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2009 Human Rights Reports: Taiwan*

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

Taiwan's population of 23 million is governed by a president and parliament chosen in multiparty elections. International observers considered the January 2008 legislative elections and the March 2008 presidential election, which Ma Ying-jeou of the Kuomintang Party (KMT) won, free and fair. Civilian authorities generally maintained effective control of the security forces.

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

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

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

b. Disappearance

There were no reports of politically motivated disappearances.

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

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

Prison and Detention Center Conditions

Prison conditions generally met international standards, and the authorities permitted monitoring visits by independent human rights observers. As of September, there were 54,782 adult prisoners, 50,353 males, 4,429 women, and fewer than 1,000 juveniles. As of September prisons operated at 115.9 percent of design capacity.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

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

Police corruption, while limited, was a problem. The NPA did not keep statistics on police corruption cases. In March an officer with the Criminal Investigation Bureau in Taipei County was indicted on corruption charges for taking goods from a suspected burglar. In November 2008 several police officers in Taipei County were indicted for taking bribes from karaoke, video gambling, and gravel business operators. The prosecutors proposed jail terms of up to 14 years. At year's end the trial was ongoing. In December the Banciao District Court convicted five police officers of accepting bribes from casino operators in Taipei and Taoyuan counties and sentenced them to prison terms ranging from 12 to 20 years.

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

Arrest Procedures and Treatment While in Detention

Warrants or summons are required by law except when there is ample reason to believe the suspect may flee, or in urgent circumstances. Indicted persons may be released on bail at judicial discretion. By law prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The authorities generally observed these procedures, and trials usually took place within three months of indictment. According to the Code of Criminal Procedure, prosecutors can apply to a court for approval of a pretrial detention of an unindicted suspect for a maximum of two months with one possible two-month extension. Judicial reform advocates have urged limiting pretrial detention to better protect defendants' rights. Pretrial detention can be requested in cases where the potential sentence is five years or more or where there is a reasonable concern that the suspect could flee, collude with other suspects or witnesses, or tamper or destroy material evidence. In October the Constitutional Court ruled that a defendant may not be detained solely on the basis of the potential sentence.

Former president Chen Shui-bian was detained for approximately 10 months, except for a short break, before his conviction on various corruption charges (see section 4). The district court, in justifying his detention, expressed concern that Chen could collude with witnesses, tamper with evidence, and posed a flight risk. His preindictment detention was for one month.

Human rights advocates complained that the law did not provide adequate protection since there is no requirement that suspects have legal representation during questioning. The Judicial Yuan (JY) and the NPA expanded a program to provide legal counsel during initial police questioning to qualifying indigent suspects who are mentally handicapped or charged with a crime punishable by three or more years in prison. Lawyers recruited by the Legal Aid Foundation staffed 21 branch offices that serviced 23 cities and counties around the island. Fifty police sub-bureaus, one-third of the island's 158 sub-bureaus, were implementing the program. Human rights lawyers contended that while courts were required to appoint counsel after an indictment was filed, the existing Criminal Procedure Code did not specify what lawyers could do to protect the rights of indigent criminal suspects during initial police questioning. The program has enjoyed some success, but some groups argued that police need more on-the-job training and police facilities should be improved to accommodate lawyers in their initial questioning of suspects. More than half of the island's 5,000 lawyers have participated in this program.

In January the Constitutional Court issued an interpretation declaring that, effective May 1, discussions between defense counsel and their clients could no longer be taped or monitored by prison authorities or provided to prosecutors.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the authorities generally respected judicial independence in practice. Although the authorities made efforts to eliminate corruption and to diminish political influence in the judiciary, some residual problems remained. During the year judicial reform advocates pressed for greater public accountability, reforms of the personnel system, and other procedural reforms. Some political commentators and academics also publicly questioned the impartiality of judges and prosecutors involved in high-profile and politically sensitive cases.

Former president Chen Shui-bian and his wife, who were indicted in 2008 on corruption charges, were found guilty and sentenced to life in prison on September 11; Chen has appealed the verdict. The Chen trial heightened scrutiny of issues such as preindictment and pretrial detention, prosecutorial leaks and other possible prosecutorial misconduct, and transparency in judicial procedures. In October the Constitutional Court upheld the constitutionality of judicial procedures used by the Taipei District Court in the Chen case.

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

Active-duty military personnel are subject to the military justice system, which provides the same protections as the civil criminal courts. The Code of Court-Martial Procedure requires that prosecutors and judges not be under the same command.

Trial Procedures

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

The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of three years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences. It is unconstitutional to allow the confessions of accomplices to be the only evidence to convict a defendant.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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

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

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

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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

There was a vigorous and active free press. Critics alleged that dependency upon advertising revenue and loans from government-controlled banks deterred a few media outlets from criticizing the authorities. The authorities denied using loans or advertising revenue to manipulate the media.

In May the mass-circulation *Apple Daily* quoted a former journalist who said that the authorities had paid at least two leading newspapers to write and publish articles praising the authorities' achievements ahead of the anniversary of President Ma's inauguration. The *Apple Daily* also alleged that the MOI did not want newspapers to identify placements as paid advertising. In response the Government Information Office (GIO) reiterated that the authorities opposed using advertisements posing as news stories to promote policies. Some observers reported a significant increase in paid placements in the local print and electronic media by the authorities and private businesses as media revenues dropped in the wake of the global financial crisis.

In January 3,000 persons gathered outside the Legislative Yuan (LY) to protest alleged political interference in the operation of the Taiwan Broadcasting System (TBS). TBS includes the Public Television Service and was funded principally by the authorities.

During the year several nongovernmental organizations (NGOs) noted a deterioration in press freedom, citing attempts at interference and attacks by demonstrators against reporters. The GIO's chairman responded that the authorities absolutely had not interfered with press freedom.

Seven People's Republic of China (PRC) news outlets have journalists in Taiwan, and PRC officials reportedly had asked for permanent media offices on the island.

Internet Freedom

There were no official restrictions on access to the Internet, and individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union statistics for 2008, approximately 65.7 percent of the population used the Internet.

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

Academic Freedom and Cultural Events

There were no restrictions on academic freedom.

In September the Kaohsiung film festival, reportedly at the urging of the city government, rescheduled the screening of a documentary about Uighur activist Rebiya Kadeer so that it occurred before the official festival. Reportedly, the city officials were attempting to forestall PRC retaliation against the city's tourism business, but after pressure from the Democratic Progressive Party (DPP), the film was placed back on the film festival schedule and shown at various venues throughout the island.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Opposition-party legislators and human rights NGOs claimed that the Assembly and Parade Law unconstitutionally restricts free speech and assembly, and called for it to be amended or abolished. They claimed that the law unfairly disadvantaged smaller organizations and was selectively enforced. The Taiwan Association for Human Rights and more than a dozen other civic groups formed an alliance to advocate removing restrictions on street protest demonstrations and eliminating the requirement to apply to police for permission to hold a demonstration. In May the authorities charged two professors alleged to be organizers of the 2008 "Wild Strawberry" student movement demonstrations for failing to obtain permits in violation of the Assembly and Parade Law.

In the first seven months of the year, 26 persons were under investigation for 18 alleged violations of the Assembly and Parade Law (typically failure to obtain a permit or failure to comply with a police order to disperse); six individuals were indicted in five cases. During the seven-month period, three persons were convicted, each given a sentence of less than two months of forced labor.

Freedom of Association

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

c. Freedom of Religion

The constitution provides for freedom of religion, and the authorities generally respected this right in practice.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against persons for their religious beliefs or practices, and no reports of anti-Semitic acts. The Jewish population numbered approximately 200 persons.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

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

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

All travelers from the PRC are required to have invitations from sponsors and are subject to approval by the Mainland Affairs Council. PRC tourists must travel in groups and stay at designated hotels. PRC tour groups must be chaperoned by a Taiwan travel agency, which is required to post a NT\$ one million (\$30,800) bond in order to receive PRC tour groups. The bond can be partially or entirely forfeited if any tour group member is involved in legal problems or is reported missing. The Tourism Bureau must be notified in advance of any change to a tour group itinerary.

The law does not provide for forced exile, and it was not practiced.

Prior to 2000, citizens residing in the PRC could lose citizenship if they had not returned within four years. They could apply to recover citizenship through relatives or a legal representative. Applications to recover citizenship were regularly granted, and there were no reports of rejected applications.

Protection of Refugees

Because of its international status, the Taiwan is unable to be a party to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol; its law does not provide for the granting of asylum or refugee status. All PRC citizens unlawfully present are required by law to be returned to the PRC. At year's end there were nine PRC nationals on Taiwan seeking asylum elsewhere.

Throughout the year the authorities repatriated illegal immigrants to their countries of origin. According to the MOI, the total number of illegal PRC immigrants deported to the mainland declined, from 595 in 2007 to 365 in 2008. During the first eight months of the year, 200 illegal PRC immigrants were deported. The amount of time PRC illegal immigrants remained in detention decreased. During the year the average detention lasted 71 days. As of August 31, 48 illegal PRC immigrants were awaiting deportation. There were 782 non-PRC illegal aliens (including 494 women and 288 men) awaiting deportation. Their average waiting time was 37.7 days.

On January 1, a group of more than 100 ethnic Tibetans ended a 24-day sit-in seeking legal status in Taiwan. The Tibetans entered the Taiwan at different times since 2002 and were overstaying their temporary visas. The LY passed amendments to the Immigration Act allowing Tibetans who overstayed their visas to apply for residency certificates. As of November, 78 had been granted residency and 40 of those with work permits.

Stateless Persons

On January 23, the LY passed an amendment to the Immigration Act granting residency to more than 400 descendants of soldiers left behind in Thailand and Burma at the end of the Chinese civil war in 1949. On June 10, the MOI promulgated a set of measures governing applications for residency by these descendants.

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

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

Elections and Political Participation

In January 2008 the Kuomintang (KMT) won a significant majority in the LY following the implementation of a new single-member district electoral system. Two months later, the KMT presidential candidate Ma Ying-jeou won the presidency, marking the second peaceful, democratic transfer of power in Taiwan's history. Observers regarded the elections as free and fair.

Political parties operated without restriction or outside interference.

There were 33 women in the 113-member LY. Seven of the 40 Executive Yuan (cabinet) members were women. The mayor of Kaohsiung, the island's second largest city, was a woman. Two of the 15 Constitutional Court justices were women. At least half of the at-large seats won by a political party were required to be filled by women.

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

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption and the authorities generally implemented these laws effectively. There were allegations of official corruption during the year.

In September former president Chen Shui-bian and his wife Wu Shu-jen were convicted on corruption and money laundering charges, and both were sentenced to life in prison. Chen, who remained in detention, filed an appeal with the Taipei High Court. Some observers, including Chen's supporters, asserted the judicial process in Chen's case was flawed and protested his continued detention. Others said the trial demonstrated that even the highest officials would be held accountable to the law.

Allegations of vote buying continued, although all political parties were publicly committed to ending the practice. In October two members of the KMT Central Standing Committee (CSC) were removed from that body for sending gifts to potential voters. Subsequently, 27 of the 30 remaining CSC members resigned, and a by-election was held November 14 for the 32 empty seats. During the year the courts removed three KMT legislators and one People First Party legislator from office on the grounds of vote-buying. There were criminal trials and prisons sentences were meted out.

In April the LY amended the Act for the Punishment of Corruption to bring criminal charges against civil servants who fail to account for the origins of abnormal increases in their assets. All public servants are subject to the Public Servants' Property Declaration Law. The Ministry of Justice (MOJ) is in charge of combating official corruption.

In July, 15 incumbent and former supervisors of the Taipei Detention Center were indicted for receiving bribes from detainees and their families. Prosecutors suggested prison terms of from 12 to 26 years. DPP lawmaker Gao Jyh-peng was indicted on charges of accepting bribes. In August Kinmen County Magistrate Lee Chu-feng (New Party) was indicted on charges of embezzlement and forgery.

During the 12-month period from June 2008, prosecutors indicted 1,973 persons on various corruption charges. Of the 992 officials accused, 60 were elected, 125 were high-ranking, 322 were mid-level, and 485 were low-level.

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

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. The authorities often were cooperative and responsive to their views.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

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

The law provides protection for rape victims. Rape trials are not open to the public unless the victim consents. The law permits a charge of rape without requiring the victim to press charges.

The law establishes the punishment for rape as not less than five years' imprisonment, and those convicted usually were given prison sentences of five to 10 years. According to the MOI, 5,305 reports of rape or sexual assault were filed through July. As of July, 1,402 persons were indicted for sexual assault and 1,098 persons were convicted. According to the MOJ, the average prosecution rate for rape and sexual assault over the past five years was approximately 50 percent and the average conviction rate was about 90 percent.

The law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. As of September, 65,359 cases of domestic violence had been reported, and 2,370 persons had been prosecuted for domestic violence. Of those prosecuted, 1,695 persons were sentenced to prison terms of less than one year, seven were sentenced to life in prison, and one was given the death penalty. As of September, 7,815 protection orders had been issued to female domestic violence victims and 1,089 to male victims. Typically persons convicted in domestic violence cases were sentenced to less than six months in prison. Social pressure not to disgrace their families discouraged abused women from reporting incidents to the police.

The law requires all cities and counties to establish violence prevention and control centers to address domestic and sexual violence, child abuse, and elder abuse. These centers provided victims with protection, medical treatment, emergency assistance, shelter, legal counseling, and education and training on a 24-hour basis.

Prostitution is illegal. The Social Order Maintenance Act mandates punitive measures only for prostitutes; those patronizing prostitutes are not subject to penalties unless a minor is involved. In November the Constitutional Court ruled that this violated the principle of equality and gave the authorities a two-year window in which to amend the law.

Trafficking in women remained a problem.

Sexual harassment in the workplace is a crime, punishable by fines from NT\$100,000 to NT\$ one million (approximately \$3,080 to \$30,800) and imprisonment for up to two years. All public employers and larger private employers are required to enact preventive measures and establish complaint procedures to deter sexual harassment. The 113 hotlines received 61,856 calls reporting domestic violence through September. Women's groups complained that, despite the law and increased awareness of the issue, judicial authorities remained dismissive of sexual harassment complaints.

Individuals and couples had the right to decide the number, spacing, and timing of their children and had the information and means to do so. However, unmarried persons are prohibited by law from obtaining fertility treatments. Access to contraception and skilled attendance during childbirth and postpartum were widely available. Women and men were equally diagnosed and treated for sexually transmitted infections.

The law prohibits discrimination based on gender and stipulates that measures be taken to eliminate sexual harassment in the workplace. The Gender Equality in Employment Act (GEEA) provides for equal treatment with regard to salaries,

promotions, and assignments. The GEEA entitles women to request up to two years of unpaid maternity leave and forbids termination because of pregnancy or marriage. Central and local agencies, schools, and other organizations are required to develop enforcement rules and set up gender equality committees to oversee the implementation of the law. The law was revised in 2007 to increase penalties for violators. One NGO claimed that the authorities were not doing enough to raise public awareness of this issue.

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

Children

Citizenship is derived from one's parents or by birth on the island. The authorities were committed to the rights and welfare of children, and the law included provisions to protect them.

Child abuse continued to be a widespread problem. A reliable NGO reported sexual abuse was more prevalent than the public realized, with the estimated number of victims reaching approximately 20,000 per year while only approximately 3,000 were reported. According to MOI, 6,373 cases, including cases of physical, mental, or sexual abuse or harm due to guardian neglect, were reported to the Child Welfare Bureau as of June and 20,058 cases of child abuse were reported through the child abuse hotline in 2008. Central and local authorities, as well as private organizations, continued efforts to identify and assist high-risk children and families and to increase public awareness of child abuse and domestic violence.

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

The minimum age of consent to engage in sexual relations is 18. Persons who engage in sex with children under age 14 faced sentences of three to 10 years in prison. Those who engaged in sex with minors between ages 14 to 16 were sentenced to three to seven years. Solicitors of sex with minors older than 16 but younger than 18 faced up to one year in prison or hard labor, or a fine up to NT\$ three million (approximately \$92,400). According to the MOI Child Welfare Bureau, 93 minors were rescued from prostitution in the first five months of this year and placed in shelters. The Child Welfare Bureau reported a significant decrease in the number of boys exploited as prostitutes.

The extent to which child prostitution occurred was difficult to measure because of increased use of the Internet and other sophisticated communication technologies to solicit clients. Advertisements related to prostitution were prohibited, and the law was enforced in practice. Citizens arrested abroad for having sex with minors could also be indicted and convicted for patronizing underage prostitutes in foreign countries under the law. The law also prohibits child pornography and violators are subject to sentences of up to six months and substantial fines.

As of July, 215 persons were indicted and 273 persons were convicted of violating the CYSTPA, which criminalizes child prostitution and the possession and distribution of child pornography. The law requires publication of violators' names in newspapers.

Trafficking in Persons

Trafficking in persons continued to be a problem. In January the LY passed the Human Trafficking Prevention Act, which criminalized sex, labor, and organ trafficking. The Act and its corresponding measures went into effect June 1. In addition to the new trafficking law, trafficking acts were criminalized through a number of other statutes.

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

Taiwan is primarily a destination for Southeast Asian and PRC nationals trafficked into forced labor or sexual exploitation. There were reports of women being trafficked from Taiwan to Japan for sexual exploitation purposes.

Authorities reported that traffickers continued to use fraudulent marriages as a primary method for human trafficking, in part because penalties for "husbands" were lenient. Some women smuggled to Taiwan to seek illegal work were subsequently forced to work in the commercial sex industry. The Child Welfare Bureau reported a significant decrease in the number of children rescued from prostitution, and unlike in the past, there were no reports of children being trafficked into Taiwan to work in the commercial sex industry. Labor trafficking remained a serious problem (see section 7.e.).

As of December the MOJ reported authorities had indicted 335 individuals for trafficking offenses, of whom 266 were convicted. Approximately 51 percent of the cases closed through December involved sexual exploitation, forced labor accounted for 23 percent, and 27 percent were convicted of both sexual and labor exploitation. The principal defendant in the October 2008 arrests of 34 persons at a large labor brokerage was found guilty of fraud, money laundering, and other charges and was sentenced to five years and six months in prison by the Miaoli District Court.

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

There are island-wide guidelines for identifying and treating trafficking victims. The authorities regularly conducted exercises to train police, immigration officials, and other law enforcement personnel in identifying victims. However, police, prosecutors and other law enforcement personnel did not always consistently follow victim identification procedures. NGOs reported concerns that an increase in the number of raids and arrests had not resulted in increased convictions. Authorities enacted standard application procedures for new provisions of the Immigration Act that allow trafficking victims to obtain temporary residency and work permits. Between June 1 (when the new antitrafficking law went into effect) and August 31, 44 temporary residence permits and 32 work permits were issued. NGOs added that some trafficking victims continued to be punished with community service and fines for violating immigration, foreign labor, or prostitution laws.

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

Persons with Disabilities

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

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

From July 11, a public agency with 34 or more employees must hire at least 3 percent of its workforce from among those with physical or mental disabilities. Private sector enterprises that have a work force of 67 or more are required to have at least 1 percent of the payroll filled by employees with disabilities. The new employment regulations were expected to provide approximately 4,400 job opportunities for persons with disabilities.

By law new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. Violations resulted in fines ranging from NT\$60,000 to NT\$300,000 (\$1,850 to \$9,240).

National/Racial/Ethnic Minorities

As of August, 10 percent of all marriages included a foreign-born spouse, primarily individuals from China, Vietnam, Indonesia, and Thailand, and an estimated 9.6 percent of all births were to foreign-born mothers.

Foreign spouses were targets of discrimination both inside and outside the home.

During the year the Control Yuan held that the right to family unification was a protected constitutional right and that, therefore, consideration of spousal visas should be handled in accordance with due process principles.

The authorities offered free Chinese-language and child-raising classes and counseling services at community outreach centers to assist foreign-born spouses' integration into society. The Legal Aid Foundation provided legal services to foreign spouses and operated a hotline to receive complaints. The MOI also operated its own hotline with staff conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese.

Following amendments to the law, PRC-born spouses must wait six rather than eight years to apply for Taiwan residency, whereas non-PRC spouses may apply after only three years. The amended law also stipulates that PRC foreign spouses are now also permitted to work on Taiwan immediately on arrival. In addition, the authorities canceled the quota for visas for PRC spouses in August.

Indigenous People

There are 13 identified non-Chinese groups of indigenous people, accounting for approximately 2 percent of the population. The law protects the civil and political rights of these indigenous people. The Indigenous Peoples Basic Act stipulates that the authorities should provide resources to help indigenous people develop a system of self-governance, formulate policies to protect their basic rights, and promote the preservation and development of their language and culture. Critics complained that the authorities did not do enough to preserve aboriginal culture and language. The cabinet-level Council of Indigenous Peoples worked with other ministries to raise living standards in aboriginal regions through basic infrastructure projects. The council also provided emergency funds and college scholarships to the indigenous population. However, one aboriginal leader blamed the authorities for making no progress over the past year on bills promoting Aboriginal autonomy and Aboriginal traditional domains.

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

There are no laws prohibiting homosexual activities. According to homosexual rights activists, antihomosexual violence was rare, but societal discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons with HIV and AIDS was a problem.

LGBT rights activists said instances of police pressure to close gay- and lesbian-friendly bars and bookstores decreased.

The seventh gay pride march was held in October. More than 25,000 individuals participated.

LGBT rights activists alleged the restrictions on doctors providing fertility treatments to unmarried persons unfairly discriminated against LGBT persons, who are not permitted to marry.

Employers convicted of discriminating against jobseekers on the basis of sexual orientation face fines of up to NT\$1.5 million (\$46,200).

Other Societal Violence or Discrimination

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

Section 7 Worker Rights

a. The Right of Association

The right to unionize is protected by law but is highly regulated under the Labor Union Law (LUL).

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

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

As of June approximately 29 percent of the 10.9 million-person labor force belonged to one of the 4,721 registered labor unions. Many of them were also members of one of eight island-wide labor federations.

The right to strike is provided by law, and workers exercised this right in practice. However, legal constraints make it difficult to strike, undermining the usefulness of collective bargaining. Workers may strike over issues of compensation and working schedules, but not living or working conditions. Teachers and defense industry employees are not afforded the right to strike. The law requires mediation of labor disputes when the authorities deem them to be sufficiently serious or to involve unfair practices. The law prohibits labor and management from disturbing the "working order" while mediation or arbitration is in progress. Critics contended the law has a chilling effect on the right to strike because it does not clearly state what conduct is prohibited. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses.

b. The Right to Organize and Bargain Collectively

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

As of September there were 49 collective bargaining agreements in force; however, they covered only a small proportion of the labor force, mainly in large companies; 95 percent of industrial labor unions had no collective agreements. No special labor laws or labor law exemptions apply to the export processing zones in Kaohsiung and Taichung.

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

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor. However, there were reports that such practices occurred. There was evidence of trafficking in persons into forced labor in such sectors as household caregivers, farming, fishing, manufacturing, and construction (see section 7.e.). The antitrafficking law criminalizes forced labor, and public awareness campaigns included worker education pamphlets, foreign worker hotlines, and Ministry of Education programs on trafficking as part of the broader human rights curriculum.

d. Prohibition of Child Labor and Minimum Age for Employment

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

e. Acceptable Conditions of Work

The LSL provides standards for working conditions and health and safety precautions. As of May the LSL covered an estimated 6.5 million of the 7.9 million salaried workers. Those not covered included health-care workers, gardeners, bodyguards, teachers, doctors, accountants, lawyers, civil servants, and domestic workers.

Foreign household caregivers and domestic workers were covered instead by the Employment Services Act, which does not guarantee a minimum wage or overtime pay, set limits on the workday or workweek, or provide for minimum breaks or vacation time. At the end of June, 172,000 of the 341,000 foreign household caregivers and domestic workers had applied for coverage under the Employment Services Act.

There were no plans to increase the minimum monthly wage of NT\$17,280 (approximately \$532) or the minimum hourly wage of NT\$104 (\$3.20) which were established in 2007. While sufficient in less expensive areas, the minimum wage did not provide a decent standard of living for a single-income family in urban areas such as Taipei. Labor rights activists alleged any benefit to foreign workers from previous increases to the monthly minimum wage failed to cover the increase in the maximum NT\$5,000 (\$154) monthly deduction the CLA allowed employers to collect. The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher. Nevertheless, the real monthly average wage in the first half of the year at NT\$42,909 (\$1,321) was the lowest in the 13 years. Many workers either lost their jobs or took unpaid leave in the first half of the year. To assist jobless workers, the authorities revised the Employment Insurance Act in May to extend unemployment relief payments from six months to nine months.

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

The law provides standards for working conditions and health and safety precautions and gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment. There was widespread criticism that the CLA did not effectively enforce workplace laws and regulations. In the first half of the year, CLA's 318 inspectors conducted 80,354 inspections, an increase of 38 percent from the same period in 2008. Those 318 inspectors

were responsible for inspecting approximately 300,000 enterprises covered by the Occupational Safety and Health Law. Labor NGOs and academics argued that the labor inspection rate was far too low to serve as an effective deterrent against labor violations and unsafe working conditions.

Regulations require intensified inspection and oversight of foreign labor brokerage companies. NGOs reported that labor brokers and employers regularly collected high fees or loan payments from foreign workers, frequently using debt as a tool for involuntary servitude, and that foreign workers were unwilling to report employer abuses for fear the employer would terminate the contract and forcibly deport them, leaving them unable to pay back debt accrued to brokers or others. An employer may only deduct labor insurance fees, health insurance premiums, income taxes, and meal and lodging fees from the wages of a foreign worker. Violators face fines of NT\$60,000 to 300,000 (approximately \$1,850 to 9,240) and lose hiring privileges. Critics, however, complained that these practices continued and that the CLA did not effectively enforce statutes and regulations intended to protect foreign laborers from unscrupulous brokers and employers.

In 2008 the CLA opened a Foreign Worker Direct-Hire Service Center. The center allowed local employers to rehire their foreign employees, especially caregivers, without a broker. NGOs, however, argued that restrictions on eligibility to use the service prevented widespread implementation and advocated lifting restrictions on transfers between employers. This year the CLA expanded the program to permit rehiring of foreign workers engaged in manufacturing, fishery, construction, and other industries. In April the LY ratified the two UN Human Rights Covenants, including the UN Covenant on Economic, Social, and Cultural Rights, without reservation and passed an implementing law that mandates that the laws meet obligations outlined in the covenants. Civic groups and labor rights advocates lauded these actions but noted room for improvement. NGOs and academics urged the CLA to provide basic labor protections such as minimum wage, overtime, and a mandatory day off for household caregivers and domestic workers.

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

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