

TAIWAN

EXECUTIVE SUMMARY

Taiwan is governed by a president and a parliament selected in multiparty elections. In March 2008 voters elected as President Ma Ying-jeou of the Kuomintang Party (KMT) in an election that international observers considered free and fair. Security forces report to civilian authorities.

Principal human rights problems reported during the year were corruption and violence against women and children.

During the year the authorities indicted more than 400 officials, including 54 high-ranking officials, on corruption charges. There were no reports of impunity.

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 or its agents 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 and detention center conditions generally met international standards. Prisoners had access to potable water, and authorities permitted visits by independent human rights observers. As of July there were 58,247 adults (53,368 men and 4,879 women) and fewer than 1,000 juveniles imprisoned. Prisons operated at 122.2 percent of designed capacity.

All prisoners and detainees have access to visitors. During the active investigation phase of their cases, a small number of detainees, on a court order, may be deprived of the right to have visitors. All prisoners and detainees are permitted religious observance. Prisoners are able to meet with religious leaders, who visit on a regular basis, and may request additional meetings with religious leaders as well.

Authorities permit prisoners and detainees to submit complaints to prison appellate committees comprised of wardens, anticorruption officials, and outsiders, or to judicial authorities without censorship, although in practice all correspondence is screened entering and leaving the facilities. Nonviolent offenders may be fined or given suspended sentences as an alternative to prison sentences.

When a prisoner makes allegations of inhumane conditions, prison authorities investigate the claims and release the results of their investigation to the judicial authorities and occasionally to the press. Authorities investigate and monitor prison and detention center conditions. The authorities also allow independent nongovernmental monitors to investigate prison conditions.

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. Civilian authorities maintained effective control over the NPA, and the authorities have effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving security forces during the year.

Arrest Procedures and Treatment While in Detention

A warrant or summons is required by law, except when there is ample reason to believe the suspect may flee, or in urgent circumstances, as specified in the Code of Criminal Procedures. 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. Prosecutors may 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. Judicial reform advocates have urged limiting pretrial detention in order to protect better defendants' rights. Currently courts may request pretrial detention in cases in which the potential sentence is five years or more and when there is a reasonable concern that the suspect could flee, collude with other suspects or witnesses, or tamper or destroy material evidence.

While courts are required to appoint counsel after an indictment is filed, the law does not specify what lawyers could or should do to protect the rights of indigent criminal suspects during initial police questioning. The Judicial Yuan (JY) and the NPA operate a program to provide legal counsel during initial police questioning to qualifying indigent suspects who have a mental disability or have been charged with a crime punishable by three or more years in prison. Detained persons may request the assistance of the Legal Aid Foundation (LAF), which provides professional legal assistance through its 21 branch offices to persons who would not otherwise have legal representation. The LAF is a nongovernmental organization that is funded by the JY, in accordance with the Legal Aid Act of 2004. The LAF provided these services to all individuals. During regular consultations with police and when participating in police conferences, LAF officials constantly remind police of their obligation to notify suspects of the existence of such counseling. Whether a suspect should be detained incommunicado or held under house arrest is proposed by the prosecutor and decided by the court. Suspects and prisoners may be prohibited from receiving visitors, but they are entitled to meet and consult with their legal counsel.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary; however, the judicial system suffered from some corruption. Although the authorities made efforts to eliminate corruption and to diminish political influence in the judiciary, some residual problems remained. During the year judicial reform advocates pressed for greater public accountability, reforms of the personnel system, and other procedural reforms. Some political commentators and academics also publicly questioned the impartiality of judges and prosecutors involved in high-profile and politically sensitive cases. In June the Legislative Yuan (LY) passed the Judges' Act, which had been pending for 20 years, to create a new mechanism that includes the participation of experts and other nonjudicial representatives to assess the

performance of judges and to select out incompetent ones. While the law has been passed, it will not come into effect until 2012 and thus has not yet led to any tangible changes. The 2009 trial of former president Chen Shui-bian and his wife Wu Shu-jen heightened public scrutiny of preindictment and pretrial detention, prosecutorial leaks, other possible prosecutorial misconduct, and transparency in judicial procedures (see section 4).

Trial Procedures

The constitution establishes the right to a fair trial, and an independent judiciary generally enforced this right. Judges, rather than juries, decide cases; all judges are appointed by and answer to the JY. A single judge, rather than a defense attorney or prosecutor, typically interrogates 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.

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.

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

Status of Freedom of Speech and Press

The constitution provides for freedom of speech including for members of the press, and the authorities generally respected these rights in practice. The independent media were active and expressed a wide variety of views without restriction, but they were often criticized for lacking rigorous journalistic standards.

In June the Taipei Prison barred inmate and former president Chen Shui-bian from writing a special column for *Next Magazine*. The prison said its review had found Chen's article to be politically provocative and therefore damaging to the prison's reputation. The prison's decision sparked criticism that Chen's freedom of speech was being suppressed. Later the same month, the prison partially reversed its decision and allowed the magazine to publish Chen's later articles.

Freedom of Press: In January the LY passed an amendment to the Budget Act to ban governing agencies, state-run enterprises, and state-funded institutions from placing advertisements packaged as news reports and programs into television programming. The amendment came in response to public criticism of the authorities' actions, as critics and activists said the authorities' placement of ads had deterred some media outlets from criticizing policy. The authorities denied having used advertising revenue from government ads to manipulate the media.

Censorship or Content Restrictions: In July the Council of Grand Justices ruled it was constitutional for police to impose a fine on an *Apple Daily* reporter for following a model and her husband for two months in 2008 on tips that the husband was having an extramarital affair. The couple claimed the reporter's moves constituted harassment. The court ruling noted that the constitution protected both individual freedom and freedom of the press, but found that the reporter had violated the law because news gathering should be done on issues and individuals of public interest. Local media criticized the ruling, saying it had seriously hurt press freedom in Taiwan. Critics charged that limiting the types of issues journalists could follow amounted to censorship.

In July the National Communications Commission (NCC) approved the application of Next TV (a unit of Next Media Group) to launch a news channel on cable, after

the NCC had earlier rejected two applications from the company. The NCC said Next TV had improved its content and Next Media Group Chairman Jimmy Lai agreed to seven conditions to clean up his animated news service. Lai also promised to set up a cross-media ethics committee and cancel animated news that depicted sex and nudity, the NCC said.

In 2009 the Taipei City Government barred primary and middle schools in the city from subscribing to *Apple Daily* and added that anyone wishing to borrow *Apple Daily* from Taipei public libraries must provide identification proving the applicant was 18 years or older. At year's end the ban remained in effect.

Internet Freedom

There were no official restrictions on access to the Internet. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

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 nongovernmental organizations (NGOs) claimed that the law unconstitutionally restricted free speech and assembly and called for it to be amended or abolished. They claimed the law unfairly disadvantaged smaller organizations and was being selectively enforced. The Taiwan Association for Human Rights and more than a dozen other civic groups formed an alliance to advocate removing restrictions on street protest demonstrations and eliminating the requirement to apply to police authorities for permission to hold a demonstration.

In 2009 the authorities charged two professors for organizing “Wild Strawberry” student demonstrations for failing to obtain permits in advance as required by the assembly law. In December the court found one of the professors not guilty as he was not the architect of the demonstrations. The trial of the other professor remained pending as the Constitutional Court has not yet ruled on the constitutionality of the assembly law. In July a prosecutor indicted three

individuals for protesting without a permit at the Taoyuan International Airport against the authorities' condemnation of their land to facilitate the building of a Mass Rapid Transit system line. The case was pending.

Freedom of Association

The law provides this right and the authorities generally respected it in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the authorities generally respected these rights in practice.

Protection of Refugees

Access to Asylum: Taiwan law does not provide for the granting of asylum or refugee status. The authorities have not established a system for providing protection to refugees because a bill regarding the handling of refugees is pending in the legislature. All People's Republic of China (PRC) citizens unlawfully present are required by law to be returned to the PRC. As of September the eight PRC nationals who had sought asylum between 2008 and 2010 were still residing in the country with financial assistance and subsidies provided by the National Immigration Agency.

Nonrefoulement: Throughout the year authorities repatriated undocumented immigrants to their countries of origin. According to the MOI, there were 53 undocumented PRC immigrants deported to the mainland during the year (47 men and six women). At year's end 122 undocumented PRC immigrants and 777 non-PRC undocumented immigrants were awaiting deportation.

Durable Solutions: Except for a few who failed to produce identity papers, all Tibetans gained legal residence in 2009. There were no new cases of Tibetans being granted legal residence during the year.

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

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In 2008 the Kuomintang Party (KMT) won a significant majority in the LY following the implementation of a new single-member-district electoral system. Two months later the KMT presidential candidate Ma Ying-jeou won the presidency. Observers regarded the elections as free and fair.

Participation of Women and Minorities: There were 33 women in the 113-member LY. Nine of the 48 Executive Yuan (cabinet) members were women. The mayor of Kaohsiung, the island's second largest city, was a woman. Two of the 15 Constitutional Court 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 persons accounted for approximately 2 percent of the population; their allocation of legislative seats was more than double their proportion of the population.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the authorities generally implemented these laws effectively.

In July the authorities established the Agency against Corruption under the Ministry of Justice (MOJ) to further combat corruption. In addition, in November the legislature passed amendments to the Anti-Corruption Act that expanded its scope and increased the penalties for public servants who are unable to explain the origins of suspicious assets or property, or who lie about the source of such assets. In June the LY passed amendments to the Anti-Corruption Statute that forbade attempted bribery of public officials, even if the attempts did not result in any

illegal activities. Previously, attempted bribery had been a crime only if the bribes could be shown to have influenced public officials in the execution of their duties.

There were allegations of official corruption during the year. Former president Lee Teng-hui was indicted in June for corruption and money laundering. Lee was accused of collaborating with his aide to embezzle National Security Bureau secret funds totaling NT\$232.5 billion (\$7.79 billion) to finance the establishment and operations of a think tank.

The Taiwan High Court retried the cases involving former president Chen Shui-bian and his wife Wu Shu-jen on charges of corruption, money laundering, forgery, and embezzlement. In the verdict handed down in August, Chen and Wu were found not guilty of embezzlement of a special state affairs fund. The court did not alter Chen's previous sentence of two years and eight months in prison for money laundering and forgery. Chen was incarcerated for corruption after he was convicted late in 2010 for his involvement in an industrial zone land procurement scandal and, in a separate bribery case, for accepting bribes to help a friend get a position in a government-invested business entity.

In 2009 the LY amended the Act for the Punishment of Corruption to require civil servants to account for the sources of abnormal increases in their assets and to make failure to do so a punishable offense. All public servants are subject to the Public Servants' Property Declaration Law. The MOJ and its newly established subordinate Agency against Corruption are in charge of combating official corruption.

The Access to Government Information Law stipulates that all government information be made available to the public upon request with the exception of national secrets, professional secrets, personal information, and protected intellectual property. The law provides that registered citizens, companies, and groups may submit information requests and may appeal denied requests. These privileges are extended on a reciprocal basis to citizens of foreign countries.

Section 5. 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, investigating and publishing their findings on human rights cases. The authorities often were cooperative and responsive to the views of such groups.

Section 6. 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. The MOI is in charge of protections for persons with disabilities. The authorities enforced these laws effectively.

Women

Rape and Domestic Violence: Rape, including spousal rape, is a crime, and violence against women, including rape and domestic violence, remained a serious problem. 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 police.

The law provides protection for rape victims. Rape trials are not open to the public unless the victim consents. 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, during the year there were 6,568 reports filed for rape or sexual assault. Of these reports, 2,370 persons were indicted and 1,919 persons were convicted. According to the MOJ, the average prosecution rate for rape and sexual assault over the past five years was approximately 50 percent, and the average conviction rate of cases prosecuted was about 90 percent.

During the year there were 104,315 cases of domestic violence reported. Authorities prosecuted 3,292 persons for domestic violence and convicted 2,469 persons. During the year 36,791 protection orders were issued to domestic violence victims. Typically, persons convicted in domestic violence cases were sentenced to less than six months in prison. Social pressure not to disgrace their families discouraged abused women from reporting incidents to the police. The law allows prosecutors to take the initiative in investigating complaints of domestic violence, without waiting for a spouse to file a formal lawsuit.

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, education, and training on a 24-hour basis.

Sexual Harassment: Sexual harassment in the workplace is a crime, punishable by fines of NT\$100,000 to NT\$1 million (approximately \$3,350 to \$33,500) and imprisonment for up to two years. All public employers and larger private employers are required to enact preventive measures and establish complaint procedures to deter sexual harassment. Women's groups complained that, despite the law and increased awareness of the issue, judicial authorities remained dismissive of sexual harassment complaints.

Reproductive Rights: Individuals and couples had the right to decide the number, spacing, and timing of their children and had the information and means to do so free from discrimination, coercion, and violence. Unmarried persons, however, are prohibited by law from obtaining fertility treatments. Access to contraception and skilled attendance during childbirth and the postpartum period were widely available. Women and men were given equal treatment for diagnosis and treatment for sexually transmitted infections.

Discrimination: The law prohibits discrimination based on gender. The law provides for equal treatment with regard to salaries, promotions, and assignments. The law entitles women to request up to two years of unpaid maternity leave and forbids termination of employment because of pregnancy or marriage. Central and local agencies, schools, and other organizations are required to develop enforcement rules and set up gender equality committees to oversee the implementation of the law. One NGO claimed that the authorities were not doing enough to raise public awareness of this issue.

Women's advocates noted that women continued to be promoted less frequently, occupied fewer management positions, and worked for lower pay than did their male counterparts. Women made up 50 percent of the service industry workforce and the total workforce. According to the Council for Labor Affairs (CLA), salaries for women averaged 82 percent of those for men performing comparable jobs.

Gender-biased Sex Selection: Taiwan's ratio of males to females at birth was between 1.085 and 1.108. According to the Control Yuan (CY), women over 35 who already have two children had the highest sex ratio. In 2010 Taiwan banned medical institutions from conducting gender-biased sex selection. Clinics and hospitals with higher rates of imbalance were put under surveillance and doctors who facilitate gender-biased sex selection can be fined.

Children

Birth Registration: Citizenship is derived from one's parents or by birth on the island. The MOI and its subordinate Children's Bureau are responsible for the protection of the rights and welfare of children and the law included provisions to protect them.

Child Abuse: Child abuse continued to be a widespread problem. A reliable NGO reported that sexual abuse was more prevalent than the public realized and estimated that the number of victims was approximately 20,000 annually. According to the MOI, 22,094 cases, including cases of physical, mental, or sexual abuse or harm due to guardian neglect, were reported during the year. 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.

The law stipulates that 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 hotline accepted complaints of child abuse and offered counseling. Courts are required to appoint guardians for children whose parents are deemed unfit.

Sexual Exploitation of Children: The minimum age for engaging in consensual sexual relations is 18. Persons who engaged in sex with children under age 14 faced sentences of three to 10 years in prison. September 2010 Supreme Court rulings for offenses involving sexual assault on children under the age of seven resulted in a minimum sentence of seven years in prison. Those who engage in sex with minors between ages 14 to 16 receive a mandatory prison sentence of three to seven years. Solicitors of sex with minors older than 16 but younger than 18 face up to one year in prison or hard labor, or a fine of up to three million New Taiwan dollars (\$100,500). According to the Child Welfare Bureau, 235 minors were rescued from prostitution and placed in shelters during the year.

The extent to which child prostitution occurred was difficult to measure because of increased use of the Internet and other sophisticated communication technologies to solicit clients. In August the police cracked a large prostitution ring composed of more than 50 high school girls who solicited clients through the Internet.

Advertisements related to prostitution were prohibited, and the law was enforced in practice. Under the law citizens arrested abroad for having sex with minors can also be indicted and convicted of patronizing underage prostitutes in foreign countries, although no such cases have occurred in the past four years. The law also prohibits child pornography, and violators are subject to sentences of up to six months and substantial fines.

At year's end 393 persons had been indicted and 253 persons convicted of violating the Child and Youth Sexual Transaction Prevention Act, which criminalizes child prostitution and the possession and distribution of child pornography. The law requires publication of violators' names in newspapers.

Anti-Semitism

There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

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

The MOI and the CLA are responsible for protecting the rights of persons with disabilities. The law stipulates that the authorities must provide services and programs to members of the population with disabilities. Free universal medical care is provided to persons with disabilities. NGOs continued to assert 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, a growing number of which were elderly persons.

In January the LY passed the Protection Act on the Rights of the Disabled to increase job opportunities for the blind. According to the law, blind individuals must account for 10 percent of employees hired by governing agencies and state-run enterprises with more than 10 employees.

The law stipulates that new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. In November, however, a disabilities rights group staged a large protest complaining that transportation equipment still fails to meet the basic needs of disabled persons in most areas of Taiwan.

National/Racial/Ethnic Minorities

As of 2010, foreign-born spouses, primarily from China, Vietnam, Indonesia, or Thailand, accounted for 3 percent of the population, and an estimated 8.7 percent of all births were to foreign-born mothers. Foreign spouses were targets of discrimination both inside and outside the home.

In May the National Immigration Agency extended the permitted length of stay for parents of Chinese spouses from two to six months if the purpose of the visit is to take care of pregnant Chinese spouses or those who have suffered a miscarriage. The authorities offered free Chinese-language and child-raising classes and counseling services at community outreach centers to assist foreign-born spouses' integration into society. The Legal Aid Foundation provided legal services to foreign spouses and operated a hotline to receive complaints. The MOI also operated its own hotline with staff conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese.

PRC-born spouses must wait six years to apply for Taiwan residency, whereas non-PRC spouses may apply after only three years. PRC spouses are also permitted to work in Taiwan immediately on arrival.

Indigenous People

There are 14 identified non-Chinese groups of indigenous people, accounting for approximately 2 percent of the population. The law protects the civil and political rights of these indigenous persons. The Indigenous Peoples Basic Act stipulates that the authorities should provide resources to help indigenous individuals develop a system of self-governance, formulate policies to protect their basic rights, and promote the preservation and development of their language and culture. Critics complained that the authorities did not do enough to preserve aboriginal culture and language. In January the Amis aboriginal group staged a rally in front of the presidential office in protest of the takeover of their lands by the authorities. Asserting that a people without lands would eventually become extinct, they called on the authorities to apologize and to return their lands. In

March several aboriginal activists called on the LY to pass an antidiscrimination law that would penalize discriminatory remarks against the aboriginal peoples.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There are no laws prohibiting consensual same-sex sexual activity. According to lesbian, gay, bisexual, and transgender (LGBT) rights activists, violence against LGBT persons with HIV and AIDS was a problem, but instances of police pressure on LGBT-friendly bars and bookstores continued to decrease during the year. LGBT rights activists alleged that restrictions on doctors providing fertility treatments to unmarried persons unfairly resulted in discrimination against LGBT persons, who are not permitted to marry. Employers convicted of discriminating against job seekers on the basis of sexual orientation face fines of up to NT\$1.5 million (\$50,250).

Plans to begin teaching LGBT issues in the elementary and junior school curriculums, in accordance with the 2004 Gender Equity Education Act, were canceled due to “lack of social consensus.”

Other Societal Violence or Discrimination

There was reported discrimination, including employment discrimination, against persons with HIV/AIDS. In February an AIDS activist group accused the local authorities in Taipei of a person with HIV/AIDS from taking part in a vocational training program and of disseminating discriminatory remarks against persons with HIV/AIDS in the program’s online brochure. The discriminatory Web page was removed, and the person was referred to another vocational training center where he could receive better care. An amendment of the AIDS Prevention and Control Act allows a foreign spouse with HIV to remain in Taiwan, if he/she can show the infection came from the spouse or from medical treatment received in Taiwan. The amended law, renamed the HIV Prevention and Patients’ Rights Protection Act, also stipulates that citizens with HIV cannot be denied access to education, medical services, housing, or other necessities.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The right to unionize is protected by the constitution but is regulated under the Labor Union Act (LUA) and other laws. The right to strike is provided by law but is highly regulated. The law gives workers the right to bargain collectively, although some workers are excluded.

Although the law previously had prohibited teachers, civil servants, and some defense industry employees from forming unions, an amendment to the LUA effective in May relaxed restrictions on teachers' right to associate, although they still are prohibited from striking. As of August teachers had formed 23 unions and one federation of teachers' unions. The amended LUA also offered additional categories under which workers could form unions. For example, workers in the same industry can form industrial unions.

In addition to expanding the right to associate, the amended LUA also offers protections for associated labor. The LUA prohibits discrimination, dismissal, or other unfair treatment of workers for union-related activities. Violators face fines of NT\$30,000-NT\$150,000 (\$1,005-\$5,025). There were several examples of employers being fined for retaliation during the year. The amended LUA also allows foreign workers more freedom to form unions, including the right to assume leadership in a union. Although labor unions may draw up their own rules and constitutions, labor union registrations still require the approval of the CLA, and the authorities have the power to order unions to cease part or all of their operations if they break a law or violate their charter.

At the end of March approximately 29 percent of the 11.1 million-person labor force belonged to one of the 4,495 registered labor unions. Many of these members were also members of one of the 10 island-wide labor federations.

Under the LUA teachers and defense industry employees are not afforded the right to strike. Workers in industries such as utilities, hospital services, and telecommunication service providers are allowed to strike only if they promise to maintain basic services during the strike period. The amended Labor Dispute Settlement Law (LDSL) took effect on May 1. The LDSL stipulates that authorities may prohibit, limit, or break up a strike during a disaster.

The LDSL divides labor disputes into two categories: "rights disputes" and "adjustment disputes." Workers are only allowed to strike in adjustment disputes, which include issues such as compensation and working schedules. The law forbids strikes in rights disputes, which could include collective agreements, labor contracts, regulations, and other issues. Rights disputes must be settled through

arbitration or judicial process. The law requires mediation of labor disputes when the authorities deem disputes to be sufficiently serious or to involve unfair practices. The law also prohibits labor and management from disturbing the “working order” while mediation or arbitration is in progress. On average, the mediation process takes 20-50 days and arbitration takes 45-80 days.

Labor unions charged that during employee cutbacks, labor union leaders were sometimes laid off first or dismissed without reasonable cause. Despite this practice, according to the Taiwan Confederation of Trade Unions and other labor groups, the amended labor law regulations--including the LUA, the LDSL, and the Collective Agreement Law--have had a positive effect on workers’ rights in association, collective bargaining, and dispute resolution.

Continued improvement in the economy and employment led to a decrease in the number of labor disputes. There were 20,824 labor disputes in the first 11 months of the year, a 5.9 percent decrease from the same period in 2010. Of these, 13,880 cases were related to wage and severance disputes.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. However, there were reports that such practices occurred. There was evidence of forced labor in such sectors as household care giving, farming, fishing, manufacturing, and construction (see section 7.d.).

The law criminalizes forced labor, and public awareness campaigns included worker education pamphlets, foreign worker hotlines, and Ministry of Education programs on trafficking as part of the broader human rights curriculum.

Also see the Department of State’s *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The Labor Standards Law (LSL) stipulates age 15, when compulsory education ends, as the minimum age for employment. Children under 16 years of age are not permitted to do heavy or hazardous work, and their working hours are limited to eight hours per day on normal working days only.

County and city labor bureaus effectively enforced minimum-age laws by ensuring the implementation of compulsory education. There were no documented cases of violations of these laws. Labor inspectors did find 17 cases in 2010 of 15-year-olds being asked to work overtime or night shifts. Statistics were not available that would show the disposition of these specific cases, but Council of Labor Affairs officials said that in most cases the employers were fined up to NT\$20,000 (\$670).

d. Acceptable Conditions of Work

The LSL provides standards for working conditions and health and safety precautions. As of June an estimated 6.6 million of the 8.3 million salaried workers held jobs covered by the LSL. Those not covered included management employees, health-care workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, local government contract workers, employees of farmers' associations, and domestic workers. An increase in the minimum wage to NT\$17,880 per month (\$600), or NT\$98 per hour (\$3.28), took effect in January.

The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher. The average monthly wage increased 5.3 percent to NT\$44,430 (\$1,488) in 2010. According to labor statistics, however, workers' real wages were lower than they were 10 years ago in spite of an average 4 percent annual economic growth rate over the past decade. Labor experts and scholars attribute this decline in wages to increased competition for jobs due to the migration abroad of many industries. The poverty income level is estimated by the authorities to be 60 percent below the average disposable income of the median households in a designated area. By this definition, the poverty income level is NT\$14,794 (\$496) per person in Taipei, NT\$11,832 (\$396) per person in New Taipei City, NT\$10,244 (\$343) per person in Taiwan province, and NT\$11,146 (\$373) per person in Kaohsiung City.

Foreign household caregivers and domestic workers are covered by the Employment Services Act, which does not provide for 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 July, 194,000 of the 409,000 foreign household caregivers and domestic workers had applied for coverage under the Employment Services Act.

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

implemented a five-day workweek. According to local labor laws, only “authorized specialists” approved by the CLA were exempt from the five-day workweek. In practice, however, violations of the five-day workweek maximum were common. After several high-profile “death by overwork” cases led the authorities to conduct an inspection of common workweek practices, the CLA found that approximately 700,000 employees had been asked to work overtime without pay. Approximately 400,000 employees were told by their company that they were “authorized specialists” who were exempt from workweek maximums, while in fact the CLA had approved only 100,000 employees to work in the authorized specialist category. The survey also found that in 2010, 27 percent of surveyed employees had been asked to work in excess of the 12-hour-per-day maximum. To address this issue, the LY in June passed an amendment to the Labor Standards Law raising by 500 percent the fine for violating legal work maximums, from NT\$60,000 to NT\$300,000 (\$2,010 to \$10,050) for violations, and mandated that the name of the offending company would be broadcast to the public.

The law provides standards for health and safety and gives workers the right to remove themselves from dangerous work situations without jeopardy to their continued employment. There was widespread criticism, however, that the CLA did not effectively enforce workplace health and safety laws and regulations. In the first half of the year, the CLA’s 292 inspectors conducted 41,891 inspections, a decrease of 3.6 percent from the same period of 2010. Those 292 inspectors were responsible for inspecting approximately 310,000 enterprises covered by the Occupational Safety and Health Law. Labor NGOs and academics argued that the labor inspection rate was far too low to serve as an effective deterrent against labor violations and unsafe working conditions, especially for labor in small and medium factories. Labor groups repeatedly urged the CLA to strengthen its inspection regime.

Regulations require intensified inspection and oversight of foreign labor brokerage companies. NGOs reported that some labor brokers and employers regularly collected high fees or loan payments from foreign workers, using debts incurred in the source country as a tool for involuntary servitude. At the end of July, there were 409,434 documented migrant workers in Taiwan; of these, 168,188 were from Indonesia, 80,620 from the Philippines, 71,457 from Thailand, and 89,164 from Vietnam. The CLA estimated there were 30,000 undocumented workers. NGOs asserted that foreign workers were often unwilling to report employer abuses for fear the employer would terminate the contract and deport them, leaving them unable to pay back debt accrued to brokers or others.

An employer may deduct only 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 NT\$300,000 (\$2,010 to \$10,050) and loss of hiring privileges. Critics, however, complained that violations continued and that the CLA did not effectively enforce statutes and regulations intended to protect foreign laborers from unscrupulous brokers and employers.

The CLA operated a Foreign Worker Direct-Hire Service Center that allowed local employers to rehire their foreign employees, especially caregivers, without a broker. NGOs, however, argued that complicated procedures and restrictions on eligibility to use the service prevented widespread implementation, and they advocated lifting restrictions on transfers between employers.

The service center also permitted the direct rehiring of foreign workers engaged in manufacturing, fisheries, construction, and other industries. NGOs and academics urged the CLA to provide basic labor protections such as minimum wage, overtime, and a mandatory day off for household caregivers and domestic workers.

The National Immigration Agency is responsible for all immigration-related policies and procedures for foreign workers, foreign spouses, immigrant services, and repatriation of undocumented immigrants. The CLA is responsible for work permits and services related to occupation. The CLA also provides mediation services and may permit the transfer of employees in situations where the employee has suffered exploitation or abuse.

Except for victims of trafficking in persons or employer abuse, foreign workers deemed to have worked illegally faced heavy fines, mandatory repatriation, and a permanent ban on reentering Taiwan.