



國家人權委員會
NATIONAL HUMAN RIGHTS
COMMISSION, TAIWAN

Independent Opinion on the Second National Report on the CRC

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on the CRC**



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April, 2022

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Abbreviations

CAT	The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	The Convention on the Elimination of All Forms of Discrimination against Women
Child and Youth Rights Group, Executive Yuan	Child and Youth Welfare and Rights Promotion Group, Executive Yuan
Children and Youths Act	Protection of Children and Youths Welfare and Rights Act
Children with Disabilities	Children and Youth with Disabilities
CIP	Council of Indigenous Peoples
COVID-19	Severe Pneumonia with Novel Pathogens
CRPD	The Convention on the Rights of Persons with Disabilities
Early Childhood Act	Early Childhood Education and Care Act
ICCPR & ICESCR	The International Covenant on Civil and Political Rights & The International Covenant on Economic, Social and Cultural Rights
IEP	Individualized Education Program
iWIN	Institute of Watch Internet Network
Juvenile Act	Juvenile Justice Act
Juvenile House	Juvenile Detention House
MOE	Ministry of Education
MOHW	Ministry of Health and Welfare
MOI	Ministry of the Interior
MOJ	Ministry of Justice
MOL	Ministry of Labor
NCC	National Communications Commission
NHRC	National Human Rights Commission

NPM	National Preventive Mechanism - Pilot Visit Program
SEA	Special Education Act
UNESCO	The United Nations Educational, Scientific and Cultural Organization
Youth Committee	Youth Counseling Committee

I. Preamble

The National Human Rights Commission (NHRC) is an independent body dedicated to the protection and promotion of human rights. It was established pursuant to the *Organic Act of the Control Yuan National Human Rights Commission* announced on January 8, 2020 and was launched on August 1 of the same year.

The NHRC's legislative mandates include providing independent opinions on national reports on human rights conventions to ensure that domestic laws and administrative measures are in accordance with international human rights instruments. On November 19, 2021, the Executive Yuan submitted the Second Report on the Convention on the Rights of the Child (CRC) pursuant to the *Implementation Act of the Convention on the Rights of the Child*. In order to collect opinions from children and civil society organizations as an important basis for preparing independent opinions, NHRC dispatched 3 members with practical experience in the field of children and youths to hold 4 regional children's forums in northern, central, southern, and eastern Taiwan between September and November 2021, which were attended by a total of 92 children and youths. The Commission also held 5 focus group discussions, each of which focused on a different topic (including labor, disabilities, students, minorities, and children's digital rights), with 72 representatives in total in attendance.

In addition, the NHRC requested 14 government agencies, including the Legislative Yuan, the Judicial Yuan, the Executive Yuan's Environmental Protection Administration, the Ministry of Health and Welfare, the MOE, the Ministry of Interior, the MOJ, the MOL, the Ministry of Transportation and Communications, the Ministry of Economic Affairs, the Ministry of Culture, the NCC, the National Council of Indigenous People, and the Mainland Affairs Council, to provide written explanations and statistical information on the inadequacies and matters that need clarifying in the Second Report on the CRC. After the opinions provided by children representatives and civil society organizations during the regional forums and focus group discussions were compiled and compared to actual implementation of the Government, these agencies were invited to attend

4 separate meetings in January 2022 to discuss and exchange opinions on each of the important issues.

Taiwan declared its compliance with the spirit of the CRC to the international community in 1995, and today, considerable progress has been made in children's human rights through the efforts of civil society, various sectors of the community, and the Government. However, according to NHRC's independent opinions, there remains inadequacy in the protection of children's rights, child abuse prevention and alternative care in the face of the pandemic and in response to the impact of the digital age. The NHRC is also concerned about the lack of an independent monitoring mechanism for children's rights and adequate budgeting.

In 2014, the UN High Commissioner for Human Rights published *Report Towards Better Investment in the Rights of the Child*, which demonstrates that investing in children benefits individuals, society, and the economy as a whole, and that States should invest sufficient resources in the realization of children's rights. In light of the lack of budgetary investment in children's rights, the NHRC calls on the Government to give weight to and increase budgets for the mainstreaming of children's rights in practice in Taiwan.

In addition to governments, UNICEF proposed the *Children's Rights and Business Principles* in 2012 and has been actively advocating to global corporations and investment institutions in recent years to include children's rights as an ESG (Environmental, Social and Governance) indicator for investment decisions. The NHRC will continue to focus on the responsibility of companies to respect children's rights in the digital environment, workplace, and climate change. The realization of children's right to be heard is the driving force of national human rights reform. The NHRC will continue to listen to children's voices and work with the Government, civil society, and businesses to implement the *CRC* and related international conventions to ensure the fundamental rights of every child.

II. Special Topics

A. Children's Rights under COVID-19

1. In early 2020, while COVID-19 became a global pandemic, it has been relatively well controlled in Taiwan. In accordance with the *Communicable Disease Control Act*, the Government has given local governments the authority and responsibility to draw up and implement plans in line with policies and plans for communicable disease control set by the central competent authority, as well as special prevention needs of their respective jurisdictions. However, during the peak of the pandemic, from mid-May to the end of July 2021, the Government implemented a "Learning Never Stops" policy from May 19 to July 2 in that semester. Schools at all levels switched to synchronous, asynchronous or mixed mode of online teaching; sports venues and playgrounds in parks were completely closed; tutorial classes, after-school care and talent classes were also suspended.
2. Government measures under COVID-19 are listed only in §§40, 90, 148, 186, 187, 209(d), 225, 246, and 252 of the Second Report.
3. The NHRC collected information on the impact of the pandemic on children's rights through Control Yuan's investigation reports, regional forums with children and focus groups. Based on the *UN COVID-19 Human Rights Guidance Note*, the Commission also examined whether the Government's measures to prevent the pandemic were discriminatory and violated children's rights.

Issue 1 Right to Education

Digital Divide

4. During the level-3 alert in May-July 2021, schools were closed and classes were moved to online platforms. Based on discussions in

children's forums, the investigation report by Control Yuan,¹ and focus group discussions, the NHRC found that children in rural areas were impacted by digital divide:

- (1) Schools in rural areas were immediately faced with the predicament that some students could not attend classes regularly since they did not have adequate devices or had no devices at all for remote learning. Among all areas, more than 20% of the households in Yunlin, Chiayi, Pingtung, Hualien, Taitung and other remote areas did not have sufficient devices for remote learning. The ratio of students in remote areas without devices and Internet access at home is higher than city/county average. Also, in indigenous areas, Internet access is not prevalent or bandwidth is not sufficient, resulting in "online dropout".
- (2) An NGO held an "online discussion on digital learning for disadvantaged children" during the level-3 alert. It was found that among 303 rural elementary schools nationwide, 12.5% indicated that more than 80% of their students needed to use digital devices provided by the schools in order to access the Internet; 53.1% requested external donations of devices to access the Internet because sometimes the network cards, devices and tablets were not compatible.

Children with Disabilities

5. The NHRC's review of the "Reference Guide to Online Teaching and Learning for Primary and Secondary Schools" and focus group discussions revealed that:

- (1) In order to protect the right to education of students with disabilities during level-3 alert, some teachers filmed session videos and asked parents play them at home as an alternative to offline class. Yet many students with disabilities were unable to access the Internet, resulting in online dropout.
- (2) The above-mentioned guide was finalized in February 2020

¹ The Control Yuan investigation report approved on Feb 17, 2022. (Inadequate Basic Teaching Facilities and Equipment for Schools in Remote Areas)

without mentioning the solution for students with disabilities, and only by August 2021 was the "Reference Guide to Online Learning from Home for Students with Disabilities in Primary and Secondary Schools" announced.

Minority Children

6. The NHRC learned from the Control Yuan investigation² that in February 2020, the Government closed the border to China in accordance with Article 7 of the *Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens* in order to prevent the spread of the pandemic. Only in mid-July of the same year did the Government opened the border in phases for "children born to a Chinese spouse" and "children of a Chinese spouse from a previous marriage" who had not yet acquired the ROC nationality. The investigation indicated there are about 2,539 children of Chinese nationality under the age of 18 who have been living and studying in Taiwan for a long time and have not yet been naturalized. Some of them have been unable to return to Taiwan for more than half a year due to the pandemic after visiting their relatives in China, and their nationality status has been revealed due to different border control measures, which affects their rights to education and family reunion. However, the Government did not make clear to these children the basis for re-entry decisions and the different standards of each country in the decision-making process. The relevant meetings and decision-making process did not actively collect children's opinions, nor did they refer to the relevant UN human rights guidelines or consult with human rights experts, which led to differential treatment.

² The Control Yuan investigation report approved on Feb 4, 2021. (Border Control Measures for Children Born to a Chinese Spouse and Children of a Chinese Spouse from a Previous Marriage)

Issue 2 Right to Health and Privacy

Right to Health

7. The NHRC is pleased to see the MOE and the private sector have started to provide online counseling during the pandemic, as some students in children's forums said they do not need to worry about being stigmatized when seeking online counseling. Nevertheless, the NHRC is concerned that the suspension of counseling services in areas with insufficient digital resources or counseling personnel due to the pandemic may lead to further instability of the psychological status of students.

Right to Privacy

8. The NHRC learned from children's forums that during the period when classes were conducted online, some teachers forced students to turn on cameras, breaching the privacy of the family, or had long class hours that affected students' vision and concentration.

Issue 3 Rights to Know and to be Heard

9. The NHRC learned from focus groups that students were not informed immediately of the information provided at school meetings on pandemic prevention, either at the beginning of the outbreak in 2020 or during the level-3 alert in 2021.
10. For the rights of minority children to know and to be heard, please see §6.

NHRC Recommendations

11. The Government should review relevant preventive measures in accordance with the *UN COVID-19 Human Rights Guidance Note*, and the restrictions should be based on the principle of minimal violation of

human rights. The following recommendations are made with respect to the affected rights of children:

- (1) The Government should adopt measures to eliminate digital divide, overcome digital exclusion, and give children equal access to digital resources.
- (2) On children's right to health and privacy, educational institutions, by providing both offline and online counseling, can reduce the stigma associated with counseling and address the problem of inadequate counseling personnel. It is also recommended that the Government include privacy protection for students in the "Reference Guide to Online Learning from Home for Students in Primary and Secondary Schools".
- (3) On the rights to know and to be heard, the Government should take the initiative to collect opinions of children and stakeholders to ensure that pandemic prevention measures, from drafting to announcement and implementation, effectively take into account children's views and reflect their needs, and that the information is open and transparent. The Government is urged to provide information regarding pandemic prevention meetings to students as soon as possible through student self-governing organizations or online class groups.

B. Children's Digital Rights

Issue 4 Digital Environment Legislation, Policy, Data Collection and Disclosure

12. The Government has not yet effectively compiled fundamental statistics on the digital environment for children and youths, and many agencies have not yet conducted systematic induction, analysis and overall research of relevant data (see §§ 36 and 37). In addition, the NCC's White Paper has not adopted rolling wave planning³ or there are cases where the information has not been made public.⁴
13. The Government does not have a clear division of authority and responsibility for Internet safety, which makes it difficult to protect children's online safety. iWIN transfers cases to local governments in accordance with relevant laws and regulations⁵ after receiving reports of content on the Internet that is harmful to children's physical and mental health and instances where children's personal information is exposed. However, in practice, local governments rely too much on iWIN to provide advice, and thereby are greatly influenced by this commissioned organization in their decision-making process.

³ NCC (2011). White Paper on the Communications Rights of Children and Youth. Retrieved from https://www.ncc.gov.tw/chinese/files/11090/2746_21734_111124_1.pdf, which is the long-term digital policy in Taiwan.

⁴ iWIN. *Observation Report on Children's Online Behavior*.

⁵ iWIN's handling process when reporting cases, and the principles for handling online content that violates the laws and regulations related to children and youths by the authorities in charge of welfare services.

Issue 5 Violence Against Children in the Digital Environment

and Remedies

Cyberbullying

14. According to an NGO online survey⁶ and iWIN report,⁷ more than 20% of children have experienced cyberbullying, with instant messaging software (35.92%) being the most common platform, followed by social media (30.3%) and online games (29.49%). Only 22.4% of these children informed their teachers or parents; another 62.5% showed symptoms of suspected "online social anxiety" and 26% had thought of self-harm.

Internet Content Rating

15. According to an NGO survey, children's access to the Internet may breach their privacy⁸ and expose them to inappropriate content:⁹
- (1) 87% of the children have social media accounts, but 47% of them use social media without configuring privacy settings; 36.6% have provided important personal information to their online friends.
 - (2) About 70% of children have seen horrendous, bloody, violent, pornographic and other inappropriate contents on social media. When an application only allows users above a certain age to register, 41.8% of the children choose to violate this term of use,

⁶ Child Welfare League Foundation (2021). 2021 Survey Report on Children's Online Social Anxiety and Cyberbullying Experience in Taiwan. Retrieved from https://www.children.org.tw/publication_research/research_report/2267

⁷ iWIN (2021). 2021 iWIN. Observation Report on Children's Online Behavior. (not publicly available)

⁸ Child Welfare League Foundation (2019). 2019 Survey Report on Children's Use of Social Media Applications. Retrieved from https://www.children.org.tw/publication_research/research_report/726

⁹ Child Welfare League Foundation (2020). 2020 Survey Report on Children's Online Privacy and Interaction with Online Friends. Retrieved from https://www.children.org.tw/publication_research/research_report/296

which shows that Internet content rating and children's media literacy need to be enhanced.

Digital Sexual Exploitation and Online Grooming

16. From 2017 to 2020, the number of reported child sexual exploitation victims has been on the rise,¹⁰ with the largest number of reported cases being sexual exploitation related to intimate images, and most of the victims were victims of grooming and deception.¹¹ In addition, a high percentage of children whose intimate images were leaked did not seek help¹² as they did not know who to turn to. This indicates that children did not know the boundaries of privacy or the law, and some of them were not familiar with the complaint channels and were unable to seek help in time.
17. According to investigation and survey conducted by the Control Yuan¹³ and an NGO,¹⁴ 37.7% of children have used dating apps, of which 11.8% have been asked to meet their online friends alone and 18.8% have gone to the meetup alone. Furthermore, about 6,500 children go missing and leave home each year. Data from 2019 shows more than 60% of the children who were sexually exploited were groomed over the Internet, indicating that crimes involving online grooming and sexual exploitation are rampant.

¹⁰ According to the MOHW, 1,691 victims were reported in 2020, an increase of more than 30% compared to 1,060 in 2017.

¹¹ According to MOHW data, among the 1,696 reported cases of child sexual exploitation victims in 2020, there were 1,377 cases (81.19%) of "using a child or youth to engage in sexual intercourse or obscene acts for others to watch" (44 cases) and "filming a child or youth engaging in sexual intercourse or obscene acts, or producing other objects that show a child or youth engaging in sexual intercourse or obscene acts" (1,333 cases).

¹² According to the 2019 iWIN results report, a survey was conducted on 25,069 children aged 11-18 in 380 senior (or vocational) high schools, junior high schools and elementary schools across Taiwan, and it was found that 1,616 (6.45%) children were victims of intimate image leak, and 43.5% did not seek help; among them, 33.5% did not seek help because they did not know who to seek help from.

¹³ The Control Yuan investigation report approved on Jul 6, 2021. (Missing Child and Court Bail for Major Sexual Exploitation Defendant)

¹⁴ Child Welfare League Foundation (2018). 2018 Survey of Children's Usage of Dating App, Their Online Friendship and How They Leave Home. Retrieved from https://www.children.org.tw/publication_research/research_report/2232

Complaint and Remedy

18. In children's forums and focus groups held by the NHRC, the children participants were not sure about the functions of iWIN and the channels to complain about the violation of their rights on the Internet. The NGO representatives also mentioned if intimate images of children had been distributed online, it is sometimes impossible to take down the images immediately because the police and judiciary have to preserve evidence and ensure litigation proceedings at the same time.

NHRC Recommendations

19. The Government should review how the current digital environment violates children's rights, develop an inter-ministerial collaboration mechanism, and implement the following measures to address the risks of cyberbullying, privacy breach, and exposure to inappropriate content that children may encounter when accessing the Internet:
 - (1) Develop a standing digital environment survey and study to serve as a benchmark for subsequent policy evaluation, and promote joint participation of the central and local governments in the monitoring, design, management, and use of the digital environment.
 - (2) Formulate a proactive cyberbullying prevention plan and counseling measures, provide supportive services for children; strengthen online content rating by age groups, and prevent online users from inciting suicide and posting content involving violent sexual exploitation; analyze children's violation patterns and develop preventive measures.
 - (3) Strengthen the functions of family as the education center and train parents or caregivers to use digital devices for APP management, Internet access time management, and parental controls to filter the web, so as to make preventive education more effective.
20. The NHRC recommends that the Government adopts the following measures to address digital sexual exploitation and online grooming:

- (1) Review the adequacy of laws and measures related to child sexual exploitation crimes. The interagency public security meeting convened by the Executive Yuan should propose integrated prevention strategies on related issues. The police authorities should strengthen the investigative capacity using technologies to focus on new forms of online grooming and sexual exploitation. In addition, strategies must be developed to address issues such as the immediate blocking of children's personal information and the right to be forgotten, which arise from such crimes.
- (2) Raise the awareness of digital gender violence among school teachers, and enhance students' literacy in this regard as early as elementary school level.

C. Alternative Care of Children

Issue 6 Violation of the Rights of the Child in Out-of-Home

Placement

Low Percentage of Family-Based Care for Children

21. According to Attachments 5-7 and 5-8 of the Second Report and Control Yuan's investigation,¹⁵ residential placement (63.34%) accounted for the highest percentage of out-of-home placement of children during 2016-2019, followed by foster families (30.95%); among them, placement in the form of family child care increased from 1.64% in 2016 to 3.45% in 2019, which is the highest growth among all types of placement. The percentage of family child care (3.45%) was already higher than that of kinship placement (2.92%) in 2019. In addition, according to §167 and Attachment 6-27 of the Second Report, referrals to other placement organizations accounted for 42.86% of cases closed in 2020, a record high in the past 5 years.
22. The Control Yuan's 2018 investigation report¹⁶ points out that multiple transfers to different placements are detrimental to children's physical and mental development. The MOHW responded to NHRC's written inquiry about the reasons for transfers by stating "the number of children with special needs has increased, and as the situations of children have become more complex, it is more difficult to care for them. The caregivers do not have enough professional competence or support resources, which leads to the switch of placement of children." The NHRC believes that the Ministry is still unable to address the care dilemma that entails multiple changes of placement even though it has

¹⁵ The Control Yuan investigation report approved on Feb 4, 2021. (Tainan City Government Child Abuse Case)

¹⁶ The Control Yuan investigation report approved on Jan 4, 2018. (Insufficient Personnel in Children Placement Organizations, Evaluation and Exit Mechanism)

attempted to increase the number of caregivers in placement organizations.

Sexual Abuse and Harassment of Children in Residential Organizations

23. The NHRC analyzed the 17 major child sexual abuse cases investigated by the Control Yuan over the years, which occurred mostly in schools and placement organizations.¹⁷ The closed environment of the organizations makes it easy to conceal structural problems within the organizations, and it is hard to reveal the problems if no whistle blower exposes them.¹⁸ In addition, there have been cases where social workers did not process the reports made by children about being molested. This shows the staff in child placement organizations are not sensitive enough to prevent sexual harassment/abuse, and they have not made enough efforts to raise awareness.

Complaint Mechanism for Children in Placement Organizations

24. On §30 of the Second Report, the NHRC inquired of the MOHW about the complaint statistics of child placement organizations and found that 37 of 117 child placement organizations did not receive any complaints, according to MOHW Social and Family Affairs Administration's 2020 survey. There are less than 5 complaints for each of the reform schools and juvenile houses under the Agency of Corrections, MOJ. Based on NHRC's NPM visits in 2021, children in the organizations do not use the suggestion box and complaint channels actively. This is due to concerns that the suggestion box is not located in a private corner and that children worry their identities as complainants might be revealed, plus the complaint process is complicated or children do not trust the organizations. These reasons resulted in no complaints being filed in recent years among the visited organizations.

¹⁷ 6 cases occurred in placement organizations (2 in organizations for children, and 4 in placement organizations for people with physical disabilities); 11 cases occurred in schools.

¹⁸ Cases of failure to report and cover-up of sexual abuse, not in compliance with the law: 21 cases of sexual abuse of residents at a placement organization for juvenile in the judicial system in Nantou County from 2014-2017 (the Control Yuan investigation report approved on Aug 9, 2018); 5 cases of molestation of residents by student counselors at a children's placement organization in New Taipei City in 2017 (the Control Yuan investigation report approved on Feb 14, 2019).

NHRC Recommendations

25. The NHRC is pleased to see the Government adopt a child alternative care policy in early 2022 ¹⁹ and would propose following recommendations:

- (1) Strengthen professional competence of and support for caregivers, increase family-based care resources, and develop policies to encourage and stabilize kinship placement.
- (2) Establish a whistle blower protection mechanism for child sexual abuse cases in organizations and strengthen the professional competence of professionals working in the organizations in handling sexual abuse and harassment cases.
- (3) Visit the 37 placement organizations to find out why they did not receive complaints or suggestions, following the spirit of NPM. The NHRC also recommends that children's organizations relocate the suggestion box to a safely secluded place so that children can file complaints or give their opinions without concerns. Meanwhile, organizations should make the complaint process more friendly to encourage children to use it.

¹⁹ Social and Family Affairs Administration (SFAA),
<https://www.sfaa.gov.tw/SFAA/Pages/Detail.aspx?nodeid=268&pid=11213>

III. Implementation of the Convention

D. General Implementation Measures

Issue 7 Responsibility of States Parties

Review of Laws and Regulations

26. The Government has made considerable progress in improving laws and regulations related to the promotion and protection of children's rights from 2015-2021, but the NHRC notes that amendments to laws and supporting measures related to children's affairs and impact assessments of children's rights have yet to be confirmed:

- (1) Progress in amending Articles 9, 23, 31, and 33 of the *Immigration Act* (§5 of the Second Report and Attachment 1-1) has been slow. Aside from Article 9, other articles are related to the rights of new immigrants after they enter the country, which may affect their rights due to restrictions on the reasons for residence, absence of reasons for residence, or revocation of permanent residence permits, and may even lead to the separation of parents and children due to forced deportation. These issues involve the implementation of Article 9 of the *CRC* on the right of children not to be separated from their parents, the right to family reunion under *ICCPR & ICESCR*, and §§ 34 and 35 of the Concluding Observations and Recommendations of the Third CEDAW Report. (See §§65-66 for details.)
- (2) The draft amendments to the *SEA* address reasonable accommodation and inclusive education. (See §87 for details.)
- (3) According to public information disclosed by the Government,²⁰ it is understood that the Government has developed a mechanism

²⁰ CRC Information Website: Minutes of the 28th and 36th Consultation Meetings (November 6, 2020) on the Promotion of the Implementation Act of the Convention on the Rights of the Child. <https://crc.sfaa.gov.tw/PublishCRC/CommonPage?folderid=80&AspxAutoDetectCookieSupport=1>

and indicators for assessing the impact on children's rights,²¹ and the MOHW stated that it is asking members of the Child and Youth Rights Group, Executive Yuan, to review them. However, no relevant records are available yet.

- (4) The *Civil Code* was amended to set the age of majority at 18 years old and it is scheduled to take effect on January 1, 2023 (§43 of the Second Report), with supporting measures remaining to be implemented by the Government.

27. The issue of corporal punishment within the family is mentioned in §127 of the Second Report and §§ 56-57 of the Concluding Observations on the Initial Report. Articles 1084 and 1085 of the current *Civil Code* still maintain parents' rights and obligation to protect and educate their minor children and to discipline them to the extent necessary, which is based on public sentiment in our society. Given that the *CRC* has been incorporated domestically and in light of the legislative journey in Japan and Korea, the NHRC believes it is important for the Government to explore ways to prohibit corporal punishment in the home.

28. Recommendations:

- (1) Complete the *Immigration Act* amendment as soon as possible to ensure the best interests of children of new immigrants. (See §68 for details.)
- (2) Launch the review mechanism of impact assessment for children's rights as soon as possible.
- (3) Actively raise public awareness and promote human rights education, drawing on General Comment No. 20 of the *CRC*. Also, make reference to Japan's experience in promoting "new adult education" to help children understand, appreciate, and fulfill the measures related to their status as active citizens.
- (4) Actively communicate with the public on how to amend the *Civil Code* to prohibit corporal punishment in the home, taking into account international experience.

²¹ Child Rights Impact Assessment/Initial Checklist.
https://crc.sfaa.gov.tw/Uploadfile/Document/36_20210719153804_0325875.pdf

Promote Children's Rights and Independent Monitoring Mechanism

29. The NHRC is pleased that the Government has formed the the Advisory Committee on the Drafting of the National Human Rights Action Plan to develop the *National Human Rights Action Plan*. The Commission will continue to track the status of implementation.
30. The NHRC notes that members of the international review committees attach great importance to an independent national human rights institution and expect it to have an independent mandate to oversee the implementation of human rights (§26 of the Second Report and §15 of the Concluding Observations on the Initial Report). The NHRC was established in August 2020 with diverse representation and a continuing interest in promoting the implementation of the *CRC* in Taiwan.
31. Recommendations:
 - (1) In the draft *National Human Rights Action Plan*, the section on equality and non-discrimination for children should emphasize on issues faced by children with disabilities. This includes consultation with children with disabilities and related personnel, and the development of educational materials designed with reasonable accommodations for use by teachers and other sectors in education and training, in order to gradually raise public awareness of children with disabilities, and to systematically collect the opinions of these children.
 - (2) Regarding the independent children's rights monitoring mechanism, it is recommended that the Government should make reference to the *Act to Implement CRPD* and amend the *Implementation Act of the CRC* as soon as possible to specify the substance of the monitoring mechanism.

Budget for Children

32. The allocation of public resources to the national budget for children is inadequate, and the budget for "development of children" is not given priority (§§21-22 of the Second Report, and Attachments 1-2; §18 of the Concluding Observations on the Initial Report).

- (1) Although the ratio of children's budget to GDP has grown year by year to 2.21% in 2020, it is still far below the level of OECD countries (total children's expenditure as a percentage of GDP is close to 6%).²² Among various categories of children's budgets from 2017 to 2020, the budget ratio for "development" decreased yearly, with a 33.3% drop in 2020 compared to 2017, the most significant among all categories.
- (2) The NHRC found through a review of central cultural budget and discussions with authorities that the cultural budget for children is still low compared to OECD countries, and most local governments' budgets for children's development decrease each year, although such budget has grown by about two times from 2018-2021.²³

33. Recommendation: The Government should ensure allocation of resources and budgetary support for the fulfillment of children's rights, and promote participatory budgeting for children. It should explore how to increase resources to promote children's rights to participation, expression, play and leisure, cultural activities, and career development, and to monitor and evaluate the implementation by governments at all levels.

Dedicated Agency for Children

34. After the dissolution of the Children's Bureau of the MOI in July 2013 following government restructuring, work related to children's affairs was transferred to MOHW's Department of Protective Services, and Children and Youth Welfare Division and Family Support Division under the Social and Family Affairs Administration (SFAA). Subsequently, in response to the passage of the *Implementation Act of CRC* in 2014, the Child and Youth Rights Group of Executive Yuan was established to coordinate and promote child welfare and rights protection policies. However, the NHRC found that the budget for

²² Lu, C.H., Cheng, C.H., Hung, H.F., and Shih, C.Y. (2020). *Study on the Promotion of the Implementation Act of the Convention on the Rights of the Child - Children's Budget*. Research commissioned by Social and Family Affairs Administration (SFAA), MOHW.

²³ The Ministry of Culture stated in government agencies meetings that the budget for children's arts and cultural activities (excluding hardware facilities) was about NT\$68 million in 2018, and about NT\$130 million in 2021.

children in Taiwan has not been adequate for a long time, and the declining birthrate has become another serious issue. Various sectors of society have repeatedly criticized the fragmentation of the management of children's affairs after government restructuring, and have advocated for a dedicated agency for children with the authority and responsibility to speak up for a population who cannot vote.

35. Recommendation: The Government should reassess this possibility carefully.

Data Collection

36. The Government does not have sufficient statistics on important children's rights issues (§23 of the Second Report and §20 of the Concluding Observations on the Initial Report). Examples include: the number of children under the age of 15 who are working;²⁴ research on the prevalence of cyberbullying and the correlation between cyberbullying and child suicide rates; statistics on the participation of students with disabilities in school clubs;²⁵ the percentage of students with disabilities aged 15 to 18 in vocational education by gender and disability;²⁶ and the lack of statistical data on children of different ethnic groups or identities in the MOE's Campus Life Questionnaire.²⁷ The Government has not released or consolidated information on: child death and mortality;²⁸ digital violence against child, online sexual exploitation, and online grooming; child accident injury monitoring data;²⁹ and teenage pregnancies and the treatment plans for newborns (including care by family, adoption, termination of pregnancy, foster care, residential placement, etc.).³⁰ In addition, the CIP has not been

²⁴ See §§122-123 for details.

²⁵ In order to protect the rights of students with disabilities to social participation and recreation, the Government should review whether sufficient and friendly supportive resources are currently available on campuses, and emphasize the accessibility of students with disabilities to participate in school clubs. However, the MOE replied to the written inquiry that no relevant statistics are available.

²⁶ Attachment 7-12 of the Second Report contains statistics on the number of people only. The MOE replied to the written inquiry that no relevant statistics are available.

²⁷ No statistics are collected on children of different ethnic groups or identities, such as sexual minorities, children with disabilities, indigenous people, and new immigrants, and whether they have been subjected to maltreatment or discrimination in school.

²⁸ Please see Attachments 3-1 to 3-5 of the Second Report for details; no cross analysis was performed by identity.

²⁹ See §§52, 53 for details.

³⁰ In the Second Report, only Attachment 8-6 contains statistics on "the number of pregnant students

able to effectively track the actual situation of violence against indigenous children up to now.

37. Recommendation: The Government should actively collect and analyze data on vulnerable groups of children, children from different ethnic groups or with different identities, issues related to the above-mentioned special groups of children, accidental injuries, etc., and create a database accordingly. The Government then should, based on the database, plan or revise specific policies, preventive measures, training and advocacy, and regularly disclose the status of data collection and statistics.

E. General Principles

Issue 8 The Principle of Non-Discrimination

38. In addition to discussing discrimination against children from the perspective of the human rights of those who are discriminated against, it is also necessary to raise awareness through education among those who discriminate others. The NHRC observes that the Government's anti-discrimination measures are focused on school education, while media, community and family education are less addressed.
39. Recommendation: The Government should extend the target of anti-discrimination education to those who discriminate, and promote such education through multiple channels and in diverse ways.

Sexual Minorities among Children

40. According to Article 15 of the *Gender Equity Education Act*, gender equity education shall be incorporated into the training of teaching and other staff members, in-service education programs, training courses for educational administrators, and professional teacher training programs. However, according to an NGO survey³¹ and focus group discussions held by the NHRC, it was found that LGBTQI students are still being verbally harassed by teachers and classmates on campus because of their gender expression or sexual orientation, or facing non-positive sex education.
41. §53 of the Second Report discusses government measures in responding to resistance to gender diversity issues. During the focus group discussions, NGO representatives indicated that when invited to give lectures on gender equality, including LGBTQI issues, in schools, or when setting up gender issue groups in schools, the activities are often subject to the influence of outside opposition, which affects how

³¹ Taiwan Tongzhi Hotline Association and GLSEN (2020). Survey of LGBTQ+ Students' Experiences on Campus. Retrieved from <https://hotline.org.tw/news/3135>

schools protect the rights of sexual minority children to sexual health information.

42. Recommendations:

- (1) In teacher training and in-service training, the MOE should provide further gender equality education and raise awareness of LGBTQI-related issues among school staff, and offer supportive counseling for those who are discriminated against and their families. It should develop a regular tracking and evaluation mechanism for the implementation of the gender curriculum and the review of teaching materials at each school level, and pay attention to regional differences.
- (2) The MOE should continue to monitor the conflict of values and beliefs regarding gender diversity in the teaching and learning environment, and propose mid- and long-term anti-sexual discrimination plans.

Children of Minorities and New Immigrants

43. According to the focus group discussions and NGO reports, most indigenous children have experienced obvious or subtle discrimination, and the experience is different between indigenous children in urban areas and in indigenous communities due to different living environments. Their rights should be addressed as two different types of issues.³²
44. Government's statistics³³ show that the number of children of new immigrants increased from 273,000 to 305,000 between 2015 and 2020, accounting for about 7.3% of the total student population, but no government study has been conducted on discrimination against this children group.
45. Recommendation: The Government should learn more about obvious and subtle discrimination suffered by children of minorities and new

³² Zhi-Shan Foundation Taiwan (2020). 2019-2020 Results Report on Subsidy for Ethnic Group Mainstreaming and Indigenous Peoples Education Workshop Activities (not publicly available).

³³ MOE (2021). Overview of School Attendance of Children of New immigrants at All Levels of Schools for the 2020 Academic Year. Retrieved from https://www.edu.tw/News_Content.aspx?n=829446EED325AD02&sms=26FB481681F7B203&s=4C810A112728CC60

immigrants, and collect and analyze data on a long-term basis.

Issue 9 Best Interests of the Child

Rights of Children in Divorce by Mutual Consent

46. The NHRC found that, in accordance with Article 1055 of the *Civil Code*, during a divorce by mutual consent, parents reach agreement on for the exercise of custody, financial support, and visits, but the process often ignores children's right to be heard and often fails to meet the "best interests of the child" principle. The lack of professional guidelines and monitoring mechanisms has become a risk factor for major child abuse incidents in recent years.
47. Recommendation: The Government should establish professional guidelines for divorced parents with children (especially those under 6 years old) on the exercise of custody after divorce. This is to ensure that agreements on the exercise of custody, financial support, and visits are consistent with the children's right to be heard and the principle of best interests of the child.

Issue 10 Right to Life, Survival and Development

Child Suicide

48. Referring to §§65, 68, and 70-72 of the Second Report and Attachments 3-7 and 3-10, the NHRC found in the Control Yuan investigation report³⁴ that nearly 70% of students who died by suicide in 2018-2019 did not access school counseling, and a significant gap remains between school counseling resources and student needs. The 2018-2019 Campus Student Self-Harm Analysis and Strategies Report states that only 6% of students who committed suicide had contact with off-campus resources before their death, and less than 2% of students who committed self-harm did that.

³⁴ The Control Yuan investigation report approved on Aug 18, 2021. (Youth Suicide Prevention)

49. §70 of the Second Report and Attachment 3-10 show that depressive tendency is the most prominent factor in suicides among students aged 15-17, and one of the top three causes of suicide among students aged 12-14. Difficulty in adapting to school is also a major cause of suicide among students aged 12-17. The NHRC also found from Attachment 3-11 of the Second Report that funding for life education decreased significantly from 2018-2021, and that total life education participation in 2020 was less than 1/10 of the total number of participants in 2018.
50. Recommendations:
- (1) Increase the budget for child suicide prevention and life education.
 - (2) The NHRC will continue to monitor the utilization and effectiveness of MOHW's Suicide Prevention Hotline with regard to the urban-rural gap in child counseling resources.
 - (3) The Government should identify the factors that are detrimental to children's mental health, such as the above-mentioned causes of child suicide, academic pressure, school bullying, etc. and address the causes of the problem.
 - (4) Schools and regional mental health centers should strengthen horizontal connections and collaboration mechanisms to actively support children's mental health and prevent suicide.

Accident Injury

51. According to statistics from Ministry of Transportation and Communications (MOTC) for 2018-2020, there has been no significant decrease in the number of traffic fatalities in the past 3 years, while the number of injuries has increased from 25,247 in 2018 to 27,519 in 2020. According to MOHW's statistics, the total number of drowning deaths from 2016 to 2020 is 1,667, of which 24.03% were aged 10-14 and 24.79% were aged 5-9, both higher than adults. However, MOHW's *Implementation Plan for Child and Youth Safety* has not been revised with rolling wave planning to adapt to actual circumstances.
52. There is a lack of comprehensive accident injury monitoring data for children in Taiwan. §65 of the Second Report only lists the number of "fatality" in accidents, and lacks statistics of "injury" occurred in

various accident scenarios. Despite the "national health insurance database" set up by the Government, external cause codes are not filled in all cases, resulting in a lack of complete records of injury locations, mechanisms, activities and other basic information, making it difficult to apply the data to injury prevention.

53. Recommendations:

- (1) Revise the *Implementation Plan for Child and Youth Safety* as soon as possible, and review its implementation on a regular basis to effectively respond to the current situation of injury by accident.
- (2) The Government should actively promote "people-oriented transportation" in the vicinity of schools and road sections with high accident rates, so that the design of roads meets the needs of children and all road users.

Issue 11 Children's Rights to Know and to be Heard

Complaint Mechanism for Children

54. On complaint mechanisms for children in §27-31 of the Second Report, the NHRC collected data on complaint and petition mechanisms of various agencies and found that from June 2020 to 2021, the national complaint/petition mechanisms of central and local government received more than 5.87 million complaints/petitions. Among them, more than 27,000 cases were about children. However, the number of complaints/petitions made by children themselves was 4,630, accounting for only about 17% of all children-related complaints.

55. NHRC's findings from children's forums and MOHW's response to inquiry³⁵ are:

- (1) Children most often use complaint mechanisms provided by the central and local education systems, but there are several shortcomings: personal information or identity of the child who

³⁵ In July 2021, a written inquiry was sent to the MOHW on the "Administrative Review for Children's Complaint Mechanism", which was resolved by the 28th Consultation Meeting of the MOHW on "Promotion of the Implementation Act of the CRC".

makes the complaint is easily leaked, the complaint information and channels are not transparent, the child is not contacted after the complaint is accepted and the status of the complaint is difficult to track, and some members of the Student Appeal Review Committee are not recused when necessary, which may compromise the equity in the results of the complaint.

(2) The MOE has not systematically consulted with children in the review of the complaint mechanisms for student complaints, school bullying, gender equality, and school counseling.

56. Recommendation: Governments and schools at all levels should collect children's opinions and establish complaint mechanisms that meet the 6 indicators to stay child-friendly. In particular, such mechanisms provided to children (including sexual minorities) should ensure anonymity and privacy protection, and information about such mechanisms and channels should be extensively disseminated.

Children's Complaints in Schools

57. The NHRC recognizes the inclusion of a specific chapter on student rights and responsibilities in the *Senior High School Education Act* and that schools provide for a student complaint process under Article 54, which protects the right of students or student self-governing organizations to filing complaints to schools. However, the current process of handling cases in which teachers punish students in violation of the law is based on the *Regulations on Dismissal, Non-renewal, and Suspension or Severance of Teachers in Primary and Secondary Schools* and the *Regulations on the Evaluation of Teachers' Performance in Public Primary and Secondary Schools* or the *Teachers' Act*. However, while teachers are the respondents subject to the above regulations, students and parents are not considered parties to a case and therefore not eligible to receive the investigation report and the results, which seriously impacts students'/complainants' right to know and to be heard.

58. Recommendations:

(1) The MOE shall conduct a statistical survey on the types and contents of student complaints, and especially analyze

complaints involving how teachers give counseling and impose discipline, in order to understand the patterns of improper discipline by teachers.

- (2) The Ministry should incorporate the right of students and complainants to know and to be heard into the complaint and appeal process regarding teachers' counseling and disciplinary measures, so that they can fully express their opinions and be informed of the investigation report and the outcome of the process.
- (3) The NHRC notes that current laws and regulations pertaining to student rights are mostly for high schools. The NHRC calls on the Government to expedite the addition of a special chapter on student rights to the relevant legislation for primary and secondary schools.
- (4) The Government should promote the rights of primary and secondary school students to participate in campus affairs, and the NHRC will pay special attention to the mechanism of student participation in campus affairs in private schools and the implementation of students' rights to express their views on campus.

Rights to Know and to be Heard for Students with Disabilities

59. Referring to §73 of the Second Report and Attachment 3-12, and according to statistics on children's participation in local government meetings to promote children's welfare and rights from 2017 to 2020, the percentage of children with disabilities serving as children representatives in local governments ranged from 1.14% to 2.76%, which is comparable to the percentage of children with disabilities in the total children population. However, at the county/city levels, there are no more than 5 counties and cities where children with disabilities serve as children representatives. In 2019, none of the Committees for the Protection of the Rights of Persons with Disabilities in MOHW and each city/country included children with disabilities as children representatives, which clearly does not fully protect and respect the right to be heard for children with disabilities. (See §35 of NHRC's Independent Opinions on the Second National Report of Republic of

China (Taiwan) on the Rights of Persons with Disabilities.³⁶⁾

60. During IEP meetings, there was insufficient information conversion and support strategies for students with disabilities to participate in the discussions.

61. Recommendations:

- (1) The Government should find out why it has been difficult for all levels of government to recruit children with disabilities to participate in decision-making process as children representatives, and develop strategies accordingly to create a friendly environment to promote their rights to be heard.
- (2) In accordance with the *SEA*, the MOE should urge schools to fulfill the rights of students with disabilities to know and to be heard at IEP meetings, so that students can effectively understand whether the IEP meets their individual needs.

³⁶ Opinions on the Second National Report of Republic of China (Taiwan) on the Rights of Persons with Disabilities. Mandarin Chinese - <https://nhrc.cy.gov.tw/monitor/opinion/detail?id=aade6151-5752-4451-a3e4-4b54bb989d82>; English - <https://nhrc.cy.gov.tw/en-US/monitor/opinion/detail?id=382a1457-7e24-4a29-ba87-f0b11875d2eb>

F. Civil Rights and Freedoms

Issue 12 Privacy

62. Referring to §103 of the Second Report, the NHRC found from children's forums that some schools directly posted grades of every student in the class, students' national IDs, addresses, and identities to social media groups in order to verify information.
63. Students launched the "Stop Making Our Exam Results Your News" initiative to prevent over-emphasis on grades and suppression of different forms of achievements and personal interests.
64. Recommendations:
 - (1) Information released by schools must comply with the *Personal Information Protection Act* and *Regulations Regarding the Assessment of Elementary and Junior High Students' Academic Performance*.
 - (2) The MOE and the NCC should take specific actions to discourage turning the results of competitive exams into news, to prevent the media from reinforcing the stereotype associated with top performers and from violating test-takers' privacy, and to supervise schools so they do not volunteer students' private information to the media.

Issue 13 Name and Nationality

Amendment to the *Immigration Act*

65. According to Article 14 of the 2019 amended *Regulations Governing the Residency, Long-term Residency or Residency for Naturalization of the People of the Mainland China Area Living with a Relative in the Taiwan Area*, mainland Chinese spouses who do not have custody of their children at the time of divorce but have visitation right and provide support to their children may continue to reside in Taiwan; however, Article 23 of the *Immigration Act* is not applicable to new immigrants from other areas.

66. According to Article 33 of the *Immigration Act*, if a foreigner is sentenced to more than one year of imprisonment, his or her permanent residence permit will be revoked or annulled and the Alien Permanent Resident Certificate will be cancelled. The current *Act* only excludes crimes of negligence, but not those for which the court has granted probation. As a result, even if a parent is involved in a crime and is given a chance to amend with probation, the child will be subject to a chain reaction and need to leave the country within a certain period of time,³⁷ which causes great turmoil in the child's life.
67. The administrative review under Article 36 of the *Immigration Act* is also inconsistent with the requirement of Article 9 of the *CRC* regarding judicial review.
68. Recommendations:
- (1) It is reported that the MOI has started to amend the *Immigration Act*. The NHRC calls for speedy completion of the amendment, so that the rights of children of new immigrants are protected, and that a specific assessment of the applicable laws and regulations should be made to monitor the chain reaction of the deadline for children's departure. In addition, education of international human rights conventions for judicial and administrative personnel who handle immigration cases should be strengthened.
 - (2) Article 36 of the *Immigration Act* provides that review committee meetings should be convened, and the NHRC believes the results should be made public, on the premise of safeguarding personal information, in order to facilitate review by human rights organizations.

Issue 14 Freedom of Assembly and Association

69. In light of the amendment to the *Civil Code* to lower the age of majority and to protect the right of children to freedom of association and peaceful assembly under Article 15 of the *CRC*, the Government should take complementary measures.
70. Recommendation: The MOI should continue to track the legislative progress of the *Social Association Act*, change the creation of such

³⁷ Central News Agency (2021). Three Sisters Plead Not to be Deported to Indonesia, HSU Kuo-yung: Order to Leave the Country on Hold. <https://www.cna.com.tw/news/aip/202201280149.aspx>

associations from application-based to registration-based, and remove the regulation on the disposing capacity of members, directors and supervisors.

G. Violence against Children

Issue 15 Child Abuse and Neglect

Facts and Stats about Child Abuse

71. Attachment 5-2 of the Second Report shows number of child abuse victims at a nearly 5-year high in 2020.³⁸ The NHRC is also concerned about the abuse of different groups of children.

(1) Preschoolers: In 2020, 1 in 5 child abuse victims was a preschooler under the age of 6.³⁹ From 2016 to 2020, among abused children in home, the proportion of preschoolers increased year by year;⁴⁰ the number of physically abused preschoolers in 2020 increased by 212% compared to 2019.⁴¹ It is evident that not only did the overall number of child abuse cases increase in 2020, but also the abuse of preschool-aged children in home. Since the Government launched the "Active Care Program for Disadvantaged Children under the Age of 6" in 2009, it has been reviewing and refining relevant regulations and plans, but has not yet effectively improved the situation of abuse of preschool children.

(2) The percentage of children with disabilities in child protection incidents: between 7.2% to 8.7%,⁴² much higher than the percentage of children with disabilities in the child population (about 1.4%).

(3) The percentage of indigenous children in child protection incidents: increased slightly from 10.17% to 10.84%, which is higher than the percentage of indigenous children in the child population (about 3.78%).⁴³

³⁸ Numbers of child abuse victims from 2016-2020 are 9,461, 9,389, 9,186, 11,113, and 12,610 respectively.

³⁹ They accounted for as high as 20.47% of the total.

⁴⁰ Increase from 25.64% in 2016 to 30.19% in 2020.

⁴¹ 281 in 2019 and 877 in 2020.

⁴² For the percentage of victims with disabilities in child protection incidents in 2016-2019, please see §126 of the Second CRPD Report and its Attachment Table 16.1.

72. Frequent incidents of child abuse in infant care centers and preschools: §§12, 28, 108 and 110 in the Second Report; Attachment 5-2-2(4); and §§22, 53, 56 and 81 in the Concluding Observations on the Initial Report. According to MOHW's statistics on "the number of childcare providers and preschool teachers and caregivers reported for child protection cases and penalties from 2016 to 2020", the total number of reported cases has increased about 5 times in the past 5 years,⁴⁴ with the highest increase of nearly 23 times in infant care centers.⁴⁵ Based on the analysis of penalty rate, except for the childcare providers in infant care centers, the penalty rate for family childcare providers and preschool teachers and caregivers did not exceed 40%,⁴⁶ which is quite low. In addition, the investigation by the Control Yuan⁴⁷ and comments from NGOs revealed that problems remain in practice: low awareness of children's rights among judicial officers, difficulties in making reports within organizations, difficulties in identifying improper treatment, lack of professional background (of child protection and preschool education) and diverse composition of members of the special review committee responsible for investigating preschool teachers, lack of clear criteria for the composition of the committee responsible for investigating unsuitable preschool teachers and caregivers, the MOHW's "Procedure for Handling Cases of Suspected Abuse or Improper Treatment in Infant Care Centers by Special Municipalities and County Governments" does not specify the number of investigators, whether or not to integrate the *Children and Youths Act* and the *Early Childhood Act*, and the MOHW and the MOE have different child care policies (e.g. whether surveillance CCTV should be installed).
73. The investigation by the Control Yuan⁴⁸ found that the social safety net

⁴³ For the percentage of victims of child protection incidents who are indigenous peoples in 2019-2020, please see §§42 and 278 of the Second Report, Attachment 2-1, and the MOHW Social Welfare Statistics List. ([%E4%BF%9D%E8%AD%B7%E6%9C%8D%E5%8B%99](https://dep.mohw.gov.tw/DOS/cp-5337-62357-113.html#_3)), and the CRC Information Website

([https://crc.sfaa.gov.tw/\(X\(1\)S\(jibler2fwgdx4rdqgx2k0px\)\)/Statistics/Detail/4](https://crc.sfaa.gov.tw/(X(1)S(jibler2fwgdx4rdqgx2k0px))/Statistics/Detail/4))

⁴⁴ Numbers of reported cases: 85 in 2016, 144 in 2017, 201 in 2018, 298 in 2019 and 427 in 2020.

⁴⁵ Numbers of childcare providers in infant care centers reported for child protection cases: 5 in 2016, 13 in 2017, 19 in 2018, 27 in 2019, and 113 in 2020.

⁴⁶ Penalty rates for family childcare providers: 26.53% in 2016, 35.63% in 2017, 26.74% in 2018, 26.72% in 2019, and 28.80% in 2020; penalty rates for preschool teachers and caregivers: 35.48% in 2016, 22.73% in 2017, 31.25% in 2018, 23.23% in 2019, and 21.16% in 2020.

⁴⁷ The Control Yuan investigation report approved on Apr 20, 2021 (Maltreatment of Young Children at Wenlin Public Child Care Center in Shulin District Commissioned by the New Taipei City Government), the Control Yuan investigation report approved on Jan 21, 2020 (Child Care Quality at Infant Care Centers), the Control Yuan investigation report approved on Oct 15, 2019 (Frequent

is still not functioning effectively, especially for child protection, high-risk families or vulnerable families in which people with disabilities are pregnant or are to give birth. Parental education, alternative or supportive care resources and services that meet the diverse needs of the families with disabilities are not provided immediately.

74. Recommendations:

(1) Develop corresponding measures for different groups of children who experience abuse:

- A. Implement and continuously revise the early warning and screening mechanism for preschool-age children with high-risk factors and strengthen primary prevention strategies. Make reference to international experience and improve the protection network through proactive visits to pregnant women, expectant mothers and all newborn babies; provide a comprehensive protection network by combining with public health service system. In Japan, for example, universal family care visits for newborns and their families have been introduced for newborns within 4 months of birth. Experienced professionals, such as health care providers and midwives, provide childcare resources and gain an understanding of the family's childcare environment through the visits.⁴⁹
- B. For families with children with disabilities, enhance the competence of caregivers to cope with stressful situations, through parental education, temporary and short-term care services, family caregiver support services, etc. For child protection, high-risk or vulnerable families where people with disabilities are pregnant or giving birth, continue to strengthen parental and care awareness, integrate reporting mechanisms, and raise professional awareness among staff in each service network.
- C. With regard to the prevention of child abuse among indigenous peoples, the CIP should actively cooperate with the MOHW, the MOE, and other ministries to develop local

Child Abuse at Kindergartens and Infant Care Centers).

⁴⁸ The Control Yuan investigation report approved on Nov 19, 2019. (A 2-year-old Starved to Death at Home in the Bathroom in Taipei City)

⁴⁹ For details, please see the website of the Ministry of Health, Labour and Welfare of Japan. <https://www.mhlw.go.jp/bunya/kodomo/kosodate12/03.html>

support service networks that factor in indigenous cultures. It should also focus on strengthening, transforming and retiring the Indigenous Family Service Centers, increasing headcounts of local social workers and enhancing the protection of their labor rights.

- (2) On the issue of child abuse prevention in infant care centers and preschools, statistics on the number of cases of children being mistreated or abused by childcare providers and preschool teachers and caregivers, as well as their penalties, should be made public and regularly tracked and analyzed. With regard to the installation of surveillance CCTV, in addition to imposing administrative checks and improving mechanisms for accessing the videos and preserving evidence, the Government should also take into account the right to privacy and raise awareness among childcare providers and preschool teachers and caregivers about children's rights, so as to strike a balance between protecting children and preserving the quality of education or care.

Overview of Major Child Abuse Case

75. The investigation by the Control Yuan found⁵⁰ that more than 70 percent of the victims of major child abuse cases resulting in death or serious injury over the years were children under the age of 6. In 2020, the victims of major child abuse deaths were all preschoolers; among them, infants and toddlers under the age of 3 accounted for 80%. In 2014-2020, 30% of child abuse deaths caused by family members⁵¹ had never been reported for abuse in the past.
76. The percentage of child abuse cases reported by neighbors and community members is decreasing yearly.⁵² The percentage of cases reported by village (neighborhood) officials even dropped to 0.06% in 2020. The NHRC is concerned that preschool-age children urgently need the assistance of community members, neighborhood networks and medical and health systems to help identify and report abuse so that

⁵⁰ The Control Yuan investigation report approved on Jun 12, 2019 (Implementation of Early Judicial Intervention in Major Child Abuse Cases), the Control Yuan investigation report approved on Nov 13, 2019 (The Forensic Pathologist Act and Integrated System of Medical Examination for Children), the Control Yuan investigation report approved on Nov 17, 2021 (Effectiveness of Policies and Implementation of Child Protection Safety Net Promoted by Government Agencies).

⁵¹ A total of 144 cases.

⁵² A drop from 4.3% in 2014 to 2.7% in 2020, according to MOHW statistics.

Government can start early intervention.

77. Recommendation: Major child abuse cases still happen frequently, even though the Government has established a social safety net and reporting system, regional medical integration centers for child protection, and additional protective measures such as early judicial intervention and retrospective analysis of child deaths. This reminds the Government of the need to gain insights into whether human resources allocation is adequate and increase primary prevention. The NHRC will continue to monitor the implementation of the *Strengthening Social Safety Net Program - Phase II*.

Issue 16 Right to be Free from Corporal Punishment, Torture

and Inhuman Treatment

Campus Corporal Punishment and Improper Discipline

78. According to an MOE's analysis report,⁵³ the top three categories of disciplinary conflicts from 2017 to 2019 were conflicts between teachers and students, incidents of corporal punishment, and conflicts between teachers and parents, which are on the rise and occur more frequently in elementary and junior high schools.⁵⁴ The Ministry did not provide any analysis of the causes and prevention strategies in its report.
79. Regarding §129 of the Second Report and § 81 of the Concluding Observations on the Initial Report: From the investigation reports of the MOE⁵⁵ and the Control Yuan,⁵⁶ as well as from children's forums, it is

⁵³ 2019 Campus Security Analysis Report by MOE.

<https://csrc.edu.tw/FileManage/CheckData?sno=497&MergedId=b35d55b6030b4ddeb3d03ad8b769c4e>

⁵⁴ In 2019, there were 500 disciplinary conflicts between teachers and students, with 1,007 people involved, compared to 324 cases and 624 people in 2017, an increase of 54.32% in case and 61.38% in people respectively.

⁵⁵ 2019 Campus Security Analysis Report by MOE: In 2019, 306 incidents of corporal punishment were reported, affecting 625 persons; a significant rising trend compared to 2016 (177 incidents, 325 persons), 2017 (174 incidents, 324 persons) and 2018 (236 incidents, 544 persons). In 2019, 54.58% (167) of corporal punishment incidents occurred in elementary schools, 21.57% (66) in junior high schools, and 17.32% (53) in kindergartens; 71.9% of corporal punishment incidents occurred in elementary schools and below.

⁵⁶ The Control Yuan investigation report approved on Sep 13, 2018 (Corporal Punishment on Campus

found that corporal punishment is still happening in schools, and there are instances of corporal punishment in disguised forms. Children under the age of 12 actually are the majority of the targets of corporal punishment on campus.⁵⁷ Students with disabilities are also subject to verbal abuse, corporal punishment, and maltreatment on campus, resulting in suicidal or self-harming behavior of the child.⁵⁸

80. In practice, it is common for schools to incorrectly identify "corporal punishment" as "improper discipline" when investigating and handling teachers' illegal punishments. The investigation by the Control Yuan⁵⁹ found that the main difficulty of eradicating corporal punishment in schools is that the investigation and deliberation of controversial incidents are all determined and handled internally by the schools where the teachers serve. In addition, the legal framework lacks a mechanism to protect the rights of parents of punished students to participate, disagree, and seek remedies, which has led the public to think teachers simply protect each other in the investigation process. It is likely that corporal punishment on campus is more serious than what the government data suggests.

81. Recommendations:

(1) In order to actively prevent corporal punishment, the MOE should refer to the 2006 UNESCO *Positive Discipline in the Inclusive, Learning-Friendly Classroom – A Guide for Teachers and Teacher Educators*⁶⁰ to monitor and analyze the causes of disciplinary conflicts at all levels of school, and to establish and provide clear guidelines for teachers.

in Tainan City). The Control Yuan investigation report approved on Apr 11, 2019 (A Teacher Ordered a 1st Grade Student to Nap on the Balcony during Lunch Break in Zhong-Yi Elementary School, New Taipei City).

⁵⁷ 2019 Campus Security Analysis Report by MOE: In 2019, 54.58% (167) of corporal punishment incidents reported occurred in elementary schools, 21.57% (66) in junior high schools, and 17.32% (53) in kindergartens; 71.9% of corporal punishment incidents occurred in elementary schools and below.

⁵⁸ The Control Yuan investigation report approved on May 16, 2019 (Student with Tourette's Syndrome at Taipei Minquan Junior High School and Student at Sinjin Elementary School in Tainan City Jumped from a Building to Commit Suicide). The Control Yuan investigation report approved on Jul 16, 2020 (Incompetent Special Education Teacher at Jheng Sing Elementary School in Kaohsiung City). The Control Yuan investigation report approved on Nov 11, 2021 (Special Education at Sin Jie Elementary School in Taoyuan). The Control Yuan investigation report approved on Feb 13, 2019 (Teacher Abuse of Student at National Chiayi Special Education School).

⁵⁹ The Control Yuan investigation report approved on Apr 11, 2019 (A Teacher Ordered a 1st Grade Student to Nap on the Balcony during Lunch Break in Zhong-Yi Elementary School, New Taipei City).

⁶⁰ *Positive discipline in the inclusive, learning-friendly classroom: a guide for teachers and teacher educators*. <https://unesdoc.unesco.org/ark:/48223/pf0000149284>

- (2) The *Teacher's Act* has specified the operation of the teachers' professional review committee, the introduction of external professional members, and the lowering of the threshold for the resolution of the committee, to improve the mechanism for handling incompetent teachers. The NHRC will continue to monitor the implementation of the zero corporal punishment policy and the phase-out mechanism for incompetent teachers.

School Bullying

82. Teacher-to-student bullying: §§15, 134 and 135, Attachments 5-28 and 5-29, and §54 of the Concluding Observations on the Initial Report. According to MOE statistics,⁶¹ verbal bullying is the most common form of teacher-to-student bullying.
83. Student-to-student bullying: Children's forums revealed that student-to-student bullying on campus often targets specific groups, including LGBTQI students and students with disabilities. Children believe the main reason is that schools have not really implemented gender equality education and anti-bullying education, so schools should raise awareness about anti-discrimination especially among younger students in the 1st and 2nd grades.
84. Recommendations:
- (1) To combat teacher-to-student bullying, the Government should address the increasing problem of verbal bullying and psychological violence, take preventive measures as soon as possible, and refer to UNESCO's 2006 Guide⁶² to help teachers replace competition and negative reinforcement with integration, acceptance, and friendly learning in classroom management, in order to change the competitive culture in schools and classes and reduce the likelihood of bullying.
- (2) For student-to-student bullying, the Government can promote the successful experience of restorative justice in schools in due course, so that schools are aware of a variety of dispute resolution options when managing classroom and dealing with campus

⁶¹ From July to December 2020, 590 suspected bullying cases (including 52 teacher-to-student cases and 538 student-to-student cases) were reported; 122 cases (including 0 teacher-to-student case and 122 student-to-student cases) were verified after investigation. Of teacher-to-student abuse, the majority was verbal bullying (50 cases, 96.2%).

⁶² Same as footnote 60.

bullying. However, such resolutions should avoid causing secondary victimization.

Issue 17 Child Sexual Abuse and Sexual Harassment

85. According to Control Yuan investigation⁶³ and government statistics, the number of reported cases of suspected sexual abuse and harassment on campus has been increasing since 2006. The number of reported cases of sexual abuse of children in placement organizations has also been increasing year by year. Areas of concern include:

(1) High percentage of sexual abuse through power and influence in schools and placement organizations: Analysis of 17 major child sexual abuse cases investigated by the Control Yuan over the years indicates that most of them occurred in schools and placement organizations,⁶⁴ and 76.47% (13 cases) were committed by the victims' teachers, coaches, or supervisors with more power and influence. The number and percentage of cases of sexual abuse⁶⁵ and sexual harassment⁶⁶ by teachers against students are increasing yearly. Most cases happened to children in junior high and high (vocational) schools.⁶⁷ In addition, the Control Yuan investigation⁶⁸ revealed that there are still cases of teacher-to-student sexual abuse on campus that are not actively handled by the school even with the knowledge of such incidents,

⁶³ The Control Yuan investigation report approved on Aug 17, 2021. (A Review of the Government's Effectiveness in Preventing Child Sexual Abuse).

⁶⁴ 6 cases occurred in placement organizations (2 in organizations for children, and 4 in placement organizations for people with physical disabilities), 11 cases occurred in schools (including a mass sexual abuse case at the School for Students with Hearing Impairments in Tainan).

⁶⁵ According to MOE's "Factual Statistics on Campus Sexual Abuse Investigations - Categorization by Relationship" from 2014 to 2020, the number and percentage of teacher-to-student sexual abuse are: 2014 (32 cases, 4.54%), 2015 (18 cases, 3.46%), 2016 (34 cases, 7.33%), 2017 (29 cases, 7%), 2018 (38 cases, 9.90%), 2019 (40 cases, 9.69%), 2020 (36 cases, 8.82%), respectively.

⁶⁶ According to MOE's "Factual Statistics of Campus Sexual Harassment Investigations - Categorization by Relationship" from 2016 to 2020, the number and percentage of cases of teacher-to-student sexual harassment are: 2016 (109 cases, 7.81%), 2017 (218 cases, 13.89%), 2018 (226 cases, 14.57%), 2019 (227 cases, 13.44%), and 2020 (296 cases, 14.55%), respectively.

⁶⁷ According to MOHW's 2020 sexual assault victim profile statistics, there were 9,212 victims, of which 5,978 (64.89%) were children. The distribution of victims by age group was: 0 to under 6 years old (329, 5.50%), 6 to under 12 years old (759, 12.70%), and 12 to under 18 years old (4,890, 81.80%).

⁶⁸ The Control Yuan investigation report approved on Jul 16, 2020 (A Teacher Who Has Been Given an Excellent Teaching Award and Taught For More Than 20 Years Involved In Sexual Abuse and Harassment Of 31 Students), the Control Yuan investigation report approved on Jul 16, 2020 (A Judo Coach Sexually Abused Students), the Control Yuan investigation report approved on Sep 12, 2019 (A Baseball Coach Sexually Abused Students), the Control Yuan investigation report approved on Jul 16, 2020 (A Club Teacher Sexually Abused Students).

and are not reported in accordance with the law, which shows a systematic problem with the institutional culture of cover-up. In §32 of the Independent Opinions on the Second CRPD Report,⁶⁹ the NHRC also noted that the MOE has not yet conducted a complete and detailed statistical analysis of suspected incidents of gender-based violence, making it difficult to understand and prevent the victimization of children with disabilities in segregated special education schools. Given the gravity of sexual abuse in placement organizations and on campus, NHRC is currently conducting systematic visits and research.

- (2) The number of boys who are sexually abused is on the rise: from 2005 to 2020, the number of boys under 18 who were sexually abused kept growing,⁷⁰ but there is little research and literature on this topic in Taiwan. In recent years, there have even been a number of cases of sexual abuse and sexual harassment of students by school coaches or club teachers, of which many boys were victims.
- (3) Children with intellectual disabilities are at high risk of being victimized: 159 (3.01%) of the suspected child sexual abuse victims in 2019⁷¹ were children with disability cards, including 136 with intellectual disabilities (85% of the child victims with disabilities), highlighting the vulnerable situation of people with intellectual disabilities.
- (4) The highest percentage of victims of sexual assault in welfare institutions for people with disabilities is under the age of 18: According to the manual of three-level prevention practices for welfare institutions for people with disabilities published by the MOHW, an analysis of sexual assault cases of people with mental disabilities in institutions over the past six years was conducted through 11 anonymous questionnaires sent to institutions and 22 questionnaires sent to domestic violence prevention centers in cities/counties. It was found that the highest percentage of victims of sexual assault in welfare institutions for the disabled

⁶⁹ Opinions on the Second National Report of Republic of China (Taiwan) on the Rights of Persons with Disabilities. Mandarin Chinese - <https://nhrc.cy.gov.tw/monitor/opinion/detail?id=aade6151-5752-4451-a3e4-4b54bb989d82>; English - <https://nhrc.cy.gov.tw/en-US/monitor/opinion/detail?id=382a1457-7e24-4a29-ba87-f0b11875d2eb>

⁷⁰ According to MOHW's Reported Sexual Assault Victim (Male) Profile Statistics, the percentage of male child victims grew from 4.55% in 2005 to 25.62% in 2020.

⁷¹ 5,272 persons.

is under the age of 18, accounting for about 50% of the victims. The age of the victims upon admission can be estimated based on the placement duration, and it is found that more than 80% of the victims were under 16 years old.

- (5) The rate of sexual abuse of indigenous children is higher than that of non-indigenous children:⁷² scholars analyzing the statistics from 2010-2017 found that only about 3.5% of the national population of children are of indigenous ethnicity, but the percentage of sexual abuse of this group of children is as high as about 12%.⁷³ This highlights the urgent need to focus on the issue of sexual abuse of indigenous children.

86. Recommendations:

- (1) In addition to strengthening the involvement of external evaluation and investigation mechanisms and establishing an independent complaint support system, the Government should create a friendly environment that encourages victims to speak out, consider adding rational and emotional education courses as evaluation items for institutions, and urge schools at all levels to enhance supervision and management of coaches or club teachers.
- (2) There is a lack of literature on the issue of sexual abuse of indigenous children in Taiwan. The CIP, MOHW, and MOE should actively collect and analyze data to understand the current situation, and take into account ethnic and cultural factors to carry out sexual abuse prevention in remote or indigenous areas.
- (3) The Government needs to conduct and publish regular studies on the prevalence of child sexual abuse to identify risk factors at an early stage.

⁷² According to MOWH's statistics, the rate of sexual abuse victims among indigenous children with ROC nationality in 2019 was 0.0038367; the rate of sexual abuse victims among non-indigenous children with ROC nationality was 0.0013314.

⁷³ Shen, C.H., Tai, J.T., Chou, C.M., Kao, H.C. (2020). Reflections on the Treatment Journey and Work of Child Sexual Abuse Cases in Taiwan: An Example of Child Protection Work in Pingtung County. *Community Development Journal (Quarterly)* 169, 256-270.

H. Disabilities, Basic Health and Welfare

Issue 18 Education for Children with Disabilities

Important Issues in Amending the *SEA*

87. The MOE is in the process of amending the *SEA* in its entirety, and the NHRC has recognized the Ministry's focus on inclusive education and reasonable accommodation, but the Ministry has not specified the scope of obligations to carry out reasonable accommodation, the procedures to handle disputes, or the means of remedy in the event of violations of rights. Neither does it treat the denial of reasonable accommodation as discriminatory and plan to impose any sanctions accordingly. Furthermore, the MOE only examined the implementation basis of the current special education support for inclusive education, such as funding, teacher-student ratio, function and ratio of assistant staff, transportation arrangement, empowering special education teachers, and adjustment to teachers' internship programs and examinations. However, the effectiveness of the implementation of these measures has not been examined from the perspective of enhancing teachers' competence and providing guidance in the general education setting.

Equal Participation in Developmental Activities

88. Most of the representatives reflected in the focus groups that children with disabilities have been excluded from field trips for a long time, and many schools, through various means, require parents to accompany the students to participate in the activities, which is in effect treating parents as caregivers and constitutes discrimination and differential treatment. It also violates the *CRPD*'s requirement that the Government should ensure that children with disabilities have the right to participate in activities on an equal basis with other children, and that an unfriendly learning environment cannot lead to truly inclusive education. The MOE stated during government agencies discussions that it had written to schools at all levels in 2019 to ask them to safeguard students' rights

to field trips, and that the Ministry will keep track of schools' practice. The NHRC will continue to monitor the actual implementation to address the aforementioned issues.

89. The Government completed phase 1 of the teacher empowerment and advocacy initiative for adapted physical education (PE) in 2017-2020. According to the *Yearbook of Physical Education Statistics for the 2019 Academic Year*,⁷⁴ "insufficient teachers or personnel" is selected by the majority of respondents (56.21%) as the most common challenge in adapted physical education. In addition, for a long time, students with disabilities have been almost always isolated from physical education classes during their school years. Most of the IEP meetings held in schools focus on learning, and there is a lack of discussions on physical activity, recreation, and social participation for students with disabilities.
90. The Government has not yet obtained the coverage rate of accessible school environment, and some special education schools still do not have 100% accessibility, according to the written reply from the MOE.⁷⁵ The Ministry claims it will conduct a comprehensive campus accessibility inventory by the end of June 2022, and establish a yearly improvement plan with a budget to assist in the improvement. The NHRC will continue to monitor the improvement of campus accessibility.
91. Recommendations:
 - (1) In addition to taking stock of the problems encountered by students with disabilities during field trips, the Government should also review the staffing of assistants to special education students at all levels of schools and the difficulties in self-funding the staff, and devise complementary measures. This practice will help implement General Comment No. 4 of the *CRPD*, which protects equal participation of students with disabilities and promote their rights to cultural, leisure, and recreational activities.
 - (2) Physical education (PE) is an important opportunity to implement equality, value individual differences, and promote peer interaction and learning in inclusive education. So, schools

⁷⁴ Source: <https://www.sa.gov.tw/Resource/Ebook/637475158250098218.pdf>

⁷⁵ By the end of 2021, the improvement rate of accessible space (including indoor guide paths, ramps and handrails, and toilet) in Nanzhih Special School was 83%.

should actively promote and ensure the right of students with disabilities to participate in PE programs on an equal basis, and should make reasonable accommodations in teaching materials and facilities to meet the needs of students with different types and levels of disabilities. At present, the promotion of adapted PE policy faces problems such as teacher training, improvement of accessible teaching environment and facilities, and implementation of IEP meetings. The Government should integrate and improve the relevant resources (including amendment to law), and attract young people with professional backgrounds to jointly facilitate the development of adapted PE.

Lack of Individualized Support Strategy and Proactive Intervention

92. The Government does not yet have statistical data on student and parent participation in IEP meetings at all school levels. The NHRC found from the Control Yuan investigation⁷⁶ and the feedback from NGO representatives that IEP meetings at all levels of education tend to be just a formality. The MOE only finds out the effectiveness of special education and IEPs through the evaluation of primary and secondary schools every four years, and there is no mechanism to verify how effective IEPs are, not even a mechanism to preserve IEP data for individual students. The MOE became aware of the importance of IEP data retention only after the Control Yuan investigation. The purpose of the IEP is to ensure that students with disabilities receive an education that is appropriate to their individual needs. However, the practical implementation is often not reasonably accommodated based on the needs of students, and the objective is not revised with rolling wave planning, making it difficult to effectively promote inclusive education.
93. Recommendation: The Government should implement the IEP system in accordance with paragraph 3 of Article 7 of the *CRPD*, Article 28 of the *SEA*, and paragraph 3 of Article 9 of the *Enforcement Rules of the SEA*. The Government should actively consider improvement measures to address the difficulties in implementing the IEP in teaching practice (e.g., insufficient administrative support in schools; insufficient

⁷⁶ The Control Yuan investigation report approved on Jul 16, 2020 (Incompetent Special Education Teacher at Jheng Sing Elementary School in Kaohsiung City), and the Control Yuan investigation report approved on Nov 11, 2021 (Special Education at Sin Jie Elementary School in Taoyuan).

integration of general education teachers, professionals, and special education teachers; lack of a case manager system, etc.). The NHRC will continue to monitor the implementation of the IEP system.

Educational Resources Fail to Respond to the Need for Transitioning

94. Lack of a time frame for full inclusion: See §104 of NHRC's Independent Opinions on the Second CRPD Report.⁷⁷
95. Qualified Teaching Personnel in Special Education: The NHRC has pointed out in §111⁷⁸ of its Independent Opinions on the Second CRPD Report that qualified special education teachers was unevenly distributed across Taiwan, and the percentages of qualified special education teachers in nearly half of the cities/counties were lower than the national average. According to the *Yearbook of Special Education Statistics*⁷⁹, the ratio of qualified teachers in special education in some cities/counties has been lagging behind for a long time; among the various education levels, the ratio in preschools and junior high schools needs to be significantly improved.
96. Educational resources in remote areas: In 2017, the Legislative Yuan passed the *Act for Education Development of Schools in Remote Areas*, which allocates \$2 million every three years to assist schools in these areas to improve campus infrastructure, equipment or teaching equipment, teaching materials, teaching aids, and funding for students to attend school. However, the schools did not take into account the special needs of students with disabilities in the rural areas when using the funds.
97. Employment transition: According to NGOs' feedback, the current curriculum for students with intellectual disabilities attending senior high schools is based on the service cluster curriculum. However, in some cities/counties, although there are more than two schools following the curriculum, they offer courses with the same subjects,⁸⁰ which limits students' choices. Moreover, the internship program is not

⁷⁷ Opinions on the Second National Report of Republic of China (Taiwan) on the Rights of Persons with Disabilities. Mandarin Chinese - <https://nhrc.cy.gov.tw/monitor/opinion/detail?id=aade6151-5752-4451-a3e4-4b54bb989d82>; English - <https://nhrc.cy.gov.tw/en-US/monitor/opinion/detail?id=382a1457-7e24-4a29-ba87-f0b11875d2eb>

⁷⁸ Same as the previous footnote.

⁷⁹ Source: <https://stastic.set.edu.tw/BookShelf/>

⁸⁰ Source: The K-12 Education Administration (MOE) website for adaptive placement for students with disabilities. (<https://adapt.set.edu.tw/>)

effectively linked to the future job market, making it difficult for those who need to work to transition to employment after graduation.

98. Recommendations:

- (1) The MOE should provide guidance or complementary measures to encourage local governments to increase the percentage of qualified teachers in special education for students with disabilities. The Ministry should make good use of the *Act for Education Development of Schools in Remote Areas* to allocate funds to improve teachers' accommodation and commuting conditions, so as to boost recruitment and retention of teachers. Schools should also take into account the special needs of students with disabilities in rural areas when using subsidies for special education resources and teaching aids, educational materials, and commuting, in response to §§58 and 74 of the Concluding Observations on the Initial Report. NHRC will continue to monitor the actual implementation of such measures.
- (2) The MOE and the MOL should work together to facilitate employment transition and counseling services for students with disabilities, and to improve complementary measures to help enhance students' employability and adaptability, protect their right to work, and promote social participation.

Issue 19 Right to Health

Early Intervention

99. According to a Control Yuan investigation report, more than half of the developmental delay cases in Taiwan miss the optimal timing of intervention when children with such delay are 0-3 years old, due to the urban-rural gap in community health services and the lack of overall service coverage.⁸¹ Following the Control Yuan investigation, the Government has stepped up cross-system child development screening, including strengthening screening and promotion at preventive vaccination clinics, and raising awareness among childcare providers, preschool teachers and caregivers, and child preventive health

⁸¹ The Control Yuan investigation report approved on Feb 18, 2020. (Children With Developmental Delay)

professionals. The NHRC will continue to monitor the effectiveness of early intervention policy implementation.

Sexual Health

100. Referring to §211 and Attachment 7-28 of the Second Report, the NHRC found that the number of STIs per 100,000 teens in 2020 is 1.885 times higher than in 2016. Regarding §226(b) of the Second Report, the NHRC learned from focus groups and discussions with government agencies that schools and teachers tend to shy away from sex education or sexual health issues, such as teaching how to use condoms or contraception, in order to avoid protests or lawsuits lodged by parents.
101. §§226-229 of the Second Report omit the issue of sex education materials for children with disabilities. Although the MOE currently provides teaching materials on gender equality and sex education designed for different disability groups,⁸² they achieved limited success.
102. Recommendations:
 - (1) The Government should collect children's opinions and review whether the contents of teaching materials related to sex education and sexual health curriculum meet the developmental needs of children.
 - (2) The NHRC expects the Government to actively promote the importance of sex education and sexual health courses in order to reduce the pressure that teachers may be under when teaching such topics.

Electronic Cigarette

103. The NHRC's follow-up of the Control Yuan investigation⁸³ revealed that the sales of illegal e-cigarettes in Taiwan exceeded NT\$128 million, and this amount does not include sales that were not registered for tax purposes. The NHRC also learned from children's forums that users and sellers of e-cigarettes are getting younger, and one can simply use the keyword "candy" to search online auction platforms and find a great

⁸² The Gender Equity Education website by the MOE.
https://www.gender.edu.tw/web/index.php/m5/m5_05_07_index

⁸³ The Control Yuan investigation report approved on Jun 16, 2020 (Emerging Tobacco Products Lead to Chaos).

number of e-cigarette products. Although 9 local governments have enacted self-governing legislation, it falls short of effectively addressing the proliferation of e-cigarettes.

104. Recommendation: The NHRC calls on the Legislative Yuan to pass the amendment to the *Tobacco Hazards Prevention Act* as soon as possible.

Substance Abuse

105. Attachment 9-8 of the Second Report shows that the proportion of boys who consciously receive anti-drug-related information is lower than that of girls; and according to Attachment 9-9, the proportion of adolescents who actually abuse substances is higher among males. Another study found women are more likely to be affected by negative emotions after withdrawal, which may lead to a higher rate of relapse, and thus more emphasis should be placed on depression prevention in their addiction treatment.⁸⁴
106. Recommendation: For anti-drug education and advocacy among children, emphasis should be placed on age- and gender-specific exposure to drugs and treatment of addiction, taking into account their behavioral patterns, personalities, family functions, and other factors, and strengthening the social safety net to provide support for children with substance addiction.

⁸⁴ Lok, L.W. et al., (2021). Differences in cognitive impulsivity and risk decision-making performance of amphetamine abusers of different genders. *Journal of Substance Abuse Research*, 6(4), 37-88.

I. Educational, Cultural and Leisure Activities

Issue 20 Education

Elementary and Junior High School Dropouts/Senior High School

Dropouts

107. Referring to §§259-263 and Attachment 8-12 of the Second Report, the NHRC found from the Control Yuan 2020 investigation report⁸⁵ that about 50% of the reasons for dropout are attributable to personal factors, 25% to family factors, and about 10-12% to school factors and social factors respectively, according to the MOE 2016-2018 statistics. However, Attachment 8-12 (2) clearly shows that the number of dropouts is the largest at the junior high school level, and the numbers of dropouts increase exponentially grade by grade.
108. The NHRC learned from Attachment 8-13 of the Second Report that the dropout rate at senior high school level did decline; 65% of the causes were attributable to the individuals and 18.8% to the schools. Of the personal factors, 34.6% are due to differences between personal interests and what the school teaches.
109. From the Control Yuan investigation report of a family in Kinmen County who have not enrolled their 4 children in compulsory education for 11 years, the NHRC learned that the parents have not sent their children to compulsory education since 2008 due to personal beliefs. The parents have neglected education and abused their custody, and hence undermined the four children's right to education and development.⁸⁶ According to the MOE, a total of 54 students refused to attend primary and secondary schools for a long period of time in the past 10 years. For non-child protection or high-risk cases, most of them did not go to school due to "poor cooperation from parents".

⁸⁵ The Control Yuan investigation report approved on Jun 11, 2020 (Educational Measures for Students Who Have Not Gone on to Higher Education and Are Not Employed In The K-12 Education System).

⁸⁶ The Control Yuan investigation report approved on Nov 11, 2021. (Kinmen case)

110. Recommendations:

- (1) The Government should revise the checklist for schools to fill in the reasons for dropouts, so that schools do not overly attribute leaving school to individual students. This will enable the Government to keep track of the actual reasons for the doubling of the number of dropouts with each advanced grade in junior high school and the reasons for high school suspensions and dropouts.
- (2) The Government should ensure that school measures to encourage junior and senior high school dropouts to return are effective, and that schools provide active counseling and assistance to returning students.
- (3) The Government should explore ways to help students with low academic achievement to establish confidence and motivation to learn, and to improve the quality of teaching to address the reasons for dropout, such as a large gap in the quality of teaching, and students' lack of motivation to learn.
- (4) Besides child abuse cases, the Government should apply the *Children and Youths Act* to also deal with parents who seriously violate the rights of their children to education, with the best interests of the child as a priority.

Human Rights Education

111. Regarding §§270-273 of the Second Report, NHRC is aware that human rights education is one of the top 19 issues in the 2019 Curriculum Guideline, but it is taught as part of the existing syllabus. The NHRC will continue to keep an eye on whether human rights education can be successfully delivered in this way. Additionally, the NHRC found that in the 5 years since the implementation of the *Middle-term Plan for Human Rights and Civic Education*, student rights on campus have not been better promoted, so it is difficult to assess the effectiveness of the plan. The Government has only partially implemented the four-phase action plan of the United Nations *World Programme for Human Rights Education*, and there is no overall strategic planning.

112. Recommendations:

- (1) The *National Human Rights Action Plan* of the Executive Yuan

should take stock of existing policies in accordance with the four-phase action plan of the World Programme for Human Rights Education, and draw up specific plans on how to provide human rights education as required by the *CRC*.

- (2) The MOE should develop a "human rights-based" curriculum instead of integrating human rights issues into the existing curriculum, and at the same time strive to promote children's rights in schools and improve the human rights environment on campus.

Issue 21 Rights to Rest, Leisure and Participate in Cultural Life

Sleep in Adolescents & Normalization of Teaching

113. According to a study by the Institute of Population Health Sciences,⁸⁷ NHRI, the average number of hours of sleep for adolescents in Taiwan is 7.12 hours on school days, and the hours tend to decrease when students get older. The higher the grade level, the more likely it is to have daytime drowsiness due to sleep deprivation, which affects learning and growth. Although the MOE announced in September 2022 that senior high school students could arrive at the school at 8:00a.m., which is later than before, it did not push back start times for junior high school students. Private school students often spend up to 14 hours in school (7:30-21:30) and still have homework to complete at home. Long hours of study and excessive text transcribing as punishment are both causes of sleep deprivation among teenagers.
114. Referring to §288 of the Second Report, the NHRC learned from children and focus groups that there are problems in teaching: sessions for non-assessment subjects are used to teach assessment subjects, and new content is taught in the 8th period and students cannot opt out, which is not in line with the regulations and the curriculum guideline. Based on the corrective measures⁸⁸ proposed by the Control Yuan, the NHRC found that among the 2,421 schools visited by local

⁸⁷ Chang, H.Y., Institute of Population Health Sciences (NHRI). Adolescent Sleep: Causes and Effects. https://issuu.com/pdis.tw/docs/_pdf.pptx_7a67c78969046b

⁸⁸ The Control Yuan investigation report approved on Jul 15, 2021. (Normalization Of Teaching And Learning)

governments in the 2017-2019 academic years (from 2017/9 to 2020/6) for inspection, 58.78% failed to fully meet the standards of normalized teaching, and more than 50% failed to fully meet the standards in 14 of the 22 cities/counties. 73.53% of private high schools and 56.46% of public high schools did not fully satisfy the standards. According to the questionnaire in the investigation, 25.98% of students had experience when a session of non-assessment subject was used to teach a CAP (Comprehensive Assessment Program for Junior High School Students) subject; 23.26% said the 8th period, which is designed for after school tutoring, had been used to teach new content; 47.73% said their morning self-study hours, lunch breaks or cleaning time had been used by teachers to teach content or give exams; 25.68% thought school hours were too long.

115. Recommendations:

- (1) The central and local governments should deal with schools that fail to normalize teaching in accordance with the law, and take disciplinary action when necessary.
- (2) The MOE should propose specific measures to mitigate the impact of "additional homework" (transcribing text as punishment) on students' right to rest and leisure, and the excessive hours of study in school, in order to protect their human rights and rights to physical and mental development.

Leisure and Cultural Activities

116. In reference to §199 of the Second Report, Attachment 7-13, and §58 of the Concluding Observations on the Initial Report, it is understood that in recent years the Government has been actively promoting inclusive playground facilities and "non-cookie-cutter" playground facilities. However, as of January 31, 2021, more than half of the city/county governments have completed less than 50% of inspection of playgrounds in parks and submitted results for future reference, according to the "Survey of Playgrounds Annexed to Parks" compiled by the Construction and Planning Agency. Only half of the cities/counties have opened the design planning meetings or activities for children to participate in when setting up new playgrounds; as of the end of 2021, 6 cities/counties still did not have any playground facilities for children with disabilities. At present, children's playground

management regulations in Taiwan stipulate that playground facilities may follow national and international standards such as CNS, America's ASTM, the regional standard EN, and ISO, but most inspection bodies in Taiwan accredited by TAF only certify CNS- or ASTM-compliant facilities. As a result, playground designers and manufacturers who introduce playground facilities that meet EN or ISO standards are not able to obtain inspection reports that comply with the regulations.

117. The NHRC, based on the Control Yuan investigation report⁸⁹ and discussions with government agencies, learned that the Ministry of Culture (MOC) and the MOE have subsidized the production of children's programs. The MOE provided a total of more than NT\$ 60 million in subsidies for children's program production from 2018-2020, accounting for nearly 20% of the broadcasting budget. Meanwhile, the MOE awarded over \$35 million in subsidies from 2017-2020. The report, however, points out that aside from children's channels on satellite TV, domestically produced children's programs on broadcast TV's and satellite TV's generalist channels account for only 6.53% and 2.29% of the total broadcast hours in Taiwan.

118. Recommendations:

- (1) Agencies that provide guidance and inspection of playground facilities should expeditiously increase the number of vendors that can perform inspection following EN and ISO standards, and urge city/county governments to improve and inspect playgrounds through giving guidance to the entities that construct the playgrounds, in order to comprehensively examine these spaces. The Government should also raise awareness of the *CRC* among playground facility designers so that design stakeholders understand and value the diverse developmental needs of children with different physical and mental capacity to fulfill their right to play. The NHRC also calls on the Government to promote the right of children of all mental and physical capacities to participate and make decisions in the planning, design, development, implementation and monitoring of policies.
- (2) In terms of children's programs, NHRC expects the Government to not only subsidize domestically self-produced programs, but also expand the diversity of program genres so that they include

⁸⁹ The Control Yuan investigation report approved on May 13, 2021. (Children's Program)

children's participation and viewpoints; at the same time, the Government should develop talents for children's program production and broadcasting so as to enhance the accessibility to such programs.

- (3) The NHRC believes that the lack of children's playground facilities, children's programs and overall leisure activities, coupled with long school hours, have seriously infringed on children's right to rest, leisure, and cultural activities. The Government should actively address the issue of long school hours, increase leisure activities for children, and provide space for children's sports, leisure, and cultural exchanges in the community to protect their rights to development.

J. Special Protective Measures

Issue 22: Children and Youth in Emergency Settings

Humanitarian Aid Mechanism for Children and Youths in Emergency

Settings

119. According to the Mainland Affairs Council (MAC), since the implementation of the Hong Kong Humanitarian Aid Project, all cases involving children and youth seeking residency in Taiwan in accordance with Article 18 of the *Laws and Regulations Regarding Hong Kong & Macao Affairs* have been reviewed and passed, thus allowing them to establish residency and attend school in Taiwan. Due to the sensitive nature of the provision of humanitarian aid to Hong Kong citizens, MAC did not clarify the assistance mechanism or legal criteria and only replied that no child or youth asylum application has been denied.
120. Recommendation: The Government should establish a humanitarian aid mechanism for children and youth in emergency settings to provide child and youth applicants with the necessary assistance in healthcare, school attendance, housing, and living expenses, and residency extension so as to ensure that they can lead a comfortable life in Taiwan.

Issue 23: Economically Exploited Children and Youths

Working Environment of Children and Youths

121. Between 2018 and 2019, the occurrence of two cases of child/youth worker exploitation—one was subject to workplace bullying and beaten to death and the other was held captive and tortured⁹⁰—attracted the attention of domestic NGOs, the media, and the general public.

⁹⁰ Taiwan Alliance for Advancement of Youth Rights and Welfare (2020). Press Release. Retrieved from <https://www.youthrights.org.tw/news/1495>.

According to data published on the CRC information website⁹¹ hosted by the Government, the percentage of *Labor Standards Act* violations regarding the working conditions of work-study students and part-time workers reported in 2019 reached 28.21%. However, the actual percentage may be higher since child/youth workers are vulnerable groups in the workplace.

122. Through focus group discussions held by NHRC, government-commissioned studies⁹², and online surveys conducted by NGOs⁹³, the following problems were identified:

- (1) 36% of all high school-age workers in Taiwan are not paid the legal minimum wage. Approximately 30% of students in continuing education programs in eastern and central Taiwan say that they are not sure whether their working conditions are in compliance with labor laws. This may be related to the implementation of labor education.
- (2) 25% of students in continuing education programs have worked until 10 p.m. and 12% have worked graveyard shifts. Furthermore, 6.8% of working youth are employed at working hours and salaries that violate the *Labor Standards Act*.
- (3) According to MOL statistics on violations of the *Labor Standards Act* reported to the complaint hotline between 2018 and June 2021, a total of 39 cases related to the rights of children and youth were reported, 33% of which were complaints involving the employment of workers under 15, and 30% of which were complaints involving employers who failed to obtain the consent of a legal representative and proof of age from workers under 18. Furthermore, it was found that 60% of students in continuing education programs have never provided the consent of a legal representative.

123. Recommendations:

- (1) The Government should carry out investigations into and analyses of the working conditions of child/youth workers undertaking illegal employment and conduct regular censuses of

⁹¹ MOL (2020). Inspection Results of the Working Conditions of Work-Study Students and Part-Time Workers. Retrieved from

<https://crc.sfaa.gov.tw/Statistics/Detail/84?AspxAutoDetectCookieSupport=1>

⁹² MOE (2019). Investigation and Study of Off-Campus Employment of Students Under 18 in Senior High School Continuing Education Programs.

⁹³ National Students' Rights Seminar in Taiwan (2021). Investigation of Labor Rights of Senior High School Students in 2020. Retrieved from <https://de-de.facebook.com/nsrstw/videos/>

children and youth under 15 as stated in Attachment 9-6 of the Second Report.

- (2) In addition to fining employers who violate the law so as to protect child/youth workers from being paid less than the legal minimum wage, the Government should also establish a regular visitation and counseling mechanism and provide policy incentives to exemplary employers for the purpose of improving the working conditions of child/youth workers. Additionally, labor resources should be invested in junior high schools and elementary schools in order to establish a long-term effectiveness monitoring mechanism, while welfare services should be utilized to assist economically disadvantaged children and youth.

Occupational Injuries and Labor Complaints among Child/Youth Workers

124. A government study⁹⁴ has shown that although the occupational injury rate per thousand teenage workers dropped to 4.20 in 2017, it is still higher than the occupational injury rate per thousand workers in Taiwan (2.773). Furthermore, according to a government-commissioned study⁹⁵, 39% of survey respondents said that they suffered occupational injuries in the workplace. The NHRC has observed that statistics do not reflect the actual number of occupational injuries, as many child and youth workers agree to settle with their employer privately due to a lack of understanding of labor rights or in order to avoid trouble.
125. In comparing the number of complaints received and the statistics on child and youth labor violations between 2018 and 2021, the NHRC found that only roughly 4% (39 out of 907) of cases filed a complaint through the hotline, showing a very low number of complaints received via the complaint channel or from children and youth whose rights have been violated.
126. Recommendations:
 - (1) The Government should formulate an effective workplace safety policy for teens, assess the feasibility of establishing a child/youth labor audit department and associated personnel, conduct labor inspections that focus on children, increase the

⁹⁴ Institute of Labor, Occupational Safety and Health, MOL (2019). Study of the Causes of Occupational Injuries in Teenage Workers and Their Preventive Measures.

⁹⁵ MOE (2019). Investigation and Study of Off-Campus Employment of Students Under 18 in Senior High School Continuing Education Programs.

promotion of complaint channels and support resources, and provide aid to children and youth whose rights have been violated.

- (2) Regarding cases of child/youth workers being subject to serious workplace bullying, captivity, and torture during their tenure as work-study students, interns, or employees, the Government should implement a protection mechanism for serious child abuse cases.

Transition to Employment for Juvenile Offenders

127. There is a large gap between the number of children and youth discharged from juvenile reform schools and juvenile detention houses over the years as listed in Attachments 5-31 and 5-32 of the Second Report and the description of the employment services provided to juvenile offenders after their discharge from juvenile reform facilities in Attachment 9-25.
128. As shown in the Control Yuan's investigation report⁹⁶, around 60% to 70% of the vocational training programs provided at juvenile reform schools do not meet the demands of today's labor market. It is also observed that there is no uniform standard governing the manner in which reform facilities and labor agencies should collaborate with each other.
129. Recommendation: The employment services provided at juvenile reform schools should be in keeping with the current labor market. Furthermore, the MOL, MOE, and MOJ should consolidate the available resources for employment services and career counseling, enhance collaboration, and discuss and propose suitable measures to help juvenile offenders reintegrate into society.

Issue 24: The Juvenile Justice System

At-risk Youths

130. Regarding §§16, 329, 338, and 345 of the Second Report and §§95 and

⁹⁶ The Control Yuan investigation report approved on Aug 11, 2021 (Management Restructuring Case of the Taoyuan Reform School).

96 of the Concluding Observations on the Initial Report of the Republic of China (Taiwan): The major revisions made to the *Juvenile Justice Act* in 2019 were an important milestone for children's human rights in the judicial system. However, it is generally considered that the lack of supporting measures for the administrative intervention of at-risk youth may hinder the social reintegration of juvenile offenders. This includes issues such as whether youth counseling committees have the capacity to serve as case management centers for at-risk youth, how the mechanisms for reintegrating juvenile offenders into the educational system and society should be bridged, and whether manpower and resources can be pooled in a timely manner to ensure an effective response.

131. Recommendation: The Government should distribute resources to establish an effective community intervention and counseling network. The NHRC will continue its oversight of the work of the Government at all levels and of the youth counseling committees.

Fair Trials

132. In response to a resolution of the National Conference on Judicial Reform, the Judicial Yuan established the Committee on Gender-Inclusivity and the Protection of Human Rights and Children and Youth in 2017 and implemented protective measures for children and youth in the judicial process to protect their judicial rights. However, to date, incidents of juvenile court judges violating the personal dignity of children and youth during the judicial process are still occurring.⁹⁷ This shows that the protection of the rights of children and youth in the professional court system is in urgent need of review and improvement. The NHRC urges professional court judges and judicial personnel to equip themselves with the professional competence required for juvenile cases. The intention of closed judicial proceedings is to protect the privacy and dignity of children and youth, not to enable the abuse of authority by judges.
133. Recommendation: The Judicial Yuan should confront and seek to resolve issues in the selection, oversight, evaluation, and dismissal of

⁹⁷ For example, a juvenile court judge in the Miaoli District Court ordered juvenile offenders to slap themselves and kneel in court and used the threat of detention to force them to participate in religious activities. <https://www.mirrormedia.mg/story/20220213inv002/>

professional juvenile court judges, strengthen the professional knowledge of judicial personnel (including judges) in regard to children and youth as well as the CRC, and implement reforms in the professional juvenile court system.

Judicial Placements

134. Regarding §351 of the Second Report: The Control Yuan found in its investigation that there have been cases of juvenile offenders being placed in an overcrowded placement organization⁹⁸ that has had 21 cases of sexual abuse over the past 3 years. Officials at judicial agencies and other related units failed to report these cases of sexual abuse and discipline via physical abuse in accordance with the law and instead covered them up. This case indicates a systematic failure in commissioned placement ordered by local governments, the central ministries (the MOHW and the MOJ), and the Judicial Yuan, despite oversight at each government level. From the Control Yuan's investigation report, it is clear that the issue of juvenile offenders is a multi-faceted and complex one. If necessary, out-of-home placement should be moved from the judicial protection system to the social welfare system. However, due to the lack of stipulations in the *Juvenile Justice Act*, juvenile offenders for whom probation is ineffective are directly given the most severe punishment - juvenile detention (subject to reform education) - by judges.⁹⁹ The *Juvenile Justice Act* should be amended as soon as possible to include the practice of switching juvenile offenders to the social welfare system.
135. Recommendation: The Judicial Yuan should direct an appropriate amount of funding toward juvenile placements and amend the *Juvenile Justice Act* as soon as possible to include provisions stating that juveniles placed under probation may be transferred from the judicial protection system to the social welfare system if deemed necessary by a juvenile court. Furthermore, the Judicial Yuan and Executive Yuan should implement a contact mechanism and integrate their resource platforms to provide suitable interventions and the bridging of services

⁹⁸ The Control Yuan investigation report approved on Aug 9, 2018 (Sexual Abuse Cases at a Juvenile Placement Facility in Nantou).

⁹⁹ The Control Yuan investigation report approved on Aug 14, 2019 (Children and Youth Under Judicial Placement in Nantou Being Rejected by Organizations and Ruled to be Subject to Reformatory Education).

to better serve the interests of children and youth.

Interventions at Juvenile Detention Houses and Juvenile Reform Schools

136. After being amended in 2020, the *Detention Act* now states that the placement of a defendant under detention in a protective cell shall be immediately reported to the court that issued the detention order for approval, that detention may not exceed 24 hours, and that detention houses may not place defendants in solitary confinement for more than 15 days. However, the aforementioned provisions are yet to be applied to juvenile detention houses.
137. An investigation conducted by the Control Yuan¹⁰⁰ found that juvenile reform schools still use solitary confinement as a form of punishment and that they are known to apply restraints during such confinement. Detained juveniles who are sexually harassed/abused/bullied and those who are subject to other forms of bullying are also not accorded suitable intervention measures, and the incidents are not reported in accordance with the law. Other issues include the illegal use of restraints and detention in isolation cells, a culture of collective bullying, failure to protect the right of juveniles at reform schools to be heard, the failure on the part of reform school staff to implement a classroom management model based around counseling, a lack of diversity in curriculum planning, and a lack of individualized educational interventions.
138. Detained juveniles with disabilities: In regard to §§58 and 202 of the Second Report, the Control Yuan found in its investigation of juvenile reform schools and juvenile detention houses multiple cases of sexual abuse as well as violations of human rights by the managerial staff. Many of the victims were detained juveniles with disabilities. These correction institutions have long failed to establish suitable counseling and intervention measures, resorting instead to the use of restraints or detention in isolation or protective cells as punishment. For example, the Taoyuan Campus of Cheng Jheng High School (now Dun Pin High School) failed to implement any counseling or treatment measures for detained juveniles with disabilities who demonstrated emotional

¹⁰⁰ The Control Yuan investigation report approved on Jun 10, 2020 (Student Riot at the Changhua Campus of Cheng Jheng High School [originally Changhua Reform School]); The Control Yuan investigation report approved on Aug 11, 2021 (Management Restructuring Case at the Taoyuan Reform School).

instability or suicidal behaviors. Instead, the use of restraints was employed under the guise of protection, and no requests for professional assistance were made to the MOE or MOHW. In 2017, a mentally disabled youth at a juvenile detention house was subject to 18 straight days¹⁰¹ of solitary confinement in a clear violation of the CAT.

139. The aforementioned example shows a gap between domestic juvenile judicial practices in Taiwan and international human rights standards as law enforcement personnel evince a lack of respect for human rights and continue to utilize outdated measures. It also highlights the lack of support measures and an uneven distribution of resources in Taiwan's attempts at compliance with international human rights conventions.

140. Recommendations:

- (1) The Judicial Yuan should urge courts to increase their oversight of the use of protective cells at juvenile detention houses and push for juvenile justice laws to be amended to include the same focus on human rights that has been incorporated into the amended *Detention Act*.
- (2) The Judicial Yuan and the MOJ should reconsider the role of detention in juvenile justice and employ professionals at juvenile detention houses who will develop a comprehensive system comprising mental health assessment, psychological evaluations, special education, and medical resources for detained juveniles with disabilities. The NHRC will continue to follow up on the implementation of assessment systems at juvenile detention houses and the effectiveness of intervention after juveniles' transition to reform schools.
- (3) The MOJ should fast-track the formulation of the *Enforcement Act for Interventions at Juvenile Detention Houses* and the *Enforcement Act for Interventions at Juvenile Reform Schools* to clearly regulate the use of restraints and methods of punishment as well as the appropriate timing of and criteria for their use and the establishment of complaint channels as remedies. The staffing and transfer of reform school personnel and the counseling management system should also be reviewed.
- (4) In regard to detained juveniles with, the MOJ should comply with the *United Nations Standard Minimum Rules for the*

¹⁰¹ The Control Yuan investigation report approved on Feb 12, 2020 (Solitary Confinement of a Mentally Disabled Youth at the Taipei Juvenile Detention House).

Administration of Juvenile Justice and provide juveniles with all the necessary assistance - social, educational, vocational, psychological, and medical assistance as well as physical care and protection - that juveniles require based on their age and gender to ensure their healthy development. The MOE, MOHW, and MOL should combine resources to allocate professional personnel and incorporate reasonable accommodation based on individual needs into intervention measures.

Crossover Children/Youth and Juvenile Intensive Aftercare

141. In regard to §§139 and 352 of the Second Report, the Control Yuan¹⁰² pointed out in an investigation that 23.2% of subjects in juvenile intensive aftercare services¹⁰³ were under juvenile protection, and that 12.5% of detained juveniles at reform schools and juvenile detention houses¹⁰⁴ were from vulnerable families or families in crisis. This highlights the fact that children and youth in vulnerable situations who slip through the government's protection system can easily become "crossover children/youth¹⁰⁵" who wind up traversing the social welfare and justice systems. Furthermore, according to statistics collected by local governments regarding juvenile intensive aftercare cases closed between 2017 and 2020 after judicial interventions, over 10% of the time, follow-up counseling was terminated due to the subject being returned to a reformatory education facility or sentenced to prison.¹⁰⁶
142. Recommendation: The Government should pay special attention to children and youth who are at risk of falling into a cycle of judicial interventions and help them reintegrate into society. Future amendments of the Children and Youths Act should also improve the

¹⁰² The Control Yuan investigation report approved on Nov 17, 2021 (Effectiveness of Policies and Implementation of Child Protection Safety Net Promoted by Government Agencies).

¹⁰³ As of the end of 2020, juvenile intensive aftercare services were provided to a total of 1,295 juveniles who underwent juvenile interventions.

¹⁰⁴ By January 2021, a total of 1,124 juveniles were detained at juvenile reform schools and juvenile detention houses.

¹⁰⁵ Crossover children/youth - also referred to as crossover kids, joint cases, dual-system served, dual order, dually involved, etc. - are children and youth who are at risk due to both delinquency and social welfare issues or who are already traversing the welfare system and judicial system. There have been many international studies on the issues faced by crossover children/youth; for example: (1) the Child Welfare Information Gateway established by the United States Children's Bureau (<https://www.childwelfare.gov/topics/systemwide/youth/collaboration/dualsystem/>); (2) the Crossover Youth Practice Model developed in 2010 by Georgetown University's Center for Juvenile Justice Reform (<https://cjjr.georgetown.edu/our-work/crossover-youth-practice-model/>)

¹⁰⁶ Between 11.2% and 13.9%.

bridging mechanism between agencies of the social welfare system and justice system, so as to prevent juvenile offender from being passed around between placement systems.



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