Response of

the Republic of China (Taiwan)

to the US Country Reports on Human

Rights Practices for 2014

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Taipei, Republic of China (Taiwan)

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  c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment- Revision of the Code of Court Martial Procedure
- **Competent authority: Judicial Yuan**

Amendments to Articles 1, 34, and 237 of the Code of Court Martial Procedure were promulgated by the president on August 13, 2013. The amendments, implemented in two stages, transferred jurisdiction of military cases to the civilian court system for prosecution and punishment in accordance with the Code of Criminal Procedure. In order to allow civilian courts to take jurisdiction over and try military cases at an appropriate pace, protect human rights, ensure military discipline, and assure that national defense needs are met, the Judicial Yuan established specialized courts for military cases, formulated guidelines on the transfer of military cases by the Military Court, and enhanced on-the-job training programs for judges at specialized courts for military cases. These measures set a new milestone for human rights in the military judicial system.

- **No. 2**
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- **Competent authority: Ministry of Justice**

Regarding the matter of "the Constitutional law prohibiting the use of violence, threat, bribe, or other unscrupulous means against the accused," the Constitution of ROC not only defines the pertaining human rights concepts but also specifies in related criminal laws prohibiting government personnel from using violence, threat, bribe, torture or other unscrupulous means against a suspect in a crime or other individual detained under government authority. Military officials are also forbidden from using the aforementioned means and torturing their subordinates. Violators of this prohibition shall be subject to criminal prosecution.

- **No. 3**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
- **Competent authority: Ministry of Justice**

The foreign delegates intending to visit prisons shall file an application with the Agency of Corrections of the Ministry of Justice, and upon approval of which, an observation tour may be arranged.

- **No. 4**
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  c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment-Regarding the "Ministry of Justice official statistics indicating that as of November 30, a total of 119 individuals died either in the course of serving their sentence or during pretrial detention"
- **Competent authority: Ministry of Justice**

1. Implementation of the 2nd Generation NHI enabled correctional institutions to sign retainer agreements with NHI-accredited hospitals for the dispatch of doctors to correctional institutions to provide outpatient diagnostic services. Moreover, under the provisions of Article 58 of the Prison Act and the Medical Treatment Management Regulations for NHI Insured Parties Incarcerated in Correctional Institutions, a correctional institution inmate falling ill, incurring injury, or bearing a child shall first receive medical treatment within the correctional institution; time and location of treatment shall be subject to the discretion of the correctional institution. Where the correctional institution is unable to provide proper medical treatment or examination (tests), or where the inmate requires urgent medical treatment, upon the approval of the correctional institution, the inmate may be escorted to an NHI-accredited medical service institution for treatment. The choice of the NHI accredited medical institution and duration of an inmate's escorted medical treatment in the medical institution shall be subject to the discretion of the correctional institution following an evaluation of the inmate's treatment requirements and security management requirements. The matter

is not the decision of the inmate. Where the correctional institution is unable to provide proper medical treatment, the inmate's health circumstances shall be evaluated and reported to the jurisdictional supervisory body so that permission may be sought for the inmate's transfer to a prison hospital or regular hospital, or released for medical treatment.

2. Therefore, implementation of 2nd Generation NHI enables a correctional institution inmate to receive the same quality of medical treatment and service as the average citizen; however, in light of the limitations of contemporary medical technology and standards, consequences of aging, illness, and death remain inevitable.

- **No. 5**
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  c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment-Regarding the "statistics as of November 30 placing the total correctional institution inmate population to be 63,947 adult inmates consisting of 58,404 men and 5,543 women and 532 minor inmates consisting of 508 boys ad 24 girls, and that, correctional institutions now run on an occupancy of 125% of their original design capacity"
- **Competent authority: Ministry of Justice**

To alleviate overpopulation, the Ministry of Justice implemented new rules concerning transferred treatment (such as deferred prosecution, commutation of sentence to community service, probation or penalty sentences, and commutation of prison time to a fine) within the "front door" of the prosecutorial and judicial system and the "back door" of the correctional system. Moreover, the Agency of Corrections also presented a paper "Alleviation Policy for Correctional Institutions with Overcapacity – A Report on the Agency of Corrections Ten-Year Plan for the Improvement of Correctional Institutions" in which was assessed the capacity requirements, types of prison inmates, degree of difficulty with physical expansion, public reaction, and feasibility of plans for property and the provision of new correctional institution space through extension, additional expansion, reconstruction, or relocation of prison institutions. Projects currently underway include the expansion of Taipei Prison and Ilan Prison, and the reconstruction of Second Tainan Prison and Ba-de Minimum Security Prison. The completion of these projects will allow for the accommodation of 4,024 additional inmates, reducing overall overcapacity to

around 7.04%.

- **No. 6**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Competent authority: Ministry of Justice

Regarding the circumstances of former president Chen Shui-bian which continues to receive a high degree of attention from politicians and human rights advocates in Taiwan and abroad, concern has been focused on the incarceration environment of the former president and on appealing to the Taiwan authorities to give serious consideration to the question of the continually deteriorating health of the former president and grant him medical parole.

1. Regarding the granting of medical parole to former president Chen Shui-bian:

1.1 Article 3 of the Medical Treatment Management Regulations for NHI Insured Parties Incarcerated in Correctional Institutions states that a correctional institution inmate falling ill, being injured, or bearing a child shall first receive medical treatment within the correctional institution; time and location of treatment shall be subject to the discretion of the correctional institution. Whereas Article 58 of the Prison Act dictates that should an inmate fall ill and the correctional institution be unable to provide proper medical treatment, the inmate's health circumstances shall be evaluated and reported on to the jurisdictional supervisory body for that body to consider granting medical parole or for the inmate's transfer to a

prison hospital or a regular hospital. This matter should be stated for clarity.

1.2 Regarding the granting of medical parole to former president Chen Shui-bian, following the assessment of the Augmented Medical Review Committee and a comprehensive comparative study of the former president's medical condition before and after incarceration, it had been deemed that his health had indeed deteriorated which qualified him for release under the grounds that the institution was unable to provide proper medical treatment as defined in Article 58 of the Prison Act; thus, on January 5, 2015, the former president was granted a one-month release to enable him to seek proper medical treatment.

2. Furthermore, in the period that former president Chen Shui-bian was granted for medical parole, Taichung Prison sent a representative to visit Chen and evaluate his health condition. The representative likewise perused the assessment report of the medical team of Kaohsiung Chang Gung Memorial Hospital and deemed that Chen's health condition qualified him under the "institution is unable to provide proper medical treatment" condition defined in Article 58 of the Prison Act and the "disease is complicated and difficult to control and thus the inmate is at risk of losing his/her life at any time" defined in Proviso 5 of the Reference Standard for the Evaluation of Bail for Medical Treatment Applications of the Agency of Corrections. In light of which, the period of Chen's release was extended to three months and has been extended three times, the last of which is scheduled to expire on November 4, 2015. Taichung Prison

continued to send a representative inspector during the period of extended release to prepare reports that shall serve as the basis of the termination or continued extension of Chen's release period.

- **No. 7**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment-Regarding the comment that "the privilege granted by competent authorities enabling inmates or detainees to address appeal letters to the Prison Complaint Committee which consists of the prison warden, ethics affairs officer, and independent individuals. An inmate may also submit an appeal letter to the justice authorities without inspection; however, in practice, all incoming and outgoing correspondences of prison inmates are subject to inspection"
- **Competent authority: Ministry of Justice**

1. Correctional institutions are required to install suggestion boxes around institution premises; that is, at least one box per ward or worksite, and this is to be a private site convenient for inmates to confidentially submit their appeal letters; for instance, in the bathroom of a worksite. The suggestion box should be designed to be opaque, making it impossible to view the contents from the outside, and to have a lock. The suggestion box shall be opened at least once a week by an officer with a rank of secretary or higher. All interactions with said suggestion box are to be logged in a record book to enable tracking of letter processing procedure, thereby fostering the smooth processing of appeals.
2. The respective correctional institutions shall organize an appeal processing committee. Information should be disseminated to inmates regarding their right to submit the appeal within 10 days of the effective date that they wish to contest a decision or penalty. The appeals procedure shall include the following: appeal processing log, meeting minutes, delivery of a written

notification of evaluation results to inmate, inmate acceptance record log, and submission of processing report to the supervisory body.

3. Pursuant to Article 66 of the Prison Act, “Officers of prisons are in charge of inspecting inmates' correspondence. If the contents are suspected of violating prison regulations, the inmate must explain the infringing contents. Mail will be posted after the offending portion is removed. A similar procedure shall apply to incoming mail.” The current procedure limits correspondence to that between inmates and relatives and friends, and are aimed at allowing inmates to maintain relationships. In the case of appeal letters, reports of violations, or litigation appeals, no content deletion shall be ordered to ensure that inmates are able to thoroughly express their appeals or describe events under appeal, thereby protecting their rights.

- **No. 8**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment-Regarding the "deprivation of visitation rights to certain detainees under the strength of court orders while cases of these detainees are undergoing investigation"
- **Competent authority: Ministry of Justice**

Article 105 of the Code of Criminal Procedures addresses this issue:

1. A detained accused may be placed under restraint only if such restraint is necessary to accomplish the purpose of the detention or to maintain order in the location of said detention.
2. An accused may opt to consume food and use basic necessities he/she has prepared and may also receive visitors, Correspondence, and the sending and receiving of books or other objects, is permitted; however the ward may censor or examine such objects.
3. If a court determines that receiving visitors and the exchange of mail or objects as specified in the preceding paragraph are suspicious and may foster the escape of the accused or the destruction, forgery, or alteration of evidence or a conspiracy with a co-offender or witness, the court may, upon the petition of the public prosecutor, prohibit meetings or exchanges, or seize exchanged items. However, where circumstances are pressing, the public prosecutor or the detention house may take necessary actions and immediately report the matter to the court concerned for its approval.
4. The object, scope, and duration of the prohibition or seizure instituted in

accordance with the provisions of the preceding paragraph shall be subject to the discretion of the public prosecutor while the case is under investigation or of the presiding judge or commissioned judge during the trial. Moreover, said parties may instruct the enforcement of which at a detention center. However, said measures shall not constrict the right of the accused to a proper defense.

5. No restraint shall be placed upon the body of an accused in the absence of facts showing that the accused is prone to violent behavior, escape, or suicide. Restraint may be implemented under pressing circumstances and the order of a detention center warden. The matter shall then be immediately reported to a court for approval.

- **No. 9**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment-Regarding the provision that "where an inmate shall file an accusation of inhumane treatment, the prison authorities shall initiate an investigation of said accusation and submit a report of the investigation results to the justice authorities".
- **Competent authority: Ministry of Justice**

1. Matter may be released to the public on an as-needed basis. The authorities shall investigate and monitor circumstances in the relevant correctional institution or detention center.
2. Regarding cases involving an inmate's report or accusation of improper administrative measures or actions of correctional institution authorities, the correctional institution shall conduct a thorough investigation and register the case for a follow-through of subsequent case developments. Where the sectional inspector tour of the Agency of Corrections shall discover that the institution has committed improper acts or acted according to procedures outside those provided by law, the pertinent authority shall immediately assess and demand improvement of the circumstances. The Agency of Corrections may, depending on the gravity of the circumstances, appoint a representative to conduct an investigation. Moreover, to prevent public misperceptions or erroneous press reports, the agency may, upon requirement of circumstances, release press reports in clarification thereof.

- **No. 10**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  d. Arbitrary Arrest or Detention- Arrest Procedures and Treatment during Detention
- **Competent authority: Judicial Yuan**

1. According to Paragraph 5 of Article 31 of the Code of Criminal Procedure, if an accused or suspect is unable to make a complete statement due to mental disability or other mental deficiency, or is an indigenous person, and has not retained a defense attorney during the investigation process, then the public prosecutor, judicial police officer, or judicial policeman shall notify a legally established legal aid organization to assign an attorney for his/her defense. Notification should be given immediately during the police interrogation and investigation process. According to Subparagraph 3 of Paragraph 1 of Article 95 of the Code of Criminal Procedure, if an accused or suspect is from a low- or mid-income household, or is an indigenous person or of any other status that makes him or her legally eligible to request legal assistance, he or she should be informed that he or she may seek legal aid during the police interrogation and investigation process. Taiwan's Code of Criminal Procedure protects the right to counsel for legally disadvantaged people, including those who are also economically disadvantaged, thereby protecting their rights and interests in litigations.
2. Mandatory legal representation during the first interrogation at a prosecutor's office or police station

2.1 The Legal Aid Foundation launched a pilot scheme on September 17, 2007, to provide the services of a defense attorney to individuals for their first interrogation at prosecutor's offices or police stations in cases where said individuals are charged with a crime punishable by three or more years in prison, detained or arrested by a criminal investigation agency, or requested to appear for questioning without a subpoena or notice.

2.2 In order to protect people's rights and interests, Article 1 of the newly revised Legal Aids Act promulgated on July 1, 2015, stipulates that legal aid will be provided to those who are indigent and those who are not protected by law for other reasons. Therefore, defendants may request legal aid if they meet the conditions prescribed in Subparagraph 1 of Paragraph 4 of Article 5 of the Legal Aids Act, that is, they are on trial for a crime that is punishable by three or more years in prison or that is adjudicated by the high court as the court of first instance, and they have not retained a defense attorney at the first interrogation during investigation or during trial. Those who meet these conditions may apply for legal aid without a review of their financial status.

3. Legal aid for the mentally disabled

3.1 According to Subparagraph 2 of Paragraph 4 of Article 5 of the Legal Aids Act, those who have impairments or deficiencies in their nervous system as well as psychological and mental functions, are unable to make a complete statement, and have not retained a defense attorney during investigation or trial, are eligible for legal aid. They may apply for legal aid without a review of their financial status. To protect the rights and interests of such persons

who do not have a legal representative to file a legal aid application on their behalf, Paragraph 2 of Article 17 of the Legal Aids Act was revised to allow a welfare institution for the physically and psychologically disabled to do so.

4. Legal aid for indigenous people

4.1 The Legal Aid Foundation launched a program on July 15, 2012, to provide the services of a defense attorney to indigenous persons for their first interrogation at prosecutor's offices or police stations. In accordance with revised Article 31 of the Code of Criminal Procedure that took effect on January 25, 2013, if an indigenous suspect has not retained a defense attorney during the investigation process, the prosecutor's office or police station should, as per legal procedures, notify the Legal Aid Foundation to assign a defense attorney as soon as possible to accompany him or her in the interrogation and assist the attorney in handling the suspect's defense.

4.2 According to Subparagraph 2 of Paragraph 4 of Article 5 of the Legal Aids Act, an accused or suspect can request legal aid if he or she an indigenous person and has not retained a defense attorney during investigation or trial. Those who meet these conditions may apply for legal aid without a review of their financial status.

- **No. 11**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  d. Arbitrary Arrest or Detention-Arrest and Detention Procedure
- **Competent authority: Ministry of Justice**

Under the Code of Criminal Procedure, a summons will be issued for the appearance of the accused. If the accused fails to obey such order without a legitimate reason, an arrest warrant will follow. However, if the accused is strongly suspected of having committed an offense and if one of the following circumstances exists, the accused may be arrested pursuant to a warrant without a summons having been served: (I) The accused has no fixed domicile or residence; (II) the accused has absconded or there are facts sufficient to justify apprehensions that he/she may abscond; (III) there are facts sufficient to justify apprehension that he may destroy, forge, or alter evidence, or conspire with a co-offender or witness; or (IV) the accused is suspected of having committed an offense punishable by the death penalty or life imprisonment, or by a minimum punishment of a term of imprisonment of no less than five years. Should an urgent situation arise, the accused may be arrested without a summons having been served if all statutory requirements have been met. After the public prosecutor has examined the accused under arrest, with or without a warrant, the prosecutor may apply for a detention order from the competent court within 24 hours of the time the accused is arrested. The accused may file a motion for a writ of habeas corpus to be granted by the competent court. The procedure is prudently construed for the protection of human rights.

- **No. 12**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  d. Arbitrary Arrest or Detention
- **Competent authority: Ministry of Justice**

1. Regarding the comment that “by law prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. Authorities generally observed these procedures, and trials usually took place within three months of indictment. Prosecutors may apply to a court for approval of pretrial detention of an unindicted suspect for a maximum of two months, with one possible two-month extension. Courts may request pretrial detention in cases in which the potential sentence is five years or more and when there is a reasonable concern that the suspect could flee, collude with other suspects or witnesses, or tamper or destroy material evidence”

1.1. An application to detain a suspect during an investigation may be submitted by the prosecutor to a judge. However, if detention is considered unnecessary after the prosecutor has interrogated the suspect, the prosecutor may order release on bail, hand him or her over to a surety, or set limits on his or her residence. None of these options require an application to a court.

1.2. No restrictions may be set on communication and correspondence between a defense attorney and a defendant or suspect under arrest during an investigation. However, there are limits on the number and scheduling of visits.

1.3. In principle, a defense attorney may visit and correspond with a detained defendant during an investigation. Nevertheless, if there is sufficient evidence that a defense attorney may destroy, fabricate, or alter evidence, or conspire with codefendants or witnesses, the prosecutor may apply for a court order to restrict a defense attorney's visits and correspondence with the defendant.

2. Regarding the comment that "the law does not specify what lawyers could or should do to protect the rights of indigent criminal suspects during initial police questioning"

   Paragraph 4 of Article 31 and Subparagraph 3 of Paragraph 1 of Article 95 of the Code of Criminal Procedure clearly state that an indigent criminal suspect, when being interrogated by police or prosecutors, must be informed that he or she may request a public attorney through legal aid.

- **No. 13**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**

  d. Arbitrary Arrest or Detention—regarding the comment that "Taiwan has not enacted a refugee law or revised its law to process asylum seekers"
- **Competent authority: Ministry of the Interior (National Immigration Agency)**

1. Promotion of the refugee act

1.1. Progress of the refugee act draft: The refugee act draft was adopted on the first reading in the Legislative Yuan on April 6, 2012, and is currently still being reviewed.

1.2. Standard operating procedures (SOPs) for handling refugee issues: Since the refugee act draft has not yet been passed by the Legislative Yuan, we are not able to establish SOPs to handle refugee issues due to the absence of a relevant legal framework.

2. Political asylum

Since the legislative process of the refugee act draft has not yet been completed, Taiwan is not able to recognize the refugee status of foreign nationals and stateless persons. Asylum seekers from mainland China are dealt with in accordance with the Act Governing Relations between the People of the Taiwan Area and the Mainland Area. On February 5, 2014, the Executive Yuan decided to grant permanent residency to nine asylum seekers from mainland China who applied for asylum between 2005 and 2010. Eight people have already submitted applications.

- **No. 14**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**

  e. Denial of Fair Public Trial –Regarding "some political commentators and academics also publicly questioned the impartiality of judges and prosecutors involved in high-profile and politically sensitive cases.
- **Competent authority: Judicial Yuan**

Article 86 of the Court Organization Act requires trial proceedings to be held and verdicts announced in public except in cases where national security, public order, or social mores may be undermined and the court decides that the trial ought to be closed to the public. Article 80 of the ROC Constitution stipulates that judges shall be above partisanship and shall, in accordance with law, hold trials and reach verdicts independently, free from any interference. In order to ensure that judges can hold trials and reach verdicts independently without influence from political parties and to increase people's trust in the judiciary, Article 15 of the Judges Act stipulates that judges should not participate in any political party or organization or their related activities, and should withdraw from any political party or organization they have joined prior to their appointment. Article 17 of the Code of Conduct for Judges further stipulates that a judge should not, in pending cases, make any public statement that might reasonably be expected to affect the outcome of such proceeding or impair the fairness of the process. Taiwan has a clearly defined code of conduct for judges to ensure that trials are conducted with impartiality.

- **No. 15**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  e. Denial of Fair Public Trial -Trial procedures
- **Competent authority: Judicial Yuan**

A newly amended Habeas Corpus Act was promulgated on January 8, 2014. It took effect on July 8 of the same year, and not in June as stated in the 2014 US Country Report on Human Rights Practices. Under this new law, any person who is arrested or detained, whether or not he or she is a criminal suspect, may petition for habeas corpus and prompt relief.

- **No. 16**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  e. Denial of Fair Public Trial
- **Competent authority: Ministry of Justice**

1. Regarding the comment on “double standards in trying two corruption cases involving the former minister of transportation and communications, Kuo Yao-chi, who worked with the DPP administration, and President Ma Ying-jeou’s former secretary-general, Lin Yi-shih”

1.1 Kuo Yao-chi was convicted of bribery by a court of third instance. In the Lin Yi-shih case, the court of first instance did not convict the defendant of extortion and abuse of public power as stipulated in the Anti-Corruption Act. Instead, it convicted him based on stipulations in the Criminal Code on abuse of public power, the acquisition of benefits through intimidation, and unclear sources of property. However, the prosecutor submitted an appeal in this case, which is currently being reviewed by a court of second instance. No final verdict has been issued.

1.2 Both cases were brought by prosecutors and dealt with by competent courts through public trials. The Ministry of Justice respects all judicial decisions rendered in these cases.

2. Regarding the comment that “a district prosecutor dropped a criminal investigation of influence-peddling charges against Wang [Jin-pyng], reportedly due to insufficient evidence”

It has been a longstanding principle of the Ministry of Justice that it does not

intervene in, interfere with, or offer guidance in individual cases. It ensures that subordinate prosecutorial agencies closely adhere to the law, meticulously observe due process, fairly enforce the law, and handle cases based on available evidence. The ministry respects the authority and decisions of prosecutors. In accordance with the aforementioned principle, it has not interfered in this particular case.

- **No. 17**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**

  e. Denial of Fair Public Trial—regarding the comment that "two committees composed of judges, prosecutors, legal experts, and opinion leaders accepted complaints from individuals or civic groups about judges and prosecutors suspected of abuse of office, violating laws and/or regulations, or inappropriate conduct"
- **Competent authority: Judicial Yuan, Ministry of Justice**

1. Under the evaluation mechanism for judges implemented on January 6, 2012, a judge who has seriously violated the Code of Conduct for Judges or is guilty of intentional or serious misconduct resulting in a serious violation or error in a case under trial and thus seriously damaging people's rights and interests; or who has committed serious misconduct, may be referred to the Judicial Evaluation Committee. If the allegations are found to be true and it is deemed necessary to discipline the persons involved, the Committee shall report the case to the Judicial Yuan, which will then forward it to the Control Yuan for investigation. Should a judge be impeached by the Control Yuan, he or she will have his or her case sent to the Court of the Judiciary for evaluation. Those who are confirmed by concrete evidence to be unfit to serve by the Court of the Judiciary will be dismissed or suspended from their posts. This new method provides for comprehensive oversight of judges, holds them to account, and increases people's trust in the judiciary.
2. On July 6, 2012, the Judicial Yuan established the Court of the Judiciary in accordance with Article 47 of the Judges Act and entrusted it with the responsibility of reviewing disciplinary cases involving judges and

prosecutors. As of December 31, 2014, the Court of the Judiciary had handled 15 cases involving 7 judges and 10 prosecutors, and taken disciplinary action against 6 judges and 5 prosecutors. In April 2014, a prosecutor was given an 18-month suspension from office for insulting and intimidating a defendant in a case he was handling. In the same month, a judge was demoted one grade for carelessness in writing a verdict that harmed the interest of the parties involved. In November 2013, the Court of the Judiciary ruled that a prosecutor be dismissed from office and should not be reappointed for five years, for abuse of power in a case involving the import of prohibited drugs.

3. Since the evaluation mechanism for prosecutors was established, six prosecutors—not two as mentioned in the report—have been disciplined by an internal tribunal of the Judicial Yuan after cases had been referred by the Prosecutorial Evaluation Committee. The prosecutor mentioned in as having been suspended for 18 months was, in fact, subject to a suspension without pay for one year and six months.
4. The report also mentions a case in which a prosecutor was suspended for a period of five years. In fact, the said case was not submitted to the Prosecutorial Evaluation Committee, but processed internally by the Ministry of Justice. According to the final verdict of the internal tribunal of the Judicial Yuan, the prosecutor was suspended and not allowed to resume any position for a period of five years.
5. With regard to criticism by civic groups who say that the Prosecutorial Evaluation Committee has shown a lack of action and employs defective

procedures, the Prosecutorial Evaluation Committee conducts its work based on the Judges Act and relevant regulations on the evaluation of prosecutors. The committee meets at least once a month and attentively reviews cases submitted to it.

- **No. 18**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**

  e. Denial of Fair Public Trial—regarding the comment that "persons sentenced to terms of imprisonment of three years or more may appeal beyond that level"
- **Competent authority: Ministry of Justice**

All convicted persons may appeal to the next court level. According to Articles 375 and 376 of the Code of Criminal Procedure, all cases may be appealed to the highest court, unless the convicted person has committed an offense that carries a maximum punishment of imprisonment of no more than three years, detention, or fine; an offense of larceny specified in Articles 320 and 321 of the Criminal Code; an offense of embezzlement specified in Article 325 and Paragraph 2 of Article 336; an offense of fraud specified in Articles 339 and 341; an offense of breach of trust specified in Article 342; an offense of extortion specified in Article 346; or an offense of illegally obtained property specified in Paragraph 2 of Article 349.

- **No. 19**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**

  f. Arbitrary Interference with Privacy, Family, Home, or Correspondence—regarding the comment that "after the KMT attempted in 2013 to revoke Legislative Yuan Speaker Wang Jin-pyng's party membership based on information obtained from a wiretapped conversation . . . , some legal scholars and politicians alleged that the Ma administration had illegally wiretapped sitting legislators for political reasons"
- **Competent authority: Ministry of Justice**

1. There was absolutely no illegal wiretapping of sitting legislators in this case; only a minor mistake was made.

   Since assuming office in 2008, President Ma Ying-jeou has sternly demanded that law enforcement agencies eradicate the practice of illegal wiretapping, and that any violation be subject to punishment according to the law. President Ma does not have the authority to instruct prosecutorial agencies, and has never ordered prosecutorial agencies to wiretap legislators. As for suspicions that the legislature had been the target of wiretapping operations, a special investigation team was established by the Ministry of Justice on October 1, 2013, composed of outside experts such as lawyers, criminal law professors, and human rights advocates, as well as internal personnel such as prosecutors and anti-corruption investigators. The investigation team released a report on October 11, 2013, stating that warrants had been issued by judges for all wiretapping operations, and that no illegal activity had taken place in related procedures. Prosecutors did not intend to wiretap the phones of the Legislative Yuan, but due to lack of

double-checking mistook the number of the switchboard of the Legislative Yuan for the number of a suspect. This mistake was purely a case of administrative oversight. Taiwan does not exploit the authority of prosecutorial agencies for political purposes, and has not targeted the Legislative Yuan in wiretapping operations.

2. There was no intention in this case to revoke the party membership of the President of the Legislative Yuan based on intelligence gained through wiretapping.

   The case occurred because, during an investigation by the Special Investigation Division concerning corruption among judges at the Taiwan High Court in 2010, prosecutors happened to listen to a wiretapped conversation in which a legislator of the main opposition party attempted to persuade the President of the Legislative Yuan to offer assistance in a court case involving the opposition legislator. The case was not related to conflicts between political parties. Based on the findings in this case, the KMT revoked the party membership of the President of the Legislative Yuan for disciplinary reasons. Since the emergence of this case, the government has continued to operate normally in accordance with the Constitution and the law. Indeed, it has diligently safeguarded judicial independence in the spirit of the separation of powers stipulated in the Constitution. No specific individuals have been politically targeted.

➢ Response to Section 2. Respect for Civil Liberties

- **No. 20**
- **Section 2. Respect for Civil Liberties**
  a. Freedom of Speech and Press—regarding comments on "concentration of media ownership" and the "planned acquisition of cable network China Network Systems"
- **Competent authority: National Communications Commission**

1. In 2013, the National Communications Commission (NCC) began promoting the draft for the media monopolization prevention and diversity preservation act, which deals primarily with broadcasting, television, and cross-media mergers. The draft act sets standards that have to be met before applications can be submitted to the NCC for mergers. The draft act is currently still being reviewed in the Legislative Yuan. Due to conflicting views, further consultations will be held on disputed parts of the draft act.
2. In 2012, the NCC gave permission to Want Want China Broadband to indirectly invest in KeeLung CATV Co., Ltd. and 10 other cable companies in a multilayered manner, provided that three additional conditions were met. Subsequently, these three conditions were not met, and the NCC withheld approval. The applicant filed an administrative appeal, but later abandoned its planned acquisition and retracted its appeal.

- **No. 21**
- **Section 2. Respect for Civil Liberties**
  a. Freedom of Speech and Press—regarding the comment that "local media have reported incidents of police obstruction and violence directed at journalists who were covering protests against administration policies"
- **Competent authority: Ministry of the Interior (National Police Agency)**

Police agencies respect freedom of the press, cooperate with representatives of the press when they are covering events, and ensure their safety. To prevent public disorder or illegal activities during large-scale gatherings and protests, the police may escort reporters from the scene when necessary. The National Police Agency has requested that all police agencies be mindful of freedom of the press, ensure reporters' safety when conducting operations during large-scale events, and continue to improve related procedures.

- **No. 22**
- **Section 2. Respect for Civil Liberties**
  b. Freedom of Peaceful Assembly and Association—regarding the comment that "on March 23, protesters occupied the Executive Yuan. Police forcibly evicted them the next day using batons and water cannon"
- **Competent authority: Ministry of the Interior (National Police Agency)**

1. The Executive Yuan is highest administrative institution in Taiwan, and plays a critical role in ensuring national stability and maintaining administrative operations. To protect constitutional order and safeguard social stability, the National Police Agency (NPA), in accordance with the law, tried to persuade protestors to leave, remove them individually, and forcibly expel them as a group.
2. However, numerous police officers and citizens were injured when people interfered with police operations. The NPA expressed deep regret over these events, and started proceedings based on related evidence, which have moved to the courts. The NPA reiterates that the freedom of speech should be based on the rule of law and that the public interest—i.e., national security and social stability—should be taken into consideration as well.
3. This is the central spirit of the freedom of speech as stipulated by the ROC Constitution, as well as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

- **No. 23**
- **Section 2. Respect for Civil Liberties**
  d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons—regarding the comment that "the law does not provide for the granting of asylum or refugee status, and the authorities have not established a system for providing protection to refugees"
- **Competent authority: Ministry of the Interior (National Immigration Agency)**

1. Promotion of the refugee act

1.1. Progress of the refugee act draft: The refugee act draft was adopted on the first reading in the Legislative Yuan on April 6, 2012, and is currently still being reviewed.

1.2. Standard operating procedures (SOPs) for handling refugee issues: Since the refugee act draft has not yet been passed by the Legislative Yuan, we are not able to establish SOPs to handle refugee issues due to the absence of a relevant legal framework.

2. Political asylum

Since the legislative process of the refugee act draft has not yet been completed, Taiwan is not able to recognize the refugee status of foreign nationals and stateless persons. Asylum seekers from mainland China are dealt with in accordance with the Act Governing Relations between the People of the Taiwan Area and the Mainland Area. On February 5, 2014, the Executive Yuan decided to grant permanent residency to nine asylum seekers from mainland China who applied for asylum between 1995 and 2010. Eight people have already submitted applications.

➢ Response to Section 4. Corruption and Lack of Transparency in Government

- **No. 24**
- **Section 4. Corruption and Lack of Transparency in Government**
  Corruption—regarding the comment that "some legal scholars and politicians alleged that the Ministry of Justice was not sufficiently independent, claiming that ministry authorities conducted politically motivated investigations of politicians"
- **Competent authority: Ministry of Justice**

1. These allegations are unfounded. The Ministry of Justice and its subordinate agencies carry out their duties in accordance with the law, without political intervention or interference. The Taipei District Prosecutor Office decided not to prosecute anyone in the aforementioned case of alleged abuse of power and wiretapping. Nevertheless, some people have continued to defame prosecutorial authorities merely based on their own suspicions. The Ministry of Justice and the Supreme Prosecutors Office have denounced these baseless accusations on numerous occasions.
2. Huang Shih-ming's case of alleged disclosure of confidential information, Chen Yu-chen's case of alleged corruption, Yeh Shih-wen's case of allegedly taking bribes, and former president Chen Shui-bian's case of alleged money laundering constituted separate and individual probes. In accordance with its longstanding principles, the Ministry of Justice has not intervened in, interfered with, or offered guidance in these cases. The ministry respects the authority and decisions of prosecutors and abides by judicial verdicts. It has never investigated politicians for political reasons.

- **No. 25**
- **Section 4. Corruption and Lack of Transparency in Government** Financial Disclosure—regarding the comment that "those failing to declare property are subject to a fine ranging from NT$200,000 ($6,500) to NT$4 million ($129,000) and can be punished with a prison term of no more than one year for repeatedly failing to comply with the requirement"
- **Competent authority: Ministry of Justice**

1. According to Paragraph 1 of Article 12 of the Act on Property Declaration by Public Servants (hereinafter the "Act"), public servants who are required to declare their property but make false statements with the intention of concealment, shall be subject to a fine ranging from NT$200,000 to NT$4 million. The fine referred to in the report is a criminal fine, different from the fine stipulated in the Act, which is an administrative fine.
2. Furthermore, public servants who are required to declare their property but fail to do so within the prescribed time limit without a justifiable reason or intentionally make false declarations shall be subject to a fine ranging from NT$60,000 to NT$1.2 million. According to Paragraphs 3 and 4 of Article 12 of the Act, public servants who are required to declare their property, have already been penalized in accordance with the preceding sentence, and notified by the competent authorities to declare their property or make corrections, but still fail to comply by the prescribed deadline, shall be subject to a prison term of no more than one year, detention, or an additional criminal fine ranging from NT$100,000 to NT$500,000.
3. Based on the above, the following would be an appropriate rephrasing of the

report's comment: "Those who fail to declare their property can be subject to an administrative fine ranging from NT$60,000 to NT$1.2 million. Those who, after having being penalized and notified by the competent authorities to declare their property or make corrections, still fail to comply before the prescribed deadline without justifiable reason, shall be subject to a prison term of no more than one year."

- **Response to Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

- **No. 26**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons** Women
- **Competent authority: Judicial Yuan**

1. The Judicial Yuan has held focus-group meetings attended by judges, prosecutors, attorneys, academics, and related civic organizations to discuss sentencing guidelines for offenses against sexual autonomy, homicides, and bodily injury resulting in death. The guidelines aim to bring sentences handed down by judges more in line with social fairness, justice, and expectations.
2. The term "domestic violence offense" refers to the intentional perpetration of domestic violence by one family member against another that constitutes an offense defined in any law other than the Domestic Violence Prevention Act. This broadens the scope of the offense. The Judicial Yuan has set up a database for sentences handed down on domestic violence offenses that the public is concerned about—including offenses against sexual autonomy, homicides, bodily injury, and bodily injury resulting in death. It has provided judges with sentencing guidelines based on sentencing factors determined by the relationship between perpetrator and victim.
3. The Judicial Yuan has held focus-group meetings attended by judges, prosecutors, attorneys, and academics to discuss aggravating and mitigating factors in sentencing for domestic violence offenses and the crimes

mentioned in Articles 31 and 32 of the Human Trafficking Prevention Act. Information on these factors has been provided to judges for reference.

- **No. 27**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Women—regarding the comment that "the total number of sexual assaults was seven to 10 times the number reported to police."
- **Competent authority: Ministry of the Interior (National Police Agency)**

According to statistics from the Ministry of Health and Welfare (MOHW), the number of reported sexual assault cases in 2014 was 14,229. The number of sexual assault cases reported to the police was 3,787, of which 3,644 cases were solved, representing a clearance rate of 96.22%. One of the main reasons for the gap in the number of reported cases is that the Sexual Assault Crime Prevention Act stipulates that social workers, police officers, health personnel, and teachers are required to report suspected cases of sexual assault. In practice, the same case is often reported more than once. Current computer systems are still unable to properly reflect this phenomenon, leading to the discrepancy in numbers. The MOHW is convening meetings to solve this problem. In addition, in some cases of sexual assault, an indictment can only be issued when the victim files a complaint. However, victims sometimes are unwilling to enter judicial proceedings and file a complaint, as a result of which follow-up investigations cannot be conducted.

- **No. 28**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Women—regarding the comment that "the law establishes the punishment for rape as not less than five years' imprisonment, and courts usually gave persons convicted of rape prison sentences of five to 10 years."
- **Competent authority: Ministry of Justice**

In accordance with Article 221 of the Criminal Code, the crime of forced sexual intercourse shall be punished by imprisonment of no less than three years and no more than 10 years. Judges are encouraged to review the facts of each case and issue corresponding sentences while remaining in strict compliance with the law. The report's statement that "the law establishes the punishment for rape as not less than five years' imprisonment" is therefore incorrect.

- **No. 29**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons** Women—Rape and Domestic Violence
- **Competent authority: Ministry of Health and Welfare (Department of Protective Services)**

1. Regarding the comment that "the Taiwan Coalition against Violence criticized both central and local authorities for reducing budgets for the prevention of domestic violence during the year":

1.1. To respond to the increasing number of reported victims in domestic violence and sexual assault cases each year, and to enhance prevention efforts, the provisions of Article 6 of the Domestic Violence Prevention Act were amended and promulgated on February 4, 2015. According to this amendment, the central competent authority shall set up a special fund, with the Executive Yuan responsible for management and operational regulations. Sources for this fund will be (a) appropriation from government budgets; (b) penalties in deferred prosecution; (c) plea bargain fees; (d) interest income of the fund; (e) donations; (f) fines imposed pursuant to the aforementioned act; and (g) others. The goals of this fund will be to accomplish tertiary prevention of gender-based violence, increase public awareness of such prevention efforts, provide timely assistance to at-risk individuals, and safeguard the personal safety and relevant rights and interests of victims.

1.2. The Ministry of Health and Welfare (MOHW) has set up the Domestic Violence and Sexual Assault Prevention Fund in accordance with the aforementioned act. The sources of the fund include fines imposed pursuant

to the act, penalties in deferred prosecution and plea bargain fees as imposed by the Ministry of Justice, as well as funds appropriated from public budgets, so as to raise sufficient money and steadily carry out prevention work. Moreover, civil-sector organizations are encouraged to participate in prevention efforts through the subsidy system of the Public Welfare Lottery. The performance of social welfare agencies is also evaluated to see whether municipal, city, and county governments are raising sufficient funds and carrying out prevention work.

2. Regarding the comment that "Chiayi City, Chiayi County, and Keelung City received some of the lowest marks for funding and overall performance":

2.1. The MOHW has formulated a plan to evaluate municipal, city, and county governments in terms of their performance in raising funds and carrying out tasks to prevent domestic violence, sexual assault, and sexual harassment. Every other year, the MOHW visits each local government to conduct an on-site evaluation of the outcomes of prevention work. The budgeting and implementation of domestic violence prevention funds, sufficient staffing and turnover rates, case processing, individual services, professional training and supervision, and network-based cooperation are included in the criteria for control and assessment purposes, so as to supervise local governments' progress in preventing domestic violence, sexual assault, and sexual harassment.

2.2. In addition, the MOHW includes the performance of local governments with regard to domestic violence and sexual assault prevention in the central government's annual evaluation of items based on which subsidies are

allocated. The results of this evaluation are submitted to the Directorate General of Budget, Accounting and Statistics of the Executive Yuan, which will alter the subsidies allocated to municipal, city, and county governments that have lower evaluation scores. It also adjusts the future calculation formula of central government subsidies, and uses the evaluation results as a correction coefficient of the general index, thereby encouraging municipal, city, and county governments to enhance the protection of women and children.

- **No. 30**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

  Women—regarding the comment that "in 2013 the ratio of boy-to-girl births was 107 to 100, the lowest in 25 years"
- **Competent authority: Ministry of the Interior (Department of Household Registration)**

In 2014, the ratio of boy-to-girl births was 107 to 100, the lowest ratio ever recorded.

- **No. 31**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Children—regarding the comment that "citizenship is derived from one's parents or by birth within Taiwan's territory. Births are required to be registered within 60 days"
- **Competent authority: Ministry of the Interior (Department of Household Registration)**

In accordance with Article 2 of the Nationality Act, newborn children gain ROC citizenship if:

1.1. Their father and/or mother are ROC nationals at the time of birth;

1.2. They are born after the death of their father and/or mother, and the father and/or mother were ROC nationals at the time of death; or

1.3. They are born within the territory of the ROC, and the identity of the parents cannot be ascertained, or the parents are stateless.

2. According to Article 6 of the Household Registration Act, birth registration must be completed for children with ROC nationality under the age of 12 who were born within ROC territory. This includes children without family or support who have not yet completed household registration. Meanwhile, Article 48 of the act stipulates that birth registration must be completed within 60 days. Overdue applications for household registration must still be accepted by the household registration office. If applications are not submitted within the statutory time limit, the person(s) responsible for submitting the application shall be notified in writing. If an application is still not submitted following this written notification, the household registration office shall complete the registration itself.

- **No. 32**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons** Children—Early and Forced Marriage—regarding the comment that "the legal minimum age of marriage is 18 for men and 16 for women. The rate of marriage under the age of 18 in 2014 was nearly zero for both boys and girls"
- **Competent authority: Ministry of the Interior (Department of Household Registration), Ministry of Justice**

The marriage system involves regulations of the Civil Code, with the Ministry of Justice being the competent authority. Marriage registration shall be dealt with in accordance with regulations of the Civil Code.

1. Article 972 of the Civil Code states that "an agreement to marry shall be made by the male and the female parties in their own [con]cord," while Article 980 states that "a man who has not completed his eighteenth year of age and a woman her sixteenth may not conclude a marriage." And Article 981 states that "a minor must have the consent of his statutory agent for concluding a marriage." Marriage should be based on a person's own will. The aforementioned Article 981 is to protect the rights of minors. In addition, to prevent the harmful practice of early marriage, men have to be 18 and women 16 to get married. There are no regulations that force citizens to marry or marry at an early age.
2. In 2014, the marriage rate of men under 18 was 0.06% (86 out of 149,513), and the marriage rate of women under 16 was 0.03% (46 out of 149,513).
3. The Ministry of Justice previously drafted amendments to Articles 973 and 980 of the Civil Code, which were submitted to the Legislative Yuan for

examination after having been approved by the Executive Yuan. However, in a meeting held on October 31, 2011, the Judiciary and Organic Laws and Statutes Committee of the Legislative Yuan decided it would not consider these amendments. Subsequently, the ministry again invited scholars and experts to discuss the age for marriage and engagement. However, no single view on age restrictions received majority support. Therefore, further discussion is required before the law can be amended.

4. In a meeting held on December 22, 2014, the Judiciary and Organic Laws and Statutes Committee reviewed (1) draft amendments for family-related Articles 972, 973, and 980 of the Civil Code submitted by Yu Mei-nu and 21 other legislators; (2) draft amendments for family-related stipulations of the Civil Code as well as succession-related Articles 1138 and 1223 submitted by Cheng Li-chiun and 20 other legislators; and (3) draft amendments for family-related stipulations of the Civil Code drafted by Wang Hui-mei and 16 other legislators. In the meeting, the proposed drafts were discussed generally without conducting an article-by-article review.

- **No. 33**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Children—Sexual Exploitation of Children
- **Competent authority: Judicial Yuan, Ministry of Justice**

1. Regarding the comment that "solicitors of sex with minors older than 16 but younger than 18 face up to one year in prison or hard labor or a fine of up to NT$3 million ($97,000)"

1.1 In accordance with Paragraph 2 of Article 22 of the Child and Youth Sexual Transaction Prevention Act (which was amended and renamed the Child and Youth Sexual Exploitation Prevention Act on February 4, 2015), we suggest that the report's comment be changed as follows: "Solicitors of sex with minors younger than 18 face imprisonment of no less than one year but no more than seven years, and a fine of up to NT$3 million ($97,000) may also be imposed."

2. Regarding the comment that "those who engage in sex with minors between the ages of 14 and 16 receive a mandatory prison sentence of three to seven years"

2.1 In accordance with Paragraph 3 of Article 227 of the Criminal Code, we suggest that the report's comment be changed as follows: "Those who engage in sex with minors between the ages of 14 and 16 receive a prison sentence of up to seven years."

- **No. 34**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons** Persons with Disabilities—regarding the comment that "the law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation services, access to health care, or the provision of other state services"
- **Competent authority: Ministry of Transportation and Communications**

The Ministry of Transportation and Communications, in accordance with relevant laws and regulations such as the People with Disabilities Rights Protection Act and the Act to Implement the Convention on the Rights of Persons with Disabilities, ensures that people with disabilities fully enjoy human rights and fundamental freedoms without any discrimination.

- **No. 35**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons** Persons with Disabilities—regarding the comment that "NGOs alleged that the lack of barrier-free spaces and accessible transportation systems continued to place limits on civic engagement by citizens with disabilities"
- **Competent authority: Ministry of Transportation and Communications**

To build a friendly transportation environment, the Ministry of Transportation and Communications (MOTC) has instructed its subordinate agencies to conduct comprehensive reviews of their facilities and continue to implement related improvements, as follows:

1. Ground transportation

1.1. Enhancing barrier-free facilities: The MOTC has constructed barrier-free facilities in transportation sites under its management in accordance with the Building Design and Construction Section of the Building Technical Regulations, as well as the Design Specifications for Accessible Buildings and Facilities. In addition, transportation vehicles are equipped with barrier-free access in accordance with the Construction Regulations for Barrier-Free Facilities in Public Transportation. However, due to the long history of Taiwan Railways, relevant regulations were not yet available when some of these facilities were built. Items that do not conform to regulations have been listed, and funds will be allocated to gradually improve these items in accordance with the aforementioned regulations.

1.2. Subsidizing low-floor buses: The MOTC has assisted local governments and bus carriers in procuring low-floor buses since 2010. As of July 2015, the

MOTC had subsidized the procurement of 2,077 low-floor public buses and 35 barrier-free coaches, significantly increasing the ratio of low-floor models among city buses nationwide from 7.2% in 2009 to over 40%. The MOTC has set a goal of raising the ratio by two percentage points per year, prioritizing the allocation of low-floor buses to routes connecting Taiwan High Speed Rail and Taiwan Railways stations.

1.3. Constructing a barrier-free tourism environment: The MOTC's Tourism Bureau established a task force in August 2012 to promote a barrier-free tourism environment. The 13 National Scenic Area Administrations under the Tourism Bureau have taken into account main routes and employed a uniform design concept. Each National Scenic Area Administration has completed at least one barrier-free route to facilitate visits by persons with disabilities.

1.4. Promoting barrier-free taxi services: Since 2013, the MOTC has been encouraging local governments to apply for subsidies to promote barrier-free taxies. As of mid-October 2015, the number of such taxies in operation had reached 268. These taxies have made a total of 170,513 trips for physically challenged passengers.

2. Maritime transportation and aviation

2.1. Ships: The MOTC's Maritime and Port Bureau (MPB) has established a task force consisting of experts and scholars to promote the creation of a barrier-free environment in maritime transportation. Since 2014, members of this task force have inspected barrier-free facilities for ferry services at domestic ports, so as to encourage operators to make improvements. The

MPB is also deliberating amendments to laws and regulations related to barrier-free facilities on ships, so as enhance services for the physically disabled.

2.2. Aircraft: Currently, nine Taiwanese airlines operating domestic and/or international routes, including China Airlines, Mandarin Airlines, EVA Air, UNI Air, TransAsia, Far Eastern Air Transport, Daily Air, Tigerair Taiwan, and V Air, all provide barrier-free facilities that meet the standards stipulated in the Construction Regulations of Barrier-Free Facilities in Public Transportation.

3. Airports

3.1. Most airports managed by the Civil Aeronautics Administration (CAA) were built before amendments to the Building Technical Regulations were implemented in July 2008. Therefore, these airports should abide by the Operation Directions of Submitting Alternative Improvement Plans for the Barrier-free Facilities in the Existing Public Buildings. In fact, all airports conform to these directions.

3.2. In order to enhance barrier-free services, the CAA has inspected its airports' barrier-free facilities and equipment based on the Design Specifications of Accessible and Useable Buildings and Facilities, which were issued by the Construction and Planning Agency of the Ministry of the Interior in 2013. These inspections showed that Taipei, Matsu Beigan, Matsu Nangan, Kaohsiung, Hengchun, Tainan, Taichung, and Chiayi airports met related requirements, providing barrier-free passageways, lifts, toilets, and parking spaces for those with reduced mobility.

3.3. To enhance barrier-free services, all airports in Taiwan will, in accordance with the Design Specifications of Accessible and Useable Buildings and Facilities and the Building Technical Regulations, continue to conduct inspections and improve accessibility. Moreover, the CAA and Taoyuan International Airport Co., Ltd. have set up a task force to develop uniform design specifications for airport facilities, so as to help airports meet national regulations concerning barrier-free facilities and thereby improve service quality.

- **No. 36**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Persons with Disabilities—Regarding support for students with disabilities
- **Competent authorities: Ministry of Education**

The Ministry of Education (MOE) offers a wide range of support services for students with physical and mental disabilities at institutions of higher education, including subsidies for universities and colleges to employ assistants to support special-needs students; scholarships for special-needs university students; subsidies to pay for accessible campuses, facilities, and equipment; and educational assistive technology, and Braille and audio books at colleges and universities, to give special-needs students obstacle-free access to learning.

- **No. 37**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Persons with Disabilities—Regarding the creation of accessible and welcoming campus environments
- **Competent authority: Ministry of Education**

1. To fulfill the government's goals of having disadvantaged groups cared for, ensuring that students with physical or mental disabilities can attend accessible educational institutions within a reasonable distance, and safeguarding the rights of faculty and students with reduced mobility, the MOE K-12 Education Administration sets out a special budget allocation each year to assist schools up to and including senior secondary level put in place safe, code-compliant, accessible, user-friendly, multi-purpose environments and facilities. A "Barrier-free Campus Management System" has been set up on the Special Education Transmit Net for schools to provide details of the barrier-free accessibility of their buildings and facilities, in order to facilitate the K-12 Education Administration's supervision of special municipality governments, county (city) governments, and schools to ensure that these entities are working to improve accessibility, construct quality, barrier-free learning environments, and provide students with physical and mental disabilities a barrier-free campus environment in compliance with the Ministry of Interior's Design Specifications of Accessible and Usable Buildings and Facilities. The tasks include establishing a barrier-free facilities database for special municipalities, county (city) governments, and educational institutions,

establishing a supervision mechanism, drawing up a budget for accessibility improvement projects, prioritizing subsidies for accessibility improvement projects, providing consultation services regarding what constitutes a barrier-free environment, and creating related training and promotion programs.

2. In accordance with the "Principles for Subsidizing the Creation of Accessible Campus Environments of the MOE K-12 Education Administration", each year the Administration issues a written request to each special municipality government, county (city) government, and public and private senior secondary school asking them to provide a list of their accessible facilities requirements and schedule for having them in place, arranged according to urgency; and the improvements that they plan to undertake each year, based on this priority list. Until the improvement projects are completed, temporary provisions such as using ground-floor classrooms must be made to avoid compromising students' interests and right to schooling.
3. In order to remedy the lack of access to services for disabled student and provide improved services, the Special Education Act was amended in 2013 to additionally provide for the employment of special education assistants. Based on this, the K-12 Education Administration developed guidelines for setting up special education classes and specialized units, and the employment of staff for schools up to and including senior secondary level, formulated in the Regulations Regarding the Establishment and Administration of K-12 Special Education Facilities and Personnel at

Institutions with Special Education Classes. Budgets allocations are increased incrementally each year, for subsidies to assist schools needing to do so to employ special education assistants to assist special education students with their learning and provide support services.

- **No. 38**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Persons with Disabilities—Regarding campus sexual assaults
- **Competent authorities: Ministry of Education**

Nine confirmed campus sexual assault cases were reported by special education schools in 2014. Each was investigated and handled in accordance with the provisions of the Gender Equity Education Act. The offenders and victims have been given counseling and/or some educational intervention.

- **No. 39**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  National/Racial/Ethnic Minorities—regarding the comment that "as of June, foreign-born spouses, primarily from China, Vietnam, Indonesia, or Thailand, accounted for 2 percent of the population, and an estimated 6.7 percent of all births were to foreign-born mothers"
- **Competent authority: Ministry of the Interior (Department of Household Registration)**

1. According to Taiwan's household registration statistics, 6.6% of new births in 2014 were to mothers of foreign nationality.
2. Through the joint efforts of the public and private sectors, many foreign spouses have become outstanding members of society, earning the respect of the public due to their valuable contributions. In order to create a warm and friendly environment for new immigrants, a variety of care and counseling services have been created to help them adapt to and feel at home in Taiwan.

- **No. 40**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons** National/Racial/Ethnic Minorities—regarding the comment that "foreign spouses were targets of discrimination both inside and outside their homes"
- **Competent authority: Ministry of the Interior (National Immigration Agency)**

1. In order to change people's negative impressions of new immigrants and thoroughly eliminate all kinds of discrimination in accordance with the spirit of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, government agencies endeavor to promote multiculturalism, so as to enhance understanding of other cultures and foster respect for different ethnic groups.
2. Through programs aimed at training experts and interpreters in new immigrants' native languages and assisting second-generation immigrants, the National Immigration Agency has strived to boost new immigrants' self-esteem and self-confidence, and provide opportunities that enable them to realize their potential.
3. The government has implemented a series of measures as a result of which people now have a positive impression of foreign spouses. Discrimination has been reduced.

- **No. 41**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  National/Racial/Ethnic Minorities and Indigenous People
- **Competent authority: Judicial Yuan**

Preservation of indigenous culture and language

1. Specialized tribunals (or sections) for indigenous people have been established at the courts of first and second instance, taking into consideration the special nature of indigenous affairs and according due respect for the traditional customs, cultures, and values of indigenous people. On October 8, 2012, the Judicial Yuan designated nine district courts—Taoyuan, Hsinchu, Miaoli, Nantou, Chiayi, Kaohsiung, Pingtung, Taitung, and Hualien—to each establish a specialized tribunal (or section) on January 1, 2013, to handle cases involving indigenous people. Findings from an evaluation released on December 6, 2013, showed that the specialized tribunals (or sections) had helped judges better understand indigenous cultures and customs, and in effect, helped protect the legal rights and interests of indigenous people. In consideration of the fact that indigenous people are under the jurisdiction of different district courts, in order to uphold the purpose stated in Paragraph 2 of Article 30 of the Indigenous Peoples Basic Act, and in order to enhance the effectiveness of the specialized tribunals (or sections), the Judicial Yuan established specialized tribunals (or sections) at administrative high courts and all other district courts starting on September 3, 2014. However, such a tribunal (or section) was not set up at the Taiwan High Court and its branches, or at

district courts on offshore islands (Penghu, Kinmen, and Lienchiang). Revised provisions for the establishment of specialized tribunals (or sections) in the Regulations Governing Annual Judicial Assignment Allocation for Judges at All Levels of Courts Conducting Civil, Criminal, Administrative Litigation and Specialized Cases, as well as the regulations' appendix of revised rules for specialized cases, were promulgated via Judicial Yuan Decree Tai Ting Si I No. 1030021549 on July 30, 2014.

2. According to Article 98 of the Court Organization Act, Article 207 of the Code of Civil Procedure, Article 99 of the Code of Criminal Procedure, and Article 19 of the Family Cases Act, an interpreter may be used should a person involved in the case not understand Mandarin Chinese. To meet the growing need for interpreters in court, the Judicial Yuan set up a contract interpreters system in 2006. Taiwan's court system now has 276 contract interpreters proficient in a total of 19 languages, including sign, Hakka, indigenous languages, Southeast Asian languages, English, and European languages. Should anyone not be proficient in Mandarin Chinese when the court is in session, an interpreter may be assigned to provide assistance in order to protect their rights and interests in litigation.

- **No. 42**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons** Indigenous People—regarding the comment that "the government and the private sector should also consult with indigenous people and obtain their consent to and/or participation in, and also share with them the benefits of, land development, resource utilization, ecology conservation, and academic research in indigenous areas"
- **Competent authority: Council of Indigenous Peoples**

1. In accordance with the intent of Article 21 of the Indigenous Peoples Basic Law, as well as the United Nations Declaration on the Rights of Indigenous Peoples, the Council of Indigenous Peoples (CIP) protects indigenous peoples' rights to land and natural resources, safeguards the interests of both indigenous peoples and the general public, and balances the individual and collective rights of indigenous people.
2. Concrete guidance is offered in explanatory guidelines for Article 21 of the Indigenous Peoples Basic Law, which were issued by the CIP on October 7, 2014, as to whether governments at various levels should adopt this article when dealing with matters concerning indigenous land. In addition, review and deliberation mechanisms have been created to ensure that indigenous people's rights to land and natural resources are not affected, use of indigenous land is enhanced, preservation of natural resources is strengthened, and living environments of indigenous people are elevated. All government agencies have been requested to inform their subordinate departments of these guidelines and mechanisms. In the event of uncertainty or difficulty in interpreting the law, or applying it to

individual cases, the aforementioned review and deliberation mechanisms should be followed and the CIP should be consulted.

3. Related law amendments include the following:

3.1. On October 7, 2014, the CIP issued explanatory guidelines on Article 21 of the Indigenous Peoples Basic Law (Yuan Min Zong Zi No. 1030051021) after conducting 15 internal discussions, five interagency consultations, and two hearings. These offer administrative guidance with regard to sections of Article 21 of the Indigenous Peoples Basic Law concerning the consultation and participation of indigenous peoples.

3.2. On April 30, 2015, the CIP issued implementation guidelines on the promotion of tribal meetings by the CIP (Yuan Min Zong Zi No. 10400192592) following discussions at the 121st meeting of the CIP on September 10, 2014, as well as two seminars. Meanwhile, the CIP designed questionnaires and asked staff at city, district, urban township, and rural township offices in indigenous regions, as well as local residents, to express their views. A total of 188 questionnaires were collected and used as important reference.

3.3. On January 4, 2016, the CIP issued regulations concerning consultations with indigenous peoples to obtain their consent and participation (Yuan Min Zong Zi No. 10401006112), integrating the aforementioned explanatory and implementation guidelines, so as to create a comprehensive mechanism.

- **No. 43**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Indigenous People—regarding the comment that "critics complained that authorities did not do enough to preserve aboriginal culture and language"
- **Competent authority: Council of Indigenous Peoples**

1. From 2008 to 2013, the Council of Indigenous Peoples (CIP) implemented the first six-year stage of programs to revive indigenous languages and cultures. It continued implementing the second stage of these programs in 2015.
2. In terms of language revitalization, projects include the construction of a comprehensive learning system for indigenous languages (e.g., providing incentives to nannies who speak indigenous languages and kindergartens which use the immersion method to teach indigenous languages), the promotion of a character encoding system and digital archiving of indigenous languages (e.g., compiling dictionaries and teaching materials for these languages), the creation of digital learning platforms including online dictionaries, and the production of 256 animations in indigenous languages that are broadcast through online and other channels.
3. The CIP has also continued to compile three volumes on cultural heritage in 42 dialects belonging to 16 indigenous languages. In order to diversify ways to learn indigenous languages, the CIP has also developed electronic platforms and applications for teaching materials on basic skills, daily

conversation, and reading and writing.

4. With regard to cultural revitalization, efforts include the following: (1) preserving and protecting indigenous cultural assets (e.g., subsidizing the organization of traditional tribal ceremonies and, since May 2014, working with the Ministry of Culture); (2) enhancing research on indigenous written records (the Indigenous Archive Commission was established in 2010 to take charge of collecting, translating, researching, publishing, archiving, and promoting indigenous historical materials); and (3) promoting indigenous culture and art, boosting the vitality of tribes, and actively cooperating with local governments and tribal organizations to comprehensively preserve and pass on indigenous cultures and languages.
5. Summarizing, the CIP continues to be committed to preserving and passing on indigenous cultures and languages, so as to revitalize indigenous languages and traditional cultures and develop them in a sustainable manner.

- **No. 44**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Indigenous People—regarding the comment that "according to the Indigenous People's Basic Law, implemented in 2005, the government should establish a committee for demarcation and management of indigenous lands, although the government had not done so"
- **Competent authority: Council of Indigenous Peoples**

1. Previously, the Council of Indigenous Peoples (CIP) sent an organization act draft for a committee responsible for surveys and management of indigenous land to the Executive Yuan for review. However, during a meeting held on October 25, 2007, between the Vice Premier, the head of the Research, Development and Evaluation Commission, and the Deputy Minister of the CIP, it was concluded that it would be difficult to establish another independent entity under the Executive Yuan due to organizational streamlining. Therefore, it was suggested that the CIP create another subordinate department and amend its organization act accordingly.
2. In accordance with the aforesaid instruction from the Executive Yuan, the CIP proposed a new organization act and relevant regulations, establishing a land administration department responsible for surveying, researching, coordinating, demarcating, and planning indigenous land, as well as reviewing and resolving disputes.

- **No. 45**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  HIV and AIDS Social Stigma—regarding the comment that "according to the Immigration Act, any foreign national in Taiwan who is found to have contracted a communicable disease, including those who test HIV-positive, are subject to deportation" and the comment that "An amendment of the AIDS Prevention and Control Act allows a foreign spouse with HIV to remain in Taiwan if he or she can show the infection came from the spouse or from medical treatment received in Taiwan"
- **Competent authority: Ministry of the Interior (National Immigration Agency), Ministry of Health and Welfare (Centers for Disease Control)**

1. According to an amendment to the HIV Infection Control and Patient Rights Protection Act, which was announced on February 4, 2015, and implemented on February 6, 2015, all restrictions on entry, stay and residence for foreign nationals with HIV have been removed.
2. Original stipulations in Articles 18, 19, and 20 of the HIV Infection Control and Patient Rights Protection Act, according to which the visitor or resident visas of foreign nationals who are found to be HIV positive should be annulled or revoked, were cancelled on February 4, 2015. Now, the visitor and resident visas of foreign nationals with HIV are no longer affected and these people are no longer deported.
3. Foreign nationals with contagious, mental, or other diseases—as stipulated in Subparagraph 8 of Paragraph 1 of Article 18 of the Immigration Act—that may jeopardize public health or social stability may be deported or ordered to leave the country within 10 days according to Subparagraph 1

of Paragraph 2 of Article 36 of the Immigration Act. Whether foreign nationals are subject to the stipulations in Subparagraph 8 of Paragraph 1 of Article 18 of the Immigration Act shall be determined by central health authorities. If so, deportation or an order to leave the country may be implemented.

➢ Response to Section 7. Worker Rights

- **No. 46**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding "the right to strike, however, is highly regulated, and some workers are excluded from collective bargaining."
- **Competent authority: Ministry of Labor**

1. Based on the principle that unions are autonomous, procedures for strikes have been simplified as "A labor union shall not call a strike unless the strike has been approved by no less than one half of the union's total membership via a direct, secret ballot," in accordance with the amended Act for Settlement of Labor-Management Disputes that was promulgated on May 1, 2011.
2. Currently, except for the persons who are not to organize or join unions listed in the provisions of Paragraph 2 of Article 4 of the Labor Union Act, all workers may join unions, and bargain with employers or employer groups to enter into collective agreements, thereby protecting the right to collective bargaining.

- **No. 47**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding "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"
- **Competent authority: Ministry of Labor**

As set forth in Paragraph 1 of Article 4 of the Labor Union Act, "All workers shall have the right to organize and join labor unions," dispatched laborers may join or organize unions at dispatching enterprises, or the unions of related industries/occupations other than at said enterprises. Accordingly, dispatched laborers may still realize the right to collective bargaining via the unions they belong to.

- **No. 48**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding "there were 105 industrial unions as of March. Although teachers are prohibited from striking, since legal changes in 2011, they have formed 43 unions and one federation of teachers' unions as of the end of May."
- **Competent authority: Ministry of Labor**

1. Article 8 of the International Covenant on Economic, Social and Cultural Rights stipulates: "The States Parties to the present Covenant undertake to ensure the right to strike, provided that it is exercised in conformity with the laws of the particular country." Article 22 of the International Covenant on Civil and Political Rights states: "No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others."
2. Also, Article 6 of Convention No. 98 of the International Labor Organization (ILO) "On the Right to Organize and Collective Bargaining," states: "This Convention does not deal with the position of public servants engaged in the administration of the State"; Article 8 of Labor Relations (Public Service) Convention No. 151 states: "The settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as

mediation, conciliation and arbitration, established in such a manner as to ensure the confidence of the parties involved."

3. In addition, Article 84 of the Recommendation concerning the Status of Teachers issued cooperatively by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Labor Organization (ILO) states: "Appropriate joint machinery should be set up to deal with the settlement of disputes between the teachers and their employers arising out of terms and conditions of employment. If the means and procedures established for these purposes should be exhausted or if there should be a breakdown in negotiations between the parties, teachers' organizations should have the right to take such other steps as are normally open to other organizations in the defense of their legitimate interests."
4. In sum, when it is necessary for the country to limit the right to dispute, based on the public interest, national conditions, or for the protection of the rights and freedoms of others, a country is not barred from imposing such restrictions, even to prohibiting strikes by law; however, an alternative mechanism should be provided to resolve disputes. Although the Act for Settlement of Labor-Management Disputes forbids teachers from striking, arbitration procedures are set up which meet the principles contained within the said Conventions and the International Labor Convention.

- **No. 49**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—Regarding teachers' right to strike
- **Competent authority: Ministry of Education**

To protect students' interests and right to learn, teachers are prohibited from exercising the right to strike.

1. Social expectation of campus stability

1.1 Considering the vital importance of the normal operation of the education system for national and social stability and students' right to education, Paragraph 2 of Article 54 of the Act for Settlement of Labor-Management Disputes clearly prohibits teacher strikes. Article 6 of the Labor Union Act, however, clearly stipulates that teachers may organize and join labor and industrial unions.

1.2 The ‘teachers’ in Paragraph 6 of Article 54 of the Act for Settlement of Labor-Management Disputes refers to legally employed full-time teachers, other legally employed part-time teachers, substitute and replacement teachers, and other staff employed to teach full-time or part-time in accordance with administrative regulations.

2. Non-Contravention of the International Covenant on Civil and Political Rights or the International Covenant on Economic, Social and Cultural Rights.

2.1 The normal operation of the education system is vitally important for maintaining national and social stability and students' right to education. It

has far reaching and profound impacts. Although prohibited from going on strike, teachers are permitted to engage in other forms of protest, such as participating in demonstrations, marches, and sit-ins. Under the provisions of Paragraph 2 of Article 25 of the Act for Settlement of Labor-Management Disputes, teachers may unilaterally submit labor disputes concerning adjustments as matters for arbitration. This is an alternative to striking, which Article 54 of the Act for Settlement of Labor-Management Disputes stipulates as prohibited.

2.2 Teachers may organize and join labor unions, in accordance with the provisions of Paragraph 3 Article 4 of the Labor Union Act. Teachers' rights to do so have not been restricted and this is in compliance with the provisions for freedom of association set out in Article 22 of the International Covenant on Civil and Political Rights and in Article 8 of the International Covenant on Economic, Social and Cultural Rights.

- **No. 50**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding "the law allows foreign workers to form and join unions and to serve as union officers. Taiwan's only foreign workers' union, a union of Filipino fisherman, was established in 2013 for the stated purpose of protecting migrant fishermen from abuse and labor exploitation by companies in the fishing industry."
- **Competent authority: Ministry of Labor**

As set forth in Paragraph 1 of Article 4 of the Labor Union Act: "All workers shall have the right to organize and join labor unions"; therefore, if foreign workers are not military personnel in service, employees in the munitions industry affiliated with and supervised by the Ministry of National Defense, civil servants at any level of government or at public schools as addressed in same Article, they may organize and join unions, and bargain with employers concerning labor conditions and their related rights and interests.

- **No. 51**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding "since major amendments to the Labor Union Act, Collective Agreement Act, and Act for Settlement of Labor-Management Disputes, ~~and~~ that took effect in 2011, a Ministry of Labor arbitration committee has ruled that 47 enterprises used discriminatory action to repress union leaders and their activities, and all of these enterprises have been fined~~"~~."
- **Competent authority: Ministry of Labor**

As of the end of 2013, the Unfair Labor Practice Arbitration Committee made a total of 84 rulings, of which 50 concerned employers' interventions in union activities, or illegalities, dismissals, demotions, pay cuts, or unfavorable treatment to employees. There were a total of seven rulings that found a violation of good faith in negotiations as required in Paragraph 1 of Article 6 of the Collective Agreement Act; fines have been levied in all of these cases.

- **No. 52**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding "although labor unions may draw up their own rules and constitutions, labor union registrations require approval from the local competent authority or the ministry, and authorities have the power to order unions to cease part or all of their operations if they break the law or violate their charter. There were no reported instances of labor authorities rejecting applications for the establishment of labor unions during the year"."
- **Competent authority: Ministry of Labor**

1. As set forth in Article 2 of the Labor Union Act: "A labor union is a juristic person," and thus should be given the status of juristic person through registration procedures in order to exercise its rights and obligations.
2. Paragraph 1 of Article 43 of the Labor Union Act states: "In cases where a labor union violates statutes, regulations, or the union charter, the competent authority may issue a warning or order it to improve within a given period. The competent authority may also order the labor union to suspend part or all of its business pending improvements within a given period if it deems such a move necessary." Therefore, when any labor union violates a statute, regulation, or union charter, the competent authority will give guidance to the union for improvement; if the union fails to make improvement, and cannot operate its business normally, then part or all of its business shall be suspended. The union may apply to conduct related business operations after corrections have been made.

- **No. 53**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding "at the end of March, approximately 30 percent of the 11.54 million-person labor force belonged to one of the 5,292 registered labor unions. Many of these members were also members of one of the 10 island-wide labor federations. To encourage the successful use of collective agreements between labor and management, in May the Legislative Yuan passed a bill giving both labor and management the right to apply for arbitration if there is no legal reason for the other side to refuse collective negotiation. As of the end of March, Taiwan had 101 collective agreements.""".
- **Competent authority: Ministry of Labor**

In accordance with the provisions set forth in Paragraph 5 of Article 6 added to the Collective Agreement Act on June 4, 2014, if the negotiation period for a collective agreement between labor and management exceeds six months and no agreement has been reached, the competent authority concerned may turn the case over for arbitration for a quick resolution to labor-management disputes and to stabilize labor-management relations. This is to improve good faith in negotiations and enhance the willingness of labor and management to bargain for a collective agreement, and to increase the number of collective agreements signed. As of the end of 2014, there were 300 collective agreements in effect.

- **No. 54**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding "the law forbids strikes in rights disputes, which could include collective agreements, labor contracts, regulations, and other issues.""".
- **Competent authority: Ministry of Labor**

1. As set forth in Paragraph 1 of Article 53 of the Act for Settlement of Labor-Management Disputes, industrial action may not be taken unless a mediation of labor-management dispute has not been successful; strikes are not permitted for rights-related disputes. This is because labor-management disputes on rights issues refer to rights disputes based on decrees or agreements under collective agreements or labor contracts, which if not mediated by this Act or other laws and resolved by arbitration procedures, may be remedied through litigation. However, disputes over adjustments cannot not be resolved through litigation, but must rely on the goodwill of employers. Therefore, it is necessary to have the right to dispute as a fallback, so that labor and management can, on an equal footing, conduct consultations and negotiations on dispute resolution.
2. As set forth in Paragraph 2 of Article 53 of the same Act, if the central competent authority decides that an employer or employer's organization is in violation of Article 35 of the Labor Union Act or Paragraph 1 of Article 6 of the Collective Agreement Act, the labor union may undertake industrial action in accordance with the Act. To protect the rights of labor, when a dispute is recognized as legitimate by a ruling, and even where the nature of

the dispute is determined to be rights-related, it is different from a simple, private right having been infringed upon, hence, unions may undertake industrial action in accordance with Articles 54 to 56 of the same Act.

3. In addition, with respect to methods of handling disputes, and to create multiple channels to handle labor-management disputes and enhance service quality, in recent years, the MOL has established a professional labor-management dispute handling system, so that labor-management disputes can be handled through mediation or arbitration. As for disputes which cannot be dealt with in these ways, litigation assistance is provided to protect labor's interests.

- **No. 55**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding "the law also prohibits labor and management from disturbing the 'working order' while mediation or arbitration is in progress. On average the mediation process took 20 to 50 days and arbitration took 45 to 80 days. Labor organizations complained that these compulsory prerequisites were impediments to exercising the right to strike~~".~~."
- **Competent authority: Ministry of Labor**

1. With respect to the afore-mentioned paragraph "On average the mediation process took 20 to 50 days and arbitration took 45 to 80 days":

1.1 To take into account the immediacy, cost-effectiveness, and need for thorough resolution of disputes, the Act for Settlement of Labor-Management Disputes stipulates provisions for the competent authority to receive cases, conduct fact-finding, hold mediation or arbitration meetings, and rule on mediation or arbitration.

1.2 The aforementioned are faster and more convenient methods of resolving disputes than litigation. Further, the average number of days for the competent authority to handle labor-management disputes in 2014 was 15.

2. In addition, as set forth in Article 8 of the Act for Settlement of Labor-Management Disputes, "During the procedures of mediation, arbitration…an employer may not suspend or shut down the business, terminate the labor contract, or undertake any other activities unfavorable to employees due to a labor-management dispute. Employees may not resort to strikes or undertake any other dispute activities due to a labor-management

dispute.” The intention of this provision is to ensure that the parties to disputes should peaceably seek to resolve the dispute in line with the principle of good faith during the period that the competent authority is handling the dispute.

- **No. 56**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding "there were no reports of strikes during the year. There were 8,926 labor disputes in the first five months of the year, down 10.9–% from the same period in 2013. Of these, 5,915 cases were related to wage and severance disputes. Labor unions charged that during employee cutbacks, labor union leaders were sometimes laid off first or dismissed without reasonable cause"."
- **Competent authority: Ministry of Labor**

1. Employers in entities to which the Labor Standards Act applies may not terminate labor contracts unless the circumstances set forth in the provisos of Articles 11, 12, or 13 apply.
2. As set forth in Article 35 of the Labor Union Act: "An employer or supervisory employees who represent the employer in exercising the managerial authority shall not…: 1. Refuse to hire, dismiss, demote, reduce the wage of, or render other unfair treatment to an employee who organizes or joins a labor union, participates in activities held by a labor union, or assumes the office of a labor union…4. Dismiss, demote, reduce the wage of, or render other unfair treatment to an employee who participates in or supports industrial action, and 5. Improperly influence, impede or restrict the establishment, organization or activities of labor union. Any dismissal, demotion, reduction of wage made by the employer or supervisory employees who represent the employer in exercising the managerial authority as prescribed in the preceding paragraph shall be null and void."
3. Therefore, if union officials suffer unfavorable treatment due to their union

membership in violation of Article 5 of the Employment Service Act, or Article 35 of the Labor Union Act, they may apply to the local competent authorities for a determination of employment discrimination, or to the Board for Decisions on Unfair Labor Practices of the MOL for a ruling to protect their interests.

- **No. 57**
- **Section 7. Worker Rights**
  b. Prohibition of Forced or Compulsory Labor —regarding "the law prohibits all forms of forced or compulsory labor, but there were reports that such practices occurred. There was evidence of forced labor in such sectors as domestic services, farming, fishing, manufacturing, and construction.""".
- **Competent authority: Ministry of Labor**

As set forth in Articles 5 and 75 of the Labor Standards Act, "No employer shall, by force, coercion, detention, or other illegal means, compel a worker to perform work. An employer who violates the provisions of Article 5 shall be imprisoned for a term not exceeding five years, detained and/or fined a sum less than NT$750,000." As set forth in Article 241 of the Code of Criminal Procedure, "A public official who, in the execution of his official duties, learns that there is suspicion that an offense has been committed must report it." If a competent authority finds a business entity to which the Labor Standards Act applies in violation of the foregoing provisions, the case will be transferred to the prosecution for an investigation in accordance with the law.

- **No. 58**
- **Section 7. Worker Rights**
  d. Discrimination with Respect to Employment or Occupation—regarding "persons with disabilities and persons with HIV/AIDS remained vulnerable to discrimination in employment and occupation.""".
- **Competent authority: Ministry of Labor**

1. As set forth in Paragraph 1, Article 5 of the Employment Service Act, "For the purpose of ensuring national's equal opportunity in employment, [an] employer is prohibited from discriminating against any job applicant or employee on the basis of race, class, language, thought, religion, political party, place of origin…gender…marital status, appearance, facial features, disability, or past membership in any labor union.

   According to Article 65 of the same Act, anyone who violates the foregoing provisions shall be fined therefore an amount of at least NT$300,000 and at most NT$1,500,000."
2. To implement the aforementioned Act, the MOL will work to better publicize prohibitions on discriminating against the disabled so that the law will be followed.

- **No. 59**
- **Section 7. Worker Rights**
  d. Discrimination with Respect to Employment or Occupation—regarding "women were promoted less frequently, occupied fewer management positions, and worked for lower pay than their male counterparts"."
- **Competent authority: Ministry of Labor**

1. To prevent unequal treatment at the workplace for employees and job seekers due to gender or sexual orientation, Chapter 2 of the Act of Gender Equality in Employment stipulates that employers shall not discriminate against applicants or employees because of their gender or sexual orientation in the course of recruitment, screening tests, hiring, placement, assignment, evaluation, promotion, payment, retirement, or resignation.
2. Employers violating the foregoing provisions, subject to the provisions set forth in Article 38-1 of the same Act, shall be fined between NT$300,000 and NT$1,500,000; their name or title, and that of the responsible person shall be included in a public notice, and they shall be directed to make improvements within a specified period. In the event improvements are not made within the specified period, violators will be punished consecutively for each violation after said period expires.

- **No. 60**
- **Section 7. Worker Rights**
  d. Discrimination with Respect to Employment or Occupation—regarding "according to the Ministry of Labor, in 2013, women comprised 44.1 percent of the workforce, and women's labor participation rate was 50.5–%. On average, women's salaries were 83.9-% of that of men performing comparable jobs.""-.
- **Competent authority: Ministry of Labor**

1. In 2014, women comprised 44.2 % of Taiwan's workforce. This is an increase of 2.5 % in comparison to 2004, when it was 41.7 %. Women's labor participation rate had increased to 50.0 % in 2010, and showed a slight increase in 2014 to 50.6 %.
2. The average hourly wage of male employees in the manufacturing and service industries was NT$285 in 2014. On average, women's hourly wage was NT$243, or 85.0% that of men's. This difference can be attributed to differences in the nature of work, seniority, experience, and position. Over the last 10 years, the average hourly wage gap between the sexes dropped from 20.3 % in 2004 to 15 % in 2014, showing a gradual narrowing.

- **No. 61**
- **Section 7. Worker Rights**
  d. Discrimination with Respect to Employment or Occupation—regarding the comment that "household caregivers and domestic workers did not enjoy the same legal protections as other workers"
- **Competent authority: Ministry of Labor**

1. The Labor Standards Act, as specified in Paragraph 3 of Article 3, applies to all forms of employee-employer relationships. However, the act states that "this principle shall not apply if the application of the Act would genuinely cause undue hardship to the business entities involved due to the facts relating to the types of management, the administration system and the characteristic of work involved and if [they belong] to the business (or industries) or worker[s] designated and publicly announced by the Central Competent Authority."

2. Since domestic workers are not covered by the Labor Standards Act, the Ministry of Labor drafted a domestic worker protection bill and submitted it to the Executive Yuan on March 15, 2011, for review.

3. Domestic workers, who are employed by individual families, provide care for family members and do household work. Given the challenges in defining their work and rest hours, the Labor Standards Act is not easily applied to them. Furthermore, since it is difficult to reach social consensus and implement relevant norms, further discussions are needed in order to reach agreement among various sectors.

4. While the draft act is going through the legislative process, the ministry has established a set of guidelines on the protection of domestic workers' rights,

which include matters of attention for employers and employees, as well as provisions on basic working conditions being incorporated in employment contracts.

- **No. 62**
- **Section 7. Worker Rights**

  d. Discrimination with Respect to Employment or Occupation—regarding the comment that "according to law any foreign national in Taiwan who is found to have contracted a communicable disease, including those who test positive for HIV, are subject to deportation. Foreign migrant workers were required to have annual health examinations and were deported if they tested positive for HIV"
- **Competent authority: Ministry of Health and Welfare (Centers for Disease Control), Ministry of Labor**

1. On February 4, 2015, the Ministry of Health and Welfare announced amendments to the HIV Infection Control and Patient Rights Protection Act. It also amended the Regulations Governing Management of the Health Examination of Employed Aliens, canceling the requirement that foreign workers and foreign teachers coming to Taiwan for work have to be tested for AIDS.
2. The Ministry of Labor has handled health examination matters in accordance with these amendments. Recently, no foreign workers have been deported because they had AIDS.

- **No. 63**
- **Section 7. Worker Rights**

  e. Acceptable Conditions of Work—regarding the comment that "the law provides standards for working conditions and health and safety precautions for an estimated eight million of Taiwan's 8.7 million salaried workers. . . . Those not covered include management employees, health care workers, gardeners, bodyguards, teachers, doctors, self-employed lawyers, civil servants, local government contract workers, employees of farmers' associations, and domestic workers"
- **Competent authority: Ministry of Labor**

1. The Labor Standards Act, as specified in Paragraph 3 of Article 3, applies to all forms of employee-employer relationships. However, the act shall not apply if its implementation is found to cause evident difficulties due to operational models, management systems, or work characteristics for industries and workers and if it is designated and publicly announced by central competent authorities. The Ministry of Labor will review industry and worker categories to determine which are to be covered by the Labor Standards Act. Announcements will be made whenever related decisions are taken.
2. The ministry has already determined that the Labor Standards Act shall also apply to lawyers employed in the legal services industry, farmers' groups, and non-core employees of private schools at all levels (excluding those only engaged in teaching activities). As for civil servants, they are already protected by a separate set of laws and regulations.

- **No. 64**
- **Section 7. Worker Rights**

  e. Acceptable Conditions of Work—regarding the comment that "a 1.2 percent increase in the minimum wage to NT$19,273 per month, or NT$115 per hour, took effect in January. There is no minimum wage for workers in categories not covered by the law. The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher. The average monthly wage increased 0.2 percent to NT$45,664 in 2013"
- **Competent authority: Ministry of Labor**

The average monthly wage per capita in 2014 was NT$47,300, an increase of NT$1,636, or 3.6 percent, compared to 2013. In the manufacturing industry, the average monthly wage per capita was NT$45,207, which was more than double the legal minimum wage of NT$19,273. The average monthly wage per capita in the service industry was even higher, i.e., NT$48,815.

- **No. 65**
- **Section 7. Worker Rights**
  e. Acceptable Conditions of Work—regarding the comment that "according to Directorate General of Budget, Accounting, and Statistics data, workers' real wages were at a 15-year low"
- **Competent authority: Ministry of Labor**

1. To ensure that the fruits of economic growth are shared between employees and employers, the ROC government continues to call on employers to take the initiative in raising salaries, and has proposed relevant measures to encourage such increases.
2. In addition to urging employers to raise salaries and reviewing the minimum wage, the Ministry of Labor has also helped laborers enhance their collective bargaining capabilities and strengthened vocational training, so as to improve the welfare of laborers.

- **No. 66**
- **Section 7. Worker Rights**

  e. Acceptable Conditions of Work—regarding the comment that "household caregivers and domestic workers did not enjoy a minimum wage or overtime pay, limits on the workday or workweek, minimum breaks, or vacation time. As of the end of July, there were 214,632 foreign household caregivers and domestic workers registered under the Employment Services Act. The caregiver and domestic worker industry, largely controlled by brokerage agencies that hire workers in their home countries and act as their representative in Taiwan, set an unregulated monthly wage of NT$15,840 for the industry (based on 1997 minimum wage standards). All domestic workers were forced by brokerage agencies to take out loans for 'training fees,' 'broker fees,' and other fees at local branches of Taiwan banks in their home countries at inflated interest rates (18 percent). Domestic workers covered the full cost of their own health insurance. Employers of domestic workers did not pay them directly, but rather through the brokerage agency. Agencies then deducted fees and loan repayments from the NT$15,840 paid by the employer before paying the employee. This resulted in an actual take-home pay for domestic workers far below the current poverty level, with NGOs reporting that the monthly take-home pay of some domestic workers was as low as NT$1,000, or 6.7 percent of the official poverty level. NGOs and academics urged the Ministry of Labor to provide basic labor protections—such as minimum wage, overtime, and a mandatory day off—for household caregivers and domestic workers"

- **Competent authority: Ministry of Labor**

1. Domestic workers provide care for family members and do household work. Given the challenges in defining their work and rest hours, the Labor Standards Act does not apply to them. The Ministry of Labor is promoting the domestic workers protection bill.
2. The fees that brokerage agencies charge to foreign workers in source

countries are managed in accordance with the laws of these countries. The ministry has recommended that such fees be no more than the equivalent of one month's minimum wage in Taiwan as stipulated in the Labor Standards Act. To advocate transparent and reasonable fee standards, the ministry will continue to communicate with source countries through bilateral labor meetings and other channels in order to confirm the amounts and standards of brokerage fees, government charges, and other expenses in these countries for workers traveling to Taiwan to work, and to verify the Foreign Worker's Affidavit for Wage / Salary and Expenses Incurred before Entering the Republic of China for Employment for foreign workers coming to Taiwan, so as to ensure that such fees and charges are based on Taiwan's standards.

3. Employers shall directly pay foreign workers their full salary in accordance with Article 43 of the Regulations on the Permission and Administration of the Employment of Foreign Workers (National Health Insurance and Labor Insurance premiums, income tax, boarding fees, welfare benefits, fees demanded by courts or competent executive authorities, or other fees based on related laws may be deducted). Employers shall not deduct service charges or foreign loan repayments on behalf of brokerage agencies. If employers do not pay the salary in full, local governments shall impose a deadline for payment or fine the employer between NT$60,000 and NT$300,000. In addition, the ministry may terminate the employer's recruitment and hiring permit.

- **No. 67**
- **Section 7. Worker Rights**

e. Acceptable Conditions of Work—regarding the comment that "domestic workers covered the full cost of their own health insurance"

- **Competent authority: Ministry of Health and Welfare (Department of Social Insurance)**

Currently, foreign domestic workers who join the National Health Insurance do so as employees in accordance with Item 3 of Subparagraph 1 of Paragraph 1 of Article 10 of the National Health Insurance Act. According to Item 2 of Subparagraph 1 of Article 27 of this act, foreign domestic workers pay 30% of their premium, the employer 60%, and the government 10%. It is therefore not the case that foreign domestic workers have to cover the full cost of their health insurance.

- **No.68**
- **Section 7. Worker Rights**

  e. Acceptable Conditions of Work—regarding the comment that "legal working hours were eight hours per day and 84 hours per two-week period. The law mandates a five-day workweek for the public sector, and more than half of private-sector enterprises also implemented a five-day workweek. According to local labor laws, only employees in 'authorized special categories' approved by the Ministry of Labor are exempt from regular working hours stipulated in the law. These categories include flight attendants, insurance salespersons, real estate agents, nursery school teachers, ambulance drivers, and hospital workers. In 2012 the ministry eliminated some medical personnel from authorized special categories but kept the exemption for other categories. In addition to these exemptions, the Taiwan Labor Front and Taiwan Confederation of Trade Unions have cited labor dispatching (i.e., temporary worker) programs and instant-messaging applications as factors undermining working conditions in Taiwan"
- **Competent authority: Ministry of Labor**

1. On June 3, 2015, amendments to the Labor Standards Act were announced by President Ma Ying-jeou, so as to reduce law-mandated regular working hours to 40 hours per week. These amendments will enter into force on January 1, 2016.
2. The purpose of promoting Article 84-1 of the Labor Standards Act is to allow for reasonable negotiation of working hours between employers and workers doing jobs with special characteristics. The Ministry of Labor has reviewed and abolished categories of workers exempt from regular working hours, allowing workers originally covered by the provisions of Article 84-1 to return to normal working hours.
3. The ministry sent letters to local competent authorities on October 20 and

27, 2014, to reiterate that when employers request employees, through communications software or telephone, to carry out work outside of normal working hours, such work should be counted as work time, and to urge them to strengthen inspections of working conditions.

- **No. 69**
- **Section 7. Worker Rights**

  e. Acceptable Conditions of Work—regarding the comment that "the Taiwan Confederation of Trade Unions and other labor groups called on authorities to end the 'authorized special category' system, to enact a law to limit the use of labor dispatching, to strengthen inspection of employers, and to raise fines on violators"
- **Competent authority: Ministry of Labor**

1. The Ministry of Labor is actively promoting a bill concerning protection for dispatched laborers, which would require manpower agencies to bear joint responsibility with employers, mandate equal pay for equal work, and set limits on the ratio of dispatched laborers in an organization.
2. To protect fundamental labor rights, the ministry has promoted a project in 2015 to ensure compliance with labor regulations among businesses. It has provided funds to local competent authorities to recruit 325 labor inspectors. Businesses that repeatedly violate regulations and do not make improvements are fined per violation. Fines may be increased based on the circumstances of the violations. In addition, the name of the business and its owner may be made public.

- **No. 70**
- **Section 7. Worker Rights**

  e. Acceptable Conditions of Work—regarding the comment that "in responsethe Ministry of Labor increased the number of inspectors to 375 as of the end of July, up from 294 in 2013. In the first half of the year, ministry inspectors conducted 40,205 inspections, an increase of 3.5 percent over the same period in 2013. Labor NGOs and academics continued to claim that the labor inspection rate was too low to serve as an effective deterrent against labor violations and unsafe working conditions"
- **Competent authority: Ministry of Labor**

1. Given limited manpower, labor inspection can only be one of the policy tools. To enhance effectiveness of labor inspections, related agencies, in their efforts to supervise and improve labor conditions, rank businesses in terms of risk degrees and scale. Through promotion, counseling, assistance, interagency cooperation, and advocacy of proper labor conditions, these agencies endeavor to enhance workplace safety and workers' health.
2. The Ministry of Labor provided funds to local competent authorities to recruit 325 labor inspectors in 2015, so as to significantly increase the number of labor inspections and enhance safety and health. It is expected that the number of inspections will be increased as a result of this measure. However, labor inspections by the government form the last line of defense. To ensure occupational safety and health, employers must fulfill their responsibilities and implement institutionalized management. Only in this way can the occurrence of workplace accidents be reduced.

- **No. 71**
- **Section 7. Worker Rights**
  e. Acceptable Conditions of Work—regarding the comment that "NGOs asserted that foreign workers often were unwilling to report employer abuses for fear the employer would terminate the contract and deport them, leaving them unable to pay back debt accrued to brokers or others"
- **Competent authority: Ministry of Labor**

1. In accordance with Subparagraph 4 of Paragraph 1 of Article 59 of the Employment Service Act, foreign workers who experience abuse by employers for causes not attributable to the foreign worker may change employer or job after approval from the Ministry of Labor. They will not be deported following termination of their contract with the original employer.
2. In addition, to prevent inappropriate deportation of foreign workers, the ministry specifies that when a contract between foreign worker and employer is terminated prematurely, a verification mechanism should be implemented prior to the foreign worker's departure to see whether he or she is being forcibly deported.

- **No. 72**
- **Section 7. Worker Rights**

  e. Acceptable Conditions of Work—regarding the comment that "a June BBC report quoted migrant fisherman and NGOs describing exploitative conditions aboard Taiwan-owned fishing vessels. According to this report, in April a Cambodian court sentenced the manager of the Taiwan fishing company Giant Ocean and five associates to 10 years in prison and ordered them to pay compensation to 150 victims. On August 14, Phnom Penh Municipal Court Judge Kor Vandy affirmed the sentence and ordered the offenders to pay compensation to 180 victims"
- **Competent authority: Ministry of Labor**

1. To protect the labor and human rights of foreign workers in Taiwan, the Ministry of Labor will continue to promote related laws and regulations, enhance protection, provide support and assistance, and carry out investigations and punishment. The ministry will also continue to strengthen communication channels with source countries of foreign workers and boost cooperation mechanisms, so as to jointly protect the interests of foreign workers in Taiwan and create a harmonious relationship between employers and employees.
2. In addition, concerted efforts have been made to prevent the occurrence of human trafficking.

2.1. The ministry has urged local governments to increase visits to employers, brokerage agencies, and foreign workers, and conduct inspections within three months following a foreign worker's arrival in Taiwan.

2.2. It has promoted local service centers and the 1955 hotline to strengthen mechanisms through which foreign workers can submit complaints. A total

of 22 service centers have been set up under local governments, while the 24-hour free hotline offers services in four languages.

2.3. It has provided appropriate shelters. If a foreign worker accuses his or her employer of violating the law, local competent authorities shall first place the foreign worker in a shelter before carrying out an investigation, so as to ensure the safety of the foreign worker.

2.4. It has strengthened the verification mechanism for termination of contracts. To prevent forced deportation of foreign workers, the ministry has stipulated that when a work contract is terminated prematurely, both parties shall go to the local government for verification. After the local government has verified the intentions of the foreign worker, and confirmed that both parties indeed desire to terminate the employment relationship, a verification certificate will be issued to the employer. Such a mechanism strengthens the protection of foreign workers' rights.

2.5. It has continued promotional campaigns in print and electronic media targeting foreign workers, employers, brokers, and the general public, so as to prevent the occurrence of human trafficking involving foreign workers.

No. 73

- **Section 7. Worker Rights**

  e. Acceptable Conditions of Work—regarding the comment that "an employer may deduct only labor insurance fees, health insurance premiums, income taxes, and meal and lodging fees from the wages of a foreign worker. Violators face fines of NT$60,000 to NT$300,000 and loss of hiring privileges. Critics, however, complained that violations continued and that the Ministry of Labor did not effectively enforce statutes and regulations intended to protect foreign laborers from unscrupulous brokers and employers"

- **Competent authority: Ministry of Labor**

1. Employers shall, in accordance with labor contracts, pay full wages to foreign workers. If employers fail to pay wages in full, foreign workers may appeal to the 1955 hotline set up by the Ministry of Labor or to service centers of local governments in the area where they work. Local governments shall impose a deadline for payment or fine the employer between NT$60,000 and NT$300,000. In addition, the ministry may terminate the employer's recruitment and hiring permit.
2. With regard to inspection mechanisms, the current law stipulates that employers shall notify local governments within three days following a foreign worker's arrival in Taiwan in order to facilitate on-site visits. The ministry also provides funds to local governments to hire inspectors to implement scheduled and unscheduled visits after employers have made the aforementioned notifications. In 2014, 4,915 cases involving salary disputes were reported to the 1955 hotline. A total of NT$136,734,797 in unpaid salary was recovered for foreign workers.

No.74

- **Section 7. Worker Rights**

  e. Acceptable Conditions of Work—regarding the comment that "in addition to a Ministry of Labor-operated Foreign Worker Direct-Hire Service Center that allowed local employers to rehire their foreign employees, the ministry operated a direct-hire web platform to allow local employers to hire foreign workers online without having to go through a broker. NGOs, however, asserted that complicated procedures and restrictions on use of both the Service Center and the online service prevented widespread implementation, and they advocated lifting restrictions on transfers between employers"

- **Competent authority: Ministry of Labor**

1. To provide multiple channels to hire foreign workers, the Ministry of Labor established Direct Hiring Service Centers, which assist employers in rehiring the same foreign worker or hiring new foreign workers. This system does not require the services of brokerage agencies, therefore reducing fees for both employers and foreign workers. From 2008 to the end of June 2015, the Direct Hiring Service Centers have provided services to a total of 106,194 employers and 114,856 foreign workers, saving brokerage agency registration fees for employers and overseas brokerage agency fees for foreign workers worth NT$4.769 billion.
2. Procedures for hiring foreign workers involve Taiwan-based government agencies (health and foreign affairs ministries, as well as foreign representative offices in Taiwan) and foreign-based agencies (Taiwan's overseas missions and source countries' government agencies). There are also various stages in the application process. Given that employers' qualification certifications, foreign document verifications, and Taiwan entry visas are required items, the current outcome of the ministry's efforts

to streamline procedures is that the number of required documents should be no more than five. Meanwhile, since March 31, 2014, a foreign worker application and review system has been available online, featuring simplified application forms. With the system directly assessing submitted data, the number of documents can be reduced. Furthermore, to simplify the application process for the family care category, the original two-stage procedure has been shortened to a one-stage procedure, increasing administrative efficiency.

3. To enhance understanding of direct hiring among employers, the ministry has published brochures and flyers, organized promotional events, visited factories, and attached related information to employment stability fee payment notices. The ministry has also launched a foreign workers app with a special section on direct hiring for employers that provides information on relevant procedures, latest news, and application status updates.
4. Through bilateral communication channels and labor cooperation meetings, the ministry will continue to urge source countries to help promote direct hiring and expand its scope, so as to reduce fees for foreign workers traveling to Taiwan for employment, including fees associated with foreign brokerage agencies. The aim is to prevent improper debt bondage.
5. To protect the rights and interests of foreign workers and employers, existing provisions stipulate that foreign workers cannot change employers or jobs. However, if the employment relationship is terminated due to reasons that are not attributable to the foreign worker, he or she may, following approval by the ministry, change employer or job. In practice, a

change of employer may also be done through a trilateral accord between the original employer, foreign worker, and new employer, or by agreement between a foreign worker with an expired employment permit and a new employer. At present, the success rate of such changes is more than 90%.

6. To take into account the needs of both employers and employees, the law was amended in 2013 to relax restrictions on foreign workers in domestic care jobs. Such workers may—if their employment permit has not yet expired, if reasons can be identified not attributable to them, and if they have received consent from the original employer—change employers or jobs. When a foreign worker makes such a change, or leaves the country, the original employer may apply for a replacement with the central competent authority, thereby enhancing the freedom of foreign workers to switch employers.

- **No. 75**
- **Section 7. Worker Rights**
  e. Acceptable Conditions of Work—regarding the comment that "foreign workers deemed to have worked illegally faced heavy fines, mandatory repatriation, and a permanent ban on re-entering Taiwan"
- **Competent authority: Ministry of the Interior (National Immigration Agency)**

1. According to Paragraph 3 of Article 18 of the Immigration Act, a foreign national who has overstayed his or her visitor or resident visa, or has worked illegally, will be barred from entering the country for a minimum of one year and a maximum of three years, starting from the day after his or her departure. Meanwhile, according to Subparagraph 2 of Paragraph 1 of Article 4 of the Alien Entry Prohibition Operation Directions, foreign nationals who have worked illegally in Taiwan will be barred from reentering the country for a period of three years.
2. Contrary to the aforementioned comment, no foreign nationals are permanently banned from entering Taiwan.

- **No. 76**
- **Section 7. Worker Rights**
  e. Acceptable Conditions of Work—regarding the comment that "according to data released by the Bureau of Labor Insurance, there were 13,236 cases of occupational injury or sickness during the first five months of the year 2014, down from 14,787 cases during the same period in 2013. There were 105 occupational deaths during this period, down from the 117 cases reported during the same period in 2013"
- **Competent authority: Ministry of Labor**

According to data released by the Bureau of Labor Insurance of the Ministry of Labor, there were a total of 35,921 cases of occupational injury or sickness in 2014, down from 37,724 in 2013. There were 950 occupational deaths in 2014, up 8% from 879 in 2013.