

# TAIWAN 2020 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Taiwan is a democracy led by a president and parliament selected in multiparty elections. On January 11, voters re-elected President Tsai Ing-wen of the Democratic Progressive Party to another four-year term in an election considered free and fair.

Civilian authorities maintained effective control over the security forces. The National Police Agency, under the Ministry of Interior, maintains internal security. The police, military services, Agency of Corrections, and Coast Guard Administration report to the premier, who is appointed by the president. Members of the security forces committed some abuses.

Significant human rights issues included: the existence of criminal libel laws and serious acts of corruption.

Authorities enforced laws prohibiting human rights abuses and prosecuted officials who committed them, including incumbent and former legislators involved in a high-profile bribery case. 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 Taiwan 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. There were no reports of impunity in the security forces.

## **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 in prisons and detention centers regarding physical conditions or inmate abuse.

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.

In August, two prison officers surnamed Lee and Chiu were sentenced to 10.5 years and nine years in jail, respectively, for complicity in abuses in October 2019 that led to the death of an inmate.

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 the 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 a suspect. 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 National Police Agency 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, 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, Legal Aid Foundation officials remind police of their obligation to notify suspects of the existence of such counseling. 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 the 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.

The judicial system included options beyond appeal for rectifying an injustice. In a high-profile retrial in May, the death sentence for Hsieh Chih-hung, detained since 2000 for murder and rape, was overturned by the High Court's Tainan branch due to insufficient evidence after the Taipei High Prosecutors' Office petitioned for a retrial, citing new evidence of Hsieh's innocence.

## **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 modest fine.

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 July the Transitional Justice Commission, responsible for the investigation of human rights abuses under the Kuomintang regime between 1945 and 1992, unveiled the fifth list of exonerated victims of political persecution during the authoritarian era. Since the 2018 establishment of the commission, 5,861 victims of political persecution have had their convictions overturned. In February the commission published a report on their investigation of the 1981 death of political dissident Chen Wen-chen, declaring he was most likely killed by security agents.

## **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 authorities 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 Taiwan authorities generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression.

Freedom of Speech: In February the High Court overruled the September 2019 acquittal of a man, Chia-yu Lee, and found him guilty of inciting individuals to burn the Republic of China flag. The lower court had acquitted him on the grounds that his act was a form of constitutionally protected speech.

The law most cited to curb the spread of disinformation was the Law for Maintaining Social Order, which authorities have used to limit or question speech to combat misinformation. For example, in December 2019 police questioned a political science professor for potential violations of this law arising from a video (deemed misleading by authorities) that he posted in 2018 on Facebook criticizing the administration's policy on the National Palace Museum. Courts ruled in January that the comments constituted protected free speech. In July, two opposition Tainan City councilors were referred to the court for potentially violating that law, after publicly claiming that counterfeit versions of stimulus vouchers were being circulated. In September the Tainan district court concluded that the councilors' comments fell within the scope of free speech and upheld its ruling that no punishment would be issued, rejecting police claims that the city councilors "spread rumors to disrupt public order."

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

In September the Ministry of Health and Welfare cancelled new regulations that barred media from placing suicide-related articles on front pages, the use of sensational headlines in suicide cases, and the use of photographs of suicides or the inclusion of hyperlinks to such images, as well as repetitive reporting of suicide-related news.

Censorship or Content Restrictions: Officials in the People's Republic of China (PRC) influenced Taiwan media outlets through pressure on the business interests of their parent companies in the PRC. Taiwan journalists reported difficulty publishing content critical of the PRC, alleging that PRC authorities had pressured Taiwan businesses with operations in China to refrain from advertising with Taiwan media outlets which published such material. To punish Taiwan media outlets deemed too critical of PRC policies or actions, the PRC would subject their journalists to heightened scrutiny at Chinese ports of entry or deny them entry to China. PRC actors also targeted the computers and mobile phones of Taiwan journalists for cyberattacks.

In January a new law criminalized receiving direction or funding from prohibited Chinese sources to conduct political activities, with sentences up to five years imprisonment and substantial fines. In response to the passage of this law, Master Chain, a Taiwan-based media group also operating in China, announced plans to suspend its Taiwan operations. Opposition politicians and some media outlets criticized these provisions as overly broad and potentially detrimental to freedom of expression, including for the press.

On November 18, Taiwan's National Communications Commission (NCC) declined to renew the license of CTi News, the first nonrenewal of a news channel license since the NCC's establishment in 2006. The independent regulatory agency noted CTi News' repeated violations of broadcasting regulations for which the channel was fined 23 times for a total of 11.5 million New Taiwan (NT) dollars (\$390,000) over the past six years. The NCC also cited CTi News' failure to implement internal control and self-regulation reforms designed to remedy problems noted during its 2014 license renewal process. Opposition politicians and some academics and commentators claimed NCC's decision not to renew the license was politically motivated retaliation for CTi News' criticism of the ruling

party. On the other hand, there have been serious allegations that CTi News and its sister publications owned by the Want Want Group took editorial direction from the PRC. CTi News challenged the NCC's decision in administrative court but ceased broadcasting when its operating permit expired on December 11.

Libel/Slander Laws: Defamation and public humiliation are criminal offenses. Reporters faced online bullying and the threat of legal action, particularly under the liberal libel laws.

Under the law those who commit the offense of slander or libel by “pointing out or disseminating a fact which will injure the reputation of another” are subject to a sentence of up to two years or a fine. Victims of slander can also claim reasonable financial compensation and require measures for the rehabilitation of their reputations. These provisions allow the subjects of unfavorable press coverage to press criminal and civil charges directly against journalists and media outlets for defamation. Journalists were rarely convicted for criminal defamation, as the law also specifies that a person who makes “fair comment on a fact subject to public criticism” with “bona-fide intent...shall not be punished.” Some legal scholars and nongovernmental organizations (NGO) continued to urge that libel be treated exclusively as a civil matter.

In July 2019 the Want Want Group, which has substantial operations in the PRC, filed a criminal defamation lawsuit against Taiwan-based *Financial Times* journalist Kathrin Hille in apparent retaliation for a report she authored exposing coordination between Want Want media outlets in Taiwan and the PRC Taiwan Affairs Office. Want Want also filed suit against Taiwan's state-run Central News Agency for citing the *Financial Times* report. Reporters without Borders called Want Want Group's legal action an “abusive libel suit” against a journalist whose reporting was credible. These lawsuits remained pending.

## **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**

Academic freedom is generally well protected. Some observers said that universities have sought to prevent or restrict speech related to the PRC.

In May a Chung Yuan Christian University professor surnamed Chao accused the university of interfering with academic freedom to appease Chinese students. The professor alleged the university pressured him to apologize for saying that the novel coronavirus likely originated in Wuhan and for identifying himself as “a professor from the Republic of China.”

There were no restrictions on cultural events.

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

The constitution provides for the freedoms of peaceful assembly and association, and Taiwan authorities 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.

In response to the COVID-19 pandemic, authorities imposed border control restrictions. In August the Central Epidemic Command Center barred entry by children of Chinese spouses older than age six, including by those with a valid Taiwan residency permit.

### **e. Status and Treatment of 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.

On July 1, the Taiwan-Hong Kong Office for Exchanges and Services under the Mainland Affairs Council began to provide humanitarian assistance to Hong Kong permanent residents.

In April Lam Wing-kee of Hong Kong received legal employment status. In April 2019 Lam, former owner of Causeway Bay Books in Hong Kong, relocated to Taiwan, citing concern that he could be extradited from Hong Kong to the PRC under Hong Kong's proposed extradition bill.

In July Li Jiabao, a former PRC exchange student, reported he no longer had legal status in Taiwan and was facing deportation to the PRC. In March 2019 Li openly criticized PRC president Xi Jinping on Twitter, and in April 2019 he requested a long-term stay permit on political grounds. His student visa expired in April 2019 but in July 2019 the National Immigration Agency granted him a special six-month visa extension for study purposes.

### **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: In January 11 presidential and legislative elections, President Tsai Ing-wen won re-election and her party, the Democratic Progressive Party, maintained a majority in the legislature. Observers regarded the elections as free and fair, although there were allegations of vote buying by candidates and supporters of both major political parties.

Participation of Women and Members of Minority Groups: No laws limit the participation of women or members of minority groups in the political process, and they did participate.

President Tsai Ing-wen is Taiwan's first female president. Following January 11 elections, a record 42 percent of lawmakers were women, an increase from 38

percent in 2016, although less than 3 percent of the cabinet were women. Six seats are reserved in the legislature for representatives chosen by Taiwan's indigenous people. In 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 with 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 May, nine high-ranking officials, 59 mid-level, 75 low-level, and 18 elected people's deputies had been indicted for corruption.

Corruption: The Ministry of Justice and its 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, an independent investigative and auditing agency, is responsible for impeaching officials in cases of wrongdoing.

In January the Supreme Court upheld a guilty verdict for bribery against former minister of transportation and communications Kuo Yao-chi, who was sentenced to eight years in prison. Kuo was initially found innocent in two trials by the Taipei district court in 2009 and 2010, before being found guilty in a retrial by the High Court in 2011.

In September the Taipei District Prosecutors Office charged incumbent legislators Su Chen-ching of the Democratic Progressive Party, Liao Kuo-tung and Chen Chao-ming of the Kuomintang, and former New Power Party legislator Hsu Yung-ming with accepting bribes to assist a businessman in regaining control of the ownership of a department store chain. In addition independent legislator Chao Cheng-yu was indicted in a separate bribery case involving two funeral services companies and a plot of land in a national park. These cases were pending trial.

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 modest to substantial fines. 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.

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

### **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.

In August the Control Yuan established the National Human Rights Commission in charge of investigating abuses and discrimination, reviewing national human rights policies, publishing annual national human rights status reports, and promoting human rights in collaboration with domestic civil society and international NGOs.

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

#### **Women**

Rape and Domestic Violence: The law criminalizes rape of women and men, including spousal rape, and domestic violence, and provides protection for rape survivors. Rape trials are not open to the public unless the victim consents. The law allows experts to assist in questioning and appear in court as witnesses when rape victims are minors or have mental disabilities, and authorizes 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, in August a man surnamed Su was sentenced to 12 years in prison for sexually assaulting a woman.

Many victims did not report the crime for fear of social stigmatization, and NGOs 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.

In May the Constitutional Court issued an interpretation decriminalizing adultery. Activists lauded the ruling, asserting the laws had been used to pressure victims of sexual assault to refrain from filing charges.

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. In 2019 a total of 408 fines were issued, up from 287 fines in 2018, with a combined total of seven million New Taiwan dollars (\$238,000), a 40 percent increase from the previous year.

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

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

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

Gender-biased Sex Selection: The law prohibits sex selection and sex-selective abortion, except for diagnoses of sex-linked inheritance disorders. Even for embryos created via assisted reproductive technology, the fetal sex may not be revealed in any form unless medically required. According to National Health Administration statistics, the ratio of males-to-females for a first child born in 2019 was 1.07. A 2019 survey found 32 percent of respondents preferred a female baby, and 31 percent a male baby. Authorities worked with local health bureaus to monitor the sex ratio at birth and continued to promote gender equality.

## 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 child abuse or neglect must notify police or welfare authorities. An official 24-hour hotline accepted complaints and offered counseling. Courts are required to appoint guardians for children of parents deemed unfit. Childcare center owners and teachers who physically abuse or sexually harass children may be fined, and the names of perpetrators and their institutions will be made public. Owners who fail to verify the qualifications of teachers and other employees may be fined.

Children's rights advocates called on medical professionals to pay attention to 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 bullying, violence, and sexual assault cases at correctional institutions, while pointing out these facilities were often understaffed and that 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 August a couple surnamed Chiu and Wang were convicted of beating their two-year-old son to death in November 2019. They were sentenced to 15 years and eight years and four months in jail, respectively. In June a man surnamed Chang was sentenced to nine years and 10 months in jail for sexual abuse of three minors.

Child, 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. Under law 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, is subject to imprisonment for between one and seven years, and could face a substantial fine.

The minimum age for consensual sexual relations is 16. Persons who engage in sex with children younger than 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 older than 16 but younger than 18 face a maximum of one year in prison or hard labor or a substantial fine.

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 March a man surnamed Chen was sentenced to two years and two months in jail for distributing intimate photos of a 13-year-old girl through social media, in addition to an earlier sentence of eight years and six months for sexual assault against the same minor.

NGOs raised concerns regarding 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; the NGOs called for increased prosecutions and heavier penalties.

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, predominately 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.

Authorities 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. The Accessible Living Environment Supervisory Task Force under the Ministry of the Interior is responsible for monitoring efforts by local governments to improve the accessibility of public buildings. Authorities release an annual assessment on accessibility in public buildings and areas that serves as a reference for central government budget allocation.

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.

## **Members of National/Racial/Ethnic Minority Groups**

As of December 2019, spouses born in Southeast Asian countries and the PRC accounted for more than 2.2 percent of the total population. Overseas spouses were reportedly targets of social discrimination or abuse outside and, at times, inside the home.

The law 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 2019, 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 September more than 153,000 second-generation students were enrolled in elementary and junior high schools.

In February the Taiwan Railways Administration imposed a ban on sitting on the floor of the main hall of the Taipei Main Station, a public venue frequently used by foreign migrant workers to socialize, citing social distancing guidelines for the COVID-19 pandemic. After facing criticism from migrant worker rights groups, restrictions were lifted in July.

### **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 the 16 indigenous tribes as national languages and entitles indigenous peoples to use their languages in official settings. In February a foundation was launched to research, preserve, and support the use of indigenous languages. In a program begun in 2018, a total of 32 schools representing 10 ethnic groups were engaged in indigenous experimental education.

The Legal Aid Foundation operated a center in Hualian to provide legal assistance to indigenous persons.

Although the law allows for the delineation of government-owned traditional indigenous territories, some 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 August the Transitional Justice Commission exonerated Voyue Tosku, an indigenous Tsou tribesman, and Liao Li-chuan, sentenced in 1954 to 17 and 10 years in jail, respectively, for alleged involvement in a treason case during the martial law era. This was the first exoneration by the Transitional Justice Commission of members of indigenous tribes.

In November 2019 authorities announced NT\$2.55 billion (\$83.6 million) in compensation to residents on outlying Orchid Island, home to the indigenous Tao community, for the operation of a nuclear waste storage facility on the island over the past five decades without their consent. Local community representatives rejected the proposed compensation, reiterating demands that the nuclear waste be removed or relocated.

In June the Asia Cement Corporation announced it would initiate consultations with the local community aimed at achieving a settlement for the continuation of mining operations in Hualien County. The action followed a July 2019 Taipei high administrative court ruling in favor of indigenous Truku residents who protested the renewal of permits for the corporation's mining operations near their community. The Bureau of Mines renewed the permit without the consent of the Truku community, which the court ruled violated legal requirements for governments or private parties to consult with and obtain consent from indigenous peoples in such cases.

### **Acts of Violence, Criminalization, 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.

Activists for lesbian, gay, bisexual, transgender, and intersex (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 police response was adequate.

In September several LGBTI advocacy and parents' groups voiced support for, while other non-LGBTI groups protested against, the Ministry of Education's selection of a children's book featuring a same-sex couple for elementary-school readers.

### **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 or 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 prohibits discrimination, dismissal, or other unfair treatment of workers for union-related activities and requires reinstatement of workers fired for legal 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.

The Labor Incident Act, which entered into force in January, clearly defines labor disputes and establishes special labor courts in the judicial system to handle all labor cases, including collective disputes involving a union.

According to the law, there are three types of unions: enterprise unions, industrial unions, and professional unions. Enterprise unions must have 30 members to form and 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. Industrial unions link workers in the same industry. Professional unions must be within the geographic boundaries of local administrative divisions; membership across boundaries is prohibited.

The right to strike remained highly restricted. 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. Workers are allowed to strike only in “adjustment” disputes which include issues such as compensation and working schedules. The law forbids strikes related to rights guaranteed under the law.

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 often settle disputes through mediation or arbitration. Mediation usually resolved most cases within 20 days. Legally binding arbitration generally took between 45 and 79 working days. The law prohibits strikes or other acts of protest during conciliation or arbitration proceedings. Labor organizations stated this prohibition impeded workers’ ability to exercise their right to strike.

Through July the economic impact of COVID-19 increased labor dispute cases by 15 percent, particularly related to wage disputes and improper dismissals.

The Ministry of Labor oversees implementation and enforcement of labor laws in coordination with local labor affairs authorities. Authorities effectively enforced laws providing for the freedom of association and collective bargaining. Ministry arbitration committees reviewed cases of antiunion activities, and authorities subjected violators to fines or restoration of employee’s duties. Such fines were not commensurate with those for other laws involving denials of civil rights.

Large enterprises frequently made it difficult for employees to organize an enterprise union through methods such as blacklisting union organizers from promotion or relocating them to other work divisions. These methods were particularly common in the technology sector. There was only one enterprise union among the 520 companies in Hsinchu Science Park, where more than 150,000 employees work. The authorities provide financial incentives to enterprise unions to encourage negotiation of “collective agreements” with employers that detail their employees’ immediate labor rights and entitlements.

## **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 authorities effectively enforced the law, but courts delivered light sentences or fines in most forced labor convictions. Such penalties were not commensurate with those for analogous serious crimes, such as kidnapping. Authorities can terminate brokers' business operations but did not do so as of October. There is no legal prohibition against reopening a business through a proxy that registers as a new company.

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. Forced labor occurred primarily in sectors reliant on migrant workers including domestic services, fishing, farming, manufacturing, meat processing, and construction. 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.).

Migrant fishermen reported senior crewmembers employ coercive tactics such as threats of physical violence, beatings, withholding of food and water, retention of identity documents, wage deductions, and noncontractual compulsory sharing of vessel operational costs to retain their labor. These abuses were particularly prevalent in Taiwan's large distant-waters fishing fleet, which operated without adequate oversight (see section 7.e.).

The Employment Services Act requires labor brokers to report mistreatment such as withholding identification documents, restrictions on access to dorms or residences, and excessive work hours violating the general work conditions of foreign workers to law enforcement authorities within 24 hours. Penalties for not doing so include small fines. The Employment Services Act introduced a new article to prohibit brokers from specific acts against migrant workers, including sexual assault, human trafficking, or forced labor with penalties including modest fines and possible criminal charges.

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 provides a minimum age for employment of 15, but has an exception for work by children younger than 15 if they have completed junior high school and the appropriate authorities have determined the work will not harm the child's mental and physical health. 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. The law prohibits all the worst forms of child labor.

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, fines, or both, which were not commensurate with those of analogous serious crimes, such as kidnapping.

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

The law prohibits discrimination with respect to employment and occupation on the basis of race, religion, national origin, color, sex, ethnicity, disability, age, and sexual orientation. 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. The law does not restrict women's working hours, occupations, or tasks. The authorities effectively enforced the law and penalties were commensurate to laws related to civil rights, such as election interference.

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 complaints of employment discrimination. Authorities enforced decisions made by those committees. Employers can appeal rulings to the Ministry of Labor and the administrative court.

The majority of sex discrimination cases reported in 2019 were forced resignations due to pregnancies. Scholars said sex discrimination remained significantly underreported due to workers' fear of retaliation from employers and difficulties in finding new employment if the worker has a history of making complaints. According to a 2018 survey by the Ministry of Finance, the median monthly income for women was, on average, 87.5 percent of the amount their male counterparts earned.

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 2019, 4.3 percent of the public-sector workforce consisted of persons with disabilities; the private sector continued to fall short of the target. Companies with more than 67 employees failing to meet the target are potentially liable for small fines.

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

The Ministry of Labor's Basic Wage Committee sets a minimum wage that is adjusted annually. The minimum wage does not cover workers in categories not covered by the law, such as management employees, medical doctors and other healthcare workers, gardeners, bodyguards, self-employed lawyers, civil servants, contractors for local authorities, and domestic household workers. The minimum wage is above the Ministry of Health and Welfare's poverty level, although foreign fishermen on vessels operating outside Taiwan's territorial seas earned significantly below the national minimum wage, and NGOs reported that the monthly take-home pay of some domestic workers was as low as 6.7 percent below the official poverty level. Enacted in January, the Labor Incident Act clarified that employers, not workers, bear the burden of proof in wage and hour disputes.

Regular working hours are eight hours per day and 40 hours per week, with overtime limited to 54 hours per month. The law requires a mandatory rest interval for shift work of eight hours or longer in certain sectors and limits the number of working days to 12 days in a two-week period.

The Ministry of Labor is responsible for enforcing the labor laws in conjunction with the labor agencies of local governments. Employees in "authorized special categories" approved by the Ministry of Labor are exempt from regular working hours stipulated in the law. These include security guards, flight attendants, insurance salespersons, real estate agents, media journalists, public transport drivers, domestic workers, and caregivers. Penalties are not commensurate with those for similar crimes, such as fraud. The ministry effectively enforced its minimum wage and overtime laws.

To respond to concerns from religious leaders that the law did not guarantee a day off for many of the 220,000 foreign caregivers and household workers who wished to attend religious services on a certain day of the week, in September 2019 authorities introduced a "respite care service" to provide substitute caregivers on a per-day basis. Ministry of Labor statistics show employers utilized 23,882 respite-care days in 2019.

The law provides for occupational safety and health standards that are appropriate for the main industries in the economy. A May 2019 Labor Standards Act amendment prescribes to enterprise and dispatching agencies responsibility for occupational injury of temporary workers. The authorities effectively enforced occupational safety and health standards. Workers can remove themselves from a situation that endangers their health and safety and report to their supervisor without jeopardizing their employment. Employers, however, can terminate the employment contract if they can prove the worker abused the right to suspend work and the competent authority has affirmed the employer was in compliance. Employers are subject to civil but not criminal charges when their employees are involved in fatal accidents due to unsafe working conditions. Penalties for violations of occupational safety and health standards were commensurate with those for crimes like negligence. The freight and passenger transportation industries saw higher than average accident rates among drivers working overtime. Their employers often tried to make drivers rather than the companies liable for any accidents.

There were an insufficient number of inspectors for the number of workplaces to be inspected, despite the recruitment of additional 325 inspectors in 2019. Inspectors have the authority to make unannounced inspections. Authorities can fine employers and revoke their hiring privileges for violations of the law, and the law mandates publicizing the names of offending companies. Employers found to be in violation of labor laws during an inspection are not eligible for certain tax reductions or grants.

More than 700,000 foreign workers were employed, primarily from Indonesia, Vietnam, the Philippines, and Thailand; most were recruited through a labor broker. The Ministry of Labor is required to inspect and oversee the brokerage companies to ensure compliance. The ministry also operates a Foreign Worker Direct Hire Service Center and an online platform to allow employers to hire foreign workers without using a broker. Foreign workers may change employers in cases of exploitation or abuse.

The Taiwan International Workers' Association complained, however, that bureaucratic red tape continued to enable brokers to extract profits from foreign workers and prevented the service center from being used more widely.

The Ministry of Labor maintained a 24-hour toll-free "1955" hotline service in six languages (Mandarin, English, Indonesian, Thai, Tagalog, and Vietnamese) where

foreign workers can obtain free legal advice, request urgent relocation and protection, report abuse by employers, file complaints about delayed salary payments, and make other inquiries. All reporting cases are registered in a centralized database for law enforcement to track and intervene if necessary. Among the 186,014 calls in 2019, the hotline helped 5,322 foreign workers to reclaim a total of NT\$179 million (\$5.97 million) in salary payments.

Foreign workers' associations maintained that, in spite of the existence of the hotline and authorities' effective response record, foreign workers were often reluctant to report employer abuses for fear the employer would terminate their contract, subjecting them to possible deportation and leaving them unable to pay off their debt to recruiters.

Foreign workers generally faced exploitation and incurred significant debt burdens during the recruitment process due to excessive brokerage fees, guarantee deposits, and higher charges for flights and accommodations. Brokerage agencies often required workers to take out loans for "training" and other fees at local branches of Taiwan banks in their home countries at high interest rates, leaving them vulnerable to debt bondage. NGOs suggested the authorities should seek further international cooperation with labor-sending countries, particularly on oversight of transnational labor brokers.

Foreign fishermen were commonly subjected to mistreatment and poor working conditions. Domestic labor laws only apply to fishermen working on vessels operating within Taiwan's territorial waters. Fishermen working on Taiwan-flagged vessels operating beyond Taiwan's territorial waters (Taiwan's distant-waters fishing fleet) were not afforded the same labor rights, wages, insurance, and pensions as those recruited to work within Taiwan's territorial waters. For example, regulations only require a minimum monthly wage of \$450 for these foreign fishermen in the distant water fleet, significantly below the domestic minimum wage. NGOs reported that foreign fishing crews in Taiwan's distant-waters fishing fleet generally received wages below the required \$450 per month because of dubious deductions for administrative fees and deposits.

Several NGOs, including Greenpeace and the Taiwan International Workers Association, advocated for the abolishment of this separate employment system, under which an estimated 35,000 migrant workers are employed in Taiwan's distant-waters fishing fleet. The majority of these fishermen are recruited overseas, mostly from Indonesia and the Philippines. The United Kingdom-registered Environmental Justice Foundation conducted a survey between August

2018 and November 2019 and interviewed 71 Indonesian fishermen who had worked on 62 Taiwanese vessels. The results suggested that 24 percent of foreign fishermen suffered violent physical abuse; 92 percent experienced unlawful wage withholding; 82 percent worked overtime excessively. There were also reports fishing crew members could face hunger and dehydration and have been prevented from leaving their vessels or terminating their employment contracts.

The Fisheries Agency has officers in American Samoa, Mauritius, Fiji, Palau, South Africa, and the Marshall Islands since 2007 as well as inspectors in some domestic ports to monitor and inspect docked Taiwan-flagged long-haul fishing vessels. These Taiwan officials used a multilingual questionnaire to interview foreign fishermen and examine their labor conditions on board. The Fisheries Agency acknowledged they need further capacity building as they can currently conduct labor inspections of only 400 vessels per year.