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## U.S. Department of State

### Taiwan Country Report on Human Rights Practices for 1997

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#### TAIWAN

With the popular election of President Lee Teng-hui in 1996, Taiwan completed its transition to an democratic system. Lee, who is also the Chairman of the Nationalist Party (KMT), appoints the Premier, who heads the Executive Yuan (EY), or cabinet. Constitutional amendments adopted in July provided the Legislative Yuan (LY) with the authority to bring down the Cabinet with a no confidence vote and removed the previous power of the LY to confirm the appointment of the Premier. The current LY members were elected in a free and fair election in 1995. While the ruling KMT remains the single most powerful political force, it now holds only a razor-thin majority in the LY, where two opposition parties play increasingly significant roles. The Judicial Yuan (JY) is constitutionally independent of the other branches of the political system, but corruption and political influence remain serious problems.

The National Police Administration (NPA) of the Ministry of Interior (MOI), the NPA's Criminal Investigation Bureau, and the Ministry of Justice (MOJ) Investigation Bureau are responsible for law enforcement relating to internal security. The police and security agencies are under effective civilian control. Some members of the police occasionally committed human rights abuses.

Taiwan has a dynamic, export-oriented, free-market economy. Liberalization of the economy has undercut the dominant role that state-owned and party-run enterprises had played in such major sectors as finance, transportation, utilities, shipbuilding, steel, telecommunications, and petrochemicals. As the economy has evolved, services and capital- and technology-intensive industries have become the most important sectors. Major exports include computers, electronic equipment, machinery, and textiles. Citizens generally enjoy a high standard of living and an equitable income distribution.

The authorities generally respect human rights; however, occasional problems remain in some areas. Principal problems include police abuse of detainees; physical abuse of military inductees, which appears to be declining; prison overcrowding; political and personal pressures on the judiciary; some restrictions on freedom of assembly and association; discrimination and violence against women; child prostitution and abuse; restrictions on workers' freedom of association and on their ability to strike. The authorities are also increasingly resorting to use of the libel law, apparently to deter criticism of senior leaders.

## **RESPECT FOR HUMAN RIGHTS**

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

#### **a. Political and Other Extrajudicial Killing**

There were no reports of political or other extrajudicial killings.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The Constitution does not directly address the issues of torture and punishment. The Code of Criminal Conduct, however, stipulates that no violence, threat, inducement, fraud, or other improper means shall be used against accused persons. However, there were credible reports that police occasionally physically abused persons in their custody. The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (see Section 1.d.). The MOJ says that each interrogation is recorded and that any allegation of mistreatment is investigated. Lawyers and legal scholars note that abuses most often occur in local police stations where interrogations are not recorded and when attorneys are often not present. Informed observers note that police forces emphasize the confession of suspects as the principal investigative tool. Law enforcement agencies remain weak in scientific investigative skills so that, when political leaders demand that cases be solved, there is pressure on the police to coerce confessions. International observers have also noted that the judicial system sometimes accepts such confessions even when they contradict available physical evidence or logic. The National Police Administration denies that abuse of suspects by police takes place. It asserts that regulations forbid such abuse and that any member of the police force who abused suspects would be punished for doing so. Nevertheless, there are credible reports that the physical abuse of prisoners is a common investigative technique. Detainees who are physically abused have the right to sue the police for torture, and confessions shown to have been obtained through torture are inadmissible in court proceedings. There were no such suits reported during the year.

The authorities state that they have made efforts to investigate, prosecute, and punish officials responsible for torture and other mistreatment. Although the basic responsibility for investigating mistreatment lies with prosecutors, the Control Yuan (CY), a coequal branch of the political system that investigates official misconduct, also investigates such cases. The Control Yuan President complained that his branch lacked the authority to do its job properly. Human rights groups point to the almost total lack of human rights training in the education of police officers and security personnel. They believe that the measures that the authorities have taken to protect human rights are not sustainable in the long term without the creation of an ethos of respect for human rights in these institutions. Women's and children's rights groups are active in monitoring police and judicial performance and periodically mount

campaigns to correct abuses.

Although corporal punishment is forbidden under military law, there continued to be reports of serious physical abuse of military personnel. The Ministry of National Defense has addressed these complaints by promulgating regulations specifying the appropriate treatment of lower ranking personnel and by conducting regular polls of servicemen to discover any abuse. The authorities have also established a telephone hot line to report alleged abuses within the military. The Ministry of National Defense has attributed some of the blame for abuse of recruits to a supposed softening of youth by modern life, which supposedly makes them less capable of accepting the rigors of combat training. However, the Ministry also has recognized that some trainers have used inappropriate methods to address these supposed deficiencies. In order to standardize, rationalize, and make transparent the military basic training program, the Ministry appointed professional researchers to design practical training and curriculums for all military personnel who have contact with new recruits. Pressure from parents of recruits and a program to retain recruits have also contributed to an apparent reduction in the incidence of abuses.

Prison conditions generally meet minimum international standards. However, overcrowding at the 45 prisons and detention centers remained a problem despite the addition of one new facility and a 1994 Criminal Code amendment allowing prisoners to be paroled after serving one-third, rather than one-half of their sentences. The 55,701 inmates detained as of November exceeded the facilities planned capacity by 10,981. According to the MOJ, the number of prisoners has grown rapidly in recent years because of increased arrests of narcotics law violators. These violators now make up more than 50 percent of the overall inmate population. The MOJ has set up drug treatment facilities to reduce the number of addicts in the prison population. Conditions in illegal immigrant detention centers are poor (see Section 2.d.).

The authorities permit visits by human rights group monitors.

#### d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest and detention, and the authorities generally observe this prohibition. Police legally may arrest without a warrant anyone they suspect of committing a crime for which the punishment would be imprisonment of 5 years or more and may question persons without a formal summons. However, the authorities must, within 24 hours after detention, give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. Indicted persons may be released on bail at judicial discretion.

The Criminal Procedure Code specifies that the authorities may detain a suspect for up to 2 months during the investigative phase before filing a formal indictment. The court may extend the investigative detention for an additional 2-month period. A suspect may be held for up to 3 months during trial proceedings, and the court may extend the trial detention for two additional 3-month periods. The authorities generally have followed these procedures, and trials usually take place within 3 months of indictment.

The authorities generally respect a detainee's request to have a lawyer present during the investigation phase, but defense lawyers continue to complain that people often are not advised of their right to have legal representation during police interrogation. While there is no legal requirement that the police advise suspects of their right to counsel, arresting officers' checklists do provide for such notification. The National Police Administration (NPA) says that the form a suspect signs at the conclusion of interrogation includes a question as to whether the suspect wishes legal representation. The NPA asserts that, under police procedure, a suspect cannot be formally charged unless this form is signed. There is no

legal requirement that indigent people be provided counsel during police interrogation, although such counsel is provided during trials. Informed observers report that the "public defense counsels" do not provide effective defense assistance. They are frequently not fully qualified lawyers, they typically do not appear until the final debate hearing of the trial, and they seldom spend a significant amount of time discussing the case with their clients.

The "Antihoodlum" Law of 1985 was a departure from international standards of due process in that it included a secret witness system that allowed police to conduct "sweeps" of suspected "hoodlums" and to use the testimony of unidentified informants in detaining the suspects. Lawyers for the alleged hoodlums were not permitted to cross-examine these informants. While defense lawyers have been given the right to examine documentary evidence, critics charge that evidence in these cases was often weak or fabricated. In 1995, however, the Council of Grand Justices (CGJ) declared unconstitutional the administrative procedures that had been used to sentence hoodlums to reformatory education. The authorities have drafted new antigang legislation, which is under consideration by the LY. This new legislation requires that "secret" witnesses must testify openly but provides procedures for their subsequent protection, "in exceptional cases."

The authorities do not use forced exile.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and for equality before the law. In the past, some observers have characterized the judiciary as not fully independent and as susceptible to political and personal pressure and influence.

The Judicial Yuan is one of the five coequal branches of the political system. The JY is headed by a president and a vice president and also contains the 16-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, the Administrative Court, and the Committee on the Discipline of Public Functionaries.

Dissatisfaction exists among judges and others about the slowness of strengthening the rule of law. Corruption within the judiciary remains a problem. During the year, there were a number of indictments of judges for accepting bribes in exchange for favorable judgments. In December 1996, the Judicial Yuan President invited legal scholars to study and to recommend measures for judicial reform. In January the Judicial Yuan, as a first step in the reform process, revoked the previous procedure whereby the decisions of junior judges were automatically reviewed by senior judges. A number of additional steps to improve judicial performance were also undertaken, including promulgating a "judges code" and setting up evaluation teams of independent scholars to examine judicial performance. However, investigative efforts apparently have concentrated on people outside the judicial system who falsely claim that they are able to influence judges in order to defraud defendants. A number of judges have called for even more significant changes, and a nongovernmental judicial reform foundation, consisting of lawyers, legal scholars, and legislators, was established in March to promote and monitor the reform process.

The law provides for the right of fair public trial, and this is generally respected in practice. Judges, rather than juries, decide trials, and all judges are appointed by, and responsible to, the JY. In a typical court case, parties and witnesses are interrogated by a single judge but not directly by a defense attorney or prosecutor. The judge may decline to hear witnesses or to consider evidence a party wishes to submit if the judge considers it irrelevant; refusal to hear evidence may be a factor in an appeal. Trials are

public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission. In addition, as the result of a CGJ ruling, legislation was passed in December giving judges the sole authority to order pretrial detention of suspects, a power previously shared by prosecutors.

A defendant has the right to an attorney. If the defendant is suspected of committing a crime for which the penalty is 3 or more years' imprisonment or if the defendant is disabled, the judge may assign an attorney. A law passed in December states that a suspect may not be compelled to testify. The Code of Criminal Procedure states that a confession shall not be the sole evidence used to find a defendant guilty; this requirement itself is not strictly enforced, with convictions frequently resulting from a combination of a confession and circumstantial evidence of varying quality. Any convicted person has the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of 3 years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences. Under the law, prosecutors have the right to appeal verdicts of not guilty.

There were no reports of political prisoners.

#### f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution and sections of the Criminal and Civil Codes contain provisions protecting privacy. A warrant, issued by a prosecutor or a judge, must be obtained before a search, except when "incidental to arrest." Critics, however, claim that the incidental to arrest provision is not only unconstitutional but often interpreted broadly by police to justify searches of locations other than actual arrest sites. Moreover, police continue to search cars routinely at roadblocks. According to the National Police Administration, warrantless searches are allowed only in special circumstances, such as to arrest an escapee or if facts indicate a person is in the process of committing a crime. In any such case, the police must file a report with the prosecutor or court within 24 hours. A policeman who carries out an illegal search may be sued for illegal entry and sentenced to up to 1 year's imprisonment. Few prosecutors or judges did in fact file charges against policemen found to have obtained evidence illegally. Furthermore, such evidence is not automatically excluded from consideration by the court; instead, its admission is left to the discretion of the judge. More often than not, such evidence is admitted and frequently provides the basis for conviction.

According to Executive Yuan regulations, judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime. However, according to the Constitution, permission for telephone tapping and other such interference with privacy of communications must be granted according to law, rather than by administrative regulation.

### **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 respect these rights in practice. Although these rights are formally circumscribed by a statute prohibiting advocacy of communism or division of national territory, these provisions are not enforced in practice.

Print media represent the full spectrum of views within society. Residual political influence, however, still exists over the electronic media, particularly television stations. The KMT, the Taiwan Provincial Government, and the military continue to be the largest shareholders in three island-wide broadcast

television stations. Although considerable progress has been made toward loosening KMT control of the broadcast media, some critics still claim that coverage on these three stations has been biased in favor of the KMT and against opposition parties. A fourth island-wide broadcast television station, based in Kaohsiung and associated with the largest opposition party, the Democratic Progressive Party (DPP), opened in June. The opening of this station, known as Formosa Television, eliminated the KMT's monopoly of broadcast television and represents a significant move toward more complete media independence. In any event, the proliferation of cable television stations, some of which carry programming openly hostile to the ruling party, has greatly diminished the importance of KMT control over three of the four broadcast television stations. Over 70 percent of households receive cable television, which includes local, privately financed channels, as well as many major international networks. Several mainland Chinese and Japanese channels are also widely carried on cable.

Controls over radio stations were more limited than those over television stations and are being further liberalized. From 1993 to November 1997, the Government Information Office (GIO) received 529 applications for radio broadcast frequencies. A total of 169 frequencies were made available and 118 of these were apportioned; of the 51 still available, many are in remote areas. Many of the newly authorized radio stations, however, have limited broadcast ranges, leading critics to charge that the stations do not constitute a genuine counterweight to the authorities' monopoly on island-wide radio broadcasting.

Observers have noted that licensing requirements oblige prospective radio station owners to have more capital than is required to actually operate a station. This in itself inhibits individuals or groups from applying for radio station licenses. There are reportedly over one hundred unlicensed "underground" radio stations, many associated with opposition parties, operating illegally.

In 1992 the authorities revised sedition statutes to limit the purview of the Sedition Law and the National Security Law (NSL) and to remove prohibitions on "actions against the Constitution." However, the NSL and related statutes such as the Civic Organizations Law and the Parade and Assembly Law still retain prohibitions against advocating communism or espousing the division of national territory, even though these provisions are no longer enforced in practice.

During the year there were three cases in which senior leaders charged publications with libel. Liu Tai-ying, the Chairman of the ruling KMT's party-owned enterprises, sued Yazhou Zhoukan (Asiaweek) magazine and two of its employees for libel for reporting that he had considered making a political donation to the campaign of an American presidential candidate. In this case, the court ruled in favor of the defendants. In another case, Tsai Chao-yang, the Minister Transportation and Communications, sued a local magazine, Business Week, for alleging that he had spent a large amount of public money renovating his residence. The court ruled that the magazine's editor and reporter could not prove the accuracy of their story and sentenced them to 4 and 5 months' incarceration respectively. In a third case, the head of the National Security Bureau (NSB), Yin Tsung-wen, sued a Taipei newspaper for reporting that he had ordered his agents to tap the telephones of National Assembly delegates who were protesting a proposed constitutional change. After the newspaper printed a retraction, the NSB Director dropped his suit. To date, these libel actions do not appear to have lessened the vigor with which the media question the actions of Taiwan's leaders.

There is a vigorous and active free press despite the Publications Law, which empowers the police to seize or ban printed material that is seditious, treasonous, sacrilegious, interferes with the lawful exercise of public functions, or violates public order or morals. There were no reports of censorship of the print media during the year, nor were there any seizures of materials on political grounds. The police do sometimes conduct raids to seize pornographic materials.

The Government Information Office (GIO) has demanded that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication in Taiwan. The GIO still seeks to ban the importation of publications that advocate communism or the establishment of united front organizations, endanger public order or good morals, or violate regulations or laws. However, few local publishing companies observe this regulation, and substantial People's Republic of China-origin material is imported every year. Moreover, cable television systems broadcast uncensored television channels from mainland China.

Among other restrictions regulating the media are those precluding people previously convicted of sedition from owning, managing, or working in television and radio stations. Major opposition leaders, many of whom were convicted of sedition after the December 1979 Kaohsiung incident, are nevertheless not affected because their rights were restored through presidential amnesties.

There are few restrictions on academic freedom. The expression of dissenting political views is common.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, but the authorities restrict this right somewhat in practice. The Parade and Assembly Law permits peaceful demonstrations as long as they do not promote communism or advocate Taiwan's separation from mainland China and are approved in advance by the police department in the locality of the demonstration. In practice the authorities do not interfere with demonstrators advocating independence for Taiwan. In 1996 the authorities indicted a telecommunications union leader, Chang Shi-chung, under the Parade and Assembly Law as a result of a peaceful demonstration, which authorities charged was excessively noisy, held outside the Legislative Yuan in January (see Section 6.a.). Two Aborigine demonstrators, who were prosecuted under the law for an unauthorized demonstration in 1995, served 1-year jail sentences. One of them, Lin Wen-hsiung, now works at the Executive Yuan's Aboriginal Affairs Commission. Of the four senior leaders of the opposition Democratic Progressive Party (DPP) who were prosecuted for leading unauthorized demonstrations in 1992, two have paid a fine, one--a current LY Member--served 41 days in jail, and the case of the fourth remains unresolved as he has so far declined either to pay his fine or go to jail.

The Constitution provides for freedom of association, but the authorities also restrict this right somewhat in practice. The Civic Organization Law requires all civic organizations to register; however, the central authorities have refused to approve registration of some groups--such as the Taiwan Association for Human Rights (TAHR), the Taiwan Association of University Professors, and the Taiwan Environmental Protection Alliance--which use the word "Taiwan" in their titles (a usage that some authorities still frown on as promoting Taiwan independence). The authorities note that the Civic Organization Law requires that the name of a civic organization must correspond to the administrative district it covers; i.e., the "Republic of China" for island-wide organizations. The lack of registration entails some inconvenience to the operations of these groups. For example, they may not solicit donations from the public, and contributors may not take income tax deductions for their contributions. Nonetheless, they operate actively, freely, and effectively. In 1997 the Taiwan Association for Human Rights registered with the DPP-led Taipei city government, which does not impose such restrictions on the use of the word "Taiwan." The registration removes most of the legal impediments but raises as yet unanswered questions about the legality of the group's operations, such as fundraising, outside of Taipei.

A 1992 revision of the Civic Organization Law removed from the Executive Yuan the power to dissolve political parties. This power now resides in the Constitutional Court. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the "Republic of China." The Constitutional Court heard no cases under this law in 1997.

### c. Freedom of Religion

The Constitution provides for freedom of religion, and the authorities respect this right in practice.

### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The authorities do not restrict freedom of internal travel. Foreign travel by Taiwan passport holders is common.

Nonresident Taiwan passport holders are usually issued "overseas Chinese" passports and must seek entry permits for travel to Taiwan. According to 1992 revisions to the National Security Law, entry permits may be refused only if there are facts sufficient to create a strong suspicion that a person is engaged in terrorism or violence. Reasons for entry and exit refusals must be given, and appeals may be made to a special board. No exit or entry permit refusals were reported during 1997. In 1993 new measures provided that holders of Taiwan passports who normally reside abroad may return and regain their household registration, a document required to vote or participate as a candidate in an election.

Since 1988 Taiwan has substantially relaxed strictures against travel by Taiwan residents to the Chinese mainland, and such travel is common. Relatively tight restrictions on the entry of Chinese from the mainland remain in force.

There is no law under which noncitizens may ask for asylum, and there were no applications for refugee status in 1997. While the authorities have been reluctant to return to the mainland those who might suffer political persecution there, they regularly deport to the mainland, under provisions of the Mainland Relations Act, mainlanders who illegally enter the island for economic reasons. In July the authorities returned to mainland China two hijackers of People's Republic of China nationality who had completed sentences imposed by Taiwan courts. There were no reports of forced return of persons to a country where they feared persecution.

Conditions at detention camps for illegal immigrants (most from mainland China) continued to be criticized by local media. The Entry and Exit Bureau admitted that the three detention camps are overcrowded but blamed mainland Chinese authorities, who insist on extensive background checks, for delays in accepting the timely repatriation of illegal immigrants.

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

Citizens have this right. In 1996 Taiwan for the first time carried out the direct, popular election of its president, thus completing its transition to a democratic, multiparty political system. The transition began with the lifting of martial law in 1987. After generally free and fair popular elections for the LY in 1992, the second direct election of all LY members took place in December 1995. Previously, the President and Vice President had been indirectly elected by the National Assembly (NA), which now stands for popular election every 4 years and is charged mainly with amending the Constitution.

The KMT remains the largest political party, with 2 million members, although voters gave it only a slim majority in the December 1995 elections for the LY. The KMT holds only 80 of the 157 seats in the legislature. The Democratic Progressive Party, which traditionally had advocated independence for Taiwan and has an estimated 140,000 members, controls 45 LY seats. It won 12 of 23 mayor and county magistrate posts in November, including that of Taipei County. Since the DPP already held the mayoralty of Taipei municipality, 72 percent of Taiwan's population was living in DPP-led localities at year's end. The New Party was established in 1993 by younger KMT members who opposed the Party's

domination by "mainstream" ethnic Taiwanese supporters of President and Party Chairman Lee Teng-hui. The New Party has 19 seats in the LY and claims a membership of 86,000.

The KMT benefits from its ownership of the major television channels and of enterprises and business holdings estimated to be worth in excess of \$6 billion, and from the fact that its members still hold most key positions in the political system, sometimes concurrently with important party positions. In recent years, opposition parties have grown rapidly, however, and freely contest elections, criticize the authorities, and influence national policy through the legislative process. In 1994 a member of the DPP was elected mayor of Taipei, a position that makes him a member of the Cabinet.

The Constitution provides for equal rights for women, but their role in politics, while increasing, remains limited. Nevertheless, a number of women hold senior administrative and KMT positions, including Minister of Interior Yeh Ching-feng, Minister without Portfolio and KMT Central Standing Committee (CSC) member Shirley Kuo (a former Finance Minister), CSC member Hou Tsai-feng, and one major general in the armed forces. In addition, 22 of 157 LY members, 61 of 334 National Assembly members, 16 of 79 Provincial Assembly members, 2 of 26 Control Yuan members, and 255 of 1,300 judges are women.

Aborigine representatives participate in most levels of the political system, partially through 6 reserved seats in the NA and LY and 2 seats in the Provincial Assembly--half of each elected by the plains Aborigines and half by mountain Aborigines. An Aborigine serves as Chairman of the Aboriginal Affairs Commission. The magistrate of Taitung County is an Aborigine first elected in 1993 and reelected in 1997.

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

The principal human rights organizations are the establishment-oriented Chinese Association of Human Rights (CAHR) and the opposition-aligned Taiwan Association for Human Rights (TAHR). Coordination between the two bodies is limited. Despite the authorities' refusal to register it (see Section 2.b.), the TAHR operates freely. Both organizations investigate human rights complaints, many of come to public attention through the media and statements by lawmakers from all political parties. The authorities permit representatives of international human rights organizations to visit and meet with citizens freely. Women's and children's human rights groups monitor police and judicial performance and campaign to correct abuses (see Section 1.c.).

#### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution provides for equality of citizens before the law "irrespective of sex, religion, race, class, or party affiliation." Constitutional amendments enacted in July also provide for the rights of disabled persons. While the authorities are committed to protecting these rights, some areas of discrimination continue to exist.

##### **Women**

Violence against women, including domestic violence and rape, remains a serious problem. Wife beating is especially widespread. The DPP Women's Development Committee claimed that 35 percent of married women were victims of spousal abuse. The authorities have funded domestic violence hot lines, which have handled some 17,000 cases over the past decade. According to the law, a prosecutor may not investigate domestic violence cases until a spouse files a formal lawsuit. Although some cases

are prosecuted, strong social pressure discourages abused women from reporting incidents to the police in order to avoid disgracing their families. Rape also remains a serious problem, and its victims are socially stigmatized. One expert estimates that 7,000 rapes occur annually--10 times the number reported to the police. Because rape trials are public, women have been reluctant to prosecute their attackers. Support from feminist and social welfare organizations, however, has made victims more willing to come forward and press charges. Under the law, the authorities may not prosecute for rape without the victim's formal complaint. The Criminal Code establishes the punishment for rape as not less than 5 years' imprisonment, and those convicted are usually sentenced to from 5 to 10 years in prison.

During the year, 1,140 persons were arrested for the crime of rape, 664 were indicted, and 228 were convicted. In the other cases the charges were either dropped for lack of evidence, or because the victim withdrew her complaint, or the cases were still before the courts.

In May two massive demonstrations in Taipei protested the perceived deterioration of personal safety, with a particular emphasis on violence against women. These demonstrations led to the resignations of several senior officials, including the Minister of the Interior. The same month, the authorities created a supraministerial commission charged with providing psychological assistance, legal counseling, vocational training, and health care for women in need.

Prostitution, including coerced prostitution and child prostitution, is also a problem although there is little public concern about adult prostitution. When the police discover illegal prostitution, the cases are prosecuted according to the Criminal Code. However, under the "Prostitute Management Regulations," prostitution is legal in registered houses of prostitution in one section of Kaohsiung. In September the Taipei municipal government ended legal prostitution in registered houses of prostitution in specified areas of that city.

The law prohibits sex discrimination, and the LY has in recent years begun a systematic review and revision of those portions of the legal code relating to divorce, property, and child custody. As a result, recent legislation has eliminated many discriminatory sections of the code. In 1994 the CGJ declared unconstitutional a Civil Code provision dating back to the 1930's that gave fathers priority in child custody disputes. In 1996 the LY passed legislation that clarified a woman's right to her own property. In 1997 the LY repealed legislation requiring that a child take the father's name; the parents may now choose to give the child either the father's or mother's family name.

There is no equal employment rights law, and enforcement of existing sex discrimination laws remains a problem. Labor laws provide for maternity leave, but employers do not always grant it. Women also have complained of being forced to quit jobs upon marriage or because of age or pregnancy. Women often complain of less frequent promotions and lower salaries than their male counterparts. According to the Council on Labor Affairs, salaries for women average 85 percent of those for men performing roughly equal jobs.

In the past, many women married to foreigners said that their husbands had a more difficult time obtaining residency than the foreign wives of male citizens. They also complained that their children were not allowed to enter public schools. In 1995 the Ministry of Foreign Affairs announced a relaxation of the regulations governing foreign husbands' residence permits that allows the foreign husbands of citizens to remain in Taiwan for 6 months at a time rather than the shorter periods granted previously. The LY also passed new legislation permitting the children of foreign fathers to attend public schools. However, the Citizenship Law continues to stipulate that the transmission of citizenship may occur exclusively through the father. A citizen mother with a foreign husband thus cannot apply for a Taiwan passport for her child.

## Children

The Constitution has provisions to protect children's rights, and the authorities are committed to supporting them. Education for children between 6 and 15 years of age is compulsory, and this rule is enforced. Children are also provided health care under the national health insurance scheme.

Child abuse is a significant problem. The 1993 revision of the Child Welfare Act mandates that any persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities, that child welfare specialists must do so within 24 hours, and that the authorities involved must issue an investigation report within 24 hours. Both the Ministry of Interior Social Affairs Department and private organization specialists assert that these requirements are followed.

Child prostitution is a serious problem involving between 40,000 and 60,000 children, an estimated 5 percent of whom are Aborigines, according to reports by police and social workers. Most child prostitutes range from 12 through 16 years of age. The juvenile welfare law enables juvenile welfare bodies, prosecutors, and victims to apply to courts for termination of guardianship of parents and the appointment of qualified guardians if parents have forced their children into prostitution. If children are engaged in prostitution of their own free will, and the parents are incapable of providing safe custody, the courts may order competent authorities to provide counseling for not less than 6 months and not more than 2 years. However, legal loopholes and cultural barriers remain obstacles to enforcement. For example, if both parents have sold a child into prostitution, a problem associated mostly with Aborigine families, the law requires the child to lodge a complaint before prosecution is undertaken. In many cases, the child is reluctant or afraid to do so.

According to some reports, violence, drug addiction, and other forms of coercion are used by brothel owners to prevent child prostitutes from escaping. In 1995 the LY passed legislation providing for as much as 2 years' incarceration for customers of prostitutes under the age of 18. The legislation also requires the publication of the names of violators in newspapers. Several hundred persons have been arrested under this law, and 146 were indicted; as yet none are known to have been convicted.

## People With Disabilities

The Disabled Welfare Law was revised and strengthened in 1990. It prohibits discrimination against the disabled and sets minimum fines at approximately \$2,400 for violators. Under these revisions, new public buildings, facilities, and transportation equipment must be accessible to the disabled, while existing public buildings were to be brought into conformity by 1995. Although new buildings appear to meet many accessibility requirements, there does not as yet appear to be substantial effort aimed at refitting older buildings to accommodate disabled people.

A leading expert in the field estimates that the number of disabled is between 400,000 and 500,000--possibly as high as 700,000. One-third of the total are severely disabled and receive shelter or nursing care from the authorities. The Disabled Welfare Law requires large public and private organizations to hire disabled persons equal to 2 and 1 percent of their work forces respectively. Organizations failing to do so must pay, for each disabled person not hired, the basic monthly salary (approximately \$570) into the Disabled Welfare Fund, which supports institutions involved in welfare for the disabled. Many organizations complain that it is difficult to find qualified disabled workers, and they appear to prefer to pay the fines involved. The authorities have noted the impact of a traditional belief that the disabled lack the ability to do real work.

## Indigenous People

Taiwan's only non-Chinese minority group consists of the Aboriginal descendants of Malayo-Polynesians already established in Taiwan when the first Chinese settlers arrived. According to MOI statistics, there are 357,000 Aborigines. More than 70 percent are Christian, while the dominant Han Chinese are largely Buddhist or Taoist. The civil and political rights of Aborigines are fully protected under law. The National Assembly amended the Constitution in 1992 and again in July to upgrade the status of Aboriginal people, protect their right of political participation, and ensure cultural, educational, and business development. In addition, the authorities have instituted social programs to help Aborigines assimilate into the dominant Chinese society. A new cabinet-level agency, the Aboriginal Affairs Commission, was created, although critics noted that its budget was quite small. As part of its efforts to preserve ethnic identities, the Ministry of Education now includes some Aboriginal-language classes in primary schools.

Although they face no official discrimination, Aborigines have had little impact, over the years, on major decisions affecting their lands, culture, traditions, and the allocation of their natural resources. In addition, they complain that they are prevented from owning ancestral lands in mountain areas under the authorities' control, some of which have been designated as national parks or conservation areas. Land rights remain a crucial issue for Aborigines, along with social discrimination, educational underachievement, low economic status, and high rates of alcoholism. Some Aboriginal leaders have come to believe that only some form of autonomy can preserve their land rights, which are constantly threatened by Han developers who use connections and corruption to gain title to Aboriginal land. According to MOI statistics, only about 50 percent of Aborigine children complete elementary school. In the past, Aborigines were not allowed to use non-Chinese personal names on legal documents, but this was changed by legislation in 1996.

The sale of Aboriginal girls into prostitution by their parents is a serious social problem (see Children above). However, recent reports have indicated that in the period from June 1994 to July 1995, the percentage of all arrested child prostitutes who were of Aboriginal origin dropped from 15 percent to 5 percent. This reduction may have come about due to intensive efforts on the part of social workers and nongovernmental organizations to combat the practice of selling female children into prostitution.

## **Section 6 Worker Rights**

### **a. The Right of Association**

In 1995 the Judicial Yuan decided that the right to organize trade unions is protected by the Constitution. But, until new legislation implementing this decision is passed, teachers, civil servants, and defense industry workers are still not permitted to form labor unions. Even with this ruling, there are a number of laws and regulations limiting the right of association. Labor unions may draw up their own rules and constitutions, but they must submit these to the authorities for review. Unions may be dissolved if they do not meet certification requirements or if their activities disturb public order. However, there were no instances of the authorities dissolving local labor groups or denying new unions certification.

The Labor Union Law requires that union leaders be elected regularly by secret ballot, and, in recent years, workers have sometimes rejected KMT or management-endorsed union slates.

Unions may form confederations, but no administrative district, including a city, county, or province, can have competing labor confederations. There is only one Taiwan-wide labor federation, the Chinese Federation of Labor (CFL) which is closely associated with the ruling KMT. In August Lee Cheng-hung, Board Chairman of the CFL, was elected to the KMT's Central Standing Committee.

The restriction on island-wide unions was challenged in 1994 when 12 unions from state-run enterprises announced that they would withdraw from the CFL and establish a new national federation of labor unions of state-run enterprises. The Council of Labor Affairs (CLA) turned down their application, as well as the appeal of that rejection. In the meantime, the trade unions have retained their seats in the CFL. Twenty trade unions with a combined membership of 4,000 are affiliated as the National Federation of Independent Trade Unionists. Although the affiliates are legal, the Federation is considered illegal. In general, the drive for independent labor unions has lost momentum in recent years due to the extremely low unemployment rates, higher wages, the shift from manufacturing to service industries, the small scale and poor organization of most unions, and prosecution of labor activists by the authorities in the past.

The law governing labor disputes recognizes the right of unions to strike but imposes restrictions that make legal strikes difficult and seriously weaken collective bargaining. For example, the authorities require mediation of labor/management disputes when they deem the disputes to be sufficiently serious or to involve "unfair practices." The law forbids both labor and management from disrupting the "working order" when either mediation or arbitration is in progress. The law mandates stiff penalties for violations of no-strike/no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them, although there were no such cases reported in 1997. The CLA reported that from 1990 to August 1995, there were 31 strikes, of which 22 involved workers at bus companies asking for increased pay and reduced hours. There were no strikes recorded in 1996. One strike involving a pay dispute at a trucking company occurred in July 1997.

In July Tseng Mao-hsing, a labor activist, was convicted of creating a public hazard and sentenced to 22 months' incarceration. Tseng led 80 laid-off workers from a garment factory to lie down on railroad tracks to demand severance pay. The 80 workers were sentenced to 4 years' imprisonment, but the sentences were suspended subject to their subsequent good behavior.

Taiwan was expelled from the International Labor Organization in 1971 when the People's Republic of China replaced Taiwan in the United Nations. The CFL is affiliated with the International Confederation of Free Trade Unions.

#### b. The Right to Organize and Bargain Collectively

Except for the categories of workers noted in Section 6.a., the Labor Union Law and the Settlement of Labor Disputes Law give workers the right to organize and bargain collectively. As of March, some 3 million workers, approximately 32.1 percent of Taiwan's 9.4-million person labor force, belonged to 3,706 registered labor unions.

Under the Labor Union Law, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because they are union members. In practice, however, union leaders have sometimes been dismissed without reasonable cause by employers, and observers point out that the law sets no specific penalties for violations. According to the illegal National Federation of Independent Trade Unionists, over 400 trade unionists and supporters have been fired since Taiwan's labor movement began to expand after the 1987 lifting of martial law. At least 20 trade union officers were discharged by employers in 1997.

The Collective Agreements Law provides for collective bargaining but does not make it mandatory. Since such agreements are made only in large-scale enterprises, and less than 5 percent of Taiwan's enterprises fall into this category, the proportion of workers covered remains small. Employers set

wages generally in accordance with market conditions.

Firms in export processing zones are subject to the same laws regarding treatment of labor unions as other firms and follow normal practices including collective bargaining agreements with their unions.

#### c. Prohibition of Forced or Compulsory Labor

The Labor Standards Law prohibits forced or compulsory labor. There were no reports of these practices, apart from coerced prostitution (see Section 5). The law prohibits forced and bonded labor by children, and the authorities generally enforce this prohibition effectively. However, some parents of Aboriginal children sell them into prostitution, and the requirements of the law make prosecution difficult at times (see Section 5).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The authorities prohibit forced and bonded child labor and generally enforce this prohibition effectively, although the sale of Aboriginal children into prostitution remains a problem (see Section 6.c.). The Labor Standards Law stipulates age 15, after compulsory education required by law ends, as the minimum age for employment. County and city labor bureaus enforce minimum age laws.

#### e. Acceptable Conditions of Work

The Labor Standards Law (LSL) mandates labor standards. According to the CLA, the law covers 3.6 million of Taiwan's 6.3 million salaried workers. The law is not well enforced in areas such as overtime work and pay or retirement payments.

The CLA raised the minimum monthly wage by 3.13 percent to \$485 (NT\$ 15,840) effective October 16. While sufficient in cheaper areas, this is less than what is needed to assure a decent standard of living for a worker and family in metropolitan areas such as Taipei. However, the average manufacturing wage is more than double the legal minimum wage, and the average for service industry employees is even higher. The law limits the workweek to 48 hours (8 hours per day, 6 days per week) and requires 1 day off in every 7 days.

The 1991 Revised Occupational Safety and Health Law enlarged coverage to include workers in agriculture, fishing, and forestry industries and appeared to strengthen penalties for safety violations. It nevertheless still provides only minimal standards for working conditions and health and safety precautions. The Occupational Safety and Health Law gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. Some critics, however, see the law as a step backward; for example, they note that, under the revised law, general contractors are not responsible for the safety of those working for subcontractors.

The 1993 Labor Inspection Law was designed to strengthen the enforcement of labor standards and health and safety regulations. It increased the number of enterprises and types of safety issues to be inspected; gave inspectors quasi-judicial powers; required pre-examination of dangerous working places such as naphtha-cracking plants, pesticide factories, and firecracker factories; and raised penalties for violations. Critics allege that the CLA does not effectively enforce workplace laws and regulations because it employs too few inspectors. There are 212 inspectors for the approximately 300,000 enterprises covered by the Occupational Safety and Health Law. Because the new law expanded coverage to include more enterprises, the inspection rate actually declined. Since many enterprises are small, family-owned operations employing relatives unlikely to report violations, actual adherence to the

hours, wage, and safety sections of various labor laws is hard to document but is believed to be minimal in these smaller enterprises.

Because of an acute labor shortage, there has been a legal influx of foreign workers in the last several years. The law stipulates that foreign workers who are employed legally receive the same protection as local workers. However, authorities say that in many cases illegal foreign workers, many from Thailand and the Philippines, receive board and lodging from their employers, but no medical coverage, accident insurance, or other benefits enjoyed by citizens. In addition, observers say that conditions in many small and medium-sized factories that employ illegal foreign labor are dangerous, due to old and poorly maintained equipment. It was reported in May that foreign workers employed in digging tunnels were discharged and returned to their home countries without medical treatment when they exhibited the symptoms of decompression sickness, acquired from working in pressurized casements underground. In contrast, following a September explosion, the media reported that Thai workers would receive medical treatment and compensation for injuries suffered in the accident equivalent to that received by citizens. Illegal foreign workers remain even more vulnerable to exploitation, including confiscation of passports, imposition of involuntary deductions from wages, and extension of working hours without overtime pay. There are also occasional reports of mistreatment of legal foreign workers. According to available statistics, there are almost 246,000 legal foreign workers, including approximately 137,000 workers from Thailand and 95,000 workers from the Philippines. The unemployment rate among citizens in mid-1997 was 2.6 percent, leading the CLA to suggest relaxing restrictions on the number of foreign workers entering Taiwan to allow an additional quota of 38,000 individuals.

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