

# TAIWAN 2016 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Taiwan is governed by a president and a parliament selected in multiparty elections. In 2016 voters elected President Tsai Ing-wen of the Democratic Progressive Party to a four-year term in an election considered free and fair.

Civilian authorities maintained effective control over the security forces.

Principal human rights problems reported during the year were exploitation of foreign workers, including foreign crewmembers on long-haul fishing vessels and household caregivers; domestic violence; and official corruption.

Other human rights concerns during the year included some media self-censorship with regard to China; vote buying; violations of legal working hours; lack of barrier-free spaces and accessible transportation systems for persons with disabilities, particularly outside Taipei; gender-biased sex selection; and a rise in child abuse.

As of June authorities indicted 201 officials, including 23 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 Deprivation of Life and other Unlawful or Politically Motivated Killings**

There were no reports that 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.

In 2015 the High Court increased sentences on several military officials involved in the 2013 death of army corporal Hung Chung-chiu following prolonged exercise in extreme heat, but the Court overturned the guilty conviction of Hung's brigade commander. The High Prosecutors Office appealed the rulings to the Supreme Court, which in January rejected the brigade commander's not-guilty verdict as well as eight other sentences and referred them back to the High Court for a retrial.

### **Prison and Detention Center Conditions**

Prison and detention center conditions generally met international standards.

Physical Conditions: Overcrowding was a problem; prisons operated at 113 percent of designed capacity.

The case of former president Chen Shui-bian continued to receive high-profile attention from domestic and international political figures and human rights activists. Since his release on medical parole in 2015, Chen must seek special permission from Taichung Prison authorities to engage in activities unrelated to medical treatment, including political activities. During the year, authorities denied Chen permission to attend various political functions but did approve others, including a fundraising event and a concert. Prison authorities monitored Chen's outside activities and found him in compliance with the conditions of his medical parole, which the Ministry of Justice's Agency of Corrections periodically extended based on updated medical evaluations.

Administration: Prison authorities investigated claims of inhumane conditions and released the results of their investigations to judicial authorities and occasionally to the press. Authorities investigated and monitored prison and detention center conditions.

During the active investigation phase of their cases, authorities deprived a small number of detainees of visitation rights, on court order, although these detainees retained access to legal counsel.

Independent Monitoring: Authorities allowed independent nongovernmental observers to investigate prison conditions.

### **d. Arbitrary Arrest or Detention**

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

### **Role of the Police and Security Apparatus**

The National Police Administration (NPA) of the Ministry of the 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 authorities had effective mechanisms to investigate and punish abuse and corruption.

### **Arrest Procedures and Treatment of Detainees**

The law requires a warrant or summons, except when there is sufficient reason to believe the suspect may flee, or in urgent circumstances, as specified in the code of criminal procedures. Courts have judicial discretion to release indicted persons on bail. Prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. Authorities generally observed these procedures, and trials usually took place within three months of indictment. Prosecutors may apply to a court for approval of 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 prosecutors file an indictment, the law does not specify what lawyers can or should do to protect the rights of indigent criminal suspects during initial police questioning. The judicial branch (Judicial Yuan) and the NPA operated 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), a publicly funded independent statutory organization that provides professional legal assistance through its 21 branch offices to persons who might not otherwise have legal representation. 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. Authorities can detain a suspect without visitation rights other than by legal counsel or hold a suspect under house arrest based on a prosecutor's recommendation and court

decision. Authorities can prohibit suspects and prisoners from receiving visitors; however, they are entitled to meet and consult with legal counsel. The law affords the right of compensation to those whom police have unlawfully detained.

### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary; however, some political commentators and academics publicly questioned the impartiality of judges and prosecutors involved in high-profile and politically sensitive cases. During the year, judicial reform advocates pressed for greater public accountability, reforms of the personnel system, and other procedural improvements.

A February survey by the Crime Research Center of National Chung Cheng University found 85 percent of respondents distrusted the objectivity and fairness of judges, a 7 percent increase from the same survey the previous year and a record high. The same survey found that 77 percent of respondents did not trust the objectivity and fairness of prosecutors.

In March the Taichung Branch of the High Prosecutors Office applied for the retrial of death row inmate Cheng Hsing-tse after 14 years' imprisonment on charges of killing a police officer, citing new potentially exculpatory evidence. Cheng's release, which followed seven trials, seven retrials, and a 2006 Supreme Court ruling upholding his death sentence, marked the first time prosecutors have sought a retrial in a death sentence case previously upheld by the Supreme Court.

### **Trial Procedures**

The constitution provides for the right to a fair public trial, and an independent judiciary generally enforced this right.

Under an amendment to the Certiorari Act that took effect in 2014, when any authority arrests or detains a person without a court order, any person including the arrestee/detainee may petition a court of justice having jurisdiction for a writ of habeas corpus, and the case must be brought before a judge within 24 hours. The law also requires agencies to inform detainees of their right to see a judge for a writ of habeas corpus. Detaining authorities who violate the law may face a maximum sentence of three years in prison and a fine of up to New Taiwan dollars (NT\$) 100,000 (\$3,160).

All defendants are presumed innocent until proven guilty. They also have the right to an attorney and to be present at trial. Trials are public, although court permission may be required to attend trials involving juveniles or potentially sensitive issues that might attract crowds. Judges decide cases; all judges receive appointments from and answer to the Judicial Yuan. A single judge, rather than a defense attorney or prosecutor, typically interrogates parties and witnesses. Defendants have the right to be informed promptly of charges, hire an attorney of their choice or have one provided, prepare a defense, confront witnesses against them, and present witnesses and evidence. Defendants have the right to free interpretation service, if needed, from the moment charged through all appeals. The presiding judge determines on a case-by-case basis a defendant's access to evidence held by the prosecution.

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 law extends the above rights to all suspects.

### **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 wrongdoing, including human rights violations.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution prohibits such actions, although there was at least one report of authorities failing to respect these prohibitions during the year.

In February the Political Warfare Bureau of the Ministry of National Defense informed Taipei military police that a civilian surnamed Wei was selling classified documents on the internet. The military police searched Wei's house without a warrant, seized documents, and detained Wei for questioning under charges of receiving stolen property and offenses against privacy. The military's warrantless

search of a civilian's home and failure to seek consent from prosecutors sparked a strong public outcry and prompted prosecutors to launch an investigation. The defense ministry announced in March a list of 14 military officers it would reprimand for their handling of the case. These officers included two lieutenant generals: the head of the Political Warfare Bureau, who received two demerits, and the chief of the Military Police Command, who received an admonition. In May the Taipei District Prosecutors Office concluded its investigation and decided to drop charges against 12 military officers, saying the search, albeit faulty, occurred with Wei's prior consent and did not violate the law.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The constitution provides for freedom of speech and press, and authorities generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of speech and press.

Freedom of Speech and Expression: In July Taipei District Court sentenced two pro-independence activists to three months in jail for removing and damaging 15 Taiwan flags in violation of the criminal code, which prohibits damaging, removing, or dishonoring the flag with the purpose of insulting Taiwan.

Press and Media Freedoms: The independent media were active and expressed a wide variety of views without restriction. There was, however, concern about the impact of the concentration of media ownership on freedom of the press.

Violence and Harassment: Physical attacks and threats against journalists were rare. Local media reported incidents of police obstruction and violence directed at journalists who were covering protests against administration policies.

In 2015 two citizen journalists were arrested for alleged trespassing and interference with official functions while covering a protest in Taipei against then-president Ma Ying-jeou's meeting with Chinese President Xi Jinping in Singapore. Police released the two 13 hours later. Local activists said the arrest was a case of discrimination against the citizen journalists, since police did not interfere with other professional journalists covering the same protest.

Censorship or Content Restrictions: Local academics and media activists alleged that self-censorship continued as some media chose to present news stories in favor of the People's Republic of China (PRC) due to political considerations and the influence of local businesses with close ties to the PRC.

## **Internet Freedom**

Authorities did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that they monitored private online communications without appropriate legal authority. The internet was widely available and used extensively.

## **Academic Freedom and Cultural Events**

There were no restrictions on academic freedom or cultural events.

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

In May the Executive Yuan withdrew its lawsuit against 126 participants in the 2014 Sunflower student protest movement. Activists welcomed the withdrawal of the lawsuit, which some had alleged was politically motivated.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **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 authorities generally respected these rights.

## **Protection of Refugees**

Access to Asylum: The law does not provide for the granting of asylum or refugee status, and authorities have not established a system for providing protection to refugees. All PRC citizens unlawfully present are required by law to be returned to the PRC, although there were cases of granting permanent resident status to PRC asylum seekers who resided in Taiwan for an extended period.

In November the legislature passed an amendment to the Immigration Act to grant residence permits to stateless persons from Tibet who entered Taiwan from India and Nepal before June 29, 2016. Prior to passage of the amendment, only stateless persons from Tibet who entered Taiwan from India and Nepal between May 21, 1999, and December 31, 2008, were entitled to residence permits.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their elected officials in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: Presidential and legislative elections took place in January. Democratic Progressive Party candidate Tsai Ing-wen won the presidency, and her party obtained a majority in the legislature for the first time in Taiwan's history. Observers regarded the elections as free and fair, although there were allegations of vote buying by candidates and supporters of both major political parties. According to statistics from the Supreme Prosecutors Office, as of January prosecutors charged a total of 1,057 people with vote buying. In February re-elected Kuomintang legislator Chien Tung-ming was indicted for alleged vote buying, and Taichung prosecutors filed a petition asking the court to nullify his election. According to the Civil Servants Election and Recall Act, a lawsuit seeking election nullification can be appealed only once, a process that generally takes one year. Chien's wife and 86 campaign staffers and supporters were also indicted in the case.

Amendments to the Civil Servants Election and Recall Act passed in November lowered the threshold of petitions, signatures, and votes needed to recall officials.

Participation of Women and Minorities: With her election, President Tsai Ing-wen became Taiwan's first-ever female president. In the new legislature, a record 38 percent of lawmakers are women. A Cambodian-born woman became Taiwan's first immigrant legislator. According to a survey published by the Ministry of Labor in August, the ratio of women elected as local government leaders reached 15.8 percent, a new 10-year high for women's participation at that level.



Despite the relatively high participation of women in politics, officials, private sector representatives, and civil society advocates noted that media and popular culture perpetuate traditional gender stereotypes and reinforce the expectation that women serve as primary caretakers.

Gender equality advocates criticized the Tsai administration's appointment of only six women to its 42-member cabinet, the lowest ratio of women to occupy cabinet-level posts since 1997.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and authorities generally implemented the law effectively. There were reports of official corruption during the year. As of June, 23 ranking officials, 62 mid-level, 111 low-level, and five elected officials had been indicted for corruption.

Corruption: The Ministry of Justice and its subordinate Agency against Corruption are in charge of combating official corruption. The ministry received sufficient resources and collaborated with civil society within the scope of the law. Some legal scholars and politicians said the justice ministry was insufficiently independent and conducted politically motivated investigations of politicians. The Control Yuan is responsible for impeachment of officials in cases of wrongdoing.

A survey conducted in July by the Crime Research Center of National Chung Cheng University found that 76 percent of respondents were dissatisfied with authorities' anticorruption efforts.

In January Taipei prosecutors raided Legislative Yuan then secretary-general Lin Hsi-shan's office amid allegations that Lin received kickbacks to help a computer company secure the legislature's procurement contracts. While in pretrial detention, authorities denied Lin the right to visitors (other than counsel). He was indicted on charges of corruption in May. Lin was the highest-ranking official to face this charge since the 2012 bribery case of former Executive Yuan secretary-general Lin Yi-shih.

In April the Supreme Court sentenced former Taoyuan County deputy magistrate Yeh Shih-wen to seven years in prison for taking bribes from Farglory Land Development Co. in exchange for supporting various construction projects while serving as chief of the Construction and Planning Agency under the Ministry of Interior in 2012, and as deputy Taoyuan county magistrate from 2013 to 2014.

That Yeh continued to receive civil service pensions despite a 21-year sentence in a second High Court trial that preceded the Supreme Court verdict sparked public controversy. After the Supreme Court's verdict, the legislature passed amendments to the Civil Service Retirement Act stipulating that civil servants found guilty of corruption and sentenced to death, life imprisonment, or prison terms of seven years or longer will not be entitled to retirement pensions, and pensions already paid to convicted civil servants will be confiscated.

Financial Disclosure: The law requires specified appointed as well as elected officials to disclose their income and assets to the Control Yuan, which makes the disclosures public. Those failing to declare property are subject to a fine ranging from NT\$200,000 (\$6,320) to NT\$4.0 million (\$126,400) and may be punished with a prison term of no more than one year for repeatedly failing to comply with the requirement. The law also requires civil servants to account for abnormal increases in their assets and makes failure to do so a punishable offense, and there are criminal and administrative sanctions for noncompliance.

Public Access to Information: The law stipulates that all government information be made available to the public upon request, with the exception of national security 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 agency shall determine whether to approve such a request. The time limit can be extended for no more than 15 days, if necessary. The agency may charge a fee, which it sets based on the purpose of the request. The fees can be reduced or waived, if the request is for academic research or is in the public interest. Officials are subject to punishment or reprimand if they violate the law. The law provides that registered citizens, companies, and groups may submit information requests and may appeal requests that are denied. These privileges are extended on a reciprocal basis to citizens of foreign countries. Since implementation of the law in 2005, some cabinet-level agencies, including the ministries of interior and justice, have provided officials with training.

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

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

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

### Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and domestic violence. Many victims did not report the crime for fear of social stigmatization, and various nongovernmental organization (NGO) and academic studies estimated that the total number of sexual assaults was seven to 10 times the number reported to police.

The law provides protection for rape survivors. Rape trials are not open to the public unless the victim consents. The law permits a charge of rape even if the victim chooses not to press charges.

The 2015 amendments to the Sexual Assault Crime Prevention Act prohibit any parties or persons from disclosing on the internet or to the media a sexual assault victim's name or releasing any personally identifiable information associated with a victim. Persons violating the law face a fine ranging from NT\$20,000 (\$632) to NT\$100,000 (\$3,160). An article of the amended law expected to come into effect in 2017 stipulates that experts will assist in questioning and appear in court as witnesses when rape victims are minors or mentally disabled. It also authorizes the use of one-way mirrors, video conferencing, or other questioning and/or trial practices to protect victims.

The law establishes the punishment for rape as not less than five years' imprisonment, and courts usually sentenced individuals convicted of rape to five to 10 years in prison. According to the Ministry of Justice, the average prosecution rate for rape and sexual assault over the past five years was approximately 47 percent, and the average conviction rate of cases prosecuted was approximately 88 percent.

Courts typically sentenced individuals convicted in domestic violence cases to less than six months in prison. Some abused women chose not to report incidents to police due to social pressure not to disgrace their families. The law allows prosecutors to investigate complaints of domestic violence even in cases where the victim has not filed a formal complaint.

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. The Ministry of Health and Welfare oversees efforts to combat and address rape and domestic violence.

A March health and welfare ministry survey of women ages 18 to 74 found 26 percent of respondents had encountered abuse from an intimate partner at some point in their life, with psychological abuse being most common (suffered by 21 percent of respondents), followed by physical abuse (10 percent), economic abuse (9.6 percent), sexual violence (7.2 percent), and stalking and/or harassment (5.2 percent). The survey found that respondents aged 71 to 74 had experienced the highest rate of abuse (42.9 percent). The ministry estimated that 40 percent of physical abuse cases go unreported to authorities.

Sexual Harassment: The law prohibits sexual harassment (see section 7.d.). According to the latest figures available from the Ministry of Education, in 2014 there were 2,010 cases of sexual harassment against female students or staff reported by schools' and universities' Commissions of Gender Equality Education. In most cases, perpetrators were required to attend classes on gender equality and counseling sessions.

Reproductive Rights: Individuals and couples have the right to decide the number, spacing, and timing of their children; manage their reproductive health; and have the information and means to do so, free from discrimination, coercion, and violence. The law prohibits unmarried persons from obtaining fertility treatment.

Discrimination: The law provides the same legal status and rights for women as for men. Women experienced some discrimination in employment (see section 7.d.).

Gender-biased Sex Selection: In 2015 the ratio of boy-to-girl births was 108 to 100, the highest in five years. This figure prompted the Health Promotion Administration (HPA) to issue a warning that the sex ratio had increased beyond a natural range, which HPA said suggested the use of sex-selective abortions. Medical institutions may not carry out gender-biased sex selection procedures. Clinics and hospitals with higher rates of imbalance are subject to surveillance by authorities, and doctors who facilitate gender-biased sex selection are subject to fines. There were no reported cases of authorities imposing these fines during the year.

## **Children**

Birth Registration: Citizenship is derived from that of either parent. Births must be registered within 60 days; failure to do so results in the denial of national health care and education benefits.

Child Abuse: According to the Ministry of Health and Welfare, the percentage of abused children under age six increased from 21 to 27 percent over the past four years. Central and local authorities coordinated with private organizations 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 learning of cases of child abuse or neglect must notify the police or welfare authorities. Child welfare specialists must notify local authorities within 24 hours, and authorities must take appropriate measures within 24 hours. Regulations encourage officials to submit an investigation report within four days. The Ministry of Health and Welfare and NGO specialists monitored cases to ensure that authorities met all requirements. An official 24-hour hotline accepted complaints of child abuse and offered counseling. Courts are required to appoint guardians for children of parents deemed unfit.

Early and Forced Marriage: The legal minimum age of marriage is 18 for men and 16 for women.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children and child pornography, and authorities effectively enforced the law.

The minimum age for engaging in consensual sexual relations is 16. Persons who engage in sex with children under age 14 face sentences of three to 10 years in prison. Those who engage in sex with minors between 14 and 16 receive a mandatory prison sentence of three to seven years. Solicitors of sex with minors over 16 but under 18 face up to one year in prison or hard labor or a fine of up to NT\$3 million (\$94,800). There were reports of minors engaged in prostitution.

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. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

## **Anti-Semitism**

The Jewish community was very small, estimated at 300 individuals who meet regularly, and consisted 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/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **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, the judicial system, and the provision of other state services (see section 7.d.).

Authorities enacted and made efforts to implement laws and programs to ensure access to buildings, information, and communications. Taiwan has incorporated the terms of the UN Convention on the Rights of Persons with Disabilities into its laws.

Amendments made in 2015 to the People with Disabilities Rights Protection Act require public transport operators to provide accessibility services. The requirement applies to all forms of public transportation, including rail, road, rapid transit, air, and water transport, and an operator can seek an exemption only with consent from transportation authorities and associations of persons with disabilities. Operators who fail to adapt their facilities to meet standards within a specific period will face fines of NT\$10,000 (\$316) to NT\$50,000 (\$1,580) that can be imposed repeatedly until improvements are made. The Ministry of Transportation and Communications subsidized drivers' procurement of accessible taxis.

The amended law also stipulates that public infrastructure and entertainment venues feature accessibility facilities and equipment, and that venues failing to meet these requirements will lose their operating licenses. The amended law requires local governments to add real-time captioning for persons with hearing disabilities to public-service announcements.

Persons with disabilities have the right to vote and participate in civic affairs. NGOs contended that the lack of barrier-free spaces and accessible transportation

systems continued to limit civic engagement by persons with disabilities, particularly outside Taipei. Advocacy groups noted that older buildings and parking garages often did not meet accessibility requirements.

Children with disabilities attended school, and officials and disabilities rights groups noted no patterns of abuse during the year, although there were occasional reports of sexual assaults in educational and mental health facilities. Students with disabilities mostly attended mainstream schools. NGOs asserted that services for students with disabilities remained largely inadequate, and disabled students at mainstream schools often relied on the assistance of hired help, parents, or grandparents to attend schools and use school facilities due to a lack of barrier-free facilities or adequate alternative facilities. Special primary, secondary, and vocational schools were available for students with disabilities.

The ministries of health and welfare and of labor are responsible for protecting the rights of persons with disabilities. The law stipulates that authorities must provide services and programs to persons with disabilities. Authorities provided free universal medical care to persons with disabilities. NGOs continued to assert the need for more public nursing homes and expansion of current programs, such as home care services, to meet the growing needs of those with disabilities, an increasing number of whom were elderly persons.

### **National/Racial/Ethnic Minorities**

As of July spouses born in Vietnam, Indonesia, Thailand, the Philippines, or the PRC accounted for 2 percent of the population. Foreign and PRC-born spouses were targets of discrimination both inside and outside the home.

In December the legislature passed amendments to the Nationality Act that ease restrictions on naturalization of foreign spouses married to Taiwan passport holders. Under the amended law, foreign spouses who divorce due to domestic violence or who become widowed can still naturalize. The amended law also removes the requirement that foreign spouses renounce their citizenship when applying for naturalization by extending the period for renunciation to one year after naturalization.

Authorities offered free Chinese-language and child-rearing classes and counseling services at community outreach centers to facilitate foreign-born spouses' integration into society. LAF provided legal services to foreign spouses and operated a hotline to receive complaints. The Ministry of Interior operated its own

hotline with staff conversant in Vietnamese, Cambodian, Thai, Indonesian, and English, as well as Chinese.

PRC-born spouses must wait six years to apply for Taiwan residency, whereas spouses born elsewhere may apply after three years. Unlike non-PRC spouses, PRC-born spouses have permission to work in Taiwan immediately on arrival. The amended Nationality Act does not apply to PRC-born spouses.

### **Indigenous People**

Authorities officially recognize 16 indigenous tribes, accounting for approximately 2 percent of the population. The law guarantees indigenous people equal civil and political rights and stipulates that authorities should provide resources to help indigenous groups develop a system of self-governance, formulate policies to protect their basic rights, and promote the preservation and development of their languages and cultures.

Some groups continued to push for official recognition as indigenous tribes. In May, the Taipei High Administrative Court denied indigenous status to Tainan's Siraya people of the Pingpu group. Tainan granted the Siraya people tribal status at the municipal level and called on the administration to support this group, which first filed an administrative lawsuit seeking tribal status in 2010. In October the Executive Yuan approved a proposal to gradually restore the indigenous status and rights of the Pingpu tribe.

On August 1, Indigenous People's Day as designated by the new administration, President Tsai became the first Taiwan president to issue a formal apology to Taiwan's indigenous people for injustices suffered through the centuries. President Tsai announced that she would lead an Indigenous Historical Justice and Transitional Justice Commission to be established under the Presidential Office to address historical injustices, with the Executive Yuan overseeing implementation and releasing annual progress reports. The commission will include representatives selected by each of Taiwan's 16 tribes and the Pingpu ethnic group.

In December 2015 Tama Talum of the Bunun tribe received a three-and-a-half year prison sentence for possession of an illegal firearm and for hunting in violation of the Wildlife Conservation Act. The indigenous community and LAF defended Talum on the grounds that hunting was an integral part of tribal customs. On the day Talum was due to begin his prison term, Prosecutor-General Yen Da-ho filed an extraordinary appeal to the Supreme Court asserting that the original judgment



violated the law by applying too narrow a legal interpretation. Talum remained free pending the result of appeal, and indigenous rights groups petitioned the Presidential Office for amnesty. In her public apology, President Tsai said relevant agencies would review cases that involve indigenous people indicted or sentenced for hunting.

Indigenous people participated in decisions affecting their land through the political process, which includes a quota in the legislature for indigenous participation. Six of the 113 seats in the legislature are reserved for indigenous tribal representatives elected by indigenous voters. In addition to these six legislators, the current Legislative Yuan has two indigenous legislators elected on proportional representation party lists.

The law stipulates that authorities and the private sector should consult with indigenous people and obtain their consent to and/or participation in, as well as share with them the benefits of, land development, resource utilization, ecology conservation, and academic research in indigenous areas. In January the Council of Indigenous Peoples announced regulations for obtaining consent: more than half of affected tribes should convene tribal meetings attended by at least half of tribal households, and more than half of the attendees should give their approval. Previous controversial hotel and resort projects in Taitung and the Sun Moon Lake are subject to the new regulations. In November agencies began to delineate and announce indigenous traditional territories and lands in accordance with the law, which passed in 2005.

Several indigenous groups, unsatisfied with President Tsai's apology, staged protests outside the Presidential Office and called on authorities to grant the indigenous transitional justice commission investigative power.

Days after the president's apology, the Forestry Bureau announced new rules that allow indigenous communities to apply to harvest plants within their traditional territories for traditional use, including in 12 rare woods protected under the Forestry Act and the Cultural Heritage Preservation Act.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

Activists for lesbian, gay, bisexual, transgender, and intersex (LGBTI) rights said discrimination against LGBTI individuals was more widespread than suggested by the number of court cases, due to victims' reluctance to lodge formal complaints.

Reported instances of violence against LGBTI individuals were rare, and the police response was adequate. Advocacy groups were unable to collect reliable statistics on violence targeting LGBTI individuals because the law does not define hate crime, so police do not use that category to disaggregate cases. LGBTI rights activists said the inability of unmarried persons to obtain fertility treatments and adopt children resulted in discrimination against LGBTI persons. The Center for Disease Control operated LGBTI awareness and assistance centers in Taipei, New Taipei City, Taoyuan, Hsinchu, Miaoli, Taichung, Tainan, and Kaohsiung that offer services including counseling and free HIV testing.

The law stipulates that employers cannot discriminate against job seekers on the basis of sexual orientation and also prohibits schools from discriminating against students on the basis of their gender temperament, gender identity, or sexual orientation.

Although same-sex marriage is not legal, as of November all of Taiwan's six special municipalities--Kaohsiung, Taipei, Taichung, Tainan, New Taipei City, and Taoyuan-- as well as Chiayi City, Chiayi County, Changhua County, Hsinchu County, and Yilan County began issuing household registrations to same-sex partners. This registration enables same-sex individuals to consent to medical procedures on their partner's behalf and apply for public welfare allowances. The central authorities did not recognize these registrations, but the cities of Taipei, Kaohsiung, Tainan, and Taichung mutually recognized registrations issued in another city. The registration does not appear on ID cards or in central household registration documents and does not entitle same-sex couples to all rights associated with marriage, such as inheritance.

In August the administration announced the appointment of Taiwan's first-ever transgender cabinet member, Audrey Tang, as minister without portfolio in charge of digital policy.

Transgender activists expressed concern about the requirement to undergo gender reassignment surgery in order to change one's legal gender. Although the Ministry of Interior announced in 2014 that it would terminate this requirement, it had not done so as of September.

### **HIV and AIDS Social Stigma**

The law prohibits potential employers from requesting health examination reports from job candidates to prove they do not have HIV or other communicable

diseases. There was reported discrimination, including employment discrimination, against persons with HIV/AIDS (see section 7.d.).

In August President Tsai and Premier Lin Chuan voiced support for an HIV-positive student who had sought compensation and an apology since his expulsion from the National Defense University in 2013, six months before his graduation. During an August cabinet meeting, the premier instructed the defense ministry to issue an education equivalency certificate to the student and drop its plan to make the student reimburse NT\$800,000 (\$25,280) in tuition costs covered by the university.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join independent unions, conduct strikes, and bargain collectively. The Ministry of Labor (MOL) oversees implementation and enforcement of labor laws, in coordination with local labor affairs bureaus. Teachers may form unions and federations. The law allows foreign workers to form and join unions and to serve as union officers. The law prohibits discrimination, dismissal, or other unfair treatment of workers for union-related activities and requires reinstatement of workers fired for trade union activity. In May an employee of the Chi-Ji Daai TV Co. filed a lawsuit after he was fired for trying to form a union. On June 1, following an investigation, MOL imposed an NT\$30,000 (\$948) fine on Chi-ji Daai TV Co. and obliged the company to reinstate the employee with back pay.

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

Some workers are excluded from collective bargaining. Employees in companies with fewer than 30 workers, which represent 55.6 percent of Taiwan's total labor force, are not permitted to form enterprise unions. Employees hired through dispatching agencies (i.e., temporary workers) do not have the right to organize and bargain collectively in the enterprises where they work. Although labor unions may draw up their own rules and constitutions, registration of a union requires approval from the local authorities or MOL, and authorities have the power to

order unions to cease part or all of their operations if they break the law or violate their charter.

For all workers, 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 the judicial process.

The law requires mediation of labor disputes when authorities deem disputes to be sufficiently serious or to involve unfair practices. On average the mediation process takes 20 to 50 days, and arbitration takes 45 to 80 days. The law prohibits labor and management from conducting strikes or other acts of protest during conciliation or arbitration proceedings. Labor organizations say this prohibition impedes workers’ ability to exercise their right to strike.

Authorities effectively enforced laws providing for the freedom of association and collective bargaining. An MOL arbitration committee reviewed cases of enterprises using discriminatory or improper action to repress union leaders and their activities, and authorities subjected violators to fines. Such fines, however, generally were not sufficient to deter violations. Both labor and management can apply for arbitration in labor disputes if there is no legal reason for the other side to refuse collective negotiation.

Labor unions asserted that during employee cutbacks, companies sometimes lay off union leaders first or dismiss them without reasonable cause.

Most labor disputes involve wage and severance issues.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The law prescribes penalties of up to seven years in prison for forced labor, but courts delivered light sentences or fines in most forced labor convictions. Such penalties are inadequate to serve as an effective deterrent. Authorities continued public awareness campaigns, including disseminating worker education pamphlets, operating foreign worker hotlines, and offering Ministry of Education programs on labor trafficking as part of the broader human rights curriculum. According to the National

Immigration Agency, 10 individuals were convicted for forced labor in the first six months of the year.

Forced labor occurred in such sectors as domestic services, fishing, farming, manufacturing, and construction. Foreign workers were most susceptible to forced labor, especially when serving as crew members on Taiwan-flagged fishing vessels. Some labor brokers charged foreign workers exorbitant recruitment fees and used debts incurred from these fees in the source country as tools of coercion (see section 7.e.). In 2015 authorities fined 89 perpetrators a total of NT\$2.46 million (\$77,700) in 109 cases of illegal brokerage activities and a total of NT\$704,000 (\$22,200) in two cases of excessive fees. Authorities ordered 12 of these individuals to terminate business operations. Labor laws do not cover domestic workers, leaving them vulnerable to labor exploitation.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law stipulates 15 as the minimum age for employment. The law prohibits children under 16 and senior high school students from doing heavy or hazardous work. Their working hours are limited to eight hours per day, and they are prohibited from overtime work and night shifts.

County and city labor bureaus effectively enforced minimum age laws by ensuring the implementation of compulsory education. Employers who violate minimum age laws face a prison sentence not to exceed six months and/or fines of up to NT\$300,000 (\$9,480), which was sufficient to deter violations.

There were some reports of commercial sexual exploitation of children (see section 6, "Children").

### **d. Discrimination With Respect to Employment and Occupation**

Labor laws and regulations prohibit discrimination with respect to employment and occupation on the basis of race, rank, ideology, religion, political opinion, birthplace or national origin, gender, marital status, disability, sexual orientation and/or gender identity, age, language, or HIV or other communicable disease status.

The law prohibits potential employers from requesting medical reports from job candidates to prove they do not have HIV or other communicable diseases. Some reports, nevertheless, suggested that persons with disabilities and HIV-positive persons sometimes remained vulnerable to discrimination in employment and occupation.

Local labor affairs bureaus intervene and investigate complaints of employment discrimination or failure to meet legal hiring quotas. The fine for employment discrimination ranges from NT\$300,000 (\$9,480) to NT\$1.5 million (\$47,400). Authorities enforced the law effectively, although human rights advocates noted that an unknown number of employment discrimination cases went unreported due to employees' fear of retaliation from their employers. Workers who encounter discrimination can file complaints with two independent committees composed of scholars, experts, and officials in city and county departments of labor affairs. Authorities enforced decisions made by those committees. Employers can appeal rulings to MOL and the Administrative Court.

The law requires 3 percent of the workforce in the public sector and 1 percent of the workforce in the private sector to be individuals with disabilities. According to MOL, the unemployment rate of persons with disabilities was three times higher than that of individuals without disabilities. Nonprofit and advocacy groups said many public- and private-sector employers opted to pay fines rather than meeting the hiring quotas. There were also reports of indirect discrimination in the hiring process, such as employers failing to provide assistive devices in pre-employment tests.

Women were promoted less frequently, occupied fewer management positions, and worked for lower pay than men, earning on average 83 percent of their male counterparts' income in 2015, even though the law prohibits differential treatment of employees on the basis of sex and mandates equal pay for equal work of equal efficiency. Household caregivers and domestic workers did not enjoy the same legal protections as other workers (see section 7.e.).

The law forbids termination of employment because of pregnancy or marriage; however, a poll conducted by the Awakening Foundation in 2015 found that 50 percent of the women surveyed faced censure when they informed their employers of their pregnancy, 49 percent were assigned to a different job or department, and 15 percent were asked to resign.

In May the legislature passed an amendment to the Act of Gender Equality in Employment entitling employees who file sexual harassment lawsuits to administrative leave to attend court hearings. Employers who fail to grant administrative leave are subject to fines of NT\$20,000 (\$632) to NT\$300,000 (\$9,480).

#### **e. Acceptable Conditions of Work**

A new minimum wage of NT\$20,008 (\$632) per month, or NT\$120 (\$3.79) per hour, took effect in July 2015. In September MOL decided to increase the minimum wage by 5 percent to NT\$21,009 (\$664), effective January 2017. There is no minimum wage for workers in categories not covered by the law, such as management employees, medical doctors, healthcare workers, gardeners, bodyguards, self-employed lawyers, civil servants, contractors for local authorities, and domestic workers. Authorities defined the poverty level as 60 percent below the average monthly disposable income of the median household in a designated area. By this definition, the poverty level was a disposable monthly income of NT\$14,794 (\$468) per person in Taipei, NT\$12,439 (\$393) per person in New Taipei City, NT\$11,890 (\$376) per person in Kaohsiung, and NT\$10,869 (\$344) per person in all other areas. The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher.

An amendment to the Labor Standards Law stipulated new legal working hours of eight hours per day and 40 hours per week, and reduced from the previous limit of eight hours per day and 84 hours biweekly. The new rule took effect on January 1, and affected 3.4 million workers, according to the labor ministry. Employees in “authorized special categories” approved by the ministry are exempt from regular working hours stipulated in the law. These categories include security guards, flight attendants, insurance salespersons, real estate agents, nursery school teachers, ambulance drivers, and hospital workers.

In December the legislature passed amendments to the Labor Standards Law guaranteeing private sector laborers the right to one day off and one day of flexible annual leave per week. The amendment also reduced the number of official public holidays to which certain categories of employees are entitled from 19 to 12, increased overtime pay and annual leave benefits, established whistle-blower protections for reporting labor violations, and tightened enforcement of existing labor rights provisions by increasing fines for non-compliance. Industry strongly

protested these changes, while labor supporters staged hunger strikes arguing the changes did not go far enough.

All workers under the Labor Standards Law are entitled to paid leave on recognized holidays and to a certain number of paid special leave days based on the number of years spent working for their employer. The law specifies that employees who work on national holidays should be paid double time and that workers who do not take their special leave should receive compensation.

In the face of a growing digital economy, MOL issued an instruction in May requiring employees to include all offsite and remote computing hours in calculating their total regular hours worked. According to ministry estimates, more than 550,000 workers were subject to the new regulation, including those in sectors that rely on telecommunications (e.g., graphic design) and those who routinely conduct work outside the office (e.g., journalists, insurance and real estate brokers, and bus drivers). The MOL stated that any additional work assigned to workers outside their shifts should be considered overtime, regardless of how the work was assigned, and that existing labor regulations and penalties of NT\$20,000 (\$632) to NT\$300,000 (\$9,480) were sufficient to address the problem.

Taiwan has a mechanism for reporting labor exploitation and labor disputes. It operated service centers to brief foreign workers on arrival, maintained a hotline for complaints and assistance, and funded and operated shelters to protect abused workers. Regulations require inspection and oversight of foreign labor brokerage companies. 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. MOL is responsible for occupation work permits and services and provides mediation services. The ministry may also permit foreign workers' transfer to new employers in cases of exploitation or abuse.

Authorities did not always effectively enforce the law. Violations of legal working hours were common in all sectors. The labor ministry's 2015 labor inspection report found that 30 percent of inspected firms violated the Labor Standards Law. Many companies either asked workers to exceed the overtime ceiling or failed to pay the required overtime. Logistics and transportation services had the most serious violations, according to the report. A 2015 survey by the Labor Bureau of Taipei City government on the banking industry showed 69 percent of employees in this industry worked hours in excess of the legal limit. A 2015 MOL inspection found that average working hours of pilots, train drivers, bus drivers, and media



sector employees also exceeded the legal limit. As a result, employees worked on average 2,134 hours in 2015. In a survey conducted in April by Yes123 Employment Service Co., 56 percent of employees reported that they had not received overtime pay for work exceeding their normal working hours. The Taiwan Labor Front and Taiwan Confederation of Trade Unions cited labor dispatching (i.e., temporary worker) programs and employers' use of instant-messaging applications to conduct business after hours as factors undermining working conditions.

Household caregivers and domestic workers are not protected under the Labor Standards Law and are not covered by a mandated minimum wage, overtime pay, limits on the workday or workweek, minimum breaks, or vacation regulations. Brokerage agencies that hire workers overseas and act as their "representatives" in Taiwan largely controlled this industry. Brokerage agencies often require workers to take out loans for "training" and other fees at local branches of Taiwan banks in their home countries at high interest rates. Agencies then deduct fees and loan repayments from the workers' wages. In such cases, actual take-home pay for domestic workers could be far below the current poverty level. NGOs reported that the monthly take-home pay of some domestic workers was as low as 6.7 percent of the official poverty level. Domestic workers often covered the full cost of their own health insurance.

The approximately 600,000 foreign workers, primarily from Indonesia, Vietnam, the Philippines, and Thailand, were vulnerable to exploitation. NGOs asserted that foreign workers often were unwilling to report employer abuses for fear the employer would terminate the contract and deport them, leaving them unable to reimburse debt accrued during the recruitment process.

In October the legislature passed an amendment to the Employment Service Act eliminating the requirement that foreign workers leave Taiwan every three years between re-employment contracts. Advocates for this amendment said it would help alleviate the burden of brokerage and other fees foreign workers have to pay. The law took effect on November 5.

MOL operated a Foreign Worker Direct Hire Service Center (DHSC) and an online platform to allow employers to hire foreign workers without using a broker. Caregivers, domestic workers, and workers in manufacturing, fisheries, construction, and other industries could be hired through the DHSC. Employers could also renew foreign workers' employment contracts at the DHSC. As of the end of June, MOL reported that the DHSC had provided support to 142,010

foreign workers, saving them up to NT\$6 billion (\$189.6 million) in brokerage and service-fee payments, since it began operating in 2008. NGOs said that complicated hiring procedures and the online service's incompatibilities with certain recruitment systems in workers' countries of origin prevented widespread implementation, and they advocated lifting restrictions on foreign workers voluntarily transferring their contracts to different employers.

There were numerous reports of exploitation and poor working conditions of foreign fishing crews on Taiwan-flagged long-haul vessels. In an interview with Greenpeace Taiwan, one foreign fishing boat crewmember said he sometimes worked more than 18 hours a day with poor food and living conditions. The Taiwan International Workers' Association and other civil groups urged the Taiwan authorities and ship owners to better protect foreign fishermen. In May the Kaohsiung Prosecutor's Office arrested 11 people, including four fishing boat owners, on charges of violating Taiwan's human trafficking prevention law and obstructing freedom for allegedly confining 81 fishing boat crewmen from Vietnam, Indonesia, the Philippines, Tanzania, and Mozambique in two locations in Kaohsiung. In one location, more than 10 workers slept on the floor in a jam-packed room, while in the other, up to 60 workers lived in a space of 710 square feet without air conditioning. The Kaohsiung court released all 11 suspects on bail ranging from NT\$30,000 (\$948) to NT\$100,000 (\$3,160), and the investigation continued as of November.

The Occupational Safety and Health Law sets health and safety standards. The law was amended in 2013 to expand coverage from workers in 15 categories to employees in all industries, better protect female workers and those under age 18, prevent overworking, impose higher safety standards on the petroleum and chemical industries, and impose higher fines for violations.

The Ministry of Labor increased the number of labor inspectors from 370 in 2015 to 437 as of the end of July, and also subsidized local authorities' hiring of 325 contract inspectors during the year. The number of labor inspections, including safety and health inspections and working term inspections, by MOL increased by 18 percent in the first half of 2016 compared with the same period in the previous year. NGOs and academics have stated that the number of inspectors and labor inspection rate were still too low to serve as an effective deterrent against labor violations and unsafe working conditions, although the Taiwan Confederation of Trade Unions said the situation had improved somewhat. Authorities can fine employers NT\$60,000 (\$1,896) to NT\$300,000 (\$9,480) and withdraw their hiring privileges for violations of the Occupational Safety and Health Law, and the law

mandates that the names of offending companies be broadcast to the public. Critics complained that violations continued and that MOL did not effectively enforce statutes and regulations intended to protect foreign laborers from unscrupulous brokers and employers.