

# Report of Children and Youth

Yeh Fang-Jui and Wu Yi-Yun

February 18, 2022

## Summary

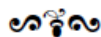
To discuss the limitations and incompleteness of children's human rights in Taiwan, this report is presented to the Committee for a further understanding of children's human rights in Taiwan and thereby to provide a reference for improvement of the current state of human rights in Taiwan. After gathering information on the actual condition in daily life and comparing the related bills in Taiwan and other countries, we hope to provide a reference for the Committee to review Taiwan's National Report and current state of human rights through comparison and the authors' personal life experience. This report found that Taiwan's legislature has made very limited improvements to children's human rights since the last National Report. The authors' views are thus provided for the reference of the Committee. In addition, this report also covers such important matters as education, suffrage, and the right to expression.

Related CRC articles: 12, 13, 15, 16, 27, 29

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Before starting, we would like to introduce ourselves for the Committee to understand our standpoint and attitude for writing this report. We are two 10th-grade students from ordinary high schools.\* There are no unfavorable conditions, including family formation, family income, and growth environment, in the process of our growing up. In the sections relating to education below, we particularly state to the Committee that we did not go to cram schools of any form as we were growing up.



## 1. CRC Articles 12, 13, and 15

The right to express their own views is a right entitled to children and youth as stipulated in Article 12 of the CRC. It implies the freedom of assembly and parade, social participation, and the right to appropriately express opinions during the making of policies relating to children and youth in Taiwan.† However, investigations found that the density of protection of the rights of children and youth is significantly insufficient, particularly the “Civil Associations Act”, “Assembly and Parade Act”, and “Political Parties Act”, which are most severely out of line with advanced democratic countries.

### 1.1 Civil Associations Act

Taiwan’s current “Civil Associations Act” was formerly the “Statute on the Organization of Civil Associations During the Extraordinary Period” promulgated on January 24, 1942.‡

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\* In Taiwan, secondary education falls into two parts: junior high (grades 7-9) and senior high (grades 10-12). The latter includes vocational senior high schools and general senior high schools. Both authors go to general senior high schools.

† Multi-ethnic mainstreaming, see Research, Development and Evaluation Commission, Executive Yuan, “Study of the Practice of Multi-Ethnic Mainstreaming in Government Policies”, December 2012.

‡ According to the current “Regulations for Permission of Social Group Establishment” of the Ministry of the Interior, people wishing to form a nationwide social group shall have initiators distributed over at least seven municipalities or counties (cities). This report has doubts about its applicability. The “Civil Associations Act” does not stipulate the rules for administrative units to determine a social group. Although executive authorities may make orders as supplementation based on their authority when implementing laws, these orders are merely regulations governing the details and technical matters without going beyond the parent laws (Judicial Yuan Interpretation No. 478, paragraph 1). Clearly, the said regulations cannot objectively verify that only initiators with household registrations in at least seven municipalities, counties (cities) can be objectively determined as a “nationwide social group”. While the Act has little relevance to the CRC, it is included in this report for the reference only.

### 1.1.1 Age of initiators

The “Draft of Amendment to the Statute on the Organization of Civil Associations During the Extraordinary Period” proposed by the Ministry of the Interior (MOI) in 1987 thus added the requirement that initiators “must be aged 20 years”.<sup>\*</sup> In the reason for amendment, the MOI simply wrote “text correction”, without explaining the grounds for stipulating the age of 20.<sup>†</sup> The authors disagree with this legal age requirement for initiators. In practice, except for “juristic person” registration, a social group incapable of being an entity that can take the rights and obligations as stated in the “Civil Code” will not need to follow the legal age requirement under the “Civil Code” when no registration is made.

In addition, the current requirement that initiators must be of legal age clearly goes against the demand of the Committee on the Rights of the Child and the “Convention on the Rights of the Child” to “ensure that children, by their age, maturity, and gradually developed capability, are free from discrimination of any form and shall enjoy the full right to freedom of association”.<sup>‡</sup> That is, this is a material defect that requires immediate improvement.

### 1.1.2 Current measures for legislation improvement

Ministries and commissions of the Executive Yuan and legislators have reached a consensus on separating social groups, occupational groups, and political groups from civil associations, leading to the establishment of the “Policy Parties Act” for political groups. As for social groups, it is a pity that only the draft proposed by legislator Kao Chia-Yu stipulating that minors can be the group responsible person, which shows respect for the related CRC regulations and international trends. However, as the legislature often passes the versions proposed by the Executive Yuan,<sup>§</sup> it is hoped that the Executive Yuan can further improve Taiwan’s protection for human rights with reference to legislator Kao’s proposal.

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<sup>\*</sup> It should be “initiators must be of legal age” to match the legal age amendment to the “Civil Code”. In the amendment on December 29, 2020, it was corrected to “legal age”. See Legislative Yuan Gazette 110(10): p. 147.

<sup>†</sup> Government Proposal No. 3249 (1987): p. 458. Retrieved from <https://lis.ly.gov.tw/lgcgi/lgmeetimage?cfcec7cfcfc7cfcfc5cbcbc9d2cbc6c6> (last viewed on 2021/12/25)

<sup>‡</sup> Legislator Proposal No. 24651, agenda related documents (draft) of the 10th Legislative Yuan, 1st session, 12th sitting.

<sup>§</sup> Tsui Chun-Ming. “Strategies of legislative bills in the 5th Congress in Taiwan”. Master’s thesis, Graduate Institute of Public Affairs, National Taiwan University, 2020. (<https://hdl.handle.net/11296/ks236h>).

## 1.2 Assembly and Parade Act

According to point 25 of General Comment No. 37 (2020) on the International Covenant on Civil and Political Rights (ICCPR), age must not be the cause of discrimination of states<sup>\*</sup>. Under Taiwan's current "Assembly and Parade Act",<sup>†‡</sup> underage persons will be restricted from organizing parades to express their opinions on issues that concern them closely under this act<sup>§</sup>. This is clearly a violation of the General Comment No. 37<sup>¶</sup> and should thus be abolished immediately. Although Article 15, paragraph 2 of the CRC<sup>⊥</sup> allows states to impose related restrictions on assemblies and parades, institutionally, the "Assembly and Parade Act" directly disregards the right to expression of children and youth, which is not acceptable according to the written positive meaning to protect the right to expression of children and youth in General Comment No. 12.<sup>\*\*</sup>

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<sup>†</sup> Article 10: Any person with one of the following conditions shall not be the responsible person, proxy or picket staff of an outdoor assembly or a parade that requires approval: 1. A minor. . . .

<sup>†</sup> Article 10: Any person with one of the following conditions shall not be the responsible person, proxy or picket staff of an outdoor assembly or a parade that requires approval: 1. A minor. . . .

<sup>‡</sup> Lawmakers have not explained this restriction.

<sup>§</sup> Article 11: Applications for outdoor assemblies or parades shall be approved except for one of the following conditions: 1. Violating the provision of Article 6 or Article 10.

<sup>¶</sup> It is worth noting that the "Assembly and Parade Act" also stipulates that "Communism or secession shall not be asserted in any assembly or parade." (Article 4) Although Judicial Yuan Interpretation 445 already pointed out that it is against the aim to protect freedom of association, the article remains unabolished. Whether it is the deliberate negligence or intention of legislators, there is no way for bystanders to judge.

<sup>⊥</sup> Original text: No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

<sup>\*\*</sup> Article 12, paragraph 1: States Parties "shall assure" to the child the right to express views freely "Shall assure" is a legal term with special power, and there is no compromise for state parties. Hence, state parties are strictly obliged to take measures appropriate to assure this entitlement of the child. The obligation covers two aspects to ensure that the related mechanisms are in place to ask children's view on all matters that affect them and to appropriately treat their views.

### 1.3 Political Parties Act

Taiwan adopts partocracy, and all domestic systems\* favor political parties to participate in politics in order to encourage people to participate in politics through political parties.

Taiwan's political party regulations were originally included in the special chapter "political groups" of the "civil associations act". However, when they were included in the "political parties act", disagreeing opinions were found in all caucus bills. The MOI suggested the inclusion of the age limit of 16 years old for participation in political parties without giving any reason. Although the MOI report wrote, "to protect people's constitutional right to freedom of association, in reference to Article 42 of the 'Political Parties Act' of South Korea, no one shall be forced to participate in or withdraw from a political party against a person's commitment out of their own free will", attempting to emphasize that people aged under 16 years are incapable of making a commitment out of their own free will, this reason has completely deprived citizens from participating in political parties and politics without any alternative solution, and the act was thus inappropriately legislated.

#### 1.3.1 Value diversity in political parties

A political party is an essential constitutional element for forming a constitutional system based on freedom and democracy. It helps citizens to form the aspiration to realize their public duties through freedom and constant collaboration.† This is consistent with the content of collective right to expression as described in the general comments. As an essential part of democracy, political parties need different voices and standpoints to lead their system orientation. Due to the seemingly good intentions of the "Political Party Act", however, children and youth cannot participate in the internal policy and issue discussion of political parties, missing out on an important space for discussion for both political parties and all children and youth.

#### 1.3.2 Situation in Germany

The current "Political Parties Act" (Gesetz über die politischen Parteien) of Germany does not restrict minors from participating in political parties. Instead, it is the discretion of political parties. Amongst all political parties having seats in the Federal Diet (Der Deutsche Bundestag), Alliance 90/The Greens (Bündnis 90/Die Grünen) has no age limit on members, and no forced participation was reported, suggesting that child protection is not an essential ground in legislation. As a result, the act was thus inappropriately legislated.

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\*Such as party subsidies, as in Hu Hung-Ming. "Partocracy according to Dr. Sun Yat-Sen: With discussion on partocracy operation at Taiwan's legislature". Master's thesis, Political Warfare Cadres Academy, 1996. (<https://hdl.handle.net/11296/438myv>)

† Political Parties Act of West Germany. Jyun-hsyong Su, 1988.

### 1.3.3 Out-of-date legislation

In the period of authoritarian rule, it was possible for the state (or the political party itself) to force citizens to participate in the collective political entity against their own free will within the context of the party-state system. In consideration of Taiwan's present state, there are clearly more benefits to letting children and youth participate in the internal discussion and policymaking of political parties than the worries held. Within this context, lawmakers should not limit children and youth from party participation to obstruct the development of democratic politics.\*

## 1.4 Summary

In point 52 of the response to the questions of Taiwan's initial national report, the government admitted that putting an age limit on the right to freedom of association was an "unnecessary restriction".† However, no amendment to this restriction has ever been passed by the legislature. As the Democratic Progressive Party (DPP) has formed a unified government, insistence can pass the amendment very quickly.‡ The difference is whether they are willing to face this issue.

As ordinary people, we can only hope to remove these unnecessary restrictions through the concerted efforts of all citizens and taking this matter into consideration.

## 2. CRC Article 16

The forgotten rights are the basic rights recognized by the European Union (EU). According to Article 19, paragraph 1 of the "Personal Information Protection Act"§: "...the collection or processing of personal data by a non-government agency shall be for specific purposes and on one of the following bases: ... 6. where it is necessary for furthering public interest; 7. where the personal data is obtained from publicly available sources unless the data subject has an overriding interest in prohibiting the processing or use of such personal data". Superficially, the legislation has met the demand for privacy protection. In practice, however, the difficulty in enforcing forgotten rights is that it is necessary to prove through

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\* The author's biggest regret about the age limit is, although both the Legislative Yuan and Executive Yuan emphasize "measures for the protection of children and youth" in their documents, their actions simply neglect the rights and interests of children and youth. When laws are made for "protection", does it place too many restrictions on the expression of rights and interests? I think this should be reviewed in all laws and regulations for child and youth "protection".

† Original text: The current "Civil Associations Act" stipulates that those applying to form a group must be 20 years of age, on the ground that 20 is the legal age (with full disposing capacity) under the "Civil Code". This is because the responsible person, staff, and members of an established civil association will be involved in judicial acts and liabilities when participating in or carrying out association business. Currently, the "Social Group Act (Draft)" submitted to the Legislative Yuan for review has reformed the prior permission system into the registration system for the formation of civil associations to relax unnecessary limitations. In the draft, there is no age limit for members, thus favoring the freedom of association and development of civil groups in the future.

‡ For example, it took only three months to pass the "Anti-Infiltration Act" from its proposition in Legislator Proposal No. 23798 of Legislative Yuan General Proposal No. 1554. See Tseng, Jiun-Ying. "A Study on the Legislative Process for Anti-infiltration Act". Master's thesis, Department of Public Affairs, Ming Chuan University, 2021. (<https://hdl.handle.net/11296/v567k6>)

§ Hereinafter called the "PDPA".

litigious activities that such data is “unnecessary for furthering public interests” and that “the personal data is obtained from publicly available sources, unless the data subject has an overriding interest in prohibiting the processing or use of such personal data”. As the process is time-consuming, data may have been extensively spread before litigious activities end. Additionally, as minors incapable of filing litigious activities, the density of the protection is thus insufficient.

What public interest is more important than protecting children’s privacy? In Taiwan, such a simple question needs to obtain approval through litigation before we can remove our own private affairs from the internet or other media. The legal point of the EU is that an actually responsible unit is needed to ensure all businesses to thoroughly delete all private files of individuals.

For questions like this, the authors hope that the Ministry of Digital Development to be established by the government can ensure that each private company will allow users to request the deletion of their own private data through easy and convenient procedures. This is the only way to refine the regulations for child and youth protection and the protection of their privacy.

### 3. CRC Article 27

School lunch, literally called nutritious lunch, is the product of Taiwan’s education system with its special framework. In Taiwan, this is the only source for many students take in the daily required nutrients. To ensure the health of all students, Taiwan is still in the stage of a “one country, multiple systems” for school lunch policy, and there are no universal guidelines. As a result, school lunch suppliers in different regions act at will. Under such a special framework, tens of thousands of students are victims. They are children and youth, the future of the country. Now, they are being corroded and eaten by this defective system. As the decay sets in from the inside, eventually we can only see students with enough knowledge but bodies that are unable to support them, which is a country’s biggest regret.

Youth, the future and indispensable foundation of a country, are in a period of rapid growth. To replenish the energy required for rapid growth, they need to take in more food. A Mandarin saying goes, “Eating is more important than the Emperor”. As food is the paramount necessity of people, dietary habits become increasingly important. Due to the design of Taiwan’s education system, ordinary youths will have one to two, or even three meals at school. Due to reasons of time, most youths in Taiwan cannot take in sufficient nutrition from breakfast. For this reason, the school lunch supplied by catering service providers becomes extremely important. However, the school lunch menus cannot embody the so-called “nutritious”, and the only adjective that can best describe it is “shoddy”. The whole thing is outrageous.



### 3.1 Comparison of dietary habits among different age groups

In terms of taking in 3 parts of vegetables each day, the group aged 7-12 is 8.2%, the group aged 13-15 is 6.7%, the group aged 16-18 is 10.2%, the group aged 19-44 is 14.2%, the group aged 45-64 is 17.3%, the group aged 65-74 is 20.9%, and the group aged 75 and above is 19.8%. Clearly, the vegetable intake of the group aged 13-18 is much lower than that of other age groups. This is because the vegetables offered by suppliers are either tasteless or hard to swallow. Even worse, suppliers simply make a dish by mixing sliced ingredients and cooking it for a bit. Their attitude is perfunctory, and their behavior is abominable. It is hard to believe that they dare to feed students this kind of food. Besides showing no respect for others, they simply ignore public opinion and make no improvement. They do whatever they like because government support is insufficient and youths have no power.

### 3.2 Actual condition

Shown below is the frequency of salty and greasy dishes from three suppliers coded as A, B, and C.\*

A: Greasy dishes 8 times every 30 days, averaging once every 3.75 days. Salty dishes 27 times every 30 days, averaging once every 1.11 days.

B: Greasy dishes 13 times every 31 days, averaging once every 2.38 days. Salty dishes 23 times every 31 days, averaging once every 1.35 days.

C: Greasy dishes 16 times every 30 days, averaging once every 1.88 days. Salty dishes 21 times every 30 days, averaging once every 1.42 days.†

The above comparison shows that one either greasy or salty dish each day on average is the common point of all three suppliers. As the school lunch is the biggest difference between youths and other age group, the contrast shows that school lunch has significant influence on the youth's dietary habits. In my opinion, therefore, to change youth dietary habits, improvement of the food quality of the school lunch is the most reasonable and fastest solution to develop correct dietary habits.

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\* A dish that is salty and greasy at the same will not be repeated in the calculation.

† Something that must be noted is that although dishes don't look like greasy and salty, as low-quality ingredients are used, suppliers often cover up the ingredient quality with strong flavors. As a result, even traditionally non-greasy and non-salty dishes become greasy and salty.

### 3.3 Disadvantages of one country, multiple systems

The frequency of dishes and culinary methods of the three suppliers are different. This is because of the absence of universal rules to govern suppliers. As it says in Sun Tzu's "The Art of War": "The control of a large force is the same principle as the control of a few men: it is merely a question of dividing up their numbers. Fighting with a large army under your command is nowise different from fighting with a small one: it is merely a question of instituting signs and signals." (trans. Lionel Giles, from <https://ctext.org/art-of-war/energy>) Simply speaking, managing a group is like managing a person, it all depends on a reasonable management system; and leading thousands of soldiers is like leading a single soldier, it all depends on a definite and effective commanding system. To manage national affairs, a set of effective and reasonable rules is required. The frequency of fried food, quantity of vegetables, use of seasoning, and corresponding subsidies should all be well defined, particularly the subsidies that the government gives suppliers. After all, there's no money to be made in meeting the above requirements, and youth's rights and interests conflict with business interests. For a radical solution to this problem, appropriate resource investment is necessary.

### 3.4 Problems caused by low-quality ingredients

Food is the most important part of life, particularly for youth in the development stage. Although nutrition is indispensable in this fast-growing period, suppliers ignore student health and cook with excessive seasoning to make greater profit. While it is true that appropriate use of seasoning can stimulate appetite, they cook with excessive seasoning because they only want to cover up the low quality of the ingredients. This results in youths taking in too much seasoning, and excessive seasoning will increase the workload of the organs. Even worse, as youths are also under study pressure, many students go to cram schools or stay up late for better academic performance. As this puts persistent pressure on the organs, the consequences will be terrible. Students go to school to receive education for a better future and not to sow the seeds of their downfall.

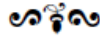
Calories are indispensable to youth growth. Although fat contained in oil can provide many calories, oil is an essential element for cooking. We fry food with lots of oil, and fried food contains too much fat that will lead to excessive intake of lipids for youths. Although no one wants to see this, in consideration of costs and product sales, most suppliers supply fried food. And to be honest, fried food tastes better than other foods. Therefore, suppliers still include lots of fried food on the menu, even though they know that fried food is unhealthy and even harmful to health. That's right, of course it's all because of money. As the government is reluctant to subsidize suppliers, they must sacrifice food quality in order to survive and profit. Students have no choice but to select the least bad from the bad, and suppliers know that tasty food is the least bad. As a result, a vicious cycle is formed, and youths become the biggest victims.

### 3.5 Government's passivity and reluctance

The government's reluctance to subsidize suppliers is already in violation of Article 27 of the CRC: "2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development. 3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programs, particularly with regard to nutrition, clothing and housing." In this respect, we can't exclude school lunch suppliers from "others responsible for the child" as stated in CRC. However, "appropriate measures" are not seen in what is supplied, and there is not even a legal basis or standardized practices. Hence, the central government must take immediate action to make improvement as early as possible.\*

### 3.6 Summary

Instead of manufacturing, dietary habits must be developed over time. This shows that the above problems are not transient but cumulative. For the health of children and youth and for the country's sustainable development, action must be taken now to fix the issues relating to the human rights stated in Article 27 of CRC. Otherwise, the present generation of children and youth will become an unhealthy generation in the future. Again, we seriously urge government agencies not to ignore the rights of children because efforts are not rewarded in voting. Please face the true needs of people and respond to our call. This is what a government should be.



## 4. Education

Both authors are senior high school students with more criticisms of Taiwan's education system. Due to the limitation of time, no reliable references are currently available for this section, and most opinions are the authors' own reflections.†

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\* Children and youth are vulnerable social groups not just because of their physical condition but also because of the design of the overall social system. Most importantly, youths have no voting rights, making them suffer in silence. The government's failure to face problems in the school lunch system leads to the student's dissatisfaction with suppliers rather than the government. As a result, children can change nothing when they grow up and enjoy their voting rights. It is undeniable that political parties strive for votes to gain power. For this reason, youths must hold something that can counterbalance political parties. Otherwise, they will be ignored by the government and rejected from the legislation.

† There is another thing that the authors wish to share with the Committee. In the past, Taiwan had a subject called "Three Principles of the People". The textbook included a supplement to the Principle of the People's Livelihood written by Chiang Kai-shek. In the supplement, Chiang emphasized that credentialism and educational inflation are the root of the defects in education. Chiang also emphasized that greater consideration is needed in order to properly solve the problem. Although time has passed, nothing has changed today. One point of observation is that technical and vocational education and training is still neglected. This is related to the mindset of parents that children should attain a better socioeconomic status through examination.

## 4.1 Non-school learning

Because of problems in their studies, many of the authors' classmates go to cram schools.\* In my opinion, the major causes of cram schooling are the fear of being unable to catch up with others and the expectations of parents. Cram schools are prevalent in Taiwan because they are truly useful.† Many of the authors' classmates make much progress in academic performance after going to cram schools. Making an effort to learn is a good thing. The point is, the cost of cram school tuition is a heavy expense for many families and cannot easily be afforded by each family. According to the authors, this goes against the equal opportunity in education demanded by the CRC. Through monetary investment, children from rich families can access better educational resources more easily than children from poor families. In this situation, is there equal opportunity?

## 4.2 Unsatisfactory learning efficacy

It's hard for a skillful housewife to cook without rice.‡

The true cause of unsatisfactory learning results in the formal education system is that there are too many students in a single class, resulting in those with learning difficulties often being unnoticed. Take the authors' school for example. As there are 40-50 students in one class, it is difficult for teachers to notice the learning status of each student and to adjust the teaching contents. It is not difficult for the authors to imagine how difficult it must be to handle 50 students at once. Under such circumstances, it is difficult to expect much from education.

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\* This can be generally defined as educational activities taking place after normal school time or off campus (with monetary transactions) aiming to improve competitiveness in examinations. See Lin Chung-Cheng and Huang, Tsui-Chuan (2009). Cram culture. *Journal of Social Sciences and Philosophy*, 21(4), 587-643.

† For specific effectiveness according to academic inference, please refer to Kuan Ping-Yen, August 2018, "Causal Effects of Crams Schooling on Mental Health of Junior High Students in Taiwan". Report of research project from the Ministry of Science and Technology (MOST-106-2410-H-004 -123).

‡ A Chinese proverb from "Chicken Ribs" by Chuang Chi-Yu of the Southern Song dynasty, meaning you can't make bricks without straw.

## 5. Different Opinions in Comprehensive Review of Law List

### 5.1 Article 186 of the “Code of Criminal Procedure”

This article involves points 1, 12, and 40 of the General Comment. Witnesses aged under 16 years may not be ordered to make oaths.\* This age limit is stipulated in the Code in a way similar to the “Civil Code” before the amendment that women could be married at the age of 16. However, this is groundless and more like the personal judgment of the lawmakers. In my opinion, it is also difficult for the related agencies to present relevant scientific evidence or scientific research to prove that “those under 16 cannot understand the significance and effect of making an oath”. Even if there is such evidence or research, it would still be difficult to prove that “those under 16 are totally unable to understand the significance and effect of making an oath”. Instead of making pointless fallacies, regulations against the CRC should be amended and improved.† The authors cannot accept the response of the Judicial Yuan for this part.

### 5.2 Principles for the establishment of dress codes for senior high school students

The current student dress code of Taiwan is against point 42‡ of General Comment No. 20 on CRC implementation. Although the principles for establishing school dress codes of senior high schools under MOE jurisdiction seem to have been relaxed with the participation of student representatives,§ students are generally unable to understand the operation of the dress code committee. Additionally, the regulations stipulate that “After the implementation of student dress codes, schools shall review the status of the implementation of the codes once every three years.”

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\* Conceptually, it is an act to ensure the verity of the testimony and express the meaning of perjury. With reference to the provision for perjury (Article 168 of the “Criminal Code”), a person making a false statement will not be punished if no oath is taken.

† The interesting thing is, regarding the improvement of the “Assembly and Parade Act”, the authorities restrict the right to assembly of children and youth with reference to the “Civil Code” and “Administrative Procedure Act” stipulating that the people aged 20 are “people with the capacity to make juridical acts”.

‡ Student representatives elected by students or appointed by the student self-governance organization. Student representatives must make up over one third of all committee members, except for special education schools.

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This means that if there is an unreasonable rule, students must follow these regulations from the first day of school until graduation.\* This is clearly unreasonable.

The student dress code is a misfortune passed down from the party-state era. During the period of authoritarian rule, the government took it for granted to control the ideology of people, from the most visible level of appearance and dress code to controlling the thinking of people. When everyone is the same and has no thoughts of their own, the government can control people more easily. Although time has passed, similar concepts remain unchanged today, although the purpose may differ†.

In the government’s reply to point 2,‡ the so-called “reporting to the school affairs meeting for reference” cannot affect the student dress code in practice. Clearly, this is the product of bureaucracy emphasizing superficiality.

In the government’s reply to point 4,§ in reality, some schools maintain the student dress code with life re-education, which seemingly complies with the regulations. Although it doesn’t look like non-compliance of any kind on the surface, in the school reward and punishment regulations, however, students who fail to attend life re-education twice will be sanctioned by having life re-education on holidays. Even worse, students who do not attend life re-education on holidays will be sanctioned with a warning! Clearly, for all the talk of institutions’ improvement of punishment, the problem hasn’t been solved at all.

## 6. Legislative Yuan

In the concluding comments for the previous national report, the Committee commented that Taiwan did not have a national organization for human rights. Although the government later established the National Human Rights Commission under the Control Yuan, the intensity of review of human rights is still insufficient. This is because Judicial Yuan Interpretation No. 14 has removed the Legislative Yuan from the checks and balances of the Control Yuan.¶ As a result, the Control Yuan can do nothing about the Legislative Yuan’s

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\* According to the education system of the Republic of China, senior high school education is three years.

† Many private schools exploit dress code control as a means to recruit students. This is because parents mistakenly think that children who look standard are “good kids”. This kind of service cannot be provided by law-abiding public schools.

‡ Original text: To maintain the right to character development and bodily autonomy of students, and to teach and encourage students to learn self-management, schools shall establish a standing or task force-based student dress code committee. Schools shall also listen to the opinions of students and parents through democracy by holding campus hearings, presentations, school-wide surveys, and others before establishing the student dress code and reporting to the school affairs meeting for reference in order to create an open and trusted campus culture.

§ Original text: For students violating the student dress code, schools can only provide guidance or maintain discipline as stated in these Regulations without imposing punishment. When deleting the guidance and discipline measures “requesting public service after school for the purpose of discipline” to prevent schools from changing the public service into “love school service”, it has been changed to the reference for documentary punishment due to poor performance.

¶ Original text: Articles 97, 98 and 99 of the Constitution that are related to the present issue concerned are derived from Articles 102, 103 and 104 of the Constitution Draft. Article 102 originally stated that the Control Yuan may institute an impeachment upon its finding of neglect of duties or violation of laws regarding personnel of the Executive Yuan or its ministries or commissions. Article 103 concerns impeachment against central and local administrative officials. Article 104 deals with impeachment against judges and Examination Yuan personnel. Several delegates of the Constitutional Conference believed that those who may be subject to the control power of the Control Yuan should include members of

reluctance to tackle human rights affairs.

It is a pity that the authors believe that from the previous national report to the present, the Legislative Yuan is the most indolent entity in dealing with human rights, particularly the rights of the child. For example, “legislation by phase” is the answer in the current national report to the human rights committee mentioned in the concluding comments of the previous national report. Additionally, in the content it even provided the totally unrelated database to skip that part, without stating the timeframe or recommendations. Worse, no civil society groups were allowed to audit either the committee meeting or sittings of the Legislative Yuan, nor have public hearing for children and youth been held. This shows the Legislative Yuan’s reluctance to deal with the concluding comments over the last three years.

Even worse, the observation of legislative improvement to meet the CRC requirements of domestic government agencies shows that, although many government agencies have reported the laws against the CRC to the legislature, none of them has been passed. According to the authors, it is possible that the caucuses in the Legislative Yuan deliberately neglect the related proposals because no proposal on children’s rights can trade votes. As a result, significant issues related to children’s rights are stuck there.

In fact, legislators are that arrogant\* because of Taiwanese people’s subjective, single-pattern comments on legislators.

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the Legislative Yuan and Control Yuan, and proposed a number of bills to change personnel of the Executive Yuan or its ministries or commissions to personnel of each Yuan and its ministries or commissions in Article 102, so as to include personnel of the Legislative Yuan and Control Yuan, and to delete Article 104 concerning judges and personnel of the Examination Yuan. The results showed that none of the amendments were passed, which clearly demonstrates that members of the Legislative and Control Yuan are exempt. It is also difficult, through the route of interpretation, by stretching the language “officials of the Central Government” to argue that members of the Legislative and Control Yuan are included. It is the intention of the Constitution drafters that members of the Legislative Yuan and Control Yuan are representatives of public opinion, either directly or indirectly, and are not subject to the exercise of control power. Yet other personnel of the Legislative Yuan and Control Yuan as well as staff of the National Assembly, the Presidential Office and its affiliated agencies are within the scope of control power. Therefore, except for provisions on the Executive Yuan, Judicial Yuan and Examination Yuan, Article 97, paragraph 2, and Article 98 of the Constitution have additional provisions for public officials of the Central Government.

\* Regarding Taiwan’s legislature, the authors wish to share a not so relevant story with the Committee for committee members to understand better the selective review of Taiwan’s legislature. Article 47 of the “Mining Act” stipulates that the competent authorities shall, in principle, approve the application for permit extension by miners. The controversy of this article comes from the Xincheng Mine in Hualien of Asia Cement Corporation mining on land reserved for Indigenous peoples without their permission. When applying for permit extension to the Ministry of Economic Affairs (MOEA), the MOEA directly approved the extension of mineral right according to Article 47 without consulting the Indigenous people. The paradoxical thing is that if the application for extension had been rejected, MOEA would have needed to compensate the miners. This article was established during the period of authoritarian rule to stabilize the domestic economy. However, the times have changed. In addition, the failure to consult the landowners was clearly against the content of procedural justice. However, the Legislative Yuan is reluctant to pass amendments to this act. According to the authors, this is probably because construction or cement companies are the material partners of legislators in elections, because these businesspeople provide legislators with the resources or funds for advertising at specific locations. An amendment will not let these businesspeople continue to make profit against justice and the human rights of others. As a result, this strange law survives. For academic information, please refer to Chang Dai-Ping, “The Unseen Land: The History, Reasons, and Actions of the ‘Give Me Back My Land’ Campaign against Asia Cement by the Truku People” Master’s thesis, Department of Ethnic Relations and Cultures, National Tung Hua University, 2000. (<https://hdl.handle.net/11296/v5r7bd>)

Take the issue of same-sex marriage for example. Judicial Yuan Interpretation No. 748 was published when the legislation procedure for same-sex marriage was still in progress, failing to give more space for legislators or democracy to think of any better ways. According to the authors, it was an act of the grand justice<sup>\*</sup> without voting pressure to “relieve” legislator with strong voting pressure.<sup>†</sup> This example apparently illustrates the tricky thing of Taiwan’s legislators. Although this cannot be changed overnight, the authors hope that the Committee can point out the indolence on children’s rights of the Legislative Yuan, an agency without supervision, and urge it to amend the three acts of the Legislative Yuan in the concluding comments in order to include more opinions of children and youth in the legislation process. Or, even it is amended, we also hope that the Committee can review the Legislative Yuan’s effectiveness and performance in the next national report to prevent human rights from becoming a game of legislation and words without any substantial action.

## 7. Conclusion

To the authors, writing this children and youth report was an opportunity that happens only once on in a lifetime. In the next national report review, we will already be adults and will no longer be troubled by those strange laws and regulations.<sup>‡</sup> However, the greater difficulty is the attitude of this country or legislators toward the rights of minority groups without voting resources. Although we are not political fanatics, by comparing the proactivity of legislators<sup>§</sup> in the legislation of the “Anti-Infiltration Act” and their indifference in various bills of important minority groups mentioned in the footnotes, we cannot help sighing. Politics are not that hard, it is the original intention that matters.

Let him honor the five excellent, and banish away the four bad, things; then may he conduct government properly.<sup>¶</sup>

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<sup>\*</sup> The authors prefer calling them the ruling party. However, as this would have too many problems of conspiracy theories, the term grand justice is used.

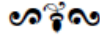
<sup>†</sup> In Taiwan, as over 50% of people disagreed with same-sex marriage, if legislators supported it in the amendment, they were afraid of losing their seats when opponents accused them of supporting same-sex marriage.

<sup>‡</sup> The authors understand that the world of adults is more cruel, more evil, and more difficult.

<sup>§</sup> Or, the unified government (full control over both legislation and execution) of the DPP was more proactive about this bill.

<sup>¶</sup> “Yao Yue” from “The Analects” (trans. James Legge, from <https://ctext.org/analects/yao-yue>). Yao said, “Oh! you, Shun, the Heaven-determined order of succession now rests in your person. Sincerely hold fast the due Mean. If there shall be distress and want within the four seas, the Heavenly revenue will come to a perpetual end.” Shun also used the same language in giving charge to You. Tang said, “I, the child Lu, presume to use a dark-colored victim, and presume to announce to Thee, O most great and sovereign God, that the sinner I dare not pardon, and thy ministers, O God, I do not keep in obscurity. The examination of them is by thy mind, O God. If, in my person, I commit offenses, they are not to be attributed to you, the people of the myriad regions. If you in the myriad regions commit offenses, these offenses must rest on my person.” Zhou conferred great gifts, and the good were enriched. “Although he has his near relatives, they are not equal to my virtuous men. The people are throwing blame upon me, the One man.” He carefully attended to the weights and measures, examined the body of the laws, restored the discarded officers, and the good government of the kingdom took its course. He revived states that had been extinguished, restored families whose line of succession had been broken, and called to office those who had retired into obscurity, so that throughout the kingdom the hearts of the people turned towards him. What he attached chief importance to were the food of the people, the duties of mourning, and sacrifices. By his generosity, he won all. By his sincerity, he made the people repose trust in him. By his earnest activity, his achievements were great. By his justice, all were delighted.





Lastly, we want to tell the Commission that the state of human rights of a country can in no way be told from some graphs or some bills. When reading this report, committee members will to some extent be limited by the vision of this report.

Maybe an onsite visit to the relevant sites may help change the point of view and get closer to the truth. For this reason, objectively speaking, the aspects presented in this report may not be the whole truth. However, we still hope that committee members can consider our opinions, particularly the part on legislation, and include them in the concluding comments.

We need to thank too many people, so let's thank God instead.\*

Have loved.†

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\* From "Thank God", Chen Chi-Fan.

† The authors want to thank Lin Kai-Chieh and Chiu Fan-Yu for their suggestions on the wording and structure of this report. However, the authors assume full responsibility for everything contained in this report. Should you have any advice, comments or questions about this report, please feel free to write us at [hexanbit@pm.me](mailto:hexanbit@pm.me). It's our pleasure to receive your kind advice.