

Chinese Taipei

1. Discrimination in the family

a) Overarching legal framework for marriage

Women and men have the same right to conclude a marriage under the provisions of the Civil Code (art. 972). Same-sex marriages are lawful since May 2017, when the Constitutional Court invalidated the Civil Code provision prohibiting gay marriage (TFD, 2017). Polygamy is outlawed for both sexes (art. 985) and punished by up to five years' imprisonment (Criminal Code art. 237).

The Civil Code requires couples to sign a marriage agreement and to register their union with the Household Administration Bureau (art. 972 and 981). Violation of these provisions results in the annulment of the marriage (art. 988).

Forced marriages concluded through fraud or duress are prohibited (art. 975) and punished by up to three years' imprisonment (Criminal Code art. 238). They can be annulled within six months of the awareness of the fraud or of the cessation of the duress (art. 997). Moreover, those guilty of abducting a woman to marry her or to make her marry someone else face up to five year's imprisonment (Criminal Code art. 298).

b) Child marriage

Women can lawfully conclude a marriage agreement at 15 years, two years before men, and can lawfully marry at 16 years, again two years before men (Civil Code art. 973 and 980). Earlier marriages are permitted with the consent of the parents or legal guardian (Civil Code art. 982). However, the lack of such consent does not necessary nullify the marriage if the woman is pregnant or if the underage party attains the age of majority (20 years of age) (Civil Code art. 989-990).

The Ministry of Justice has tried unsuccessfully to repeal these discriminatory provisions towards women, and to bring the legal age of marriage in line with international standards (UN Women, 2016). In 2011, women represented 82% of spouses aged 15-19 (Gender Equality Committee of the Government of Chinese Taipei, 2014). As part of efforts to address child marriage, the government has committed to developing Child Protection and Assistance Networks in Savannakhet province (World Vision, 2017).

c) Household responsibilities

The Civil Code stipulates that husband and wife act as agents for each other in daily household matters, that they share living expenses according to their individual economical capacity, contribution to housework and any other relevant parameters, and that they jointly decide on their domicile (art. 1002, 1003 and 1003-1). Both parents are the legal guardians of their children (art. 1086) and have a shared duty to protect, educate and raise them, within and outside of marriage (art. 1084 and 1089).

Women have the same right as men to be the head of the household, yet accounted for only 29% of heads of households in 2015 (National Statistical Bureau, website). Moreover, the division of labour within the home continues to be gendered, as women bear the biggest responsibility for housework and childcare, thereby affecting their employment prospects (Brookins, 2015). In 2015, 16% and 30% of women were out of the workforce as they respectively bore the burden of caring for dependants and performing housework (Gender Equality Committee of the Government of Chinese Taipei, 2017).

d) Divorce

The Civil Code allows either spouse to file for divorce, either unilaterally or by mutual consent (art. 1049-1052). Ten causes of unilateral divorce are listed in the Code (art. 1052), and these do not discriminate against women. Moreover, either parent can be the legal guardian of their children after divorce (art. 1055), and both parents must continue to provide for their children (Civil Code art. 1116-2). There are no reports of discriminatory practices affecting women's right to initiate divorce, or their rights towards their children after a divorce.

e) Inheritance

Daughters and female surviving spouses have the same inheritance rights as sons and surviving male spouses (Civil Code art. 1138 and 1141). It is prohibited to disinherit a surviving spouse, as widows and widowers are both entitled to a compulsory portion of one half (Civil Code art. 1223), and property grabbing is criminalised (Criminal Code art. 320 and 325). Women also have the same right as men to make a will upon reaching 16 years of age (Civil Code art. 1186).

Despite these legal provisions, 56% of women waived their inheritance rights in 2015, compared to 44% of men (Gender Equality Committee of the Government of Chinese Taipei, 2017). This higher percentage for women is reportedly attributed to the tradition whereby only males can pass down property (WomanStats database, n.d.).

2. Restricted Physical integrity

a) Violence against women

Chinese Taipei adopted an Act to enforce the provisions of the Convention on the Elimination of all Forms of Discrimination Against Women 1979 (CEDAW), in 2011. Its provisions have the same effect as domestic legislation, and all government units are obliged to both promote the Convention and enforce its provisions in their relevant fields of authority.

Specific laws address violence against women and complement the provisions of the Criminal Code. In particular, the 1997 Sexual Assault Crime Prevention Act, 1998 Domestic Violence Prevention Act, and the 2005 Sexual Harassment Prevention Act. The first two laws establish a range of comprehensive services for survivors of domestic violence and sexual assault, including legal, medical, psychological, social and employment support, as well as emergency placements and shelters. The law on domestic violence also establishes a government fund to combat domestic violence and sexual assault, through multiple sources of financing (e.g. central budget, donations, fines imposed on domestic violence offenders, fees for deferred prosecutions).

b) Domestic violence

The 1998 Domestic Violence Prevention Act criminalises domestic violence, which it defines as any “act of harassment, control, threat or other illegal action conducted against any family member that is physical, psychological, or economical in nature” (art. 2). Although this law contains a broad definition of ‘family member’ - encompassing current and former spouses and cohabitating partners (art. 3) -, it does not encompass any acts of sexual violence, thereby limiting the scope of services and preventive measures for survivors.

Criminal penalties vary depending on the severity of the act, according to the provisions of the Criminal Code and specific laws (e.g. death penalty or life imprisonment for murdering a family member). In some instances, if the court or prosecutor deems that detention is not necessary, the offender can be released on bail (art. 31).

Municipal and county governments are responsible for establishing Domestic Violence Prevention Centres, which operate 24-hour hotline services, provide 24-hour emergency rescue services, and assist survivors with injury certification, evidence collection and emergency placements. Survivors are furthermore entitled to medical, psychological, social and legal assistance, short to long-term shelter, vocational training and employment support (art. 8).

Protection orders can be issued to protect survivors, either upon their request (by filing a petition with the court) or as an emergency measure granted by prosecution, law-enforcement and local government authorities (art. 9-20). These orders are valid for two years and can contain wide-ranging measures, such as the obligation for the offender to undergo a re-education program or to pay the victim’s rent and other expenses (e.g. medical costs).

The central government manages an electronic database on domestic violence for the benefit of all relevant authorities (e.g. police, doctors, judges, prosecutors), and plays a key role in coordinating inter-institutional actions, promoting educational and awareness-raising measures, and coordinating victim protection and offender treatment programs (art. 5).

Progress is being made in the implementation of the Domestic Violence Act. For instance, the Garden for Hope Foundation operates 20 shelters nation-wide, and the Taipei City Centre for domestic violence and sexual assault protection has established an online map indicating the prevalence of cases in each district and village (Taipei City Government, website). The percentage of female victims of domestic violence is also slowly decreasing, from 75.1% in 2010 to 70.6% in 2015 (Government of Chinese Taipei, 2017). According to the United Nations, married immigrants are especially vulnerable to domestic violence (CEDAW, 2014).

c) Rape

Rape is criminalised under art. 221 of the Criminal Code, which refers to forced carnal knowledge through the use of threats, force, drugs, hypnosis or any other means rendering physical resistance impossible. This article also stipulates that any act of sexual intercourse with a child under 14 years of age constitutes rape, regardless of whether the child consented or not. Marital rape is not explicitly included in the definition, but impunity for such acts has been abolished (Syriani, 2016).

Rape carries a minimum penalty of five years' imprisonment (Criminal Code art. 221), which is extended to a minimum of seven years in the event of gang rape or rape causing bodily harm, unintentional death or suicide (art. 222 and 226). Raping and murdering a victim is punished by the death penalty (art. 223).

Under the 1997 Sexual Assault Crime Prevention Act, municipal and county governments are responsible for establishing Sexual Assault Prevention Centres in order to provide sexual assault victims with 24-hour hotline and emergency rescue services, emergency shelter, as well as medical, psychological and legal assistance (art. 6).

The holistic approach adopted to combat sexual assault includes the obligation for educational institutions to implement sexual assault prevention courses, and the obligation for organisations with 30 or more workers to hold sexual assault prevention trainings or to encourage their members to participate in such trainings (art. 7).

Progress is being made in the implementation of the 1997 law, as shown by the steady decrease in the number of female victims, from 90% in 2010 to 82% in 2015 (Government of Chinese Taipei, 2017), and by the steep increase in the prosecution rate, from 18% in 2004 to 80% in 2011 (Foundation of Women's Rights Promotion and Development (FWRPD) of the Government of Chinese Taipei, website).

d) Sexual harassment

The 2005 Sexual Harassment Prevention Act complements the 2002 Gender Equality in Employment Act and the 2004 Gender Equality in Education Act, by granting legal protection to victims of sexual harassment outside of work and educational settings. The 2005 law defines sexual harassment as any sexual statement or behaviour that violates the wishes of another person, or that affects their rights and interests with regards to work, education, training, services, plans or activities (art. 2). Sexual harassment can include the act of intimidating or spamming someone with texts, pictures, voices, images or other objects, thereby including cyber harassment or stalking.

Sexual harassment offenders face fines or jail sentences, depending on the act and their relation to the victim (art. 20-25). For instance, offenders who took advantage of their position of authority face harsher fines than other offenders, and jail sentences are imposed on those who unlawfully kiss, hug or touch someone else's private part(s).

The 2005 law is being implemented through the Taiwan Workplace Equality Best Practice (T-WEB) program, operated by the Council of Labor Affairs, and through which the government is assisting enterprises to establish friendly workplaces. Measures include the provision of guidance and trainings on sexual harassment prevention, methods of appeal, and disciplinary action (Ministry of Labor of Chinese Taipei, website). The government reports that 85.2% of employers enforced measures for sexual harassment prevention and complaint procedures in 2015, up from 83.8% in 2014 (Gender Equality Committee of the Government of Chinese Taipei, 2017).

e) Female genital mutilation

Female genital mutilation is not reported in Chinese Taipei (UNICEF, 2016), and there are no laws on this topic.

f) Abortion

Abortions are illegal in Chinese Taipei (art. 288-292 of the Criminal Code); unless they are performed to preserve the woman's health or to save her life, provided that the woman consents to the procedure (art. 228). Such lawful abortions can be performed at any time during the term, regardless of the woman's age.

Women who cause their own abortion or ask someone else to cause it face up to six months' imprisonment, a fine or detention, unless the act is needed to avert their death or due to sickness. Those who perform an abortion outside of the lawful cases face up to two years' imprisonment if the woman consented to the act, or 1-7 years' imprisonment if the woman did not consent. Extended penalties apply in both cases if the procedure causes bodily harm or death. It is also prohibited to advertise abortion methods or services.

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

The Civil Code grants women and men the same right to own land and other assets, regardless of their marital status (ch.2). Ownership rights encompass the right to freely use, profit from and dispose of an asset (art. 765), thereby including the freedom to decide how to use the asset and to pledge it as collateral. Spouses can opt for a contractual regime of community or separation of property (art. 1031-1046). Women have the same right as men to administer marital property under the community of property regime, as the Civil Code stipulates that both spouses jointly manage their marital property, unless a contrary agreement has been made (art. 1032). The consent of the other spouse is required for the disposal of marital property (art. 1033). Moreover, marital property is divided equally among spouses after divorce, unless otherwise stipulated in the contract (art. 1040).

Land registration is overseen by municipal/county land registration offices (Land Registration Regulations, art. 3), through the issuing of certificates of individual or co-ownership. Spouses, *de facto* partners and other groups of people can apply for the registration of collective land rights, in which case the land title shall identify the co-owners and their share of land (Land Registration Regulations, art. 32 and 36). Women's right to inherit land is protected by the mandatory registration of land inheritance, which requires the submission of the household register and the genealogical list of heirs (Land Registration Regulations, art. 119).

Despite these provisions the land ownership rights of female and male indigenous persons have been restricted over the years (AIWN, 2010). It is hoped that the government's first official apology to the indigenous people of the island, in August 2016, will restore land rights for these women and men (LandPortal, 2016).

The government has adopted measures to enhance female participation in producer organisations and rural committees, namely by establishing women's markets and handicraft production centres, by linking female producers to online sales channels, and by organising workshops for women engaged in the sale of local products, handicrafts and green products (Government of Chinese Taipei, 2014).

b) Secure access to formal financial resources

The Banking Act and Credit Cooperatives Act allow women to open bank accounts and to access credit in the same way as men. There are no reports of discriminatory practices towards women, with the World Bank revealing that 90% of women and 92% of men had an account at a formal institution in 2014, and that 15% of women and 13% of men borrowed from a formal financial institution that same year (Global Findex, 2014).

Moreover, female entrepreneurship is promoted through various governmental measures. For instance, the Ministry of Labour's 'Phoenix Micro Start-up Programme' provides women with business start-up courses, consultation services and collateral-free loans since 2007. Women accounted for 73% of beneficiaries in 2015, and for 74% in the first quarter of 2016 (Gender Equality Committee of the Government of Chinese Taipei, 2017). The Ministry of Economic Affairs runs a 'Women Entrepreneurship Flying-geese Program' and an 'Elite Women Entrepreneurship Competition, while the Financial Supervisory Commission promotes access to microcredit for female entrepreneurs, namely by taking into account the number of loans awarded to female-headed SMEs when approving the opening of financial institution branch offices (Gender Equality Committee of the Government of Chinese Taipei, 2017).

c) Workplace rights

Domestic legislation in Chinese Taipei promotes the principles of equal remuneration for work of equal value, non-discrimination in the workplace, government support for workers to balance work and family responsibilities, and maternity protection. These principles are set out in the 1958 Labour Insurance Act, 1984 Labour Standards Act, and 2002 Gender Equality in Employment Act.

The principle of non-discrimination based on sex in employment encompasses the full recruitment and hiring process, as well promotions, trainings, assignments and contract termination (Gender Equality in Employment Act, art. 7, 8 and 11). Moreover, there are no restrictions on the types of jobs that women can perform. However, women cannot work the same night hours as men without the approval of the labour union (Labour Standards Act, art. 49).

The law requires central and local governments to establish committees on gender equality in employment to handle cases of discrimination in the workplace (Gender Equality in Employment Act, art. 5). Employees can also file complaints to the Ministry of Labour, for matters linked to maternity, paternity and parental leave (Gender Equality in Employment Act, art. 33), and to the central government Committee on Gender Equality in Employment, for other issues. If employees are not satisfied with the decisions of the Committee, they can appeal to the Administrative Appeals Committee (Gender Equality in Employment Act, art. 33-34).

Employees can receive civil remedies for cases of discrimination, including damages for non-pecuniary losses (e.g. damaged reputation), while employers face criminal penalties (Gender Equality in Employment Act, arts. 26, 29 and 38).

Female employees are entitled to eight weeks maternity leave (Gender Equality in Employment Act, art. 35), during which they are paid 100% of their wages, unless they have not worked for more than six weeks, in which case they are paid at a 50% rate (Labour Standards Act, art. 50). They also receive a lump sum equal to 90 days of wages at 100% (Labour Insurance Act, art. 32). Husbands are entitled to five days of fully paid (100%) paternity leave (Gender Equality in Employment Act, art. 15), and to a lump sum equal to 30 days of wages at 100% (the Labour Insurance Act, art. 32). Women and men can also benefit from unpaid parental leave for up to two years, until their child reaches three years of age (Gender Equality in Employment Act, art. 16).

In 2015, 95% and 86% of employers upheld their legal obligation to respectively provide maternity and paternity leave to their employees, while 80% approved request for unpaid parental leave, and 84% provided employees with nursing rooms, as per the legal requirement for employers with 100 or more employees (Gender Equality Committee of the Government of Chinese Taipei, 2017).

Women's participation in the labour market is lower than men's, with latest statistics indicating a 16% difference between sexes (51% for women in 2015, compared to 67% for men that same year) (Gender Equality Committee of the Government of Chinese Taipei, 2017). The government is addressing this gap through diverse measures, including the building of affordable early childhood education and care facilities, the adoption of family-friendly policies (e.g. Taiwan Workplace Equality Best Practice (T-WEB) programme), and the provision of financial support to child-rearing households (Gender Equality Committee of the Government of Chinese Taipei, 2017).

4. Restricted Civil liberties

a) Citizenship rights

The 1929 Nationality Act provides women with the same right as men to confer their nationality to their children and to change nationality, regardless of their marital status (art. 2 and 11). Although marital acquisition of nationality was abolished in 2000 to prevent 'marriages of convenience' (Low C., 2016), the mandatory residency requirement for naturalisation is lowered by two years if the applicant is married to a national of Chinese Taipei (art. 4). Stringent financial criteria were initially included in the naturalisation procedure, whereby applicants needed to have an individual or household average income equal to double the basic wage, depending on whether they were married to a national of Chinese Taipei or not. These provisions practically excluded foreign spouses from naturalisation, which is why the government abolished this financial requirement in 2008 (Low C., 2016). Women represent the majority of naturalised migrants, accounting for 88.5% in 2015 (Low C., 2016).

Mothers have the same obligation as fathers to register children under 12 years of age, and must do so within 60 days of the birth (Household Registration Act, art. 29 and 48). Late registration incurs a fee of 300-900 NT dollars (art. 79). If the concerned parties fail to register the birth after receiving a

written notification, they will be fined 900 NT dollars and the household registration office will directly file the registration (art. 48-2 and 79). Birth registration is facilitated in rural areas through online and oral applications (art. 27).

The law does not discriminate against women in the issuing of identity cards and passports, both for themselves and for their children, regardless of their marital status. Every citizen must apply for an Identify Card upon turning 14 (Household Registration Act art. 57), by paying a fee, filling out an application form and providing a passport (or third party identity documents) (Ministry of the Interior, website). There is no age specification for the issuing of passports (Ministry of Foreign Affairs, website).

There are no reports of discriminatory practices towards women in relation to birth registration and ID/travel documents.

b) Voting

The Constitution grants women and men the same voting rights, upon reaching 20 years of age (art. 130). This principle is reiterated in specific laws regulating the election of the President, Vice-President and members of Government, and the law on referendums (art. 11 of the Presidential and Vice Presidential Election and Recall Act, art. 14 of the Civil Servants Election and Recall Act, and art. 7 of the Referendum Act). There are no reports of discriminatory practices limiting women's voting rights.

c) Political voice

Women and men have the same right to stand for presidency and vice-presidency, to participate in Parliament (*Legislative Yuan*) and government (*Executive Yuan*), to work as a judge, and to represent the government at the municipal, county, township, district and village levels (Presidential and Vice Presidential Election and Recall Law art. 20; Civil Servants Election and Recall Act art. 24; Constitution art. 55-56 and 79). A 50% quota for female participation is in place in the *Legislative Yuan* and a 25% quota in local council elections. In both instances, any seat vacated by a woman is to be filled by another woman. The implementation of these temporary measures is overseen by the Central Election Commission, for elections at municipal, county and city level, and by municipal and county election commissions, for the election of village, township and district chiefs.

2016 saw the election of the first female President (Tsai Ing-wen), the nomination of the judiciary's first female vice-President (Hsieh Wen-ting), and an increase in female representation in the ninth *Legislative Yuan* (38%, up from 34% in 2012) (Chinese Taipei Yearbook 2016). However, latest statistics from 2016 reveal that women only represent 15.4% of ministers and vice-ministers, and 32% of senior-ranked civil servants, which is why the government has set out to achieve a 20% ratio of female ministers and vice-ministers by 2020 (Gender Equality Committee of the Executive Yuan, website). Moreover, the United Nations has raised concerns about the low percentage of indigenous women serving in decision-making positions (CEDAW, 2014).

d) Access to justice

The Code of Civil Procedure, the Code of Criminal Procedure and the Family Act all contain gender-neutral provisions on the right to sue or be sued in civil, criminal and family courts, and on the weight of testimonies given by women and men. Moreover, the law includes elements to support women in filing lawsuits, particularly through the provision of legal aid under the 2004 Legal Aid Act, interpretation support in family, civil and criminal courts, and the possibility of providing remote testimonies in family courts. In addition, the 2000 Witness Protection Act outlines statutory rights of all witnesses of crimes. Girl's rights are further protected through the establishment of juvenile courts (Juvenile and Family Court Organization Act art. 3).

The CEDAW Review Committee raised concerns in 2014 about the challenges faced by women in accessing justice, due in part to the shortage of judges and the cost of court procedures, as well as cost and language barriers (CEDAW Committee, 2014).

The Department of Gender Equality staffs the Gender Equality Committee (GEC), formerly known as the Committee of Women's Rights Promotion (CWRP). The GEC is responsible for implementing the Act on the Enforcement of the CEDAW, which was promulgated in 2011. As such the Committee is tasked with monitoring the compliance of national laws and policies with international human right standards, with enacting gender equality policies, with mainstreaming gender in central and local governments, and with facilitating gender-equality training and awareness-raising. The Gender Equality in Employment Act also grants the Committee the power to receive and resolve complaints of gender-based discrimination in employment, if an applicant is not satisfied with the decision made by a local authority (art. 34).

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