

**Response of
the Republic of China (Taiwan)
to the US Country Reports on Human
Rights Practices for 2012**

November 25, 2013

Taipei, Republic of China (Taiwan)

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* Individual responses are introduced with a textbox that mentions the specific content the response is referring to, as well as the competent authority that provided the response.

➤ **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—Prison and Detention Center Conditions—Physical Conditions**
- **Competent authority: Ministry of Justice**

1. The Republic of China (Taiwan) uses a policy that severely punishes people who commit felonies but shows leniency to people who commit minor offenses. The number of inmates serving long sentences has increased due to a number of factors: Inmates with life sentences can only apply for parole after serving more than 25 years; the incarceration period for people sentenced at the same time for multiple offenses has been increased to 30 years; and people who have committed three felonies are no longer eligible for parole. This has impacted the environment of correctional institutions. In addition, the overall number of crimes, particularly those related to drugs and fraud, has gradually increased over the years, while prosecutors have stepped up efforts to bring criminals to justice and judges have increased conviction rates. As a result, overcrowding in correctional institutions has gradually worsened.
2. To resolve the overcrowding issue, efforts have been made to strengthen the prosecutorial and justice systems, including such measures as deferred prosecution, community service, suspended

sentences, and conversion of imprisonment into fines. The correctional system has also been enhanced by focusing on parole mechanisms and ways to make more efficient use of prison resources. Furthermore, the Agency of Corrections has formulated a 10-year plan to improve the prison system, taking into account such factors as regional demand, types of correctional institution, degree of difficulty with regard to obtaining land, feedback from citizens, and financial plans. In a step-by-step process the Agency will work to expand, move, renovate and build new correctional institutions. Individual projects currently being implemented or planned include the expansion of Taichung Women's Prison, the renovation and expansion of Taipei Prison, and the expansion of Yilan Prison. In the future, relocation projects will be initiated for Changhua Detention Center, Taipei Detention Center, Hsinchu Prison, Hsinchu Detention Center, and Taoyuan Prison. Finally, a second prison will be built in Taipei. The total budget for these projects is NT\$15.39 billion. If these projects can be completed as planned, it is expected that total prison capacity in Taiwan will grow by 10,427, which will help to reduce the overcrowding problem.

3. In 2011, 89 inmates died, including 71 who were being treated in hospital under guarded escort. From January to October 2012, 81 inmates died, including 62 who were being treated in hospital under guarded escort. Even though a number of inmates died within correctional institutions or on their way to the hospital, the majority of deaths (78%) occurred after inmates had been transferred to outside hospitals and medical treatment was no longer effective.

4. Sick inmates are first treated within the correctional institution. Only when a doctor deems it necessary that further tests or treatment is given, is an inmate transferred to an outside hospital. In the event of an emergency, inmates are immediately transferred to nearby hospitals under guarded escort for treatment. Priority is always given to protecting inmates' right to health and right to life.

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

1. In accordance with Paragraph 3 and 4 of Article 105 of the Code of Criminal Procedure, courts or prosecutors can instruct correctional institutions to deprive detainees of the right to have visitors if they are suspected of planning to flee, or destroying, forging or altering evidence, or conspiring with co-defendants and witnesses. Correctional institutions act in accordance with the law in this regard.
2. To maintain order and discipline, and prevent illicit goods such as drugs from entering their facilities, correctional institutions inspect documents and letters sent to or by inmates in accordance with relevant regulations. Different inspection methods are used based on the type of material.
3. In accordance with Paragraph 3 of Article 351 of the Code of Criminal Procedure, Article 29 of the Detention Act, and Article 82-1 of the Prison Act, inmates' written appeals and regular letters shall be

treated separately. When inmates submit written appeals, authorities shall quickly forward them to relevant authorities.

4. Correspondence between detainees and their attorneys shall be dealt with in accordance with Paragraph 2 of Article 23-1 of the Detention Act. Unless other laws and regulations apply, correctional institutions inspect this correspondence by opening letters and packages but not reading the content.
5. In accordance with Article 66 of the Prison Act, letters sent and received by inmates may be inspected and read.
6. On February 14, 2011, the Agency of Corrections informed correctional institutions that Article 66 of the Prison Act does not apply to inspections of inmates' letters that concern appeals or complaints or contain incriminating information, so as to avoid alterations and ensure that the content of these letters is completely conveyed to the intended recipient.

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

1. Former president Chen Shui-bian entered Taipei Prison on December 2, 2010, to start serving his sentence. In consideration of his status as a former head of state, as well as his personal safety, he was allowed to do light work in his cell in accordance with his wishes. In addition, Mr. Chen was allowed to go to an outdoor area to exercise for one

hour on every normal workday. On rainy days, this was moved to an indoor area.

2. Taipei Prison attached great importance to Mr. Chen's right to medical care, and closely monitored his health. Starting on September 21, 2012, Mr. Chen was treated under guarded escort in Taipei Veterans General Hospital for 211 days. Following a period of thorough testing and treatment, the hospital believed that Mr. Chen's health had stabilized, and proposed that he be transferred to a suitable location, such as a homecare facility, a general hospital with a psychiatric department, or a specialized psychiatric hospital.
3. Based on the advice given by Taipei Veterans General Hospital, the Agency of Corrections and Taipei Prison believed that that there was no legal basis for allowing an inmate to serve his sentence at his own residence, and that Mr. Chen's health situation had not deteriorated to the point where he would be eligible for bonded release. In order to safeguard Mr. Chen's mental and physical health and adhere to relevant laws and regulations, and considering Mr. Chen's status as an inmate, patient and former head of state, the authorities, following a careful assessment, decided that Pei-de Hospital in Taichung would be the best location for Mr. Chen to continue serving his sentence. This decision was made based on Pei-de Hospital's overall environment, medical resources, testing equipment and care services, as well as convenience for Mr. Chen's family members to visit him.
4. On April 19, 2013, Mr. Chen was transferred to Pei-de Hospital of Taichung Prison to continue his treatment. The hospital invited a team of doctors from Taichung Veterans General Hospital and China

Medical University Hospital, and has continued to respect Mr. Chen's rights, as well as his status as a former head of state. It has provided Mr. Chen with the most appropriate medical care and facilities.

- **No. 4**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from:**
 - d. Arbitrary Arrest or Detention—Arrest Procedures and Treatment While in Detention**
- **Competent authority: Judicial Yuan**

1. An amendment to Article 31 of the Code of Criminal Procedure was promulgated by the president on January 23, 2013. Paragraph 5 of the revised Article stipulates that, where a defendant or suspect is either an indigenous person or unable to make a complete statement due to an unsound mind, and legal counsel has yet to be assigned during initial questioning, then the public prosecutor or judicial police must request a lawfully established legal aid organization to send an attorney to provide legal assistance. However, questioning will go ahead regardless in cases where defendants or suspects give their consent, or where the attorney has not shown up within four hours of the request.
2. In 2007, the government-funded Legal Aid Foundation (LAF) launched a pilot scheme 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 with or without a warrant by an investigation agency,

those requested to appear for questioning without a subpoena or notice, or mentally disabled people arrested on criminal charges with or without a warrant by an investigation agency or requested to appear for questioning without a subpoena or notice. In addition, in order to strengthen legal protections and aid for indigenous people, as of July 2012, the requirement that the crime must be a felony punishable by three or more years in prison was removed for indigenous defendants or suspects who have been arrested by police with or without a warrant.

- **No. 5**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from:**
 - e. Denial of Fair Public Trial—regarding the comment that the judicial system still suffers from corruption**
- **Competent authority: Judicial Yuan**

1. Articles 5, 6, and 8 of the Judicial Ethics Regulations clearly stipulate that judges should 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 any form of gift from people where there is a conflict of interest with their official duties. The Judicial Ethics Regulations set the highest of standards for judges and their conduct.
2. A mechanism to review the performance of judges 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 can report the case to the Judicial Yuan, which will then forward it to the Control Yuan (CY) to investigate. After being impeached by the CY, the accused judge will have his or her case sent to an internal tribunal for evaluation. Those deemed unfit to serve will be removed from their posts if there is sufficient evidence. This new mechanism provides comprehensive oversight of judges, holds them to account, and is putting an end to corruption.

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

1. To ensure independence in trials and an independent judiciary as provided for by the ROC Constitution, an internal tribunal was established on July 6, 2012, in accordance with Article 47 of the Judges Act to hear cases involving the disciplining of judges and public prosecutors. This marks an important milestone for judicial reform in Taiwan.
2. Cases involving the disciplining of judges or prosecutors are first sent to an evaluation committee for review. If disciplinary action is deemed necessary, the committee can report the case to the Judicial Yuan (JY) or Ministry of Justice (MOJ). In addition, if the JY or MOJ believe there is merit to the case and the judge or public prosecutor

should be punished, they can forward it to the Control Yuan (CY) to investigate. After being impeached by the CY, the accused will have their case heard by the internal tribunal.

3. The tribunal hears cases involving the disciplining of judges and public prosecutors. It replaces the written reviews, formerly conducted by the Committee on the Discipline of Public Functionaries that deliberated disciplinary cases, with an adversarial system involving a court model, oral statements, and trial in person. The process is more complex and rigorous than that of the Committee on the Discipline of Public Functionaries, and judgment is only passed by the panel of judges once the evidence has been examined in detail and all the facts established.
4. The tribunal heard three cases from July 6 to December 31, 2012, one involving a judge (female) and two involving public prosecutors (one male, one female). In one case, the tribunal decided on June 10, 2013, that the punishment should be a one year suspension from official duties. The two other cases are still being heard.

- **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. Except for summary trial proceedings, summary procedures, and crimes enumerated in Subparagraph 1 and 2 of Article 376 of the Code of Criminal Procedure, the first instance of criminal

proceedings involves a panel of three judges. When preparing for trial, an appointed judge may undertake preliminary proceedings. All cases in the second instance, meanwhile, are heard by all three judges on the panel. (Refer to Articles 279 and 284-1 of the Code of Criminal Procedure, and Article 3 of the Organic Law of the Court.)

2. Courts in Taiwan have adopted a system of cross-examination as part of the criminal procedure. In principle, witnesses are first questioned by the public prosecutor, the defendant, or a defense attorney. The sequence in which cross-examination takes place is as follows:
 - 2.1. Witnesses formally summoned at the request of the defendant will be examined principally by the defense attorney or the defendant. The public prosecutor may then, if deemed necessary, decide to challenge the testimony by cross-examining the witness. The defense attorney or the defendant may then question the witness again over any doubts or matters raised during the cross-examination.
 - 2.2. Witnesses formally summoned by the public prosecutor will be first examined by the said prosecutor.
 - 2.3. Only witnesses summoned by a judge are first examined by the said judge. The public prosecutor, defense attorney, or the defendant may, if deemed necessary, question the witness with the judge's permission. This is similar in nature to a cross-examination, with the judge deciding who may begin the questioning.

- **No. 8**
- **Section 1. Respect for the Integrity of the Person, Including Freedom from:**
 - e. **Denial of Fair Public Trial—regarding the comment that court permission may be required for the public to attend trials**
- **Competent authority: Judicial Yuan**

1. As clearly stipulated in Article 2 of the regulations governing the attending of trials by the public, courtrooms should be equipped with a public gallery and a numbered seating system. Moreover, trials may be attended by the public except in certain situations stipulated by the law. Indeed, the public are, in general, free to attend trials and are not required to seek permission from the presiding judge. However, if certain laws stipulate that trials should not be open to the public due to such considerations as the privacy or reputation of the litigants, then trials will be closed to the public. Examples include Article 18 of the Sexual Assault Crime Prevention Act and Paragraph 5 of Article 13 of the Domestic Violence Prevention Act.
2. According to Paragraph 1 of Article 3 of the regulations governing the attending of trials by the public, a court, based on the capacity of its public gallery, may issue gallery passes when it is deemed necessary for maintaining order. In such instances, only gallery pass holders may attend trials.

➤ **Response to Section 2. Respect for Civil Liberties**

- **No. 9**
- **Section 2. Respect for Civil Liberties, Including:**
 - a. Freedom of Speech and Press—current status**
- **Competent authority: National Communications Commission**

1. The National Communications Commission's (NCC) oversight of television programming in the main consists of executing the provisions of the Cable, Radio & Television Act and Satellite Broadcasting Act. As the Republic of China (Taiwan) is a democracy that adheres to the rule of law, it provides comprehensive protection for freedom of the press as per Article 11 of the ROC Constitution. It respects to a great degree the freedom of the media to conduct interviews, and edit, produce and broadcast content.
2. As media self-regulation is a prerequisite for a free press, the NCC encourages media to establish their own such commissions, to seek out the opinions of all sectors of society, and to allow for public participation, as these will help with self-regulation and the editorial process. It has also repeatedly called upon news media to respect public opinion and feedback, so that a fully functioning method for self-regulation can be established, thereby protecting the environment for and values of a free press.

- **No. 10**
- **Section 2. Respect for Civil Liberties, Including:**
 - b. Freedom of Peaceful Assembly and Association—Freedom of Assembly**
- **Competent authority: Ministry of the Interior**

The ROC Constitution guarantees freedom of assembly, which is further governed by the terms of the Assembly and Parade Act. The Ministry of the Interior, meanwhile, respects the decisions of the courts as being those of an independent judiciary.

- **No. 11**
- **Section 2. Respect for Civil Liberties, Including:**
 - c. Freedom of Religion**
- **Competent authority: Ministry of the Interior**

1. There is some misunderstanding concerning Tenrikyo, which is a belief system that originated in Japan and is not a traditional Chinese faith.
2. There is some misunderstanding concerning terminology. There are 27 registered religions, but this is not indicative of the number of religious organizations or religious groups.
3. There are mistakes in the names of certain universities and research organizations.

- **No. 12**
- **Section 2. Respect for Civil Liberties, Including:**
 - d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons—Protection of Refugees—Access to Asylum**
- **Competent authorities: Ministry of the Interior, Mainland Affairs Council**

1. Promoting a refugee act: On February 23, 2012, the Executive Yuan submitted a draft refugee act to the Legislative Yuan, requesting that it be scheduled for a vote during the Fourth Session of the Eighth Legislative Yuan, and be treated as a pressing item.
2. Asylum: The legislative process for the draft refugee act has not yet been completed. As such, the government cannot yet process applications for asylum by foreign nationals and stateless persons. However, as per Paragraph 4 of Article 17 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, the Ministry of the Interior may, on political grounds, allow people from mainland China, who have applied for asylum and entered Taiwan legally, to reside in Taiwan on a case-by-case basis.
3. An amendment to Article 17 of the aforementioned Act has been proposed by the Mainland Affairs Council to improve the asylum-seeking process for mainland Chinese, opening up the possibility in regulations that those who have entered Taiwan illegally, based on political considerations, may apply for long-term residency in Taiwan without the need to provide proof that they have lost their former nationality, and exempting such persons from legal penalties resulting from illegal entry into the country. On March 5, 2012, the

Executive Yuan submitted the draft of the revised Article 17 to the Legislative Yuan.

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

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

1. On July 7, 2012, the Executive Yuan hosted a symposium on clean governance following news of the case involving former Executive Yuan Secretary-General Lin Yi-shih. At the president's behest, lobbying should be treated in an institutionalized and transparent manner, so as to facilitate reviews. Meanwhile, the Agency Against Corruption has drafted directions by which the Executive Yuan and its subordinate agencies must register instances of lobbying, which came into effect September 7, 2012. To date, 276 cases of lobbying have been registered, of which 72 have been reviewed.
2. Statistics from prosecutors' offices, the Investigation Bureau, and the Agency Against Corruption together show that in 2008, 26.7 cases per 10,000 indictments concerned corruption, a number that had fallen by May 2013 to 19.5. In addition, in 2008, 65.2 persons per 10,000 criminal suspects were indicted for corruption, and this number had fallen by May 2013 to 44.5. This shows that the number of corruption cases overall has fallen, while the conviction rate has risen, leading to greater protection of human rights.
3. In addition to The Freedom of Government Information Law and the Administrative Procedure Law, the Agency Against Corruption on

July 4, 2013, drafted an implementation plan for measures concerning ethics departments' advocacy of administrative transparency within their organizations. Through the end of July, it had collected control charts from the ethics departments of 47 government agencies and had urged said agencies to implement measures leading to transparency.

4. In its 2012 Corruption Perceptions Index, Transparency International gave Taiwan a score of 61, giving Taiwan a ranking of 37th out of 176 countries and areas surveyed, and fourth in Asia. This shows that the nation's efforts in recent years to prevent, crack down on, and eradicate corruption, while implementing innovations in clean governance, have gradually earned international recognition.

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

- **No. 14**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Women—Rape and Domestic Violence
- **Competent authorities: Ministry of Health and Welfare, Ministry of the Interior**

1. In the 2012 US Country Reports on Human Rights, it is claimed that the incidence of sexual assault was 10 times that reported to the police. In truth, in 2012 the number of reported sexual assaults was 15,102, just over three times the 4,276 police reports filed. The difference is because the regulations for reporting are more relaxed—a report must be filed if the person responsible for reporting has suspicions of sexual assault having occurred. As many are simply cases of consensual encounters, and the persons involved have no intention to file a complaint, the cases do not enter the police reporting system.
2. The number of reported sexual assaults is high. This shows that personnel responsible for filing reports are implementing the system. It also shows that people are growing more aware of their personal safety and more willing to seek help, and that the government's efforts to publicize and educate, while implementing protective measures, have thus earned the public's trust.
3. To prevent repeat instances of domestic violence, the National Police Agency has continued to have front-line personnel implement

domestic violence prevention regulations and have them undergo culture sensitivity training. It has also implemented programs to visit and check up on aggressors, and provide more training to police officers on techniques and methods to deal with aggressors. A domestic violence prevention network plan is also in place. By conducting thorough assessments, it aims to identify high-risk families at an early stage. In addition, victims obtain greater protection through the network. For example, police agencies follow up with offenders on a regular or irregular basis, and implement a method of constraints and warnings to prevent repeat offenses.

- **No. 15**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Women—Rape and Domestic Violence—regarding the comment that 10,111 protection orders have been issued to domestic violence victims
- **Competent authority: Judicial Yuan**

Judicial Yuan figures show that the number of protection orders issued is 10,142, differing from the quoted figure.

- **No. 16**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Women—Reproductive Rights
- **Competent authority: Ministry of Health and Welfare**

Legalization of artificial insemination aims to treat fertility problems, not the creation of life. As such, and to promote the current family structure, artificial insemination is limited to infertile married partners.

- No. 17
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Women—Discrimination—regarding the comment that authorities are not doing enough to raise public awareness of this issue
- **Competent authority: Council of Labor Affairs**

1. The Act of Gender Equality in Employment prohibits gender discrimination in employment. Fines for offenders range from NT\$100,000 to NT\$500,000.
2. In 2012, the Council of Labor Affairs (CLA), based on Europe's Equal Pay Day and the European Commission's calculation methods, as well as a survey on employee earnings by the Directorate-General of Budget, Accounting and Statistics (DGBAS), announced that Taiwan's equal pay day would be March 5, so as to clarify the wage gap between women and men. According to the 2013 survey on employee earnings by the DGBAS, average pay for women in 2012 was 16.6% less than that for men, an improvement over the 17.3% figure in 2011, and better than the figures for the United States, Japan and the Republic of Korea. Equal pay day also moved forward to March 2, reflecting government efforts to promote women's employment and remove obstacles to such employment.
3. To examine, consult on and promote matters concerning gender parity in employment, the CLA, in accordance with Article 5 of the Act of Gender Equality in Employment, established the CLA Committee on Gender Equality in Employment. In addition, 13 local competent authorities have set up similar committees, while the remainder, as

allowed by the law, handle related matters through committees on employment discrimination.

4. The CLA has used print and electronic media, workshops, and promotional campaigns to advance the cause of gender equality in employment, and has printed a brochure and held workshops to help enterprises promote family-friendly measures. The council has made implementation of the Act of Gender Equality in Employment an administrative priority, calling on local competent authorities to carry out labor inspections and other inspections to ensure full compliance with the law.

- **No. 18**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Women—Gender-biased Sex Selection
- **Competent authority: Ministry of Health and Welfare**

In 2010, the Ministry of Health and Welfare (MHW) established a mechanism to monitor the ratio of males to females at birth at all medical institutions with maternity units, putting clinics and hospitals with higher rates of imbalance—as reported by local health departments—under surveillance, and investigating advertisements that, in violation of regulations, claim to guarantee the birth of a boy or offer sex selection services. The MHW also set up reporting points at all city and county health departments, included relevant information in handbooks for pregnant women, and revised relevant laws to promote public awareness of the issue. As a result, the ratio of males to females at birth fell from 1.090 in 2010 to 1.079 in 2011, and to 1.074 in 2012, approaching the

normal range of 1.060.

In addition, from 2010 to the end of 2012 city and county health departments checked 816 medical institutions offering maternity services, providing guidance to institutions with statistically significant rates of imbalance on 531 occasions. In the same period, 94 advertisements were identified as possibly offering sex selection services, and fines were issued for 13 of these: two for violation of medical practice regulations, seven for violation of medical advertising regulations, and four for use of mifepristone by doctors not authorized under the Genetic Health Act to perform induced abortions. Oversight of sources of reagents and testing, including inspection of testing equipment, practices and reagents, will be strengthened to further reduce the sex ratio imbalance.

- **No. 19**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Children—Birth Registration / Child Abuse / Sexual Exploitation of Children
- **Competent authorities: Ministry of Health and Welfare, Ministry of the Interior**

1. In accordance with regulations, the Ministry of Health and Welfare (MHW) has produced a handbook on birth report procedures, clearly stipulating relevant procedures and forms.
2. The MHW has actively facilitated the development of a three-tier system of protection for children and juveniles by government agencies at all levels in conjunction with the private sector, promoting the following measures:

- 2.1. Third-tier prevention: implementation of measures for abuse-reporting; relief, protection and placement of children; and family intervention.
- 2.2. Second-tier prevention: establishment of a child abuse advance warning mechanism to reduce the danger to children.
- 2.3. First-tier prevention: expansion of community counseling and care mechanisms for underprivileged children and juveniles, and enhancement of educational promotion.
3. Regarding sexual exploitation of children:
 - 3.1. As part of its plan to enhance interdiction of sex crimes, the National Police Agency has directed police departments nationwide to step up investigations and arrests, so as to rescue children and juveniles and prevent crimes of this nature.
 - 3.2. According to related regulations, when prosecutors and police rescue children and juveniles possibly involved in sexual transactions, they should call for staff from a local government social welfare agency to be present during questioning of the minors. To provide immediate protection and intervention, the minors must be transferred to emergency shelters within 24 hours, and the social welfare agency must issue a report on each case within 72 hours for a court decision. If the minors are found not to have been involved in sexual transactions, the court will rule that they not be placed in a shelter, and instead turned over to the custody of their parents or legal guardian.
 - 3.3. When individual minors are placed in short-term shelters, the local government social welfare agency should provide an observation

and counseling report within two to four weeks, including a recommendation on how to deal with the case, with the aim of facilitating a court decision. Primary services in this period include help in completing compulsory education and the provision of courses in a range of skills and crafts, so as to develop their future competitiveness in the job market.

- **No. 20**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Children—Child Marriage
- **Competent authority: Ministry of Justice**

Article 980 of the Civil Code states that “A man who has not completed his eighteenth year of age and a woman her sixteenth may not conclude a marriage.” As this regulation is not in line with the UN Convention on the Rights of the Child and the UN Convention on the Elimination of All Forms of Discrimination Against Women, the Ministry of Justice proposed revising Articles 973 and 980 of the Civil Code to make the minimum age of engagement 17, and the minimum marriage age 18, for both men and women. The proposed bill was approved by the Executive Yuan, but on October 31, 2011, during the Eighth session of the Seventh Legislative Yuan, the Judiciary and Organic Laws and Statutes Committee voted not to consider it.

- **No. 21**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Persons with Disabilities
- **Competent authority: Ministry of Education**

1. The Special Education Act, promulgated in 1984, guarantees persons with disabilities the right to receive appropriate education, fully develop their potential and foster their character.
2. The Gender Equity Education Act, promulgated in 2004, covers public and private schools at all levels nationwide, including special education schools, all of which should offer courses on gender equity and create a safe campus environment in accordance with the law, as well as prevent sexual assaults, sexual harassment and sexual bullying on campus.
3. The Ministry of Education (MOE) uses relevant mechanisms to enhance the organization and operation of gender equity education committees at schools of all levels and monitors school gender equity courses and teaching, as well as improvements in safety of campuses. It has also established a management system for statistics and follow-up measures on sexual assaults, sexual harassment and sexual bullying on campus to assist schools in creating gender equality as well as friendly and safe learning environments, and enabling them to effectively handle incidents, so as to protect students' dignity and right to learn.
4. In 2012, the MOE subsidized 13 gender equity workshops at the 19 national special education schools, which were attended by 1,448

staff members out of a total of 2,195, with the aim of improving awareness of gender equity and the ability to deal with related issues. The MOE also required gender equity workshops during summer vacation, which had an attendance of 2,342, and instituted a requirement that each educator at national special education schools should attend at least eight hours of gender equity education annually.

- **No. 22**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Persons with Disabilities
- **Competent authority: Ministry of Health and Welfare**

1. In 2004, the Ministry of the Interior (MOI) established principles and guidelines for handling suspected cases of sexual assault, so as to improve safety in care facilities for persons with disabilities and guarantee the rights of persons with disabilities living in such institutions. The MOI instructed all relevant facilities to beef up in-service training for their personnel and set up procedures for the handling of cases involving sexual assault. It also requested that local competent authorities review compliance with these measures during facility inspections.
2. In revising evaluation standards for facilities, the MOI has already added criteria, such as staff training for the prevention of sexual assaults, the establishment of in-house preventive mechanisms, records of major incidents, and provision of support for gender equity education, with the aim of helping facilities pay more attention to prevention and safety. The revised principles and guidelines for

handling suspected cases of sexual assault—issued on August 21, 2012—call for facilities to do background checks when hiring full-time and part-time personnel or soliciting volunteers to see if they are registered sexual offenders, or require that applicants supply a criminal record from police authorities. The guidelines also require that competent authorities and care facilities conduct relevant training on a regular basis, establish counseling mechanisms, and include the prevention and handling of sexual assaults as criteria for inspection and evaluation. The competent authorities should assist facilities in establishing procedures for handling suspected cases of sexual assault, so as to further enhance staff sensitivity to and ability to handle such cases.

- **No. 23**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
- **Persons with Disabilities**
- **Competent authorities: Ministry of Health and Welfare, Ministry of the Interior**

1. Home care services for persons with disabilities are provided in accordance with a special plan for subsidized home care. In order to uphold the People with Disabilities Rights Protection Act and dovetail with long-term care insurance, the government already subsidizes longer hours of care as stipulated by relevant regulations on subsidies for home care fees for persons with disabilities. In addition, the Ministry of Health and Welfare (MHW) is revising the mid-term portion of its 10-year plan for long-term care with a view to gradually

expanding eligibility for long-term care, in response to public needs, so that anyone who meets relevant levels of disability—regardless of age, type of disability, or ethnicity—can receive long-term care. In addition, a priority list has been drawn up that takes into account the government's financial situation, giving individuals who are comparatively more underprivileged precedence in receiving long-term care.

2. To guarantee the rights of disabled individuals, those over the age of 65, persons with disabilities over 50, and indigenous people over 55 who meet the standards for mild, moderate or severe disability, may apply for care services under the aforementioned 10-year plan. Subsidies cover eight types of services, including daily life care and health care.
3. The National Health Insurance (NHI) provides home health care services, including home health care, home-based palliative care and home care for ventilator-dependent patients. Cases of insurance recipients assessed as eligible by a licensed physician are taken over by NHI-contracted medical care institutions, which provide home health care based on an assessment of need.
4. Taking the aging population into consideration, the MHW National Health Insurance Administration has sought a larger budget for national health insurance every year. Moreover, under the second-generation NHI, which went into effect on January 1, 2013, copayments for home care services were reduced from 10% of medical fees to 5%. More than 81,000 individuals are expected to benefit, or 585,000 person-visits.

- **No. 24**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Persons with Disabilities
- **Competent authorities: Ministry of Education, Ministry of the Interior**

1. In accordance with its own relevant guidelines, the Ministry of Education (MOE) has aimed to enhance barrier-free campus environments. Every year, it asks schools, as well as city and county governments, to carefully examine school environments and make requests for urgently needed equipment for barrier-free environments. The MOE has allocated money to subsidize these improvements to campus environments. Between 2009 and 2011, the MOE allocated NT\$690 million to assist in facilitating these improvements, while NT\$25 million was allocated in 2012. It has subsidized more than 800 different projects at public and private high schools that were aimed at improving barrier-free environments. As for 2013, on April 12 the MOE's special task force for this issue convened for its 22nd meeting, and the MOE announced subsidies worth NT\$130.17 million for 53 colleges and universities in 20 counties and cities. It also announced subsidies for 85 high schools worth NT\$56.7 million to accelerate the first-phase creation of barrier-free environments. After reviewing and approving project applications, it has asked schools to implement these projects in accordance with the Ministry of the Interior's (MOI) standards for accessible building design and directions for submitting alternative improvement plans for barrier-free facilities in existing public buildings.

2. The MOI in 2012 amended several articles in Chapter 10 of the technical regulations on building design and construction, which deals with barrier-free buildings. As a result of this amendment, starting in 2013 all newly built or expanded elementary and secondary schools must have barrier-free environments. Existing elementary and secondary schools have been included in Article 170 on existing public buildings of the aforementioned regulations.
3. Currently, existing elementary and secondary schools have to design and build outdoor passageways, evacuation ramps and handrails, evacuation exits, indoor exits and entrances, indoor hallways, stairs, elevators, restrooms and bathrooms, spaces for spectators in wheelchairs and parking spots in accordance with Article 57 of the People with Disabilities Rights Protection Act and item 9 of the directions for submitting alternative improvement plans for barrier-free facilities in existing public buildings.
4. The MOI's Construction and Planning Agency each year formulates a plan for the supervision of barrier-free environments in public buildings. Representatives from disability groups and relevant government agencies, as well as other experts, are invited to form a supervisory task force. In 2013, random checks were conducted at existing elementary and secondary school buildings, so as to improve barrier-free environments at relatively older buildings.
5. In 2011, an incident occurred at a special education school in which a gender equality issue was not handled properly. The MOE became immediately involved, and set up a special task force consisting of scholars and experts divided in four teams—a counseling team,

educational team, gender empowerment and incident management team, and environment and facilities building team. With this task force, the MOE aims to assist schools in providing proper counseling to personnel responsible for dealing with gender equality incidents. In addition, the MOE set up an administrative investigation team that is responsible for punishing negligent personnel at the MOE and schools. Finally, a administrative supervisory task force was set up, which so far has held 22 meetings and focuses on nine areas, including safety in schools, dealing with gender equality cases, integrating gender equality concepts in the curriculum, day-to-day school operations, dormitory management, school bus management, student counseling, operations of parents committees, and defining responsibilities.

6. Further elaborating on the previous paragraph, the management and improvements at the school where the aforementioned gender equality incident occurred are being supervised by the MOE's administrative supervisory task force and the school's counseling team with the help of experts. By holding regular meetings, they aim to provide support to the school, gain a better understanding of the improvements made by the school, and offer suggestions with regard to gender equality issues. The MOE will continue to organize meetings and oversee the improvements made by the school.

- **No. 25**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
National/Racial/Ethnic Minorities
- **Competent authority: Ministry of the Interior**

1. Article 62 of the Immigration Act, which was amended on December 26, 2007, stipulates that no person shall discriminate against people residing in the Taiwan Area on the basis of nationality, race, color, class, or place of birth. Furthermore, the Regulation for Petitions against Discrimination against People Residing in the Taiwan Area was designed to deal with related complaints.
2. In addition to the Immigration Act, Taiwan also has the Act of Gender Equality in Employment, the Employment Services Act, the Senior Citizens Welfare Act, the Sexual Harassment Prevention Act, and the HIV Infection Control and Patients' Rights Protection Act. People residing in the Taiwan Area facing discrimination based on gender, age, employment, or disease, resulting in the infringement of their rights, may file complaints in accordance with these laws and regulations.
3. To prevent discrimination and conflicts caused by language or cultural barriers, and to promote respect for different cultures, the Ministry of the Interior has worked with the Ministry of Education to conduct the Torch Project for new immigrants in Taiwan. By holding cultural events on school campuses and encouraging children from immigrants to learn their mother tongue, respect for different cultures can be fostered among individuals, families and schools, as well as communities and society as a whole. This also enables people to appreciate cultural diversity. In the academic year 2012, a total of 12,001 events were held and 14,985 family visits were made, reaching 527,022 people.

- No. 26
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

Indigenous People—regarding the comment that “The government shall establish a committee for demarcation and management of indigenous lands, although by year’s end the government had not established the committee. 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. However, the provision had not been put into practice.”

- **Competent authority: Council of Indigenous Peoples**

1. In line with the recent government restructuring, the Council of Indigenous Peoples (CIP) proposed a draft for an organic act for the CIP, which has been sent to the Legislative Yuan for review. In addition, a draft of rules governing the functions and assignments of the CIP was submitted to the Legislative Yuan for review on March 26, 2012, and July 24, 2012, respectively. The draft stipulates that a land management office will be established under the CIP, which will be in charge of conducting surveys of indigenous land and organizing relevant projects.
2. 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.” When development involves indigenous land, the CIP sends official letters to developers, requesting them to act in accordance with

Article 21 of the Indigenous Peoples Basic Law. In the meantime, the CIP also does its best to mediate between different parties. The CIP is currently drafting explanatory guidelines for the Indigenous Peoples Basic Law, so as to prevent controversies from occurring.

- **No. 27**
- **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 indigenous culture and language.
- **Competent authority: Council of Indigenous Peoples**

1. Culture

The Council of Indigenous Peoples (CIP) initiated a special project in 1999 to revive and develop indigenous culture. It has also set policy guidelines with regard to cultural preservation and promotion.

The CIP focuses on preserving important elements of indigenous culture—including traditional festivals and ceremonies, dance and music, oral history, and traditional architecture—through digital archiving, field research, literature compilation, as well as reproductions. The aim is to create cultural records for the next 50 or 100 years, not only for indigenous people but also Taiwan's society as a whole. Meanwhile, efforts are also being made to introduce indigenous cultures to the general public through a variety of cultural media and platforms. By so doing, it is hoped that the divide between indigenous people and Taiwan's mainstream society can be further narrowed, and that indigenous people can have a bigger impact in society. In the future, the CIP intends to focus on the following projects:

- 1.1. establishing schools dedicated to traditional indigenous crafts and arts;
- 1.2. setting up a national indigenous museum;
- 1.3. creating national indigenous music and dance troupes;
- 1.4. cultivating indigenous cultural talent; and
- 1.5. strengthening coordination between government agencies.

2. Languages

To preserve indigenous languages, the CIP has started to revive languages of different indigenous groups in accordance with a six-year program that started in 2008. Key priorities include the following:

- 2.1. promoting indigenous language learning among pre-school indigenous children using a language immersion method;
 - 2.1.1. providing incentives to babysitters, who speak indigenous languages, to take care of children aged between zero and two, and develop relevant training courses;
 - 2.1.2. providing incentives to kindergartens for using language immersion methods and taking care of children aged between three and four, and develop relevant training courses for teachers and caretakers.
- 2.2. creating an indigenous language environment;
 - 2.2.1. encouraging the learning of indigenous languages at home;
 - 2.2.2. encouraging the learning of indigenous languages among tribes;
 - 2.2.3. starting a project to promote the use of indigenous languages in churches attended by indigenous people.
- 2.3. promoting the use of indigenous languages in public spaces, thus creating an environment without language barriers;
- 2.4. developing a variety of indigenous language teaching materials;

establishing an indigenous language teaching portal site, uploading different teaching materials, creating a website that allows for interactive learning and provides on-line exams as well as audio and video platforms, and developing applications for indigenous language learning;

- 2.5. drawing up a project for the establishment of an indigenous languages development center to promote the study and development of indigenous languages;
- 2.6. strengthening the project aimed at protecting endangered indigenous languages by further expanding its scope.

- **No. 28**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Indigenous People—regarding the comment that “In August dozens of Pingpu aborigines staged an annual rally in front of the presidential office in protest of the government’s denial of their aboriginal status. The population of the Pingpu tribe, more than one million, dwarfs the size of the nine recognized tribes combined. Traditional aboriginal tribes have long claimed that the Pingpu tribe is an historical invention consisting mainly of ethnic Chinese pretending to be ethnically aboriginal in the hopes of gaining tribal privileges (land use, early retirement pensions, quota-based representation, among others). The government denied the request of the Pingpu tribe for tribal recognition.”
- **Competent authority: Council of Indigenous Peoples**

1. Pingpu tribes and indigenous tribes all belong to the Austronesian language family. Both academic experts and the general public recognize the fact that Pingpu peoples and other indigenous peoples

are related by blood. However, due to a variety of complex historical, social, cultural and ethnic factors, the historical experience and socio-economic development of the Pingpu tribes and other indigenous tribes have diverged over the past 300 to 400 years. Dialogue, communication and understanding are needed to overcome the current differences. The government is doing all it can to deal with this issue. With regard to recognition of Pingpu tribes, Taiwan has already started with cultural recognition. To preserve, maintain and develop Pingpu tribes' languages and culture, the government has allocated funds to help organize language and cultural activities, and is formulating plans to revitalize their languages and culture. In addition, to build a platform to communicate with Pingpu tribes, the government established a special task force to deal with Pingpu-related affairs on July 5, 2010. Its core mission is to review the planning, coordination and discussion of revitalization and promotion projects for Pingpu tribes' languages and culture; facilitate, assist and financially support cultural groups; and plan and coordinate cultural activities, as well as other Pingpu-related affairs. The recognition of Pingpu tribes and other controversial issues will be discussed via this platform.

2. As for the legal recognition of Pingpu tribes, an issue that has been raised in recent years, the special task force, considering current laws and regulations as well as other relevant factors, decided to first study the legal implications of Pingpu tribes' acquiring indigenous status, and investigate the Pingpu population. Once these studies yield concrete results, the task force will formulate corresponding measures,

in the hope of dealing with Pingpu tribes' identity issue in a fair and appropriate manner.

- **No. 29**
- **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 “LGBT rights activists alleged that restrictions on doctors providing fertility treatments to unmarried persons unfairly resulted in discrimination against LGBT persons, who are not permitted to marry according to current laws and regulations.”
- **Competent authority: Ministry of Health and Welfare**

The Artificial Reproduction Act was meant to treat infertility, not create life. In order to consolidate the current marriage and family system, only infertile married couples are eligible for reproductive surgery.

- **No. 30**
- **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 Education**

1. The Nine-Year Integrated Curriculum for elementary and junior high schools includes gender equality, which is taught with an integrative method. The first theme is to help students understand sexual orientation and sexual diversity, which includes aspects on homosexuality. Currently, textbook publishers are referring to related indicators to edit textbooks for different fields. These textbooks are provided to elementary and junior high schools after being reviewed

and approved by the National Academy for Educational Research.

2. Central and local committees on gender equality education have been organizing workshops every semester to elevate teachers' proficiency in gender equality education, so that they can apply insight gained in these workshops in the classroom.

- **No. 31**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
- **Other Societal Violence or Discrimination**
- **Competent authority: Ministry of Education**

1. The human rights of students or teachers infected with HIV/AIDS are duly protected by law, and they shall be free from any form of discrimination. 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, nursing home, housing or any other unfair treatment." In addition, point eight of the guidelines governing HIV infection control and protection of patients' rights in schools of all levels stipulates that "persons who are confirmed to have been infected with HIV, or are suspected of having been infected, shall be provided with the utmost care and assistance by schools. They shall not be asked to quit, transfer, drop out, retire, leave, prohibited from accessing the campus, or punished. In no circumstance shall schools ask students to provide evidence that they have not been infected with HIV."
2. The Ministry of Education has officially requested schools of all

levels to implement the aforementioned Act and guidelines, and has stressed the importance of this issue when meeting with school management and other relevant personnel.

- **No. 32**
- **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**
Other Societal Violence or Discrimination
- **Competent authority: Ministry of Health and Welfare**

1. Investigation of sources of infection and contacts of HIV patients shall be done in accordance with Article 12 of the HIV Infection Control and Patient Rights Protection Act. The investigation process shall not damage the patients' dignity and privacy.
2. The dignity and rights of confirmed HIV patients shall be respected, including their right to education, medical care, employment and nursing care.

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

- **No. 33**
- **Section 7. Worker Rights**
 - a. **Freedom of Association and the Right to Collective Bargaining—regarding the comment that freedom of association, as well as the right to collective bargaining and strike, is highly regulated**
- **Competent authority: Council of Labor Affairs**

1. To prevent labor disputes from disrupting people's lives, damaging national security, or harming the public interests, Paragraph 2 and 3 of Article 54 of the Act for Settlement of Labor-Management Disputes stipulate the sectors in which strikes are not allowed, and state that in several other sectors strikes may only be conducted if the labor union and management have reached an agreement on services that must be maintained. There are no restrictions on labor strikes in other sectors.
2. According to Articles 53 and 54 of the Act for Settlement of Labor-Management Disputes, a labor union may only call a strike if mediation with management has been unsuccessful. In addition, a strike may not be called unless it is approved by no less than half of the union's members via direct and secret balloting.

- **No. 34**
- **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 telecommunications 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 authorities: Council of Labor Affairs, Ministry of Education**

1. The Council of Labor Affairs (CLA), in accordance with Subparagraph 1 of Paragraph 2 of Article 54 of the Act for Settlement of Labor-Management Disputes concerning teachers, in line with the fact that the Labor Union Act has removed restrictions on organizing a union for teachers, taking into account people’s right to education, and avoiding excessive restrictions, has defined a scope of people to which certain restrictions apply in coordination with the Ministry of Education, the Ministry of National Defense, the Ministry of the Interior and the Ministry of Justice. This scope includes full-time teachers, part-time teachers, replacement teachers hired in accordance with the law, as well as other full-time and part-time staff hired in accordance with administrative regulations. In order to reach consensus, discussions with different sectors of society, as well as various departments and agencies, will continue. It is expected that relevant amendments will be completed before the end of 2016. In addition, with regard to the stipulation in the aforementioned Act that prohibits workers at the Ministry of National Defense and its

affiliated institutions and schools from conducting strikes, following consultations with the Ministry of National Defense this restriction has been reduced to include only staff at the ministry's headquarters, General Staff headquarters, Armaments Bureau, Political Warfare Bureau, the Comptroller Bureau, military hospitals, various commands and their troops, as well as military schools and preparatory schools. In order to protect their freedom of association, right to collective bargaining and right to strike, staff are allowed to apply for arbitration or engage in other forms of industrial action in accordance with Article 53 of the Act.

2. In order to avoid situations in which public interest is extremely harmed as a result of workers exercising their rights, Paragraph 3 of Article 54 of the Act for Settlement of Labor-Management Disputes lists sectors in which strikes are prohibited or are only allowed if labor unions and management have reached an agreement on maintaining basic services. In consideration of the need to protect workers' rights, the Act stipulates that relevant regulations should be made in coordination with other competent authorities. The CLA has consulted with other agencies on many occasions regarding the scope of the aforementioned sectors. Based on recommendations by these agencies, as well as labor and employer organizations, and to avoid excessive involvement by the executive branch affecting the right to strike, the CLA has already defined an appropriate scope.

- **No. 35**
- **Section 7. Worker Rights**
 - a. **Freedom of Association and the Right to Collective Bargaining**—regarding the comment that the authorities have the power to order unions to cease part or all of their operations if they break a law or violate their charter.
- **Competent authority: Council of Labor Affairs**

1. In accordance with Article 47 of the Labor Union Act, labor unions may be dissolved through a general meeting of members or member representatives if one of the following situations occur: 1) bankruptcy; 2) insufficient number of members; 3) merger or separation; or 4) when deemed necessary by a general meeting of members or member representatives.
2. Organizing and dissolving unions are issues decided by the labor unions themselves. However, based on practical considerations, a second paragraph was added to the aforementioned Article to resolve special situations, such as large numbers of members leaving the union causing it to no longer meet the minimum requirement of 30 members as stated in Article 11 of the Labor Union Act, or financial difficulties that halt operations of the union, making it impossible for the union to hold general meetings of members or member representatives and decide to dissolve through these meetings.

- No. 36
- **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. The law requires mediation of labor disputes when the authorities deem disputes to be sufficiently serious or to involve unfair practices. The law also prohibits labor and management from disturbing the “working order” while mediation or arbitration is in progress. On average the mediation process took 20 to 50 days and arbitration took 45 to 80 days.”
- **Competent authority: Council of Labor Affairs**

1. With regard to restrictions during disputes, according to Article 53 of the Act for Settlement of Labor-Management Disputes, even though strikes are prohibited, workers are allowed to engage in other forms of industrial action. If there are violations of Article 35 of the Labor Union Act and Paragraph 1 of Article 6 of the Collective Agreement Act, labor unions may still engage in industrial action, including strikes.
2. In accordance with the definitions in Article 5 of the newly amended Act for Settlement of Labor-Management Disputes, a rights dispute refers to conflicts between workers and management over their respective rights and obligations regarding laws and regulations, collective agreements or labor contracts. Adjustment rights concern conflicts between workers and management over proposals to

maintain or change working conditions. Article 6 stipulates that “Rights disputes may be settled by the procedures of mediation, arbitration or decision on unfair labor practices in accordance with the Act. The court, if necessary, shall set up a labor court for adjudicating rights disputes.” In addition, Article 7 states that “Adjustment disputes shall be settled by the procedures of mediation or arbitration in accordance with the Act. The party from the labor side to the labor-management dispute referred to in the preceding paragraph shall be a labor union. However, in the following situations, the claimants may be the party from the labor side: 1) Ten or more workers not joining in a labor union but having the same claim; or 2) Two-thirds or more employees hired by a business entity of less than ten employees not joining in a labor union but having the same claim.”

3. Based on the abovementioned section, courts are allowed to review rights disputes but not adjustment disputes. In addition, in adjustment disputes, labor groups or a certain number of workers are allowed to pursue their claims. This demonstrates that the government respects and upholds the collective bargaining and economic rights of workers.

- **No. 37**
- **Section 7. Worker Rights**
 - a. **Freedom of Association and the Right to Collective Bargaining**—regarding the comment that “Three legal strikes (Prince Motor, Hua Long Man-Made Fiber Co., and Veteran Electronic Co.) over unpaid wages occurred during the year to December 5. As of November two of these strikes were resolved, and one remained in arbitration. In addition, 19,204 labor disputes occurred in the first ten months of the year, down 5.3 percent from the same period in 2011. Of these, 13,352 cases were related to wage and severance disputes. Labor unions charged that during employee cutbacks, labor union leaders were sometimes laid off first or dismissed without reasonable cause.”
- **Competent authority: Council of Labor Affairs**

The three legal strikes that occurred between the implementation of the amended Act for Settlement of Labor-Management Disputes and December 5, 2012, concerned unpaid wages, dismissal fees or retirement funds. These three disputes have been settled through mediation instead of arbitration.

- **No. 38**
- **Section 7. Worker Rights**
 - a. **Freedom of Association and the Right to Collective Bargaining**
- **Competent authority: Ministry of Health and Welfare**

Article 54 of the Act for Settlement of Labor-Management Disputes regulates the handling of labor disputes. With regard to the protection of working rights of hospital nursing staff, hospitals shall act in accordance with related laws and regulations.

- **No. 39**
- **Section 7. Worker Rights**
 - c. Prohibition of Child Labor and Minimum Age for Employment**
- **Competent authority: Council of Labor Affairs**

1. In accordance with Paragraph 1 of Article 44 of the Labor Standards Act, people aged 15 who are hired to work are defined as child laborers. In order to ensure their rights, relevant stipulations are put forth in Paragraph 2 of Article 44, Article 46, Article 47 and Article 48. Employers are not allowed to hire people under the age of 15 based on Paragraph 1 of Article 45 of the Act, unless they have graduated from junior high school or competent authorities deem that their working conditions and environment are not harmful to their physical and mental health.
2. The Council of Labor Affairs has drafted amendments to Article 45, 77 and 79-1 of the Labor Standards Act, authorizing the central competent authorities to set standards, review procedures and other stipulations with regard to safe working conditions and environments for workers under the age of 15 who have graduated from junior high school. These will serve as important reference for local labor agencies to make decisions on whether these teens are allowed to work. The amendments have been sent to the Legislative Yuan for review. Regulations and procedures on how competent authorities will be authorized are also being formulated with related agencies.
3. In order to enhance the understanding of regulations on child labor in the Labor Standards Act among both employers and employees, the Council of Labor Affairs (CLA), along with county and city

governments, conducts meetings annually to promote the Act and oversees efforts of county and city governments, as well as labor inspection agencies, to check on the implementation of the Act, so as to ensure that its rules and regulations are enforced. If the CLA and local labor agencies receive complaints about organizations hiring children in violation of the Act, these organizations will be investigated and punished to protect the rights and interests of children.

- **No. 40**
- **Section 7. Worker Rights**
 - d. Acceptable Conditions of Work**
- **Competent authority: Ministry of Health and Welfare**

1. With regard to the rights and interests of medical interns and resident doctors, the Ministry of Health and Welfare (MHW) held a meeting on May 7, 2012, to discuss whether doctors and interns should be covered by the Labor Standards Act. The meeting defined interns as medical school graduates who have not passed the medical licensing exam, are undergoing training at a hospital, are practicing medicine under the supervision of licensed doctors, and are, therefore, neither students nor doctors. Therefore, according to current laws and regulations, interns are workers who are subject to the Labor Standards Act with regard to work hours, breaks, leave, compensation for accidents, and insurance. As such, interns should be covered by the Labor Standards Act.
2. Extending the Labor Standards Act to resident doctors involves a number of issues that cannot be promptly resolved, such as a longer

wait time for patients, calculation of doctors' work time, substitute manpower to meet shortages, duration of medical training, and related costs. The MHW prioritized these issues at meetings convened on January 30 and March 19, 2013. Preliminary conclusions were reached on capping resident doctors' weekly working time at 88 hours, as well as on three different schemes limiting the number of consecutive work hours. Administrative guidance would be provided and these factors would be incorporated in evaluations of teaching hospitals on a trial basis as part of a follow-up assessment of these measures. The National Health Research Institutes and other institutions have been commissioned to gather information that will help determine whether placing a cap on doctors' working hours would affect people's right to healthcare (longer wait time), quality of medical care (related costs), and patients' safety (substitute manpower).

- **No. 41**
- **Section 7. Worker Rights**
 - d. Acceptable Conditions of Work—labor protections for domestic workers**
- **Competent authority: Council of Labor Affairs**

1. Article 5 of the Labor Standards Act stipulates that “No employer shall, by force, coercion, detention, or other illegal means, compel a worker to perform work.” All employees of organizations governed by the Act are entitled to its minimum protections. In addition, management employees of organizations governed by the Act, caregivers, and security personnel are accorded due protection under

this law.

2. Domestic workers are employed by private citizens to take care of daily needs of family members and perform household chores. As it is difficult to distinguish work time from rest time, applying the Labor Standards Act to these workers presents many difficulties. Hence, the Act does not apply to these workers.
3. To protect domestic workers' rights, the Council of Labor Affairs (CLA) has drafted a domestic workers protection act, stipulating such important work conditions as daily rest time of at least eight consecutive hours; at least one day of regular leave per week; annual leave; wedding, bereavement, personal, and sick leave; minimum wage; principles of wage payment; termination of labor contract; insurance; and filing of complaints. The special nature of their work must also be considered, and a balance must be maintained between the rights of employers and workers, so that the work environment is practical and feasible. This requires comprehensive deliberation and consensus building. The CLA will actively and pragmatically promote the legislation of the domestic workers protection act.
4. In order to ensure that all workers are protected under the Labor Standards Act, the CLA will continue to review whether it is feasible to extend coverage to professions or workers currently not governed by the Act and expand its coverage accordingly.

- **No. 42**
- **Section 7. Worker Rights**
 - d. Acceptable Conditions of Work—regarding Article 84-1 of the Labor Standards Act**
- **Competent authority: Council of Labor Affairs**

1. In accordance with the Labor Standards Act, a worker shall not work more than eight hours a day and 84 hours every two weeks, shall have at least one regular day off every seven days, and shall be given the day off on all national holidays, Labor Day and other days prescribed by competent authorities in the central government. Should an organization wish to implement a five-day workweek while observing the work time requirements stipulated in the Labor Standards Act, it could arrange through a labor-management agreement to swap holidays with workdays. An employer who violates the above regulations may be fined NT\$20,000 to NT\$300,000, while the names of the organization and its managers may be made public.

2. Since 2011, the Council of Labor Affairs has reviewed and reached concrete conclusions on the categories of workers listed in Article 84-1 of the Labor Standards Act. Work time stipulations for five of the categories have been reviewed (security personnel in the security services sector, counselors and caregivers in social welfare institutions, childcare workers in nurseries, medical and healthcare services personnel, and housekeepers at general hotels), and some categories have been phased out from the Article 84-1 list. Workers in the medical and healthcare services are being removed from the list in two phases, with the first phase starting on March 30, 2012, and the second phase on January 1, 2014.

- **No. 43**
- **Section 7. Worker Rights**
 - d. Acceptable Conditions of Work—regarding the comment that the labor inspection rate is too low**
- **Competent authority: Council of Labor Affairs**

1. In 2013, the Council of Labor Affairs (CLA) authorized the governments of newly formed special municipalities to carry out labor inspections. According to statistics, there are 356 labor inspectors in Taiwan and their ratio to the labor force is 1:30,700 (not including science parks, export-processing zones, and other special economic zones). This ratio—a decrease from 1:34,000 in 2010—signals an improvement in the inspection workload.

2. Given the central government restructuring and related efforts to streamline its workforce, it is difficult to increase labor inspection manpower. Nevertheless, the Council of Labor Affairs (CLA) will continue to increase inspection efficiency, strengthen supervision and inspection of high-risk workplaces, encourage safety partnerships, promote cooperation between different government agencies on disaster reduction, provide guidance, and enhance collaboration and division of work with local competent authorities. This is aimed at raising occupational health and safety standards as well as protecting workers' rights and interests.

3. In order to expand the scope of disaster prevention inspections, the CLA stipulated in its annual inspection guidelines that inspection agencies shall perform 20 percent of their inspections at newly established entities or those that have not been inspected for five

years. This will be an important factor in the annual performance evaluation of inspection agencies.

- **No. 44**
- **Section 7. Worker Rights**
 - d. Acceptable Conditions of Work—regarding basic wages and deduction of labor insurance fees, health insurance premiums, income tax, and meal and lodging fees**
- **Competent authority: Council of Labor Affairs**

1. Minimum wage

The minimum wage has been adjusted to NT\$19,047 per month and NT\$109 per hour. It will be reviewed regularly by the Council of Labor Affairs (CLA).

2. Wages for foreign workers

2.1. To ensure that foreign workers receive their wages and prevent overcharging, an employer shall pay them their full wages after deducting a number of expenses—National Health Insurance premiums, Labor Insurance fees, income tax, meal and lodging fees, employee welfare fund, etc.—in accordance with Article 43 of the Regulations on the Permission and Administration of the Employment of Foreign Workers. An employer that fails to do so may be ordered by the competent authorities to comply by a specific deadline or face fines of NT\$60,000 to NT\$300,000 in accordance with the law.

2.2. To protect the rights and interests of foreign workers, the law explicitly stipulates that employers shall, within three days of the workers' arrival in Taiwan, notify the local government to visit the

workers. The CLA has provided funding to local governments to recruit inspectors to make regular and irregular visits to foreign workers after receiving notification from the employer. This is aimed at ensuring that employers follow the Disciplinary Plan on Employed Foreign Workers' Life, take appropriate care of workers' meals and lodging and other amenities, as well as fulfill the terms of the labor contract. Inspections also cover wage payments by employers and fees charged by worker agencies to prevent violations of the law.

2.3. In 2012, a total of 161,757 inspections were conducted on employers of foreign workers. Fines were issued in 17 cases in which employers did not pay full wages, with fines averaging NT\$60,000 per case. Wages totaling NT\$141.79 million were recovered in 4,567 cases in which salaries had not been fully paid. Wage disputes between employers and foreign workers, and violations of the Employment Service Act by employers, may be reported through the 1955 hotline or the airport service counters for foreign workers, and will be dealt with by the competent authorities in accordance with the law.

2.4. With regard to cases in which foreign workers do not receive their full wages, the CLA in 2012 published a handbook on laws governing employment of foreign workers. The 257,000 copies of the handbook were distributed among employers of foreign workers, local government agencies, nongovernmental organizations, and direct hiring service centers. The CLA's Bureau of Employment and Vocational Training commissioned the production and broadcast of

13 radio programs on foreign labor affairs and related laws in Mandarin, Vietnamese, Thai, Indonesian, and English. These efforts were aimed at encouraging employers to pay foreign workers their full wages.

- **No. 45**
- **Section 7. Worker Rights**
 - d. Acceptable Conditions of Work—regarding the comment that “complicated procedures and restrictions on use of both the Service Center and the online service prevented widespread implementation, and they advocated lifting restrictions on transfers between employers.”**
- **Competent authority: Council of Labor Affairs**

1. Promotion of direct hiring services:
 - 1.1. Given that recruitment of foreign workers involves relevant agencies both at home and abroad, application procedures have been reviewed and simplified in terms of required documentation. On November 1, 2010, the number of documents required for Thai applicants was reduced from 14 to five; for Philippine applicants, from 11 to seven; and for Vietnamese, from nine to six.
 - 1.2. To facilitate direct-hire applications, the Council of Labor Affairs (CLA) on March 31, 2011, set up a new webpage providing an illustrated flow chart to help the public better understand the application process. Briefings were held, 10,000 handbooks and 120,000 brochures for prospective employers were issued, and 300,000 brochures for foreign workers were published. To enhance understanding and encourage employers to take this route, the materials were distributed through related agencies and mailed to

employers of foreign workers whose contracts were about to expire.

2. Transfers between employers:

- 2.1. In accordance with Paragraph 4 of Article 53 of the Employment Services Act, a foreign worker may not transfer to a new employer or a new job, unless there are factors involved that cannot be attributed to the foreign worker, as mentioned in Paragraph 1 of Article 59 of the Act. On February 27, 2008, the Act was revised to allow foreign worker transfers with the consent of the three or two parties concerned. An online data system of foreign worker transfers has been established to facilitate the transfer process and ensure information transparency. The success rate of foreign worker transfers has reached 90 percent.
- 2.2. Article 58 of the Employment Services Act stipulates that should a foreign worker, when his employment permit is still valid, die or leave Taiwan due to reasons not attributable to his employer, said employer may apply to the central competent authorities for a replacement for the remaining period of the employment contract. The CLA is planning to allow foreign workers to directly terminate their employment contract by giving advance notice to their employer, and subsequently transfer to a new employer. Amendments to Article 58 are being studied to relax conditions for employers to replace domestic workers who have terminated their contracts and transferred to a new employer.