

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

ICERD

**Independent Opinion on Taiwan's Initial Report on the
Implementation of the International Convention on the
Elimination of All Forms of Racial Discrimination (ICERD)**

May 2023

“The only way out of the mire of political ideology is through human rights.”

Lin Shu-ya (1971-2023)

Tribute to Professor Lin Shu-ya
for her contributions in assisting the National Human Rights Commission
in drafting the Independent Opinion on Taiwan’s Initial Report on the
Implementation of ICERD.

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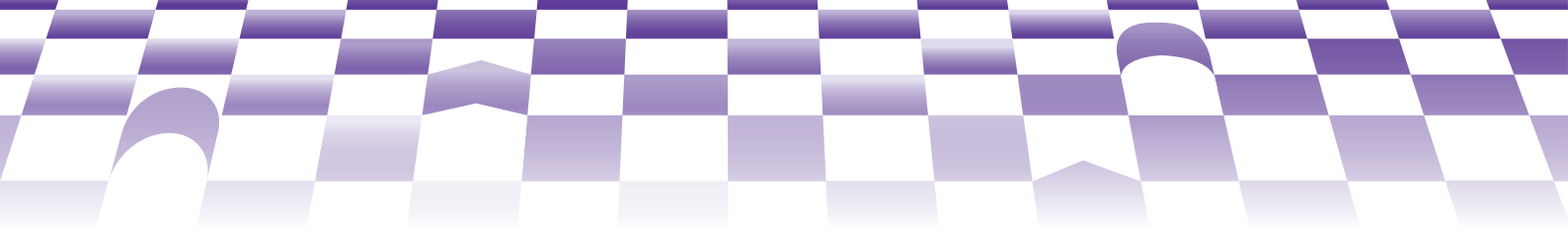
Contents

List of Abbreviations	1
Introduction	3
Discrimination During COVID-19	6
Article 1 Definition of Racial Discrimination	14
A. General definition of racial discrimination	14
B. The concept of discrimination	17
Article 2 Elimination of Racial Discrimination	19
A. Legal framework and general policies for the elimination of racial discrimination	19
B. Mechanism to ensure the fair representation of racial groups in the decision-making process of government agencies	23
C. Affirmative action measures	26
Article 3 Prohibition of Racial Segregation	27
Article 4 Legislation and Measures for the Prohibition of Racial Hatred	29
Article 5 Measures to Safeguard Various Rights	31
A. Right to equal treatment in judicial proceedings	31
B. Interpretation system	34
C. Right to asylum for refugees	37



Independent Opinion on Taiwan's Initial Report on the
Implementation of the International Convention on the
Elimination of All Forms of Racial Discrimination (ICERD)

D. Right to security of person	38
E. Right to freedom of movement and residence within the country	39
F. Right to freedom of entry to and exit from the country	40
G. Right to nationality and residence	41
H. Rights pertaining to indigenous land and natural resources (Collective/Individual Rights)	47
I. Right to Property	50
J. Right to indigenous identity	51
K. Right to indigenous names	51
L. Right to work	52
M. Right to education	64
N. Right to housing	70
O. Right to organize and join labor unions	73
P. Right to public health, medical care, social protection, and social services	74
Q. Right to equal participation in culture	87
Article 6 Remedy for Victims of Racial Discrimination	96
Article 7 Elimination of Prejudice and Promotion of Mutual Understanding among Races	98
A. Education and training	98
B. Media promotion of anti-racial discrimination policy	99



List of Tables

Table 1: Countries of origin of overseas students from Cooperative Education Programs in vocational high schools	69
Table 2: The number of foreign workers receiving pensions from the Bank of Taiwan's Labor Retirement Reserve Fund	84

List of Figures

Figure 1: Languages spoken by national residents aged 6 years and above	88
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List of Abbreviations

CECC	Central Epidemic Command Center
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CIP	Council of Indigenous Peoples, Executive Yuan
COVID-19	Coronavirus Disease 2019; Severe Pneumonia with Novel Pathogens
CRC	Convention on the Rights of the Child
Cross-Strait Act	Act Governing Relations between the People of the Taiwan Area and the Mainland Area
CRPD	Convention on the Rights of Persons with Disabilities
HAC	Hakka Affairs Council, Executive Yuan
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights

ILO	International Labor Organization
IRC	International Review Committee
MOE	Ministry of Education
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
OCAC	Overseas Community Affairs Council
UDHR	Universal Declaration of Human Rights
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples

Introduction

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is the first of the nine United Nations core human rights instruments adopted by the UN General Assembly that became effective after ratification by a specified number of state parties. ICERD is also the first UN core human rights treaty that entered into force in the Republic of China (Taiwan), where it has the same effect as domestic law. The ROC signed the Convention in 1966, ratified it in 1970 and deposited its instrument of ratification with the UN Secretary-General.

Taiwan's National Human Rights Commission (NHRC) was established on August 1, 2020 pursuant to the *Organic Act of the Control Yuan National Human Rights Commission*. As an independent body dedicated to the protection and promotion of human rights, the NHRC has all of the elements and functions emphasized in the Paris Principles. The NHRC's legislative mandate includes providing independent opinions on national reports on human rights conventions to ensure that domestic laws and administrative measures are in accordance with international human rights instruments.

Since its inception, the NHRC has issued independent opinions on the ICCPR & ICESCR in 2020, the Convention on the Rights of Persons with Disabilities (CRPD) in 2021, and the Convention on the Rights of Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2022. This independent opinion was prepared in 2023 in response to the initial report on the implementation of ICERD issued by the government on December 14, 2022.

To prepare, the NHRC conducted the following meetings, discussions, and visits to better understand the adequacy of the legal system for the protection of the rights and interests of racial and ethnic groups, deficiencies in policy implementation, and the government's actions and difficulties in implementing ICERD:

1. In May 2022, the Commission held a workshop and invited experts to explain the contents of ICERD; from October 2022 to May 2023, three consultation meetings with experts and scholars, four discussion meetings with civil society organizations, and three discussion meetings with government agencies were held, and letters were sent to 18 government agencies to seek explanations and statistical information.
2. In February and May 2023, two consultation meetings were held with experts and scholars specializing in indigenous issues; in May 2023, a visit was made to an indigenous community to exchange views on ethnic discrimination.
3. The following human rights special reports and commissioned studies completed by the NHRC along with the Control Yuan's investigations into racial discrimination were used in drafting this independent opinion on ICERD implementation:

(1) In 2021, the Commission began its work by drafting two special reports: *the Road to Migrant Fishers' Rights* and *How Migrant Workers Raise Children in a Foreign Country*.

(2) In 2022, three studies were completed: *A Review Study on Taiwan's Situation and Development of Migrant Workers in Social Welfare through International Labor Conventions*; *Comparative Study on Regulation and Protection of Industrial Migrant Workers in Taiwan*; and *Legal Strategies to Eliminate Social Discrimination against Indigenous People*.

Taiwan has established the Council of Indigenous Peoples (CIP), the Hakka Affairs Council (HAC), and the Mongolian and Tibetan Cultural Center under the Ministry of Culture as well as the New Immigrants Development Fund, all of which are dedicated to the preservation of culture, language and other related matters pertaining to their respective ethnic groups. The *Indigenous Peoples Basic Law*, *Hakka Basic Act*, and affirmative measures are also in place. Nevertheless, the NHRC believes room for improvement remains in the promotion of equality among ethnic groups, including in access to justice, naturalization, social security, and policy participation.

The NHRC expects this independent opinion to be useful to the International Review Committee (IRC) in its review, and recommends that the government establish an oversight mechanism for ICERD to address inequalities and discrimination caused by inadequacies in the legal system or lack of enforcement as well as cultural stereotypes and implicit discrimination against ethnic groups.

Discrimination During COVID-19

1. The NHRC anticipates that the national report on the implementation of ICERD will provide additional information about COVID-19 impacts on ICERD-protected groups and minorities and the response measures taken by the government in keeping with the 2021 Statement adopted by the UN Committee on the Elimination of Racial Discrimination (CERD) in its 101st-103rd Sessions.¹
2. During COVID-19, some groups and minorities did not have complete access to information provided by the government, and policies enacted in response to the pandemic failed to adequately consider the needs of different groups and minorities. The NHRC provides the following observations regarding groups and minorities that experienced greater impacts from the pandemic:

Indigenous peoples

3. The NHRC is concerned about the lack of reporting on the plight of indigenous peoples and inequalities in their treatment during COVID-19. The Commission commends the Council of Indigenous Peoples (CIP) for launching the CIP Relief Package for Severe Pneumonia with Novel Pathogens which proposed measures to alleviate the additional burden on the lives of indigenous people

¹ Statement adopted by the 101st-103rd sessions of CERD in 2021: The Committee encourages all State Parties to the International Convention on the Elimination of All Forms of Racial Discrimination to specifically address the following in their next reports under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination:

- (a) The impact of the COVID-19 pandemic on groups and minorities protected under the Convention within their territory and under their jurisdiction
- (b) Measures taken to ensure the participation of all groups and minorities, in particular women, children and persons with disability, in the design and implementation of their response to the COVID-19 pandemic
- (c) Measures taken to protect people belonging to groups and minorities protected under the Convention from the impact of the COVID-19 pandemic
- (d) Measures taken to protect members of vulnerable groups against discriminatory acts and to counter hate speech and stigmatization in connection with the COVID-19 pandemic
- (e) Measures taken to mitigate the socio-economic impact of the COVID-19 pandemic on members of marginalized and vulnerable groups in accordance with their obligation to respect, protect, and fulfil economic, social, and cultural rights.

affected by the pandemic.² However, the package focused mostly on relief and revitalization for individuals. The community landscape improvement measure was the only measure that aimed to improve the overall community infrastructure and environment,³ and even this should be evaluated for its effectiveness and goals in accordance with General Recommendation No. 23 and the *Indigenous Peoples Basic Law*, which state that community representatives should be invited to participate in the review of such measures.

4. The NHRC also observes that there were cases of discriminatory acts or comments against indigenous peoples during the pandemic. In one case, an indigenous elder who entered a convenience store and who did not understand the real name registration process (for COVID prevention purposes) was subjected to verbal abuse by another customer, who said, “(I will) call the police if you don’t bow 90 degrees...indigenous people think they’re so much better than everyone else...indigenous people are all spoiled rotten!” He even videotaped and posted the incident online. Meanwhile, some local governments oversimplified and blamed the spread of the pandemic on cultural traditions and customs of the indigenous peoples. Although pandemic control and prevention policies have since changed, government agencies should continue to address the policy information gap and the gap in medical resources between urban and rural areas. The authorities need to formulate and promote improvement measures to prevent similar situations in the future.

² The document, which can be found in the *Severe Pneumonia with Novel Pathogens* section on the Chinese version of the CIP’s official website, indicates that the planned relief measures included: 1. Financial relief programs: interest-free measures and interest subsidies; 2. Mobile payment rebates; 3. Community landscape improvements; and 4. Diversified marketing of industries.

³ See the CIP Relief Package for Severe Pneumonia with Novel Pathogens-Community Landscape Improvements. Proposals include: 1. Expanding community market locations and surroundings. 2. Renovating public facilities with cultural implications. 3. Renovating and improving traditional houses. 4. Installing and maintaining trail signs and improving the environment in recreation areas. 5. Upgrading and making improvements to community landscapes.

New immigrants

5. In the 2022 Independent Opinion on the Second National Report on the CRC, §6 indicated that some children of Chinese nationality under the age of 18 who had been living and studying in Taiwan for years and had not yet been naturalized were not able to return to Taiwan for over six months due to COVID-19 after traveling to China to visit relatives, thus affecting their right to family reunification.⁴ The NHRC was also concerned that, under Article 4 of the *Nationality Act*,⁵ New immigrant children who had not yet been naturalized faced potential difficulties in the naturalization process and in obtaining nationality because they were unable to meet the residency requirement, since they could not return to Taiwan as scheduled during COVID-19 due to differential border controls.

Migrant workers

6. Impacts of the pandemic policy on migrant workers included differential treatment in quarantine and immigration control and issues experienced by non-national children attempting to return to their home countries or to

⁴ See §6 of NHRC's 2022 Independent Opinion on the Second National Report on the CRC.

⁵ Article 4 of the *Nationality Act* : Foreign nationals or stateless persons who currently have domicile in the territory of the ROC, meet the conditions prescribed in Subparagraphs 2 to 5 of Paragraph 1 of Article 3, and have legally resided in the territory of the ROC for more than 183 days each year for at least three consecutive years, may apply for naturalization if any of the following circumstances apply: 1. If they are married to an ROC national, they are not required to meet the conditions prescribed in Subparagraph 4 of Paragraph 1 of Article 3. 2. They have divorced an ROC national due to domestic violence and have not since remarried, or their ROC spouse has died and they have not remarried and can demonstrate they remain in contact with family members of their deceased spouse. However, those who had been married to an ROC national for at least two years before his or her death are exempted from the requirement concerning contact with family members. 3. They support their children who possess ROC nationality and who are legally incompetent or have limited legal competence, exercise rights and obligations on behalf of such children, and meet and interact in person with them. 4. They have at least one parent who is or was an ROC national. 5. They have been adopted by an ROC national. 6. They were born in the territory of the ROC. 7. They are the guardian or assistant of an ROC national. Foreign nationals or stateless persons who are unmarried minors, whose (adoptive) father or (adoptive) mother is an ROC national, who have legally resided in the territory of the ROC for less than three years, and who do not meet the conditions prescribed in Subparagraph 2, 4, and 5 of Paragraph 1 of Article 3, may apply for naturalization.

receive short-term care, as well as impacts on the protection of undocumented migrant workers' health rights and even a sudden increase in the number of undocumented migrant workers in Taiwan, as explained below:

7. The Central Epidemic Command Center (CECC) announced a nationwide level-3 alert to prevent non-essential outings and impose restrictions on group gatherings following cluster infections in migrant workers' dormitories during COVID-19. Some local governments issued county-wide restrictions that prohibited migrant workers from leaving their dormitories except to go to and from work. The NHRC notes that migrant workers were not the only ones in the workplace to be infected with COVID, but the ban did not apply to domestic employees or the general public, resulting in discriminatory treatment. An investigation report forwarded by the Control Yuan to the Commission also showed that:

- (1) The Miaoli County Government issued a stay-at-home order to all migrant workers, including those with no history of exposure to infectious disease, restricting their personal freedom and causing employers to follow suit, and forcing migrant workers to be grounded and sign pledges, to name a few of problematic measures.

- (2) During COVID-19, foreign worker employment guidelines in response to COVID-19 were introduced to prevent cluster infections and pandemic spread among migrant workers. As employers and agents were unable to respond to the situation in a timely manner, and preventive visits to dormitories were simply a formality, cluster infections were unavoidable in the group accommodations. Nevertheless, employers and agents prohibited migrant workers from going out and forced them to return to the dormitories for centralized management, while no restrictions were imposed on local employees working in the same factory, a practice which

aggravated social discrimination and the stigma against migrant workers.⁶

8. Although the government's quarantine policy attempted to balance epidemic prevention needs with safety, and specified that accommodation and transportation costs for quarantined migrant workers were to be borne by the employer, there were still cases in which employers and agents failed to implement the policy or to raise awareness among migrant workers of their rights. Representatives from civil society organizations and migrant domestic workers' unions stated at discussion meetings that due to the working hours of the Ministry of Labor's (MOL) quarantine staff, migrant workers could not purchase red-eye flights or low-cost airline tickets for early morning arrivals as they had in the past, resulting in an increased financial burden; in September 2022, the MOL announced that migrant workers entering Taiwan could not use quarantine taxis due to the increase in arrivals and had to take either an agent's or employer's chartered vehicle; on October 13 of the same year, border controls were relaxed to 0+7 (no quarantine but seven days of self-monitoring), but migrant caregivers were still required to stay in hotels or dormitories for self-monitored prevention, resulting in differential treatment without proper explanation.⁷
9. During the NHRC's visit to non-governmental placement organizations for migrant workers' children, it was reported that during COVID-19, some legal migrant workers were unable to take their children back to their home countries

⁶ Control Yuan investigation report approved on July 27, 2022 (111 社調 0022)

⁷ Sources include: Summary of NHRC discussion meetings with civil society organizations (2022, Nov 3). Migrant Empowerment Network in Taiwan (2023, Feb 20). Press Release: *Lifting of Pandemic Measures Discriminatory, Migrant Workers' Return to Taiwan Difficult*; Foreign Workers News Agency (2022, Sep 2). *Transportation of migrant workers to quarantine hotels is prohibited from using quarantine taxis until September 16*; Foreign Workers News Agency (2022, Sep 13). *Transportation of migrant workers to quarantine hotels will be arranged via self-pick-up or bus from September 17*; Workforce Development Agency, MOL (2022, Oct 7). Press Release: *Revised Measures for Migrant Workers Entering Taiwan after Launch of New 0+7 Policy from October 13*. The revised measures still stipulated that employers or agents should arrange transportation or hire buses to take migrant workers entering Taiwan to the registered self-monitoring prevention sites. If an employer arranged for migrant caregivers to stay in a hotel for self-monitoring prevention, the employer would receive a subsidy of 50% of daily lodging expenses per person, up to a maximum of NT\$ 1,250 per day.

since it took so long to apply for travel documents due to international border controls, while they could have done so in the past by taking a month's leave after giving birth. As a result, the demand for short-term temporary care for the children of legal migrant workers increased, but they were unable to access such care or other support.⁸

10. There was a dramatic increase in the number of undocumented migrant workers.⁹ The cumulative total of 80,331 at the end of December 2022 marked an increase of more than 20,000 over the cumulative total of 55,805 at the end of December 2021.¹⁰ Reasons included border controls in the countries of origin, a failure to repatriate migrant workers whose whereabouts were unknown, and restrictions on the entry of new migrant workers due to COVID-19, resulting in an imbalance between the supply of and demand for foreign workers.¹¹ The government should take a serious view of the phenomenon of undocumented migrant workers and properly address the increase in number and repatriation/ placement of such workers.

⁸ Minutes of discussion during the NHRC's visit to a Harmony Home shelter for children (2021, Mar 31). The standards for issuing passports and travel documents varied from country to country. The Vietnamese government imposed strict border controls due to the pandemic, and since it does not issue travel documents to children born out of wedlock, some non-national children were unable to return to Vietnam and had to rely on intergovernmental coordination.

⁹ In the past, when a foreigner hired by an employer was unaccounted for, they were called a runaway foreign worker or illegal foreign worker. For those who have freedom of movement, there is no such thing as "runaway" no matter where they go. Labeling migrant workers whose whereabouts are unknown as runaways means that we assume they, like prisoners and soldiers, do not have freedom of movement. The term "illegal" implies a crime, yet such people are not criminals, but merely overstaying in Taiwan with invalid documents. For this reason, these terms were replaced by more neutral ones such as "undocumented migrant workers." Undocumented migrant workers are those who do not have a legal residence permit or whose permit is invalid, or whose registration does not match their actual status. They may not necessarily have been introduced under the Employment Service Act and then become undocumented; they may have overstayed after entering Taiwan for other reasons such as sightseeing or visiting relatives. This Independent Opinion uses the term "undocumented migrant workers," as do the statistics compiled by the National Immigration Agency, MOI.

¹⁰ Far more agricultural and fishery workers go on to become undocumented than workers in other industries. As of December 2022, a total of 11,250 migrant fishers were employed domestically; 2,731 of these overstayed in Taiwan and their whereabouts were unknown; a total of 2,555 agricultural migrant workers were employed, 341 of whom became undocumented before or after their contract expired. The root cause of this is the poor working environment and conditions in the agriculture and fisheries industry.

¹¹ The MOL's written reply dated February 24, 2023.

Foreign students

11. Media outlets reported that the school policy at Yung-Ping Vocational High School of prohibiting overseas compatriot students from leaving the school during the level-3 COVID alert from May to August 2021 was unreasonable.¹² The Ministry of Education (MOE) stated that while students could not go to internships or work during school closures, the school provided relief funds and raised funds and supplies to support the needs of their foreign students, and that the government's preventive measures did not discriminate on the grounds of nationality.¹³ However, the response from the school representative indicated that the school's tight control over entering and leaving campus was put in place due to COVID-19, and was in fact a stay-at-home order for the overseas students.

12. For §§1-11, the NHRC recommends :

- (1) The government should refer to the UN CERD's *Statement on the coronavirus (COVID-19) pandemic and its implications under the International Convention on the Elimination of All Forms of Racial Discrimination*. Measures taken during COVID-19 should be racially and ethnically sensitive, including preventive measures for indigenous peoples, immigrant children's right to family reunification, and the right to apply for naturalization to obtain nationality.
- (2) The government should ensure that migrant workers and their employers are well informed about border entry controls, quarantine measures, and preventive regulations during the pandemic, and should refrain from imposing undue restrictions on personal freedom.

¹² Hello Vietnam (2021, Aug 10). *International Students Treated as Second-Class, Is Taiwan a Dream or Prison?* Last retrieved from <https://helloworldvietnam.tw/tw/hello-life/397> on March 20, 2023. An organization referred to the article in the NHRC discussion meeting with civil society organizations on November 3, 2022.

¹³ Responses of the MOE and MOHW in the NHRC meeting with government agencies (2023, Jan 17).

- (3) The pandemic aggravated the issue of undocumented migrant workers, and strict border controls increased travel costs, resulting in an imbalance between the supply of and demand for migrant workers, the hinderance of the repatriation process for workers and their children, and prolonged detention due to the uncertainty of return dates to home countries. The government has an obligation not only to deal with the problem of undocumented workers and their repatriation and detention,¹⁴ but also to advise detention shelters to refer them to social workers for counseling and provide timely psychological assistance to those who are detained.
- (4) In addition to incorporating migrant workers into the pandemic prevention system on an equal basis, the government should improve group accommodations, which made it difficult to effectively prevent pandemic spread, to ensure the fundamental human rights of migrant workers and reduce risks to their health.
- (5) Personal freedom is a fundamental right. Despite the government's insistence that preventive measures treated all students equally regardless of nationality, some schools strictly controlled campus access for as long as three months due to heightened alerts, which not only restricted students' personal freedom, but also affected their physical and mental health and right to work. Therefore, even though governmental and school preventive measures and management were intended to protect the safety of students, they should carefully consider the circumstances of foreign students in order not to infringe on their personal freedom and other rights.

¹⁴A migrant worker service organization stated in the NHRC discussion meeting with civil society organizations (2022, Nov 3) that it had assisted an undocumented migrant worker who was seized and taken to a detention center. During detention, he lost control of his emotions and hit the television in the premises with a kettle lid because his return home was postponed for so long due to the pandemic. Forcibly suppressed by the staff while already suffering from the long-term restriction of his personal freedom, he became even more emotional. The worker was physically and mentally traumatized, and left mentally unstable. The detention center pressed charges against him for offenses such as assault and destruction of public property (see Case No. 4002 of the New Taipei District Court, dated November 16, 2021 (新北地院 110 簡字 4002); Case No. 69 of the New Taipei District Court, dated April 6, 2022 (新北地院 111 簡字 69); Criminal Summary Judgment of Case No. 576 of the New Taipei District Court, dated February 16, 2022 (新北地院 111 簡字 576)).

Article 1

Definition of Racial Discrimination

A. General definition of racial discrimination

(a) Race, ethnicity, and group

13. The NHRC considers the discourse on race, ethnicity, and group in the national report to be based on the current constitutional and statutory framework, which is used to identify racial, ethnic, and linguistic minorities in the country and distinguish between the rights and interests of each racial or other group¹⁵ without giving either individuals or groups the right to self-identification and self-determination. Some plains indigenous peoples, for example, claim to be government-recognized indigenous peoples, whereas Tibetans do not want to be labeled as an ethnic group in the Greater China region, given their separate national identity. The government's current regulations link identity with rights, interests and benefits, and fail to respect self-identification and the choice of each group regarding its people and identity. In addition, the definitions of various races, ethnicity, and groups in the national report are unclear; discussion of the protection of rights is scattered across individual chapters under different articles, which makes it difficult to present a comprehensive picture of the implementation of protections for each group and is not conducive to overall assessment.

¹⁵ §§3-4 of the national report state that the Constitution clearly stipulates that all races and ethnic groups are equal. Racial and ethnic minorities in the country include the officially recognized indigenous peoples and Mongolian/Tibetan peoples. Linguistic minorities include indigenous peoples, the Hakka people, the Mongolian/Tibetan peoples, new immigrants, migrant workers, and others. It can be observed that the national report primarily relies on the Constitution and existing legal frameworks to identify races and ethnic groups. Whether it is appropriate to use the term "minority" is open to discussion.

14. Recommendations:

- (1) The state should follow General Recommendation No. 24 and avoid determining which groups should be recognized based on resource allocation and using inconsistent criteria to identify ethnic groups and indigenous peoples, which result in differential treatment of groups, where some are recognized and others are disregarded.
- (2) The state should respect General Recommendation No. 8 on the self-identification of individuals as members of a particular racial or ethnic group or groups, and General Recommendation No. 21 on the right to self-determination of ethnic, religious, or linguistic minorities.
- (3) In the future, the national report may be prepared by taking into account the specific races, ethnic groups, or other groups that fall under its purview¹⁶ and creating dedicated chapters that each group can review article by article to facilitate overall assessment.

(b) Citizens and non-citizens

15. The national report states that the ICERD protects the right of all persons residing in Taiwan, including both citizens and non-citizens, to non-discrimination, and that limits on and protection of the rights of non-citizens must be consistent with Article 1 of ICERD, General Recommendation No. 30, and the ICCPR & ICESCR.¹⁷ However, the government treats citizens and non-citizens differently, and even differentiates between different non-citizens. For example, different regulations apply to skilled (white-collar) and unskilled

¹⁶ For example, General Recommendation No. 23 on the rights of indigenous peoples and General Recommendation No. 30 on discrimination against non-citizens.

¹⁷ See §4 and §96 of the national report.

(blue-collar) migrant workers,¹⁸ domestic migrant workers, factory workers, and fishers employed domestically or overseas in terms of salary, family reunification, obtaining nationality, freedom of contract, health checkups, and pension systems, but there is no clear justification for the differences. Please refer to the paragraphs under Article 5 of this independent opinion for further details.

16. **Recommendations:** Although Article 1, Paragraph 2 of ICERD provides that the Convention shall not apply to distinctions, exclusions, restrictions, or preferences made by a State Party to this Convention regarding citizens and non-citizens such as the right to be elected and to vote, States shall nevertheless accord equal treatment when it comes to fundamental rights such as the right to life, health, and education to the extent recognized by international law. Therefore, the government's differential treatment of citizens and non-citizens should be specific enough to make it clear that the distinction is legitimate, reasonable, and necessary, and such differential treatment must comply with General Recommendation No. 30.¹⁹ The government should not vaguely refer to subjective considerations such as national security and social order while at the same time failing to provide proportionate supporting measures. Furthermore, it is not advisable to

¹⁸ The term "blue-collar migrant workers" refers to migrant workers employed based on of Article 46, Paragraph 1, Subparagraphs 8-10 of the *Employment Service Act*: Subparagraph 8: Marine fishing/netting work. Subparagraph 9: Household assistant and nursing work. Subparagraph 10: Workers designated by the Central Competent Authority in response to major national construction project(s) or economic/ social development needs. White-collar foreign workers can apply for jobs in Taiwan in the occupational categories currently opened by the MOL for foreign professionals, including: A. Specialized or technical work; B. Director/manager/ executive of a business invested in or set up by overseas Chinese or foreigner(s) with the authorization of the Government; C. Teachers. D. Full-time foreign language teachers working in supplementary schools; E. Sports coaches and athletes; F. Religious, artistic, and show business work; G. Contract workers. Such workers are employed pursuant to Article 46, Paragraph 1, Subparagraphs 1-6 of the *Employment Service Act*.

¹⁹ General Recommendation No. 30 states that Article 5 of the Convention requires States parties to prohibit and eliminate racial discrimination to ensure the enjoyment by all persons of civil, political, economic, social and cultural rights. While certain rights, such as the right to participate in elections, vote, and run for office, may be limited to citizens, human rights, in principle, should be enjoyed by all individuals. States parties have an obligation to ensure that both citizens and non-citizens enjoy these rights equally within the scope recognized by international law.

formulate measures involving differential treatment based on convenience of management and the difficulty of amending the law.

B. The concept of discrimination

17. The national report defines and explains rules and concepts of racial discrimination, discrimination, and direct/indirect discrimination in domestic law,²⁰ but it fails to mention microaggressions, which are omnipresent in mainstream society.²¹ It is clear that the government has not taken the many unintentional, well-intentioned, stereotype-based verbal and physical microaggressions against different groups of people in society into account.²²

18. **Recommendations:** The government should address the implicit trauma resulting from the discrimination and microaggression faced by certain groups that negatively impact even everyday interactions. In order to prevent racial and ethnic profiling (stereotyping) from causing discrimination or microaggressions between different groups, the government should raise awareness of discrimination and microaggressions at all levels of education and in the public and private spheres through both its policies and policy analysis. For example, the government should strengthen law enforcement training in how to

²⁰ See §§14-25 of the national report.

²¹ MOE. (2020, Oct 30) Facebook post. I didn't mean any harm, so how can it be discrimination? "Microaggressions" refers to hidden discriminatory language that may occur unintentionally or unknowingly in mainstream society. It stems from stereotypes about specific groups of people and manifests as discrimination hidden behind good intentions. Retrieved from <https://www.facebook.com/405240086317285/posts/1711476352360312/> on April 3, 2023.

²² For example, "You're an indigenous person, you must be good at drinking"; "a child of new immigrants overcoming adversity and successfully getting into medical school"; and police frequently conducting identity checks based on skin color and appearance are examples of microaggressions that can be found within everyday life.

prevent racial profiling,²³ encourage cross-ethnic language learning, increase cross-cultural awareness, avoid stigmatizing specific groups, and prevent the spread of discriminatory speech. By creating a platform for friendly dialogue, the government can help different groups in society learn more about, interact with, and better understand each other; people can learn greater respect for differences, develop their sensitivity to multiculturalism, and learn to treat each ethnic or other group equally.

²³ See General Recommendation No. 36 on preventing and combating racial profiling by law enforcement officials. Racial profiling by law enforcement officials refers to the act of law enforcement officials making assumptions about a person's race, color, origin, and national or ethnic origin based on specific characteristics and targeting the person with law enforcement actions based on such racial profiling.

Article 2

Elimination of Racial Discrimination

A. Legal framework and general policies for the elimination of racial discrimination

19. Equality and non-discrimination are the core values and common principles upheld by every human rights convention. However, anti-discrimination provisions in Taiwan are scattered across different laws, and there is a lack of comprehensive legislation.²⁴ The National Human Rights Action Plan announced in May 2022 includes the *Equality Law* drafted by the Executive Yuan as a priority human rights issue to be addressed; the draft will be sent to the Legislature for discussion and review in 2024, but it remains to be observed if the legislation will proceed as scheduled.²⁵
20. **Recommendations:** Taiwan should speed up the legislative process for the comprehensive *Equality Law*, actively discuss solutions to areas in which the *Equality Law* conflicts with current regulations, promote government action on behalf of vulnerable groups as is stipulated in the *Equality Law* (e.g., ethnic equality education), and discuss issues brought to light in the mass media and the public sphere that may fall under the jurisdiction of *Equality Law*. The opinions of ethnic group representatives, civil society groups, and experts

²⁴ In the third Concluding Observations and Recommendations (COR) on the ICCPR & ICESCR and the second concluding observations on the CRPD, the international review committee has pointed out that Taiwan's anti-discrimination provisions are scattered across different laws such as the laws concerning employment, gender equality, and persons with disabilities. Taiwan lacks comprehensive legislation that encompasses all forms of discrimination. The committee recommends that Taiwan formulate a comprehensive anti-discrimination law.

²⁵ As mentioned in §38 of the national report, a study commissioned by the government to research the formulation of a comprehensive anti-discrimination law was completed in June, 2019. The study made recommendations on legislation, but potential points of conflict between the *Equality Law* and current laws, the establishment of a complaint mechanism, and details concerning the functions of organizations all require further deliberation and assessment; the legislative process appears to be difficult and progress is quite slow.

and scholars should be incorporated into the deliberation process in order to increase civil participation and ethnic awareness.

21. In 2020, a working group was formed to review ICERD-related legal provisions. In the past two years, the working group has identified 11 questionable provisions that need amendment and 17 others requiring further review. Discussion with the competent authorities revealed that the government has not specified a timeframe for the amendment of these provisions,²⁶ and progress is slow.
22. The NHRC has also become aware that the government has so far only reviewed laws and regulations at the central government level. Additionally, it should be pointed out that although Article 5 of the *Employment Service Act* is intended to ensure equal employment opportunity for all citizens,²⁷ relevant laws and regulations should also be stipulated for non-citizens to protect them from employment discrimination.²⁸ In addition, Article 2, Subparagraph 5 of the *Regulations for the Approval and Management of Employment of Foreign Nationals by Embassies, Consulates, Foreign Offices, International Organizations, and their Personnel in the Republic of China (Taiwan)* provides that the term “foreign member of the private staff” refers to any foreign national member of the private staff employed exclusively in the service of an

²⁶ NHRC discussion meeting with government agencies (2023, Feb 1).

²⁷ Article 5, Paragraph 1 of the Employment Service Act stipulates: “For the purpose of ensuring nationals’ equal opportunity in employment, employers are prohibited from discriminating against any job applicant or employee on the basis of race, class, language, thought, religion, political party, place of origin, place of birth, gender, gender orientation, age, marital status, appearance, facial features, disability, horoscope, blood type, or past membership in any labor union; matters stated clearly in other laws shall be followed in priority.” Although the Ministry of Labor (MOL) has expanded the application of this paragraph to non-citizens through administrative interpretations, ambiguity still remains, as it is not explicitly stated in laws and regulations (see official MOL documents No. 0930204733: 勞職業字第 0930204733 號令 [Nov 11, 2004] and No. 1010073004: 勞職業字第 1010073004 號函 [Jul 24, 2012]).

²⁸ §35 of ICERD General Recommendation No. 30 provides that state parties “recognize that, while state parties may refuse to offer jobs to non-citizens without a work permit, all individuals are entitled to the enjoyment of labour and employment rights, including the freedom of assembly and association, once an employment relationship has been initiated until it is terminated.” Hence, employers shall not discriminate against any migrant worker due to their nationality, race, or union membership, or for any other reason.

official staff member of an embassy, consulate, foreign office, or international organization. (In the Chinese version of the Regulations, the term used is “外籍僕役”[foreign servant])²⁹ Although the word “servant”(僕役) is used to refer to foreign private employees as is done in the Vienna Convention on Diplomatic Relations (VCDR), it can hardly be considered a neutral word. Whether it is necessary to continue using the word “servant”(僕役) is a point that should undergo review. The terminology used in laws and regulations formulated in times past is often either no longer in line with the current situation or is simply out of date. The term “tribal individuals,” which can be found in the *Act Governing the Appointment of Personnel from the Mongolia and Tibet Regions*,³⁰ is one such example.

23. For §§21-22, the NHRC recommends:

- (1) The government should act in accordance with Article 2, Paragraph 1(c) of ICERD by reviewing and amending any discriminatory terminology or terminology of a questionable nature that is found in its laws and regulations.
- (2) When regulations or policies at the central government level are being formulated, the spirit and implications of ICERD should be taken into account, and they should be implemented into regulations and policies enacted at the local government level as well.

24. Ethnic mainstreaming should follow a three-pronged strategy: legal framework, policy, and organization, and ethnic equality should be included in legislation. The NHRC recommends the use of policy tools such as the prohibition of ethnic discrimination, use and development of ethnic

²⁹The term “private servant” can be found in Article 1 of the VCDR 1961.

³⁰On the UN’s Chinese language website, the term “indigenous peoples” is translated as“土著人民”, which is considered a discriminatory term in Taiwan. Whether or not such terminology should remain in older domestic laws and regulations requires further discussion.

statistics, and ethnic analysis.³¹ Policy tools for ethnic mainstreaming are not yet comprehensive, and a gap exists between the policies developed for different ethnic groups. For example, in 2021 the government launched the National Hakka Development Plan, which includes three strategic pillars: fostering ethnic sensitivity across government agencies, incorporating ethnic mainstreaming into lifelong learning plans, and devising medium- and long-term plans for ethnic mainstreaming, yet the government has yet to produce any national development plan for Taiwan's indigenous groups.

25. Recommendations:

- (1) The government should establish a dedicated research channel for ethnic mainstreaming in government agencies and a dialogue platform for exchange of ideas on the development of ethnic mainstreaming. There should be a corresponding agency for every ethnic mainstreaming policy and measure.
- (2) The government should implement a thorough strategy for ethnic mainstreaming and encourage the use of ethnic mainstreaming tools.

26. The NHRC contends that according to Article 34 of the *Indigenous Peoples Basic Law*, which was formulated in 2005, the government should amend, formulate, or abolish relevant laws and regulations to protect the rights of Taiwan's indigenous peoples within 3 years after the *Law* took effect. However, some subsidiary laws and regulations have yet to be amended or formulated,³² which is a serious hindrance to the protection of the rights and interests of indigenous peoples.

³¹ Research, Development, and Evaluation Commission, Executive Yuan. *A Study on How to Implement Multiethnicity Mainstreaming via Public Political Measures* (2012, December).

³² According to "Current situation and follow-up plans for relevant laws and regulations yet to be formulated (amended) under the *Indigenous Peoples Basic Law*," which was released on the CIP website on March 21, 2022, subordinate laws to be formulated (amended) include the draft amendment of the *National Park Law* and the drafts of the *Indigenous Autonomy Law*, the *Regulations for the Organization of Tribal Public Juristic Persons*, the *Act of Preserving Indigenous Cultural Knowledge and Biodiversity*, the *Act on the Governance and Utilization of Indigenous Peoples' Reserves*, the *Regulations on Compensation for Land Restrictions and Losses of Indigenous Peoples in Compliance with Legal Provisions*, and the *Regulations on Grants and Incentives for the Promotion of Indigenous Language Preservation and Research*.

27. **Recommendations:** The government should continuously review its legal statutes and actively promote the revision of laws and measures that are in conflict with the *Indigenous Peoples Basic Law*. It should also adhere to the standards set by General Recommendation No. 23, United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and other international human rights conventions. Any decision that directly affects or has significant implications for the rights and interests of indigenous peoples should not be made without their free, prior, and informed consent.

B. Mechanism to ensure the fair representation of racial groups in the decision-making process of government agencies

28. The national report mentions that the CIP has full-time members recommended by various ethnic groups as group representatives. However, the nomination and selection process for these members is not specified in the *Organization Act of the Council of Indigenous Peoples or the Directions Governing the Selection of CIP Members*.³³ Ethnic groups have repeatedly

³³ Article 4 of the *Organization Act of the Council of Indigenous Peoples* provides that “The Council is composed of 19 to 29 members. At least one representative of each of the indigenous tribes of Taiwan shall be appointed to the Council according to the Contract-based Worker Employment Act, with the term of office dependent on any change of Chairman.” Directive 3 of the *Directives Governing the Selection of CIP Members* provides that “the council member must fulfill one of the following criteria: 1. a person of indigenous origin, 2. a person with competence or experience specified in the Contract-based Worker Employment Act, or 3. a person of good repute who provides dedicated service and has a deep understanding of indigenous affairs.” Directive 7 provides that: “For the selection of contract-based (part-time) council members, it is important to consider their character and loyalty to the nation as well as their ability to work independently and their communication, coordination, and research and development skills, expertise in relevant fields, and contributions to ethnic communities, among other factors.” Directive 8 provides that: “The selection and appointment of council members shall be as follows: 1. Representatives of indigenous origin are nominated by each ethnic community. 2. Representatives from relevant agencies are appointed by their respective agencies. 3. Experts and scholars are nominated by the council. The abovementioned candidates shall be recommended by the council chairperson to President of the Executive Yuan for official appointment (commission).” Directive 9 states that: “The selection of new members should begin three months prior to the expiration of the current term. In case there is a vacancy with a remaining term of one year or more, the council chairperson may assess actual needs and nominate a candidate to the President of the Executive Yuan for official appointment (commission) to fill the vacancy until the original term expires.” Directive 10 provides that: “When necessary, a review committee may be formed to evaluate the proposed candidates. The composition of the review committee shall be determined by the council chairperson, who will appoint the committee members. The review committee will deliberate on the candidates and submit their recommendations to the council chairperson, who will make a final decision and submit the decision to the Executive Yuan for appointment (commission).”

questioned the fairness of the selection process and representativeness of those selected.³⁴ In 2022, the third concluding observations on the ICCPR & ICESCR also included such concerns.³⁵

29. Regarding the consultation and participation rights of indigenous peoples, the court in Taiwan has determined that criteria such as the household registration, household representative, and proxy voting systems provided in the *Regulations Governing Consultation with Indigenous Tribes to Obtain Their Consent for Participation*³⁶ impose limitations on the participation of indigenous community members who are authorized to convene community meetings according to tribal tradition.³⁷ These regulations undermine the rights and autonomy of indigenous communities³⁸ and are in violation of the *Indigenous Peoples Basic Law*.

³⁴ PTS News (2020, Aug 14). *Amid Doubts over Representative's Lineage, Kavalan People Fight for their Rights*. Retrieved from <https://news.pts.org.tw/article/490654>.

³⁵ §39 of the concluding observations on the third national report on the ICCPR & ICESCR: "The Review Committee applauds the establishment of the Council of Indigenous Peoples, but urges the Government to ensure genuine representation of all Indigenous Peoples based on transparent nomination and selection procedures which respect Indigenous Peoples' decision-making processes."

³⁶ Taipei High Administrative Court (2022, Sep 8). *Summary of court decision by Taipei High Administrative Court, Case No. 109 (北高行 109 訴 1509)* and *Press Release of Case No.109, Katratripulr vs. Ministry of Economic Affairs*. Retrieved from <https://www.judicial.gov.tw/tw/cp-1888-711789-f83b8-1.html>.

³⁷ Article 2 of the *Regulations Governing Consultation with Indigenous Tribes to Obtain Their Consent for Participation* provides that the term "tribal members" refers to adult indigenous individuals with a household registration in an indigenous region; "indigenous households" refers to households registered in an indigenous region with at least one household member who is indigenous by descent; "representative of an indigenous household" refers to the head of an indigenous household who is an adult and indigenous by descent, or any family member who is an indigenous adult designated by the head of the household. Regarding the decision-making process on matters that require consensus, Article 19 of the *Regulations* provides that the approval of a proposal requires the attendance of more than half of the household representatives at the tribal meeting in question with more than half of the attendees approving of the proposal. Article 23 provides that the convening procedures and methods, qualifications for attendance, meeting procedures, decision-making thresholds, and other issues concerning tribal meetings shall, in principle, follow the bylaws of the tribe.

³⁸ Taipei High Administrative Court (2022, Sep 8). *Summary of court decision by Taipei High Administrative Court, Case No. 109(北高行 109 訴 1509)*.

30. For §§28-29, the NHRC recommends:

- (1) The NHRC reminds the government of the importance of protecting the rights and interests of indigenous groups by establishing subordinate laws under the *Indigenous Peoples Basic Law* and implementing concrete policies. It is crucial to design a decision-making system for indigenous peoples that is based on the relevant human rights standards. The system should include a fair and just mechanism that respects traditional ways of selecting representatives, and thereby promotes the participation of indigenous communities in the decision-making process for laws and policies that may affect them.
- (2) The design of the current regulations regarding the threshold for convening meetings and participating in decision-making over community matters is based on household registration. The NHRC believes such a basis is in conflict with indigenous traditions and fails to take into account fluctuations in the community population due to education, marriage, employment, elections, and temporary residence, among other factors. By requiring indigenous peoples to form organizations and make decisions in ways acceptable to the government, the government is in effect intervening in and undermining their traditions, which is neither justifiable nor reasonable. The government should promptly review the current mechanisms for consultation and participation based on the spirit of General Recommendation No. 23, the ICCPR & ICESCR, and the UNDRIP to ensure that the indigenous peoples are able to select representatives in accordance with their own traditional customs, culture, and decision-making systems, and that they have the right to maintain and develop their own decision-making systems.

C. Affirmative action measures

31. The measures falling under §42 of the national report should be reviewed in accordance with §§16-18 of General Recommendation No. 32 regarding criteria for the adoption and implementation of special measures, and the need for special measures should be assessed. It is particularly important that before special measures are established and enacted, discussion with the affected communities should be carried out in advance to ensure their participation, and details of such discussion should be included in the national report in accordance with §37 of General Recommendation No. 32.

Article 3

Prohibition of Racial Segregation

32. Taiwan does not practice racial segregation in the manner once practiced in South Africa.³⁹ However, when the introduction of migrant workers to Taiwan was first allowed in the past, the underlying principle was to ensure that migrant workers would not negatively impact the employment opportunities and working conditions of local workers or interfere with economic development and social stability due to their replacement of unskilled local workers.⁴⁰ The mindset behind the policy did not take into account whether or how migrant workers would be integrated into local communities. This helps explain the differential treatment of migrant workers during lockdown periods after the outbreak of the pandemic, when their movements were restricted as stated in §7 above. This example highlights the need for a more proactive effort in promoting ethnic integration and equality.
33. Investigations conducted by the Control Yuan have found that according to statistics from the Ministry of Labor (MOL), over 90% of accommodations for migrant workers are provided by their employers, and more than 50% of

³⁹ In Article 3 of the *Compilation of Guidelines on The Form and Content of Reports to be Submitted by State Parties to The International Human Rights Treaties* (2009), recalling general recommendation No. 19 (2002), the reference to apartheid may have been directed exclusively to South Africa, but the article as adopted prohibits all forms of racial segregation in all countries. CERD has also noticed that while racial segregation may be caused by government policies, it may also be an unintentional result of personal behavior. The *Compilation of Guidelines on The Form and Content of Reports to be Submitted by State Parties to The International Human Rights Treaties* (2009) reminds the reporting State that information should be supplied on measures to prevent, prohibit and eradicate all practices of racial segregation, in particular in cities where residential patterns may result from multiple discrimination based on low income and race, color, descent or national or ethnic origin; measures to prevent and avoid as much as possible the segregation of groups and individuals protected under the Convention, including the descent-based communities and non-citizens, in particular in the areas of education and housing.

⁴⁰ §11 of the national report explains that migrant workers were first brought into Taiwan in 1989 to meet the needs of economic development, but were designated “supplementary in nature” and “limited to designated industries and job opportunities.”

employers charge the migrant workers for meals and accommodation.⁴¹ §84 of the national report stipulates the “protection of the right to residence and personal freedom of migrant workers” and contends that employers must fulfill their obligations laid out in the Foreign Worker Living Care Service Plan. The report also states that migrant workers may choose to live in accommodations not arranged by the employer.⁴² §32 of General Recommendation No. 30 states that state parties should ensure that both citizens and non-citizens enjoy equal rights to adequate housing and, in particular, that any form of housing segregation must be avoided. However, most industrial migrant workers in Taiwan reside in collective accommodations provided by their employers for the sake of easier management. The living conditions, management practices, and care services of their accommodations are largely unsatisfactory. The government needs to improve its efforts and increase resources to help migrant workers become integrated into local communities.

34. For §§32-33, the NHRC recommends: In the spirit of General Recommendation No. 19, the government should keep track of the living conditions of migrant workers, monitor practices that may lead to racial segregation, strengthen measures that can reduce the potential for it, and eliminate negative impacts resulting from it. Any action taken by the government should be included in the national report.

⁴¹ The Control Yuan investigation report approved on December 15, 2018 (107 財調 0058)

⁴² On February 24, 2023, the MOL sent a written response, which is summarized as follows: “To protect the freedom of movement of migrant workers as stipulated in the ICCPR & ICESCR, the Ministry revised the Regulations on the Permission and Administration of the Employment of Foreign Workers on April 29, 2022. Migrant workers are free to choose their own residence rather than the accommodations supplied by their employer. Local governments will conduct visits upon receiving notification to investigate whether migrant workers are truly free to choose their own residence.

Upon receiving a Foreign Worker Arrival Notification or Notification of Consecutive Employment, local governments inspect the migrant worker’s living quarters; currently, there are no records of migrant workers choosing to reside in accommodations not arranged by their employers.”

Article 4

Legislation and Measures for the Prohibition of Racial Hatred

35. As repeatedly mentioned in the Concluding Observations and Recommendations after the review of the implementation of the ICCPR & ICESCR, States are required to prohibit by law war propaganda and the incitement of national, racial, or religious hatred and violence. The IRC recommends that the government implement amend the *Criminal Code* accordingly.⁴³ In Taiwan, there are laws that regulate discriminatory speech, such as the *Guidelines for the Prevention of Bullying in Schools* and the *Immigration Act*.⁴⁴ However, stereotypes and negative labeling and language used against certain ethnic groups have not yet been mitigated. The offenses of public insult in Article 309 and slander in Article 310 of the *Criminal Code* are aimed at individuals rather than ethnic groups or groups as victims, and their elements include vague legal concepts without specific, objective standards that must be further clarified by the court. They do not help to achieve the desired effect of general prevention. The government has yet to come up with effective ways to stop discrimination or even hate speech against racial and ethnic groups.

⁴³ §74 of the first Concluding Observations and Recommendations (COR), §74 of the second COR, and §88 of the third COR.

⁴⁴ Article 3, Paragraph 1, Subparagraph 4 of the *Guidelines for Preventing Bullying in Schools* states the following: “The terms used in these guidelines are defined as follows:...(4) Bullying: An individual or group of individuals who directly or indirectly, through spoken or written words, pictures, symbols, bodily gestures, electronic communications, the Internet, or other means, intentionally degrades, excludes, mistreats, harasses, or teases another person by placing that person in a hostile or unfriendly environment, causing mental, physical, or property damage, or interfering with normal learning activities.”

Article 62 of the *Immigration Act* provides that: “Any person shall not discriminate against people residing in the Taiwan Area on the basis of nationality, race, color, class and place of birth (Paragraph 1). Any person whose rights are trespassed due to the discrimination mentioned in the preceding Paragraph can file a complaint to the competent authorities on the basis of the circumstances of the trespass, unless the matter is otherwise regulated by other laws (Paragraph 2). The competent authorities shall enact regulations that govern items and filing requirements for complaints as mentioned in the preceding Paragraph, and for complaint procedures and the composition of a review committee (Paragraph 3)”.

36. **Recommendations:** The NHRC is concerned that discriminatory and hate speech against specific minorities and other groups still occurs frequently, particularly on social media due to the anonymity offered by such platforms.⁴⁵ Though relevant laws and regulations are in place, prevention has not been effective.⁴⁶ In addition to accelerating research into and analysis of hateful acts or speech against race, ethnicity, or group as well as establishing punishments and standards for determining offenses and for remedy for victims, the government should comprehensively review how effective the laws and measures meant to prevent hate speech against ethnic groups are. Reference can be made both to international legislation and domestic practices to eliminate gender discrimination and enact or amend laws and regulations to prohibit racial hatred. The government should also establish a sound mechanism to monitor digital platforms to prevent the spread of hate speech and worsening racial antagonism, so as to realize the spirit of international human rights conventions.

⁴⁵ Coverage such as *The N Word Used Widely on University Forum, Counseling Mechanism for Foreign Students Difficult to Access* by the *United Daily News* (2022, Dec 3) and *Unfriendly Comments on PTT, Hakka Affairs Council Demands Regulation by Ministry of Education* by CTS News (2019, Sep 1) points out that social media platform PTT is full of hostile comments against specific ethnic groups.

⁴⁶ E.g., Articles 309 and 310 of the *Criminal Code*.

Article 5

Measures to Safeguard Various Rights

A. Right to equal treatment in judicial proceedings

37. §§98-105 of the national report cite the *Code of Ethics for Jurors in Professional Courts and the Code of Ethics for Judges*, which prohibit differential treatment or other improper behavior on the basis of race. Additionally, the paragraphs mention establishing special courts for indigenous peoples and revising relevant laws and regulations. However, there are still areas requiring improvement, as described below:
38. Concerns have been raised regarding the determination of what constitutes a serious violation under Article 73, Subparagraph 6 of the *Employment Service Act*, which can lead to the revocation of migrant workers' work permits.⁴⁷ The MOL has stated that the determination of such violations should be based on Article 42 of the *Employment Service Act*, which aims to prevent foreign workers from hindering social stability and to mitigate the impacts of illegal actions by such workers on social order, labor relations, personal safety, and national, social, and individual legal interests.⁴⁸ Previously, the MOL issued a press release advising migrant workers not to ship or order prohibited pork products from overseas. Importing such products is punishable by up to 7 years imprisonment and a fine of up to NT\$3 million. Migrant workers found

⁴⁷ The Control Yuan investigation report approved on June 3, 2020 (109 財 調 0031), pointed out that if a foreign worker violates any law of Taiwan, it is considered a "serious violation," without distinction whether the crime was committed intentionally or due to negligence, the severity of the crime, the degree of punishment, or whether a suspended sentence was issued. In all cases, the worker's work permit is revoked, which may excessively infringe upon the foreign worker's right to work. Furthermore, the revocation of a foreigner's work permit is an administrative penalty. Although legal remedies can be sought and a stay of execution applied for by law, there is doubt whether foreign workers have the capacity to pursue these remedies given considerations of finances, time, language barriers, and lack of legal knowledge.

⁴⁸ According to the MOL's written reply dated January 13, 2023.

in violation will have their work permits revoked and will be deported.⁴⁹ The NHRC has noted that cases involving prohibited pork products brought in from epidemic zones that are deemed “serious violations” overly infringe upon the rights of migrant workers, including their right to work and to legal residence.

39. **Recommendations:** The MOL should carefully evaluate the necessity and reasonableness of the criteria used to determine what constitutes a serious violation under Article 73, Subparagraph 6 of the *Employment Service Act* and adjust them accordingly. The Ministry should also take note of General Recommendation No. 30, which calls for ensuring equal protection and recognition before the law for non-citizens and ensuring that non-citizens have equal opportunity for effective remedy, including the right to challenge deportation orders. Migrant workers should be given avenues to seek redress if they wish to dispute the revocation of their work permit, so as to ensure the accessibility and close proximity of remedial channels for migrant workers.
40. The current *State Compensation Law* applies the principle of reciprocity to applicable law in cases where foreigners’ rights are infringed, provided that the treaty or the laws or customs of their home country allow Taiwanese citizens to enjoy equal rights with the citizens of that country. The Control Yuan investigated a case from 2017 involving an undocumented Vietnamese migrant worker surnamed Nguyen, who was shot nine times at point-blank range by a police officer.⁵⁰ The officer accused in the incident reached a

⁴⁹The Workforce Development Agency, MOL issued a press release on January 7, 2022 titled “MOL urges migrant worker friends not to mail or order prohibited pork products from abroad. Let’s jointly prevent African Swine Fever!” The press release indicated that individuals who breach regulations by importing meat products could be subject to a period of imprisonment of up to seven years and a fine of up to NT\$3 million. If a migrant worker receives a package from relatives or friends in an epidemic-affected area containing meat products, it should be surrendered to the animal quarantine authority for proper disposal. Violations will incur fines of up to NT\$150,000. Under Article 73, Subparagraph 6 of the *Employment Service Act*, if a migrant worker is penalized for this offense, it can be considered a serious violation; their work permit can be revoked, and they can be ordered to leave the country. For more information, please visit: https://www.wda.gov.tw/News_Content.aspx?n=7F220D7E656BE749&sms=E9F640ECE968A7E1&s=7A4B2B19252FD116.

⁵⁰Control Yuan investigation report approved on July 5, 2018 (107 內調 0042)

settlement with the victim's family during court proceedings,⁵¹ resulting in the family receiving compensation. The victim's family expressed that it would have been difficult for them to navigate the complexities of the legal process for seeking compensation across national borders without the assistance of Taiwanese NGOs.

41. **Recommendations:** The NHRC has expressed concern about the difficulties encountered by migrant workers and their families when seeking compensation across national borders. The principle of reciprocity, entrenched in the current *State Compensation Law*, does not completely align with contemporary standards pertaining to human rights protection, equality principles, and the spirit of international conventions. The Executive Yuan has already proposed an amendment to the *State Compensation Law*⁵² which seeks to remove this principle of reciprocity. This would ensure that everyone in the country has an equal right to claim compensation regardless of nationality. The legislative process to enact these amendments should be expedited.

42. In 2019, the Judicial Yuan conducted an audit of the Legal Aid Foundation's Kaohsiung branch, as documented in their report. One of their recommendations stated that when foreign nationals apply for legal aid, they should be required to provide proof of their legal residency in Taiwan.

⁵¹ It should be noted that before the amendment of the *Act Governing the Use of Police Weapons* in 2022, compensation for any injury, death, or property damage caused by the use of police weapons was handled by the respective level of government. Compensation could consist of medical expenses, solatia, indemnity, or funeral expenses and was not handled in accordance with the regulations of the *State Compensation Law*.

⁵² According to the Ministry of Justice's written reply dated March 16, 2023, considering that the protection of human rights has become a universally valued principle respected by countries worldwide, the reciprocity-based provisions of the *State Compensation Law* do not entirely align with modern principles of human rights protection, equality, and the spirit of the International Covenant on Civil and Political Rights. Therefore, the Executive Yuan has submitted a draft amendment to the *State Compensation Law* that proposes removing restrictions that are based on the principle of reciprocity for deliberation in the Legislative Yuan.

This evidence would determine their eligibility for legal aid⁵³ under Article 14 of the *Legal Aid Act*. However, undocumented migrant workers who need legal aid might be denied assistance due to an inability to produce a visitor visa, ARC, APRC, or other documentation proving legal residency. Therefore, the NHRC suggests a fair review of these regulations to accommodate such circumstances.

B. Interpretation system

43. In the Independent Opinion on Taiwan's 4th National Report under CEDAW in 2022, the NHRC pointed out that the inefficiencies in the judicial interpretation system (due to the poor quality of interpreters and their rendering) may hinder access to justice for female migrant workers and immigrants who have been sexually assaulted. For a long time, the judicial courts, police authorities, and immigration authority have operated independently. No single authority oversees the interpretation system, which has led to considerable disparities in interpreters' salaries, benefits, and the quality of their services.⁵⁴ The Independent Opinion has identified similar situations involving inadequate protection of the judicial rights and interests of indigenous peoples, new immigrants, and migrant workers, which are detailed as follows:

(a) Indigenous peoples

44. The *Indigenous Peoples Basic Law* and *Indigenous Languages Development*

⁵³ Article 14 of the *Legal Aid Act* states that the provisions of this Act also apply to the following non-citizens of Taiwan: (1) Individuals who legally reside in Taiwan; (2) Individuals who have lost their residency rights due to reasons not attributable to themselves; (3) Victims or suspected victims of human trafficking; (4) Non-residents of Taiwan who have previously received assistance from the Legal Aid Foundation due to the same factual circumstances; (5) Non-residents of Taiwan who, under Taiwan law, can exercise rights for another person who died after receiving assistance from the Legal Aid Foundation due to the same factual circumstances; (6) Non-residents of Taiwan, who under Taiwan law, can exercise rights for another person who has passed away due to an occupational incident; (7) Other conditions as determined by the Legal Aid Foundation. The Legal Aid Foundation will determine the methods for reviewing the above conditions.

⁵⁴ See §12 of NHRC's Independent Opinion on the 4th CEDAW in 2022.

Act expressly safeguard the rights of indigenous peoples to access to judicial courts. Indigenous peoples should be allowed to speak their native languages in courts with the assistance of interpreters. This would allow them to have unrestricted access to courts, direct communication with judges, and full protection of their litigation rights, and ensure that they are not discriminated against during judicial proceedings. The NHRC notes that there are at least 16 ethnic languages and 42 dialects among Taiwan's indigenous peoples. The national report only mentions that the court has a reserve list of 18 contract interpreters in 7 indigenous languages. For prosecutorial and police authorities, the report only provides total numbers and total instances without detailing usage by each specific ethnic group, particularly of contracted interpreters, temporary interpreters, and agreed-upon interpreters. The NHRC believes that difficulties with language and cultural interpretation during judicial proceedings are two of the key disadvantages that indigenous people face during trials. Given that contracted, temporary, and agreed-upon interpreters are typically used on a temporary basis, there can be instances when a witness, police officer, or accompanying relative serves as the defendant's interpreter out of expediency. However, this approach can potentially compromise the quality and accuracy of the interpretation, thereby undermining the rights of indigenous people to access and use the courts effectively.

(b) New immigrants

45. A resolution was adopted at the 13th meeting of the New Immigrant Affairs Coordination Committee (convened by the Executive Yuan on August 11, 2022) to take an inventory of interpreting services, consolidate recommendations, and propose a plan for the next two to three years. Following approval by the Executive Yuan, a cross-agency, tiered interpretation system will be developed

in stages.⁵⁵ However, the NHRC understands through agency discussions that, up to this point, the efforts are still at the data collection and work itemization phase.⁵⁶ Thus far, the government has not yet developed and implemented interpreting services that fully meet the needs of new immigrants.

(c) Migrant workers

46. Procedural norms for interpreting and qualified interpreters are extremely important in order to ensure fair treatment for migrant workers in courts and other judicial institutions. However, while judges and prosecutors have the right to discretion in the use of interpreting services, their judgement criteria are not clear. Civil society organizations have pointed out that many interpreters collaborate with or are members of intermediary agencies, leading to potential conflicts of interest.⁵⁷ The NHRC is also concerned that in addition to judicial interpreting, migrant workers may require interpreting services when signing or renewing contracts with employers to help them fully understand their work contracts. If labor disputes occur, interpreting services become even more crucial during the resolution or mediation process.

47. **For §§43-46, the NHRC recommends:** Governments should expedite the establishment of a professional cross-agency, integrated, multi-tier, multi-specialty interpretation system. This includes setting up an application and qualification system, a mechanism for the selection of contract interpreters, and one for national examinations complete with plans for education and training. Moreover, specializations should be developed, and elimination mechanisms established. The NHRC also recommends implementing

⁵⁵ For records of the 13th meeting of the New Immigrant Affairs Coordination Committee, Executive Yuan, please visit: <https://ifi.immigration.gov.tw/wSite/public/Data/f1662947079932.pdf#aC>.

⁵⁶ NHRC discussion meeting with government agencies (2023, Feb 1).

⁵⁷ Summary of NHRC discussion meeting with civil society organizations (2022, Nov 3).

reasonable pay scales for interpreters and the creation of a regular assessment and oversight mechanism to maintain the quality of interpreting services.

C. Right to asylum for refugees

48. Taiwan has yet to formally devise a *Refugee Act*. Currently, issues related to stateless individuals, foreign travel document holders applying for ARCs in Taiwan, asylum seekers, and the acceptance of refugees are handled on a case-by-case basis. There are specific regulations for providing emergency political assistance and asylum to residents of Hong Kong, Macau, and China, but Taiwan lacks a transparent public legal framework to govern such issues.⁵⁸ The government has pointed out that a draft of the *Refugee Act* has been under consideration for 12 years but has yet to be passed, indicating that these issues have not yet gained nationwide consensus. The government will continue to examine legislative examples from other countries, taking into consideration factors such as the current state of the nation, human rights, the economy, society, culture, and national security when revising the draft of the *Refugee Act*. The plan is to submit the draft for legislative review between 2022 and 2024.⁵⁹
49. **Recommendations:** Taiwan's establishment of a *Refugee Act*, given its unique political landscape, requires careful management. The government should acknowledge the challenges and issues tied to this legislation, gradually push for its enactment, and utilize and integrate cross-departmental resources and other mechanisms to formalize Taiwan's asylum system at the earliest opportunity.

⁵⁸ See, for example, the *Regulations Governing Relations with Hong Kong and Macao*, the *Regulations Governing Relations between the People of the Taiwan Area and the People of the Mainland China Area* (referred to as the *Cross-Strait Act*), and the *Regulations Governing the Residency, Long-term Residency or Residency for Naturalization of People of the Mainland China Area Living with a Relative in the Taiwan Area*.

⁵⁹ See §§121-124 of the national report. The Ministry of the Interior (MOI) provided additional information following the NHRC's discussion meeting with government agencies on January 17, 2023.

D. Right to security of person

50. Studies indicate that without the right to change their employment or terms of employment, migrant workers are at a heightened risk of exploitation. If they are burdened with large debts, their situation might also align more closely with that of bonded laborers. The ILO's Assembly of Experts has stated that an employment system that leaves migrant workers extremely vulnerable and severely undermines the power balance between employers and employees constitutes discrimination against migrant workers.⁶⁰ The NHRC has noted that migrant workers face a higher risk of forced labor. This is especially applicable to undocumented migrant workers, who commonly encounter problems such as restrictions on their freedom of movement, ID seizure, forced overtime, inadequate compensation for their labor, or debt bondage resulting from excessive broker fees and loans that lead to deductions from their wages.⁶¹ Migrant domestic workers can find themselves isolated and vulnerable, and facing issues such as a lack of rest, verbal or physical abuse, and poor living conditions due to their employment conditions and long-term residence in their employers' homes.⁶² It is recommended that authorities work jointly to adopt proactive measures to prevent labor exploitation and mitigate the risk of forced labor for migrant workers.

51. The government's current approach to decreasing broker involvement in migrant worker contracts within the National Human Rights Action Plan is to ensure ongoing verification of labor contracts in the workers' home countries. The MOL explains that this step involves the establishment of systems for

⁶⁰ Yang, Y.W., (2021) *Equal Labor Rights Across Borders? — On the Limitations on Equal Protection of Labor Rights Facing the Temporary Transnational Migration System*. Academia Sinica Law Journal 28, 240–269.

⁶¹ Paragraph 47, General Comment No. 23 of the International Covenant on Economic, Social, and Cultural Rights.

⁶² Page 152 of *A Review Study on Taiwan's Situation and Development of Migrant Workers in Social Welfare through International Labour Conventions*.

verifying labor contracts in migrant workers' home countries.⁶³ However, inconsistencies in the contents of labor contracts verified by the home country, the wage affidavit, and the labor contract renegotiated by the employer lead to unclear protections for migrant workers. This issue cannot be addressed solely by relying on contract verification mechanisms in the workers' home countries. The government should employ strategies to simplify the administrative process for hiring migrant workers, thereby reducing the involvement of brokers.

E. Right to freedom of movement and residency within the country

52. Article 33 of the *Regulations on the Permission and Administration of the Employment of Foreign Workers* stipulates that the employer is responsible for arranging accommodations for the migrant workers they hire, not the private employment agency. If the employer delegates life/care services to a private employment agency, the associated costs should be borne by the employer and cannot be passed onto the migrant worker. An employer cannot charge a migrant worker for accommodations if they choose to rent their own accommodations outside of what the employer has arranged. A violation would be a breach of Article 57, Subparagraph 9 of the *Employment Service Act*.⁶⁴ However, civil society organizations have observed that some employment agencies insist on having migrant workers live in agency-provided dormitories. In cases where migrant workers choose to rent their own accommodations, they are still required to pay for both the dormitory and their outside accommodations. Those who refuse this arrangement run the risk of being sent back home.⁶⁵ Some migrant workers interviewed for

⁶³ According to the MOL's written reply dated January 13, 2023.

⁶⁴ According to the MOL's written reply dated January 13, 2023.

⁶⁵ Summary of NHRC discussion with civil society organizations held on November 3, 2022.

the NHRC's special report *How Migrant Workers Raise Children in a Foreign Country* reported that once they had children, they were no longer allowed to live in company dormitories, but the monthly dormitory and meal expenses of NT\$2,100 were still deducted from their salary.⁶⁶ It is recommended that the MOL implement more proactive regulations for worker advocacy and labor inspections.

F. Right to freedom of entry to and exit from the country

53. During a discussion with government agencies, the NHRC discovered that the government had implemented an interview system for marriages involving foreign spouses from certain countries and regions, including China and Southeast Asia. This list still includes 19 Southeast Asian countries as of 2022. Although the government eased the interview requirements for foreign spouses in 2019, a review of the transitional system was postponed due to the outbreak of COVID-19.⁶⁷ In 2023, the *Guidelines for the Ministry of Foreign Affairs and Overseas Missions of the Republic of China (Taiwan) Regarding Interviews with Foreigners Applying for Entry into Taiwan on the Basis of Marriage to an ROC Citizen* were amended. The amended guidelines stipulate that the government may determine a list of specific countries and designate interview locations based on considerations of national interest and international customs and practices, with periodic review and adjustment as needed.⁶⁸ The NHRC found that there are no clear criteria and regulations for the selection of countries for these foreign marriage interviews. It is

⁶⁶ Page 43 of the NHRC's special report *How Migrant Workers Raise Children in a Foreign Country*

⁶⁷ NHRC discussion meeting with government agencies (2023, Feb 1).

⁶⁸ §2 of the *Guidelines for the Ministry of Foreign Affairs and Overseas Missions of the Republic of China (Taiwan) Regarding Interviews with Foreigners Applying for Entry into Taiwan on the Basis of Marriage to an ROC Citizen* (released on March 17, 2013). The Ministry of Foreign Affairs may weigh national interests, international customs and practices, relationships with other countries, and the status of citizens from those countries who are staying or residing in Taiwan. The government can establish a list of specific countries and designated interview locations and review and revise them as needed.

recommended that the government should engage in dialogue with the general public to reach a consensus on selection criteria and regulations for foreign marriage interviews. This will ensure that new immigrants enjoy the right to freedom of entry and exit under Article 5 of ICERD.

G. Right to nationality and residence

(a) New immigrants

54. The regulations applicable to Chinese spouses applying for residency and naturalization differ from those for foreign spouses.⁶⁹ The *Cross-Strait Act* governs the former,⁷⁰ while the latter are governed by the *Nationality Act*. The *Cross-Strait Act* stipulates that Chinese citizens who have applied for residency or settlement can also apply for their lineal blood relatives over the age of 70 to settle in Taiwan.⁷¹ However, no relevant provisions in the *Nationality Act* allow for aged lineal blood relatives of foreign spouses who have applied for naturalization to settle in Taiwan.

55. **Recommendations:** The NHRC is concerned about the inconsistency in conditions for Chinese and other foreign spouses to reside in Taiwan, obtain Taiwanese nationality, and apply for aged lineal blood relatives to settle in Taiwan after obtaining residency or Taiwanese nationality. The government should initiate social dialogue, establish regulations in accordance with General Recommendation No. 30, ensure that new immigrants are not discriminated against in obtaining opportunities for citizenship or naturalization, and review the regulations for aged lineal blood relatives to settle in Taiwan.

⁶⁹ Article 17 of the *Act Governing Relations between the People of the Taiwan Area and the Mainland Area*

⁷⁰ Article 4 of the *Nationality Act*

⁷¹ Article 16 of the *Act Governing Relations between the People of the Taiwan Area and the Mainland Area*

(b) Migrant workers

56. In 1992, migrant workers were allowed to work in Taiwan for a period of two years with a possible extension of one year. In 2015, this work period was extended to 14 years.⁷² As a result of this extended working period, the incidence of children born to migrant workers and the need for family reunions among migrants inevitably increased. The NHRC initiated a study in 2021 to determine whether such children have access to the same medical, social welfare, and educational resources as other children and whether they are properly cared for. The findings highlighted a weak social support network and unequal childcare resources that exacerbated the vulnerability of pregnant migrant workers.⁷³

57. **Recommendations:** There should be enhanced accommodation measures for pregnant legal migrant workers. Emergency accommodations should be provided to migrant workers who need them, and the government should assist in job matching to encourage employers to hire workers and boost successful transfers. Efforts should be made to expand and establish a resource platform for pregnant migrant workers that provides integrated services and emergency accommodation for expectant mothers.⁷⁴

58. The issue of stateless children of undocumented migrant workers is one of some concern to both the CEDAW international review committee and the 3rd National Report of the ICCPR & ICESCR, and it was included in the concluding observations and recommendations. An NHRC special report indicates

⁷² Article 52 of the *Employment Service Act* stipulates that migrant workers can work in Taiwan for up to 12 years. However, foreign domestic caregivers who have demonstrated special skills through professional training or self-learning and who meet the qualifications and conditions set by the Ministry of Labor can apply to extend their work limit to 14 years by submitting an application form and other required documents.

⁷³ The special report, titled "How Migrant Workers Raise Children in a Foreign Country" was completed through in-depth interviews with 33 migrant workers, 4 employers, and 1 broker agent between July 2021 and October 2022.

⁷⁴ Pages 107–108 of the NHRC's special report titled *How Migrant Workers Raise Children in a Foreign Country*.

that Taiwan's agricultural industry is contending with the issue of an aging population in which the average age of farmers has now reached 68 years old. Farm families, to ensure their survival, are now relying on undocumented migrant workers, who settle in rural and mountainous regions, establish families, and form mutually dependent relationships with elderly farmers. However, these workers also face risks due to losing medical insurance and having to hide during searches, as well as losing out on childcare and social development.⁷⁵

59. **Recommendations:** The NHRC points out that according to General Recommendation No. 30, which concerns non-citizens who lack documentation, efforts must be made to reduce statelessness, especially for children. However, the children of migrant workers may become stateless due to reasons such as their parents being inability or unwillingness to apply for legal residence for their children at the immigration office or due to undocumented migrant workers choosing to give birth privately. This results in the government being unable to properly assess these children's status. The government needs to propose concrete solutions when considering the right to family reunion.
60. Concerning the residency of migrant workers with dependents, Article 23 of the *Immigration Act* stipulates that the spouses of approved residents or permanent residents from abroad as well as their dependents under the age of 18 can apply for residency if they enter the country with a valid 60-day visa. However, spouses of blue-collar migrant workers engaged in occupations mentioned in Article 46, Paragraph 1, Subparagraphs 8 to 10 of the *Employment Service Act* cannot apply for residency. Current legislation generally prohibits the family members of blue-collar migrant workers from

⁷⁵The Control Yuan investigation report approved on December 7, 2022 (111 財調 0044)

applying for residency, which severely restricts the rights of these workers to family reunion.⁷⁶ However, exceptions can be made for migrant workers who have children in Taiwan during their employment period, allowing their dependents to stay with them. This results in differential treatment when compared to other non-citizens. The law does not clearly specify conditions for demonstrating the ability to support dependents. Therefore, migrant workers are left to evaluate their capabilities on their own to determine if they can adequately support their children. Even if children born to migrant workers in Taiwan can legally reside with their parents, these workers may choose to send their children back to their home country due to a lack of affordable childcare or resources.⁷⁷

61. **Recommendations:** General Recommendation No. 30 requires attention to be paid to multiple discrimination issues affecting non-citizens and especially the children and spouses of non-citizen workers. Placement and assistance measures for disadvantaged children of migrants under the *Protection of Children and Youths Welfare and Rights Act* should be properly implemented to ensure the right to family reunion for migrant workers. Furthermore, the government should work to eliminate obstacles that make it difficult for migrant workers to place their children back home, and should devise appropriate measures to ensure their protection.⁷⁸

62. In the past, migrant workers have been excluded from immigration policies. Taiwan's policies when it comes to migrant workers have been characterized

⁷⁶ According to Article 67 of the *Regulations on the Permission and Administration of the Employment of Foreign Workers*, blue-collar foreign workers cannot apply to have their dependents to stay with them. However, if workers have children during their employment in Taiwan and are capable of supporting them, this restriction does not apply. Furthermore, according to the MOL's written reply dated February 24, 2023, currently, migrant workers with work permits who have children during their employment and are capable of supporting them are not restricted from bringing their dependents to stay with them.

⁷⁷ *How Migrant Workers Raise Children in a Foreign Country*, pp. 53-54

⁷⁸ *How Migrant Workers Raise Children in a Foreign Country*, pp. 108-110

by strict employment regulations and residency management for blue-collar workers. These policies were aimed at limiting the stay of migrant workers to prevent them from becoming permanent residents, a practice that closely mirrors the guest worker system.⁷⁹ However, recent shifts in the employment preferences of Taiwanese citizens, coupled with Taiwan's aging population, have led to an urgent need to re-evaluate Taiwan's population policies. A newly implemented program for the retention and long-term employment of migrant workers allows a limited number of blue-collar migrant workers to transition into mid-level technical roles. The program aims to retain 80,000 mid-level technical workers; 2,056 have already received approval.⁸⁰ This marks Taiwan's first step toward transitioning its immigration policies.

63. **Recommendations:** General Recommendation No. 30 calls for ensuring that specific groups of non-citizens are not discriminated against when obtaining citizenship or naturalization. The government should acknowledge that migrant workers are no longer just supplementary manpower and should

⁷⁹ Foreign low-skilled laborers are positioned by policy as guest workers who are not allowed to remain for long. This policy is characterized by the strict management of blue-collar workers' residency and is designed to ensure that foreign workers can only stay and work in the country for a short period without becoming long-term residents and workers. The first systematic introduction of a temporary foreign labor force was the guestworker program implemented in Germany in 1890. In Taiwan, the guest worker system is reflected in the management regulations for blue-collar migrant workers. These workers face restrictions on the duration of their working period in Taiwan, limitations on their professions and industries, quota-based limitations on the number of laborers that can be brought in, and limitations on the home countries they can be hired from, and they are not allowed to arbitrarily change their employer or place of work (Tseng, Y.F. (2004); *Expressing Nationalist Politics in the Guestworker Program: Taiwan's Recruitment of Foreign Labor*. Taiwanese Journal of Sociology 32, 31–42.)

⁸⁰ Since April 30, 2022, foreigners have been allowed to engage in intermediate technical work. Migrant workers with over six years of experience in Taiwan who possess certain skills and relevant qualifications, may be employed in intermediate technical work upon application by their employers. Young migrant workers with excellent potential for development are encouraged to further their education while employed, and after obtaining an associate degree in Taiwan, they can apply for intermediate technical work. Overseas students who have obtained an associate degree or higher in Taiwan form another source of intermediate technical manpower. The salaries of intermediate technical personnel differ depending on whether they are in the industrial or social welfare field. In the industrial category, a regular monthly salary exceeding NT\$33,000 or an annual total salary above NT\$500,000 is required. In the social welfare category, caregivers in institutions must have a regular monthly salary of more than NT\$29,000, whereas home caregivers are given a total monthly salary exceeding NT\$24,000. According to the Ministry of Labor's letter dated January 13, 2023, as of December 31, 2022, there had been 3,389 applicants for intermediate technical work, with 2,056 individuals approved. Of these, 975 were in the industrial category and 1,081 were in the social welfare category.

work toward implementing ICERD to ensure equal protection for non-citizens. There is ample room for shifting away from this guest worker mentality.

(c) Foreign nationals from specific countries

64. Regarding the adoption of more stringent visa and naturalization processes for foreign nationals from certain countries,⁸¹ the MOI asserts that the current *Nationality Act* pertains to all foreign nationals applying for citizenship and does not discriminate based on nationality. The Ministry of Foreign Affairs (MOFA) emphasizes that each country has the sovereign right to issue visas, allowing for reasonable distinctions based on regulatory circumstances. The list of specific countries that are subject to stricter processes and scrutiny is based on statistics from law enforcement, national security, and immigration agencies. It identifies countries with significant immigration risks, which are characterized by prevalent issues with fraudulent IDs, overstays, illegal employment, and back-door immigration.⁸²
65. **Recommendations:** The government needs to pay attention to the reasonableness and justifiability the distinctions made when implementing regulations concerning the entry and exit, Taiwanese naturalization, or conditions for residence of specific non-citizens. It should also periodically reassess the relevant restrictions and standards.

⁸¹ According to the Consular Affairs Bureau, MOFA, there are currently separate procedures for applying for visas for those holding passports or travel documents from Afghanistan, Algeria, Bangladesh, Bhutan, Cameroon, Gambia, Ghana, India (identity certificate), Iraq, Nepal, Niger, Nigeria, Pakistan, Senegal, Somalia, Sri Lanka, and Syria. Retrieved March 29, 2023 from <https://www.boca.gov.tw/cp-36-40-0b0c6-1.html>.

⁸² Responses of MOI and MOFA in the NHRC meeting (2023, Jan 17). According to the *Nationality Act*, foreigners who have obtained legal residency status and meet other naturalization conditions in the *Nationality Act* can apply for Taiwanese nationality. In 2022, 35 nationals from the specified 17 countries applied and were approved for naturalization. Most of these individuals applied for residency due to family ties, predominantly as spouses of Taiwanese citizens.

H. Rights pertaining to indigenous land and natural resources (Collective/Individual Rights)

66. Indigenous land encompasses traditional territories and existing tribal reserves.⁸³ These lands reflect the unique relationship between the indigenous peoples and local land resources. Besides exclusive property rights over tribal reserves, collective rights to the possession, occupation, and management of traditional territories should also be safeguarded. The national report highlights that placing these two factors under the section on property rights is not entirely appropriate.
67. Article 10, Paragraph 12 of the *Additional Articles of the Constitution*, the *Indigenous Peoples Basic Law*, and other relevant legislation all acknowledge the principles enshrined in the ICCPR & ICESCR, ICERD, and the UNDRIP that states should recognize and protect the rights of indigenous peoples in regard to their land and natural resources. Taiwan's *Indigenous Peoples Basic Law* imposed three obligations on the state regarding collective rights in relation to traditional territories. First, it established the Indigenous Land Survey and Management Committee to investigate and handle traditional territories. Second, it mandated the formulation of the *Indigenous Peoples Land and Sea Areas Act* to address issues regarding collective rights in regard to traditional territories.⁸⁴ Finally, it mandated the formulation of consent/participation regulations pertaining to indigenous

⁸³ Article 2 of the *Indigenous Peoples Basic Law* stipulates that “Indigenous lands are defined as the traditional territories and reservation lands of Indigenous peoples.”

⁸⁴ Article 20 of the *Indigenous Peoples Basic Law* states that “the government recognizes Indigenous peoples’ rights to lands and natural resources (Paragraph 1). The government shall establish an indigenous peoples’ land investigation and management committee to investigate and manage indigenous peoples’ lands. The organization and other related matters of the committee shall be stipulated by law (Paragraph 2). The restoration, acquisition, disposal, plan, management, and utilization of the land and sea area owned or occupied by indigenous peoples or indigenous persons shall be regulated by law (Paragraph 3).”

land rights.⁸⁵ However, almost 20 years after the *Indigenous Peoples Basic Law* was legislated in 2005, neither the Indigenous Land Survey and Management Committee nor the *Indigenous Peoples Land and Sea Areas Act* has been legislatively enacted.

68. The NHRC is pleased to note that in 2023, the Legislative Yuan passed the third reading of the *Mining Act*, which incorporated a mechanism for consulting and obtaining the consent of Indigenous peoples. Furthermore, domestic regulations have been established regarding Indigenous peoples' consent to or participation in affairs that affect their land rights, which include regulations governing consultation with Indigenous tribes to obtain their consent and ensure their participation. This serves as a plan for preserving Indigenous people's collective rights when it comes to Indigenous lands. However, in administrative and judicial practice, issues such as the threshold for convening meetings and decision-making methods which conflict with traditional societal systems have arisen. Moreover, there are no penalties for applicants who fail to fulfill their statutory obligations, leading to ineffective functionality.
69. Taiwan's current procedures for the acquisition, disposal, management, and use of Indigenous reserves are based on the *Regulations on Development and Management of the Lands Reserved for Indigenous People*. However, in practice, the Indigenous Reserved Land Rights Review Committee, responsible

⁸⁵ Article 21 of the *Indigenous Peoples Basic Law* states that “when governments or private parties engage in land development, resource utilization, ecological conservation, and academic research on indigenous lands, tribes and their adjoin-lands, they shall consult with and obtain consent by indigenous peoples or tribes, even their participation, and share benefits with indigenous people (Paragraph 1). In the event the governments, laws or regulations impose restrictions on indigenous peoples' utilization of the land in preceding paragraph and natural resources, the government shall consult with the indigenous peoples, tribes, or indigenous individuals and obtain their consent; the competent authorities shall allocate ample funding in their budget to compensate their damage by restrictions (Paragraph 2). A fixed proportion of revenues generated in accordance with the preceding two paragraphs shall be allocated to the indigenous peoples' development fund to serve as returns or compensations (Paragraph 3). The central indigenous competent authority shall stipulate the regulations for delimiting the area of indigenous lands, tribes and their adjoin-lands which owned by governments, procedures to consult, to obtain consent by indigenous peoples or tribes and to participate and compensation to their damage by restrictions in preceding three paragraphs (Paragraph 4).”

for reviewing these matters, is appointed by local leaders with no requirement for an open and transparent process. Given the absence of any oversight, decisions regarding important matters involving individual Indigenous property rights may be arbitrary or biased. Furthermore, while over 260,000 hectares of Indigenous land reserves exist, the Council of Indigenous Peoples has fewer than 30 staff members. This workforce is inadequate when compared to other land management authorities such as the Forestry Bureau and the National Property Administration, whose staff member totals range from the hundreds to the thousands. This results in a slow pace of rights allocation for Indigenous land reserves, negatively impacting the efficiency of rights allocation and severely affecting the land rights of Indigenous peoples.

70. For §§66–69, the NHRC recommends:

- (1) The NHRC asserts that the *Indigenous Peoples Basic Law* recognizes the right of indigenous peoples to their lands and natural resources. The definition of Indigenous lands explicitly includes traditional territories and existing indigenous land reserves and ensures the right of indigenous peoples to own, use, develop, and control their lands and resources. The government should acknowledge the profound relationship between Indigenous peoples and their lands and natural resources. It should thoroughly review and devise appropriate policies regarding Indigenous land and establish a comprehensive set of laws that aligns with the principles of the *Indigenous Peoples Basic Law*, ethnic autonomy, and cultural characteristics, thereby responding to the Indigenous peoples' demand to restore and secure their land rights.
- (2) The government should re-evaluate and re-structure the existing Indigenous land reserve system, and grant it the appropriate legal status. It should invest in all the human and material resources needed to

effectively address the allocation of rights over Indigenous reserve lands. Furthermore, the government should consider whether people who are allocated reserve lands have a substantial traditional connection to the land. Over time, it should fulfill the obligations set by international human rights treaties and the UN Declaration on the Rights of Indigenous Peoples of recognizing and restoring Indigenous land and natural resource rights.

- (3) The government should actively conduct a comprehensive review with the goal of revising existing consultation services. It should also thoroughly communicate with Indigenous societies to establish a mechanism that aligns with Indigenous culture. This will ensure that the right to free, informed consent of the Indigenous peoples is respected when planning and implementing policies related to their land and resources.

I. Right to Property

71. The national report states that, according to the *Civil Service Retirement Act* and the *Government Personnel Retirement Act*, if a public servant's beneficiaries lose or do not possess Taiwanese citizenship, they consequently lose the right to apply for retirement benefits and to continue receiving bereavement pensions. Amendments to these regulations have been discussed since 2012,⁸⁶ but after a decade, these revisions have yet to be implemented. Additionally, a survey report on the living needs of new immigrants in Taiwan indicates that new immigrants feel their rights to inheritance and distribution of family property are easily forfeited.⁸⁷

72. **Recommendations:** The NHRC is concerned about the slow pace at which the *Civil Service Retirement Act* and the *Government Personnel Retirement*

⁸⁶ § 32 of the national report.

⁸⁷ Survey Report on the Living Needs of New Immigrants published in 2018.

Act are being amended, which has led to the current failure to protect the property rights of new immigrants. The government should invite new immigrant groups or representatives to participate in reviewing and amending regulations related to the acquisition of property by new immigrants. Upon completion of the revisions, the government should strengthen its promotional efforts to ensure that new immigrants are informed about their right to inherit family property.

J. Right to indigenous identity

73. In 2022, Taiwan's Constitutional Court ruled that the current legal standards for recognizing indigenous status violated the rights of indigenous people to self-identification guaranteed by the *Constitution*. The Court ordered the government to amend or formulate related laws within a specified timeframe.⁸⁸ The NHRC recommends that the government, based on the standards mentioned in the ICCPR & ICESCR, the UN Declaration on the Rights of Indigenous Peoples, and ILO Convention No. 169, should ensure the self-identification and respect for the will of indigenous peoples and actively engage in dialogue with them.

K. Right to indigenous names

74. Currently, in Taiwan, the registration of indigenous names involves using Mandarin Chinese (one of Taiwan's official languages), but they may also be registered in an unofficial language using the Roman alphabet. The government maintains that because most societal communication and identification is carried out in Mandarin Chinese, and indigenous

⁸⁸ Constitutional Court judgements 111-Hsien-Pan-4 (2022) and 111-Hsien-Pan-17 (2022) were delivered on April 1 and July 29, 2022, respectively.

languages are not understood or familiar to the general public, only using indigenous languages to register indigenous names would pose challenges for communication and identification in the public and private sectors, thus running the risk of mistakes. Therefore, the government urges caution.⁸⁹

75. **Recommendations:** It should be noted that the *Indigenous Languages Development Act* and the *Development of National Languages Act* both recognize Indigenous languages as national languages. However, the requirement to register names not solely in indigenous languages⁹⁰ but mandatorily in conjunction with Mandarin Chinese infringes upon the rights and interests of indigenous peoples. This forces Indigenous people to seek judicial remedy⁹¹ to assert their right to use their own language. The government should adhere to the explicit provisions of the covenant and declaration to safeguard the rights of indigenous peoples to choose their own language and practice their traditions and customs. It should refrain from enforcing assimilation or integration in any form. Additionally, appropriate measures should be taken to develop and implement training programs to enhance the professional competence of the relevant government officials.

L. Right to work

(a) Indigenous peoples

⁸⁹ Response from the MOI dated March 21, 2023.

⁹⁰ Article 2 of the *Indigenous Languages Development Act* stipulates that “the terms used in this Act are defined as follows: I. Indigenous languages refer to languages traditionally used by indigenous ethnic groups as well as characters and symbols used to record such languages.” This legislative rationale makes clear that since the era of Dutch rule, various systems, including the Roman alphabet, Japanese kana, and the phonetic symbol system, have been used to record indigenous languages in Taiwan. On December 15, 2005, the Council of Indigenous Peoples and the Ministry of Education jointly announced the Formosan language writing system as a common writing system for Indigenous languages, all of which fall within the scope of Indigenous languages.

⁹¹ Taipei High Administrative Court (2021) Case No. 1084 (北高行 110 訴 1084), and (2021) Case No. 1140 (北高行 110 訴 1140) are currently pending before the Taipei High Administrative Court; both involve household registration matters.

76. The *Indigenous Peoples Employment Rights Protection Act* was enacted to safeguard the right of indigenous peoples to work. In 2014, Interpretation No. 719 issued by the Grand Justices set forth two requirements. First, the government should periodically review and amend the preferential measures based on the needs of indigenous peoples with regard to employment rights in the national and societal context. Second, a fee in substitute must be paid if the winning bidder of a government procurement project fails to hire a certain percentage of indigenous persons stipulated under the law. However, if the amount of the substitute fee owed exceeds the sum of the government procurement project, an appropriate mitigating mechanism should be put in place to make appropriate adjustments.⁹² However, after seven years, the Council of Indigenous Peoples was still unable to review and amend the aforementioned provisions as intended. In 2021, the Grand Justices issued Interpretation No. 810, which explained that the substitute fee stated in Interpretation No. 719 was not in fact complemented with an appropriate mitigating mechanism. As a result, the regulation disproportionately restricts property rights and does not conform with the principle of proportionality, and is thus unconstitutional. It was explicitly stated that the necessary revisions should be completed within two years. Until the revisions are completed, the relevant authorities and courts should follow this Interpretation in dealing

⁹² Excerpts of the reasoning from Interpretation No. 719 (2014, Apr 18) issued by the Grand Justices state that “While there are several alternative measures the state may take to achieve the objectives to protect, assist and promote the development of indigenous peoples, the measure adopted by the regulations in dispute to require that the winning bidder shall employ a certain percentage of indigenous persons during the term of contract performance also constitutes one among such measures. Nevertheless, given that most of the available jobs are short-term or require non-technical skills, these may be difficult to enhance long-term, stable employment opportunities and professional skills. Consequently, the state shall actively realize the objective contemplated by the above-mentioned Additional Articles of the Constitution to protect indigenous peoples’ right to work via substantive policies and measures and regularly review and revise such policies and measures based on the time and environment of the state and the society, as well as the need for the protection of the indigenous peoples’ right to work. Moreover, when the winning bidder fails to hire a certain percentage of indigenous persons, the bidder is obligated to pay a fee in substitute. If the amount of the fee paid in substitute exceeds that of the government procurement, there should be an appropriate mitigating mechanism by which the amount can be adjusted. Consequently, pursuant to this interpretation, the relevant government agencies shall promptly review and improve the relevant provisions under the *Government Procurement Act and Indigenous Peoples Employment Rights Protection Act*.”

with cases in which excessive punishment is meted out.⁹³

77. The purpose of the substitute fee (vouchers) stipulated in the *Indigenous Peoples Employment Rights Protection Act* is to ensure that winning bidders fulfill their obligations to avoid additional payment. The focus is on encouraging businesses above a certain scale that have won government procurement bids to employ indigenous people in accordance with the regulations so as to promote indigenous employment. The focus of this regulation should not be on substitute fees. The emphasis should be on creating jobs for indigenous peoples instead of substitute fees.⁹⁴ The government should formulate a well-planned version of the legislation that aligns with the spirit of ICERD to be reviewed by the Legislative Yuan as soon as possible in order to adequately protect the employment rights of indigenous peoples.

78. Control Yuan investigation reports show that currently, there is still a discrepancy between the actual number of indigenous teachers employed in school systems and the ratio stipulated in the regulations.

(1) The employment ratio of indigenous teachers in schools up to and including senior high schools is governed by Article 34, Paragraph 2 of the *Education Act for Indigenous Peoples*. For elementary schools, the ratio should not

⁹³ Interpretation No. 810 (2021, Oct 8) issued by the Grand Justices states that “The provision in Paragraph 2 of Article 24 of the *Indigenous Peoples Employment Rights Protection Act* stipulates that, ‘...the vouchers mentioned in Paragraph 3 of Article 12 shall be calculated based on the monthly salary multiplied by the difference in the number of people.’ The calculation of substitute fees in a one-size-fits-all manner may inevitably lead to difficulties in enforcing substantive justice in individual cases. This is especially true when the calculated amount exceeds the procurement value. The fee could result in an excessive burden for the bidder, leading to substantial consequences that infringe upon individuals’ property rights. If the legislature fails to establish an appropriate adjustment mechanism, the above-mentioned provisions may impose restrictions on individuals’ property rights protected by Article 15 of the Constitution. Evidently, the provision does not align with the principle of proportionality as stated in Article 23 of the Constitution. The competent authority shall amend the provision in accordance with the spirit of this interpretation within two years starting from the publication date of this interpretation. Before the completion of the amendments, if competent authorities or courts encounter cases that are clearly excessive in punishment, they should handle said cases appropriately in accordance with the spirit of this interpretation.”

⁹⁴ Dissenting opinion on Interpretation No.810 *Employment Substitute Fees for Indigenous Peoples In Government Procurement*. Retrieved from <https://cons.judicial.gov.tw/docdata.aspx?fid=100&id=310991>.

be lower than one-third of the total number of teaching positions; the ratio for junior and senior high schools should not be lower than five percent of the total teaching positions.⁹⁵ It is important to note that the 2019 revision of the *Education Act for Indigenous Peoples* changed the legally mandated percentage of teachers with indigenous identities in junior high schools from one-third to five percent, while elementary schools maintained a 1:3 ratio of teachers with indigenous identities.⁹⁶ However, as of the 2019 academic year, there is still a shortfall of 818 teachers with indigenous identities compared to the legally mandated standards.⁹⁷ An overview of the pass rate for the Preschool to Secondary School Teacher Qualification Examination from 2012 to 2020 shows that the average pass rate for candidates with indigenous identities was 30.23%, which was lower than the overall average pass rate for non-indigenous candidates (56.40%).⁹⁸ In 2020, only 115 indigenous candidates passed the Preschool to Secondary School Teacher Qualification Examination. Based on the statistics for that year, it would take seven years to fill the shortfall of indigenous teachers in schools.

⁹⁵ Article 34, Paragraph 2 of the *Education Act for Indigenous Peoples* stipulates, “Within ten years from when this amendment of the Act comes into force on May 24, 2019, the proportion of teachers with an indigenous identity appointed to teach in indigenous key schools offering elementary stage education shall not be permitted to be less than one-third of the school’s teaching staff or to comprise a lower proportion of the teaching staff than the proportion of the school’s total student population comprised by its indigenous students. The proportion of teachers with an indigenous identity appointed to teach in indigenous key schools offering junior high school and senior secondary stage education is not permitted to be less than 5% of the teaching personnel at any such school.”

⁹⁶ The proportion of junior high school teachers with indigenous identities in indigenous key schools stipulated in the *Education Act for Indigenous Peoples* has been revised from one-third to five percent. The stated reason for revising the regulation is that “the teaching styles in primary schools and secondary education are different. While elementary schools predominantly have homeroom teachers who teach all courses, junior high schools have different teachers for different subjects. Hence, it is deemed necessary to separately regulate the ratio of indigenous teachers employed in each educational stage.” Legislative Yuan (2019, Jun 17). Legislative Yuan Official Gazette, Volume 108 Issue 56, 510.

⁹⁷ Control Yuan investigation report approved on October 14, 2021, p.18 (110 教調 0018). According to the investigation report, “In the 2019 academic year, there were 388 key schools for indigenous students in Taiwan, including 77 primary schools, 47 junior high schools, and 15 high schools. There were a total of 1,651 teaching vacancies, out of which 1,074 teachers had already been hired, including a total over-hiring of 241 teachers in 95 of those schools. There is still a need to hire 818 teachers, including 606 teachers for primary schools, 22 for junior high schools, and 190 for high schools.”

⁹⁸ Control Yuan investigation report approved on October 14, 2021, p.25 (110 教調 0018)

(2) Interpretations No. 380 and 450⁹⁹ issued by the Grand Justices state that out of respect for institutional autonomy, the employment ratio of teachers with indigenous identities in institutes of higher education is to be decided by each school with respect to its individual curriculum planning and institutional development needs. Statistics from 2012 to 2020 show that, on average, only approximately 0.22%¹⁰⁰ of full-time faculty members with indigenous identities work in higher education institutions in Taiwan. In the 2020 academic year, teachers with indigenous identities only accounted for 7% of the teachers in all indigenous programs across higher education institutions nationwide. Moreover, no indigenous teachers were employed for the programs in nearly three academic years, which is a violation of Article 9 of the *Standards Governing the Establishment of Colleges, Institutes, Departments, Divisions, Degree Programs, and Special Programs with an Indigenous Focus by Junior Colleges and Institutions of Higher Education*. The article stipulates that at least one indigenous teacher should be employed for such programs.

(3) Military personnel with indigenous identities accounted for approximately

⁹⁹ According to Judicial Yuan Interpretation No. 380 (1995, May 26), “The provision regarding the freedom of teaching provided in Article 11 of the Constitution is an institutional protection mechanism for academic freedom. Such provision shall encompass the freedom of research, instruction, and study, etc., in the field of college education. Paragraph 2 of Article 1 of the University Act stipulates that a university shall be protected under the academic freedom and shall, to the extent permitted by law, be entitled to the right of self-government.’ The scope of such a right of self-government shall cover all essential academic matters that relate directly to research and teaching. Although the University Act does not specifically state the arrangement of college curricula, it is one of the essential academic matters and shall therefore be included within the scope of university self-government, since it is directly related to the freedom of teaching and study.” According to Judicial Yuan Interpretation No. 450 (1998, Mar 27), “Freedom of teaching as provided for in Article 11 of the Constitution includes university self-government.’ Any important matters related to the freedoms of instruction and study are subject items of university self-government. State supervision over universities shall be specifically authorized by statutes. Any such statutes shall be in conformity with the principle of university self-government. The above doctrines have been upheld by J.Y. Interpretation No. 380. Accordingly, universities shall enjoy the autonomous right to internal organization, to the appropriate extent, as long as it is within the scope related to the above-mentioned teaching and research. A university may independently decide whether it is necessary to offer such courses as military training or nursing. If so decided, it may further establish offices for such courses and employ appropriate teaching personnel in accordance with the laws.”

¹⁰⁰ Control Yuan investigation report approved on December 16, 2021, p.10-11 (110 教調 0028)

9.17% of the total military personnel in Taiwan. Yet only 2.03% of indigenous individuals hold the rank of general or higher. It is worth noting that 60% of indigenous individuals in the military are in special forces, of which a mere 2.4% hold the rank of general or higher. In terms of special forces, indigenous individuals make up 65.9% of the Republic of China Marine Corps (also known as Team Black), 58.4% of the Military Police Special Services Company (also known as the Night Hawks), and 55.6% of the Airborne Special Service Company (also known as the Liang Shan Special Operations Company).¹⁰¹ In addition, relevant regulations have led to young non-commissioned officers and soldiers facing unemployment after retiring from service.¹⁰² These regulations include restrictions on agencies available for transfer after retirement from service and the ineligibility of military personnel with less than a specified number of years of service to receive a lifetime monthly pension.

- (4) People with indigenous identities accounted for 3.2% of police officers, which is lower than the employment ratio for military personnel.¹⁰³ Another issue worth noting is the shortage of indigenous police officers in Indigenous areas. As of the end of 2020, only 27.7% of police officers

¹⁰¹ Control Yuan investigation report approved on December 23, 2021, p.2-3 (110 國調 0028)

¹⁰² According to Article 6, Paragraph 1 of the *Act of Military Service for Officers and Non-commissioned Officers of the Armed Forces*, “Maximum years and age of service for Officers and Non-commissioned Officers on Active Duty are as follows: 1. Non-commissioned Officer - Same as the discharge age. 2. Second Lieutenant and First Lieutenant - 12 years. 3. Captain - 17 years. 4. Major - 22 years. 5. Lieutenant Colonel - 26 years. 6. Colonel - 30 years. 7. Major General - 57 years old. 8. Lieutenant General - 60 years old. 9. General, Second-Class - 64 years old.” In addition, according to Article 23, Paragraph 1 of the aforementioned provision, “the Retirement Severance Pay of Officers and Non-commissioned officers are as follows: Subparagraph 1 Having served Active Service for more than three years but less than twenty years, are given retirement pay in accordance with their years of Active Service. Subparagraph 2 Having served Active Service for more than twenty years, or having served Active Service for more than fifteen years and reached the age of 60, will be given lifetime monthly pensions according to their years of Active Service, or under their discretion, be given retirement pay in accordance with the preceding Subparagraph. Subparagraph 3, Being injured or disabled due to military operation or duty during the period of Active Service and verified not capable of continuing their services, and matched the standards stipulated in the Supporting Standards of ROC Veterans with Disabilities, are given a lifetime monthly alimony, or under their discretion, are given retirement pay or pensions in accordance with the preceding two Subparagraphs.”

¹⁰³ Control Yuan investigation report approved on September 9, 2021, p.2 (110 內調 0034)

stationed (dispatched) in indigenous areas (55 townships and districts) had indigenous identities.¹⁰⁴

79. Recommendations:

- (1) The government should conduct regular investigations into the employment ratio of indigenous peoples in various government agencies and organizations. Specifically, the government should vigorously review existing mechanisms related to education and training, examination and placement, and job promotion for indigenous teachers at different educational levels and indigenous individuals serving in the military and police forces. When reviewing the mechanisms, regional and cultural factors should be considered, and sufficient resources and incentives should be provided to increase employment opportunities for indigenous individuals and safeguard their right to employment.
- (2) The government should strengthen teacher education among indigenous peoples, including training indigenous principals and department heads and establishing teacher education programs in more universities. The shortage of indigenous teachers should be addressed through the implementation of preferential measures for admission, school teacher qualification examinations, and teacher recruitment tests, which would help alleviate the shortage of indigenous teaching personnel. A shortage of teachers with indigenous identities also affects the educational rights of indigenous students, especially in terms of the passing down of cultural inheritance. Hence, it not only affects indigenous peoples' right to work but also their right to education.

(b) New immigrants

¹⁰⁴ Control Yuan investigation report approved on September 9, 2021, p.4 (110 內調 0034)

80. The Surveys of New Immigrants' Living Needs published by the MOI respectively in 2013 and 2018 indicated that new immigrants faced hardships including hostility, discrimination, unfair treatment, and violence in the workplace. After conducting the two surveys, the government found that new immigrants still reported unfriendly and discriminatory behavior in the workplace. The results showed that the work environment in Taiwan for new immigrants has room for improvement. The government should follow General Recommendation No. 30 to raise awareness of human rights among businesses and assist with building inclusive workplaces where discriminatory working conditions, job requirements, and hiring practices are eliminated.

(c) Migrant workers

81. The *Employment Service Act* restricts the contractual freedom of migrant workers. Migrant workers can only be hired through fixed-term employment contracts. As current regulations do not take into account whether the nature of their work is continuous. In addition, migrant workers are not allowed to choose their employers freely. Any employee with a fixed-term employment contract is inherently put at a disadvantage, and because of this, the *Labor Standards Act* has adopted stringent restrictions and only allows the use of fixed-term employment contracts under exceptional circumstances. If the work is continuous, the contract must be a non-fixed term contract. However, the opposite is true for migrant workers. Moreover, border control mechanisms deprive migrant workers of the freedom of employment and freedom to change jobs. They are bound to specific employers and jobs and are restricted to providing labor services at fixed locations within a set period of time.¹⁰⁵

¹⁰⁵ Yang, Y.W. (2021). *Do Protections for Workers as an International Human Right Transcend State Borders?: The Hard Case of the Temporary Migrant Worker Programme in Taiwan*. Academia Sinica Law Journal, Issue No. 28, 256-268. Chiu, Y.F., & Sung, T.Y., (2020). *A Study on Employment Transfer Regulations of Migrant Workers*. NCTU Law Review (Special issue on Labor Law), 15-42.

During the validity period of the employment permit, migrant workers are prohibited by law from applying to change jobs as they wish. Exceptions are made only under specific circumstances, which include job transfers under situations where the migrant worker is not at fault for the termination of employment before the contract expires, transfers after the completion of a contract, or mutual agreement between the worker and employer for a job transfer. There are fewer challenges in cases where the worker and employer are in agreement about the job transfer. However, in practice, migrant workers often encounter difficulties proving that they are not at fault for the termination of employment. And the lack of evidence hinders their ability to apply for a job transfer. In cases where the employment permit expires and a job transfer is required, migrant workers generally rely on agencies for new job opportunities. This can generate costs such as worker-paid recruitment fees and other related issues.

82. **Recommendations:** The NHRC believes that Taiwan's employment regulations for hiring migrant workers are in violation of freedom of occupational choice as set forth by relevant international standards. Although migrant workers can only access specific jobs under current policies, measures can be taken to mitigate negative impacts. For example, regulations may grant migrant workers the freedom to change their job within specific industries after a specified period of time.¹⁰⁶

83. The IRC states in its concluding observations and recommendations on Taiwan's 3rd National Report under the ICCPR & ICESCR that although the government of Taiwan has indeed proposed incremental measures to protect

¹⁰⁶ See Article 14 of ILO Convention No. 143: Migrant Workers Convention, 1975 (Supplementary Provisions), which states that when the following conditions are met, the state party may grant free choice of employment when the migrant worker has resided lawfully in its territory for employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term of less than two years, when the worker has completed his first work contract.

migrant domestic workers from exploitation and abuse, these improvements fall short of ensuring the equal treatment of migrant domestic workers and local domestic workers. The Committee recommends that the government incorporate ILO Convention No. 189 on Domestic Workers into domestic law and take immediate steps to reduce the pay gap between local and migrant workers in order to protect the fundamental rights of domestic workers.

84. **Recommendation:** The NHRC believes that, while in recent years the government has gradually improved the working conditions of migrant domestic workers by expanding respite care services, providing short-term care services to increase leave days, and adjusting the minimum monthly wage to NT\$ 20,000 in August 2022, significant differences between local workers and migrant domestic workers remain.¹⁰⁷ The MOL should communicate with the public and propose concrete measures to close the gap.

85. The Road to Migrant Fishers' Rights, published by NRHC, indicates that since August 1, 1984, the *Labor Standards Act* has been applicable to all domestically hired fishers, regardless of nationality. Nevertheless, the *Labor Standards Act* does not apply to fishers on fishing vessels in distant water fisheries who were employed overseas. Rather, they are governed by the *Regulations on the Authorization and Management of Overseas Employment of Foreign Crew*

¹⁰⁷ According to the reply of the Ministry of Labor dated January 13, 2023, the labor shortage during the pandemic led to many disputes regarding requests for job transfers and salary adjustments. The Ministry of Labor approved a resolution in the Employment Security Fund, which, while accounting for the economic burden of employers, raised the monthly salary of foreign domestic workers from NT\$17,000 to a more equitable NT\$20,000 on August 10, 2022. In addition, employers who implemented salary adjustments were provided with salary subsidies. The goal of this measure was to promote harmonious labor relations, improve the overall management of foreign domestic workers, and ensure a stable source of foreign domestic workers. Moreover, Taiwan's minimum wage regulations have been made applicable to industrial migrant workers. Starting from January 1, 2023, the minimum monthly wage was adjusted to NT\$ 26,400, and the hourly minimum wage was adjusted to NT\$ 176.

According to the reply from the Ministry of Labor dated February 24, 2023, the Ministry of Labor and the Ministry of Health and Welfare have jointly implemented a Short-term Replacement Care Service Plan for foreign domestic workers. When a migrant domestic worker is on leave, expanded respite care and short-term care services can be provided through the program. Together, the services offer a combined total of a year and 52 days of care. This measure aims to ensure that foreign domestic workers are entitled to one rest day per week.

Members established under the *Act for Distant Water Fisheries*.¹⁰⁸ The NHRC is concerned about the significant disparity in labor conditions between domestically hired and overseas-hired fishers.

86. **Recommendations:** The Executive Yuan has been promoting the incorporation of ILO Convention No. 188 on Work in Fishing (C188) into the National Human Rights Action Plan. It is recommended that the relevant ILO-C188 regulations be included in the *Act for Distant Water Fisheries* and its subsidiary regulations to close the gap between these regulations and the *Labor Standards Act*. These revisions would eliminate the disparities that overseas-hired fishers encounter, which include a lack of social insurance and occupational accident protection and compensation, insufficient safety and health equipment, and inadequate basic safety training. In addition, Taiwan can keep abreast of international standards and improve the labor conditions of overseas-hired fishers to ensure their equal rights.

(d) Foreign students

87. An investigation by the Control Yuan into foreign students' employment which began in 2019 found that 44.1% of employers did not contribute to the labor pension fund, 33.15% did not provide double pay on national holidays, 33.21% did not offer labor insurance, 31.02% did not pay overtime wages, 18.24% deducted wages illegally, and 11.31% did not meet the required minimum wage.¹⁰⁹ In addition, there were cases of foreign students studying in Taiwan reportedly being forced by schools to work. Students were forced to take on work that was unrelated to their studies, and the working conditions were harsh. Moreover, from 2020 to 2022, there were several cases in which foreign students from Myanmar, Uganda, and countries included in Taiwan's

¹⁰⁸ NHRC 2022 special report on the Human Rights of foreign fishers: "Road to Migrant Fishers' Rights"

¹⁰⁹ Control Yuan investigation report approved on January 8, 2020 (109 財調 0006)

Southbound Policy were recruited by unscrupulous agencies and subsequently subjected to labor exploitation and maltreatment. These instances are seen as a new form of human trafficking.¹¹⁰ The MOL has written to the Ministry of Education (MOE) asking for the creation of a list of high-risk schools that enroll students through scholarship programs but fail to provide the scholarships as agreed upon and instead arrange for students to work in factories. However, the on-site inspections conducted by the MOE, which started in 2021, have yet to discover any violations of the labor rights of foreign students. Also, the MOL has not received notification of any cases from MOE special inspections that would require their intervention or the involvement of local governments.¹¹¹

88. **Recommendations:** The NHRC believes that the above-mentioned inspection results deviate from actual circumstances.¹¹² The MOE and the MOL should increase the number of inspection visits and strengthen procedures for issuing timely warnings and protecting the rights of students. The regulations stipulated in Article 5 of the *Labor Standards Act* in Taiwan regarding forced labor may be inadequate to protect foreign students and other high-risk groups. The competent authorities should plan to revise the regulations and incorporate ILO indicators of forced labor into domestic laws to ensure their effective enforcement in Taiwan.

¹¹⁰ Liberty Times (2022, Jan 27). *Dean at Chung Chou University searched and detained for Ugandan student labor scam*. Retrieved from <https://news.ltn.com.tw/news/society/breakingnews/3814625>.

¹¹¹ MOE and MOL responses in NHRC discussion meeting (2023, Jan 17). Since the second semester of the 2021 academic year, the MOE has been reviewing the foreign student enrollment and counseling information of 136 schools. Priority is given to conducting unannounced on-site inspections of schools subjected to preliminary warnings and schools subjected to special supervision. In the second semester of the 2021 academic year, 16 schools were inspected, and in the first semester of the 2022 academic year, 21 schools were inspected. Investigations have yet to find any labor rights violations against foreign students.

¹¹² Recently, cases involving forced labor under the pretense of overseas internships, such as the Chung Chou University Ugandan student labor scam and the Kao Yuan University work-study scam, have come to light. On October 11, 2021, the Chung Chou University case was prosecuted by the Changhua District Prosecutors' Office on charges of fraud and human trafficking. According to the written reply of the Ministry of Justice on March 16, 2023, the Kao Yuan University work-study scam is still under investigation.

M. Right to education

(a) Indigenous peoples

89. The national report states that there was a slight increase in the enrollment rate of indigenous students in the 2020 academic year compared with the 2019 academic year, with the greatest increase being in master's degree programs.¹¹³ The NHRC notes, however, that according to official statistics, the percentage of indigenous peoples receiving a higher (junior college or above) education is significantly lower than that of non-indigenous groups. In the 2020 academic year, the indigenous population accounted for 2.44% of the national population. In the same academic year, indigenous students accounted for 2.41% of all college and university students in Taiwan, with indigenous master's students representing only 1.30% of all master's students and indigenous doctoral students comprising only 0.63% of all Ph.D. students. Furthermore, the dropout and suspension rate for indigenous students in college or above is significantly higher than that of non-indigenous students. There is an obvious disparity between the percentage of indigenous peoples receiving a higher education and that of non-indigenous peoples. The NHRC is also concerned about the dropout rate of indigenous students in elementary and junior high schools. In the 2020 academic year, 16.18% of all students who dropped out of school were indigenous students. In addition, the ratio of indigenous students in elementary and junior high school who are from low-income families, single-parent households, or intergenerational parenting households or under kinship care, is higher than that of any other group of students.¹¹⁴ The NHRC believes that according to statistics, indigenous students are being left behind in terms of educational rights. Dropout rates

¹¹³ §187 of the national report

¹¹⁴ The Council of Indigenous Peoples' report on the Indigenous Education Survey and Statistics for the 2020 Academic Year

in both compulsory and higher-level education are not being adequately addressed.

90. The timeframe for increasing the employment ratio of indigenous teachers in each educational stage in key indigenous schools, which is explicitly stipulated in the *Education Act for Indigenous Peoples*, has been extended from the original five years (2013-2018) to ten years (2019-2029).¹¹⁵ This decision indicates that during the revision, there was a lack of investigation into the relevant background data or the feasibility of achieving the government's objective. Although the initial purpose of implementing the legislation was to assist indigenous students in acclimatizing to school life and lessen cultural differences that may cause learning difficulties, and thereby increase students' academic

¹¹⁵ According to Article 25, Paragraph 1 of the *Education Act for Indigenous Peoples* (revised on May 7, 2013), "When selecting full-time teachers for Indigenous junior high schools, elementary schools, Indigenous education programs, and Indigenous key schools, the number of teachers with Indigenous identities appointed should constitute a specific proportion of the vacancies in that academic year. Within five years from when the Act amended on May 7, 2013, comes into force, the proportion of teachers with an indigenous identity shall not be permitted to be less than one-third of the school's teaching staff or to comprise a lower proportion of the teaching staff than the proportion of the school's total student population comprised by its indigenous students." The reason for the amendment is that "the provision is added to ensure prioritizing the recruitment of teachers with indigenous identities. The central designated educational authority with the local municipal and local county or city government will collectively supervise the schools to ensure regulations are complied with. In the meantime, should schools fail to comply, administrative penalties will be imposed on non-compliant public schools, and penalties will be imposed on non-compliant private schools according to private school regulations to safeguard the rights of indigenous teachers to teach." As Article 34, Paragraph 2 of the *Education Act for Indigenous Peoples* (amended on May 24, 2019), stipulates, "Within ten years from when the Act amended on May 24, 2019, comes into force, the proportion of teachers with an indigenous identity appointed to teach in indigenous key schools offering elementary stage education shall not be permitted to be less than one-third of the school's teaching staff or to comprise a lower proportion of the teaching staff than the proportion of the school's total student population comprised by its indigenous students. The proportion of teachers with an indigenous identity appointed to teach in indigenous key schools offering junior high school and senior secondary stage education is not permitted to be less than 5% of the teaching personnel at any such school." The reason for revising the regulation was that "Paragraph 2 was moved to a new paragraph from the latter part of Paragraph 1. The teaching styles of primary schools and secondary education are different. While primary schools predominantly have homeroom teachers who teach all courses, secondary schools have different teachers for different subjects. Hence, it is deemed necessary to separately regulate the ratio of indigenous teachers employed in each educational stage. In addition, considering the long-term cultivation and employment of teachers with indigenous identities, the number of teachers with indigenous backgrounds hired shall gradually increase each year. Hence, it was determined to extend the deadline for achieving the target ratio to ten years starting from the implementation date of the revised Act."

performance,¹¹⁶ the correlation between the means and the legislative objectives, as well as their effectiveness in achieving the intended purpose, remain questionable. These issues may even result in more harm than good and potentially harm the educational rights of indigenous students. A Control Yuan investigation found that, in practice, the insufficient number of teaching staff and high teacher and student turnover in key schools hinder the effective implementation of the legal standards, resulting in an inability to meet the educational needs of students.¹¹⁷ The NHRC believes that the government should reconsider whether the current design of prioritizing the employment of teachers with indigenous identity is sufficient to achieve the initial objectives of the legislature. The government should reassess the measures it has taken in this regard.

91. For §§89-90, the NHRC recommends: The government establish a comprehensive background data investigation, conduct a thorough review of the implementation of the *Education Act for Indigenous Peoples*, improve educational policies for indigenous peoples and evaluate their effectiveness. In addition, appropriate efforts should be taken to invest adequate resources in making improvements to insufficiencies in the support and promotion of indigenous culture in the mainstream landscape. For example, measures should be implemented to ensure opportunities for indigenous students to take teacher education courses, provide a sufficient number of well-

¹¹⁶ On May 28, 1998, the *Education Act for Indigenous Peoples* was formulated. Article 23 of the Act states, “Indigenous junior high schools, elementary schools, Indigenous education, and schools in Indigenous areas shall prioritize the hiring of Indigenous identities for full-time teaching positions (Paragraph 1). It is a principle to prioritize selecting or appointing a person with an Indigenous identity who qualifies as a director or principal at Indigenous junior high schools, elementary schools, and Indigenous education (Paragraph 2)”. The reason for implementing the legislation was “to assist Indigenous students in acclimatizing to school life and lessen the cultural differences that may cause learning difficulties, thereby increasing academic performance. Hence, it is stipulated that Indigenous junior high schools, elementary schools, Indigenous education and schools in Indigenous areas shall prioritize hiring teachers with Indigenous identities for full-time teaching positions.”

¹¹⁷ See the Control Yuan investigation report approved on October 14, 2021 (110 教調 0018)

trained indigenous teachers, and offer indigenous culture and multicultural education. These approaches would assist teachers in acquiring a deeper understanding of indigenous culture. In turn, the teachers can provide students with appropriate guidance and effectively safeguard the educational rights of indigenous students. Gradually, the objective of realizing indigenous education amongst all citizens can be achieved.

92. The national report mentioned that half of the indigenous population has migrated to urban areas. Hence, it is crucial to provide measures and solutions to ensure the educational rights of urban indigenous students and address the challenges faced in securing indigenous language teachers. However, under the policy for preschools to provide immersive indigenous language education, only 54 offer indigenous language immersion and 25 offer lessons per hour, for a total of 79 schools. Only four of these preschools are situated in urban areas. It is apparent that the education policy of developing facilities with appropriate indigenous language education for preschoolers in urban areas has failed.

93. **Recommendations:** The NHRC proposes that the government should safeguard indigenous peoples' right to education as delineated in the *United Nations Declaration on the Rights of Indigenous Peoples*. Resources and opportunities for learning indigenous languages should be provided for indigenous preschoolers who live in urban areas. In learning indigenous languages, children can build their self-identity and confidence.

(b) Stateless Tibetans

94. Civil society groups have voiced their concern for stateless Tibetan refugees whose student visas can only be processed individually. These students are required to leave and re-enter Taiwan every six months, imposing enormous stress and a heavy financial burden on the students. Civil society groups believe

that Tibetan students in Taiwan are subject to unfair treatment and hope for a comprehensive solution to address their predicament. The Ministry of Foreign Affairs (MOFA) states that the regulations on the issuance of visas apply to all holders of identity certificates issued by countries around the world. It does not merely apply to Tibetans. The MOFA recommends addressing the visa issue faced by stateless Tibetans studying in Taiwan under the *Refugee Act* to resolve cases regarding the recognition of stateless status, handling guidelines, the assignment of rights and responsibilities, and grievance procedures.¹¹⁸

95. **Recommendations:** The unique background and refugee status of stateless Tibetans holding identity certificates sets them apart from other stateless tourists with identity certificates, and the government can only rely on the *Refugee Act* for a solution. However, the progress of the *Refugee Act* has been slow due to legislative disagreements and a lack of proactiveness in finding a solution for the predicament of stateless individuals currently studying in Taiwan. The government should conduct a thorough and comprehensive review and think of alternative approaches or revise the regulations to address the legalities of this case through a general policy.

(c) Overseas students

96. In 2014, to attract students from countries included in the New Southbound Policy, the Overseas Community Affairs Council (OCAC) revamped the Rotating Cooperative Education Program in Vocational High Schools for Overseas Compatriot Students into a 3+4 Vocational Education Program

¹¹⁸ Summary of NHRC discussion meeting with civil society organizations (2022, Nov 3). MOFA and the MOE responses in the NHRC discussion meeting with government agencies (2023, Jan 17). According to the *Regulations Regarding International Students Undertaking Studies in Taiwan* stipulated by the Ministry of Education, foreign students shall have a foreign nationality to apply for admission to an educational institution in Taiwan. This regulation cannot be applied to stateless individuals. Stateless Tibetan refugees who hold identity certificates issued by the government of India come to study in Taiwan. However, an identity certificate is not equivalent to a passport. If the individual is not a national of the country that issued the certificate, the Ministry of Foreign Affairs generally will not grant the individual a residency visa. Meanwhile, the grounds for applications for visitor visas are also limited.

for Overseas Compatriot Students. These students are mainly from the seven countries included in the New Southbound policy (see Table 1). Nevertheless, the types of education, internships, protection of rights and obligations, and placement transfers are not tailored to overseas students of differing nationalities. The Overseas Community Affairs Council set up a hotline to increase its effectiveness in handling issues related to follow-up counseling, unfair treatment after enrollment, and internship hours that violate the *Labor Standards Act*. However, there were only a few inquiries and complaints, mostly made by anonymous callers, making it difficult to resolve issues immediately or even compile a list of cases based on nationality. Disseminating information on students’ rights through consultation services appears to have been ineffective.¹¹⁹

Table 1: Countries of origin of overseas students from Cooperative Education Programs in vocational high schools

Academic Year	2019	2020	2021
Students Recruited	2,115	1,726	1,866
Vietnam	1,172	875	591
Malaysia	79	66	33
Indonesia	706	581	1,024
Myanmar	88	72	83
Thailand	35	82	68
The Philippines	5	4	7
Cambodia	30	46	60

Source: Overseas Community Affairs Council

¹¹⁹ Additional replies from the OCAC, MOE and MOL after the NHRC discussion meeting with government agencies on January 17, 2023. According to the Overseas Community Affairs Council, from 2020 to 2022, there were 31 complaints originating from the 3+4 Vocational Education Program for Overseas Compatriot Students. Of these, 23 were anonymous complaints. In the same period, according to data compiled by the Ministry of Education, the hotline for Cooperative Education Programs in vocational high schools only received 100 inquiries.

97. **Recommendations:** The OCAC, MOL, and MOE should establish an interdepartmental mechanism with clearly delineated responsibilities to provide students with post-arrival support, assistance in filing complaints, and access to complaint channels. In addition, extensive promotion is necessary to prevent violations of the rights of students.

N. Right to housing

(a) Indigenous peoples

98. After Typhoon Morakot hit Taiwan in 2009, the government passed the *Permanent Housing Policy for the Relocation of Indigenous Communities after the Typhoon Morakot Disaster*, which aimed to preserve the integrity, culture, and way of life of Indigenous societies while avoiding the fragmentation or separation of tribes.¹²⁰ An investigation conducted by the Control Yuan in 2022 concluded that the *Permanent Housing Policy* violated the spirit of Article 10 of the UN Declaration on the Rights of Indigenous Peoples and Article 23 of the *Indigenous Peoples Basic Law*. Issues arose because the *Policy* met neither the needs of the indigenous communities' original way of life nor the objectives of village reconstruction. As a result, residents of the permanent housing have faced land title disputes, insufficient tribal farmland and water resources, limitations on burial grounds, restricted living space, and constraints on industrial development.¹²¹ According to media reports, indigenous groups have experienced many issues since the *Permanent Housing Policy* took effect. These

¹²⁰ Article 1 of the Ministry of the Interior Official Document No. 0990807888 (台內營字第0990807888號函) regarding the Permanent Housing Policy for the Relocation of Indigenous Communities after the Typhoon Morakot Disaster states that the resettlement plan was formulated in the spirit of Article 20, Paragraph 1 of the *Special Act for Post-Typhoon Morakot Reconstruction* (abolished on August 29, 2014), Article 23 of the *Indigenous Peoples Basic Law*, and the *Declaration on the Rights of Indigenous Peoples* passed by the United Nations in 2007. The goal of the policy was to preserve the integrity, culture, and way of life of Indigenous societies while avoiding the fragmentation or separation of tribes.

¹²¹ Control Yuan investigation report approved on April 19, 2022 (111內調0017)

problems include the failure to consider the religious beliefs of the indigenous peoples, the lack of communal spaces for gatherings, the need of some to return to their original homes, and eligibility for permanent housing. Indigenous groups have urged the government to review the matter thoroughly.¹²²

99. **Recommendations:** The government's initial intention of providing social housing and permanent homes in response to the Typhoon Morakot disaster was out of concern for the safety and urgent needs of indigenous peoples. However, the relocation method has strayed from the original plan to prioritize the construction of permanent homes.¹²³ As a result, indigenous peoples at present do not have full access to their culture, and their survival, housing, and work needs cannot be satisfied. Hence, the government should act in accordance with Article 5 of ICERD and its General Recommendation No. 23, General Comment No. 14 of ICESCR, and the United Nations Guidelines for the Implementation of the Right to Adequate Housing. Under the principle of free, prior, and informed consent and the option to return (or just and fair compensation), the government should proactively review, improve, create remedial measures for, and formulate culturally sensitive policies for land and housing.

(b) New immigrants

100. §80 of the national report stated that the government builds social housing

¹²² See Civil Media (2020, Nov 26). *Indigenous Groups Demand Comprehensive Review of Ongoing Permanent Housing Policy Issues 11 Years After Typhoon Morakot*. <https://www.civilmedia.tw/archives/98994> and (2020, Oct 23). *Indigenous Community fights back despite lives lost as government demolishes "illegal" attraction*. <https://www.civilmedia.tw/archives/97972>. 88 news. (2020, Mar 11). *Religious Groups in Wutai Township Petitions to Reject Permanent Housing from Tzu Chi Organization*. <https://www.88news.org/posts/3130>. 88 news. (2010, Aug 5). *Recap of Hardest Hit Areas on Typhoon Morakot Anniversary: Wutai Township — Relocation Is Still Far Off*. Retrieved May 17, 2023 from <https://www.88news.org/posts/5562>.

¹²³ Control Yuan investigation report approved on April 19, 2022 (111 內 調 0017), and the *Principles for the Relocation of the Indigenous Community after the Typhoon Morakot Disaster* formulated by the Morakot Post-Disaster Reconstruction Council, Executive Yuan on September 4, 2009, explicitly stipulates that village relocation should be conducted as follows: 1. Post-disaster reconstruction without leaving the village. 2. The relocation of the village within the original township. 3. The relocation of the entire village to the nearest and most suitable location (relocation to another village outside of the original township). According to official statistics, 85% of Indigenous households that accepted relocation have been relocated to another village outside of the township.

in accordance with the *Housing Act* primarily to safeguard the housing rights of national residents and has set standards for eligibility for social housing.¹²⁴ However, the government failed to consider new immigrants who have yet to obtain Taiwan citizenship, suffer from domestic abuse, and are without financial means when deciding on the criteria for eligibility for social housing. After leaving government-provided shelters, these new immigrants can no longer return to their previous residence. As a result, they must rent housing, but cannot afford the expensive rent. It is recommended that the government consider relaxing eligibility for social housing to meet the needs of people in different ethnic groups.

(c) Migrant workers

101. A lack of separation between living quarters and factories is a topic of concern due to its impacts on the safety of accommodations and the living conditions of migrant workers.¹²⁵ In the past, several tragedies have occurred;

¹²⁴ Article 1 of the *Housing Act* protects citizens' right to housing, establishes a robust housing market, and improves the quality of housing, thus allowing all citizens to enjoy suitable housing and a dignified living environment; Article 4 states that "at least 40% of social housing built by the competent authority and private sector under the jurisdiction of each municipal, county (city) government shall be rented to economically or socially disadvantaged persons. A specified percentage of social housing shall be provided to persons whose permanent address is not registered in the area where they are going to school or working." Economically or socially disadvantaged persons referred to in the preceding paragraph shall mean families whose total income divided by the number of members in the household and whose total family assets do not exceed a certain standard threshold announced by the competent authority and who meet one of the following criteria: 1. Low-income or middle-income households. 2. Families in special circumstances. 3. Persons with three or more children who are minors. 4. Persons under the age of 25 who are unable to return home after being placed in a residential institution or foster family. 5. Senior citizens of ages 65 and above. 6. Domestic violence or sexual assault victims and their children. 7. Persons with disabilities. 8. Persons infected with Human Immunodeficiency Virus (HIV) or Acquired Immunodeficiency Syndrome (AIDS). 9. Indigenous peoples. 10. Disaster victims. 11. Homeless people. 12. Minors who encounter difficulties due to pregnancy or childbirth. 13. Other persons approved by the central competent authority.

¹²⁵ As mentioned in §194 of the national report, to ensure the safety of migrant workers' accommodations and improve their quality of life, starting from January 1, 2021, the employer has been required to provide a Foreign Worker Living Care Service Plan when submitting migrant workers' arrival notification forms to the competent authority. The plan should declare the following information: whether the migrant workers' dormitories are separate from the factory, whether there are high-risk factors present, whether the inspection and attestation results of the building have been reported to the authority, and whether the fire safety inspection results have been reported to the authority.

In addition, the reply from the Ministry of Labor showed that out of 144,369 cases compiled by the Ministry of Labor between January 1, 2021 and December 12, 2022, local governments accepted 90,891 arrival notifications and 53,478 employment extensions. In 40,747 (28%) of the reported cases, the migrant workers' accommodations were located at the same address as their workplace.

for example, a huge fire in the Sican factory dormitory in Taoyuan claimed the lives of six Vietnamese workers and injured five others, and a fire in the Chin-Poon factory caused the death of two Thai migrant workers. Furthermore, the investigation report sent by the Control Yuan to NHRC showed that when fishing vessels return to port, the lack of fisher-friendly facilities often forces foreign fishers to wash up on deck or in the open near the harbor. Although the Fisheries Agency has incorporated rest areas for foreign fishers into the planning of fishing ports, these spaces were not designed to support the religious beliefs, customs, and cultural characteristics of fishers of different nationalities.¹²⁶

102. **Recommendations:** In Taiwan, 90% of the accommodations for foreign workers are provided by employers, who thus have a responsibility to care for the lives of the migrant workers they hire. The government should urge employers to implement the regulations stipulated in the Foreign Workers Living Care Service Plan to ensure a safe living environment for migrant workers.

O. Right to organize and join labor unions

103. As mentioned in §201 of the national report, all migrant workers working within the territory of Taiwan, irrespective of nationality, race, or ethnicity, have the right to organize or join labor unions in accordance with the *Labor Union Act*. The MOL stated that it has asked local governments to give assistance to labor unions formed by foreign workers under their jurisdiction by providing relevant laws and regulations in different language versions and offering resources for translation to foreign workers' trade unions.¹²⁷

¹²⁶ Control Yuan investigation report approved on February 8, 2023 (112 財調 0006)

¹²⁷ MOL written reply dated January 13, 2023.

According to the MOL's written reply, currently only a small number of migrant workers have joined company unions, which are mainly formed of Taiwanese workers, and there are only five labor unions that are mainly composed of migrant workers.¹²⁸ The NHRC notes that even though no legal restrictions exist, compared with Taiwanese workers, the number of migrant workers organizing unions is extremely small, and the number of migrant workers joining labor unions formed by Taiwanese workers is also limited. Due to the difficulties involved in exercising the right to association, migrant workers are subject to a relatively vulnerable social status.¹²⁹

104. **Recommendations:** In accordance with §35 of General Recommendation No. 30, all individuals are entitled to the enjoyment of labor and employment rights, including the freedom of assembly and association from when an employment relationship has been initiated until it is terminated. The government should support migrant workers efforts to freely organize and join labor unions and take active measures to increase the unionization rate of migrant workers so as to reduce barriers between different races and ethnic groups.

P. Right to public health, medical care, social protection, and social services

(a) Indigenous peoples

¹²⁸ Supplementary information provided by the MOL after the NHRC's 1st government agency meeting. According to its written reply dated February 24, 2023, the 5 unions are the National Domestic Workers' Union under the jurisdiction of the New Taipei City Government (55 members), the Domestic Caretakers Union under the jurisdiction of the Taoyuan City Government (31 members), the Yilan Migrant Fishers Union under the jurisdiction of the Yilan County Government (89 members), the Keelung Migrant Fishers Union under the jurisdiction of the Keelung City Government (36 members), and the Pingtung County Migrant Fishers Union under the jurisdiction of the Pingtung County Government (30 members).

¹²⁹ Due to the nature of their work, it is difficult for migrant workers to organize a union within a company. Migrant workers can only enter into fixed-term labor contracts, and the duration of such contracts is inconsistent, making it difficult for them to join a union on a long-term basis. In addition, other factors such as language barriers, membership fees, and a lack of familiarity with the law all pose practical difficulties for them in organizing unions. (Lin, L. J., (2020). *The Exercise and Protection of the Right to Solidarity of Foreign Workers (Migration)—ILO Convention, Trade Union Organization Practices and Policies*. NCTU Law Review (Special Issue on Labor Law), 263-264.)

105. The NHRC applauds the government's efforts to address health inequities among indigenous peoples, including its implementation of the three-year Indigenous Village Health Inequity Improvement Strategy Action Plan, which aims to improve the quality of life of indigenous peoples and reduce health inequities.¹³⁰ The number of cultural health stations in indigenous areas and the amount of funding for the stations have both increased significantly. In addition, the Legislative Yuan passed the *Indigenous Peoples Health Act* in 2023, which stipulates that dedicated units should be established to handle the health care of indigenous peoples, including surveying the health status of indigenous peoples on a regular basis, establishing a health database, and training health care workers for indigenous peoples to meet their special health needs.

106. The NHRC notes that indigenous peoples' health indicators still fall short of the national level:

- (1) The age-standardized mortality rate per 100,000 population in 2020 was 659.1 for indigenous peoples, 1.69 times higher than the national rate of 390.8.¹³¹
- (2) From 2018 to 2022, over 97% of indigenous pregnant women had at least four prenatal check-ups; however, the infant mortality rate of indigenous peoples is generally 2.9% above the national level, with no significant decline.¹³²
- (3) The average life expectancy of indigenous peoples in 2021 was 73.92 years, a 6.94 years below overall life expectancy in Taiwan. The government has

¹³⁰ § 203-205 of the national report

¹³¹ Council of Indigenous Peoples (2023, January). *Annual Report on Health Statistics of Indigenous Peoples in Taiwan*, 2.

¹³² Council of Indigenous Peoples (2023, January). *Annual Report on Health Statistics of Indigenous Peoples in Taiwan* and information provided during the NHRC's government agency meeting held on February 9, 2023.

not yet collected the statistics on average life expectancy in individual villages and townships.

- (4) According to the Healthy People 2020, the transition from living in a tribal society to a modern society has put indigenous peoples under enormous stress. The stress they bear includes the disintegration of traditional culture, displacement, and unstable sources of income, and turning to alcohol is a common result.¹³³ According to the government's 2013 National Health Interview Survey, the percentage of indigenous adults who chewed betel nut was 26.7%, higher than the national figure of 5.8%; the adult drinking rate was 65.2%, also higher than the national figure of 45.7%. The 2015 Adult Smoking Behavior Survey also showed that 27.6% of indigenous adults smoked, which was higher than the national figure of 17.1%.¹³⁴

107. In 2020, there were 22.57 practicing physicians per 10,000 population in indigenous areas and only 7.43 physicians per 10,000 population in mountainous areas,¹³⁵ which fell short of the national level of 31.3 physicians per 10,000 population.¹³⁶ In addition, the NHRC notes that according to Control Yuan investigation report, the Medical Personnel Training Program for Indigenous and Outlying Island Regions trained 1,192 publicly funded medical students from its implementation in 1969 to the year 2020. The publicly funded physicians trained under the program have, to a certain extent, reduced the shortage of manpower in indigenous and outlying island regions, with more than 70% of the trained physicians remaining in

¹³³ Department of Health, Executive Yuan (2009, May). *Healthy People 2020*, 240.

¹³⁴ Ministry of Health and Welfare (2018, July). *2025 White Paper on Health and Welfare Policy—Chapter on Indigenous Peoples*, 306-307.

¹³⁵ Phase 5 (2022-2026) of the Medical Personnel Training Program for Indigenous and Outlying Island Regions.

¹³⁶ Department of Statistics, Ministry of Health and Welfare (2021, Nov 11). *Doctor's Day Bulletin on Health and Welfare Statistics*.

indigenous and outlying island regions after the end of their service period. However, the retention rate dropped to about 65% in 2018 and 2019. Such a trend needs to be taken seriously to ensure the retention of trained medical personnel in indigenous areas.¹³⁷

108. In indigenous rural regions, it is difficult to meet the standards for home-based, community-based, and institutional long-term care facilities stipulated in the *Standards for the Establishment of Long-term Care Institutions*¹³⁸ due to land use control policies and the requirements of the *Building Act* and its related regulations, as well as regulations concerning accessibility and the special needs of long-term care service users.¹³⁹ For example, most indigenous lands are forest lands, farming and grazing lands, protected areas, or lands reserved for indigenous peoples. There is only a little land left that can be rezoned for buildings. Moreover, most of the extant buildings have been built without construction permits, and construction permit applications require a fee. Overall, the financial situation and regulatory restrictions remain obstacles.¹⁴⁰

109. For §§105-108, the NHRC recommends:

(1) The NHRC believes that the government's current health and welfare policies for indigenous peoples are driven by the health system, which lacks input from indigenous peoples and fails to consider their cultural uniqueness. Therefore, the government has failed to provide appropriate or culturally sound health and welfare services for different ethnicities

¹³⁷ Control Yuan investigation report approved on July 15, 2020 (110 教調 0012)

¹³⁸ Articles 10-12 of the *Standards for the Establishment of Long-term Care Institutions*.

¹³⁹ The *Regulations on the Development and Management of Lands Reserved for Indigenous Peoples*, the *Spatial Planning Act*, and the *Regional Plan Act*.

¹⁴⁰ CitiOrange (2016, Mar 31). *Who is being taken care of by long-term care? Strict rules for setting up day care centers in the countryside force the elderly to leave their hometowns once they become "disabled"*. Retrieved from buzzorange.com.

and tribes, especially in terms of disability prevention, delaying the onset of dementia, and the prevention and control of the use of tobacco, alcohol, and betel nut. Furthermore, the government should develop health care services for indigenous peoples according to local needs and establish a health care mechanism to increase the capacity of health services and promote sustainable development in accordance with General Recommendation No. 23.

- (2) The government should take more proactive and specific measures, such as strengthening its accidental injury prevention efforts and making improvements to the emergency evacuation system, to reduce the gap in average life expectancy, especially in mountainous areas with wide life expectancy gaps.
- (3) The government should enhance the training of medical personnel who actually live in indigenous areas, so as to improve the quality and accessibility of medical services for indigenous peoples.
- (4) The NHRC believes that health is a fundamental human right. In addition to examining health inequities among indigenous peoples using objective health indicators, the government should also conduct occasional assessments to examine the subjective well-being of indigenous peoples, such as satisfaction surveys exploring the level of respect for different ethnicities and the level of acceptance of different cultures in Taiwan.

(b) Migrant workers

I. Health examinations

110. According to Article 73 of the *Employment Service Act*, employment permits of employed aliens can be revoked based on the results of their health examinations. The *Regulations Governing Management of the*

Health Examination of Employed Aliens classify aliens into three categories according to the type of job they are employed to perform.¹⁴¹ However, Article 5 of the *Regulations* stipulates that aliens in the second and third categories, who are relatively more vulnerable, are required to undergo more frequent health examinations.¹⁴² In this regard, the MOHW has stated that aliens in the first category mostly come from countries or regions with more advanced socio-economic development and better health conditions, whereas aliens in the second and third categories mostly come from countries or regions with a higher risk of infectious diseases. Therefore, the regulations governing health examinations for different categories of aliens were formulated after a comprehensive assessment that considered the public health situation,

¹⁴¹ 1. Category 1 Aliens: Aliens employed to undertake the jobs specified in Subparagraphs 1-6 of Paragraph 1 of Article 46 of the *Employment Service Act*.

2. Category 2 Aliens: Aliens employed to undertake the jobs specified in Subparagraphs 8-10 of Paragraph 1 of Article 46 of the *Employment Service Act*.

3. Category 3 Aliens: Aliens employed to undertake the jobs specified in Subparagraph 11 of Paragraph 1 of Article 46 of the *Employment Service Act* and undertake the jobs specified in Subparagraph 3 of Article 2 of the *Regulations on the Permission and Administration of the Employment of Foreign Workers*.

¹⁴² Article 5 of the *Regulations Governing Management of the Health Examination of Employed Aliens* states: “The health examination schedule for Category 2 and Category 3 Aliens is as follows:

1. When applying for an entry visa, an applicant shall submit a valid health examination certificate issued within the past three months by an authorized hospital; but for a Category 3 Alien whose country of residence does not have any authorized hospital, the applicant may submit a valid health examination certificate issued by a lawfully established hospital in his/her country of residence within the past three months, together with its Chinese translation authenticated by an R.O.C. overseas mission.
2. Within three working days after an employed alien’s entry, the employer shall arrange for the employed alien to undergo a health examination at a designated hospital; the health examination may be done within an extension of up to three working days if it cannot be arranged in time for some reasons.
3. Within 30 days before or after the date of 6th, 18th and 30th months from the employment permit effective date, the employer shall arrange for the employed alien to undergo a periodic health examination at a designated hospital.

No entry visa will be issued to individuals failing any items of the health examination done before entry under Subparagraph 1 of the preceding paragraph.

For Category 2 and Category 3 Aliens who re-enter the country after taking leave pursuant to Paragraph 5 of Article 52 of the Act, the central competent health authority may announce the health examination schedule and items after their re-entry in accordance with the nature of their occupation and the epidemic situation or specific circumstance of the labor-exporting country, and their employers shall arrange for them to undergo the health examination at a designated hospital.

When applying for an employment permit for a Category 3 Alien who works within the territory of the Republic of China, the employer shall submit a valid health examination certificate issued within the past three months by a designated hospital and arrange for the employed alien to undergo periodic health examinations in accordance with Subparagraph 3 of Paragraph 1 hereof.”

epidemiological status, and risk of infectious diseases of their countries of origin and the possible impacts of such on domestic epidemic prevention and safety.¹⁴³

111. **Recommendations:** The NHRC believes that the provisions of the *Regulations Governing Management of the Health Examination of Employed Aliens*, which classify aliens by job type and use country of origin as the primary indicator for establishing differing regulations concerning health examinations, should be further examined to determine if the provisions have resulted in differential treatment towards aliens of specific nationalities as specified in §9 of General Recommendation No. 30. The legitimacy, necessity, and reasonableness of the provisions should also be carefully considered.

II. Occupational accident prevention and compensation

112. According to MOL statistics, there were 125 major occupational accidents involving foreign workers engaged in basic manual jobs over the past five years (2018 to 2022) resulting in 132 deaths (including 20 deaths and 10 injuries of undocumented migrant workers). Furthermore, according to the investigation reports forwarded by the Control Yuan, there have been cases where migrant workers were reluctant to seek medical treatment for fear of being repatriated to their home countries, or were forcibly repatriated by unscrupulous agents and employers while they were still in medical treatment or filing for compensation. After migrant workers suffering from occupational accidents returned to their home countries, they or their surviving family members often found it difficult to claim social insurance

¹⁴³ In its February 22, 2023 written reply after the NHRC's 1st government agency meeting, the MOHW states: "According to the results of past infectious disease monitoring and epidemic investigation, the risk of contracting specific notifiable infectious diseases is higher for aliens in the second and third categories than for aliens in the first category; therefore it is necessary to provide different types of health examinations for different types of workers, so as to meet the principle of equality and the needs of epidemic prevention."

annuity benefits due to unfamiliarity with the application procedures and the complexity and high cost of document verification.¹⁴⁴

113. **Recommendations:** The government should develop specific preventive measures to enhance the occupational safety and health of migrant workers using language that is clear and understandable to migrant workers. In the event of an occupational accident, the competent authorities should proactively follow up on the case and provide assistance to migrant workers who face potential repatriation or difficulties claiming benefits after their return. In addition to compiling a list of occupational accident victims, the government should also help to simplify the procedures involved to reduce the cost of claiming compensation and benefits.

114. Regarding occupational accident insurance and protection for undocumented migrant workers, the *Labor Occupational Accident Insurance and Protection Act*, which took effect on May 1, 2022, stipulates that employers who hold a license to practice that has been registered in accordance with the law or who have been issued an employment permit by the central competent authority in accordance with the law must insure their employees of age 15 and above. The Act also applies to aliens, who, if working in Taiwan as migrant workers in compliance with the law, must be covered by occupational accident insurance in accordance with the *Act*. However, according to the Ministry of Labor, the *Labor Occupational Accident Insurance and Protection Act* does not apply to undocumented migrant workers who experience an occupational accident, since undocumented migrant workers or escaped migrant workers are not authorized by law to work in Taiwan; in case of an occupational accident involving an undocumented migrant worker, the

¹⁴⁴ Control Yuan investigation reports approved on April 8, 2020 (109 財 調 0019) and January 19, 2022 (111 社 調 0003) respectively.

employer who illegally employed the worker is held fully responsible.¹⁴⁵ The NHRC notes that in the afternoon of September 30, 2010, a scaffold collapsed at the construction site of the Bei Shan Interchange on National Freeway No. 6. This major occupational accident caused 7 deaths and 3 injuries; the 6 Indonesian migrant workers killed were all undocumented migrant workers. In the morning of September 11, 2017, an occupational accident occurred in Yilan City in which a migrant worker was buried alive at the construction site of a public sewer project. The victim was later found to be an undocumented Vietnamese fisher.

115. Recommendations:

- (1) The NHRC is particularly concerned about undocumented migrant workers not being able to access social security in the event of an occupational accident, especially about those killed in public construction projects, as in the above-mentioned cases. The government should consider the serious impact of occupational accidents on migrant workers' lives and health, and include them in institutional protection measures.
- (2) Due to an unwillingness to be identified and an inability to access national health insurance, undocumented migrant workers' right to health and safety is greatly undermined. The NHRC recommends that the government should, in accordance with §36 of General Recommendation No. 30, establish relevant mechanisms to assist undocumented migrant workers in seeking medical care in order to ensure that non-citizens are not denied or restricted from access to preventive, curative, and palliative health services.

¹⁴⁵ MOL written reply dated January 13, 2023.

III. The Labor Pension Act's exclusion of migrant workers

116. If a migrant worker has not yet reached the legal age for claiming old-age benefits from labor insurance, when they leave their job and return to their home country, they may still apply for the benefits when they meet the age requirement.¹⁴⁶ However, migrant workers are not covered by the new *Labor Pension Act* as Taiwanese workers are. This *Act* was only applicable to Taiwanese workers when it was first established. Over the years, foreign spouses, foreign nationals with a permanent residency permit, white-collar workers in professional fields, and mid-level skilled workers from foreign countries with permanent residency were also included. Currently, blue-collar migrant workers are still not covered by the *Labor Pension Act*, whereas if they belonged to any of the categories of migrant workers covered by the *Labor Standards Act*, they would be provided with a pension upon retirement by their employers under the old pension system in accordance with the *Labor Standards Act*.¹⁴⁷ According to a written reply from the MOL, from 2018 to 2022, the number of foreign workers who were eligible to receive a pension under the old pension system in accordance with the *Labor Standards Act* and who received pension payments from the Bank of Taiwan's Labor Retirement Reserve Fund is as follows:¹⁴⁸

¹⁴⁶ The MOL states in its written reply dated February 24, 2023: "If a foreign insured person has not yet reached the legal age for claiming the old-age benefits of labor insurance when leaving their jobs, after they return to their home countries, they may still apply for the benefits once they meet the age requirement. To apply, the Labor Insurance Old-Age Benefits Application Form must be filled out, attached with identity documents verified by Taiwan's embassies, consulates, representative offices or missions abroad, and delivered to the Bureau of Labor Insurance of the MOL."

¹⁴⁷ According to Article 53 of the *Labor Standards Act*, a worker must "have worked for 15 years and attain the age of 55", "have worked for more than 25 years", or "have worked for 10 years and attained the age of 60" before they can apply for a voluntary retirement. According to Article 54 of the same Act, an employer may not force a worker to retire unless the worker "attains the age of 65" or "is unable to perform his/her duties due to disability."

¹⁴⁸ Supplementary information provided by the MOL after the NHRC's 1st government agency meeting in its written reply dated February 24, 2023.

Table2: The number of foreign workers receiving pensions from the Bank of Taiwan's Labor Retirement Reserve Fund

Year	Number of claimants
2018	23
2019	41
2020	57
2021	49
2022	63

Source: Ministry of Labor

117. **Recommendations:** The NHRC notes that the maximum working period for blue-collar migrant workers in Taiwan is 14 years, which makes it difficult for them to meet the requirements for claiming a pension under the *Labor Standards Act*. The pension claimants under the old system listed in the table above are mostly white-collar foreign workers. However, the new *Labor Pension Act* excludes blue-collar migrant workers. Such differential treatment lacks legitimacy and reasonableness, and the government should review and amend the law as soon as possible.

(c) Non-national inmates (prisoners)

118. Since the implementation of second-generation National Health Insurance (NHI) in 2013, Taiwan has included inmates in the NHI system, with the premiums subsidized by the Ministry of Justice (MOJ).¹⁴⁹ However, non-national inmates are not eligible for NHI coverage because their residence

¹⁴⁹ According to Article 10, Paragraph 1, Subparagraph 4, Item 3 and Article 27 of the *National Health Insurance Act*, insured persons classified under Category 4-(3) are defined as those who are serving a sentence in a correctional institution or receiving punishments from police and military court-martial. If the incarceration period exceeds two months, the premium will be fully subsidized by the central correctional authority.

permits have been revoked or cancelled.¹⁵⁰ According to the MOJ, if a foreign inmate needs medical treatment while serving a sentence or in detention, the prison will appoint a medical institution or doctor for diagnosis and treatment. In principle, the inmate will receive medical treatment in the correctional institution, with no differential treatment from those with NHI coverage in terms of their right to health care. However, if the inmate seeks out-of-prison medical treatment, in principle, the cost of treatment must be self-financed and cannot be covered by the NHI.

119. **Recommendations:** The NHRC notes that non-national inmates are detained involuntarily, making them illegal aliens and therefore ineligible for NHI coverage. Even though they can still receive medical treatment in case of illness, unlike inmates who are nationals, non-national inmates are not completely covered by the NHI system with premiums paid by the government. However, the competent authority fails to explain the legitimacy of such differential treatment, other than stating that this is due to the stipulations of the *National Health Insurance Act*. The government should assess the feasibility of amending the *National Health Insurance Act* so as to include non-national inmates in the NHI system.

(d) Non-national children

120. In regard to right of non-national children born in Taiwan to placement, childcare, education, and medical care, if a non-national child's biological mother cannot be reached and the country of origin does not acknowledge the child's nationality or does not respond, the Ministry of the Interior will

¹⁵⁰ Article 9 of the *National Health Insurance Act* stipulates that non-nationals must possess a residence certificate and either must have resided in Taiwan for at least 6 months or be employed by a regular employer to enroll in NHI. Therefore, foreign inmates who do not meet the requirements of Article 9 cannot obtain national health insurance. Only those with a residence certificate who have resided in Taiwan for at least 6 months can obtain national health insurance, with no leniency granted regardless of the circumstances.

consider the child to be stateless, and the child's adoptive father or mother or the competent social welfare agency may apply for naturalization on the child's behalf.¹⁵¹ In cases where a pregnant migrant worker in Taiwan is waiting to change employers or return to her home country, or is involved in a labor dispute such that the local competent authority deems it unsuitable for her to remain with her current employer, emergency placement measures may be provided for a period of anywhere from 60 days to six months after the end of the pregnancy. Undocumented migrant workers who are expecting or have just given birth may have their detention temporarily suspended and be placed in a shelter (e.g., those set up by the Indonesian Economic and Trade Office to Taipei or the three temporary shelters in northern, central, and southern Taiwan set up by civil society organizations commissioned by the National Immigration Agency). Afterwards, assistance will also be provided to help them return to their home countries. The MOL has set up the Service Center for Migrant Women and Children to provide pregnant migrant workers who do not want placement in a shelter with assistance, consultation, and short-term placement. The MOL granted funding to the Taoyuan City Government for the establishment of a resource platform for pregnant migrant workers to provide consultation service that opened in 2022.¹⁵²

121. Recommendations: Life, health, and education are the fundamental rights enshrined in international law for all individuals, and differentiations based on citizenship should not be made. Even though the competent authorities have formulated regulations and measures, and are careful to address the issues of undocumented migrant workers and non-national children in

¹⁵¹ According to MOI statistics, as of December 31, 2023, the National Immigration Agency has issued 100 Temporary Alien Residence Certificates to non-national children according to their birth mother's nationality, of which 22 cases were identified as stateless and 17 had been naturalized.

¹⁵² §13 of the national report and responses of the MOL, MOI, MOHW, and MOE in the Jan 17, 2023 NHRC discussion meeting with government agencies.

accordance with the stipulated rules and procedures, there remain issues to be tackled through inter-ministerial collaboration. In 2022, the government promised to establish an inter-ministerial task force to address the issues of undocumented migrant workers and undocumented children of migrant workers. The NHRC urgently recommends that these issues be proactively addressed by the government from a human rights perspective. The government should view the interests of children as their top priority instead of focusing on reporting and investigation, which will allow undocumented migrant worker parents to feel secure in seeking help, thereby helping non-national undocumented children receive the assistance and opportunities they need for development.

Q. Right to equal participation in culture

I. Language equality

122. According to the results of the 2020 population and housing census, the main languages used in Taiwan are Taiwan Mandarin and Taiwanese Hokkien. The percentage of Taiwanese residents aged six and up who use each of the languages/language groups spoken in Taiwan is shown in the table below.¹⁵³ The younger the age, the more people there are who use Taiwan Mandarin as their main spoken language, and the fewer people there are who use any other language. In addition, according to the Survey on National Languages at Risk of Extinction conducted by the Ministry of Culture in 2020, all national languages except for Taiwan Mandarin are currently facing differing degrees of extinction risk. The efforts of the government to revitalize Taiwan's

¹⁵³ Directorate General of Budget, Accounting, and Statistics, Executive Yuan. (2020). *Languages spoken by national residents aged 6 years and above; 2020 Population and Housing Census*. Retrieved from <https://ws.dgbas.gov.tw/001/Upload/463/relfile/11065/230766/p06.pdf>.

indigenous languages, Taiwanese Hakka, and Taiwanese Hokkien are described below.

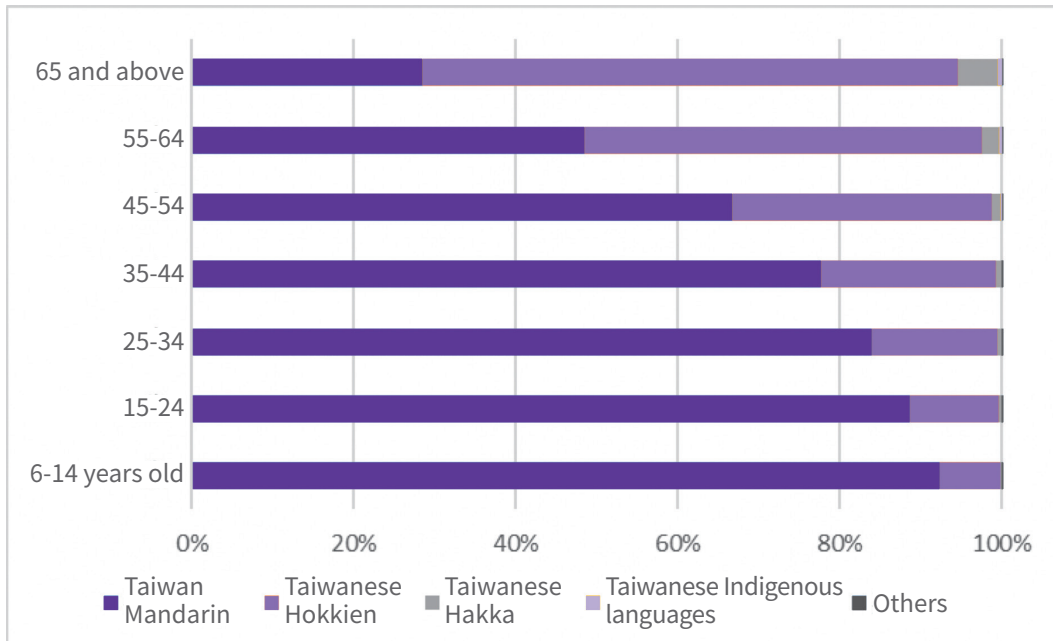


Figure1: Languages spoken by national residents aged 6 years and above

Source: 2020 Population and Housing Census

Taiwanese indigenous languages

123. To ensure the preservation and development of indigenous languages, the *Indigenous Languages Development Act* was implemented by the government on June 14, 2017, and the Indigenous Languages Research and Development Foundation was established in accordance with the law to fully promote the revitalization of indigenous languages by creating a conducive environment for indigenous languages to thrive in, with the target audience not limited to indigenous peoples. In addition, the *Development of National Languages Act* was enacted by the government on January 9, 2019 to safeguard the rights of language speakers of all ethnicities to education, communication, and public services. The government has also proposed to develop an overall plan to promote national languages to increase funding

and talent, integrate agency resources, and systematically target audiences of different age groups to promote the development of national languages in family and community settings. The plan also aims to comprehensively promote the revitalization and development of national languages through the development of video channels, platforms, and other resources. However, the NHRC notes that the circumstances surrounding each of Taiwan's indigenous languages are unique. Each language is primarily spoken in a specific region and has a different number of speakers, and the causes of language loss and the requirements for revitalization are all different. The difficulties faced by indigenous peoples in urban and rural areas are also different. Against this background, the development and implementation of indigenous language programs is complicated in nature, making it difficult to pass on the languages and develop effective learning systems. In addition, the failure to include the languages of the plains indigenous peoples in course options has led to a serious lack of resources for the revitalization of those languages.

124. According to civil society organizations, there are currently multiple versions of indigenous language teaching materials available, each compiled and developed by different organizations. This has led to ineffective teaching of indigenous languages at schools and a repeated waste of resources, which undermines the effort for language revitalization. Furthermore, in educational practice, the development of plains indigenous languages has also faced challenges including insufficient resources, a lack of teacher training, and the absence of elective courses for students. Upon inquiry, the competent education authority stated that in view of the unique obstacles that exist with regard to revitalizing the plains indigenous languages, the government may base future measures on the new ethnicities and languages announced by the Council of Indigenous

Peoples.¹⁵⁴ The NHRC notes that nevertheless, the plains indigenous languages are inherent national languages, and plains indigenous peoples should therefore have the right to use and develop their own languages, regardless of whether or not they have legal indigenous peoples status. The plains indigenous languages have been arbitrarily deemed by the MOE as regional languages and are only available as a course option upon application by the school, rather than being automatically included among the elective native language courses. Such practices may violate the spirit of equality and non-discrimination upheld by ICERD.

Taiwanese Hakka

125. According to the statistics provided by the government, the number of people who obtained Hakka Language Proficiency certification increased between 2020 and 2022. The government has formulated the *Directives for the Accreditation of Hakka Language Teachers by the Hakka Affairs Council*, and offers funding for local governments and schools to work with Hakka language teachers in Hakka language teaching and Hakka culture preservation.¹⁵⁵ However, as mentioned in the government agency meeting, local Hakka policies primarily focus on the development of hardware infrastructure and basic civil engineering projects, and there is a lack of Hakka language promotion projects centered on local needs.¹⁵⁶ According to the *National Survey on Hakka Population and Hakka Language Usage* conducted by the government in 2021, the listening and speaking skills of Hakka people living in

¹⁵⁴ In March 2022, the MOE reiterated the contents of the *General Guidelines of the 12-year Basic Education Curriculum*, which clearly specify that “native languages include the Minnan language, Hakka language, indigenous languages, Mindong language, and other languages at the risk of extinction. As for regional languages of certain ethnicities (e.g. the plains indigenous languages), schools should provide elective courses based on students’ actual needs and willingness.”

¹⁵⁵ Information provided after the NHRC meeting with government agencies (2023, Feb 1).

¹⁵⁶ NHRC meeting with government agencies (2023, Feb 1).

the key Hakka culture development areas has decreased, but the decline was smaller than that of Hakka people living in non-key development areas.¹⁵⁷

Taiwanese Hokkien

126. According to the *National Language Development Report* published in 2022, less than half of the population under the age of 40 speaks and understands Taiwanese Hokkien, which shows that the loss of Taiwanese Hokkien is accelerating rapidly as the population ages, and is currently facing an evident preservation crisis.¹⁵⁸ In 2022, the government began to list Taiwanese Hokkien and other native languages as compulsory courses in primary and secondary schools. However, there has been a shortage of qualified teachers.¹⁵⁹

127. For §§122-126, the NHRC recommends:

- (1) The government should play a proactive role in revitalizing languages by conducting regular national surveys and reviewing the implementation of language policies on a rolling basis. Furthermore, it should also increase participation by all ethnicities, allowing them to be part of the decision-making process so as to formulate appropriate language policies, strategies, and schemes that take their cultural uniqueness into consideration and satisfy their actual needs. The revitalization of the plains indigenous languages, in particular, should be listed as a key project. The government should proactively invest resources to protect the language rights of plains indigenous peoples, regardless of whether

¹⁵⁷ Hakka Affairs Council (2021). *National Survey on Hakka Population and Hakka Language Usage*. Retrieved from https://www.hakka.gov.tw/File/Attach/37585/File_96737.pdf.

¹⁵⁸ Ministry of Culture (2022, August). *National Language Development Report*. Retrieved from https://www.moc.gov.tw/information_302_147962.html.

¹⁵⁹ udn News (2022, Jan 15). *Only 44 high school teachers have native language certification. Teachers criticize: Where is the courage coming from to enforce the policy?* Retrieved from <https://udn.com/news/story/6885/6036585>.

or not they have legal indigenous peoples status.

- (2) The government should compile a complete picture of current language usage among different ethnic groups and of the progress of language projects in the national report, so as to facilitate the evaluation of language policies.
- (3) The government should strengthen the certification schemes and teaching mechanisms for different languages, and encourage different ethnic groups to learn from each other and use their mother tongue or indigenous languages in school and daily life settings, so that minority languages and cultures can be developed and protected.

II. Cultural equality

Hunting rights for indigenous peoples

128. On May 7, 2021, the Judicial Yuan issued Interpretation No. 803, which holds that certain provisions of the current *Regulations Governing Permission and Management of Guns, Ammunition, Knives and Weapons* and the *Regulations on the Management of the Hunting and Slaughter of Wild Animals by Indigenous Peoples for Traditional Cultural and Ritual Purposes* violate the right to life, the right to body, and the right to hunt as a cultural activity for indigenous peoples, which are guaranteed by the *Constitution*, as well as the principle of proportionality.¹⁶⁰ The national report also mentions that

¹⁶⁰ Summary of Interpretation No. 803 (2021, May 7) issued by the Grand Justices: (1) Article 20, Paragraph 1 of the *Controlling Guns, Ammunition, and Knives Act*, excludes indigenous peoples from criminal liability for the possession of guns, but only self-made hunting guns used as tools for making livelihood are allowed: Constitutional. (2) The definition of hunting guns specified in the *Regulations Governing Permission and Management of Guns, Ammunition, Knives and Weapons*: Inadequate regulations, unconstitutional; must be reviewed and amended within 2 years. (3) The scope of “traditional culture” specified in the *Wildlife Conservation Act* should include dietary and livelihood culture. (4) The hunting, killing, or utilization of wildlife for not-for-profit purposes shall in principle exclude protected animals. (5) The control measure of prior application for permission: Constitutional. (6) A lack of flexibility in certain provisions of the Regulations: Unconstitutional.

the government will formulate and amend the relevant laws and regulations in accordance with Interpretation No. 803 to protect indigenous peoples' right to safely participate in cultural activities and respect indigenous peoples' hunting management methods. The NHRC believes the exercise of the right to hunt by indigenous peoples is directly affected by relevant laws and regulations. Therefore, during the decision-making process, indigenous peoples should be widely consulted to obtain as comprehensive an understanding as possible at every stage of the process. Upon inquiring as to how they ensured the participation of indigenous peoples, the competent authorities stated that during the drafting period, they provided an opportunity for indigenous peoples to engage in discussion and express their opinions.¹⁶¹ However, the NHRC notes that civil society organizations still strongly question the draft *Regulations on the Management of Hunting Guns of Indigenous Peoples*, stating that it raises the barrier for indigenous peoples to use hunting guns while significantly increasing hunting gun control measures to the point that they are comparable to those for shooting sports, thereby failing to respond to the cultural and daily needs of indigenous peoples. Civil society organizations advocate that the government should improve communication in order to reach a consensus with indigenous peoples.

129. Recommendations: The NHRC believes that Taiwan's indigenous peoples have a long history of using hunting guns for hunting activities, and traditional hunting practices have long been in place, including rules for hunters, hunting grounds, and hunting taboos,¹⁶² making hunting an integral part of their

¹⁶¹ Information provided after the NHRC meeting with government agencies (2023, Feb 9).

¹⁶² For example, in the Bunun tradition, women are not allowed to touch hunting guns, and hunters cannot have alcohol and should not sneeze or yawn before going on a hunt. The Atayal culture has the practice known as *mita spi'* (dream interpretation). Hunters must leave early in the morning and walk for half a day to reach the hunting ground, where they will spend 2-3 days setting *mrusa'* (traps). About 5-6 days later, before returning to check the *mrusa'*, the hunters gather to discuss their dreams and predict the hunting outcomes according to their dreams.

traditional cultural practices.¹⁶³ However, without comprehensive supporting measures and thorough consideration, the government's proposed draft amendments will restrict and regulate indigenous peoples' hunting culture, which may undermine their cultural autonomy. The government should recognize that hunting is not only a way of life for indigenous peoples, but also an important way for them to learn and pass on the knowledge of how to coexist with nature sustainably. In this context, the government should carefully assess the impact of the draft regulations on the hunting culture and rights of indigenous peoples. Sufficient information should be provided to facilitate a tripartite dialogue between the government, indigenous peoples, and non-indigenous peoples. Furthermore, the government should also ensure that all policies and regulations are developed in line with the principles and spirit of ICERD, i.e., decisions directly related to or having a significant impact on indigenous peoples' rights and interests shall not be made without their free, prior and informed consent.

Right of plains indigenous peoples to participate in cultural life

130. §216 of the national report states that the government will respond to the needs of plains indigenous peoples and provide comprehensive support for their efforts to revitalize their languages and cultures. Upon inquiry about the specific measures taken to preserve the cultural assets and revitalize the culture of plains indigenous peoples, the Ministry of Culture and the Council of Indigenous Peoples stated that the cultural assets of plains indigenous peoples have been included in the *Cultural Heritage Preservation Act* and the *Regulations Governing the Cultural Heritage of Indigenous Peoples*.

¹⁶³ Even though this paragraph focuses on the control of hunting guns, traditionally indigenous peoples use a wide range of hunting methods, including trapping, guns, and bow hunting. Amis hunters, for example, set traps to capture prey (*tarakar*) in a process that includes tracking, hunting dogs, neck snare traps, and regular traps.

Funding and resources have also been allocated to support the preservation of plains indigenous peoples' cultural heritage and traditional customs. However, the NHRC notes that unlike other indigenous groups in Taiwan, the plains indigenous peoples are not able to ask for indigenous ceremonial leave to participate in traditional ceremonies, which limits the right of plains indigenous peoples to engage in traditional cultural activities.

131. **Recommendations:** The government should recognize that plains indigenous peoples are inherent ethnic groups of Taiwan. They should have the same right to participate in culture without being discriminated against or treated differently due to their ethnic identity, and should enjoy the right to preserve and develop their own cultures as guaranteed by the Convention.

Article 6

Remedy for Victims of Racial Discrimination

132. The national report states that administrative agencies have set up different complaint mechanisms based on the nature of their work. However, the NHRC is concerned that the report does not provide information on the number of complaints involving racial discrimination by race or ethnic group or on outcomes. The lack of statistical information makes it difficult to assess implementation. In regard to new immigrants, for example, the NHRC has come to understand through discussion meetings and data provided by agencies that the information on complaint channels provided by the MOI's complaint review panel is unclear and not available in multiple languages.¹⁶⁴
133. The NHRC is also concerned about the complaint channels for racial discrimination against foreign students. In addition to dedicated offices at schools that provide counseling in case of discrimination, the MOE has set up an information exchange platform for counselors of foreign students and a counseling service for foreign students (NISA+) that includes a dedicated mailbox and hotline. The Overseas Community Affairs Council (OCAC) has a telephone number, emergency number, e-mail, and Line account for the special program for overseas compatriot students, while the MOL and local government labor bureaus have the 1955 hotline, which provides students with counseling, a complaint channel, and legal aid information, as well as referrals for protective placement and online interpreting.¹⁶⁵ However, these complaint channels have so far received no complaints on the grounds of

¹⁶⁴ NHRC meeting with government agencies (2023, Feb 1).

¹⁶⁵ Responses of the MOE, OCAC and MOL in the NHRC meeting with government agencies (2023, Jan 17).

race or discrimination.¹⁶⁶ The NHRC cautions that the lack of complaints does not mean discrimination does not exist. The reasons for the low number may include victims' lack of adequate knowledge of their rights or fear of criticism or retaliation. The state is obligated to ensure that all persons residing in the state, irrespective of their ethnic origin, receive effective protection and remedy against any act of racial discrimination that violates their human rights and fundamental freedoms under the Convention, and all persons have the right to claim compensation or restitution for any harm suffered as a result of racial discrimination.

134. For §§132-133, the NHRC recommends:

- (1) The government should conduct an overall systematic review to clarify the criteria for determining racial discrimination and the scope of application, add regulations and procedures for handling racial discrimination, provide sufficient information to meet the needs of various ethnic groups, and increase the accessibility of complaint channels.
- (2) The authorities and schools should be more sensitive to issues of race and discrimination when raising awareness about rights among foreign students, so that complaint channels can prevent problems and provide remedy for victims.

¹⁶⁶ According to the MOE, NISA+ received no complaints based on racial discrimination from January 2019 to January 2023. From 2020 to 2022, there were 31 complaints from overseas compatriot students in special programs. The nature of these complaints included overtime work in the partner institutions of cooperative education programs, school pandemic prevention, financial assistance, residence permit renewal, internships, learning on campus and life adjustment, school management, school-leaving procedures, dismissal from school, and staying in Taiwan after graduation. Because most of the complaints were anonymous, it was impossible to compile statistics on the nationality of the students.

Article 7

Elimination of Prejudice and Promotion of Mutual Understanding among Races

A. Education and training

135. The national report states that the government not only educates students in schools, but also conducts courses on human rights education, anti-discrimination and multicultural sensitivity for educators, public officials, and judicial law enforcement officers to eliminate racial prejudice. There have been many cases in recent years in which members of minority groups have been more likely to be stopped by law enforcement officers for questioning, often apparently on the basis of prejudice against certain groups.

136. The national report notes that the government's *General Guidelines*¹⁶⁷ stipulate that human rights education should be appropriately integrated into the design of the national curriculum, and that the MOE should plan the substantive content according to the needs of each educational level. Nevertheless, discrimination against ethnic groups in schools is present from time to time, as evince by the recent incidents of hate and discriminatory remarks in student union election communiqués, the use of discriminatory puns to mock indigenous peoples in a high school carnival, and the death of an indigenous student who was mocked and bullied. These incidents once

¹⁶⁷ The General Guidelines of the 12-Year Basic Education Curriculum.

¹⁶⁸ Statement of National Taiwan University. (2023, May 23). Retrieved from https://www.ntu.edu.tw/spotlight/2023/2161_20230523.html; Liberty Times. *Indigenous Student Bullied in Taichung First Senior High, Legislator Wu Lihua Urges the Executive Yuan to Quickly Propose Anti-Discrimination Act*. (2023, May 3). Retrieved from <https://news.ltn.com.tw/news/politics/breakingnews/4289452>; Central News Agency. (2022, Apr 6). *Middle School Student Fall From Building Likely Due to Discrimination Against Indigenous Peoples, Education Minister Pan Expects Mutual Understanding Among Communities*. Retrieved from <https://www.cna.com.tw/news/ahel/202204060174.aspx> on May 24, 2023.

again highlight the lack of sensitivity and education on ethnic equality in schools.¹⁶⁸

137. For §§135-136, the NHRC recommends:

- (1) The government should increase education and training to combat prejudices that lead to racial discrimination, promote understanding, tolerance and friendship among nations and racial or ethnic groups, emphasize and promote the principles and goals of ICERD and other relevant instruments adopted by the UN General Assembly, and increase promotion channels to reach a wider audience; curriculum guidelines should be developed to reflect the current races and cultures of Taiwan, and should be applied and integrated into education and training programs. The competent authorities should specify curriculum planning and implementation at each educational level.
- (2) The government should develop appropriate education programs for law enforcement officials, police, persons working in the judicial system and prisons, and workers in psychiatric establishments and social and medical services that will train respect for human rights, tolerance, and friendship toward racial and ethnic groups, as well as sensitization to intercultural relations in accordance with §5 of General Recommendation No. 31.

B. Media promotion of anti-racial discrimination policy

138. While the national report mentions anti-racial discrimination campaigns in the media, they focus on the promotion and understanding of various ethnic cultures and do not explain how to combat prejudices that lead to racial discrimination; nor do they explain the specific channels and contents that promote the purposes and principles of the UN Charter, the Universal

Declaration of Human Rights (UDHR), and ICERD. In addition, there have been many inappropriate comments in society recently which have reignited historical conflicts between ethnic groups and created controversy over the stigmatization of indigenous peoples. Such comments bring stereotypes and prejudices about the culture of specific ethnic groups to the fore, threatening to trigger ethnic discrimination, and demonstrating the inadequacy of Taiwan's legal system and policies on ethnic equality.

139. Statistics from the competent authorities on complaints over television content involving gender/racial stereotypes or human rights issues in the past five years show that of the 29 cases reported, only two involved racial discrimination, and these were dismissed as non-violation cases.¹⁶⁹ The NHRC observes, however, that the National Communications Commission's overview of the communications industry does not include racial, ethnic, and group discrimination as an indicator in its table of cumulative number and amount of sanctions imposed on broadcast television.¹⁷⁰

140. **For §§138-139, the NHRC recommends:** The government should seek to integrate the purposes and principles of the UN Charter, the UDHR, ICERD and diverse cultures into the natural living environment in accordance with General Recommendation No. 5, so that the general public can learn about and understand the history and culture of various ethnic groups, thereby promoting understanding among nations and different racial and ethnic groups. In addition, the government can accelerate ethnic mainstreaming by referring to gender mainstreaming in Taiwan that promotes gender equality. In particular, the government should formulate and implement a code of

¹⁶⁹ NHRC meeting with government agencies (2023, Feb 1).

¹⁷⁰ National Communications Commission: NCC Overview of the Communications Industry. Retrieved from https://www.ncc.gov.tw/chinese/news.aspx?site_content_sn=1966&is_history=0.

conduct for media broadcasting that regulates racial discrimination or amend the *Radio and Television Act* and the *Satellite Broadcasting Act* to include racial, ethnic, and group discrimination as an indicator, so as to prevent racial discrimination or prejudicial language and gradually achieve the goals of eliminating ethnic discrimination, promoting ethnic equality, and developing ethnic co-prosperity.

National Human Rights Commission

Independent Opinion on Taiwan's Initial Report on the Implementation of ICERD

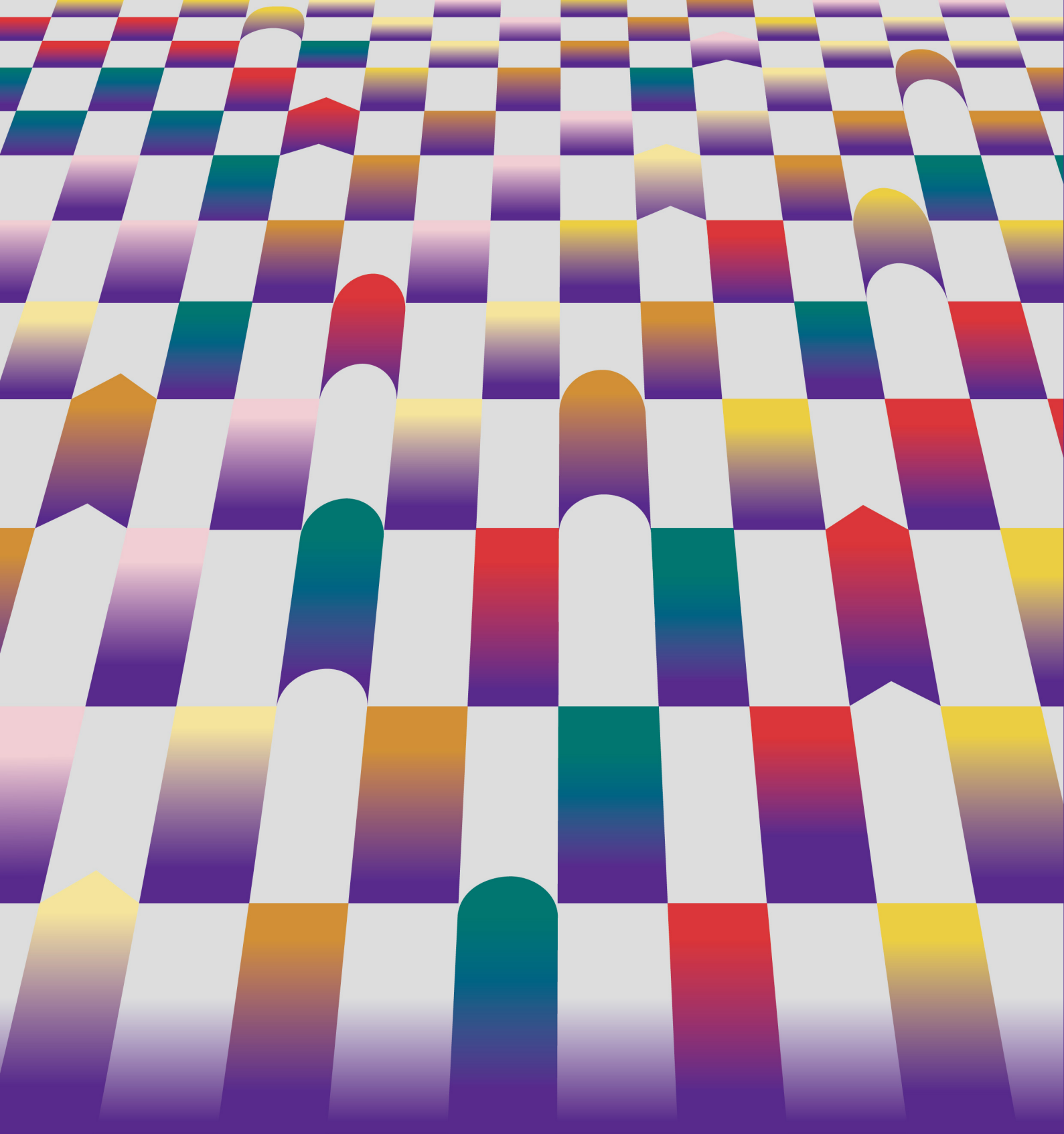
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