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2008 Human Rights Reports: Taiwan

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2008 Country Reports on Human Rights Practices

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Taiwan's population of 23 million is governed by a president and parliament chosen in multiparty elections. Legislative elections in January and presidential elections on March 22 were free and fair. The election of President Ma Ying-jeou, of the Kuomintang Party (KMT), marked the country's second peaceful, democratic transfer of power. Civilian authorities generally maintained effective control of the security forces.

Taiwan generally respected the human rights of its citizens; however, the following problems continued to be reported: corruption by officials, violence and discrimination against women, trafficking in persons, and abuses of foreign workers.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the authorities committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution stipulates that no violence, threat, inducement, fraud, or other improper means should be used against accused persons, and there were no reports that the authorities employed them.

Prison and Detention Center Conditions

Prison conditions generally met international standards, and the authorities permitted visits by independent human rights observers. As of July prisons operated at 110 percent of design capacity.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the authorities generally observed these prohibitions.

Role of the Police and Security Apparatus

The National Police Administration (NPA) of the Ministry of Interior (MOI) has administrative jurisdiction over all police units, although city mayors and county magistrates appoint city and county police commissioners. Mayors and magistrates are responsible for maintaining order and assessing the performance of police commissioners within their jurisdiction.

Police corruption, while limited, was a problem. The NPA did not keep statistics on police corruption cases. In March the authorities arrested and held in custody senior officers of several Taipei County police precincts for taking bribes from operators of illegal gambling establishments. In October the authorities indicted 42 suspects in the case, including a former Yunho City police commissioner and five other police officers. The prosecutor requested a 15-year jail term for the former police commissioner.

Prosecutors and the Control Yuan are responsible for investigating allegations of police malfeasance. The NPA also has an inspector general and an internal affairs division that investigated allegations of police misconduct. Police officers and senior officials suspected of corruption were prosecuted and punished upon conviction.

Arrest and Detention

Warrants or summons are required by law except when there is ample reason to believe the suspect may flee, or in urgent circumstances. Indicted persons may be released on bail at judicial discretion. By law, prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The authorities generally observed these procedures, and trials usually took place within three months of indictment. According to the Code of Criminal Procedure, prosecutors can apply to a court for approval of a "pretrial" detention of an unindicted suspect for a maximum of two months with one possible two-month extension. Pretrial detention can be requested in cases where the potential sentence is five years or more or there is a reasonable concern that the suspect could flee or collude with other suspects or witnesses or tamper or destroy material evidence. Opposition Democratic Progressive Party (DPP) officials and supporters alleged political interference in the investigation, detention, and prosecution of former president Chen Shui-bian and other current and former DPP officials.

Human rights advocates complained that the law did not provide adequate protection since there is no requirement that suspects have legal representation during questioning. In September 2007 the Judicial Yuan (JY) and the NPA initiated a one-year pilot program (since extended to a second year) to provide legal counsel during initial police questioning to qualifying indigent suspects who are mentally handicapped or charged with a crime punishable by three or more years in prison. Lawyers recruited by the Legal Aid Foundation (LAF) were posted to police stations in 23 cities and counties. Police and prosecutors were required to provide written notice of the service to qualifying defendants. On December 29, the LAF announced

that in addition to its existing 20 branches, which serviced all 23 cities and counties around the island, 50 police sub-bureaus, one-third of the island's 158 sub-bureaus, have begun implementing the pilot program. Human rights lawyers contended that while courts are required to appoint counsel after an indictment is filed, the existing Criminal Procedure Code does not specify what lawyers can do to protect the rights of indigent criminal suspects during initial police questioning. The pilot program has enjoyed some success, but some groups argued that police need more on-the-job training, police facilities should be improved to accommodate lawyers in their initial questioning of suspects, and authorities should allocate more funding to provide financial incentives for lawyers to engage in the program.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the authorities generally respected judicial independence. However, although the authorities made efforts to eliminate corruption and to diminish political influence in the judiciary, residual problems remained. During the year many political leaders publicly questioned the impartiality of judges and prosecutors involved in several high-profile and politically sensitive cases.

The JY is one of the five coequal branches of the political system and includes the 15-member Council of Grand Justices (CGJ), which interprets the constitution as well as laws and ordinances. Subordinate JY organs include the Supreme Court, high courts, district courts, administrative courts, and the Committee on the Discipline of Public Functionaries.

Active-duty military personnel are subject to the military justice system, which provides the same protections as the civil criminal courts. However, critics contended that there was insufficient separation between military prosecutors and judges, who were usually officers in the same unit and under the same command, to properly safeguard a defendant's interests.

Trial Procedures

The constitution establishes the right to a fair trial, and an independent judiciary generally enforced this right. Judges, rather than juries, decided cases; all judges were appointed by and responsible to the JY. A single judge, rather than a defense attorney or prosecutor, typically interrogated parties and witnesses. Trials are public, although court permission may be required to attend trials involving juveniles or potentially sensitive issues that might attract crowds. A defendant's access to evidence held by the prosecution is determined by the presiding judge on a case-by-case basis. All defendants are presumed innocent until proven guilty and have the right to an attorney, and criminal procedure rights are extended to all persons without limitation.

The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons

have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of three years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences. It is unconstitutional to allow the confessions of accomplices to be used as the only evidence to convict a defendant.

In November 2007 the Supreme Court reversed the death sentence handed down by a high court in the so-called Hsichih Trio case, which was originally tried before the law disallowed confession as the sole evidence used to determine a guilty verdict. At year's end the case remained pending. The Hsichih Trio was released from custody in 2003.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters. Administrative remedies are available in addition to judicial remedies for alleged wrongs, including human rights violations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the authorities generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice.

There was a vigorous and active free press. Critics alleged that dependency upon advertising revenue and loans from government-controlled banks deterred a few media outlets from criticizing the authorities. The authorities denied using loans or advertising revenue to manipulate the media. President Ma, shortly after he took office in May, announced that the authorities should not attempt to influence the political process through the media, that the budget for official advertising should be evenly distributed among media outlets and both political parties, and that the military should not get involved in media operations.

In July the authorities extended the maximum stay of People's Republic of China (PRC) journalists from 30 days to three months. The authorities also decided to allow up to five PRC regional news outlets to station journalists on the island, in addition to the five PRC national outlets already allowed. On November 13, the

Mainland Affairs Council announced that it had approved the applications of the Fujian Daily and Southeast Television to station journalists on the island. They would join five nation-wide PRC media outlets.

Hong Kong-based Phoenix Satellite Television expressed frustration over the denial of its request to broadcast in Taiwan. The Taiwan authorities treated Phoenix TV as a mainland Chinese media outlet and refused to grant landing rights. Phoenix maintained it is a Hong Kong broadcaster and that the Propaganda Department of the Chinese Communist Party classified it as a "foreign broadcaster," limiting its landing rights to "three-star hotels and above," compounds with foreign residents, and the offices and residences of PRC officials charged with dealing with the outside world. The Government Information Office (GIO) stated in July that the issue of landing rights for Taiwan cable television channels in China and Chinese broadcasters (including Phoenix TV) in Taiwan should be negotiated through future cross-Strait talks.

In an October 9 media release, the International Federation of Journalists (IFJ) condemned alleged government interference in Taiwan media, saying the GIO had demanded that the state-owned Central News Agency alter reports on the contaminated milk powder scandal and withdraw a report criticizing President Ma. The IFJ pointed to the September 30 resignation of the chairman and several directors of the government-funded Radio Taiwan International (RTI) to protest GIO pressure on RTI to change its editorial focus and refrain from broadcasting news too critical of mainland China. The GIO denied the IFJ's accusations. In December the IFJ and Reporters Without Borders also criticized resolutions approved by the Educational and Cultural Affairs Committee and the Interior Affairs Committee in the Legislative Yuan (LY), which called for GIO's approval of content broadcast by the Taiwan Public Television Service.

Opposition groups and student demonstrators complained that police violated their right to free expression during protests against the visit of PRC Association for Relations Across the Taiwan Strait (ARATS) Chairman Chen Yunlin (see section 2.b.).

Internet Freedom

There were no official restrictions on access to the Internet, and individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. GIO regulations require domestic Web site operators to label their Web site material, making it easier to detect and block access to adult-only material by persons under age 18. The GIO authorized the Taiwan Internet Content Rating Promotion Foundation, a joint GIO/Internet industry/nongovernmental organizations (NGOs) enterprise, to provide free filtering software to parents. The GIO did not block access to restricted Web sites.

Several NGOs reported that law enforcement officials monitored Internet chat rooms and bulletin boards and used Internet addresses to identify and prosecute

adults responsible for posting sexually suggestive messages. Critics alleged the Child and Youth Sexual Transaction Prevention Act (CYSTPA), which is intended to protect children from sexual predators, is being used to punish constitutionally protected free speech between consenting adults. In response to a request by persons opposed to this use of the CYSTPA, the CGJ looked at the issue and ruled in favor of the law enforcement officials' actions, noting that the constitutional guarantee to free speech is not absolute and may be subject to reasonable restrictions intended to preserve a significant public interest -in this case, "to deter and eliminate cases where children or juveniles become objects of sexual transaction."

Academic Freedom and Cultural Events

On June 20, the CGJ ruled that the prohibition on the establishment of political parties or associations that advocate "communism" or "division of the national territory," otherwise known as "Taiwan independence," was unconstitutional. There were no restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Opposition-party legislators and human rights NGOs claimed that the Assembly and Parade Law unconstitutionally restricts free speech and assembly, and called for it to be amended or abolished. The "Wild Strawberry" student movement staged month long demonstrations and the Taiwan Association for Human Rights and more than a dozen other civic groups formed an alliance to advocate for amending the law. Their goals included removing restrictions on street protest demonstrations and eliminating the requirement to apply to police for permission to hold a demonstration. At year's end the LY had not voted on a proposed amendment.

In August 2007 the authorities charged 16 persons who participated in anticorruption protests in 2006 with failure to obtain a protest permit and failure to comply with a police order to disperse. At year's end the case was still pending. According to human rights NGOs and media reports, other protesters were also charged with violating the law. If convicted, violators most often were given terms of two to three months that, at judges' discretion, usually were converted to fines.

Opposition supporters accused police of using excessive force at a November 6 rally that turned violent when protesters clashed with riot police near a Taipei hotel where PRC ARATS Chairman Chen Yunlin was staying. According to government figures, 170 police officers, 23 civilians, and eight journalists were injured in the violence, including a reporter with Formosa Television, who suffered nose and eye injuries after being struck by a policeman. The journalist filed a lawsuit to seek compensation, and the interior minister apologized for the incident.

According to the Association of Taiwan Journalists, the NPA sought to coerce journalists who covered the November 6 rally to turn in photographs and video clips to help police identify individuals who instigated violence. A November 19 IFJ media release urged the police to stop pressuring media for information on the protest. On November 20, the international human rights NGO Freedom House urged the government to create an independent commission to investigate the clashes and recommend necessary reforms.

Freedom of Association

Bringing the law in line with practice, on June 20 the CGJ removed the prohibition in the Civic Organization Act on the establishment of political parties or associations that advocate "communism" and "division of the national territory." On August 12, the MOI accepted the registration of the Taiwanese Communist Party as the 141st political party in Taiwan.

Section 3 Respect for Political Rights: the Right of Citizens to Change Their Government

The constitution provides citizens the right to elect and change their political leaders peacefully, and this right was exercised in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Elections and Political Participation

In January the KMT won a significant majority in the Legislative Yuan following the implementation of a new single-member district electoral system. Two months later, the KMT presidential candidate Ma Ying-jeou won the presidency, marking the second peaceful, democratic transfer of power in Taiwan's history. Observers regarded the elections as free and fair.

Political parties operated without restriction or outside interference.

There were 34 women in the 113-member LY. Eleven of the 48 Executive Yuan (cabinet) members were women. The mayor of Kaohsiung, Taiwan's second largest city, was a woman. Two of the 15 grand justices were women. At least half of the at-large seats won by a political party were required to be filled by women.

Representatives of the indigenous population participated in most levels of the political system. They held six reserved seats in the LY, half of which were elected by plains tribes and half by mountain tribes. Indigenous peoples accounted for about 2 percent of the population; their allocation of legislative seats was more than double their proportion of the population.

Government Corruption and Transparency

The law provides criminal penalties for official corruption and the authorities generally implemented these laws effectively. There were allegations of official corruption during the year. Allegations of vote buying continued, although all political parties were publicly committed to ending the practice.

In June the authorities passed ethics rules aimed at 400,000 public servants and their families. The measures, which took effect August 1, stipulated that public servants may not receive gifts valued at NT\$3,330 (approximately \$100) or higher or any gifts with a total value of NT\$10,659 (\$323) or above from a single person in a year when the giver was deemed an "interested person."

In addition, all public servants are subject to the Public Servants' Property Declaration Law. The Ministry of Justice (MOJ) is in charge of combating official corruption.

In January eight former and incumbent legislators from across the party spectrum were indicted on charges of accepting bribes from the National Chinese Herbal Apothecary Association.

On December 4, the Taipei District Court sentenced former MOJ Investigation Bureau (MJIB) Director Yeh Sheng-mao to 10 years in prison for offenses including withholding classified information delivered to the MJIB related to possible money laundering activities involving then president Chen Shui-bian's family members. Under Taiwan's court system, Yeh is eligible to appeal his conviction two times.

Chen, his wife Wu Shu-jen, and others, including some officials of the former DPP administration, were either indicted or under investigation for various alleged acts of corruption. Wu was indicted in four major corruption and money laundering cases, while former president Chen was indicted in three of the same cases. Some observers, including Chen's supporters, asserted the charges were politically motivated. However, the government and other observers maintained they saw no indication of political interference by the administration in the investigation and prosecution of the cases against Chen and his family. Various international and local organizations, academics, and DPP politicians, raised concerns about some developments, including Chen's pretrial detention, the transfer of Chen's cases from one judge to another, and leaks to the media of information from confidential investigations.

By September prosecutors had indicted 849 persons on various corruption charges. Of those accused, 138 were high-ranking officials, 278 were mid-level, and 272 were low-level.

The Access to Government Information Law stipulates that all government information be made available to the public upon request, except national secrets, professional secrets, personal information, and protected intellectual property. The law provides that citizens, companies, and groups registered in Taiwan can submit

information requests and can appeal denied requests. These privileges are extended on a reciprocal basis to citizens of foreign countries.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without restriction by the authorities. Officials often were cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution provides for equality of citizens before the law irrespective of sex, religion, race, class, or party affiliation. It also provides for the rights of persons with disabilities. The authorities enforced these provisions.

Women

Violence against women, including rape and domestic violence remained a serious problem. Rape, including spousal rape, is a crime. Because victims were socially stigmatized, many did not report the crime, and the MOI estimated that the total number of sexual assaults was 10 times the number reported to the police.

The law provides protection for rape victims. Mentally handicapped victims and those under 16 years of age are allowed to testify via a two-way television system. Rape trials are not open to the public unless the victim consents. The law requires doctors, social workers, police, and prosecutors to jointly question victims of sexual abuse whenever possible to reduce the number of times a victim is questioned. The law permits a charge of rape without requiring the victim to press charges.

The law establishes the punishment for rape as not less than five years' imprisonment, and those convicted usually were given prison sentences of five to 10 years. According to the MOI, 4,309 reports of rape or sexual assault were filed through June. Prosecutors tried 1,088 cases and convicted 1,089 individuals as of July. According to the MOJ, the average conviction rate over the past few years was approximately 43 percent.

The law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. As of September a total of 40,974 cases of domestic violence had been reported. As of October a total of 2,046 persons had been prosecuted for domestic violence, and 1,730 persons had been convicted. As of October 9,638 protection orders had been issued to domestic violence victims. Typically persons convicted in domestic violence cases were sentenced to less than six months in prison. Strong social pressure not to disgrace their families discouraged abused women from reporting incidents to the police.

The law requires all cities and counties to establish violence prevention and control centers to address domestic and sexual violence, child abuse, and elder abuse. These centers provided victims with protection, medical treatment, emergency assistance, shelter, legal counseling, and education and training on a 24 hour basis. Prostitution is illegal; however, prostitution, including child prostitution, was a problem. Currently, the Social Order Maintenance Act mandates punitive measures only for prostitutes; those patronizing prostitutes are not subject to penalties unless a minor is involved. Trafficking in women remained a problem.

Sexual harassment is a crime, punishable by fines of from NT\$100,000 to NT\$1 million (approximately \$3,000 to \$30,000) and imprisonment for up to two years. All public employers and larger private employers were required to enact preventive measures and establish complaint procedures to deter sexual harassment. Hot lines were established in several major cities from 2006, but reporting levels were well below expectations. Women's groups criticized the implementation of the law as ineffective, attributing low reporting rates to inadequate publicity.

The law prohibits sex discrimination and stipulates that measures be taken to eliminate sexual harassment in the workplace. The Gender Equality in Employment Act (GEEA) provides for equal treatment with regard to salaries, promotions, and assignments. The GEEA entitles women to request up to two years of unpaid maternity leave and forbids termination because of pregnancy or marriage.

Women's advocates noted that women continued to be promoted less frequently, occupied fewer management positions, and worked for lower pay than their male counterparts. Women made up 49 percent of the total workforce and more than 50 percent of the service industry workforce. According to the Council for Labor Affairs (CLA), salaries for women averaged 85 percent of those for men performing comparable jobs.

Children

The authorities were committed to the rights and welfare of children, and the law included provisions to protect them.

Child abuse continued to be a widespread problem. As of June, 8,200 cases were reported, including cases of physical, mental, or sexual abuse or harm due to guardian neglect. Approximately 90 percent of abusers were parents, relatives, or caregivers. Hospitals, schools, social welfare organizations, or the police reported 60 percent of all cases, with 40 percent of reports coming from family members or the public. Fifty percent of all cases were reported through the child abuse hot line.

A reliable NGO reported sexual abuse was more prevalent than the public realized, with the estimated number of victims reaching approximately 20,000 per year while only approximately 3,000 were reported. Central and local authorities, as well as private organizations, continued efforts to identify and assist high-risk children and families and to increase public awareness of child abuse and domestic violence.

By law, persons discovering cases of child abuse or neglect must notify the police or welfare authorities. Child welfare specialists must notify the local authorities within 24 hours, and authorities must take appropriate measures within 24 hours. Regulations encourage officials to respond to investigation requests within four days. The MOI Children's Bureau and NGO specialists monitored cases to ensure that requirements were met. An official hot line accepted complaints of child abuse and offered counseling. Courts were authorized to appoint guardians for children whose parents were deemed unfit.

Solicitors of prostitutes under the age of 14 faced sentences of three to 10 years in prison. Those who patronized prostitutes between the ages of 14 to 16 were sentenced to three to seven years. Solicitors of prostitutes older than 16 but younger than 18 faced up to one year in prison or hard labor, or a fine up to NT\$3 million (approximately \$100,000). According to the MOI Children's Bureau and local NGOs, 1,000 children per year were rescued from prostitution and placed in shelters. The Children's Bureau reported a significant increase in the number of boys exploited as prostitutes.

Advertisements related to prostitution were prohibited, and the law was enforced in practice. Citizens arrested abroad for having sex with minors were also indicted and convicted for patronizing underage prostitutes in foreign countries.

As of October, 744 persons were indicted and 775 persons were convicted of violating the CYSTPA, which criminalizes child prostitution and the possession and distribution of child pornography. The law requires publication of violators' names in newspapers.

Trafficking in Persons

Trafficking in persons continued to be a problem. Effective August 1, amendments to immigration laws provide victim protections and prevention measures. There is no comprehensive trafficking law, although most forms of trafficking are criminalized through a number of statutes.

The MOI, the MOJ, the National Immigration Agency (NIA), the CLA, the NPA, and several other agencies are responsible for combating trafficking. A senior-level prosecutor unit supervises district court handling of trafficking cases and there are antitrafficking task forces within the NIA, the NPA, the Coast Guard, and the 21 district court offices.

Taiwan is primarily a destination for Southeast Asian and PRC nationals trafficked into forced labor or sexual exploitation. There were reports of women being trafficked from Taiwan for sexual exploitation purposes to Canada, Japan, the United Kingdom, the United States, and other countries.

Taiwan authorities reported that traffickers continued to use fraudulent marriages as a method for human trafficking, in part because penalties for "husbands" were

lenient. Some women smuggled to Taiwan to seek illegal work were subsequently forced to work in the commercial sex industry. NGOs reported a sharp increase in the number of boys rescued from prostitution, mainly discovered during police investigations of online social networking sites suspected of being front operations for prostitution rings. Labor trafficking remained a serious problem (see section 6.e.).

As of November, the MOJ reported authorities had indicted 530 individuals for trafficking offenses. Of those indicted 266 were convicted for a conviction rate of 60 percent. Approximately 80 percent of the 178 cases closed were sexual exploitation, while forced labor accounted for the remaining 20 percent. In October, police, in collaboration with prosecutors and the Criminal Investigation Bureau, conducted raids on the offices of a large labor brokerage group, resulting in the arrest of 34 suspects on charges of fraud, money laundering, and forced labor. Press reports indicated approximately 9,000 workers recruited by the brokerage group allegedly were forced to work long hours, turn over bank cards so that the brokerages could withdraw large sums from their monthly salaries, and sign repayment agreements for nonexistent loans. The majority of the victims were recruited from Indonesia, with others coming from Vietnam and Thailand.

Incidents of public employees or officials implicated in trafficking were rare, but they did occur. There were instances of local authorities accepting bribes and sexual services in return for ignoring illegal sex- and labor-trafficking activities.

There are island-wide guidelines for identifying and treating trafficking victims. The authorities conducted exercises to train police, immigration officials, and other law enforcement personnel in identifying victims. However, immigration officers, police, prosecutors and other law enforcement personnel did not consistently follow victim identification procedures. NGOs reported concerns that an increase in the number of raids and arrests had not resulted in increased convictions. They further noted that, when foreigners were identified as victims of trafficking or as witnesses, authorities coerced cooperation on prosecutions and often kept them in detention centers or required them to remain on Taiwan until their appearance in court was no longer needed, a year on average. Compounding the problem was the lack of an established process to implement new provisions of the Immigration Act that allow trafficking victims to obtain temporary visit and work permits. NGOs added that significant numbers of trafficking victims continued to be punished with community service and fines for violating immigration, foreign labor, or prostitution laws.

In 2007 the Executive Yuan issued a three-year antitrafficking action plan (2008-10) which addresses victim protections, trafficking prevention measures, such as a new public awareness campaign launched in December, and measures aimed at increasing prosecutions of traffickers on the island.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities and sets minimum fines for violations.

The law stipulates that the authorities must provide services and programs to the disabled population. Free universal medical care was provided to persons with disabilities. NGOs continued to note that more public nursing homes were needed and that current programs, such as home care services, needed to be expanded to meet the growing needs of those with disabilities, including the growing numbers of elderly persons.

The law requires all private enterprises with more than 100 employees to hire at least one person with disabilities per 100 workers. By law, effective July 2009 for all public entities (including offices, schools, and enterprises) with 34 or more employees, employees with disabilities must make up at least 3 percent of the total workforce. For each unmet quota position, both public and private organizations are required to pay into the Disabled Welfare Fund an amount equal to one basic monthly salary NT\$17,280 (approximately \$535).

By law, new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. Violations resulted in fines of from NT\$60,000 to NT\$300,000 (approximately \$1,900 to \$9,300).

National/Racial/Ethnic Minorities

During 2007, 18 percent of all marriages were to foreign-born spouses, primarily from China, Vietnam, Indonesia, and Thailand, and an estimated 10 percent of all births were to foreign-born mothers.

Foreign spouses were targets of discrimination both inside and outside the home. Most marriages to foreign citizen spouses were arranged by brokers, whose local advertisements frequently were degrading to women. For fees ranging from NT\$250,000 to NT\$400,000 (approximately \$7,800 to \$12,400), brokers typically flew clients to other Southeast Asian countries, where they could choose from a group of eligible women recruited by the broker. The marriage and necessary paperwork were usually completed within a week. Several reports suggested that this commercialized process likened foreign spouses to property and contributed to their mistreatment. An MOI report concluded that social and economic marginalization contributed to an abnormally high rate of domestic violence in marriages to foreign spouses.

The amended immigration law bars all discrimination against foreign-born spouses and foreign migrant workers on the basis of nationality, race, skin color, social rank, or place of birth. Those convicted of violating these provisions can face fines of up to NT\$30,000 (approximately \$930). The law permits a foreign-born spouse to

apply for a restraining order if he or she has been the victim of domestic violence. A foreign-born spouse may now remain in Taiwan as long as necessary to complete divorce proceedings and to settle child-custody questions. After a divorce, a foreign-born spouse may remain in Taiwan to care for minor children less than 20 years of age. The amendment also banned for-profit cross-border marriage agencies, extended assembly and parade rights to immigrants, and liberalized financial proof requirements for foreign spouses seeking naturalization.

The authorities offered free Chinese-language and child-raising classes and counseling services at community outreach centers to assist foreign-born spouses integrate into society. The Legal Aid Foundation provided legal services to foreign spouses and operated a hot line to receive complaints. The MOI also operated its own hot line with staff conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese. By the end of October, the service had received 8,528 calls from non-Chinese speakers, a significant increase from 2007.

PRC-born spouses must wait eight years to apply for Taiwan residency, whereas non-PRC spouses can apply after only three years. While non-PRC foreign spouses are permitted to work in Taiwan immediately upon arrival, PRC spouses must wait four years to obtain the right to work, barring special economic circumstances. Upon entering Taiwan for the first time, a spouse from the PRC must present a certified clean bill of health. After four years of residency, a PRC spouse can apply for a long-stay visa. After two more years of residency, this individual can apply for citizenship.

Indigenous People

There are 13 identified non-Chinese groups of indigenous people; they accounted for approximately 2 percent of the population. The law protects the civil and political rights of these indigenous people. The Indigenous Peoples Basic Act stipulates that the authorities should provide resources to help indigenous people develop a system of self-governance, formulate policies to protect their basic rights, and promote the preservation and development of their language and culture. The cabinet-level Council of Indigenous Peoples worked with other ministries to raise living standards in aboriginal regions through basic infrastructure projects. The council also provided emergency funds and college scholarships to the indigenous population.

Other Societal Abuses and Discrimination

There were no laws prohibiting homosexual activities. According to homosexual rights activists, antihomosexual violence was rare, but societal discrimination against homosexuals and persons with HIV and AIDS was a problem.

Homosexual rights activists said instances of police pressure to close gay- and lesbian-friendly bars and bookstores decreased. Homosexual rights groups complained that law enforcement agencies switched their attention from monitoring

Internet chat rooms and bulletin boards for sexually suggestive messages to personal blogs and prosecuted message posters in violation of constitutional free speech guarantees.

Under the law doctors convicted of providing fertility treatments to unmarried persons face fines of up to NT\$1.5 million (\$46,000). Homosexual rights activists alleged the restrictions unfairly discriminate against homosexuals, who are not permitted to marry under the law.

Employers convicted of discriminating against jobseekers on the basis of birthplace, sexual orientation, or age face fines of up to NT\$1.5 million (\$46,000).

An amendment of the AIDS Prevention and Control Act allows foreign spouses infected with HIV to remain in Taiwan if they can show they were infected by their spouse, or by medical treatment received while in Taiwan. The amended law, renamed the HIV Prevention and Patients' Rights Protection Act, also stipulates that HIV-infected citizens cannot be denied access to education, medical services, housing, or other necessities.

Section 6 Worker Rights

a. The Right of Association

The right to unionize is protected by law but is highly regulated. Workers other than teachers, civil servants, fire fighters, doctors and healthcare workers, domestic workers, and defense industry workers, are protected by the Labor Union Law (LUL).

Some public employees, including teachers, civil servants, and defense industry workers, have limited rights to form unions. Teachers and civil servants were allowed to form professional associations to negotiate with the authorities but were not allowed to strike. These restrictions led to a long-running dispute between the authorities and groups representing teachers and civil servants. Foreign workers are not allowed to form their own unions or to assume union leadership positions in existing unions.

A number of laws and regulations limit the right of association. While labor unions may draw up their own rules and constitutions, they must submit them to county and city authorities as well as to the CLA for review. Labor unions may be rejected or dissolved if they do not meet CLA certification requirements or if their activities disturb public order.

As of June approximately 28 percent of the 10.8 million-person labor force belonged to one of the 5,654 registered labor unions. Many of them were also members of one of eight island-wide labor federations.

The right to strike is provided by law, and workers exercised this right in practice. However, legal constraints make it difficult to strike, undermining the usefulness of

collective bargaining. Workers may strike over issues of compensation and working schedules, but not living or working conditions. The law requires mediation of labor disputes when the authorities deem them to be sufficiently serious or to involve unfair practices. The law prohibits labor and management from disturbing the "working order" while mediation or arbitration is in progress. Critics contended the law has a chilling effect on the right to strike because it does not clearly state what conduct is prohibited. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses.

b. The Right to Organize and Bargain Collectively

The law gives workers the right to organize, bargain, and act collectively, although some positions are not afforded this right.

As of June there were 71 collective agreements in force; however, they covered only a small proportion of the labor force, mainly in large companies; 93 percent of industrial labor unions had no collective agreements. No special labor laws or labor law exemptions apply to the export processing zones in Kaohsiung and Taichung.

The LUL prohibits discrimination, dismissal, or other unfair treatment of workers because of union-related activities. Labor unions charged that during employee cutbacks labor union leaders were sometimes laid off first, or dismissed without reasonable cause. According to the Taiwan Confederation of Trade Unions and the Taiwan Labor Front, there is no specific penalty for the improper dismissal of a labor union leader.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor by adults and children. However, there were reports that such practices occurred. The authorities prosecuted numerous cases of forced child prostitution, and there was evidence of trafficking in persons into other industries such as household caregivers, farming, manufacturing, and construction (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment

The Labor Standards Law (LSL) stipulates age 15, at which compulsory education ends, as the minimum age for employment. County and city labor bureaus effectively enforced minimum-age laws.

e. Acceptable Conditions of Work

The LSL provides standards for working conditions and health and safety precautions. As of May the LSL covered an estimated 6.4 million of the 7.9 million salaried workers. Those not covered included health care workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, and domestic workers.

Foreign household caregivers and domestic workers were covered instead by the Employment Services Act, which does not guarantee a minimum wage or overtime pay, set limits on the workday or workweek, or provide for minimum breaks or vacation time. At the end of August, 168,000 of the 373,000 foreign healthcare and domestic workers had applied for coverage under the Employment Services Act.

There were no plans to increase the minimum monthly wage of NT\$17,280 (approximately \$535) or the minimum hourly wage of NT\$104 (\$3.22). While sufficient in less expensive areas, the minimum wage did not assure a decent standard of living for a single income family in urban areas such as Taipei. Labor rights activists alleged any benefit to foreign workers from previous increases to the monthly minimum wage largely had been offset by CLA's decision to allow employers to increase the maximum monthly deduction for room and board by NT\$1,000 (\$33). The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher.

Legal working hours were 336 hours per eight-week period (for an average of 42 hours per workweek). A five-day workweek has been mandated for the public sector, and according to a CLA survey, more than half of private sector enterprises also reduced the normal workweek to five days.

The law provides standards for working conditions and health and safety precautions and gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. There was widespread criticism that the CLA did not effectively enforce workplace laws and regulations. In the first half of the year, CLA's 300 inspectors conducted 58,315 inspections, a decrease of 44 percent from the same period in 2007. Those 300 inspectors were responsible for inspecting approximately 300,000 enterprises covered by the Occupational Safety and Health Law. Labor NGOs and academics alleged that the labor inspection rate was far too low to serve as an effective deterrent against labor violations and unsafe working conditions.

Regulations require intensified inspection and oversight of foreign labor brokerage companies. NGOs reported that labor brokers and employers regularly imposed high fees on foreign workers, frequently using the debt as a tool for involuntary servitude, and that foreign workers were unwilling to report employer abuses for fear the employer would terminate the contract and forcibly deport them, leaving them unable to pay back debt accrued to brokers or others. In January the CLA amended regulations governing the payment of wages to foreign workers to prevent employers from deducting foreign brokerage and other fees not in accordance with their contracts.

To curb illegal salary deduction, in January the CLA announced that an employer may only deduct labor insurance fees, health insurance premiums, income taxes, and meal and lodging fees from the wages of a foreign worker. Violators face fines

of NT\$60,000 to 300,000 (approximately \$1,875 to 8,375) and lose hiring privileges.

In January the CLA opened a Foreign Worker Direct-Hire Service Center. The center allowed local employers to rehire their foreign employees, especially caregivers, without a broker. NGOs, however, argued that procedures to rehire employees through the center were too complicated, discouraging most employers from using its services. Since February the amended Regulations Governing Employers for the Hiring of Foreign Workers allows foreign workers to change their employer/job with fewer area and frequency restrictions.

The NIA is responsible for all immigration-related policies and procedures for foreign workers, foreign spouses, immigrant services, and repatriation of illegal immigrants.

Foreign workers, not victims of trafficking or employer abuse, deemed to have worked illegally faced heavy fines, mandatory repatriation, and a permanent ban on reentering Taiwan.