

Replies of Taiwan NGOs to ICESCR LOIs

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Article 1 - Indigenous peoples' right to self-determination

- 1 In COR, 2013, points 24-25, the Review Committee underlined the importance of healing and reconciliation within the Taiwanese Society as well as revealing the full truth and achieving reparative justice about the gross violations of human rights that occurred in the years of the "White Terror". The Review Committee duly notes the information provided on this matter by the Government in its response. The Review Committee also noted in this regard the Parallel Report of the Chinese Association for Human Rights and in particular, with the completion in 2014 of the work of the Foundation providing compensation and recovery measures to the victims and their relatives of the White Terror period, the further follow-up activities envisaged in the "Promotion of Transitional Justice Act" to be carried out under the auspices of the International Centre for Transitional Justice. The Review Committee invites the Government of Taiwan to keep the Committee informed of the ongoing and further activities in the implementation of the Promotion of Transitional Justice Act.

Replied by LIMA Taiwan Indigenous Youth Working Group

1. Actually, Indigenous Peoples are the victims of the "White Terror". However, the "White Terror" is just a tip of the iceberg in the Indigenous Peoples' historical trauma caused by colonialism.
2. In regards of the healing and the reconciliation of Taiwan society, besides the "White Terror", as the original caretaker of this land, the history of deprivation, languages loss, deny of sovereignty of Taiwan Indigenous Peoples should be included in discussion of transitional justice. In the "Promotion of the Transitional Justice Bill", the colonial history of Indigenous Peoples has been excluded and has been told to be dealt with separately. However, it could easily result in marginalization of Indigenous issues. There will be no opportunity for the whole society to look at the ongoing historical trauma of Indigenous Peoples comprehensively. And there will be less possible to let the mainstream society understand the background of the Indigenous Peoples' rights. Therefore, it might cause the vicious circle of Indigenous Peoples being discriminated against while enforcing their rights due to people's lack of understanding.
3. The ongoing Infringement of Indigenous Peoples should be inventoried, halted, and investigated. And the report should be open to the public for the society, including the non-Indigenous people, understand.
4. Even though there is a "Committee of Indigenous Peoples' Historical Justice and Transitional Justice" under the Presidential Office, there are still quite many concerns.

First of all, the mandate and the power of the commissioners remains unclear. Looking at the regulations governing the Committee, it does not grant the Committee the power of investigation, administration nor legislation. The Committee is nothing but an adversary institution for legislation and policy-making. It has little to none effect to the reconciliation, the mutual understanding between the Indigenous Peoples and the whole society and the action after the apology.

5. Furthermore, the election of the commissioners lacks of the full and effective participation of the Indigenous Peoples. Many Indigenous people only found out the election after the result went public. Some Indigenous groups decided to postpone the nomination before the situation is totally understood. And the Committee also lacks of the profession of legal investigation. The representation and the profession of the Committee is now seriously questioned.

2. The Experts note with satisfaction the efforts made that led to the removal of nuclear waste from Orchid Island. Please provide further information on the communication with two county governments - Daren Township in Taitung County and Wuchiou Township in Kinmen County - with respect to the referendum concerning nuclear waste disposal. (COR p30, Response to COR p85 - 87).

In paragraph 3 of the Second Report on ICCPR, a new Regulation to comply with Article 21 of the Indigenous Peoples Basic Law (IPBL) mentions that the government will have to consult indigenous peoples with the aim of getting consent prior to any development activities.

Replied by LIMA Taiwan Indigenous Youth Working Group

6. First of all, in response to the government's replies to the List of Issues on the ICESCR Paragraphs 2 and 4, we believe that some of the information should be clarified so that we can have a sufficient understanding of the actual situation.

7. Regarding item 2 in the ICESCR List of Issues, the experts seem to believe that nuclear waste have been removed from the Orchid Island, but the actual fact is that the Taipower has yet to remove nuclear waste, and even renewed the lease for the land where the nuclear waste storage facility located on Orchid Island on April 17th, 2015. Although the government asserted in its official response that nuclear waste would be stored in a suitable location, though through referendum in accordance with the Indigenous Peoples Basic Law, the government is supposed to comply with the will of the Indigenous residents. But the facts are that the nuclear waste

improperly stored in Orchid Island have yet to be removed and the government has gone ahead with land renewal without consultation of the Indigenous residents.

8. Outside of Orchid Island, regarding the process of finding nuclear waste storage sites, other locations include Indigenous communities in Nan' Ao and Daren, and the government has not devoted sufficient energy to either publicizing information or consulting and communicating with Indigenous Peoples. On the other hand, in confronting criticism from local Indigenous Peoples, the government has unceasingly used different types of environmental assessments or offers of social benefits to trick or force Indigenous Peoples to accept their arrangements.

9. Furthermore, in the first item of the CW ICCPR Shadow Report, the question which raised was, the second National Report outlined the "Regulations of Consult and Acquirement of the Consent and Participation from the Indigenous Peoples and Communities" and drew up a regulation to legalize "Indigenous communities as public corporations" as part of Indigenous rights of self-determination. But in practice, for obtaining the consent of Indigenous Peoples, Indigenous Peoples can only go through a "Community Conference" to passively agree to the resolution of private or public sector projects, but are not allowed to participate in the planning, discussion, decision-making parts of the process.

10. We must solemnly declare that, whether the Indigenous People Basic Law, public referendum, public corporations, or community agreement mechanisms, these are all only methods to protect local Indigenous Peoples' right to self-determination. If the state cannot respect the Indigenous Peoples' right to self-determination from this point of view, regardless of the performance of various political processes at different levels, or the number of policy tools, these must concretely aim to protect Indigenous Peoples' basic rights and right to self-determination.

3. The Report also mentions that the IPBL Promotion Committee of the Executive Yuan has completed 68 revisions to laws, ordinances, administrative rules and projects. What mechanisms are being applied to further monitor the implementation of the Regulation, the positive revisions and development programs on indigenous territories?

Replied by LIMA Taiwan Indigenous Youth Working Group

11. First, we must respond to national reports claiming that amendments to 68 laws articles, ordinances, administrative rules, and projects have been completed. In the substantive revision of the content of these laws, the majority of these changes to the Indigenous Peoples Basic Laws are mostly in nouns, usage of language, or appellation, and there are no structural changes made to a law which fundamentally contradicts the principle of self-determination and autonomy of Indigenous Peoples. In other words, from a quantitative point of view, the state seems to have accommodated with the requirements of the Indigenous Peoples Basic Law, to improve the framework for protecting the rights of Indigenous Peoples. But we must point out that in reality, these changes are small changes made on paper only, from the legal norms to the behavior of the different departments of government who should be implementing the law, neither have actually put the Indigenous Peoples Basic Law into practice.

12. Secondly, the government's response is that the Executive Yuan's "Council for the Implementation of the Indigenous Peoples Basic Law" should be the government mechanism for implementing the Indigenous Peoples Basic Law, but there is no explanation for the process by which members of this council will be decided nor how Indigenous Peoples will be involved in the relevant mechanism. Consequently, is this acceptable for realizing the "right to self-determination" which should be the guiding spirit of implementing the Indigenous Peoples Basic Law? It is also disappointing that this council has only met three times in one year. How is this sufficient for addressing the complicated problems faced by Indigenous Peoples, or for having enough time for discussion or making decisions?

13. We hope that what members of the Review Committee can keep in mind is that, if the nation wishes to sincerely respond, much effort has already been put into promoting the Indigenous Peoples Basic Law, and there have already been positive results.

14. Then why in these past few years have there been continued development of traditional territories, retaining of land rent, shotgun control, and natural resource management issues? With controversy after controversy, discussion of these issues has not progressed.

15. To summarize, we believe that the nation should collect and analyze data to more concretely measure the effectiveness of the current Indigenous Peoples Basic Law, and propose urgent reform measures rather than merely responding on a case by case basis by the "Council for The Implementation of the Indigenous Peoples Basic Law".

4. What measures have been taken to ensure that indigenous peoples can fully participate in all stages of project planning and execution, including their representatives, measures that respect their traditional cultures and institutions?

Replied by LIMA Taiwan Indigenous Youth Working Group

16. Please refer to the reply to Paragraph 2.

5. Please provide information on the work of the Ping Pu Peoples Task Force and the response by the Executive Yuan to recognise the Ping Pu peoples. (ref COR p33, Response to COR p. 97 - 98).

Replied by the Nameless Indigenous

17. The Executive Yuan has announced the “Pin-Pu (plain) Indigenous Peoples” in addition to the lowland and highland Indigenous Peoples as the response to the Pin-Pu Indigenous Peoples’ long term demand for name restoration in October, 2016. However, the political right of the current “Pin-Pu (plain) Indigenous Peoples” status is not guaranteed in the Constitution, meaning that the members of this Peoples cannot run for the legislator election. The protection of their social and cultural rights is also uncertain. The Executive Yuan has neither proposed any plan for relevant law amendment, nor for status, ethnic group and community recognition and identification so far.

18. The Working Group on Pin-Pu Indigenous Affairs of the Council of Indigenous Peoples has submitted a “Letter of Intent on the Identification of the Pin-Pu Indigenous Peoples” to the Executive Yuan in 2015. In the Letter of Intent, it was stated clearly that the government shall recognize the Pin-Pu Peoples as Indigenous Peoples and the members of the Pin-Pu Peoples have the Indigenous status. However, with the Letter, it was also expressed that regarding the relevant rights pertaining to the Indigenous status should be restored gradually in accordance with different Pin-Pu Peoples/Nations’ actual social, economic, political and cultural conditions and differences.

19. The Members of the Working Group on Pin-Pu Indigenous Affairs of the Council of Indigenous Peoples coming from different Pin-Pu Indigenous Peoples/Nations. However, this Working Group is of advisory nature and not a permanent body. Therefore, it is not in an effective and efficient position to promote and push for the name restoring process for the Pin-Pu Indigenous Peoples. The representatives of the newly recognized “Pin-Pu Indigenous Peoples” should be

recruited in accordance with the provision of Article 4 of the Organization Act of the Council of Indigenous Peoples, in order to accelerate the process of Pin-Pu Indigenous Peoples' status, ethnic group and community recognition and identification.

Art. 2 (1) and 2 (2) – Achieving progressively the full realization of the rights recognized in the ICESCR, non-discrimination

7. Is there a comprehensive anti-discrimination legislation, covering all grounds of discrimination?

Replied by the Covenants Watch

20. There is not a comprehensive anti-discrimination act.

- (1) The need to have such an act should not depend on “a consensus among (governmental) agencies”.
- (2) The government has not taken any action in the preparation of such an act.
- (3) As for the Legislative Yuan, the only anti-discrimination law that is under serious consideration is an Act against discrimination based on racial and ethnic grounds.

21. Several acts touch upon discrimination on different grounds, noticeably on gender and employment. Indeed, according to the official “Laws and Regulations Database”, 37 acts or regulations contain the word discrimination. However, there exist significant pitfalls:

- (1) In these anti-discrimination Acts, not a single one contains a definition of the term “discrimination”. There is no description of the elements of behaviors or practices that constitute an act of discrimination.
- (2) The Acts prohibit discrimination on specific grounds. Some of them, such as the Indigenous Peoples Employment Rights Protection Act, enlist positive actions, however, these Acts do not uniformly enlist Equality Duties. As a result, there is no way of ascertaining government's obligation in taking positive actions to advance equality of opportunity or to foster good relations between people who share a protected characteristic and people who do not share it.
- (3) The coverage on anti-discrimination is fragmented. For example, regarding gender equality, the most significant laws were the Act of Gender Equality in Employment (2016) and Gender Equity Education Act (2013), but these Acts leave many aspects of social activities uncovered. For example, amid the struggle to revise

the Civil Act to legalize gay marriage, discriminatory comments, some amounting to outright hate speeches, against LGBT were rampant on social media, but these conducts were not unlawful because the limited and fragmented coverage of laws.

22. The government replied that “mechanism for mitigation of discrimination between people has been written in the Criminal Code”, however, the “mechanism” is restricted to the punishment of “public insult” (Article 309) and “offense of slander” (Article 310), both could be prosecuted only upon complaint. Thus, the Criminal Act is individual-based, and is inadequate in prohibiting various forms of “advocacy of national, racial or religious hatred that constitutes incitement to discriminations, hostility or violence” against groups.

Replied by the League for Persons with Disabilities, R.O.C.

23. In response to Paragraph 2 of the government replies: The People with Disabilities Rights Protection Act codified articles concerning penal provisions in cases of discrimination. However, the extent of the implementation of this act remains largely under-analysed. The state should provide statistics on cases of discrimination against people with disabilities, and specify how the provisions of the act are implemented.

Replied by the Taiwan Association for Disability Rights

24. In response to Paragraph 2 of the government replies: Although we have People with Disabilities Rights Protection Act, the penal provision part is hard to be implemented because The affairs／issues prescribed in this Act which relates to the commissions／duties of individual competent authorities in charge of specific business shall be handled by these competent authorities individually. And these discriminated competent authorities fine themselves.

25. For example, Article 16 of People with Disabilities Rights Protection Act, Any person who operates public places or facilities／installations, shall not prevent people with disabilities from fairly using and enjoying the facilities／installations, equipment, and rights only because of their disability. When attending to public exams, all public, private organizations (institutes), corporate, schools, and enterprises should provide multiple appropriate assistances, under the principle of fairness, to test-takers with disabilities to safeguard the exam opportunities for people with disabilities. Penal Provision is under Article 86, Anyone who violates the regulations of Paragraph 1 of Article 16 will be fined a sum no less than NT\$100,000 and no more than NT\$500,000. But the implementation has some kinds

of difficulties. That is, if Department of Transportation wanted to ask the Buses Companies to provide accessible buses, some of these buses companies complaint more costs and not many wheelchair bus takers and told government they would not come to bid the less profit route. Who is going to fine Department of Transportation lack of responsibilities to supervise or eliminate the discrimination.

Replied by LIMA Taiwan Indigenous Youth Working Group

26. The government stated that although there's no comprehensive anti-discrimination legislation, Taiwan has enacted a series of regulations, such as, Indigenous Peoples Employment Rights Protection Act, Employment Service Act, Act of Gender Equality in Employment...etc., to provide legal guidelines and protections, covering all grounds of discrimination.

27. However, these regulations are based on different courses and subjects to protect. For example, in the regards of relative regulations of the gender equality, if they don't consider the cultural perspective of gender equality, it could easily cause another form of discrimination, just like the prohibition of Burkini.

28. Moreover, in the Chapter of Offenses against Reputation and Credit in the Criminal Law, it still focuses on the invasion of individual rights. Therefore, if it's a hate speech against Indigenous Peoples as a group, there's no room to defend our right with the Criminal Law. Hence, there should be a comprehensive anti-discrimination legislation.

29. Since Taiwan has signed the ICERD, the government should follow the path of the implementation of the Two Covenant in Taiwan to adopt an act to implement the ICERD domestically and set out an actual time schedule of legislation. Therefore, the Indigenous Peoples will no longer suffer from the discrimination in any forms.

[The role of national human rights institutions \(CESCR General Comment no. 10\)](#)

8. [In the Concluding Observations and Recommendations Adopted by the Review Committee in 2013 \(COR, 2013, points 8-9\), the Committee recommended that a specific time frame be set for the establishment of an independent national human rights commission in accordance with the Paris Principles as a priority objective. In its Response, the Government reported a series of activities by the National Human Rights Institution Research and Planning Task Force and the designation of the Ministry of Justice \(Executive Yuan\) as the competent authority dealing with the matter. Further, the Control Yuan became actively involved in the development of the legal basis of a National Human Rights Commission. In view of the important](#)

potentials to be attached to such an independent national body for the promotion and protection of human rights, it will be appreciated to receive more specific information as to the overall priority given to this issue and the time frame set for that purpose.

Please provide information on the main contents of the draft Law, including the scope of the mandate, composition and power of the National Human Rights Commission to be established, and how it would satisfy the Paris Principles.

Replied by Covenants Watch

30. The progress of legislation regarding the NHRC:

(1) Following the review of the review of Initial State Reports in 2013, a National Human Rights Institution Research and Planning Task Force, composed of 5 members of the Presidential Office Human Rights Consultative Committee (POHRCC) was formed. The task force carried out several rounds of consultation and generated three versions of proposals to establish an NHRC in July 2014: (A) NHRC within the President's Office, (B) NHRC within the Executive Yuan, (C) a stand-alone NHRC not attached to any existing governmental branches.

(2) During President Ma's administration, no action was taken on the proposals.

(3) The Control Yuan sent in a separate proposal to the POHRCC, in Jan. 2016. In that proposal (D), the Control Yuan essentially claims itself to be the NHRC, and suggested that the commissioners of the Control Yuan (29 in total) also serve as commissioners of the NHRC at the same time.

i. In contrast, Legislator Koo (currently Director of the "Ill-gotten Party Assets Settlement Committee") proposed a bill (E) in which 11 commissioners of the Control Yuan are designated as full-time NHRC commissioners, and the structure of the Control Yuan (including the nomination and qualifications of the commissioners, as well as organization of the staff) is adjusted to fulfill requirement of the Paris Principles.

	Proposal (A) and (F),	Proposal (D)	Proposal (E)
	Presidential Office	Control Yuan (CY)	Control Yuan (CY)
Legal basis	New institution based on <u>legislation</u> ; Some questions legitimacy because ambiguity in the constitution regarding power of the Presidential Office	Constitutional body, <u>Existing</u> Control Act and “Organic Law of the Control Yuan”	Constitutional body, <u>Revised</u> Control Act and “Organic Law of the Control Yuan”
Mandate	Protection and promotion of HR	Primarily protection of HR, as extension of the ombudsman functions of the Control Yuan	Protection and promotion of HR
Composition	11-13 Commissioners; nominated by the President and approved by the Parliament	29 ombudsmen; nominated by the President and approved by the Parliament	11 commissioners; nominated by the President and approved by the Parliament
Members	1/3 (A) or 1/2 (F) from civil society	Qualification of members in “Organic Law of CY” unfavorable for pluralism	1/2 from civil society
Bridging international HR laws	High probability of examining domestic law against int’l standards	Conflict may exist between prosecuting officials by domestic laws and examining those laws against int’l standards	Specifically appointed commissioners and staff, re-training of staff to change institutional practice
Investigative Power	May be contestable under Presidential Office	Full (current CY power)	Full (current CY power)
Cooperation with legislation	High probability	Low probability with the current “Control Act”	“Control Act” has to be revised to enhance cooperation
Promotion of HR	High communication and educational capabilities	Not within the functions of current “Control Act”	“Control Act” has to be revised to accommodate

(4) Civil organizations coordinated by Covenants Watch sent in a proposal (F) to the Legislative Yuan (through Legislator Yu Mei-Nu) in November 2014 and again in June 2016, which has a similar structure to proposal (A) of the POHRCC.

31. Position of the Executive Branch:

(1) President Tsai’s promised during her election campaign to establish the NHRC, and VP Chen as Chairman of the POHRCC affirmed the intention, but no definite

step was taken.

(2) The government has not provided a time frame for establishing the NHRC.

32. Comparison on the three major versions of legislation:

(1) Three proposals are compared in the table below.

(2) The main limitation of the Control Yuan proposal (D) is that CY itself does not enjoy high reputation, and the "Control Act" is not compatible with the Paris Principles in many aspects.

(3) The main limitation of the Presidential Office proposal (A) is the constitutional ambiguity regarding the functions of that office.

Replied by Association for Taiwan Indigenous Peoples' Policies

33. From the draft proposal for the establishment of a Human Rights Council, which was announced by President Tsai Ing-Wen last year, it was announced that an "Independent National Human Rights Commission" would be established, and up until November, the DPP would frequently raise the Paris Principles in relation to it. However, at present, the responsible body for human rights in Taiwan is caught between the Human Rights Consultation Committee of the Presidential Office, and other government bodies (the Control Yuan's Human Rights Protection Committee, the Executive Yuan's Working Group for the Advancement of Human Rights, and affiliated working groups in the Examination Yuan and other ministries).

34. As written in the Constitution, the two human rights conventions, and the Indigenous Peoples Basic Law, the human rights of Indigenous Peoples are clear. However, the human rights of Indigenous Peoples in Taiwan at present continue to be encroached upon. What is even worse is that government agencies take the lead in trampling on Indigenous Peoples' rights. Therefore, there is an urgent need for government human rights institutions to live up to their proper responsibilities (concerning the human rights education, proposals for legal reform, and applying for complaints).

10. Please provide an overview regarding the plans and measures envisaged by the ROC, towards the attainment of the nationally-driven Sustainable Development Goals as well as the Paris Climate Agreement of 2015, in the context of their impact on the enjoyment on economic, social and cultural rights.

Replied by LIMA Taiwan Indigenous Youth Working Group

35. The Basic Law on Sustainable Development, submitted by the Environmental Protection Department of the Executive Yuan in April 2012, the Program for Sustainable Development Policy issued by the Council for Sustainable Development of the Executive Yuan in March 2016, and the National Climate Change Adaptation Policy Framework and Action Plan referred to in the national response outline ethnic inequality and the importance of respecting Indigenous Peoples' traditional wisdom. However, in the actual proceedings of government procedures, Indigenous Peoples are still largely disregarded, and the right of Indigenous Peoples to fully and effectively participate in decision-making is not protected. For example, the Executive Yuan's Sustainable Development Committee does not incorporate the Council of Indigenous Peoples into its governmental representatives and of 24 NGO representatives, only one is an Indigenous representative. The Environmental Protection Agency of the Executive Yuan also did not invite representatives of the Council of Indigenous Peoples to join the official delegation to the UN Climate Change Conference when inviting representatives of government ministries. Furthermore, the Council of Indigenous Peoples does not have dedicated personnel for sustainable development or climate change-related matters, but relevant personnel are scattered in different departments and are called together on an ad hoc basis.

36. From the standpoint of Indigenous Peoples, to respond accordingly to the need for sustainable development and to address climate change, one first must recognize the need to respect Indigenous custom and protection of natural resources. In other words, any development project or plan that will affect Indigenous Peoples must take into account Indigenous Peoples' free, prior and informed consent. More should be done to build a partnership with Indigenous Peoples on the basis of respect for the development of Indigenous Peoples' self-determination and to recognize and ensure the collective rights of Indigenous Peoples over land, natural resources and cultural traditions. However, the present policies are with the large-scale development of the energy technology. In fact, the seed exchange practice is proved to have contribution to protect the diversity of the ecosystem. Indigenous Peoples have long known that work needs to be done to accommodate to different ecosystems and practices, such as summer farming and winter hunting. In different environments, different means need to be used. It is already acknowledged internationally that Indigenous Peoples' responses to climate change are practical and effective. But in Taiwan, Indigenous Peoples' knowledge and practice are recognized as a cultural matter only, the contribution to climate change adaptation and mitigation is not recognized.

Art. 3, in conjunction with Art. 7 and Art. 10 – Equal rights of men and women, conditions of work, children's rights, domestic violence

11. Please provide information on government measures to eliminate horizontal and vertical job segregation by gender, as well as efforts to ensure not only 'equal pay for equal work' but also 'equal pay for work of equal value.'

Replied by the Mental Health Association Taiwan

37. The Government claims that there are "Act of Gender Equality in Employment, Employment Services Act, and People with Disabilities Rights Protection Act", to protect women's employment and economic rights. However, these laws without monitoring mechanism and measurements remain as a formality. Evidence shows that women's participation in formal economy is low. Family responsibility and childcare are still barriers for women to work. There are still high rates of pregnancy discrimination which leave many women without access to maternity leave and pay, and render laws designed to protect the health and wellbeing of pregnant workers ineffective. The gender pay gap across sectors/occupations remains unclear. The Government has limited itself to voluntary agreements with private industry which are clearly ineffective.

38. Recommendations:

- Introduce measures to promote all women's equal opportunities in employment and pay including investment in social infrastructure (education, care and health services) as this generates jobs for women.
- Introduce mandatory equal pay audits for all employers and measures to guarantee a living wage.
- The establishment of gender statistics for informal economy workers, including the demand for household and unpaid family caregivers, and the specific planning measures, in line with the resources they needed as well.

12. Considering women's career interruptions due to pregnancy and childbirth and their considerable negative effect upon women's occupational positions (ICESCR report, Tables 9~11), what are the government measures to counter the negative effects? While recognizing the information on the child care system (paras. 170-173), please

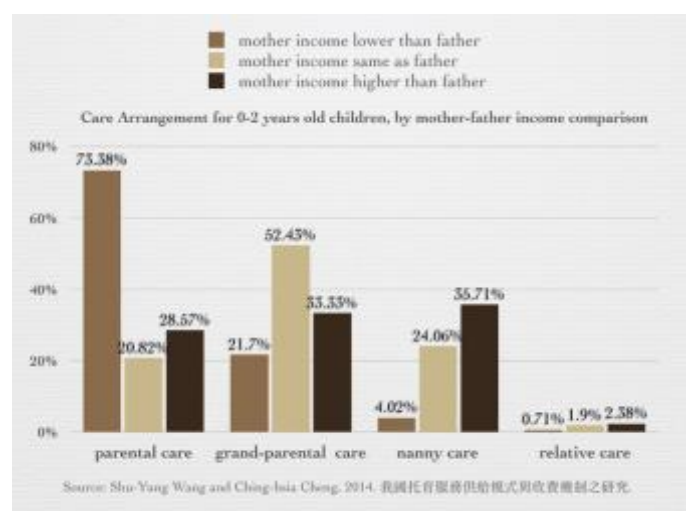
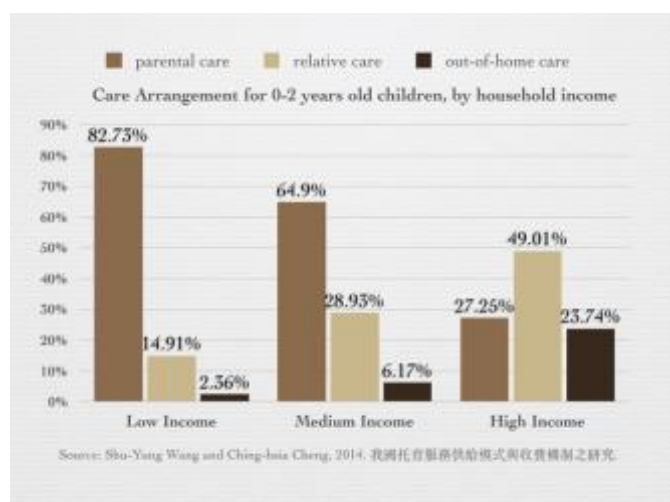
provide data on the number of children with childcare needs and their satisfaction rates for children up to age 5 for the past 10 years, including disaggregated by the disadvantaged groups of women such as women with disabilities, indigenous women and marriage immigrants.

Replied by the Awakening Foundation

39. Requested data not provided; provided data are flawed or misguided for readers to understand the issue considering women's career interruptions due to pregnancy and childbirth.

40. Please note that Table "The statistic of childcare services utilization for 0-2-year-old children" provided by government includes "the number of children cared by relatives with qualities of childcare providers." This is a policy implemented in 2012 that aimed to encourage relatives of children under 2 to take 126 hours training courses and then get about \$78 US dollar a month to take care of a child in the family.

The result of this policy is the increase of family care-takers and decrease of substantial public childcare service; most of the family care-takers are grandmothers, some of them retired early (with reduced pension), and some of them are too old and frail to take care of their grandchildren but have no choice because of lack of quality public childcare services. Briefly speaking, the government tries to shift childcare responsibilities from women of younger generation to women of older generation, instead of increasing quality public childcare services for 0-2-year old children. Women of disadvantaged groups may still suffer under such policy orientation. The data from a research done by Prof. Shu-yung Wang and Prof. Ching-hsia Cheng indicates that low-income households and



mothers have much less choices concerning care arrangement for 0-2 years old children.

41. Table “Number of 5-year-olds in Taiwan, and the percentage enrolled in a preschool program, 2012-2015” showed only enrolment rates for 5 years old, and it happened to be the highest enrolment rate in all age groups because government offer full tuition reimbursement for all 5-year-old children. The enrolment rates under 4 are overlooked; however, women with children under 4 are reported to be the most likely to leave from work to take care of their young children.

- **Enrolment Rates of 2 to 5 years old in 2015**

Age	5 years old	4 years old	3 years old	2 years old	Average
Enrolment Rates	94.62%	82.65%	46.82%	14.85%	57.18%

NOTE:

- (1) Raw data source: ‘Population by Single Year of Age’ from Ministry of Interior Affairs and ‘Number of Students Enrolled in Preschool Program’ from Ministry of Education.
- (2) Enrolment Rates = Number of Students aged X Enrolled in Preschool Program/Population of age X.

42. The government responds mentioned that “the Act of Gender Equality in Employment provides career assistance measures to women’s childbirth and raising their children, including 7 items such as maternity leave, miscarriage prevention leave, prenatal exam leave, paternity leave, childcare leave without pay, adjustment of working hours due to childcare, and family care leave,” and the law ensures that employer may not reject if workers request such leaves. However, the Awakening Foundation—the first feminist group founded in Taiwan after WWII and the introducer of “the Act of Gender Equality in Employment Bill”—has been receive many complains from workers with babies that the employer rejects their requests for parental leave and other leaves or poses threats if they make such requests. A rough survey done by Awakening Foundation in 2015 also showed that 48% of female workers personally faced or heard of such difficulties and 27% of their requests are rejected straightforwardly. And due to low union organization rate and poor government labor inspection in Taiwan, most of employer can get away from administrative sanctions safely.

Replied by the Indigenous Youth Front

43. According to the response provided in the ICESCR National Report, item 12, sub-item 13, the government has not yet gathered any statistical data on the care needs and the proportional care received by Indigenous children before the age of five. For the sake of more careful oversight over government policies aimed at social welfare for Indigenous women and children, to better the national welfare system for care statistics of Indigenous children, we ask the government to carefully measure the number of Indigenous children before the age of five who need care and the proportion which actually received care in the last ten years. This will facilitate the discussion on relevant policies in the future.

13. According to para. 158 of the report on ICESCR, more than 1,700 girls and boys under the age of 18 get married each year in Taiwan. What is the current situation of government efforts to raise the legal age for marriage?

Replied by the Awakening Foundation

44. The independent experts that reviewed the initial state reports on ICESCR and ICCPR in 2013 concluded that the age difference of the minimum age of marriage between men and women in the Civil Code to be discriminatory and in violation of various provisions of the ICCPR, CEDAW and the CRC, and therefore recommend that the law on the minimum age of marriage be amended. In June 2014, the CEDAW Review Committee came to the same conclusion and urged that the government submit draft amendments that set the minimum age for marriage at 18 for both men and women. But the Ministry of Justice never made any effort to make proposal of that draft for amendments of the minimum age during past years. Only passive and negative attitude the Ministry had in promoting such a regulation reform.

45. There were three drafts regarding that amendment discussed in the Judiciary and Organic Laws and Statutes Committee of the Legislative Yuan on 17 November 2016. But the Ministry of Justice indicated that if the Civil Code sets minimum engagement age at 17 and marriage age at 18 for both men and women, it will restrict the freedom of women, because the current minimum engagement age for women is 15, marriage age for women is 16. And the Ministry also expressed if the amendment will set at 18 both for men and women, there should be an exception clause in order to avoid hardness.

46. Article 989 of Civil Code prescribes that where a marriage is concluded contrary to the provision of Article 980 (marriage age), the party concerned or his statutory agent may apply to the court for its annulment; but such application may not be

made, where the party concerned has attained the age specified in the said article or where the woman has become pregnant. So, if men and women who get married below the minimum age of Article 980, the period of women who try to apply to court for marriage annulment will be shorter than men. Because the marriage age of women is only at 16, while men is at 18, women would attain the age specified in the said article earlier than men.

47. The Ministry of Justice even suggested the Legislators think the problems over, and still has no positive efforts to promote the amendment of the minimum marriage at 18 for both men and women equally, also do not put forward of any exception clause to eliminate the possible hardness the Ministry claimed.

14. [Is domestic violence punishable? If so, please provide information on the number of investigations and the punishment imposed.](#)

Replied by the Taiwan Coalition Against Violence

48. In Taiwan, domestic violence is recognized as criminal behavior. Although the violation of protection order is indictable without complaint, the main charges against domestic violence is injury, which is indictable only upon complaint. According to academic statistic in recent decade, the domestic violence cases reported in Taiwan were more than 480,000 in total, but only about 40,000 cases were resorted to Criminal Justice System and submitted to police, and near 20,000 persons were convicted and sentenced, accounting only for 4%. In consequence, the actual prosecution and conviction rate is low.

49. Take the determination of domestic violence cases executed by District Prosecutors Office in 2015 as an example. The number of people charged against domestic violence and violation of protection order was 3,535 in total, among whom 691, 1869 and 60 were sentenced to imprisonment for not more than 6 months, detention and fine respectively by courts, which made up 74% of total number of convicted criminals. Even those domestic violence cases are convicted and sentenced, most of them are often commuted to fines based on Article 41(1) of Criminal Law.

50. However, the domestic violence is deriving from the control-controlled relationship between offender and victim. The punishment imposed on offenders with fines can not only make it hard for offenders to mend their behavior but likely to pass on the fine burdens to the victim. Therefore, the government should make the charge against domestic violence and the violation of protection order more

enforceable as well as reinforce the conceptual education in offender treatment programs.

Articles 6 & 7 - Right to just and favourable conditions of work

15. With respect to assistances for indigenous peoples (para. 28 and 35, Second Report on ICESCR), what measures have been taken to empower indigenous peoples in secure livelihoods, maintain their traditional occupations apart from guaranteeing employment. Please provide disaggregated employment data on indigenous peoples, their wages and opportunity for promotion.

Replied by the Indigenous Youth Front

51. The Council of Indigenous Peoples released its “Investigation Report on the Economic Condition of Indigenous Peoples in Taiwan” in 2014, revealing that the unemployment rate for Indigenous Peoples dropped from 6.99% to 4.13% from 2010 to 2014, a decline of 2.86%. Likewise, the average income of Indigenous families rose from 497,000 NTD to 658,000 NTD, with a growth of 32.33%.

52. The “Investigation Report on the Economic Condition of the Indigenous Peoples in Taiwan” is released every four years, and at present, it is the only source of information on the average income of Indigenous families in Taiwan. National policy towards Indigenous economic and labor conditions entirely depend on this report to serve as the foundation for research and reform measures, so any data fluctuations or detailed changes must not fail to be taken into account.

53. What were the key factors discussed by the Council of Indigenous Peoples as the reasons for the significant decrease in the unemployment rate and increase in average annual family income of the Indigenous Peoples from 2010 to 2014? In the sampling method, what was used to determine 32.33% rise in average household income, was this connected to a rise in average salary for Indigenous persons? We request that the Council of Indigenous Peoples clearly outline the significant data changes and undertake a complete analysis and review of its data for the “Investigation Report on the Economic Condition of the Indigenous Peoples in Taiwan”.

16. With respect to post-disaster reconstruction, what measures have been and can be taken to ensure disaster prevention and relief, and to establish a climate change research focus on indigenous regions?

Replied by LIMA Taiwan Indigenous Youth Working Group

54. The government has recognized that it confronts the problem of climate change, a severe crisis in the present. In every country, disasters occur, and ethnic minorities are often the most severe victims of climate change.

55. However, regarding the Indigenous areas located in high risk and vulnerable environment, there is no systematic disaster respond mechanism designed specifically for different conditions. There are also no resources invested in specific research on Indigenous Peoples and climate change. As a result, when Indigenous Peoples face natural disasters, communication mechanisms are ineffective, there is a lack of emergency workers for disaster relief, and there are not disaster relief plans (tailored to the specificities of each area), which worsens the impacts posed by both natural and manmade disasters.

56. Not only do we lack adequate research and resources, but traditional territories are encroached upon by the outside world (through corporate development, the tourist industry, leading to Indigenous Peoples becoming especially endangered by natural disasters. Likewise, traditional knowledge for responding and reacting to disasters has gradually weakened. Consequently, before there are systematic improvements in disaster prevention and disaster relief in Indigenous areas, it must be kept in mind that Indigenous Peoples are often the ethnic group worst affected by natural disasters. For example, during Typhoon Soudelor in 2015, the Tayal communities in Wulai were the most severely affected groups in New Taipei City. Indigenous Peoples are disproportionately affected by manmade disasters, for example, in Wulai, many corporations enter the area and use "ghost" demographics to obtain private owned reserved lands of Indigenous persons for their own economic development plans. For a long period of time, Wulai has been under the development with market-oriented purpose (as in hot springs, public halls, hotels). And the New Taipei City government has focused heavily on tourist attraction and urban renewal in this area. This kind of policies have negatively affected local Indigenous Peoples' sustainable development and became a cause of manmade-natural disasters.

Article 11 – Right to Adequate Housing (General Comments No. 4 and 7)

26. Please furnish more information on steps taken by the Government to deal with the situation of people and communities in the country who are facing forced evictions. What steps has the government taken to bring in line its 'Urban Renewal Act' and the 'Land Expropriation Act' with international standards including General Comment No. 4 and the UN Basic Principles and Guidelines on Development based Displacement and Evictions.

Replied by the Taiwan Alliance of Anti-Forced Eviction

A. Urban Renewal

57. Currently, the institutional design of Urban Renewal Act is established upon a whole clearance approach. The so-called 'public interests' are expected to be carried out by the profit-oriented redevelopment scheme. Thus, the privatization of the public infrastructure has been subjected to public debate for the past decade while the Government did not seek for solving the long-existing problem but also disguise such demolition-based urban redevelopment scheme under the name of public interests. Such conduct has gravely violated the public trust.

58. Despite the government never conducted formal statistics on the evictees due to urban renewal. An alleged 13% homeowners (including landlords, owner-occupiers) reported evictions had been referred to the urban renewal schemes during 1998-2010. The real affected inhabitants are underestimated as the residents with no possession of the property have not been included.

59. In regard to the institutional design of compulsory development and forced eviction, there are two lines of major approach toward those homeowners and owner-occupiers who are reluctant to join. First, the land expropriation is inscribed in the Article 25-1 of Urban Renewal Act. It states that 'When using the method of joint construction agreement to implement urban renewal business if the implement is [...] over 80% of the private land area and private floor area of legal buildings, joint construction agreement can be carried out partially. [...] for those land and legal buildings which disagreed to participate in joint construction agreement, the rights transformation can be applied. Otherwise, implementers can also try to negotiate with owners and purchase the land or buildings by themselves. If they cannot reach a conclusion in price, the implementer can collect the conditions of joint construction, the price of bargain and record documents of negotiation. Then implementer can pay the price of expropriation compensation in advance and apply to competent authorities for purchasing the land and buildings after those have been expropriated.'

Besides, for those cases which are applied as the 'rights transfer area', the implementer can follow Article 36 to request the Government to demolish the homeowners' houses as it states '*... [T]he implementer can request the municipal, county (city) authority to do it on their behalves. The municipal, county (city) authority has the obligation to do the removing on behalf of the owners; The municipal, county (city) authority shall schedule the forced removal or relocation procedure which should not exceed six months. Under certain circumstances and with proper reasons, the period could be extended for another six months with central government approval whereas not exceed two times.*' In practice, both Article 25-1 and Article 36 are acting as an institutional threat for those homeowners who either disagree with the implementer or the project design, the method of redevelopment, are subject to the threats of either being expropriated or demolished by the 'implementer' who exercises power through the local government. Moreover, though the Urban Renewal Act has been denounced as legally unconstitutional for it did not fulfil the due procedure since April 2013. Nevertheless, as the subsequent Amendment did not address any of the ICESCR and the General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions. This unlawful Act has still been carried out as the legal basis until present.

60. In the case of inhabitants who lives in informal settlements, their 'right to housing' are arbitrated between floor area bonus and the profitability by the implementers (developers). The Government attempts to protect for these inhabitants' rights by accrediting the implementer a special floor area bonus to relocate the inhabitants. Nevertheless, as the new-build gentrification characterized as the common feature in the urban renewal projects in Taiwan, the socio-economic minorities are either reluctantly leave or carrying heavy housing loan to reside in the same place after renewal.

61. To amend the unconstitutional status of Urban Renewal Act, the Ministry of the Interior amended the Enforcement Rules for the Urban Renewal Act on April 2014. The following issues list as below:

- It claims to solve the issue of information openness; while it still sustains the lucrative business avoid the obligation of account audit.
- It claims to bring in the public hearing system before the urban renewal business plan. However, in practice, the public hearing system duplicates as the original format of public meetings. No access to relevant data beforehand. No agenda of debates set beforehand. No power of discretion is assigned to the public hearing. Besides, the meeting notice and the right to speak in relative planning reviews and such hearing process are only limited to those stakeholders who are property owners.

Replied by the Economic Democracy Union

B. Land Expropriation

62. The evaluation on public interest and necessity of land expropriation as the measure is lacking of clear legal standard and failed to curb the abusive practices of land expropriation. Especially in the cases of ‘zone expropriation’ whereas the Government exercises this problematic policy instrument in the name of fiscal austerity. For more details, please refer to No. 213 and 215 of the Shadow Report.

63. Currently, the public hearings of land expropriation projects lack of legal framework. In most of the public hearings, there were only reports partially conducted by the government, the opinions from the stakeholders are seldom adopted. Please refer to paragraph 216-(1) of the Shadow Report.

64. The existing public hearings of land expropriations lack of legal framework and fail to achieve genuine consultation. Besides, as the current regulation sets over-strict applicability, insofar there was only Taoyuan Aerotropolis Project had held such hearing. Please refer to paragraph 217-(2) of the Shadow Report.

65. In practice, the resettlement schemes under Article 34-1 of the Land Expropriation Act simplified the infringement of housing right as an issue of money compensation. It fails to protect the right to housing of the disadvantaged. Please refer to paragraph 215-(2) 、217-(2) 、217-(3) of the Shadow Report.

Replied by Guishan Self-help Association against Dahu Land Consolidation

C. Urban Land Consolidation

66. Like land expropriation and urban renewal, “urban land consolidation” is one of the important comprehensive development methods used in urban planning in Taiwan. Urban land consolidation is a process of rezoning used for “New Urban Development” or “Old Urban Renewal”, but fails to (1) comply with due process requirements, which was announced as unconstitutional by J.Y. Interpretation No. 739; (2) evaluate the necessity and public interests of rezoning; (3) establish adequate resettlement plans, all of which lead to forced eviction. For more details, please refer to No. 219-223 in the Shadow Report.

67. Residents of informal settlements are susceptible to forced eviction in the urban land consolidation or other comprehensive development methods used in urban planning. As it is mentioned in Q.28, the 'right to property' enjoys the primacy over 'the right to housing' in the existing civil code and administrative regulations and in court judgments, and the government has done nothing to protect residents of informal settlements from forced eviction. For more details, please refer to No. 226-228 in the Shadow Report and the response for Paragraph.28 from TAHR.

Replied by the Taoyuan Aerotropolis Anti-Eviction Alliance

68. In general, due to the flawed process, the hearings on land expropriation held by the government did not answer or resolve the questions on forced eviction; instead, the government claims the proceedings as an endorsement to the needs of development projects.

69. The flaws of three-day hearings on Taoyuan Aerotropolis case held from April 29th till May 1st include:

- (1) Lack of information disclosure-- More than a thousand pages of documents were not publicized until two weeks before the hearing;
- (2) Lack of expert witness-- The rejection of inviting the experts on transportation to help clarify points of dispute;
- (3) Insufficient time-- Limitation of time for the representatives of people affected;
- (4) Lack of responses-- The government could not provide evidences to answer the questions on their statistics and predictions, which are keys to the dispute.
- (5) Question of Impartiality – Credibility and impartiality of Chairpersons were questioned by the people since one of the Chairs publicly stated in a hearing proceeding that the governmental agency may not need to respond to the questions.

70. Due to all these significant flaws, the hearing failed to effectively assess the need of the Taoyuan Aerotropolis development project and was just used as a formality by the government to justify its wrongful policy.

71. Furthermore, the hearing has no effect on Taoyuan Aerotropolis project at all. The conclusions of hearing did not adopt any opinions, comments or evidences presented by the people affected by the project. Neither does the government modify the scale of the land expropriation as requested by the people. In short, the hearing has no function or effect on neither the planning nor the scale of Taoyuan

Aerotropolis Project. Up to date, the government still refuses to reconsider or review the Project.

72. The government claims that, by holding the hearing, it has fulfilled its obligation and thus “tried to avoid possible evictions”. However, the hearings on Taoyuan Aerotropolis Project prove that the issue of forced evictions are still unresolved because the government refuses to review the need of proposed scale of land expropriation even after hearing the affected people’s opinions presented in the proceedings. Despite the existing hearing procedures and the practice are flawed and ineffective, the government uses the hearings as an endorsement by the people to justify the “need” to cause the largest-scale forced evictions in the history of Taiwan. Without being “heard” in the hearing proceedings, the people conclude that the public participation in the hearing is meaningless.

Replied by the Environmental Jurists Association

73. Taoyuan Aerotropolis Development Project – The government uses Zone Expropriation System in the largest scale of land take, which is up to 3,155 acres. This particular system has been strongly criticized by the public, especially scholars in land use policy, who call for abolishment. One of the major reasons is the system allows the government to financially benefit from the sale of construction land once the project is proceeded. In this case, the government obtain total 721 acres of construction land, which is more than 1/5 of the land. In another word, the government takes the lands of houses and farms from people, turn the lands to construction lands then profits from the sales to pocket itself while the people depending on the lands for housing, working and living are forced to move to somewhere else. We seriously question the so-called “public interest” or the “need” were included in evaluation and consideration in the planning stage as claimed by the government. Meanwhile, we also challenge the government’s response that by holding public hearing, it “has tried to avoid possible evictions” since even after the hearings were held in the Taoyuan Aerotropolis Project, the government did not reconsider the scale of land take nor modify the design of project at all.

74. Another case is the Dan-Hai New Township Phase 2 development project in New Taipei City (hereby referred to as Dan-Hai Phase 2), which also does not meet the criteria of public interest or the need. Dan-Hai Phase 2 project also uses Zone Expropriation System to take more than 1000 acres of land and claims the new town would attract 170,000 people to move in. However, the previous development project, Dan-Hai New Township Phase 1 project, has finished and only attracted

20,000 people despite its original plan of 130,000 people. With so much vacancy remained in the Phase 1 project, we challenge that there any need or in public interest for the government to develop the phase 2 project? Not to mention that thousands of people currently residing in the land of proposed Phase 2 project will be forced to move away. It is definitely another case of forced eviction caused by the government's wrongful policy-making.

75. As for the hearing proceeding guidelines proposed by the Ministry of the Interior in November 2016, we are concerned the applicability of the guidelines on urban planning, urban renewal, wetland, coastal management, land expropriation and land rezoning, which have different administrative procedures and unique characteristics. One-size-fits-all hearing proceeding guidelines on all these different categories of land use will cause many problems in the future. We call for further review with meaningful public consultation on the design of hearing procedures to ensure people's rights.

27. What steps have been taken by the Government to have more accurate data on the number of homeless and street people in Taiwan. Has the government taken steps to improve access to adequate housing for the homeless and adequate services in the shelters including 'locker storage services'. Has the government been able to remove the obstructions blocking access by homeless people to housing resources promised in the 'Housing Act'.

Replied by the Working Poor Unite & Homeless Workshop of Graduate Institute for Social Transformation Studies

76. The government merely lists existing homeless services in the report, but not describes the quantity and quality. Homeless services are insufficient and unsuitable, for example, social housing rent for 60 percent of the market price, but it is still far higher than the average monthly income of homeless. The government is so evasive that the homeless services are ineffective.

77. The land of Taiwan is narrow and small, so the homeless people move around different cities, but the social policy which based on examination of household registration restricts homeless social services. The authority and responsibility are transferred from the central government to the local governments, which not only results tension between the local governments and homeless but also obstructs the homeless services. The central government should formulate the act for homeless and take over regulations of local governments.

28. Can the Government explain what is being done to overcome the primacy that the 'right to property' enjoys over 'the right to housing' in government policies, the existing civil code and administrative regulations and in court judgements. In para 217 of the Report, the government mentions steps taken on 'Social Housing'. The information provided by civil society organisations, however, indicates that for those in Taiwan who do not have property ownership rights or hold title accessing housing is beyond their financial capacity. What steps is the government taking to ensure that vulnerable people can have access to adequate housing.

Replied by the Taiwan Association for Human Rights

78. Except the covenants, there is no regulation guaranteeing the status of 'the right to housing', especially that against the right to property. As stated in our shadow report on government's response to the concluding observations (paras. 54-57), the courts have failed to interpret the covenants correctly to ensure the forcibly evicted security of tenure and claim for adequate alternative housing. Only after September this year, two judgments in Taipei and Taoyuan District Court respectively adopted the right to housing as a legitimate defense of the defendants against the plaintiffs' claims of property rights. This is a significant progress, yet far from solid, for the judgments may be overturned at the high courts under current mainstream opinions.

79. As for the government, it has not proposed any policy or legitimation to address this problem either. The only agenda the government set to alleviate the problem of housing is to build social housing, which in effect is of little if any help for the forcibly evicted due to its current insufficiency and unaffordable rent.

80. We strongly urge the government to implement the right to housing by four measures. First, amend related regulations to guarantee that evictions are carried out only under the most exceptional circumstances and have to be reasonable and proportionate. Second, to assure strong public participation and information disclosure in the process of land development. Third, fulfilling these two preconditions, compensations including the alternative housing should be adequate. Fourth, before proper amendments are made, stop evictions, especially of the informal settlements.

29. What steps have been taken by the Government to improve the housing and living conditions of the 47% of Taiwan's indigenous population that is now living in cities.

What steps is the government taking to respect 'tribal community residence' and 'tribal sovereignty' over urban and rural indigenous villages. What steps are being taken to ensure that these communities are not dispossessed due to the government use of policy tools such as 'resettlement subsidies' and 'illegal housing demolitions'.

Replied by the Indigenous Youth Front

81. In the CW ICESCR Shadow Report, items 19 through 24, state clearly that the situation of urban Indigenous Peoples needs to be considered. The government responses to the situation of the "Sanshia Indigenous Cultural Park" and "Shizou Amis Cultural Park" highly contrasts against the Shadow Report on the situation of the Sanying Community and the Shizou Community. We believe that the actual situation and the government response differs substantially.

82. In response to item 3 of the government response, the following points were made:

(1) Regarding issues of the urban Indigenous settlements should be the responsibility of the central government, but the central government has allowed local governments to carelessly handle matters, without taking oversight or carrying out necessary interventions, completely taking a passive attitude. Authorities guilty of such severe neglect include the Ministry of the Interior, and the Council of Indigenous Peoples.

(2) Besides Sanying Community and Shizou Community, another case which has been discussed for the recent three years is that the Ljavek urban Indigenous Community, which has been set up in Kaohsiung City for over sixty years. It has been confronted with city planning in Kaohsiung and thus faced the issue of force relocation in recent years. From the beginning, the city government has treated the community as illegal occupants and did not take into account for their considerations when developing the city renewal plans. It was only until the city government requested the community to begin demolition that members of the Ljavek Community were informed of the city planning, without any opportunity to participate in planning at all. Protest by the members of the Ljavek Community led to attention from society to the issue, leading to a postponement of the demolition, and a research into plans for a settlement program. Although Kaohsiung City Government seemed to take a light hand, in reality it totally disregarded social demands, raising a settlement plan only to scatter residents. With the current settlement program proposed by the Kaohsiung City Government, there will be two residential areas set up, but lacking of public interaction spaces and spaces for ceremonial rites. This would disrupt the community's ways of passing down cultural

knowledge and its mutual aid system to collapse (for further reading, please read items 21 and 22 of the CW ICESCR Shadow Report).

83. In response to item 4 of the government response, the following points were made:

(1) Concerning the current notion of social residences, this is founded on the notion of individual subsidies, and this still doesn't take care of the Indigenous persons reside in non-Indigenous areas, with regard to providing spaces for cultural activities, and mutual care systems, and etc. As such, no matter if there is priority given to the Indigenous applicants to increase the proportion, this hasn't settled the above-mentioned problems, and the response of the public sector indicates that they continue to fail to realize the critical points.

(2) At present, legislators have already proposed discussing whether the Residential Law should be amended so that the needs of urban Indigenous Peoples can be taken into account in urban planning. But several times in discussions about amending the law, the public sector and many non-Indigenous legislators cannot understand the "Right to Adequate Housing" includes meeting not only material needs, but also social, cultural, and community needs.

Art. 12 – Right to physical and mental health (CESCR General Comment no. 14)

31. The amended Rare Diseases and Orphan Drugs Act of 2015 has detailed measures of prevention, screening, and study of rare diseases. What is being done beyond identifying the problems encountered? To what extent have increased subsidies to home medical treatments been successful? Please give disaggregated figures on an annual basis.

Replied by the Taiwan Foundation for Rare Disorder

84. The government has had amended The Rare Disease and Orphan Drug Act on January 14, 2015, promulgated the Regulation of Rewards and Subsidization on the Prevention of Rare Diseases on June 6, 2016, and The Regulation of Rare Diseases and Rare Genetic Defects Care Services on September 2, 2016. However, no concrete results have been seen yet. The impacts and the results of these regulations remain to be observed if they will meet the expectations.

85. The government had promulgated The Rare Disease and Orphan Drug Act in 2000. At that time, once the drugs are recognized as orphan drugs even they don't

have drug licenses, patients can import and obtain the unapproved drugs to ensure that they receive treatments in time. The fee of these orphan drugs is all covered by the NHI system.

86. However, when the 2nd Generation of NHI system was implemented in 2013, the situation is different. Once an orphan drug is recognized, the Ministry of Health will notify the pharmaceutical companies to apply for the reimbursement by NHI system. But it is possible that the reimbursement will be denied. Soliris, which is used for treating Atypical Hemolytic Uremic Syndrome. Even though it was recognized as an orphan drug, reimbursement by the NHI system was denied in 2014. It has subsequently affected patients receiving the following treatments.

32. In para. 242 of the Report, the difference between life expectancy at birth in the most affluent townships/city/county is stated as 85.3 years, as against only 62.5 years in the least affluent areas. What concrete health promotion steps has the Ministry of Health taken, beyond cooperation and consultation between different departments and authorities, and what results have been reached?

Replied by the Indigenous Youth Front

87. The Ministry of Health and Welfare in January of 2016 released its 2025 Health and Welfare White Paper, abolishing the 2020 Health and Welfare White Paper's Indigenous Chapter. With the 2025 Health and Welfare White Paper, Indigenous health and welfare policies are treated as same situation as the policies for non-Indigenous citizens, ignoring Article 24 of the Indigenous Peoples Basic Law which states that, "The Government should, in accordance with the characteristics of the Indigenous Peoples, establish Indigenous public health and medical policies". The economic, economic and historical backgrounds and conditions of Indigenous Peoples should be taken into account to develop specific health and welfare policies. However, the government has long been neglecting the Indigenous Peoples is of specific nature with specific needs.

88. According to the information released by the Ministry of the Interior, in 2015, the average life expectancy of Indigenous Peoples is 71.86 while the national average life expectancy of citizens is 80.2 years. There is a difference of nearly 9 years. At present, Taiwan's Indigenous Peoples are clearly facing the problem of unequal health condition, but the government has generalized Indigenous Peoples' health issues and needs, and put forward health prevention and health policy which is too superficial, without any consideration of that Indigenous Peoples faces inequalities in politics,

economics, and other aspects of the system as a result of colonialism. (For example, the distortion of wine culture into alcoholic culture, the health impact of nuclear waste on the Indigenous residents on Orchid Island, and differences of age qualification of long-term healthcare applications for mountain/plains Indigenous Peoples and, etc.)

89. Up to now, the Ministry of Health and Welfare has just barely responded in writing to criticisms of its 2025 White Paper by Indigenous society, we request that before the 2025 Health and Welfare White Paper is agreed to, the Ministry of Health and Welfare shall invite Indigenous representatives and specialists who are experts in Indigenous health to form a working group, to develop an Indigenous Chapter to be included in the White Paper, and propose constructive policy as such.

90. In addition, the statistics released by the Ministry of the Interior for the main cause of death of citizens (including number of deaths and mortality) have already been updated for 2014. But the Council of Indigenous Peoples' statistics are still stuck in 2012. The ranking of death causes is very important for the future development of Indigenous medical and health research and policy. Therefore, we request the Council of Indigenous Peoples to make more effective and efficient improvements in updating such statistical data.

34. In paras.246 and 247 of the Report, the Ministry of Health refers to the drafting in 2015 of a White Paper on mental health promotion covering future courses for mental health policies and infrastructures in the next 10 years. Has this drafting been concluded, and what implementation steps have been taken in that respect?

Replied by the League for Persons with Disabilities, R.O.C.

91. The State should publicly announce the White Paper on mental health policy and budgeting, in accordance with President Tsai's election platform.

Replied to the Indigenous Youth Front

92. The 2015 "Mental Health Promotion Policy White Paper" has been completed, but not yet posted on the internet, and the public has no way to know about the future mental health policy plans or whether these policy plans are appropriate for Indigenous Peoples' needs.

93. However, in January 2015, the Ministry of Health and Welfare released its 2025 Health and Welfare White paper. Within its contents, it is only mentioned in the second section of the first chapter that it is necessary to "Promote and strengthen mental health care for different ethnic groups", raising the need to "Strengthen mental health care for people with disabilities, Indigenous Peoples and immigrant residents, to explore the causes of mental health problems, to develop mental health teaching materials, and to promote the development of suitable mental health programs." It is also stated that "mental health suited for different lifespans, environments, ethnic groups, and sexuality (including sexual minorities) should be the long-term goal aimed for 2025." There is no discussion of whether future national mental health policy would include an Indigenous perspective and would be culturally sensitive.

94. In fact, for a long time, mental health care education has not allowed students to understand Indigenous history, culture, and ethnic particularities, as well as their relationship with the society at large. As a result, mental health care specialists lack cultural sensitivity, consequently, this affects the promotion of mental health care among Indigenous Peoples. We believe that the government shall develop relevant policies to effectively address this problem.

35. Please give more detailed information and data on the Government's educational efforts as regards LGBTI human rights, transcending the focus on HIV/AIDS. What concrete steps have been taken to enhance awareness and acceptability of medical and education personnel in their professional education and provision of medical assistance to LGBTI persons, in particular what steps are being taken to provide LGBTI-friendly environments in medical health facilities (such as guaranteeing privacy, acceptable rest rooms, and acceptable recording of medical records)?

Replied by the Taiwan Tongzhi (LGBT) Hotline Association

95. The information provided by Taiwan government is mostly the current regulations, and the statistics cannot show whether LGBTI human rights are improved to what extent. The statistics cannot present the difference among sexual orientation, gender identity and gender expression either.

96. Regarding the LGBTI education for medical and education personnel, Taiwan government neither provides the content or guidelines of gender education nor specifies whether it includes LGBTI related information. Therefore, whether the content of the education for medical and education personnel contains the right

LGBTI information is unknown. Furthermore, the anti-LGBTI group recently requests not to provide LGBTI related education on campus and this further creates concern whether and how Taiwan government will provide LGBTI related education for medical and education personnel.

97. For LGBTI-friendly environments in medical health facilities, LGBTI people are still faced with heterosexual-centric environment. For example, based on the current medical regulation, the partner of the LGBTI couple may make certain medical decisions. However, whenever there are relatives with different opinions, the partner's decision may not be honored by medical staffs.

36. Please provide information on the contents and number of hours of education on the right to sexual and reproductive health currently offered at different levels of schools (elementary, secondary and tertiary), and also for adolescents outside of the school system.

Replied by the Taiwan Gender Equity Education Association

98. The courses of sex education in Taiwan, though involving with some social and cultural aspects of sex, still emphasizes the physiological knowledge of sex, the topic of pregnancy prevention, the control and prevention on sexually transmitted diseases and AIDS etc. The topics of sex/body/intimate relations in this domain are narrated with a rather passive and negative attitude, such as "sex will cause the risk of disease or pregnancy;" or "women are the victims in sex." The tone and attitude reinforce the previous dogma and ideology on the female body and sexuality. The content, teaching materials and methods of the orthodox sex education in general lack the positive and progressive view on the body as the subject of gender and does not value affections in sex education. The conservative religious groups promote the notion of preserving virginity, as the saying illustrates: "True love is worth waiting for." The propagation of this concept is not only seen in textbooks but also widely disperses into primary and high schools by the provision of free teaching resources and materials in series of editions that systematically and vigorously propose chastity based upon abstinence education. In view of the campus of elementary and middle schools in Taiwan, cases of unexpected pregnancy among young girls continue to appear unabatedly. Virginity education may well create the sense of guilt and social pressure for pregnant female students, hinders them from effectively seeking resources to resolve their problems, and thus indirectly harms the health of young girls. At the same time, school staff and faculty may also be influenced by these moral admonitions to suppress sensuality. When they encounter the young girls with unexpected pregnancy on campus, the strategy that they adopt to tackle

the problem may not only damage the self-esteem of the students, but often deprive the right of the students to receive education (for example, if the pregnant student is advised to withdraw from school). The school courses mainly presume on heterosexuality. The textbooks go with nary a word to LGBT. This bias not only ignores the exploration of female adolescent body and sensuality but also dismisses the intimacy of alternative sexual orientations. The curricula and textbooks that take women as the subject often illustrate the knowledge about pregnancy and delivery so that female bodies are implicitly positioned as the instruments of procreation for future generations or for carrying on the family name. This assumption hardly serves to establish the autonomy for adolescent girls.

Article 13 – Right to education

37. Both the initial and second report, only report about student dropout rates showing which population groups are affected, and describe government policies regarding reduction of dropout rates. Please provide detailed specific information beyond just statistics, regarding the factors that cause these dropouts, and include the actual effects of measures undertaken by government to address the issues relating to student dropouts, if any. In addition, please discuss the consistently wide disparities between the enrolment rates in tertiary level education of male and female students with disabilities, as shown in Table 73 of the second report.

Replied by the League for Persons with Disabilities, R.O.C.

99. In response to Paragraph 1 of the government replies: The State has not provided enrolment and dropout rates, as well as the disparities between the enrolment rates of male and female students with disabilities. The State should analyse educational challenges female citizens with disabilities face. A survey report released in 2011 on the living conditions and demands of people with disabilities shows that 26.43% of women with disabilities are illiterate, and above secondary school level, the rate of educational attainment for females with disabilities is far less than male with disabilities.

Table: Educational Attainment Rate of People with Disabilities

	Total Number	% of Persons of 6 yrs or older who are illiterate	Elementary	Junior High School	High School	Under-graduate	Post-Graduate
Total	1,085,001	15.51%	29.34%	18.71%	22.28%	10.01%	1.12%
Male	621,028	7.35%	29.02%	21.24%	25.49%	12.57%	1.42%

Female	463,957	26.43%	29.77%	15.33%	17.99%	6.58%	0.72%
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Source: Report on Physically and Mentally Disabled Citizens Living and Demand Assessment Survey, Taiwan (R.O.C), 2011

100. In response to Paragraph 2 of the government replies: State's response ignores social, institutional and cultural factors for the disparate enrolment of students with disabilities. For example, in the University Admission Guide, some universities specify that students with hearing impairments should "think discreetly before applying". This acts as a restriction on their rights to education. In addition, the Ministry of Education defended these notices or rules as within a purview of "university autonomy". The State should monitor and correct measures which discriminate against students with disabilities, as well as urge and assist the improvement of access and services for all students.

Article 15 – Right to participate in cultural life (CESCR General Comment no. 21)

38. Please provide information beyond statistics and other numerical modalities, on the actual effects in practice of government programs and policies outlined in both the initial and second reports, and how the implementation of such programs and policies, are consistent with the standards of Article 15 of the Covenant, in conjunction with General Comment numbers 20 and 21 of the CESCR, on non-discrimination and the right to take part in cultural life, respectively.

Replied by the League for Persons with Disabilities, R.O.C.

101. In accordance with the requirements of General Comment Number 21 of the CESCR, the State's response lacks a general view with regards to improving accessibility to cultural life for people with disabilities, such as access to cultural materials (e.g. digital books and materials), access to places where cultural performances or services are offered (e.g. cinema, theater, and museums in general) as well as recognition of culture of the deaf.

Replied by the Indigenous Youth Front

102. From the government response, we see a very severe problem, which is that the government misconstrues the importance of participation in cultural activities, as lying not merely in the formal appearance of participation, but in the right to fully and genuine participate in community culture.

103. As mentioned in the CW ICESCR Shadow Report paragraph 56 to 59, the nation's worldview remains founded in the ideological structure of the Han-Chinese culture, including national holidays as completely founded upon the needs of the Han ethnic group. The right of other ethnic groups to participate in cultural activities has yet to be taken care of.

104. Therefore, culture isn't simply an activity only, culture is the accumulation of the ways of life of different communities. Consequently, protecting the right to full participation in cultural activities isn't the only responsibility of the Ministry of Culture, and isn't something that raising funds and providing subsidies is sufficient for.

[1] Dated September 2012

[2] UN Doc. E/1991/23. General Comment No. 3: The nature of States parties obligations (art. 2, para. 1, of the ICESCR) para. 14.

[3] See Greenpeace report dated April 2016 titled "Made in Taiwan, Government Failure and Illegal, abusive and Criminal Fisheries"