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

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

1. The Code of Court Martial Procedure that came into force on August 13, 2013, transfers jurisdiction to prosecute and punish active-duty members of the military who violate the Criminal Code of the Armed Forces or special codes thereof to the civil judiciary. In addition, following a review, military prisons were found to be unnecessary during peacetime. Therefore, they were administratively abolished and control of the physical prisons themselves transferred to the Ministry of Justice on January 17, 2014. The Ministry of National Defense (MND) today has no duty to house or oversee inmates who are military personnel.
2. Following the death of corporal Hung Chung-chiu, the MND revised regulations concerning its disciplinary detention system:
   (1) Supplementary Regulation of Military Confinement (Penitent) Room has been implemented:

   The regulation covers six major aspects, such as putting into law disciplinary criteria, standardizing operating procedures, assigning specific management units, enhancing the professionalism of

personnel, making training drills more reasonable, and ensuring that physical facilities conform to uniform specifications. It is expected that these rules will bring the disciplinary detention system into line with its purpose of providing guidance and correcting deviant behavior. All 18 detention (repentance) rooms of the armed forces now have improved facilities. These rooms are formally part of the military, and are managed exclusively by military police personnel who have completed training concerning the management of such facilities.

(2) Amending the draft Military Justice Act

The MND invited experts and scholars along with officials from the Judicial Yuan and Ministry of Justice to study amending disciplinary detention into “repentance” for enlisted personnel. To safeguard detainees’ personal freedom, regulations governing the sending of soldiers for repentance and the manner of implementing same were amended. The act ensuring habeas corpus was made applicable to detainees undergoing a period of repentance as a relief measure as well. The amendment draft was approved during Executive Yuan Meeting No. 3392 on April 3, 2014, and sent to the Legislative Yuan for deliberation on April 7.

- **No. 2**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment—Prison and Detention Center Conditions
- **Competent authority: Ministry of Justice**

1. To relieve overcrowding at prisons and detention centers, the Ministry of Justice (MOJ) has employed front-end diversion treatments under the purview of the prosecutorial/judiciary system (e.g. deferred prosecution, community service, suspended sentences, fines, and fines in lieu of imprisonment) as well as back-end policies under the purview of the correctional system such as probation, more frequently. In addition, the MOJ's Agency of Correction is working step-by-step on an overarching plan to expand, relocate, and renovate government offices and facilities over 10 years. Ongoing projects include the expansion of Taichung Women's Prison (scheduled to be completed in August 2014), Yilan Prison (2014-2017), and Taipei Prison (2012-2015), where new buildings will be added. Space for an additional 4,425 inmates will be created after these and two other projects are completed, namely the establishment of a branch of Tainan Prison in Liujia and a minimum-security branch of Taoyuan Prison in Bade. The prison system will then operate at 111.22% of capacity, an improvement over the present situation. The MOJ continues to improve/add to cell blocks, fire-fighting equipment, guard and control equipment, and daily care provided to inmates. These measures have significantly enhanced the quality of life at

correctional institutions. The MOJ also makes use of prisons' existing space or vacant land to increase living space by adding, expanding upon, or reconstructing existing facilities. Six projects, including adding new buildings to Yunlin Second Prison, have been prioritized among the medium and long-range plans to be carried out from 2015 to 2018 by the MOJ.

2. The military has not overseen military courts or detention centers since January 2014. The MND, at the MOJ's request, has handed over control of Tainan Prison as well as detention centers of the Military Court Prosecution Bureau in northern Taiwan, and the MOJ is now assigning personnel and funding for these institutions.
3. The MOJ will continue to implement plans to relocate facilities at Changhua Detention Center, Taipei Detention Center, Hsinchu Prison, and Taoyuan Prison, and to construct Taipei Second Prison. Space for an additional 11,227 inmates will be created and the prison system will then operate at no more than 110% of capacity.
4. Tainan Prison and the military detention center in northern Taiwan have been administered by the MOJ since January 17, 2014. Given that personnel arrangements for a correctional institution under the MOJ are different from those for a military prison, the MOJ's Agency of Correction is currently making adjustments needed to achieve maximum efficiency with minimal personnel. Overpopulation will be greatly ameliorated when more personnel are deployed.

- **No. 3**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  d. Arbitrary Arrest or Detention
- **Competent authorities: Judicial Yuan, Ministry of the Interior**

1. The Legal Aid Foundation (hereinafter referred to as “the Foundation”) established a scheme to provide the services of an attorney to individuals during the first interview at prosecutor’s offices or police stations in cases where representation is mandated.
   (1) The Foundation launched a pilot scheme on September 17, 2007, to provide the services of an attorney during first interviews at prosecutor’s offices or police stations. The program was initiated to assist ordinary citizens charged with a crime punishable by three or more years in prison, those arrested on criminal charges by an investigation agency, and those requested to appear for questioning without a subpoena or notice.
   (2) Those who applied for services were often under time pressure, meaning that the criteria set in Article 21 of the Legal Aids Act apply. Therefore, starting in August 2009, the board of directors of the Foundation implemented a resolution not to assess the ability to pay of applicants in such cases.
   (3) Those who are mentally disabled, including holders of disability manuals or medical certificates issued by a medical establishment, and those whose ability to express themselves readily leads to doubts about their cognitive capability, are eligible to apply for

assistance if they have not been assigned an attorney during the investigation process, regardless of whether the crimes they are accused of are punishable by three or more years in prison, or whether the interview is the first for the interviewee in a given case.

2. Aid to indigenous people

(1) In addition to their comparatively disadvantaged economic and social status, indigenous people also have their own unique languages, cultures, and history of committing specific types of crime. Therefore, special aid to these people is necessary. The Foundation launched a pilot scheme to provide the services of an attorney to indigenous people at prosecutor's offices and police stations from July 15 through October 15, 2012. The results were satisfying, and the project was continued after the trial period ended.

(2) Since the amended Code of Criminal Procedure came into force on January 23, 2013, prosecutors, judicial police officials, and judicial police officers have been requested to inform the Foundation of the need to call an attorney to the site where indigenous people who have not been assigned an attorney during the investigation process are being interviewed, regardless of whether the crime committed is punishable by three or more years in prison, or whether the interview is the first for the interviewee in a given case.

- **No. 4**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  d. Arbitrary Arrest or Detention—regarding the Law of Compensation for Wrongful Detentions and Executions (Criminal Compensation Act)
- **Competent authority: Judicial Yuan**

To protect the rights of defendants in criminal cases, the Law of Compensation for Wrongful Detentions and Executions [referred to as "Criminal Compensation Act" in the Department of State report] was amended in 2011 to expand the area where claims for compensation could be made to include the following circumstances and procedural conditions:

1. Circumstances

According to the original statute, a person who has been held in custody, detained, imprisoned, sent for rehabilitation, or made to perform compulsory service is entitled to claim compensation. With the amended clauses, in addition to these circumstances, a person who has been sentenced to rehabilitative measures that restrict personal freedom (aside from detention for examination or compulsory service) is entitled to compensation as well. Such measures include custodial protection, compulsory cessation, and compulsory treatment as stipulated in the Criminal Code; as well as observation, rehabilitation, and compulsory rehabilitation as stipulated in the Narcotics Hazard Prevention Act.

2. Procedural conditions

According to the original clauses, a defendant is entitled to claim

compensation if a decision was made not to prosecute, if the defendant was acquitted, if the case was dismissed, or if the court decided not to hear the case, not to impose rehabilitative measures, or to overturn a decision to require compulsory service. With the amended clauses, in addition to the aforementioned procedural conditions, a defendant is entitled to compensation if the indictment is withdrawn, if the court overrules the indictment, if the case is deemed exempt from prosecution, if a decision to impose rehabilitative measures is overturned, if a petition for imposing rehabilitative measures is overturned, if the period in which the defendant's personal freedom is restricted is longer than that of the imprisonment that would result from a guilty verdict, or if more than one verdict has been handed down for the case.

3. Eliminating clauses limiting eligibility for compensation

Removed were clauses stipulating that defendants whose commission of an act was intentional, or out of gross negligence, or a major violation of public order and good morals, would not be eligible for compensation.

- **No. 5**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  e. Denial of Fair Public Trial—regarding the Judges Evaluation Committee stipulated in the Judges Act
- **Competent authority: Judicial Yuan**

1. Articles 5, 6, and 8 of the Judicial Ethics Regulations clearly stipulate

that judges are to maintain the highest level of integrity and honesty, exercise self-restraint, and neither abuse their position nor seek to gain inappropriate material wealth. They also must not accept gifts in any form from people having an interest in how they conduct their official duties. The Judicial Ethics Regulations set the highest of standards for judges' conduct.

2. A method by which to review judges' performance was enacted on January 6, 2012, as part of the Judges Act. According to Subparagraph 7 of Paragraph 2 of Article 30 of the Act, cases in which judges seriously violate the Judicial Ethics Regulations will be sent to the Judges Evaluation Committee for a review. If the allegations are found to be true and it is deemed necessary to discipline the persons involved, the Committee shall report the case to the Judicial Yuan, which will then forward it to the Control Yuan (CY) for investigation. Should a judge be impeached by the CY, he/she will have his or her case sent to an internal tribunal for evaluation. Those for whom the evidence shows they are unfit to serve will be removed from their posts. This new method provides for comprehensive oversight of judges, holds them to account, and helps put an end to corruption.

3. Promotional efforts of the Judges Evaluation Committee

Efforts the committee has made to improve its operation included holding a forum on its evaluation system on April 15, 2013; submitting proposals to the Judicial Yuan for legal amendments in accordance with its needs; cooperating with radio stations to promote correct understanding of evaluation procedures; and publishing promotional

pamphlets. It is hoped that these efforts will help locate and lead to the removal of unqualified judges, create a clean judicial system, and restore the credibility of the judiciary.

- **No. 6**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  e. Denial of Fair Public Trial—regarding individual reports of incompetent judges
- **Competent authority: Judicial Yuan**

1. Since the establishment of the Judges Evaluation Committee, in accordance with the Judges Act, on January 6, 2012, the committee closed 13 of the 21 individual cases reported. Of the 13 closed cases, two were handed to the personnel review committee of the Judicial Yuan, four were transferred to the Control Yuan for review; for three it was decided not to evaluate them; while one was filed away for future reference, two were deemed not sustained, and one was withdrawn. The other eight cases are now under review. Therefore, the statement "nearly 100 individual reports of incompetence in the judiciary have been reported to authorities" in the Department of State report might be the result of a misunderstanding.
2. According to Article 39 of the Judges Act, decisions made by the Judges Evaluation Committee are advisory, whereas the ruling handed down by the Court of the Judiciary is final. The results of the four cases transferred to the Control Yuan for review are as follows:
   (1) Evaluation Case No. 3 (2012): the Committee advised that the

judge in question be placed on administrative leave for six months. The Court of the Judiciary concurred.

(2) Evaluation Case No. 5 (2012): the Committee advised forfeiture of two months' salary for the judge in question. The Court of Judiciary ruled that the monthly salary of the judge in question should be reduced by 20 percent for one year.

(3) Evaluation Case No. 2 (2013): the Committee referred the case to the Control Yuan for a review, without making other suggestions. The case is now before the Court of the Judiciary.

(4) Evaluation Case No. 6 (2013): the Committee referred the case to the Control Yuan for a review, without making other suggestions. The Control Yuan subsequently impeached the judge in question.

The above are simply meant as a response to the incorrect statement "one case resulted in a one-year suspension for a sitting judge."

- **No. 7**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  e. Denial of Fair Public Trial—regarding the comment that "A single judge, rather than a defense attorney or prosecutor, typically interrogates parties and witnesses."
- **Competent authority: Judicial Yuan**

1. According to Article 279 and Article 284-1of the Code of Criminal Procedure, and Article 3 of the Organic Law of the Court, litigation in the first instance, in principle, consists of a trial by a panel of three judges. However, one judge may be commissioned to conduct the

preliminary procedure.

2. According to Article 3 of the Organic Law of the Court, all cases are tried by a panel of three judges in the second instance.
3. Judicial proceedings employ a cross-examination system. According to Article 166 and Article 166-6 of the Code of Criminal Procedure, in principle, witnesses are questioned by the prosecutor, the defendant, or the defense attorney. Only witnesses subpoenaed by the court within its capacity are questioned by judges first.

- **No. 8**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from**
  f. Arbitrary Interference with Privacy, Family, Home or Correspondence
- **Competent authorities: Ministry of Justice, Judicial Yuan**

1. The case in which former Prosecutor-General Huang Shi-ming was indicted by the Taipei District Prosecutor's Office is ongoing. The Judicial Yuan is a judicial administrative organ, and, out of respect for judicial independence, this ministry declines to express an opinion on any case that is currently before the courts.
2. The Department of State report indicates that some legal scholars and politicians have alleged that the Ministry of Justice (MOJ) is not sufficiently independent. The claim is that that ministerial authorities conducted politically motivated investigations of politicians and illegal wiretapping, thus resulting in a Kuomintang (KMT) attempt to revoke the party membership of Legislative Yuan President Wang Jin-pyng. The MOJ and its subordinate agencies all act in accordance

with the law without interference by political forces. Allegations of abuse of power over wiretapping were proven groundless after the case was investigated by the Taipei District Prosecutor's Office, and a decision not to prosecute was made. Several biased persons have been slandering the prosecutorial and investigative authorities based on their own allegations and assumptions, which have been repeatedly refuted by the MOJ and Supreme Prosecutors' Office.

➢ Response to Section 2. Respect for Civil Liberties

- **No. 9**
- **Section 2. Respect for Civil Liberties**
  a. Freedom of Speech and Press—regarding the comment that "public concerns about concentration of media ownership"
- **Competent authority: National Communications Commission**

1. Protecting free speech and preventing the concentration of media ownership are not new topics. The National Communications Commission (NCC) supervises broadcast television, and political parties and the government have withdrawn from ownership of broadcast television entities. No cable television operator may hold more than one-third market share, a regulation set up based on an understanding that broadcast media are different to other industries in a democratic, pluralistic society. This has been done to ensure that a variety of opinions can be expressed in the media, having them act as a space for public discussion. In 2013, the NCC, in looking at Judicial Yuan Interpretations No. 613, 364, and 509, presented to the Legislative Yuan a draft bill of the Media Monopolization Prevention and Diversity Preservation Act, which will prevent an over-concentration in the media sector, an issue closely tied to media freedom and the media's performing its proper social role. Oversight thresholds are set based on annual share of viewership, listenership, or readership, to prevent the obscuring of how market share provides economic power. This will form the legal basis for preventing monopolies and ensuring that a variety of voices are heard. The bill is

currently being reviewed by the Legislative Yuan.

2. Concerning the draft bill of the Media Monopolization Prevention and Diversity Preservation Act:
   (1) On May 16, 2013, the Eighth Legislative Yuan, in its Third Sitting, convened the 11th full plenum meeting of the Communications Committee to review the draft bill of the Media Monopolization Prevention and Diversity Preservation Act. The Democratic Progressive Party (DPP) caucus drafted a bill of the Media Monopolization Prevention Act, while Legislator Yang Li-huan and 21 others presented for consideration a draft bill of the Cross Media Integration Prevention Act. The law passed in its final form is called the Protecting Diversity and Preventing Concentration in Media Act.
   (2) It is advised that the act include the following: Oversight thresholds based on market share; inclusion of print media in those areas being supervised; the principle that the media and financial industries remain separate, as well as related retroactive clauses; stipulation that media organizations not meeting the stipulations of this law prior to its promulgation be given the opportunity to rectify the situation within a certain time frame.
   (3) The International Convention on Civil and Political Rights as well as the Convention on Economic, Social, and Cultural Rights were ratified by the Legislative Yuan on March 31, 2009, and signed into law by the President on May 14. Article 19 of the former convention concerns the right to hold opinions and express them freely. Nations, according to the convention, should give the

greatest possible protection to individuals' freedom of expression allowing them to express themselves, communicate their opinions, and seek truth, while also acting as oversight over political and social movements. In 2012, the NCC set out proposed revisions to the Radio and Television Act that revised prohibited content and related penalties for radio and television shows. These revisions have been sent to the Legislative Yuan for deliberation.

- **No. 10**
- **Section 2. Respect for Civil Liberties**
  a. Freedom of Speech and Press—regarding the comment that "The NCC has set conditions on the planned acquisition of cable network China Network Systems by a businessman known for his ties with the People's Republic of China (PRC), conditions which he has not met. The case remained under review by the Taipei High Administrative Court."
- **Competent authority: National Communications Commission**

1. A decision on the Want Want China Times case was made in accordance with related laws by the NCC during its 496th committee meeting on July 25, 2012. A resolution with incidental provisions was passed that included articles granting permission in this case. The incidental provisions were three conditions for suspension, 25 incidental burdens, future incidental burdens, and the reservation of the right to revoke the administrative disposition. Before these suspended conditions are met, the applicant will not be allowed to take over ownership of KeeLung CATV Co., Ltd. and 10 other cable operators. The applicant filed an appeal on the administrative

disposition. While 10 preliminary proceedings have been held, court judgment has yet to be handed down. .

2. While the appeal is underway, this by no means removes or annuls the legal validity of the administrative disposition imposed. The administrative disposition did not set a deadline for the applicant's meeting the three major conditions for suspension, and the applicant was free to carry out his plan to meet them. The applicant sent two letters to the NCC dated, respectively, December 17, 2012, and December 31, 2013, indicating that the conditions had been met and requesting that the NCC acknowledge this. In Committee Resolutions 526 and 582, the NCC determined that the conditions had not been met.

- **No. 11**
- **Section 2. Respect for Civil Liberties**
  d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons—Protection of Refugees
- **Competent authority: Ministry of Justice**

1. Pushing for the passage of a Refugee Act
   (1) On April 6, 2012, the draft Refugee Act was sent to the Legislative Yuan and is currently being reviewed.
   (2) Standard procedures for dealing with refugees: With the Refugee Act not yet having been passed, the lack of a legal basis for doing so means no standard procedures have yet been established.

2. Political asylum

The Refugee Act not having completed the legislative process, there is yet no method established for assigning foreigners or stateless persons refugee status. Cases involving persons from mainland China will be handled in line with the Act Governing Relations Between the People of the Taiwan Area and the Mainland Area. On February 5, 2014, the Executive Yuan approved the application of nine persons from mainland China who had arrived in Taiwan between 2005 and 2010 seeking asylum, granting them permission to apply for long-term residence.

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

- **No. 12**
- **Section 4. Corruption and Lack of Transparency in Government—Corruption**
- **Competent authority: Ministry of the Interior**

1. In Transparency International's 2013 Global Perceptions Index, Taiwan was given a 61 (out of 100), which gave Taiwan a rank of 36th out of 177 countries surveyed. This put the nation in the top quintile, ahead of 79.7 percent of all surveyed countries. In the first-ever Government Defense Anti-corruption Index, Taiwan was among the least corrupt nine countries of 82 countries surveyed. This "B" band of countries also included the United States, United Kingdom, and six other countries. This band had less government/defense corruption than the remaining 89 percent of countries surveyed, indicating that corruption was effectively being controlled. This, then, is not a serious issue affecting human rights in Taiwan.
2. The ROC government is greatly concerned with clean governance. In July 2009, in line with the UN Convention Against Corruption and Transparency International's National Integrity Systems program, the ROC government introduced National Integrity Building Action Plan, and drafted Whistleblower Protection Act, an Act on Property-Declaration for Public Servants, an Act on Recusal of Public Servants due to Conflicts of Interest, as well as the Money Laundering

Control Act. The ROC has now implemented a full raft of measures to fight corruption and ensure transparency that can be effectively administered.

3. The Agency Against Corruption was founded in July 2011 as the agency responsible for dealing with corruption, which works in conjunction with the Special Investigation Division of the Special Prosecutors' Office, the various district prosecutors' offices, and the Bureau of Investigation. In March 2013, the AAC put forth a strategic paper concerning government ethics, and establishing the principle of putting the foremost effort into preventing corruption, and secondarily of cracking down on corruption. Tangible results have since been noted. In 2013, 93 suspected cases were noted, while 59 were seen in the period January to March, 2014. Since this agency and the various government ethics offices put in place a warning mechanism, some 152 cases of potential administrative violations or corruption have been prevented. This has helped prevent organizations and public servants from becoming mired in corruption and stopped some NT$1.802 billion from being squandered.

- **No. 13**
- **Section 4. Corruption and Lack of Transparency in Government—Whistleblower Protection**
- **Competent authority: Ministry of Justice**

Protection of whistleblowers, and encouragement of whistle-blowing are currently covered by a variety of measures, including the Witness Protection Act and the Anti-Corruption Informant Rewards and Protection

Regulation. The government is drafting a whistleblower protection act to enlarge the scope and content of protection, the result of which will be protection for employees of public and private enterprises, including protection for personal information, personal safety, and security of economic position.

- **No. 14**
- **Section 4. Corruption and Lack of Transparency in Government—Financial Disclosure**
- **Competent authority: Ministry of Justice**

1. The Act on Property-Declaration by Public Servants does not require all public servants to account for abnormal increases in their assets. Only personnel listed in Article 2 are obligated to do so. In principle, violations are subject to fines in accordance with administrative law; however, there are no specific stipulations regarding "punishment" or "fines" under criminal law.
2. According to Paragraph 3 of Article 12 of the Act, those who fail to declare their property within the prescribed time limit without justifiable reason are subject to a fine ranging from NT$60,000 to NT$1.2 million. They are not, as the 2013 US Country Reports on Human Rights Practices claim, "subject to a fine ranging from NT$200,000 to NT$4.0 million." Nor are they "punished with a prison term of no more than one year" for repeatedly failing to declare their property; instead, they may be fined again for repeated violations.

3. According to Paragraph 1 of Article 12 of the Act, public servants who are required to declare their property but make false declarations with the intention of concealment, shall be subject to a fine ranging from NT$200,000 to NT$4 million. In addition, Paragraph 4 of the same article stipulates that public servants who are required to declare their property, have been penalized in accordance with Paragraph 1 and notified by the competent authorities to declare their property or make corrections, but still fail to comply before the prescribed deadline, shall be subject to a prison term of no more than one year, detention, or a fine ranging from NT$100,000 to NT$500,000. Article 12 of the Act has apparently been misinterpreted in the Financial Disclosure section, specifically the comment that “Those failing to declare property are subject to a fine ranging from NT$200,000 to NT$4 million and can be punished with a prison term of no more than one year for repeatedly failing to comply with this request.”

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

- **No. 15**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Women—Rape and Domestic Violence—regarding the comment that "the Ministry of Interior estimated that the total number of sexual assaults was 10 times the number reported to police," and that "as of July there were 8,029 reports filed for rape or sexual assault."
- **Competent authorities: Ministry of the Interior, Ministry of Health and Welfare**

1. In 2013, a total of 13,928 suspected cases of domestic violence or sexual assault were reported to centers for prevention of domestic violence and sexual assault in special municipalities, cities, and counties. The police received 3,778 complaints of offenses against sexual autonomy, of which 3,619 cases—or 95.79%—were solved. The number of cases reported to the prevention centers was 3.68 times higher than those reported to the police.
2. There is a discrepancy between data collected by the Ministry of Health and Welfare (MOHW) and the police. An analysis shows that because the Sexual Assault Crime Prevention Act requires social administrators, police officers, health officials, and education personnel to report any suspected cases of sexual assault, the same cases are often reported more than once. The absence of an integrated computer system to unify the data has resulted in this statistical discrepancy. As the competent authority, the MOHW has convened

meetings to resolve this issue.

3. In about 85% of the suspected cases of sexual assault reported to the centers for prevention of domestic violence and sexual assault, the victims were women. Because sexual assault offenses touch on issues related to privacy, chastity, and other social values, many victims delay reporting them, or are not willing to report them at all. Even when victims are not willing to report the incidents, social workers still assess their needs and provide psychological counseling, medical assistance, financial relief, and shelter. The victims' right to receive help is thus not affected. With regard to victims who are not willing to take legal action, the MOHW has established standard regulations for local governments to follow when handling such cases.

- **No. 16**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Women—Rape and Domestic Violence—regarding the comment that "The law provides protection for rape victims. Rape trials are not open to the public unless the victim consents. The law permits a charge of rape without requiring the victim to press charges."
- **Competent authority: Ministry of Health and Welfare**

1. According to Article 229-1 of the Criminal Code, only sexual assault against one's spouse or engagement in obscene acts or sexual intercourse by a person under the age of 18 with one under the age of 16 is prosecuted upon complaint. All other sexual assault offenses are subject to public prosecution without requiring victims to press charges.

2. According to Article 18 of the Sexual Assault Crime Prevention Act, sexual assault trials are not open to the public, unless they fall into one of the following categories and the judge or military judge deems it necessary:
   (1) Consent has been given by the victim; or
   (2) Consent has been given by both the victim and his or her legal representative, if the victim has no or limited legal capacity.

- **No. 17**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Women—Rape and Domestic Violence—regarding the comment that "As of September, authorities prosecuted 1,921 persons for domestic violence and convicted 1,595 persons."
- **Competent authorities: Ministry of the Interior, Ministry of Health and Welfare**

1. In 2013, the number of reported domestic violence victims in Taiwan was 110,103, representing an increase of 11.89% compared to the 98,399 reported victims in 2012. This shows that personnel responsible for filing reports are doing so. It also indicates that as a result of the government's promotion of domestic violence prevention, including gender equality and zero tolerance for violence, female victims are gradually shaking off social pressure and restrictions and are more willing to seek help.
2. Taiwan's district prosecutor's offices investigated 4,453 sexual assault cases. A total of 2,267 defendants were indicted in 2,194 cases. That means that of the number of people investigated, 47.6% were indicted. A final verdict was issued in 2,428 cases involving 2,514

defendants, with a conviction rate of 89.3%.

3. In order to disseminate the concepts of gender equality and domestic violence prevention, the Ministry of Health and Welfare promoted related community programs, raising local awareness of zero tolerance for violence. In 2013, 7,634 public awareness campaigns for the prevention of domestic violence, sexual assault, and sexual harassment were carried out via television, radio, as well as print and outdoor media. Similar online campaigns generated 34,935,172 views. These were aimed at strengthening preliminary prevention and establishing correct concepts with regard to domestic violence prevention.

- **No. 18**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Women—Rape and Domestic Violence—regarding the comment that "The law requires all cities and counties to establish violence prevention and control centers to address domestic and sexual violence, child abuse, and elder abuse."
- **Competent authority: Ministry of Health and Welfare**

1. Both central and local governments have established specialized agencies to oversee matters related to domestic violence and sexual assault. In accordance with the law, all special municipality, county, and city governments have set up centers for prevention of domestic violence and sexual assault. Previously, prevention of domestic violence, sexual assault, and sexual harassment; protection of the elderly, disabled, children, and teenagers; as well as prevention of

sexual transactions involving children and teenagers were under the purview of the Department of Social Affairs of the Ministry of the Interior (MOI), the Domestic Violence and Sexual Assault Prevention Committee, and the MOI's Child Welfare Bureau. Following the restructuring of the central government, these matters were all assigned to the Ministry of Health and Welfare (MOHW; known as the Department of Health until July 23, 2013). Victim protection is now supervised by the MOHW's Department of Protective Services, and perpetrator counseling by its Department of Mental and Oral Health, creating a professional division of labor and integrating different resources. Efforts will be made to further consolidate social and health administration resources. In addition to integrating social and healthcare resources, through legislation, inter-ministerial coordination, and supervision and evaluation mechanisms, horizontal and vertical integration will be reinforced between police, social welfare, healthcare, education and judicial agencies at the central and local government levels, so as to strengthen prevention of domestic violence and sexual assault.

- **No. 19**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Women—Reproductive Rights—regarding the comment that "Individuals and couples had the right to decide the number, spacing, and timing of their children and had the information and means to do so free from discrimination, coercion, and violence. Unmarried persons, however, are prohibited by law from obtaining fertility treatments."
- **Competent authority: Ministry of Health and Welfare**

Taiwan's Artificial Reproductive Act, which covers infertility treatment, is enacted "for the purpose of fostering the sound development of artificial reproduction, maintaining social ethics and health, and protecting the rights and interests of infertile couples, children conceived through artificial reproduction, and donors." As the rights and interests of children conceived through artificial reproduction, their growth, and their right to appropriate care are important issues in this regard, the children's best interests must be considered, consistency must be maintained with the Civil Code and other regulations, and social ethics and mores must be taken into account. Therefore, the widowed, the unmarried, cohabitants, single parents, and same-sex partners have not been included among those eligible for artificial reproduction treatment.

- **No. 20**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Women—Discrimination—regarding the comment that "Central and local agencies, schools, and other organizations are required to develop enforcement rules and set up gender equality committees to oversee the implementation of the law."
- **Competent authority: Ministry of Education**

1. Article 1 of the Gender Equity Education Act—promulgated on June 23, 2004—states that the act is "prescribed to promote substantive gender equality, eliminate gender discrimination, uphold human dignity, and improve and establish education resources and environment of gender equality." In accordance with this act, competent authorities of the central government and of special municipality, county and city governments, as well as schools, should establish gender equity education committees.
2. The central education authorities, through inspections, guidance, and evaluation visits, supervise gender equity education committees at schools at all levels, ensuring that they strengthen their operations, carry out their responsibilities as mandated by the law, and provide training to committee members, so as to promote substantive gender equality.

- **No. 21**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Women—Discrimination—regarding the comment that "According to the Council for Labor Affairs (CLA), salaries for women averaged 82 percent of those for men performing comparable jobs."
- **Competent authority: Ministry of Labor (previously known as the Council for Labor Affairs)**

After many years of government promotion of related policies and enforcement of relevant laws, the job market, in which men have traditionally played a leading role, has gradually changed. In the past decade, the gap between the average pay for men and women has narrowed by four percentage points, with women earning 16.1% less than men in 2013 compared to 20.1% in 2003. This 2013 figure is lower than the 33.9% for Japan, 31.0% for the Republic of Korea (2012), and 17.9% for the United States. According to a survey by the Ministry of Labor, the average monthly pay for new female workers was NT$24,741 in 2012, or 97.7% of the NT$25,328 for new male workers at comparable positions. This shows that the gender gap in average pay among new workers is very small.

- **No. 22**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Women—Gender-based Sex Selection—regarding the comment that "The ratio of boy-to-girl births lowered to 107 males per to 100 females, the lowest ratio in 25 years. In 2010 authorities banned medical institutions from conducting gender-based sex selective procedures. Authorities put under surveillance clinics and hospitals with higher rates of imbalance, and doctors who facilitate gender-based sex selection can be fined. There were no reported cases of such sanctions being applied."
- **Competent authority: Ministry of Health and Welfare**

In 2010, the Ministry of Health and Welfare set up a mechanism to monitor the gender ratio of newborn babies at medical institutions, and enhance gender ratio management. In cooperation with local health departments, comprehensive assistance is provided to medical institutions offering pregnancy check-ups and child delivery services, while relevant policies and regulations are also promoted. Efforts have been made to eradicate illegal online advertisements, and special counters have been set up at local health departments for people to report such illegal activity. In addition, relevant information has been added to handbooks for pregnant women, and laws and regulations continue to be updated, so as to raise awareness among the general public. Furthermore, a gender ratio task force has been established, aiming to enhance control over reagents and testing procedures used for gender selection. As a result of these measures, the gender ratio of newborn babies fell from 1.090 in 2010, to 1.079 in 2011, to 1.074 in 2012, a 25-year low. In 2013, however, the ratio went

back up to 1.078, indicating that effective strategies must continue to be formulated, so as to repair the gender imbalance in Taiwan. Meanwhile, in 2013 inspection of 1,064 medical institutions offering pregnancy check-ups and child delivery services was conducted, and relevant guidance was provided. Ninety-four advertisements offering gender selection services were taken down in 2013. In addition, from 2010 to the end of 2013, health departments issued fines in 13 cases, including two cases involving illegal medical care, seven cases involving illegal medical advertisements, and four cases involving medical institutions where doctors prescribed Mifepristone even though they were not authorized to do so by the Genetic Health Act.

- **No. 23**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Children—Birth Registration—regarding the comment that "Citizenship is derived from one's parents or by birth within the island's territory. Births are required to be registered within 60 days."
- **Competent authority: Ministry of the Interior**

1. In accordance with Article 2 of the Nationality Act, newborn children gain ROC citizenship if: a) their father and/or mother are ROC nationals at the time of birth; b) they are born after the death of their father and/or mother, and the father and/or mother were ROC nationals at the time of death; or c) they are born within the territory of the ROC, and the identity of the parents cannot be ascertained, or

the parents are stateless.

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

- **No. 24**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Children—Education—regarding the comment that "Education is free, universal, and compulsory through ninth grade. Grades 10-12 are free and universal but not compulsory."
- **Competent authority: Ministry of Education**

The 12-year National Fundamental Education system is an extension of the existing nine-year compulsory education, with the last three years (senior high school) based on the nine-year system. As part of the 12-year system, the plan for the last three years is to further promote universal

education, eliminate tuition fees under certain conditions, provide non-compulsory education, and admit students to schools without entrance exams. In the academic year 2011-2012, the Ministry of Education started to promote a tuition-free program for senior high and senior vocational high schools. In the first phase of this program, senior vocational high school students from families with an annual income of less than NT$1.14 million are exempt from tuition fees, while tuition fees for public and private senior high schools are unified. As part of the second phase—starting in the academic year 2014-2015—tuition fees for students attending senior vocational high schools will gradually be eliminated. In addition, students attending general senior high schools who meet a certain number of conditions will be exempt from tuition fees.

- **No. 25**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Children—Child Abuse—regarding the comment that "The Child Welfare League Foundation in 2012 reported 19,174 children and teenagers had suffered abuse; 71 percent of the cases involved the children's parents. Central and local authorities, as well as private organizations, continued efforts to identify and assist high-risk children and families and to increase public awareness of child abuse and domestic violence."
- **Competent authority: Ministry of Health and Welfare**

According to statistics of the Ministry of Health and Welfare (MOHW), a total of 16,322 children and teenagers suffered physical or psychological

abuse or neglect in 2013, a significant decline compared to the 19,174 in 2012. This demonstrates that the government's efforts to actively deal with child abuse cases and promote child protection have started to yield results. Physical abuse accounts for the largest share of cases, with 35.3%, followed by psychological abuse, neglect, and sexual abuse. As for the perpetrators, 68.1% are (adoptive) parents, showing that most incidents of child abuse occur in the privacy of the home. Abusive parents often lack proper knowledge about child rearing, and regard their children as their private possession. They hurt their children in the name of corporal punishment. The MOHW has actively promoted services that aim to identify high-risk families at an early stage and provide proper care to them. It is hoped that, by conducting visits and providing assistance, the risk of child abuse can be reduced. At the same time, the MOHW also uses the media and works with civic organizations to enhance protection of children and teenagers, and prevent domestic violence, calling on the public to take child abuse problems seriously and enhancing the public's awareness of child protection efforts.

- **No. 26**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Children—Child Abuse—regarding the comment that "The law stipulates that persons discovering cases of child abuse or neglect must notify the police or welfare authorities."
- **Competent authorities: Judicial Yuan, Ministry of Health and Welfare**

The Ministry of Health and Welfare has actively assisted governments at

all levels in consolidating private-sector resources to create protection mechanisms for children and teenagers. Related measures include the following:

1. The “113 Protection Hotline” was set up, as well as a nationwide network to report relevant cases, so as to speed up the response to child abuse cases and offer timely protection.
2. Legal obligation to notify authorities: In accordance with Article 53 of the Protection of Children and Youths Welfare and Rights Act, medical care workers, social workers, education personnel, daycare personnel, police officers, judicial personnel or other related professionals must notify competent authorities in their special municipality, city or county within 24 hours when they become aware of cases involving child abuse or neglect.
3. System to process child protection cases: When competent authorities in special municipalities, cities and counties are notified of a child abuse case, they must process the case within 24 hours and submit an investigation report within four days. For children and teenagers who require emergency placement, assistance is provided in terms of finding foster homes or social welfare organizations, so as to provide them with proper protection and care. In addition, a family care program has been promoted. For children who have already entered government protection systems, or have witnessed domestic violence, treatment services have been offered centered on the family. Furthermore, parents who have abused their children, or who demonstrate violent behavior, must undergo mandatory family counseling in accordance with the Protection of Children and Youths

Welfare and Rights Act, so as to enhance their parenting skills. If an assessment deems parents or guardians unfit, an appeal may be made to a court to take away their parental rights or make changes to a child's guardianship in accordance with Article 71 of the Act. In addition, long-term alternatives may be proposed, such as adoption, foster care, or placement with social welfare organizations, so as to ensure that the child or teenager receives proper care.

- **No. 27**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Children—Forced and Early Marriage
- **Competent authority: Ministry of the Interior**

1. Issues pertaining to the marriage system are within the purview of the Ministry of Justice, which is the competent authority concerning the ROC Civil Code. Marriage registration is done in accordance with related regulations of the Civil Code.
2. Article 972 of the Civil Code states that **"**An agreement to marry shall be made by the male and the female parties in their own [con]cord," while Article 980 states that "A man who has not completed his eighteenth year of age and a woman her sixteenth may not conclude a marriage." And Article 981 states that **"**A minor must have the consent of his statutory agent for concluding a marriage." There are no reports of forced marriage or early marriage in our country.
3. As of the end of 2012, 0.06% of the total number of marriages in Taiwan (90/142,846) involved boys under the age of 18, while 0.16%

of the total number of marriages in Taiwan (229/142,846) involved girls under the age of 16.

- **No. 28**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Children—Sexual Exploitation of Children
- **Competent authorities: Ministry of the Interior, Ministry of Health and Welfare**

1. Article 22 of the Child and Youth Sexual Transaction Prevention Act states that **"**If a person has sexual transaction with a child or teenager under the age of 16, he shall be punished in accordance with the provisions of the Criminal Code."
2. According to Article 227 of the Criminal Code, sexual intercourse with a boy or girl under the age of 14 is punishable by a prison sentence ranging from three to 10 years. Sexual intercourse with a boy or girl aged between 14 and 16 is punishable by a prison sentence of up to seven years. In addition, according to Article 23 of the Child and Youth Sexual Transaction Prevention Act, people who seduce boys or girls under the age of 18 into sexual transactions shall be given a prison sentence ranging from one to seven years, as well as a fine of up to NT$1 million. People who seek to profit by committing the crime described in the preceding sentence shall be given a prison sentence ranging from three to 10 years, as well as a fine of up to NT$5 million. And people who operate for-profit businesses committing the aforementioned crime shall be given a prison sentence of more than five years, as well as a fine of up to NT$10 million.

- **No. 29**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Children—Sexual Exploitation of Children—regarding the comment that "The law prohibits child pornography, and violators are subject to a minimum sentence of six months and a fine. There were some reports of children under the age of 18 engaged in prostitution."
- **Competent authority: Ministry of Health and Welfare**

1. According to Article 27 of the Child and Youth Sexual Transaction Prevention Act, people who produce photos, videotapes, films, DVDs, electronic files, or other items featuring sexual intercourse or obscenity that involves boys or girls under the age of 18 shall be given a prison sentence ranging from six months to five years, as well as a fine of up to NT$500,000. If a person seeks to profit from the aforementioned crime, or if he or she seduces or arranges for children or teenagers under the age of 18 to be pictured in photos, videotapes, films, DVDs, electronic files, or other items featuring sexual intercourse or obscenity, or uses violence, threats, drugs, deceit, sleep-inducing techniques, or other methods against the victim’s will, more severe punishment will be imposed.
2. Various measures are in place to assist children and teenagers who are engaged in, or suspected of being engaged in, sexual transactions, including placement in emergency shelters (Article 15 of the Child and Youth Sexual Transaction Prevention Act), placement in short-term shelters (Article 16), placement with social welfare organizations (for those suspected of being engaged in sexual

transactions; Article 18), or placement in halfway schools (for those who have engaged in sexual transactions; Article 18). These measures aim to protect the safety of children and teenagers and prevent them from becoming victims of sexual exploitation.

- **No. 30**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Persons with Disabilities—regarding the comment that occasional reports of sexual assaults of persons with disabilities in schools and care facilities are made
- **Competent authorities: Ministry of Education; Ministry of Health and Welfare**

1. The ROC Gender Equity Education Act stipulates the procedures for requesting an investigation or filing a report regarding a suspected sexual assault of a student by a principal, teacher or other school staff member while on campus, as well as the handling procedures of the Gender Equity Education Committees for such cases. Under the supervision of competent authorities, schools must investigate and handle such cases in accordance with the law and take appropriate measures to protect the education and employment rights of the involved parties during the investigation. In cases where an involved party is a student with disabilities, the competent authority must ensure that the school has a special education expert partake in the investigation to obtain additional guidance and assistance and meet the student's needs.
2. Article 21 of the Gender Equity Education Act, promulgated on December 11, 2013, stipulates that "Should the principal, faculty or

staff member know of an incident of suspected sexual assault, sexual harassment, or sexual bullying occurring at the school where they are employed, they must report the incident in fulfillment of their responsibilities in accordance with the school's regulations, the Sexual Assault Crime Prevention Act, Protection of Children and Youths Welfare and Rights Act, People with Disabilities Rights Protection Act, and other pertinent laws and regulations. In addition, they must report the incident to the school and the competent authority of the municipality, county (or city) with direct jurisdiction, no later than twenty-four hours upon receiving knowledge of the incident."

3. Article 53 of the Protection of Children and Youths Welfare and Rights Act, promulgated on January 22, 2014, stipulates that "Medical personnel, social workers, education personnel, day care personnel, law enforcement personnel, judicial personnel, administrators of villages (communities) and others implementing children and youth welfare who gain knowledge while on duty of any one of the below issues relating to children and youths will report it to the competent authority of the municipality or county (or city) within 24 hours. …"
4. To better prevent sexual assaults in care facilities for persons with disabilities, the Social and Family Affairs Administration of the Ministry of Health and Welfare has established principles and guidelines for handling suspected cases of sexual assault in such care facilities. It has also instructed all relevant facilities to strengthen personnel training and establish procedures to handle sexual assault

cases. Likewise, it has reviewed compliance with these measures during facility inspections so as to better safeguard the rights of persons with disabilities living in such institutions.

- **No. 31**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Persons with Disabilities—regarding the comment that "The Ministry of Health and Welfare and the CLA [now the Ministry of Labor] are responsible for protecting the rights of persons with disabilities."
- **Competent authority: Ministry of Health and Welfare**

To ensure the quality of care service for persons with disabilities, the Social and Family Affairs Administration of the Ministry of Health and Welfare provides them personal care and home support services in accordance with Articles 50 and 51 of the People with Disabilities Rights Protection Act. Such care support services include home care, daily living reconstruction, community housing, daytime care, support services for an independent life, temporary and short-term care, support to and training of caregivers, residential care, and family care visits and services. In addition, service stations have been established in communities across all municipalities and counties (or cities), and local governments have gradually increased resources to provide more diverse services to and meet the various needs of persons with disabilities.

- **No. 32**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Persons with Disabilities—regarding the comment that "During the year the legislature passed amendments to the Special Education Act to benefit further 115,000 students with disabilities by authorizing schools to establish special units to offer individual support for students with different types of disabilities."
- **Competent authority: Ministry of Education**

1. As per the Special Education Act promulgated on January 23, 2013, schools at the high school level and below are to set up a special education committee that includes parents and guardians as representatives. The competent authorities concerned are to formulate the procedures and regulations governing the composition and operations of such committees. To better educate students with special needs, higher education institutions are to establish a special education implementation committee, which invites parents and guardians of such students to participate.
2. Schools at different levels are to create the aforementioned special education committee so as to offer guidance that meets the personal needs of students with disabilities of all types.

- **No. 33**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Persons with Disabilities—regarding the comment that "Disability rights groups raised the issue of older facilities not catering to the needs of disabled students."
- **Competent authorities: Ministry of Education, Ministry of the Interior**

1. Due to the pragmatic demand from both the public and private sectors for barrier-free environments in recent years, almost all of primary and secondary schools have been equipped with barrier-free facilities (contrary to the report's claim that half of them are not barrier-free). However, 30% of the existing facilities are indeed in need of improvement. As a result, the Ministry of Education (MOE) has allocated a special annual budget of NT$300 million to facilitate these improvements.
2. The MOE K-12 Education Administration allocates a special budget every year to assist institutions at the high school level and below in establishing barrier-free environments and facilities that are safe, regulatory compliant, accessible, easy to use, and conveniently located. Such measures help the government care for the disadvantaged and improve their access to schools that are nearby and suitable for them. At the same time, it also safeguards the rights of disabled teachers and staff members. The MOE also subsidizes the hiring of assistants for teachers or students with special needs, thereby better ensuring the students' right to an education.
3. Through the Directions Governing MOE K-12 Education

Administration Subsidies for Improving Barrier-Free Campus Environments, the K-12 Education Administration has instructed municipal and county governments, as well as public and private senior high schools, to provide an itemized timetable for the creation of barrier-free facilities based on the priority of each item. While improvements may be undertaken over time, alternative provisional measures must be provided immediately, such as arranging ground floor classrooms for disabled students so as to better safeguard their right to an education.

- **No. 34**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Persons with Disabilities—regarding the comment that "The law stipulates that new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities."
- **Competent authority: Ministry of Transportation and Communications**

1. As per Article 53 of the People with Disabilities Rights Protection Act, the Ministry of Transportation and Communications (MOTC) formulated the Regulations of Accessibility Facility Requirements for Public Transportation as the basis for public transportation operators and providers to set up such facilities.
2. As per the regulations of the Law of Ships, the MOTC Maritime and Port Bureau inspects and measures all ships in order to ensure their safety and seaworthiness. In addition, depending on their operation

scale and hull size, passenger ships are required to have barrier-free facilities in compliance with the aforementioned regulations. The operators of ships unable to be equipped with barrier-free facilities must offer manual assistance to the disabled out of safety and convenience considerations.

3. In order to safeguard consumers' rights, when reviewing applications from international cruise liners, the MOTC Maritime and Port Bureau processes such cases using the regulations of the aforementioned guidelines. The Bureau collaborates with other relevant authorities to conduct joint inspections and examinations so as to better protect the rights of consumers, during which time the ships are examined to determine whether they are barrier-free. Should improvements be needed, the Bureau will request that the operator or service provider make the changes, after which the ships are reexamined.
4. As for aircraft, Taiwanese domestic aircraft, including the boarding facilities for wheelchair users, restrooms, aisles, and means to convey information, must comply with the aforementioned guidelines and regulations. The MOTC Civil Aeronautics Administration has instructed airliners that all existing and future aircraft must have barrier-free facilities that comply with the regulations. During flight readiness reviews (FRR) and cabin examinations, airplane facilities are checked to see whether they are barrier-free and changes, if required, must be approved in advance.
5. As for airports, all of the airports subordinate to the MOTC Civil Aeronautics Administration and the Taiwan Taoyuan International Airport of Taoyuan Airport Corporation have barrier-free facilities

that meet the needs of various types of disabled persons (such as the elderly and the physically disabled). These airports are in compliance with the regulations of Article 57 of the People with Disabilities Rights Protection Act, the Design Specifications of Accessible and Useable Buildings and Facilities, the Building Design and Construction Part of the Building Technical Regulations, and Annex 9 of the ICAO Convention on International Civil Aviation.

- **No. 35**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Persons with Disabilities—regarding the comment that "In September 2012 a foundation filed a lawsuit against 32 public servants for neglecting sexual assaults alleged to have occurred in a school for children with disabilities in 2011."
- **Competent authorities: Judicial Yuan and Ministry of Education**

1. As for the lawsuit against 32 public servants for dereliction of duty, no further notice has been received from judicial authorities as of April 14, 2014.
2. After the incident, 13 personnel from the MOE central region office received administrative punishment. In terms of the school personnel, three principals (current and past) and 23 faculty and staff members received administrative punishment, ranging from one major demerit to one reprimand.
3. After its investigation, the Control Yuan filed to impeach 16 public servants, including the principals, in July 2012, and sent the case to

the Public Functionary Disciplinary Sanction Commission of the Judicial Yuan for review, which reached its decision on August 16, 2013. Of the 16 public servants, 10 were punished, with five of them having their rank and pay rate reduced (one applied for a second review, and subsequently the original penalty was rescinded and the punishment changed to two demerits), two receiving two demerits, and three receiving one demerit. Regarding the other six, as there was no evidence showing that they had violated Article 2 of the Public Functionaries Disciplinary Sanction Act, no disciplinary action was taken.

4. In accordance with the resolutions by the Public Functionary Disciplinary Sanction Commission and the regulations of the Public Functionaries Disciplinary Sanction Act, the MOE took disciplinary actions against those who had been impeached by the Control Yuan and referred to the Public Functionary Disciplinary Sanction Commission.

- **No. 36**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  National/Racial/Ethnic Minorities—regarding the comment that "As of July foreign-born spouses, primarily from China, Vietnam, Indonesia, or Thailand, accounted for 3 percent of the population, and an estimated 7.4 percent of all births were to foreign-born mothers. Foreign spouses were targets of discrimination both inside and outside the home."
- **Competent authority: Ministry of the Interior**

1. According to Taiwan's household registration statistics, 7.4% of new

births in 2012 were to mothers from overseas.

2. Due to the joint efforts of both the public and private sectors, many of the spouses from overseas have become outstanding members of the community in recent years, earning the respect of the public due to their valuable contributions to society. In order to create a warm and friendly living environment for new immigrants, a variety of care and counseling services for them have been created with the aim to help them settle down and have a good life in Taiwan. The case is not as described in the report.

- **No. 37**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  National/Racial/Ethnic Minorities—regarding the comment that "As of May the Ministry of Interior-established Fund for Foreign Spouses earmarked more than NT$190 million ($6.4 million) to fund 182 projects aimed at assisting foreign spouses. The Legal Aid Foundation provided legal services to foreign spouses and operated a hotline to receive complaints. The Ministry of Interior also operated its own hotline with staff conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese."
- **Competent authority: Ministry of the Interior**

1. Starting from 2005, the Foreign Spouse Care and Guidance Fund [referred to as "Fund for Foreign Spouses" in the Department of State report] plans to raise NT$3 billion within 10 years to strengthen the care and counseling services for spouses from overseas. In the end, the Fund will be used to create a network for related care and counseling services, provide training to develop the job skills of the new

immigrants, raise Taiwan's productivity, and jointly build a harmonious and diverse society.

2. In order to build a service platform for an internationalized living environment, set in motion care and counseling services for spouses from overseas, assist them in acclimating to Taiwan, and jointly create a society marked by diversity, the government set up a Foreign Spouse Hotline (0800-088-885) in 2003 and an Information for Foreigners Hotline (0800-024-111) on July 1, 2005. To heighten the quality and efficiency of counseling services for foreigners and foreign spouses, the two hotlines were combined as the Information for Foreigners in Taiwan Hotline (0800-024-111) on January 1, 2014. It provides counseling service in seven languages: Mandarin, English, Japanese, Vietnamese, Indonesian, Thai, and Cambodian.

- **No. 38**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  National/Racial/Ethnic Minorities—regarding the comment that "Unlike non-PRC spouses, PRC spouses are permitted to work in Taiwan immediately on arrival."
- **Competent authority: Ministry of the Interior**

Mainland-born spouses may apply for residency after entering Taiwan. In accordance with Article 17-1 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, they may work in Taiwan without having to apply for a work permit. In addition, according to the stipulations of the Employment Service Act, after obtaining an alien resident certificate, spouses from other countries may work in

Taiwan without having to apply for a work permit.

- **No. 39**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Indigenous People—regarding the comment that "According to the law, the government shall establish a committee for demarcation and management of indigenous lands, although the government has not yet established the committee."
- **Competent authority: Council of Indigenous Peoples**

1. The Council of Indigenous Peoples (CIP) submitted a draft of the Organic Act of the Committee for Land Survey and Management of Indigenous Peoples to the Executive Yuan on August 2, 2007. However, due to government streamlining and the subsequent unlikelihood that an independent body can be established, the Executive Yuan requested that the CIP consider establishing an office within the council and revise the draft of the Organic Act accordingly.
2. The Organic Act for the Council of Indigenous Peoples was adopted by the Legislative Yuan on January 14, 2014, and promulgated on January 29 of the same year. The CIP then set up the Section of Traditional Territories under the Department of Land Management to take charge of affairs related to the survey and management of land in indigenous peoples' traditional territories.

- **No. 40**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Indigenous People—regarding the comment that "The government and the private sector shall consult with indigenous people and obtain their consent or participation, and share with indigenous people benefits generated from land development, resource utilization, ecology conservation, and academic research in indigenous areas. The provision, however, had not been put into practice."
- **Competent authority: Ministry of the Interior**

1. Article 21 of the Indigenous Peoples Basic Law stipulates that "The government or the private sector shall consult with indigenous people and obtain their consent or participation, and share with indigenous people benefits generated from land development, resource utilization, ecology conservation, and academic research in indigenous areas." The consensus among government departments and agencies is that when development involves indigenous land, the CIP is to send official letters to developers, requesting them to act in accordance with Article 21 of the Indigenous Peoples Basic Law. The CIP is currently drafting explanatory guidelines for the Indigenous Peoples Basic Law, so as to prevent controversies from erupting by explicitly defining the public and private sectors' acts that need to follow the Indigenous Peoples Basic Law.
2. The National Regional Plan drafted by the Ministry of the Interior (MOI) was approved by the Executive Yuan on September 9, 2013, and promulgated on October 17 of the same year. Out of respect for indigenous peoples' lifestyles and housing needs, the plan stipulates

that “regarding the restriction of land utilization of indigenous peoples’ land, such relevant laws and regulations of specific responsibility as the Indigenous Peoples Basic Law shall be given priority consideration” and “before the adoption of specific laws regarding indigenous peoples’ land, the MOI shall collaborate with competent authorities in charge of indigenous peoples’ affairs in the central government and other relevant authorities to formulate related regulations, which shall be included in the rules of restriction of non-urban land utilization.”

3. Based on the aforementioned policy, the MOI has proceeded to amend such relevant rules and regulations as the Regional Plan Act, the Directions for Examination Operations of Non-urban Land Development, and so forth.
4. In addition, Article 11 of the National Land Use Planning Act (draft) proposed by the MOI stipulates that “the content about specific areas for national land use planning shall be determined after consulting with relevant authorities; in the event that indigenous peoples’ land or sea territories are involved, decisions should be made by the competent authorities in the central government, including those in charge of indigenous peoples’ affairs.” Paragraph 2 of Article 15 of the Coastal Zone Act (draft) also stipulates that, “while formulating the aforementioned coastal conservation plan, should it involve restrictions on the use of indigenous peoples’ land and natural resources, the competent authorities shall consult with the indigenous peoples to obtain their consent before deliberation.” Such steps aim to better implement the relevant regulations of the Indigenous Peoples

Basic Law.

- **No. 41**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Indigenous People—regarding the comment that "Critics complained that the authorities did not do enough to preserve aboriginal culture and language."
- **Competent authority: Council of Indigenous Peoples**

1. The Council of Indigenous Peoples (CIP) implemented its first six-year program to revive indigenous languages and cultures between 2008 and 2013. The CIP started implementing the second stage of the aforementioned program last year. The key priorities of the program are the revival and teaching of indigenous cultures and languages. Efforts include the construction of a comprehensive learning system for indigenous languages (such as by providing incentives to nannies who speak indigenous languages and kindergartens that use the immersion method to teach indigenous languages), and the promotion of a character encoding system and the digital archiving of indigenous languages (such as by compiling dictionaries and teaching materials for the languages). The program also aims to establish language development centers and implement cultural revival plans that preserve and protect cultural assets (by subsidizing indigenous tribes that hold traditional ceremonies and rituals). At the same time, research based on indigenous documents will be strengthened (by setting up related research associations and promoting the translation and publication of related materials), indigenous culture and art will

be promoted, and other plans to further empower indigenous tribes will be formulated. The CIP also collaborates with local governments and tribal groups to encourage the preservation and teaching of indigenous cultures and languages.

2. In order to promote tribal education with a focus on indigenous peoples, the CIP also seeks to set up schools for the different indigenous tribes, with three tribal schools already in operation: Puyuma Huahuan Tribal School, Paiwan Dawu Mountain Tribal School, and Amis Cilangasan Tribal School. Other schools, such as Atayal Nanhu Dashan Tribal School and Bunun East Tribal School, are currently in the planning stage. The aim is to provide indigenous students of the different tribes with a traditional tribal education that focuses on indigenous peoples and features the cultural characteristics of each indigenous group.
3. Therefore, the CIP will continue to strengthen the preservation and teaching of indigenous cultures and languages, thereby reviving indigenous languages and traditional cultures. The ultimate goal is to achieve the sustainability of indigenous cultures and languages.

- **No. 42**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Indigenous People—regarding the comment that "In July a group of Amis Aborigines accused the central authorities of forcibly seizing their traditional domain in Taitung County and threatening their survival by building a resort village."
- **Competent authority: Council of Indigenous Peoples**

The resort village referred to in the comment is probably the Miramar Resort development project in Taitung. This project is not under any development plan of the central government, but rather is a development project proposed by the Taitung County government, which had sought to solicit investment from the private sector in 2003 and complete the resort's construction in 2007. In 2008, civic environmental groups filed an administrative suit seeking to revoke the environmental impact assessment (EIA), with the Supreme Administrative Court rendering its final verdict invalidating the EIA in 2012. However, the Taitung County government provided supplemental materials and amendments for the EIA, allowing for a conditional permit to be issued for the resumption of the resort's construction. In order to block the construction, civic environmental groups again filed for a provisional injunction, with the Higher Administrative Court and later the Supreme Administrative Court in October 2013 both ruling that the construction should be stopped. The Council of Indigenous Peoples (CIP), while respecting the court rulings, finds regretful the failure to strike a balance between ethnic harmony and local development. The CIP engaged in many rounds of mediations and negotiations for this case. Former CIP Minister Sun Da-chuan also visited the Taitung County magistrate and expressed his hope to take this case as an example for future development projects in traditional indigenous territories. He urged all parties involved to abide by the regulations of the Indigenous Peoples Basic Law, so as to attain a balance among the interests of environmental protection, tourism development, and indigenous peoples, thereby creating a win-win-win situation.

- **No. 43**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity
- **Competent authority: Ministry of Health and Welfare**

1. Paragraph 1 of Article 4 of the HIV Infection Control and Patient Rights Protection Act stipulates that "The dignity and the legal rights of the infected shall be protected and respected; there shall be no discrimination; no denial of education, medical care, employment, placement in nursing homes, and residence, nor any other types of unfair treatment." Anyone in violation shall be fined between NT$300,000 and NT$1.5 million.
2. Taiwan's Artificial Reproductive Act, which covers infertility treatment, is enacted "for the purpose of fostering the sound development of artificial reproduction, maintaining social ethics and health, and protecting the rights and interests of infertile couples, children conceived through artificial reproduction, and donors." As the rights and interests of children conceived through artificial reproduction, their growth, and their right to appropriate care are important issues in this regard, the children's best interests must be considered, consistency must be maintained with the Civil Code and other regulations, and social ethics and mores must be taken into account. Therefore, the widowed, the unmarried, cohabitants, single parents, and same-sex partners have not been included among those eligible for artificial reproduction treatment.

- **No. 44**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
  Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity—regarding the comment that "In August the Ministry of Interior reversed its decision to revoke the marriage registration of a transgender couple after protests, saying the marriage was legally valid as long as the couple consisted of a man and a woman at the time they registered their marriage."
- **Competent authority: Ministry of the Interior**

1. On August 7, 2013, the Ministry of the Interior invited experts and scholars, representatives from civil groups, relevant authorities, special municipalities, as well as county and city governments, to a meeting on issues related to gender and marriage registration. The legality of a marriage registered between a transgender couple was discussed. In the case in question, two male individuals in a relationship together both underwent sex reassignment surgery, with only one registering a change of gender. The transgender couple then wed as a man and a woman, and had their marriage registered as such. Later, however, the spouse who was registered as a man applied for a change in gender registration. The medical certification provided showed that the sex reassignment operation had been performed before the marriage took place. After a robust exchange of views on the case, the meeting participants reached a consensus on how the Civil Code and Household Registration Act should be interpreted with respect to a marriage being between a man and a woman, and

registered as such. As long as a couple meets the legal requirements at the time of marriage, i.e. one person is a man and one a woman in the eyes of the law, then the household registration office should register the marriage in accordance with Article 33 of the Household Registration Act. As to the legality of sex reassignment surgery, the change of gender becomes legally effective after it is registered. That is, the persons concerned complete the gender recognition procedure by registering it at a household registration office.

2. The Ministry of Justice also pointed out in the meeting that, in 1994, it had ruled that a change of gender in a marriage should not affect the validity of that marriage or associated parental rights. The 1994 Ministry of Justice ruling is applicable to the above case as it involved the registration of a change of gender in a marriage. As such, the marriage was deemed valid and its effectiveness not affected by the change of gender.

- **No. 45**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons—Other Societal Violence or Discrimination**
- **Competent authority: Ministry of Health and Welfare**

1. With regard to the issue of Taipei City government's Department of Urban Planning barring persons with HIV/AIDS from applying for public housing, the competent authority is the Construction and Planning Agency of the Ministry of the Interior. The Ministry of Health and Welfare has requested that the Taipei City government deal with this issue in accordance with Paragraph 1 of Article 4 of the HIV

Infection Control and Patient Rights Protection Act [referred to as "the HIV Prevention and Patients' Rights Protection Act" in the Department of State report], which stipulates that, "The dignity and the legal rights of the infected shall be protected and respected. There shall be no discrimination, no denial of education, medical care, employment, nursing home, housing, or any other unfair treatment." Violators will face fines of between NT$300,000 and NT$1.5 million.

2. The Enforcement Rules of the AIDS Prevention and Control Act, referred to as "the AIDS Prevention and Control Act" in the Department of State report, was renamed the HIV Infection Control and Patient Rights Protection Act [referred to as "the HIV Prevention and Patients' Rights Protection Act" in the Department of State report], which was amended and promulgated in 2007.

➢ **Response to Section 7. Worker Rights**

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

1. According to Paragraph 1 of Article 54 of the Act for Settlement of Labor-Management Disputes, which was amended and promulgated on May 1, 2011, "A labor union shall not call a strike and set up a picketing line unless the strike has been approved by no less than one half of the members in total via direct and secret balloting." The amendment has in fact streamlined the procedure for unions to organize strikes as compared to before.
2. To prevent strikes from affecting the public good, such as harming people's livelihoods and security, Paragraphs 2 and 3 of Article 54 of the Act for Settlement of Labor-Management Disputes stipulate those sectors that are banned from going on strike and those whose unions can only stage a strike after a minimal service clause is agreed between labor and management. No limits are imposed on other types of businesses. When a labor union intends to organize a strike, according to Articles 53 and 54 of the Act for Settlement of Labor-Management Disputes, a mediation effort first has to be made between labor and management, and the industrial action has to be

approved by no less than half of all members through direct and secret ballot. There are no other limitations besides this.

3. According to Article 2 of the Collective Agreement Act, "Collective agreement referred to in the Act is a written agreement which is concluded by an employer or employer organization with juristic person status and a labor union established in accordance with the Labor Union Act for the purpose of governing labor relations and other related matters." As such, all labor unions set up in accordance with the Labor Union Act have the right to negotiate with management. There is no regulation excluding or banning certain labor unions from negotiating with their employers or employer organizations.

- **No. 47**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding the comment that "Although teachers are prohibited from striking…a new law passed in 2011 allowing them to associate."
- **Competent authority: Ministry of Education**

1. Although the Labor Union Act removed restrictions on the formation of teachers' unions, Article 54 of the Act for Settlement of Labor-Management Disputes clearly stipulates that teachers are prohibited from staging strikes. The reasons for this are severalfold: public opinion in Taiwan society over teachers' unions is greatly divided; the right of students to receive an education should not be hampered (Articles 21 and 23 of the ROC Constitution); and major

disturbances to social order and campus life are harmful to the public interest, and should be avoided (Article 23 of the ROC Constitution). However, teachers can still engage in other protest activities, such as demonstrations or sit-ins.

2. Regulations regarding teachers' right to organize strikes will only be amended once society reaches a broad consensus.

- **No. 48**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding the comment that "Teachers, civil servants, and defense industry employees are not afforded the right to strike. Workers in industries such as utilities, hospital services, and telecommunication service providers are allowed to strike only if they promise to maintain basic services during the strike. Authorities may prohibit, limit, or break up a strike during a disaster."
- **Competent authority: Ministry of Labor**

1. The reason it was decided not to afford teachers, civil servants, and defense industry employees the right to strike is that the proper functioning of the educational system, as well as the Ministry of National Defense and its subordinate agencies and institutions, is of crucial importance to national security and people's right to receive an education, issues which can have far reaching consequences for people's lives. These workers are therefore banned from exercising their right to strike. However, there is another mechanism for dispute resolution available to them. According to Paragraph 2 of Article 25 of the Act for Settlement of Labor-Management Disputes, "When one of the parties to an interest dispute [referred to as "adjustment

dispute" in the Department of State report] is a worker as referred to in Paragraph 2 of Article 54 of the Act, either party to the dispute may apply for a hand-over arbitration to the municipal or county (city) competent authority. …" This allows either party in an adjustment dispute to apply for arbitration at the municipal or county (city) competent authority. Nevertheless, to make the mechanism covering teacher disputes more comprehensive, the Ministry of Labor has started collecting information and performing research on matters related to teachers' rights and disputes.

2. Workers in such industries as utilities, hospital services, and telecommunications service providers have to agree to a minimum service clause. Strikes can only go ahead if they fulfill their commitment to maintaining basic services during the action. This is to avoid public safety, national security, or other aspects of the public good being heavily affected as a result of strikes. If there is no such clause, the parties concerned may still settle their adjustment dispute in accordance with Paragraph 2 of Article 25 of the Act for Settlement of Labor-Management Disputes, which states "When the industries referred to in Paragraph 3 of Article 54 of the Act are involved in an interest dispute [referred to as "adjustment dispute" in the Department of State report] and both parties fail to reach a minimum service clause, either party may apply for a hand-over arbitration to the central competent authority."

- **No. 49**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding the comment that "Workers are allowed to strike only in adjustment disputes, which include issues such as compensation and working schedules. The law forbids strikes in rights disputes, which could include collective agreements, labor contracts, regulations, and other issues. Rights disputes must be settled through arbitration or judicial process."
- **Competent authority: Ministry of Labor**

The reason workers can strike in adjustment disputes but not in rights disputes is that adjustment disputes cannot be settled through litigation. Rather, the settlement of such disputes largely depends on the goodwill of management. The right to strike is therefore needed as a backup for workers, so that labor and management can negotiate equally and fairly before resolving disputes. Meanwhile, rights disputes are disagreements between labor and management over workers' rights as stipulated in regulations, collective agreements, or labor contracts. Even if such disputes are not settled through mediation or arbitration procedures in accordance with the abovementioned regulations, agreements or other laws, people can still seek legal remedy and settle disputes through litigation. Adjustment disputes and rights disputes are very different in nature. Hence, the law states that workers are not allowed to strike in rights disputes.

- **No. 50**
- **Section 7. Worker Rights**
  a. Freedom of Association and the Right to Collective Bargaining—regarding the comment that "Labor unions charged that during employee cutbacks, labor union leaders were sometimes laid off first or dismissed without reasonable cause."
- **Competent authority: Ministry of Labor**

In order to allow labor unions to develop autonomously and reduce levels of interference by management or administrative agencies, unions are permitted to function autonomously, in accordance with their union charters, as long as they comply with relevant laws, such as the Labor Union Act. In cases where labor union leaders are dismissed without reasonable cause, deliberately suppressed, or an employer obstructs the normal functioning and development of labor unions, the Ministry of Labor will impose fines, according to the law, if the Board for Decisions on Unfair Labor Practices of the Ministry deems the labor practices to be unfair. This mechanism has had a deterrent effect on management.

- **No. 51**
- **Section 7. Worker Rights**
  b. Prohibition of Forced or Compulsory Labor—regarding the comment that "There was evidence of forced labor in such sectors as domestic services, farming, fishing, manufacturing, and construction."
  d. Acceptable Conditions of Work—regarding the comment that "The Labor Standards Law (LSL) provides standards for working conditions and health and safety precautions for an estimated eight million of 8.5 million salaried workers…Those not covered include management employees, health care workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, local government contract workers, employees of farmers' associations, and domestic workers."
- **Competent authorities: Ministry of Labor; Ministry of Health and Welfare**

1. Article 5 of the Labor Standards Act (LSA) [referred to as "Labor Standard Law (LSL)" in the Department of State report] states, "No employer shall, by force, coercion, detention, or other illegal means, compel a worker to perform work." Employees of business entities that are covered by the LSA are protected by the minimum standards for working conditions stipulated in the Act.
2. Management, healthcare workers, and bodyguards hired by business entities covered by the LSA are similarly afforded protection. In addition, as of April 1, 2014, the LSA now applies to lawyers hired by the legal services industry, and will also extend to farmer groups beginning January 1, 2015. The Ministry of Labor continues to explore the possibility of applying the LSA to businesses not yet covered, so as to be able to provide greater protections to workers.

3. Standards for safety and health are stipulated in the Occupational Safety and Health Act and other relevant regulations.

- **No. 52**
- **Section 7. Worker Rights**
  d. Acceptable Conditions of Work—regarding the comment that "Authorities estimated the poverty income level to be 60 percent below the average disposable income of the median households in a designated area. By this definition the poverty income level was NT$14,794 ($500) per person in Taipei, NT$11,832 ($400) per person in New Taipei City, NT$10,244 ($346) per person in Taiwan Province, and NT$11,890 ($402) per person in Kaohsiung City."
- **Competent authority: Ministry of Health and Welfare**

The poverty income level is 60 percent below the average disposable income of the median households announced by central or municipal competent authorities in accordance with statistics from the Directorate-General of Budget, Accounting, and Statistics of the Executive Yuan. By this definition, the poverty income level was NT$14,794 per person in Taipei, NT$12,439 per person in New Taipei City, NT$11,890 per person in Kaohsiung City, NT$11,860 per person in Taichung City, NT$10,869 per person in Tainan City, and NT$10,869 per person in Taiwan Province.

- **No. 53**
- **Section 7. Worker Rights**
  d. Acceptable Conditions of Work—regarding the comment that "Foreign household caregivers and domestic workers did not enjoy a minimum wage or overtime pay, limits on the workday or workweek, minimum breaks, or vacation time."
- **Competent authorities: Ministry of Labor; Ministry of Health and Welfare**

1. It is almost impossible to apply the Labor Standards Act to workers hired by individuals to provide household care or domestic help, as it is difficult to distinguish between work and rest hours. Nevertheless, to protect the workplace rights of domestic workers, a draft law on the protection of domestic workers has been drawn up. The draft law stipulates that domestic worker wages "shall be no lower than the minimum wage promulgated by central competent agencies." Moreover, the law also covers such issues as the termination of employment contracts, principles regarding the payment of wages, work and rest hours, special vacations, days off, insurance, and complaints. The draft has been sent to the Executive Yuan for review. Meanwhile, the Ministry of Labor will continue to promote the law's passage and, before the legislative procedures have been completed, will also explore other workable administrative procedures to protect the rights of disadvantaged workers.

2. The draft of a long-term care service act includes foreign caregivers.

   (1) To strengthen the long-term care system, a long-term care service

act draft was drawn up. The Social Welfare and Environmental Hygiene Committee of the Legislative Yuan finished reviewing the draft on January 8, 2014. Of the 48 articles passed, seven were from the Executive Yuan version. Although the draft was due to be sent to the plenary session, several lawmakers asked that it be postponed pending consultations between the ruling and opposition party caucuses.

(2) To ensure the quality of household care, the long-term care service act draft stipulates that newly-arrived foreign caregivers may apply for extra training and use a dual-track employment system through which they can be either hired by individuals, or hired, trained, and managed by organizations. The act provides the legal basis for the dual-track employment system, which gives foreign caregivers greater freedom of choice. Through this system, foreign caregivers can be hired, trained, and managed by long-term care organizations and dispatched to households, or they can be hired by individuals. Once the long-term care service act becomes law, long-term care organizations will hire caregivers according to the act.

- **No. 54**
- **Section 7. Worker Rights**

  d. Acceptable Conditions of Work—regarding the comment that "A survey of the Directorate General of Budget, Accounting, and Statistics pointed out that 1.1 million paid employees (or 13 percent of total paid employees) recorded 96 working hours biweekly in 2012. Annual overtime hours for these employees averaged 312 hours per person. Violation of legal working hours was common in all working sectors. Furthermore, most employees received no overtime pay for their overtime hours."
- **Competent authority: Ministry of Labor**

The Ministry of Labor attaches great importance to monitoring overtime and salary payments. To make sure businesses are adhering strictly to the regulations contained in the Labor Standards Act and other relevant laws, the ministry conducts inspections every year. Promotional efforts are made for businesses in general, and guidance provided. For certain businesses, special inspection programs are carried out. In addition, individual complaints will be sent to labor-related inspection agencies for further review and, where violations are discovered, the ministry will mete out fines and request improvements accordingly, so as to protect the rights of workers. In 2013, the Ministry of Labor implemented 12 special programs, carrying out a total of 764 inspections of working conditions. It will continue these efforts in the future.

- **No. 55**
- **Section 7. Worker Rights**

  d. Acceptable Conditions of Work—regarding the comment that "… the CLA has only 294 inspectors. In the first half of the year, the CLA's 294 inspectors conducted 38,860 inspections, a decrease of 13.8 percent from the same period in 2012. Labor NGOs and academics argued that the labor inspection rate was far too low to serve as an effective deterrent against labor violations and unsafe working conditions… Taiwan's inspector ratio was 0.27 inspectors per 100,000 workers, far below the international standard of 1.5 inspectors per 100,000 workers."
- **Competent authority: Ministry of Labor**

1. The 38,860 inspections recorded in the Department of State's Taiwan Human Rights Report for the first half of 2013 were for health and safety inspections only. The number does not include inspections of working conditions. If both are taken into account, there is no significant decrease in the overall number of inspections. (In 2012, 90,035 inspections were conducted: 78,294 for health and safety, and 11,741 for working conditions. In 2013, 89,399 inspections were conducted: 74,790 for health and safety, and 14,609 for working conditions.)
2. While the government is obliged to conduct labor inspections, they should not be the only means for urging businesses to observe related laws and regulations. Rather, other policies to reduce occupational risks, such as promoting awareness, and providing guidance and subsidies, should be adopted to make it easier for small and medium-sized businesses to enhance their workplace health and safety.

Starting from 2007, the Occupational Safety and Health Administration introduced the Technical Aids for the SME Safety and Health Capacity-building Project (also known as the Dandelion Project). As of January 2014, 47,716 businesses had received guidance under the program, with 1.07 million workers reached. Moreover, the occupational injury rate in those businesses served declined from 5.89 per thousand people to 4.06, a 31.1% decrease. In addition, 1,862 small and medium-sized businesses received a total of NT$16.4 million in subsidies to improve their working environments. The Occupational Safety and Health Administration is also now planning to set up regional safety and health guidance centers in Taiwan, so as to provide ready assistance to small and medium-sized businesses that are affected by particular risks or lack the professional ability to improve their working environments. The aim is to create a nationwide health and safety service network for these businesses.

3. As of the first half of 2013, there were 10.86 million laborers in Taiwan and 294 inspectors (now increased to 384), meaning a ratio of 2.7 inspectors per 100,000 workers. Moreover, several legislators referred to the State Department report in requesting that the Ministry of Labor bring our inspector-to-worker ratio into line with international standards (one inspector per 15,000 workers). Subsequently, the Occupational Safety and Health Administration plans a two-stage increase, as follows:
   (1) Stage one: Beginning in 2014, the employment insurance fund is being used to hire 164 inspectors. Also, the Occupational Safety and Health Administration applied to hire an additional six staff

members responsible for inspecting working conditions, meaning the total number of these inspectors now stands at 170 and the inspector-to-worker ratio has improved to 1-to-19,600.

(2) Stage two: Starting from 2015, subsidies for local agencies will be increased to allow for an additional 78 inspectors. Meanwhile, the three regional Occupational Safety and Health Centers will also hire 42 additional inspectors of working conditions and 50 inspectors of workplace health and safety.

(3) With the above newly-added staff, Taiwan's inspector ratio will stand at 1:15,000, the same as suggested for industrialized countries by the International Labor Organization.

- **No. 56**
- **Section 7. Worker Rights**
  d. Acceptable Conditions of Work—regarding the comment that "NGOs reported that some labor brokers and employers regularly collected high fees or loan payments from foreign workers, using debts incurred in the source country as a tool for involuntary servitude . . . [NGOs asserted] that foreign workers often were unwilling to report employer abuses for fear the employer would terminate the contract and deport them, leaving them unable to pay back debt accrued to brokers or others."
- **Competent authority: Ministry of Labor**

1. Fees collected by foreign labor brokers from migrant workers coming to Taiwan are dealt with in the source country. To prevent foreign workers from being exploited by brokers, the Ministry of Labor has suggested that the maximum fee charged should be no higher than the

basic one-month wage stipulated in Taiwan's Labor Standards Act. In addition, the ministry has called on labor source countries to set clear standards and carry out certification work stringently.

2. For Taiwanese brokers, the Ministry of Labor has established the Standards for Fee-charging Items and Amounts of Private Employment Institutions, which stipulate that the "service fees" charged by Taiwanese brokers per month should be no higher than NT$1,800, NT$1,700, and NT$1,500 for the first, second, and third years, respectively. Local governments are put in charge of monitoring fee collection. Taiwanese brokers will be fined, have their business suspended or their permits revoked should they be found to be charging extra fees.
3. In regard to foreign workers being forced to take out loans from banks unwillingly:
   (1) The Indonesian government stipulates that the fees collected from Indonesian workers prior to their departure to Taiwan should be paid through loans from banks. This involves Indonesian national law and government policy, which is beyond Taiwan's jurisdiction. However, given that fees incurred from such loans are reportedly too high and place a heavy burden on Indonesian workers in Taiwan, the Ministry of Labor has, at every relevant Taiwan-Indonesia meeting, urged the Indonesian government to request local banks to reduce loan interest rates and service charges.
   (2) To prevent foreign workers from being exploited before coming to Taiwan, loans taken and fees paid to work here should be recorded

in the Foreign Workers' Affidavit for Wage/Salary and Expenses Incurred before Entering the Republic of China for Employment. The affidavit should be signed by foreign workers, their employers, foreign brokers, and Taiwanese brokers. The document needs to be certified by the source country before foreign workers travel to Taiwan and should be checked by local governments after arrival in Taiwan. According to the law, Taiwanese brokers are not allowed to collect loan payments from foreign workers in Taiwan at the request of creditors. Taiwanese brokers will be fined, put out of business, or have their permits revoked if violations are found.

4. To prevent the wrongful deportation of foreign workers, it is stipulated that, when a contract between foreign workers and their employers is terminated early, local competent agencies should verify that the foreign workers are not being forced to leave.

- **No. 57**
- **Section 7. Worker Rights**
  d. Acceptable Conditions of Work—regarding the comment "migrant workers being exploited by fishing companies or labor brokers"
- **Competent authority: Ministry of Justice**

With respect to migrant workers being exploited by fishing companies or labor brokers as recorded in the State Department report, prosecuting agencies under the Ministry of Justice always conduct investigations in accordance with the Human Trafficking Prevention Act. They also work with the Fisheries Agency of the Council of Agriculture of the Executive

Yuan and the Ministry of Foreign Affairs, and seek the assistance of relevant countries, so as to protect migrant workers whose rights have been violated. Offenders in such crimes will be brought to justice.

- **No. 58**
- **Section 7. Worker Rights**
  d. Acceptable Conditions of Work—regarding the comment that "The National Immigration Agency is responsible for all immigration-related policies and procedures for foreign workers, foreign spouses, immigrant services, and repatriation of undocumented immigrants."
- **Competent authority: Ministry of the Interior**

1. Article 6 of the Employment Service Act stipulates that, "For the purpose of the Act, the term 'competent authorities' means the Council of Labor [now the Ministry of Labor] of the Executive Yuan at the central level, the municipal city government at the municipal level, and the country/city government at the country/city level." Paragraph 3 of the same article states, "The central competent authority shall be in charge of the . . . administration and issuance of permits to employers who apply to hire foreign workers." Moreover, "Issuance, suspension, and termination of permits of private employment institutions that engage in any of the following brokerage businesses: (1) Brokerage for foreigners to work within the territory of the ROC."
2. According to the Employment Service Act, it is the Ministry of Labor, rather than the National Immigration Agency of the Ministry of the Interior, as described in the State Department report, that is the

competent authority responsible for policies regarding the import and employment of foreign workers and the administration of brokerage companies.

- **No. 59**
- **Section 7. Worker Rights**
  d. Acceptable Conditions of Work—regarding the comment that "…foreign workers deemed to have worked illegally faced heavy fines, mandatory repatriation, and a permanent ban on re-entering Taiwan."
- **Competent authority: Ministry of the Interior**

According to Item 12 of Paragraph 1 of Article 18 of the Immigration Act, and Item 2 of Paragraph 1 of Point 4 of the Guidance on Banning Aliens from Entering the Country, "[foreign workers deemed] to have worked illegally will be banned from entering the country for three years." In other words, such workers are not banned from entering Taiwan permanently.