# Review of Taiwan's Second Report on the Implementation of CEDAW

# Conclusions and Recommendations of the Review Committee 26 June 2014

## A. INTRODUCTION

1. The government of Taiwan voluntarily signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2007, and in 2009 produced its first CEDAW report. The report was reviewed in March 2009 by three international experts. On 8 June 2011, the Enforcement Act of CEDAW was promulgated and became effective on 1 January 2012. In 2013, the second report on CEDAW was drafted and finalized, which involved 32 government institutions under the Executive Yuan, Legislative Yuan, Judicial Yuan, Examination Yuan and Control Yuan.

2. With the intention of holding the second CEDAW Review, the government of Taiwan invited five international experts to function as members of the Review Committee. They were: Ms. Violet Awori (Kenya), Ms. Rea Abada Chiongson (Philippines), Ms. Mary Shanthi Dairiam (Malaysia), Ms. Denise Scotto (USA), and Ms. Heisoo Shin, Chairperson (Republic of Korea), who participated in their personal capacity. The five experts examined the second CEDAW report of Taiwan and provided a list of issues and questions on 23 May 2014, to which the government of Taiwan provided replies on 10 June 2014. The experts also received 30 NGO reports on various issues.

3. The government of Taiwan hosted the "CEDAW Review and Presentation of the ROC (Taiwan) CEDAW Second National Report," which was held on 23-26 June 2014 at the Howard Civil Service International House in Taipei. The constructive dialogue with the government delegation was held on 24 June 2014. The Review Committee was extremely pleased with the extensive participation of more than 200 government officials from all five Yuans and other agencies.

4. The Review Committee was also impressed with the active participation of approximately 100 NGO representatives, who were involved in all processes of the Review.

5. While appreciating the efforts shown by the government during this process, the Review Committee would like to emphasize that the government of Taiwan must show its further commitment to CEDAW through the full implementation of these conclusions and recommendations. In addition, constructive engagement and cooperation with civil society and NGOs are critical to the successful implementation of CEDAW.

## B. CONCLUSIONS AND RECOMMENDATIONS

### *Comprehensive Law on Gender Equality*

6. The Review Committee is concerned that despite the guarantee of equality for all people in article 7 of the Constitution of Taiwan, there is no legal definition of discrimination against women. It is also concerned that there is no law addressing multiple and intersecting forms of discrimination against women, including indigenous women, rural women, migrant women, women with disabilities, and lesbians, bisexuals, transsexuals and intersex persons(LBTI).

**The Review Committee reiterates the recommendation of the International**

**Group of Independent Experts on ICCPR and ICESCR issued in Taipei on 1 March 2013, that the government enact comprehensive legislation covering all fields of gender equality, with a view to:**

- **(i) including the definition of discrimination in accordance with article 1 of CEDAW;**
- **(ii) addressing multiple and intersecting forms of discrimination;**
- **(iii) mandating the implementation of gender mainstreaming and gender budgeting;**
- **(iv) systematically adopting temporary special measures to accelerate de facto equality of women;**
- **(v) allocating sufficient human and financial resources for the effective implementation of the law;**
- **(vi) systematically collecting and analyzing data disaggregated by sex and other relevant criteria; and**
- **(vii) conducting gender impact assessments and monitoring trends over time, progress made, and results achieved.**

**The Review Committee recommends that a time frame be set for its drafting and adoption, and that members of civil society are included in the drafting team**.

***Repeal of Discriminatory Laws and Provisions***

7. While the Review Committee appreciates that 33,157 laws, regulations and measures have been reviewed and discriminatory provisions repealed between 2012-2014 using a check list of indicators, it is concerned that given such a large number of laws, this exercise needs to be periodically revisited in light of women's realities and CEDAW Committee's evolving jurisprudence.

**The Review Committee recommends that situational analysis on women's human rights be done at regular intervals, the checklist of indicators be**

**revised accordingly, and further in-depth reviews of laws, regulations and measures be undertaken.**

***National Human Rights Institution***

8. **The Review Committee reiterates the recommendations from the first CEDAW review in 2009 and the International Group of Independent Experts on ICCPR and ICESCR to establish an independent national human rights institution in accordance with the Paris Principles. The Review Committee recommends that a specific time frame be set for the establishment of this institution and for the development of a national action plan for the promotion and protection of human rights.**

***National Machinery on Women and Gender Mainstreaming:***

9. While the Review Committee recognizes the government's establishment of the Gender Equality Committee under the Office of the Prime Minister, and the Department of Gender Equality of the Executive Yuan as the national machinery on women, as well as many CEDAW training programs conducted for government officials, there is no assessment of gender mainstreaming efforts into the work of ministries and local governments. The Review Committee is concerned that the budget of the Department of Gender Equality is mainly for the salaries of the staff while the budget for the implementation of the Gender Equality Act is insufficient.

**The Review Committee recommends that the government assess the extent and effectiveness of its efforts to mainstream gender equality into all ministries and local governments. The Review Committee also recommends that the Department of Gender Equality be provided with sufficient human and financial resources to carry out the necessary work in realizing legal and**

**substantive gender equality.**

***CEDAW Training and Impact Assessment***

10. While acknowledging the numerous trainings conducted for the Judicial and Executive Yuan on CEDAW, the Review Committee is concerned that there is no impact assessment of such trainings, including whether those trained are applying CEDAW in their work, in particular as a framework for the drafting of laws, policies and court decisions.

**The Review Committee recommends that the government conduct an impact assessment of training courses, and future trainings on CEDAW for the Judicial and the Executive Yuan be modified accordingly.**

11. The Review Committee is concerned that there is no systematic registration of court cases disaggregated by sex or other categories, hindering any assessment of judges' application of CEDAW in their decisions.

**The Review Committee recommends that:**

- **(i) court cases be systematically registered, disaggregated by sex and other categories;**
- **(ii) court decisions be analyzed for their compliance with CEDAW and other international human rights standards; and**
- **(iii) court decisions be used to assess the impact of CEDAW and human rights training.**

***Access to Justice***

12. The Review Committee is concerned that women have difficulty accessing the courts and receiving justice. It received alternative information that this is due in part to the shortage of judges, resulting in the delay in hearing court cases and

obtaining court orders. Other challenges include cost, distance and language barriers.

**The Review Committee recommends that the government conduct a study of all the impediments for women to access the courts and remedies. This includes setting a reasonable time frame for increasing the number of judges, improving legal aid and legal rights information for marginalized women, and providing effective and independent court interpreters for women in need.**

### *Gender Roles and Stereotyping*

13. The Review Committee is concerned about the deeply entrenched traditional gender stereotypes within the family and society that continue to portray women and girls as inferior to men and as objects of male sexual desire.

**The Review Committee recommends that the government devise a comprehensive awareness raising program and education using a multi-media approach to addressing gender stereotypes within the family and society. It also recommends highlighting women's achievements, men's equal sharing of family responsibilities, and increasing efforts to engage men and boys in redefining masculinity.**

### *Role of the Media*

14. The Review Committee is concerned about media disclosure of the identity of victims of gender-based violence. The Review Committee is also concerned that journalists and news outlets are not governed by any law that protects the privacy of women victims of gender-based violence.

**The Review Committee recommends that the government monitor**

**compliance with the Guidelines for Broadcasters of Gender-Specific Contents as amended in 2012 and other relevant laws, collect data on sanctions imposed, and provide the information in the next report. It also recommends that the government create a Media Ethics Committee to monitor compliance with privacy laws.**

***Trafficking and Exploitation of Women***

15. While commending the government's efforts to combat trafficking in women, the Review Committee is concerned that the proposed draft amendments to the Prevention of Human Trafficking Law is not in compliance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention on Transnational Organized Crime.

**The Review Committee recommends that the government draft amendments be revised in accordance with the Protocol. It also suggests that views of civil society and experts on trafficking in women be reflected.**

16. The Review Committee expresses its concern on the failure to prevent, investigate and prosecute cybercrimes related to trafficking and exploitation of prostitution.

**The Review Committee urges the government to establish a permanent, dedicated unit within the National Police Department to prevent and investigate these cybercrimes. It also recommends that this information be shared across other investigatory and command units as well as with the Department of Gender Equality, with safeguards to protect the human rights of those involved.**

***Violence against Women and Girls***

17. Although there have been many training programs on CEDAW or gender equality for judges, the Review Committee is gravely concerned that in a case involving a six-year old, the judges wrongfully deliberated the issue of consent when this did not arise in a statutory rape case.

**The Review Committee strongly recommends that the government undertake a study on the prevalence of this kind of wrongful application of the law by prosecutors and judges. It also urges the government to impose disciplinary sanctions on erring prosecutors and judges.**

18. The Review Committee expresses its concern on the persistence and high prevalence of domestic violence, in particular against marriage immigrants, and the insufficient protection provided to victims of violence. It is also concerned that protection orders to protect victims of such violence from perpetrators are not issued promptly.

**The Review Committee recommends that the government:**

**(i) fully implement the Domestic Violence Protection Act;**

**(ii) allocate specific resources for combatting domestic violence;**

**(iii) conduct an assessment on the current status of domestic violence, effectiveness of policy measures, challenges and ways to overcome them, and proposed future action, and**

**(iv) ensure that protection orders are timely issued as provided by the law.**

***Political and Public Life***

19. While commending the 'one-third principle' on women's representation and

recognizing the increased representation of women at the Central Level, the Review Committee is concerned that the proportion of the women in the Judicial Yuan, in particular in the Constitutional Court and serving as Grand Justice, is comparatively low.

**The Review Committee recommends that the government intensify its efforts to increase the number of women in the Judicial Yuan, especially in the Constitutional Court and serving as Grand Justice, including the creation of a database of qualified female candidates.**

***Nationality of Marriage Immigrants***

20. The Review Committee is concerned that the conditions for marriage immigrants to acquire citizenship in Taiwan do not adequately protect their right to nationality. A marriage immigrant woman, unless from China, Hong Kong or Macao, is required to give up her original nationality when she applies for naturalization. If she is divorced before naturalization, or if she does not pass the naturalization test, her residence certificate will be cancelled and she will be required to leave Taiwan within a short period of time. This will result in her being stateless. Her children, if not recognized by her husband, will also become stateless. The Review Committee is also concerned that even after naturalization, her citizenship can be revoked if she incurs a criminal record within five years of marriage. The Review Committee is further concerned that although the financial conditions for naturalization are somewhat relaxed, the rules are not evenly applied by the local governments.

**The Review Committee urges the government to amend the Nationality Act so that marriage immigrants are not required to give up their original nationality until the acquisition of Taiwanese nationality. The Review**

**Committee also recommends that wives be allowed to stay in Taiwan, with work permits and necessary social security measures, in cases of a husband's death or disappearance or divorce due to a husband's fault such as domestic violence. When a criminal record is incurred by the marriage immigrant, the Review Committee further recommends that her Taiwanese citizenship not be revoked after naturalization, unless the record is based on fraudulent marriage. The Review Committee additionally requests uniform application of the relaxed financial conditions throughout Taiwan.**

***Education and Training***

21. While noting the range of measures, the Review Committee expresses concern on the persistence of gender segregation in the field of higher education, which is reflective of stereotypical educational choices and impacts on employment opportunities for women.

**The Review Committee recommends that the government strengthen measures to eliminate gender stereotypes and structural barriers that deter girls and boys from enrollment in non-traditional educational disciplines, including increasing awareness against gender stereotypes in one's choice of study; providing improved education and career advice service providers; and adopting temporary special measures to accelerate participation of women in science and engineering fields, setting clear targets and a time frame for the improvement of this situation without delay.**

22. The Review Committee is concerned about the lack of progress in the development of teaching materials at all levels on sexual orientation and gender identities, as recommended by the International Group of Independent Experts on ICCPR and ICESCR. The Review Committee is also concerned that there is no

periodic monitoring and review system in place to ensure that existing gender equality indicators and textbook review principles are in compliance with CEDAW and the Gender Equity Education Act.

**The Review Committee recommends that the government:**

**(i) develop more awareness campaigns and teaching materials on gender diversity for all levels in consultation with gender equality experts in government, academia and civil society groups as well as with the LBTI community;**

**(ii) ensure that regular and adequate training for all teachers, professors, coaches, school administrators and gender equity education committee members be given periodically on these teaching materials;**

**(iii) ensure implementation of the Gender Equity Education Act by requiring schools to undertake targeted measures for the protection and promotion of the rights of students who are marginalized or discriminated on account of sexual orientation or gender identities; and**

**(iv) establish a periodic and inclusive review and monitoring mechanism to verify the effective implementation and impact of the gender equality education indicators and textbook review principles.**

23. The Review Committee is concerned about the reports of sexual bullying and sexual harassment at all education levels and in training settings, especially those committed by teachers, professors and school administrators. It is equally concerned about the lack of preventive measures and detailed information on sexual bullying and sexual harassment.

**The Review Committee recommends that the government:**

**(i) initiate rigorous data collection on prevalence and incidence of sexual bullying and sexual harassment at all education levels and training settings, and whether these impact disproportionately on particular groups of women and girls; and**

**(ii) set up pro-active preventive and support services for victims of sexual bullying and sexual harassment at all educational levels and in training settings.**

24. Although measures are in place to encourage girls to return to school during or after pregnancy, there are limited services to address challenges, financial, social, and psychological, faced by them in their dual roles as mothers and students and the stigma they encounter.

**The Review Committee urges the government to provide necessary support services for girls returning to school during or after pregnancy, including accessible and affordable childcare services, psychological counseling, confidence-building and parenting classes, financial assistance, opportunities for home-based schooling or flexible schedules, and peer and support groups. The availability of these support services should be publicized.**

***Employment and Economic Opportunities***

25. Considering the high level of education of women, the Review Committee expresses concern that there is a big gap in women and men's labor force participation, reaching as high as 33% in certain age groups. It is also concerned that the percentage of women in the total number of persons not economically active amounts to more than 60% in 2012. The Review Committee notes that

women's primary responsibility in the family is one of the main reasons for their low participation.

**The Review Committee urges the government to increase women's labor force participation through the provision of accessible and affordable childcare services and temporary special measures with specific targets and time frame. It also recommends that the government undertake a comprehensive study to develop policies to increase women's labor force participation.**

26. Although the wage gap has decreased from 18.1% in 2009 to 16.6% in 2012, the Review Committee expresses its concern over its persistence.

**The Review Committee urges the government to collect comparative information on wages by gender, skill level, sector, occupation, age and ethnicity, and develop concrete measures with specific targets and enforcement mechanisms to address the wage gap and other barriers to ensure that women enjoy equal pay for work of equal value.**

27. While noting the efforts to improve conditions of female migrant workers, including the setting up of a foreign workers hotline in 2009, and the submission of the draft Domestic Workers Protection Act to the Executive Yuan, the Review Committee expresses its concern over the lack of legal protection for the rights of domestic workers, who are mostly female and among the most vulnerable of migrant workers.

**The Review Committee recommends that the government provide legal protection to domestic and migrant workers, including through the adoption of a comprehensive law on domestic workers in compliance with CEDAW, its Committee's General Recommendation No. 26 on women migrant workers,**

**the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and the ILO Convention concerning Decent Work for Domestic Workers. The Review Committee also urges the implementation of the recommendation of the International Group of Independent Experts on ICCPR and ICESCR on migrant workers and their labor conditions.**

***Right to Health***

28. While the Review Committee commends the government for the adoption of a Women's Health Policy in 2008, it is concerned that there is no action plan and budgetary allocations for the implementation of this policy. It is also concerned that although the health insurance coverage is extensive, there is inadequate access to health services by rural women and other vulnerable groups, which may be due in part to the poor quality of services in the rural areas.

**The Review Committee recommends that:**

**(i) an action plan for the Women's Health Policy be drawn up and budgetary allocations be made;**

**(ii) the action plan view health not simply as the absence of disease but as being in a state of good health and include short and long term actions for access to health services for rural women and other vulnerable and marginalized groups, including migrant women and women with disabilities;**

**(iii) mental health programs be given due importance in addressing gendered concerns such as social determinants of women's mental health as well as biological determinants such as postpartum depression; and**

**(iv) the Women's Health Policy include a strong component on adolescent health, such as prevention of early pregnancy,**

**reduction in abortions, plus availability of reproductive and sexual health information and services for teenagers and young unmarried adults.**

***Women with HIV/AIDS***

29. The Review Committee is concerned that the government has a restrictive policy relating to HIV-positive aliens, most of whom are women, including mandatory HIV testing and the requirement that all HIV-positive aliens, including spouses of nationals of Taiwan, leave the country. The Review Committee confirms that these restrictive policies are in clear contravention of the approaches endorsed by WHO and UNAIDS and constitute violations of various human rights, in particular the rights to health, privacy, freedom of movement, equality and non-discrimination.

**The Review Committee recommends that the government abolish the mandatory HIV testing requirement and lift the respective restrictions on the entry, stay and residence of women living with HIV/AIDS.**

***Rural Women***

30. The Review Committee is deeply concerned that rural women are not invited to participate in the elaboration and implementation of the national or local rural development plans. It is also concerned that the percentage of women in the decision-making positions of the Farmers' Association, Fishermen's Association and Irrigation Association are very low, and there are no women's committees to represent rural women's interests. It is also concerned that the capacity building programs of the Farmers' Associations and the Fishermen's Associations are home economic classes, with almost all of the participants being women, which reinforces the gender stereotypes.

**The Review Committee recommends that the government include women in the elaboration and implementation of rural development plans, both national and local. It also recommends that the 'one-third principle' be applied to the decision-making positions of the Farmers', Fishermen's and Irrigation Associations. It additionally urges the government to undertake capacity building and educational programs for rural women providing them information and skills on modern ways of production, sales, marketing, and financial management. The Review Committee further recommends that the government allocate funds for projects identified by rural women, including forming their own cooperatives.**

***Indigenous Women***

31. While commending the appointment of women officials to the Council on Indigenous Peoples during the recent months, the Review Committee is concerned about the low level of representation of indigenous women serving in decision-making positions. It is further concerned about indigenous women's limited participation in the design, formulation, implementation and evaluation of economic and employment programs for indigenous communities.

**The Review Committee recommends that the government apply temporary special measures including the 'one third principle' to increase indigenous women's representation. It also recommends that the government collect data relating to the participation of indigenous women in local public elections and local public affairs. It further recommends that the government assess the effectiveness of its existing measures for indigenous women and periodically consult with indigenous women on economic and employment programs for indigenous communities.**

***Women with Disabilities***

32. The Review Committee confirms the multiple forms of discrimination experienced by women with disabilities, especially those with intellectual disabilities, who suffer multiple forms of discrimination. It is concerned that there is no comprehensive data on women with disabilities disaggregated by age, types of disability, ethnicity, rural or urban and other relevant criteria to fully assess their situation.

**The Review Committee recommends that the government collect data on women with disabilities disaggregated by all relevant criteria and develop a comprehensive policy and action plan based on the information collected.**

***Marriage and Family Relations***

33. The Review Committee is concerned at the lack of legal recognition of the diversity of families in the country and that only heterosexual marriages are recognized but not same sex unions or cohabiting partnerships. The Review Committee is also concerned about the lack of statistical data on unregistered unions.

**The Review Committee recommends that the government amend the Civil Code to recognize the diversity of families in the country. It also recommends that steps be taken to collect and collate data on unregistered unions and provide the information in the next report.**

34. The Review Committee is concerned about the provisions of the 2008 Executive Order regulating the process of gender change and requiring inter alia, the surgical removal of reproductive organs before qualifying for registration. It is further concerned at the lack of statistical data on transgender persons and at

the pace of legislative reform.

**The Review Committee recommends that the Government adopt the views of the Ministry of Health and Welfare meeting on 9 December 2013 where it was recognized that "gender identity is a basic human right and that it is not necessary to force or require extirpation of reproductive organs as individual inclination should be respected". It further recommends that steps be taken to abolish the discriminatory provision of the above executive order.**

35. The Review Committee is concerned that although the Executive Yuan reviewed and approved draft amendments that set the minimum engagement age at 17 and marriage age at 18 for both men and women, the Legislative Yuan decided not to deliberate on them.

**The Review Committee urges that the government sets the minimum age for marriage at 18 for both men and women.**