

**Responses to the List of Issues
for the Fourth ICCPR and ICESCR Review**

**National Human Rights Commission
February 2026**

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Chapter I: International Covenant on Economic, Social and Cultural Rights (ICESCR)

I. Para. 6: National Human Rights Commission (Arts. 1-5)

Para.	List of Issues
6	<p>National Human Rights Commission (Arts. 1-5)</p> <p>6. While recognizing the 2022 Review Committee's recommendation on the National Human Rights Commission (General Issues, para. 12) and the NHRC's detailed explanation on its implementation of the recommendation, the civil society organisations, in particular Amnesty International (Section 3, paras 3.1 to 3.4) and Covenants Watch (Section II, para 3 & responses to COR points 12, 53, 66, paras 63-66) raise concerns about limited effectiveness of the NHRC, which are attributed to: (1) Significant cuts in NHRC budget; (2) Absence of empowering legislation and enforcement powers; and (3) Lack of legally guaranteed independence within the Control Yuan. Under these circumstances, please provide information to the following:</p> <p>(a) Please provide examples of when the Executive Yuan has acted on the recommendations of the NHRC;</p> <p>(b) What was the justification for so severely cutting the budget of the NHRC?</p> <p>(c) Please provide information on the absence of enabling legislation to strengthen the mandate of the NHRC by guaranteeing its independence within the Control Yuan and specifying its powers to deal with serious systemic human rights violations as well as effectively promote human rights across all sectors of society.</p>

NHRC Response:

- (1) A compilation of specific cases in which the Executive Yuan (EY) has adopted the recommendations of the National Human Rights Commission (NHRC) is as follows:

No.	Cases in which NHRC issued recommendations	Specific actions adopted by Executive Yuan
1	Investigative Report - Complaint Filed by the Taoyuan Flight Attendants Union Regarding Gender Discriminatory Dress Codes Adopted by Taiwanese Airline Companies	<p>The investigative report published by the NHRC in August 2024 prompted:</p> <p>(1) Between September 2024 and April 2025, Taiwanese airlines successively revised their dress code policies and introduced trouser uniform options.</p> <p>(2) In April 2025, the Ministry of Labor (MOL) issued a directive on matters requiring attention in relation to dress code policies for cabin crew, requiring employers to avoid imposing additional requirements on a specific gender that do not apply to other cabin crew members, and calling on employers to formulate such policies through consultation</p>

No.	Cases in which NHRC issued recommendations	Specific actions adopted by Executive Yuan
		<p>with labor unions.</p> <p>(3) In September 2025, the EY Gender Equality Committee resolved that the MOL shall promote dress code policies across industries in line with gender equality and incorporate this objective into its 2026-2029 Gender Equality Promotion Plan.</p>
2	<p>Investigative Report - Conviction of Military Reservists Refusing Educational Recalls on Religious Grounds</p>	<p>The Ministry of National Defense has adopted NHRC's recommendations and is formulating Operational Guidelines for Reservists Requesting Non-Military Combat Training During Educational Recalls on Religious Grounds. Referencing the existing review mechanism for substitute service based on religious factors for conscripts, the Ministry has</p>

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		preliminarily established application requirements, procedures, and a review mechanism as a proactive response to the NHRC's investigative report.
3	Systematic Inquiry Special Report - Youth and Child Sexual Assault on Campus and in Placement Facilities	Given that victims of sexual offenses committed against minors are not yet fully mature in their physical and mental development at the time of offense and are therefore unable to fully understand their legal rights, special provisions are required for the statute of limitations for prosecution. The EY has approved draft amendments to certain provisions of the <i>Criminal Code</i> and the <i>Enforcement Law of the Criminal Code</i> . The draft amendments to the <i>Criminal Code</i> expressly provide that the period prior to the victim reaching 20

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		<p>years of age shall not be counted toward the statute of limitations for prosecution. Corresponding amendments to the <i>Enforcement Law</i> provide that, in cases where the statute of limitations has commenced but has not yet expired, the new provisions shall also apply, in order to fully protect victims of sexual offenses committed against minors.</p>
4	Investigative Report - the Lin Shui-chuan's Case	<p>Following the publication of the investigative report, the Legislative Yuan in 2022 added Article 6-1 to the <i>Act on Promoting Transitional Justice</i>. Pursuant to the amended law, the Ministry of Justice (MOJ) accepted the application filed by Mr. Lin Shui-chuan and, in 2023, approved the first case of redress for an “administrative illegality” from the martial</p>

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		law period. The MOJ publicly announced the decision and referred the matter to the competent authority to expunge Mr. Lin's prior criminal record.
5	Special Report - the NHRC "Consolidated Cases from Control Yuan Investigations into Rights Violations due to Unlawful State Actions over the Years"	Following the publication of the NHRC report in 2023, the EY undertook the following actions: (1) The Ministry of Education (MOE) conducted a comprehensive review of 815 political victims who had the status of teaching personnel or students nationwide, covering all levels of education from elementary schools to universities and colleges, including 560 teaching personnel and 255 students, with National Taiwan University

No.	Cases in which NHRC issued recommendations	Specific actions adopted by Executive Yuan
		<p>accounting for the largest number at 76 individuals. With reference to the opinions and relevant cases set forth in the NHRC report, the MOE, on September 23, 2025, formulated the <i>Principles for Handling the Restoration of Reputation of Victims with Teaching Personnel or Student Status of State Illegality during the Period of Authoritarian Rule</i>, incorporating them into the National Transitional Justice Education Action Plan (2023-2026) and integrating them into transitional justice education.</p> <p>(2) The National Development Council</p>

No.	Cases in which NHRC issued recommendations	Specific actions adopted by Executive Yuan
		<p>and the MOJ completed draft amendments to certain provisions of the <i>Political Archives Act</i> and the <i>Classified National Security Information Protection Act</i>, which were subsequently passed by the Legislative Yuan. These amendments promoted greater openness in the legislative process and accelerated the declassification of political and national security-related archives, including the deletion of provisions on permanent classification. A total of 20,486 cases and an additional 416 political archives that had already been transferred but were</p>

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		<p>previously restricted from access on the grounds of national security or foreign relations have been made available for access.</p> <p>(3) Following investigations into six individuals each in the Luku Incident and the Taiyuan Incident, some individuals have obtained redress for administrative illegality or judicial illegality, or have received compensation. In addition, for certain cases arising from the Luku Incident, the MOJ initiated investigations ex officio.</p>
6	Special Report - How Migrant Workers Raise Their Children in Foreign Countries	In response to NHRC's recommendations on safeguarding the fundamental rights and interests of dependent

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		<p>children and youth concealed in Taiwan with parents who are unaccounted-for migrant workers, the EY has developed supporting measures across four areas of need: National Health Insurance, routine childhood vaccinations, childcare resources and subsidies for children aged 0-2, and access to preschool education for children aged 2-6. These measures aim to reduce the risk that unaccounted-for migrant workers refrain from seeking assistance out of fear of detection and apprehension.</p> <p>In this regard, on April 8, 2025, the Ministry of the Interior amended and issued the <i>Directions for NGOs Assisting in Applications for the Assignment of a Uniform ID Number for Children and</i></p>

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		<p><i>Youth of Overstaying Foreign Nationals Concealed in Taiwan with Their Father or Mother</i>, providing for assistance by NGOs and local social affairs authorities in applying for a Uniform ID Number. In addition, on May 5, 2025, the Ministry of Health and Welfare (MOHW) issued the <i>Guidelines of the MOHW on Medical Care and Welfare Subsidies for Children and Youth Whose Father or Mother Is an Unaccounted-for Foreign Migrant Worker</i>, to serve as a reference for local governments in providing living assistance and medical subsidies to dependent children and youth concealed with unaccounted-for migrant worker parents.</p>
7	Special Report — Rights of Inmates with Disabilities	The MOJ has adopted the following recommendations

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		<p>in the NHRC report:</p> <p>(1) In 2025, it implemented the Project Plan of the MOJ Agency of Corrections for Providing In-kind or Cash Assistance to Economically Disadvantaged and Financially Vulnerable Inmates, allocating funding to provide in-kind and cash assistance to vulnerable inmates.</p> <p>(2) The MOJ was prompted to simplify the procedures for inmates to apply for disability certification and reassessment.</p> <p>(3) The MOJ was prompted to approve the Health Care Plan for Elderly Inmates of the Agency of Corrections, thereby</p>

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		strengthening long-term care for inmates with disabilities and elderly inmates within correctional institutions.
8	Special Report - Addressing the Issue of Support Systems for Persons with Intellectual Disabilities and Severe Emotional and Behavioral Disorders	In response to NHRC's recommendations, the EY has undertaken to include, in the course of amending the <i>Regulations on Selection and Training of Professional Workers Providing Welfare Services for People with Disabilities</i> , the qualifications and eligibility requirements for behavioral counselors for further deliberation. It has also incorporated relevant personnel within the disability service system, the long-term care service system, and community networks into the scope of training programs. In

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		<p>addition, it will continue, through a working meeting mechanism, to discuss performance evaluation indicators for intermediary institutions and to establish consistent criteria for case intake and case closure.</p>
9	Guidelines for Reasonable Accommodation for Persons with Disabilities	<p>(1) In 2023, the NHRC issued the Guidelines for Reasonable Accommodation for Persons with Disabilities and sent them to all administrative agencies for reference, recommending that government agencies develop reasonable accommodation guidelines in accordance with their respective mandates.</p> <p>(2) Administrative agencies have</p>

No.	Cases in which NHRC issued recommendations	Specific actions adopted by Executive Yuan
		<p>successively issued guidelines related to reasonable accommodation within their respective mandates. For example, the MOL Workforce Development Agency compiled the Handbook on Reasonable Accommodation Guidelines for Employment Services for Persons with Disabilities; the MOHW formulated the Principles for Agencies in Developing Reasonable Accommodation Guidelines; the EY Directorate-General of Personnel Administration formulated the Directions for the</p>

No.	Cases in which NHRC issued recommendations	Specific actions adopted by Executive Yuan
		<p>Handling and Implementation of Personnel Cases Involving Applications for Reasonable Accommodation by Civil Servants with Disabilities in the Executive Yuan and Its Subordinate Central and Local Agencies; and the MOL formulated the Administrative Guidance on Reasonable Accommodation in the Workplace for Persons with Disabilities.</p>
10	Special Report - Education and Labor Rights of International Students in Taiwan	<p>In response to NHRC's recommendations, the MOE has engaged in inter-ministerial consultations with the MOL regarding the legislative process for the draft <i>Act Governing Off-</i></p>

No.	Cases in which NHRC issued recommendations	Specific actions adopted by Executive Yuan
		<p><i>campus Internship Education at Junior Colleges and Above.</i> The National Immigration Agency of the Ministry of the Interior (MOI) has incorporated “issues concerning international students” into the Chinese and English versions of the Action Plan Against Exploitation and conducts semi-annual follow-ups on the implementation outcomes of relevant ministries and agencies. It also maintains close exchanges with U.S. representatives on issues related to the prevention of human trafficking through the liaison window of the American Institute in Taiwan (AIT).</p>
11	Special Report - Road to Migrant Fishers' Rights	The EY has accelerated the formulation of the Action Plan for Fisheries and

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		Human Rights.
12	Special Report - Going Offline	Six of the nine recommendations in the NHRC report have been incorporated into the updated draft of the EY's Action Plan for Fisheries and Human Rights for continued implementation, and two recommendations are to be reviewed at an appropriate time.
13	In its Independent Opinion on the Second National Report under the CRC, the NHRC raised recommendations regarding the provisions in the <i>Civil Code</i> that allow parents to discipline their children.	The MOJ adopted the substance of NHRC's Independent Opinion and, in 2023, prepared a draft amendment to Article 1085 of the <i>Civil Code</i> . The draft amendment expressly provides that "no physical or psychological violence shall be inflicted upon children."
14	Comments and Recommendations on the Draft Amendments to the <i>People with Disabilities Rights</i>	In the draft amendments, the EY incorporated provisions on independent living support services; established

No.	Cases in which NHRC issued recommendations	Specific actions adopted by Executive Yuan
	<i>Protection Act</i>	complaint mechanisms and corresponding penalties concerning reasonable accommodation; and expressly provided that a person who has committed the offense of domestic violence and received a deferred prosecution disposition or a final conviction shall not serve as the head (director) of a welfare institution for persons with disabilities.

- (2) Pursuant to Article 1 of the *Organic Act of the Control Yuan National Human Rights Commission*, the Control Yuan establishes the National Human Rights Commission (NHRC), and the Commission’s annual budget is incorporated into the Control Yuan’s agency budget. During its review of the 2025 Central Government General Budget, the Legislative Yuan substantially reduced government budget allocations in a manner that obstructed the normal operation of statutory bodies and the exercise of their legally mandated functions. As a result, 96.93% of the NHRC’s operational budget was cut, in violation of the Paris

Principles concerning the financial autonomy and stability of the mandate of national human rights institutions.

- (3) The draft amendments to parts of the *Control Act* (Human Rights Chapter) involving the exercise of powers of the NHRC of the Control Yuan were submitted by the Control Yuan to the Legislative Yuan for deliberation on October 12, 2021. On May 26, 2022, the 22nd plenary meeting of the Judiciary and Statutes Committee during the 5th session of the 10th Legislative Yuan completed the examination and referred the draft for cross-party caucus negotiations; however, it failed to pass the third reading within the term of the 10th Legislative Yuan. Following the inauguration of the 11th Legislative Yuan on February 1, 2024, the Control Yuan resubmitted the draft amendments to the Legislative Yuan for deliberation on July 15, 2024. The draft passed the first reading at the plenary meeting on September 20, 2024, and is currently referred to the Judiciary and Statutes Committee for examination.

II. Para. 7: Indigenous Peoples (Arts. 1-2)

Para.	List of Issues
7	With reference to the <i>Pingpu Indigenous Peoples Status Act</i> , please clarify why the <i>Pingpu</i> peoples were recognized separately from other Indigenous groups by adopting a new law instead of amending the existing one, and how the Government will ensure they enjoy equal economic, social and cultural rights, including land rights, political participation and self-governance. Is additional legislation planned to align their rights with those of other recognized Indigenous peoples and to prevent the creation of a legal hierarchy among Indigenous groups?

NHRC Response:

Regarding the *Pingpu Indigenous Peoples Status Act*, the Executive Yuan proposed a draft in May 2025, which was passed by the Legislative Yuan in its third reading on October 17 of the same year. However, the NHRC had provided opinions early in the legislative process, which were not adopted by the legislature. Based on its duty to protect the right to self-identification and self-determination of indigenous peoples, the NHRC reiterates the following position:

1. Review under International Human Rights Standards

The recognition of indigenous status and the restoration of rights must comply with the following international norms and should not be compromised by domestic legislative techniques:

(1) Right to Self-Determination and Identification

According to Article 1 of the ICCPR and Articles 9, 18, and 33 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), indigenous peoples enjoy the right to self-identification and self-determination. Rectification of names and the recognition of legal status are prerequisites for the realization of collective self-determination. If the State imposes restrictions on this right, it must possess "reasonable and objective justifications."

(2) Anti-Discrimination and Self-Identification

General Recommendation No. 8 of the ICERD explicitly states that the identification of individuals must be based upon the self-identification by the individual concerned, unless there is justification to the contrary; General Recommendation No. 21 also emphasizes that States should respect the autonomous classification of ethnic groups.

(3) Concluding Observations of International Review

Para. 38 of the 2022 Concluding Observations on the Third National Reports under the ICCPR and the ICESCR reiterates that Indigenous Peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. This is an inalienable right.

2. Review of Current Legislative Model

Although the enactment of the *Pingpu Indigenous Peoples Status Act* was intended to respond to Constitutional Court Judgment No. 17 of 2022, the NHRC considers that the final legislative outcome still presents the following gaps in its

institutional design:

(1) **Restrictive Definition of Indigenous Peoples Inconsistent with the Spirit of Constitutional Judgment**

Constitutional Court Judgment No. 17 clearly states that "indigenous peoples" should include "all Austronesian peoples existing in Taiwan," encompassing any groups with cultural characteristics, ethnic identity, and historical records. However, the *Pingpu Indigenous Peoples Status Act* adopts the newly coined term "Pingpu Indigenous Peoples," narrowing the open constitutional definition to a specific group. This classification not only lacks inclusivity but may also exclude other peoples who meet the criteria but are not included in the legal definition. If other Austronesian peoples apply for recognition in the future, will the State be required to continuously enact separate special laws? This legislative model clearly lacks institutional consistency.

(2) **Hierarchical Legal Status and Differential Treatment in Rights**

At the draft stage of the legislation, the NHRC already pointed out that the institutional design did not fully comply with the standards of the UNDRIP, particularly with respect to self-identification and equal protection. Although the current *Act* recognizes status, it defers core rights (such as political participation, land rights, and self-governance) to subsequent legislative amendments within three years. This may result in a significant disparity in the enjoyment of rights between the Pingpu Indigenous Peoples and

Indigenous Peoples already recognized under existing law.

3. Conclusions and Recommendations

The NHRC acknowledges the efforts of the legislature to respond to the constitutional judgment; however, there remains a gap between the current institutional design and international human rights standards. Human rights principles should not be compromised due to challenges in political reality and policy implementation. The NHRC will continue to monitor whether the government can avoid repeating the controversies of the *Indigenous Peoples Status Act* during the upcoming three-year legislative process, ensuring that the accompanying legal amendments truly achieve "substantive equality in status and rights" to maintain ethnic justice and the legitimacy of social integration.

III. Para. 44: Cultural Life (Art. 15)

Para.	List of Issues
44	Please provide information on measures taken to safeguard traditional Indigenous practices and to ensure that laws such as the <i>Wildlife Conservation Act</i> and the <i>Controlling Guns, Ammunition and Knives Act</i> do not leave Indigenous peoples vulnerable to sanctions when hunting, farming or performing ceremonies.

NHRC Response:

The NHRC acknowledges the Forestry and Nature Conservation Agency of the Ministry of Agriculture for providing updated information regarding the progress of legislative amendments that had not been reflected in a timely manner, which was identified in the Independent Opinion for ICESCR. Further analysis of developments in the legal framework is set out below:

1. Recent Legislative Developments

- (1) On February 18, 2025, the amended *Act on Wildlife Conservation* (hereinafter referred to as the *Wildlife Act*) was promulgated, expressly converting hunting activities conducted by Indigenous Peoples for “non-commercial personal use” from criminal penalties to administrative penalties. This measure is consistent with the principles of legality and proportionality under international human rights covenants and reduces excessive interference with the cultural practices of Indigenous Peoples.
- (2) In Criminal Judgment No. 20 of 2023 (Yuansu) of the

Taiwan Pingtung District Court, the defendants were prosecuted for hunting a highly protected Formosan black bear. The court directly applied the amended law and found that their purpose met the requirement of “non-commercial personal use.” Even though the case involved a protected species, the court, in accordance with the spirit of the amended law, held that such conduct did not constitute a criminal offense and therefore rendered a not guilty verdict with respect to the alleged violation of the *Wildlife Act*. This judgment, however, also generated public debate.

- (3) In its Independent Opinion for ICESCR, the NHRC previously assessed that Indigenous Peoples continued to face the “risk of criminal liability” when practicing their hunting culture. This assessment did not fully reflect the latest legislative developments under the *Wildlife Act* concerning the explicit decriminalization of such conduct. The NHRC hereby provides this clarification and will continue to monitor the implementation of the law in administrative practice.

2. Potential Risks in Practice

Although the law has moved toward decriminalization, the NHRC continues to observe that the authority to define what constitutes “culture” remains a practical challenge. Taking the Pingtung black bear hunting case as an example, even though the court of first instance found that the conduct met the requirement of “non-commercial personal use,” if the prosecution were to file an appeal on the grounds that the

manner of the act did not conform to prevailing societal expectations (for example, being perceived as flippant or cruel) and argue that it did not constitute “traditional culture,” the burden of proving that the conduct was culturally appropriate would be placed upon the Indigenous defendant. This would leave the defendant in a structurally disadvantaged position in judicial proceedings.

3. Conclusions and Recommendations

The NHRC affirms that the amendment to the *Wildlife Act* responds to the call for decriminalizing hunting for “non-commercial personal use” and removes the longstanding shadow of criminal penalties over Indigenous Peoples. However, this legislative development has also shifted the focus of human rights protection from the clarity of statutory provisions to the more complex issue of interpretive authority over culture in judicial practice. The positive intent of the law must be accompanied by a judicial system that advances in cultural sensitivity and, during the transitional period of institutional adjustment, provides Indigenous Peoples with adequate support and guidance. Accordingly, the NHRC makes the following recommendations:

(1) Continued Monitoring of Judicial Practice

The Government is recommended to continue monitoring the implementation of the amended *Wildlife Act*, in particular the interpretation of “culture” and “non-commercial personal use” by prosecutorial authorities and courts at all levels during investigation and trial proceedings, in order to ensure that the application of the

law does not deviate from its original purpose of safeguarding cultural rights.

(2) Deepening Cross-Cultural Dialogue

Dialogue and exchanges between judicial and law enforcement agencies and indigenous communities should be strengthened to establish a foundation of mutual trust. Furthermore, the cultural perspectives and taboos of Indigenous Peoples should be incorporated into law enforcement and judicial considerations to bridge the gap between legal regulations and cultural practices.

Chapter II: International Covenant on Civil and Political Rights (ICCPR)

I. Para. 9

Para.	List of Issues
9	What systems exist to collect sex-disaggregated data across ICCPR-protected domains, including policing, detention, political participation, freedom of expression cases, and access to remedies?

NHRC Response:

Upon reviewing the Judicial Yuan’s “2024 Evaluation Report on the Implementation of the Citizen Judges System,”¹ the NHRC considers that the proportion of persons with disabilities among selected citizen judges was relatively low. However, the Judicial Yuan stated that the low proportion resulted from the removal of 506 individuals pursuant to Article 16, paragraph 1, subparagraphs 4 and 5 of the *Citizen Judges Act*,² which may have included persons with disabilities. It further maintained that the relatively low proportion of persons with disabilities among citizen judges and alternate citizen judges in that year is permitted by law, with the purpose of ensuring that citizens’ physical and mental health is not adversely affected by the obligation to participate in trials, while balancing the

¹ Judicial Yuan. (2025). *2024 Evaluation Report on the Implementation of the Citizen Judges System*. <https://www.judicial.gov.tw/tw/cp-2335-1463079-3ea0a-5.html> .

² Pursuant to Article 16, paragraph 1, subparagraph 4 of the *Citizen Judges Act* (where it is obviously difficult to perform the duties of a citizen judge or an alternate citizen judge due to a serious illness, injury, or other physical or psychological conditions), 303 persons were removed. Pursuant to subparagraph 5 of the same paragraph (where the performance of such duties may lead to a serious effect on the person’s physical or mental health), 203 persons were removed.

reflection of citizens’ sense of justice with the psychological and physical burdens associated with participation in adjudication.³

The NHRC considers that the Judicial Yuan should further analyze and ascertain the reasons for the relatively low proportion of persons with disabilities among selected citizen judges, including whether it is attributable to individual circumstances rendering persons with disabilities unable to undertake the duties of a citizen judge, or whether the current system, including accessibility in facility design and the provision of reasonable accommodation and related support services, fails to meet their needs and therefore requires further improvement. It should also examine whether there are concerns of “exclusion in the name of protection” in the process of selecting citizen judges. In response to the implementation of the second phase of the Citizen Judges System, the NHRC recommends that the Judicial Yuan solicit the views of persons with disabilities and their representative organizations, and re-examine and revise the content of Section 3, Chapter 4, “Judicial Assistance for Persons with Disabilities Serving as Citizen Judges,” of the Guidelines on Access to Justice for Persons with Disabilities issued in September 2024 by the Judicial Yuan. It further recommends that the relevant portions be incorporated into the Reference Handbook for Courts on Administrative Affairs Concerning Citizen Judges, issued in January 2026, so as to assist district courts nationwide in administering citizen judge matters and to effectively implement ICCPR Article 3 and CRPD Articles 5, 12, 13, and 29.

³ Judicial Yuan. (2025). *2024 Evaluation Report on the Implementation of the Citizen Judges System* (pp. 33–34).

II. Para. 38

Para.	List of Issues
38	Prison Watch also states that the “Taiwanese legislature and executive branch are currently advancing legislation that would establish life imprisonment without the possibility of parole”. Is this correct? If so, could you please explain how you would reconcile this retrogressive legislation with Taiwan’s obligation under the ICCPR, above all Articles 7 and 10?

NHRC Response:

Regarding the draft amendments to certain provisions of the *Criminal Code* approved by the Executive Yuan, which propose introducing “life imprisonment without the possibility of parole” for serious offenses, the NHRC issued an opinion on January 16, 2025,⁴ stating that although the proposed amendments aim to respond to strong public concerns about social security, permanently excluding any possibility of individualized review through legislation may exceed the limits permitted by the Constitution and international human rights standards and therefore requires careful consideration.

The proposed amendments are more severe than the current law and are primarily intended to respond to Constitutional Court Judgment No. 8 of 2024 and to address strong public concerns in Taiwan regarding social security. International human rights standards do not require States to grant parole as a

⁴ National Human Rights Commission. (2025, January 16). NHRC issues an opinion on the draft proposal of life imprisonment without the possibility of parole. https://nhrc.cy.gov.tw/News_Content.aspx?n=9772&sms=12362&s=7590

matter of course; rather, they require the establishment of a review mechanism that ensures due process, professional assessment, and individualized evaluation to determine whether continued detention remains justified. If life imprisonment “permanently excludes parole”, depriving incarcerated persons for the rest of their lives of any opportunity for review and reassessment of their rehabilitation and risk, the corrective and reintegrative functions of imprisonment would be rendered ineffective and may give rise to a risk of inhuman or degrading treatment.

Furthermore, the legislative rationale cites the United Kingdom as a comparative example. Although the UK provides for “whole life orders”, the core of its system lies in the court’s determination of a “minimum term” in individual cases, after which an independent and professional parole review process is initiated to assess whether continued detention remains necessary. The current draft amendments in Taiwan do not incorporate the design of a “minimum term” or a corresponding review mechanism, creating a gap between the proposed amendments and the spirit of the foreign system cited.

The NHRC reiterates that Taiwan has incorporated several core international human rights covenants into domestic law, and these norms are widely applied in judicial practice. The executive and legislative branches should draw on comparative legal systems and correctional practices to design a more graduated sentencing framework proportionate to culpability, so

as to safeguard social security while ensuring that Taiwan's criminal justice system does not depart from fundamental human rights principles.

On March 13, 2026, the Legislative Yuan passed on third reading the draft amendments to certain provisions of the *Criminal Code* submitted by the Executive Yuan, and the amendments were subsequently promulgated by the President. The original draft's proposed amendments to Article 77 and other related provisions concerning "life imprisonment without the possibility of parole" were not revised in this round of amendments, and the current provisions were maintained.

III. Para. 63

Para.	List of Issues
63	Para. 150 of the <i>Fourth ICCPR Report</i> references the judgment of the Supreme Administrative Court of September 2023 and several other court rulings in 2024 which address gender classification without the requirement of compulsory gender affirmation surgery. Can you confirm whether, as a matter of statutory law, this requirement has now been abandoned and whether the new practice of the courts, which appears to eschew this requirement, has been or is being harmonized across all levels of jurisdiction since the aforementioned 2023 ruling?

NHRC Response:

With respect to registration of gender change, a review of the *Household Registration Act* and the *Enforcement Rules of the Household Registration Act* shows that they only require applicants to submit supporting documents when applying for changes in registered status and do not require the removal of original sex organs. To date, Taiwan has not enacted any law specifically regulating registration of gender change. In the absence of a statutory basis, the Ministry of the Interior has relied solely on Order No. Nei-Shou-Zhong-Hu-Zi-0970066240 of November 3, 2008⁵ (hereinafter, the “November 3, 2008 Order”), requiring applicants to submit “diagnostic certificates issued by

⁵ Ministry of the Interior, Order No. Nei-Shou-Zhong-Hu-Zi-0970066240 (November 3, 2008): With respect to the requirements for household registration authorities to process applications for gender marker changes, the following provisions are restated and shall take effect immediately: (1) An applicant seeking a change from female to male shall submit a diagnostic certificate issued following evaluation by two board-certified psychiatrists and a certificate issued by a qualified medical institution confirming completion of surgery to remove female sex organs, including the breasts, uterus, and ovaries. (2) An applicant seeking a change from male to female shall submit a diagnostic certificate issued following evaluation by two board-certified psychiatrists and a certificate issued by a qualified medical institution confirming completion of surgery to remove male sex organs, including the penis and testes.

two board-certified psychiatrists following evaluation”, and “a certificate issued by a qualified medical institution confirming completion of surgery to remove ‘female sex organs, including breasts, uterus, and ovaries (female-to-male); or male sex organs, including the penis and testes (male-to-female)’”—commonly referred to as sex reassignment surgery, also known as gender-affirming surgery/gender reassignment surgery—as a condition for household registration authorities to process gender registration changes.

However, the above requirements have led to many administrative lawsuits.⁶ Taiwan’s administrative courts have developed a consistent body of case law holding that gender marker changes involve fundamental rights protected by the Constitution, including human dignity, personality rights, the right to gender self-determination, the right to health, and the right to privacy. They have further held that the MOI’s November 3, 2008 Order violates the principle of legal reservation and proportionality, and therefore cannot serve as a legal basis for rejecting an application for gender registration change. The courts have also recognized that where an applicant provides clear evidence showing that their biological sex characteristics do not align with their gender identity, resulting in confusion regarding gender identity such as gender dysphoria and anxiety, the

⁶ Judgments in administrative litigation cases in which household registration authorities were unsuccessful, as provided by the Ministry of the Interior: Taipei High Administrative Court Judgment No. 275 of 2020 (Su) (September 23, 2021); Taipei High Administrative Court Judgment No. 1469 of 2022 (Su) (May 30, 2024); Taipei High Administrative Court Judgment No. 236 of 2022 (Su) (July 11, 2024); Kaohsiung High Administrative Court Judgment No. 28 of 2023 (Su-Geng-I) (July 17, 2024); Taipei High Administrative Court Judgment No. 522 of 2021 (Su) (August 26, 2024); Kaohsiung High Administrative Court Judgment No. 155 of 2024 (Su) (September 25, 2024); Taipei High Administrative Court Judgment No. 1067 of 2023 (Su) (August 15, 2024); and Taipei High Administrative Court Judgment No. 1213 of 2024 (Su) (June 19, 2025).

applicant is entitled to exercise the right to apply for a gender registration change in order to affirm their gender identity, without being required to submit proof of having undergone sex reassignment surgery.

The NHRC notes that para. 72 of the Concluding Observations and Recommendations (CORs) on the Second National Reports under the International Covenants,⁷ para. 86 of the CORs on the Third National Reports,⁸ and para. 34 of the Conclusions and Recommendations on the Second National Report under the CEDAW⁹ have all affirmed that gender identity is a fundamental human right and that surgical requirements for gender registration changes should be abolished. However, the MOI has made slow progress in revising and codifying the requirements for gender registration changes and has not taken proactive measures pending legislative reform. This indicates that the Government has not fully implemented its obligations under the Constitution and international human rights conventions, resulting in local household authorities continuing to apply the Ministry's November 3, 2008 Order and causing transgender persons to endure repeated rejections of their applications and

7 The Review Committee welcomes the various activities of the Government to combat homophobia and to raise awareness for gender diversity. With respect to transgender persons the Committee recommends, however, that the Government provide for explicit legal recognition of their freely chosen gender identity, without unnecessary restrictions.

8 The Review Committee was concerned to learn about the requirement of compulsory gender affirmation surgery as a precondition for a change of gender classification. This practice should be abolished with immediate effect.

9 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.

subsequent administrative appeals.

The NHRC recommends that the Executive Yuan and its subordinate agencies, in accordance with the purposes of the ICCPR, the ICESCR, and the CEDAW, and with reference to domestic court decisions and international legislative developments, approve applications for gender registration change without infringing upon individuals' bodily integrity, right to health, human dignity, or personality rights, in order to fulfill the State's obligations.

Furthermore, transgender persons are diverse in their circumstances, and their psychological or medical treatment needs vary. The NHRC recommends that the Executive Yuan, in coordination with its subordinate agencies, assess the living conditions and needs of the community in order to provide appropriate social welfare, medical, and legal aid resources and support, and to strengthen public communication and education to eliminate prejudice and discrimination against transgender persons.

IV. Paras. 70-71

Para.	List of Issues
70	Paras. 238–239 of the Fourth ICCPR Report require conscientious objectors to belong to an “officially registered” religion and in some cases undergo psychological evaluation. How is non-discrimination ensured in line with Article 18 and General Comment No. 22?
71	Are limitations on duties or assignments of conscientious objectors consistent with Article 18? What options exist for ethical or non-religious objectors?

NHRC Response:

1. Background of the Investigation: Gaps in the Protection of Conscientious Objection for Military Reservists under the Current Legal Framework

Upon receiving a complaint and initiating an investigation, the NHRC found that the current conscription system lacks safeguards for “military reservists” who refuse to participate in educational recall training on grounds of conscience or religious belief. In the case concerned, the individual converted to a religion (such as Jehovah’s Witnesses) after completing compulsory military service and, based on religious doctrine and conscience, refused to participate in subsequent military training and assignments. As a result of failing to report for educational recall training as ordered, the individual was sentenced to a term of imprisonment. The NHRC’s investigation indicates that, in practice, military reservists have repeatedly been subjected to criminal penalties for such reasons, highlighting the absence of a corresponding legal framework for “conscientious objectors who have already completed active service.”

2. Gap in Human Rights Standards: Differential Treatment Based on Status Contrary to the Principle of Non-Discrimination

Pursuant to Article 18 of the ICCPR and General Comment No. 22, the right to conscientious objection to military service on grounds of belief must be protected and free from discrimination. A review of the current legal framework reveals a clear and unjustified differential treatment:

(1) Conscripts who have not yet performed military service:

A substitute service system has been established, allowing applications on grounds of religious belief or other special reasons and providing non-military alternatives in lieu of military training.

(2) Military reservists:

The current *Act of Military Service System* does not provide a corresponding substitute service option. As a result, if an individual develops conscientious objections only after discharge from active service, no lawful avenue is available, and the individual faces criminal penalties.

Such differential treatment based on status (conscripts who have not yet served versus reservists) or on the timing of the formation of religious belief fails to adequately protect freedom of religion and human dignity and is inconsistent with the ICCPR's requirement of equality and non-discrimination.

3. NHRC Conclusions and Recommendations

Based on its findings and the purposes of the international human rights covenants, the NHRC maintains that the State

should review and amend relevant legislation to strike a balance between national security and fundamental rights. The specific conclusions and recommendations are as follows:

(1) Address Legal Deficiencies:

The current legal framework provides no alternative for military reservists who refuse military recall on grounds of religious belief and subjects them to criminal penalties, which is inconsistent with international human rights standards.

(2) Eliminate Discriminatory Treatment:

The existing substitute service mechanism is limited to conscripts prior to active service and does not extend to military reservists, resulting in unjustified differential treatment in violation of the principle of equality and non-discrimination.

(3) Introduce Alternative Options:

The Government is advised to amend relevant legislation to provide that military reservists, during periods of recall, may opt for non-military alternatives on grounds of religious belief, in order to safeguard freedom of religion.

(4) Establish a Review Mechanism:

When providing alternative options for military reservists, the Government should establish a review and certification mechanism to balance national security needs, the sincerity of belief, and the fairness of the military service system.

V. Paras. 79-80

Para.	List of Issues
79	79. Also related to the offenses noted in Table 22 and the <i>Social Order Maintenance Act</i> , among other provisions, para. 40 of the <i>NHRC ICCPR Opinion</i> notes the persistence of “abstract clauses such as ‘endangering national security’ or ‘likely to undermine social stability’.” What guidelines does the Government have in place to ensure that such broad language, facially inconsistent with standards of legality under Article 19(3), is appropriately constrained? Has the Government engaged in any process to review whether such language could be modified to meet Article 19(3) standards?
80	Para. 42 of the <i>NHRC ICCPR Opinion</i> notes concerns dealing with speech involving “hostile external forces” and, in para. 43, recommends a “tiered response mechanism” to address such speech. To what extent has the Government, or is the Government, considering such approaches to ensure that the law is consistent with Article 19?

NHRC Response:

1. Recent Developments

In response to increasingly severe information warfare and threats posed by hostile external forces, the Executive Yuan approved draft amendments in December 2025 to the *National Security Act* (the “NSA”) and the *Social Order Maintenance Act* (the “SOMA”), seeking to regulate “advocacy of war,” “hate speech,” and “hostile external forces.” The NHRC recognizes the necessity of safeguarding national security and social order. However, upon reviewing the draft amendments in light of the ICCPR and the ICERD, it considers that concerns remain regarding the clarity of the law and the appropriateness of the legislative measures.

2. NHRC Assessment

After reviewing the two draft amendments, the NHRC considers that their legislative approach may be inconsistent with Articles 19 and 20 of the ICCPR, for the following reasons:

(1) Violation of the Principle of Legal Certainty

As noted in para. 40 of the NHRC ICCPR Opinion, the current legal framework relies on abstract concepts such as “endangering national security” or “affecting social stability,” without providing clear definitions. However, the draft amendment to Article 64, subparagraph 6 of the *SOMA* conflates “hate speech,” “terrorism,” and “incitement by hostile external forces to intensify social division” within a single provision. The draft amendment to Article 4 of the *NSA* likewise prohibits “advocating ... hostile external forces ... to eliminate the sovereignty of the State.” The two draft amendments substantially overlap in their constituent elements concerning “claims by hostile external forces” and “social division,” and lack clear definitions. As a result, individuals cannot reasonably foresee whether their expression would constitute a minor administrative offense or a serious national security crime. Such legislation, lacking clear criteria for distinction, risks excessive expansion of administrative discretion and may have a chilling effect on freedom of expression.

(2) Lack of Due Process Safeguards through Judicial Review

Experts have pointed out that the Executive Yuan seeks to address highly heterogeneous forms of expression, such as

“hate speech,” “terrorism,” and “advocacy by hostile external forces”, under a single provision of the *SOMA*.¹⁰ This legislative approach risks inconsistent enforcement standards, as different types of expression (for example, malicious incitement versus negligent conduct, or individual acts versus organized activities) are broadly subsumed under the same provision.

Para. 43 of the NHRC ICCPR Opinion expressly recommends that restrictions involving fundamental rights be subject to judicial review. However, Article 64-1 of the draft amendment to the *SOMA* and Article 4-1 of the draft amendment to the *NSA* both authorize the Ministry of the Interior, after consultation, to order internet service providers to remove content, restrict access, or, in “urgent” situations, suspend domain name resolution (DNS blocking). This mechanism excludes prior judicial review and allows the administrative authority alone to determine whether expression is sufficient to “affect public order” or “advocate war,” raising serious concerns under the constitutional principle of separation of powers and due process.

(3) Misuse of Legislative Instruments

The proposed amendments seek to address, within the draft revisions to the *SOMA* and the *NSA*, distinct categories of expression—“hate speech,” “terrorist speech,” and “speech by hostile external forces”—through a single legislative provision, despite their fundamentally different nature.

10 Yao, M.-C. (2025, December 30). “Extremist and hate speech cannot be addressed solely through the Social Order Maintenance Act.” *Liberty Times Net – Opinion*. <https://talk.ltn.com.tw/article/breakingnews/5292994>

Experts and scholars have expressly noted that the legislative purpose of the *SOMA* is to address minor conduct affecting public order, whereas the *NSA* should focus on responding to serious threats concerning the survival of the State.¹¹ Neither statute is an appropriate legal instrument for addressing “hate speech.” The core harm of hate speech lies in its attack on the dignity of, and discrimination against, specific groups, and should be regulated through a dedicated *Anti-Discrimination Act*. Speech involving infiltration by hostile external forces concerns national security and should be addressed through more rigorous special legislation or specific provisions of the *Criminal Code*.

Para. 46 of the NHRC ICCPR Opinion takes the same view, noting that hate speech involves systemic discrimination and attacks on human dignity. It recommends that the Government enact dedicated legislation defining and prohibiting hate speech, and establish a tiered response mechanism encompassing civil remedies, administrative regulation, and criminal liability. Addressing hate speech through amendments to the *SOMA* or conflating it with national security issues would neither provide effective remedies for victims nor preserve the distinction between “discrimination” and “national security threats.”

3. Conclusions and Specific Recommendations

The NHRC does not oppose the establishment of effective mechanisms to safeguard democracy. However, such measures must not come at the expense of fundamental human rights

¹¹ Ibid.

protections. It calls for the draft amendments to incorporate the following recommendations:

(1) Incorporate the Threshold Test under the United Nations Rabat Plan of Action

The law should set out clear criteria for assessment, including the context of the speech, the status of the speaker, intent, content and form, extent of dissemination, and likelihood of harm, rather than relying on broad clauses such as “affecting public order” as the basis for sanction.

(2) Establish an Independent Review Mechanism Centered on the Judiciary

Any restriction on freedom of expression, particularly intrusive measures such as content removal or internet blocking, must be subject to prior judicial review and must not be determined unilaterally by administrative authorities such as the Ministry of the Interior.