

Taiwan

**THE LIST OF QUESTIONS
DRAWN UP BY THE CRC
NATIONAL REPORT
REVIEW COMMITTEE**

FORMAL REPLIES FROM NGO

DATE

September 26, 2022

SUBMITTED

GNACF



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Formal Replies from NGO

September 26, 2022

Prepared for the Second State Report Review

Submitted by

The Guardian - National Association for Children and Family (GNACF)

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點次	問題內容(原文)	中文參考翻譯
1.6	Para. 26. Please provide information on the effectiveness of the National Human Rights Commission in overall promotion of the rights of the child and in addressing cases of violation of the rights of the child, in light of the basic requirements for a visible, child friendly, accessible, and well budgeted child rights.	第 26 點。請說明國家人權委員會在全面促進兒少權利及處理侵犯兒少權利案件的有效性，且符合兒童權利強調可讓兒少看見、友善兒少、具可近性及充足預算的基本要求。

Replies of 1.6 – The restrictions of the National Human Rights Commission (NHRC) in overall promotion of the rights of the child

1. In 2021, the ruling party proposed a constitutional amendment to abolish the Control Yuan, which will deprive the NHRC of its independence and create greater uncertainty about its powers and responsibilities, resulting in limitations on the effectiveness, legitimacy, and budget of the Commission in promoting rights and handling children's cases:
 - a. In May 2020, the Control Yuan proposed the *Power Exercise Act of National Human Rights Commission*, a special law to give legitimacy to its role in promoting human rights and conducting investigation, but it was shelved as an over-expansion of investigative powers. Therefore, the legal basis for the existing human rights investigations is absent.
 - b. The NHRC was established in August 2020, but the staffing headcount has not been approved by the executive branch as of June.
 - c. In September 2020, the Control Yuan proposed a different *Power Exercise Act of National Human Rights Commission of the Control Yuan*, which planned to add a special chapter to the *Control Act*, but it was opposed by NGOs as it would downgrade the Commission and undermine its independence. This draft was not adopted.
 - d. In 2022, when the Legislative Yuan first examined the draft, some legislators, on the ground that the NHRC is an entity under the Control Yuan (CY), limited the scope of the Commission's authority and investigation to the CY's authority in making correction to public departments and legal persons, refusing to give NHRC the legal power to investigate private legal persons for human rights violation. In this context, there will be no independent monitoring body for children focusing on private legal persons in Taiwan.

點次	問題內容(原文)	中文參考翻譯
3.5	Paras. 73 and 80 Please provide further details as to how the participation in local government and in the curriculum review is working? Please include details about how children are selected to participate and what steps are taken to ensure that the groups are as representative as possible. Please provide examples of how participation is monitored and what impact, if any, children had on policy and practice.	第 73 點及第 80 點。請進一步說明兒少參與地方政府公共事務與學校課綱審議之方式。包括如何遴選兒少，以及採取哪些步驟盡可能地確保參與的兒少具代表性。請舉例說明，如何監督參與情形以及兒少對政策與實務之影響力。

Replies of 3.5 – The rules regarding the selection and participation of children representatives are not child-friendly

2. Some of the rules regarding the selection and participation of children representatives are not friendly to their participation and affect how representative the groups are. Six observations are made as follows (see Table 1):
 - a. **Age limit for eligibility:** The selection process of the central competent authority specifies that anyone under 18 who has served as local children representative is eligible. However, in the selection of local children representatives, 21 of the 22 counties/cities set a minimum age to determine eligibility. Taipei City is the only one that does not set a minimum and has actually accepted 7-year-olds as its eighth children representatives.
 - b. **No guaranteed seats for children with special needs:** 12 counties/cities do not give special needs children extra merit or guaranteed quota to ensure diverse representation. For example, Yilan County has a higher percentage of indigenous people, but there has been no representation of indigenous children from 2021-2023.
 - c. **Lack of children's participation in selection committee:** Ten counties/cities do not have children who served as representatives on the selection committees, which are made up entirely of adults.

- d. **Government meetings are not scheduled to accommodate children's availability:** Most local governments do not consult with children representatives when deciding meeting times or take the initiative to rule out exam weeks, resulting in frequent lack of participation of children. Currently, only Taichung City explicitly requires government meetings to consider children representatives' availability in order to facilitate their attendance.
 - e. **Governments consider children interns or volunteers:** Only seven counties/cities view children representatives as external committee members with the same role as experts and scholars, and offer them appointment letters based on their term. Most local governments regard children representatives as interns or volunteers, and only give them a "certificate" if they meet the assessment criteria at the end of their term, otherwise they will lose their "eligibility".
 - f. **Additional restrictions fail to respect children:** e.g., Changhua County - "Children representatives' role is to offer ideas when the government collects opinions to plan for children policies, and the nature of the role is to learn to express themselves"; Nantou County - "Without authorization, children advisory representatives may not speak externally on behalf of the Nantou County Government Children Advisory Council in their personal capacity."; Taitung County - "Children representatives should protect the reputation of the government and of their own", etc.
3. In terms of impact of policy and practice, existing monitoring and implementation measures fail to demonstrate the impact of children's proposals. For example, 2019-2021 children representatives from 22 counties/cities submitted 104 proposals at meetings in the three-year span. This means the average number of children's proposals per year is about 1.58, which is less than one proposal per meeting, although there are two to four meetings per year. The extremely low proposal rate indicates that governments at all levels fail to recognize the current practice is not child-friendly and that children representatives encounter difficulties in understanding issues, expressing opinions, and making proposals at meetings. Moreover, there is no record of the adoption rate or number of proposals passed, and no mechanism to track whether the proposals are implemented, hence the lack of evidence that children have impact on policy and implementation.

Level of representation	Authorities	Basic stat				Extra merit for children with special needs		Child-Friendly Mechanism			Certificate of Participation	
		Min age	Max age	Term	Per	Guaranteed quota	Priority (extra merit)	Children on selection committee	Children representatives may be elected as official committee members	Government meeting must consider children's availability	Appointment letter before start of term	Certificate given to those who meet criteria at the end of term
Central	Inst. of MOHW	0	<18	2y	66	No	No	Yes	Yes	No	Yes	Yes
Local	New Taipei City	11	<18	1y	20-30	No	No	No	4-6	No	No	Yes
	Taipei City	0	<18	2y	15-21	No	Yes	No	6	No	Yes	No
	Taoyuan City	12	<18	2y	15-25	No	Yes	No	Yes	No	No	Yes
	Taichung City	11	<18	2y	15-21	No	Yes	Yes	2-4	Yes	No	No
	Tainan City	12	<18	2y	30	No	Yes	Yes	3-5	No	No	Yes
	Kaohsiung City	12	≤18	2y	40	No	Yes	Yes	Yes	No	No	Yes
	Yilan County	11	<18	2y	8-12	No	No	No	Yes	No	No	Yes
	Hsinchu County	11	<18	2y	5-8	No	No	No	2	No	No	Yes
	Miaoli County	12	<18	2y	12-15	>1/3	No	Yes	No	No	No	Yes
	Changhua County	11	<18	2y	15-20	5	No	No	2	No	No	No
	Nantou County	10	≤20	2y	25	No	No	No	2-4	No	Yes	No
	Yunlin County	12	<18	2y	7-15	No	No	No	1-2	No	No	Yes
	Chiayi County	12	≤20	2y	15-20	No	No	Yes	3	No	Yes	Yes
	Pingtung County	12	<18	2y	10-15	1-3	No	Yes	Yes	No	Yes	Yes
	Taitung County	12	<18	2y	10-15	No	Yes	Yes	Yes	No	No	Yes
	Hualien County	11	<18	2y	10	No	No	Yes	Yes	No	No	No
	Penghu County	12	<18	2y	9-15	No	No	Yes	Yes	No	Yes	No
	Keelung City	12	<18	2y	10-30	No	No	Yes	Yes	No	No	Yes
	Hsinchu City	12	<18	1y	15-20	No	No	Yes	3	No	Yes	No
	Chiayi City	12	<18	2y	30	No	No	No	3	No	No	No
Kinmen County	12	<18	1y	15	-	-	-	2-3	-	-	-	
Lienchiang County	12	<18	-	7-12	No	Yes	No	Yes	No	No	Yes	

Table 1-1 Comparison of Central and Local Children Representative Selection Mechanisms

Source: Compiled from central/county/city governments' children representative selection rules, rules for setting up children's rights associations, etc.

點次	問題內容(原文)	中文參考翻譯
5.1	<p>Para. 110 Please provide more information on legal definitions of the abuse and neglect, as well as information on the contents of the trainings on prevention and treatment of victims of abuse and neglect. Also, please provide more information on research and analysis (other than statistical data) that point to the root causes of abuse and neglect and solutions to incidents of abuse and neglect within families of young children, children with disabilities, and children of minority groups. Please explain effects of the Strengthening Social Safety Network Program, highlighting areas of progress as well as factors and difficulties that hamper its realization.</p>	<p>第 110 點。請補充說明虐待及疏忽的法律定義，以及兒少虐待、疏忽預防與處遇的訓練內容。並說明是否有針對造成虐待及疏忽的根本原因進行相關研究及分析(非統計資料)，以及如何解決幼兒、身心障礙兒少、少數族群兒少遭受家內虐待與疏忽的問題。請說明強化社會安全網計畫之成效、重要進展，以及妨礙其實現之因素與困難。</p>

Replies of 5.1 – The abuse and neglect lack of research and problem analysis, and insufficient service capacity of practical social workers

4. It has been 20 years since the launch of Taiwan's Child Protection Hotline in 2001. However, the Government still keeps a child-centered protection mindset, and families or caregivers are often perceived as abusers or an environment that is not conducive to child development, so limited resources and energy are devoted to improving families. This is evident from the fact that the Government has not yet conducted a formal study to analyze the root causes of abuse and neglect.

5. Although the number of social workers seems to increase year by year, it is far from enough compared to the shortage. In addition, social workers in the Government or privately managed public organizations have a heavy workload of 25-30 families per worker, and another 20-40 care cases. Adding to this, urgent cases assigned by public representatives or requested support for non-social work (e.g. lantern festival, flower festival, pandemic, election, etc.) makes it impossible for social workers to provide adequate assistance to children and families in need. Social workers have done their best to meet the basic requirement of two phone calls and one visit per month per case.

點次	問題內容(原文)	中文參考翻譯
5.4	Para. 126 (Attachment 5-23) Please provide your views on the increase of cases of sexual abuse of children in schools and in placement institutions despite the activities taken by Taiwan in the recent years. In addition, please elaborate on the information that the numbers might even be higher since victims tend to endure sexual violence “silently” and schools and institutions often “refuse or resist investigations.”	第 126 點（附件 5-23）。雖然政府近幾年來已有所作為，但兒少在校園及安置機構發生的性侵害案件數仍有增加，政府的看法為何？此外，因為受害人傾向以「沉默」的態度忍受性暴力，且學校及機構經常會「拒絕或抗拒調查」，所以可能會有許多黑數，對此，請詳加說明。

Replies of 5.4 – Impact on organizational reputation and no protection for whistleblowers would increase of cases of sexual abuse of children

6. Victims tend to endure sexual violence "silently" usually because the perpetrator has more social influence. Especially in schools, if a victim complains to teachers through official channels, school administration often delays investigation due to the "impact on reputation" or the cumbersome investigation procedures. Even worse, the school does not dare to confront the perpetrator because his/her family is more powerful, so it tends to "make concessions to avoid trouble". This enables the perpetrator to more recklessly bully the victim mentally or verbally with peers. In the end, most victims gradually feel they "have to" endure sexual violence in silence, which is one of the reasons for unreported cases. Second, the Government provides no protection for whistleblowers who are brave enough to report sexual abuse in schools and placement institutions; it imposes sanctions but provides no disclaimer clause for schools and institution supervisors who are willing to take the initiative to handle sexual abuse cases. On the contrary, these organizations develop a culture of smoothing things over and stay unconcerned to prevent future assessments from being undermined by such cases.

點次	問題內容(原文)	中文參考翻譯
6.3	Para. 159 Understanding that the 2019 Act has, inter alia, established an order in which placement options are to be considered – from kinship, through foster care to residential care – please indicate if decision-makers are provided with clear criteria when asked to assess which option to propose. Please also clarify the nature and role of “group home services” which appear to be the final option to be considered if foster care and ordinary residential care are eliminated (§ 162).	第 159 點。瞭解 2019 年修訂《兒童及少年福利與權益保障法》，確立了應考量的安置優先順序，從親屬安置、寄養家庭至住宿式照顧(安置機構)，請說明決策者在評估安置選項時，是否有明確的基準可供參循。並請釐清，倘去除寄養或一般機構照顧的選項，「團體家庭」顯然成為最後選擇時，其性質及角色為何?(第 162 點)。

Replies of 6.3 – The restrictions of placement options assessment, and institutionalized group homes

7. The order of priority for placement first originated from the 1970 "R.O.C. Child and Youth Development Guidelines", which specify the order of placement as kinship families, foster families, and then placement organizations. However, due to limited capacity of foster families and lack of support from kinship families, children are often unable to receive suitable kinship/foster care, which leads to an institution-intensive placement system. In other words, the lack of resources and institutional support for kinship and foster families is the main reason why the placement of children does not follow the preferred order.
8. Group homes are not a last resort and are only an option due to the very small number of beds. Although group home is called a home (or a family), it is actually a small community-based residential institution. As personnel and funding subsidized by the Government is clearly insufficient, caregivers lack necessary training and support, and the turnover rate of group home workers is higher than that of institutional workers. In addition, caregivers are required to work shifts in accordance with the *Labor Standards Act*, making it difficult for children to maintain relationships with them since caregivers change frequently from day to day. The group home as it operates today is largely based on an outdated legal and institutional framework, resulting in the "institutionalized" model of care rather than "family-based" care with elements of family relationships. This is far from "deinstitutionalization" described in the Guidelines for the Alternative Care of Children.

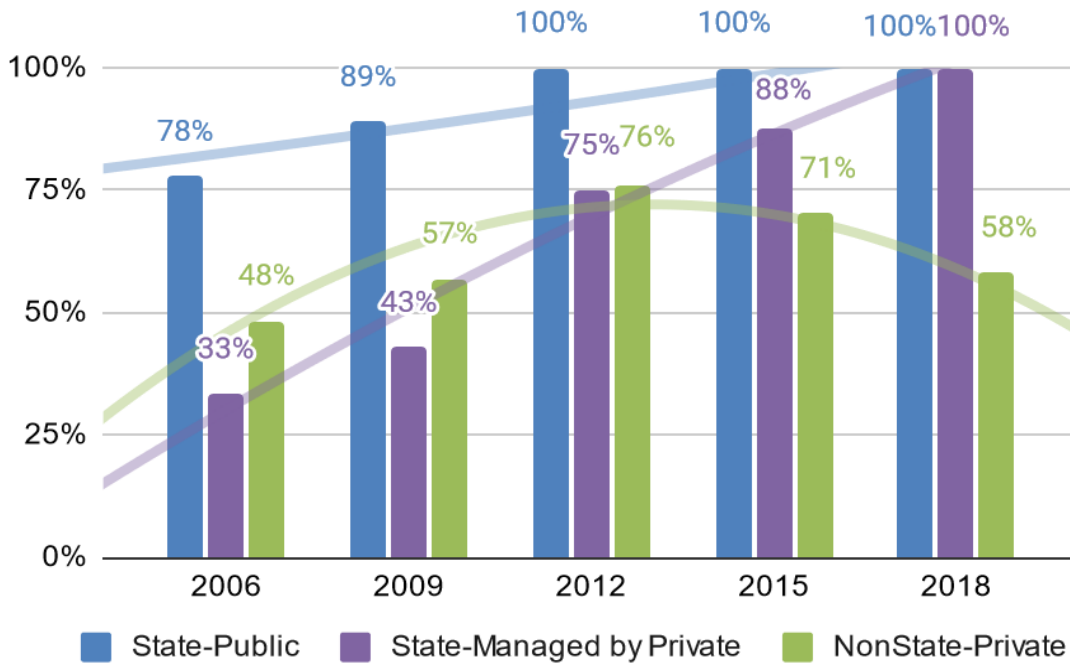
點次	問題內容(原文)	中文參考翻譯
6.5	Para. 163 Please indicate the proportion of State and non-State residential facilities inspected that have received an “A” grade and the number of such facilities whose closure has been ordered after failing to respond adequately to guidance measures for those assessed as “C” or “D” grades.	第 163 點。請說明公立及私立兒少安置及教養機構評鑑甲等以上的比率，以及評鑑結果為丙等及丁等的機構，輔導改善未果時被命其停辦的數量。

Replies of 6.5 – 100% of the public and privately managed public facilities have been graded as A+/A.

9. Based on the five placement assessments from 2006 to 2018 (see Figure 1-2), 100% of the public facilities have been graded as A+/A since 2012, and 100% of the privately managed public facilities received an A+/A grade in 2018, showing an improving trend. However, the percentage of A+/A in private facilities has dropped from a high of 76% in 2012 to 58% in 2018, showing a significant difference in grades between publicly, privately managed public facilities and private facilities. The drop of grade among private facilities may reflect the standardization of building, labor, and children's regulations, increasingly rigorous assessments, and decline in scores due to major events, but no similar impact has been observed for public or privately managed public facilities.

10. According to the *Protection of Children and Youths Welfare and Rights Act*, local governments bear the responsibility to improve quality of services provided by public and private placement facilities, but there are no incentives and sanctions for the hosting agencies and personnel. The guidance measures are not effective as they should be to match such responsibilities. In particular, there has been an overall decline in the assessment results of private facilities in the past decade; for example, some facilities dropped from A to C grade. The local government and personnel responsible for supervision are accountable for the decline, but there are no corresponding evaluation indicators and personnel disciplinary regulations. Therefore, it is recommended that the local government's evaluation of social welfare services and the performance of personnel and offices should include indicators corresponding to the assessment results of children's facilities in their jurisdiction. Only by doing so will the local government make efforts to improve the quality of services, provide resources, and better protect children's rights to adequate placement.

Chart 1-2 The proportion of publicly, privately managed public facilities and private facilities have been graded as A+/A



Source: Compiled from past assessments of children placement facilities.

點次	問題內容(原文)	中文參考翻譯
9.9	If the child is a victim of sexual abuse in the family, is it then possible to remove the alleged perpetrator from the family home instead of placing the child outside of the family home?	如果兒少是家內性侵害事件的受害者，是否可以命加害嫌疑人遷出兒少住家，而非將孩子帶離家外安置？

Replies of 9.9 – A bizarre outcome of the perpetrator staying at home and the victim being locked up (placed)

11. The current laws are not properly reviewed. In the R.O.C. legal framework, there is still a view that the law does not intervene in family affairs and that children are the property of their parents/guardians. Therefore, when the alleged perpetrator of sexual abuse in the family is the guardian or the main source of financial support for the family, the current regulations not only fail to remove the person from home, but also fail to compel him/her to provide adequate support for the child. Even if there are other adults in the family who can take care of the child, the current practice is to remove the victim (child or youth) from home, resulting in a bizarre outcome of the perpetrator staying at home and the victim being locked up (placed).