

# TAIWAN 2019 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

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

Civilian authorities maintained effective control over the security forces. The National Police Agency (NPA), under the Ministry of Interior (MOI), maintains internal security. The NPA, the military services, and the Coast Guard Administration report to the premier, who is appointed by the president.

There were no reports of significant human rights abuses.

Authorities enforced laws prohibiting human rights abuses and prosecuted officials who committed them. 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 authorities or their agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

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

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

There were no significant reports of prison or detention center conditions that raised human rights concerns.

Physical Conditions: There were no major concerns about physical conditions or inmate abuse in prisons and detention centers.

Administration: Prison authorities investigated claims of inhuman 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 and relevant laws prohibit arbitrary arrest and detention, and provide for the right of defendants to challenge the lawfulness of their detention in court, and Taiwan authorities generally observed these requirements.

#### **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 may 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. Prosecutors may request pretrial detention in cases in which the potential sentence is five years or more and when there is a reasonable concern the suspect could flee, collude with other suspects or witnesses, or tamper with or destroy material evidence.

The law allows defendants and their lawyers access to case files and evidence while in pretrial detention. The law also stipulates defendants must be assisted by

a lawyer while in detention. For those who cannot afford to hire one, a public defender will be appointed. The law also specifies suspects may not be interrogated late at night.

The judicial branch (Judicial Yuan) and the NPA operated a program to provide legal counsel during initial police questioning of indigenous suspects, qualifying indigent suspects who have a mental disability, or persons 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 22 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; the new amendments mentioned above were designed to address such concerns about access to counsel. Authorities can detain a suspect without visitation rights, except for legal counsel, or hold a suspect under house arrest based on a prosecutor's recommendation and court decision. 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, and Taiwan authorities generally respected judicial independence and impartiality. Some political commentators and academics, however, publicly questioned the impartiality of judges and prosecutors involved in high profile, politically sensitive cases. Judicial reform advocates pressed for greater public accountability, reforms of the personnel system, and other procedural improvements.

In June the Legislative Yuan passed an amendment to the Judges Act, toughening disciplinary action against judges who have committed wrongdoing. Under the amendment, judges found guilty of corruption or dismissed from office in a disciplinary action, must return the salary received while they were suspended from duties during the investigation. In addition the amendment streamlined the process for evaluating judges and allowed individuals to apply for an evaluation of a judge's competence directly, instead of being required to have a civil organization do so on their behalf.

The judicial system included options, beyond appeal, for rectifying an injustice. In a high-profile retrial in August 2018, former convict Su Pin-kun, who was sentenced to 15 years in prison on robbery and attempted murder charges in 1987

and received a presidential pardon in 2000, cleared his name after a 32-year legal battle.

### **Trial Procedures**

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

By law when any authority arrests or detains a person without a court order, any person, including the arrestee or 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 NT\$100,000 (\$3,260).

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.

By law a suspect may not be compelled to testify or confess guilt and a confession may not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next two higher court levels. The law extends the above rights to all suspects and convicted persons.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

In May the Transitional Justice Commission unveiled the fourth list of exonerated victims of political persecution during the authoritarian era. Since the establishment of the Transitional Justice Commission in May 2018, 5,837 victims of political persecution have had their convictions overturned.

## **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, and there were no reports the government failed to respect these prohibitions.

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

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression.

Press and Media Freedom, Including Online Media: The independent media were active and expressed a wide variety of views without restriction. There were no reports authorities in Taiwan restricted media freedom.

Concerns about censorship were limited to efforts by the authorities in the People's Republic of China (PRC) to censor Taiwan media outlets based on the business interests of their parent companies in the PRC.

In May senior PRC officials used the fourth Beijing-Taiwan Media Forum to call on Taiwan media outlets to shape their coverage to promote PRC political priorities. Wang Yang, Chairman of the Chinese People's Political Consultative Conference, pressured Taiwan journalists to use their media platforms to advocate in favor of PRC policies such as the "1992 Consensus," "one country, two systems," and the "peaceful unification" of Taiwan and China. Wang also invoked the possibility of war if progress was not made toward these goals. Experts considered Wang's remarks to be the most open and direct case of a PRC official exerting pressure on Taiwan's media organizations to date. More than 200 representatives from 100 media organizations in Taiwan and China attended the

summit in Beijing, which was co-organized by the state-run Beijing Daily Group and Taiwan's Want Want Group.

In July the Want Want Group, which has substantial operations in the PRC, filed a criminal defamation lawsuit against a Taiwan-based journalist for the *Financial Times* in apparent retaliation for a report she authored exposing coordination between Want Want media outlets in Taiwan and the PRC Taiwan Affairs Office regarding the content of Want Want publications. The Want Want Group also filed suit against Taiwan's state-run Central News Agency for citing the *Financial Times* report in question, and further threatened to sue any other outlets that cite the *Financial Times* report. The *Financial Times* reporter suffered harassment on social media, by phone, and in person, including from Want Want Group reporters attempting to videotape her at private events without her permission. Want Want China Holdings, a subsidiary of Want Want China Times Group, also threatened in April to sue the *Apple Daily* for a report that claimed the Want Want Group received more than 477 million RMB (\$67 million) from PRC authorities between 2017 and 2018. Reporters without Borders called Want Want Group's legal action against the *Financial Times* correspondent an "abusive libel suit" against a seasoned journalist whose reporting was credible.

In May Taiwan's National Security Bureau also reported some local media outlets were receiving editorial instructions from Beijing.

Censorship or Content Restrictions: PRC authorities reinforced corporate pressure on media by using access denial to punish Taiwan media outlets whose coverage they deemed to be insufficiently consistent with PRC policies. One Taiwan commercial airline was reportedly pressured by PRC authorities to provide only newspapers containing favorable coverage of Chinese authorities on flights to and from China. Retaliatory tactics included denial of entry to China, heightened questioning and scrutiny during transits of Hong Kong, and targeted cyberattacks against journalists' mobile phones and computers. Journalists also reported difficulty publishing content in Taiwan that PRC authorities find politically objectionable because those authorities pressured Taiwan businesses with operations in China to cancel advertisements in Taiwan publications that feature such content.

Journalists said they faced pressure from management to submit news stories to complement or support the content of paid advertisements. Critics said product placement under the guise of news reporting undercut objective journalism, restricted journalists' freedom, and undermined public trust in the media.

## **Internet Freedom**

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

## **Academic Freedom and Cultural Events**

There were no restrictions on academic freedom or cultural events.

In August, in response to a 2018 controversy over the selection of the president of National Taiwan University, the Ministry of Education amended the election rules for presidents of public universities, requiring candidates to disclose past employment details that could pose a conflict of interest, and barring situations in which a candidate and a selection committee member have both served as board members at the same company.

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

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

## **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**

The constitution provides for freedoms of internal movement, foreign travel, emigration, and repatriation, and authorities generally respected these rights.

## **e. Internally Displaced Persons**

Not Applicable.

## **f. Protection of Refugees**

Access to Asylum: The law does not provide for granting asylum or refugee status, and authorities have not established a system for providing protection to refugees. Due to its unique political status, Taiwan is not eligible to become a party to the 1951 Convention Relating to the Status of Refugees.

All PRC citizens unlawfully present are required by law to be returned to the PRC, although Taiwan allows PRC asylum seekers to remain in Taiwan on a case-by-case basis, using the Act Governing Relations Between the People of the Taiwan Area and the Mainland Area, the Laws and Regulations Regarding Hong Kong and Macao Affairs, and the guidelines for residence application by Hong Kong and Macao citizens.

In July the National Immigration Agency granted PRC student Li Jiabao an extended six-month stay for study purposes in Taiwan. Li, an exchange student at Chia Nan University of Pharmacy and Science, requested in April a long-term stay permit on grounds of political asylum, after he openly criticized PRC President Xi Jinping on Twitter in March and his student visa expired in April.

In July the National Immigration Agency approved the request of a family of six, who were members of the Early Rain Covenant Church in Chengdu, China, and who had traveled to Taiwan to seek medical care, to extend their stay in Taiwan while they sought political asylum in another country. PRC authorities had recently raided the church, forcibly closed it, and imprisoned several of its key members, including its pastor.

Taiwan authorities provided medical treatment and humanitarian assistance to refugees and asylum seekers held in third countries. In June 2018 the Ministry of Foreign Affairs acknowledged Taiwan and Australia signed a memorandum of understanding in September 2017 allowing Australia to transfer refugees and asylum seekers in Nauru to Taiwan for urgent medical treatment. The ministry said the emergency treatments began in January 2018, and as of June 2018, Taiwan hospitals had treated 10 refugees from Nauru.

#### **g. Stateless Persons**

Not applicable.

### **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 2016. DPP candidate Tsai Ing-wen won the presidency, and her party obtained a majority in the legislature for the first time in Taiwan's history. In November 2018 Taiwan held local elections in which the opposition Kuomintang party won 15 of 22 mayoral and county magistrate seats. Observers regarded both elections as free and fair, although there were allegations of vote buying by candidates and supporters of both major political parties.

Political Parties and Political Participation: The Political Party Act promotes fair political competition and improved the regulation of party activities. The statute bans political parties from operating for profit businesses or investing in real estate for profit, and levies fines between NT\$5.0 million and NT\$25 million (\$163,000 and \$814,000) for violations. All political parties are required to complete legal person registration with the MOI before December 7 in accordance with the act.

The Legislative Yuan amended the Referendum Act in June to decouple referenda from national elections. Starting from 2021 referenda are to be held on the fourth Saturday of August every two years.

Participation of Women and Minorities: No laws limit the participation of women or members of minorities in the political process, and they did participate.

With her election in 2016, President Tsai Ing-wen became Taiwan's first female president. In the new legislature, a record 38 percent of lawmakers were women. A Cambodian-born woman became Taiwan's first immigrant legislator in 2016. Six seats are also reserved in the legislature for representatives chosen by Taiwan's indigenous people. In the November 2018 local elections, voters elected women to seven of the 22 mayoral and county magistrate seats. The number of women elected to local councils also continued to grow: women won 307 of the 912 city and county council seats--an increase from 30.7 percent in 2014 to 33.8 percent in 2018.

### **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. In the year to August, nine ranking officials, 72 mid-level, 115 low-level, and 11 elected people's deputies had been indicted for corruption.

Corruption: The MOJ 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 impeaching officials in cases of wrongdoing.

In December 2018 incumbent legislator Gao Jyh-peng of the DPP was convicted of corruption and sentenced to four years and six months in jail. In addition Gao was deprived of civil rights for four years, thereby losing his seat in the legislature. Gao filed for retrial and appeal, both of which were dismissed by the court in August.

Financial Disclosure: The law requires specific appointed and elected officials and candidates in national and local elections to disclose their income and assets to the Control Yuan, which makes the disclosures public. Those making false declarations with the intent to conceal properties are subject to a fine ranging from NT\$200,000 to NT\$4 million (\$6,510 to \$130,000). 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.

In May the Legislative Yuan amended the Act on Property Declaration by Public Servants, requiring central and local election commissions to make public on the internet property declarations by candidates for local and national elected office within 10 days of submission. The amendment also specified agencies that are responsible for imposing penalties should violations of the property declarations occur.

The law stipulates 18 categories of politically exposed persons (PEPs) subject to strict oversight for money laundering activities. The PEPs include the president, vice president, heads of the central and local governments, legislators, and leadership of state-owned enterprises, as well as family members and close associates of PEPs.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 and provides protection for rape survivors. Rape trials are not open to the public unless the victim consents. Amendments to the Sexual Assault Crime Prevention Act stipulate experts will assist in questioning and appear in court as witnesses when rape victims are minors or mentally disabled, and they authorize the use of one-way mirrors, video conferencing, or other practices to protect victims during questioning and at trial. The law permits a charge of rape even if the victim chooses not to press charges and allows prosecutors to investigate complaints of domestic violence even if the victim has not filed a formal complaint.

The law establishes the punishment for rape as a minimum of five years' imprisonment, and courts usually sentenced individuals convicted of rape to five to 10 years in prison. Courts typically sentenced individuals convicted in domestic violence cases to less than six months in prison.

In one prominent case, a man surnamed Wu was sentenced to 20 years in jail in May for sexually assaulting 10 minors and 12 women. Wu was given an additional jail sentence of 14 years after the prosecutors found there were another 17 victims.

Many victims did not report the crime for fear of social stigmatization, and various nongovernmental organizations (NGO) and academic studies estimated the total number of sexual assaults was seven to 10 times higher than the number reported to police. Some abused women chose not to report incidents to police due to social pressure not to disgrace their families.

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.

Sexual Harassment: The law prohibits sexual harassment (see section 7.d.). In most cases perpetrators were required to attend classes on gender equality and counseling sessions, and when the victims agreed, to apologize to the victims.

Incidents of sexual harassment were reportedly on the rise in public spaces, schools, the legislature, and in the government.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

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

## **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. Registration is not denied on a discriminatory basis.

Child Abuse: The law stipulates persons learning of cases of child abuse or neglect must notify police or welfare authorities. 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. In light of increasing numbers of child abuse cases in childcare centers, May 2018 amendments to the Early Childhood Education and Care Act imposed tougher punishments. Childcare center owners and teachers who physically abuse or sexually harass children may be fined between NT\$60,000 and NT\$500,000 (\$1,950 and \$16,300), and the names of perpetrators and their institutions will be made public. Owners who fail to verify the qualifications of teachers and other employees face a maximum fine of NT\$250,000 (\$8,140).

Children's rights advocates called on medical professionals to pay attention to rising numbers of infants and young children sent to hospitals with unusual injuries and to take the initiative to report suspected abuse to law enforcement while treating these children. Advocates also called attention to growing numbers of bullying, violence, and sexual assault cases at correctional institutions, while pointing out these facilities were usually understaffed, and their personnel were inadequately trained to counsel and manage teenage inmates.

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.

In May the Legislative Yuan amended Article 286 of the Criminal Code, raising the maximum age of children protected by the law from 16 to 18, and imposing tougher sanctions on abusers who cause the death of children, who could now face life sentences.

In January a girl aged one-and-a-half was beaten and starved to death by her aunt, surnamed Hsueh, and a man surnamed Lee. In August the court ruled Hsueh and Lee guilty of child homicide, sentencing both to life imprisonment and depriving them of civil rights for life.

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

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children and child pornography. November 2017 amendments to the Child and Youth Sexual Exploitation Prevention Act (CYSEPA) stipulate a perpetrator who films an underage person engaging in sexual intercourse or obscene acts or produces pictures, photographs, films, videotapes, compact discs, electronic signals, or other objects that show an underage person engaging in sexual intercourse or obscene acts, shall be subject to imprisonment for between one and seven years, and could face a maximum fine of NT\$1.0 million (\$32,600).

The minimum age for consensual sexual relations is 16 years. Persons who engage in sex with children younger than 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 older than 16 but younger than 18 face a maximum of one year in prison or hard labor or a maximum fine of NT\$3 million (\$97,700).

While authorities generally enforced the law domestically, elements of the law that treat possession of child pornography as a misdemeanor rather than a felony hampered enforcement in some cases. Authorities also did not investigate or prosecute any cases of child sexual exploitation committed by citizens while traveling abroad, although the law permits this.

In February 2018 police arrested two men in connection with an international child pornography distribution ring. Police uncovered mobile hard drives that contained an estimated 2,500 pornographic videos of minors, including infants. The suspects were charged with violating the CYSEPA and sentenced respectively to two months in jail, which can be commuted to a fine of NT\$60,000 (\$1,960), plus a two-year probation.

NGOs raised concerns about online sexual exploitation of children and reported sex offenders increasingly used cell phones, web cameras, live streaming, apps, and other new technologies to deceive and coerce underage girls and boys into sexual activity.

There were reports of minors 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

<https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The Jewish community was very small, estimated at 1,000 individuals who meet regularly, and consisted predominately of foreign residents. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report>.

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities and stipulates authorities must provide certain services and programs to persons with disabilities. Persons with disabilities have the right to vote and participate in civic affairs. Taiwan has incorporated the terms of the UN Convention on the Rights of Persons with Disabilities into its laws.

Authorities enacted and made efforts to implement laws and programs to provide access to buildings, information, and communications. NGOs contended the lack of barrier-free spaces and accessible transportation systems continued to limit civic engagement by persons with disabilities, particularly outside Taipei. In January the government released its annual assessment report on accessibility in public buildings and areas, listing Taipei City, New Taipei City, Kaohsiung City, and Nantou County as excellent. Chiayi County and Penghu County, the only two local governments that did not pass the assessment, were put on notice to make further improvements. The annual assessment results serve as a reference for the central government to allocate funding for the coming fiscal year.

Most children with disabilities attended mainstream schools, but separate primary, secondary, and vocational schools were also available for students with disabilities. NGOs asserted services for students with disabilities remained largely inadequate.

From mid-2018 until August, three cases were reported in Taipei City of residents opposing proposals to establish institutions for people with intellectual disabilities or mental illnesses in their neighborhoods, despite efforts by the Taipei Department of Social Welfare and relevant advocacy groups to hold several discussion sessions with neighbors. NGOs urged that, should the residents continue to block the projects, the authorities fine the residents in accordance with the penal provisions stipulated in the People with Disabilities Rights Protection Act.

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

As of June spouses born in Southeast Asian countries and the PRC accounted for more than 1 percent of the total population. Overseas spouses were reportedly targets of social discrimination outside and, at times, inside the home.

The Nationality Act allows non-PRC-born foreign spouses of Taiwan passport holders to apply for Taiwan residency after three years, while PRC-born spouses must wait six years. Unlike non-PRC spouses, however, PRC-born spouses may work in Taiwan immediately on arrival. The status and rights of PRC-born spouses are governed by the Act Governing Relations Between the People of the Taiwan Area and the Mainland Area.

Starting in August, seven Southeast Asian languages--Vietnamese, Indonesian, Thai, Burmese, Khmer, Malay, and Tagalog--were incorporated into the language curriculum in some elementary schools, reflecting the growing number of children

of partial Southeast Asian descent. As of June more than 150,000 second-generation students were enrolled in elementary, junior high, and senior high schools.

### **Indigenous People**

Authorities officially recognize 16 indigenous tribes, accounting for approximately 2.3 percent of the population. The law provides indigenous people equal civil and political rights and stipulates 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.

The law designates the languages of Taiwan's 16 indigenous tribes as national languages and entitles indigenous peoples to use their languages in official settings. As part of a pilot program, authorities in 2018 established a number of schools designed exclusively for indigenous children to ensure they grow up in their native cultural, including linguistic, environment.

In March 2018 the Legal Aid Foundation funded by the Judicial Yuan launched Taiwan's first indigenous legal service center in Hualian to provide legal assistance to indigenous persons.

Although the law allows for the delineation of government-owned traditional indigenous territories, indigenous rights advocates argued a large amount of indigenous land was seized and privatized decades ago, depriving indigenous communities of the right to participate in the development of these traditional territories.

Existing law stipulates authorities and the private sector should consult with indigenous people and obtain their consent to or participation in, as well as share with them the benefits of, land development, resource utilization, ecology conservation, and academic research in indigenous areas. There are, however, no regulations in place for obtaining this consent with respect to private land.

Indigenous people participated in decisions affecting their land through the political process. The law sets aside six of the 113 seats in the legislature for indigenous tribal representatives elected by indigenous voters. In addition to the six legislators, the Legislative Yuan as of August had one indigenous legislator elected on a proportional representation party list.



In July the Taipei High Administrative Court ruled in favor of the indigenous residents who protested the 2017 20-year renewal of permits for Asia Cement Corporation's mining operations near a Truku community in Hualien County. The Bureau of Mines renewed the permit without the consent of the Truku community. The court agreed with the plaintiffs the Bureau of Mines renewal of the permits violated Article 21 of the Indigenous Peoples' Basic Law, which requires governments or private parties to consult with and obtain consent from indigenous peoples in such cases.

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

The law stipulates employers cannot discriminate against job seekers based on sexual orientation and prohibits schools from discriminating against students based on their gender expression, gender identity, or sexual orientation.

In June 2018 the Control Yuan reprimanded the Ministry of Health and Welfare and the MOI for ignoring intersex persons and failing to protect their right to health. The Control Yuan pointed out parents may be pressured to allow intersex infants to undergo gender assignment surgery because of insufficient medical guidelines and pressure on parents to register their child's gender at birth. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons faced discrimination in accessing sensitive health services, and the Control Yuan found the lack of accessible care a violation of the principle of equality.

Activists for LGBTI rights said due to victims' reluctance to lodge formal complaints, discrimination against LGBTI persons was more widespread than suggested by the number of court cases. Reported instances of violence against LGBTI individuals were rare, and the police response was adequate.

In August the Taipei District Court ruled in favor of an LGBTI rights advocate surnamed Hu, who was denied a funeral subsidy in 2017 after the death of his same-sex partner Ho. The court deemed Hu and his partner as de facto legally married and therefore entitled to the spousal funeral subsidy.

### **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.).

## **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 law allows foreign workers to form and join unions and to serve as union officers. The law establishes three types of unions: enterprise unions, industrial unions, and professional unions. Enterprise unions are responsible for negotiating the immediate labor rights and entitlements of enterprise-level “collective agreements.” A minimum of 30 members is required to form an enterprise union; there may only be one union per enterprise. Employees in companies with fewer than 30 workers may only join a professional union or an industrial union to exercise their rights. This applied to approximately 78 percent of employees of small and medium sized enterprises. Industrial unions help to link workers in the same industry. Professional unions are geographically constrained within municipal boundaries.

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. 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. In May the Labor Standards Act was modified to provide job security measures to, and identify the liability of enterprises and dispatching agencies for, temporary workers, particularly the responsibility for occupational injury and the presumption of indefinite and nontransferrable contract.

The right to strike remained 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. For all workers, the law divides labor disputes into “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 related to violations of collective agreements and employment contracts.

The law requires mediation of labor disputes when authorities deem them sufficiently serious or involving unfair practices. Most labor disputes involved wage and severance issues. Local labor authorities were the usual venue to settle disputes by either mediation or arbitration, which is referred to as the alternative dispute resolution. Mediation, which accounted for 95 percent of all cases in 2018, provided a civil resolution and cost-effective way to reach a settlement, usually within 20 days. Arbitration, with legally binding obligations, generally took between 45 and 79 working days to finalize, which was often too lengthy for cases requiring urgent remedies. The law prohibits labor and management from conducting strikes or other acts of protest during conciliation or arbitration proceedings. Labor organizations said this prohibition impeded workers' ability to exercise their right to strike.

The Ministry of Labor oversees implementation and enforcement of labor laws, in coordination with local labor affairs bureaus. Authorities effectively enforced laws providing for the freedom of association and collective bargaining. A labor ministry arbitration committee reviewed cases of enterprises using discriminatory or improper action to repress union leaders and their activities, and authorities subjected violators to fines or restoration of employee's duties. Such fines, however, generally were not sufficient to deter violations, especially for financial sectors. Among 12 arbitrated cases with China Airlines as of October, six were appealed by the enterprise; two of them, with a restoration order, have yet to be complied with.

Large enterprises frequently made it more difficult for employees to organize an enterprise union by using such methods as blacklisting the union organizers from promotion or relocating them into other work divisions. These methods were particularly common in the technology sector. For example, there was only one enterprise union in the entire Hsinchu Science Park. With the exception of the banking industry, industrial unions were also underdeveloped.

Authorities encouraged collective bargaining agreements to provide better terms and conditions than the law stipulates. For example, the High-Speed Rail Trade Union successfully won back overtime payments through collective bargaining. The implementation of collective bargaining is still inconsistent. For example, after inspections, the Financial Supervisory Commission removed the chairpersons of certain financial holdings companies from their firms' independent salary review committees.

Professional unions have grown more influential in collective bargaining. For example, the Taoyuan pilots' professional union began a strike in February to win better safety provisions for pilots on "red-eye" routes. In August the Taoyuan flight attendants' professional union went on strike on behalf of EVA Air flight attendants, which became Taiwan's longest strike on record, lasting 17 days before reaching an agreement.

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

The law prohibits all forms of forced or compulsory labor. The law prescribes penalties for forced labor, and the government effectively enforced the law, but courts delivered light sentences or fines in most forced labor convictions. Such penalties were 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, 13 forced labor cases were opened, and a further five individuals were convicted in the first seven months of the year.

Labor laws do not cover domestic household workers, leaving them vulnerable to exploitation. Forced labor occurred primarily in the domestic service, fishing, farming, manufacturing, and construction sectors. 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 to subject the workers to debt bondage (see section 7.e.). Authorities ordered six brokers convicted of illegal activities in 2018 to close; however, there was no legal prohibition against reopening a business through a proxy that registers as a new company. In November 2018 the Employment Services Act was modified to require brokers to report to law enforcement authorities within 24 hours if they learn of an employer mistreating a foreign worker. Penalties were not sufficient to deter violations, although authorities sought to enforce the law.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

The law prohibits all the worst forms of child labor. The law prohibits work by children younger than 15 years without approval from appropriate authorities after an evaluation of the nature of the work to be performed, the working environment, and other factors. The law prohibits children younger than 18 from doing heavy or hazardous work. Working hours for children are limited to eight hours per day, and children may not work overtime or on night shifts.

Authorities effectively enforced minimum age laws. Employers who violate minimum age laws face a prison sentence, fines, or both, which was sufficient to deter violations.

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

The law prohibits discrimination with respect to employment and occupation. The law prohibits potential employers from requesting medical reports from job candidates to prove they do not have HIV or other communicable diseases. The law forbids termination of employment because of pregnancy or marriage.

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. Local labor affairs bureaus are empowered to intervene and investigate discrimination complaints. Authorities enforced decisions made by those committees. Employers can appeal rulings to the Ministry of Labor and the Administrative Court.

Latest available statistics showed that among the 201 sex discrimination cases reported in 2017, the majority involved forced resignations due to pregnancy. 141 sexual harassment cases and 118 unfair treatment or work equality cases were reported the same year. Scholars said these numbers significantly understated the problem due to workers' fear of retaliation from employers and difficulties in finding new employment if the worker has a history of making complaints.

Persons with "minor" disabilities who have not applied for proof of disability from the government are nonetheless protected against employment discrimination. The Ministry of Labor imposes fines of between NT\$300,000 and NT\$1.5 million (\$9,770 and \$48,900) on employers who discriminate against this category of disabled workers or job seekers.

The law requires 3 percent of the workforce in the public sector and 1 percent of the workforce in the private sector to be persons with disabilities. In 2018, 4.3

percent of the public sector workforce were persons with disabilities; the private sector continued to fall short of the regulated target. The unemployment rate for persons with disabilities was three times higher than that for persons without disabilities.

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

The minimum wage is above the poverty line. 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 household workers.

The law stipulates an eight-hour workday and 40-hour work week and allows up to 54 hours per month overtime. The mandatory rest interval for shift work is eight hours in certain sectors, provoking health and safety concerns. The permissible number of consecutive working days is 12 in two weeks. Employees in the “authorized special categories” approved by the Ministry of Labor 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, hospital workers, media journalists, and public transport drivers.

Religious leaders continued to raise concerns the law did not guarantee a day off for domestic workers and caregivers, which limited their ability to attend religious services. This problem was particularly salient among the 235,000 foreign caregivers and household workers, predominantly from Indonesia and the Philippines, many of whom are Muslim or Christian and want to, or believe they must, attend religious services on a certain day of the week.

The law sets occupational safety and health standards that are appropriate for the main industries in the country. Employers are not subject to criminal charges if an employee is involved in a fatal accident due to unsafe working conditions. The freight and passenger transportation industries saw higher than average accident rates among drivers working overtime. Their employers often sought to transfer legal liability from the company to the driver.

Labor inspections conducted by local governments and specified agencies are regulated by the labor inspection law; but due to relatively weak enforcement, labor inspections often failed to serve as an effective deterrent against labor law

violations and unsafe working conditions. Authorities can fine employers and withdraw their hiring privileges for violations of the law, and the law mandates publicizing the names of offending companies. The number of inspectors was not sufficient to deter violations.

The Ministry of Labor operated a Foreign Worker Direct Hire Service Center and an online platform to allow employers to hire foreign workers without using a broker. The Taiwan International Workers' Association maintained, however, that red tape in the system continued to enable brokers to extract profits from foreign workers and prevented the Service Center from achieving widespread implementation. Regulations require inspection and oversight of foreign labor brokerage companies.

The Ministry of Labor may also permit foreign workers to transfer to new employers in cases of exploitation or abuse. Authorities also introduced several measures to reduce such exploitation. For example, authorities eliminated the requirement that foreign workers leave Taiwan every three years between re-employment contracts.

Taiwan authorities maintained a 24-hour toll-free "1955" hotline service in five languages (Mandarin, English, Indonesian, Thai, and Vietnamese) available for all foreign workers to obtain free legal advice, request urgent relocation and protection, report abuse by employers, file complaints about delayed salary payments, and make general inquiries. All cases reported are registered in the system for law enforcement to track and intervene if necessary. Among the 187,338 calls, the hotline helped 5,162 foreign workers to reclaim a total of NT\$139 million (\$4.53 million) in salary payments in 2018. Foreign workers' associations maintained that in spite of the existence of the hotline and the authorities' record of effective response, foreign workers often were reluctant 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.

The approximately 703,000 foreign workers, primarily from Indonesia, the Philippines, Thailand, and Vietnam, were vulnerable to exploitation. Foreign workers generally incurred significant debt burdens during the recruitment process due to excessive brokerage fees, guarantee deposits, and higher charges for flights and accommodations. Brokerage agencies, for example, often required their clients to take out loans for "training" and other fees at local branches of Taiwan banks in their home countries at high interest rates. Abuse was common in

domestic service; there were several reports of employers raping foreign domestic helpers. In some instances, the victims were unable to leave until they paid off debts to employment brokers. Locally operated service centers, which briefed foreign workers on arrival, maintained a hotline for complaints and assistance and funded and operated shelters to protect abused workers. NGOs reported that the monthly take-home pay of some domestic workers was as low as 6.7 percent of the official poverty level.

Mistreatment and poor working conditions for foreign fishermen remained common. Foreign fishermen recruited offshore were not entitled to the same labor rights, wages, insurance, and pensions as those recruited locally. For example, the Control Yuan in 2018 issued a “correction verdict” to the Fisheries Agency and the Kaohsiung City Marine Bureau for their mismanagement and inaction when it became aware that the fishing vessel *Fuh Sheng 11* subjected its Indonesian crewmembers to inhuman treatment.

Regulations only require a minimum monthly wage of \$450 for foreign fishermen, significantly below the minimum wage on the island. Moreover, NGOs reported foreign fishing crews on Taiwan-flagged long-haul vessels generally received wages below \$450 per month because of dubious deductions for administrative fees and deposits. Several NGOs, including the Taiwan International Workers Association, advocated abolishing the separate hiring system for foreign fishermen. In response the Fisheries Agency dispatched officers to the United States, Samoa, Mauritius, Fiji, Palau, South Africa (Cape Town), and Marshall Islands to monitor labor conditions on Taiwan-flagged long-haul fishing vessels when they dock at these ports. These officers used a multilingual questionnaire to interview foreign fishermen and examine labor conditions on board.