

# TAIWAN 2018 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

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

Civilian authorities maintained effective control over the security forces.

There were no reports of egregious human rights abuses.

Authorities enforced laws prohibiting human rights abuses and prosecuted officials who committed them. There were no reports of impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that authorities or their agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

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

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

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

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

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

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

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

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

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

Improvements: To ease overcrowding, the Ministry of Justice allowed inmates to work outside prison during the day. From January to September, prison authorities allowed 454 inmates to work outside of prison. They received monthly salaries of no less than 21,000 New Taiwan dollars (NT\$) (\$684). Prison authorities allocated 62.5 percent of the inmates' income to improving prison conditions, skills training for inmates, and compensating crime victims.

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

The constitution and relevant laws prohibit arbitrary arrest and detention, and provide for the right of defendants to challenge the lawfulness of their detention in court, and the government generally observed these requirements.

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

The National Police Administration (NPA) of the Ministry of the Interior has administrative jurisdiction over all police units. Central authorities appoint city and county police commissioners. Civilian authorities maintained effective control over the NPA, and those authorities had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

To address injustices committed during Taiwan's authoritarian era, the ruling party passed the Act on Promoting Transitional Justice in December 2017. The law defines the authoritarian era as running from August 1945 to November 1992. The

Executive Yuan set up the Transitional Justice Commission in May in accordance with the law.

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

The law requires a warrant or summons, except when there is sufficient reason to believe the suspect may flee, or in urgent circumstances, as specified in the code of criminal procedures. Courts have judicial discretion to release indicted persons on bail. Prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. Authorities generally observed these procedures, and trials usually took place within three months of indictment. Prosecutors may apply to a court for approval of pretrial detention of an unindicted suspect for a maximum of two months, with one possible two-month extension. Courts may request pretrial detention in cases in which the potential sentence is five years or more and when there is a reasonable concern the suspect could flee, collude with other suspects or witnesses, or tamper with or destroy material evidence.

Legislation came into effect on January 1 that allows defendants and their lawyers access to case files and evidence while in pretrial detention. Previously, the accused and defense lawyers could only examine case files during the trial and were unable to obtain detailed information about the legal grounds of a pretrial detention. The amended law also stipulates that defendants must be assisted by a lawyer while in detention. For those who cannot afford to hire one, a public defender will be appointed. Another amendment specifies that suspects may no longer be interrogated late at night.

The judicial branch (Judicial Yuan) and the NPA operated a program to provide legal counsel during initial police questioning of indigenous suspects, qualifying indigent suspects who have a mental disability, or persons charged with a crime punishable by three or more years in prison. Detained persons may request the assistance of the Legal Aid Foundation (LAF), a publicly funded independent statutory organization that provides professional legal assistance through its 22 branch offices to persons who might not otherwise have legal representation. During regular consultations with police and when participating in police conferences, LAF officials remind police of their obligation to notify suspects of the existence of such counseling; the new amendments mentioned above were designed to address such concerns about access to counsel. Authorities can detain a suspect without visitation rights, except by legal counsel, or hold a suspect under

house arrest based on a prosecutor's recommendation and court decision. The law affords the right of compensation to those whom police have unlawfully detained.

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

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality. Some political commentators and academics, however, publicly questioned the impartiality of judges and prosecutors involved in high profile, politically sensitive cases. Judicial reform advocates pressed for greater public accountability, reforms of the personnel system, and other procedural improvements.

President Tsai convened a National Congress on Judicial Reform in 2017 to consider reform recommendations on issues of most concern to the public. These included: protecting the rights of crime victims and disadvantaged and marginalized groups; promoting a credible, fair, and professional judicial system; improving judicial accountability and efficiency; and enhancing judicial transparency and public participation. Based on the conclusions and recommendations of the congress, the Judicial Yuan and the Ministry of Justice proposed several bills and sent them to the legislature for review.

The judicial system included options, beyond appeal, for rectifying an injustice. In a high-profile retrial in August, former convict Su Pin-kun, who was sentenced to 15 years in prison on robbery and attempted murder charges in 1987 and received a presidential pardon in 2000, cleared his name after a 32-year legal battle.

### **Trial Procedures**

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

By law, when any authority arrests or detains a person without a court order, any person, including the arrestee or detainee, may petition a court of justice having jurisdiction for a writ of habeas corpus, and the case must be brought before a judge within 24 hours. The law also requires agencies to inform detainees of their right to see a judge for a writ of habeas corpus. Detaining authorities who violate the law may face a maximum sentence of three years in prison and a fine of up to NT\$100,000 (\$3,260).

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

To enhance the transparency of the judicial process, the Legislative Yuan approved an amendment to the Organic Act of the Courts in May requiring prosecutors to release the details of indictments to the public, but only after the court concludes the first trial and announces the verdict. Previously, prosecutors could only share the bill of indictment with defendants and court officials and report on the general charges contained in an indictment in high-profile cases.

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

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary for civil matters. Administrative remedies are available in addition to judicial remedies for alleged wrongdoing, including human rights violations.

In August 2018 and November 2017, the High Court awarded former death row inmates Cheng Tsing-tse and Hsu Tzu-chiang NT\$17 million (\$554,000) and NT\$28 million (\$912,000), respectively, in compensation for wrongful convictions. Cheng spent 14 years in prison before his acquittal in October 2017. Hsu was found not guilty in 2016 in the ninth retrial of his case, after he had spent two decades on death row.

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

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

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

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

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

Press and Media Freedom: The independent media were active and expressed a wide variety of views without restriction. There was, however, concern about the impact of the concentration of media ownership on freedom of the press, particularly among companies with People's Republic of China (PRC) investment.

There were no reports that central authorities restricted media freedom, but three journalists from different media outlets accused Taipei City of obstructing their work or penalizing them for performing their professional duties. In January a journalist accused the Taipei City government of refusing his requests for information in retaliation for a story regarding the city's dispute with a contractor. In June a CTi News reporter claimed that a draft speech Taipei Mayor Ko Wen-je submitted to the National Security Council before delivery in China in July 2017 did not contain controversial phrases Ko later uttered in China. The reporter accused Ko of suppressing a segment on this story due to air on June 1. She subsequently left CTi News, and a Taipei City councilor said her departure was due to pressure from the city. Also in June, Taipei officials pressured a magazine reporter to drop an investigative report about the city's breach of personal information for more than 3,000 AIDS patients. In August the International Federation of Journalists and its Taiwan affiliate condemned what they assessed to be a pattern of media interference under Mayor Ko.

Censorship or Content Restrictions: Local academics, reporters, and media activists alleged that self-censorship continued since some media presented news stories slanted in favor of the PRC due to political considerations and the influence of local businesses with close ties to the PRC. PRC authorities reinforced such

pressure by using access denial to punish Taiwan media outlets whose coverage they deemed to be insufficiently consistent with PRC policies. Retaliatory tactics included denial of entry to China, heightened questioning and scrutiny during transits of Hong Kong, and targeted cyberattacks against the journalists' mobile phones and computers. Journalists also reported difficulty publishing content that PRC authorities find politically objectionable because those authorities pressured Taiwan businesses with operations in China to cancel advertisements in Taiwan publications that feature such content.

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

### **Internet Freedom**

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

### **Academic Freedom and Cultural Events**

There were no restrictions on academic freedom or cultural events.

Some critics accused the Ministry of Education of failing to respect academic independence by politicizing the selection process of the president of National Taiwan University (NTU). The ministry, however, insisted it acted within the scope of its legal authority.

In January an NTU selection committee chose Kuan Chung-ming, a former minister of the National Development Council under the Kuomintang (nationalist) administration, to head the public university. Afterwards, sources revealed that Kuan failed to disclose his position as an independent board member at Taiwan Mobile, an affiliate of the Fubon Financial Group, one of whose owners, Richard Tsai, sat on the NTU selection committee. In August the Judicial Yuan concluded that Kuan and Tsai had contravened the Act Governing the Appointment of Educators by failing to disclose the conflict of interest before the election. Accusations also arose against Kuan of plagiarism and of violating the law requiring former officials who handled classified information to seek permission to

leave Taiwan for three years after the end of their tenure in office. In September the Ministry of Education instructed NTU to hold another vote among the five finalists of the previous election, including Kuan, but to exclude Richard Tsai from the new vote.

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

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

In March the High Court upheld the 2017 dismissal of charges against 22 protesters who led the occupation of the Legislative Yuan during the 2014 Sunflower Student Movement. The lower court judge said the protesters' actions met the criteria for civil disobedience.

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

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

### **d. Freedom of Movement**

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

### **Protection of Refugees**

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

In May, Taiwan allowed PRC asylum seeker Huang Yan to enter Taiwan for three months and subsequently extended her stay in late August for an additional three months. Huang is a human rights activist who received refugee status from the office of the UN High Commissioner for Refugees in Thailand. Despite the lack of a refugee law or procedure, authorities decided to approve Huang's stay in consideration of the high likelihood she would face persecution if returned to the PRC. Huang was seeking permanent resettlement in another country.



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

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

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

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

Recent Elections: Presidential and legislative elections took place in January 2016. Democratic Progressive Party candidate Tsai Ing-wen won the presidency, and her party obtained a majority in the legislature for the first time in Taiwan's history. In November, Taiwan held local elections in which the opposition party won 15 of 22 mayoral and county magistrate seats. Observers regarded both elections as free and fair, although there were allegations of vote buying by candidates and supporters of both major political parties.

Political Parties and Political Participation: Lawmakers approved a Political Party Act in November 2017 to promote fair political competition and improve regulation of parties' activities. The statute bans political parties from operating for profit businesses or investing in real estate for profit, and levies fines between NT\$5.0 million and NT\$25 million (\$163,000 and \$814,000) for violations.

December 2017 amendments to the Referendum Act lowered the thresholds to initiate referenda and for referenda to pass. Approximately 1,800 signatures, or 0.01 percent of the total number of eligible voters in the most recent presidential election, are required to initiate island-wide and regional referendums. Approximately 280,000 signatures, or 1.5 percent of the electorate, are required for a proposed referendum to make it on the ballot. A referendum will be declared successful if 25 percent of the electorate, or about 4.95 million people, vote in favor of the proposal, and there are more votes in favor than in opposition. The revised referendum law did not allow for referenda on sensitive sovereignty and

constitutional related issues, such as cross-Strait issues, territorial changes, and constitutional amendments. The amendments lowered the voting age for referenda from 20 to 18 years of age. In addition to referenda initiated by the public, the cabinet was also given the power to initiate referendums. In the November local elections, participation in the referenda exceeded expectations with voters passing seven out of 10 initiatives.

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

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

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

The law provides criminal penalties for corruption by officials, and authorities generally implemented the law effectively. There were reports of official corruption during the year. As of June, 20 ranking officials, 53 mid-level, 73 low-level, and 11 elected people's deputies had been indicted for corruption.

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

A prominent case in March involving the Judicial Yuan's Court of the Judiciary, which disciplines judicial officers for misconduct, highlighted the need for reform to improve public confidence in judges. In a controversial second trial of a judge convicted of sexually harassing his female assistant and impeached by the Control Yuan for the same offense, the court allowed the judge to retain his position after paying a fine. The second ruling drew condemnation from the public and lawmakers, who accused the judiciary of covering up the misdeeds of a fellow

judge and demanded that the Legislative Yuan amend the Judges Act to introduce external members to the Court of the Judiciary to improve its transparency. The Control Yuan also decided to appeal the second ruling.

In July the Supreme Court upheld corruption charges against former Yunlin County Magistrate Chang Jung-wei, ending a legal battle that lasted 14 years. The court sentenced Chang to eight years in prison and deprived him of civil rights for four years. Chang was found guilty of taking NT\$30 million (\$977,000) in bribes in connection with a county government incinerator project.

Financial Disclosure: The law requires specific appointed and elected officials to disclose their income and assets to the Control Yuan, which makes the disclosures public. Those making false declarations with the intent to conceal properties are subject to a fine ranging from NT\$200,000 to NT\$4.0 million (\$6,510 to \$130,000). The law also requires civil servants to account for abnormal increases in their assets and makes failure to do so a punishable offense, and there are criminal and administrative sanctions for noncompliance.

In May lawmakers also approved amendments to the Act on Recusal of Public Servants Due to Conflicts of Interest that added legislators' assistants to the category of elected and politically appointed officials covered by the law.

The amended Money Laundering Control Act, which became effective in 2017, stipulates 18 categories of politically exposed persons (PEPs) subject to strict oversight for money laundering activities. The PEPs include the president, vice president, heads of the central and local governments, legislators, and leadership of state-owned enterprises, as well as family members and close associates of PEPs.

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

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

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

### **Women**

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

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

In August the Supreme Court upheld a jail sentence of 39 years and two months for Justin Lee, the son of a wealthy banking tycoon. Lee was accused of drugging and sexually assaulting multiple women and filming sex acts with them between 2009 and 2011.

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

The law requires all cities and counties to establish violence prevention and control centers to address domestic and sexual violence, child abuse, and elder abuse.

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

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

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

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

## **Children**

Birth Registration: Citizenship is derived from that of either parent. Births must be registered within 60 days; failure to do so results in the denial of national health care and education benefits. Registration is not denied on a discriminatory basis.

Child Abuse: The law stipulates that persons learning of cases of child abuse or neglect must notify police or welfare authorities. An official 24-hour hotline accepted complaints of child abuse and offered counseling. Courts are required to appoint guardians for children of parents deemed unfit. In light of increasing child abuse cases in childcare centers, the legislature amended the Early Childhood Education and Care Act in May, imposing tougher punishments. Childcare center owners and teachers who physically abuse or sexually harass children may be fined between NT\$60,000 and NT\$500,000 (\$1,950 and \$16,300), and the names of perpetrators and their institutions will be made public. Owners who fail to verify the qualifications of teachers and employees face a maximum fine of NT\$250,000 (\$8,140).

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

Central and local authorities coordinated with private organizations to identify and assist high-risk children and families and to increase public awareness of child abuse and domestic violence.

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

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children and child pornography. In November 2017 lawmakers amended the Child and Youth Sexual Exploitation Prevention Act (CYSEPA) to

stiffen penalties against child pornographers. The amendment stipulates that a perpetrator who films an underage person engaging in sexual intercourse or obscene acts or produces pictures, photographs, films, videotapes, compact discs, electronic signals, or other objects that show an underage person engaging in sexual intercourse or obscene acts, shall be subject to imprisonment for between one and seven years, and could face a maximum fine of NT\$1.0 million (\$32,600). Prior to the amendment, the CYSEPA prescribed prison sentences ranging from six months to five years, and the maximum fine was NT\$500,000 (\$16,300).

The minimum age for consensual sexual relations is 16 years. Persons who engage in sex with children younger than 14 face sentences of three to 10 years in prison. Those who engage in sex with minors between 14 and 16 receive a mandatory prison sentence of three to seven years. Solicitors of sex with minors older than 16 but younger than 18 face a maximum of one year in prison or hard labor or a maximum fine of NT\$3.0 million (\$97,700).

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

In February police arrested two men in connection with an international child pornography distribution ring. Police uncovered mobile hard drives that contained an estimated 2,500 pornographic videos of minors, including infants. The suspects face charges of violating the CYSEPA.

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

There were reports of minors in prostitution.

International Child Abductions: Due to its unique political status, Taiwan is not eligible to become a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

## **Anti-Semitism**

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

## **Trafficking in Persons**

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

## **Persons with Disabilities**

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

Authorities enacted and made efforts to implement laws and programs to provide access to buildings, information, and communications. NGOs contended the lack of barrier-free spaces and accessible transportation systems continued to limit civic engagement by persons with disabilities, particularly outside Taipei. A prominent NGO leader, however, spoke positively about notable improvements in transportation during the year, such as the increase of low-floor buses across Taiwan, especially in Taoyuan City. Citing Taoyuan as an example, the advocate encouraged local governments proactively to put forward proposals and solicit subsidies from central authorities to improve the accessibility of transportation networks and other facilities.

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

There were occasional reports of sexual assaults against persons with disabilities in educational and mental health facilities. In May a nurse at a center for persons with mental disabilities in Hualien County uncovered evidence that a senior

administrator at the center had molested or sexually assaulted at least four female residents and that the center had tried to cover up the abuses. The nurse reported the case to the Hualien Social Affairs Department and police. The perpetrator, surnamed Chang, was suspended from his position and was under investigation for aggravated sexual assault and abuse of authority.

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

As of July spouses born in Indonesia, the Philippines, Thailand, Vietnam, and the PRC accounted for approximately 1 percent of the population. Foreign and PRC-born spouses were reportedly targets of social discrimination outside and, at times, inside the home.

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

### **Indigenous People**

Authorities officially recognize 16 indigenous tribes, accounting for approximately 2.3 percent of the population. The law provides indigenous people equal civil and political rights and stipulates that authorities should provide resources to help indigenous groups develop a system of self-governance, formulate policies to protect their basic rights, and promote the preservation and development of their languages and cultures.

Following President Tsai's 2016 formal apology to Taiwan's indigenous peoples for past injustices, her office set up an Indigenous Historical Justice and Transitional Justice Commission led by the president. The Executive Yuan convened the Indigenous Peoples Basic Law Promotion Committee and released annual reports on progress in addressing historical injustices.

The Indigenous Languages Development Act of 2017 designates the languages of Taiwan's 16 indigenous tribes as national languages and entitles indigenous peoples to use their languages in official settings. The act follows the Indigenous Peoples Basic Law of 2005 and the Indigenous Traditional Intellectual Creations Protection Act of 2007. As part of a pilot program, authorities established a



number of schools designed exclusively for indigenous children to ensure that they grow up in their native cultural and linguistic environment.

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

In 2017 the Executive Yuan's Council of Indigenous Peoples announced guidelines on the delineation of government-owned traditional indigenous territories. Indigenous rights advocates argued that a large amount of indigenous land was seized and privatized decades ago and that the exclusion deprived indigenous communities of the rights to participate in the development of these traditional territories.

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

Indigenous people participated in decisions affecting their land through the political process. The law sets aside six of the 113 seats in the legislature for indigenous tribal representatives elected by indigenous voters. In addition to the six legislators, the current Legislative Yuan has two indigenous legislators elected on proportional representation party lists.

Indigenous rights advocates protested the 2017 20-year renewal of permits for the Asia Cement Corporation's mining operations near a Truku community in Hualien County. They criticized the Indigenous Historical Justice and Transitional Justice Committee for failing to protect indigenous land rights. The Bureau of Mines renewed the permit without the consent of the Truku community. The original permit expired in November 2017.

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

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

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

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

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

The law prohibits potential employers from requesting health examination reports from job candidates to prove they do not have HIV or other communicable diseases. There was reported discrimination, including employment discrimination, against persons with HIV/AIDS (see section 7.d.).

## **Section 7. Worker Rights**

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

The law provides for the right of workers to form and join independent unions, conduct strikes, and bargain collectively. Teachers may form unions and federations. The law allows foreign workers to form and join unions and to serve as union officers. The law prohibits discrimination, dismissal, or other unfair treatment of workers for union-related activities and requires reinstatement of workers fired for trade union activity. 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.

According to the law, there are three types of unions: enterprise unions, industrial unions, and professional unions. Enterprise unions are responsible for negotiating the immediate labor rights and entitlements of enterprise-level “collective agreements.” A minimum of 30 members is required to form an enterprise union; there may only be one union per enterprise. Employees in companies with fewer than 30 workers may only join a professional union or an industrial union to

exercise their rights. Industrial unions help to link workers in the same industry. Professional unions are geographically constrained within municipal boundaries.

The right to strike remained highly regulated. Teachers, civil servants, and defense industry employees do not have the right to strike. Workers in industries such as utilities, hospital services, and telecommunication service providers are allowed to strike only if they maintain basic services during the strike. Authorities may prohibit, limit, or break up a strike during a disaster. For all workers, the law divides labor disputes into “rights disputes” and “adjustment disputes.” Workers are allowed to strike only in adjustment disputes, which include issues such as compensation and working schedules. The law forbids strikes in rights disputes related to violations of collective agreements and employment contracts.

The law requires mediation of labor disputes when authorities deem them sufficiently serious or involving unfair practices. Most labor disputes involved wage and severance issues. Local labor authorities were the usual venue to settle disputes by either mediation or arbitration. Arbitration generally took between 45 and 79 working days to finalize, which was too lengthy for cases requiring urgent remedies. The law prohibits labor and management from conducting strikes or other acts of protest during conciliation or arbitration proceedings. Labor organizations said this prohibition impeded workers’ ability to exercise their right to strike.

The Ministry of Labor oversees implementation and enforcement of labor laws, in coordination with local labor affairs bureaus. Authorities effectively enforced laws providing for the freedom of association and collective bargaining. A labor ministry arbitration committee reviewed cases of enterprises using discriminatory or improper action to repress union leaders and their activities, and authorities subjected violators to fines. Such fines, however, generally were not sufficient to deter violations. For example, before the acquisition of TC Bank with a strong enterprise union in December 2017, Yuanta-Polaris Bank established its own enterprise union in an attempt to outnumber those in TC Bank’s union. In July the Ministry of Labor ruled that this was an “unfair labor practice” in violation of the law. The bank would have to pay a negligible penalty of \$968 to \$4,840, creating a weak deterrence effect for future cases.

Labor union density (the percentage of labor registered in a union as a proportion of overall labor) in Taiwan remained low at 7.6 percent, significantly below the Organization for Economic Cooperation and Development average of 17 percent. Restrictions on the minimum number of employees needed to form a union

disqualified the 78.2 percent of employees who work for small and medium sized enterprises from being able to unionize in enterprise level unions. Large enterprises frequently made it more difficult for employees to organize an enterprise union through methods such as blacklisting the union organizers from promotion eligibility or relocating them into other work divisions. These methods were particularly common in the technology sector. For example, there was only one enterprise union in the entire Hsinchu Science Park. With the exception of the banking industry, industrial unions were also underdeveloped.

Collective agreement was encouraged by the authorities to provide better terms and conditions than the law stipulates. For example, the High Speed Rail Trade Union successfully negotiated and took back their overtime payments through collective bargaining.

Professional unions have grown more influential in collective bargaining. For example, following the successful strike of the 2016 Taoyuan Flight Attendants professional union, in August the Taoyuan pilot professional union leveraged the threat of a possible strike in exchange for a one-year negotiation with both China Airlines and Eva Air for better treatment of pilots.

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

The law prohibits all forms of forced or compulsory labor. The law prescribes penalties for forced labor, and the government effectively enforced the law, but courts delivered light sentences or fines in most forced labor convictions. Such penalties were inadequate to serve as an effective deterrent. Authorities continued public-awareness campaigns, including disseminating worker-education pamphlets, operating foreign-worker hotlines, and offering Ministry of Education programs on labor trafficking as part of the broader human rights curriculum. According to the National Immigration Agency, there were 25 cases of forced labor and only one individual was convicted for forced labor in the first six months of the year. In 2017 authorities established a workers' protection taskforce under the Executive Yuan's platform for preventing human trafficking (also see section 7.e.).

Labor laws do not cover domestic household workers, leaving them vulnerable to labor exploitation. Forced labor occurred in such sectors as domestic services, fishing, farming, manufacturing, and construction. Foreign workers were most susceptible to forced labor, especially when serving as crew members on Taiwan-flagged fishing vessels. Some labor brokers charged foreign workers exorbitant

recruitment fees and used debts incurred from these fees in the source country as tools of coercion to subject the workers to debt bondage (see section 7.e.). In 2017 authorities investigated and concluded 121 cases of illegal brokerage activities but imposed only negligible penalties of NT\$60,000 to NT\$300,000 (\$1,950 to \$9,770) and did not file criminal charges. Authorities ordered 11 of these brokers to terminate business operations; however, there was no legal prohibition against reopening one's businesses through a proxy that registers as a new company.

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

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

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

County and city labor bureaus effectively enforced minimum age laws by ensuring the implementation of compulsory education. Employers who violate minimum age laws face a prison sentence, fines, or both, which was sufficient to deter violations.

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

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

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

Workers who encounter discrimination can file complaints with two independent committees composed of scholars, experts, and officials in city and county departments of labor affairs. Local labor affairs bureaus are empowered to intervene and investigate complaints of employment discrimination. Authorities

enforced decisions made by those committees. Employers can appeal rulings to the Ministry of Labor and the Administrative Court.

Latest available statistics showed that among the 214 sex discrimination cases reported in 2016, the majority were forced resignation due to pregnancies. There were 146 sexual harassment cases and 135 unfair treatment or work equality cases. Scholars said these numbers significantly understated the problem due to workers' fear of retaliation from employers and difficulties in finding new employment if the worker has a history of making complaints.

Studies conducted by a women's NGO and *Cheers Magazine* found women were promoted less frequently, occupied fewer management positions, and worked for lower pay than men. According to a survey by the Ministry of Finance, the median monthly income for women was NT\$30,685 (\$1,000), earning on average 77 percent of the amount their male counterparts earned in 2017.

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

The law requires 3 percent of the workforce in the public sector and 1 percent of the workforce in the private sector to be persons with disabilities. As of March, 4.4 percent of the public-sector workforce were persons with disabilities; the private sector continued to fall short of the regulated target. The unemployment rate for persons with disabilities was three times higher than that for persons without disabilities.

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

A new minimum wage of NT\$23,109 (\$758) per month, or NT\$150 (\$4.86) per hour, takes effect in January 2019, benefiting around 1.82 million domestic workers and 438,000 foreign workers. There is no minimum wage for workers in categories not covered by the law, such as management employees, medical doctors, healthcare workers, gardeners, bodyguards, self-employed lawyers, civil servants, contractors for local authorities, and domestic household workers.

The Ministry of Health and Welfare defined the poverty level as 60 percent below the average monthly disposable income of the median household in a designated

area. By this definition, the poverty level was a disposable monthly income of NT\$16,157 (\$526) per person in Taipei, NT\$14,385 (\$469) per person in New Taipei City, NT\$13,813 (\$450) per person in Taichung, NT\$12,941 (\$421) per person in Kaohsiung, and NT\$12,388 (\$404) per person in all other areas.

A new amendment on working conditions came into force on March 1. Consistent with amendments passed in 2017, the new amendment stipulated working hours of eight hours per day and 40 hours per week, but it raised the overtime work limit from 46 hours per month to 54 hours per month. In addition, the new amendment reduced the mandatory rest interval for shift work from 11 hours to eight hours in certain sectors, provoking concerns over labor health and safety issues. The amendment likewise loosened the restriction on the number of consecutive working days from a maximum of six days in one week to 12 days in two weeks. These amendments were widely criticized by union members and academics as a step backwards in the regulated general labor conditions in Taiwan. Owners of small-to-medium sized enterprises, by contrast, generally praised the amendments for having introduced much-needed flexibility into the law. Employees in the “authorized special categories” approved by the Ministry of Labor are exempt from regular working hours stipulated in the law. These categories include security guards, flight attendants, insurance salespersons, real estate agents, nursery school teachers, ambulance drivers, and hospital workers.

Religious leaders continued to raise concerns that the law did not guarantee a day off for domestic workers and caregivers, which limited their ability to attend religious services. This problem was particularly salient among the 231,000 foreign caregivers and household workers, predominantly from Indonesia and the Philippines, who include a number of Muslims and Christians who want to or believe they must attend religious services on a certain day of the week.

The law provides for occupational safety and health standards that are appropriate for the main industries in the country. Employers are not subject to criminal charges when their employees are involved in fatal accidents due to unsafe working conditions.

Labor inspections conducted by local governments and specified agencies are regulated by the labor inspection law; but due to relatively weak enforcement, labor inspections often failed to serve as an effective deterrent against labor violations and unsafe working conditions. Authorities can fine employers and withdraw their hiring privileges for violations of the law, and the law mandates publicizing the names of offending companies. There were only 40,282

inspections in 2017, down 40 percent compared to 67,194 inspections in 2016. In particular, the Occupational Safety and Health Administration under the Ministry of Labor, which has the most trained inspectors, reduced the number of inspections it conducted by 89 percent to only 1,578 in 2017. As a result, the inspection rate dropped below 10 percent of all companies.

Among the 8,324 cases of labor violations in 2017, authorities brought only seven to the district prosecutor's office, and the rest received only nominal fines. A Control Yuan investigation report showed some inspectors worked 50 to 70 hours overtime per month but received only 20 hours of overtime pay. A shortage of inspectors and the ineffectiveness of inspections were deemed the primary causes of these violations.

The Ministry of Labor operated a Foreign Worker Direct Hire Service Center and an online platform to allow employers to hire foreign workers without using a broker. The Taiwan International Workers' Association maintained, however, that red tape in the system continued to enable brokers to exploit profits from foreign workers and prevented the Service Center from achieving widespread implementation. Regulations require inspection and oversight of foreign labor brokerage companies. The Ministry of Labor may also permit foreign workers' transfer to new employers in cases of exploitation or abuse. Authorities also introduced several measures to reduce such exploitation. For example, authorities eliminated the requirement that foreign workers leave Taiwan every three years between re-employment contracts.

The government maintained a 24-hour toll-free "1955" hotline service in five languages (Mandarin, English, Indonesian, Thai, and Vietnamese) available for all foreign workers to obtain free legal advice, request urgent relocation and protection, report abuse by employers, file complaints about delayed salary payments, and all other general inquiries. All reporting cases are registered in the system for law enforcement to track and intervene if necessary. The hotline helped 6,028 foreign workers to reclaim a total of NT\$161 million (\$5.24 million) in salary payments in 2017. Foreign workers' associations maintained that in spite of the existence of the hotline and authorities' record of effective response, foreign workers often were reluctant to report employer abuses for fear the employer would terminate the contract and deport them, leaving them unable to reimburse debt accrued during the recruitment process.

The approximately 600,000 foreign workers, primarily from Indonesia, the Philippines, Thailand, and Vietnam, were vulnerable to exploitation. Foreign



workers generally faced exploitation and incurred significant debt burdens during the recruitment process due to excessive brokerage fees, guarantee deposits, and higher charges for flights and accommodations. Locally operated service centers, to brief foreign workers on arrival, maintained a hotline for complaints and assistance and funded and operated shelters to protect abused workers. Brokerage agencies often required workers to take out loans for “training” and other fees at local branches of Taiwan banks in their home countries at high interest rates, leaving them vulnerable to debt bondage. NGOs reported that the monthly take-home pay of some domestic workers was as low as 6.7 percent of the official poverty level.

Mistreatment and poor working conditions for foreign fishermen remained common. Foreign fishermen recruited offshore were not entitled to the same labor rights, wages, insurance, and pensions as those recruited locally. For example, the Control Yuan issued a “correction verdict” to the Fisheries Agency and the Kaohsiung City Marine Bureau for their mismanagement and inaction when it became aware that 37 foreign fishing crews were living in a 645 square-foot shore house and were charged NT\$300 (\$9.77) per day to reside there.

It was widely reported that the operators of Taiwan’s fishing vessel *Fuh Sheng 11* subjected their Indonesian crewmembers to inhuman treatment. Regulations only require a minimum monthly wage of \$450 for foreign fishermen, significantly below the minimum wage on the island. Moreover, NGOs reported that foreign fishing crews on Taiwan-flagged long-haul vessels generally received wages below \$450 per month because of dubious deductions for administrative fees and deposits. Several NGOs, including Greenpeace and the Taiwan International Workers Association, advocated for the abolishment of a separate hiring system for foreign fishermen. In response, the Fisheries Agency dispatched six officers to the United States, Samoa, Mauritius, Fiji, Palau, South Africa (Cape Town), and Marshall Islands to monitor labor conditions on Taiwan-flagged long-haul fishing vessels when they dock at these ports. These residential officers used a multilingual questionnaire to interview foreign fishermen and examine their labor conditions on board.

The freight and passenger transportation industries saw higher than average accident rates among drivers working overtime. Their employers were not subject to criminal charges or required to pay compensation related to these incidents and often sought to transfer legal liability from the company to the employee. For example, Taoyuan Bus Company asked all drivers to sign preemptively a self-

declaration of full liability for any traffic accident that occurs while they are driving, which raised questions about the legality of such a document.