

消除一切形式種族歧視國際公約民間依公約第 9 條提出之回應報告
Shadow Report to the Committee of Independent International Experts under
Article 9 of the International Convention on the Elimination of All Forms of
Racial Discrimination

初次國家報告審查會議，台北，2023 年 07 月 28 日

Initial report examination session, Taipei, July 28, 2023

台灣非公民所受之歧視待遇

Discriminatory Treatments Against Non-Citizens in Taiwan

提交組織（依英文首字母排序）：

Submitted by (sorted in alphabetical order):

社團法人壹零玖伍移民工文化協會

1095 Migrants Cultural Association

社團法人台灣萬人社福協會

Association of Taiwan People Social Welfare

桃園市家庭看護工職業工會

Domestic Caretakers Union Taoyuan

財團法人勵馨社會福利事業基金會

The Garden of Hope Foundation

77 名移工代表

77 Representatives of migrant workers

English Version

本報告涉及 ICERD 第五、七條

This report covers article 5 and 7 of ICERD

目錄

Table of contents

I. PREFACE	2
II. SUMMARY.....	2
III. TYPES OF DISCRIMINATION	3
A: INADEQUATE EQUAL PROTECTION IN THE ADMINISTRATION OF JUSTICE.....	3
B: ECONOMIC, SOCIAL AND CULTURAL RIGHTS	3
C: LACKING INFORMATION ON RELIEF AND PROTECTION AGAINST DISCRIMINATION	6
D: UNSTANDARDIZED TRAINING FOR MULTICULTURAL SENSITIVITY	6
IV. INTRODUCTION OF JOINTLY SUBMITTED ORGANIZATIONS.....	7

I. Preface

According to government statistics, the number of non-citizens living in Taiwan exceeds 960,000 (April 2023, Ministry of the Interior Department of Statistics), of which migrant workers account for nearly 80% (April 2023, Ministry of Labor), the most significant number; followed by international students. The migrant workers' countries of origin are mainly Indonesia, Vietnam, the Philippines and Thailand, and the ratio of men and women is evenly divided. This report is jointly edited and submitted by the Garden of Hope Foundation, Domestic Caretakers Union Taoyuan, Association of Taiwan People Social Welfare, and 1095 Migrants Cultural Association, and 77 migrant worker representatives in anonymity. The former four authors are organizations dedicated to working with and empowering migrant workers and non-citizens in Taiwan, along with advocating human rights of non-citizens. This report addresses the issues of direct and indirect discrimination against non-citizens in response to the content of the International Convention on the Elimination of All Forms of Racial Discrimination Initial Report of the Republic of China (Taiwan). In addition, this report refers to General Recommendation XXX on discrimination against non-citizens, and proposes comprehensive recommendations from non-governmental organizations as well as representatives of non-citizens. It is expected that the Taiwan government could understand the discriminatory situations faced by non-citizens in Taiwan, thus amend laws and measures, and implement law enforcement without discriminatory effects on non-citizens (General Recommendation XXX on discrimination against non-citizens II.7). Accordingly, Taiwan would be able to genuinely improve the conditions which as voiced by migrant worker A "As a migrant worker working in Taiwan, you have to get used to racial discrimination...be tolerant."

II. Summary

Comprehensively based on the opinions of the editing non-governmental organizations and non-citizen representatives, it is found that the equal protection in the administration of justice for non-citizens in Taiwan still needs to improve. The local police units lack interpreters. It is necessary to enhance the interpretation mechanism and utilize technology assistance to protect non-citizens' right to access to justice. The fact that media (including Web media) and politicians still spread biased or hate speeches necessitates enforcing the principles of non-discrimination and media self-regulation. In regards to economic, social and cultural rights, the protection of occupational freedom and labor security of non-citizen populations, migrant workers in particular, is not effective. Migrant domestic workers are excluded from the protection scheme of the Labor Standards Act, and there are substantial obstacles for them to join

trade unions for Labor insurance coverage. Moreover, migrant domestic workers receive unequal pay for equal work or work of equal value carried out by those of Taiwan nationality. These differences in treatment highlight the necessity to reinforce the principles of equality and eliminate discrimination through legal protection measures with ameliorated and effective complaint mechanisms. In addition, concerns exist in non-citizen populations accessing health, social security, and services. Issues such as religious freedom, interpretation for medical treatment, and injury or illness affecting the right to work still require the government to provide sufficient information and assistance channels. To this end, it is also necessary to publish multi-language documents and promote information on remedies to all forms of discrimination, without neglecting the importance of securing the complainants' anonymity and rights to work. Lastly, to effectively achieve the purpose of promoting mutual understanding and eliminating discrimination, government should specify the curriculum and course contents for multicultural training according to each authority's attributes.

III. Types of Discrimination

A: Inadequate Equal Protection in the Administration of Justice

1. Insufficient Interpreters in Local Police Stations: When migrant workers attempt to report cases of sexual harassment or personal safety at a police station, their reports are frequently declined due to the absence of on-site interpreters. As a pilot initiative, the National Police Agency tested a trial program called the "Remote Interpretation System" (RIS) in six counties and cities from September 1, 2012 to February 28, 2022.

Recommendations: The government shall review, optimize and promote the RIS mechanism to ensure that non-citizens can obtain legal protection and equal access to justice.

2. Media Bias or Hate Speech: Inflammatory xenophobic wording against non-citizens in the media is frequently observed, which stereotypes certain ethnic or national groups and intensifies hostility.

Recommendations: The government shall promote a better understanding of the non-discrimination principle and non-citizens' situations among government officials and professionals in media and education. It should also encourage the media to strengthen self-regulatory mechanisms and strictly prohibit xenophobic remarks or behaviors.

B: Economic, Social and Cultural Rights

B.1: Ineffective Occupational Freedom and Labor Security

1. Freedom of Occupational Choice is Not Guaranteed: It remains impracticable for migrant workers to freely switch employers even when all procedural conditions are met under the law. Obstacles are found in dysfunctional public employment services, absence of multilingual services in related procedures, and the limited occupational options and services offered by the “Direct-hiring Service Centers”. Apart from institutional deficiency, obstacles can be identified in the following situations. Brokers tend to retain transfer documents, charging unaffordable fees for job placement, and household employers often decline requests for consent on employer transfer because there is no one to take over the caregiving task. Moreover, brokers or employers may also deliberately restrict migrant workers’ ways to communicate with the outside world.

Recommendations: The government shall upgrade public employment service, provide multilingual and one-stop service, simplify the “direct-hiring” procedure for industrial migrant workers, and support the caregiving needs of household employers when their employees seek a new job to remove obstacles for migrant workers to freely change their employers.

2. Exclusion of Domestic Workers the Protection Scheme of the Labor Standards Act; Substantial Obstacles to Joining Trade Unions for Labor Insurance Coverage: There are 225,000 migrant domestic caregivers and domestic helpers in Taiwan (collectively referred to as migrant domestic workers) (as of the end of April 2023. Ministry of Labor). They are excluded from the protection scheme under Labor Standards Act and thus out of the legal framework that covers proactively general working conditions and workers’ claims. While domestic workers of Taiwan nationality, almost exclusively freelancers, can be covered by Labor Insurance by joining individually a trade union, migrant domestic workers cannot do the same for basic livelihood security because they have regular employers. Since May 2022, Labor Occupational Accident Insurance coverage has become compulsory for all migrant domestic workers. However, it remains a limited measure only for occupational accidents. Non-citizen domestic workers remain unprotected for a basic livelihood during their working period in Taiwan.

Recommendations: The government shall undertake appropriate legislative measures to protect the rights and interests of migrant domestic workers. It should either include migrant domestic workers under the Labor Standards Act or recognize the labor status of domestic workers through a special act (*lex*

specialis), to prevent and effectively resolve the serious problems faced by migrant domestic workers.

3. Unequal pay for Equal Work Based on Nationality: According to migrant worker representatives, for the same domestic work, non-citizen workers are manifestly treated differently in comparison to Taiwan nationals in regards to work contents, working hours, and work shifts (only night shifts). Migrant domestic workers have to handle a heavier workload, without any room for adjustment, and are forced to work overtime over an extended duration.

Recommendations: The government shall make sure that employers follow the principle of equality regarding non-citizens and set up a complaint mechanism to eliminate unequal treatment that amounts to racial discrimination.

4. Employers' Nationality Option as Discrimination: Provisions and measures that prohibit racial discrimination in employment as stated under point 161 of the State report are welcome by the civil society. However, attention should be drawn to the fact that the application form for employers provided by Direct-Hiring Service Centers contains an option of "desired migrant worker nationality". This practice may constitute an act of discrimination.

Recommendations: Public employment service agencies or government-contracted service organizations shall review the aforementioned application form, remove any discriminatory language, publish a revised version, and promote concepts pertinent to eliminate racial discrimination in employment service.

B.2: Concerns Regarding Health, Social Security and Services

1. Religious Freedom: Information regarding the 52 halal-friendly hospitals stated in the state report needs additional clarification.

Recommendations: Additional information concerning halal certification standards and program contents may be necessary.

2. Interpretation for Medical Treatment: Medical institutions are currently faced with a deficiency in multilingual resources. When seeking medical advice, diagnostics, or treatments, non-citizens may not fully benefit from comprehensive medical care due to communication obstacles.

Recommendations: The government shall enhance the availability of medical interpretation resources, encompassing health education dissemination, along

with the implementation of remote interpretation systems. Moreover, priority should be given to public hospitals for piloting these initiatives.

3. Injury and Illness Affecting the Right to Work: Non-citizen workers who sustain injuries or fall ill in Taiwan are frequently requested to terminate their employment contracts and return to their home countries upon completion of necessary medical treatment. In many cases, migrant workers consent to contract termination without being fully aware of their rights and entitlement to compensation.

Recommendations: In the process to verify the departure motivation of injured or sick migrant workers, local governments shall make sure that they are well-informed about their rights and interests. In instances where migrant workers express lingering uncertainties, the local governments shall furnish *ex officio* pertinent information regarding available assistance and services.

C: Lacking Information on Relief and Protection against Discrimination
Non-citizens have limited knowledge of the government's protection mechanisms and remedies and do not know where to turn as a victim of discrimination.

Recommendations: The government shall strengthen measures to demonstrate cases of racial discrimination against non-citizens with multilingual documents and provide information on available remedies and complaint mechanisms in connection with different case categories. It is also important to ensure the anonymity and the rights of work of the complainants so as to make access to protection measures and remedies effective and proactively prevent racial discrimination against non-citizens.

D: Unstandardized Training for Multicultural Sensitivity

Under point 274 of the state report, it is stated that all social safety net professionals are subject to multicultural sensitivity training. However, in the absence of guidelines concerning curriculum programs and objective settings for different agencies, institutions in charge of training adopt different approaches, which impacts the effectiveness of such training programs.

Recommendations: The competent authorities shall, based on their respective attributes, set up contents and certifiable training hours so as to reach the objective of mutual understanding and tolerance and effectively eliminate discrimination.

IV. Introduction of Jointly Submitted Organizations

社團法人壹零玖伍移民工文化協會

1095 Migrants Cultural Association

1095 Migrants Cultural Association, a national non-profit organization, was formally established in June 2022. We are committed to creating a more public and professional platform. Our work is based on our past six years of practical work experience in 1095 Culture Studio, and combined with people in the field of NGO, academic, art and those who have been concerned about this issue for a long time. We promote the human rights of Southeast Asian immigrant workers in Taiwan. As a way of our work, we promote multi-ethnic interaction and exchanges, raising Taiwanese people's awareness of immigration issues through education and cultural learning. In addition, we amplify Southeast Asian immigrants' labor rights awareness and independent voices.

社團法人台灣萬人社福協會

Association of Taiwan People Social welfare

Association of Taiwan People Social welfare was initiated by a group of people "who care about the disadvantaged groups in Taiwan society and want to contribute to social welfare". It was established on September 5, 1998. The service objects of the association are foreigners and local elderly in Taiwan. Our business includes:

1. Caring for foreigners in Taiwan.
2. Holding trainings
3. Long-term care services
4. Protection of new immigrants
5. New immigrant family service center

桃園市家庭看護工職業工會

Domestic Caretaker Union Taoyuan

Domestic Caretakers Union Taoyuan (DCU) was founded in 2016 by migrant domestic caretakers in Taiwan. Through labor education, organizational empowerment, promoting direct employment, and policy advocacy, DCU strives to fight for the labor dignity of domestic workers.

財團法人勵馨社會福利事業基金會

The Garden of Hope Foundation

In 2011, the Garden of Hope Foundation opened a shelter for migrants, and has been employing a team of professional social workers. In addition, our team has been educating Taiwanese professionals working in our diverse, multi-cultural society. We are proud to help the Taiwanese authorities with providing necessary

services to migrants, in an interdisciplinary and supportive way. GOH-Migrants were established in 2020, and has since expanded its services to foreign women and children as well as international students. Our mission is to respond to the needs of migrants in Taiwan, whether for a short time or long-term.