

TAIWAN 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Taiwan is governed by a president and a parliament selected in multiparty elections. In March 2008 voters elected as President Ma Ying-jeou of the Kuomintang Party (KMT) in an election that international observers considered to be free and fair. Ma was reelected to a second four-year term in 2012 in an election that was also considered to be free and fair. Security forces reported to civilian authorities.

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

During the first seven months of the year, authorities indicted 576 officials, including 40 high-ranking officials, on corruption charges. There were no reports of impunity.

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

a. Arbitrary or Unlawful Deprivation of Life

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

b. Disappearance

There were no reports of politically motivated disappearances.

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

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

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and authorities permitted visits by independent human rights observers.

Physical Conditions: As of October there were 58,873 adults (53,872 men and 5,001 women) and fewer than 1,000 juveniles imprisoned. Prisons operated at 121 percent of designed capacity. The number of inmates who died of sickness or senility in prison or in pretrial detention centers totaled 89 in 2011 and 81 in the first 10 months of 2012. Prisoners had access to potable water, and there were no complaints of inadequate heating, ventilation, lighting, or bad food from prisoners. Prison ombudsmen were available to respond to complaints.

Administration: 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. According to article 41 of the criminal code, a person convicted of minor offenses and sentenced to a prison term of less than six months may choose to perform community service instead of serving time in prison. There were no reports of inaccurate or insufficient recordkeeping.

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

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

Monitoring: The authorities allowed independent nongovernmental monitors to investigate prison conditions. In July a team of two foreign doctors and one foreign scientist visited former president Chen Shui-bian in prison. In its report the team expressed concern for Chen Shui-bian's deteriorating physical and mental health, concluded that the stress of continued confinement would lead to further deterioration, called for a more complete medical evaluation of Chen, and recommended Chen's release on medical parole. Subsequently, several human rights activists visited Chen Shui-bian in prison. A growing number of observers claimed Chen was being mistreated, noting that he was limited to half an hour of

exercise daily outside of his cell, increased in August to an hour daily, and was not allowed to leave his cell to work as other prisoners do. Taipei Mayor Hau Lungbin, a member of the ruling KMT, called for an assessment of Chen's health condition by an impartial board of medical doctors. Authorities stated that Chen Shui-bian's treatment had been adequate and that his condition did not warrant release on medical grounds.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The National Police Administration (NPA) of the Ministry of Interior (MOI) has administrative jurisdiction over all police units, although city mayors and county magistrates appoint city and county police commissioners. Civilian authorities maintained effective control over the NPA, and the authorities have effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving security forces during the year.

Arrest Procedures and Treatment While in Detention

A warrant or summons is required by law, except when there is ample reason to believe the suspect may flee, or in urgent circumstances, as specified in the code of criminal procedures. Indicted persons may be released on bail at judicial discretion. By law prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The authorities generally observed these procedures, and trials usually took place within three months of indictment. Prosecutors may apply to a court for approval of a pretrial detention of an unindicted suspect for a maximum of two months, with one possible two-month extension. Courts may request pretrial detention in cases in which the potential sentence is five years or more and when there is a reasonable concern that the suspect could flee, collude with other suspects or witnesses, or tamper or destroy material evidence.

While courts are required to appoint counsel after an indictment is filed, the law does not specify what lawyers could or should do to protect the rights of indigent criminal suspects during initial police questioning. The Judicial Yuan (JY) and the NPA operate a program to provide legal counsel during initial police questioning

to qualifying indigent suspects who have a mental disability or have been charged with a crime punishable by three or more years in prison. Detained persons may request the assistance of the Legal Aid Foundation (LAF), which provides professional legal assistance through its 21 branch offices to persons who would not otherwise have legal representation. The LAF is a nongovernmental organization (NGO) that is funded by the JY, in accordance with the Legal Aid Act of 2004. The LAF provided these services to all individuals. During regular consultations with police and when participating in police conferences, LAF officials remind police of their obligation to notify suspects of the existence of such counseling. The prosecutor proposes and a court decides whether a suspect should be detained incommunicado or held under house arrest. Suspects and prisoners may be prohibited from receiving visitors, but they are entitled to meet and consult with legal counsel.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary; however, the judicial system suffered from some corruption. Although the authorities made efforts to eliminate corruption and 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.

On September 3, a new judge evaluation committee composed of 11 judges, prosecutors, lawyers, and opinion leaders published its first evaluation report, suggesting that the JY punish two judges for dereliction of duty. On October 8, a similar prosecutor evaluation committee composed of three prosecutors, one judge, three lawyers, and four opinion leaders published its first evaluation report, suggesting that the Ministry of Justice dismiss a prosecutor for incompetence and refer the case to the JY for disciplinary action.

The 2009 trial of former president Chen Shui-bian and his wife Wu Shu-jen heightened public scrutiny of preindictment and pretrial detention, prosecutorial leaks, other possible prosecutorial misconduct, and transparency in judicial procedures (see section 4).

Trial Procedures

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

Trials are public, although court permission may be required to attend trials involving juveniles or potentially sensitive issues that might attract crowds. A defendant's access to evidence held by the prosecution is determined by the presiding judge on a case-by-case basis. All defendants are presumed innocent until proven guilty and have the right to an attorney.

The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of three years or more may appeal beyond that level. Defendants have the right to be informed promptly of the charges, communicate with an attorney of choice or have one provided, prepare a defense, confront witnesses against them, and present witnesses and evidence.

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 press, and the authorities generally respected these rights in practice. An independent press, an effective

judiciary, and a functioning democratic political system combined to protect freedom of speech and press.

Responding to public calls for the protection of former President Chen Shui-bian's freedom of speech, the Taipei Prison removed its earlier ban and allowed Chen to write a special column for Chinese-language weekly magazine *Next*.

Censorship or Content Restrictions: In 2009 the Taipei city government barred primary and middle schools in the city from subscribing to the newspaper *Apple Daily* and added that anyone wishing to borrow the newspaper from Taipei public libraries must provide identification proving the applicant was 18 years or older. The ban remained in effect.

Internet Freedom

There were no official restrictions on access to the Internet or credible reports that the authorities monitored e-mail or Internet chat rooms without judicial oversight. According to a survey conducted by Taiwan's Institute for Information Industry, an NGO, 81.8 percent of households had access to the Internet at the end of 2011.

Academic Freedom and Cultural Events

There were no restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

In 2009 the authorities charged two professors who were organizing student demonstrations for failing to obtain permits in advance as required by the assembly law. In February the High Court's final ruling found one of the professors not guilty, as he was not the architect of the demonstrations. The trial of the other professor remained pending, since the Constitutional Court had not ruled on the constitutionality of the assembly law.

Freedom of Association

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

c. Freedom of Religion

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

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

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

Protection of Refugees

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

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

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

Elections and Political Participation

Recent Elections: In January the presidential election was held in tandem with the legislative election for the first time. The KMT presidential candidate Ma Ying-jeou won reelection, and his party retained a majority in the legislature. Observers regarded the elections as free and fair.

Participation of Women and Minorities: There were 38 women in the 113-member Legislative Yuan. 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 Legislative Yuan, half of which were elected by plains tribes and half by mountain tribes. Indigenous persons accounted for approximately 2 percent of the population. Indigenous person more than doubled their proportion of the population in legislative seats.

Section 4. Corruption and Lack of Transparency in Government

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

In June authorities accused Executive Yuan Secretary General Lin Yi-shih of seeking bribes amounting to NT\$83 million (\$2.86 million) from private individuals when he previously served as a legislator. In July Lin resigned and then was arrested and detained. In late August the Taipei District Court ruled to extend his detention for two additional months. At year's end the Special Investigation Division continued investigating the case and possible other cases in which Lin might have been involved.

In July the Supreme Court ruled that cases involving former president Chen Shui-bian and his wife Wu Shu-jen on charges of corruption, money laundering, forgery, and embezzlement should be retried following a 2011 High Court not guilty verdict. The Supreme Court also denied the Chens' appeal of a previous sentence for money laundering and forgery. The High Court subsequently announced that Wu would serve a combined sentence of 19 years and two months and pay a fine of NT\$158 million (\$5.44 million) for six charges, including money laundering, bribery, influence peddling, and perjury. By year's end she had not begun serving her sentence because of her poor health. The High Court also announced that Chen, incarcerated since 2010 on separate corruption charges, would serve a total combined sentence of 18 years and six months in prison and pay a fine amounting to NT\$156 million (\$5.37 million) for money laundering and corruption in three cases.

In August police detained Hsu Jui-shan, chief secretary of the Criminal Investigation Bureau, after he was found covering up an illegal gambling den and for having a financial interest in the den's operations.

In August police detained former national fire agency director-General Huang Chi-min on suspicion of accepting bribes from contractors while in office. The

investigators seized 18 gold bars worth nearly NT\$23 million (\$792,000) in Huang's residence and office.

In August former president Lee Teng-hui, indicted in June 2011 for corruption and money laundering, made his first court appearance for a pretrial procedure. The court required further pretrial procedures before the case went to trial. At year's end a trial date had not been determined.

The law requires civil servants to account for the sources of abnormal increases in their assets and makes failure to do so a punishable offense. The law also requires that ranking government officials, including officials holding specified sensitive positions, and elected officials declare their property to the Control Yuan, which makes the disclosures public. Those failing to declare property are subject to a fine ranging from NT\$200,000 (\$6,900) to 4 million (\$138,000) and can be punished with a prison term of no more than one year for repeatedly failing to comply with this request. The Ministry of Justice (MOJ) and its newly established subordinate Agency against Corruption are in charge of combating official corruption.

All government information shall be made available to the public upon request with the exception of national secrets, professional secrets, personal information, and protected intellectual property. According to the law, within 15 days of receiving a request for government information, the receiving government agency shall determine whether to approve such a request. The time may be extended for no longer than 15 days, if necessary. The agency may charge a fee--which it sets--based on the purpose of the request. The fees may be reduced or waived if the request is for academic research or for the public interest. Government employees are subject to punishment or reprimand if they violate the relevant provisions set forth in the law when performing their duties. The law provides that registered citizens, companies, and groups may submit information requests and may appeal denied requests. These privileges are extended on a reciprocal basis to citizens of foreign countries.

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

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

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination based on race, gender, disability, language, sexual orientation or gender identity, or social status.

Women

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

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

The law establishes the punishment for rape as not less than five years' imprisonment, and courts usually gave those convicted prison sentences of five to 10 years. According to the MOI, as of September there were 10,951 reports filed for rape or sexual assault. As of September, courts indicted 1,814 persons and convicted 1,685 persons. According to the MOJ, the average prosecution rate for rape and sexual assault over the past five years was approximately 50 percent, and the average conviction rate of cases prosecuted was approximately 90 percent.

As of September there were 86,240 cases of domestic violence reported. In the same period, authorities prosecuted 2,592 persons for domestic violence, convicted 1,948 persons, and issued 10,111 protection orders to domestic violence victims. Typically, courts sentenced persons convicted in domestic violence cases to less than six months in prison. Social pressure not to disgrace their families discouraged abused women from reporting incidents to the police. The law allows prosecutors to take the initiative in investigating complaints of domestic violence, without waiting for a spouse to file a formal lawsuit.

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

Sexual Harassment: Sexual harassment in the workplace is a crime punishable by fines of NT\$100,000 to NT\$1 million (approximately \$3,400 to \$34,000) and

imprisonment for up to two years. All public employers and larger private employers are required to enact preventive measures and establish complaint procedures to deter sexual harassment. Women's groups complained that, despite the law and increased awareness of the issue, judicial authorities remained dismissive of sexual harassment complaints.

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

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

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

Gender-biased Sex Selection: The ratio of males to females at birth was between 1.085 and 1.108. According to the Control Yuan, women over age 35 who already have two children had the highest such ratio. In 2010 Taiwan banned medical institutions from conducting gender-biased sex selection. Authorities put under surveillance clinics and hospitals with higher rates of imbalance, and doctors who facilitate gender-biased sex selection can be fined. There were no reported cases of such sanctions being applied.

Children

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

Child Abuse: Child abuse continued to be a widespread problem. According to the MOI's Domestic Violence and Sexual Assault Prevention Commission, authorities reported 19,936 child abuse cases involving 16,330 victims in the first eight months of 2012. Central and local authorities, as well as private organizations, continued efforts to identify and assist high-risk children and families and to increase public awareness of child abuse and domestic violence.

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

Child Marriage: The legal minimum age of marriage for men is 18 and for women is 16. The rate of marriage under the age of 18 for boys was 0.4 percent and for girls 2 percent.

Sexual Exploitation of Children: The minimum age for engaging in consensual sexual relations is 18. Persons who engage in sex with children under age 14 face sentences of three to 10 years in prison. Supreme Court 2010 rulings for offenses involving sexual assault on children under age seven resulted in a minimum sentence of seven years in prison. Those who engage in sex with minors between ages 14 to 16 receive a mandatory prison sentence of three to seven years. Solicitors of sex with minors older than 16 but younger than 18 face up to one year in prison or hard labor, or a fine of up to NT\$3 million (\$103,300).

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 police enforced the law in practice. Under the law citizens arrested abroad for having sex with minors can

also be indicted and convicted of patronizing underage prostitutes in foreign countries, although no such cases have occurred in the past four years. The law also prohibits child pornography, and violators are subject to a minimum sentence of six months and a fine.

As of September, courts had indicted 325 persons and convicted 232 persons of violating the Child and Youth Sexual Transaction Prevention Act, which criminalizes child prostitution and the possession and distribution of child pornography. Convicted violators' names may be made public, but this was not routinely practiced.

International Child Abductions: Due to its unique political status, Taiwan is not eligible to become a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html, as well as country-specific information at www.travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

The size of the Jewish community is very small, estimated at 100 to 200 individuals who meet regularly, and consists predominately of expatriates. There were no reports of anti-Semitic acts.

Trafficking in Persons

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

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation services, access to health care, or the provision of other state services. The law sets minimum fines for violations, and authorities enforced the law effectively. The authorities enacted and effectively implemented laws and programs to ensure access to buildings, information, and communications. Primary and secondary schools and higher education were available for children

with disabilities. However, there were reported sexual assaults in educational and mental health facilities from time to time.

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. The government provided free universal medical care to persons with disabilities. NGOs continued to assert that more public nursing homes were needed and that current programs, such as home care services, had to be expanded to meet the growing needs of those with disabilities, an increasing number of which were elderly persons.

The law stipulates that new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. Disabled rights groups raised the issue of older facilities not catering to the needs of disabled students and claimed that 50 percent of primary and secondary schools were not barrier-free. Children with disabilities attended school, and officials noted no patterns of abuse during the year. There were, however, some isolated cases. In September a foundation filed a lawsuit against 32 public servants for neglecting sexual assaults alleged to have occurred in a school for children with disabilities in 2011; a prosecutor was investigating the case.

National/Racial/Ethnic Minorities

As of July foreign-born spouses, primarily from China, Vietnam, Indonesia, or Thailand, accounted for 3 percent of the population, and an estimated 3.1 percent of all births were to foreign-born mothers. Foreign spouses were targets of discrimination both inside and outside the home.

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 LAF provided legal services to foreign spouses and operated a hotline to receive complaints. The MOI also operated its own hotline with staff conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese.

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

Indigenous People

There are 14 identified non-Chinese groups of indigenous people, accounting for approximately 2 percent of the population. The law protects the civil and political rights of these indigenous persons, stipulating 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. According to the law, the government shall establish a committee for demarcation and management of indigenous lands, although by year's end the government had not established the committee. The government and the private sector shall consult with indigenous people and obtain their consent or participation, and share with indigenous people benefits generated from land development, resource utilization, ecology conservation, and academic research in indigenous areas. However, the provision had not been put into practice. Critics complained that the authorities did not do enough to preserve aboriginal culture and language.

Indigenous people participated in decisions affecting their land through the political process, as there is a quota in the legislature for aboriginal participation. Six of the 113 seats in the legislature are reserved for aboriginal tribal representatives, who are elected by aboriginal voters. In August dozens of Pingpu aborigines staged an annual rally in front of the presidential office in protest of the government's denial of their aboriginal status. The population of the Pingpu tribe, more than one million, dwarfs the size of the nine recognized tribes combined. Traditional aboriginal tribes have long claimed that the Pingpu tribe is an historical invention consisting mainly of ethnic Chinese pretending to be ethnically aboriginal in the hopes of gaining tribal privileges (land use, early retirement pensions, quota-based representation, among others). The government denied the request of the Pingpu tribe for tribal recognition.

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

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

seekers on the basis of sexual orientation face fines of up to NT\$1.5 million (\$51,650).

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

Other Societal Violence or Discrimination

There was reported discrimination, including employment discrimination, against persons with HIV/AIDS. In September school authorities asked an elementary school teacher in Taipei to be tested for HIV/AIDS after the Education Bureau received an anonymous letter. Some parent groups said teachers should present a test report and any carriers should be transferred from their teaching jobs. The Teachers Association suggested that authorities work with parent groups and the association to come up with a set of regulations.

An amendment of the AIDS Prevention and Control Act allows a foreign spouse with HIV to remain in Taiwan, if he/she can show the infection came from the spouse or from medical treatment received in Taiwan. The amended law, renamed the HIV Prevention and Patients’ Rights Protection Act, also stipulates that citizens with HIV cannot be denied access to education, medical services, housing, or other necessities.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, protects the right to join independent unions, conduct legal strikes, and bargain collectively. However, the right to strike is highly regulated and some workers are excluded from collective bargaining.

Although teachers are prohibited from striking, they had formed 37 unions and one federation of teachers’ unions as of the end of July following a new law passed in 2011 allowing them to associate. Industrial workers also enjoyed expanded freedoms under the new law, forming 66 new industrial unions as of the end of July. The law also allows foreign workers to form and join unions.

In addition to ensuring the right to associate, the law protects associated labor and prohibits discrimination, dismissal, or other unfair treatment of workers for union-related activities. Violators must reinstate the dismissed employee and face fines of NT\$30,000-NT\$150,000 (\$1,030-\$5,170). County or city government departments of labor fined several employers for retaliation during the year. Although labor unions may draw up their own rules and constitutions, labor union registrations require approval from the local competent authority or the CLA, and the authorities have the power to order unions to cease part or all of their operations if they break a law or violate their charter. In May the Taipei city government turned down an application to establish a labor union submitted by research and teaching assistants from National Taiwan University because many organizers were part-time graduate students without contracts or labor insurance.

At the end of June, approximately 30 percent of the 11.3 million-person labor force belonged to one of the 5,108 registered labor unions. Many of these members were also members of one of the 10 island-wide labor federations.

Teachers, civil servants, and defense industry employees are not afforded the right to strike. Workers in industries such as utilities, hospital services, and telecommunication service providers are allowed to strike only if they promise to maintain basic services during the strike. Authorities may prohibit, limit, or break up a strike during a disaster.

The law divides labor disputes into two categories: “rights disputes” and “adjustment disputes.” Workers are allowed to strike only in adjustment disputes, which include issues such as compensation and working schedules. The law forbids strikes in rights disputes, which could include collective agreements, labor contracts, regulations, and other issues. Rights disputes must be settled through arbitration or judicial process. The law requires mediation of labor disputes when the authorities deem disputes to be sufficiently serious or to involve unfair practices. The law also prohibits labor and management from disturbing the “working order” while mediation or arbitration is in progress. On average the mediation process took 20 to 50 days and arbitration took 45 to 80 days.

Three legal strikes (Prince Motor, Hua Long Man-Made Fiber Co., and Veteran Electronic Co.) over unpaid wages occurred during the year to December 5. As of November two of these strikes were resolved, and one remained in arbitration. In addition, 19,204 labor disputes occurred in the first ten months of the year, down 5.3 percent from the same period in 2011. Of these, 13,352 cases were related to wage and severance disputes. Labor unions charged that during employee

cutbacks, labor union leaders were sometimes laid off first or dismissed without reasonable cause.

b. Prohibition of Forced or Compulsory Labor

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

The law criminalizes forced labor, and public awareness campaigns included worker education pamphlets, foreign worker hotlines, and Ministry of Education programs on trafficking as part of the broader human rights curriculum. At the end of September, police and judicial agencies had removed 109 victims from forced labor, including sexual exploitation.

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

c. Prohibition of Child Labor and Minimum Age for Employment

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

County and city labor bureaus effectively enforced minimum-age laws by ensuring the implementation of compulsory education. According to the Council of Labor, employers that violate minimum-age laws face fines of up to NT\$20,000 (\$689). As of July there were no documented cases of violations of these laws, but labor activists and scholars urged the relevant agencies to strengthen the supervision of those firms hiring workers under age 16.

d. Acceptable Conditions of Work

The law provides standards for working conditions and health and safety precautions for an estimated 6.6 million of 8.4 million salaried workers. Those not covered include management employees, health-care workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, local government contract workers, employees of farmers' associations, and domestic workers.

A 5 percent increase in the minimum wage to NT\$18,780 per month (\$647), or NT\$103 per hour (\$3.55), took effect in January. There is no minimum wage for workers in categories not covered by the law.

The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher. The average monthly wage increased 2.7 percent to NT\$45,642 (\$1,572) in 2011. According to labor statistics, however, workers' real wages were lower than they were 10 years ago. Authorities estimate the poverty income level to be 60 percent below the average disposable income of the median households in a designated area. By this definition the poverty income level was NT\$14,794 (\$509) per person in Taipei, NT\$11,832 (\$407) per person in New Taipei City, NT\$10,244 (\$353) per person in Taiwan Province, and NT\$11,146 (\$384) per person in Kaohsiung City.

Foreign household caregivers and domestic workers do not enjoy a minimum wage or overtime pay, limits on the workday or workweek, or minimum breaks or vacation time. As of the end of September, there were 200,882 foreign household caregivers and domestic workers registered under the Employment Services Act. NGOs and academics urged the CLA to provide basic labor protections such as minimum wage, overtime, and a mandatory day off for foreign household caregivers and domestic workers.

Legal working hours were 336 hours per eight-week period (an average of 42 hours per workweek). The law mandated a five-day workweek for the public sector, and, according to the CLA, more than half of private-sector enterprises also implemented a five-day workweek. According to local labor laws, only employees in "authorized special categories" approved by the CLA were exempt from the five-day workweek. These categories include flight attendants, insurance salespersons, real estate agents, nursery school teachers, ambulance drivers, and hospital workers. In practice, however, violations of the five-day workweek maximum were common. The law stipulates a fine for violating legal work maximums of NT\$300,000 (\$10,300) for violations and mandates that the names of the offending companies be broadcast to the public. In response to public pressure, the CLA conducted a review of the authorized special categories in an effort to reduce their scope. In March it extended protection to most medical personnel, although not including medical staff working in emergency rooms, delivery rooms, operating rooms, or recovery rooms. The Taiwan Confederation

of Trade Union and other labor groups asked the authorities to end the “authorized special category” system.

The law provides standards for health and safety. Labor federations and NGOs alleged, however, that the CLA did not effectively enforce workplace health and safety laws and regulations. In the first half of the year, the CLA’s 292 inspectors conducted 45,079 inspections, an increase of 7.6 percent from the same period of 2011. The law covered approximately 310,000 enterprises. Labor NGOs and academics argued that the labor inspection rate was far too low to serve as an effective deterrent against labor violations and unsafe working conditions, especially for labor in small and medium factories. Labor groups repeatedly urged the CLA to strengthen its inspection regime.

Regulations require intensified inspection and oversight of foreign labor brokerage companies. NGOs reported that some labor brokers and employers regularly collected high fees or loan payments from foreign workers, using debts incurred in the source country as a tool for involuntary servitude. At the end of July, 441,507 documented migrants worked in Taiwan; of these, 186,458 were from Indonesia, 85,466 from the Philippines, 71,434 from Thailand, and 98,145 from Vietnam. A total of 37,469 undocumented foreigners worked in Taiwan. NGOs asserted that foreign workers were often unwilling to report employer abuses for fear the employer would terminate the contract and deport them, leaving them unable to pay back debt accrued to brokers or others.

A 2012 NGO report documented abusive conditions for migrant workers on Taiwan flagged fishing vessels operating out of Singapore. The report claimed that employers provided the migrant workers, mostly Filipino, substandard food and little medical care, forced workers to work 18-20 hours a day, and did not allow them to break their contracts without hefty penalties. In addition, the workers were not able to leave their posts because the ships stayed at sea for months at a time.

An employer may deduct only labor insurance fees, health insurance premiums, income taxes, and meal and lodging fees from the wages of a foreign worker. Violators face fines of NT\$60,000 to NT\$300,000 (\$2,070 to \$10,300) 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.

In addition to a CLA-operated Foreign Worker Direct-Hire Service Center that allows local employers to rehire their foreign employees, the CLA opened a

direct-hire web platform to allow local employers to hire foreign workers online without having to go through a broker. NGOs, however, argued that complicated procedures and restrictions on use of both the Service Center and the online service prevented widespread implementation, and they advocated lifting restrictions on transfers between employers. In a move praised by both local employers and foreign workers, in January the Legislative Yuan passed a bill to prolong the time limit in which foreign workers could stay in Taiwan from nine years to 12 years.

The service center also permitted the direct rehiring of foreign workers engaged in manufacturing, fisheries, construction, and other industries.

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.

According to data released by the Bureau of Labor Insurance, there were 26,703 cases of occupational injury or sickness during the first nine months of 2012, down from 26,760 cases during the same period in 2011. There were 233 occupational deaths during this period, down from the 243 cases reported during the same period in 2011.