



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

# Independent Opinion

on Taiwan's Fourth Report  
on the Implementation of CEDAW





# Contents

<b>Abbreviations.....</b>	<b>1</b>
<b>I. Preamble.....</b>	<b>3</b>
<b>II. Impact of COVID-19.....</b>	<b>6</b>
Care, Employment, and Economic Security during the Pandemic .....	6
<b>III. Gender-based Violence and Access to Justice.....</b>	<b>10</b>
Digital Gender-based Violence .....	10
The Judicial Process of Sexual Assault Cases: Forensic Interviewer and Interpreter .....	13
Sexual Harassment in the Workplace .....	15
<b>IV. Work-Family Life Balance.....</b>	<b>17</b>
Reduce the Gender Pay Gap .....	17
Childbirth-friendly Systems and Public Childcare Services .....	18
Long-term Care Leave .....	21
<b>V. Migrant Domestic Workers.....</b>	<b>23</b>
Labor Conditions and Personal Safety of Migrant Domestic Workers .....	24
<b>VI. Disadvantaged Groups of Women.....</b>	<b>28</b>

Women in Rural Areas .....	29
Immigrant Women .....	32
Women with Disabilities .....	32
Indigenous Women .....	34
Middle-aged and Elderly Women .....	35
<b>VII. Sexual Orientation, Gender Identity and Expression.....</b>	<b>37</b>
Gender Change Registration System .....	37
Family Rights of LGBTQI+ People .....	39
<b>Annex: List of Recommendations.....</b>	<b>42</b>

# Abbreviations

COVID-19	Coronavirus Disease-2019; Severe Pneumonia with Novel Pathogens
CEDAW	The Convention on the Elimination of All Forms of Discrimination against Women
CIP	Council of Indigenous Peoples
CRPD	The Convention on the Rights of Persons with Disabilities
DGBAS	Directorate General of Budget, Accounting and Statistics, Executive Yuan
GREVIO	(Istanbul Convention) Group of Experts on Action against Violence against Women and Domestic Violence
ICD	International Code of Diseases
IRC	Unless otherwise specified, it refers to the "International Review Committee" of State Reports of the ROC (Taiwan) submitted under the CEDAW.
IVF	In Vitro Fertilization
MOE	Ministry of Education
MOEA	Ministry of Economic Affairs

MOFA	Ministry of Foreign Affairs
MOHW	Ministry of Health and Welfare
MOI	Ministry of the Interior
MOJ	Ministry of Justice
MOL	Ministry of Labor
NHRC	National Human Rights Commission
SDGs	United Nations Sustainable Development Goals

# I. Preamble

1. The National Human Rights Commission (NHRC) of Taiwan, which began operations on August 1, 2020, is an independent body dedicated to human rights protection and promotion. In accordance with its statutory mandate, the NHRC hereby provides an independent opinion on the Fourth CEDAW Report submitted by the Republic of China (Taiwan) in 2022; the implementation of some substantive articles of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), especially on issues that have not been improved despite repeated recommendations by the International Review Committee (IRC) in 2009, 2014, and 2018; and on other inadequate legal protections.
2. In addition to referencing investigative reports by the Control Yuan, the NHRC held two expert consultation meetings, seven meetings with civil society organizations, and three meetings with government agencies between December 2021 and February 2022. It wrote to 14 government agencies to request explanations and statistical information in order to understand whether the legal protection for women's rights and interests is adequate, whether there are any deficiencies in policy implementation, and the actions and difficulties faced by government

agencies to implement CEDAW.

3. Since the initial CEDAW Report was submitted in 2009, there have been three international reviews, with active participation by governmental and non-governmental organizations. In the past four years, there has been considerable progress in women's rights and gender equality, such as Taiwan becoming the first country in Asia to legalize same-sex marriage (2019); women's parliamentary representation surpassing 40 percent (2020); the repeal of the crime of adultery in the Criminal Code; and the passage of the Stalking and Harassment Prevention Act (2021). However, the NHRC found that in the past four years, there are still cases of failure or stagnation in the implementation of CEDAW:

- Access to justice for women victims of violence is not fully guaranteed
- Women's work-family life balance remains difficult to reach
- Legal protection of the rights of migrant domestic workers is insufficient
- Women in disadvantaged groups still do not have equal rights to marriage and family
- Women's sexual and reproductive health rights in rural areas are not protected, and their right to political participation is not yet equally respected
- Insufficient data from gender surveys of women from disadvantaged groups hinders comprehensive analysis of COVID-19 impact and post-COVID recovery plans

4. The NHRC expects that this Independent Opinion will be useful to the

current IRC in its review. In accordance with the resolution attached to the Enforcement Act of CEDAW, the NHRC recommends that the five branches of the government should establish mechanisms to monitor inequality and discrimination caused by inadequacies in the legal system or failures in implementation.

## II. Impact of COVID-19

CEDAW Articles 2, 5, 11, 12 | SDGs 1, 3, 5, 8, 10

Response to the 2022 CEDAW Report 11.29-11.30

5. Even before the COVID-19 pandemic, gender statistics compiled by the government lacked analysis of women in disadvantaged situations. After the outbreak, some official surveys have yet to be completed, which has affected the overall assessment of the impact of the pandemic.<sup>1</sup> The NHRC offers the following opinions based on data available.

### Care, Employment, and Economic Security during the Pandemic

6. Due to the traditional gender-based division of labor and the gender

---

<sup>1</sup> During the level-3 alert period (May 19 to July 27, 2021) in Taiwan, no mandatory measures such as lockdowns were imposed as in other countries. According to the Ministry of Health and Welfare (MOHW), the number of reported domestic violence cases from 2017 to 2020 increased year by year; from May to August 2021, the number of reported domestic violence cases nationwide was 37,584, lower than the 38,982 reported cases in the same period of the previous year. The competent authorities replied to the NHRC that it is not yet possible to conclude that the COVID-19 pandemic increased the risk of domestic violence, and that data must be continuously monitored before the impact of the pandemic on domestic violence can be properly assessed.

pay gap, family caregiving responsibilities before the pandemic were primarily borne by women.<sup>2</sup> Women are also the main applicants for family care leave provided by the government.<sup>3</sup> Since employers are not mandated to give workers paid family care leave, it is difficult for women to manage caregiving and work at the same time. The majority of care services workers are women, who thus bear a higher risk of infection.<sup>4</sup> Women are more likely to experience the impact of COVID than men.<sup>5</sup> The government has not yet comprehensively collected and

---

<sup>2</sup> According to the 2016 Survey on Women's Marriage, Childbirth and Employment by the Directorate General of Budget, Accounting and Statistics (DGBAS), Executive Yuan, women over 15 years old who have a spouse/partner (including cohabitant) spend a daily average of 3.81 hours giving unpaid care, and their husbands (or cohabitants) spend 1.13 hours. Among these hours, women spend 1.54 hours caring for children, the elderly, and other family members, and 2.19 hours doing household chores.

<sup>3</sup> Family care leave: Granted to workers who have the need to take care of children, people with disabilities, or family members who cannot take care of themselves, and who apply to their employers for such leave. As this is a new complementary measure to respond to suspension of school classes due to COVID-19, and not part of the labor regulations, it is not mandatory for employers to offer paid leave. The Employment Management Equality and Workplace Equality Survey conducted by the Ministry of Labor (MOL) indicates that 6.2% of female employees have applied for family care leave, compared to 2.4% of male employees.

<sup>4</sup> Definition by the Department of Gender Equality: From 2020, the definition of care services personnel was expanded to include home-based, community-based, residential, and integrated long-term care institutions established under the Long-Term Care Services Act, as well as welfare institutions for the elderly, nursing homes, and institutions for people with disabilities established under other laws. According to the 2018 *Analysis of Workforce Structure, Workplace Environmental Problems and Research on Countermeasures in the Long-Term Care Industry* by the Institute of Labor, Occupational Safety and Health, MOL, 8% of caregivers are women, and most are middle-aged (45 to 54 years old).

<sup>5</sup> Statistics from the Ministry of Economic Affairs (MOEA) and the MOL indicate the following: (1) Impact on businesses, unpaid leave, and reduced working hours: Unpaid leave caused by COVID-19 is mostly seen in the wholesale, retail, warehousing, accommodation, catering, and tourism industries. In 2020, more than 65% of the 220,000 female-headed businesses in Taiwan were retail and food services; the turnover of the retail and food service sectors from February to April of that year dropped by more than NT\$10 billion compared to the same

assessed data on women from disadvantaged groups.<sup>6</sup>

7. To respond to the impact of COVID-19 on employment, the Government has provided partial subsidies to cover the difference in wages of workers who take breaks from work, and for manufacturing and technical service industries. However, it has not conducted gender impact assessment and therefore launched no measures to mitigate the impact of COVID-19 on women in disadvantaged situations amidst the accelerating trend of digital transformation of industries in the pandemic.

### **Recommendation 1**

**The government should refer to the *Guidance Note on CEDAW and COVID-19* published by the UN CEDAW Committee.<sup>7</sup> Measures taken to respond to the pandemic should be gender sensitive. The government should pay attention in particular to the multiple challenges faced by women from disadvantaged groups**

---

period in 2019. In 2020, 72.3% of female workers were in the service industry and more women than men saw their working hours cut (2,369 women and 1,969 men from January to April, 2020; 17,654 women and 15,638 men from May to August of the same year).

(2) In April 2020, the Relief and Immediate Hire Program was launched to grant work allowances to workers affected by COVID-19. 67% and 66% of applicants were women in 2020 and 2021 respectively.

(3) Compared to January to April of 2021, the unemployment rate during May to August increased by 0.91% for women and 0.62% for men. From January to April 2021, 11,330 male and 14,310 female workers received initial unemployment benefit payments; from May to August of the same year, 14,054 male and 17,324 female workers received benefit payments.

<sup>6</sup> Guidance Note on CEDAW and COVID-19 [https://www.ohchr.org/sites/default/files/Documents/HRBodies/CEDAW/Statements/CEDAW\\_Guidance\\_note\\_COVID-19.docx](https://www.ohchr.org/sites/default/files/Documents/HRBodies/CEDAW/Statements/CEDAW_Guidance_note_COVID-19.docx)

<sup>7</sup> Factors such as social framework, responsibilities as a mother, age, class, ethnicity, and disabilities.

as a result of the interplay between gender and other identities. When collecting regular or COVID-related data, it should be disaggregated by variables such as disadvantaged groups in order to analyze problems and develop countermeasures.

### **Recommendation 2**

The government should strengthen the comprehensive gender impact assessment and response mechanism and take active measures to assist women in employment, including improving the conditions of the care industry, preventing unemployment, ensuring reasonable wages and insurance, and increasing the digital competencies of women in disadvantaged situations to meet the demands of the trend toward digital transformation in industry.

### **Recommendation 3**

The government's relief measures should also take into account workers who have to stop working to take care of family members by considering the offer of cash payments and paid family care leave. Recovery and restoration efforts should focus on caregiving, developing a sustainable and just economy, and ensuring a balance between work and family life to prevent disruptions in career development due to caregiving.<sup>8</sup>

---

<sup>8</sup> UN Women's 2021 call for countries to recover after COVID-19 - to put "care" at the center of developing "sustainable and just" economy. See <https://www.unwomen.org/en/digital-library/publications/2021/09/beyond-covid-19-a-feminist-plan-for-sustainability-and-social-justice>

## III. Gender-based Violence and Access to Justice

CEDAW Articles 2, 11, 15 | SDGs 5, 8, 10, 16

Response to the 2022 CEDAW Report 2.26, 2.36, 2.42-43, 2.45-2.51, 11.11-11.12, 15.10-15.12, 15.14, and 15.18-15.19

8. Women's right to justice for gender-based violence is still not fully protected in terms of justiciability, availability, accessibility, quality, remedies for victims, and accountability of the justice system.

### Digital Gender-based Violence

9. The current fragmentation of digital-based gender violence prevention measures among multiple agencies and the lack of official statistics and research make it difficult to assess the situation and develop countermeasures.<sup>9</sup> Government agencies have different views on the

---

<sup>9</sup> Control Yuan, *Suspected Online Sexual Harassment of Nursing Staff* investigative report, approved on February 23, 2022. Background of the case: In 2017, a Youtuber made a video denigrating and humiliating nursing staff and posted it online. After seeing it on Facebook, a nurse filed a sexual harassment complaint with the Taipei City Police Department, which determined that the Youtuber had committed sexual harassment. The Youtuber objected and appealed, after which the Taipei City Sexual Harassment Prevention Committee resolved to

determination of sexual discrimination and gender-based violence, and which authorities have the mandate to process complaints, investigate cases, and handle appeals. The legal framework to punish the crime of distributing sexually intimate images of adults without their consent is woefully inadequate.<sup>10</sup> Although the Executive Yuan proposed four draft amendments to the laws in March 2022, the provisions remain inadequate for the immediate blocking and removal of illegal online content involving sexually intimate images of adults, as well as for assisting victims in retrieving their images.<sup>11</sup>

#### **Recommendation 4**

**The government should review gender-based violence-related laws and regulations across agencies, with reference to CEDAW and its**

---

dismiss the case. The nurse filed a petition with the MOHW, which was rejected, and then filed an administrative lawsuit at the Taipei High Administrative Court. The Court ruled against the MOHW and the Taipei City Government, and the Taipei City Government appealed the decision. The authorities have different opinions on whether the Youtuber's behavior is considered sexual harassment or discriminatory hate speech, and whether it can be punished under the Sexual Harassment Prevention Act.

<sup>10</sup> Currently, criminal liability can only be pursued under offenses against privacy, dissemination of obscene materials, and defamation. Penalties are relatively lenient, making it difficult to achieve punitive and preventive effects. The lack of protection and assistance measures for victims and the inability to enforce removal or stop the dissemination of content has exacerbated discrimination against and blaming of victims by society.

<sup>11</sup> The Executive Yuan has proposed draft amendments to the Criminal Code, the Sexual Assault Crime Prevention Act, the Crime Victim Rights Protection Act, and the Child and Youth Sexual Exploitation Prevention Act for the Legislative Yuan to consider. The amendments add the offense of invading sexual privacy and producing and distributing fake sexually explicit sexual images, specify the type of offense and corresponding criminal liability, and include such victims in protection programs. Moreover, the draft Digital Communication Act, through which the government originally planned to use to govern various ministries (to collaborate on handling controversial online content), has not yet been submitted to the Executive Yuan and the Legislative Yuan for consideration by the competent authorities as of March 2022.

**general recommendations and the Council of Europe’s Istanbul Convention and the Group of Experts on Action against Violence against Women and Domestic Violence General Recommendation No. 1, and discuss and implement effective measures to eliminate digital gender-based discrimination and violence. The government should comprehensively compile statistics on digital gender-based violence and collect and analyze gendered data on women from disadvantaged groups regarding prevalence, reporting, petitions, processing, prosecutions, and convictions of such offenses.**

**Recommendation 5**

- (1) The Legislative Yuan and the Executive Yuan should speed up improvement of the legal system to recognize sexual autonomy, sexual privacy, personality rights, right to reputation, and the safe and sustainable development of the online environment as protected legal interests. They should provide emergency protection and assistance to victims, establish grounds for victims to claim the right to be forgotten or to have their sexually private images removed, and place corresponding responsibilities on Internet service providers.**
- (2) Pending the improvement of laws and regulations, the government should fulfill its national obligations under CEDAW rules to expand and flexibly apply existing laws and regulations related to sexual violence to provide protection, assistance, and support to victims in order to reduce harm on them. The government should also prioritize education and training for police, judicial, medical, social, education, and**

**media personnel to develop their competence in addressing this issue.**

## **The Judicial Process of Sexual Assault Cases: Forensic Interviewer and Interpreter**

10. The Sexual Assault Crime Prevention Act was amended in 2015 by adding Article 15-1 (implemented in 2017) to introduce a forensic interview system during the investigation or trial of sexual assault cases involving children or mentally disabled persons. According to the statistics of the Judicial Yuan, the Ministry of Justice (MOJ), and the Ministry of the Interior (MOI), the use of forensic interviewers in investigation or trial of sexual assault cases is very limited.<sup>12</sup> In addition, the provisions are too brief and general, which has long made the role of forensic interviewers unclear. Are they interpreters, witnesses, experts, or expert witnesses? Inconsistencies in practice raises concerns about fairness in such cases.
11. For more information on sexual assault of migrant domestic workers, please see §23.
12. The ineffectiveness of judicial interpretation (poor quality of interpreters and interpretation, etc.) has undermined the right of access to justice for female migrant workers who have been sexually

---

<sup>12</sup> According to the MOL, the MOJ, and the Judicial Yuan, from 2017 to 2020, the percentages of sexual assault cases in which the victims were children or mentally disabled people who used professional assistance for questioning during investigation or trial are 3.38% to 11.63% in police agencies; 2.95% to 7.76% in prosecutor offices; and 7.75% to 10.68% in courts.

assaulted.<sup>13</sup> For a long time, the judiciary, police and immigration administration have been working separately. Without an authority in charge to integrate the interpreter system, there are huge differences in interpreters' compensation, benefits, and service quality.<sup>14</sup>

### **Recommendation 6**

**The government should work together across agencies to improve the forensic interview system for sexual assault cases, link it to existing criminal procedures, provide guidelines, improve training, and regularly evaluate the system. There is a particular need to protect the rights of child or mentally disabled witnesses and victims to due process and respect for the value of their testimony.**<sup>15</sup>

### **Recommendation 7**

**The Executive Yuan and the Judicial Yuan should integrate resources, establish a preservice and on-the-job training system for interpreters, ensure the quality and accuracy of interpretation; create a certification and rating mechanism for interpreters;**

<sup>13</sup> Control Yuan investigative report *Migrant Workers' Personal Safety and Labor Rights*, approved March 16, 2022; Control Yuan investigative report *Interpretation in Case of Sexual Assault on Migrant Caregivers*, approved March 7, 2019; etc.

<sup>14</sup> For example, the MOL's Local Government Operational Guidelines for Non-Profit Organizations Accompanying Foreigners for Questioning subsidies NT\$600 per case within the first two hours during daytime and NT\$1,200 per case within the first two hours during nighttime while the Judicial Yuan's Regulations for Contracting Court Interpreters compensates interpreters with approximately NT\$1,000 to NT\$5,000 per case.

<sup>15</sup> Control Yuan, *General Case Study on Child Sexual Abuse Prevention* investigative report, approved on August 17, 2021.

**set reasonable compensation standards; and implement an examination, training, and dismissal mechanism in order to protect the rights of female migrant workers in legal proceedings.**

## **Sexual Harassment in the Workplace**

13. Victims of sexual harassment in the workplace lack clear access to remedies when their employer is the perpetrator.<sup>16</sup> There is no recusal mechanism for complaints committees, which are jointly formed by the employer and the employee's representative.<sup>17</sup>
14. The Act of Gender Equality in Employment only requires employers with 30 or more employees to establish and disclose prevention, complaint, and disciplinary measures. This requirement does not

---

<sup>16</sup> According to an MOL survey, between 2017 and 2020, the percentage of female employees who have been sexually harassed in the workplace in the most recent year is about 3.4% to 4.6%, of which only 0.7% to 1.2% filed a complaint. The most common perpetrators of workplace sexual harassment are colleagues, followed by clients or employers. According to a 2021 online survey conducted by women's groups and a job bank, at least 40% of female workers have experienced sexual harassment in the workplace. Women's groups are concerned that the government survey results underestimate levels of sexual harassment in the workplace, which may lead to an inaccurate understanding of the reality. The MOL replied to the NHRC that it is not appropriate to compare the results head-to-head since different survey methods were adopted.

<sup>17</sup> In response to the NHRC, the MOL stated that it amended the Regulations for Establishing Measures of Prevention, Correction, Complaint and Punishment of Sexual Harassment at Workplace in 2020. The regulations stipulate that employers with more than 30 employees shall openly display complaint measures and specify that if the employer is the harasser, the employee may file a complaint with the local competent authority. However, the NHRC found that this requirement is at a low level in the legal hierarchy and has no clear legal mandate. So far the standard operating procedures for local authorities to process complaints have failed to include the employer-as-perpetrator scenario. In addition, Article 7 of the regulations only state that "the employer and the employee representatives shall organize a committee for handling sexual harassment complaints . . . [and] attention shall be paid to an appropriate proportion of committee members' gender," without stipulating a recusal mechanism.

apply to companies with less than 30 employees, which account for 97.7 percent of the industrial and service sectors in Taiwan.<sup>18</sup>

### **Recommendation 8**

- (1) The government should specify by law an external investigation mechanism to handle complaints when the employer is the perpetrator of sexual harassment in the workplace, and promptly coordinate among agencies to determine the authority responsible for sexual harassment cases in the workplace.<sup>19</sup>**
- (2) The government should consider asking companies of all sizes to establish and disclose sexual harassment prevention, complaints, and disciplinary measures.**

---

<sup>18</sup> According to a 2016 census conducted by the DGBAS, Executive Yuan, there were 1,296,304 enterprises in the industrial and service sectors in Taiwan, of which 1,266,254 employed less than 30 people.

<sup>19</sup> The NHRC has learned from government agencies meetings that different views are held on whether the Act of Gender Equality in Employment under the MOL or the Sexual Harassment Prevention Act under the MOHW should be applied if the employer is the perpetrator of sexual harassment.

## IV. Work-Family Life Balance

CEDAW Articles 11, 13 | SDGs 1, 3, 4, 5, 8, 10

Response to 2022 CEDAW Report 11.15, 11.19, 11.33, 11.36, 11.38, 12.37

### Reduce the Gender Pay Gap

15. Childcare and long-term care responsibilities are still shouldered by individual families (and usually by women). The average hourly wage gap between men and women has increased rather than decreased,<sup>20</sup> and government action has been insufficient to improve the situation.<sup>21</sup>

#### **Recommendation 9**

**The government should prioritize the issue of occupational gender**

---

<sup>20</sup> The gender pay gap in average hourly wages in Taiwan was 14.9% in 2019 and 14.8% in 2020, respectively 55 and 54 unpaid days a year. In 2021, the gap increased to 15.8%, representing 58 unpaid days.

<sup>21</sup> In 2014 and 2018, the IRC raised concerns about gender segregation of the labor market, the pay gap, and the lack of policies for promotion of equal pay for equal work and work of equal value in Taiwan's labor market, urging the government to adopt specific measures and implementation mechanisms to address these issues. However, the MOL has not yet proposed any active countermeasures. In its report, the government only states that a "study on the development of a checklist for equal pay for equal work in the workplace" was commissioned in 2020, and that the possibility of a pilot program will be evaluated in phases for workplaces of certain sizes or industries. No specific plans and practices with a time frame have been proposed.

**segregation, analyze factors such as education and social culture, and compile statistics on the gender pay gap among employees at different levels within each job category. Based on this, it should develop specific plans, policy incentives, and targets for promoting equal pay for equal work and urge business entities to implement them.**

## **Childbirth-friendly Systems and Public Childcare Services**

16. The current system of parental leave without pay is not flexible enough.<sup>22</sup> The allowance given during parental leave without pay is calculated based on the insured salary, but this is capped by the labor insurance system.<sup>23</sup> Although the government has increased the monthly insured salary replacement rate from 60 to 80 percent, there is still a large gap between the allowance and the real wages. The loss

---

<sup>22</sup> At present, unpaid parental leave is taken on a monthly basis, which does not meet the needs of families to balance work and childcare. According to a 2021 survey by the MOL, more than 75% of female and male employees believe that parental leave should be switched to a daily or hourly basis. The main reason (given by more than 50% of respondents) is to have more flexibility in childcare. MOL's survey also showed that 47.1% of the business units agreed that the law should be relaxed to allow employees to take unpaid parental leave on a daily or hourly basis to enjoy more flexibility, but 52.9% disagreed, mainly because employees can take other types of leave instead. However, the Act of Gender Equality in Employment provides that an employee may take seven days of family care leave throughout the year and the number of days taken shall be included in personal leave. In accordance with the Regulations of Leave-Taking of Workers, no wages are paid for personal leave. This is obviously not conducive to flexible scheduling of work and caregiving responsibilities and is hardly a friendly environment for child-rearing.

<sup>23</sup> The maximum insured salary of labor insurance is NT\$45,800, and the insured salary of military, government, and education personnel is calculated based on their basic salary.

of income caused by taking leave to care for children is a deterrent for those with higher salaries and for men with higher average income to apply for the allowance.

17. The daycare rate for children aged 0 to 2 in 2020 did not meet the government's self-imposed target.<sup>24</sup> As for the mechanism to promote public and quasi-public childcare, the competent authorities have not explored in detail the target population, the beneficiary population, the characteristics of regional resources, and the changes and differences in the mode of daycare services in each county and city, making it difficult to assess whether the resources can adequately respond to the differences in supply and demand in different areas.
18. The current pricing for quasi-public infant care centers and family childcare services is very localized, without consistent standards across counties and cities, but with the same amount of central subsidy.<sup>25</sup> This fails to promote healthy competition between counties and cities and widens the gap between urban and rural areas.

### **Recommendation 10**

- (1) The government should budget appropriate financial resources, calculate the parental leave allowance based on real wages, and**

<sup>24</sup> The daycare rate for children under two in 2020 was 15.2%, still short of the government's target of 17.04% set in the Low-Child-Birth-Rate Strategy Plan (2018-2022).

<sup>25</sup> In accordance with the Executive Yuan's 2018-2024 Low-Child-Birth-Rate Strategy Plan (revised version, August 2021), local governments shall set price ceilings and arrange price management for childcare services for children under two years old based on families' financial means and different types of care in their respective jurisdictions and keep the cost of care per child within 10% to 15% of family disposable income. The government shall assist families by subsidizing monthly childcare fees at different rates depending on the financial situation of the family.

**increase the replacement rate of income during parental leave. It should also fully subsidize the insurance premiums borne by employees during that period to reduce the burden of childcare on families.<sup>26</sup>**

- (2) The government should expeditiously increase the flexibility of the parental leave-without-pay system, including narrowing the leave units or combining other leave types (such as family care leave or creating other parental-related leave types, etc.) for flexible application, and propose specific countermeasures that take into account factors such as the rights and interests of employees and employers, the employer’s staffing arrangement, and financial sources of pay.**

### **Recommendation 11**

- (1) The government should analyze regional characteristics and study supply and demand to determine how fairly and adequately public childcare services are allocated, so that future service expansion can address regional differences and increase the rate of daycare use.**
- (2) The central competent authority should actively conduct**

---

<sup>26</sup> Employees are responsible for their own social insurance costs during the period of unpaid parental leave and the employer’s copayment is fully subsidized by the government. According to the resolution attached to the draft amendment of the Public Servant Retirement and Pension Act passed by the Legislative Yuan on June 27, 2017, “the Executive Yuan and the Examination Yuan shall expeditiously propose amendments to the insurance laws for various occupational categories, so that in the future, the premiums originally paid by the employees in the public services, education, military, and labor market during unpaid parental leave will be borne by the government instead.” However, the two branches have yet to propose relevant bills.

**reviews with local governments to assess whether the pricing standards and fees for quasi-public childcare services are appropriate, and to study and adjust the subsidy standards for counties and cities with less funding and where parents have less income.**

## **Long-term Care Leave**

19. There is a significant gender gap in the impact of long-term care on caregivers' participation in the labor force. According to a study by the Executive Yuan, 5.67 percent of the population with long-term care needs live alone, 3.82 percent are cared for mainly by institutions, and more than 90 percent have other primary caregivers. Among primary family caregivers, 61.82 percent are women and 37.91 percent are men. Of these female family caregivers, 37.66 percent no longer work because they need to provide care, compared to 23.44 percent of men.<sup>27</sup>

### **Recommendation 12**

**The government should share the responsibility of long-term care and encourage men to participate so that no one (especially women) will be forced to leave work due to caregiving.<sup>28</sup> Financial**

---

<sup>27</sup> Executive Yuan, *Analysis of Factors Causing the Female Labor Force to Quit: Case Study of Long-term Care Burden*, 2020. This commissioned research project indicates that women who have other roles in the household, such as childcare and long-term care responsibilities, experience greater difficulty in returning to the workforce.

<sup>28</sup> The MOHW's Survey on the Status of Senior Citizens: Primary Family Caregivers, 2017, points out that the rate of women quitting their jobs because of caregiving is 43.93%, compared

**resources should be raised and plans made to include paid long-term care leave in the law.<sup>29</sup>**

---

to 24.42% of men. The MOL's Employment Management Equality Survey and Workplace Employment Equality Survey, 2021, show that 6.3% of female employees applied for family care leave in the last year, compared to 3% of male employees.

<sup>29</sup> The Executive Yuan's 2020 commissioned research *Analysis of Factors Causing the Female Labor Force to Quit: Case Study of Long-term Care Burden* states that long-term care leave may help family caregivers whose work patterns are fixed and difficult to change. In addition, the MOL's 2021 Employment Management Equality Survey and Workplace Employment Equality Survey indicate that 77.3% of female employees are willing to apply for long-term care leave (without pay and allowances), compared to 76.2% of male employees. Of female employees, 64.2% would consider leaving their jobs to take care of family members, compared to 63.2% of men; 59.8% of women and 57% of men think that unpaid leave without allowances and subsidies affects their willingness to take long-term care leave. The majority of female employees (46.2%) believe that long-term care leave has to be more than 30 days to three months to be adequate.

## V. Migrant Domestic Workers

CEDAW Articles 2, 11 | SDGs 5, 8  
Response to 2022 CEDAW Report 11.45-11.48

20. The Labor Standards Act does not apply to migrant domestic workers with respect to wages, working hours, leave, and other labor conditions, as well as rights and benefits during pregnancy and after delivery, which are only agreed upon in a written contract.<sup>30</sup> The workers have to work full time while living in the employer's home, are not able to change employers freely, and are prone to maltreatment, which may result in workers leaving the family without notification and becoming undocumented. In addition, migrant domestic workers are not included in the long-term care system, leading to an onerous caregiving burden on workers and the inability of families to spread caregiving risks.

---

<sup>30</sup> According to the model labor contract provided by the MOL in its written reply dated February 7, 2022, the basic wage for migrant domestic workers is set at NT\$17,000, which shows a significant gap with the basic wage of NT\$25,250 in 2022 in Taiwan. The contract does not specify working hours, which makes it difficult to distinguish work time from rest time. The duration of continuous rest and time to stay on call at night is not specified, either. Although the contract requires the employer to give the domestic worker one day off every seven days, the employer can require the worker to work on days off without paying reasonable overtime compensation. Most employers pay an average daily wage of NT\$567 for overtime.

## Labor Conditions and Personal Safety of Migrant Domestic Workers

21. Starting December 1, 2020, families of people with disabilities who employ migrant domestic workers have access to respite services, but the number of service users, number of service sessions,<sup>31</sup> and the budget implementation rate are low.<sup>32</sup> Moreover, the government provides respite services for only 14 to 21 days per year, depending on the degree of disability of the care recipient, and there is a lack of substitute workers, making it difficult to meet the demand for care while pregnant migrant workers take bed rest or maternity leave.
22. Even though the Labor Standards Act does not apply to migrant domestic workers in relation to working hours during maternity leave, pregnancy, or breastfeeding,<sup>33</sup> employers are prohibited from discriminating against or arbitrarily dismissing them under the Act for

---

<sup>31</sup> According to the MOHW's written reply dated January 28, 2022, from January to November 2021, among those who employed migrant caregivers and who were evaluated to be at Level 2-8 in terms of long-term care needs, 21,314 people applied for respite services, and 218,869 services were used. This represents a utilization rate of 8.2%, compared to 2,669,889 service sessions provided by migrant caregivers from January to November 2021.

<sup>32</sup> According to the MOL's written reply dated February 7, 2022, it has subsidized the respite services for families employing migrant caregivers launched by the MOHW on December 1, 2018, with each ministry contributing half of the required funding. In 2021, the MOL set aside a budget of NT\$182 million for the Employment Stability Fund to provide respite services for families employing migrant caregivers, but only NT\$81,743,454 was actually used, at a budget utilization rate of 44.91%.

<sup>33</sup> The Labor Standards Act stipulates that female workers shall stop working before and after childbirth and be granted maternity leave for eight weeks. Those who have miscarried after three months of pregnancy should stop working and be granted maternity leave for four weeks. During pregnancy or breastfeeding, employers should provide 30 minutes of breastfeeding or pumping twice a day, which is deemed as working time.

Gender Equality in Employment. According to information provided by the Ministry of Labor, from 2017 to 2020, 1,564 migrant domestic workers terminated their contracts with employers by mutual agreement due to pregnancy, but there are no statistics on the number of workers who have continued to work in Taiwan.<sup>34</sup>

23. Migrant domestic workers are vulnerable to sexual assault, sexual harassment, and other high-risk maltreatment.<sup>35</sup> Labor officials often define sexual harassment complaints by migrant domestic workers as labor disputes and fail to take the cases seriously.<sup>36</sup> In the context of an unequal power relationship, the victims often choose to suffer quietly or run away.

---

<sup>34</sup> According to the Control Yuan investigative report *Pregnancy Cases of Female Migrant Workers* approved on April 20, 2022, in practice, there are still cases in which employers and brokers, upon learning a migrant worker is pregnant, request or persuade her to return to her home country before the seventh month of pregnancy or terminate or not renew the contract for other reasons, such as the cared-for person can now be taken care of by the family themselves or the migrant worker's performance has fallen short of assessment standards. It is also true that some migrant workers are forced by their employers or brokers to terminate their contracts and return home after they become pregnant, but the verification process fails to detect this. Furthermore, some pregnant migrant workers are worried about contracts being terminated, so they hide their pregnancies or do not go for prenatal checkups. As most migrant workers are not covered by labor insurance, there is no information on the actual number of those who have returned home after their contracts were terminated due to pregnancy.

<sup>35</sup> For details see the Control Yuan investigative report *Review of the Reporting, Communication, Protection, and Support Mechanisms in Sexual Assault Cases for Female Migrant Workers in Taiwan* approved on May 2, 2018, and the *Migrant Workers' Personal Safety and Labor Rights* report approved on Mar 16, 2022. MOHW statistics show that 186 female migrant domestic workers were sexually assaulted between 2017 and 2021.

<sup>36</sup> According to the MOL's 24-hour counseling and protection 1955 hotline for migrant workers, 1,231 cases of sexual harassment and sexual assault against female social service sector migrant workers were processed from 2017 to 2021, only 22 cases (1.7%) went to judicial proceedings, 147 cases of sexual assault were processed, and 45 cases (30.6%) went to judicial proceedings.

### **Recommendation 13**

- (1) The government should expeditiously revise laws related to domestic labor rights to ensure that migrant domestic workers enjoy equal employment treatment and labor conditions.**
- (2) Before amending laws and regulations, in order to improve the labor conditions of workers, the government should hold regular talks with the countries of origin of migrant workers to formalize written labor contracts; discuss wage adjustment mechanisms; and clarify working hours, breaks, continuous rest hours, and the calculation of overtime pay.**
- (3) The government should hasten to collect relevant statistical data, study and analyze the difficulties pregnant migrant workers encounter in working and living in Taiwan, and propose countermeasures to effectively protect the rights and interests of pregnant workers.**

### **Recommendation 14**

- (1) The government should analyze the reasons for the limited use of respite services, provide subsidized days and services that meet the needs of families living with disability, and actively boost the use of services.**
- (2) The government should consider including migrant domestic workers in the long-term care service system. It should also set up a diversified service model to provide joint or shift-based care services to families living with disabilities. This is to protect the rights of migrant domestic workers to take leave and maternity leave and at the same time maintain the quality**

of care.

**Recommendation 15**

- (1) The government should take a serious look at the problem of unreported cases of gender-based violence against migrant domestic workers and raise the awareness of labor officials handling such cases.**
- (2) The government should establish a cross-agency horizontal liaison mechanism to compare data related to sexual assault and harassment of migrant workers—from complaints, processing, reporting, to referral—in order to follow up with the handling and results of such cases.**

## VI. Disadvantaged Groups of Women

CEDAW Articles 2-4, 7, 9-14, 16 | SDGs 1, 3, 4, 5, 8, 10, 16

Response to 2022 CEDAW Report 7.1-7.4, 9.8-9.9, 11.3, 11.18, 12.11, 12.18-12.20, 13.1-13.3, 14.25, 14.27-14.28, 16.17-16.19; Core Document 30

24. In 2014 and 2018, the IRC urged the government to collect and improve wage statistics and compare them by gender, skill level, industry, occupation, age, and ethnicity. However, the government has not collected complete cross-sectional statistics on groups such as indigenous women, middle-aged and elderly women, immigrant women, women with disabilities, and women from rural areas, ignoring the heterogeneity of these groups, which hinders the overall assessment of and policy development for their rights. Women from disadvantaged groups face unequal access to health, political participation, employment and economic security, and family rights.

### **Recommendation 16**

**The government should compile cross-agency statistical data to improve basic statistics and assessment reports on the situation of women from disadvantaged groups, so as to reflect their relatively**

**vulnerable situation in terms of rights protection.**

## Women in Rural Areas

25. According to MOWH statistics, the national maternal mortality rate has been increasing year by year since reaching a low point of 4.2 in 2010. The national maternal mortality rate for each year from 2018 to 2020 is about three times higher than that of 2010. The government believes this is associated with obstetric embolism and that women become pregnant at a later stage of life. The maternal mortality rate in outlying islands or rural areas is five to six times higher than the national average, while the average age at childbirth or the average age at first birth in these areas is lower than the national average.<sup>37</sup> In addition, obstetrics and gynecology (OB-GYN) medical resources and staff have decreased from 10 years ago, and there is an urban-rural gap.<sup>38</sup>

26. Although the Constitution of the Republic of China (Taiwan) and

<sup>37</sup> The maternal mortality rate (maternal deaths per 100,000 live births) by county and city from 2018 to 2020: the highest rate in 2018 was found in Taitung County (66.8), in 2019 in Penghu County (101.2), and in 2020 in Nantou County (65.2), which were five to six times than the national averages (12.2, 16, and 13 respectively). In those three years, the average age of mothers and the average age of women who gave birth for the first time in Taitung, Penghu, and Nantou counties were lower than the national average. For details see the MOHW's gender statistics and information from the 52nd meeting of the National Council for Sustainable Development, Executive Yuan, May 5, 2021.

<sup>38</sup> In 2020, for example, more than 70% of the nation's OB-GYN medical institutions (990, 100 fewer than 10 years ago) and specialists (1,185) were located in the six major cities in Taiwan. In 2020, there were only 134 practicing midwifery personnel in Taiwan, a decrease of 177 from 2001. See *Statistics of Medical Care Institution Status and Hospital Utilization*, MOHW, 2021.

the Local Government Act provide for guaranteed quotas for women in elections,<sup>39</sup> in 2018, 15 rural and outlying areas had no women representatives in their townships or town councils. The more grassroots level the election is, the lower the percentage of women elected.<sup>40</sup> For more than 10 years, the government has failed to amend the Local Government Act, claiming that public opinion opposes the change. At present, the government encourages political parties to allocate a certain percentage of subsidies they receive to empower women. Since the government has not set standards or evaluation indicators, it is difficult to examine the effects of such encouragement

---

<sup>39</sup> See Article 134 and Additional Article 4 of the Constitution and Article 33 of the Local Government Act for details of the guaranteed quotas for female legislators elected from the nationwide constituency and among citizens residing abroad, city councilors elected in special municipalities from each constituency, county (city) councilors, and township (town, city) representatives.

<sup>40</sup> Central Election Commission statistics for the 2020 central and 2018 local elections of public representatives:

- (1) The percentage of female legislators in Taiwan reached a high of 41.6% in 2020.
- (2) In 2018, the percentage of female councilors in special municipalities was 35.8 and 32.1% for county (city) councilors. There are 214 election constituencies at this level, of which 113 constituencies have less than one-third female elected candidates and 88 constituencies have less than one-quarter female elected candidates.
- (3) The proportion of female representatives at the township (town and city) level in 2018 was 24.9%. There are a total of 198 township (town and city) representative councils at this level, of which 149 have less than one-third female elected candidates, 91 have less than one-quarter, and 15 do not have any female representatives (Jianshi Township, Hsinchu County; Kouhu Township, Yunlin County; Alishan Township, Chiayi County; Pingtung County's Hengchun, Ligang, Liuqiu, and Checheng Townships; Yilan County's Zhuangwei, Dongshan, Datong, and Nanao Townships; Taitung County's Guanshan and Chihshang Townships; Baisha Township, Penghu County; and Wuqiu Township, Kinmen County).
- (4) Women account for 22% of the representatives in mountainous indigenous constituencies of the special municipalities. There are six constituencies at this level, of which five have less than one-third female elected candidates, four have less than one-quarter, and one does not have any female representatives.

or incentives.

**Recommendation 17**

**The government should conduct an in-depth study on the causes of high maternal mortality in rural areas and formulate strategies to solve the problem accordingly. It is also important to address the inequality in OB-GYN medical resources, evaluate the effectiveness of various programs that subsidize or support OB-GYN services in rural areas, and underline the importance of the guidance and support provided by midwifery personnel for women in rural areas.**

**Recommendation 18**

- (1) The government should allocate resources to enhance the political participation capacity of women in rural areas and systematically increase the opportunities for women in these areas to participate in decision-making in economics and public affairs.**
- (2) The government should amend the law to specify that a certain percentage of political party funding should be used to promote women’s political participation. The government should expeditiously amend the Local Government Act to accelerate the realization of substantive equality in political participation for women in rural areas.<sup>41</sup>**

---

<sup>41</sup> Minutes of the Executive Yuan CEDAW Midterm Review Closed Session (Session 2), July 13, 2020, concluded in paragraph 24 and 25 that “the guaranteed quota for women in Article 33 of the current Local Government Act is too low and does not meet the one-third gender ratio

## Immigrant Women

27. Under the current Immigration Act, unnaturalized immigrants who divorce by agreement face a deadline to leave the country if they do not have children or have not obtained custody of minor children from the marriage. Although the MOI issued a letter in September 2018 ordering local service centers to provide assistance on a case-by-case basis,<sup>42</sup> when divorced immigrant women need to look after adult children with disabilities who are unable to take care of themselves, they are not protected by the current regulations.

### **Recommendation 19**

**The government should amend the immigration laws and regulations as soon as possible to protect immigrant women's right to family unity.**

## Women with Disabilities

28. Women with disabilities have a low labor force participation rate, high unemployment rate, and low wages due to their dual disadvantaged status of gender and disability. There has been no significant

---

principle. The MOI is requested to expeditiously amend Article 33 of the Local Government Act as proposed in the original plan and increase the guaranteed quota for women to achieve a one-third gender ratio.”

<sup>42</sup> The MOI's letter No. 1070943720, September 6, 2018, provides that National Immigration Agency Specialized Operation Brigades may provide assistance on a case-by-case basis to new immigrants in distress who have acquired the rights and responsibilities for their minor biological children after divorce and who in fact raise or visit their children.

improvement since 2016, and the government's affirmative action measures have been insufficient.<sup>43</sup>

29. The government announced in January 2022 its draft amendment to the Genetic Health Act,<sup>44</sup> which will remove the requirement of spousal consent for abortion and delete the phrase “detrimental to reproductive health.” The requirement that doctors should advise people with diseases that hinder their reproductive health to undergo treatment or perform sterilization has been amended to an obligation to inform.

### **Recommendation 20**

- (1) The government should explore the difficulties of women with disabilities in employment; collect statistical data for policy formulation; and provide reasonable accommodation for women with disabilities in the workplace to assist, support, and promote employment.**

---

<sup>43</sup> According to an MOL survey, the labor force participation rate of women with disabilities in 2019 was 14.7% (14.11% in 2016), compared to 25.5% of men with disabilities (25.27% in 2016) and 51.4% of all women in Taiwan (50.8% in 2016). The percentage of women with disabilities who were unable to work in the labor market due to household and family care (67.9%) was not much different from that of all women in Taiwan (65.1%). However, 10.1% of women with disabilities were unable to work due to family factors, compared to 8.4% of men with disabilities. The 2019 unemployment rate for women with disabilities was 8.1% (8.5% in 2016), which was also higher than that for all women in Taiwan (3.58%). See also §31 of NHRC's (August, 2021) *Opinions on the Second National Report of the Republic of China (Taiwan) on the Rights of Persons with Disabilities*.

<sup>44</sup> The title and some provisions of the Genetic Health Act have been noted as violating CEDAW and the CRPD. See §60 of the 2018 IRC (CEDAW) Concluding Observations and Recommendations and §§48-49 of the 2017 IRC (CRPD) Concluding Observations and Recommendations.

**(2) The government should protect women with disabilities from discrimination and promote their vocational and professional development through access to higher education and vocational training on an equal basis.<sup>45</sup>**

### **Recommendation 21**

**The government should expeditiously amend the Genetic Health Act. Before amendments are completed, the government should provide adequate information on birth and family planning to people with disabilities, respect the decision of women with disabilities to have children or not, and provide support.**

## **Indigenous Women**

30. Due to geographic conditions and uneven distribution of resources, the installation standards for childcare services set by competent authority regulations are a relatively high threshold for indigenous communities. This and other reasons has a negative impact on service capacity in the communities and makes it difficult to address indigenous women's need for childcare.<sup>46</sup>

---

<sup>45</sup> NHRC, §28 of *Opinions on the Second National Report of the Republic of China (Taiwan) on the Rights of Persons with Disabilities*, August 2021. The rate of female students with disabilities dropping out of high school and vocational high school is higher than that of female students without disabilities and male students with disabilities; while the rate of female students with disabilities attending colleges and universities is lower than that of female students without disabilities and male students with disabilities.

<sup>46</sup> According to December 2021 statistics from the Council of Indigenous Peoples (CIP), there were 5,921 indigenous children under two years old and 16,559 indigenous children aged two to six years old living in indigenous areas. According to information from the MOHW, the MOE,

### **Recommendation 22**

**The government should respect the tradition of mutual support in indigenous communities, integrate social welfare resources, and move toward an integrated community service model to facilitate sustainable development of childcare services in indigenous communities.**

## **Middle-aged and Elderly Women**

31. The labor force participation rate for women aged 25 to 29 in Taiwan exceeded 90 percent between 2018 and 2020. Thereafter, due to factors such as marriage and childbirth, women's participation rate decreases rapidly with age, resulting in a lack of financial independence and pension protection for middle-aged and elderly women, who face the risk of impoverishment; in cases of marriage dissolution, economic security is heavily impacted.

### **Recommendation 23**

**The government should analyze the reasons for the impoverishment of middle-aged and elderly women, conduct an overall assessment of the gender impact on the pension system, and propose specific improvement measures to protect the economic security of middle-aged and elderly women. The**

---

and the CIP, by the end of December 2021, there were only seven public childcare facilities (with a capacity for 100 children under two years old) and 10 community-based collaborative preschools (with a capacity for 262 children aged two to six years old) in indigenous communities.

**government should continue to push for law reform to include social benefits such as pensions and annuities within the scope of claims for distribution of residual assets from a divorce.<sup>47</sup> It should also propose a specific schedule of amendments in order to protect middle-aged and elderly women who do most of the unpaid household chores and take care of the family during marriage.**

---

<sup>47</sup> Although the pensions of military personnel and public employees have been included in the distribution of residual assets in a divorce, there remain five types of occupational pensions in Taiwan that have not been included in provisions related to the distribution of pensions upon divorce, including the Labor Pension Act; Farmer Pension Act; Act Governing the Retirement, Bereavement Compensation, Discharge with Severance Pay Benefits for the Teaching and Other Staff of School Legal Persons and their Respective Private School(s); Regulations Governing the Severance Pay for Employees Employed by Government Agencies and Schools; and Regulations Governing the Pension, Severance and Survivor Payments for Employees of State-owned Enterprises Administered by the MOEA. See the minutes of the premeeting negotiation prior to the 25th meeting of the Gender Equality Committee of the Executive Yuan, January 24, 2022.

# VII. Sexual Orientation, Gender Identity and Expression

CEDAW Articles 2, 5, 12, 16 | SDGs 5

Response to 2022 CEDAW Report 16.4-16.7, 16.13-16.14, 16.21-24

32. Intersex and transgender people continue to face violations of their fundamental rights to bodily integrity, personality, and health. Lesbian and gay individuals are still not equally protected by the law in transnational same-sex marriages, child adoption, and access to assisted reproductive technologies and resources.

## Gender Change Registration System

33. Parents are often compelled by the gender binary framework to subject their intersex children to premature genital corrective surgery without their consent, causing irreversible harm. However, due to the lack of clear definitions and statistical data, the actual number of intersex individuals who were forced to undergo surgeries can only be roughly estimated based on the number of surgeries performed under the International Classification of Diseases (ICD) of Taiwan's

national health insurance.<sup>48</sup>

34. Transgender applicants for gender change registration must have two psychiatric specialists evaluate and certify the diagnosis and must have completed irreversible gender reassignment surgery. The above requirements violate the fundamental rights of transgender people, including bodily integrity, personality, and health rights, which are protected under the Constitution.<sup>49</sup>

#### **Recommendation 24**

**(1) The government should expeditiously eliminate social discrimination against intersex people and prevent pathologizing their conditions; prohibit unnecessary surgery on intersex people under the age of 12 without their consent; protect intersex people’s rights to bodily integrity, autonomy, and self-determination. In addition, the government should**

---

<sup>48</sup> According to the Control Yuan investigation report approved on Jun 14, 2018 (Intersex Rights), UN data shows the intersex accounts for about 0.05% to 1.7% of global population. By max estimation, there may be 400,000 intersex people in Taiwan. However, the MOHW Statistics of Birth Reporting System indicates the number of people of unknown gender every year only amounts to a single digit, and there is no identification of intersex among the gender unknown. Estimated on the MOHW statistics (2017-2021), numbers of individuals who might have corrective genital surgeries among the 0-18 years old population are: approximately 1,500 per year with principal/additional diagnosis of hypospadias (Q54 as first 3 digits in ICD-10-CM\_CODE); approximately 63,000 per year with principal/additional diagnosis of other issues and unspecified childhood physical development not as expected (R625 as first 3 digits in ICD-10-CM\_CODE); approximately 50 per year with principal/additional diagnosis of unknown sex and pseudohermaphroditism (Q56 as first 3 digits in ICD-10-CM\_CODE ).

<sup>49</sup> The Executive Yuan study *Legalization of Gender Change Elements and Legislative Proposals*, January 2022, points out that gender reassignment surgery required to change gender registration not only exacerbates the trend toward pathologization, but also imposes an insurmountable burden on nationals who are physically unfit for surgical intervention or lack medical resources.

**actively engage in dialogue with the intersex community, consolidate opinions and resources, and compile complete statistics for the purpose of formulating relevant human rights measures.**

- (2) The government should immediately amend relevant laws and regulations to depathologize the conditions for gender change registration, protect the medical autonomy of transgender people, remove gender reassignment surgery as a mandatory condition for registration change, and provide counseling resources.**

## **Family Rights of LGBTQI+ People**

35. Judicial Yuan Interpretation No. 748 confirms the constitutional right of Taiwanese nationals to same-sex marriage. However, there are still restrictions on the registration of marriages between Taiwanese nationals and foreign nationals of countries that do not recognize same-sex marriage.<sup>50</sup>

---

<sup>50</sup> The Control Yuan investigative report *Transnational Same-Sex Marriage*, approved on January 18, 2022, points out that the schedule of relevant amendments, such as the Judicial Yuan's draft amendments to Article 46 of the Act Governing the Choice of Law in Civil Matters Involving Foreign Elements and the Mainland Affairs Council's amendments to the Act Governing the Relations between the People of the Taiwan Area and the People of the Mainland Area, remains unknown. Additionally, MOI statistics show that as of December 31, 2021, 27 cases of transnational same-sex marriage registration were rejected in writing by household registration authorities, of which seven cases filed appeals but were rejected, six cases proceeded with administrative litigation (one withdrawn), and three cases received court rulings that the marriage could be registered. According to civil society organization statistics, nearly 500 transnational same-sex couples are unable to register their marriages.

36. LGBTQI+ families are not equally protected by law in the birth and adoption of children. Article 20 of the Act for Implementation of J.Y. Interpretation No. 748 stipulates that a same-sex spouse may adopt the biological children of the other spouse, but they may not jointly adopt children. Current regulations and subsidies for assisted reproduction do not apply or apply mutatis mutandis to same-sex families.<sup>51</sup>

### **Recommendation 25**

- (1) The government should expeditiously amend the law on transnational same-sex marriage and propose a specific time frame for its completion. Until adequate legislation is in place, it would be appropriate for the government to provide transnational same-sex couples with residency, family visit, and humanitarian assistance measures.<sup>52</sup>**
- (2) The government should amend the laws and regulations related to adoption and propose specific procedures to protect the best**

---

<sup>51</sup> Under the Assisted Reproduction Act, assisted reproduction is currently available to heterosexual married couples who are infertile, but not to same-sex married couples. The Act for Implementation of J.Y. Interpretation No. 748 also excludes the application or mutatis mutandis application of the Assisted Reproduction Act to same-sex married couples. In 2021, the government extended the in vitro fertilization subsidy to all infertile heterosexual families.

<sup>52</sup> The Control Yuan investigative report *Transnational Same-Sex Marriage* approved on January 18, 2022, points out that the Executive Yuan has been asking the MOI since 2016 to explore measures for foreign same-sex spouses/couples who have registered abroad to reside in Taiwan as dependents. Both the MOI and the Ministry of Foreign Affairs have agreed to apply regulations to same-sex spouses/couples as if to heterosexual spouses and allow them residency in Taiwan based on marriage. However, after the promulgation of the Act for Implementation of J.Y. Interpretation No. 748, many transnational same-sex couples are still not allowed to come to Taiwan to reside as dependents.

**interests of the child and to ensure equal enjoyment of family rights by same-sex families. It should move forward to revise the assisted reproduction regime to include lesbian families.**

# Annex: List of Recommendations

## Recommendation 1

The government should refer to the Guidance Note on CEDAW and COVID-19 published by the UN CEDAW Committee. Measures taken to respond to the pandemic should be gender sensitive. The government should pay attention in particular to the multiple challenges faced by women from disadvantaged groups as a result of the interplay between gender and other identities. When collecting regular or COVID-related data, it should be disaggregated by variables such as disadvantaged groups in order to analyze problems and develop countermeasures.

## Recommendation 2

The government should strengthen the comprehensive gender impact assessment and response mechanism and take active measures to assist women in employment, including improving the conditions of the care industry, preventing unemployment, ensuring reasonable wages and insurance, and increasing the digital competencies of women in disadvantaged situations to meet the demands of the trend toward

digital transformation in industry.

### Recommendation 3

The government's relief measures should also take into account workers who have to stop working to take care of family members by considering the offer of cash payments and paid family care leave. Recovery and restoration efforts should focus on caregiving, developing a sustainable and fair economy, and ensuring a balance between work and family life to prevent disruptions in career development due to caregiving.

### Recommendation 4

The government should review gender-based violence-related laws and regulations across agencies, with reference to CEDAW and its general recommendations and the Council of Europe's Istanbul Convention and the Group of Experts on Action against Violence against Women and Domestic Violence General Recommendation No. 1, and discuss and implement effective measures to eliminate digital gender-based discrimination and violence. The government should comprehensively compile statistics on digital gender-based violence and collect and analyze gendered data on women from disadvantaged groups regarding prevalence, reporting, petitions, processing, prosecutions, and convictions of such offenses.

### Recommendation 5

(1) The Legislative Yuan and the Executive Yuan should speed up improvement of the legal system to recognize sexual autonomy, sexual privacy, personality rights, right to reputation, and the

safe and sustainable development of the online environment as protected legal interests. They should provide emergency protection and assistance to victims, establish grounds for victims to claim the right to be forgotten or to have their sexually private images removed, and place corresponding responsibilities on Internet service providers.

- (2) Pending the improvement of laws and regulations, the government should fulfill its national obligations under CEDAW rules to expand and flexibly apply existing laws and regulations related to sexual violence to provide protection, assistance, and support to victims in order to reduce harm on them. The government should also prioritize education and training for police, judicial, medical, social, education, and media personnel to develop their competence in addressing this issue.

#### Recommendation 6

The government should work together across agencies to improve the forensic interview system for sexual assault cases, link it to existing criminal procedures, provide guidelines, improve training, and regularly evaluate the system. There is a particular need to protect the rights of child or mentally disabled witnesses and victims to due process and respect for the value of their testimony.

#### Recommendation 7

The Executive Yuan and the Judicial Yuan should integrate resources, establish a preservice and on-the-job training system for interpreters, ensure the quality and accuracy of interpretation; create a certification

and rating mechanism for interpreters; set reasonable compensation standards; and implement an examination, training, and dismissal mechanism in order to protect the rights of female migrant workers in legal proceedings.

#### Recommendation 8

- (1) The government should specify by law an external investigation mechanism to handle complaints when the employer is the perpetrator of sexual harassment in the workplace, and promptly coordinate among agencies to determine the authority responsible for sexual harassment cases in the workplace.
- (2) The government should consider asking companies of all sizes to establish and disclose sexual harassment prevention, complaints, and disciplinary measures.

#### Recommendation 9

The government should prioritize the issue of occupational gender segregation, analyze factors such as education and social culture, and compile statistics on the gender pay gap among employees at different levels within each job category. Based on this, it should develop specific plans, policy incentives, and targets for promoting equal pay for equal work and urge business entities to implement them.

#### Recommendation 10

- (1) The government should budget appropriate financial resources, calculate the parental leave allowance based on real wages, and increase the replacement rate of income during parental leave. It should also fully subsidize the insurance premiums borne by

employees during that period to reduce the burden of childcare on families.

- (2) The government should expeditiously increase the flexibility of the parental leave-without-pay system, including narrowing the leave units or combining other leave types (such as family care leave or creating other parental-related leave types, etc.) for flexible application, and propose specific countermeasures that take into account factors such as the rights and interests of employees and employers, the employer's staffing arrangement, and financial sources of pay.

#### Recommendation 11

- (1) The government should analyze regional characteristics and study supply and demand to determine how fairly and adequately public childcare services are allocated, so that future service expansion can address regional differences and increase the rate of daycare use.
- (2) The central competent authority should actively conduct reviews with local governments to assess whether the pricing standards and fees for quasi-public childcare services are appropriate, and to study and adjust the subsidy standards for counties and cities with less funding and where parents have less income.

#### Recommendation 12

The government should share the responsibility of long-term care and encourage men to participate so that no one (especially women) will be forced to leave work due to caregiving. Financial resources should be

raised and plans made to include paid long-term care leave in the law.

### Recommendation 13

- (1) The government should expeditiously revise laws related to domestic labor rights to ensure that migrant domestic workers enjoy equal employment treatment and labor conditions.
- (2) Before amending laws and regulations, in order to improve the labor conditions of workers, the government should hold regular talks with the countries of origin of migrant workers to formalize written labor contracts; discuss wage adjustment mechanisms; and clarify working hours, breaks, continuous rest hours, and the calculation of overtime pay.
- (3) The government should hasten to collect relevant statistical data, study and analyze the difficulties pregnant migrant workers encounter in working and living in Taiwan, and propose countermeasures to effectively protect the rights and interests of pregnant workers.

### Recommendation 14

- (1) The government should analyze the reasons for the limited use of respite services, provide subsidized days and services that meet the needs of families living with disability, and actively boost the use of services.
- (2) The government should consider including migrant domestic workers in the long-term care service system. It should also set up a diversified service model to provide joint or shift-based care services to families living with disabilities. This is to protect the

rights of migrant domestic workers to take leave and maternity leave and at the same time maintain the quality of care.

#### Recommendation 15

- (1) The government should take a serious look at the problem of unreported cases of gender-based violence against migrant domestic workers and raise the awareness of labor officials handling such cases.
- (2) The government should establish a cross-agency horizontal liaison mechanism to compare data related to sexual assault and harassment of migrant workers—from complaints, processing, reporting, to referral—in order to follow up with the handling and results of such cases.

#### Recommendation 16

The government should compile cross-agency statistical data to improve basic statistics and assessment reports on the situation of women from disadvantaged groups, so as to reflect their relatively vulnerable situation in terms of rights protection.

#### Recommendation 17

The government should conduct an in-depth study on the causes of high maternal mortality in rural areas and formulate strategies to solve the problem accordingly. It is also important to address the inequality in OB-GYN medical resources, evaluate the effectiveness of various programs that subsidize or support OB-GYN services in rural areas, and underline the importance of the guidance and support provided by midwifery personnel for women in rural areas.

### Recommendation 18

- (1) The government should allocate resources to enhance the political participation capacity of women in rural areas and systematically increase the opportunities for women in these areas to participate in decision-making in economics and public affairs.
- (2) The government should amend the law to specify that a certain percentage of political party funding should be used to promote women's political participation. The government should expeditiously amend the Local Government Act to accelerate the realization of substantive equality in political participation for women in rural areas.

### Recommendation 19

The government should amend the immigration laws and regulations as soon as possible to protect immigrant women's right to family unity.

### Recommendation 20

- (1) The government should explore the difficulties of women with disabilities in employment; collect statistical data for policy formulation; and provide reasonable accommodation for women with disabilities in the workplace to assist, support, and promote employment.
- (2) The government should protect women with disabilities from discrimination and promote their vocational and professional development through access to higher education and vocational training on an equal basis.

### Recommendation 21

The government should expeditiously amend the Genetic Health Act. Before amendments are completed, the government should provide adequate information on birth and family planning to people with disabilities, respect the decision of women with disabilities to have children or not, and provide support.

### Recommendation 22

The government should respect the tradition of mutual support in indigenous communities, integrate social welfare resources, and move toward an integrated community service model to facilitate sustainable development of childcare services in indigenous communities.

### Recommendation 23

The government should analyze the reasons for the impoverishment of middle-aged and elderly women, conduct an overall assessment of the gender impact on the pension system, and propose specific improvement measures to protect the economic security of middle-aged and elderly women. The government should continue to push for law reform to include social benefits such as pensions and annuities within the scope of claims for distribution of residual assets from a divorce. It should also propose a specific schedule of amendments in order to protect middle-aged and elderly women who do most of the unpaid household chores and take care of the family during marriage.

### Recommendation 24

(1) The government should expeditiously eliminate social

discrimination against intersex people and prevent pathologizing their conditions; prohibit unnecessary surgery on intersex people under the age of 12 without their consent; protect intersex people's rights to bodily integrity, autonomy, and self-determination. In addition, the government should actively engage in dialogue with the intersex community, consolidate opinions and resources, and compile complete statistics for the purpose of formulating relevant human rights measures.

- (2) The government should immediately amend relevant laws and regulations to depathologize the conditions for gender change registration, protect the medical autonomy of transgender people, remove gender reassignment surgery as a mandatory condition for registration change, and provide counseling resources.

#### Recommendation 25

- (1) The government should expeditiously amend the law on transnational same-sex marriage and propose a specific time frame for its completion. Until adequate legislation is in place, it would be appropriate for the government to provide transnational same-sex couples with residency, family visit, and humanitarian assistance measures.
- (2) The government should amend the laws and regulations related to adoption and propose specific procedures to protect the best interests of the child and to ensure equal enjoyment of family rights by same-sex families. It should move forward to revise the assisted reproduction regime to include lesbian families.

## **Independent Opinion on the 4th Report on the Implementation of CEDAW by National Human Rights Commission**

Authored by: National Human Rights Commission

Address: No.2, Sec. 1, Zhongxiao E. Rd., Taipei City 100216, Taiwan  
(R.O.C.)

Tel: (02) 2341-3183

Website: <https://nhrc.cy.gov.tw>

Adopted at the 29th meeting of the 1st National Human Rights Commissioners on May 24, 2022

Government statistics and research reports cited in this Independent Opinion are mainly from 2017 to 2020. For the purpose of illustrating the long-term development trend, the impact of COVID-19, and the progress of relevant legislation, information before 2017 and between 2021 to March 2022 is also used.