

National Human Rights Commission, Taiwan

APF Annual General Meeting, 24-25 September 2024

Image source: [Yushan National Park](#) (open license)

Asia Pacific Forum



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

Case Study: Handling the Complaint by the Taoyuan Flight Attendants Union (TFAU) Against Taiwanese Airlines for CEDAW Violations



Image source: Taoyuan International Airport Live Camera (open license)



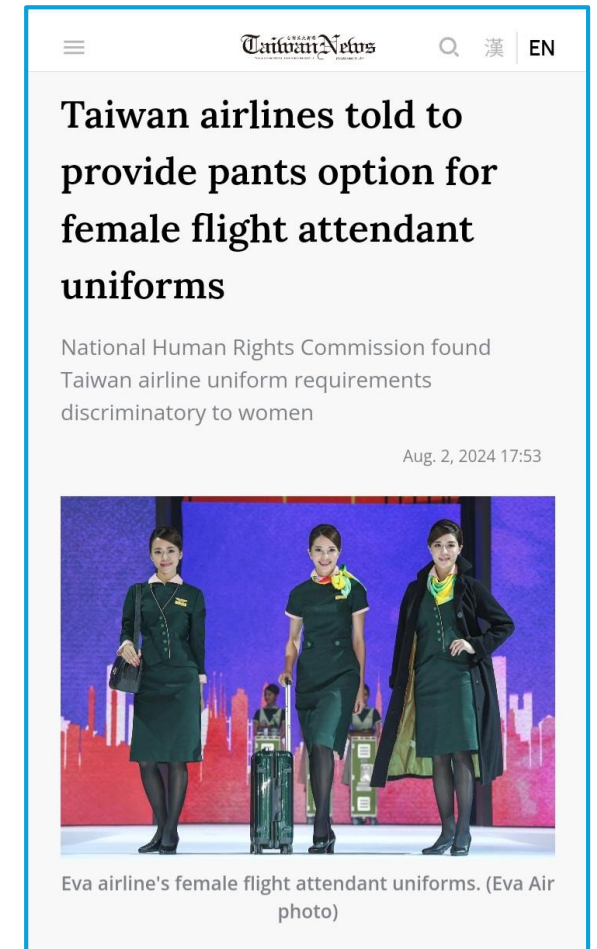
Case Study In Brief

Key Facts:

- **Complainant:** Taoyuan Flight Attendants Union (TFAU)
- **Respondent:** Six national airlines in Taiwan
- **Claim:** Dress codes for female cabin crew constitute gender discrimination
- **NHRC findings:** The Taiwanese government fails to meet its obligation to prevent discrimination and promote equality in workplace safety.

Key Achievements:

- First investigation conducted by NHRC staff since its establishment
- Immediate response from the Ministry of Labor, requesting improvement plans from the airlines by the end of September



Screenshot from Taiwan News, available at: <https://www.taiwannews.com.tw/news/5913222>



Background and Context

- **Establishment of the NHRC**
- **Taiwan's Gender Equality Context**



Establishment of the NHRC on August 1, 2020

Commissioners

1



Chairperson
Control Yuan
President

+

1



Vice
Chairperson
Elected from among
NHRC members

+

8



Commissioners
Control Yuan members
who are human rights
researchers or specialists

Members: 10

* 8 ex-officio members, 2 members appointed annually

Staff: 42

Taiwan's Recent Achievements in Gender Equality

- In 2016, Taiwan elected its **first female president**, who was re-elected in 2020.
- In 2019, Taiwan became the first country in Asia to **legalize same-sex marriage**.
- In 2020 & 2024: Women comprised **41.6% of legislators**, the highest in Asia.
- Taiwan ranked 1st in Asia for gender equality
 - According to the [OECD Social Institutions and Gender \(SIGI\) Index](#) and the [UNDP Gender Inequality Index \(GII\)](#) in 2023



Taiwan's Voluntary Adherence to CEDAW and Government-Led Uniform Reforms

1. By enacting the Enforcement Act of CEDAW (2011), Taiwan voluntarily complies with the Convention and gives it the force of domestic law. **The public sector has already initiated uniform reforms based on CEDAW standards.**
2. In 2019, while serving as the Secretary-General to the President, Chairperson Chen Chu reformed the dress code, allowing female ceremonial staff to choose between trousers or skirts.
3. Female police officers, firefighters, customs officers, and immigration officers are now allowed to wear trousers.
4. However, **some private sector firms still mandate that female employees wear skirts.**

陳菊 (花媽) 2019年11月12日 · 公

落實性別平等、增進工作效率

總統府的任務之一是辦理總統、副總統參加國家慶典和接待重要訪賓的幕僚工作，而禮賓同仁就是第一線的門面和活動順利完成的關鍵。

這些禮賓同仁因為工作需要，每2年會製發一次工作服。但多年來女性同仁只能領到裙裝，既沒有選擇的自由，也有活動不便、禦寒保暖效果差等缺點。

考慮到工作上的實用需求，也為了還給女性同仁自主選擇的權利，我在日前的府務會議請相關局處研究設計與時俱進的服裝款式供同仁選擇，落實職場性別平等，提高工作表現，讓總統府成為更加友善、有效率的工作團隊！

落實性別平等 增進工作效率
總統府禮賓同仁
開放褲裙自由選擇



Image Source: Central Police University, Library and the World Police Museum

The caption reads: “Promoting gender equality to enhance work efficiency: Presidential ceremonial staff can now freely choose between trousers and skirts.”



Summary of the Complaint Case

- **NHRC Investigation and Findings**
- **Recommendations and Impacts**



Airline Dress Code Complaints: Unsupported by Labor Authorities

1. On August 1, 2023, the Taoyuan Flight Attendants Union (TFAU) filed a **complaint to the NHRC, alleging that most Taiwanese airlines violate CEDAW by imposing gender-discriminatory dress codes** (such as skirts, stockings, heels, makeup) **on female cabin crew members**.
2. Among the six national airlines of Taiwan:
 - **Uniforms:** Five require women to wear skirts; one allows trousers for both men and women.
 - **Stockings:** All require women to wear stockings.
 - **Makeup:** All require women to wear makeup.
 - **Shoes:** Several require women to wear heels of certain heights outside the cabin (i.e. prior to boarding and after disembarking).
3. From 2023 to 2024, the union members lodged complaints against one of the airlines with the Taoyuan City Labor Department and the central Ministry of Labor, alleging violation of the Gender Equality in Employment Act. **However, authorities found no legal violations concerning the airline's dress code.** Union members have continued to pursue administrative litigation in the Taipei High Administrative Court.



TFAU's Complaint Accepted by NHRC in 2024

First Investigation Conducted by NHRC Staff since its establishment

Scope and Limitations of NHRC Authority

- ✓ Investigate cases of discrimination or human rights violations upon receiving complaints.
- ✓ Supervise the government and recommend legal/policy changes based on international human rights standards.
- X Can not compel public or private sectors to cooperate with its investigations.
- X Can not make decisions in lieu of conciliation, e.g. to mandate the cessation of discriminatory practices by private actors.



Objectives of NHRC Investigation

- Assess whether the dress codes of Taiwanese airlines constitute gender discrimination.
- Analyze whether the government has fulfilled its obligations under CEDAW to protect female cabin crew members from discrimination by third-parties and to ensure equal access to safe working conditions.

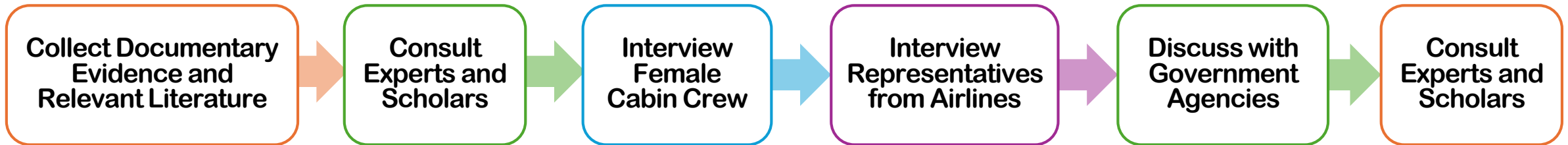


Investigation Approach

RELEVANT LEGAL SOURCES

- ❑ **International instruments:** CEDAW, ICESCR, ILO Convention No. 190 (on Violence and Harassment in the World of Work), interpretations by UN treaty bodies
- ❑ **Domestic laws:** Constitution, Organic Act of NHRC, Gender Equality in Employment Act, Enforcement Act of CEDAW, Implementation Act of ICCPR and ICESCR
- ❑ **Others:** Rulings by domestic and foreign courts and opinions from other NHRIs

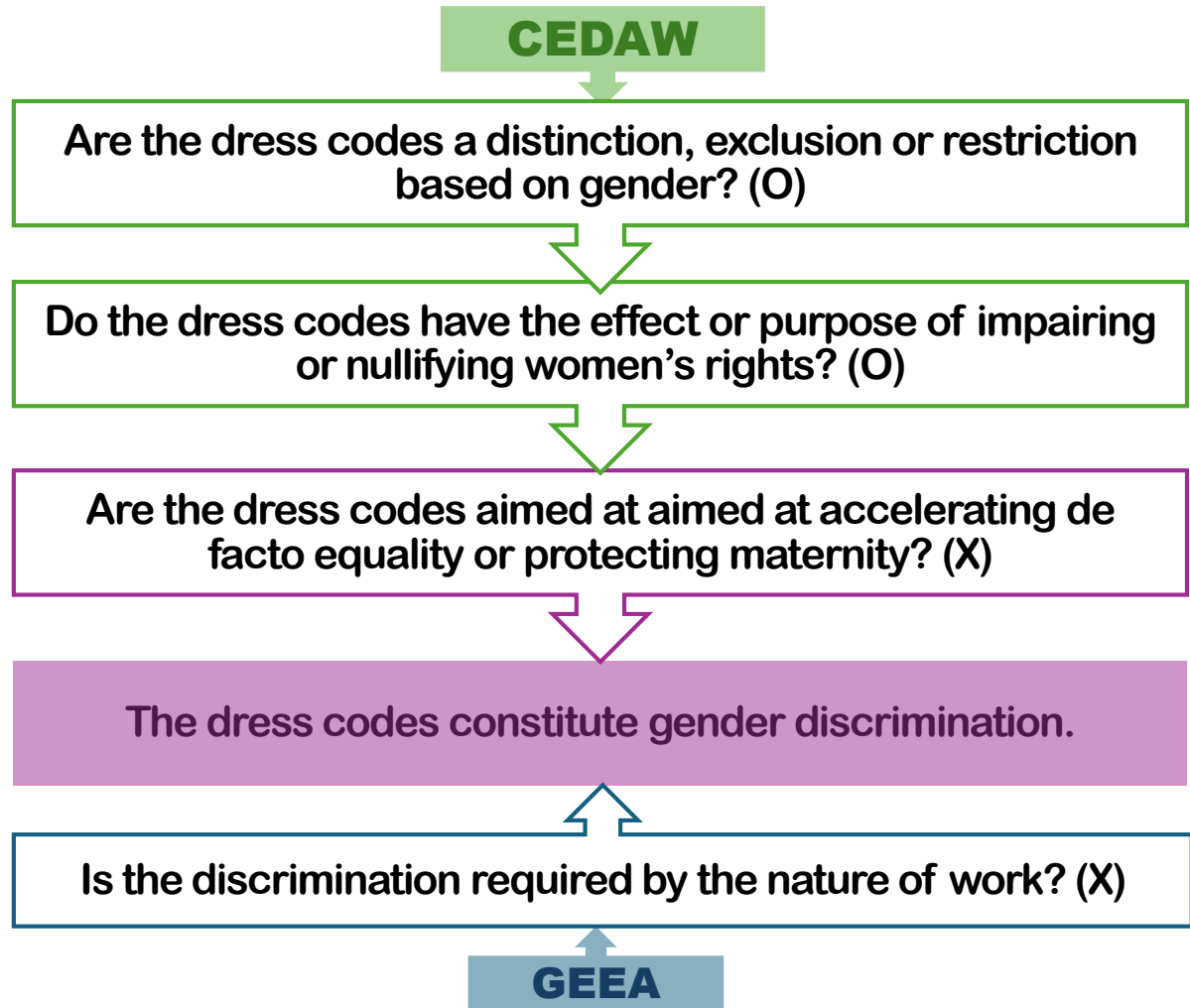
STEPS



* In accordance with its enabling legislation, the NHRC concludes the investigation with its non-legally binding recommendations to the Government regarding relevant laws and policies.



Key Argument: Do the dress codes constitute gender discrimination?



- The airlines do have different dress code requirements for male and female cabin crew.
- As a result, female cabin crew face disadvantages in work evaluations and are at higher risks of sexual harassment, being photographed without consent, falling, and suffering burns in the event of a fire.
- The dress codes clearly do not advance de facto equality or protect maternity.
- There is no justification for the different dress code requirements to be classified as "bona fide occupational qualifications" (BFOQ), nor do they qualify as a valid exception to gender discrimination.



Key Argument: Does the government meet its obligations?

Obligations to eliminate discrimination and prejudice?

Labor authorities did not apply CEDAW or its General Recommendations to determine discrimination.

There is no redress mechanism for collective gender discrimination complaints in existing laws.

The government has yet to formulate guidelines on dress code that urge employers to avoid discrimination.

Obligations to ensure the women's Right to Work and their workplace safety?

Authorities failed to press airlines to address workplace safety issues including sexual harassment, falls, and burns.

The government has not researched or developed indicators to assess the impact of dress codes on cabin crew's safety and health.

The government disregards relevant opinions from foreign authorities and research institutes on clothing and flight safety.

In this case, the government fails to fully meet its obligations, both positive and negative.



Conclusions and Recommendations

Report Conclusions

1. Dress codes for female cabin crew at Taiwanese airlines constitute gender discrimination prohibited by CEDAW.
2. Gender-specific dress codes marginalize women and gender-nonconforming individuals in the labor market.
3. The government has failed to take timely and appropriate measures to prevent third-party discrimination against female cabin crew and to promote equality.

Recommendations to the Government

1. Apply CEDAW provisions in the implementation of the Gender Equality in Employment Act.
2. Urge airlines to offer trousers as a uniform option for female cabin crew as soon as possible and to adopt CEDAW-compliant dress codes by developing guidelines.
3. Amend the Gender Equality in Employment Act to address collective gender discrimination.
4. Strengthen occupational safety and health protections for cabin crew.



Immediate Impact

1. Media Effect

On August 2, the investigation report was released. Two TV stations conducted interviews and covered the news, followed by several other media outlets, which sparked public attention.

2. Response from the Complainant

On August 7, the TFAU held a press conference, urging the Taipei High Administrative Court to consider the NHRC report in its ruling.

3. Response from the Government

On August 16, the **Ministry of Labor, citing the report, convened the six airlines and requested improvement plans by the end of September.** The Civil Aeronautics Administration and the Executive Yuan's Gender Equality Committee also participated.



Challenges and Regional Support

- **Limitations in Authority and Personnel**
- **Knowledge Exchange and Capacity Building**



Main Challenges

Limitations of NHRC Authority

- Despite its mandate to investigate complaints under existing laws, **the NHRC lacks the power to compel relevant parties to cooperate with its investigations.**
 - The NHRC must rely on the voluntary cooperation of public or private actors, which raises difficulties in obtaining crucial evidence.
- **Nor can the NHRC make decisions in lieu of conciliation** to mandate the immediate cessation of discriminatory practices or human rights violations by private actors.
 - It could be hard for non-binding recommendations to bring about immediate change in future cases.

Insufficient Personnel

- If the number of complaints filed to the NHRC increases in the future, the NHRC's **current staffing levels may be inadequate** to form investigation teams for each case.
 - The NHRC currently has a total of 42 staff members and has repeatedly requested the government to approve additional positions in its organization.



Recommendations for Regional Cooperation and APF Support

Exchange of Experiences

Recommend NHRIs in the Asia-Pacific region to, through organizing workshops or seminars:

- Study various types of cases they have investigated regarding gender discrimination and other human rights violations.
- Share best practices for increasing the impact of their investigation outcomes.

Support to Enhance Investigation Skills

Request the APF to support the NHRC in:

- Developing training programs to strengthen staff investigation skills, in anticipation of a wider range of gender discrimination or human rights complaints.
- Exploring opportunities for staff to visit or intern at other NHRIs.



Thank you

