, treatment programs are severely understaffed on the administrative side. A fulltime position is only granted after the caseload reaches 100 offenders (including sexual assault), while two fulltime positions require a caseload of 250 offenders (Gender Equality Commission, Executive Yuan, 2012). Most programs take place at hospitals with treatment sessions scheduled in the evenings or on holidays to accommodate the offenders' personal schedule. Often therapeutic personnel is concerned about their safety, because security guards and police support are insufficient during these time slots, which again negatively affects their motivation and commitment to therapy.

Ninety percent of therapeutic personnel are licensed social workers and clinical psychologists, while psychiatrists are conspicuously absent. This is due to unclear policies by the Ministry of Health and Welfare and the departments of health at the local government level and the fact that hospitals do not fund such treatment. The Ministry of Health and Welfare has once urged the six core hospitals in the islandwide psychiatric care network to provide assistance (Gender Equality Commission, Executive Yuan, 2012), but most pay only lip service and do not provide substantive encouragement and incentives. Some hospitals even demand that their physicians use paid leave for offender treatment programs and that they share their treatment fees with the hospital on a 4:6 ratio. Given such a lack of resources, it is of course difficult to attract more talent to get involved in offender treatment. There is also a lack of efficient planning with regard to the empowerment and supervision of therapeutic personnel. Planning should cover the kind of systematic course content

that offender treatment personnel should study, the required hours of training, annual continued education, as well as a mechanism for the team evaluation of the offender during the program and a final effectiveness evaluation to ensure quality. Presently all these items are inadequate. Therefore, it should not come as a surprise that courts still have misgivings about the effectiveness of offender treatment and counseling. This is one of the major reasons why such a low number of protection orders for offender treatment are issued.

Inspection visits by community care personnel and the prevention of domestic violence are highly interrelated, mainly because the targets of such visits are offenders who have mental disorders, are suicidal or addicted to alcohol etc. Such cases are usually closely related to domestic violence. Research by Joanne Liu and Wang Pei-ling (2011) found that 41.4 percent of high-risk domestic violence cases<sup>1</sup> were committed under the influence of alcohol, while in 14.2 percent of the cases the perpetrators had symptoms of or had been diagnosed with a mental disorder, and 6.7 percent of the perpetrators had attempted suicide. Furthermore, the Taiwan Coalition Against Violence (2013) analyzed major domestic violence incidents that had been submitted for discussion to the Domestic Violence and Sexual Assault Prevention Committee (DVASPC) of the Ministry of the Interior in 2012. It found that 36.4 percent of high-risk offenders had symptoms of or had been diagnosed with a mental disease, while 21.2 percent of the abusers were addicted to alcohol or illicit drugs and 9.1 percent had tried to kill themselves. Still, social care inspectors do not know enough about domestic violence and are therefore not able to adopt efficient prevention strategies. They can simply show their concern with regard to the mental disorder, suicidal tendencies or alcoholism, providing piecemeal treatment on an ad-hoc basis. It is a pity that therapeutic help in such cases is limited and unable to help forestall domestic violence.

### **III. Recommendations**

#### **1. Establish a gender-aware criminal justice environment that treats victims with goodwill**

##### **1.1 Separate interrogation and high-risk warning**

In high-risk domestic violence cases, attention must be paid to the separate questioning of victim and offender during investigation and trial to prevent the offender from exerting emotional pressure on the victim or to ensure that the victim dares to describe the situation as it happened. When questioning the offender and the victim on their readiness to reconcile, attention must also be paid to how many times an offense was committed and how serious it was to prevent the victim from injudiciously withdrawing her charges during the investigation because she feels pressured to do so. Once charges are withdrawn, the offender cannot be prosecuted anymore and the victim will again be subjected to abuse. Therefore it is necessary

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<sup>1</sup> Usually cases with a Taiwan Intimate Partner Violence Danger Assessment (TIPVDA) score above 8 are considered high-risk cases.

that the cover of the case file is marked with the warning “high risk case” to draw the attention of judges and prosecutors.

### **1.2 Establish a control and review mechanism**

When police escort an offender who has been caught in the act of committing domestic violence (more severe cases of malicious intent) during transport, the Ministry of Justice presently requires local district prosecutor’s offices to launch a conditional order or fax reporting procedure, but implementation differs in the different district prosecutor’s offices. The Ministry of Justice should establish a comprehensive control mechanism to regularly check and examine the approach of the district prosecutor’s offices. When the prosecutor applies for detention of an offender, but the district court judge grants release on bail or without bail, and the court clerk fails to carry out procedures for a conditional order or fax reporting, the defendant has often already been released without the knowledge of police and social workers so that they are not able to provide timely protection to the victim.

Therefore, the Judicial Yuan should follow the example of the Ministry of Justice and establish a mechanism for regular control and examination. In terms of content, the Judicial Yuan’s Criminal Department and Department of Juvenile and Family should be required to complete policy guidelines on issues pertaining to the protection of women and children. Moreover, they should follow the Executive Yuan’s example in controlling policies and measures, and complete an annual performance and progress report.

### **1.3 Establish an integrated judiciary-centered mechanism**

As described above, when domestic violence victims face an offender who exerts power and control or has highly malicious intent, the judiciary often adopts a rather passive attitude, which is quite inconceivable to the average person. Victims who have made the difficult decision to file a lawsuit are very likely forced to return to their violent environment with possible lethal outcome because police is not willing to arrest the offender, prosecutors are not willing to detain him and judges are not willing to approve a criminal protection order. How come that so far no integrated mechanism or dialogue mechanism has been set up among police, prosecutors and judges? The domestic violence and sexual assault prevention centers are integrated units in name, but past experience has proven that efforts to integrate the judicial agencies are an impossible mission. Our judicial agencies are extremely authoritarian. Therefore, cooperation must be integrated by the courts (Judicial Yuan) or the district prosecutor’s offices (Ministry of Justice). Since prosecutors are above police in the chain of command, it would be appropriate for the prosecution system to take charge of an integrated mechanism. Moreover, victim protection falls into the responsibilities of the prosecution system. Therefore, the Ministry of Justice (district prosecutor’s offices) should assume the heavy task of establishing an integrated mechanism to guarantee the personal safety of disadvantaged women.

## **2. Immediately promote measures for the prevention of domestic violence at the workplace**

## **2.1 Promote the amendment of law related to workplace domestic violence protection**

With regard to legal amendments, we suggest that relevant regulations on workplace protection be added to the *Domestic Violence Prevention Act*. As for regulations that pertain to workplace anti-discrimination, the *Act of Gender Equality in Employment*, the *Labor Safety and Health Act* and other laws related to labor rights should be amended to incorporate domestic violence protection at the workplace into the scope of workplace safety guarantees. Also, domestic violence and workplace violence safeguards should be regarded as labor rights issues. Employers should be required to appropriately plan and adopt necessary safety and health measures in order to prevent the unlawful physical or emotional infringement of workers by another person as they carry out their duties. This is to reduce economic and workplace loss inflicted on victims due to violent incidents, and to assist them in becoming economically independent, gaining safety and respect.

## **2.2 Establish gender-based statistics on workplace domestic violence protection**

So far, relevant statistics by government agencies lack empirical data and research, including the prevalence of intimate partner violence at the workplace as well as the needs of victims and employers with regard to domestic violence prevention related problems. We recommend that labor affairs agencies proactively establish relevant gender-based statistical information in the future and regularly conduct research on the needs with regard to intimate partner violence at the workplace, as empirical basis for policy development.

## **2.3 A victim-oriented mechanism for the prevention of workplace domestic violence**

In order to improve the way how workplace domestic violence incidents are currently handled, the labor affairs agencies should establish a workplace violence prevention mechanism. Enterprises or labor unions could set up workplace violence prevention hotlines (or broaden the service scope of workplace gender discrimination prevention hotlines) to provide a channel for victims where they can receive counseling and express their needs. They should also report to the city or county run domestic violence and sexual assault prevention centers on behalf of those who seek help. The current programs for a friendly workplace and work-family balance should be expanded with view to the workplace needs of domestic violence victims. Such programs should provide individualized, flexible and supportive protection services and measures (such as flexible worktime and leave for visits to the doctors or attendance of court hearings; preventive measures by the employer in connection with domestic violence protection orders etc.)

## **3. Commit resources to deliver offender treatment programs**

### **3.1 Increase the budget and human resources for offender treatment**

Presently, the budget for offender treatment programs is very low so that physicians' participation is insufficient. In the early stages, the Ministry of the Interior still committed funding to send therapists overseas for visits and studies. The former

Department of Health never granted any subsidies. Now that the department has been merged with other cabinet agencies into the Ministry of Health and Welfare, it should expand its budget and devote funding to the long underfunded area of offender therapy to ensure victim safety.

### **3.2 Incorporate offender treatment content in National Health Insurance covered accreditation items**

The Ministry of Health and Welfare began to promote offender treatment programs in 2012 by including them in hospital accreditation criteria. Psychiatric hospitals included them in their accreditation criteria in 2013, but not as NHI covered items so that the impact on the hospitals has been minor. Moreover, offender treatment programs were only included in a general way without listing detailed requirements. As a result, such efforts have only limited encouraging effect. In the future, content should be added to the offender treatment programs such as budget, therapeutic personnel and number of cases, assignment of support staff, required hours of education and training, a team supervision mechanism and number of times that team supervision is used as well as evaluation of treatment effectiveness. These details should be included in the NHI-covered accreditation items to ensure that policy has a steering effect.

### **3.3 Establish a team supervision mechanism**

There is no supervisory mechanism for the previously described offender therapists. Therefore, therapists might have blind spots when treating offenders and will not be able to improve treatment effectiveness. Very likely, they will only do what they personally like, while neglecting that the ultimate goal of treatment is ensuring the victim's safety. In order to improve the situation a team supervision mechanism could be established. The team could bring together psychiatrists, psychologists and licensed social workers to prevent individual biases. Ordinarily therapists could videotape or audiotape therapy sessions with the offender's prior consent for examination by the supervision team and as reference for the encouragement of subsequent therapy.

### **3.4 Establish systematic courses and training for offender treatment programs, put the programs into practice**

In order to raise therapists' relevant knowledge and skills, the Ministry of Health and Welfare has gradually promoted continuing education courses. But so far, there is no systematic course planning. In the future, course content and the number of hours that newcomers to the profession and experienced therapists need to take in continuing education courses should be prescribed. Moreover, a dialogue mechanism that allows for liaison and communication between the victim's counseling team and the court should be established for a stronger pluralist perspective and to monitor and deepen the effectiveness of the therapy.

### **3.5 Establish victim-centered mechanisms and research for evaluating the effectiveness of offender treatment programs**

The ultimate goal of offender treatment programs is ensuring victim safety. So far, evaluations of the effectiveness of offender treatment are insufficient or are conducted exclusively from the therapist's or an expert's perspective, while neglecting the victim's perspective. We recommend that the Ministry of Health and Welfare establish a mechanism that encourages practical therapy agencies to cooperate with the county or city run domestic violence and sexual assault prevention centers to confirm the effectiveness of therapy from a victim's perspective, issuing regular reports. The results of these reports should be sent to the courts for reference to encourage them to approve and issue treatment orders guided by therapy outcomes.

#### IV. Attached Tables

Table 1: Application time for civil protection orders at district courts (days)

Year	2009	2010	2011	2012
Ordinary protection order	37.34	40.61	40.40	45.97
Provisional protection order	16.34	17.61	18.36	19.38
Emergency protection order	1.57	3.06	2.83	2.33

Source: Judicial Yuan

Table 2: Content of district court-approved protection orders based on gender of major offender

Year		2009			2010			2011		
Gender		Total	Male	Female	Total	Male	Female	Total	Male	Female
Content (item) of approved protection order	Total	31,452	29,940	1,512	35,911	34,011	1,900	36,783	34,464	2,319
	Ban on domestic violence	12,642	11,970	672	14,181	13,371	810	14,250	13,256	994
	Ban on harassment	11,479	10,898	581	13,150	12,417	733	13,292	12,404	888
	Order to vacate victim's home	358	340	18	300	287	13	269	256	13
	Order to vacate victim's home and restricting respondent from using it	139	127	12	185	176	9	203	191	12
	Order to stay away	2,706	2,594	112	3,035	2,894	141	3,130	2,959	171
	Victim's right to use car, motorcycle etc.	124	119	5	130	127	3	112	105	7
	Rights and obligations regarding underage children	595	575	20	599	577	22	609	587	22
	Restriction of visitation rights	156	149	7	169	164	5	164	155	9
	Order to pay victim's rent or living support	172	171	1	198	196	2	166	164	2
	Order to pay for medical care, consultation, property damage	8	8		23	22	1	10	10	
	Offender treatment program	2,000	1,945	55	2,602	2,495	107	3,138	2,995	143
	Order to pay for attorney fees	2	2		2	2		4	4	
	Ban on checking victim's personal data	217	213	4	221	213	8	273	264	9
Other	854	829	25	1,116	1,070	46	1,163	1,114	49	

Source: Judicial Yuan

Table 3: Statistics of reported domestic violence cases and protection order petitions processed by district courts

Year			2009	2010	2011
Number of reported domestic violence cases			89,253	105,130	104,315
Outcome of protection order petitions based on gender of main victim	Total	Number of cases	20,737	23,492	23,063
		Male (ratio)	2,834 (13.7%)	3,367 (14.3%)	3,450 (15.0%)
		Female (ratio)	17,903 (86.3%)	20,125 (35.7%)	19,613 (85.0%)
	Approved	Number of cases	12,669	14,227	14,296
		Male (ratio)	1,503 (11.9%)	1,761 (12.4%)	1,880 (13.2%)
		Female (ratio)	11,166 (88.1%)	12,466 (87.6%)	12,416 (86.8%)
	Rejected	Number of cases	2,553	3,030	2,866
		Male (ratio)	504 (19.7%)	639 (21.1%)	622 (21.7%)
		Female (ratio)	2,049 (80.3%)	2,391 (78.9%)	2,244 (78.3%)
	Withdrawn	Number of cases	4,951	5,671	5,528
		Male (ratio)	740 (14.9%)	888 (15.7%)	883 (16.0%)
		Female (ratio)	4,211 (85.1%)	4,783 (84.3%)	4,645 (84.0%)
	Other	Number of cases	564	564	373
		Male (ratio)	87 (15.4%)	79 (14.0%)	65 (17.4%)
		Female (ratio)	477 (84.6%)	485 (86.0%)	308 (82.6%)

Source: Judicial Yuan

## Works Cited

- Gender Equality Commission (2012), Executive Yuan. *Agenda and Information Manual of the 2<sup>nd</sup> Meeting of the Health and Therapy Group*. Gender Equality Commission, Executive Yuan, 2012. P. 13. Original in Chinese
- Ministry of Health and Welfare (2012). *Statistics*.  
[http://www.mohw.gov.tw/EN/Ministry/Statistic.aspx?f\\_list\\_no=474](http://www.mohw.gov.tw/EN/Ministry/Statistic.aspx?f_list_no=474)
- Wang Pei-ling (2012). *Security Comes First: Judicial Problems Regarding Protection Orders*. Wang Pei-ling (2013). *Concern with a Broader Perspective: New Developments in Intimate Partner Violence Prevention Policies and Law*. Community Development Journal. 142. 1-15 Taiwan Coalition Against Violence (2013). *Program Outline for the TCAV Forensic Symposium on Woman and Child Rights Guarantees*. 1-4. Original in Chinese
- Chou Frank Huang-chih (2011). *Effectiveness Evaluation of the Implementation of Domestic Violence Offender Pre-Sentence Assessment and Treatment Programs*. Research commissioned by the Ministry of Health and Welfare. Original in Chinese
- Wei Ai-mei (2010). *Research on Criminal Justice System Responses to Domestic Violence Incidents*. Ph.D. thesis at the Department of Crime Prevention and

Corrections of Central Police University. Original in Chinese  
Chang Chin-li, Yan Yu-ju, Liao Mei-ling, Wei Ai-mei, Liu Chen-ju, Yao Shu-wen (2011).  
*Gender Equality and Domestic Violence Prevention*. Taiwan Police College.  
Original in Chinese  
Modern Women's Foundation (2010). *Guidebook on the Prevention of Intimate  
Partner Violence at the Workplace*. Modern Women's Foundation. Taipei. Liao  
Shu-wen (2012). *Police Difficulties in Executing Protection Orders and  
Counter-Policies*. Presented at 2012 Taiwan Police College Symposium on the  
Protection Aspects of Protection Orders. Original in Chinese