

國務院 2018 年各國人權實施報告

我國相關機關回應意見表

Responses by our relevant government agencies to the

US Department of State 2018 Country Report on Human Rights Practices

標號	內 容	回應機關	回 應 意 見 (中 文)	回 應 意 見 (英 文)
第一節 Section 1	(4) 任意逮捕或羈押 d. Arbitrary Arrest or Detention	司法院 Judicial Yuan	就第 3 頁「1 月 1 日起立法生效，允許被告與其律師在審前羈押期間取得案件檔案與證據。…」部分，建議修正為「有關偵查中羈押審查程序卷證資訊獲知權新制，除刑事訴訟法第 31 條之 1 強制辯護規定自 2018 年 1 月 1 日施行外，其餘規定自 2017 年 4 月 26 日施行。新法生效後，允許被告與其律師在審前羈押期間取得案件檔案與證據。…」。	Regarding the part that begins, “Legislation came into effect on January 1 that gives defendants and their lawyers access to case files and evidence while in pretrial detention,” it is suggested that this portion be changed as follows: “Regarding the right to examine information in the dossier during the detention hearing process in the investigatory stage, aside from the entry into force on January 1, 2018, of Article 31-1 of the Code of Criminal Procedure, which provides for mandatory defense, other regulations became effective from April 26, 2017. After coming into effect, these new regulations together allow defendants and their attorneys to obtain access to case files and evidence during the pretrial detention stage.”
第一節 Section 1	(5) 不給予公正公開的審判 e. Denial of Fair Public Trial	司法院 Judicial Yuan	一、2018 年 3 月 9 日司法院釋字第 762 號解釋略謂：刑事訴訟法第 33 條第 2 項前段規定：「無辯護人之被告於審判中得預納費用請求付與卷內筆錄之影本」，未賦予有辯護人之被告直接獲知卷證資訊之權利，且未賦予被告得請求付與卷內筆錄以外之卷宗及證物影本之權利，妨害被告防禦權之有效行使，於此範圍內，與憲法第 16 條保障訴訟權之正當法律程序原則意旨不符。	1. Issued on March 9, 2018, Judicial Yuan Interpretation no. 762 declared that the first part of Paragraph 2 of Article 33 of the Code of Criminal Procedure, which stipulates that “a <i>pro se</i> defendant may pay the required fees in advance to request copies of minutes in the dossier at trial,” fails to provide a defendant with counsel the right to directly access information in the dossier, and fails to provide a defendant with or without counsel the right to request copies of anything other than the minutes in the dossier, hindering the defendant from effectively defending him or herself in the case.

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			<p>二、於人權報告第3頁下方倒數第五行，「蔡總統於2017年召開司法改革國是會議．．．強化司法透明度與公眾參與。」後補充說明如下：</p> <p>司法改革議題經緯萬端，跨越五院與諸多機關權責，民間長年亦有全面性改革的呼聲與期待，總統決定召開司法改革國是會議，廣邀各領域專家與人民一同參與，政府合作對話，共同尋求改革方針。</p> <p>2016年11月21日，總統府設置非法律人過半的「司法改革國是會議籌備委員會」，司法改革國是會議正式啟動。經過兩個月的「意見徵集」、40場的「分組會議」、2017年8月12日的「總結會議」，歷時10個月的司法改革國是會議圓滿落幕，就「保護被害人與弱勢者的司法」、「全民信賴、公正專業的司法」、「權責相符、高效率的司法」、「參與、透明、親近的司法」及「維護社會安全的司法」等民眾關心的議題進行討論。</p>	<p>The Interpretation determined that this portion of the Code of Criminal Procedure contravened the guarantee of due process in Article 16 of the Constitution.</p> <p>2. It is suggested that the following explanation be added after the part which reads, “President Tsai convened a National Congress on Judicial Reform in 2017. ... enhancing judicial transparency and public participation”:</p> <p>The issue of judicial reform is wide-ranging and involves the powers of the five Yuan (Judicial Yuan, Executive Yuan, Examination Yuan, Control Yuan, and Legislative Yuan) as well as a number of other government agencies. Taiwan’s civil society has long called and hoped for comprehensive reform, and the President decided to convene a National Congress on Judicial Reform, inviting a range of experts and citizens from different backgrounds to participate. The government entered into a dialogue with these attendees to collectively determine the direction of reform.</p> <p>On November 21, 2016, the Office of the President established a Preparatory Committee for the National Congress on Judicial Reform, with a majority of members from nonlegal backgrounds, after which the congress officially began. After two months of soliciting views and 40 group meetings, a concluding meeting held on August 12, 2017, marked an end to the congress. The congress lasted for 10 months and spanned discussion on priorities of major public concern, including: (1) a judiciary that protects victims and the disadvantaged; (2) an impartial and professional judiciary trusted by all citizens; (3) a highly efficient judiciary whose</p>

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				authority satisfies its responsibilities; (4) a judiciary that is participatory, transparent, and accessible; and (5) a judiciary that upholds public security.
第二節 Section 2	(1) 表達自由，包括新聞自由 a. Freedom of Expression, Including for the Press	國家通訊傳播委員會 National Communications Commission	一、依赫氏指數，我國廣電部門尚無明顯集中趨勢。 二、依我國法令，廣電事業仍非屬開放陸資投資項目。	1. The HHI (Herfindahl-Hirschman Index) shows there is as yet no obvious trend toward concentration in Taiwan's broadcasting sector. 2. Under law, Taiwan's broadcasting sector is still not open to investment from China.
第二節 Section 2	(1) 表達自由，包括新聞自由 a. Freedom of Expression, Including for the Press 學術自由與文化活動 Academic Freedom and Cultural Events	教育部 Ministry of Education	一、所述「八月，司法院裁定管蔡二人未於遴選前揭露利益衝突，違反《教育人員任用條例》。」一節，查司法院並未就台大校長遴選做成任何裁定內容。 二、至末段有關「九月，教育部指示台大從包括管在內的原五名候選人中再次遴選校長，惟蔡明興不得參與新一輪的投票。蔡明興不得參與新一輪的投票」一節，基於尊重台大校長遴選委員會獨立自主運作之權責，蔡明興得否續擔任遴選委員，教育部前請台大校長遴選委員會討論後議決。	1. Regarding the part that reads, "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," the Judicial Yuan did not in fact make a ruling on the selection of the National Taiwan University (NTU) president. 2. Regarding the final part of the section which reads, "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," the Ministry of Education, based on respect for the independent authority and autonomous function of the selection committee, first asked the committee to discuss the matter before deciding on whether or not to allow Richard Tsai to continue to serve as a committee member.

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	<p>評論家指控教育部將國立台灣大學（台大）校長遴選過程政治化，不尊重學術獨立。然而教育部堅稱該部作為完全合於法律權限。</p> <p>一月，台大遴選委員會推選曾於國民黨主政期間擔任國家發展委員會主任委員的管中閔為該校校長。之後有消息指出，管中閔未揭露兼任台灣大哥大獨立董事職</p>			

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	<p>務，而台灣大哥大隸屬於富邦金融，其大股東之一蔡明興即台大遴選委員會委員。八月，司法院裁定管蔡二人未於遴選前揭露利益衝突，違反《教育人員任用條例》。管還遭到其他指控，包括抄襲以及違反法令中有關退職政務人員管制三年登陸的相關規定。九月，教育部指示台大從包括管在內</p>			

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	<p>的原五名候選人中再次遴選校長，惟蔡明興不得參與新一輪的投票。</p>			
<p>第二節 Section 2</p>	<p>(4)遷徙自由 d. Freedom of Movement 保護難民 Protection of Refugees 取得庇護的管道：法律未就准予庇護或難民身分有所規定，當局也尚未建立為難民提供保護的機制。所有非法居留的中國公民依法必須</p>	<p>大陸委員會 Mainland Affairs Council</p>	<p>一、政府長期以來關切中國大陸的人權、等自由議題，也持續透過交流互動場域，呼籲中國大陸應落實尊重和保障人權的普世理念，善待維權及異議人士。</p> <p>二、「難民法草案」及兩岸條例第 17 條修正草案刻由立法院審議中，我國難民處理機制目前尚未完備，惟人權是普世價值，政府處理相關個案均整體考量國際慣例、我方相關法律規範、過往處理案例、人權保障及國際視聽等層面，妥適處理。</p> <p>三、黃女士在臺停留期間，政府與民間團體均關注其生活照料及安全，並提供必要協助。黃女士現在已取得第三國的入境許可並安全抵達，對其將能夠享有自由民主生活，受到應有的人權保障，本會予以誠摯的祝福。</p>	<p>1. Our government has long been concerned about the issue of human rights and freedom in mainland China, and has continued to use occasions for exchange and interaction to call on mainland China to respect and safeguard human rights, and to extend decent treatment to civil rights activists and dissidents.</p> <p>2. The Legislative Yuan is currently reviewing a draft Refugee Act as well as draft amendments to Article 17 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area. Our mechanisms for handling refugees are still incomplete, but under our commitment to human rights, our government appropriately handles relevant cases with overall consideration given to international norms, relevant laws and regulations in Taiwan, past cases, the prerogative to protect human rights, and international perception, among other aspects.</p> <p>3. The government and private organizations attended to the daily needs and safety of Ms. Huang during her stay in Taiwan, and provided her with necessary assistance. Ms. Huang later obtained approval to travel to a third country and has safely arrived there. The MAC sincerely hopes that she will be able to enjoy a free and democratic life there, and that she will be accorded due human</p>

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	<p>遣返，不過過去曾有來台尋求庇護的中國公民在台居留多年後，取得永久居留身分。五月，台灣給予尋求庇護的中國公民黃燕入境三個月，其後於八月底又將其居留額外延長三個月。黃是維權人士，已從位於泰國的聯合國難民事務高級專員辦事處獲得難民資格。雖無難民法規或程序，但當局</p>			<p>rights protections.</p>

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	<p>考量黃遣返中國後立即遭到起訴的高度可能性，決定批准其居留。黃正尋求於另一國永久重新安置。</p>			
<p>第二節 Section 2</p>	<p>取得庇護的管道：法律未就……。黃正尋求於另一國永久重新安置。 Access to Asylum:</p>	<p>內政部 Ministry of the Interior</p>	<p>一、實務上遇有相關個案，我政府係秉持「難民法」草案及兩公約精神，並考量保障人權價值、尊重當事人意願及最佳處遇等層面，予以妥善處理。</p> <p>二、大陸地區人民如欲以政治考量申請在臺長期居留，須符合「大陸地區人民在臺灣地區依親居留長期居留或定居許可辦法」第 18 條第 1 項各款情形之一。經查迄今，尚無以政治考量來臺尋求庇護且經許可在臺居留案件。</p>	<p>1. In handling requests for asylum in Taiwan, the government upholds the spirit of the draft Refugee Act as well as the ICCPR and the ICESCR, and is also guided by its interests in protecting human rights, respecting the will of the person involved, and providing for that person's best interests.</p> <p>2. People of the Mainland Area applying for long-term residence in Taiwan for political reasons must meet one of the conditions laid out in Paragraph 1 of Article 18 of the Regulations for People of the Mainland Area Applying for Family-sponsored Long-term or Permanent Residence in the Taiwan Area. To date, there has been no case in which an individual came to Taiwan to seek asylum for political reasons and established residence after the approval of the asylum application.</p>
<p>第四節 Section 4</p>	<p>官員貪腐與政府缺乏透明度 Corruption</p>	<p>司法院 Judicial Yuan</p>	<p>於人權報告第 10 頁第 3 行「三月，司法院職務法庭有一宗懲處司法官不當行徑的案件受到廣大矚目……監察院也已經決定對此二審裁決提出上訴。」後，補充說明如下：</p>	<p>It is suggested that the following explanation be added after the part which reads, “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</p>



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	and Lack of Transparency in Government		<p>一、為使職務法庭審理更加公開、透明、有效率，司法院廣納各界意見，研修法官法部分條文修正草案，有關職務法庭部分之修正重點包括：職務法庭改設於公務員懲戒委員會；由一級一審制改為一級二審制；職務法庭第一審合議庭之組成、另就審理法官懲戒案件時，加入參審員二人為合議庭成員；增修關於法官之懲戒處分種類、判決生效期間等規定；明定法官經移送監察院審查者，非有特定事由，不得申請資遣或退休等事項。相關修正條文已於 108 年 7 月 17 日經總統府公布，公布後一年施行。</p> <p>二、上開報告提及之「二審」、「上訴」，在現行制度下應為「再審」，併此敘明。</p> <p>三、為使職務法庭之判決更臻妥適，並落實大法官釋字第 752 號解釋精神，賦予當事人不服職務法庭判決時，得循上訴程序救濟，以發揮糾錯或權利保護功能，司法院業已研擬法官法修正草案，並於立法院審議中，爰將職務法庭移置公務員懲戒委員會，並改為一級二審制；另為使第一審職務法庭判決更具多元觀點，提升職務法庭公信力，復增訂職務法庭受理第一審法官懲戒案件，應加入參審員二人與職業法官三人共同組成合議庭行之，使職務法庭審</p>	<p>confidence in judges.... The Control Yuan also decided to appeal the second ruling”:</p> <ol style="list-style-type: none"> <li>1. To make the Court of the Judiciary more open, transparent and efficient, the Judicial Yuan has collected a wide range of views from different sectors of society in drafting amendments to parts of the Judges Act. Important changes to the Court of the Judiciary include: placing it under the Public Functionary Disciplinary Sanction Commission; changing the court’s one-level and one-instance system to a one-level and two-instance system for litigation (allowing for appeal); adding two lay judges to panels presiding over initial trials and cases dealing with the punishment of judges; expanding the types of measures for disciplining judges and adjusting regulations related to the duration of such sanctions; and stipulating that judges who are under investigation by the Control Yuan may not apply for severance pay or retirement without meeting special criteria. These amendments were promulgated by the President on July 17, 2019, and will be implemented one year from that date.</li> <li>2. Under the current system, the “second ruling” and “appeal” to which the report refers are properly referred to as “retrial.”</li> <li>3. The Judicial Yuan has drafted amendments to the Judges Act that would make judgments issued by the Court of the Judiciary sounder, and realize the spirit of Judicial Yuan Interpretation no. 752, which gives litigants dissatisfied with a ruling by the Court of the Judiciary the remedy of filing an appeal so that errors may be corrected and the rights of those involved are protected. These</li> </ol>

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			<p>判更加公開、透明。</p> <p>四、臺北高等行政法院前法官陳鴻斌，因違反法官法規定，經法官評鑑委員會決議送監察院審查，再經監察院彈劾並移送司法院職務法庭審理，前經司法院職務法庭於105年10月17日以104年度懲字第2號判決：「陳鴻斌免除法官職務，轉任法官以外之其他職務。」嗣陳鴻斌提起再審之訴，經司法院職務法庭於107年3月8日以105年度懲再字第1號判決：「原判決廢棄。陳鴻斌罰款，其數額為任職時最後月俸給總額壹年。」監察院不服，提起再審之訴，經司法院職務法庭於108年2月14日以107年度懲再字第1號判決：「本庭105年度懲再字第1號再審判決廢棄。陳鴻斌再審之訴駁回。」</p>	<p>amendments are now under review by the Legislative Yuan, and would place the Court of the Judiciary under the Public Functionary Disciplinary Sanction Commission and make it a one-level and two-instance system. To increase the diversity of views in the rulings handed down in the Court of the Judiciary's initial trials, and to increase public trust in the court, the amendments provide for a panel of two lay judges and three professional judges to hear initial trials of judges on misconduct charges. This would make the Court of the Judiciary more open and transparent.</p> <p>4. The Judicial Evaluation Committee decided to refer former Taipei High Administrative Court Judge Chen Hung-pin to the Control Yuan for review of suspected violations of the Judges Act. Chen was then impeached by the Control Yuan, and his case was transferred to the Court of the Judiciary for review. On October 17, 2016, the Court of the Judiciary ruled that Chen was dismissed from his position as a judge and was to be transferred to some other position. Chen filed a request for a retrial, and the Court of Judiciary then ruled on March 8, 2018, that the original judgment was to be vacated, and that Chen was to be fined a sum equivalent to his annual salary at the time of his final month in office. The Control Yuan did not accept the ruling and filed its own request for a retrial. On February 14, 2019, the Court of the Judiciary reversed its judgment of March 8, 2018, retroactively dismissing Chen's request for review.</p>
第六節	女性/兒童	司法院	一、第三段「法律規定對強暴罪的懲處不得少	1. It is suggested that the part of paragraph 3 which reads, "The law

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Section 6	Women/Children	Judicial Yuan	<p>於五年有期徒刑」建議修正為： 「根據刑法第 221 條第 1 項規定：對於男女以強暴、脅迫、恐嚇、催眠術或其他違反其意願之方法而為性交者，處三年以上十年以下有期徒刑。又刑法第 222 條第 1 項則為加重強制性交罪之規定，規定內容為：犯前條之罪而有下列情形之一者，處七年以上有期徒刑：</p> <p>一、二人以上共同犯之者。 二、對未滿十四歲之男女犯之者。 三、對精神、身體障礙或其他心智缺陷之人犯之者。 四、以藥劑犯之者。 五、對被害人施以凌虐者。 六、利用駕駛供公眾或不特定人運輸之交通工具之機會犯之者。 七、侵入住宅或有人居住之建築物、船艦或隱匿其內犯之者。 八、攜帶兇器犯之者。」</p> <p>二、另「家暴案被定罪者刑期多在 6 個月以下」建議修正為：「家暴案被定罪者，近五年平均刑期約 1 年 6 月」。</p>	<p>establishes the punishment for rape as a minimum of five years' imprisonment" be revised as follows:</p> <p>Paragraph 1, Article 221 of the Criminal Code stipulates that "A person who by threats, violence, intimidation, inducing hypnosis, or other means against the will of a male or female has sexual intercourse with such person shall be sentenced to imprisonment for not less than three years but not more than ten years." Moreover, Paragraph 1, Article 222 of the Criminal Code also defines punishment for the crime of aggravated sexual assault: "A person who commits an offense specified in the preceding article under one of the following circumstances shall be sentenced to imprisonment for not less than seven years:</p> <ol style="list-style-type: none"> <li>1. Offense committed by two or more persons</li> <li>2. Offense against a male or a female under the age of fourteen</li> <li>3. Offense against a mentally, physically or otherwise handicapped person</li> <li>4. Offense with the use of a drug in the offense</li> <li>5. Abuse against the victim</li> <li>6. Offense committed by taking the opportunity of operating a means of transportation used for the public or unspecified people</li> <li>7. Commission of an offense by intruding into a residence or a structure used for residence or a vessel or by hiding inside of it for commission of the offense</li> <li>8. Carrying a weapon while the offense is committed."</li> </ol> <p>2. In addition, it is suggested that the part that reads, "Courts</p>

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				typically sentenced individuals convicted in domestic violence cases to less than six months in prison” should be changed as follows: “The average sentence given to individuals convicted in domestic violence cases over the past five years is around one year and six months.”
第六節 Section 6	女性 Women 強暴和家庭 暴力： Rape and Domestic Violence 一、多 個 不 同 的 非 政 府 組 織 與 學 術 研 究 估 計，性 侵 案 件 總 數 較 警 方 接 獲	衛生福利 部 Ministry of Health and Welfare	一、107 年度各直轄市、縣（市）政府家庭暴力及性侵害防治中心(以下稱防治中心)受理疑似性侵害案件通報共計 1 萬 1,458 件，各警察局受(處)理妨害性自主罪發生數計 3,276 件，破獲數計 3,222 件，各防治中心受理通報件數約為警方受理件數 3.5 倍，顯示在我國強制通報制度下，性侵害案件黑數逐漸浮現，但其中有許多係為幼對幼非強迫性之性行為，屬告訴乃論案件，另部分成年被害人亦無意願採取司法途徑解決問題，因此性侵害通報件數與警方受理之司法案件數產生落差。 二、由於性侵害犯罪有 80%以上之被害人為女性，且涉及性隱私、性貞操的傳統社會價值，導致性侵害案件延遲報案或無意願報案機率高，此外，婦女遭受家暴亦因深受父權體制、家庭完整性及輿論壓力等影響而無法對外求助，為破除社會迷思，鼓勵被害人勇於求助，避免傷害擴大，本部積極辦理下列事項： (一) 落實預防宣導教育：研發製作性別暴	1. In 2018, special municipality, county, and city government centers for the prevention of domestic violence and sexual assault (prevention centers) received a total of 11,458 reports of alleged sexual assaults. Police departments processed a total of 3,276 such cases, of which 3,222 have been resolved. The number of sexual assault cases reported to prevention centers was thus about 3.5 times that reported to police, which reflects an increasingly evident gap between the numbers of reported and prosecuted sexual assault cases under Taiwan’s compulsory notification system. This divergence is due in part to the fact that many of these reported cases involved underage parties engaged in unforced sexual behavior, which are indictable only upon complaint. In addition, some adult victims are unwilling to take legal action. 2. Because more than 80 percent of sexual assault victims are women, and because these crimes implicate traditional social values of sexual privacy and propriety, there is a high likelihood of delay in reporting, or unwillingness to report, sexual assault. In addition, patriarchal influences, an abiding social interest in family integrity, and the pressure of public opinion mean that women who suffer domestic violence are often unable to seek outside help. To

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	<p>之 報 案 數 高 出 七 到 十 倍；</p> <p>二、部 分 受 虐 婦 女 在 不 要 讓 家 人 蒙 羞 的 社 會 壓 力 下 選 擇 不 向 警 方 報 案</p>		<p>力宣導教材，寄送學校、性別平等資源中心及相關單位作為宣導輔助教材，落實性別教育、自我保護及尊重他人之觀念。並推動社區防暴扎根計畫，提升社區居民防暴意識及協助被害人求助。</p> <p>(二)暢通求助管道：強化責任通報人員敏感度，並完善通報書表內容，落實法定責任通報制度，俾及時介入提供服務。</p> <p>(三)周全被害人保護：訂定各項被害人補助標準，輔導各防治中心依法提供被害人緊急救援、就醫診療、驗傷及取得證據、緊急安置、心理治療、法律諮詢等保護扶助措施，直轄市、縣(市)政府並依法提供被害人各項保護扶助措施。</p>	<p>eliminate social myths surrounding sexual assault, and to encourage victims to seek help and avoid further injury, the MOHW is actively engaged in the following programs:</p> <p>1.Implementing guidance and education on prevention: producing supplementary educational guidance materials on gender violence to send to schools, gender equality resource centers, and other relevant organizations in order to implement gender education and the concepts of self-protection and respect for others; and promoting community programs on violence prevention and raising community residents' awareness of violence prevention efforts while assisting victims in seeking help.</p> <p>2.Facilitating easy access to help: strengthening the sensitivity of personnel responsible for reporting; improving the contents of notification forms; carrying out the statutory responsibility of the reporting system; and promptly intervening to provide services.</p> <p>3.Comprehensively protecting victims: setting standards for subsidies to victims, and counseling prevention centers on providing victims with emergency rescue, medical treatment, injury examination and evidence collection, emergency placement, psychological counseling, legal advice and other support measures. Special municipality, county, and city governments also offer support measures in accordance with the law.</p>
第六節	女性	衛生福利	一、 我國有關性騷擾防治，分屬性別工作	1. Sexual harassment prevention in Taiwan is guided by the terms of

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Section 6	Women 性騷擾 Sexual Harassment 發生於公共 場所、學 校、立法機 構，以及政 府的性騷擾 案件據稱有 上升的趨 勢。	部 Ministry of Health and Welfare	<p>平等法、性別平等教育法及性騷擾防治法所管，三法立法目的分述如下：</p> <p>(一)性別工作平等法(勞動部主管)：係為保障人民工作不受性別歧視、侵害及騷擾之工作權平等，爰要求雇主確保求職者或受僱者有安全工作環境，免於遭受雇主或其他人於工作場域對其侵害或騷擾。</p> <p>(二)性別平等教育法(教育部主管)：係為保障學生受教權，提供學生安全的學習環境為目的，確保學生不受校園內教職員工或學生侵害或騷擾。</p> <p>(三)性騷擾防治法(衛福部主管)：立法目的是補足民眾非在執行職務，或非屬學生身分遭性騷擾時，人身安全維護之不足，並課予場所主人對其場所之性騷擾及性侵害防治責任。</p> <p>二、近年來由於民眾對性騷擾的基本認識、防治意識及求助意願提高，並對於自身權益之保障意識提升，106 年依性騷擾防治法所提出之申訴案件為 662 件、107 年為 765 件，呈現微幅上升，顯見本部宣導作為漸有成效，未來將賡續推廣，並強化查核有關場所負責人性騷擾防治措施之落實。</p>	<p>the Act of Gender Equality in Employment, the Gender Equity Education Act, and the Sexual Harassment Prevention Act. The purposes of these three laws is as follows:</p> <ol style="list-style-type: none"> <li>1. Act of Gender Equality in Employment (Authority: Ministry of Labor): To ensure that all people have the equal right to work free from gender discrimination, sexual assault and harassment, employers are required to ensure that job seekers and employees have a safe working environment and are protected from sexual assault and harassment by employers or others in the workplace.</li> <li>2. Gender Equity Education Act (Authority: Ministry of Education): To protect students' right to education and provide a safe learning environment for students, this law is aimed at ensuring that students are not sexually assaulted or harassed by school personnel or students on campus.</li> <li>3. Sexual Harassment Prevention Act (Authority: Ministry of Health and Welfare): The purpose of this law is to compensate for deficiencies in protecting the personal safety of people who encounter harassment when not at work or who are not students. The law also assigns responsibility for preventing sexual harassment and sexual assault in a given venue to its owner or manager.</li> </ol> <p>2. In recent years, as public understanding of sexual harassment, awareness of prevention, willingness to seek help, and consciousness around protection of one's own rights has developed, the number of cases reported under the Sexual</p>

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				<p>Harassment Prevention Act increased slightly from 662 in 2017 to 765 in 2018, showing that MOHW guidance efforts are gradually yielding results. In the future, we will continue to promote related initiatives and strengthen checks on the implementation of sexual harassment prevention measures in relevant sites by the parties responsible.</p>
<p>第六節 Section 6</p>	<p>兒童 Children 出生登記： Birth Registration 公民身分來自於父母一方。法律規定新生兒必須在出生60天內報戶口；違者無法享有全民健保和教育津貼。出生之登記不因差別待遇而遭拒</p>	<p>衛生福利部 Ministry of Health and Welfare</p>	<p>一、我國現行對出生之新生兒，有完整的通報及戶籍出生登記制度。新生兒之父母應依戶籍法第4條及第48條第1項、第2項、第4項之規定申報戶籍出生登記時，若新生兒之父母未依前開法規申報戶籍出生登記，其母之所屬戶籍地之戶政機關應依戶籍法第48條第4項規定逕為該新生兒辦理出生登記，且該戶政事務所並應依內政部96年5月3日台內戶字第0960048920號函示，將逕為出生登記之個案一併函送戶籍、警察、社政機關之鄉（鎮、市）公所協尋該產婦及新生兒行蹤，留意其有無生活照護等相關問題。</p> <p>二、故本保險於民國93年實施健保IC卡時，考量在新生兒出生後，如需就醫，在尚未完成加保前，得依附於母親（或父親）之健保IC卡內，其期限為1個月；另配合97年5月28日戶籍法將出生登記修改至遲應於60日內為之（原為30日），故本署於99年7月14日公告新生兒就醫依附註記，自</p>	<p>1. Taiwan has established a comprehensive notification and birth registration system for newborns. The parents of newborns must comply with <b>Items 1, 2, and 4 of Article 4 and with Article 48 of the Household Registration Act</b> in applying for birth registration. If the parents of the newborn do not register the birth in accordance with these regulations, the household registration office for the area in which the mother's domicile is registered shall directly register the birth of the newborn <b>under Items 1 and 4 of Article 48-2</b> of the Household Registration Act, and shall then forward the case to the office of the township, village or city of the child's birth to help the relevant household registration, police, and social affairs agencies trace the mother and child and monitor any problems.</p> <p>2. When the National Health Insurance (NHI) IC card was implemented in 2004, newborns who needed medical care but were not yet registered with the NHI were entitled to use the mother's (or father's) NHI card to obtain medical services within one month from birth. Then, in accordance with subsequent amendments to the Household Registration Act on May 28, 2008, which extended the deadline for birth registration to 60 days from</p>

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			<p>現行出生起 31 天內延長至 60 天。</p> <p>三、 至新生兒投保資格，依全民健康保險法第 8 條及上開戶籍相關規定，設有戶籍之在臺出生新生嬰兒應自出生日起加保，並享有保險給付。</p>	<p>birth (from the original 30 days), the NHI Administration announced on July 14, 2010, that it would extend its own policy allowing newborns to receive care through parents' NHI cards from 31 to 60 days from the date of birth.</p> <p>3. According to Article 8 of the National Health Insurance Act as well as the aforementioned household registration regulations, newborns born in Taiwan with a registered domicile should be enrolled from the date of birth in the NHI and be entitled to its benefits.</p>
<p>第六節 Section 6</p>	<p>兒童 Children 第 3 段第 3 行至第 5 行： 兒童權利人士也呼籲大眾注意矯正機構的霸凌、暴力，以及性侵案件數正在增加，同時指出這些機構經常人力不足，人員也沒有得到充</p>	<p>法務部 Ministry of Justice</p>	<p>對於此類案件，法務部矯正署已訂定「矯正機關防治及處理收容人遭受性侵害、性騷擾、性霸凌及其他欺凌事件具體措施」、相關勤務規範及標準作業流程，加強管教人員及收容人性別平等教育宣導，強化生活輔導、舍房管理、身體檢查等前端預防機制，也持續宣導禁止以體罰或其他不當方式進行管教，以避免少年間接學習以暴制暴之偏差觀念。又為了強化各類欺凌事件之區辨與敏感度，每年均辦理相關研習班，由各矯正機關指派業務人員參加，108 年度 1 月至 5 月之參訓人員已有 88 名。此外，108 年起已陸續充實諮商輔導資源，運用心理師、輔導教師、社會工作師、特教教師等專業人力，參照兒童權利公約以「兒童最佳利益」為原則，推動少年收容人輔導諮商工作。</p>	<p>Regarding paragraph 3, “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”:</p> <p>In such cases, the Agency of Corrections of the Ministry of Justice has established “specific measures for the prevention of, and treatment of inmates for, sexual assault, sexual harassment, sexual bullying, and other bullying incidents,” as well as relevant service standards and standard operating procedures. The Agency has also strengthened sexual equality education for correctional personnel and inmates, and has promoted front-end preventive measures such as life counseling, residential management, and physical examinations, while continuing to publicize the prohibition of corporal punishment and other improper disciplinary methods in order to prevent juveniles indirectly learning to use violence to counter violence. Moreover, to enhance differentiation among, and sensitivity to, various types of</p>



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	分訓練，無法為少年受刑人提供諮商或管理他們。			bullying incidents, the Agency conducts workshops every year attended by personnel sent from all correctional facilities. There were 88 personnel who attended such workshops between January and May 2019. In addition, since the beginning of 2019, the Agency has continued to supplement its counseling resources, using psychologists, counselors, social workers, special education teachers and other professional staff to promote guidance and counseling for juvenile inmates, in accordance with the principle of serving the “best interests of children” as laid out in the Convention on the Rights of the Child.
第六節 Section 6	兒童 Children 兒童性剝削 Sexual Exploitation of Children 非政府組織 對於網路兒 童性剝削表 示憂心，指 出手機、網 路攝影機、 即時串流、 app(智慧型 手機的第三 方應用程	衛生福利 部 Ministry of Health and Welfare	<p>一、為建立兒少安全網路環境，我國依據兒童及少年福利與權益保障法第46條由國家通訊傳播委員會邀集各部會成立 iWIN 網路內容防護機構（以下簡稱 iWIN），並由其推動網路平台業者自律及兒少網路素養宣導。</p> <p>二、依據 iWIN 107 年申訴案件統計，有關兒少網路性剝削案件共計 16 件且涉及 24 個網址，皆已全數通知業者自律並完成下架，復與台灣展翅協會合作向 ECPAT International 通知當地相關單位，建立兒少網路性剝削防制網絡。另外，為提升兒少網路性剝削之防制意識，iWIN 於 107 年度於 52 所中、小學進行網路安全宣導，受益人次計 1 萬 2,682 人。</p> <p>三、最後，鑒於網路直播服務崛起，各部會已</p>	<p>1. To build a safe and secure internet environment for children and youth, the National Communications Commission has invited all ministries to help establish the Institute of Watch Internet Network (iWIN) under Article 46 of the Protection of Children and Youths Welfare and Rights Act. iWIN promotes self-regulation by internet platform operators and internet literacy among children and youth.</p> <p>2. According to 2018 reporting statistics from iWIN, there were 16 cases of child sexual exploitation involving 24 websites, the operators of which were all notified of their self-regulatory obligations and removed the websites in question. In response, the NCC worked with ECPAT Taiwan to report these incidents to relevant local agencies (in the countries where the websites originated) through ECPAT International, and built a network for protecting children from online sexual exploitation. To raise awareness of efforts to prevent online sexual exploitation, iWIN</p>

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	式), 以及其他新科技已逐漸成為性犯罪者欺騙並強迫兒少從事性活動的利器。		督責 iWIN 於 108 年進行直播服務內容觀察, 積極了解兒少使用相關影音服務之狀態, 盡力避免兒少遭受網路性剝削。	conducted online safety information sessions at 52 elementary and middle schools benefiting a total of 12,682 individuals. 3. Finally, in light of the rise of online live streaming services, government ministries supervised iWIN in conducting an investigation of live streaming content in 2019 to understand the usage status of related media services among children and youth, in order to avoid online sexual exploitation.
第六節 Section 6	身心障礙人士 Persons with Disabilities 非政府組織認為, 提供給身心障礙學生的服務仍然普遍不足。  身心障礙者在教育與精神療養機構遭受性侵時有所聞	教育部 Ministry of Education	一、政府及學校已依據特殊教育法、身心障礙學生支持服務辦法等法規, 依身心障礙學生之需求, 提供各項支持服務, 包括輔具、適性教材 (含大字體、點字書及有聲書)、教師助理員、學生助理人員等。未來將調查瞭解身心障礙學生各項支持服務之滿足情形, 並加強不足的部分。 二、政府將持續督導學校性別平等教育執行及增進性別平等意識, 已於 2018 年委託大學辦理性別培力及性平防治計畫, 將性別平等教育融入課程, 提升學校及身心障礙學生之性別平等知能。	1. In accordance with the Special Education Act and the Regulations Governing Support Services for Students with Disabilities, the government, together with schools, colleges, and universities, provides special-needs students with various support services, including assistive technology, suitable teaching materials (including large-print text material, braille books and audiobooks), teaching assistants, and aides in line with their respective needs. The Ministry will undertake an investigation to understand to what degree students with disabilities are satisfied with these various support services, and will strengthen services that are found to be inadequate. 2. The government will continue to supervise the implementation of gender equality education in schools, colleges, and universities, and enhance awareness of gender equality issues. In 2018, the government commissioned universities to train personnel in gender equality issues, implement sexual assault and sexual harassment prevention programs, and integrate gender equality education into their curricula. These measures have improved knowledge of gender equality issues among students with

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				<p>disabilities and across school, college, and university staff and faculty.</p>
<p>第六節 Section 6</p>	<p>身心障礙人士 Persons with Disabilities 當局立法並推動許多計畫，協助身心障礙人士無障礙地進出建築物、取得資訊，並且進行通訊。非政府組織指稱，缺乏無障礙空間與方便身心障礙人士使用的運輸系統，持續對身心障礙人士參與公民事務構成阻礙，台</p>	<p>內政部 Ministry of the Interior</p>	<p>一、內政部營建署已於「建築技術規則」納入無障礙建築物規定及無障礙設施設計規範，自 2013 年 1 月 1 日起，新建或增建之建築物將全面推動無障礙化設施。為便利行動不便者進出及使用建築物，明定新建、增建之公共與非公共建築物均需設置無障礙設施。另規定無障礙通路應通達之空間及無障礙樓梯、無障礙廁所盥洗室、無障礙浴室、輪椅觀眾席位、無障礙停車位、無障礙客房數量等；至於各項設施設計規範，於建築物無障礙設施設計規範訂定之。</p> <p>二、針對既有建築物無障礙環境改善，已於 1997 年 8 月 7 日訂頒「既有公共建築物無障礙設施替代改善計畫作業程序及認定原則」，視建築物使用之用途不同，須進行室外通路、避難層坡道及扶手、避難層出入口、室內出入口、室內通路走廊、樓梯、昇降設備、廁所盥洗室、浴室、輪椅觀眾席位、停車空間等設施之改善，以落實無障礙環境推動。</p>	<p>1. The Construction and Planning Agency of the Ministry of the Interior has integrated regulations for accessibility and design standards for accessible facilities into its Building Technical Regulations, and has promoted accessible facilities for all new buildings and additions since January 1, 2013. To make it more convenient for people with disabilities to enter, leave, and navigate buildings, the CPA has mandated that new buildings and additions, for both public and private use, must all install accessible facilities. The CPA has also stipulated the spaces that must be reachable by accessible routes, as well as the numbers of accessible stairways, accessible toilets and washrooms, accessible bathrooms, wheelchair seats for audience members, accessible parking spaces, and accessible hotel rooms. The CPA has also set design standards for these facilities.</p> <p>2. To improve the accessibility of existing buildings, the CPA has published operational procedures and certification guidelines for upgrading accessible facilities in existing public buildings. Depending on its use, a building may be required to provide: accessible outdoor entryway(s), slope(s) and railing(s) at evacuation level, entryway(s) at evacuation level, indoor entryway(s), indoor access corridor(s), stairs, lift equipment, toilets, bathrooms, wheelchair seating, parking spaces and other facilities to bring about improvements in accessibility.</p>

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	北以外的地區尤其如此。			
第六節 Section 6	身心障礙人士 Persons with Disabilities	交通部 Ministry of Transportation and Communications	<p>一、路政業務部分：</p> <p>(一) 依據「公路公共運輸多元推升計畫(2017-2020年)」，於2018年補助公路客運及市區公車業者購置340輛低地板公車(含通用無障礙大客車)，至同年底，全國市區客運無障礙公車比例已逾59.82%。</p> <p>(二) 公路總局於2016年起推動「需求反應式公路公共運輸」試辦計畫，針對新竹縣尖石鄉等10個偏鄉導入多元化運具服務(中型巴士、計程車、鄉鎮小巴、租賃車及遊覽車)及彈性營運模式。至2018年除原有試辦鄉鎮持續推動外，另新增補助屏東縣來義鄉等7個偏鄉，至2018年底止偏鄉地區公共運輸涵蓋率已達78%。除服務偏鄉民眾外，身心障礙人士亦包括在內。</p> <p>二、航政業務部分：</p> <p>(一) 民用航空局所屬航空站及桃園國際機場依據相關法規，已針對各行動不便族群設置相關無障礙設施，並每年定期邀集相關單位及身障團體代表召開無障礙推動小組會議，滾動檢討進行改善；至現</p>	<p>1. Buses, taxis and trains:</p> <p>1.1. In accordance with the Highways and Public Transit Diversity Promotion Plan (2017-2020), subsidies were given to long-haul and city bus operators to acquire 340 low-floor buses (including barrier-free passenger buses) in 2018. By the end of 2018, barrier-free buses accounted for 59.82 percent of all urban passenger buses.</p> <p>1.2. Since 2016, the Directorate General of Highways has promoted a pilot project on demand-responsive public transport. Under this project, diversified transport services (including medium-sized buses, taxis, minibuses, rental cars and tour buses) operating on a flexible basis have been introduced in Jianshi Township, Hsinchu County, as well as in nine other remote townships. And in 2018, as the project continued in these townships, new subsidies were granted to seven additional rural townships, including Laiyi Township in Pingtung County. By the end of 2018, public transport coverage in remote areas reached 78 percent. Aside from serving residents of remote areas, the project also addresses the needs of passengers with disabilities.</p> <p>2. Aircraft and ships:</p> <p>2.1. Under relevant laws and regulations, the Civil Aeronautics Administration and the Taoyuan International Airport</p>

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			<p>行中華、華信、長榮、立榮、遠東、德安、虎航在內之 7 家飛航國際或國內線之國籍航空公司均符合大眾運輸工具無障礙設施設置辦法。</p> <p>(二) 為加強船舶無障礙設施設置，航港局已於 2017 年完成《客船管理規則》法規修正作業，針對新造客船之無障礙設備及設施加強管理；至現有船舶部分，則於 2018 年訂定「交通部航港局大眾運輸船舶及岸接設施無障礙補助作業要點」，協助地方政府依權責改善岸接設施及督促所轄業者改善，以補助方式輔導業者設置無障礙設施。</p>	<p>Corporation have moved to install barrier-free facilities for peoples with reduced mobility, and have invited relevant departments and representatives of disabled groups together on a regular, annual basis to discuss how to promote and improve barrier-free service. Currently, seven airlines in Taiwan operating domestic and international routes—China Airlines, Mandarin Airlines, EVA Air, UNI Air, Far Eastern Air Transport, Daily Air, and Tiger Air—meet the Regulations Governing the Installation of Barrier-Free Facilities in Public Transport.</p> <p>2.2. To improve barrier-free facilities for ships, the Maritime Port Bureau of the MOTC in 2017 completed revisions to its regulations for managing passenger ships, improving management of barrier-free equipment and facilities on newly built passenger ships. For existing ships, the Maritime Port Bureau in 2018 issued operational guidelines for barrier-free subsidies for mass transit ships and shore connection facilities. These guidelines help local governments improve the shore facilities in their respective jurisdictions and encourage firms to carry out these improvements through the supervision of subsidies to firms installing barrier-free facilities.</p>
第六節 Section 6	少數民族/ 種族 /族 National/Ra cial/Ethnic Minorities	內政部 Ministry of the Interior	一、按「國籍法」第 4 條規定，外籍配偶在國內合法居留連續滿 3 年，每年逾 183 日可申請歸化。依「入出國及移民法」第 10 條規定，於歸化我國國籍後，連續居住滿 1 年，或居留滿 2 年且每年逾 270 日，或居	1. According to Article 4 of the Nationality Act, a foreign spouse who legally resides in the Taiwan area for more than 183 days per year for three consecutive years may apply for naturalization. Article 10 of the Immigration Act stipulates that after naturalization, an individual must reside in the Taiwan Area for

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	<p>截至七月，來自印尼、菲律賓、泰國、越南，以及中國的外籍配偶約占全台人口1%。據報導，外籍與中國籍在家庭外是遭受社會歧視的對象，有時也在家庭內遭到社會歧視。</p>		<p>留滿5年且每年逾183日，即可辦理定居並取得國民身分證。大陸地區人民按「大陸地區人民在臺灣地區依親居留長期居留或定居許可辦法」第25條規定，經許可依親居留滿4年，每年逾183日，得申請長期居留，長期居留符合在臺灣地區合法居留連續2年，且每年居住逾183日，即可申請定居並取得國民身分證。</p> <p>二、外籍配偶在臺依親居留即可工作，無須向勞動部申請。</p>	<p>either the entirety of one year, more than 270 days per year for two consecutive years, or more than 183 days per year for five consecutive years in order to apply for permanent residence and collect a National Identification Card. People of the Mainland Area are subject to Article 25 of the Rules Governing Permits for People of the Mainland Area to Establish Dependent-Based, Long-Term, and Permanent Residence in the Taiwan Area. Under these rules, spouses born in the Mainland Area who have been approved to reside in the Taiwan Area may apply for long-term residence after residing in Taiwan for more than 183 days per year for four years. Those who then legally reside in the Taiwan Area as long-term residents for more than 183 days per year for two consecutive years are eligible to apply for permanent residence and a National Identification Card.</p> <p>2. Foreign spouses living in the Taiwan Area may work without applying for a permit from the Ministry of Labor.</p>
<p>第六節 Section 6</p>	<p>少數民族/ 種族/族裔 National/Racial/Ethnic Minorities 截至七月，來自印尼、菲律賓、泰國、越南，</p>	<p>大陸委員會 Mainland Affairs Council</p>	<p>一、中國大陸配偶與外籍配偶因適用不同的法律，因此兩者間的制度有所不同；中國大陸配偶取得身分證年限為6年，外籍配偶則為4年至8年：</p> <p>(一)中國大陸配偶適用臺灣地區與大陸地區人民關係條例(下稱兩岸條例)及相關許可辦法之規定，中國大陸配偶於入境辦理結婚登記後，得申請在臺依親居留，依親居留滿4年，且每年合法居住逾183日，得申</p>	<p>1. Mainland Chinese spouses and foreign spouses are subject to different laws and regulatory systems. To obtain an identification card, mainland Chinese spouses must reside in Taiwan for six years, while the residency requirement for foreign spouses ranges from four to eight years.</p> <p>1.1. Mainland Chinese spouses are regulated by the Act Governing Relations between the People of the Taiwan Area and the Mainland Area and other relevant regulations. After entering the Taiwan Area and registering their marriage, mainland</p>

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	<p>以及中國的外籍配偶約佔全台人口1%。據報導，外籍與中國籍配偶在家庭外是遭受社會歧視的對象，有時也在家庭內遭到社會歧視。《國籍法》放寬對非中國籍的外籍配偶在歸化上的限制，居住滿三年即可申請在台居留權，中國籍配偶則必須滿六年，但是中國籍配偶抵台即可工作，非中國</p>		<p>請長期居留，長期居留連續滿2年且每年合法居住逾183日，得申請定居，即取得身分證年限為6年。</p> <p>(二)外籍配偶則適用國籍法、入出國及移民法之相關規定，取得身分證年限為4年至8年。另外籍配偶申請歸化，應於許可歸化之日起，1年內提出喪失原有國籍證明，屆期未提出者，除經外交部查證因原屬國法律或行政程序限制屬實者外，應撤銷其歸化許可。</p> <p>二、中國大陸配偶與外籍配偶取得身分證年限問題，政府將在完整考量新住民權益下，持續檢討相關法規</p> <p>(一)本會前已擬具兩岸條例第17條修正草案，經立法院於106年6月27日初審完竣，惟目前尚未完成立法，中國大陸配偶取得身分證年限仍維持現行規定(6年)，另增加基本常識測驗制度。</p> <p>(二)中國大陸配偶與外籍配偶取得身分證年限問題，尚涉及外來人口移入制度，政府未來會完整考量新住民之權益保障、社會承載與國家安全等因素，並在取得社會共識下，逐步檢討相關之政策，且秉持「生活從寬」之原則，持續落實對新住民生活權益的照顧。</p>	<p>Chinese spouses may apply for dependent-based residency in Taiwan. Mainland Chinese spouses may apply for long-term residency after residing legally in Taiwan as a dependent for more than 183 days per year for four years, and may apply for permanent residency after residing in Taiwan for more than 183 days per year for two years as a long-term resident. This means that the mandatory residence period for mainland Chinese spouses to obtain identification cards is six years.</p> <p>1.2. Foreign spouses are subject to relevant provisions of the Nationality Act and Immigration Act. The mandatory residence period for foreign spouses to obtain identification cards ranges from four to eight years. In addition, foreign nationals applying for naturalization are required to provide certification of the loss of their original nationality within one year of the date of approval of naturalization. Failure to submit such certification within the prescribed period shall result in the revocation of the approval of naturalization unless such failure is due to legal or administrative restrictions in the original country of nationality as verified by the Ministry of Foreign Affairs.</p> <p>2. The government will continue to review the laws and regulations related to the mandatory residence period for mainland Chinese and foreign spouses to obtain identification cards, giving full consideration to the rights and interests of new immigrants.</p> <p>2.1. On June 27, 2017, the Legislative Yuan completed an initial review of amendments drafted by MAC to Article 17 of the Act Governing Relations between the People of the Taiwan Area</p>

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	籍配偶則否。中國籍配偶的身份地位與權利由《台灣地區與大陸地區人民關係條例》規範。			<p>and the Mainland Area, though these amendments have yet to be passed into law. These amendments would maintain the current residence period required for mainland Chinese spouses to obtain an identification card at six years, while also adding a common knowledge test for applicants.</p> <p>2.2. The mandatory residence period for mainland Chinese and foreign spouses to obtain identification cards is part of the system under which people immigrate to this country. In the future, the government will gradually review relevant policies, giving full consideration to the protection of the rights of new immigrants, their social burdens, national security, and other factors. It will also continue to care for the livelihoods of new immigrants, exercising lenience in appropriate cases.</p>
第六節 Session 6	<p>原住民 Indigenous People 【第五、六 段】 行政院原住 民委員會於 2017 年公 告了在公有 土地上劃設 原住民族傳 統領域土地 的辦法。原</p>	<p>原住民族 委員會 Council of Indigenous Peoples</p>	<p>一、原基法第 21 條僅規範公有土地： 劃設辦法是依據 104 年 6 月 24 日立法院修正之 原住民族基本法第 21 條第 4 項的授權訂 定，該條規定略以：「…有關原住民族土地 或部落及其周邊一定範圍內之「公有土地」 之劃設辦法，由中央原住民族主管機關另 定之」，因此原基法第 21 條第 4 項僅授權 劃設原住民族土地或部落及其周邊一定範 圍內之「公有土地」，沒有明確地規定擴及 私人土地。</p> <p>二、原基法第 21 條未授權限制人民之財產權： 私人土地的所有權雖然可以限制，但依憲法第 23 條規定，必須要有「法律」明確規定才</p>	<p>1. Article 21 of the Indigenous Peoples Basic Law only regulates public land: Paragraph 4 of Article 21 of the Indigenous Peoples Basic Law was amended on June 24, 2015, to read: “The central indigenous competent authority shall stipulate the regulations for delimiting the area of indigenous land, tribe and their adjoin-land which owned by governments.” As such, this paragraph remains concerned only with regulations for indigenous land and public land in and adjoining tribal settlements, and does not explicitly regulate privately owned land.</p> <p>2. Article 21 of the Indigenous Peoples Basic Law does not authorize restrictions to individual ownership rights: Although ownership rights concerning private land can be restricted,</p>



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	<p>住民權益人士主張，大量的原住民土地在數十年前遭到奪取與私有化，排除了這部分就等於剝奪了原住民社群參與這些傳統領域土地發展的權利。現行的法律規定，當局與私部門在原住民區域進行土地開發、資源使用、生態保育以及學術研究，應徵詢原住民的意見並取得其同意或參與，獲得</p>		<p>能限制，就算授權行政機關用命令補充，依司法院大法官第 443 號解釋，也必須要「具體明確」授權才可以限制人民的土地所有權。</p> <p>依民法第 765 條規定，所有人得「自由使用」、收益、處分其所有物。若將私人土地劃入傳統領域土地，就算所有人是原住民，原本可以自由使用的權能，都會因原住民族或部落行使諮商同意權而遭到限制。</p> <p>對照其他有關「限制土地使用」之法律，如國土計畫法第 23 條第 2 項規定，「國土功能分區及其分類之使用地類別編定、變更、…、禁止或限制使用及其他應遵行之土地使用管制事項之規則，由中央主管機關定之。」故如涉及「土地使用上之限制」，均需於授權條款明確規定。因此，由於原基法第 21 條沒有類似國土計畫法的明確規定授權，如果政府將原住民與非原住民個人的私有土地劃入傳統領域範圍，將會逾越原基法第 21 條的授權範圍。</p> <p>三、納入私有土地違反憲法第 15 條保障私有財產權規定：</p> <p>歷史上的原住民族傳統領域土地到目前已有很大的變化，許多地區是公有土地，有些則是都市地區或私有土地。而私有土地的所有權人不只包括非原住民、也包括原住民</p>	<p>Article 23 of the Constitution stipulates that clear legal provisions are needed to do so. According to Judicial Yuan Interpretation no. 443, there must be concrete and clear authorization before people's land ownership can be restricted.</p> <p>Article 765 of the Civil Code states that “the owner of a thing has the right, within the limits of the Acts and regulations, to use it, to profit from it, and to dispose of it freely.” In other words, if private land were designated as traditional indigenous land, then even if the owner were an indigenous person, restrictions would remain on the right to freely use this land inasmuch as indigenous peoples or tribes could also exercise their right of consultation.</p> <p>Consulting other regulations restricting the use of land, such as the Spatial Planning Act, we find that Paragraph 2 of Article 23 of this act stipulates that “the central competent authority shall establish regulations concerning functional zones, sub-zones and land for designated use; ... prohibited or restricted land use, and land uses to be placed under control”; that is, any case that touches upon the restriction of land use must clearly cite the terms under which any such restrictions are authorized.</p> <p>Therefore, since Article 21 of the Indigenous Peoples Basic Law does not provide any form of explicit authorization as called for under the Spatial Planning Act, if the government were to divide traditional indigenous territory into indigenous peoples' private land and nonindigenous private land, it would be exceeding the scope of its authority as circumscribed under Article 21 of the</p>

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	<p>的利益也應與之共享。然而，目前並無就私人土地取得上述同意的法規。</p>		<p>個人，若因將其劃設為原住民族傳統領域土地，導致「個人」使用土地仍須經原住民族部落集體諮商同意，將與憲法第 15 條保障私人財產權產生衝突，恐引發爭議並產生執行上的困難，因此排除私有土地，才不會影響原住民與非原住民個人的財產權。</p>	<p>Indigenous Peoples Basic Law.</p> <p>1. Inclusion of private land contravenes protection of property rights guaranteed by Article 15 of the Constitution:</p> <p>Historically speaking, indigenous peoples' traditional territories have undergone much change from past times through to the present day. Large parts of these territories are designated as public land; many are urban areas or private land. These areas of private land are owned not only by nonindigenous individuals, but also by indigenous individuals. By conflicting with the right of property guaranteed by Article 15 of the Constitution, designation of any land owned by individuals as indigenous traditional territory whose use is subject to the consent of indigenous tribal communities through consultation may spark controversy and be difficult to enforce. Therefore, excluding private land from designation as indigenous traditional territory is necessary to avoid affecting the property rights of both indigenous and nonindigenous individuals.</p>
<p>第六節 Session 6</p>	<p>原住民 Indigenous People 【第八段】 原住民權益人士抗議 2017 年亞洲水泥公司在花蓮縣太</p>	<p>原住民族委員會 Council of Indigenous Peoples</p>	<p>原住民族歷史正義與轉型正義委員會上，太魯閣族族群委員 Teyra Yudaw 發起陳情提案，訴求政府應撤回亞洲水泥的礦權展限申請，並要求在礦業法中納入溯及既往條款，以落實早在 2005 年就已通過的原基法 21 條知情同意權，而總統蔡英文最終指派經濟部召集部落族人及亞洲水泥公司展開「三方會談」，研擬解決方案。</p> <p>經過多次預備會議，第一次三方會談於 107 年 3</p>	<p>Teyra Yudaw, a representative of the Truku tribe and member of the Presidential Office Indigenous Historical Justice and Transitional Justice Committee, submitted a petition to the committee calling for the government to revoke Asia Cement's application to extend its mining rights, and to incorporate retroactive provisions into the Mining Act dating back to the promulgation of the Indigenous Peoples Basic Law in 2005 that would require the right of consultation as stipulated in Article 21 of the Indigenous Peoples Basic Law. President Tsai subsequently instructed the</p>

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	<p>魯閣族部落附近的礦權展延 20 年，並批評「原住民族歷史正義與轉型正義委員會」未保護原住民土地權。礦務局未取得太魯閣族人同意便逕行展延。原許可於 2017 年 11 月到期。</p>		<p>月 25 日舉行，重點議案有二個：亞泥於 1973 年進駐富世村時土地取得爭議之真相調查，以及富世村居住安全的監測與維護方案。</p> <p>107 年 7 月 21 日、107 年 12 月 15 日召開第 2、3 次協商會議，深化的互動交流，並展現近一年來三方會談有關「居住安全」議題的成果。諸如排水改善、地質評估、採礦影響、緊急防災計畫等，都是部落居民最切身感受的議題。針對族人提出的需求，礦務局協調權責機關全力辦理，也透過三方分別推薦的學者專家，就專業標準進行嚴格把關。</p> <p>「三方會談」的精神旨在三方平等互信之基礎下，發揮集體智慧，累積善意、化解疑慮，謀求共識往和解與共生的道路持續邁進，為原住民族權利、環境永續和經濟發展三贏局面創造契機。</p>	<p>Ministry of Economic Affairs to hold trilateral negotiations with local indigenous peoples and Asia Cement to investigate a means of resolving this case.</p> <p>After numerous preparatory meetings, the first consultation among the three parties was held on March 25, 2018, resulting in two key proposals: a fact-finding investigation into how Asia Cement had acquired land in the Bsngan community in 1993; and the implementation of a residential safety monitoring and maintenance program in the Bsngan community.</p> <p>The second and third consultations, held on July 21 and December 15, 2018, aimed to strengthen interaction between the parties and demonstrate the outcomes of the residential safety issue, establishing that drainage improvement, geological assessments, investigations into mining impacts and a disaster prevention plan had had a profound impact on the indigenous community. In responding to the demands of the indigenous community, the Bureau of Mines has coordinated with the relevant authorities to handle related issues, and maintained strict professional standards by hiring scholars and experts recommended by all three parties.</p> <p>A spirit of tripartite dialogue, based on the equal footing and mutual trust of the three parties, aims to utilize collective wisdom, build good will, and resolve doubt. The parties continue to seek</p>

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				<p>consensus on reconciliation and accommodation, creating an opportunity for a win-win-win situation for the rights of indigenous peoples, environmental sustainability and economic development.</p>
<p>第六節 Session 6</p>	<p>基於性傾向和性別認同的暴力、歧視、和其他侵害 Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity 六月，監察院糾正衛生福利部與內政部忽視雙性人且未保障其健康</p>	<p>內政部 Ministry of the Interior</p>	<p>為保障雙重性徵者及性別變更者之基本人權，內政部於 104 年 9 月 16 日擬具「性別變更認定要件法制化政策方向建議報告」陳報行政院，建議分 2 個階段推動，逐步落實雙重性徵者及性別變更者權益保障。於完成立法程序前，建議先修正本部 97 年 11 月 3 日令釋規範，針對「已摘除性器官者」，僅須檢具手術完成診斷書辦理，不須經 2 位精神科專科醫師鑑定；針對「雙重性徵者」，無庸提憑手術完成診斷書及精神科專科醫師評估鑑定之診斷書，僅須持最近 6 個月內由國內醫療機構開具雙重性徵之診斷書，自行決定變更性別。專案報告尚待行政院核裁。考量戶籍登記係依相關證明文件或法律事實所為之公示登記，係屬後端工作，倘未來明定性別之認定標準及認定機關，內政部將配合訂定應備證明文件及登記程序。</p>	<p>To protect the rights of intersex persons and individuals who have undergone gender reassignment, on September 16 2015, the Ministry of the Interior submitted a report on Policy Recommendations on Legalizing Proof of Identity in Cases of Gender Reassignment, to the Executive Yuan. The report suggested a two-stage promotion to protect these individuals' rights. It was recommended that before completing any legislative procedures, an order of the MOI issued on November 3, 2008, be amended so that in addressing the cases of persons who have already had genitalia removed, there would only be the need to check post-surgery documentation, without the need to have two psychiatrists confirm identity; and in addressing intersex persons, to change gender at one's discretion, it would not be necessary to check any post-surgery documentation or have two psychiatrists confirm identity, but rather only require the submission of a medical certificate, drawn up by a domestic medical institution within the last six months, confirming intersex status.</p> <p>The abovementioned report has yet to be approved by the Executive Yuan. Given that household registration is public registration based on related documentary or legal evidence, the MOI will set</p>

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	權。……，監察院認為不提供可取得的照護就違反平等原則。			up supporting document and registration procedures once gender identification standards and the relevant competent authority have been established.
第七節 Section 7	(1) 結社權和集體談判的權利 a. Freedom of Association and the Right to Collective Bargaining	勞動部 Ministry of Labor	<p>一、派遣勞工行使團結權部分： 有關派遣勞工之結社權保障部分，派遣勞工依法除可組織派遣公司企業工會，亦可組織或加入產業工會或職業工會，保障其結社權益。另勞動部為保障派遣勞工團體協商權，業以 2019 年 1 月 31 日勞動關 2 字第 1080125196 號函，放寬派遣勞工組織之產(職)業工會依《團體協約法》向派遣事業單位請求進行團體協商時之「協商資格」認定方式，如派遣勞工產(職)業工會，向會員所受僱之派遣事業單位提出團體協商，且所提團體協約草案有明確載明適用對象為服務於同一要派單位之會員時，則該工會於前述要派單位內之會員人數，有逾該派遣事業單位派遣至同一要派單位之受僱派遣勞工人數二分之一者，即屬《團體協約法》第 6 條第 3 項所稱「有協商資格之勞方」。但該派遣事業單位派遣至同一要派單位之派遣勞工人數未滿 20 人者，不適用之。</p> <p>二、妨礙工會籌組議題部分：</p>	<p>1. Dispatch workers' freedom of association: Dispatch workers are legally entitled to organize unions at their companies, and to organize or join industrial or professional unions, thus protecting their freedom of association. Furthermore, to protect dispatch workers' right to bargain collectively, the Ministry of Labor specified in Letter Lao-Dong-Guan-II-Zi No.1080125196 of January 31, 2019, that when an industrial (professional) union of dispatch workers seeks to engage in collective bargaining with a dispatch agency in accordance with the Collective Agreement Act, the definition of bargaining qualifications that applies in such cases should be broadened. For instance, when an industrial (professional) union of dispatch workers seeks to engage in collective bargaining with a dispatch agency where its members are employed, and the draft of the proposed collective agreement specifically states that its purpose is to serve union members working at the same client, then as long as the number of union members exceeds one-half of that client's total number of dispatch workers, these union members constitute "the labor side with bargaining qualifications" as specified in Paragraph 3 of Article 6 of the</p>

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			<p>(一) 針對外界關注之工會籌組門檻議題，如勞工受僱於 30 人以上事業單位，依法可組織事業單位、廠場、關係企業或金融控股與子公司等，4 種不同類型之企業工會，另亦可依產業別或職業技能，組織產業工會或職業工會，並依法與雇主進行團體協商，不會有妨礙勞工行使團結權情形。</p> <p>(二) 另我國工會反映，如過度開放工會組織，易產生勞勞爭議，分散勞工團結力量，不利工會組織長遠發展，爰勞動部基於維持工會穩定發展之前提，對於各界所提意見均將審慎研議。</p> <p>三、有關罷工權部分：</p> <p>(一) 查《勞資爭議處理法》第 54 條規定，係考量教師與國防部及其所屬機關（構）、學校之勞工罷工，將影響人民受教權及國家安全，因此禁止其行使罷工權，惟勞動部已於該法第 25 條另訂替代性解決機制，即調整事項之勞資爭議，工會可直接向直轄市縣（市）主管機關申請交付仲裁，不受仲裁需有勞資雙方共同合意之限制，主管機關必須依法強制仲裁，以謀爭議解決。且前揭規定亦符合「兩公約」及國際勞工公約所揭示之原則。</p> <p>(二) 另同法第 3 項及第 5 項限制部分行業行使罷工權的規定(如水電及燃氣供應業等民生必</p>	<p>Collective Agreement Act. However, this condition does not apply for fewer than 20 union members working at the same client.</p> <p>2. Interfering in the organization of unions:</p> <p>(1) Regarding general concern over the issue of union organizing thresholds, workers at the same business entity, the same factory or workplace, enterprises with controlling or subordinate relations between each other, or financial holding companies or their subsidiaries employing 30 or more individuals may legally organize a corporate union. Workers may also organize industrial or professional unions in accordance with their respective industry or occupation, and may engage in collective bargaining with their employer in accordance with the law. Workers are not hindered in their right to organize.</p> <p>(2) Domestic unions have said that if union-organizing regulations are eased to an excessive degree, there will be a risk of labor-management disputes arising, and of the leverage to be gained from labor solidarity being dissipated, which would not benefit unions' long-term development. The Ministry of Labor will carefully review all parties' opinions with an eye to maintaining the stable development of unions.</p> <p>3. Regarding the right to strike:</p> <p>(1) Article 54 of the Act for Settlement of Labor-Management Disputes prohibits teachers and Ministry of National Defense employees and its affiliated agencies (institutes) or schools from going on strike out of consideration for the negative effect on</p>

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			<p>需行業，勞資雙方應約定必要服務條款，工會始得宣告罷工，固定通信業務或行動通信業務之第一類電信事業，於能維持基本語音服務不中斷之情形下，始得宣告罷工)，主要是考量這些行業進行罷工將對大眾生命安全、國家安全或重大公共利益造成重大影響，為兼顧勞工罷工權，同時不致妨礙大眾生命安全及公共利益，由勞資自主協商並約定必要服務條款有其必要性；如未能約定，有關調整事項爭議，工會也可直接向中央主管機關申請交付仲裁，以資救濟。</p> <p>(三)又該法第 53 條第 1 項規定，權利事項之勞資爭議不得罷工。係因權利事項爭議涉及權利之有無，尚可循訴訟途徑取得救濟，而調整事項爭議無法透過訴訟方式得到解決，因此賦予工會爭議權，以謀爭議解決。又我國目前已訂有勞動事件法，提供更有利於勞工及工會之訴訟程序，減少訴訟障礙，未來權利事項爭議案件將可透過司法途徑迅速獲得解決。</p> <p>四、有關勞資爭議處理之部分： 依《勞資爭議處理法》第 37 條規定，仲裁判斷於當事人間，與法院之確定判決有同一效力。因仲裁制度具準司法之性質，應周延慎重為之，且該法已同時訂有獨任仲裁人</p>	<p>people's right to an education, and on national defense. However, the Ministry of Labor has instituted alternative resolution mechanisms as per Article 25 of the Act, adjusting regulations regarding labor-management disputes to allow the above-mentioned unions to directly apply to the competent authority of their local municipality/city for arbitration. In these cases, arbitration is not subject to the restriction that both labor and management must agree to seek arbitration; rather, the competent authority is legally obliged to launch arbitration and seek to resolve the dispute. It should also be noted that this regulation complies with the principles of the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; and the International Labour Convention.</p> <p>(2) Paragraphs 3 and 5 of Article 54 of the same Act restrict the right to strike of employees in certain industries (e.g., industries performing essential public functions, such as the utilities and gas supply industries, for which labor and management must jointly agree on terms for providing essential services before a union may declare a strike; or Type 1 telecommunication businesses which provide fixed or mobile telecommunication service, for which employees may declare a strike only when it will be possible to maintain basic voice services uninterrupted). This is chiefly due to the fact that strikes in these industries may have a significant impact on people's lives and safety, on national security, and on essential public interests. To respect workers'</p>

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			<p>機制可供選擇，惟不論以仲裁人(需時45-55日)或召開仲裁委員會(需時69-79日)方式進行，所需時間已較循司法途徑解決更為迅速、便捷及經濟，且實務上各縣市政府受理之仲裁案多可於法定期間解決，日數應屬合理。</p> <p>五、有關不當勞動行為裁決部分： 依據《工會法》第35條第1項第1款及第5款之規定，雇主對勞工或工會幹部之調動，不論其為工作地點、職位之升降，如具有不當勞動行為之動機，對勞工個人造成不利益之待遇或影響、限制、妨礙工會之組織或活動，經不當勞動行為裁決委員會認定構成不當勞動行為，將依個案情形命雇主回復當事人之職位、權利及禁止雇主再為影響、限制、妨礙工會之組織或活動之行為。由於此類案件多隱藏在雇主的人事管理權下(即所謂雙重動機理論)，因而裁決委員會於審理時亦格外著重事實及法理的論述，以利日後該類案件受民事訴訟及行政訴訟個別檢視，才得以確保受打壓之勞工完整權益。自裁決制度建立以來，亦有不少以裁決決定，雇主回復受打壓勞工之職位、薪資或權利等情形，實務上雇主亦有確依裁決決定而讓勞工復職等之例。</p> <p>六、工會組織情形之議題部分：</p>	<p>right to strike while avoiding any hindrance to public safety or the public interest, labor and management must engage in their own discussions and agree on terms for providing essential services. If such terms cannot be agreed upon, then in cases of interests disputes, unions may directly apply to the central competent authority for arbitration as a remedy.</p> <p>(3) Paragraph 1 of Article 53 of the Act specifies that strikes are prohibited in cases of rights disputes. This is because rights disputes concerned with the possession of rights or lack thereof can be resolved through litigation. Litigation cannot be employed in cases of interests disputes, so unions are granted the right to dispute in order for such disputes to be resolved. Taiwan's current Labor Incident Act provides litigation procedures that favor workers and unions, and reduce obstacles to litigation. As a result, workers involved in future rights disputes will be able to obtain quick settlements through judicial means.</p> <p>4. Regarding the settlement of labor-management disputes: According to Article 37 of the Act for Settlement of Labor-Management Disputes, an arbitration award rendered by the arbitration committee for rights disputes has the same effect as the final ruling of a court on the parties to a labor-management dispute. Because the arbitration system has a quasi-judicial nature, prudence and thoroughness are required. This Act also specifies that there must be an option for having a sole arbitrator manage the arbitration process. Regardless of whether arbitration is conducted via a sole arbitrator (requiring 45-55 days) or an</p>



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			<p>根據勞動部及經濟部統計資料，目前全國可籌組工會的企業員工人數約 385 萬人，目前已加入工會的企業員工人數約 58 萬人，組織率約 15.2%，惟尚未加計有一定雇主但僅加入產業工會或職業工會的勞工。(目前全國可籌組工會的勞工人數約 1,025 萬人，目前已加入工會的勞工人數約 337 萬人，組織率約 32.9%)。另勞動部為積極保障勞工結社權，訂有各項補助勞工籌組工會之措施，協助未成立工會的勞工籌組工會，並鼓勵上級工會積極輔導勞工籌組工會。(如下表)</p> <p style="text-align: center;"><b>台閩地區各級工會數、會員人數及組織率</b> 中華民國 107 年第 4 季</p> <table border="1" data-bbox="600 877 1240 1412"> <thead> <tr> <th>項目別</th> <th>工會數</th> <th>會員人數</th> </tr> </thead> <tbody> <tr> <td>工會聯合組織— 企業及產業</td> <td style="text-align: center;">43</td> <td style="text-align: center;">—</td> </tr> <tr> <td>工會聯合組織— 職業</td> <td style="text-align: center;">110</td> <td style="text-align: center;">—</td> </tr> <tr> <td>工會聯合組織— 綜合性</td> <td style="text-align: center;">112</td> <td style="text-align: center;">—</td> </tr> <tr> <td>企業工會</td> <td style="text-align: center;">900</td> <td style="text-align: center;">585,153</td> </tr> <tr> <td>產業工會</td> <td style="text-align: center;">210</td> <td style="text-align: center;">87,271</td> </tr> <tr> <td>職業工會</td> <td style="text-align: center;">4,161</td> <td style="text-align: center;">2,696,741</td> </tr> <tr> <td><b>總計</b></td> <td style="text-align: center;"><b>5,536</b></td> <td style="text-align: center;"><b>3,369,165</b></td> </tr> </tbody> </table>	項目別	工會數	會員人數	工會聯合組織— 企業及產業	43	—	工會聯合組織— 職業	110	—	工會聯合組織— 綜合性	112	—	企業工會	900	585,153	產業工會	210	87,271	職業工會	4,161	2,696,741	<b>總計</b>	<b>5,536</b>	<b>3,369,165</b>	<p>arbitration committee (requiring 69-79 days), either option will be both quicker, and more economical and practical, than a resolution via judicial means. Furthermore, since most arbitration cases accepted by county and city governments are resolved within the statutory period, the duration of arbitration can be considered reasonable.</p> <p>5. Judging unfair labor practices: According to Subparagraphs 1 and 5 of Paragraph 1 of Article 35 of the Labor Union Act, an employer may not redeploy a worker who is a union member or holds office in a union, irrespective of whether this involves a change of location or a promotion or demotion in terms of position because of union affiliation or activities. If such a redeployment is ordered in bad faith, and results in unfair treatment of, or improper influence on, the individual, or interferes with union organizing or activities, and the Board for Decision on Unfair Labor Practices determines that the redeployment indeed constitutes an unfair labor practice, then as the case warrants, the employer may be ordered to restore the affected party's position and rights, and be prohibited from further influencing, restricting, or obstructing union organizing or activities. Because cases of this type are often muddled by the fact that employers have a right to manage their personnel (sometimes referred to as the dual motive theory), the Board for Decision on Unfair Labor Practices places special emphasis on the facts and on legal principles during its review process, in turn facilitating the review process of subsequent civil lawsuits and</p>
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			項目別	分子	分母	組織率	<p>administrative lawsuits in cases of this type, and ensuring that the rights and interests of mistreated workers are fully protected. Since the establishment of this adjudication system, numerous decisions have ordered that employers restore mistreated workers' positions, salaries, or rights, following which employers have indeed restored workers' positions in accordance with the judgments passed down.</p> <p>6. Issues concerning union organizing: According to statistics from the Ministry of Labor and the Ministry of Economic Affairs, 3.85 million persons are employed at companies at which unions may be organized. Given that approximately 580,000 company employees are union members, Taiwan's union membership rate is approximately 15.2 percent. However, this total does not include persons who have a fixed employer but have only joined industrial or professional unions (at present, approximately 3.37 million of the approximately 10.25 million workers eligible to join unions have already joined a union, for a membership rate of approximately 32.9 percent). To actively safeguard workers' right to organize, help workers who have not been unionized to organize unions, and encourage higher-level unions to actively assist workers in organizing, the Ministry of Labor has instituted a number of other subsidiary measures.</p> <div data-bbox="1265 1356 2184 1460" style="border: 1px solid black; padding: 5px;"> <p>Number of unions, membership, and membership rate in the Taiwan-Fukien area</p> </div>
			全國勞工工會組織率 企業勞工工會組織率 企業及產業勞工工會組織率 職業勞工工會組織率	3,369,165 585,153 672,424 2,696,741	10,252,032 3,855,494 8,802,032 6,396,538	32.9% 15.2% 7.6% 42.2%	
			截至 107 年 12 月底：				
			◆公司登記現有家數：705,234 家（資料來源：經濟部統計處）				
			◆受僱勞工：10,252,032 人（資料來源：行政院主計總處「人力資源調查」、銓敘部） （含受僱者、非農自營、非農無酬，扣除經銓敘之公務人員、約聘僱人員）				
			◆就業者：11,480,647 人（資料來源：行政院主計總處「人力資源調查」）				
			說明：				
			1.工會類型依 100 年 5 月 1 日修訂生效之工會法分類統計。				
			2.自 100 年 5 月 1 日起，工會法增列產業工會之組織類型，並將原產業工會正名為企業工會(需僱用員工 30 人以上之事業單位才可以組織成立)，所增列之產業工會(已不受僱用員工 30 人以上之事業單位限制)可由各產業勞工自行組織。				

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			<p>3.100 年 Q2 起組織率公式：</p> <p>(1)全國勞工工會組織率：全體會員人數÷[受僱者+(非農自營+非農無酬)-(經銓敘之公務人員+約聘僱人員)]×100</p> <p>(2)企業勞工工會組織率：企業工會會員人數÷[30 人以上受僱者-(經銓敘之公務人員+約聘僱人員+公私立教師)]×100</p> <p>(3)企業及產業勞工工會組織率：[企業工會會員人數+產業工會會員人數]÷[受僱者-(經銓敘之公務人員+約聘僱人員)]×100</p> <p>(4)職業勞工工會組織率：[職業工會會員人數]÷[30 人以下受僱者+(非農自營+非農無酬)+公私立教師]×100</p>	<p>Fourth quarter of 2018</p> <table border="1" data-bbox="1272 247 2168 694"> <thead> <tr> <th>Item</th> <th>Number of unions</th> <th>of</th> <th>Number of members</th> </tr> </thead> <tbody> <tr> <td>Union federation—corporate and industrial</td> <td>43</td> <td></td> <td>—</td> </tr> <tr> <td>Union federation—professional</td> <td>110</td> <td></td> <td>—</td> </tr> <tr> <td>Union federation—composite</td> <td>112</td> <td></td> <td>—</td> </tr> <tr> <td>Corporate union</td> <td>900</td> <td></td> <td>585,153</td> </tr> <tr> <td>Industrial union</td> <td>210</td> <td></td> <td>87,271</td> </tr> <tr> <td>Professional union</td> <td>4,161</td> <td></td> <td>2,696,741</td> </tr> <tr> <td><b>Total</b></td> <td><b>5,536</b></td> <td></td> <td><b>3,369,165</b></td> </tr> </tbody> </table> <table border="1" data-bbox="1272 726 2168 1316"> <thead> <tr> <th>Item</th> <th>Number of members</th> <th>Number of persons eligible for membership</th> <th>Membership rate (%)</th> </tr> </thead> <tbody> <tr> <td>Nationwide union membership rate</td> <td>3,369,165</td> <td>10,252,032</td> <td>32.9</td> </tr> <tr> <td>Corporate union membership rate</td> <td>585,153</td> <td>3,855,494</td> <td>15.2</td> </tr> <tr> <td>Corporate and industrial union membership rate</td> <td>672,424</td> <td>8,802,032</td> <td>7.6</td> </tr> <tr> <td>Professional union membership rate</td> <td>2,696,741</td> <td>6,396,538</td> <td>42.2</td> </tr> </tbody> </table> <p>As of the end of December 2018:</p> <p>◆Number of registered companies: 705,234 (Source: Department of Statistics, Ministry of Economic Affairs)</p>	Item	Number of unions	of	Number of members	Union federation—corporate and industrial	43		—	Union federation—professional	110		—	Union federation—composite	112		—	Corporate union	900		585,153	Industrial union	210		87,271	Professional union	4,161		2,696,741	<b>Total</b>	<b>5,536</b>		<b>3,369,165</b>	Item	Number of members	Number of persons eligible for membership	Membership rate (%)	Nationwide union membership rate	3,369,165	10,252,032	32.9	Corporate union membership rate	585,153	3,855,494	15.2	Corporate and industrial union membership rate	672,424	8,802,032	7.6	Professional union membership rate	2,696,741	6,396,538	42.2
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				<p>◆ Workers employed: 10,252,032 (Source: Directorate General of Budget, Accounting and Statistics, Executive Yuan)</p> <p>(Including employees, nonagricultural self-employed persons, and nonagricultural unpaid workers, but not including civil service personnel and persons hired under contract.)</p> <p>◆ Employed: 11,480,647 (Source: Directorate General of Budget, Accounting and Statistics, Executive Yuan)</p> <p>Remarks:</p> <p>1. Union statistics are based on the classifications given in the revised Labor Union Act that took effect on May 1, 2011.</p> <p>2. Starting on May 1, 2011, the Labor Union Act has listed unions as an organization type, and changed the original formulation for unions to <i>corporate union</i> (corporate unions can only be organized at enterprises with at least 30 employees) and <i>industrial union</i>, which can be organized by workers in any industry (and are not restricted to enterprises with at least 30 employees).</p> <p>3. Membership rate formula starting in Q2 2011:</p> <p>(1) Nationwide union membership rate: Total number of union members ÷ [employees + (nonagricultural self-employed persons + nonagricultural unpaid workers) - (civil service personnel + persons hired under contract)] × 100</p> <p>(2) Corporate union membership rate: Number of corporate union members ÷ [at least 30 employees - (civil service personnel + persons hired under contract + public and private teachers)] × 100</p> <p>(3) Corporate and industrial union membership rate: [number of corporate union members + number of industrial union members] ÷ [employees - (civil service personnel + persons hired under contract)] × 100</p> <p>(4) Professional union membership rate: [number of professional union members] ÷ [fewer than 30 employees + (nonagricultural self-employed persons + nonagricultural unpaid workers) + public and private teachers ] × 100</p>
第七節 Section 7	(2) 禁止強迫或強制勞動 b.	勞動部 Ministry of Labor	一、為防制人口販運行為及保護被害人權益，現行有《人口販運防制法》等相關法令可為論處，執行上尚無疑義。倘行政機關發	1. The Human Trafficking Prevention Act and other relevant laws and regulations exist to prevent human trafficking and protect the rights of its victims. Few doubts have been raised regarding its

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	Prohibition of Forced or Compulsory Labor		<p>現雇主有違反前開相關法令者，除得由行政機關依法裁處外，亦可當即移請檢調及司法單位就個案情節，依法論處。</p> <p>二、有關部分仲介公司向外籍勞工收取高額仲介費，並利用其在母國積欠之債務強迫工作一節：</p> <p>(一)為降低外籍勞工負擔外國仲介費用，勞動部已建議外籍勞工來源國應以外籍勞工 1 個月薪資為上限，並將持續透過雙邊會議與外籍勞工來源國討論建議。另已於 2007 年 12 月 31 日成立「直接聘僱聯合服務中心」，協助雇主自行辦理聘僱外籍勞工事宜，而無需透過仲介公司，減少外籍勞工支付臺灣、外國仲介公司辦理費用支出外，也縮短外籍勞工入臺時程及流程。又於 2016 年 11 月 3 日刪除《就業服務法》第 52 條有關出國 1 日規定，針對外國人聘僱期滿經與雇主合意期滿續聘，或與新雇主合意期滿轉換接續聘僱者，得申請聘僱許可，免除原須出國 1 日之作法，減少外籍勞工為重新來臺工作，而需支付外國仲介費之經濟負擔。</p> <p>(二)另為避免臺灣仲介公司收取高額費用，勞動部規定臺灣仲介公司僅能向外籍勞工收「服務費」，且須有依服務契約提供服務事實，始得收費，並不得預先收取。針對外</p>	<p>implementation. If in the course of its duties any agency finds that an employer has violated the law, then in addition to taking its own action in accordance with the law, the agency may also immediately refer the case to prosecutors and the courts for investigation and sentencing.</p> <p>2. Regarding the assertion that labor brokers have collected exorbitant fees from foreign workers, and taken advantage of workers' debts in their home countries to force them to work:</p> <p>(1)To reduce the high agency fees that foreign workers can sometimes be charged, the Ministry of Labor has advised foreign workers' countries of origin that workers should pay brokerage fees equivalent to no more than one month's average salary. The ministry will continue to hold meetings with foreign workers' countries of origin and make associated recommendations. The Ministry of Labor also established the Direct Hiring Service Center on December 31, 2007, to assist employers in hiring foreign workers directly, without the need to go through an agency. This reduces payments to domestic and foreign agencies, and shortens the processing time required before a worker can enter Taiwan. A provision in Article 52 of the Employment Services Act requiring foreign workers to leave Taiwan for at least one day upon the completion of their working period was also abrogated on November 3, 2016. When a foreign worker and his or her employer have agreed to continue the worker's employment, or where a new employer agrees to take on the foreign worker upon the completion of the working period, the</p>

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			<p>籍勞工聘僱期滿經與雇主合意期滿續聘，或與新雇主合意期滿轉換接續聘僱者，臺灣仲介公司僅得向雇主收取登記費及介紹費，若向外籍勞工收取服務費以外之費用，則違反《就業服務法》規定，將處以其超收費用金額 10 倍至 20 倍之罰鍰及停業處分。</p> <p>(三)又非法媒介案件如涉及仲介公司強迫勞動或人口販運之情事，將依《人口販運防制法》規定，最重課予 12 年以下有期徒刑，且依 2018 年 11 月 28 日修正之《就業服務法》規定，仲介公司對外籍勞工有傷害、妨礙自由、人口販運之情事，除依刑法或人口販運防制法追究其刑責外，亦廢止其公司設立許可證，並管制負責人 5 年內不受理其設立申請。</p>	<p>foreign worker may apply for a work permit without having to leave the country for at least one day, as was previously required. This change reduces the economic burden on foreign workers in terms of brokerage fees, and protects the rights and interests of foreigners working in Taiwan.</p> <p>(2) To prevent domestic brokerage agencies from charging excessively high fees, the Ministry of Labor stipulates that such agencies may only bill foreign workers for service charges, that they may not levy such charges in advance, and that such charges may only be levied in accordance with a contract of service. When foreign workers whose employment contracts have been completed renew their contracts with their employers by mutual agreement, or by mutual agreement switch to working for a new employer, the brokerage agency in Taiwan may only collect a registration fee and introduction fee from the employer. Agencies will be subject to fines of 10 to 20 times the amount of fees collected in excess of those permitted by law. The agency's business will also be suspended if, in violation of the Employment Service Act, it charges foreign workers anything other than service fees.</p> <p>(3) Under the Human Trafficking Prevention Act, individuals from brokerage agencies illegally engaging in forced labor or human trafficking may be imprisoned for up to 12 years. Furthermore, in addition to being subject to criminal liability per the Criminal Code and the Human Trafficking Prevention Act, in accordance with the revised Employment Service Act promulgated on</p>

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				November 28, 2018, the company licenses of any brokerage agency causing harm to foreign workers, obstructing their freedom, or engaging in human trafficking will be revoked, with the person responsible being prohibited from applying for another company license for five years.
第七節 Section 7	(3) 禁止童工與最低就業年齡 c. Prohibition of Child Labor and Minimum Age for Employment	勞動部 Ministry of Labor	依《勞動基準法》規定，童工及未滿 18 歲的工作者，不能從事危險性與有害性的工作；童工工作時間除每日為 8 小時外，每週工作時間不得超過 40 小時，例假不得工作。	In accordance with the Labor Standards Act, no child worker and no worker younger than eighteen years old may do work that is potentially dangerous or hazardous in nature; child workers' daily working hours may not exceed eight hours, weekly working hours may not exceed 40 hours, and working on statutory days off is not permitted.
第七節 Section 7	(4) 就業或職業歧視 d. Discrimination with Respect to Employment and Occupation	勞動部 Ministry of Labor	一、《性別工作平等法》第 36 條已明定：「雇主不得因受僱者提出本法之申訴或協助他人申訴，而予以解僱、調職或其他不利之處分。」，基此，倘受僱者發現雇主違反性別工作平等法規定，而向雇主、主管機關或檢查機構申訴者，雇主均不得因此予以解僱、調職或其他不利之處分。雇主違反上開規定，各地方勞工行政主管機關應依同法第 38 規定應處新臺幣 2 萬到 30 萬元，並公布其姓名或名稱、負責人姓名，並限	1. Article 36 of the Act of Gender Equality in Employment specifies that “employers may not terminate, transfer or take any disciplinary action that is adverse to employees who personally file complaints or assist other persons to file complaints pursuant to the Act.” Thus, an employer may not terminate, transfer, or take other unfavorable action against an employee who discovers that the employer has violated the Act of Gender Equality in Employment and subsequently lodges a complaint with the employer, the competent authority, or other investigative organization. In accordance with Article 38 of the Act, the local

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			<p>期令其改善；屆期未改善者，應按次處罰。</p> <p>二、勞動部每年皆與各地方勞工行政主管機關共同辦理「職場平權暨性騷擾防治研習會」共計 26 場次，並持續透過多元管道(臉書及摺頁)，加強相關政策之宣導。</p>	<p>administration's competent authority on labor issues may fine violators of this regulation between NT\$20,000 and NT\$300,000. Article 38 also states that "their names or titles and the persons-in-charge shall be put on public notice, and they shall be ordered to improve within a specified period. For those who have not improved within the specified period, they shall be fined and punished consecutively for each violation after the aforementioned period expires."</p> <p>2. The MOL and the competent labor authorities of local administrations jointly hold 26 workplace equal rights and sexual harassment prevention workshops each year. They will continue to rely on various channels (Facebook and brochures) to strengthen policy awareness.</p>
<p>第七節 Section 7</p>	<p>(5) 可接受的工作條件 e. Acceptable Conditions of Work</p>	<p>勞動部 Ministry of Labor</p>	<p>一、自 2019 年 1 月 1 日起，基本工資調整為每月新臺幣 23,100 元，約有 180.14 萬名勞工受惠，其中包含 43.8 萬名外籍勞工。家事勞工尚未適用勞動基準法及基本工資規定。</p> <p>二、2018 年 3 月 1 日施行之勞動基準法部分，係針對當時各界所提意見中，影響層面廣泛且具急迫性之議題，於週休二日原則不變之前提下，給予輪班換班間距與適度調整例假彈性等，以解決勞雇雙方反映現行法令彈性不足之問題，並使勞動權益獲得更合宜之保障。</p> <p>三、有關 2018 年勞動基準法修法說明：</p>	<p>1. Starting from January 1, 2019, the minimum wage has been adjusted to NT\$23,100 per month, benefiting about 1,801,400 workers, including 438,000 foreign workers. However, the Labor Standards Act and minimum wage regulations are still not applicable to domestic workers employed directly by a family.</p> <p>2. Amendments were made to the Labor Standards Act and promulgated on March 1, 2018. They were in response to opinions received at the time from a wide range of interested parties on far-reaching and urgent issues. Based on the principle that employees are to have two days off every seven days, the amended act resolved problems facing both workers and management due to insufficient flexibility in the previous version of the Act. The amendments increased flexibility with respect to</p>



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			<p>(一)加班時數彈性運用：有鑑於各界對於現行加班時數有允許勞雇協商彈性調整的建議，在考量勞工身心健康，及總工時不增加的前提下，雇主經工會、勞資會議同意後，加班時數以每 3 個月為區間總量管制，單月加班時數上限適度放寬為 54 小時，惟每 3 個月總時數仍不得超過 138 小時，給予勞資雙方適度彈性的空間，且 30 人以上企業須報請當地主管機關備查。</p> <p>(二)例假得彈性調整並增加政府把關機制：事業單位如欲實施例假彈性調整措施，不再是經過個別勞工同意後即可調整，除需為勞動部公告指定之行業外，且僅在公告所列之特定情形發生時，始能適用彈性規定，非允該行業之業者能長期持續讓勞工連續工作逾 6 日。另最瞭解個別事業單位勞動現場現況之工會或勞資會議，具有同意與否之權利，倘若其認為不宜實施例假彈性措施，雇主即應符合例假七休一規定。相關規範已有考量勞工之身心健康。</p> <p>(三)輪班換班之間距：本次修法讓當時尚未實施之輪班換班應間距 11 小時規定正式上路，且為使規定務實可行，爰於連續 11 小時為原則之前提下，考量各行各業有不同營運模式及工時安排需求，同時增加因工作特性或特殊原因，於經政府把關及工會、勞</p>	<p>the time between shift changes and days off, while providing appropriate protections on workers' rights and interests.</p> <p>3. Some of the Labor Standards Act amendments of 2018 include the following:</p> <p>(1) Flexible use of overtime hours: Many parties recommended that overtime hours be given more flexibility for the convenience of workers and employers. This takes into consideration workers' physical and mental health, without causing the total working hours to be increased. Now employers may determine, after obtaining consent from the labor union or a labor-management conference, the number of overtime hours to be worked every three months. The upper limit on overtime hours within a single month was increased to 54 hours, but the number of overtime hours within each three-month period may not exceed 138 hours. This gives both labor and management appropriate room for flexibility. In addition, companies with at least 30 employees must report their overtime record to the local competent authority for reference.</p> <p>(2) Flexible adjustment of days off and strengthened government control mechanism: An enterprise now has the right to make flexible adjustments to the days off of employees without needing to obtain an individual worker's consent beforehand. The enterprise must belong to those designated industries announced by the MOL and may only adopt flexible adjustments in accordance with regulations under the special circumstances on the announced list. Enterprises are prohibited</p>

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			<p>資會議同意之集體協商機制，才能另行約定休息時間，但不得少於 8 小時。</p> <p>四、《勞動基準法》第 84 條之 1 規定意旨，在給予雇主與特定勞工合理協商工作時間的彈性。經核定為《勞動基準法》第 84 條之 1 規定之工作者，固得不受該法部分規定之限制，惟其工作時間並非完全不受限制或毫無例假與休假，勞雇雙方應就工作時間等事項為書面約定，且約定書應報地方勞政機關核備後，始生效力；未經核備者，仍受勞動基準法一般工時規定限制。</p> <p>五、有關法律無法保障外籍家事勞工休假，致影響其參加宗教活動一節：</p> <p>(一)目前家事勞工不分本、外國籍勞工，均不適用《勞動基準法》，由勞雇雙方依民法相關規定，以勞動契約釐定。另《就業服務法》及相關法規已明定，雇主聘僱外籍勞工，須訂立書面勞動契約，並應作成該外國人母國文字之譯本。且外籍勞工之工資、工時及休假，另有其來源國驗證之勞動契約、外國人入國工作費用及工資切結書等，以為依循。另目前來源國提供之勞動契約範本已有約定工作 7 日應有 1 日休息。</p> <p>(二)為保障外籍勞工宗教信仰自由，勞動部已設置 1955 勞工諮詢申訴專線，即時處理外籍勞工因雇主未依約給予休假之勞資爭議，</p>	<p>from making employees work more than six days in a row. Furthermore, as a thorough understanding of an individual enterprise's working conditions can be obtained by labor unions and during labor-management conferences, they possess the right to consent to the flexible adjustments. If they determine that the flexible days off proposal would be inappropriate, the employer must comply with the regulations on days off, giving at least one day off every seven-day period. The relevant standards take workers' physical and mental health into consideration.</p> <p>(3) Interval between shifts: This revision grants workers on a shift rotation a rest period of at least 11 continuous hours. To ensure that this regulation is practical and feasible and to uphold the principle of an 11-hour rest period, the revision took the business models and work-hour arrangements of different industries into account. It also added a provision that lets enterprises specify alternative rest schedules if warranted by the nature of the work or mitigating circumstances. In such cases, the government, labor union, or labor-management conference must grant approval through collective bargaining, but rest time may not be less than eight hours.</p> <p>4. The amended Article 84-1 of the Labor Standards Act gives employers and specified workers reasonable flexibility in negotiating working hours. Workers belonging to the classifications of Article 84-1 of the Act are not subject to the restrictions of the Act. However, the working hours of such</p>

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			<p>並透過宣導手冊、廣播節目及平面媒體等多元宣導管道，向雇主、仲介團體與一般社會大眾宣導及透過地方政府辦理外籍勞工訪查時，向雇主宣導應尊重外籍勞工之宗教信仰，協助勞工得自由參加宗教活動。</p> <p>(三)勞動部與衛生福利部共同推動「擴大聘僱外籍家庭看護工家庭使用喘息服務」，自 2018 年 12 月 1 日起，聘僱外籍家庭看護工之被照顧者，經縣市長期照顧管理中心評估失能等級為第 7 級或第 8 級，且為獨居或主要照顧者為 70 歲以上的長照需要者，補助其申請喘息服務。雇主使用喘息服務後，外籍家庭看護工即可安排休假參與宗教活動。</p> <p>六、有關 2017 年檢查次量大幅下降之原由，說明如下：</p> <p>(一)因應 2016 年《勞動基準法》重大修正，為減緩對事業單位之衝擊與協助事業單位逐步調適，勞動部於 2017 年以宣導期、輔導期與檢查期，三階段協助事業單位瞭解並落實法令，雖導致當年度勞動條件檢查場次下降，惟全年實施宣導會 937 場次 (79,035 人參加)、輔導 44,848 場次，係以多元手段監督與協助事業單位遵守勞動法令，同時積極保障勞工權益。</p> <p>(二)2018 年全年勞動條件檢查提升至 67,005</p>	<p>workers are not completely without restriction, or without rest days or official holidays. Workers and management must enter a written agreement concerning their working hours and related matters, and such agreements take effect only after being approved by the local competent authority. Until an agreement has been approved, the working hour restrictions of the Act still apply to the worker.</p> <p>5. Regarding the inability of legislation to guarantee time off for foreign domestic workers, affecting their ability to participate in religious activities:</p> <p>(1) At present, the Labor Standards Act does not apply to either Taiwanese or foreign domestic workers. Domestic workers and their employers enter into a labor contract in accordance with the relevant provisions of the Civil Code. The Employment Service Act and relevant regulations stipulate that employers hiring a foreign worker must enter into a written labor contract and provide the worker with a copy translated into the worker's language. Wages, working hours, and leave are subject to the labor contract, and verified by the source country together with the Foreign Worker's Affidavit for Wage/Salary and Expenses Incurred before Entering the Republic of China for Employment. In addition, currently standard labor contracts provided by source countries stipulate one day of rest for every seven days of work.</p> <p>(2) To uphold the freedom of religion, the MOL established the 1955 Counseling and Protection Hotline for Foreign Workers,</p>

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			<p>場，已為歷年次高。</p> <p>(三)有關檢查員工作超時及加班費未能全數報支部分：</p> <p>1、經勞動部瞭解監察委員所提個案係承辦罰鍰裁處與訴願答辯業務，該員主動於週末加班處理，再擇日補休，且係 2016 年之個案。經統計 2018 年上半年 22 縣市聘用檢查員平均每月天數為 5.1 天，平均每月加班時數為 10.9 小時，加班情形尚屬合理。</p> <p>2、勞動部已陸續於各地方政府勞政主管機關共同參與之「全國勞動條件檢查業務工作會報」中說明，依據行政院訂頒之「各機關加班費支給要點」規定，機關如因業務特性或為因應季節性、週期性工作等情況，得依程序申請專案加班，勞動部予以補助，各地方政府則應使檢查同仁據實核報，勿使檢查同仁誤認為因經費不足而限制加班時數，以保障檢查員之工作權益。</p> <p>七、直接聘僱聯合服務中心業務</p> <p>(一)為提供雇主多元聘僱外籍勞工之管道，減輕外籍勞工來臺工作負擔，勞動部於 2007 年 12 月底成立「直接聘僱聯合服務中心」，協助雇主自行辦理聘僱外籍勞工事宜，開辦迄 2019 年 4 月底，總計服務 15 萬 7,978 名雇主及 16 萬 5,809 名外籍勞工，為雇主及外籍勞工減省登記介紹費及</p>	<p>providing foreign workers with an immediate means of dealing with labor disputes in cases where an employer may have denied them leave. Public awareness is being raised through a variety of channels, including brochures, radio programs, and print media. When local government agencies conduct inspections, they also remind employers, agents, and the general public to respect foreign workers' religious beliefs and help them enjoy the freedom to participate in religious activities.</p> <p>(3) The MOL and the Ministry of Health and Welfare are jointly promoting the expanded use of household respite care for households employing foreign household caregivers. Starting December 1, 2018, when a person cared for by a foreign household caregiver is assessed by a city or county long-term care management center as having a grade 7 or 8 disability and requiring long-term care because of living alone or having a primary caregiver who is over the age of 70, a household may apply for funding to cover respite care expenses. With respite care, employers may more easily make arrangements for the full-time foreign household caregiver to take leave for religious activities.</p> <p>6. Explanation for the major decrease in inspection frequency in 2017:</p> <p>(1) To better implement the Labor Standards Act amendments of 2016 and ease the impact on enterprises, helping them adjust gradually, the MOL announced an awareness-raising period,</p>

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			<p>海外仲介費計新臺幣 70 億 5,247 萬元。</p> <p>(二)為擴大直接聘僱服務範圍，配合來源國直接聘僱開放作業，勞動部係採階段性策略辦理直接聘僱服務，2008 年開放重新招募同一名外籍勞工，並自 2015 年起與來源國合作初次招募「專案選工」外籍勞工，客製化協助雇主需求協助進行招募 2 至 3 倍勞工，並安排選工及勞工引進作業，迄 2019 年 4 月底，已成功協助雇主初次招募新聘引進 1,728 名外籍勞工。</p> <p>(三)為簡化直接聘僱流程，勞動部持續與來源國洽談文件簡化事宜，並自 2018 年起推動外籍勞工申請案線上申辦服務，雇主得採網路方式申辦文件，縮短郵寄時程，另加強一案到底服務，每位雇主申辦案件均配有專人主動追蹤雇主案件申辦事項進度，簡化雇主辦件程序。另為降低外籍勞工聘僱管理困難，主動以電話、簡訊及電子郵件通知雇主應辦事項，並建置「外籍勞工小幫手 APP」服務，提供申辦流程、最新消息及申辦進度查詢等相關服務，及「外籍勞工在臺期間管理資訊平臺」，提供多元服務資源，包含機場接送、健檢醫院、居留證、勞健保等資訊。</p> <p>八、有關外籍勞工因擔心雇主中止契約並將其遣返，而無法償還在母國積欠之債務，即</p>	<p>consultation period, and inspection period in 2017. These three stages aim to help enterprises better understand and uphold relevant laws and regulations. Although this caused the number of labor condition inspections to drop in 2017, a total of 937 awareness meetings were held (with 79,035 persons participating) and assistance was provided 44,848 times that year. The MOL has adopted a variety of methods to supervise enterprises and help them abide by labor laws and regulations, thereby protecting workers' rights and interests.</p> <p>(2) The number of inspections rose to 67,005 in 2018, the second-highest number for any given year.</p> <p>(3) Regarding cases in which inspectors worked overtime but were not fully compensated:</p> <p>(i) The Control Yuan notified the MOL about a case in which the employer was fined and sought a response from the MOL. The inspector in question was found to have voluntarily worked overtime on weekends to deal with the case and chose to take comp time on other days. Also, the incident took place in 2016. According to statistics from the first half of 2018, 22 cities and counties hired inspectors for an average of 5.1 days per month and the average number of overtime hours worked was 10.9 hours per month. This shows that the overtime situation would still be considered reasonable.</p> <p>(ii) The MOL has been working with local government labor authorities to produce reports on national labor condition inspections. In accordance with the overtime payment</p>

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			<p>便遭雇主虐待也不願檢舉部分：</p> <p>(一)為保護外籍勞工之工作權益，避免遭雇主強迫終止聘僱關係致強行遣送出國，勞動部已於 2006 年 10 月 31 日依《雇主聘僱外國人許可及管理辦法》第 45 條規定，訂定「雇主辦理與所聘僱第二類外國人終止聘僱關係之驗證程序」，凡是提前解約出國之外籍勞工，均應至各地方主管機關辦理驗證程序，確認為合意終止聘僱關係，如非合意情形，則將依勞資爭議處理，倘經查雇主有強迫遣返之情事，將依違反《就業服務法》(下稱本法)第 57 條第 9 款規定，以本法第 67 條規定，處以新臺幣 6 萬至 30 萬罰鍰，及依本法第 54 條及第 72 條規定，不予核發或廢止雇主許可，並管制申請案 2 年。</p> <p>(二)依《雇主聘僱外國人許可及管理辦法》第 27 之 1 規定，略以雇主聘僱外籍勞工應於外籍勞工入國 3 日內向當地勞動行政主管機關進行入國通報，爰地方勞動行政機關將於 3 個月內至外籍勞工之工作地點，主動瞭解外籍勞工之生活照顧情形；勞動部亦定期辦理專案訪查及地方政府安排有不定期訪查，以適時瞭解外籍勞工之聘僱狀況。另勞動部自 2006 年 1 月 16 日於國際機場設立機場外勞關懷服務站，出境外籍</p>	<p>guidelines of the Executive Yuan, government agencies may apply for overtime in accordance with the procedures on a case-by-case basis when warranted or for seasonal or cyclical work. Once approved, the MOL will provide subsidies to the agencies. To protect inspectors' rights and interests, local governments must ensure that such overtime is reported in full and must not mislead inspectors into thinking that their overtime hours are restricted due to insufficient funding.</p> <p>7. The operations of the Foreign Worker Direct Hire Service Center are as follows:</p> <p>(1) In order to provide employers with multiple channels to hire foreign workers and to relieve the burden of foreign workers coming to Taiwan, the MOL established the Foreign Worker Direct Hire Service Center at the end of December 2007. As of the end of April 2019, the center had provided service to a total of 157,987 employers and 165,809 foreign workers, saving a total of NT\$7.05247 billion in registration, introduction, and foreign agency fees for employers and foreign workers.</p> <p>(2) To expand the scope of direct employment services and align with the direct employment process of source countries, the MOL adopted a phased strategy for direct employment services. In 2008, it became possible to rehire a foreign worker. In 2015, the Center also worked with foreign worker source countries to launch a worker selection program. Customization services have helped employers recruit two to three times the number of workers, and conduct worker selection and labor</p>

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			<p>勞工如有遭強迫遣返或仍有薪資疑義，得撥打 1955 勞工諮詢申訴專線或至出境櫃檯通知機場服務站之服務人員，以協助處理其案件。</p> <p>(三)勞動部於 2018 年 11 月 28 日修正之《就業服務法》規定，仲介公司對外籍勞工有人口販運、妨害自由之情事或知悉外籍勞工疑遭受雇主或其他相關人士人口販運、妨害自由之行為，而未於 24 小時內向主管機關或其他有關機關進行責任通報，將處以罰鍰或廢止其許可證之處罰，以維外籍勞工權益。</p> <p>(四)又外籍勞工倘擔心申訴後遭雇主或仲介不當對待，依「受聘僱從事就業服務法第 46 條第 1 項第 8 款至第 11 款規定工作之外國人臨時安置作業要點」相關規定，採行「先安置後調查」原則，依外籍勞工意願予以協助安置，另為確保外籍勞工在臺之工作權益，將由安置單位協助外籍勞工進行轉換雇主或工作。</p> <p>九、有關仲介公司要求外籍勞工向臺灣在當地設立之銀行分行，以高利率貸款「訓練費」，致使外籍勞工因債務束縛而處於弱勢部分：</p> <p>(一)外籍勞工於入國前即應於外國人入國工作費用及工資切結書(以下簡稱工資切結書)</p>	<p>orientation operations. As of the end of April 2019, the MOL worker selection program had helped employers recruit 1,728 new foreign workers.</p> <p>(3) To further streamline the direct employment process and encourage employers to use direct employment services, the MOL has continued to negotiate with workers' countries of origin on the simplification of needed documentation. In 2018, an online foreign worker application service was launched to save employers time normally needed for postal services. In addition, the MOL has promoted a One-stop Employment Service, so that each application is assigned to a dedicated person who tracks its progress, thereby simplifying the hiring process. Furthermore, to simplify foreign worker management, the MOL now uses phone calls, cell phone messages, and emails to notify employers of matters that need to be addressed. The MOL has also launched the Foreign Worker Helper APP to provide assistance with applications and the latest news, and to field inquiries regarding an application's progress. Furthermore, the MOL Foreign Worker Management Information Platform after Entering Taiwan provides information on multiple services and resources, including airport shuttles, health check-ups at local hospitals, residence permits, labor and health insurance, and other information.</p> <p>8. Regarding foreign workers who are abused by their employers but unwilling to report the abuse out of fear that their contracts may be terminated, resulting in their being deported and unable to repay</p>

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			<p>載明來臺工作應支付之仲介費、訓練費及規費等費用項目及金額，與其所辦理個人信貸資訊，且該工資切結書須經其來源國勞工輸出部門驗證，以利外籍勞工明確得知來臺工作所需支付之費用。</p> <p>(二)依《就業服務法》規定，臺灣仲介公司僅得向外籍勞工收取服務費，倘以貸款或其他名義向外籍勞工收取規定以外之費用，則依法處其超收費用 10 倍至 20 倍之罰鍰及停業處分。</p> <p>(三)另有關於外國仲介費、規費、訓練費、簽證費等相關費用，因涉及外籍勞工來源母國之法規及政策，勞動部將持續透過雙邊勞工會議等聯繫管道，建議外籍勞工來源國調整其勞工來臺工作所繳納費用及收費項目標準透明化、合理化，並確實辦理工資切結書驗證工作，使其在母國均支付相同標準之費用，亦請各來源國加強查察外國仲介公司，如有違法收費情事，除依該國法令予以裁處，勞動部亦將廢止外國仲介公司認可，使其無法繼續辦理仲介該國國民來臺工作之業務，以避免外籍勞工入國前受劣質之外國仲介收取不當費用。</p> <p>十、有關非政府組織指出，部份外籍家事勞工每月實領薪資最低僅達官方貧窮標準 6.7 %之情形：</p>	<p>debts back home:</p> <p>(1) To protect the rights and interests of foreign workers, the MOL aims to ensure that they are not forced to return home when their contracts have been terminated unilaterally by their employers. Therefore, on October 31, 2006, the MOL specified verification procedures for employer termination of labor relationships with type B foreigners according to Article 45 of the Regulations on the Permission and Administration of the Employment of Foreign Workers. Accordingly, overseas foreign workers whose labor contracts have been terminated early must go to the local competent authority to initiate verification procedures to confirm that the labor relationship was terminated by mutual consent. If the labor relationship was not terminated by mutual consent, the case will be handled as a labor-management dispute. An employer found to have coerced a foreign worker into returning to his or her home country is in violation of subparagraph 9, Article 57 of the Employment Service Act. Such employers are subject to a fine between NT\$60,000 and NT\$300,000. Likewise, in accordance with Articles 54 and 72 of the Act, the employers' permits may be revoked or denied reissue for up to two years.</p> <p>(2) In accordance with Article 27-1 of the Regulations on the Permission and Administration of the Employment of Foreign Workers, an employer hiring foreign workers must visit the local administration's competent labor authority within three days after a foreign worker enters the country to complete the entry</p>



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			<p>(一)勞動部於 2015 年邀集外籍勞工來源國召開會議，達成調整外籍家事勞工薪資的共識，即各國在臺辦事處自 2015 年 9 月 1 日以後，對於新申辦外籍家事勞工的勞動契約，薪資項目將以 1 萬 7,000 元進行驗證。故現行雇主大多以每月 1 萬 7,000 元聘僱外籍家事勞工，並由雇主提供免費膳食及住宿。</p> <p>(二)依據勞動部 2018 年外籍勞工管理及運用調查統計結果，臺灣外籍家庭看護工總薪資平均為 19,927 元，而依衛生福利部公告之 2018 年最低生活費數額，每月平均薪資低於 16,157 元者即為低收入戶(以臺北市為例)，因此家事類外籍勞工實得工資仍可維持其在臺生活的基本需要，且依規定雇主給付薪資僅可扣除法律規定之扣除額(如健保費、所得稅等)外，應全額給付且須提供中外文資薪資明細表俾使外籍勞工了解。倘有個案雇主違規苛扣薪資，除將處以罰鍰並廢止其聘僱許可外，該雇主 2 年內不得再申請外籍勞工。</p> <p>(三)此外，勞動部亦持續參考物價指數等數據，並考量雇主經濟負擔之情形下，適時與外籍勞工來源國就外籍勞工薪資進行協商，將由外籍勞工來源國提供家事類勞工薪資數額送勞動部參考，以研議家事勞工之薪</p>	<p>notification process. In addition, the local labor administration agency must visit the workplaces of foreign workers within three months of their arrival so as to ascertain the foreign workers' living conditions and treatment. The MOL also conducts special inspections regularly and other occasional inspections in conjunction with local governments in order to gain a better understanding of foreign workers' working conditions. Furthermore, on January 16, 2006, the MOL set up foreign worker service stations at international airports. If exiting foreign workers harbor doubts about their repatriation and/or wages, they may call the 1955 foreign laborer consultation hotline or notify service personnel at an airport service station to seek assistance.</p> <p>(3) Amendments to the Employment Service Act were promulgated on November 28, 2018, to better protect foreign workers' rights and interests. Subsequently, brokerage agencies are to be fined or have their licenses revoked if found engaging in human trafficking, restricting personal liberty, or failing to notify the competent authorities or relevant agencies within 24 hours of learning that their foreign workers may have been victims of human trafficking or have had their liberty restricted by their employers or other persons.</p> <p>(4) After submitting complaints, foreign workers may express concern about being treated unfairly by their employer or broker. In such cases, the MOL must help place the workers in accordance with their wishes and with the idea that placements</p>

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			<p>資，維護家事勞工獲得合理薪資之權益，並作適當的調整。</p> <p>十一、貨運、客運業之工時規定：</p> <p>(一)《勞動基準法》第 30 條第 1 項規定，勞工正常工作時間，每日不得超過 8 小時，每週不得超過 40 小時。同法第 32 條規定略以，雇主有使勞工在正常工作時間以外工作之必要者，雇主經工會同意，如事業單位無工會者，經勞資會議同意後，得將工作時間延長之。延長工作時間連同正常工作時間，1 日不得超過 12 小時，原則上 1 個月不得超過 46 小時。</p> <p>(二)為督促國道長途客運業遵守勞動基準法相關工時規定，本部亦規劃實施專案檢查，業者如使駕駛超時工作、例假日違法出勤或未給付延時工資等違反法規等情事，除限期其改善外，並依法處罰。</p>	<p>should be arranged first and investigations conducted later, so as to better maintain their rights and interests while in Taiwan. This is in accordance with the Directions of the Employment Transfer Regulations and Employment Qualification for Foreigners Engaging in the Jobs Specified in Items 8-11, Paragraph 1, Article 46 of the Employment Services Act. The placement unit must also help the foreign workers find a new employer or job.</p> <p>9. Regarding brokerage agencies that require foreign workers to take out training fee loans at high interest rates from local branches of Taiwan banks in their home countries, leaving the foreign workers vulnerable to debt bondage:</p> <p>(1) Before entering Taiwan, foreign workers must provide their entry work expenses and salary affidavits that list brokerage fees, training fees, miscellaneous fees, and other expenses, including the amounts thereof, as well as information concerning any other personal loans. In addition, their salary affidavits must be notarized by the labor export departments of the source country. This procedure helps foreign workers clearly understand the fees and expenses accrued when coming to Taiwan to work.</p> <p>(2) The Employment Service Act stipulates that brokerage agencies in Taiwan may only collect service fees from foreign workers, and will be subject to fines from 10 to 20 times the amount of the excessive fees. The agencies will also have their licenses suspended if they collect other forms of payments from foreign workers, such as for loans.</p>

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				<p>(3) The foreign agency fees, miscellaneous fees, training fees, notarization fees, etc., are governed by the laws, regulations, and policies of foreign worker source countries. Therefore, during bilateral labor conferences and other communication channels, the MOL will continue to urge source countries to make such expenses and collection standards more rational and transparent. The MOL also urges foreign governing agencies to faithfully verify the salary affidavit verifications, so as to better ensure that all workers from the same source country pay the same expenses. The MOL also requests that the source countries strengthen their oversight of brokerage agencies. Should a foreign agency be found guilty and punished for collecting illegal fees by its own government, the MOL will revoke approval for it, thereby preventing it from importing more foreign workers to Taiwan. This aims to deter foreign brokerage agencies from improperly collecting expenses from foreign workers entering Taiwan.</p> <p>10. Regarding NGO reports that the monthly take-home pay of some foreign domestic workers was as low as 6.7 percent of the official poverty level:</p> <p>(1) The MOL invited source countries of foreign workers to meet in 2015 to reach consensus on adjusting the salary of foreign domestic workers. Subsequently, as of September 1, 2015, the representative offices of these foreign countries in Taiwan are to verify that the salary in the labor contracts of new foreign domestic workers is at least NT\$17,000. Therefore, most</p>

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				<p>employers now hire foreign domestic workers at NT\$17,000 per month, with free room and board.</p> <p>(2) According to a survey conducted by the MOL on the management and utilization of foreign workers in 2018, foreign household caregivers in Taiwan received an average monthly wage of NT\$19,927. Furthermore, that year the MOHW announced figures on the minimum cost of living, with an average monthly household salary of less than NT\$16,157 constituting a low-income family (taking Taipei as the example). The actual wages received by household foreign workers are clearly sufficient to maintain their basic living needs in Taiwan. In addition, apart from deductions that may be subtracted from wages in accordance with law (such as health insurance fees and income tax), foreign workers must be paid the full amount of their wages. They must also be given itemized wage lists in Chinese and in their native language so as to ensure that they understand how their wages are handled. Employers caught making illegitimate deductions will be fined, have their hiring permit revoked, and be banned from applying for foreign workers for two years.</p> <p>(3) In addition, the MOL will continue to refer to the commodity price index and take employers' economic burdens into consideration when negotiating foreign workers' wages with the governments of source countries, as appropriate. The MOL also requests that source countries provide wage standards for household workers as a reference so as to better determine the</p>

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				<p>wages of household workers. The MOL will then adjust the wages of household workers in order to maintain their rights and interests, thus ensuring that wages are reasonable.</p> <p>11. Working hour regulations for the freight and passenger transport industries:</p> <p>(1) According to paragraph 1, Article 30 of the Labor Standards Act, the regular working time of workers may not exceed eight hours a day or 40 hours a week. Article 32 of the Act also states that when an employer needs to have an employee work additional hours, the labor union needs to give consent. If there is no labor union in the enterprise, the additional working hours may be worked following consensus reached through a labor-management conference. In any case, total working hours should not exceed 12 hours a day and overtime should not exceed 46 hours a month.</p> <p>(2) The MOL conducts special inspections to ensure that long-distance passenger transportation firms operating on national freeways uphold relevant working hour regulations of the Labor Standards Act. If a company is found to have forced its drivers to work overtime or work illegally on national holidays, or to have failed to pay overtime wages in accordance with the law, the company will be required to make improvements within a set period of time and penalized in accordance with the law.</p>
第七節 Session 7	(5) 可接受的工作條件	行政院農業委員會	一、勞動基準法係國內法，於我國境內具有勞雇關係，且受僱於適用勞動基準法之行業	1. The Labor Standards Act, as a domestic law, applies to employee-employer relationships established within the nation's

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	e. Acceptable Conditions of Work	Council of Agriculture	<p>者，不論國籍均有該法之適用，惟於境外僱用之外籍漁工薪資、工時等工作條件未有我國勞動基準法之適用。</p> <p>二、我國遠洋漁船長期在國外漁場作業，於國外港口僱用外籍船員，爰依國際勞動市場機制訂定境外僱用外籍船員薪資標準。</p> <p>三、漁業署於 2018 年 8 月 15 日召開會議邀請各界共商薪資調升時程規劃，會中業者認為 2017 年公布實施之境外僱用非我國籍船員最低月薪為 450 美元僅一年餘，已較市場行情多出 30-40%（比來源國當地薪資水準高 2-3 倍以上），短期內再次提升並非良好時機，NGO 也同意先以落實漁工能領到 450 美元為目標。</p> <p>四、福蛙 11 號漁船對印尼漁工不當對待行為亦為我政府所不容許，農委會經調查後，裁處罰款及收回執照 5 個月，另涉及刑事部分將船主、船長、仲介移送法辦。</p>	<p>territory and to the industries covered by it, regardless of the nationality of the workers. However, the working conditions of foreign crew members hired overseas, including wages and working hours, are not covered by this law.</p> <p>2. Our distant water fishing vessels often operate in foreign territorial waters. Therefore, they tend to employ crew members from these countries. Thus, the wages of foreign crew members hired overseas are calculated in accordance with that country's labor market.</p> <p>3. On August 15, 2018, the Fisheries Agency held a meeting on the timetable for wage adjustment and consulted with concerned parties. During the meeting, the industry participants considered that further adjustment should wait because only a little more than a year had passed since the minimum wage regulation for foreign crew recruited overseas was introduced. In addition, the US\$450 minimum wage is already between 30 and 40 percent higher than the norm (two to three times higher than source country wage standards). NGOs also agreed that the current focus should be making sure that the wages of all foreign crew members meet the US\$450 standard.</p> <p>4. After an investigation, Taiwan's authorities found the way that <i>F/V Fuh Sheng No. 11</i> treated its Indonesian crew to be improper. Thus, it was fined and its fishing license suspended for five months. Information on possible criminal violations involving the vessel's owner, captain, and recruitment agent has been forwarded to prosecutors.</p>

