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## 1999 Country Reports on Human Rights Practices

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### TAIWAN

With the popular election of President Lee Teng-hui in 1996, Taiwan completed its transition to an open, 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 1997 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 December 1998. The ruling KMT remains the single most powerful political force with a working majority in the LY, where two opposition parties play 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 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 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, 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 infringements on citizens' privacy; violence and discrimination against women; child prostitution and abuse; societal discrimination against Aborigines; restrictions on workers' freedom of association and on their ability to strike, and instances of trafficking in women and children. Restrictions on freedom of association were eliminated in April when the Council of Grand Justices invalidated the restrictions on using the word Taiwan in the names of organizations.

## **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

Although the Constitution does not directly address the issues of torture and punishment, the Code of Criminal Procedure 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 stated 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 often are not present. Informed observers note that police emphasize confessions by 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 also have noted that the judicial system sometimes has accepted such confessions even when they contradict available physical evidence or logic. The NPA denies that police abuse suspects; and asserts that regulations forbid such abuse and that police who abuse suspects would be punished. The NPA implemented regulations to protect further the rights of suspects during questioning, including forbidding the questioning of suspects at night and requiring audio or, whenever possible, videotaping of interrogations. Nevertheless, there are credible reports that the physical abuse or the threat of abuse of prisoners is a recurring investigative technique. Detainees who are abused physically have the right to sue the police for torture, and confessions shown to have been obtained through torture are inadmissible in court proceedings. No such suits were 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. While the authorities state that respect for human rights is a part of basic police training, human rights groups assert that the measures the authorities have taken to protect human rights are inadequate to create an ethos of respect for human rights among police and security personnel. Women's and children's rights groups are active in monitoring police and judicial performance and periodically mount campaigns to correct abuses.

Corporal punishment is forbidden under military law, and strictly prohibited in practice. The Ministry of National Defense (MND) has taken steps to address the occasional reports of physical abuse of military personnel by promulgating regulations specifying the appropriate treatment of lower ranking personnel and by conducting regular polls of servicemen and their families to discover any abuse. The authorities also have established a telephone hot line to report alleged abuses within the military. Reports of abuse are investigated and handled according to the law. In addition the MND has established 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 also have contributed to an apparent reduction in abuses. In March the MND established a committee for the protection of the rights of military personnel. Using the expertise of outside consultants, the committee handles personal problems of military personnel and is part of the MND's effort to promote "humanitarian management" within the military.

Prison conditions generally meet minimum international standards. However, overcrowding at the 49 prisons and overly long stays at the detention centers for illegal aliens remained a problem. Despite an increase in facilities since 1997, the number of inmates detained at year's end exceeded capacity by 7,142. The primary reason for overcrowding has changed. The number of incarcerated drug users, which previously had been the fastest growing category of inmates, has leveled off. In addition the Ministry of Justice has set up drug treatment facilities to reduce the number of addicts in the prison population. However, the number of parolees dropped after a 1997 amendment to the Code of Criminal Procedure reversed a 1994 amendment that had allowed prisoners to be paroled after serving one-third, rather than one-half, of their sentences.

The authorities permit prison visits by human rights 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 when circumstances are too urgent to report to a public prosecutor. However, the authorities must, within 24 hours after detention, apply to a prosecutor for a warrant and 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.

An important amendment to the Code of Criminal Procedure was enacted in 1997, that shifted the power of investigative detention from the prosecutors to the courts. Under the new law, prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The duration of this pretrial detention is limited to 2 months, and the courts may approve a single extension of 2 months. Limits also were set for detention during trial. If a crime is punishable by less than 10 years' imprisonment,

then no more than 3 extensions of 2 months each may be granted during the trial and appellate proceedings. During the second appeal, only one extension may be granted. The authorities generally observe these procedures, and trials usually take place within 3 months of indictment.

The revised Code of Criminal Procedure requires the police to inform a suspect during an interrogation of the specific crimes in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are amended subsequently, the police also must inform the suspect. The authorities generally respect a detainee's request to have a lawyer present during the investigation phase, but defense lawyers and human rights groups continue to complain that the rules do not provide adequate protection since suspects often do not have legal representation during police interrogation. A contributing factor is that there is no legal requirement that indigent persons 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 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 authorities do not use forced exile.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, corruption and political influence remain serious problems.

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. In February the LY passed legislation adding an additional level to the Administrative Court to provide for judicial review.

The law provides for the right of fair public trial, and this is generally respected in practice. Judges, rather than juries, decide trials; 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 that a party wishes to submit if the judge considers it irrelevant; a 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.

A defendant has the right to an attorney. If the defendant is charged with 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 1997 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. However, informed observers note that many convictions frequently result 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 to the next higher court level.

The 1985 "Antihoodlum" Law departed 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 were given the right to examine documentary evidence, critics charged that evidence in these cases was often weak or fabricated. However, in 1995 the Council of Grand Justices (CGJ) declared unconstitutional the administrative procedures that had been used to sentence hoodlums to reformatory education. The LY passed new legislation in 1997 requiring all witnesses to testify openly but providing procedures for their subsequent protection, "in exceptional cases."

Despite several years of effort at judicial reform, dissatisfaction exists among judges and others about the slowness of strengthening the rule of law. Corruption within the judiciary remains a problem. In March the newly appointed JY President presented a 5-year blueprint for judicial reform. These proposals called for a defendant-oriented trial system, which would protect the rights of the accused better and increase judicial efficiency. The proposals also would promulgate a code of judicial conduct, revise the precepts for evaluating judicial performance, and strengthen review of judges' financial disclosure reports.

In February the law was revised to create the position of law clerks. Working as assistants to judges, the law clerks are intended to improve judicial performance and the quality of decisions.

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 prosecutor or a judge, must issue a warrant before a search, except when "incidental to arrest." However, critics claim that the "incidental to arrest" provision is not only unconstitutional but also often interpreted broadly by police to justify searches of locations other than actual arrest sites. 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 imprisonment. Few prosecutors or judges filed charges against policemen found to have obtained evidence illegally. Furthermore, such evidence is not excluded automatically 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.

In addition to criminal suspects, persons are subject to searches and identity checks by police in public places. Roadblocks to check vehicles randomly are conducted routinely.

Pedestrians also are subject to identity checks. Such checks are based only on a section of the Police Administration Law, and police officers are given wide discretion.

The wiretapping of telephones is a serious problem. The Telecommunication Law and the Code of Criminal Procedure provide that 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. According to media reports, this practice is commonplace with more than 15,000 telephones being wiretapped during the year. In June the LY passed legislation intended to bring unauthorized wiretapping under control by imposing severe penalties. The law also provides for wiretapping by the intelligence services.

## 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. A 1998 Council of Grand Justices decision invalidated a statute prohibiting the advocacy of communism or the division of national territory, which previously had circumscribed these rights formally, although the statute's provisions were not enforced in practice.

Print media represent the full spectrum of views within society. However, some political influence still exists over the electronic media, particularly television. The KMT continues to be one of the largest shareholders in three of the five island-wide broadcast television stations, and some critics claim that coverage on these three stations has been biased in favor of the KMT. The Taiwan Provincial Government, previously a major shareholder, was eliminated from government structure at the end of 1998, and, although the military continues to be a large shareholder, it does not appear to play any role in programming. A fourth island-wide broadcast television station based in Kaohsiung is associated with the largest opposition party, the Democratic Progressive Party (DPP). A fifth island-wide broadcast station run by a nonprofit public television foundation under the Government Information Office was inaugurated in 1998. In any event, the existence of approximately 100 cable television stations, some of which carry programming openly hostile to the ruling party, has diminished greatly the importance of KMT control over broadcast television stations. Over 70 percent of households receive cable television, which includes local, privately financed channels, as well as many major international networks. Cable television call-in programs have given the public an additional means of expressing their views.

Controls over radio stations were more limited than those over television stations and are being liberalized further. From 1993 to September, the Government Information Office (GIO) received 626 applications for radio broadcast frequencies. A total of 189 frequencies were made available, and 118 of these were apportioned; many of the 71 still available are in remote areas. However, many of the newly authorized radio stations 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 noted that licensing requirements oblige prospective radio station owners to have more capital than actually is required to operate a station. This requirement inhibits

individuals or groups from applying for radio station licenses. However, the GIO claims that the \$1.5 million (nt\$50 million) required capitalization is based upon consideration of actual business costs and notes that the required capitalization is reduced to \$31,250 (nt\$1 million) for radio stations serving remote areas or designated ethnic groups and civic organizations, or which promote local development. Reportedly over 100 unlicensed "underground" radio stations, many associated with opposition parties, operate 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 still retains prohibitions against advocating communism or espousing the division of national territory, although these were invalidated by the 1998 Council of Grand Justices decision that such prohibitions were unconstitutional.

While there were three cases in which senior leaders charged local publications with libel in 1997, no new cases were reported during 1998-99.

There is a vigorous and active free press. In January the LY abolished the Publications Law, which had empowered the police to seize or ban printed material that is seditious, treasonous, sacrilegious, interfered with the lawful exercise of public functions, or violated 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 sometimes conduct raids to seize pornographic materials.

The GIO requires that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication, and 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 persons 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 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; although in the past the authorities restricted this right somewhat in practice, they have not done so following the Council of Grand Justices' 1998 decision that provisions of the Parade and Assembly Law prohibiting demonstrations promoting communism or advocating Taiwan's separation from mainland China were unconstitutional.

The Constitution provides for freedom of association; however, although the authorities restricted this right somewhat in practice, these restrictions were eliminated early in the

year. The Civic Organization Law requires all civic organizations to register, but in April the central authorities removed the previous restriction on registration of groups that use the word "Taiwan" in their titles after a CGJ ruling that such a restriction was unconstitutional. Prior to this change, the lack of registration entailed some inconvenience to the operations of some groups. For example they could not solicit donations from the public, contributors could not take income tax deductions for their contributions, and their employees could not receive employment-linked benefits such as national health insurance coverage. Nonetheless they operated actively, freely, and effectively.

A 1992 revision of the Civic Organization Law removed from the EY 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 during the year.

#### c. Freedom of Religion

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

Religious organizations are required to register with the authorities under the Temple Management Law, the Civic Organizations Law, or the Corporate Bodies Law. In the past, the authorities occasionally denied registration to new religions whose doctrines were unclear. But such religions are now registered as civic organizations. There were no reports that the authorities seek to suppress new religions.

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

The authorities do not restrict freedom of internal travel. Foreign travel by 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 the year. 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 residents to the Chinese mainland, and such travel is common. Relatively tight restrictions on the entry of Chinese from the mainland remain in force for national security reasons, but they have been relaxed in recent years to expand cross-strait exchanges.

There is no law under which noncitizens may ask for asylum, and there were no applications for refugee status during the year. While the authorities have been reluctant to return to the mainland those who might suffer political persecution, they regularly

deport to the mainland, under provisions of the Mainland Relations Act, mainlanders who illegally enter the island for economic reasons. There were no reports of forced return of persons to a country where they feared persecution.

The detention centers for illegal immigrants continue to attract media attention. While the completion of expansion projects has eliminated overcrowded conditions, inmates complain about overly long stays at the centers while waiting to be repatriated. The Bureau of Entry and Exit faults mainland Chinese authorities for insisting on extensive background checks, which results in a delay in repatriation.

In the spring legislative session, the LY enacted an Entry, Exit, and Immigration Law; among other things it criminalizes alien smuggling. However, this portion of the law still requires enabling legislation.

### 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. Generally free and fair popular elections for the LY took place in 1992, 1995, and 1998. Corruption and vote buying, particularly in local elections, are problems. In September the National Assembly (NA) passed amendments to the Constitution that included extending the current term of Assembly deputies and replacing their popular election with a system of appointment based on political party apportionment. The NA is charged mainly with amending the Constitution.

The KMT remains the largest political party, with 2 million members. It secured a working majority in the 1998 elections for an expanded LY, winning 124 of 225 seats. The KMT also won the December election for Taipei mayor. The Democratic Progressive Party, which traditionally had advocated independence for Taiwan and has an estimated 200,000 members, controls 54 LY seats. It won 12 of 23 mayoral and county magistrate posts in 1997, including that of Taipei County, placing a majority of Taiwan's population in DPP-led localities. The DPP also won the Kaohsiung mayor's office in the 1998 election. Younger KMT members who opposed the Party's domination by "mainstream" ethnic Taiwanese supporters of President and Party Chairman Lee Teng-hui established the New Party in 1993. The New Party has 11 seats in the LY and claims a membership of 86,000.

The KMT benefits from its ownership of three 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. However, in recent years, opposition parties grew rapidly and freely contest elections, criticize the authorities, and influence national policy through the legislative process.

The Constitution provides for equal rights for women, but their role in politics, while increasing, remains limited. Nevertheless there are six female members of the Cabinet, including the Minister of Justice, the Chairperson of the Fair Trade Commission, and the Chairperson of the EY Council for Cultural Development. A number of women also hold

senior KMT positions, including three members of the Central Standing Committee. In addition 43 of 225 LY members, 54 of 316 National Assembly members, and 2 of 29 Control Yuan members are women.

Aborigine representatives participate in most levels of the political system, partially through 6 reserved seats in the NA and LY--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 Chinese Association of Human Rights and the Taiwan Association for Human Rights. Both organizations operate freely, although coordination between the two is limited. Both organizations investigate human rights complaints, many of which 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 1997 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 fund domestic violence hot lines, which have handled some 17,000 cases over the past decade. By 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 stigmatized socially. One expert estimates that 7,000 rapes occur annually--10 times the number reported to the police. In a step forward, in April the LY passed legislation that permits the prosecution of the crime of rape without requiring the victim to press charges. According to a law passed in 1997, rape trials no longer are public unless the victim consents. The Code of Criminal Procedure 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. In the first 6 months of the year, 335 persons were indicted for the crime of rape, and 141 were convicted.

In 1998 the LY passed new legislation that required all city and county governments to set

up domestic violence prevention and control centers. The centers provide victims with protection, shelter, legal counseling, and other services on a 24-hour basis. Under the law, a judicial order may be obtained to prohibit violators from approaching victims. The Ministry of Interior also provides assistance to victims of rape or domestic violence, such as financial assistance and shelter. In April the Ministry established a domestic violence prevention committee to implement a comprehensive program for the protection of women and children.

Prostitution, including coerced prostitution and child prostitution, is also a problem (see Section 6.f.). The authorities are phasing out legalized prostitution. Under the law, no new houses of prostitution may be registered.

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 of legislation passed in 1998, many discriminatory sections of the code were eliminated. For example women now are no longer required to adopt their husband's last name after marriage. In 1994 the CGJ declared unconstitutional a Civil Code provision dating 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 complain of being forced to quit jobs due to marriage, age, or pregnancy. Women often complain of less frequent promotions and lower salaries than their male counterparts, although the Labor Standards Law prohibits gender-based differences in wages. 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' visas that allows the foreign husbands of citizens to remain in Taiwan (at a minimum) for 6 months at a time rather than the shorter periods granted previously. The Ministry of Education also clarified regulations permitting the children of foreign fathers to attend public schools. In May the LY passed legislation permitting spouses of citizens to apply for permanent residency after residing in Taiwan for 5 years. 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. However, when such a child reaches age 14, the child can apply.

### 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 also are provided health care under the national health insurance scheme.

Child abuse is a significant problem. The 1993 revision of the Child Welfare Act states 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 make such notification within 24 hours, and that the authorities involved must issue an investigation report within 24 hours. Both the Ministry of Interior's Social Affairs Department and nongovernmental specialists assert that these requirements are followed. In June the LY passed legislation creating a Child Welfare Bureau in the Ministry of Interior to enhance efforts to protect child welfare.

In September the first juvenile court was established in Kaohsiung to handle criminal cases. Previously regular juvenile courts handled such cases. The new court includes 24 juvenile counselors. There are three juvenile detention centers on the island.

Although no reliable statistics are available, child prostitution is a serious problem, particularly among Aborigine children (see Section 6.f.). Most child prostitutes range from 12 through 17 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. On occasion parents have sold a child into prostitution, a problem associated mostly with Aborigine families.

According to some reports, brothel owners, to prevent child prostitutes from escaping, use violence, drug addiction, and other forms of coercion. 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. Under a plan adopted by the NPA, city and county authorities across the island have established police task forces to strengthen their efforts against child prostitution. During the first 4 months of the year, 249 persons were arrested, of whom 222 were indicted and 101 convicted. In June the LY amended the Prevention of Child and Juvenile Sex Trafficking Law to prohibit the media from running advertisements involving the sex trade and to impose penalties on citizens arrested abroad for having sex with minors.

### 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 (nt\$73,800) 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 effect of traditional belief that the disabled lack the ability to do real work.

### Indigenous People

The island's only non-Chinese minority group consists of the Aboriginal descendants of Malayo-Polynesians already established 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 1997 to upgrade the status of Aboriginal people, protect their right of political participation, and ensure their cultural, educational, and business development. In addition the authorities 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 is quite small. As part of its efforts to preserve ethnic identities, the Ministry of Education now includes some Aboriginal-language classes in primary schools. Under 1998 legislation, the Ministry of Education subsidizes university education for Aborigines and works to preserve Aboriginal culture, history, and language through the establishment of Aboriginal studies centers.

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 constantly are threatened by Chinese 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 rule was changed by legislation in 1996.

The sale of Aboriginal girls into prostitution by their parents is also a problem (see Section 6.f.).

### Section 6 -- Worker Rights

#### a. The Right of Association

In 1995 the JY ruled 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 still are not permitted to form labor unions. Even with this ruling, a number of laws and regulations limit 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 1997 Lee Cheng-hung, Board Chairman of the CFL, was elected to the KMT's Central Standing Committee.

In July unions at 18 state-owned enterprises set up an alliance to protect worker rights during privatization. However, the Council of Labor Affairs (CLA) denied the legitimacy of that federation in the absence of an amendment to the Labor Union Law. In 1998 large unions representing some 300,000 workers announced their decision to break with the CFL and organize the National Federation of Industrial Labor Unions. A similar challenge to the restriction on island-wide unions was mounted in 1994 when 12 unions from state-run enterprises announced their withdrawal from the CFL to establish a new national federation of labor unions of state-run enterprises. The 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 rate, 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 and 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 no such cases were reported during the year. The CLA reported that from 1990-98, there were 34 strikes, of which 23 involved workers at bus companies seeking increased pay and reduced hours. Strikes threatened in January at the Chinese Petroleum Corporation and Taiwan Railway Bureau did not materialize as workers obtained satisfactory concessions from management. There were three strikes in 1998 and one strike in 1997.

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 31 percent of the 9.5 million-person labor force, belonged to 3,710 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. However, in practice, employers sometimes have dismissed union leaders without reasonable cause, and observers point out that the law sets no specific penalties for violations. Several union leaders of a container terminal company were laid off at the end of 1998 following a strike earlier in the year. According to the illegal National Federation of Independent Trade Unionists, over 400 trade unionists and supporters have been fired since the labor movement began to expand after the 1987 lifting of martial law.

The Collective Agreements Law provides for collective bargaining but does not make it mandatory. Since such agreements are used only in large-scale enterprises, and less than 5 percent of 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, and there were no reports of these practices, apart from coerced prostitution (see Sections 5 and 6.f.). 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).

In July nine women who were forced to work as "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Government) filed lawsuits in Japan seeking \$100,000 (nt\$3,000,000) and a formal apology from the Japanese Government. The case is before the courts.

#### 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 Sections 5 and 6.c.). The Labor Standards Law (LSL) 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 LSL mandates labor standards. According to the CLA, until recently the law covered

3.6 million of 6.6 million salaried workers and was not well enforced in areas such as overtime work and pay or retirement payments. A 1996 amendment extended the LSL to all salaried employees. By mid-year the LSL covered 5.5 million employees. The CLA is conducting a publicity campaign to increase public awareness of the law and set up telephone hot lines to accept complaints on LSL violations.

The CLA did not increase the minimum monthly wage, which remained at \$465 (nt\$5,840). While sufficient in less expensive areas, this wage is less than that needed to assure a decent standard of living for a worker and family in urban 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. In 1998 the public sector adopted a new system providing for a 5-day workweek every other week. According to a CLA survey, about one-third of private enterprises also have adopted that system.

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, in 1998 foreign domestic workers were exempted from the LSL, denying them the right to safeguards provided to citizens. Moreover 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. Illegal foreign workers also are vulnerable to employer exploitation in the form of confiscation of passports, imposition of involuntary deductions from wages, and extension of working hours without overtime pay. 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. There are also occasional reports of the mistreatment of legal foreign workers. According to CLA statistics, there are 279,000 legal foreign workers, including approximately 135,000 workers from Thailand and 115,000 workers from the Philippines. In May the CLA signed a labor agreement with Vietnam permitting its workers to obtain employment in Taiwan. The unemployment rate remained at 2.7 percent in 1998. The CLA set the quota for foreign workers at 300,000. However, in July the CLA announced that in view of the increase in unemployment for unskilled labor and Aborigines, it would decrease the foreign labor quota in the construction and manufacturing sectors by 10 percent.

The 1991 revised Occupational Safety and Health Law (OSHL) extended 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 OSHL gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. However, some critics 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 persons 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 factors to be inspected; gave inspectors quasi-judicial powers; required preexamination 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 223 inspectors for the approximately 300,000 enterprises covered by the OSHL. The inspection rate increased to 8.3 percent in 1998, up from 7.6 percent in 1997. 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.

#### f. Trafficking in Persons

There is no law specifically prohibiting trafficking; however, traffickers for sexual purposes may be prosecuted under the Sexual Violation Offenses Act, which outlaws sexual transactions for profit. In addition in May the LY enacted legislation which criminalizes alien smuggling (see Section 2.d.). The 1995 Statute for Prevention of Child and Juvenile Sexual Trafficking empowers the authorities to prosecute any person who intends to force a girl below the age of 18 to engage in sex or to sell or pawn her by other means. Nonetheless there are reports of organized crime rings trafficking in women for the purpose of forced prostitution. The majority of cases involve women from mainland China or Thailand. Criminal gangs in mainland China reportedly use deceptive measures to recruit and procure young women who are then funneled to Taiwan-based organized crime gangs who arrange sham marriages to enable them to obtain visas to enter Taiwan. The women then are forced into prostitution. The extent of the problem is difficult to determine, there have been 50,000 marriages between persons from mainland China and Taiwan since 1992, but less than 1 percent are believed to involve the trafficking gangs. In May police arrested eight men linked to one such crime syndicate who married in mainland China and then forced their wives to work as prostitutes in Taiwan. Light sentences for traffickers hamper police efforts to end this trade. Trafficking victims, if arrested for prostitution, also face light sentences, such as fines or deportation.

The sale of Aboriginal girls into prostitution by their parents is also a problem. However, 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. The NPA also coordinated the formation of police task forces in local jurisdictions to investigate and prevent the sale of Aboriginal girls into prostitution. From the beginning of 1998 through April, 46 Aboriginal girls were found to have been engaged in prostitution.

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