

Replies of Taiwan NGOs to ICERD LOIs

提交組織（依英文字母排序）：

Submitted by(sorted in alphabetical order):

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聽你說法律公共衛生諮詢平台

Listener: Migrants' Legal and Community Health Platform

財團法人勵馨社會福利事業基金會

The Garden of Hope Foundation

This reply covers 47, 49, 50.3, 50.4 of List of Inquiries

English Version

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4. Migrant Workers

4-1 General Observations

43.	Most of the pressing issues have been raised repetitively by previous reviews of the ICCPR, ICESCR, CEDAW and CRC. There is also significant consensus among NGOs and the National Human Rights Commission (NHRC) on the main persisting issues for migrant workers.
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Reply :

44.	Reported developments are mostly incremental e.g. promised inter-Ministerial Working Groups etc.; previously promised legislation appears to have made little or no progress. The relationship between freedom from racial discrimination and religious freedom / religious discrimination is questioned by some NGOs with an emphasis on the relevance and importance of the right to be free of religious discrimination.
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Reply :

45.	Are there any more recent developments regarding accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), as mentioned in the Common Core Document in para. 86?
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Reply :

4-2 Right to Work

46.	The Employment Service Act continues to restrict migrant workers' right to change employers; and there are a number of related discriminatory provisions including accommodation, access to health services, right to organise and join trade unions especially in relation to migrant domestic workers, farm workers and fishers; survivors' benefits (as identified in the state report); migrant workers are significantly disproportionately represented in occupational health and safety fatalities and injuries.
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Reply :

47.	Are there commitments with timelines to reduce remaining discriminatory provisions impacting migrant workers? If not, why not?
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Reply :

Migrant domestic workers are workers who actually perform work and are paid for their services. However, there are still systematic obstacles in obtaining labor insurance. Comparing with Taiwanese domestic service workers who are eligible to be recruited in labor insurance through the union, migrant domestic workers are employed by a single employer, therefore, they are not eligible to be insured through union. In addition, the monthly salary of migrant domestic workers is lower than minimum wage, even if they voluntarily cover themselves in labor insurance, the employers have to shoulder the employer payment basing on minimum salary, making employers unwilling to recruit migrant domestic workers in labor insurance. This system has resulted in discrimination and undermined the rights of migrant domestic workers. This discriminatory system needs to be eliminated as soon as possible.

4-3 Women Migrant Workers

48.	Issues relate to the treatment of pregnant migrant workers; notably the disproportionate number of women migrant workers who “go missing”, especially those from Indonesia and the Philippines (Implementation Report, table 18 on p.50).
49.	What reasons have been identified for the number of women migrant workers who go missing? What provisions are in place to support those who are pregnant?

Reply :

Female migrant workers predominantly work in the social welfare field, with a high percentage in households. The investment of resources and intervention from the government are limited, while the brokers and interpreters of brokers still play intermediary roles. It is recommended that the government analyze the backgrounds of employers of whom migrant workers become undocumented. Also, for employers who had experienced migrant workers became undocumented frequently, it is recommended that the government shall seek assistance from impartial third-parties to understand the overall working environment and labor conditions in which the migrant workers are in, and ver-

ify the relevant complaint or intervention mechanism (such as 1955 hotline and labor interviews), to read the correlation among the elements, in order to gain a firm understanding of the high-risk workplaces. Meanwhile, strengthening supportive services for families with disabled members hiring migrant workers, as well as the control mechanism for the recruitment and employment of migrant workers in high-risk workplaces through the transparency of employer-employee information, government labor inspection, and audit mechanisms are recommended.

4-4 Right to Justice

50.1	Issues raised most frequently: <ul style="list-style-type: none"> •ability to seek redress for revocation of work permits and interpretation of what constitutes “serious violations” as provided in the Employment Service Act;
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Reply :

50.2	•unfairness of State Reciprocity law;
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Reply :

50.3	•access to legal aid for undocumented migrant workers;
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Reply :

In terms of applicability, the Judicial Yuan’s response stated that in accordance with the Legal Aid Act, undocumented migrant workers can apply for legal aid. The Ministry of Labor’s response stated that legal consultancy fees are provided, and the migrant worker consultation service center at local government level, as well as 1955 hotline are available for assistance.

In reality, the key obstacles for migrant workers in terms of approaching legal services, are collection of evidences, the accessibility to legal resources, as well as whether the res-

cue channels are effective in handling labor dispute, human trafficking, or other types of criminal and civil cases. However, though the government has been promoting channels for migrant workers' rights relief, including the 1955 hotline, the frontline institutions are in lack of sensitivity in identifying the legal contents involved while migrant workers are seeking help.

For instance, A, a migrant worker whom NGO works with for counseling, has transferred jobs twice through broker. The first transfer was because she experienced sexual harassment by the care recipient. The second transfer was due to her unstable mental status while without the understanding from the employer. The migrant worker was often accused of slacking off at work and pretending to be ill. Coming from a totally different culture, social norms and legal system, migrant worker A encountered the scenarios: wondering which situation she currently falls in, whether she is able to seek assistance in Taiwan legal system, after calling 1955 and the frontline institutions ask her to seek help from the broker, whether she could seek help from 1955 again. For migrant workers, no matter what status they are in, it is challenging to know what to do next after hearing a response from frontline administrative institutions.

Therefore, the undocumented migrant workers who are being scrutinized by the police and immigration are also subjected to stigmatized social surveillance, making it even more challenging for them to seek legal support. Thus, NGO believes that we should increase the accessibility of Taiwanese laws to foreigners in Taiwan and establish a platform for foreigners to seek legal support, besides the 1955 hotline operated by the Ministry of Labor.

50.4	•poor, uneven quality of interpretation services – across the public sector as a whole.
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Reply :

1. The uneven quality of interpretation services not only lies in training. The “Interpre-

tation Services Improvement Pilot Program” proposed by National Immigration Agency focuses on the interpreters’ qualification, training hours, and quality. However, as intermediaries between different cultures and languages, interpreters may be under pressure in shouldering the expectations of all parties. Interpreters shoulder the expectations of many parties, including the expectations of Taiwanese employers and the expectations of migrant workers from the same country as themselves, and the two parties may be contradictory to each other. Therefore, it is not only necessary to set the mechanism of training interpreters, but also to consider retaining, coaching and supporting interpreters.

This kind of interpreter support mechanisms are unlikely to be handled or operated by a single government institution, such as the National Immigration Agency or the Ministry of Labor. The engagement from the private sector is necessary, from facets including training, practical works, and support, in retaining excellent interpreters.

Take the Miaoli Country Gratitude Charity Association as an example. After training interpreters and dispatching them to the institutions that request them, both the interpreters and the institutions can report the outcomes of cooperation to the supervisors in the association. If there are occasions that the interpreters are in poor work performance, or there are ethical concerns, the supervisors will coordinate in between the institutions and the interpreters.

Interpreters, as intermediaries among different languages and cultures, should be given more attention and respect. Therefore, the improvement pilot project should cover how to retain and protect the rights of interpreters.

2. The current national interpreter talent database is only available for government institutions as well as a limited amounts of entities in the private sector that have applied accounts from the Immigration Agency. The interpretation needs of migrant workers cannot be met through the interpreter talent database. Therefore, frontline staff in

the government sector need to be equipped with sufficient cultural sensitivity and technical proficiency in order to use the database to find interpreters when migrant workers need interpreters. This obviously requires multiple processes for migrant workers in accessing interpretation resources. Therefore, the National Immigration Agency interpreter talent database, as well as and the mobile version, should be designed in the ways for increasing the accessibility of migrant workers using interpreters, rather than applying for membership through government institutions which increases the hurdles of both institutions and migrant workers in seeking interpretation services.

3. The current Interpretation Services Improvement Pilot Project mainly focuses on the training of the mainstream languages in four Southeast Asian countries where migrants are from. In reality, the penetration and participation rate of mandatory education in the four Southeast Asian countries vary. There are scenarios that migrant workers and interpreters are from the same country, but they do not understand the accents and dialects of each other. After the pilot project is launched and interpreters have been trained, it needs to be considered that more dialects have to be included in addition to the mainstream language, in order to provide proper assistance for migrant workers.

51.	Regarding remedies for racial discrimination, please provide more detailed information on the cases received by the courts, the Control Yan, as well as the administrative agencies mentioned in the Implementation Report (paras. 226-255). How many cases were decided favourably for the complainants, how many were dismissed or withdrawn, and on which basis?
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Reply :