

公民與政治權利國際公約 經濟社會文化權利國際公約  
 中華民國第三次國家報告國際審查會議  
 92點結論性意見與建議各點次權責機關表 (922會議紀錄版)

會議時間：111年9月22日

點次	結論性意見與建議	主辦機關	協辦機關	備註
<b>壹、緒論</b>				
<b>聯合國核心人權公約</b>				
<b>15</b>	<p>In this spirit, the Review Committee again wishes to encourage the Government to accelerate its efforts to also accept the remaining three core human rights treaties: the Convention against Torture including its Optional Protocol (CAT, OPCAT), the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (CMW) and the Convention for the Protection of all Persons from Enforced Disappearance (CED). This will ensure full coverage of the core international human rights framework.</p> <p>本著此一精神，審查委員會再次鼓勵政府加快腳步，致力促成接受其餘3部核心人權公約：禁止酷刑及其他殘忍不人道或有辱人格之待遇或處罰公約(以下簡稱禁止酷刑公約)及其任擇議定書、保護所有移徙工人及其家庭成員權利國際公約與保護所有人免遭強迫失蹤國際公約(以下簡稱免遭強迫失蹤公約)。此將確保全面涵蓋核心國際人權的架構。</p>	內政部、 勞動部、 法務部		
<b>16</b>	<p>With regard to the two Covenants, the Review Committee wishes to commend the ongoing efforts of the Executive Yuan, the Legislative Yuan, the Judicial Yuan and the Control Yuan to bring domestic law into compliance with the respective rights and obligations. However, the Committee notes the importance of greater clarity about the status of the Covenants to the extent that there are conflicts with either pre-existing or subsequent legislation. It stresses the priority that should be given to the Covenants as the two most important human rights treaties of the United Nations. The Committee reiterates its recommendation that the Covenants be deemed part of the Constitution of Taiwan. It further encourages</p>	司法院、 法務部	各機關	

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	<p>the Government to strengthen the process of domestic implementation of the Covenants and the other core UN human rights treaties.</p> <p>關於兩公約，審查委員會讚揚行政院、立法院、司法院及監察院為使國內法符合兩公約中各該權利及義務所做的持續努力。然而，委員會注意到，在既有或嗣後制定的法規與兩公約有所衝突的情形下，則必須進一步明確化兩公約的地位。審查委員會強調，兩公約作為聯合國最重要的兩部人權公約，應被優先考慮。委員會重申其建議，兩公約應被視為中華民國（臺灣）憲法的一部分。委員會並進一步鼓勵政府強化兩公約及其他聯合國核心人權公約在國內適用的進程。</p>			
17	<p>In addition to the core UN human rights treaties, Taiwan should also consider the ratification of other universal human rights treaties, such as the 1951 Convention on the Status of Refugees and its Protocol. The Committee also recommends that Taiwan recognise the jurisdiction of the International Criminal Court by making a declaration in accordance with article 12(3) of the Rome Statute of the International Criminal Court that applies retroactively to 1 July 2002 and that is without temporal limit for the future.</p> <p>除聯合國核心人權公約外，中華民國（臺灣）還應考慮批准其他具普遍性之人權公約，如 1951 年關於難民地位公約及其議定書。委員會還建議中華民國（臺灣）根據國際刑事法院羅馬規約第 12 條第 3 款發表聲明，以承認國際刑事法院的管轄權，該聲明可追溯至 2002 年 7 月 1 日，而且對未來沒有時效限制。</p>	行政院人權處	司法院、法務部、內政部、外交部、各相關機關	
<b>國家人權行動計畫</b>				
18	<p>The Review Committee commends the Government for the adoption of the first National Human Rights Action Plan from 2022 to 2024, providing guidelines and proposing specific goals and actions to implement the human rights obligations under the two Covenants and previous recommendations of the Review Committee. Some of the human rights concerns highlighted in the previous Concluding Observations and Recommendations are taken into consideration in the National Action Plan, including a commitment to strengthen the human rights</p>	行政院人權處		

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	<p>protection system, human rights education, equality and non-discrimination, the right to life, housing justice, and refugee rights protection.</p> <p>審查委員會讚揚政府通過了第一個 2022 年至 2024 年國家人權行動計畫，就履行兩公約規定的人權義務及審查委員會之前的建議提供指導方針，並提出具體目標及行動。國家人權行動計畫中考慮到了之前的結論性意見與建議中強調的一些人權問題，包括承諾強化人權保障體制、人權教育、平等與不歧視、生命權、居住正義及難民權利保障。</p>			
19	<p>While commending the Government for adopting the National Action Plan on 1 May 2022, the Committee is concerned about information it received that consultations were not adequate, and in particular, that there was not enough representation of human rights NGOs or of various disadvantaged and marginalised social groups. The Committee is also concerned that the section on implementation, monitoring and evaluation of the Plan is only aspirational and not concrete.</p> <p>委員會讚揚政府於 2022 年 5 月 5 日<sup>1</sup>通過了國家人權行動計畫，但審查委員會所收到的資訊顯示制定過程之協商程序並不充分，審查委員會對此感到關切，特別是人權非政府組織或各種處境不利及被邊緣化的社會群體，並沒有足夠的代表。委員會還關切的是，關於國家人權行動計畫的執行、監督及評估部分，只是一種願景，並不具體。</p>	行政院人權處		
20	<p>The Committee recommends that the consultation process for future National Action Plans be inclusive, transparent and participatory for all sectors of society, including in particular human rights NGOs and disadvantaged and marginalised groups. The Committee also recommends that the Government adopt a concrete annual plan to implement, monitor and evaluate the National Action Plan, with the full and equal participation of civil society.</p>	行政院人權處		

<sup>1</sup> 英文版為 2022 年 5 月 1 日政府通過國家人權行動計畫，惟實際情形係 2022 年 5 月 5 日通過，故中文版初稿依實際情形修正內容。

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	委員會建議未來國家人權行動計畫的磋商過程應具有包容性、透明性及社會各界的參與性，特別是包括人權非政府組織以及處境不利、邊緣化群體。委員會還建議政府通過一項具體的年度計畫，在公民社會的充分及平等參與下，執行、監督及評估國家人權行動計畫。			
<b>發展合作</b>				
22	<p>While congratulating Taiwan for progressing from a recipient country to a donor country in a short period of time, the Review Committee is concerned that Taiwanese Official Development Assistance (ODA) is below the internationally committed level of 0.7% of gross national income.</p> <p>審查委員會祝賀中華民國(臺灣)在短時間內從一個受援國發展成為一個援助國，但對中華民國(臺灣)的政府開發協助(ODA)低於國際承諾的國民所得毛額0.7%的水準，表示關切。</p>	外交部	各相關機關	
23	<p>The Review Committee recommends that the Government develop an annual plan to increase its ODA to meet the international commitment. The Committee also recommends that human rights impact assessments be conducted more systematically before ODA is granted.</p> <p>審查委員會建議政府制定一項年度計畫，增加政府開發協助，以履行國際承諾。委員會還建議，在提供政府開發協助之前，應更系統地進行人權影響評估。</p>	外交部	各相關機關	
<b>企業與人權</b>				
24	<p>While welcoming the adoption of the National Action Plan on Business and Human Rights, the Review Committee is concerned that there is no legislation that requires business entities to abide by international human rights standards. In addition, despite the Regulations Governing the Management of Corporate Foreign Investments, in the case of massive water pollution in 2016 in Central Vietnam by Formosa Ha Tinh Steel Corporation, the Vietnamese victims are still not compensated at all.</p> <p>當熱切迎接企業與人權國家行動計畫之際，審查委員對於並未立法要求企業實體遵守國際人權標準表示關切。此外，儘管有公司國外投資處理辦法，但於2016年台塑河靜鋼鐵公司在越南</p>	經濟部	行政院性平處、法務部、勞動部、環保署	

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	中部的的大規模水污染事件中，越南受害者仍然沒有得到任何賠償。			
25	<p>The Review Committee recommends that the Government enact legislation which regulates the activities of all business companies, operating at home and abroad, as well as foreign businesses in Taiwan, abide by human rights obligations throughout their supply chains, including redress and remedies. The Committee recommends that the Government undertake wide, open and participatory consultations with all stakeholders including civil society and human rights and environmental NGOs in this process of developing and adopting legislation on business and human rights. The Committee also recommends that the Government immediately establish a national contact point and make it accessible to all victims whose rights have been violated by Taiwanese businesses operating at home and abroad, as well as foreign businesses in Taiwan. The Committee further recommends that the Government seek ways to ensure that the victims of violations by Formosa Ha Tinh Steel Corporation are adequately compensated.</p> <p>審查委員會建議政府制定法律，規範所有在國內外經營的企業以及在中華民國(臺灣)的外國企業活動，在整個供應鏈中遵守人權義務，包括糾正及補救措施。委員會建議政府在制定及通過企業與人權立法的過程中，與所有利害關係人，包括公民社會、人權及環境非政府組織進行廣泛、公開與參與性的磋商。委員會還建議政府立即建立一個國家聯絡處，以使權利受到在國內外經營的臺灣企業以及在臺灣的外國企業侵害的受害者均可自該聯絡處獲取協助。委員會還建議政府尋求辦法，確保台塑河靜鋼鐵公司侵害行為的受害者得到充分賠償。</p>	經濟部、金管會	外交部、國發會、司法院、法務部、環保署	
<b>平等與不歧視</b>				
26	There does not seem to have been much progress on the enactment of a comprehensive anti-discrimination law since the previous review, nor is there evidence of a draft law. There has not been consultation with NGOs	行政院人權處	各相關機關	

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	<p>but hearings on the law are being held. Current anti-discrimination provisions can be found scattered through laws on employment, gender equality and disability. The Government has not made efforts to harmonise or coordinate how different sectors deal with discrimination. In addition, the current provisions do not impose strong obligations on the Government and the private sector, fail to demand positive measures and are lacking remedial procedures.</p> <p>自上次審查以來，在頒布綜合性反歧視法方面似乎沒有什麼進展，也沒有證據表明有法律草案。雖然政府沒有與非政府組織進行協商，但正在舉行關於該法律的公聽會。目前的反歧視條款散見於關於就業、性別平等及身心障礙的法律中。政府沒有努力統一或協調不同部門處理歧視的方式。此外，目前的規定沒有對政府及私部門施加強而有力的義務，亦沒有要求採取積極的措施，且缺乏救濟程序。</p>			
27	<p>The Review Committee is also concerned that administrative agencies and judges often do not have an adequate understanding of various forms of discrimination and the approaches for their elimination.</p> <p>審查委員會還感到關切的是，行政機關及法官往往對各種形式的歧視以及消除歧視的方法沒有充分的瞭解。</p>	<p>行政院人權處、司法院、法務部、各公約主管機關（行政院性平處、法務部、衛福部、內政部）</p>	<p>人事總處、保訓會、各相關機關</p>	
28	<p>The Review Committee is concerned that the existing legislation on equality does not cover all social groups who are victims of discrimination in their enjoyment of economic, social and cultural rights, including married immigrants, migrant workers, HIV/AIDS-infected persons and intersex persons. Although LGBTI persons enjoy some protection from the Gender Equity Education Act and the Gender Equality Employment Act in schools and workplaces, these are not applied in other contexts. The Committee expresses its concern that anti-discrimination clauses are still scattered in several acts, and that there is no comprehensive anti-discrimination legislation covering all grounds of discrimination in all contexts.</p>	<p>行政院人權處</p>		

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	<p>審查委員會感到關切的是，現有有關平等的立法沒有涵蓋所有在享有經濟、社會及文化權利方面受到歧視的社會群體，包括已婚移民、移徙工人、愛滋病毒/愛滋病感染者以及雙性人。雖然女同性戀者、男同性戀者、雙性戀者、跨性別者及雙性人在學校及工作場所享有性別平等教育法及性別工作平等法的一些保護，但這些保護不適用於其他情形。委員會表示關切的是，反歧視條款仍然散見於若干法案中，而且沒有可涵蓋所有歧視的綜合性反歧視法。</p>			
29	<p>The Review Committee recommends the enactment of a comprehensive anti-discrimination law without further delay and within a definite timeline. The law should bind both private and public sectors and private individuals. There should be a clear definition that includes direct and indirect discrimination and imposes the implementation of positive measures to eliminate neutrality in the law that may have the effect of discriminating against disadvantaged groups, including women. The anti-discrimination law must also further address dimensions of gender equality and provide the mandate for positive measures for gender mainstreaming and gender budgeting. In parallel, the Government should take steps to ensure that there is capacity building of all agencies to have an adequate understanding of direct and indirect discrimination according to the interpretation of the relevant treaty bodies.</p> <p>審查委員會建議不再拖延，在明確的時限內頒布一部綜合性反歧視法。該法應對私部門與公部門以及個人都有約束力。應有一個包括直接及間接歧視的明確定義，並規定實施積極措施，消除表面上中立，但可能對包括婦女在內的處境不利群體造成歧視的法律。反歧視法還必須進一步處理性別平等的各個層面，並為性別主流化及性別預算的積極措施提供授權。同時，政府應採取措施，確保所有機關能根據相關條約機構的解釋對直接及間接歧視具有充分瞭解。</p>	<p>前段： 行政院人權處、</p> <p>後段： 行政院人權處、各公約主管機關（行政院性平處、法務部、衛福部、內政部）</p>	<p>前段： 行政院性平處、各相關機關</p> <p>後段： 人事總處、保訓會、各相關機關</p>	
30	<p>The Review Committee expresses its concern that confusion is created by the incorrect translations of certain terms from English to Chinese and Chinese to English, such as equality and gender diversity. In particular, the Committee is concerned that the Chinese term ‘平等’ is translated as both equality and</p>	<p>行政院性平處、勞動部、教育部</p>		

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	<p>equity, as shown in the Gender Equality Employment Act and the Gender Equity Education Act. Also, the Committee is concerned that gender diversity is translated as 'multiple sex', which is not correctly conveying the meaning of diverse gender.</p> <p>審查委員會對某些術語的英譯中及中譯英的錯誤翻譯造成的混亂表示關切，例如平等 (equality) 及性別多元性 (gender diversity)。委員會特別關注的是，如性別工作平等法及性別平等教育法所示，中文術語「平等」分別被翻譯為 equality 及 equity。此外，委員會還關切的是，性別多元性被翻譯為「multiple sex」，這並沒有正確地表達出多元性別 (diverse gender) 的含義。</p>			
31	<p>The Committee recommends that the Government solve this problem by only using the term 'equality', changing the English title of the Gender Equity Education Act by replacing 'equity' with 'equality' and applying the correct translation for gender diversity and other terminology involving gender. The Committee recommends that the correct terms and their meanings are commonly understood by government agencies, media and the general public.</p> <p>委員會建議政府解決此一問題，只使用「equality」一詞，修正性別平等教育法的英文標題，以「equality」取代「equity」，並對性別多元性及其他涉及性別的術語採用正確的翻譯。委員會建議，政府機關、媒體及公眾應普遍理解正確的術語及其含義。</p>	行政院性平處、教育部	各機關	
32	<p>In its 2017 review, the Committee had recommended that while there were several initiatives to address domestic violence in Taiwan, it was necessary to have a comprehensive national action plan consolidating the various initiatives. The Committee strongly reiterates its previous recommendation to develop a comprehensive national action plan on domestic violence based on an impact assessment of the various existing initiatives and adopting a multidisciplinary and multi-sectoral approach.</p> <p>在 2017 年的審查中，委員會曾建議，雖然中華民國（臺灣）有幾項解決家庭暴力的措施，但仍有必要制定一項全面的國家行動計畫，以整合各種措施。委員會強烈重申其先前的建議，即在</p>	衛福部	內政部、法務部、各相關機關	



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	對現有各種措施進行影響性評估的基礎上，採用多學科及多部門的方法，制定一項全面針對家庭暴力問題的國家行動計畫。			
33	<p>While acknowledging the National Human Rights Commission's recognition of the seriousness of digital and online sex and gender-based crimes and other human rights violations, and the Government's plan to amend the related laws to increase the levels of punishment and protection, the Review Committee is concerned that illegal sexual audio-visual material and hate crimes are not easily eliminated from the digital or cyberspace, and victims continue to suffer.</p> <p>審查委員會認可國家人權委員會意識到數位與網路性犯罪及基於性別的犯罪以及其他人權侵害行為的嚴重性，政府雖計畫修正及制定相關法律以提高懲罰與保護水準，但審查委員會感到關切的是，非法的性影音資料及仇恨犯罪不容易從數位或網路空間中消除，受害者仍繼續受到傷害。</p>	法務部、衛福部、通傳會	行政院性平處	
34	<p>The Review Committee recommends that the Government expedite its efforts to take all necessary legislative, administrative, financial, educational and other measures to effectively deal with digital and online sex and gender-based human rights violations. The Committee also recommends that victims are provided with adequate compensation and prompt redress, including the complete deletion of audio-visual material from the digital or cyberspace to prevent repeated violations.</p> <p>審查委員會建議政府加快腳步，採取一切必要的立法、行政、財政、教育與其他措施，有效處理數位與網路性犯罪及基於性別的人權侵害問題。委員會還建議向受害者提供適當的補償與及時的救濟，包括從數位或網路空間完全刪除影音資料，以防止重複侵害。</p>	法務部、衛福部、通傳會、教育部	行政院性平處	
35	The Review Committee recommends that the Government increase its efforts to provide accurate data on the gender pay gap based upon International Labour Organization (ILO) standards. The Committee is concerned about the gender stereotyping and the vertical and horizontal job segregation at the root of the	勞動部	行政院性平處、主計總處	

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	<p>gender pay gap. The Government should further reduce and close the gender pay gap, by eliminating the horizontal and vertical job segregation by gender and by recognising equal pay for work of equal value.</p> <p>審查委員會建議政府加強努力，根據國際勞工組織（ILO）的標準，提供有關性別薪酬差距的準確資料。委員會感到關切的是，性別刻板印象、垂直與水平的職業隔離乃兩性薪酬差距的原因。政府應透過消除依性別劃分的水平與垂直的職業隔離，確認同工同酬，進一步縮小及消除性別薪酬差距。</p>			
<b>原住民族權利</b>				
<b>36</b>	<p>The Review Committee is concerned that land grabbing of indigenous land without free, prior and informed consent continues to take place in Taiwan. Reports from Indigenous Peoples' organisations and NGOs show the absence of adequate and inclusive procedures in obtaining free, prior and informed consent. This violates the right to self-determination under article 1 of both Covenants, as well as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Without further delay, the Government should review and revise, in cooperation with Indigenous Peoples, the existing mechanisms to obtain free, prior and informed consent in the conceptualising and planning phases of development projects and programmes that affect them. The mechanisms shall include procedures to ensure reparation and return of the land to Indigenous Peoples where necessary.</p> <p>審查委員會感到關切的是，中華民國（臺灣）仍存在未經自由、事前且知情下的同意，而搶奪原住民族土地的行為。原住民族組織及非政府組織的報告顯示，仍欠缺適當且廣泛地取得自由、事前且知情下同意的程序。這違反兩公約第1條以及聯合國原住民族權利宣言（UNDRIP）規定的自決權。政府應立即與原住民族合作，審視並修正現有機制，以便在影響原住民族的開發項目與計畫的構思及規劃階段，獲得自由、事前且知情下的同意。相關機制應包括確保在必要時向原住民族提供補償及歸還土地的程序。</p>	原民會		
	The Review Committee calls on the Government to provide remedies for Indigenous Peoples affected by the storage or	經濟部、原能會		

點次	結論性意見與建議	主辦機關	協辦機關	備註
37	<p>disposal of nuclear waste and other hazardous materials on Indigenous Peoples' lands or territories, in compliance with article 29 UNDRIP. A remedy should also be provided to the Tao Peoples in Lanyu with a concrete timetable for the complete removal of nuclear waste and rehabilitation of the environment.</p> <p>審查委員會呼籲政府按照聯合國原住民族權利宣言第 29 條的規定，為在原住民族的土地或領域上儲存、處置核廢料與其他危險材料而受到影響的原住民族，提供補救措施，並向蘭嶼的雅美（達悟）族人（Tao Peoples）提供補救措施，並制定澈底清除核廢料及復原環境的具體時間表。</p>			
38	<p>The Review Committee remains concerned about the delay in recognition of the status of the Ping Pu Peoples. The current classification of Indigenous Peoples into three categories, of mountain peoples, plain peoples and Ping Pu Peoples, partly a legacy of the Japanese colonial period, does not correspond to the present situation of the 16 recognised Indigenous Peoples. Indigenous Peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. They have the right to determine their own identity in accordance with the Covenants and UNDRIP.</p> <p>審查委員會對延遲認可平埔族人的地位保持關切。目前將原住民族分為 3 類，即山地原住民、平地原住民及平埔族原住民，這部分是日本殖民時期的遺跡，與現狀係 16 個被認可的原住民族不相符合。原住民族及其個人有權按照其社區或民族的傳統及習俗，決定歸屬其中一個原住民社區或民族。他們有權根據公約及聯合國原住民族權利宣言決定自己的身分。</p>	原民會		
39	<p>The Review Committee notes 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.</p> <p>審查委員會注意到業已設立原住民族委員會，不過仍須敦促政府以尊重原住民族決策過程的透明提名及遴選程序為基礎，以確保所有原住</p>	原民會		

點次	結論性意見與建議	主辦機關	協辦機關	備註
	民族的真正代表性。			
40	The Review Committee recommends the amendment of the Constitution and the Indigenous Peoples Basic Law in line with the two Covenants and UNDRIP. As part of this process, the Government should conduct a national inquiry leading to the development of a National Strategy on Indigenous Peoples in cooperation with them. In addition, the participation of non-recognised peoples, such as the Ping Pu, should be ensured.	原民會		
	審查委員會建議根據兩公約與聯合國原住民族權利宣言修正憲法及原住民族基本法。作為此進程之一部分，政府應進行一次全國性調查，以便與原住民族合作，制定一項國家原住民族政策。此外，還應確保尚未被認可的民族，如平埔族的參與。			
41	The Review Committee recognises the efforts that have been made in preserving the culture and languages of the Indigenous Peoples of Taiwan. It encourages the Government to further strengthen the policies, strategies and programmes aimed at promoting and protecting the culture and languages of the Indigenous Peoples.	原民會		
	審查委員會認可中華民國(臺灣)為保存原住民族文化及語言所做的努力。其鼓勵政府進一步加強促進與保護原住民族文化及語言的政策、策略以及方案。			
<b>參、與經社文公約相關的特定議題</b>				
<b>工作權與工作條件 (第 6 條及第 7 條)</b>				
42	In the 2017 Concluding Observations and Recommendations, the Review Committee requested a ‘detailed account of the progress achieved’ on the passage of the Domestic Workers Protection Act. The Committee notes, however, that no progress has been achieved on the legislation and that it is the position of the Government that such legislation is not required. Instead, the Government reported at the review on some incremental steps taken to better protect household foreign workers from exploitation and abuse. The Committee acknowledges the improvements that have	勞動部		

點次	結論性意見與建議	主辦機關	協辦機關	備註
	<p>been made but they fall well short of ensuring equality of treatment between foreign and national household workers.</p> <p>在 2017 年的結論性意見與建議中，審查委員會要求就家事勞工保障法為「詳細的進度說明」。然而，委員會注意到，政府採取不需立法的立場，立法方面沒有任何進展。取而代之的是，政府在審查中報告提出一些保護外籍家事勞工免受剝削及虐待的漸進步驟。委員會認可已作出的改進，但這些改進遠遠不能確保外籍家事勞工與本國家事勞工之間受到平等待遇。</p>			
43	<p>Both the National Human Rights Commission and NGOs expressed serious concerns about the continuing vulnerability of household foreign workers to human rights violations and the ongoing discrimination they face. The Committee does not agree with the Government's claim that the Labour Standards Act regulations are not applicable due to the nature of their work.</p> <p>國家人權委員會及非政府組織都對外籍家事勞工的人權仍然容易受到侵害及其持續面臨的歧視表示嚴重關切。委員會不認同政府聲稱基於工作性質而無法適用勞動基準法的說法。</p>	勞動部		
44	<p>The Review Committee recommends that the Government incorporate ILO Convention No. 189 on Domestic Workers into domestic law to provide robust legal protections for domestic workers; take immediate steps to close the pay gap between national and foreign household workers, including by subsidising those families or individuals for whom home-based caregiving is essential; and include foreign domestic care workers in the development of the Government's promised long-term care plan.</p> <p>審查委員會建議政府將國際勞工組織第 189 號家事勞動者公約納入國內法，為家事勞工提供強而有力的法律保護；並立即採取措施，縮小本國及外籍家事勞工之間的薪酬差距，包括為那些必須進行居家照顧的家庭或個人提供補貼；以及將外籍家庭看護工納入政府承諾制定的長期照顧計畫之中。</p>	勞動部、衛福部		
45	The Review Committee acknowledges the work that is being done to investigate and improve the working conditions of foreign fishers on vessels flying the Taiwanese flag. In	勞動部、農委會		

點次	結論性意見與建議	主辦機關	協辦機關	備註
	<p>the context of conflicting reports, however, it is difficult to determine the actual working conditions and what improvements, if any, have been made.</p> <p>審查委員會認可在懸掛著中華民國(臺灣)旗幟的船隻上，為了調查及改善外籍漁工工作條件而進行中的作業。然而，在報告相互矛盾的情況下，很難確定其實際的工作條件，也很難確定是否有所改善。</p>			
<b>46</b>	<p>The Review Committee recommends that the Government closely monitor the situation and urgently adopt and implement effective measures such as those contained in the Action Plan developed by the Fisheries Agency.</p> <p>審查委員會建議政府密切監測此一情況，並緊急採取及實施如漁業署在漁業與人權行動計畫中所制定的有效措施。</p>	勞動部、農委會		
<b>社會保障 (第 9 條)</b>				
<b>47</b>	<p>While recognising the information from the Government that at the end of 2021, 9.21% of the total population in Taiwan were given cash benefits, the Review Committee is concerned that the system is based on household registration and might create a vacuum where a person in need is not properly registered. The Committee is also concerned that the social assistance system is not providing adequate long-term care for persons with disabilities, putting an unduly heavy burden on families, in particular on the women.</p> <p>審查委員會所接收政府提供的資料顯示，截至 2021 年底，中華民國(臺灣)總人口的 9.21% 獲得了現金福利，但審查委員會感到關切的是，該制度以戶籍為基礎，可能會在有需要的人沒有適當登記的情況下產生空窗期。此外，委員會亦關切社會救助制度沒有為身心障礙者提供足夠的長期照顧，導致對家庭，尤其是女性，造成過度沉重的負擔。</p>	衛福部		
<b>48</b>	<p>The Review Committee recommends that all persons in need, in particular those who do not have the household registration at the place of residence, are provided with adequate social assistance. The Committee also recommends that the Government provides increased personal assistance services for the long-term care for persons with disabilities.</p>	衛福部		

點次	結論性意見與建議	主辦機關	協辦機關	備註
	<p>審查委員會建議向所有有需要的人，特別是那些在居住地沒有戶口的人，提供適當的社會救助。委員會還建議政府為身心障礙者的長期照顧提供更多的個人協助服務。</p>			
<b>家庭保護與協助（第 10 條）</b>				
49	<p>The Review Committee is concerned about the information that women spend three times more time on carrying out family responsibilities than men. In addition, the Committee is concerned that although both parents can take parental leave, only a small percentage of fathers do so.</p> <p>審查委員會對女性在履行家庭責任方面所花費的時間比男性多 3 倍的資訊表示關切。此外，委員會還關切的是，雖然父母雙方都可以請育嬰假，但只有一小部分父親會這樣做。</p>	<p>行政院性平處、 勞動部、 衛福部</p>		
50	<p>The Review Committee recommends that the Government take measures to create a workplace structure and environment for both men and women to balance their work-family life, with a view to eliminating gender stereotypes. The Committee further recommends that the Government consider the option of additional parental leave reserved exclusively for fathers. The Committee recommends that the Government take all necessary measures to eliminate gender stereotypes and to encourage equal sharing of responsibilities between men and women in the family and in society.</p> <p>審查委員會建議政府採取措施，創造一個能使男性與女性平衡工作及家庭生活的工作場所結構以及工作環境，以消除性別之刻板印象。委員會還建議政府考慮專門為父親保留額外育嬰假的選擇。委員會建議政府採取一切必要措施，消除性別之刻板印象，鼓勵男女在家庭及社會中平等分擔責任。</p>	<p>行政院性平處、 勞動部、 衛福部</p>		
<b>住房與土地權（第 11 條）</b>				
51	<p>Secure, healthy, affordable and accessible housing is central to the right to an adequate standard of living. In 2017, the Review Committee expressed grave concern about adequacy of supply, evictions and land dispossession. It recommended a series of actions to better provide for the right to adequate housing in line with international</p>	<p>內政部、 財政部</p>		

點次	結論性意見與建議	主辦機關	協辦機關	備註
	<p>human rights commitments, including a focus on ensuring security of tenure and protection against displacement and evictions. The Committee reiterates the significance of those recommendations.</p> <p>安全、健康、可負擔與可獲得的住房是適足生活水準權的核心。2017 年，審查委員會對供應充足、拆遷及土地剝奪事件表示嚴重關切。其建議採取一系列行動，以符合國際人權標準中，有關承諾提供更好的適足住房權保障，包括聚焦於確保使用權並防止迫遷及遭到驅逐。委員會重申了各該建議的重要性。</p>			
52	<p>The Review Committee is appreciative of the detailed report from the Government on its actions to increase social housing supply by 200,000 units over eight years; and other policies to support disadvantaged families in accessing housing. While welcoming the social housing programme, the Committee remains concerned that there is no comprehensive database that establishes the number of people who are informal settlers or homeless, making it difficult to assess the impact of the 200,000 units in reducing homelessness and deficient housing. The Committee recommends the establishment of an effective database providing reliable population figures on informal settlements on central and local government and private land.</p> <p>審查委員會讚賞政府提交的詳細報告，說明其在 8 年內增加供應 20 萬戶社會住宅的行動；以及支持處境不利家庭獲得住房的其他政策。委員會對社會住宅方案表示歡迎，但仍然關切的是，沒有全面的資料庫來確定非正規住居者或無家者（遊民）的人數，因此難以評估這 20 萬戶住房對減少無家者及住房不足的影響。委員會建議建立一個有效的資料庫，提供關於在中央與地方政府以及私人土地上非正規住居者的可靠人口數據。</p>	內政部、 衛福部、 財政部		
<b>健康權（第 12 條）</b>				
54	<p>The Review Committee is concerned that in Taiwan mental health issues have been treated primarily with a psycho-medical approach, focusing on suicide prevention and interventions in persons with mental conditions.</p>	衛福部		



點次	結論性意見與建議	主辦機關	協辦機關	備註
	審查委員會感到關切的是，在中華民國(臺灣)，心理健康問題主要以心理醫學的方法來治療，著重於預防自殺及對有精神狀況的人進行干預。			
55	The Review Committee recommends that a more comprehensive approach be taken, such as health promotion through education on mental health, based on the World Health Organization (WHO) guidelines and reports of the UN Special Rapporteur on the right to health.	衛福部	教育部、各機關	
	審查委員會建議採取更全面的方法，如根據世界衛生組織(WHO)的指導方針及聯合國健康權問題特別報告員的報告，透過心理健康教育促進健康。			
56	The Review Committee also recommends the development of indicators and benchmarks to measure the realisation of the right to mental health. It recommends that additional statistical data besides diagnoses and hospitalisation of mental illnesses be developed, disaggregated by sex, age, ethnicity and other relevant criteria, on an annual basis, so that improvements or failings can be assessed and evaluated more clearly.	衛福部		
	審查委員會還建議制定指標及基準來衡量心理健康權的實現情況。其建議，除了精神疾病的診斷及住院情況外，還應以年度為基礎，按性別、年齡、種族及其他相關標準分類並建立更多的統計資料，以便更清楚地評估及評價各項改進或失敗的情況。			
57	The Review Committee encourages the Government to expedite the adoption of the Draft Health of Indigenous Peoples Act, and to ensure equal access to healthcare and medical resources for Indigenous Peoples. The Committee refers the Government to the CESCR General Comment No. 21 and UNDRIP.	衛福部	原民會	
	審查委員會鼓勵政府加快通過原住民族健康法草案，並確保原住民族平等獲得保健及醫療資源。委員會請政府參考經濟社會文化權利委員會第21號一般性意見與聯合國原住民族權利宣言。			
	The Review Committee appreciates the considerable efforts that Taiwan has taken to combat the COVID-19 pandemic and the	衛福部	各機關	

點次	結論性意見與建議	主辦機關	協辦機關	備註
58	Omicron variant. It notes that the necessary health safety aspect for all must be balanced against human rights and freedoms of individuals and groups, as guaranteed in both Covenants. In this process, states should consider a more careful application of the principle of proportionality and the standard of reasonableness.			
	審查委員會讚賞中華民國（臺灣）為防治 COVID-19 疫情及 Omicron 變異株所做的大量努力。委員會注意到，所有人必要的健康安全必須與兩公約所保障的個人與群體的人權及自由相平衡。在此過程中，各國應考慮更謹慎地應用比例原則及合理性標準。			
59	The Committee recommends that the Government undertake a review of the extent to which decisions taken during this COVID-19 pandemic appropriately applied the principle of proportionality and the standard of reasonableness when making decisions that impacted human rights and freedoms of individuals and groups.	衛福部	各機關	
	委員會建議政府審視在這次 COVID-19 疫情期間作出的決定在何種程度上恰當地應用了比例原則及合理性標準，以使其作出影響個人與群體人權及自由的決定。			
60	The Committee suggests that the Government identify any groups adversely and disproportionately affected by those decisions and put in place measures to ensure that the disadvantages are properly compensated and do not persist.	衛福部	各機關	
	委員會建議政府應識別任何因各該決定而受到不利及不相稱影響的群體，並訂定及落實措施，以確保受到影響者得到適當的補償，且不會持續下去。			
61	The Review Committee is concerned about the phenomenon of teenage pregnancies, including a trend of decreasing age of the mothers. It recommends that the Government take all appropriate measures to ensure that teenage mothers continue their education. The Committee further recommends that sex and relationship education, which is evidence-based, scientifically correct and age-appropriate, is provided for all adolescents and the general public.	教育部	衛福部	

點次	結論性意見與建議	主辦機關	協辦機關	備註
	審查委員會對少女懷孕的現象，包括母親年齡下降的趨勢表示關切。委員會建議政府採取一切適當措施，確保幼齡母親繼續接受教育。委員會還建議向所有青少年及公眾提供以證據為基礎、科學正確與適齡的性教育及關係教育。			
<b>受教育權（第 13 條）</b>				
62	While acknowledging the Government's policies and initiatives to ensure children and young people with disabilities enjoy their equal right to education; and noting the Government's statement that there is still more to be done to achieve substantive equality for them, the Review Committee is concerned that resource constraints are the main barrier to more inclusive education.	教育部		
	在肯定政府為確保身心障礙兒童與青少年享有平等受教育權的政策及措施的同時，審查委員會注意到政府在實現其實質平等上仍有許多工作，且委員關切的是，有限的資源是實現融合教育的主要障礙。			
63	The Committee recommends that while maintaining a range of options to meet the educational needs of children and young people with disabilities, the priority should be on greater resourcing to progressively enable more children and young people with disabilities to have access to inclusive education.	教育部		
	委員會建議，在維持一系列選擇以滿足身心障礙兒童及青少年的教育需求的同時，應優先考慮增加資源，逐步使更多身心障礙兒童及青少年能有機會接受融合教育。			
64	Despite the fact that detailed attention has been given to human rights education in schools, problems remain. Presently there is no well-planned curriculum that would differentiate the development of human rights education, beginning from the lower levels to high school to collegiate level.	教育部		
	儘管學校對人權教育給予了詳細的關注，但問題依然存在。目前，從低年級到高中再到大學階段，政府還沒有規劃完善的課程來區分人權教育的發展。			
65	The Committee strongly recommends a more systematic approach be devoted to curriculum planning for human rights education. For example, the Universal Declaration of Human	教育部		

點次	結論性意見與建議	主辦機關	協辦機關	備註
	Rights and both Covenants should be the starting point of all human rights education curricula. 委員會強烈建議對人權教育的課程規劃採取更系統性的方法。例如，世界人權宣言及兩公約應成為所有人權教育課程的出發點。			
<b>肆、與公政公約相關的特定議題</b>				
<b>死刑（第 6 條及第 7 條）</b>				
<b>67</b>	Since the review process began in 2013, the number of death sentences and executions has declined. This development mirrors similar changes in several other countries that retain use of the death penalty and is consistent with a global trend. 自 2013 年開始審查程序以來，死刑判決及執行的數量有所下降。此一發展反映出與其他幾個保留使用死刑國家類似的變化，並與全球趨勢一致。	法務部		
<b>68</b>	Nevertheless, it is profoundly unsatisfactory that the Government has yet to impose an official moratorium on the death penalty. The Review Committee is extremely disappointed at the failure of the Government to take this step, despite the Committee's recommendations in 2013 and 2017. Taiwan has the potential to become the Asian standard bearer in the recognition and enforcement of international human rights, but it will never achieve this as long as capital punishment remains an element of its criminal justice system. 然而，政府尚未正式暫停執行死刑，這一點難以令人滿意。儘管委員會在 2013 年及 2017 年提出建議，但審查委員會對政府未能採取此一步驟感到極為失望。中華民國（臺灣）有可能成為認可及執行國際人權的亞洲標竿者，但只要死刑仍是其刑事司法系統的一個要素，它就永遠無法實現此一目標。	法務部		
<b>69</b>	In December 2020, reiterating declarations that it had made for more than a decade, the United Nations General Assembly called upon all states to establish a moratorium on executions with a view to abolishing the death penalty. The explanations that were provided to the Committee for the failure to establish a	法務部		

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	<p>moratorium are inadequate and unconvincing. The Government suggested that changes in public opinion were required yet it provided no evidence of any efforts to promote such changes.</p> <p>2020 年 12 月，聯合國大會重申其 10 多年來的聲明，呼籲所有國家暫停執行死刑，以期廢除死刑。政府向委員會提供的關於未能暫停執行死刑的解釋並不充分，也不能令人信服。政府表示，需要改變公眾輿論，但卻未能提供任何證據表明其有任何努力來促進此種改變。</p>			
70	<p>While public opinion should not be ignored, it cannot serve as an obstacle to changes in law and practice that are dictated by the protection of human dignity and the rights set out in articles 6 and 7 of the ICCPR. In this respect, the Committee recalls General Comment No. 36 of the Human Rights Committee, adopted in 2018, that points to the growing recognition that capital punishment constitutes a form of cruel, inhuman or degrading punishment.</p> <p>雖然不應忽視公眾輿論，但公眾輿論不應成為保護人性尊嚴與公政公約第 6 條及第 7 條所規定的法律及實踐變革的障礙。在此方面，委員會重申人權事務委員會 2018 年通過的第 36 號一般性意見，該意見指出，人們越來越認識到，死刑構成了一種殘忍、不人道或有辱人格的處罰形式。</p>	法務部		
71	<p>The Government also claimed that studies of alternatives to the death penalty were necessary before it could proceed with abolition. The Committee considers this to be a feeble rationale for the Government's inaction. The alternatives are well known and have already been thoroughly studied by specialists.</p> <p>政府還聲稱，在著手廢除死刑之前，有必要對死刑的替代方案進行研究。委員會認為這是政府不採取行動的一個薄弱理由。替代方案眾所周知，且已由專家進行澈底的研究。</p>	法務部		
72	<p>The Committee strongly recommends that the Executive Yuan immediately declare a moratorium on executions. The Minister of Justice should no longer sign execution orders. All death sentences should be commuted immediately. Prosecutors should no longer seek the death penalty in ongoing and future</p>	法務部		

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	<p>prosecutions. The President should refuse to authorise executions and, where appropriate in cases where convictions in capital cases are unsafe, for example because there is evidence that confessions and other evidence has been obtained through torture, exercise the prerogative of pardon. In particular, pardon should be granted to Chiou Ho-shun who has served 33 years on death row.</p> <p>委員會強烈建議行政院立即宣布暫停執行死刑。法務部部長不應再簽署執行令。所有死刑應立即減刑。檢察官不應再於正在進行及未來起訴的案件求處死刑。總統應拒絕授權執行死刑，並在死刑案件的定罪證據不明確的情況下，例如，有證據表明供詞及其他證據是透過酷刑獲得的，酌情行使赦免特權。特別是，應赦免已在死囚牢房服刑 33 年的邱和順。</p>			
73	<p>The Committee also calls upon Taiwan to complete its commitment to the International Bill of Rights by incorporating the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty within its national legal order in the same manner as the two Covenants.</p> <p>委員會還呼籲中華民國(臺灣)完成對國際人權憲章的承諾，將公政公約第二任擇議定書國內法化，旨在以與兩公約相同的方式於其國家法律秩序中廢除死刑。</p>	法務部		
<b>禁止酷刑、殘忍、不人道或有辱人格的待遇或處罰 (第 7 條)</b>				
74	<p>In 2013 and 2017, the Review Committee recommended that the Government insert the crime of torture (as defined in article 1 of the UN Convention Against Torture) as a separate crime with adequate penalties in its Criminal Code. The Committee notes with regret that although ten years have passed this recommendation has not been implemented. The Government repeatedly and wrongly asserted that the different provisions in the Criminal Code (articles 125 and 134) would cumulatively constitute a special crime of torture. Torture, as defined in international law, i.e. the deliberate infliction of severe pain or suffering, whether physical or mental, on a powerless individual for a specific purpose, is one of the most severe international crimes. This abhorrent practice can only be eradicated</p>	法務部、 內政部		

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	<p>if torture is established as a separate crime with severe penalties, irrespective of whether this practice leads to physical injury or even death of the victim. Since fighting impunity is one of the most effective means to eradicate torture and other forms of ill-treatment, the Committee, in the strongest terms, reiterates its earlier recommendations to incorporate, without further delay, a separate and specific crime of torture with adequate penalties into the Criminal Code.</p> <p>2013 年及 2017 年，審查委員會建議政府在中華民國刑法中新增酷刑罪（根據聯合國禁止酷刑公約第 1 條的定義）作為一項獨立的罪行，並給予適當的懲罰。委員會遺憾地注意到，儘管 10 年過去了，這項建議仍未得到落實。政府一再錯誤地宣稱，中華民國刑法中的不同條款（第 125 條及第 134 條）將累積性地構成一項特殊的酷刑罪。根據國際法的定義，酷刑，即為了特定的目的，故意對無能為力的個人施加劇烈的疼痛或痛苦，無論是肉體還是精神上的，是最嚴重的國際罪行之一。只有將酷刑確定為一種獨立的罪行並給予嚴厲的懲罰，才能根除這種令人憎惡的行為，無論這種行為是否導致受害者的身體傷害甚至死亡。由於消除有罪卻不罰的現象是根除酷刑及其他形式虐待的最有效手段之一，委員會以最強烈的措辭重申其先前的建議，應毫不拖延地將獨立且具體的酷刑罪納入中華民國刑法，並給予適當的懲罰。</p>			
75	<p>The Review Committee has also repeatedly recommended that all allegations or suspicions of torture shall be thoroughly and promptly investigated by an independent and impartial body with full criminal investigation powers with a view to bringing the perpetrators to justice with adequate punishment. Because there does not exist a special crime of torture in the Criminal Code of Taiwan, it cannot be properly investigated. For this reason, the Government is also not in a position to provide accurate statistics about allegations, investigations, prosecutions and judicial convictions relating to torture. The information provided by the Government clearly shows that there are many allegations of torture against law enforcement officials in Taiwan, which unfortunately are not properly</p>	法務部、 內政部		

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	<p>recorded and only lead to disciplinary action rather than criminal prosecution. The few criminal convictions cited by the Government relate to cases of homicide rather than torture. In other words, the crime of torture in Taiwan goes unpunished. The Committee regrets that no progress has been achieved in implementing its earlier recommendations aimed at fighting impunity for torture.</p> <p>審查委員會還多次建議，所有關於酷刑的指控或懷疑都應由具有充分刑事調查權的獨立與公正機關進行澈底及迅速的調查，以便將犯罪者繩之以法並給予適當的懲罰。由於中華民國(臺灣)的中華民國刑法中沒有專門的酷刑罪，因此無法對其進行適當調查。因此，政府也無法準確地提供與酷刑有關的指控、調查、起訴及司法定罪的統計資料。政府提供的資料清楚地表明，在中華民國(臺灣)有許多針對執法官員的酷刑指控，不幸的是，這些指控沒有得到適當的記錄，只導致了懲戒處分而沒有受到刑事追訴。政府列舉的少數刑事定罪的個案係涉及殺人案件，而非酷刑。換言之，酷刑罪在中華民國(臺灣)沒有受到懲罰。委員會感到遺憾的是，委員會先前提出打擊酷刑有罪不罰現象的建議，並未見任何進展。</p>			
76	<p>The Committee, in the strongest terms, reiterates its earlier recommendations that the Government ensure that all allegations of torture are promptly investigated by a special body, which is independent from all law enforcement bodies (above all the police and the prosecutors), but which is vested with full criminal investigation powers.</p> <p>委員會以最強烈的措辭重申其先前的建議，即政府應確保由一個獨立於所有執法機構(尤其是警察及檢察官)的特別機構迅速調查所有酷刑指控，但該機構應被賦予充分的刑事調查權力。</p>	內政部、 法務部		
不強制違反原則與難民法(第6條、第7條及第13條)				



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77	<p>Some submissions during the review process contended that Taiwan has no legislation prohibiting refoulement. The Convention on the Status of Refugees, the Convention Against Torture and the Convention Against Enforced Disappearance all contain provisions preventing states parties from forcibly returning a person to a country where they would be subject to violations of some rights that are protected by those instruments. However, these instruments have not yet been incorporated into the laws of Taiwan. The Review Committee observes that although there is no explicit non-refoulement provision in the ICCPR, the Human Rights Committee has held that states parties to the Covenant may not return a person to a country where they would be subject to violations of the right to life and the prohibition of torture or cruel, inhuman or degrading treatment or punishment. This view has enjoyed broad endorsement from states parties. The prohibition of refoulement may also extend to other rights enshrined in the two Covenants. The Committee was very pleased to learn of judicial decisions by the courts of Taiwan that have recognised the principle of non-refoulement, relying upon the domestic legislation that has implemented the ICCPR. Although it would be desirable that legislation governing the status of refugees include provisions on non-refoulement, the Committee considers that the principle of non-refoulement is already incorporated into the laws of Taiwan as a direct consequence of the ICCPR.</p> <p>在審查過程中，有些意見認為，中華民國(臺灣)沒有禁止遣返的立法。關於難民地位公約、禁止酷刑公約及免遭強迫失蹤公約都載有條款，防止締約國將一個人強行送回一個他們受這些文書所保護的某些權利會受到侵害的國家。然而，相關文書尚未被納入中華民國(臺灣)的法律。審查委員會注意到，雖然公政公約中沒有明確的不遣返條款，但人權事務委員會認為，公約締約國不得將個人遣返到他們生命權與禁止酷刑或殘忍、不人道或有辱人格的待遇或處罰等權利會受到侵害的國家。此一觀點得到締約國的</p>	內政部、陸委會	外交部	

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	<p>廣泛贊同。禁止遣返的規定也可延伸至兩公約中規定的其他權利。委員會非常高興地獲悉，中華民國（臺灣）法院根據國內法化的公政公約，作出了認可不遣返原則的司法裁判。雖然關於難民地位的立法最好包括不遣返的規定，但委員會認為，作為公政公約的直接結果，不遣返原則已被納入中華民國（臺灣）的法律之中。</p>			
78	<p>In 2013 and 2017, the Review Committee recommended the speedy adoption of a Refugee Act, which should also include the principle of non-refoulement. Despite certain efforts undertaken in this respect, the Committee notes with concern that after almost ten years no such act has been adopted. This has led to the return of asylum seekers to their countries of origin, despite the risk of being subjected to torture or other forms of ill treatment, including capital punishment. The Committee reiterates its previous recommendation to adopt a Refugee Act and regularise the legal status of asylum seekers.</p> <p>審查委員會於 2013 年及 2017 年建議迅速通過難民法，該法也應包括不遣返原則。儘管政府在此方面作出了某些努力，但委員會關切地注意到，在近 10 年後法案仍未通過。這導致尋求庇護者被遣返回原籍國，儘管他們有可能遭受酷刑或其他形式的虐待，包括死刑。委員會重申其先前的建議，即通過難民法並使尋求庇護者的法律地位正規化。</p>	內政部、 陸委會	外交部	
<b>個人自由權（第 9 條）</b>				
79	<p>The Review Committee is concerned about the high number of children detained in juvenile detention houses and reformatory schools. Article 37(b) of the Convention on the Rights of the Child provides that the detention of children ‘shall be used only as a measure of last resort and for the shortest appropriate period of time’. This means that the detention of children should be an exceptional measure to be applied only if there are no alternatives available. The Committee recommends that the Government increase its efforts to transfer children in conflict with the law from the justice system to the child welfare system, thereby applying methods of diversion.</p>	司法院、 衛福部	法務部	

點次	結論性意見與建議	主辦機關	協辦機關	備註
	<p>審查委員會對為數眾多的兒童被關押在少年觀護所及矯正學校感到關切。兒童權利公約第 37 條第 b 款規定，對兒童的拘留應僅作為最後手段，並在最短的適當時間內使用。其表示，拘留兒童應該是一種例外的措施，只有在沒有其他替代辦法的情況下才可使用。委員會建議政府更加致力於將觸犯法律的兒童從司法系統轉移到兒童福利系統，從而採用分流的方法。</p>			
80	<p>Deprivation of liberty of children should also be reduced in the context of migration detention. Where children are kept in temporary detention under the Immigration Act, the Committee urges that language support and counselling is available for these young people.</p> <p>在移民拘留方面，也應減少兒童自由遭到剝奪的情況。在根據入出國及移民法對兒童進行暫時拘留時，委員會敦促為這些年輕人提供語言協助及諮詢。</p>	內政部		
81	<p>The Committee also recommends the improvement of healthcare services for children in detention, and that further interdisciplinary research and trial projects be set up, involving medical, psychosocial, educational and other professionals, embracing broader, more holistic social determinants of health.</p> <p>此外，委員會還建議改善對被拘留兒童的保健服務，並建立進一步的跨學科研究及試驗項目，讓醫學、社會心理學、教育及其他專業人員參與其中，以便將更廣泛、更全面的健康的社會決定因素（SDOH）納入其中。</p>	司法院、 法務部、 衛福部、 內政部		
司法（第 14 條）				
82	<p>According to the jurisprudence of domestic courts, judges who have participated in criminal court proceedings at various levels are considered to lack impartiality only if they have decided the case at an earlier level of the proceedings. However, under international fair trial standards judges should not participate in a case if previously they have participated in the pretrial proceedings under such circumstances that the required impartiality to decide the case may give rise to reasonable doubt, in particular due to the number and character of investigative measures. The Committee therefore recommends the</p>	司法院		

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	<p>Government to ensure that domestic law is in accordance with the requirements of Article 14(1) of the ICCPR.</p> <p>根據國內法院的判例，各級刑事法院訴訟的法官，只有參與過前審裁判後，再行參與同一案件之裁判，才被認為缺乏公正性。然而，根據國際公平審判標準，若其先前已參與審前程序，在此情況下，特別是出於調查措施的數量及性質等考量，若判決公正性可能引起合理的懷疑，法官就不應參與案件。因此，委員會建議政府確保國內法律符合公政公約第 14 條第 1 款的要求。</p>			
83	<p>The use and storage of DNA samples taken in connection with criminal proceedings are regulated in the Post-Conviction Testing Act and various administrative rules. In a report of 3 August 2020, the Control Yuan has found that there are a number of deficiencies in the present regulations. Taking into account the importance of DNA as evidence in criminal proceedings, the Committee recommends that the Government establish an adequate legal framework.</p> <p>刑事案件確定後去氧核糖核酸鑑定條例及各該行政規則，針對與刑事訴訟有關的 DNA 樣本之使用及儲存作出規定。在 2020 年 8 月 3 日的一份報告中，監察院發現，目前的法規存在一些缺陷。考慮到 DNA 作為刑事訴訟證據的重要性，委員會建議政府建立一個適當的法律框架。</p>	司法院、 法務部、 內政部		
<b>出生登記（第 16 條）</b>				
84	<p>The attention of the Government is drawn to the challenges of birth registration of children whose parents do not have a regular immigration status. The Independent Opinion of the National Human Rights Commission points out that the scale of the problem has been understated and charges that the Executive Yuan has ‘negligently delayed in the improvement and maintenance’ of the basic rights of such children. Clearly, this issue requires more attention than it currently receives. Creative solutions must be found in order to ensure that every child born in Taiwan is properly registered.</p>	內政部、 衛福部		

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	<p>提請政府注意父母不具正常移民身分的子女在出生登記方面的挑戰。國家人權委員會的獨立意見指出，此一問題的嚴重性受到低估，並指控行政院在改善及維護這類兒童的基本權利方面「疏忽大意地拖延」。顯然，此一問題需要比目前得到更多的關注。必須找到創造性的解決方案，以確保每個在中華民國（臺灣）出生的兒童都得到適當的登記。</p>			
<b>隱私權（第 17 條）</b>				
<b>85</b>	<p>The Review Committee recommends that the Government improve transparency in the use of facial recognition technology, including its legal basis, purpose, and methods of storage. Safeguards against abuse by government agencies and third parties should be put in place.</p> <p>審查委員會建議政府提高使用臉部辨識技術的透明度，包括其法律依據、目的及儲存方法。應訂定及落實防止政府機關及第三方濫用的保障措施。</p>	國發會、數位發展部		
<b>86</b>	<p>The Review Committee was concerned to learn about the requirement of compulsory gender affirmation surgery as a precondition for a change of gender classification. This practice should be abolished with immediate effect.</p> <p>審查委員會關切地獲悉，要求進行強制性的性別確認手術已成為變性的先決條件。此一做法應立即廢除。</p>	內政部、衛福部、行政院性平處		
<b>87</b>	<p>The documentation provided by the Government indicated a significant number of prosecutions and convictions for an offence of ‘spreading rumours sufficient to affect public tranquility’, in accordance with article 63 of the Social Order Maintenance Act, concerning measures taken to address the COVID-19 pandemic. Taiwan’s efforts to deal with COVID-19 appear to have been very effective but they have nevertheless resulted in the infringement of a range of human rights. Given the extensive scope of the measures taken, it is especially important that there be unfettered public discussion and debate. That this may be discouraged by the threat of prosecution is a matter of concern. The Government was unable to provide convincing examples to show that the application of this penal provision adequately balanced the restriction</p>	內政部		

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	<p>on freedom of expression with the protection of national security or of public order (ordre public), or of public health or morals, as required by article 19(3) ICCPR. Clearly, article 63 of the Social Order Maintenance Act lacks the precision required by criminal law.</p> <p>政府提供的文件表明，作為應對 COVID-19 疫情而採取的措施，其根據社會秩序維護法第 63 條，以「散佈謠言，足以影響公共之安寧」之罪名大量的移送（法院）審理及裁定處罰。中華民國（臺灣）應對 COVID-19 的努力似乎非常有效，但還是對一系列人權造成了侵害。鑑於所採取的措施範圍甚廣，不受限制的公開討論及辯論尤為重要，但因害怕可能遭到移送的後果，將形成阻礙，這是一個令人關注的問題。政府無法提供令人信服的例子來表明，此一處罰規定的適用充分平衡了對言論自由的限制與保護國家安全或公共秩序，或公共衛生或道德的關係，這是公政公約第 19 條第 3 款所明文要求的。顯然，社會秩序維護法第 63 條未符合刑法定罪所要求的明確性要求。</p>			
88	<p>Article 20 imposes obligations with respect to limitations on freedom of expression. States are required to ‘prohibit by law’ propaganda for war and incitement of national, racial or religious hatred or violence. The fact that the existing national legislation does not properly address the requirements of article 20 does not seem to be disputed. The Review Committee recommends that the Government implement its obligations under article 20 by appropriate amendments to the Criminal Code.</p> <p>公政公約第 20 條係有關對於言論自由施加限制之規定。國家被要求「依法禁止」戰爭宣傳及煽動民族、種族或宗教仇恨或暴力。現行國家立法沒有適當處理第 20 條的要求，此似乎沒有爭議。審查委員會建議政府透過適當修正中華民國刑法來履行第 20 條所規定的義務。</p>	法務部		
<b>婚姻與家庭生活的權利（第 23 條）</b>				
89	<p>It is highly commendable that same sex-marriages can be legally registered in Taiwan. The Review Committee is however concerned that there is discrimination in the law, which excludes spouses from countries which do not allow same-sex marriages. If the couple then chooses to live together, their rights within marriage are not protected. The Committee is</p>	司法院、陸委會、內政部、法務部、行政院性平處、外交部		

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	<p>also concerned that married same-sex couples are prevented from adopting children. It recommends that both types of discrimination in the law be eliminated without delay.</p> <p>在中華民國（臺灣），同性婚姻可以合法登記，這是非常值得讚揚的。然而，審查委員會關切的是，法律中存有歧視，其將來自不允許同性婚姻國家的配偶排除在外。如果這對伴侶選擇共同生活，他們在婚姻中的權利就得不到保護。委員會還感到關切的是，同性配偶無法共同收養子女。委員會建議立即消除法律中的這兩種歧視。</p>			
<b>兒童權利（第 24 條）</b>				
<b>90</b>	<p>The Review Committee is concerned about the high number of stateless children in Taiwan. Article 24 ICCPR stipulates that every child has the right to acquire a nationality. This entails a government obligation to provide Taiwanese citizenship to all children who are born on the territory of Taiwan and who would otherwise be stateless. The Committee recommends that the Government should provide stateless children born in Taiwan with citizenship.</p> <p>審查委員會對中華民國（臺灣）為數眾多的無國籍兒童感到關切。公政公約第 24 條規定，所有兒童都有取得國籍的權利。這表示，政府有義務向所有在中華民國（臺灣）領土上出生的兒童提供中華民國（臺灣）公民身分，否則他們將成為無國籍者。委員會建議，政府給予在中華民國（臺灣）出生的無國籍兒童公民身分。</p>	內政部、 衛福部		
<b>投票權（第 25 條）</b>				
<b>91</b>	<p>The Review Committee is concerned that thousands of prisoners and pre-trial detainees, who have the right to vote under Taiwanese law are, in fact, unable to exercise this right, as stated in para. 262 of the Third Report. Article 25 ICCPR clearly stipulates that every citizen shall have the right ‘and the opportunity’, without any discrimination, to vote in genuine periodic elections. This means that the Government has an obligation to provide prisoners and detainees with a realistic opportunity, by such means as absentee voting, postal ballots or installing polling booths in prisons, other detention facilities and</p>	內政部、 中選會、	法務部、 衛福部	

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	<p>institutions where people are deprived of liberty or their mobility is restricted, to exercise this important political right. The Committee recommends that an effective opportunity to exercise the right to vote shall be established without further delay for all elections and referenda.</p> <p>審查委員會感到關切的是，正如第三次國家報告第 262 段所述，數以千計的受刑人及被羈押者根據中華民國（臺灣）法律享有投票權，但事實上他們卻無法行使此一權利。公政公約第 25 條明確規定，所有公民都有權利及「機會」在真正的定期選舉中投票，不應遭受任何歧視。這表示，政府有義務透過不在籍投票、通訊投票或在監獄、其他拘留設施以及人們被剝奪自由或行動受限的機構中設立投票站等方式，為受刑人及被拘留者提供實際的機會，以行使此一重要的政治權利。委員會建議，應立即在所有選舉及公民投票，創造行使投票權的有效機會。</p>			
92	<p>The existing administrative division of Indigenous Peoples rooted in the classification by the Constitution and the Basic Indigenous Peoples Law has prevented them from enjoying the right to participate in decision-making, including legislative elections. Indigenous voters often lack the means to participate due to geographical challenges, especially those who do not live in the indigenous territories where they are registered to vote. The division into mountain and plain peoples limits the opportunity for indigenous legislators to be elected. The organisation of elections also creates unfair competition among different Indigenous Peoples. The Committee urges a remedy for effective political participation of Indigenous Peoples, including by means of absentee voting.</p> <p>根植於憲法及原住民族基本法分類中的現有原住民族行政區域劃分，其無法享有參與決策的權利，包括立法委員選舉。由於地理區隔等諸多挑戰，原住民族往往缺乏參與手段，特別是那些不住在其登記投票的領域內的原住民。山地及平地原住民的劃分，限制了原住民立法者當選的機會。選舉的組織也在不同的原住民族之間造成了不公平的競爭。委員會敦促採取補救措</p>	內政部、中選會、原民會		



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	施，包括不在籍投票，以促成原住民族有效的政治參與。			