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## 2010 Human Rights Reports: Taiwan\*

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

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Taiwan's population of 23 million is governed by a president and parliament chosen in multiparty elections. 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. Security forces reported to civilian authorities.

Principal human rights problems reported were corruption, violence and discrimination against women and children, 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 and detention center conditions generally met international standards, and the authorities permitted visits by independent human rights observers. As of December there were 57,088 adults (52,367 men and 4,721 women) and fewer than 1,000 juveniles imprisoned, and prisons operated at 119.6 percent of design capacity.

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

Authorities permit prisoners and detainees to submit complaints to judicial authorities without censorship, although in practice all correspondence is screened entering and leaving the facilities.

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

#### d. Arbitrary Arrest or Detention

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

#### Role of the Police and Security Apparatus

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

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 investigates 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

A warrant or summons is 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 may apply to a court for approval of a pretrial detention of an unindicted suspect for a maximum of two months, with one possible two-month extension. Judicial reform advocates have urged limiting pretrial detention to better protect defendants' rights. Pretrial detention may be requested in cases where the potential sentence is five years or more and where there is a reasonable concern that the suspect could flee, collude with other suspects or witnesses, or tamper or destroy material evidence.

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 operated 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 subbureaus, one-third of the island's 158 subbureaus, were implementing the program. Detained persons may request such assistance in all of the island's subbureaus. 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.

Beginning May 2009, authorities implemented the January 2009 Constitutional Court interpretation declaring that prison authorities could no longer tape or monitor nor provide to prosecutors discussions between defense counsel and their clients.

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#### 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 in September 2009. Chen appealed the verdict and on June 10, the Taiwan High Court reduced Chen's prison term to 20 years. The Chen trial heightened scrutiny of issues such as pre-indictment and pretrial detention, prosecutorial leaks, other possible prosecutorial misconduct, and transparency in judicial procedures. In October 2009 the Constitutional Court upheld the constitutionality of judicial procedures used by the Taipei District Court in the Chen case.

#### 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 the authorities increased their placement of advertisements packaged as news reports and programs in local newspapers and television. They said the placement deterred a few media outlets from criticizing the authorities. The authorities denied using advertising revenue to manipulate the media.

In September the Public Television Service (PTS) Foundation board fired PTS President Sylvia Feng. She then alleged the Taiwan authorities were interfering in the operations of PTS. PTS is a part of the Taiwan Broadcasting System (TBS), which is funded principally by the authorities. In January 2009, 3,000 persons gathered outside the Legislative Yuan (LY) to protest the legislature's freeze on TBS's budget and alleged political interference in the operation of TBS.

In September the National Communications Commission (NCC) rejected, for the second time, applications from Next TV (a unit of Next Media Group) to launch news, information, and entertainment channels on cable, although it approved Next TV's applications for a sports and a movie channel. The NCC said the proposed programming on the three rejected channels was more or less the same and questioned the necessity of the additional channels. The NCC also expressed concern that Next TV's plan to include animated news, which presents events in "drama" format, did not meet the standards of professional journalism. Next TV accused the NCC of suppressing freedom of speech and stifling creativity. Next TV said its animated news program had won praise for its innovative format.

In November 2009, the Taipei City Government fined *Apple Daily*, also a part of the Next Media Group, a total of NT\$1 million (approximately \$35,710) for using animation on its Web site to reconstruct and illustrate stories of rape, sexual assault, and violence that appeared in the newspaper. The city government also barred primary and middle schools in the city from subscribing to *Apple Daily* and added that anyone wishing to borrow *Apple Daily* from Taipei public libraries must provide identification proving they were 18 years or older. At year's end the ban remained in effect. Taipei Mayor Hau Lung-bin said he respected press freedom but would do what was necessary to comply with the Child Welfare Law.

A total of 26 journalists from 10 People's Republic of China (PRC) news outlets had journalists based in Taiwan.

#### Internet Freedom

There were no official restrictions on access to the Internet, and individuals and groups could engage in the expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics, approximately 70.1 percent of the population used the Internet.

Several nongovernmental organizations (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; one leading NGO noted a decrease in such monitoring. 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.

## 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 restricted 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 2009 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. On September 9, the Taipei District Court deferred the trial of one of the defendants in the case and requested a ruling by the Constitutional Court on the Assembly and Parade Law. In 2009 Taiwan courts convicted three individuals of violations of the law in separate cases. The courts sentenced two to prison terms of less than two months and fined one. During the year authorities did not charge anyone with violations of the assembly law.

### Freedom of Association

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

## c. Freedom of Religion

For a complete description of religious freedom, see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://www.state.gov/g/drl/irf/rpt/).

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

The constitution provides for freedom of movement within 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\$1 million (approximately \$35,710) 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.

### Protection of Refugees

Because of its international status, 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 eight PRC nationals on Taiwan seeking asylum elsewhere.

Throughout the year the authorities repatriated undocumented immigrants to their countries of origin. According to the MOI, the total number of undocumented PRC immigrants deported to the mainland declined from 365 in 2008 to 236 in 2009 and to 90 in 2010. As of November 66 undocumented PRC immigrants were awaiting deportation. For the first eight months of the year, the average detention for PRC undocumented immigrants lasted 81 days. There were 1,159 non-PRC

undocumented aliens (including 504 men and 655 women) awaiting deportation. Their average waiting time was 37.7 days.

In January 2009 a group of more than 100 ethnic Tibetans ended a 24-day sit-in seeking legal status in Taiwan. The Tibetans entered Taiwan at different times since 2002 and overstayed their temporary visas. In January 2009 the LY passed amendments to the Immigration Act allowing Tibetans who overstay their visas to apply for residency certificates, and since then more than 100 ethnic Tibetans have gained legal residency.

### 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 Party (KMT) won a significant majority in the LY following the implementation of a new single-member-district electoral system. Two months later the KMT presidential candidate Ma Ying-jeou won the presidency, 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. Eight of the 48 Executive Yuan (cabinet) members were women. The mayor of Kaohsiung, the island's second largest city, was a woman. Two of the 15 Constitutional Court justices were women. At least half of the at-large seats won by a political party were required to be filled by women.

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

### Section 4 Official Corruption and Government Transparency

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

In June the Taipei High Court upheld the conviction of former president Chen Shui-bian and his wife Wu Shu-jen for corruption, money laundering, forgery, and embezzlement but reduced the sentences from life to twenty years in prison. Chen remained in custody while he appealed his high court conviction.

Over the past two years, the courts have convicted four KMT legislators and one People First Party legislator of vote buying. On September 8, Taipei courts also convicted two incumbent KMT lawmakers and six former Democratic Progressive Party lawmakers of corruption and sentenced them to jail terms ranging from four to 10 years.

In April 2009 the LY amended the Act for the Punishment of Corruption to allow 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.

Police corruption, while limited, was a problem. The NPA did not keep statistics on police corruption cases. In June nine ranking police officers in Taipei City were indicted for taking bribes from organized crime figures. The prosecutors recommended sentences ranging from 11 to 20 years in jail. In August the director of a police station in Hualien County was sentenced to 13 years in jail for taking bribes from an illegal gravel business. Another two police officers involved in the case were sentenced to 31 months and 64 months, respectively.

In September a former police officer in Taipei County was sentenced to 10 and a half years in jail for taking bribes from a human-trafficking ring to extend the residence permits of Vietnamese victims. In October 2009 three police officers in Taipei County were indicted for receiving bribes amounting to NT\$23 million (approximately \$821,400) from brothels. The prosecutor recommended a prison term of 13 years and six months for the main suspect. At year's end the trial was ongoing. From January to November, prosecutors indicted 1,123 persons on various corruption charges, including 68 senior officials (department director level and above) and 33 elected officials.

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, 6,816 reports of rape or sexual assault were filed through September. As of November 1,815 persons were indicted for sexual assault, and 1,705 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 November 91,457 cases of domestic violence had been reported. Also as of November authorities prosecuted 2,894 persons for domestic violence and convicted 2,159. As of November 18,120 protection orders had been issued to female domestic violence victims and 3,033 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.

Sexual harassment in the workplace is a crime, punishable by fines of from NT\$100,000 to NT\$1 million (approximately \$3,570 to \$35,710) 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. During the year 19,814 cases were reported through the 113 hotline. 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.

Unmarried persons, however, are prohibited by law from obtaining fertility treatments. Access to contraception and skilled attendance during childbirth and postpartum were widely available. In 2009 the maternal mortality rate per 100,000 live births was reported as 8.4 deaths. Women and men were equally diagnosed and treated for sexually transmitted infections, including HIV.

The law prohibits discrimination based on gender. 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. One NGO claimed that the authorities were not doing enough to raise public awareness of this issue.

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

#### 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 annually while only approximately 3,000 were reported. According to the MOI, 22,089 cases, including cases of physical, mental, or sexual abuse or harm due to guardian neglect, were reported during the year. Central and local authorities, as well as private organizations, continued efforts to identify and assist high-risk children and families and to increase public awareness of child abuse and domestic violence.

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 are to appoint guardians for children whose parents are deemed unfit.

The minimum age of consent to engage in sexual relations is 18. Persons who engaged in sex with children under age 14 faced sentences of three to 10 years in prison. On September 26, more than 15,000 persons gathered in front of the presidential office to demand a mechanism for eliminating incompetent judges following a series of verdicts that gave lenient sentences to child sex offenders. On September 7, the Supreme Court announced that, effective immediately, offenses involving sexual assault on children under the age of seven would result in a minimum sentence of seven 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 \$107,000). According to the MOI Child Welfare Bureau, 418 minors were rescued from prostitution in 2009 and placed in shelters.

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. Under the law citizens arrested abroad for having sex with minors could also be indicted and convicted for patronizing underage prostitutes in foreign countries, although there were no such cases over the past four years. The law also prohibits child pornography, and violators are subject to sentences of up to six months and substantial fines.

As of November, 382 persons were indicted and 320 persons were convicted of violating the Child and Youth Sexual Transaction Prevention Act, which criminalizes child prostitution and the possession and distribution of child pornography. The law requires publication of violators' names in newspapers.

Taiwan is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's report on compliance at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

#### Anti-Semitism

There were no reports of anti-Semitic acts. The Jewish population numbered approximately 200 persons.

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

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

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

From July 2009 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. The authorities provided subsidies ranging from NT\$3,000 to 7,000 (approximately \$107 to \$250) to persons with disabilities. As of September, subsidies amounting to NT\$12.1 billion (\$432 million) had been allocated. In 2009 a total of NT\$15.65 billion (\$559 million) was distributed.

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 (approximately \$2,140 to \$10,700).

#### National/Racial/Ethnic Minorities

As of November, 8 percent of all marriages included a foreign-born spouse, primarily from China, Vietnam, Indonesia, or Thailand, and an estimated 8.9percent of all births were to foreign-born mothers.

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

In 2009 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 also permitted to work on Taiwan immediately on arrival. In addition the authorities canceled the quota for visas for PRC spouses in August 2009.

#### Indigenous People

There are 14 identified non-Chinese groups of indigenous people, accounting for approximately 2 percent of the population. The law protects the civil and political rights of these indigenous persons. The Indigenous Peoples Basic Act stipulates that the authorities should provide resources to help indigenous individuals develop a system of self-governance, formulate policies to protect their basic rights, and promote the preservation and development of their language and culture. Critics complained that the authorities did not do enough to preserve aboriginal culture and language.

In September activists claiming to represent the Pingpu, an indigenous population of approximately one-half million, filed a petition with the Presidential Office and the Council of Indigenous Peoples asking for official recognition. The application was rejected. The Pingpu activists claimed that without official recognition, they would eventually become culturally extinct.

#### 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, violence against lesbian, gay, bisexual, and transgender (LGBT) persons was rare, but societal discrimination against LGBT persons with HIV and AIDS was a problem.

LGBT rights activists said instances of police pressure to LGBT-friendly bars and bookstores decreased. However, in February the Taipei City Education Bureau issued an official letter to schools warning of homosexual influence on

students. Following mounting pressure from LGBT rights advocates, in September the Education Bureau asked that school officials disregard the letter.

The eighth annual gay pride march was held on October 30.

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 (approximately \$53,570).

#### 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 the constitution but is highly regulated under the Labor Union Law (LUL) and other laws.

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. In June the LY amended the LUL to allow foreign workers to assume union leadership positions.

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.

At the end of September, approximately 29 percent of the 11.1 million-person labor force belonged to one of the 4,842 registered labor unions. Many of them were also members of one of 10 island-wide labor federations.

The right to strike is provided by law, and workers exercised this right in practice.

However, legal constraints make it difficult to strike, undermining the usefulness of collective bargaining. Workers may strike over issues of compensation and working schedules but not living or working conditions. The law requires mediation of labor disputes when the authorities deem them to be sufficiently serious or to involve unfair practices. The law also prohibits labor and management from disturbing the "working order" while mediation or arbitration is in progress. Teachers and defense industry employees, however, are not afforded the right to strike. Critics contended the law had a chilling effect on the right to strike, because it restricted workers' ability to take action in a dispute. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. In June the LY amended the LUL and reduced punishments for unions that violate regulations.

#### 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.

At the end of September, there were 39 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, however, that during employee cutbacks, labor union leaders were sometimes laid off first or dismissed without reasonable cause. For example, in March labor union leaders of a touch panel manufacturing company alleged that lay-offs management said were necessary due to shrinking revenue and outsourcing were, in fact, an effort to get rid of union leaders. In addition the Teachers' Association of Taipei County claimed in August that Taipei County authorities had requested all schools to cancel leave for teachers' association-related activities. Although workers did not pursue mediation in either case, labor activists maintained that the labor environment remained unfriendly to any organization activities. The Taiwan Confederation of Trade Unions and the Taiwan Labor Front contended there was 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.

See also the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### 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. At the end of September, the LSL covered an estimated 6.6 million of the 8.1 million salaried workers. Those not covered included health-care workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, and domestic workers.

Foreign household caregivers and domestic workers are covered instead by the Employment Services Act, which does not provide for a minimum wage or overtime pay, set limits on the workday or workweek, or provide for minimum breaks or vacation time. At the end of December, 184,000 of the 377,000 foreign household caregivers and domestic workers had applied for coverage under the Employment Services Act. In September migrant workers' rights advocates protested the failure of authorities to submit a Household Services Act, which would provide those basic labor protections for all household caregivers and domestic workers, to the legislature for consideration.

An increase in the minimum wage to NT\$17,880 per month (\$638) or NT\$98 per hour (\$3.50) was scheduled to take effect in January 2011. 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 reported that any benefit to foreign workers from previous increases to the monthly minimum wage failed to cover the increase in the maximum NT\$5,000 (\$178) 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 decreased from NT\$44,424 (\$1,580) in 2008 to NT\$42,176 (\$1,506) in 2009 due to the influence of the global financial crisis. Many workers either lost their jobs or took unpaid leave in 2009. As a result, unemployment increased from 1.8 percent to 5.9 percent in 2009, but decreased to 5.2 percent during the year. The number of labor disputes in 2009 numbered 30,385 cases in 2009, a 24 percent increase from 2008. Of these, 29,128 cases were related to wage and severance pay disputes. As the economy and employment recovered, there were 18,118 labor disputes in the first nine months of the year, a 24.2 percent decrease from the same period in 2009.

To assist jobless workers, the authorities provided unemployment relief payments for nine months and offered short-term job programs.

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 their continued employment. There was widespread criticism, however, that the CLA did not effectively enforce workplace laws and regulations. During the year the CLA's 307 inspectors conducted 89,339 inspections, a decrease of 1.1 percent from 2009. Those 307 inspectors were responsible for inspecting approximately 310,000 enterprises covered by the Occupational Safety and Health Law. Labor NGOs and academics argued that the labor inspection rate was far too low to serve as an effective deterrent against labor violations and unsafe working conditions, especially for labor working in small and medium factories.

Regulations require intensified inspection and oversight of foreign labor brokerage companies. NGOs reported that some labor brokers and employers regularly collected high fees or loan payments from foreign workers, using debts incurred in the source country as a tool for involuntary servitude. During the year there were 379,653 documented migrant workers in Taiwan--among them, 135,019 from Indonesia, 64,516 from Thailand, and 54,218 from Vietnam. The CLA estimated there were 33,000 undocumented workers. NGOs asserted 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 deduct only labor insurance fees, health insurance premiums, income taxes, and meal and lodging fees from the wages of a foreign worker. Violators face fines of NT\$60,000 to 300,000 (approximately \$2,140 to 10,710) and loss of hiring privileges. Critics, however, complained that violations continued and that the CLA did not effectively enforce statutes and regulations intended to protect foreign laborers from unscrupulous brokers and employers.

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

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

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

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

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