

**Response of
the Republic of China (Taiwan)
to the U.S. Country Reports on Human Rights
Practices for 2015**

October 14, 2016
Taipei, Republic of China (Taiwan)

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➤ Response to Section 1. Respect for the Integrity of the Person

- No. 1
- 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

With regard to the part about prison and detention center conditions that states “Overcrowding was a problem; prisons operated at 116% of designed capacity”:

A higher proportion of people convicted and sentenced in recent years have committed particular crimes (narcotics, endangering public safety, assault causing bodily harm, and fraud). Taiwan’s current criminal policy takes a two-pronged approach, being more lenient in some cases (such as reducing the number of crimes with a mandatory death sentence) and more severe in others (such as the particular crimes mentioned above). After amendments to the Criminal Code in 2006, the length of prison terms and the number of long-term inmates have therefore both increased. Existing facilities have insufficient capacity, leading to overcrowded prisons.

To address this issue, the Ministry of Justice is committed to implementing both a front-end policy under the purview of the prosecutorial/judiciary system that allows for measures to keep

criminals from being sent to prison in the first place (such as deferred prosecution, community service, suspended sentences, fines, and conversion of prison time into fines), and a back-end policy under the purview of the correctional system that includes measures such as probation. Furthermore, the Agency of Corrections has also developed a 10-year plan to improve prison conditions by expanding, adding, changing or relocating facilities, thereby providing more space to meet demand. Construction of new facilities and expansion of existing ones is underway in multiple correctional institutions. The completion of these projects will effectively address the overcrowding situation and improve the inmates' living conditions and quality of life.

- No. 2
- 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

Pertaining to the point made about former president Chen's out-of-prison medical treatment on bail and extension, we recommend the content be modified as follows:

The case of former president Chen Shui-bian has continued to receive close attention from political figures and human rights activists, both domestically and internationally. The Ministry of Justice granted Chen release for medical treatment on bail based on the medical team's unanimous finding that Chen needed around-the-clock care and that the medical care he had received in prison had not improved his health. Chen's release for medical treatment on bail is reviewed every three months and has been extended six times to date. He is required to seek special permission if he wishes to pursue activities unrelated to medical treatment. At the beginning of June this year, approval was given out of humanitarian concern for Chen to travel from Kaohsiung to visit his old home on Minsheng East Road in Taipei City, and meet with old neighbors and friends.

- 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

With respect to the comment on independent monitoring that “The authorities allowed independent nongovernmental observers to investigate the prison conditions,” we recommend the following modified version:

Independent monitoring: The authorities allow independent nongovernmental observers (or groups) to participate in prison administration reform programs (such as the Prison Reform Group) and make recommendations. Furthermore, for parole reviews, appeals against disciplinary decisions, and selections of inmates for open prison, the correctional services always invite external personnel to participate in hearings and meetings to ensure fair treatment.

- No. 4
- Section 1. Respect for the Integrity of the Person, Including Freedom from
 - d. Arbitrary Arrest or Detention
- Competent Authority: Ministry of Justice

In response to the comment that “Prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee”:

In accordance with paragraph 2 of Article 93 of the Code of Criminal Procedure, if during investigations public prosecutors deem it necessary to detain a defendant or a criminal suspect, they must apply for a detention order from the court that has jurisdiction over the case within 24 hours from the time of arrest. The use of the word “continue” in the original document is therefore redundant.

- No. 5
- Section 1. Respect for the Integrity of the Person, Including Freedom from
 - d. Arbitrary Arrest or Detention
- Competent Authority: Judicial Yuan

Concerning arrest procedures and treatment of detainees:

According to paragraph 5 of Article 31 of the Code of Criminal Procedure, where defendants or suspects are unable to give a complete statement due to mental disability, or are indigenous persons, and have not been assigned legal counsel during the investigation process, then the public prosecutor or judicial police shall immediately notify a lawfully established legal aid organization to assign an attorney to provide legal assistance. According to subparagraph 3 of paragraph 1 of Article 95 of the Code of Criminal Procedure, if defendants or suspects are from low- or middle-income households, or are indigenous or of any other status that makes them eligible to request legal aid, they should be informed of such during the police interrogation and investigation process. Taiwan's Code of Criminal Procedure protects the right to counsel for disadvantaged people, including the economically disadvantaged, thereby protecting their rights and interests during litigation.

- No. 6
- Section 1. Respect for the Integrity of the Person, Including Freedom from
d. Arbitrary Arrest or Detention
- Competent Authority: Judicial Yuan

Response regarding the program to provide legal counsel during initial police questioning to qualifying indigent suspects who have mental disabilities or have been charged with a crime punishable by three or more years in prison:

1. Provision of legal aid to indigent suspects with mental disabilities:

Subparagraph 3 of paragraph 4 of Article 5 and paragraph 1 of Article 13 of the Legal Aid Act (hereinafter “the Act”) amended and promulgated on July 1, 2015, provide that defendants who are unable to make a full statement due to damage to or impairment of the nervous system or mental functions, and who do not yet have legal counsel during an investigation or trial, may request legal aid. To further protect the rights and interests of such people, paragraph 2 of Article 17 of the Act provides that health and welfare facilities may apply for legal aid on their behalf.

2. Compulsory defense:

On September 17, 2007, the Legal Aid Foundation (hereinafter

“the Foundation”) launched a program whereby people are accompanied by legal counsel to the first criminal interrogation. Pursuant to subparagraph 1 of paragraph 4 of Article 5 and paragraph 1 of Article 13 of the Act, defendants or suspects who do not yet have legal counsel during the first round of questioning (interrogation) in an investigation if involving cases that carry a minimum sentence of at least three years in prison, or in a trial of first instance adjudicated by the high court, may request legal aid.

3. Legal aid for indigenous people:

On July 15, 2012, the Foundation began a program whereby indigenous people are accompanied by legal counsel during criminal interrogations. Pursuant to subparagraph 2 of paragraph 4 of Article 5 and paragraph 1 of Article 13 of the Act, indigenous defendants or suspects who have not yet been assigned legal counsel during an investigation may request legal aid.

4. Pursuant to subparagraph 2 of paragraph 2 of Article 13 of the Act, indigenous defendants or suspects as mentioned above do not need to be means tested to apply for legal aid. In other words, being economically disadvantaged is not a precondition for legal aid for indigenous people.

- No. 7
- Section 1. Respect for the Integrity of the Person, Including Freedom from
d. Arbitrary Arrest or Detention
- Competent Authority: Ministry of Justice

Regarding the comment that “The prosecutor proposes and a court decides whether a suspect should be detained without visitation rights other than legal counsel or held under house arrest”:

Paragraph 3 of Article 93 of the Code of Criminal Procedure stipulates that, if, after questioning defendants or suspects, the public prosecutor considers that an application for their detention is unnecessary—despite the existence of one of the circumstances listed in paragraph 1 of Article 101 or paragraph 1 of Article 101-1 of the Code of Criminal Procedure—then they may be released either on bail, to the custody of family members, or with a limitation placed on their residence. On this basis, the public prosecutor should apply for a detention order from the court. However, if the public prosecutor deems a detention is unnecessary, he or she may order that defendants or suspects be released either on bail, to the custody of family members, or with a limitation placed on their residence without filing an application with the court.

- No. 8
- Section 1. Respect for the Integrity of the Person, Including Freedom from
e. Denial of Fair Public Trial
- Competent Authority: Judicial Yuan

1. Response to the concern that “Some political commentators and academics also publicly questioned the impartiality of judges and prosecutors involved in high-profile and politically sensitive cases”:

Article 80 of the Constitution provides that judges shall be above partisanship and, in accordance with law, hold trials independently, free from any interference. In order to allow judges to hold trials independently and to be free from partisanship, as well as to increase public trust in the judiciary, Article 15 of the Judges Act provides that a judge shall not participate in any political party or organization, or their activities, during the term of service, and shall withdraw from such if already involved in such before being appointed. Moreover, Article 17 of the Code of Conduct for Judges further provides that a judge shall not make any public statement that might reasonably be expected to affect the outcome of pending or impending cases or impair the fairness of the legal process. These provisions give clear guidance on judges conducting fair trials.

2. Response concerning the evaluation of judges:

(1) Under the evaluation mechanism implemented on January 6, 2012, judges who have seriously violated the Code of Conduct for Judges or are 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 have committed serious misconduct, may be referred to the Judges 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, with concrete evidence, by the Court of the Judiciary to be unfit to serve 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) Since the implementation of the evaluation system in 2012, the Judges Evaluation Committee, which consists of judges, public prosecutors, lawyers, and impartial citizens, has forwarded 11 cases from the Judicial Yuan to the Control Yuan for review and six cases to the Judicial Personnel Review Committee for deliberation. These cases involve rash verdicts, erroneous legal interpretations, disruptions due to poor attitudes,

data protection violations, and improper physical contact with colleagues. Judges in these cases were punished with disciplinary actions, forfeited their salary, or were dismissed from office in accordance with the seriousness of the violation. There are currently eight cases pending evaluation. In addition, a series of amendments have been made to the regulations governing the evaluation of judicial personnel to enable the system to better function. We firmly believe that this system has raised discipline and vigilance, making trials fairer and more transparent as hoped.

- No. 9
- Section 1. Respect for the Integrity of the Person, Including Freedom from
e. Denial of Fair Public Trial
- Competent Authority: Judicial Yuan

For cases involving juveniles, the overriding principal is to avoid criminal punishment and take remedial measures. To protect their right to privacy, trials involving juveniles are not public, with court permission generally required to attend. However, in criminal cases, the court may not refuse to make trials public when so requested by either the juveniles themselves, their legal representative, or the person whose care they are under, unless there are specific legal reasons for not doing so.

➤ Response to Section 2. Respect for Civil Liberties

- No. 10
- Section 2. Respect for Civil Liberties, Including
 - a. Freedom of Speech and Press
- Competent Authority: Ministry of the Interior

Regarding the comment “Local media reported incidents of police obstruction and violence directed at journalists who were covering protests against administration policies”:

The police agencies always respect freedom of the press and the media’s right to report the news, and take measures to facilitate their work. However, when laws are violated or there is a breakdown in public order during a rally or demonstration, the police are obligated to act to protect the safety of the public, reporters included. The police will escort reporters from the scene if necessary. All police agencies are asked to follow the guidelines for protecting press freedoms and safeguarding reporters when enforcing the law and safeguarding public order.

- No. 11
- Section 2. Respect for Civil Liberties, Including
 - a. Freedom of Speech and Press
- Competent Authority: Ministry of Education

Regarding the condemnation made by the Association of Taiwan Journalists that the arrests of three journalists at a protest on July 23, 2015, against proposed changes to curriculum guidelines for high school textbooks “infringed on freedom of the press,” and “violated the journalists’ human rights”:

1. The journalists had not contacted the Ministry of Education before the July 23 protest to indicate that they would like to cover the event and, during the protest, they entered the Ministry of Education without presenting their press credentials to staff. The ministry contacted the police, who arrested everybody for trespassing. It was not possible to determine whether or not the three journalists were simply covering the protest, and as a result they were included in the legal complaint that the Ministry of Education filed against everyone present, in accordance with the law.

2. The Ministry of Education subsequently withdrew its complaint for trespassing and damages on August 10, 2015, out of respect for journalists’ freedom to report news. The case is now closed and no further action will be taken. The ministry has

no intention of harming the freedom of the press.

- No. 12
- Section 2. Respect for Civil Liberties, Including
 - d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons
- Competent Authority: Ministry of the Interior

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. All PRC citizens unlawfully present are required by law to be returned to the PRC”:

1. The Executive Yuan presented the draft of the Refugee Act to the Legislative Yuan on February 1, 2016.
2. Since the legislative process has not been completed, the government can neither establish procedures for handling refugee cases, nor receive applications from foreign asylum seekers or stateless persons. Regarding asylum seekers from mainland China, the government will handle the applications in accordance with the Act Governing the Relations of People in the Taiwan Area and the Mainland Area. The Executive Yuan submitted draft amendments to the Act to the Legislative Yuan on February 1, 2016.

➤ Response to Section 3. Freedom to Participate in the Political Process

- No. 13
- Section 3. Freedom to Participate in the Political Process-Election and Political Participation
- Competent Authority: Central Election Commission

To help prevent bribery and violence during elections, improve the quality of the election process, and enable free and fair elections, paragraph 1 of Article 97 and Article 104 of the Presidential and Vice Presidential Election and Recall Act, as well as paragraph 1 of Article 111 and Article 120 of the Civil Servant Election and Recall Act, stipulate that individuals involved in bribery who hand themselves over to the law or confess may receive more lenient punishments or none at all, and that bribery and violence may result in elections being invalidated.

In addition, as part of the clean elections campaign endorsed by the Executive Yuan, relevant government agencies have been tasked with educating people on democracy and the rule of law in general, and using various opportunities and channels to encourage people to be vigilant over possible crimes.

The Central Election Commission also has supervisors from the

municipal, county, and city election commissions work closely with law enforcement agencies to ensure that elections are properly supervised and evidence collected where necessary. The aim is to completely remove bribery and violence from all elections.

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

- No. 14
- Section 4. Corruption and Lack of Transparency in Government
- Competent Authority: Ministry of Justice

1. Taiwan established the Agency Against Corruption (AAC) under the Ministry of Justice on July 20, 2011, to show its determination to crack down on corruption involving public officials, as well as to comply with Article 6 of the United Nations Convention against Corruption (UNCAC) on preventive anti-corruption body or bodies, and with Article 36 of the same on specialized authorities (stipulating that each State Party shall ensure the establishment of a preventive body against corruption and a specialized law enforcement body for combating corruption in accordance with the fundamental principles of its legal system, and enable such bodies to have “the necessary independence”). The AAC’s organizational objective is to protect human rights by observing strict discipline in investigations and adhering to work ethics guidelines.

2. To strike at the heart of corruption and send a clear message, the Agency Against Corruption (AAC) of the Ministry of Justice, in addition to targeted investigations into institutional corruption

and corrupt high-ranking officials, has also established a resident prosecutor system whereby prosecutors appointed to the AAC by the Ministry of Justice direct AAC officials in promptly investigating corruption cases. Combined with the preliminary investigation model, this allows judicial investigations to be launched earlier and more effective. Resident prosecutors also take part in the AAC Intelligence Review Committee, filtering all intelligence on corruption and effectively utilizing available resources, human and other. Fine tuning the investigatory stage in this way increases efficacy and conviction rates.

- No. 15
- Section 4. Corruption and Lack of Transparency in Government
- Competent Authority: Ministry of Justice

With regard to the comment that “The law provides criminal penalties for corruption by officials, and authorities generally implemented the law effectively”:

Articles 4, 5, and 6 of the Anti-Corruption Act makes corrupt officials criminally liable. Prosecutor’s officers are also keen to demonstrate their determination to eliminate corruption, and make it so that officials will not, dare not, and cannot be corrupt. Article 11 of the Anti-Corruption Act also provides criminal penalties for the persons doing the bribing, and corresponds to Articles 4 and 5 of the Act in that it applies to bribes regardless of whether or not they actually influence the actions of officials in the discharge of their duties. This reassures the public that officials do not dare to engage in corruption as there is little incentive to do so.

- No. 16
- Section 4. Corruption and Lack of Transparency in Government
- Competent Authority: Ministry of Justice

In response to the comment that “Some legal scholars and politicians said [the] MOJ was not sufficiently independent and conducted politically motivated investigations of politicians. The Control Yuan is responsible for impeachment of officials if any wrongdoing is found”

The Ministry of Justice serves an administrative function, and adheres to a policy of noninterference and nonintervention when it comes to individual cases. The prosecutors’ offices under the Ministry of Justice abide by all laws and regulations, and make evidence-based decisions. The Ministry of Justice certainly does not conduct politically motivated investigations of politicians.

- No. 17
- Section 4. Corruption and Lack of Transparency in Government
- Competent Authority: Ministry of Justice

With respect to the paragraph “Former New Taipei City Deputy Mayor Hsu Chih-chieh was detained in July on charges of having expedited the approval and review process of several urban development and construction projects in return for money, gold bars, and luxury watches from two real estate developers. On November 25, Taipei District Prosecutors’ Office indicted Hsu on charges of corruption and asked the judge to impose a harsh sentence”:

The Ministry of Justice serves an administrative function, and adheres to a policy of noninterference, nonintervention, and no manipulation when it comes to individual cases. Hsu Chih-chieh has been indicted and the judge was requested to impose a harsh sentence.

- No. 18
- Section 4. Corruption and Lack of Transparency in Government
- Competent Authority: Ministry of Justice

With regard to “Financial Disclosure”:

1. Persons required to declare property

(1) In accordance with subparagraph 3 of paragraph 1 of Article 2 of the Act on Property Declaration by Public Servants (hereinafter “the Act”), all politically appointed officials must declare their property, not just “specified appointed as well as elected officials.”

(2) In accordance with subparagraphs 11 and 12 of paragraph 1 of Article 2 of the Act, civil servants above certain grades or civil servants in charge of specific affairs are also required to file property declarations with the civil service ethics units of each agency.

2. Administrative or criminal punishment of persons failing to declare property

(1) Administrative punishment:

In accordance with paragraph 3 of Article 12 of the Act, persons obliged to declare property who fail to do so within the prescribed time limit or who intentionally make untruthful declarations without justifiable reasons shall be subject to a fine

ranging from NT\$60,000 dollars to NT\$1,200,000 dollars. Fines ranging from NT\$200,000 dollars to NT\$4,000,000 as stated in the report's executive summary is incorrect.

(2) Criminal punishment:

According to paragraph 1 of Article 47 of the Criminal Code, a person who intentionally commits an offense punishable by imprisonment within five years of having already been imprisoned or of having been pardoned after serving a portion of the sentence, is considered a repeat offender. In accordance with paragraph 4 of Article 12 of the Act, however, a person who is obliged to declare property but, without a proper reason, fails to make—or to supplement and correct—his or her property declaration within the timeframe given by the authority after having already been punished according to paragraph 3 of the same article shall be sentenced to a maximum of one year imprisonment, detention, or a fine ranging from NT\$100,000 to NT\$500,000 dollars. Repeatedly failing to do so is irrelevant to the punishment. The punishment of “a prison term of no more than one year for repeatedly failing to comply” as stated in the report's executive summary is therefore a misunderstanding.

(3) Distinction between a penalty and a fine

Punishments prescribed in paragraphs 1 to 3 of Article 12 of the Act are administrative sanctions, and therefore a penalty is imposed. Punishments prescribed in paragraph 4 of the same

article are criminal in nature and can result in imprisonment, detention, or a fine. The two are different.

3. Article 6-1 of the Anti-Corruption Act regulates crimes involving property of unknown origin. A person who cannot give a proper or reasonable explanation for suspicious property, or similarly gives a false account, is held criminally responsible. Article 10 of the Anti-Corruption Act also stipulates that in cases where the origins of a suspicious property acquired by a person who has committed corruption, or by his or her spouse or children, cannot to be proven to be lawful, then the property shall be deemed to be the proceeds of crime and confiscated.

It is through these two methods that offenders are stripped of ill-gotten gains.

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

- No. 19
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons- Women
- Competent Authority: Ministry of the Interior

Regarding the statement that “the total number of sexual assaults was seven to 10 times the number reported to police”:

1. According to statistics from the Ministry of Health and Welfare, the number of cases of sexual assault reported in 2015 was 16,630. However, the number of sexual assault cases reported to police was recorded as being 3,659 (3,650 of which were solved, meaning a clearance rate of 99.75%).

2. One of the main reasons for this discrepancy in the statistics between the two is repeat reporting. According to the Sexual Assault Crime Prevention Act, social workers, police officers, health personnel, and educators are all required to report sexual assault cases that they are dealing with to the Ministry of Health and Welfare. Although Taiwan has a centralized reporting system, it cannot screen out the same cases that are reported from different units, which means one case might be reported

repeatedly. The Ministry of Health and Welfare is currently working on solving this problem.

3. Another reason for the discrepancy is that certain sexual assault crimes in Taiwan are indictable only upon complaint. Victims are sometimes unwilling to proceed with judicial proceedings for various reasons.

- No. 20
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons-Women
- Competent Authority: Ministry of Justice

Regarding the part that states “The law establishes the punishment for rape as not less than five years’ imprisonment, and courts usually sentenced individuals indicted of rape to five to ten years in prison”:

Article 221 of the Criminal Code establishes the punishment for non-consensual sex as not less than three years imprisonment and not more than ten years. Judges review the facts of each case and hand down commensurate sentences while remaining in strict compliance with the laws. Mention of the punishment for rape as being not less than five years’ imprisonment is factually incorrect.

- No. 21
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons-
Reproductive Right
- Competent Authority: Ministry of Health and Welfare

Regarding the statement “Unmarried persons, however, are prohibited by law from obtaining fertility treatment”:

1. Taiwan does not prohibit unmarried persons from receiving infertility treatment. The National Health Insurance covers health check-ups and treatment for infertility related diseases such as endometriosis, adrenal gland disorders, and thyroid disease.

2. Regarding assisted reproduction techniques for unmarried persons, the relevant laws were established on the basis of maintaining the moral principles and dignity of life, protecting the rights and interests of infertile couples and children conceived through assisted reproduction, and maintaining social ethics and health. The purpose of assisted reproduction is not solely for creating life. The rights and interests of children conceived through assisted reproductive technology must be considered, including the right to grow and be properly cared for. Currently, the target of fertility treatment is therefore married couples.

3. The issue of whether or not to allow unmarried persons to

receive assisted reproduction treatment will be thoroughly assessed based on public sentiment and social expectations.

- No. 22
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons
Gender-biased Sex Selection
- Competent Authority: Ministry of Health and Welfare

With regard to there being no reported cases of the authorities imposing fines on doctors for gender-biased sex selection, Taiwan reported eight cases of punishments from 2011 to 2012. One case involved medical malpractice and seven involved illegal medical advertisements.

- No. 23
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons-Child Abuse
- Competent Authority: Ministry of Health and Welfare

With regard to strengthening protective services for children and youth, the Ministry of Health and Welfare has put greater effort into promoting its care program for disadvantaged children under six years old. By combining the help of healthcare, education, police, and correctional agencies, among others, disadvantaged children under six are identified through a comprehensive screening process, and care services are offered to prevent incidents of child abuse or negligence. In addition, educational, social affairs, and other departments are actively working on providing family and parenting education, raising awareness on the rights of children and youth, and improving family functioning. Professional assessment and training within the field of child and youth protection services are also being augmented. Cooperation with the Children's Research Center of the National Council on Crime and Delinquency in the US has been established to introduce a structured safety assessment decision-making model. Through education and training, the assessment capabilities of frontline child and youth protection

social workers are strengthened, and frontline service personnel's knowledge about family treatment services is being boosted to improve the professional quality of protection services for children and youth, and to assist abused children and youth—as well as their family members—in their recovery. Furthermore, since neighbors and family members are best placed to identify or care for children involved in suspected cases of child abuse, the Ministry of Health and Welfare will continue its efforts in supervising and encouraging various local governments in promoting anti-violence awareness in communities. Also, diverse media channels are being used to let more people know how to identify, and report, neglect and abuse. These measures are expected to raise community awareness of children's and youth's human rights, as well as bring out the spirit of community care and proactive case reporting to ensure early intervention and minimize harm.

- No. 24
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons- Sexual Exploitation of Child
- Competent Authority: Ministry of Justice

In reply to the part titled “Sexual Exploitation of Child”:

1. The report states that “Solicitors of sex with minors over 16 but under 18 face up to one year in prison or hard labor, or a fine of up to NT\$3 million.” Based on paragraph 2 of Article 22 of the Child and Youth Sexual Transaction Prevention (renamed the Child and Youth Sexual Exploitation Prevention Act on February 4, 2015), we recommend changing this to “ Solicitors of sex with minors under 18 face between one year and seven years in prison, as well as a fine of up to NT\$3 million.”

2. The report states that “Those who engage in sex with minors between 14 and 16 receive a mandatory prison sentence of three to seven years.” In accordance with paragraph 3 of Article 227 of the Criminal Code, we recommend changing this to “Those who engage in sex with minors aged 14 or over but not yet 16 face a prison sentence of not more than seven years.”

- No. 25
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons- Persons with Disabilities
- Competent Authority: Ministry of Transport and Communications

Regarding the “the lack of accessible transportation systems” mentioned in the report:

1. In terms of land transportation affairs:

(1) Accessibility improvements: The Ministry of Transport and Communications has made stations more accessible in accordance with the Building Design and Construction Section of the Building Technical Regulations and the Design Specifications of Accessible and Usable Buildings and Facilities. In addition, public transport has been made accessible in compliance with the Construction Regulations of Public Transportation Accessible Facilities. However, due to the long history of the Taiwan railways, relevant regulations were not in place at the time of construction. The Taiwan Railways Administration, following the abovementioned regulations, continues to allocate funds to improve outdated facilities.

(2) Subsidizing low-floor buses: The Ministry of Transport and Communications has been assisting local governments and bus companies in procuring low-floor buses since 2010. As of May 2016, the ministry had subsidized the procurement of 2,350

low-floor buses and 143 accessible coaches, significantly increasing the percentage of low-floor city buses from 7.2 percent in 2009 to over 47 percent. To maintain the momentum, the ministry has set a goal of achieving a two percent increase every year. It is also prioritizing the allocation of low-floor buses to routes that connect to the Taiwan High Speed Rail and Taiwan Railway Administration stations.

(3) Creating an accessible tourism environment: The Tourism Bureau, which falls under the Ministry of Transport and Communications, established the Accessible Tourism Environment Promotion Committee in August 2012. All 13 National Scenic Area Administrations have applied the concept of universal design to popular tourist routes, building an accessible tourism environment. Each national scenic area administration has completed at least one accessible route to make it easier for persons with disabilities to visit.

(4) Promoting accessible taxi services: The Ministry of Transport and Communications has been encouraging local governments to apply for subsidies to procure accessible taxies since 2013. As of the end of June 2016, the number of accessible taxies in operation had reached 423, with persons with disabilities making 266,355 trips.

2. In terms of passenger ships:

The Mandatory and Prohibitory Provisions to be Included in

Standard Contracts for Passenger Carriage of Passenger Ship Enterprises Operating Domestic Liner Service promulgated by the Ministry of Transportation and Communications stipulate that carriers take appropriate measures to ensure an accessible environment on passenger ships.

- No. 26
- Section 6. Discrimination, Societal Abuse, and Trafficking in Persons-Persons with Disabilities
- Competent Authority: Ministry of Health and Welfare

We recommend changing the part that reads “Children with disabilities attended school, and officials noted no pattern of abuse during the year, although there were occasional reports of sexual assaults in educational and mental health facilities” to “Children with disabilities attended school, and officials noted that abuse was rare, although there were ...”

- No. 27
- Section 6. Discrimination, Societal Abuse, and Trafficking in Persons-
Person with Disabilities
- Competent Authority: Ministry of Health and Welfare

The report states that “Students with disabilities mostly attended mainstream schools. NGOs claimed that services for students with disabilities remained largely inadequate, and disabled students at mainstream schools often relied on the assistance of maids, parents, or grandparents to attend schools and use school facilities due to a lack of barrier-free facilities or adequate alternative facilities.”,

This statement is missing from the Chinese version of the report. We recommend adding the sentence “Special primary, secondary, and vocational schools were available for students with disabilities.”

- No. 28
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons- Persons with Disabilities
- Competent Authority: Ministry of Education

Regarding the “lack of barrier-free facilities or adequate alternative facilities”:

The Ministry of Education has specified subsidy directives and each year allocates NT\$100 million from its budget to assist junior colleges, tertiary colleges, and universities to improve their barrier-free facilities. Each college and university develops its own overall improvement plans, and prioritizes what is to be undertaken each year. All applications for related subsidy assistance are jointly assessed by experts and scholars from the fields of architecture and special education, and disabled persons’ organizations. A Barrier-free Environment Promotion Ad Hoc Group has been established and is regularly convened by the vice minister to review the progress made and related subsidy expenditures, promoting and providing barrier-free campus environments. The ministry also organizes professional workshops every year to provide information on barrier-free campus environments, and assessments of the provision of barrier-free campus environments is included in college and university supervisory appraisals to ensure that campus environments are accessible and welcoming.

- No. 29
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons- Persons with Disabilities
- Competent Authority: Ministry of Education

Regarding the paragraph “NGOs claimed that services for students with disabilities remained largely inadequate, and disabled students at mainstream schools often relied on the assistance of maids, parents, or grandparents to attend schools and use school facilities due to a lack of barrier-free facilities or adequate alternative facilities, ”the Ministry of Education considers that students with disabilities on campuses have access to good barrier-free facilities, personal assistants, and resource services, for the following reasons:

1. The Ministry of Education promulgated the Administrative Regulations for Special Education Networks and Operations in 2011, and set up a special education administrative support network in order to effectively promote and implement special education, integrate associated available resources, and help educational institutions at all levels implement special education, and provide them with related consultation, counseling, and services. The network includes the Special Education Students’ Diagnosis and Placement Counseling Committee, and various centers providing services for the hearing and visually disabled, professional

linguistic, functional, physical, psychological, and emotional support services, as well as vocational transition counseling services, and centers providing assistive devices and technology.

2. The Ministry of Education promulgated the Regulations Regarding Support Services for Students with Disabilities in 2013, explicitly requiring educational institutions at all levels to meet the needs of disabled students by improving their overall facilities and equipment to create barrier-free campus environments, and provide students with related support services. The ministry's K-12 Education Administration allocates funds each year to assist all elementary and secondary schools to improve their barrier-free facilities. Educational institutions have set up ad hoc Barrier-free Campus Environment Consultation Groups to make sure campus environments have as few restrictions as possible. They assess the number of staff and students with reduced mobility, and the requirements for more accessible facilities in order of priority, then formulate plans to make their campus more barrier-free by undertaking annual improvements based on this priority list.
3. The Ministry of Education amended the Special Education Act in 2013 to increase the number of personal assistants for special education students. Disabled students identified by

the Special Education Students' Diagnosis and Placement Counseling Committee as having a severe or higher level of disability, or as having special needs, have been provided with additional personal assistant services to help them on campus with specific everyday personal care needs, attending class, and other on-campus activities.

4. The Ministry of Education's K-12 Education Administration promulgated the Directions Governing the MOE K-12 Education Administration Subsidy for Private Sector Operated Special Education Activities at Educational Levels up to and Including Senior High School Level in February 2015, to assist in the provision of special education in the private sector. These cover private elementary and secondary schools under the Ministry of Education's supervision, and licensed or registered social welfare facilities nationwide, and not-for-profit legal bodies and organizations.

- No. 30
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons-National/Racial/Ethnic Minorities
- Competent Authority: Ministry of the Interior

In response to the statement “Foreign and mainland-born spouses were targets of discrimination both inside and outside the home”:

To foster a friendlier and more cosmopolitan society, the government has cooperated with new immigrant households and civic organizations to hold a series of different events, as well as produce educational short films, TV programs, and other types of media to promote multiculturalism, and an appreciation of the individuality of different ethnic groups and cultures. The government has held events on the UN-designated International Migrants Day on December 18, which was established as Immigrants Day in Taiwan in 2011. The above measures have gradually improved the situation.

- No. 31
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons-National/Racial/Ethnic Minorities
- Competent Authority: Ministry of Labor

Regarding the comment “Unlike non-PRC spouses, PRC-born spouses are permitted to work in Taiwan immediately on arrival”:

1. In accordance with subparagraph 2 of paragraph 1 of Article 48 of the Employment Service Act, for a foreign worker who has married an ROC national with a registered permanent residence in Taiwan and who has been permitted to stay, no employment permit application is required. Article 80 of the same act stipulates that, unless otherwise provided for in the applicable laws and regulations, the relevant provisions in the Employment and Administration of Foreign Workers shall govern the employment of mainland China residents in Taiwan.
2. Moreover, in accordance with Article 17-1 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, any PRC-born spouse who is permitted spousal residency or long-term residency in Taiwan may work here during the residency period without applying for an employment permit.
3. In summary, there are no differences in the protection of working interests for non-PRC spouses and PRC-born spouses.

a foreigner who has married a national of the Republic of China with a registered permanent residence in the Republic of China and has been permitted to stay can work in Taiwan without applying for an employment permit

- No. 32
- Section 6. Discrimination, Societal Abuse, and Trafficking in Persons-Indigenous People
- Competent Authority: Council of Indigenous Peoples

1. Regarding Section Six, which speaks to the entire indigenous peoples of Taiwan, we recommend that ‘yuan zhu min’ (原住民, aborigine) and ‘yuan zhu min bu zu’ (原住民部族, native tribes) in the Chinese version should be replaced with ‘yuan zhu min zu’ (原住民族, indigenous peoples).

2. Regarding the statement on “[helping]indigenous groups develop a system of self-governance [and formulating] policies to protect their basic rights”:

(1)The Council of Indigenous Peoples has supported indigenous self-government for over 15 years and has submitted four versions of a draft Self-Government Act to the Legislative Yuan for reading; nevertheless, the act has never been passed due to lack of consensus.

(2) Through its public policies, the new government has indicated that it will recognize indigenous peoples’ autonomy and right to self-determination, and implement the promotion of indigenous self-government. Looking at indigenous issues anew with a repentant attitude, the new government will rebuild indigenous perspectives of history, revitalize languages and cultures, and improve living standards.

- No. 33
- Section 6. Discrimination, Societal Abuses, and Trafficking in Persons
Indigenous People
- Competent Authority: Council of Indigenous Peoples

1. In order to protect indigenous peoples' rights to land and natural resources, and to effect mechanisms for obtaining the consent of indigenous peoples needed to take practical measures, the Legislative Yuan amended paragraph 4 of Article 21 of the Indigenous Peoples Basic Law on June 24, 2015, adding regulations regarding consultation and the acquisition of the consent for participation of indigenous peoples or tribes under additional rules authorized by the Council of Indigenous Peoples. Accordingly, on January 4, 2016, the Council of Indigenous Peoples issued its Regulations Governing Consultation and Acquisition of Consent for Participation of Indigenous Peoples and Tribes, which regulates the procedures involved in the consent mechanisms of indigenous tribal conferences and indigenous peoples, providing a guide for indigenous peoples, government agencies and the general public.

2. The Council of Indigenous Peoples is presently conducting outreach events to help society develop a better understanding of the consent of indigenous tribal conferences and indigenous peoples. Through these events, the Council of Indigenous Peoples hopes to efficiently improve the procedures involved in

obtaining the consent of indigenous peoples for applicable public works and private development projects, and enhance the appropriate application of the Indigenous Peoples Basic Law and the protection of indigenous peoples' rights.

3. Regarding the section "According to the Indigenous Peoples Basic Law, the authorities should establish a committee for demarcation and management of indigenous lands, although the authorities have not yet done so":

In order to realize transitional justice for indigenous peoples, the Office of the President has planned the establishment of a Truth and Reconciliation Commission, which will take charge of affairs relating to transitional justice for indigenous peoples and implement just policies regarding indigenous lands.

➤ Response to Section 7. Worker Rights

- No. 34
- Section 7. Worker Rights
 - a. Freedom of Association and the Right to Collective Bargaining
- Competent Authority: Ministry of Education

Regarding teacher's right to strike:

Teachers are prohibited from exercising the right to strike in order to protect students' interests and right to learn.

1. Social expectation of campus stability

(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 explicitly prohibits teachers from striking. Article 6 of the Labor Union Act, however, clearly stipulates that teachers may organize and join labor and industrial unions.

(2) The word 'teachers' in paragraph 2 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 and the International Covenant on Economic, Social and Cultural Rights

(1) The normal operation of the education system is vitally important for maintaining national and social stability, and students' right to education, and has far reaching and profound impacts. Although prohibited from striking, 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, if teachers have a labor dispute concerning matters related to adjustments, they may unilaterally submit the matter for arbitration. This is an alternative to striking, which Article 54 of the Act for Settlement of Labor-Management Disputes explicitly prohibits.

(2) Teachers may organize and join labor unions in accordance with the provisions of paragraph 3 of Article 4 of the Labor Union Act. Teachers' rights to do so have not been restricted; 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. 35
- Section 7. Worker Rights
 - a. Freedom of Association and the Right to Collective Bargaining
- Competent Authority: Ministry of Labor

Regarding the statement that “to register a union requires approval from the local competent authority or the MOL”:

In order to protect workers’ freedom of association and to facilitate the diverse development of union organizations, the Ministry of Labor amended the Labor Union Act in 2011, changing the “approval system” to a more open and free “registration system” for unions, specifying only that a union must apply for a registration certificate by submitting related documents to the competent authority within thirty days following the convention of the union’s inaugural general meeting.

- No. 36
- Section 7. Worker Rights
 - a. Freedom of Association and the Right to Collective Bargaining
- Competent Authority: Ministry of Labor

Regarding the section “Taiwan authorities effectively enforced laws providing for the freedom of association and collective bargaining. Violators are subject to fines. Such fines were not sufficient to deter violations”:

1. On June 4, 2014, the Ministry of Labor amended and published additional provisions on arbitration mechanisms in paragraph 5 of Article 6 of the Collective Agreement Act. In practice, if both labor and management sides continue to engage in long-term bargaining and there are violations of the law as indicated by bad faith bargaining, and despite the presence of fine-based mechanisms to rectify such behavior either the labor or management side has no will to bargain, and there is no non-negotiable deadlock, then to determine additional adjustments to disputes raised by either the labor or management side, there is now a quick and effective mechanism for handling this, through arbitration by a competent authority in accordance with labor rights, thus achieving the goal of promptly resolving labor-management disputes. The procedures and effectiveness of arbitration are handled in accordance with

the provisions set forth in the Act for Settlement of Labor-Management Disputes; however, based on a spirit of respecting autonomous labor-management bargaining, it may not be limited as such if both the labor and management sides have agreed otherwise.

2. Regarding the statement that “such fines were not sufficient to deter violations,” in accordance with the provisions set forth in paragraph 2 of Article 32 of the Collective Agreement Act, any party failing to undertake any prescribed action (or inaction) within a period prescribed in a decision rendered may be punished by an administrative fine of between NT\$100,000 and NT\$500,000, and also be ordered to take corrective actions within a given period. If the party fails to take corrective action within a given period, the fine may be imposed consecutively. Therefore, there is no issue with fines being insufficient to deter violations.

- No. 37
- Section 7. Worker Rights
 - a. Freedom of Association and the Right to Collective Bargaining
- Competent Authority: Ministry of Labor

Regarding the statement that workers in some sectors “do not have the right to strike”:

The provisions of Article 54 of the Act for Settlement of Labor-Management Disputes, amended and enforced on May 1, 2011, restrict the right of such workers to strike, the main consideration being that a strike conducted by the entities mentioned would affect the social order; therefore, such restrictions are based on public welfare, national conditions and the necessity of protecting the rights and freedoms of the general public. However, to provide adequate relief in case of labor-management disputes, a mechanism allowing either party to apply for arbitration is additionally set forth in Article 25 of the same act, thus providing an alternative approach to resolving disputes. Therefore, the relevant provisions meet the principles expressed in the “two covenants” (ICCPR and ICESCR) and international labor conventions.

- No. 38
- Section 7. Worker Rights
 - b. Prohibition of Forced or Compulsory Labor
- Competent Authority: Ministry of Labor

Regarding the section “NGOs reported that some labor brokers and employers regularly collected high fees or loan payments from foreign workers, using debts incurred in the source country to create conditions of involuntary servitude”:

1. In order to prevent foreign workers from being subject to improper exploitation before coming to Taiwan, any debts accrued by foreign workers before arriving in Taiwan must be recorded on a “Foreign Worker’s Affidavit for Wage/Salary and Expenses Incurred before Entering the Republic of China for Employment” (hereinafter referred to as the “Affidavit for Wage”). The amount must be approved by a foreign worker by signing the affidavit, countersigned by employers, domestic brokerage agencies and foreign brokerage agencies, and then reviewed by the government of the foreign worker’s country of origin. This may not then be altered to the disadvantage of a foreign worker.
2. Domestic brokerage agencies may not accept any commission by foreign creditors to collect foreign workers’ loans in

Taiwan. If domestic brokerage agencies collect foreign loans or charge for non-standard expenses, they may be punished by fines, suspension, or the termination of permits or non-renewal of operating permits in accordance with provisions related to the Employment Service Act.

3. To ensure that foreign workers receive their due salaries, the Taiwanese government requires that employers directly pay the full salaries due to foreign workers after deducting for labor insurance fees, national health insurance fees, and income tax, fees for meals and accommodation, and employee welfare funds. If employers do not pay in full, the relevant authority will set a payment deadline, impose fines and/or annul a portion of or all the employer's recruitment permits or employment permits.

- No. 39
- Section 7. Worker Rights
 - c. Prohibition of Child Labor and Minimum Age for Employment
- Competent Authority: Ministry of Labor

Suggested amendments to the paragraph “The [Labor Standards Act] stipulates 15 as the minimum age for employment. The law prohibits children under 16 and senior high school students from doing heavy or hazardous work. Their working hours are limited to eight hours per day, and they are prohibited from overtime work and night shifts” as follows:

The Labor Standards Act stipulates that a worker over 15, but under 16, shall be considered a child worker. No worker younger than 18 may do work that is dangerous or hazardous in nature. Child workers’ working hours are limited to eight hours per day, and they are prohibited from doing overtime work and night shifts.

- No. 40
- Section 7. Worker Rights
 - c. Prohibition of Child Labor and Minimum Age for Employment
- Competent Authority: Ministry of Labor

Suggested amendments to the paragraph “County and city labor bureaus effectively enforced minimum age laws by ensuring the implementation of compulsory education. According to MOL, employers who violate minimum age laws face a prison sentence of six months or less and/or fines of up to NT\$300,000” as follows:

County and city labor bureaus effectively enforced the provisions of the Labor Standards Act pertaining to child labor protection by ensuring the implementation of compulsory education. According to the Ministry of Labor, employers who violate such provisions shall face a prison sentence of six months or less and/or fines up to NT\$300,000.

- No. 41
- Section 7. Worker Rights
 - e. Acceptable Condition of Work
- Competent Authority: Ministry of Labor

Regarding the paragraph “Household caregivers and domestic workers are not protected under the Labor Standards Law and are not covered by a mandated minimum wage, overtime pay, limits on the workday or workweek, minimum breaks, or vacation regulations”:

1. If household caregivers and domestic workers are employed in an organization or business entity in which the Labor Standards Act is applicable (e.g. social welfare organizations), their wages, working hours, vacation entitlements and other working conditions are governed by the provisions of the act.
2. If household caregivers and domestic workers are employed by individuals to engage in care work in a household, their working environment, work patterns, working hours and rest periods can be significantly different from those provided under the employment of a business entity; this may create a situation in which the application of the Labor Standards Act is difficult. Currently, the Labor Standards Act is not applicable to household caregivers and domestic workers employed by individuals.
3. Currently, the wages, working hours and vacation entitlements of foreign household caregivers and domestic workers are

provided in accordance with the sample contracts provided by domestic workers' countries of origin, agreed upon by employers and employees, and expressly specified in a labor contract, which is then to be followed.

4. To protect domestic workers' rights regarding their working conditions, the Ministry of Labor has formulated a draft Domestic Workers Protection Act and submitted it to the Executive Yuan for review. Because the Long-term Care Services Act will enter into force in 2017, the Executive Yuan has asked the Ministry of Labor to review the draft Domestic Workers Protection Act further to ensure that it conforms to the promotion of the long-term care system, and has asked the ministry to continue to communicate with all stakeholders to make the act more comprehensive and complete.

- No. 42
- Section 7. Worker Rights
 - e. Acceptable Condition of Work
- Competent Authority: Ministry of Labor

Regarding the statement that “the number of inspectors and labor inspection rate were too low”:

1. In 2015, there were 733 budgeted labor inspectors (including subsidies for 325 inspectors at local labor agencies); currently, the ratio of labor inspectors to workers is approximately 1:15,950, close to the standard of 1:15,000 in industrialized countries recommended by the ILO; at present, the plan is to increase the number to 1,000 inspectors, gradually moving towards the standard in developed countries of 1:10,000.
2. Furthermore, there were 154,469 labor inspection sessions in 2015 (104,705 sessions on health and safety, 49,764 sessions on labor conditions), compared with 115,488 sessions in 2014 (90,937 sessions on health and safety, and 21,551 sessions on labor conditions), representing a substantial increase of 38,981 sessions, or 33.7 percent.

- No. 43
- Section 7. Worker Rights
 - e. Acceptable Condition of Work
- Competent Authority: Ministry of Labor

Regarding the paragraph “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 (US\$1,860 to US\$9,290) and loss of hiring privileges. Critics, however, complained that violations continued and that MOL did not effectively enforce statutes and regulations intended to protect foreign laborers from unscrupulous brokers and employers”:

1. Foreign workers not receiving their full salaries from employers or being overcharged service fees by brokerage agencies may dial the number 1955, a 24-Hour Counseling and Protection Hotline for Foreign Workers established by the Ministry of Labor, to complain and appeal. The relevant local authority will then carry out inspections, and any violator will be severely punished in accordance with the law.

2. Statistics indicate that NT\$154,763,659 of wages in arrears were recovered in 2015 through the assistance of the 1955 hotline.

- No. 44
- Section 7. Worker Rights
 - e. Acceptable Condition of Work
- Competent Authority: Ministry of Labor

Regarding the paragraph “The MOL operated a Direct Hiring Service Center and an online platform to allow employers to hire foreign workers without going through a broker. ... NGOs asserted that complicated hiring procedures and the online service’s incompatibilities with certain recruitment systems in workers’ countries of origin prevented widespread implementation, and they advocated lifting restrictions on transfers between employers”:

1. The Ministry of Labor has established an online application system for foreign workers which, since July 1, 2016, has provided a means to apply for the recruitment, hire and transfer of caregivers, domestic workers, and those in the manufacturing and marine fishing industries. Employers may submit online applications at any time of day, carry out online payments, and use the system’s inquiry services; this provides employers with a more convenient channel and simplifies administrative procedures.

2. To simplify application procedures for foreign household caregivers, care recipients may be exempted from professional assessment by medical institutions when an employer applies for

the renewal of a caregiver's expired recruitment permit; therefore, provisions have been added as to the qualification requirements and application procedures in such cases. In addition, since the auditing system for foreign worker operations is now online, the relevant documents required for an employer's application to hire or continue to employ foreigners, and for subsequent manual review operations, have been simplified by interfacing with immigration systems and with information held on continuing employment reports.

3. Furthermore, to assist employers in hiring foreign workers by themselves, the official website of the Direct Hiring Service Center provides such employers with guides, application requirements, required documents, and information on post-immigration management services.

4. In accordance with the provisions set forth in paragraph 1 of Article 59 of the Employment Service Act, for circumstances that cannot be attributed to a foreign worker, the worker may, with the authorization of the Ministry of Labor, transfer to a new employer or work. As for the manner of transfer to a new employer, the foreign worker may approach a public employment service agency to handle matchmaking and registration, or conduct a consensual transfer by tripartite agreement among the foreign worker, the original employer and a new employer. For circumstances where there has been a

violation of the law by the original employer, foreign workers may carry out a consensual transfer with a new employer. In addition, the Ministry of Labor launched an online foreign workers' employer transfer system on February 27, 2008 to make information on transfers transparent. Follow-up studies indicate a more than 90 percent success rate for the transfer of foreign workers, which suggests that this system for transferring foreign workers between two employers already allows for a considerable degree of freedom.

5. By comparison, systems for the transfer of foreign workers between employers in Singapore, Hong Kong and South Korea have adopted a practice of “prohibited in principle, consented to by exception,” and furthermore stipulate that to protect the working rights and interests of foreign workers, foreign workers subject to physical abuse, trafficking or other special circumstances can transfer to a new employer across different jobs and industries. Therefore, Taiwan affords greater protection to foreign workers' employment rights and interests as compared to the systems in these countries. In addition, associated processes are more diversified and transfer information is more transparent as compared with these countries.

6. On December 25, 2013, the Ministry of Labor amended and published the provisions set forth in Article 58 of the

Employment Service Act. This has broadened the conditions under which foreign domestic workers may, due to reasons not attributable to foreign workers or their employer, transfer legally while an employment permit is still in force. As such, an employer may still hire another foreign worker as a replacement, increasing such employers' willingness to agree to the transfer of a foreign worker.

- No. 45
- Section 7. Worker Rights
 - e. Acceptable Condition of Work
- Competent Authority: Ministry of Labor

Regarding the statement that “the Taiwan Labor Front and Taiwan Confederation of Trade Unions have cited labor dispatching ... as one of the factors undermining working conditions in Taiwan”:

To promote the working rights and interests of dispatch workers, the Ministry of Labor submitted a draft Dispatched Labor Protection Act to the Executive Yuan for review on February 12, 2015. In terms of its principle legislative direction, the draft legislation places greater emphasis on the responsibilities of business entities using dispatch workers, prohibits dispatching companies from using replacement dispatch workers, stipulates that dispatch workers be engaged in long-term employment, establishes labor dispatching enterprise management systems, sets reasonable limitations on the scope of labor dispatching and the number of dispatch workers that business entities can hire, and sets norms regarding equal treatment. It is expected that this will increase both the job and wage security of dispatch workers. During the period of review by the Executive Yuan, the Ministry of Labor has continued to actively communicate with relevant employer and employee groups, as well as executive authorities, in order to reach the maximum legal consensus.

- No. 46
- Section 7. Worker Rights
 - e. Acceptable Condition of Work
- Competent Authority: Ministry of Labor

Regarding the section “Brokerage agencies required workers to take out loans for “training” and other fees at local branches of Taiwan banks in their home countries at inflated interest rates. Domestic workers covered the full cost of their own health insurance”:

1. Wages in foreign workers’ countries of origin are often low, and employment opportunities are lacking. Therefore, before leaving home to work in Taiwan, foreign workers often need to make introductions at various levels, such as through relatives and friends, middlemen, and foreign brokerage agencies, in order to find work opportunities in Taiwan. Introduction charges are incurred at each level, and foreign brokers’ fees and the relevant expenses required to work in Taiwan (such as health examination fees, training fees, passport fees, visa fees, airfare and administrative fees) are frequently paid through loans.

2. The brokerage fees with which brokerage agencies in foreign workers’ countries of origin handle such workers’ departure for work in Taiwan are managed, in law, by foreign workers’ countries of origin with reference to the labor conditions of such countries. Taiwan has recommended to foreign workers’ countries of origin that foreign brokers’ fees

not exceed the equivalent of one month's salary for a foreign worker in Taiwan, and further recommended lowering the interest rates on the foreign loans that such workers take out, so as to prevent such workers from shouldering too heavy a financial burden.

3. To render more transparent the brokerage fees paid by foreign workers working in Taiwan, and their fee standards, and to prevent foreign workers from being subject to improper exploitation before coming to Taiwan, the cost of all loans taken out by a foreign worker before arriving for work in Taiwan must be recorded on an "Affidavit for Wage." Through bilateral labor meetings convened annually, Taiwan continues to request that all foreign workers' countries of origin strengthen the management of brokerage fees as related to foreign workers working in Taiwan, and clearly set out the expenses and standard fee amounts as related to foreign workers coming to Taiwan. Foreign workers' countries of origin have also been requested to strengthen the auditing of foreign brokerage agencies in their respective countries.

4. In addition, to provide a more diverse range of channels for the introduction of foreign workers into Taiwan, and to reduce foreign workers' financial burden, the Ministry of Labor established the Direct Hiring Service Center on December 31, 2007, thereby dedicating personnel to assist employers in hiring

foreign workers without the need to go through domestic or foreign brokerage agencies. Services provided by the center to both employers and foreign workers are available free of charge; as such, this reduces the burden of foreign brokerage fees for foreign workers coming to Taiwan, while also allowing employers to save on the registration and introduction fees which would otherwise have been paid to domestic brokerage agencies.

- No. 47
- Section 7. Worker Rights
 - e. Acceptable Condition of Work
- Competent Authority: Ministry of Labor

Regarding the section “Some employers of domestic workers did not pay them directly, but rather through the brokerage agencies. Agencies then deducted fees and loan repayments from the wages before paying the worker. In such cases, actual take-home pay for domestic workers could be far below the current poverty level, with NGOs reporting that the monthly take-home pay of some domestic workers was as low as 6.7 percent of the official poverty level”:

1. Taiwan stipulates that an employer must pay the full amount of a foreigner’s salary. By law, a foreign domestic worker’s employer can only deduct a national health insurance fee (approximately NT\$300); the remaining salary must be paid in full. However, foreign workers may still need to repay a loan in their home countries during their initial period of time in Taiwan. Furthermore, if they commission domestic brokerage agencies to provide services, they must pay service fees. To take the example of an Indonesian worker with an initial take-home pay of NT\$10,000, if such a worker is repaying a loan in his or her home country in installments over nine months, then his or her real disposable salary is approximately NT\$15,000.

2. To prevent domestic brokerage agencies charging fees at too high a level, the Ministry of Labor stipulates that such agencies may charge foreign workers service fees only, and that no fees may be charged without providing services in accordance with a service contract; furthermore, such fees may not be charged in advance, nor exceed NT\$1,800, NT\$1,700 and NT\$1,500 per month over the first, second and third years, respectively. If domestic brokerage agencies are found to have overcharged, punishment such as fines, suspension, or the termination of permits or non-renewal of operating permits will be imposed.

- No. 48
- Section 7. Worker Rights
 - e. Acceptable Condition of Work
- Competent Authority: Ministry of Labor

Regarding the section “NGOs asserted that foreign workers often were unwilling to report employer abuses for fear the employer would terminate the contract and deport them, leaving them unable to reimburse debt accrued to brokers or others”:

1. In order to prevent foreign workers from being improperly repatriated by employers, Taiwan has established an employment termination verification system, stipulating that in cases where an employer and a foreign worker consensually agree to terminate work relations before the end of the hiring period, they must apply to the relevant local authority to handle the verification process and thereby determine the true intentions of both parties regarding such termination.

2. The Ministry of Labor has established foreign worker service stations at international airports, allowing foreign workers being improperly repatriated to file an appeal at the time of exit. Furthermore, to strengthen foreign workers’ consultation and appeal channels, the Ministry of Labor has established the 1955 24-Hour Counseling and Protection Hotline for Foreign Workers (available by directly dialing 1955 from a mobile phone or a fixed line). This 24-hour toll-free line protects

foreign workers' interests by handling their appeals quickly, immediately dispatching cases to county or city government for investigation, and then tracking the status of such cases.

- No. 49
- Section 7. Worker Rights
 - e. Acceptable Condition of Work
- Competent Authority: Ministry of Labor

Regarding the Kaohsiung-registered deep-sea fishing vessel Fu Si Chun:

The regulations of the Employment Service Act and the Labor Standards Act do not apply to foreign crew who are employed by Taiwanese fishing boats operating in offshore waters and who have not entered Taiwanese territory to work. To take salaries as an example, foreign crew employed within domestic waters are afforded basic wage protections under the Labor Standards Act; those in offshore waters are employed in accordance with international labor market mechanisms by agreement between fishing boat owners and crew. For consistency of standards, the relevant authorities should be responsible for checking, establishing and controlling the rosters of foreign crew.

As for the investigation by the prosecutor's office, this case rests on whether or not there is any criminal liability.