

# Implementation of the International Covenant on Civil and Political Rights

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Third Report Submitted under Article 40 of the Covenant

Republic of China (Taiwan) 



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## Table of Contents

Article 1 .....	1
Peoples' Right to Self-Determination .....	1
Indigenous Peoples' Right to Self-Determination .....	1
Article 2 .....	3
Subparagraph 1 of Article 2, Article 3, Article 26 .....	6
Anti-discrimination Provisions in the Constitution and Laws.....	6
Gender Distribution in the Public and Private Sectors .....	6
Discrimination Complaints .....	7
Measures to Eliminate Discrimination against Women in Traditional Customs .....	8
Gender Equality Rights in Marriage.....	9
Legislation Concerning Sexual Offenses.....	9
Gender Equality Promotion in the Media.....	11
De Jure or De Facto Status of Non-ROC Citizens .....	12
Article 4 .....	12
Article 5 .....	12
Article 6 .....	13
Protection of the Right to Life.....	13
Prevention against Excessive Force by the Military and Police.....	13
Death Penalty.....	14
Lee Hung-chi .....	17
Zheng Xing-ze.....	17
Jiang Guo-qing .....	18
Gradual Reduction of the Use of the Death Penalty .....	18
Additional Rights of People on Death Row to Request Amnesty or a Reduced Sentence.....	21
Protection of the Right to Life in Pregnancy .....	22
Article 7 .....	23
Torture.....	23
Prohibition of Corporal Punishment.....	27
Procedures for Processing and Investigating Deaths of Inmates in Correctional Institutions .....	28
Chen Yu-an Case .....	28
Guo Qi-shan Case.....	29
Does the Management of the Life of Inmates in Correctional Institutions Constitute Corporal Punishment or Torture? .....	30
Medical Treatment and Human Trials .....	30

Article 8 .....	32
Legislation on the Prevention of Human Trafficking .....	32
Investigations and Indictments Concerning Human Trafficking .....	32
Protection of Human Trafficking Victims .....	32
Ban on Forced Labor .....	34
Article 9 .....	35
Protection of Personal Freedom .....	35
Custody and Detention .....	37
Prevention of Solitary Confinement .....	38
Criminal Compensation .....	39
Previous Compensation for Wrongful Conviction of Sedition and Espionage during the Period of National Mobilization for Suppression of the Communist Rebellion .....	39
Article 10 .....	40
Treatment of Detained Subjects .....	40
Correctional Facilities .....	40
Supervision and Complaints .....	40
Imprisonment .....	43
Security .....	45
Work .....	46
Correctional education .....	47
Meals .....	48
Healthcare and Medicine .....	49
Parole .....	52
Correctional Personnel .....	54
Treatment of Death Row Inmates .....	55
Juvenile Law .....	56
Rehabilitation/Protection System and Progress .....	57
Long-term Care and Nursing Institutions for the Elderly .....	58
Psychiatric Institutions .....	59
Article 11 .....	59
Article 12 .....	59
Freedom of Domestic Relocation .....	59
Immigration Freedom .....	60
Disaster Evacuation and Shelter .....	62
Article 13 .....	62
Issuance of Visas .....	62
Deportation of Non-ROC Citizens .....	64

<b>Article 14 .....</b>	<b>66</b>
<b>Court Organization.....</b>	<b>66</b>
<b>Appointment of Judges.....</b>	<b>67</b>
<b>Assurance of Judges’ Position and Performance Evaluation.....</b>	<b>67</b>
<b>Bar Associations .....</b>	<b>69</b>
<b>Public Judicial Proceeding and Presumption of Innocence .....</b>	<b>69</b>
<b>Compulsory Defense .....</b>	<b>71</b>
<b>Protection of Judicial Rights of Indigenous People .....</b>	<b>73</b>
<b>Protection of Judicial Rights of Disadvantaged Groups.....</b>	<b>74</b>
<b>Interpretation Services in Judicial Proceedings.....</b>	<b>74</b>
<b>Right of File Review .....</b>	<b>75</b>
<b>Cross-examination Procedures .....</b>	<b>76</b>
<b>Appeal System .....</b>	<b>76</b>
<b>Retrial System.....</b>	<b>78</b>
<b>Compensation for Wrongful Convictions or Wrongful Detentions .....</b>	<b>78</b>
<b>Article 15 .....</b>	<b>79</b>
<b>Principle of Legality.....</b>	<b>79</b>
<b>Applicability of New and Old Laws.....</b>	<b>79</b>
<b>Article 16 .....</b>	<b>79</b>
<b>Attaining Legal Personality.....</b>	<b>79</b>
<b>Birth Registration System .....</b>	<b>80</b>
<b>Children Who Are Not ROC Citizens .....</b>	<b>80</b>
<b>Article 17 .....</b>	<b>81</b>
<b>Protection of Private Life .....</b>	<b>81</b>
<b>Search.....</b>	<b>81</b>
<b>Protection of Personal Information .....</b>	<b>82</b>
<b>Personal Information Database .....</b>	<b>83</b>
<b>Protection of Personal Reputation.....</b>	<b>84</b>
<b>Article 18 .....</b>	<b>84</b>
<b>Religious Freedom, Categories, and Protection .....</b>	<b>84</b>
<b>Article 19 .....</b>	<b>86</b>
<b>Ensuring the Right to Personal Opinion.....</b>	<b>86</b>
<b>Laws Restricting Freedom of Speech .....</b>	<b>87</b>
<b>Media License Control and Exchange of Information .....</b>	<b>88</b>
<b>News Interviews and Exchange of Information .....</b>	<b>88</b>
<b>Balance between Freedom of the Press and Police Authority .....</b>	<b>89</b>
<b>Prevention of Dissemination of False Information .....</b>	<b>89</b>
<b>Article 20 .....</b>	<b>90</b>

Prohibition against Advocacy of War and Hatred .....	90
Article 21 .....	90
Article 22 .....	91
Establishment of Civil Associations.....	91
Amendment of Laws Concerning Civil Associations .....	92
Unions.....	93
Civil Servant Associations .....	93
Article 23 .....	93
Definition of Family .....	93
Legal Requirements and Implications of Marriage.....	93
Rights and Obligations of Spouses .....	94
Rights of Same-sex Marriages.....	96
Divorce System .....	97
Exercise of Parental Rights after Divorce .....	97
Family Court .....	98
Naturalization of Foreign Spouses.....	98
Residency of Mainland Chinese Spouses .....	99
Right to Family Reunion .....	99
Article 24 .....	102
Protection of Children .....	102
Special Judicial Protections for Children .....	103
Protections for Children Lacking Normal Family Life .....	104
Protection of Stateless Children.....	104
Prevention of Child Trafficking.....	105
Protection of Child Labor .....	106
Article 25 .....	108
Right of Participation in Political Affairs .....	108
Regular Elections .....	109
Other Restrictions on Suffrage Rights .....	110
Voting Rights for Persons with a Physical or Mental Disability .....	110
Election Annulment.....	111
Rights to Civil Servant Exams .....	111
Right to Civil Service of Disabled Persons.....	112
Discipline, Penalties, and Remedies of Public Functionaries.....	113
Assurance of Women’s Suffrage Rights.....	114
Assurance of Suffrage Rights of Indigenous Peoples.....	116
Article 27 .....	117
Respect and Preservation of Minorities .....	117

## List of Tables

<b>Table 1</b>	<b>Death Penalty Verdicts Reached by Courts of the Second Instance and Overturned by the Supreme Court .....</b>	<b>19</b>
<b>Table 2</b>	<b>Death Sentences and Executions.....</b>	<b>21</b>
<b>Table 3</b>	<b>Circuit Supervision by the Control Yuan on Central Authorities Regarding the Deprivation of Personal Freedom .....</b>	<b>24</b>
<b>Table 4</b>	<b>List of Control Yuan Investigations, Corrections, and Impeachment Involving Freedom from Torture Cases .....</b>	<b>25</b>
<b>Table 5</b>	<b>Sheltered Victims or Suspected Victims of Human Trafficking by Nationality and Gender .....</b>	<b>33</b>
<b>Table 6</b>	<b>Requests Filed by Prosecutors with District Courts for Pre-Trial Detention of Offenders Being Investigated and Their Outcomes .....</b>	<b>37</b>
<b>Table 7</b>	<b>Requests Filed by Prosecutors with High Courts and their Branches for Pre-Trial Detention of Offenders Being Investigated and Outcomes.....</b>	<b>38</b>
<b>Table 8</b>	<b>Prosecutors' Supervision over Restriction of Personal Freedom by Judicial Police Officers .....</b>	<b>39</b>
<b>Table 9</b>	<b>Complaints and Assistance Requests Raised by Inmates .....</b>	<b>42</b>
<b>Table 10</b>	<b>Use of Medical Service by Inmates .....</b>	<b>50</b>
<b>Table 11</b>	<b>Follow-Up Status of Medical Paroles for Inmates in Correctional Institutions .....</b>	<b>52</b>
<b>Table 12</b>	<b>Cases of Prohibited Exits Involving Citizens.....</b>	<b>61</b>
<b>Table 13</b>	<b>Cases of Prohibited Entry Involving Foreigners.....</b>	<b>61</b>
<b>Table 14</b>	<b>Number of Visas Issued, Rejected, and Canceled .....</b>	<b>63</b>
<b>Table 15</b>	<b>Cases with Right of Appeal Denied during Criminal Proceedings.....</b>	<b>76</b>
<b>Table 16</b>	<b>Percentage of Cases Granted Appeal at a Superior Court.....</b>	<b>77</b>
<b>Table 17</b>	<b>Subduing Rate for Criminal Cases in High Courts and District Courts .....</b>	<b>77</b>
<b>Table 18</b>	<b>Restrictions on Freedom of Speech by the Civil Servants Election and Recall Act and Presidential and Vice Presidential Election and Recall Act and Their Grounds.....</b>	<b>87</b>
<b>Table 19</b>	<b>Radio/TV Businesses and Channels .....</b>	<b>88</b>
<b>Table 20</b>	<b>Exercise of Rights and Obligations with Respect to Underage Children by Divorced Parents .....</b>	<b>98</b>
<b>Table 21</b>	<b>Placement at Children's and Juveniles' Facilities and Foster Homes.....</b>	<b>104</b>
<b>Table 22</b>	<b>Number and Ratio of Disabled Civil Servants by Gender and Rank.....</b>	<b>112</b>
<b>Table 23</b>	<b>Ratio of Female Candidates in Legislative Yuan Elections .....</b>	<b>115</b>
<b>Table 24</b>	<b>Percentage of Female Candidates in Local Elections .....</b>	<b>115</b>
<b>Table 25</b>	<b>Number of Indigenous Employees Hired by the Public Sector.....</b>	<b>117</b>



## **Article 1**

### **Peoples' Right to Self-Determination**

1. Taiwan is an independent democratic republic and its sovereignty belongs to its citizens. There are 11 types of public official including president and vice president, legislator, municipal mayor, municipal councilor, chief of indigenous district within municipalities, councilor of indigenous district within municipalities, county magistrate (city mayor), county (city) councilor, township chief, township councilor, and chief of village (borough) and they are all elected directly by the people. Taiwan implemented the Referendum Act and uses referendums to determine political conditions. Signature collection for ten referendums was completed in 2018; seven referendums were approved by vote, an expression of the people's right to self-determination.

### **Indigenous Peoples' Right to Self-Determination**

2. Taiwan established the Council of Indigenous Peoples with responsibility over indigenous affairs. Taiwan also enacted relevant regulations such as the Education Act for Indigenous Peoples, the Indigenous Peoples Basic Law, Protection Act for the Traditional Intellectual Creations of Indigenous Peoples, Regulations Governing the Collective Management of Resources in Areas of Indigenous Peoples, and Regulations on Counseling for Indigenous People's Consent. Step by step, the CIP also supports and facilitates the development of indigenous people's social status, political participation, education, culture, transportation, water resources, health, medical services, economy, land, and social welfare. To establish a basis for self-governance by indigenous peoples, Taiwan established the Indigenous Historical Justice and Transitional Justice Committee under the Office of the President in 2016. The Committee affirmed the following in the first meeting: "Indigenous self-governance shall include specific room and scope, self-governance rights and privileges, and fixed sources of income. The organizational structure of the self-governed government must be the result of equal and sufficient negotiations between indigenous peoples and the government and should build the foundation and capacity for indigenous self-governance through indigenous community juridical persons."



3. The Indigenous Peoples Basic Law stipulates that the government recognizes indigenous peoples' rights to land and natural resources. Indigenous persons may undertake activities not for profit such as hunting wild animals; collecting wild plants and fungi; collecting minerals, rocks, and soils; and utilizing water resources for traditional culture, ritual, or personal purposes. However, they remain subject to the Water Act, Mining Act, Sand and Gravel Excavation Act, and Controlling Guns, Ammunition and Knives Act. To show respect for the culture of indigenous peoples, regulations in the Controlling Guns, Ammunition and Knives Act have been relaxed and interpretations of related regulations in the Wildlife Conservation Act, Fisheries Act, and Forestry Act have been issued. The government also established the Regulations of Harvesting Forest Products Customary of Indigenous Peoples and set up the Indigenous Peoples Land Survey and Processing Committee to improve the legal environment and mechanisms for indigenous peoples' use of natural resources.
4. When the government or a private enterprise engages in land development on indigenous land, they are required to consult with local indigenous peoples and obtain their approval or participation before proceeding with development based on the intent of the indigenous people. The government may not act against the will of indigenous peoples and store hazardous substances on indigenous lands. If a candidate site for the final disposal facility of low-level radioactive waste selected by the government is on indigenous land, the proposal may only be adopted following a referendum among indigenous people concerned with the land of the candidate site with more than 50 approval to protect the rights and interests of indigenous peoples. From the promulgation of the Regulations on Counseling for Indigenous People's Consent to 2019, a total of 67 approval cases were reported by township offices. Of these case, nine cases failed to reach a quorum, three cases were vetoed, and 55 cases were approved.
5. To achieve the government's goal for transitional justice for indigenous land, provisions regarding the five-year waiting period for indigenous peoples to obtain ownership of state-owned indigenous reserves free of charge in the Utilization and Transfer of Reserved Mountainous Land were removed in 2019. In addition, the restoration, acquisition, planning,

management, and other matters concerning indigenous people's reserve land and traditional territory are handled in separate regulations. The Regulations on Delimiting Indigenous Land or Tribal Range Land were approved in 2017. These regulations define the traditional territory of indigenous peoples as public lands assigned in accordance with regulatory procedures to indigenous people to facilitate the holding of traditional rituals concerning ancestral worship, etc., hunting grounds or cultivated lands around communities, or other public land for which the boundaries may be determined in accordance with the characteristics of the culture and traditional habits of indigenous peoples. A total of 85 applications were filed in 2019; applications for traditional territories and land designation now cover 330 indigenous communities. The government has completed the indigenous peoples land announcements for indigenous communities of the Atayal people in Wulai District of New Taipei City.

6. According to the Additional Articles of the Constitution, the state shall safeguard indigenous peoples' status and political participation. The government added provisions to the Indigenous Peoples Basic Law, which grant indigenous communities the status of public legal persons following a decision by the central competent indigenous authorities, laying the foundation for self-government. However, among indigenous peoples there are different opinions on the establishment of the public legal person system for indigenous communities. The system will be established along with the indigenous self-governance system to facilitate the establishment of the public legal person system for indigenous communities.

## **Article 2**

7. Laws giving authority to agencies under the Executive Yuan that have been submitted to the Legislative Yuan for review are to be evaluated for their impact on human rights, except for abolished laws, organic laws to be processed in order to reflect an organizational reform timetable, and laws that only involve changes to wording without substantial regulatory changes. The Executive Yuan amended the Regulatory and Gender Impact Assessment Checklist to establish a specialist assessment mechanism concerning the impact of laws on human rights. Government agencies are to review whether laws are in compliance with the

Constitution, interpretations of the Judicial Yuan, the two covenants, and general comments of the United Nations Human Rights Committee and the Committee on Economic, Social and Cultural Rights.

8. See Note 108 in the Common Core Document of the third national reports on the two covenants for review procedures to determine whether a law created by a legislature affects human rights regulations.
9. The main authorities responsible for the protection of rights in the two covenants include the Human Rights Consultative Committee under the Office of the President, Grand Justices, courts, Control Yuan, and Ministry of Justice. The Human Rights Consultative Committee under the Office of the President is responsible for providing recommendations and initiatives regarding the human rights policies of the State and for transferring complaints to related authorities to be processed. The Control Yuan receives petitions from people and conducts its own investigations. Through its use of corrections, censures, and impeachments of governments and public servants, the Control Yuan indirectly achieves the effects of protecting human rights. The Ministry of Justice is responsible for assisting government agencies' review and implementation of rectification of laws, regulations, and administrative measures that do not conform to the two covenants. To fulfill requirements in the Constitution and covenants on the protection of the right to personal liberty as well as Judicial Yuan Interpretations No. 708 and No. 710 regarding the right of individuals to petition the court to quickly review temporary detention decisions and provide detainees with judicial relief, the Administrative Litigation Act was revised in accordance with the Immigration Act, Act Governing Relations between the People of the Taiwan Area and the Mainland Area, and Laws and Regulations Regarding Hong Kong & Macao Affairs. The types, court with jurisdiction, and review procedures for petitions concerning detention affairs are specified to allow the administrative court to play a greater role in the protection of the right to personal liberty.
10. Pursuant to the Act to Implement the ICCPR and ICESCR, the government has taken a series of measures to revise laws, regulations, and administrative measures that do not conform to

the ICCPR and ICESCR. The Human Rights Promotion Task Force was established under the Executive Yuan to oversee the review effort. The review found 263 cases that did not conform to the ICCPR/ICESCR, of which 241, or 92%, had been rectified by 2019. Meanwhile, 22, or 8%<sup>1</sup>, remained unchanged, of which 18 were related to laws (15 amendments involving the Assembly and Parade Act, Industrial Group Act, and Code of Criminal Procedure have been delivered to the Legislative Yuan for deliberation; the remaining three amendments, relating to amendments of the Labor Insurance Act, Act for Settlement of Labor-Management Disputes, and Labor Union Act, are currently being formulated by the Ministry of Labor), three were related to regulations (amendments required based on the parent legislation), and one to an administrative measure. These ongoing rectifications are being monitored. For changes that have not yet been completed, the competent authority has proposed specific response measures and continued to implement amendment procedures.

11. According to regulations in the Administrative Procedure Act, every citizen is entitled to present to competent authorities petitions with respect to proposals on administrative innovations and reforms, inquiries into administrative laws and regulations, reports on acts in breach of law or neglect of administrative duties or the protection of the [people's] rights and interests with regard to administration. Where a petition presented by the people is deemed well-founded by the authority entertaining the petition, it shall take appropriate actions; if the petition is deemed groundless, it shall give the petitioner notification thereof and explain in essence its point of view. And if an authority has received a petition which ought to have been presented to another authority, it shall notify the petitioner accordingly; provided that, the authority in receipt of the petition shall forthwith refer it to another authority if it deems appropriate to do so and notify the petitioner thereof, in order to protect the people's rights and interests. See Notes 96, 121, 123, and 130 of the Common Core Document of the third national reports on the two covenants for information on remedial measures for infringements of rights protected by the covenant.

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<sup>1</sup> When calculating the percentage, the number is rounded. Therefore, the total may be slightly different from the numbers taken separately; the same applies below.

12. See Notes 134 to 142 in the Common Core Document of the third national reports on the two covenants, Notes 10, 11, and 13 to 16 of the Response to the Concluding Observations and Recommendations by international experts on the second national reports on the two covenants, and Notes 54 and 96 of the report for information regarding human rights training courses implemented for judges, attorneys, law enforcement personnel, and public officials.

### **Subparagraph 1 of Article 2, Article 3, Article 26**

#### **Anti-discrimination Provisions in the Constitution and Laws**

13. The Constitution states that all citizens of the Republic of China, irrespective of sex, religion, race, class, or party affiliation, shall be equal before the law. The Additional Articles also stipulate that it is the state's responsibility to safeguard the dignity and safety of women, and to eliminate gender discrimination in order to achieve substantive equality between the two genders. Other regulations concerning discrimination based on race, color, gender, language, religion, political opinion, or other claims regarding national origin, social class, property, or birth include the Educational Fundamental Act, the Indigenous Peoples Basic Law, Immigration Act, Gender Equity Education Act, Act of Gender Equality in Employment, Labor Standards Act, Employment Service Act, Senior Citizens Welfare Act, People with Disabilities Rights Protection Act, Mental Health Act, Communicable Disease Control Act, HIV Infection Control and Patient Rights Protection Act, and Armed Forces Punishment Act.
14. Refer to Note 42 of the Response to the Concluding Observations and Recommendations by international experts on the second national reports on the two covenants for information on the formulation of the comprehensive range of anti-discrimination laws.

#### **Gender Distribution in the Public and Private Sectors**

15. The Civil Service Promotion and Transfer Act does not adopt different promotion measures for different genders in the promotion of civil servants to senior executives. In addition, the heads of organizations may appoint personnel without undergoing a selection procedure to help them select personnel with concurrent ideals to serve as the head, deputy head, or mid-level or senior-level executive of subsidiary authorities. However, whether the gender

distribution of appointed personnel is considered is entirely determined by the head in accordance with the organization's duties. As of November 2019, 53,547 managerial staff were employed by agencies under the Executive Yuan and local authorities, of whom 21,373 (39.91%) are female. Between 2015 and 2019, the percentage of female managerial staff in the public sector has increased in all categories. From 2015 to 2019, the proportion of female political heads and deputies of level two agencies under the Executive Yuan was 9.76% in 2015, 16.09% in 2016, 17.44% in 2017, 17.72% in 2018, and 15.48% in 2019. From 2015 to November 2019, the percentage of female civil servants in Taiwan increased from 41.69% to 42.08%. Women account for a higher proportion than men among civil servants in administrative agencies excluding police officers, and the proportion increased from 52.33% to 53.05%; the percentage of female political appointees increased from 19.56% to 22.90%; the percentage of female senior administrative staff increased from 31.27% to 34.69%; the percentage of women among indigenous civil servants increased from 32.81% to 36.55 %; and the percentage of women among civil servants with disabilities increased from 34.79 % to 36.74%. The percentage of women thus increased across all categories.

16. The percentage of the total number of registered companies and the number of companies led by women was 29.72% in 2015, 29.92% in 2016, 30.17% in 2017, 30.39% in 2018, and 30.77% in 2019. The ratio of female directors in public companies (including companies listed on TWSE and TPEX) was 12.57 % in 2015, 13.07% in 2016, 13.46% in 2017, 13.74% in 2018, and 13.72% in 2019. The ratio of female supervisors was 23.20%, 24.31%, 24.47%, 25.18%, and 25.55%.

### **Discrimination Complaints**

17. According to statistics prepared by the competent authorities for labor in each county and city government, gender discrimination still accounted for the largest share of employment discrimination cases. Age and disability discrimination were the next most common forms. According to the Act of Gender Equality in Employment, where an employee or job seeker discovers an employer to be in violation of related regulations, he/she may lodge a complaint with the local competent authority for labor at the location of the workplace and submit the

case to the gender equality in employment committee for review. Once a complaint has been subjected to review, the employer will be responsible for proving that discrimination concerning such aspects as gender and sexual orientation does not exist in the workplace. If the committee deems the employer to be guilty of gender discrimination, the case will be referred to the local labor authority for redress. Gender discrimination complaints filed by employees in accordance with the Act of Gender Equality in Employment, the number of cases processed by the local labor authority, the number of reviews, the number of confirmed cases, and penalties levied are as follows: 187, 79, and 34 cases, and NTD 9 million in 2015; 218, 119, and 37 cases, and NTD 8.93 million in 2016; 214, 141, and 48 cases, and NTD 9.44 million in 2017; 201, 97, and 38 cases, and NTD 9.57 million in 2018; 151, 86, and 27 cases, and NTD 5.42 million from January to November 2019.

18. The Sexual Harassment Prevention Act stipulates that a person who sexually harasses another person shall be fined by the competent authorities of municipal or county (city) governments. From 2015 to September 2019, a total of 3,263 complaints and 544 follow-up complaints were processed by local governments. Fines were issued in 1,157 cases. In addition, victims of sexual harassment may claim for reasonable monetary compensation for pecuniary and other damages. If the person's reputation was damaged, the victim may seek proper measures for the rehabilitation of his/her reputation.

### **Measures to Eliminate Discrimination against Women in Traditional Customs**

19. Ancestor worship guilds are independent properties established for the purpose of worshipping ancestors. They were mostly established before the founding of the Republic. Since the enactment of the Act for Ancestor Worship Guild, the inheritors of the guild are to take on responsibility as a joint worshiper when they inherit the business. The rights to succeed are not differentiated based on gender. In accordance with Judicial Yuan Interpretation No. 728, the Ministry of the Interior is formulating an amendment to require all individuals inheriting the right to be deemed as the successor regardless of gender. This means that in the event of a succession, the direct blood offspring of the previous successor shall be deemed as successor regardless of gender or surname so as to protect the identity and property interests

of successors. In addition, since the enactment of the Act for Ancestor Worship Guild, 971 ancestor worship corporations had completed registration with municipality and county (city) governments as of 2019. The total number of successors is currently 186,537, with men accounting for 170,502 and women accounting for 16,035. Women thus account for 8.6% and the male and female ratio is approximately 11:1.

20. Old customs and social norms that contradict gender equality have been removed from the government's nine-year elementary/junior high school curriculum. Meanwhile, the Ministry of Education has also compiled a new dictionary for the Holo dialect that explains and suggests new options for phrases considered discriminatory against a particular gender, thereby conveying gender equality without compromising the dictionary's purpose as a language tool.

### **Gender Equality Rights in Marriage**

21. The Civil Code no longer distinguishes between marriage and matrilocal residence for the matrimonial prefix of surname. Not prefixing the spouse's surname to one's original name is the norm and prefixing is the exception. Anyone can restore their original name during the duration of the marriage. The matrimonial domicile shall be agreed upon by both the husband and the wife. Without an agreement or upon impossibility to reach an agreement, a court ruling may be filed for. In addition, women and men have equal inheritance rights. See Notes 223, 224, 226 to 229, 231, and 232 of this report for information on the age of marriage, marriage property system, children's surnames, and the exercise of parental rights.

### **Legislation Concerning Sexual Offenses**

22. The Criminal Code contains a chapter on sexual offenses. A person who by threats, violence, intimidation, inducing hypnosis, or other means against the will of a male or female and who has sexual intercourse with such person shall be liable for forced sexual intercourse or harassment. In the event of an offense committed by two or more persons, the offenders shall bear liability for severe sexual offense or harassment. Where the offense results in death or aggravated injury, or where the offender deliberately murders the victim or causes aggravated injury, the aggravated and combined offenses shall be reflected in the penalty. Regulations for increased penalties are provided for sexual intercourse with or harassment of boys and



girls under 14 and those over the age of 14 but younger than 16. Forced sexual intercourse with or harassment of a spouse is indictable only upon complaint.

23. The Criminal Code of the Republic of China is based on German law. The German Criminal Code specifies sexual offenses separately based on the relationship between the victim and the offender. They include Section 174 (sexual abuse of persons in one's charge under 18 years of age), Section 174a (sexual abuse of prisoners, persons detained by official order, or sick or vulnerable institutionalized persons), Section 174b (sexual abuse exploiting official position), and Section 174c (sexual abuse exploiting counseling, treatment or support relationship). Taiwan includes all the aforementioned under Article 228 of the Criminal Code. Due to the relationship between offenders and victims specified in Article 228 of the Criminal Code, offenders may have a superior position over subordinates or vulnerable individuals which lead to the rights opportunities for supervision, support, or care of victims. Such relations may cause victims to hesitate when they determine the level of autonomy and they may be coerced by the special relationship into cooperating with the offender's demands. As such, whether the sexual intercourse or harassment committed by the offender against the victim should be considered forced sexual intercourse or harassment, or an exploitation of power or opportunity for sexual intercourse or harassment, is to be determined by whether the victim is able to determine the disadvantages. Where the method employed by the offender is sufficient to overpower the victim's rights to self-determination, the offender shall be punished in accordance with Article 221 or Article 224 of the Criminal Code. Where the offender uses the aforementioned special power relationship and the victim is forced to give in after considering the disadvantages such as losing certain interests or suffering certain damage, the offense shall be determined in accordance with Article 228 of the Criminal Code. As such, in cases where the victim is an individual under 16 years of age, even if the victim and the perpetrator are relatives or in a guardianship relationship, or have a care, educational, training, assistance, medical, official, business, or other relationship, if the victim's consent is based on giving in to a power relationship, according to the theory of absorption, the offenses specified in Article 227 of the Criminal Code shall be determined separately based

on the conditions of the offense. The number of people prosecuted in accordance with Article 227 of the Criminal Code was 840 in 2015, 751 in 2016, 689 in 2017, 546 in 2018, and 599 in 2019. Of these, 3,477 individuals were found guilty. The number of people prosecuted in accordance with Article 228 of the Criminal Code was 26 in 2015, 25 in 2016, 26 in 2017, 19 in 2018, and 30 in 2019. A total of 101 individuals were found guilty.

24. The Ministry of Health and Welfare organized multiple meetings for discussing the amendment of the Sexual Assault Crime Prevention Act. The amendment added definitions of the victim, restraining orders for victims of sexual assault, responsibilities of the media, and physical and mental treatment and registration mechanisms of perpetrators. The full amendment draft included six chapters, namely, General Provisions, Prevention and Responsibilities, Protection and Services, Treatment and Supervision, Penalties, and Supplementary Provisions. A total of 49 articles were amended and they have been submitted to the Executive Yuan for review.

#### **Gender Equality Promotion in the Media**

25. The National Communications Commission established the Guidelines on the Production of Gender-related TV and Radio Contents for radio and TV content that involve gender issues. The Satellite Television Broadcasting Association R.O.C has established a set of self-regulation guidelines that explicitly prohibit discrimination in news reporting on race, ethnicity, nationality, skin color, social status, religion, sexual orientation, disability, or disadvantage, whether in text, audio, or video. The association has a self-regulation committee which consists of 11 members including news department directors from satellite TV channels. The purpose of this committee is to gather opinions from the public about the content of news channels and explore areas of improvement. The committee has established an advisory panel, composed of 15 to 25 members chosen proportionally from among scholars, experts, civil society representatives, and consumer advocates, that convenes meetings regularly. Their main responsibilities are to provide views on satellite news channels, provide administration guidance for content that involves discrimination, and forward information to the National Communications Commission when necessary.

### **De Jure or De Facto Status of Non-ROC Citizens**

26. Refer to Note 70, Notes 137 to 139, Note 141, Note 142, Note 154, Notes 179 to Note 181, Notes 238 to 243, and Note 259 of this report.
27. Care and service measures have been established for new immigrants in response to issues faced by foreign spouses and in international marriages, help foreign spouses adapt to life in Taiwan as quickly as possible, and stabilize families created through international marriages. Specific measures have been established addressing eight main issues including life adaptation counseling, medical and childbirth healthcare, protection of employment rights, promotion of education and culture, assistance for raising children, personal safety, improvement of the legal system, and promoting public policies. These measures are carried out by central government agencies and local governments. The New Immigrant Development Fund was established to integrate government and private resources concerning assistants to immigrants by marriage. Approximately NTD 300 million is allocated each year for the Fund to promote marriage counseling and care for immigrants and related services. See Note 173 of the third national report on the ICESCR for information on the implementation status.

### **Article 4**

28. Since the incorporation of the Covenant into domestic legislation in 2009, Taiwan has never announced or rescinded its obligations for protecting the rights specified in the Covenant in accordance with the regulations of this Article.

### **Article 5**

29. Since the incorporation of the Covenant into domestic legislation in 2009, Taiwan has never interpreted the clauses of the Covenant as intimating the state's right to infringe upon any right or freedom confirmed in the Covenant or limiting or eliminating any of its obligations to protect basic human rights based on the pretext that the Covenant does not recognize such rights or that it recognizes them to a lesser extent.

## **Article 6**

### **Protection of the Right to Life**

- 30.** People's right to life should be respected and protected. The country prohibits termination of pregnancy except for circumstances described in the Genetic Health Act, and requires brain deaths to be pronounced in strict compliance with the Human Organ Transplant Act. Prosecutors are required to conduct investigations on people found or suspected to have died from non-natural causes. Where criminal activity is suspected, prosecutors must further investigate. If a case involves intentional deprivation of life, the prosecutor is to work with law enforcement agencies to examine the victim's remains and investigate the crime in accordance with the Criminal Code and the Code of Criminal Procedure.
- 31.** Compensation is available under the Civil Code, Crime Victim Protection Act, and State Compensation Law in the event of deprivation of the right to life. According to the Criminal Compensation Act, the per-day compensation and minimum compensation for a wrongfully implemented execution has been raised and the NTD 30 million ceiling abolished. Further compensation for wrongful detention is calculated at the rate of no less than NT\$3,000 and no more than NT\$5,000 per day.

### **Prevention against Excessive Force by the Military and Police**

- 32.** The Act Governing the Use of Police Weapons has been implemented to govern the use of force and firearms by the police. The act requires police weapons to be used only if absolutely necessary and to the extent that is considered reasonable. When police officers use their weapon, they should avoid inflicting fatal wounds. Police officers are required to make thorough reports to their supervisor every time a police weapon is used. If a police officer makes excessive use of a police weapon and harms a person's life, health, or property, and if the state is liable to provide compensation, the police officer will be subject to disciplinary action and be held responsible for criminal and civil liabilities. In addition, victims will also be entitled to a claim against the state for damages suffered according to the Constitution and the State Compensation Law. Between 2015 and 2019, four indictments were made against a police agency for death caused by the use of a police

weapon. A guilty verdict was rendered in one case and an acquittal was rendered in one case. The other two cases are still in court.

### **Death Penalty**

- 33.** The Judicial Yuan has developed the Sentencing Information System that provides sentencing analyses of homicide cases. In addition, inviting representatives such as judges, prosecutors, defense attorneys, scholars, and civil associations to discuss sentencing for homicides and other serious crimes and creating a sentencing table. As of 2019, there were 39 death row inmates whose sentences had yet to be carried out. Of these, six were aged between 25 and 40, 21 were aged between 40 and 55, 11 were aged between 55 and 65, and one was aged over 65. Meanwhile, 38 of the death row inmates were male, while one was female. In addition, 29 of the death row inmates were sentenced for homicide, one was sentenced for murder of a direct relative, five were sentenced for robbery homicide, and four were sentenced for kidnapping with homicide. The number of death row inmates executed between 2015 and 2019 was eight, breaking down into six in 2015, one in 2016, zero in 2017, one in 2018, and zero in 2019.
- 34.** Since 2012, the Supreme Court has required oral arguments to be thoroughly completed in cases involving the death penalty. Meanwhile, the government has executed death sentences using the most stringent standards possible. It revised and promulgated the Guidelines for Reviewing Execution of Death Penalty Cases on September 1, 2016. It referenced international initiatives such as the opinions of the Innocence Project of the Civil Liberty Union on the retention and abolishment of the death penalty and measures for death row remedies taken by the United States Department of Justice to require the Supreme Prosecutors Office to carefully review final verdicts for death sentences for the following items before submitting the request for execution to the Ministry of Justice: (1) Eyewitness misidentification; (2) Unreliable and incomplete assessment; (3) Lack of consistent standards in forensic science; (4) Inappropriate behavior of the prosecutor or police during investigations; (5) Inadequate or incompetent defense; (6) Unreliable secret witnesses. The death penalties of Li Hung-chi, Huang Lin-kai, and Weng Jen-hsien were reviewed in

accordance with the amended Guidelines. In addition, the Operating Guidelines for the Review of Controversial Death Sentences by the Supreme Prosecutors Office were promulgated on December 12, 2016, whereby diverse professional opinions would be gathered from across society on controversial death penalty judgments to resolve the people's concerns about controversial cases. The Guidelines allows reputable legal associations or organizations from the private sector to request the Supreme Prosecutors Office to review controversial death sentences. In July 2018, the Supreme Prosecutors Office reviewed the death sentence of Hsieh Chih-hung and the prosecutor petitioned for a retrial on behalf of the verdict recipient. The court ruled to reopen the case for retrial and terminated the execution of penalties on March 14, 2019. Hsieh Chih-hung was released and the case is now at trial. Therefore, the Supreme Prosecutors Office has established related review mechanisms for death penalty verdicts and they are sufficient for protecting the human rights of the convicted.

- 35.** As the execution of a death penalty invariably results in the irrecoverable loss of a life, the Ministry of Justice exercises all due care in the execution of death penalties and implements stringent review procedures for death penalties. It only resorts to the execution of death penalties after all legal measures are exhausted. After the Ministry of Justice receives all documents and information for a death penalty judgment from the Supreme Prosecutors Office, it assigns a Counselor to review all documents related to the case and confirm whether the Supreme Prosecutors Office has investigated petitions of the recipient of the death penalty verdict for a retrial, an extraordinary appeal, or interpretation of the Constitution (including ongoing cases), and the individual's mental state. The Ministry of Justice shall then form a death penalty execution review task force to discuss and review whether there are any conditions that render the death penalty unfit or unsuitable for execution, and inquire with the Judicial Yuan, Taiwan High Court, Supreme Prosecutors Office, and correctional institutions on whether the inmate on death row has petitioned for an interpretation by the Grand Justices, retrial, or extraordinary appeal, or has claimed to have no mental capacity or mental or intellectual disabilities. The task force shall also confirm with the Office of the President on whether the inmate is to be awarded a pardon before approving the execution.

The procedures for protecting the human rights of the inmate on death row are stringent and comprehensive.

- 36.** To prevent wrongful convictions, the Ministry of Justice has established the Operating Guidelines for the Review of Guilty Verdicts by Prosecutorial Authorities to review guilty verdicts for which a petition for retrial or extraordinary appeal has been filed with and rejected by the court. The Taiwan High Prosecutors Office established the Guilty Verdict Review Panel (hereinafter referred to as the Review Panel) in which the Chief Prosecutor serves as the convener. The chief prosecutors or assigned head prosecutors, prosecutors, forensic pathologists, forensic scientists, criminologists, attorneys, and retired judges are invited to join the Review Panel based on the actual conditions of individual cases. The Taiwan Bar Association, regional bar associations, or other associations or organizations established for the purpose of protecting the rule of law and human rights may petition to Taiwan High Prosecutors Office for a review to verify whether there are reasons for a retrial or extraordinary appeals permissible under the Code of Criminal Procedure. Therefore, related associations and organizations may submit a statement of their opinions to the Taiwan High Prosecutors Office for individual death penalty cases they find questionable for the aforementioned Review Panel to commence review mechanisms.
- 37.** Since 2013, all death row convicts have been covered under the National Health Insurance Scheme, which provides them with the same medical care as the general public. Inmates on death row are listed as recipients of high levels of care by correctional institutions. They use professional evaluations, behavioral observations, and interviews to screen and provide early warning on the mental health status of inmates. They employ a three-tier prevention model and provide medical and counseling treatment of varying frequency and intensity based on the needs of the inmate. The High-Level Care Inmate Treatment Plan was promulgated in 2019 to include inmates sentenced to the death penalty. The Plan promotes suicide prevention operations and uses evaluations, behavioral observations, interviews, and the three-tier prevention model to establish effective and comprehensive counseling and care mechanisms.

### **Lee Hung-chi**

38. Lee Hung-chi's murder of his ex-wife and six-year-old daughter occurred in 2014. There was no official psychological evaluation report indicating an anomaly in Lee Hung-chi's mental state during trial proceedings and all verdicts rendered by the court in all instances have recognized all evidence. There was no factual basis for reducing the sentence for Lee Hung-chi and the death penalty sentence was finalized in 2016. After the Ministry of Justice received all documents and information for a death penalty judgment, it assigned a Counselor to review all related documents and confirm whether the Supreme Prosecutors Office had investigated petitions by the recipient of the death penalty verdict for a retrial, an extraordinary appeal, or an interpretation of the Constitution (including ongoing cases), as well as the individual's mental state. The Ministry of Justice then formed a death penalty execution review task force to convene meetings and discuss and review whether there were any conditions that render the death penalty unfit or unsuitable for execution, and inquired with the Judicial Yuan, Taiwan High Court, Supreme Prosecutors Office, and correctional institutions on whether the inmate on death row had petitioned for an interpretation by Grand Justices, retrial, extraordinary appeal. The task force asked the Agency of Corrections whether the inmate on death row had lost his mental capacity and the Agency replied that there was no basis for such a claim. The task force also confirmed with the Office of the President that the inmate was not awarded a pardon. The death penalty was approved and executed after a stringent and comprehensive review.

### **Zheng Xing-ze**

39. In the case of Zheng Xing-ze, the Taichung Branch of the Taiwan High Prosecutors Office presented five pieces of new evidence and petitioned for a retrial to the Taiwan High Court's Taichung Branch in March 2016. His detention was discontinued and he was released on May 16, 2016. The Taiwan High Court Taichung Branch rendered a judgment affirming his innocence on October 26, 2017.



## **Jiang Guo-qing**

40. The Ministry of National Defense's Northern District Military Court paid criminal compensation of NTD 103,185,000 in 2011. The Court also filed a civil suit against five individuals including Chen Zhao-min in the Taiwan Taipei District Court in 2012. The judgment required all remaining parties to pay a total of NTD 59,577,053 and an appeal was filed and revoked by the Supreme Court on February 15, 2019.

## **Gradual Reduction of the Use of the Death Penalty**

41. In recent years, some cases where the final verdict given is a death sentence were weighed in court with reference to the ICCPR. The ICCPR has gained traction and compliance in practice. In 2019, the Judicial Yuan amended regulations including Article 289 of the Code of Criminal Procedure on the weighing of sentences and deliberation procedures. Before amendment is completed, in accordance with legal procedures for protecting the basic right of the accused to file an appeal, for cases where a death sentence can be handed down in accordance with the law, it has been clearly indicated in the verdict of the Supreme Court that the presiding judge shall inform both the prosecutor and the defender that the evidence used for sentencing will be deliberated again in accordance with Paragraph 4 of Article 288 of the Code of Criminal Procedure, before the collegiate panel determines a suitable sentence. In addition, the Judicial Yuan also established the Reference Guidelines for Weighing and Executing Criminal Case Sentences in 2018 and forwarded General Comment No. 36 of the United Nations Human Rights Committee to all courts as reference for judges in ruling cases.
42. Between 2015 and 2019, the number of death sentences handed down by district courts was 16, the number handed down by high courts was 29, and the number handed down by the Supreme Court was four. The number of death penalty verdicts reached by courts of the first instance and overturned by the Supreme Court was seven in 2015, three in 2016, five in 2017, four in 2018, and nine in 2019. The total number of cases was 28. Table 1 shows the death penalty verdicts reached by courts of second instance and overturned by the Supreme Court from 2015 to 2019.

**Table 1 Death Penalty Verdicts Reached by Courts of the Second Instance and Overturned by the Supreme Court**

Unit: cases

Year	Item	Total	Original verdict is overturned			
			Sent for retrial		Motion for judgment as a matter of law	
			All	Part	All	Part
Total		25	19	5	1	0
2015		7	4	3	0	0
2016		4	2	2	0	0
2017		1	1	0	0	0
2018		8	8	0	0	0
2019		5	4	0	1	0

Source: Judicial Yuan

Note: Data shown in this Table include concluded criminal appeal cases for which the original verdict is dismissed by the Supreme Court (including entire or partial dismissal) and the defendant was sentenced to the death penalty for any crime in the court of second instance.

**43.** The government has taken a number of initiatives to reduce the use of the death penalty, as follows:

- (1) All crimes that used to carry a mandatory death penalty are now punishable by alternative sentences.
- (2) Since July 1, 2006, persons under the age of 18 can no longer be given the death penalty or life imprisonment.
- (3) Parole criteria for people who have been sentenced to lifetime imprisonment have become more stringent, and increased maximum sentences have been allowed for multiple convictions, thereby giving judges more incentives to select lifetime imprisonment over the death penalty.
- (4) Recommendations have been made to prosecutors to avoid requesting the death penalty whenever possible.
- (5) Death penalties are now issued only for the most severe of crimes and to prevent and punish acts of brutality. Paragraph 1 of Article 347 of the Criminal Code was amended in 2014 to exclude intentional kidnapping and ransom from the list of crimes that are punishable by death. Under the Criminal Code, some crimes are still punishable by death even when no violation of life has occurred. Such crimes include rebellion

(Paragraph 1 of Article 101), collusion with an enemy state (Paragraph 1 of Article 103), collusion resulting in loss of territory (Paragraph 1 of Article 104), armed defiance against the nation (Paragraph 1 of Article 105), aggravated aid to an enemy state (Paragraph 1 of Article 107), abandonment of defense (Article 120), hijacking (Paragraph 1 of Article 185-1), robbery combined with another serious offense (Paragraph 2 of Article 332), act of piracy (Article 333), piracy combined with another serious offense (Article 334), and kidnapping for ransom combined with another serious offense (Article 348). However, there has been no cases in recent years with death penalties handed down for crimes that did not involve the violation of the right to life. The Ministry of Justice has a task force for Criminal Code improvements, which constantly reviews whether the death penalty should be maintained for the above crimes.

44. Of all the people executed between 2016 and 2019, it took an average of 28.15 months to conclude a death sentence from the day the crime was committed, and it took an average of 10.48 months from the day the death penalty verdict was reached until the day the death penalty was executed.
45. Between 1999 and 2008, on average of 10.1 death penalty verdicts were issued and 7.3 people were executed per year. The number of death penalty verdicts and executions between 2009 and 2019--on average 4.8 and 3.4, respectively, per year--is presented in Table 2. In the last 10 years, the number of death penalty verdicts issued has fallen by 52.5%, whereas the number of executions has decreased by 53.4%. Although laws in Taiwan still contain provisions regarding the death penalty, the rendering of death penalty verdicts and the number of executed death penalties have decreased drastically and have been handed down for crimes the deprived others of their right to life with cruel measures, meeting the definitions for the most serious crime specified in Article 6 of the Covenant.

**Table 2 Death Sentences and Executions**

Unit: persons

Year	Number of people convicted to death	Number of convicts executed
2009	13	0
2010	4	4
2011	16	5
2012	7	6
2013	3	6
2014	1	5
2015	0	6
2016	2	1
2017	1	0
2018	0	1
2019	1	0

Source: Ministry of Justice

46. Regarding the gradual elimination of the death penalty, refer to Notes 172 to 176 of the Response to the Concluding Observations and Recommendations by international experts on the second national reports on the two covenants.

**Additional Rights of People on Death Row to Request Amnesty or a Reduced Sentence**

47. According to Taiwan’s Amnesty Act, anyone may plead for pardon and there are no eligibility requirements on those who seek pardon or reduced sentences, including those who have been sentenced to death.
48. Although General Comment 36 of the UN Human Rights Committee requires related regulations to be made in domestic law for pardon procedures, it does not prescribe specific procedures for seeking a pardon or reduced sentence. Therefore, the signatories retain discretion when establishing related procedures. According to the Constitution of the Republic of China, pardon is the exclusive right of the President. Under the current constitutional system, the pardon is essentially an act of clemency instead of a judicial remedy. Whether an inmate receives a pardon is entirely up to the President, who is required to consider all conditions before making a judgment and to bear the political liability. With

regard to amending pardon procedures in the Amnesty Act, related procedures and systems are still being studied and debated to prevent the judicialization of pardon procedures.

### **Protection of the Right to Life in Pregnancy**

49. See Note 31 of the Common Core Document of the third national reports on the two covenants for information on the number of deaths of pregnant women.
50. According to the Genetic Health Act, induced abortion may be conducted for a pregnant woman, subject to her own agreement, if she has been diagnosed or with a medical issue affecting either herself or the fetus; pregnancy as a result of being raped, or if pregnancy or childbirth is likely to affect her mental health or family life. To ensure the safety of pregnant women, induced abortion shall be practiced within 24 weeks of the beginning of pregnancy (excepting for required medical procedures). In addition, the doctor performing the induced abortion must be an obstetrician/gynecologist or a physician registered as an obstetrician/gynecologist, and shall offer appropriate pre-abortion and post-abortion consulting services. There are no physical obstacles to administering induced abortions outside the boundaries of regulations. Birth control devices and drugs must meet related regulations of the Pharmaceutical Affairs Act. Oral contraceptive pills require a physician's prescription. The government signed a common supply contract with suppliers for condoms and oral contraceptive pills to help local government health bureaus provide affordable birth control options to people in need. With regard to health education, the government provides newlyweds and pregnant women with family planning and birth control health information in the Newlyweds Health Booklet and Maternal Health Booklet. Education materials for oral contraceptive pills and condoms are provided in different languages (Chinese, English, Indonesian, Vietnamese, and Thai) to labor authorities to offer health education to foreign workers.

## **Article 7**

### **Torture**

- 51.** Refer to Notes 163 and 164 of the Response to the Concluding Observations and Recommendations by international experts on the second national reports on the two covenants for laws regarding the prohibition of torture.
- 52.** The Guidelines for Recording and Videotaping Crime Suspects during Interrogation were promulgated to require that police take a voice recording of the entire process of interrogation without interruption, and videotaping it without interruption if necessary. There were no cases between 2015 and 2019 of improper treatment involving torture and injury caused by law enforcement personnel reported by the general public.
- 53.** A criminal defendant may assign a defender at any time to prevent interrogation under torture. Torture victims may file a criminal charge or information with a prosecutor, submit a petition, or report cruel treatment to a prosecutor or judge. Inmates who are treated cruelly may file a complaint with a prison or the regulatory authority. There were 1,945 such complaints received by correctional institutions between 2015 and 2019. Police administrative authorities received no complaints.
- 54.** Employees at detention facilities are being trained on the prohibition of torture and improper treatment. The amended Detention Act of 2019 is in accord with the principles of the Covenant. See Notes 93, 96, and 97 of this report.
- 55.** The Control Yuan has the authority to investigate, correct, impeach, and censure government agencies and civil servants. It is also empowered under the Control Act and Regulations Governing Circuit Supervision by the Control Yuan to inspect central and local government agencies and their work facilities on a regular basis. In addition to the Human Rights Protection Committee, the Control Yuan has standing committees including the Committee on Judicial and Prison Administration Affairs, Committee on Domestic and Ethnic Affairs, Committee on National Defense and Intelligence Affairs, Committee on Educational and Cultural Affairs, and Committee on Financial and Economic Affairs. These may conduct regular or unannounced inspections of correctional institutions under the jurisdiction of the

Ministry of Justice, detention centers and immigrant shelters under the jurisdiction of the Ministry of the Interior, accommodations and healthcare institutions under the jurisdiction of the Ministry of Health and Welfare, military punitive facilities under the jurisdiction of the Ministry of National Defense, halfway houses under the jurisdiction of the Ministry of Education, foreign fishermen shore-based accommodation facilities under the jurisdiction of the Fisheries Agency, and any other government facility where personal freedoms are most likely to be denied. Once an investigation is launched, the Control Yuan may visit these locations to investigate the facts onsite, uncover the truth, and fulfil its role as the National Preventive Mechanism.

56. Between 2015 and 2019, the Control Yuan’s related standing committees have inspected government facilities where personal freedom is most likely to be denied. This includes seven inspections on central authorities (14 facilities in total), during which the members of the Control Yuan raised 135 opinions. The circuit supervision by the Control Yuan on central authorities regarding the deprivation of personal freedoms from 2015 to 2019 is provided in Table 3. Among the cases in which investigation reports were concluded by the Control Yuan, 23 cases involved freedom from torture. The Control Yuan demanded corrections in 12 cases (52% of such investigation cases) and filed impeachments in two cases (9%). Related cases are summarized in Table 4.

**Table 3 Circuit Supervision by the Control Yuan on Central Authorities Regarding the Deprivation of Personal Freedom**

Unit: occurrences; day; units; participants; item

Year	Related standing committees	Number of inspections	Number of inspection days	Number of facilities inspected	Number of participating members	Number of inspection opinions proposed by members	Names of facilities inspected
<b>Total</b>		<b>7</b>	<b>9</b>	<b>14</b>	<b>68</b>	<b>135</b>	
2015	Subtotal	1	2	1	12	3	Ziqiang Minimum-Security Prison
	Committee on Judicial and Prison Administration Affairs	1	2	1	12	3	
2016	Subtotal	2	3	7	12	58	Central Region Children’s Home,
	Committee on Domestic and Ethnic Affairs	1	1	1	5	33	

Year	Related standing committees	Number of inspections	Number of inspection days	Number of facilities inspected	Number of participating members	Number of inspection opinions proposed by members	Names of facilities inspected
	Committee on Judicial and Prison Administration Affairs	1	2	6	7	25	Ministry of Health and Welfare Taitung Drug Abuser Treatment Center, Taiyuan Skill Training Institute, Dongcheng Skill Training Institute, Yanwan Skill Training Institute, Taitung Prison, Lyudao Prison
2017	Subtotal	1	1	1	8	22	
	Committee on Judicial and Prison Administration Affairs	1	1	1	8	22	Tainan Second Prison
2018	Subtotal	2	2	2	26	42	
	Committee on Domestic and Ethnic Affairs	1	1	1	14	13	Yilan Immigration Detention Center
	Committee on Judicial and Prison Administration Affairs	1	1	1	12	29	Yilan Prison
2019	Subtotal	1	1	3	10	10	
	Committee on Judicial and Prison Administration Affairs	1	1	3	10	10	Kaohsiung Second Prison, Ming Yang High School, Kaohsiung Drug Abuser Treatment Center

Source: Control Yuan

Note: The number of inspected facilities and institutions is based on the number of sites under the jurisdiction of government authorities that can be inspected by related standing committees of the Control Yuan.

**Table 4 List of Control Yuan Investigations, Corrections, and Impeachment Involving Freedom from Torture Cases**

Control Yuan case (case no.)	Date of review	Date of closure	Findings and progress
Inappropriate discipline at the Taoyuan Reform School that resulted in the death of a youth surnamed Mai; abuse of student at Changhua Reform School (2015-Si-Diao-0014, 2015-Si-Zheng-0004, 2015-He-4)	2015.06.10	2018.02.14	<ol style="list-style-type: none"> <li>1. The former director, former chief of discipline, and current chief of health of the Taoyuan Reform School, as well as the current director of the Changhua Reform School, were impeached.</li> <li>2. Corrections were demanded from the Executive Yuan, Agency of Corrections (Ministry of Justice), Taoyuan Reform School, and Changhua Reform School.</li> <li>3. The Ministry of Justice was requested to supervise improvements at the Agency of Corrections, Taoyuan Reform School, and Changhua Reform School, while at the same time penalizing wrongdoers.</li> <li>4. The Ministry of Justice was requested to urge the prosecutor's office to look into the aspects of this case that warrant further investigation.</li> </ol>



Control Yuan case (case no.)	Date of review	Date of closure	Findings and progress
			5. The Ministry of Health and Welfare was asked to explore solutions for improvement and refer these to the Judicial Yuan's Juvenile and Family Department.
Six armed inmates of Kaohsiung Prison took hostages in a fail attempt to escape from prison (2016-Si-Diao-0009, 2016-Si-Zheng-0003, 2016-He-34)	2016.09.14	Ongoing	1. Three individuals, including the former warden, deputy warden, and security section chief were impeached. 2. Corrections were issued to the Agency of Corrections and Kaohsiung Prison. 3. Official requests were sent to the Executive Yuan and Kaohsiung Prison for a review and improvements.
In Changhua Reform School, a violent clash occurred between juveniles accommodated in the same room, which resulted in a death (2017-Si-Diao-0022, 2017-Si-Zheng-0005)	2017.01.18	2018.11.14	1. Changhua Reform School was reprimanded. 2. The Ministry of Justice and Changhua County Police Department were requested to carry out a review and make improvements. Changhua Reform School was requested to review disciplinary measures for related personnel.
An incident involving a teacher's mistreatment of students occurred at Chiayi Special School (2019-Jiao-Diao-0009, 2019-Jiao-Zheng-0003)	2019.02.13	Ongoing	1. National Chiayi Special School was reprimanded. 2. Official requests were sent to the Ministry of Education, Chiayi City Government, and Chiayi County Government for review and improvement. 3. Investigation results were forwarded to plaintiffs.

Source: Control Yuan

57. The draft Enforcement Act of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment passed the first reading at the Legislative Yuan and was then submitted to the Foreign and National Defense Committee and Internal Administration Committee for review. Article 5 of the draft bill requires the government to set up a committee in the Control Yuan dedicated to preventing torture and other ill treatment. Once the legislation is passed, the Control Yuan will be designated as the National Preventive Mechanism (NPM) to inspect related sites and facilities where public authorities have deprived people of their personal freedoms allowing it to play a greater role in preventative monitoring. The Control Yuan will also hear complaints and investigate instances of infringements on rights protected by the Convention and its Optional Protocol. The Control Yuan shall be responsible as an independent and credible NPM to safeguard people against torture and other cruel, inhuman, or degrading treatment.

**58.** Police officers are required to comply with the Police Power Exercise Act, Act Governing the Use of Police Weapons, and Notes on the Use of High-pressure Water Jets by Police Officers when performing their duties and using police weapons. They may only exercise such powers to the extent necessary to achieve the intended purpose, and only in a manner that causes the least damage to people's rights. They are also required to use high-pressure water jets in a careful and reasonable manner. Article 10-1 was added to the draft amendment of the Act Governing the Use of Police Weapons for the Ministry of the Interior to appoint representatives of related authorities (agencies), experts, and scholars to form the police weapon usage assessment team. The team may, to protect the rights of those involved, and by virtue of its authorities or by application, review the timing, process, and related liabilities of the use of weapons in controversial cases where police officers' use of police weapons causes death or serious injury.

#### **Prohibition of Corporal Punishment**

**59.** The Educational Fundamental Act requires the state to protect the rights of students to learning, education, physical autonomy, and personality development and prevents the physical punishment or bullying of students that undermines physical and mental health. The Teachers' Act also lists corporal punishment or bullying of students as grounds for dismissal. The government also set up regulations concerning the investigation and punishment mechanisms for corporal punishment at special education schools. Where investigations reveal a violation of laws, the competent authority for education will supervise the school involved to organize a teacher's performance evaluation meeting and impose suitable punishments on the teacher who has violated regulations. Where such cases cause severe physical or mental damage to students, the competent authority shall supervise the organization of a review committee to discuss the dismissal, suspension, or denial of future employment of the teacher involved.

**60.** To protect the rights of recipients of services in institutions, the competent authorities conduct unannounced counseling inspections and review mechanisms for institutions. Accommodations for children and youth and education institutions, welfare institutions for

senior citizens and people with disabilities, and mental health care institutions are prohibited from abusing their residents or taking inappropriate actions that affect residents' physical or mental health or restrict their freedoms. Related complaint mechanisms have also been established. Where the competent authority in its investigations verifies suspicions that an institution has committed abuse affecting residents' physical or mental health or restricting their freedoms and committing other violations, it shall be punished accordingly; where it fails to implement improvements, it may be penalized for each violation. Where criminal liabilities are involved, the case shall be transferred to prosecutorial or judicial authorities for investigation.

61. To enhance the professional knowledge of workers at institutions and organize on-the-job training for service personnel, such individuals are required to attend at least 20 hours of on-the-job training each year. The training includes advanced protection concepts, prevention of abuse of seniors in institutions, reporting procedures for individual cases involving the protection of people with disabilities, overall concepts of the protection system for children and youth, and topics concerning special care topics of children and youths to increase awareness of prohibitions on inappropriate treatment. Among all cases regarding the protection of children and youth reported between 2015 and 2019, the number of incidents that occurred in institutions housing children and youth in which the victim had a physical or mental disability was 29 in 2015, 50 in 2016, 37 in 2017, 60 in 2018, and 71 in 2019. In addition, the competent authorities imposed penalties in a total of six cases involving inappropriate restraint, damage of the physical or mental health of seniors, or restrictions on personal freedom from 2016 through October 2019.

## **Procedures for Processing and Investigating Deaths of Inmates in Correctional Institutions**

### **Chen Yu-an Case**

62. At the Taipei Detention Center, death row inmate Chen Yu-an committed suicide by tying 50 rubber bands he had collected around his neck while lying on his back on his bed at 1:41 a.m. on January 18, 2019. On-duty personnel discovered Mr. Chen to be unconscious and could not be awoken at 6:52 a.m. of the same day. They immediately radioed central dispatch to

assign corrections officer support and seek emergency care via the 119 hotline. Mr. Chen received CPR and was treated with an automated external defibrillator by the on-duty nurse of the Sanitation and Health Section of the Taipei Detention Center. He was then escorted to the Emergency Room of Far Eastern Memorial Hospital under guard. Efforts to revive him failed, and Mr. Chen was pronounced dead at 7:55 a.m. by a doctor. Personnel from the New Taipei District Prosecutors Office examined Mr. Chen's remains at Far Eastern Memorial Hospital on January 18, 2019. After clarifying matters, the Prosecutors Office directed the investigation team from the Tucheng Precinct of the New Taipei City Police Department to collect evidence at the Taipei Detention Center and take statements from the inmate who was accommodated in the same cell. The site was then sealed off. On January 29, 2019, the Taipei Detention Center sent personnel to accompany Mr. Chen's relatives and personnel from the New Taipei District Prosecutors Office to the New Taipei City Funeral Parlor to reexamine the body. Mr. Chen's relatives made no objections regarding the cause of death. The Taipei Detention Center processed the case in accordance with related standard operating procedures promulgated by the Agency of Corrections and cooperated with prosecutorial agencies in the investigation of the inmate's death. The Agency of Corrections and its subsidiary agencies do all they can to prevent the death of the inmate. All such cases are processed in accordance with standard operating procedures and reporting mechanisms. Related agencies also cooperate with prosecutorial agencies in fair and independent third-party examinations and investigations.

### **Guo Qi-shan Case**

- 63.** As death row inmate Guo Qi-shan was having breakfast in Tainan Detention Center on March 5, 2019, his cellmate realized he was choking on his food. On-duty personnel were immediately notified. After they administered the Heimlich maneuver and arranging for emergency medical services outside the prison under guard, Mr. Guo discharged parts of the object in the process. Mr. Guo received emergency medical attention after arriving in the hospital and was transferred to an ICU unit for treatment. While hospitalized, Mr. Guo was put on a ventilator and was provided with a caregiver for assistance. Mr. Guo's family

members visited the ICU on March 20 and signed a Do Not Resuscitate or Perform Tracheostomy Surgery Agreement. The tracheostomy tube was removed after the doctor's evaluation on April 3 and Mr. Guo was pronounced dead on April 6, 2019. On April 6, 2019, the Tainan Detention Center reported to the Taiwan Tainan District Prosecutors Office, which completed its investigation and examination of the body that same day. Mr. Guo's relatives made no objection regarding the cause of death. The Tainan Detention Center processed the case in accordance with related standard operating procedures promulgated by the Agency of Corrections and cooperated with prosecutorial agencies in the investigation of the death of the inmate. The Agency of Corrections and its subsidiary agencies did all they could to prevent the death of the inmate. All such cases are processed in accordance with standard operating procedures and reporting mechanisms. Related agencies also cooperate with prosecutorial agencies in fair and independent third-party examinations and investigations.

#### **Does the Management of the Life of Inmates in Correctional Institutions Constitute Corporal Punishment or Torture?**

64. An inmate at Lyudao Prison filed a petition concerning the regulations on managing inmates, such as singing military songs and calling out numbers, to Taiwan Taitung District Court. Although the Court ruled these regulations violated the law as they lacked a legal basis and are not reasonably related to education, they did not constitute torture or cruel, inhumane, or degrading treatment or penalties. Lyudao Prison has since filed a petition with the Kaohsiung High Administrative Court. The Agency of Corrections has required all prisons to review the legality and appropriateness of regulations related to the management of inmates.

#### **Medical Treatment and Human Trials**

65. In order to protect the rights of mental patients, the Mental Health Act specifies procedures concerning mandatory hospitalization, and requires necessary treatment and protection to be provided during the approved period of mandatory hospitalization (i.e., emergency placement). The Mental Health Act requires regular checks on mental patients' health if a medical institution decides to utilize protection measures that restrain or restrict a patient's freedom of movement because of treatment or to prevent violent accidents, suicide, or self-

mutilation. All forms of mandatory hospitalization, restraint, and isolation of mental patients are carried out in compliance with the law. In 2016, there was one complaint regarding inappropriate restraints and isolation. However, the local Department of Health discovered no evidence of such violations in its investigations. There were no deaths as a result of compulsory hospitalization from 2015 to 2019. In addition, general operating regulations on whether psychiatric hospitals impose restrictions on movement (isolation or restraint) are included as criteria in the psychiatric hospital accreditation standards of the Ministry of Health and Welfare. Patients under restraint must be visited at least once every 15 minutes and patients must have their physiological needs attended to. Hospitals must pay attention to the breathing and circulation within the limbs of patients while preventing accidents. Records must also be retained. These requirements were met with a success rate of 96% in 2017, 91.7% in 2018, and 100% in 2019. Local health departments are responsible for implementing regular supervision of psychiatric institutions based on these standards and to conduct ad hoc inspections.

- 66.** The Medical Care Act, Human Subjects Research Act, Regulations on Human Trials, Regulations for Good Clinical Practice, and Regulations on Obtaining the Consent of Indigenous Peoples for Involvement as Human Subjects in Research Programs and Agreement on Commercial Interests and Applications provide detailed specifications for review procedures, the scope of informed consent to be obtained for a human trial (including acknowledgment of potential risks and damage compensation or insurance procedures), the recruitment of subjects and publication of results, protection of the socially disadvantaged, and reporting of adverse effects, to ensure that the rights of human subjects are protected. The Ministry of Science and Technology has stated in various project subsidy policies that any research project involving experiments on human subjects, or the collection of such items as human samples, embryos, and stem cells, must be approved by a medical ethics committee or human subject experiment committee.

## **Article 8**

### **Legislation on the Prevention of Human Trafficking**

67. The Human Trafficking Prevention Coordination Meeting of the Executive Yuan was established in February 2007. Meetings are convened regularly to promote various work on preventing human trafficking. The Principles for Human Trafficking Victim Identification were revised in February 2009 to establish reference indicators for identifying victims. The Human Trafficking Prevention Act promulgated in June 2009 it expressly provides criminal penal provisions for human trafficking.
68. Taiwan has been assisting the international fight against human trafficking and has signed MOUs or agreements on immigration affairs and human trafficking prevention with 21 countries, including Australia, Indonesia, Japan, the United States, and Vietnam. Since 2016, Taiwan has held three meetings for discussions between different government agencies and associations regarding amending the Human Trafficking Prevention Act to revise the criteria for determining human trafficking offenses and definitions of sexual exploitation, allow the conversion of victims' temporary residency permits to special residency permits, and in turn provide opportunities for work and access to National Health Insurance.

### **Investigations and Indictments Concerning Human Trafficking**

69. Victims of human trafficking have been mostly from mainland China and Southeast Asian countries such as Indonesia, the Philippines, Thailand, and Vietnam. In recent years, victims of sexual exploitation have been mostly Indonesian, whereas victims of labor exploitation have been mostly Indonesian or Vietnamese. There were 412 cases of labor exploitation and 736 cases of sexual exploitation from 2012 to 2019.

### **Protection of Human Trafficking Victims**

70. According to the Human Trafficking Prevention Act, victims placed under protection are provided with personal safety protection and offered medical assistance, interpretation services, legal guidance, psychological counsel, accompaniment to investigations, and other forms of needed assistance. Taiwan continues to implement education and training to increase awareness of preventing human trafficking, practical training for investigations and

identification, and international workshops to increase awareness among citizens and foreigners on human trafficking issues. Taiwan also imposes penalties on ROC vessels, aircrafts, or other vehicles used for human trafficking. Penalties include suspension of operations or revocation of license, professional license, or qualifications. In addition, victims and suspected victims may apply for legal assistance. Once a victim is placed in a shelter, the shelter is to contact the Legal Aid Foundation to assign personnel and open a case. The case is recorded and assistance is provided to help with the judicial process. To provide victims of human trafficking information, Taiwan published *The Rights of Victims of Human Trafficking* handbook in multiple languages.

71. The government works with private organizations in the establishment of shelters and provides subsidies to private organizations to set up accommodations. Statistics of victims or suspected victims of human trafficking offered shelter based on nationality or gender from 2015 to 2019 are provided in Table 5. These include labor exploitation (126 cases in 2015, 116 in 2016, 135 in 2017, 79 in 2018, and 61 in 2019), sexual exploitation (66 cases in 2015, 40 in 2016, 61 in 2017, 29 in 2018, and 30 in 2019), and both labor and sexual exploitation (12 cases in 2017, 12 in 2018, and one in 2019). There were no cases of exploitation in the form of organ harvesting. Work permits were issued to 121 victims in 2015, 98 in 2016, 159 in 2017, 88 in 2018, and 57 in 2019.

**Table 5 Sheltered Victims or Suspected Victims of Human Trafficking by Nationality and Gender**

Unit: persons

Year \ Nationality	Total	Indonesia		Thailand		Philippines		Vietnam		Other	
		Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Total	768	126	330	15	56	57	34	55	74	6	15
2015	192	43	89	0	1	11	8	14	21	0	5
2016	156	18	58	5	5	23	10	22	8	1	6
2017	208	33	76	9	36	15	16	2	18	3	0
2018	120	21	63	1	3	4	0	9	16	1	2
2019	92	11	44	0	11	4	0	8	11	1	2

Source: Ministry of the Interior



72. The Executive Yuan has established the Human Rights Promotion Task Force and Human Trafficking Prevention Coordination Committee. These facilitate communication between government agencies to protect the rights and interests of foreign fishermen. Fishermen are reminded not to be enticed by human traffickers through cards provided at free clinics and free hair-cutting events. Media such as magazines are also used to increase awareness of anti-human trafficking regulations. Taiwan interviews fishermen when appropriate when fishing vessels enter ports or when they are boarded for inspection on the high seas. Suspected human trafficking cases are reported and transferred to judicial authorities for review in accordance with the Standard Operating Procedures for Reporting Disputed Information on Violations of Human Trafficking Prevention Regulations by Distant Water Fishing Vessels' Overseas Employment of Foreign Crew Members.

### **Ban on Forced Labor**

73. Regulations in the Labor Standards Act prohibit employers from compelling workers to perform work. An employer may not compel a worker to accept work beyond regular working hours if the worker is unable to do so on account of poor health or other acceptable reasons. In addition, regulations are in place to protect women from late-night work, provide salary during maternity leave, and ensure the right to be transferred to less strenuous work during pregnancy and provide breastfeeding time in order to prohibit forced or coerced labor.
74. The Occupational Safety and Health Act explicitly requires employers to adopt necessary measures for the prevention of illnesses associated with prolonged and excessive work activities (overwork prevention clause). In 2018, 69 people were compensated for work-induced cerebrovascular disease under the labor insurance scheme, nine fewer than the annual average of 78 of the previous three years (83 in 2015, 68 in 2016, and 84 in 2017). It is evident that the nation's prevention strategies have reduced the occurrence of illnesses caused by prolonged work. As of November 2019, compensation was provided in a total of 57 cases.
75. Taiwan began organizing international courses involving industry-academia collaboration under the New Southbound Policy in 2017 to recruit students from Southeast Asia to attend

school in Taiwan and train them into the workforce needed by local industries. To protect the rights of foreign students in off-campus internships and their rights as student workers, intermediary admission is prohibited. The inspection (visit) mechanisms and labor inspections for courses are also enhanced to protect the quality of learning for all foreign students. Where a school undergoing inspection is discovered to have conducted illegal admission, the school will be subject to a reduction of subsidies, suspension of program admission, or listed as needing special assistance. Where criminal liabilities are involved, the case is transferred to prosecutorial or judicial authorities for investigation. To improve the off-campus internships organized by colleges and protect the rights of interns, the Ministry of Education has formulated a draft Act for Off-Campus Internship Education for Junior Colleges and Institutions of Higher Education. The Act stipulates regulations on how off-campus internships are to be organized, criteria for institutions hosting internships, criteria for determining the identity of interns, and interns rights and interests during the internship. Related penal provisions are also established to strengthen the responsibilities of the school and the internship institution.

76. See Notes 99 and 100 of this report for work by inmates in correctional institutions.

77. See Notes 254 to 257 of this report for information regarding child labor.

## **Article 9**

### **Protection of Personal Freedom**

78. The methods the Code of Criminal Procedure allows for the deprivation of personal freedom include arrest with a warrant, arrest without a warrant, arrest, detention, and detention for expert examination. According to the Juvenile Justice Act, a juvenile defendant may not be detained unless there are no alternatives. The Narcotics Hazard Prevention Act calls for abstention and rehabilitation for first-time users and compulsory treatment for those with a tendency to continuing abuse. The Mental Health Act allows institutions to administer emergency placement or mandatory hospitalization, in accordance with regulations, on those who meet the criteria for mandatory hospitalization in the Mental Health Act. The

Communicable Disease Control Act allows the competent authorities to isolate and treat patients with communicable diseases in accordance with legal procedures. The Immigration Act provides temporary shelter to foreigners under specific conditions. The government does not enforce mandatory accommodation of the homeless. The Child and Youth Sexual Exploitation Prevention Act allows emergency placement for children or youth found to be being sexually exploited. The Social Order Maintenance Act allows the court to impose detention for certain violations of social order.

- 79.** Refer to Notes 183 to 187 of the Response to the Concluding Observations and Recommendations by international experts on the second national reports on the two covenants for information on psychiatric institutions.
- 80.** The Constitution specifies that when a person is arrested or detained on suspicion of having committed a crime, the organization making the arrest or detention shall turn the person over to a competent court for trial within 24 hours. A detainee or other person may then petition the competent court that a writ be served within 24 hours on the organization making the arrest or detention for the surrender of the said person for trial. Where a person is arrested or detained, he/she may, pursuant to regulations in the Habeas Corpus Act, petition in writing or orally to the court for habeas corpus. Where the court finds the petition to be well-grounded, it shall, within 24 hours of the registration of the said petition, serve a writ of habeas corpus upon the organ that made the arrest or detention, which shall deliver the person under arrest or detention within twenty-four hours upon the receipt of the writ of habeas corpus. Upon determining the arrest or detention to be devoid of a legal basis at the conclusion of the review, the court shall immediately order the release of the person in question.
- 81.** Article 95 of the Code of Criminal Procedure requires defendants or suspects to be informed of related charges, their right to remain silent, right to a defense attorney, and right to investigate evidence favorable to their defense. To further protect defendants' rights, amendments were passed to Article 89 of the Code of Criminal Procedure in 2019, requiring defendants or suspects to be informed of the reason for their arrest, along with the list of items stated in Article 95 of the Code of Criminal Procedure, at the time the arrest takes place.

According to the Code of Criminal Procedure, an arrest warrant should be prepared in two copies, one of which is to be given to the defendant or family at the time of arrest. The Code of Criminal Procedure also requires prosecutors, judicial police officers, or judicial police to inform crime suspects or family members of their right to appoint a defense attorney when an arrest is carried out in accordance with the prescribed procedures.

### Custody and Detention

- 82.** Remands are to be requested by prosecutors at court, with a maximum of two months with one extension if necessary. Detainment must end immediately when there is no longer a reason for it. Defendants, defense attorneys, and defendants’ assistants are all entitled to request a court decision to suspend detention or employ bond instead of detention. Prosecutors may also suspend custody or request the court to accept bond instead of custody.
- 83.** Tables 6 and 7 show the number of custody requests raised by prosecutors during investigations, and the decisions of district and high courts between 2015 and 2019.

**Table 6 Requests Filed by Prosecutors with District Courts for Pre-Trial Detention of Offenders Being Investigated and Their Outcomes**

Unit: persons; %

Year		Final status	Total	Request approved	Detained because of inability to post bail or impose limitations on residence	Overruled	Mandated bail	Mandated release to family	Mandated imposition of limitations on residence	Mandated bail and imposition of limitations on residence	Mandated release and imposition of limitations on residence	Others
2015	Number of people		7,913	5,959	28	644	545	17	259	450	6	5
	%		100.00	75.31	0.35	8.14	6.89	0.21	3.27	5.69	0.08	0.06
2016	Number of people		8,078	6,464	19	543	392	11	258	367	7	17
	%		100.00	80.02	0.24	6.72	4.85	0.14	3.19	4.54	0.09	0.21
2017	Number of people		7,690	6,049	26	544	388	21	264	375	9	14
	%		100.00	78.66	0.34	7.07	5.05	0.27	3.43	4.88	0.12	0.18
2018	Number of people		8,593	6,529	18	592	480	12	282	652	9	19
	%		100.00	75.98	0.21	6.89	5.59	0.14	3.28	7.59	0.10	0.22
2019	Number of people		8,458	6,394	25	535	415	16	280	776	10	7
	%		100.00	75.60	0.30	6.33	4.91	0.19	3.31	9.17	0.12	0.08

Source: Judicial Yuan

**Table 7 Requests Filed by Prosecutors with High Courts and their Branches for Pre-Trial Detention of Offenders Being Investigated and Outcomes**

Unit: persons; %

Year \ Final status		Total	Request approved	Overruled	Mandated bail and imposition of limitations on residence
2015	Number of people	1	1	0	0
	%	100.00	100.00	0	0
2016	Number of people	2	2	0	0
	%	100.00	100.00	0	0
2017	Number of people	0	0	0	0
	%	0	0	0	0
2018	Number of people	0	0	0	0
	%	0	0	0	0
2019	Number of people	2	2	0	0
	%	100.00	100.00	0	0

Source: Judicial Yuan

**84.** The Administrative Litigation Act stipulates the procedures for detention, types of detention, court with jurisdiction, and review procedures. The prerequisites for detention are governed by the Immigration Act, the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, and Laws and Regulations Regarding Hong Kong & Macao Affairs. Persons who have been subjected to expulsion (deportation) and satisfy any one of the detention criteria will be detained only if all other alternative means have been exhausted and expulsion (deportation) is impractical or difficult without detention. This means that detention is the last resort.

**Prevention of Solitary Confinement**

**85.** See Notes 93 to 95 of this report for the imprisonment of inmates.

**86.** Table 8 explains how prosecutors supervise restrictions on personal freedom by judicial police officers. Detention is carried out and managed by several institutions. Detainee information is protected by the Personal Data Protection Act, and any public requests for such information are fulfilled to the extent deemed legal and appropriate.

**Table 8 Prosecutors' Supervision over Restriction of Personal Freedom by Judicial Police Officers**

Judicial police may take forcible measures		Public prosecutor supervisory mechanism	Outcome of prosecutor not approving forcible measures	
Category	Situation			
Arrest with a warrant	Suspect has been informed in accordance with the law but fails to appear without a valid reason (Paragraph 1, Article 71-1 of the Code of Criminal Procedure)	Petition the public prosecutor to issue an arrest warrant ex ante.	No arrest	
	Arrest without a warrant	Urgent arrest (Paragraph 1, Article 88-1 of the Code of Criminal Procedure)	When the situation is not urgent, petition the public prosecutor to issue an arrest warrant ex ante.	No arrest
			When the situation is time-critical, petition the public prosecutor to issue an arrest warrant ex post.	Release the detainee
		Defendant is wanted. (Paragraph 1, Article 87 of the Code of Criminal Procedure)	The arrest warrant is signed by the public prosecutor during investigation	
Arrest	Crime in progress (Paragraphs 1 and 2, Article 88 of the Code of Criminal Procedure)	Send the criminal under guard to the public prosecutor for questioning		
	Suspected crime in progress (Paragraphs 1 and 3, Article 88 of the Code of Criminal Procedure)			
	Defendant is wanted. (Paragraph 3, Article 85 of the Code of Criminal Procedure)	The arrest warrant must be signed by the prosecutor general during investigation.		

Source: Ministry of Justice

### **Criminal Compensation**

**87.** From 2015 to 2019, a total of 805 criminal compensation cases were processed and concluded by the court of the first instance; compensation was awarded in 317 cases. A total of 205 criminal compensation cases were processed and concluded by the court of the second instance; compensation was awarded in 115 cases.

### **Previous Compensation for Wrongful Conviction of Sedition and Espionage during the Period of National Mobilization for Suppression of the Communist Rebellion**

**88.** Between 2012 and 2019, Ministry of National Defense processed and concluded a total of 52 cases and approved 12 cases (persons), or 23% of all cases closed, that involved compensation claims through its military courts and prosecutors' offices. Compensation totaled NTD 9,693,500. The Ministry reviewed the responsibility of investigators for administrative error, as well as internal compensation claims in accordance with laws.

## **Article 10**

### **Treatment of Detained Subjects**

**89.** The main regulations regarding the treatment of detained subjects include the Code of Criminal Procedure, Prison Act, Detention Act, Mental Health Act, Juvenile Justice Act, Statute on the Establishment of Juvenile Detention Houses, and Rules Governing Establishment and Administration of Detention Centers. The Prison Act and the Detention Act were amended in December 2019. The key points of the amendments included requiring prison officials to implement penalties in line with infractions and prohibiting discrimination. Prisons must also protect the rights of inmates with disabilities and take appropriate measures for reasonable accommodations. Prisons may not place inmates in solitary confinement for long periods. Independent external inspection teams must be set up for prisons. Criteria, procedures, and maximum length of time prisons may use restraining instruments, protective shackles, or accommodation in a protective cell on inmates are all defined. Provisions were added to require prisons to appoint related medical personnel within the limits of their resources, and determine whether to escort an inmate for medical services outside the prison at nighttime or on holidays. No medical or scientific experiment that may harm health may be conducted on an inmate. Methods for inspecting the correspondence of inmates are listed, in accordance with Judicial Yuan Interpretation No. 756, to verify whether contraband items have been included with the correspondence. The circumstances under which the contents of inmates' correspondence may be read or deleted are also listed to protect inmates' right to correspondence and to submit articles, clarify the mutual rights and obligations of correctional institutions and inmates, and protect the human rights of inmates. Refer to Note 54, Notes 90 to 92, Note 94, Note 95, Note 97, Note 100, Note 102, Note 105, Notes 107 to 110, Note 111, and Note 118 of this report for other key amendments.

### **Correctional Facilities**

#### **Supervision and Complaints**

**90.** The supervision mechanisms for correctional facilities are subject to internal controls as well as the external supervision of the Control Yuan. The Agency of Corrections assembled the

Group on Corrections Innovation, inviting private associations, experts, and scholars on human rights to conduct visits and regularly review reforms. Improvements have been published on the official website to improve the understanding of external entities and make prison administration and management more transparent. To ensure transparency and to protect the rights and interests of inmates, Taiwan passed amendments to the Detention Act and Prison Act in December 2019, requiring the establishment of independent external inspection teams for all correctional institutions. These inspection teams are to conduct inspections and submit quarterly reports on the operation of institutions and the rights and interests of inmates. All correctional institutions shall submit reports through the supervisory authority, the Agency of Corrections, to the Ministry of Justice for reference and shall publish reports in an appropriate manner for related competent authorities to respond to and handle related matters.

- 91.** During an investigation, each inmate is given a manual that explains rules governing complaints in detail. Inmates are entitled to raise complaints to the head of an institution or to inspectors if they disagree with decisions made by or treatment meted out by a correctional institution. Where they disagree with the result of an appeal, they may seek assistance from a court. Correctional institutions are required to issue written documents when administering punishment to inmates who have violated disciplinary regulations. These written documents must specify the punishments issued, the reason for such punishment, the legal basis, and the means by which, as well as the time frame within, detainees may raise complaints or seek assistance if they disagree with the decision of the correctional facility. The Detention Act and Prison Act were amended in December 2019 to help inmates understand their rights and obligations. Important regulations, administrative rules, and interpretations of laws related to the rights and obligations of inmates in prison should be published in an appropriate manner to help inmates understand their rights and obligations. It is also stipulated that before a correctional facility imposes penalties, it shall provide the inmate with the opportunity to express his/her opinion and shall inform the inmate of the facts of the violation and the penalty imposed. The correctional facility may not impose discriminatory treatment or



unreasonable punishment in response to the inmate’s petition, complaint, or application for litigation assistance.

92. Pursuant to Judicial Yuan Interpretations No. 653 and 720, detained defendants may seek assistance from the court that ordered their detention for any decision made in regard to their complaints. Furthermore, according to Judicial Yuan Interpretation No. 755, inmates may file administrative suits with the District Court with purview over the location of their prison to request litigation assistance. Related regulations for petitions, complaints, and litigation were added in amendments to the Detention Act and Prison Act in 2019. These specify the individuals that may file appeals, the processing authority, duration, establishment of a complaint review team, the tenure of its members, format of appeal, review procedures, timeframe in which a decision must be made, approval or denial, and measures to file for litigation assistance from a court if the inmate disagrees with an appeal decision. These regulations are implemented to protect the rights of defendants and inmates for filing complaints and applying for litigation assistance. Between 2015 and 2019, a total of 1,942 complaints and assistance requests were made by inmates of correctional institutions. Some 20 appeals and acts of administrative litigation were withdrawn by plaintiffs, 194 appeals were denied, 28 were not accepted for consideration. Meanwhile, 13 instances of administrative litigation were rejected, while eight are under investigation. See Table 9 for complaints and assistance requests raised by inmates in the same period.

**Table 9 Complaints and Assistance Requests Raised by Inmates**

Unit: cases

Year \ Category	Total	Complaint					Appeal	Administrative litigation
		Violations	Parole	Progressive treatment	Life treatment	Others	Parole	
2015	232	136	0	4	30	7	48	7
2016	214	117	0	0	56	2	35	4
2017	219	83	0	1	89	0	44	2
2018	531	119	1	8	315	17	65	6
2019	746	179	4	11	429	33	80	10

Source: Ministry of Justice

## **Imprisonment**

- 93.** A comprehensive review has been held on related regulations and measures to see whether they meet the Standard Minimum Rules for Non-custodial Measures; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Code of Conduct for Law Enforcement Officials; Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.
- 94.** Criminal defendants who must be detained shall be detained in detention centers. Juvenile defendants shall be detained in juvenile detention centers; they shall be transferred to detention centers when they reach 20 years of age. Detention centers must strictly divide detained defendants based on their sex. Juvenile inmates under 18 years of age shall be accommodated in correctional schools. Accommodated juveniles and detained juvenile criminal defendants shall be separated. Female juveniles shall also be separated from male juveniles. These regulations shall also apply to those under observation or rehabilitation. Group confinement is the preferred method whenever possible to prevent the potential physical and mental harm caused by solitary confinement, unless there are legal reasons and reporting procedures that have been implemented in accordance with regulations, in which case they may be put in solitary confinement. For those who have gender or sexual diversity, corrections staff shall arrange suitable cells to accommodate their physical and mental needs. The phrase “group custody” has negative connotations and an amendment was made to refer to cells as single cells and group cells. After an inmate enters a prison, he/she shall, in principle, be allocated to a group cell. The prison may also assign cells in accordance with its management requirements.
- 95.** As of December 2019, correctional institutions nationwide had a total capacity of 57,573 but were being used to hold 60,956 inmates, representing an excess of 3,383 inmates or 5.88%. Of inmates, 56,843 were serving sentences, whereas 2,377 were awaiting trial. Correctional institutions also held juveniles, individuals undergoing observation or rehabilitation, and

other types of detainees. In an attempt to resolve prolonged overcrowding at detention facilities, Tainan Second Prison, Bade Minimum-Security Prison, and minimum-security sections of Taichung Prison, Pingtung Prison, and Taitung Prison were established providing additional capacity of 2,142. The expansions of Taipei Prison and Yilan Prison have been opened for use. The expansion projects at Bade Minimum-Security Prison and Yunlin Second Prison and the relocation project of the Changhua Detention Center added room for a total of 7,243 inmates. Starting from 2020, the overall overcrowding rate will be lowered to 0.28%. Meanwhile, the Ministry of Justice is trying to reduce the number of inmates by applying front-door strategies (such as probation, deferred prosecution, and fines/labor in lieu of imprisonment) to reduce the number of inmates entering prison, and back-door policies such as relaxing probation criteria, digital processing, and shortened release procedures. The Ministry also referenced the United Nations Standard Minimum Rules for the Treatment of Prisoners and the United Nations' 2016 Technical Guidance for Prison Planning and formulated regulations for specifying an area of at least 3.4 square meters (excluding bathroom space) for each inmate in group cells. The area is slightly larger than 1 *ping* and is much more spacious than the current 0.7 *ping* requirement. The design also includes space for one bed per person, a desk and chair, stand, bookshelf and other facilities to improve the living environment and quality for inmates. The Prison Act was amended in December 2019 out of humanitarian concern and to ensure the function of corrections is realized. Amended articles require the supervisory authority to implement and transfer inmates as required when the number of inmates in prisons greatly exceeds the maximum amount permitted. It also allows prisons to report to the supervisory authority for permission to transfer inmates to designated prisons and authorizes the Ministry of Justice to establish regulations on the procedures and criteria for prison transfers, review criteria for inmates transferred to designated prisons, and review procedures for the transfer, method of implementation, and other matters.

## Security

96. Correctional staff are given proper training and guidance, including on the human rights principles conveyed in the ICCPR and ICESCR. A set of guidelines has been established concerning the actions of correctional staff, thereby ensuring that inmates do not receive punishment above and beyond that imposed on them by the law, and that they are treated in a humane manner that does not undermine their dignity. In addition, to enhance professional management capabilities when dealing with inmates with mental illnesses, newly-appointed prison officials and detention center administrators are provided with related pre-job training on basic psychology, and security management personnel responsible for inmates with mental illnesses are provided with professional training each year to teach them ways in which to handle the particular behavior of inmates with mental illnesses and thus prevent security accidents.
97. The procedures and methods for the use of restraining instruments by correctional officers shall be processed in accordance with the Notes on Use of Restraining Instruments for Agency of Corrections and Subordinates to protect the rights and interests of the inmates. Police batons and firearms must be used in accordance with related regulations and use must be proportional and cause the least possible damage. Straitjackets may be used on inmates only to prevent violence, destructive behavior, self-harm, or suicide. Straitjackets, restraining blankets, and other medical equipment used for restraining personal freedom may not be used without the agreement of a certified physician. The Prison Act and the Detention Act were amended in December 2019. As restraining instruments, shackles, or accommodation in a protective cell restrict the personal freedom of the inmate and severely affect the rights and interests of the inmate, conditions for their use are defined. Medical personnel must be assigned to evaluate the physical and mental condition of the inmate and provide suitable assistance as quickly as possible. The criteria for correctional personnel's use of batons, knives, guns, and other weapons approved by the Ministry of Justice have been clarified and the use of such weapons must be limited to conditions where the lives of correctional personnel or others are in danger and said use may not exceed that which is necessary.

**98.** According to the Prison Act and related laws, inmates shall be allowed visits and communication with relatives or other visitors. Starting from March 2015, a person who has been identified as the partner of an inmate in a same-sex relationship may be allowed to visit, communicate with, and deliver food and essential items to the inmate. Inmates who exhibit good behavior and satisfy the necessary legal requirements may be granted short home visits or allowed to live with their spouse or direct blood relatives at a designated location for a specified duration.

### **Work**

**99.** The purpose of labor in prison is to help inmates develop skills, diligence, and a sound body and mind. All inmates are required to participate in work activities unless otherwise specified by law or for reasons such as illness, security, or education. Detention center supervisors may also assign other work to willing inmates. For those who are undergoing drug rehabilitation, the Act of Execution of Drug Abuser Treatment does not specify related work requirements, as these inmates are held in custody primarily to treat drug addiction. Where an inmate suffers from a disease and requires long-term care in accordance with a doctor's certificate of diagnosis; where an inmate has limited mental capacity, is mentally handicapped, or demonstrates intellectual and developmental disabilities; where an inmate suffers from old age, physical or mental disabilities, or mobility impairments, or cannot take care of himself/herself; and where an inmate is pregnant or less than two months have elapsed since childbirth, and is deemed eligible for milder treatment following an investigation and classification, the correctional institution may, based on humanitarian concerns, allow the inmate to participate in light work or be exempted from work in accordance with related regulations to protect such inmates' right to progressive treatment and parole.

**100.** According to the Prison Act, working inmates shall be paid wages for their work; the amount shall be determined based on their behavior and performance. The Act also outlines the percentages at which work income is to be allocated. In 2018, inmates at correctional institutions were paid wages averaging NTD 487 per person, per month. This sum was lower than the wage of an average worker mainly because the actual wages earned by inmates only

account for 37.5% of the income from work; inmates are assigned fewer work hours; skills training, correctional education, and security take priority over economic gain; production volume is kept low in order to avoid the misconception that cheap prison labor affects private industry; and correctional institutions are overcrowded and work is performed in tight spaces using outdated equipment. To demonstrate that correctional institutions use work funds taken from inmates for inmates, the Prison Act amendment in 2019 requires that the earnings from work distributed as wages to inmates to be increased from the current 37.5% to 60%. Provisions were added to require prisons to determine suitable work items for the inmates' work in their individual correctional programs based on the sentence length, health, and related conditions of the inmate after discussions with the inmate. It also stipulates regulations on the distribution of wages and compensation fund to better protect inmates.

### **Correctional education**

- 101.** Individual correctional education programs have been developed based on inmates' age, health status, and level of education, as well as the nature of the crime committed. Apart from counseling and education stipulated by law, the correctional education program has been broadened in recent years to include art and cultural activities, reading programs, visits, family support courses, religious teachings, subsidies for children's education, labor policies that promote employment referral, referral services for childcare provided by social organizations, and other referral services. Counseling courses and other related professional training are given to staff and volunteers regularly in an attempt to improve the quality of the correctional education program and resources available to inmates.
- 102.** Correction laws in force allow female inmates to bring children aged three and below into prison. Inmates who bring children into prison are given proper care and assistance as required by law, while every effort is made to improve the condition of the nursery room, quality of parental courses, and healthcare. For female inmates having more than six months of their sentence remaining, prisons notify the Social and Family Affairs Administration of the Ministry of Health and Welfare to request that the competent authority for social welfare of the municipality or county (city) government at the location of the child's household

registration to provide evaluation services on the placement for children in the prison (detention center) with the mother. The prison shall also communicate with social welfare institutions to organize subsequent placement or other social welfare services before the children leave the prison (detention center). The Detention Act and Prison Act were amended in December 2019 to take into account the best interests of the children in accordance with the Convention on the Rights of the Child and to maximize the use of available resources. Provisions were added to allow a female inmate entering prison or already imprisoned to request that her child accompany her into prison based on an evaluation of the competent authority for social welfare of the municipality or county (city) government at the location of the child's household registration. The amendment included regulations on temporary accommodations, referral for placement, and extension of placement. In addition, it also requires that the prison or detention center include room for activities and provide necessary facilities or equipment. The competent authority for social welfare of the municipality or county (city) government at the location of the children's household registration shall provide necessary assistance for the accommodation of children in prison.

## **Meals**

**103.** The competent authority for correctional facilities is responsible for resolving specific issues encountered by a correctional facility such as overcrowding, building and equipment maintenance and repair, sanitary conditions, disease, food and nutrition, and violent assaults. It is also required to provide medical services in collaboration with medical institutions, regular disinfection and cleaning, and hot water services, to increase funding for supplies, and to take samples of inmates' food for examination. Inmates' meals are paid for out of the government's budget. As of 2019, monthly meal expenses averaged: NTD 2,000 for adult inmates, NTD 2,700 for juvenile inmates, NTD 2,340 for inmates on offshore islands (excluding Matsu), and NTD 3,200 for inmates on Matsu. New inmates and those who lack the means to provide for their own living needs are subsidized to an appropriate extent by institutions.

- 104.** In winter (December 1 through the end of February), inmates are provided hot showers every working day. Between March 1 and November 30, inmates are provided hot showers twice per week or on working days when the temperature drops below 20 degrees Celsius. However, hot showers are provided every working day throughout the year in wards that confine youths, women, persons aged 65 and above, and the ill. Hot showers are also provided for inmates with special health requirements. The required funding of NTD 100 million per year is paid out of a prison fund.
- 105.** Correctional institutions have gradually updated old boiler facilities (equipment) and installed tap water equipment in hopes of meeting environmental protection regulations and standards, increasing environmental protection awareness, and improving the living standards of inmates. To help all correctional institutions convert to tap water, a review of the tap water improvement plan has been conducted for 51 correctional institutions. As of December 2019, 19 institutions had fully adopted tap water and 25 planned to fully convert to tap water in the future. Due to water supply issues with the Taiwan Water Corporation, a total of seven institutions face difficulties in switching entirely to the use of tap water. The physical cleanliness of inmates is closely related to their health. Based on requirements for environmental cleanliness for group living in correctional institutions and the protection of their personal health, the Detention Act and Prison Act were amended in December 2019 to stipulate that inmates' cells, work area, and other areas must include sufficient space, light, and ventilation for health. Inmates must also be provided with bathroom facilities necessary for daily use and prisons are to provide cold and hot water and water for cleaning appropriate to the season.

### **Healthcare and Medicine**

- 106.** Inmates have been included in the National Health Insurance Scheme since 2013. Amounts budgeted for health insurance were NTD 1,399,806,000 in 2016, NTD 1,247,672,000 in 2017, NTD 1,184,729,000 in 2018, and NTD 1,247,588,000 in 2019. Correctional institutions sign contracts with insurance and medical service institutions. In 2019, 113 medical institutions formed 34 teams to provide medical services to approximately 60,000 inmates in 51



correctional institutions and three branch institutions across Taiwan. They can also adjust the variety of outpatient services in correctional institutions based on the needs of inmates. There have been significant improvements in terms of service quality, services offered, and accessibility following this development. Table 10 shows use of medical services by inmates between 2016 and 2019.

**Table 10 Use of Medical Service by Inmates**

Unit: cases

Year	Number of treatments conducted within prison	Number of treatments conducted under guard outside prison	Number of hospitalizations
2016	777,630	26,713	6,594
2017	808,029	29,112	6,626
2018	812,785	28,954	6,468
2019	824,690	31,157	6,882

Source: Ministry of Justice

**107.** As of December 31, 2019, correctional institutions accommodated 60,956 inmates including 2,865 inmates with disabilities: 1,128 inmates had certificates for type one disabilities, 205 inmates had certificates for type two disabilities, 74 inmates had certificates for type three disabilities, 103 inmates had certificates for type four disabilities, 60 inmates had certificates for type five disabilities, 81 inmates had certificates for type six disabilities, 1,193 inmates had certificates for type seven disabilities, and 21 inmates had certificates for type eight disabilities. In addition, restraining instruments may be dismissed with for inmates with severe physical disabilities when they are escorted to medical facilities. Such individuals are accompanied by personnel of the institution throughout the process to ensure that people with disabilities can receive medical services. Correctional institutions are required to plan accessibility facilities or provide assistive devices based on the conditions of accommodations, or accommodate such inmates in the medical ward or in a cell on a lower floor to make mobility more convenient. Correctional institutions shall also assign inmates to cells housing inmate with disabilities based on the inmate’s statements, physical condition, interactions with others, and related investigations or inspection data to prevent bullying or discrimination due to difficulties in mobility or expression. To prevent discriminatory

treatment due to the unique identity of inmates, the amendments of the Detention Act and Prison Act in December 2019 stipulate that correctional institutions may not discriminate against inmates based on their physical or mental disabilities or other identity. Correctional institutions must protect the accessibility rights of inmates with disabilities in prison and take appropriate measures for reasonable adjustments.

**108.** Inmates who exhibit changes in their mental state are given regular counseling and follow-ups. They are medicated regularly as prescribed by physicians, and may be referred to professional counseling if deemed necessary. If treatment cannot be performed properly at the correctional facility, inmates may be referred to the nearest medical institution and given treatment under guard. Use of psychological wards for recovery (treatment in separate phases including intensive observation, general observation, and stabilization periods are administered on inmates) and treatment offsite under guard is subject to approval by the Agency of Corrections. Where inmates are subject to the following: (1) illness with a high mortality rate that is expected to result in death within a short time; (2) severe physical/mental disability that the prison lacks the capacity to handle; (3) severe illness that renders an inmate in constant need of prolonged hospitalization outside prison; (4) severe disability in the limbs that renders an inmate in long-term need of physiotherapy outside prison; (5) illnesses that are complicated and unmanageable, and may result in death at any time; (6) where the inmate suffers from a communicable disease for which isolated treatment cannot be appropriately performed within prison and appropriate medical care cannot be provided within prison, the correctional institution may consider the circumstances and send the inmate to external medical care under guard, transfer the inmate to a medical ward, or request that the Agency of Corrections grant approval for medical parole. The follow-up status of medical parole for inmates in correctional institutions from 2015 to 2019 is shown in Table 11.

**Table 11 Follow-Up Status of Medical Paroles for Inmates in Correctional Institutions**

Unit: persons; %

Year	Number of all inmates on medical parole	Number of inmates still on bail for medical parole	Reason for the termination of the inmate's medical parole											
			Returned to prison after medical parole		Died during medical parole		Jumped bail during medical parole		Other					
			Proportion of the number of all inmates on medical parole	Male	Female	Proportion of the number of all inmates on medical parole	Male	Female	Proportion of the number of all inmates on medical parole	Male	Female	Proportion of the number of all inmates on medical parole	Male	Female
Total	2,905	1,817	13.4	288	101	24.7	674	43	1.1	21	10	4.3	57	69
2015	449	258	17.4	55	23	26.5	112	7	2.2	6	4	3.8	5	12
2016	582	386	11.2	46	19	25.8	140	10	0.3	1	1	2.9	10	7
2017	623	377	13.0	56	25	24.2	145	6	1.3	6	2	5.8	14	22
2018	603	367	14.6	65	23	24.7	139	10	0.7	4	0	5.3	18	14
2019	648	429	11.9	66	11	22.8	138	10	1.1	4	3	3.7	10	14

Source: Agency of Corrections, Ministry of Justice

Note: Correctional institutions shall first consider the inmate's medical requirements when reviewing medical bail and take into account the safety of society. The number of inmates on medical parole has increased in recent years. Although the number of inmates who die on medical parole is between 119 and 151 each year, most of the deaths did not occur in the year of their release.

**109.** Correctional institutions have been active in introducing new treatments for addiction and monitoring rehabilitation progress of drug offenders. Meanwhile, other programs such as family support, after-care, employment referral, and contact with the Drug Abuse Prevention Center are being made available to help inmates reenter society.

**Parole**

**110.** In addition to satisfying all legal requirements, the Ministry of Justice reviews parole requests based on the crime committed, the inmate's behavior, and the chance of reoffending before giving final approval. Parole decisions are in no way related to inmates' race, skin color, sex, language, religion, or social status. The Ministry of Justice instructed all correctional institutions to conduct special parole reviews for inmates who were sentenced to two years' imprisonment or less. During the review, approvals were granted in favor of first-time

offenders, minor offenses, inmates that exhibit low probability of recidivism, and cases supported by robust rehabilitation programs. After gathering views from experts, scholars, and professionals, the Ministry of Justice developed a set of parole review guidelines, and published the information on its website. According to statistics on parole reviewed in 2019, the total parole approval rate was 38.03%, a gradual increase from the 35.18% of 2015. From the day a prison brings a parole request to the review committee until the day the inmate is released, the average review time has fallen from 40 to 24 days. The amendment of the Prison Act in December 2019 stipulated that the parole review shall include the review of the inmate's crime, behavior in prison, criminal record, effectiveness of the education or correctional treatment, after-care plan, and other related matters to determine the inmate's repentance. The Ministry of Justice is also required to establish reference standards for reviewing parole applications in accordance with the contents of the preceding paragraph and publish the standards in a suitable manner.

- 111.** To conform to Judicial Yuan interpretation No. 691, the Ministry of Justice has provided a clear set of procedures for inmates to appeal a parole decision. See Note 92 of this report for statistics on the number of appeals and administrative litigations raised in response to rejected parole requests between 2015 and 2019. From 2016 to 2019, a total of 2,870 individuals originally sentenced to imprisonment were paroled, sentenced to less than six months' imprisonment by a court, or had their parole revoked. The remaining sentences after their revoked paroles were less than eight years and six months. A total of 23 individuals were originally paroled from life sentences. Individuals must serve at least 25 years of a life sentence before other sentences can be carried out. In addition, to prevent the improper revocation of parole due to a minor violation for individuals on parole for a severe offense, a draft amendment has been introduced to Article 78 of the Criminal Code to allow the administrative authority to determine whether to revoke parole (for offenses in the parole period that warrant a sentence of less than six months). In response to Judicial Yuan Interpretation No. 691, the Prison Act was revised in December 2019 to allow inmates to petition for a second review for decisions against granting parole, revoking parole, or

abolishing parole. They may also file administrative suits with the court if they disagree with the decision in the second review.

### **Correctional Personnel**

- 112.** As of December 2019, correctional institutions employed a total of 5,784 security guards (including 184 contract staff, a number that will be gradually reduced to 169 in accordance with the policy of the Directorate-General of Personnel Administration). This was equivalent to a guard-inmate ratio of 1 to 10.6. The ratio was higher than that of Hong Kong (1:1.9), Korea (1:3.5), Japan (1:5.4), and Singapore (1:5.8). The lack of security guards, coupled with the need to work in rotating shifts, sometimes results in situations where one guard is assigned to oversee a hundred inmates at certain locations. Correctional institutions are unlikely to respond effectively to emergencies such as illness and riots because of the shortage of personnel.
- 113.** Correctional institutions employ a total of 404 educational staff, which is equivalent to one person for every 151.3 inmates. In addition to providing regular services such as counseling, education, parole, and entertainment, educational staff are also responsible for organizing skills training, art and culture events activities, seminars, and career advisory sessions. A shortage of human resources has over-burdened existing staff and detracted from their effectiveness.
- 114.** In 2015, the Ministry of Justice proposed a plan to increase the number of security guards and educational staff at correctional institutions. The Executive Yuan approved 300 additional personnel (150 full-time employees and 150 contract employees). The Ministry of Justice requested additional manpower in 2017 and received budgetary approval for 400 employees. However, the current manpower distribution still falls short of the target of 3,041 people stated in the 2015 report (one security guard per eight inmates and one educational staff member per 100 inmates). The Ministry will continue to pursue these goals in accordance with related correctional policies.

## **Treatment of Death Row Inmates**

- 115.** Death row inmates are allowed visits and correspondence with relatives and friends twice a week. However, where the visits and correspondence are requested by relatives or family members, the number of applications shall not be limited. Visits are limited to 30 minutes per session and may be extended where necessary. Death row inmates are allowed time with relatives by phone, video chat, or appointment, and all visits and correspondence are, as a general rule, approved in favor of the inmates.
- 116.** As part of the education program, death row inmates are offered outdoor activities, life education, and counseling on mental health and suicide prevention to relieve stress. During Lunar New Year, Mother's Day, and Mid-autumn Festival, death row inmates are granted face-to-face visits and phone conversations with relatives. Respecting their religious beliefs, death row inmates may be visited by religious staff or volunteers to help them deal with their emotions in prison. Furthermore, volunteers and civic associations with a legal background offer legal counseling and assistance to such inmates.
- 117.** In terms of medical treatment, all death row inmates are covered by the National Health Insurance Scheme, under which they are provided the same medical treatment, procedures, and quality as other inmates in general. As for mental health, correctional institutions may use a simplified health scorecard to evaluate inmates' mental state upon entry, every six months, or where necessary, and provide emotional support, counseling, or refer medical services based on results.
- 118.** In terms of operation management, where death row inmates volunteer to work, the authority shall assign work duties based on their mental and physical state, emotional stability, capacity for adapting to group life, security requirements, and living needs. They may choose to participate in work duties of their own free will, and the work they are assigned is primarily simple tasks without a need for tools. The Prison Act was amended in December 2019 and it stipulates that the regulations in the Act regarding escort, work, education, entertainment, supply, sanitation and medical services, visits and correspondence, safekeeping of goods, petitions, complaints, and litigation assistance shall apply *mutatis mutandis* to inmates on death row.

## **Juvenile Law**

- 119.** Juvenile matters shall be dealt with by the juvenile court. When a juvenile delinquent is tried by a military tribunal in accordance with the law, the case may also be dealt with in a juvenile court in accordance with the Juvenile Justice Act. The protections granted and rights of the juvenile in proceedings shall not differ based on the age of the juvenile. The juvenile court, upon finding the delinquency inconsequential or finding it appropriate not to submit the matter to a hearing based on results of investigation by a juvenile investigation officer, may deliver a ruling not to submit the matter to a hearing and order the transfer of the child or juvenile to a welfare or care institution for appropriate guidance. This is one of the common practices adopted in Taiwan to divert juvenile delinquents away from the courts and into the social welfare system. The number of people referred by court rulings to the social welfare system through this approach was 85 in 2015, 102 in 2016, 94 in 2017, 112 in 2018, and 143 in 2019.
- 120.** By law, juvenile correctional institutions are used to accommodate juveniles who are under protective custody, detained observation, criminal investigation, or correctional education, as well as those who have been found guilty of a crime and convicted. Education and skills training are offered to such people according to their needs to help them develop correct living habits. They are provided with referrals for education and employment before leaving the institution and are also provided subsequent follow-ups and counseling. Teachers, counselors, and trainers work and live with students on rotating shifts. Parents and guardians are allowed contact with juveniles via phone or in-person visits. Juveniles who find themselves punished or mistreated are entitled to file complaints with the correctional facility or the supervising authority.
- 121.** Reform schools are now being converted to correctional schools in stages. Starting from 2019, courses are administered based on the day school model of 35 classes per week to protect the right to education of students undergoing correctional education. Juvenile correctional institutions are now interconnected and supported with teaching and learning resources that the Ministry of Education has provided for juveniles of elementary, junior high, and high

school age, as well as remedial teaching courses and skills training and assessments. A new curriculum was adopted starting in the 2019 academic year to provide comprehensive plans for youth education.

### **Rehabilitation/Protection System and Progress**

- 122.** The Ministry of Justice oversees collaboration between after-care associations and private religious and social welfare associations to create a protection and support system for inmates after they leave prison. These groups provide placement guidance, skills training, employment guidance, education and medical care, accommodation, emergency assistance, visitation and care, subsidies for travel expenses, escort services to home or other locations, and business start-up loans. Support services are also provided to the family members of rehabilitated offenders to help families accept and support rehabilitated offenders.
- 123.** The key aspects of assistance provided to juvenile inmates include improving family relations before release, introductions to the job market, help learning about their skills, and information on education, professional training, and employment services. After inmates leave prison, after-care associations provide follow-up tracking and care. They also connect government or private-sector resources to provide the aforementioned protective services based on the willingness of youths and their different needs. The services provided to rehabilitated juvenile offenders from 2018 to 2019 included 8,788 community care visits to 2,448 individuals; educational assistance (including scholarships) to 310 people in 413 cases; 901 referrals to skills training institutions or provision of information on skills training courses to 152 people; employment referral and assistance to 86 individuals in 90 cases.
- 124.** Since 2016, subsidies have been used for private associations to organize rehabilitation and service programs for former drug abusers. Recipients include associations that provide services for rehabilitated juvenile offenders and their family members. Services include counseling after entering correctional facilities as well as educational assistance, employment education and adaptation, support aimed at gaining independence, connecting with families, referral to medical services for drug abusers, psychological counseling, and visits by social workers after leaving correctional facilities. The services provided to rehabilitated juvenile



drug abusers totaled 81 individuals in 5,440 cases in 2016; 270 individuals in 22,616 cases in 2017; 368 individuals in 11,945 cases in 2018; and 473 individuals in 11,764 cases in 2019.

### **Long-term Care and Nursing Institutions for the Elderly**

**125.** The Senior Citizens Welfare Act contains regulations on the establishment, management, and supervision of, as well as assistance for senior citizens welfare institutions. It also imposes administrative liabilities for implementing audits, assistance, supervision, inspections, and evaluation. To improve the fire suppression capabilities of institutions with inherent weaknesses regarding facility evacuations and efficiency in reporting fires, amendments to the Fire Safety Equipment Establishment Standards for Various Types of Premises were introduced in 2018 to require long-term care service facilities to set up automated sprinkler equipment and fire reporting devices to improve fire safety regardless of floor space. In addition, to strengthen the emergency response procedures and mechanisms of senior citizens welfare institutions, emergency disaster response plans and operating procedures must be drafted based on the characteristics and needs of institutions. Such facilities must also regularly implement disaster response drills to help improve public safety in senior citizens welfare institutions. In addition, the competent authorities are responsible for supervising the management of public safety in institutions under their jurisdiction and they are required to conduct at least one unannounced audit each year. As of December 2019, there were 1,091 senior citizen welfare institutions in Taiwan offering 62,651 beds and housing 51,112 people in total. This represents a utilization rate of 81.6%.

**126.** According to the Senior Citizens Welfare Act, where the elderly encounter difficulties or danger their lives, persons, health, or freedom due to neglect, mistreatment, or abandonment by their descendants or contracted help, or simply a lack of support, municipal or city/county governments shall provide short-term protection and settlement upon request or where such action is within their powers. When a social worker reviews a case and finds the physical or mental abuse of a senior citizen to be severe and threatens their personal safety, the negligence of the person contracted to provide support is severe and threatens the survival of the senior citizen, a senior citizen is abandoned and has no place to live, or a senior citizen is

not cared for and their inability to care for themselves is extreme, the competent authority shall provide related protection and shelter services in accordance with its mandate. Between 2015 and 2019, shelter was given in a total of 20,979 cases.

### **Psychiatric Institutions**

127. Refer to Notes 183 to 187 of the Response to the Concluding Observations and Recommendations by international experts on the second national reports on the two covenants and Note 139(4), Note 213, and Note 264 of the third national reports on the ICESCR.

### **Article 11**

128. Taiwan had no cases where personal freedoms were infringed upon for a failure to service private debt obligations connected to private contracts.

### **Article 12**

#### **Freedom of Domestic Relocation**

129. According to the Constitution, people have the freedom of residence and change of residence. According to the Household Registration Act, citizens are required to register their relocation when leaving their registered area (township, city, district, and so forth) for more than three months. However, the relocation need not be registered in circumstances where the law has stipulated otherwise, or because of military service, education, admission into a correctional facility, or admission into a long-term care facility or similar place. The same act also requires people to register their relocation when moving into a new area (township, city, district, etc.) for more than three months. Residents are required to register their relocation at the household registration office in the vicinity of their new place of abode. The Household Registration Act does not restrict such freedom as it does not require people to register before moving into a new area, but instead allows them to live in the area of their choice for three months before registering their relocation. According to the Immigration Act, citizens without household registration in Taiwan (hereinafter referred to as citizens without household registration) are required to apply for approval from the National Immigration Agency of the Ministry of the Interior (NIA) when entering the country. When a citizen without household

registration applies to the NIA to stay in Taiwan, he/she may stay for three months; where necessary, one extension may be provided for a maximum stay of six months after individual enters the country. To ensure the rights and protection of citizens without household registration in Taiwan, the Ministry of the Interior plans to relax regulations on the entry of citizens without household registration who hold valid passports of the Republic of China, their application for residency in Taiwan, and their criteria for permanent residency to increase the convenience for citizens without household registration to visit Taiwan, and shorten the time needed to process their applications for residency and household registration.

### **Immigration Freedom**

**130.** Citizens who have existing household registration in Taiwan may not be denied entry into the country. Article 6 of the Immigration Act is the main regulation used to prohibit citizens from leaving the country. The Act employs restrictions for criminal cases as the primary measure and probation as the secondary measure. The main types of prohibited exit involving citizens from 2015 to 2019 are specified in Table 12. Articles 18 of the Immigration Act and the Alien Entry Prohibition Operation Directions are the main regulations for the prohibition of entry by foreigners. An Immigration Case Review Committee was established in accordance with Article 88 of the Immigration Act to review conditions specified in Subparagraph 13 (where the individual in question is believed to endanger the national interest, public security, or public order of Taiwan) and Subparagraph 15 (where the individual in question is believed to engage in terrorist activities) of Paragraph 1 of Article 18 of the same law. The conditions specified in Paragraph 1 of Article 5 of the Alien Entry Prohibition Operation Directions are also referenced. Table 13 lists cases of foreigners denied entry between 2015 and 2019. Statistics show that the main reason was having a previous overstay and working illegally and the secondary reason was having a criminal record.

**Table 12 Cases of Prohibited Exits Involving Citizens**

Unit: persons

Year	Item	Total	Criminal case restriction	Probation	Financial and taxation control	Administrative enforcement	Military service control
	Gender						
2015	Male	36,005	25,296	9,761	308	534	106
	Female	4,234	2,806	1,151	93	184	0
	Subtotal	40,239	28,102	10,912	401	718	106
2016	Male	36,292	25,354	10,131	217	488	102
	Female	4,132	2,734	1,183	69	146	0
	Subtotal	40,424	28,088	11,314	286	634	102
2017	Male	39,486	28,254	10,314	363	449	106
	Female	4,396	2,990	1,133	117	156	0
	Subtotal	43,882	31,244	11,447	480	605	106
2018	Male	38,557	28,676	8,978	299	526	78
	Female	4,179	2,945	958	91	185	0
	Subtotal	42,736	31,621	9,936	390	711	78
2019	Male	37,914	26,874	10,190	259	495	96
	Female	4,260	2,865	1,125	85	185	0
	Subtotal	42,174	29,739	11,315	344	680	96

Source: Ministry of the Interior

**Table 13 Cases of Prohibited Entry Involving Foreigners**

Unit: persons

Year	Item	Total	Previous record of overstay or working illegally	Criminal history	Communicable disease	Illegitimate acquisition, forgery, or misuse of passport; or visa application using a false identity	Member of a terrorist organization or involvement in terrorist activity	Actions that are against public order or social customs	Information from the International Criminal Police Organization
	Gender								
2015	Male	9,794	9,134	331	142	24	161	2	0
	Female	12,054	11,520	228	150	129	9	18	0
	Subtotal	21,848	20,654	559	292	153	170	20	0
2016	Male	12,325	11,568	486	164	41	63	3	0
	Female	12,784	12,211	175	184	206	0	8	0
	Subtotal	25,109	23,779	661	348	247	63	11	0
2017	Male	16,036	12,276	580	156	49	2,780	21	174
	Female	13,423	12,497	272	168	186	119	181	0
	Subtotal	29,459	24,773	852	324	235	2,899	202	174
2018	Male	15,691	14,346	833	127	89	276	15	5
	Female	15,736	14,680	185	119	286	66	399	1
	Subtotal	31,427	29,026	1,018	246	375	342	414	6
2019	Male	20,854	19,791	743	114	104	50	50	2
	Female	21,471	20,386	201	110	300	16	458	0
	Subtotal	42,325	40,177	944	224	404	66	508	2

Source: Ministry of the Interior

Note: When Taiwan organized the Universiade in 2017, national security agencies enhanced collection of intelligence on individuals suspected of being involved in terrorist activities and prevented them from entering, thus reflected in the increased number of refused entries in this category.

**131.** The government has proposed a draft amendment to Article 17 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, which would adjust the time needed for mainland Chinese spouses to attain citizenship from six years to a more flexible range of four to eight years. The draft amendment passed a preliminary review by the Internal Administration Committee of the Legislative Yuan in 2016 and awaits the completion of the legislative procedure in the Legislative Yuan.

### **Disaster Evacuation and Shelter**

**132.** According to the Disaster Prevention and Protection Act, in the event of a disaster, the government is required to establish a disaster response center and to restrict or prohibit public entry or to order individuals' departure and implement necessary control measures. The control measures must be implemented based on actual needs and be proportional. Local governments are required to prioritize the evacuation of vulnerable people such as people with disabilities. In addition, the post-disaster reconstruction of indigenous lands shall be carried out by the central and local governments in accordance with related regulations based on the principle of avoiding disasters while remaining in the community. For instance, the reconstruction of Hongye Village in Yanping Township and Aiguopu Village in Dawu Township in the wake of Typhoon Meranti in September 2016 were models for the post-disaster reconstruction of indigenous communities.

## **Article 13**

### **Issuance of Visas**

**133.** The issuance, rejection, withdrawal, invalidation, and cancellation of visas is processed in accordance with the Statute Governing Issuance of ROC Visas to Foreign Passport Holders, Enforcement Rules for the Issuance of ROC Visas to Foreign-Passport Holders, and the Guidelines for the Ministry of Foreign Affairs and Diplomatic Missions of the Republic of China (Taiwan) Regarding Interviews with Foreigners Applying for Entry into Taiwan on the Basis of Marriage to ROC Citizens.

**134.** When processing visa applications, the Ministry of Foreign Affairs and ROC overseas missions shall take into consideration the national interest, the individual status of applicants, and the relations between the resident countries of the applicants and the ROC. Where the applicant is subject to one of the conditions specified in Article 12 of the Statute Governing Issuance of ROC Visas to Foreign Passport Holders, the Ministry of Foreign Affairs and its overseas missions may refuse to issue visas without giving a reason or withdraw or invalidate a visa. Table 14 shows the number of ROC visas issued, rejected, canceled, and invalidated between 2016 and 2019.

**Table 14 Number of Visas Issued, Rejected, and Canceled**

Unit: cases

Year	Issued	Rejected	Canceled (including revocation or invalidation)
2016	556,353	4,934	7,020
2017	564,583	7,802	6,025
2018	546,534	9,481	7,124
2019	482,674	11,817	7,109

Source: Ministry of Foreign Affairs

Note: The main reasons for revocation or invalidation were: (1) The applicant violated laws or regulations of Taiwan or engaged in activities in Taiwan that do not meet the purpose specified in the visa; (2) the reason for the visa having been granted no longer applied.

**135.** There are currently no regulations for asylum seekers. For the issuance of visas to foreigners, according to the Statute Governing Issuance of ROC Visas to Foreign Passport Holders and its Enforcement Rules, seeking asylum is not a prescribed reason for applying for a visa. For information on asylum requests by foreigners, refer to Notes 170 and 171 of the Response to the Concluding Observations and Recommendations by international experts on the second national reports on the two covenants.

**136.** ROC passport holders enjoy such privileges as visa waivers, landing visas, and electronic visas granted by 169 countries or regions as of 2019.

## **Deportation of Non-ROC Citizens**

- 137.** Deportation regulations concerning people from mainland China, Hong Kong, and Macau are specified in the Act Governing Relations between the People of the Taiwan Area and the Mainland Area and the Act Governing Relations with Hong Kong and Macau. The Ministry of the Interior is required to provide people from these areas with the opportunity to express opinions before their mandatory deportation. For individuals who already possess an Alien Resident Certificate or an Alien Permanent Resident Certificate, a review meeting must also be held before their deportation. In addition, procedural clauses were revised and amended regarding temporary, continued, and extended detention, as well as the revocation of temporary detention orders and termination of detention for people from mainland China.
- 138.** If a foreigner qualified for legal residency meets the conditions for deportation specified in the Immigration Act, the government may still deliver a legal decision to the party concerned through legal procedures pursuant to criteria specified in the Immigration Act, Administrative Procedure Act, and Administrative Execution Act and allow the original authority responsible for imposing the penalty to deport the individual. In the event that the foreigner disagrees with the deportation decision, he/she may file an administrative appeal in accordance with the Administrative Appeal Act and Administrative Litigation Act. In practice, to better ensure the right of foreigners to administrative remedies, the National Immigration Agency is to only execute the deportation after the termination of related procedures in administrative remedies when processing an appeal filed by a foreigner. Refer to Note 168 of the Response to the Concluding Observations and Recommendations by international experts on the initial national reports on the two covenants for remedial measures for foreigners who disagree with deportation decisions.
- 139.** According to the Legal Aid Act, individuals eligible to apply for legal aid include citizens of the Republic of China and people legally residing in Taiwan, subject to the availability of limited legal aid resources and the international principle of reciprocity. Therefore, foreigners with legal residency in Taiwan may also apply for legal aid. To help protect vulnerable people, foreigners who come to Taiwan in accordance with the Employment Service Act and foreign

spouses of citizens who are financially disadvantaged and have yet to be naturalized and complete household registration may be recognized as lacking financial capability by signing a declaration, making them eligible for legal aid. Foreigners who are to be deported and lack legal residency in Taiwan are not eligible for legal aid.

- 140.** According to the Criminal Code, foreigners who have been sentenced by a court to imprisonment and have received a deportation order may be expelled from the country after their sentences have been served or pardoned. The National Immigration Agency is also authorized to expel foreigners who violate Paragraph 1 of Article 36 of the Immigration Act (such as by entering the country without undergoing a document check or possessing a valid permit).
- 141.** A foreigner meeting one of the following criteria may be subject to forcible deportation or ordered to leave the country within 10 days: (1) having entered Taiwan and later found to be banned from entry into Taiwan; (2) having failed to comply with requirements regarding documents, certificates, and periods/place of visits; (3) having violated the provisions stated by leaving the designated overnight lodging facility without permission; (4) engaging in employment or activities that are inconsistent with the purpose of visit or residence indicated in his/her application materials; (5) failing to comply with restrictions on his/her residence and activities; (6) failing to apply for extension of stay or residence prior to expiration date of his/her visitor or residence permit; (7) the reason for residence is no longer valid, resulting in the cancellation of his/her residence permit and Alien Resident Certificate; or (8) his/her residence permit and Alien Resident Certificate or permanent residence permit and Alien Permanent Resident Certificate have been cancelled. Such foreigners must be given the opportunity to state an opinion prior to expulsion, and the decision must be issued in writing using a language that is understandable to him/her. The number of foreigners expelled in recent years are as follows: 9,296 in 2015; 11,049 in 2016; 13,115 in 2017; 13,473 in 2018; and 16,577 in 2019.
- 142.** Foreigners who are currently being investigated by or have a pending case with a judicial authority for violations may still be expelled from the country, provided that they are not



being detained, under arrest, being held in custody or restricted from leaving the country, and that a 10-day notice is served by the National Immigration Agency to the judicial authority prior to expulsion. The Agency does not immediately detain foreigners who have been assigned from another judicial authority. Instead, the Agency must first evaluate whether the foreigners satisfy the detention requirements listed in Article 38 of the Immigration Act and then detain or take alternative measures if absolutely necessary. According to the Regulations Governing the Detention of the Aliens, all detainees must be provided a detention decision in writing. Furthermore, the Agency assigns detained foreigners to different facilities based on the expected time of their repatriation. Those who can leave in a relatively short timeframe are placed in temporary detention centers operated by the Agency's Specialized Operation Brigades, with the others being placed in large detention centers of the Agency. From 2015 to 2019, the number of foreigners held in large detention centers was 8,526 in 2015; 9,876 in 2016; 10,979 in 2017; 10,688 in 2018; and 13,585 in 2019. The Ministry of the Interior has printed information in 17 languages (Bengali, Burmese, Chinese, English, Filipino, German, Hindi, Indonesian, Japanese, Khmer, Malay, Mongolian, Nepali, Tamil, Thai, Urdu, and Vietnamese) that is distributed to detainees at the beginning of their detention to help them understand their rights and obligations.

## **Article 14**

### **Court Organization**

- 143.** See Notes 42 to 45 in the Common Core Document of the third national reports on the two covenants for information on Taiwan's court system.
- 144.** Prior to the 2013 amendments to the Code of Court Martial Procedure, the Ministry of National Defense had district military courts, the High Military Court, and the Supreme Military Court operating under its supervision. Pursuant to the Code of Court Martial Procedure, these courts were used only to try active military personnel who violated the Criminal Code of the Armed Forces or special regulations thereof. Defendants were tried in one of two tiers, depending on their rank and status. Those who disagreed with the second

tier judgement were entitled to appeal to the judicial authority for trial at the third tier. Under the 2013 amendments, active soldiers who violate the Criminal Code of the Armed Forces during peacetime are indicted and punished under the Code of Criminal Procedure.

### **Appointment of Judges**

**145.** There are two ways to become a judge. The first way is to pass the national judicial exam and complete two years of theoretical and practical training at the Judicial Yuan's Judges Academy. At the Academy, judges and prosecutors conduct classes on trials and drafting documents for the District Courts or District Prosecutors Office. Candidates must pass all the exams there. The candidates may choose to become judges or prosecutors based on their performance at the Academy and their goals. In the second option, lawyers, academics, and public defenders who apply to become judges are selected by the Judicial Yuan's Judge Selection Committee based on the results of their oral examinations. After the candidates complete preparatory courses at the Judges Academy, the Judge Selection Committee will select qualified candidates. These candidates will then be reviewed by the Judicial Yuan's Personnel Review Committee before being appointed as judges. The Civil Service Special Examination for Judges and Prosecutors is implemented in three stages. According to the regulations on the exam for judges, individuals may not take part in the third stage of the exam under certain circumstances: the corrected vision of their better eye is less than 0.1; hearing loss of the corrected hearing of their better ear is greater than 90 decibels; they are suffering from a mental disorder or other mental impairment that makes them unable to fulfill their duties; they have a positive tuberculosis sputum test result; or they suffer from a severe, incurable illness that makes them unable to fulfill their duties.

**146.** In 2019, there were 1,061 male judges and 1,059 female judges, indicating no significant difference in number.

### **Assurance of Judges' Position and Performance Evaluation**

**147.** Articles 80 and 81 of the Constitution require that judges be above partisanship and, in accordance with law, hold trials independently, free from any interference. Judges hold office for life. No judge may be removed from office unless he/she has been found guilty of a

criminal offense, or subject to a disciplinary measure or interdiction. No judge may be suspended or transferred or have his/her salary reduced except under circumstances in accordance with the law. Amendments to the Judges Act were promulgated on July 17, 2019. The Court of the Judiciary was transferred to the Public Functionary Disciplinary Sanction Commission and changed to a one-level, two-instance litigation system. In addition, to give first-instance decisions of the Court of the Judiciary more diverse perspectives and improve the credibility of the Court of the Judiciary, the amendments require the formulation of a collegiate bench with two lay judges and three professional judges, thus making the judgments of the Court of the Judiciary more open and transparent.

- 148.** From the promulgation of the Judges Act to 2019, there were 13 cases of judges becoming subject to a penalty of supervision of duties by the President of the Judicial Yuan. There were also 23 cases that were transferred for disciplinary penalties. In eight instances, the Judicial Yuan immediately transferred the cases to the Control Yuan. In 12 instances, the Judicial Evaluation Committee decided to transfer them to the Control Yuan via the Judicial Yuan for review. In the remaining three instances, the Control Yuan actively sought impeachment of the judges in accordance with related regulations. Between 2016 and 2019, a total of 24 judges were subject to recommendation for punishment by a Self-Discipline Committee of the appropriate level or have their cases transferred to the Judicial Evaluation Committee—four in 2016, three in 2017, six in 2018, and 11 in 2019. In the end, five judges were found guilty and relieved of duty; two judges were penalized and resigned; and four judges resigned before or after being transferred for either penalties or supervision of duties.
- 149.** From the promulgation of the Judges Act to 2019, there were 33 cases where a prosecutor was subject to administrative supervision by the Ministry of Justice. Of these cases, 26 were reported by the authority where the prosecutor worked to the Ministry of Justice for the implementation of administrative supervision penalties, and seven cases were evaluated and submitted by the Prosecutor Evaluation Committee to the Ministry of Justice for administrative supervision. Some 15 cases involving disciplinary action for prosecutors were transferred and confirmed, including six cases where the Ministry of Justice immediately

transferred cases to the Control Yuan; eight cases where the Prosecutor Evaluation Committee resolved to transfer them for review by the Control Yuan via the Ministry of Justice; and one case where the Control Yuan actively sought impeachment in accordance with related regulations.

### **Bar Associations**

**150.** Taiwan currently has 16 local bar associations and one national bar organization—the Taiwan Bar Association. As of December 2019, the percentage of male and female lawyers were 61.98% and 38.02%, respectively. A total of 124 lawyers received penalties between 2015 and 2019.

### **Public Judicial Proceeding and Presumption of Innocence**

**151.** In principle, the argument of a suit and pronouncement of a judgment must be conducted through a public court session. However, the court may decide to not make proceedings public in cases involving national security, public order or morals, juveniles, family-related matters (such as marriage-related cases and restraining orders), sexual assault, trade secrets, interrogation before a private criminal prosecution case, cases where the privacy of the party concerned or third parties or trade secrets must be protected, or cases involving conditions specified in Article 69 of the Protection of Children and Youth Welfare and Rights Act. Decisions, except for those that may not be published in accordance with the law, are to be published in periodical gazettes or other suitable methods and provided for online inquiries free of charge. To fully uphold the best interests of children and privacy protection principles specified in Article 69 of the Protection of Children and Youth Welfare and Rights Act and the Convention on the Rights of the Child, the Judicial Yuan has revised the Operating Guidelines for News Publications by the Judicial Yuan and Subordinate Agencies, specifying that to protect the best interests and privacy of children and youths, agencies may not disclose information sufficient for identifying children or youths in press releases or related information provided to journalists.

- 152.** The statement systems of courts have been fully digitalized and courts have adopted high-tech equipment for trials. The seat of each party is equipped with a computer screen that displays statements and litigation files. The computers in court also provide audio services. Visually impaired people can file a request to the court, and the court can, based on the interrogation needs, adjust the size of digital documents and their internal functions to facilitate the reading of texts and the use of audio functions to play the content of statements, digital files, and evidence.
- 153.** The presumption of innocence is a basic principle of the Code of Criminal Procedure. Before the final verdict is reached in a trial, an accused is to be presumed innocent. The facts of an offense must be established by evidence. That is, the facts of an offense may not be established in the absence of evidence. A public prosecutor responsible for the prosecution of state criminal penalties must bear the burden of proof as to the facts of a crime charged against an accused. Although the accused has the right to prove himself/herself innocent by law, he/she is not obligated to do so. Where an accused has made no confession nor has there been any evidence provided, his/her guilt may not be presumed merely because of his/her refusal to make a statement or remaining silent. A public official who conducts proceedings in a criminal case must give equal attention to circumstances both favorable and unfavorable to an accused. An accused may request that the public official specified above take necessary measures favorable to the accused. Physical restraints may not be placed on the person of an accused when in court so as to avoid causing presumption of guilt, but the accused may be guarded. The same principles apply to military trial proceedings.
- 154.** The Code of Criminal Procedure specifies that an accused under investigation by judicial police officers or judicial policemen may retain defense attorneys at any time. The police are required to inform crime suspects of this right, which must also be recorded in the police interrogation log. The defense attorney may interview and correspond with the detained defendant. This right of the defense attorney may not be restricted unless there is sufficient evidence to support that he/she is likely to destroy, forge, or alter evidence, or conspire with another suspect or witness. In addition, a petition for a restriction filed by a public prosecutor

must be signed and approved by a judge. Both citizens and foreigners enjoy the aforementioned rights. A summons for the first trial date must be served at least seven days beforehand, and for cases considered slight or committed under pitiable circumstances specified in Article 61 of the Criminal Code, the summons must be served at least five days prior to the first trial date. The court must provide sufficient time for the defendant to prepare his/her defense before the trial date. The same applies to military trial proceedings.

**155.** The nondisclosure of investigations is a principle of the Code of Criminal Procedure. It is an important system that allows the state to correctly and effectively exercise the right to impose penalties and protect the constitutional rights of criminal suspects and related parties. The Judicial Yuan and Executive Yuan amended the Regulations Governing Non-Disclosure of Investigations. The amendments only allow the appropriate publication or disclosure of investigation procedures or content in exceptional cases where information is disclosed in accordance with the law, or where it is necessary to protect legal rights. In addition, the National Police Agency of the Ministry of the Interior, Investigation Bureau of the Ministry of Justice, Agency Against Corruption of the Ministry of Justice, Coast Guard Administration of the Ocean Affairs Council, and the Military Police Command of the Ministry of National Defense have also established guidelines for issuing press releases concerning the investigation of criminal cases so as to ensure the principle of nondisclosure of investigations. With regard to violations of nondisclosure of investigations by district prosecutors' offices from 2015 to 2019, four cases involving four individuals were prosecuted, and four cases involving four individuals were granted deferred prosecution. As of 2019, there have been no cases of violations regarding the nondisclosure of investigations for which the State Compensation Law applies.

### **Compulsory Defense**

**156.** To protect the right to defense of defendants with mental disabilities or other mental deficiencies, regulations on compulsory defense in Article 31 of the Code of Criminal Procedure were amended and promulgated in 2015. What was previously described in Subparagraph 3 of Paragraph 1, and Paragraph 5 of the Article as “where the accused is

mentally retarded and unable to provide full statements” was changed to “where the accused is unable to make a complete statement due to mental disorder or other mental deficiencies.” The amendment aims to ensure that persons suffering from autism, psychiatric disorders, dementia, or other mental disabilities are also protected by the compulsory defense regulations and receive adequate assistance during the litigation proceedings. To protect the right to compulsory defense of defendants who are economically disadvantaged, the Code of Criminal Procedure also states that when a defendant of low income or medium-low income status requests to have a defense attorney appointed by the court, the presiding judge must appoint a public defender or attorney to represent the defendant. The rules in the Notes on Criminal Court Proceedings with regard to compulsory defense (Note 6), assistant ad litem (Note 7), and arraignment interrogation for which the court is to inform and wait for defense lawyers (Note 34) help protect the right to defense of people with psychiatric disorders or other mental disabilities and defendants who are economically disadvantaged.

- 157.** The Judicial Yuan plans to appoint contracted personnel to make up for the current vacancies of public defenders; maintain the current diverse system for the coexistence of public defenders, compulsory defense attorneys, and legal aid attorneys; facilitate positive competition and complementary functions; minimize the gap in current criminal defense resources between urban and rural areas; and provide basic protection of the people’s right to legal defense.
- 158.** The Legal Aid Foundation was established pursuant to the Legal Aid Act. It provides necessary legal aid to people who are indigent or unable to receive proper legal protections for other reasons. It currently has 22 branches. If defendants meet the criteria for indigence or other reasons specified in the Legal Aid Act or is unable to receive proper legal protections for other reasons, they may request defense attorneys stationed at branches of the Legal Aid Foundation to accompany them during their interrogations or defend them in court. In addition, the Legal Aid Program for People with Disabilities was established to provide necessary legal aid to people with disabilities.

- 159.** See Note 79 of the Common Core Document of the third national reports on the two covenants for the number of applications filed by criminal defendants to obtain legal aid from 2015 to 2019. The ratio of approved legal aid cases for men and women during this time was approximately 4:6.
- 160.** From 2015 to 2019, the number of aided compulsory defense cases approved was 10,418 in 2015; 13,262 in 2016; 16,015 in 2017; 16,688 in 2018; and 17,332 in 2019. Among them, the number of indigenous people granted legal aid totaled 2,581 in 2015; 3,751 in 2016; 4,842 in 2017; 4,573 in 2018; and 4,924 in 2019; the number of foreigners granted legal aid totaled 1,326 in 2015; 1,970 in 2016; 2,521 in 2017; 1,907 in 2018; and 1,918 in 2019.
- 161.** To protect a defendant's right to counsel, the Judicial Yuan drafted an amendment to Article 31 of the Code of Criminal Procedure, requiring prosecutors to appoint an attorney to a detained defendant if he/she has not retained a defense attorney during a crime investigation. The draft is now being reviewed by the Legislative Yuan.

### **Protection of Judicial Rights of Indigenous People**

- 162.** The Ministry of Justice designates dedicated sections or dedicated prosecutors in the 21 districts prosecutors' offices to handle cases involving indigenous peoples. It also provides training courses on the protection of indigenous rights and litigation case studies during the training period of judicial personnel in accordance with the Indigenous Peoples Basic Law. It also organizes seminars for cases involving indigenous people each year and makes special arrangements for participants to gain field experience. These measures help prosecutors gain a deeper understanding of the traditional customs and cultures of indigenous peoples and help protect their legal rights. The Judicial Yuan created 26 Indigenous Courts to handle cases involving indigenous people's with two judges who have certified indigenous knowledge. Each year, these judges and prosecutors are given on-the-job training on the customs of indigenous peoples.
- 163.** The Council of Indigenous Peoples compiles and edits publications containing major judgments involving indigenous people and analyzes their practical legal implications. The Council has developed a set of Notes on Legal Aid, which appoints the Legal Aid Foundation



to assist with nationwide legal consultation services for indigenous people, including administrative litigation, brief drafting, and legal dispute resolution, free of charge. Legal aid was approved for a total of 14,392 cases between 2015 and 2019.

### **Protection of Judicial Rights of Disadvantaged Groups**

**164.** Where defendants are unable to receive proper legal protections due to indigence, disabilities, or other reasons, including vulnerable women and children, and legal assistance is necessary, they may request legal aid from the Legal Aid Foundation. With regard to the litigation system, a witness may not be ordered to make an affidavit if he/she is under 16 years of age or if he/she is unable, such as due to a mental disability, to understand the meaning and effect of an affidavit.

**165.** Local governments have created Domestic Violence Service Offices and City (County) Government Family Cases Service Centers in courts to provide counseling for domestic violence victims, disadvantaged people, and new immigrants; accompany them in court; and provide other forms of related assistance. In addition, the Family Act allows for the provision of social workers or other appropriate personnel to be present when statements are given, the designation of a guardian ad litem to assist in procedures, and the appointment of an interpreter if a party does not understand Mandarin, thus creating a friendlier environment.

### **Interpretation Services in Judicial Proceedings**

**166.** Interpreters are provided free of charge in court proceedings. If a participant is hearing challenged or verbally challenged, the court may appoint an interpreter, use written messages to ask questions, or allow the participant to provide statements in writing. As of December 2019, the Judicial Yuan and its affiliated courts have employed 43 interpreters. Also, a system of accredited freelance court interpreters has been set up by recruiting those who specialize in sign language, Hakka, indigenous languages, Southeast Asian languages, English, or European languages. The Taiwan High Court and its branch courts have established a list of accredited freelance interpreters for 19 different languages to assist with trial proceedings. From 2015 to 2019, the number of accredited freelance interpreters was 244 in 2015, 236 in 2016, and 234 in 2017, 236 in 2018, and 221 in 2019. The number of accredited freelance

interpreters of indigenous languages was 35 in 2015, 28 in 2016, 24 in 2017, 27 in 2018, and 23 in 2019. In addition, to help improve communication with vulnerable parties in legal proceedings, the Judicial Yuan has adopted simultaneous transcription services during court proceedings. For those who are both hearing impaired and unable to understand sign language, they may file a petition to the courts for this service at any time, thereby protecting their right to litigation.

- 167.** According to the Court Organic Act, litigation documents must be written in Mandarin. However, as the number of new immigrants from Southeast Asia has grown in recent years, where a party deems it necessary to translate a court judgment into his/her mother language or another language he/she understands, the party may file a petition to the court. Likewise, when a court in Taiwan requests that a civil judgment be delivered to Vietnam, the judgment is translated into Vietnamese or English for delivery. To protect the right of language minorities, foreigners, and new immigrants to access legal resources, the Judicial Yuan has translated documents on administrative litigation and family affairs into different languages for court use.
- 168.** The Taiwan High Prosecutors Office and its branch offices maintain a registry of contract interpreters. It is required that the names and language proficiencies of these interpreters on their online database be made accessible to the prosecutor's office and the public. The Taiwan High Court Prosecutors Office reviewed, certified, and contracted a total of 222 interpreters capable of offering interpretation services in indigenous and Southeast Asian languages in 2019.

### **Right of File Review**

- 169.** The Code of Criminal Procedure was amended in 2019 to allow defense attorneys to review court documents and evidence during trial and copy, reproduce, or film such items. The defendant may pay a fee in advance to request the delivery of photocopies of court documents or evidence used in a trial. However, if the contents of certain court documents or evidence are unrelated to the facts of the case, may affect investigations in another case, or involve the privacy or business secrets of another party, the court may limit the defendant's access to such materials.

## Cross-examination Procedures

**170.** When the Code of Criminal Procedure was amended in 2003, the American style of cross-examination rules were adopted in certain parts of the amendment. Accordingly, the presiding judge is to advise that the identity of the witness has been established and ask the parties, agents ad litem, and defense counsels to carry out the examination of the witness. The party that summoned the witness examines the witness; the other party cross-examines the witness; the first party conducts reexamination; and the second party conducts an additional cross-examination.

## Appeal System

**171.** The Code of Criminal Procedure states that a prosecutor or defendant who disagrees with the judgment of a lower court may file an appeal to a higher court. Where a complainant or victim disagrees with the judgment of a lower court, he/she may request that the prosecutor appeal with reasons set forth. A prosecutor may also initiate an appeal based on the best interests of the defendant. The second instance court may not pronounce a criminal sanction greater than the original judgment on a case appealed by the defendant or appealed on behalf of the defendant. However, this provision does not apply to cases where the original judgment is revoked due to erroneous application of the law.

**172.** Tier two (High Court) trials are a retrial of cases concluded from tier one (District Court) trials, meaning that cases are completely reexamined by a tier two court. Tables 15, 16, and 17 show the number of cases with rights of appeal denied during criminal proceedings, the percentage of cases that could be appealed to a superior court, and the subduing rate for criminal cases in High Courts and District Courts between 2015 and October 2019.

**Table 15 Cases with Right of Appeal Denied during Criminal Proceedings**

Units: cases; %

Year	Percentage of plea bargains in District Court cases			Percentage of High Court trials denied appeal in accordance with Article 376 of the Code of Criminal Procedure		
	Plea bargain cases	Number of public prosecution cases	Percentage	Appeal-denied cases	Tier two	Percentage
				Closed cases	Closed cases	
2015	4,549	203,825	2.23	6,550	16,058	40.79

Year	Category	Percentage of plea bargains in District Court cases			Percentage of High Court trials denied appeal in accordance with Article 376 of the Code of Criminal Procedure		
		Plea bargain cases	Number of public prosecution cases	Percentage	Appeal-denied cases	Tier two	Percentage
					Closed cases	Closed cases	
2016		4,688	207,878	2.26	6,532	15,953	40.95
2017		4,781	218,007	2.19	6,874	16,848	40.80
2018		5,424	215,385	2.52	7,021	18,172	38.64
2019		4,935	207,292	2.38	6,664	19,081	34.92

Source: Judicial Yuan

**Table 16 Percentage of Cases Granted Appeal at a Superior Court**

Units: cases; %

Year	Category	District court			High court		
		Number of cases granted appeal (A)	Number of cases denied appeal (B)	Percentage (A/(A+B))	Number of cases granted appeal (A)	Number of cases denied appeal (B)	Percentage (A/(A+B))
		2015	176,807.50	5,187.50	97.15	7,910.00	7,374.50
2016	179,477.00	5,502.50	97.03	7,594.50	7,260.50	51.12	
2017	189,685.00	5,956.50	96.96	8,142.50	7,489.00	52.09	
2018	187,162.00	6,216.00	96.79	9,123.00	7,286.50	55.60	
2019	179,523.00	6,094.00	96.72	10,214.00	6,943.00	59.53	

Source: Judicial Yuan

**Table 17 Subduing Rate for Criminal Cases in High Courts and District Courts**

Units: cases; %

Year	District courts				High courts			
	Number of appeals withdrawn	Number of cases granted appeal	Number of appeals filed	Judgment subduing rate	Number of appeals withdrawn	Number of cases granted appeal	Number of appeals filed	Judgment subduing rate
2015	3,400.00	176,807.50	21,959.50	89.50	24.50	7,910.00	3,620.50	54.54
2016	3,690.00	179,477.00	22,631.50	89.45	24.00	7,594.50	3,424.00	55.23
2017	3,824.50	189,685.00	24,339.00	89.18	44.00	8,142.50	3,637.50	55.87
2018	4,575.50	187,162.00	25,905.50	88.60	49.50	9,123.00	3,998.00	56.72
2019	4,424.00	179,523.00	25,834.50	88.07	60.00	10,214.00	4,636.00	55.20

Source: Judicial Yuan

Note: Subduing rate = (Number of cases granted appeal + number of withdrawn appeals – number of appeals filed)/number of cases granted appeal × 100

**173.** For more information on the right to appeal, please refer to Note 199 of the Response to the Concluding Observations and Recommendations by international experts on the second national reports on the two covenants.

### **Retrial System**

**174.** To provide remedies for gross factual errors in judgments, the Code of Criminal Procedure allows for retrials as part of the special remedy system and specifies regulations regarding their grounds (which are based on the retrial decision's potential advantages and disadvantages to the petitioner), petitioning procedures, and time limit for filing. In addition, to protect the right to litigation embodied in the Constitution, regulations in the Code of Criminal Procedure were amended in 2019. The amendments covered the protection of retrial procedures, the right to access documents and right to express opinions of the retrial petitioner, and the right to simultaneously submit a petition to a judge to review evidence for a retrial. In response to the reexamination of past convictions on the basis of new evidence, including new DNA evidence, as specified in Section 43 in General Comment 36 of the UN Human Rights Committee, Taiwan promulgated the Post-Conviction DNA Testing Act on November 16, 2016. The Act aims to ensure the validity of criminal judgments and protect innocent people from wrongful convictions.

### **Compensation for Wrongful Convictions or Wrongful Detentions**

**175.** According to the Criminal Compensation Act, where a criminal judgment of a court infringes on human rights, the victim may seek state compensation pursuant to the Act (such as with the Chiang Kuo-ching case; refer to Note 40 of this report). The State Compensation Law states that if a trial judge or prosecutor infringes on the freedoms or rights of persons while acting within the scope of his/her office or employment and is found to have committed a crime when performing trial or prosecution duties, the provisions of this law will apply. The State Compensation Law also calls for the state to provide financial compensation when legally bound to compensate for damages. However, restoration of the prior condition may be an alternative remedy in cases where it is more suitable in the event that such an application is received from the claimant.

## **Article 15**

### **Principle of Legality**

**176.** The principle of legality is a fundamental principle of criminal law. Article 1 of the Criminal Code states that a conduct is punishable only when expressly so provided by the law at the time of its commission. This also applies to rehabilitative measures that restrict personal freedom. There are no provisions for application by analogy or invoked analogy. In addition, the principle of legality in the Criminal Code also applies *mutatis mutandis* to the Criminal Code of the Armed Forces. Therefore, the principle of legality is applicable based on the Criminal Code and Criminal Code of the Armed Forces in times of peace and war without exception.

### **Applicability of New and Old Laws**

**177.** The principle of using old laws and lighter sentences is applicable in investigations and trials. The Criminal Code specifies that, when a law is amended after the commission of a related offense, the law in force during its commission will apply. However, when an amended law is favorable to the offender, the version more beneficial must be used. Therefore, if a law is amended after a crime has been committed and the new regulated sentence is lighter, the offender may request that the application of the principle of old laws and lighter sentences be used.

## **Article 16**

### **Attaining Legal Personality**

**178.** According to the Constitution and the Civil Code, ROC citizens obtain equal legal moral status upon birth without discrimination. An unborn child is still considered born with regard to its interests, unless it ends up being stillborn.

**179.** Foreign nationals or stateless persons who live in ROC territory may apply for naturalization in accordance with the Nationality Act. Between 1982 and 2019, a total of 128,750 individuals were naturalized.

## **Birth Registration System**

**180.** Taiwan recognizes nationality primarily based on the jus sanguinis principle. However, according to the Nationality Act, children born in the ROC to parents of unknown or no nationality may be granted ROC citizenship. Likewise, children born in the ROC whose parents apply for and are granted naturalization may also be granted ROC citizenship.

## **Children Who Are Not ROC Citizens**

**181.** The government puts great priority on helping foreign and stateless children and juveniles attain nationality, household registration, a residence permit or other kinds of identity. Until identity is attained, these children/juveniles must be provided vaccinations, education, and medical attention by the local authority. They must be provided with economic subsidies, placement in foster families and institutions, medical subsidies, and other social welfare services to protect their rights and interests. They are also to be assisted with the search for their birth parents and applications to obtain resident certificates. Likewise, assistance should be provided, as appropriate, to help them return home to be with relatives or become declared stateless and apply for guardianship by the director of a social welfare agency (institution), naturalization, and adoption. Children adopted by a citizen or granted guardianship by a social welfare agency (institution) may apply for naturalization. As of 2019, there were 21 cases where children had been deemed stateless and sought naturalization in accordance with related procedures. The Ministry of the Interior approved 13 of the cases. Since December 1, 2017, infants of foreign nationals (including stateless persons) born in Taiwan and provided Alien Resident Certificates are to be enrolled in the NHI program upon birth.

**182.** As of June 2019, local governments have assisted 372 non-ROC children and youths, with 178 of the cases considered closed. Of the other 194 children, 19 were placed in children's placement institutions, 16 in foster families, and 12 with caregivers (including child care providers). Another 35 live with their birth parents or relatives, and 112 are being cared for by institutions appointed by their birth mothers. Their residency and parent-searching issues remain unresolved. In addition, the government has been assisting children with an unknown father and a foreign mother whose whereabouts in Taiwan is unknown in resolving their

identity and residency issues. A total of 16 children have been granted Alien Resident Certificates based on the nationality of the birth mothers, 20 have been deemed stateless and given Alien Resident Certificates for stateless foreigners, 19 have had their applications for guardianship by a director of a social welfare agency (institution) approved by a court, and four have become adopted.

## **Article 17**

### **Protection of Private Life**

**183.** The Criminal Code, Code of Criminal Procedure, Social Order Maintenance Act, the Communication Security and Surveillance Act, and Police Power Exercise Act contain provisions that protect the private life and communication freedom of citizens. Upon the conclusion of their surveillance, monitored subjects must be notified about how to seek related legal aid. In addition, illegal surveillance cases are subject to civil and criminal liabilities, with evidence gathered illegally not being admissible in a court case. Starting in December 2007, interception warrants for cases under investigation must be issued by judges. As of 2019, 71.76% of communication surveillance requests filed by prosecutors with courts had been approved, and 72.17% of the lines requested had been approved.

**184.** To issue a communication surveillance warrant, the National Security Bureau is required to conduct stringent preliminary and secondary reviews, which must be verified twice by the head of the NSB, and then seek approval from a High Court judge. There have been no instances of abuse of power or arbitrary action that have infringed on the private lives of others.

### **Search**

**185.** When necessary during an investigation, a judicial police officer may seek permission from a public prosecutor to apply for a search warrant from the court concerned. A search must be conducted in accordance with the location and scope specified by the related search warrant. The defendant, criminal suspect, or a third party may only be searched when necessary or when there is probable cause. The application for a search warrant must be kept confidential



and not available to the public, and may not be shared with the defense counsel for his/her reference. The judge is required to review the application carefully and swiftly and make a timely decision. As a search could tarnish the reputation of the individual concerned and presumption of his/her innocence, the search must be kept confidential.

- 186.** When a law enforcement agency seeks access to online personal data, such access must be confined to the investigation of a crime in accordance with the Code of Criminal Procedure. The law enforcement agency must also specify the reason for the search and access information in accordance with related procedures and regulations established by the competent authority and the Ministry of Justice.

### **Protection of Personal Information**

- 187.** The Personal Data Protection Act protects people's right to data privacy. It specifies that the collection, processing, and use of personal data by government agencies and nongovernment agencies must meet the criteria for specific purposes, criteria specified in laws, and the principle of proportionality. The subjects of the personal data must also be granted related rights, such as the right to inquire, view, correct, and delete data. The key amendments to the Personal Data Protection Act in 2015 are as follows: (1) the criteria for the collection, processing, and use of special categories of personal data are specified; (2) consent by the subjects of the personal data on the collection, processing and use of regular personal data may be given by means other than in writing; (3) criminal liabilities commensurate with penalties are specified; and (4) the timing for informing the subjects of the indirect collection of their personal data is specified.

- 188.** Public security surveillance cameras installed at key locations are to be installed in accordance with Article 10 of the Police Power Exercise Act. As the purpose of installation, usage, and actual implementation of such systems are local police administration or security concerns, they are planned and used by local governments. As different areas have different security concerns and regional characteristics, the municipality and county (city) governments must establish their own regulations on such issues as video recording and surveillance system management, target scope, installation procedures, inspections,

application procedures for access, file retention period, and video reproduction and use.

- 189.** The government plans to replace national ID cards and replace them with national digital ID cards, including for people aged 14 and below. People will be required to file applications for the new ID and confirm the data content at the local Household Registration Office. After the card production centers receive the data and produce the cards, the cards will be delivered to the Household Registration Office for issuance to the applicants. All citizens will be able to enjoy the convenient services provided with the digital national ID card free of charge. There will be no penalty for not replacing the national ID cards of children aged 14 and below. The Charge Standards for Household Registration Fees and the Certification Practice Statement of the Certification Authority under the Ministry of the Interior will be amended in line with the Regulations for the National-wide Replacement of National ID Cards. The Household Registration Act, Cyber Security Management Act, Electronic Signatures Act, and Personal Data Protection Act will not have to be amended.

#### **Personal Information Database**

- 190.** The contents of DNA databases may be divided into two main categories: (1) DNA of individuals, together with his/her basic information, for which file creation is required in accordance with the law and (2) DNA, together with other basic information, taken as evidence in criminal cases for the main purpose of file creation and comparison needed for criminal investigations in accordance with the law.
- 191.** There are 33 institutions that have been permitted to establish biobanks. According to the Human Biobank Management Act, participants have the right to request changes to identifiable personal information stored in a biobank. When a participant requests to exit a biobank program, the operator must destroy all specimens, documents, and information provided by the participant.
- 192.** The National Health Insurance Administration under the MOHW has been providing artificial intelligence analyses of the NHI data service pilot program since June 4, 2019, in accordance with the Personal Data Protection Act and the National Health Insurance Data Artificial Intelligence Application Service Pilot Program Guidelines. The data provided consists mainly

of deidentified CT and MRI scan data, with related reported data serving as secondary sources. The applicants must be a government or academic institution (including those for industrial applications) and applications must include institutional review board certification and be reviewed by a review panel, in accordance with the stipulations of Subparagraph 4, Paragraph 1, Article 6 of the Personal Data Protection Act.

**193.** From 2015 to 2019, there were 27 violations of financial confidentiality (under the Personal Data Protection Act or related financial regulations) in the financial service industry (nine involving banks, three involving securities/futures firms, and 15 involving insurance companies). In the end, the Financial Supervisory Commission issued fines totaling NTD 3.25 million, one warning, and one suspension of business operations.

### **Protection of Personal Reputation**

**194.** Articles 184 and 195 of the Civil Code; Article 309 (on public insults), Article 310 (on defamation), Article 312 (on insults against deceased persons), and Article 313 (on damage to credibility) of the Criminal Code; Article 104 of the Civil Servants Election and Recall Act; and Article 90 of the Presidential and Vice Presidential Election and Recall Act aim to protect personal reputation and credibility. From 2015 to 2019, indictments for violations of Article 104 of the Civil Servants Election and Recall Act totaled 39 cases against 47 individuals in 2015, 34 cases against 48 individuals in 2016, six cases against eight individuals in 2017, 12 cases against 13 individuals in 2018, and 41 cases against 47 individuals in 2019, totaling 68 people. From 2015 to 2019, indictments for violations of Article 90 of the Presidential and Vice Presidential Election and Recall Act totaled one case against one individual, resulting in his/her conviction.

## **Article 18**

### **Religious Freedom, Categories, and Protection**

**195.** Taiwan has no state religion. While the government does not investigate people's religious beliefs, it does record the number of followers voluntarily reported by religious organizations. Statistics are prepared only on religious groups that have been officially registered. Taiwan's

22 main religions include Bahá'í, Buddhism, Catholicism, the Church of Jesus Christ of Latter-day Saints (Mormons), Eastern Orthodoxy, I-Kuan Tao, Islam, Judaism, Mahikari, Bunmei Kyōdan, Maitreya Great Tao, Pre-cosmic Salvationism, Protestantism, Scientology, Taoism, Tenrikyo, Tiende, Tienti, Tian Tao, Unification Church, Xiaism, Xuanyuan, and Zailiism.

- 196.** All religions may apply to register their temples in accordance with the Act of Supervising Temples, establish churches as legal persons (associations) in accordance with related Civil Code regulations, or establish religious associations in accordance with the Civil Associations Act. Taiwan has no restrictions or regulations on the thinking, speech, tenets, and spiritual beliefs of religions. The Ministry of the Interior is now drafting the Religious Group Act, which primarily seeks to regulate the organizational operations, financial management, and religious affairs of religious legal entities and temples. As the draft is considered controversial by the religious community, the Ministry of the Interior will continue to solicit their opinions before implementing related legislative work.
- 197.** Taiwan fully respects religious freedom. Religious groups may hold open lectures to promote their beliefs or provide individuals with classes on religious studies. They may also promote their religions by publishing books, producing CD-ROMs, or creating content to be distributed on TV, the radio, or the internet. They may also apply to borrow public venues to organize prayers, rituals, parades, or other religious activities. The Criminal Code also stipulates regulations against such offenses as desecrating religious buildings or obstructing rituals.
- 198.** As religion neutrality applies mainly to public schools, private schools may organize religious activities that conform to the purpose of their establishment or the nature of their teachings. However, they must respect the willingness of their administrative staff, teachers, and students, and refrain from discriminating against them in any way for not participating in such events. The establishment of religious academies remains governed by the Private School Law.

- 199.** With regard to religious education for underage children, the Educational Fundamental Act states that parents have the responsibility to provide guidance to their children while their children are of the age to receive national compulsory education. They also have the right to select the form and content of their children's education and participate in the educational affairs of their children's schools so as to ensure their wellbeing in accordance with relevant laws and regulations.
- 200.** Religious associations that meet related requirements in the Income Tax Act, Stamp Tax Act, Land Tax Act, and House Tax Act may enjoy certain tax deductions and exemptions.
- 201.** To allow for the fulfillment of a youth's religious freedom and military service obligation, a youth may apply to perform alternative military service if he has been a member of religion for at least two years, the religion's organization has been officially accredited by the government, and he is not mentally suited to regular military service. If a draftee is prohibited from touching firearms by his religion, his place of enlistment must differ from that of regular servicemen. From 2000 to 2019, a total of 938 draftees were assigned to alternative military service due to religious beliefs, fulfilling their service obligations at assigned social welfare institutions. A total of 312 individuals born after 1994 were enlisted in accordance with their religious beliefs. In 2000, the ROC President pardoned 19 draftees who were convicted as prisoners of conscience after refusing to perform military service.

## **Article 19**

### **Ensuring the Right to Personal Opinion**

- 202.** Freedom of speech is a fundamental right protected by the Constitution. Judicial Yuan Interpretation No. 509 held the opinion that, to protect personal reputation, privacy, and public interest, laws may be imposed to limit freedom of speech to a reasonable extent. Judicial Yuan Interpretation No. 689 also verified that the freedom of press must be guaranteed by the Constitution. However, the freedom to have a press interview is not absolute. The state may, within the scope permitted by Article 23 of the Constitution, impose suitable restrictions in the form of orders as authorized by specific laws and regulations.

## Laws Restricting Freedom of Speech

203. Restrictions on freedom of speech by the Civil Servants Election and Recall Act and the Presidential and Vice Presidential Election and Recall Act and their grounds are provided in Table 18. Current practices meet the requirements set forth in the ICCPR.

**Table 18 Restrictions on Freedom of Speech by the Civil Servants Election and Recall Act and Presidential and Vice Presidential Election and Recall Act and Their Grounds**

No.	Legislation title	Article number	Offense	Restriction grounds
1	Criminal Code	Paragraph 1 and Paragraph 2 of Article 140	Insult a civil servant or government agency	Protect national sovereignty, operations and public power of government agencies, and authority of the government
2	Criminal Code	Article 153	Incite a crime or violation of the law	Maintain social order
3	Criminal Code	Article 155	Incite a person in the armed services to commit treason	Maintain national security and social order
4	Criminal Code	Article 157	Instigate litigation against others	Prevent harm to public order
5	Criminal Code	Paragraph 1 of Article 160	Dishonor ROC emblem or flag	Protect national dignity and social order
		Paragraph 2 of Article 160	Insult founder of the ROC, Dr. Sun Yat-sen	Uphold respect for the ROC founder
6	Criminal Code	Article 234	Engage in exhibitionism or commit obscenity	Protect good morals and privacy of personal sexual acts
7	Criminal Code	Article 235	Commit obscenity	Protect good social morals
8	Criminal Code	Paragraph 1 of Article 246	Desecrate religious building or memorial	Protect religious freedom and good morals
9	Criminal Code	Article 309	Commit insult publicly	Protect personal reputation from unlawful damage
10	Criminal Code	Article 310	Commit slander	Protect personal reputation and privacy from unlawful damage
11	Criminal Code	Article 312	Insult a deceased person	Protect families, descendants, the reputation of the deceased, or the respect of the descendants and community of the deceased
12	Criminal Code	Article 313	Injure the credit of another	Protect the credit of the victim
13	Civil Servants Election and Recall Act	Article 104	Disseminate rumors or falsehoods	Protect national security, social order, justice, and fairness of elections
14	Presidential and Vice Presidential Election and Recall Act	Article 90	Disseminate rumors or falsehoods	Protect national security, social order, justice, and fairness of elections

Source: Ministry of Justice

## Media License Control and Exchange of Information

**204.** The application for and approval, rejection, replacement, and revocation of licenses for broadcast television, cable television, and satellite television stations are outlined in the Radio and Television Act, Cable Radio and Television Act, and Satellite Broadcasting Act. The number of radio/TV businesses and channels operating in 2019 is shown in Table 19. There were 130 domestic licensed satellite TV businesses, 30 foreign licensed satellite TV businesses, 222 domestic licensed satellite TV channels, and 110 foreign licensed satellite TV channels. As of November 2019, there were 205 print media newspapers and 32 news agencies, as well as 1,167 published magazine titles.

**Table 19 Radio/TV Businesses and Channels**

Unit: businesses; channels	
Category	Businesses /channels
Radio stations	171
TV stations	5
Community antenna television stations	7
Satellite broadcasting providers (live satellite TV broadcast service providers)	5
Satellite broadcasting providers (satellite TV program providers)	160/332*
Cable TV system operators	59
Cable TV transmission systems	3

Source: National Communications Commission

Note: \*The number 160 represents the number of companies, and the number 332 represents the number of channels.

**205.** Amendments were made to the Motion Picture Act to remove many old restrictions, such as on the education background of film business heads, licensing of film business, registration of film workers, prohibitions against content that undermines the country's or industry's image, film reviews, censorship, and review of film commercials and promotional materials.

## News Interviews and Exchange of Information

**206.** According to the Regulations Governing Distribution, Display and Exhibition of Mainland Chinese Films and Programs in Taiwan, films and TV programs of mainland China origin can be distributed, sold, produced, aired, shown, or exhibited in Taiwan once reviewed and

approved by the competent authority. From 2015 to 2019, the number of mainland Chinese films approved for distribution or display was 14 in 2015, 10 in 2016, 14 in 2017, 10 in 2018, and nine in 2019. The number of mainland Chinese TV programs approved for distribution or display was 970 in 2015; 1,039 in 2016; 766 in 2017; 902 in 2018; and 727 in 2019.

**207.** Foreign and domestic journalists enjoy equal rights and freedom of speech. In addition, when government authorities organize press conferences or distribute news reports, foreign journalists enjoy the same access to interviews and information as domestic journalists.

### **Balance between Freedom of the Press and Police Authority**

**208.** The police are required to perform their duties when handling public assemblies and demonstrations, such as ensuring the security of the press area, camera platform, and satellite newsgathering vehicles. The police are also to maintain close communication with the media beforehand and make arrangements to assist with their coverage. If action must be taken due to illegal activities or danger during an event, the police need to advise and communicate with the attending media staff in order to convince them and provide them with necessary assistance so as to allow them to continue covering the event in other ways. In addition, Judicial Yuan Interpretation No. 689 specifies that when a member of the press follows a subject in order to gather information but to a degree that unjustly threatens the physical safety, mental health, or freedom of movement of the subject, Subparagraph 2 of Article 89 of the Social Order Maintenance Act authorizes the police to intervene and stop the newsgatherer. This type of intervention is not considered a violation of freedom of the press protected by the Constitution. There is no information on penalties imposed for violations of Subparagraph 2, Article 89 of the Social Order Maintenance Act from 2014 to 2019.

### **Prevention of Dissemination of False Information**

**209.** Disinformation impacts order in the people's daily lives and may even jeopardize fairness in democratic elections. The Executive Yuan specifies that disinformation needs to have been provided with malicious intent, forged or fabricated, or causing danger in order for legal accountability to be pursued. The competent authorities are required to actively, swiftly, and publicly clarify such controversial (false) information. The police are also required to



investigate when people report such cases. If the information is proved to be false, the police must conduct an investigation in accordance with the law. In addition, the Social Order Maintenance Act, Satellite Broadcasting Act, and Radio and Television Act specify that news reports must not violate the principle of fact verification and damage public interests. When stakeholders deem the content of a program to be false, they may request that corrections be made or that they be provided the opportunity to respond in order to protect their interests.

## **Article 20**

### **Prohibition against Advocacy of War and Hatred**

**210.** Taiwan's Mass Atrocity Punishment Act imposes penalties on any person who seeks to exterminate whole or part of an ethnic group or religious organization, as well as those who conspire, prepare, or attempt such a crime. Attempts and preparations to start civil disturbances, riots, or war against the state are punishable under the Criminal Code. In addition, the Criminal Code considers the incitement of crime to be criminal behavior. There were no convictions for the incitement of crimes specified in the Mass Atrocity Punishment Act from 2015 to 2019.

## **Article 21**

**211.** The freedom of assembly is one of the basic rights protected by the Constitution. Judicial Yuan Interpretation No. 718 considers the parts of the Assembly and Parade Act that require outdoor assemblies and demonstrations to be approved by the authorities, including assemblies/demonstrations of urgent/incidental nature, and that urgent assemblies/demonstrations obtain prior approval to violate the Constitution. A draft amendment has been submitted to the Legislative Yuan. The Principles for Handling Incidental Public Assemblies and Demonstrations were established to provide a basis for the police and society to handle such events until amendments to the Assembly and Parade Act can be implemented. The Principles exempted incidental public assemblies and demonstrations from having to seek prior approval and urgent public assemblies/demonstrations from having to seek instantaneous review in order to protect the

people's right to assembly and parade. In addition, when onsite commanders execute police powers in accordance with the law, their actions must be proportional to the event and effective. They must also choose the least-damaging actions and execute them cautiously. Where an employee of the government, through deliberate action or negligence, infringes upon the rights of people in peaceful assemblies or unarmed demonstrations, the people may claim compensation from the state. A total of 49,795 assemblies and parades were organized between 2015 and 2019. Of those that submitted applications, 31,353 applications were approved and 35 were denied. Applications were not filed for 18,407 events.

- 212.** On the day that Control Yuan members were sworn into office in 2014, some individuals did not apply for assembly and parade in accordance with the law and occupied the side entrance of the Control Yuan, where they chanted and gave speeches. They were ordered by the commander present to disperse and shown warning signs five times, but refused to disperse. A court review deemed that the parade was neither incidental and nor an unexpected major emergency that required immediate action to reach the desired purpose. Therefore, the organizer was sentenced to detention for 20 days for failure to follow orders to disperse in accordance with Article 29 of the Assembly and Parade Act. The number of people convicted of violation of the Assembly and Parade Act in criminal judgments rendered by District Courts from 2015 to 2019 have decreased, and all sentences involved detention and fines.

## **Article 22**

### **Establishment of Civil Associations**

- 213.** See Notes 86 to 87 in the Common Core Document of the third national reports on the two covenants for information on civil associations.
- 214.** The establishment of civil associations in the ROC is subject to government approval. To establish a civil association, the group of founders, which must comprise at least 30 people, are required to apply for a permit from the authorities. Once a permit is granted, the founders must hold a meeting to assemble a preparation committee. After all preparations are completed, the association can be formally established by convening a foundation meeting.

According to the Regulations for Registration of Social Entities, the authorities can take approximately two to four months from the day of application receipt to grant a permit. Once a permit is granted, the applicant will be notified to prepare and establish the association within six months, which can be further extended up to three months with the authority's approval.

**215.** According to the Regulations for Registration of Social Entities, the recognized categories of social entities are educational and cultural associations, healthcare associations, religious associations, sports associations, social service and charity associations, international associations, commercial associations, environmental protection associations, family associations, hometown associations, alumni associations, and other public interest associations. There is no separate category for human rights associations. However, judging from the name and purpose of registered civil associations, there were 180 human rights-related civil associations in 2019.

**216.** The governing authority is to serve as a counselor, helping founders establish their civil associations. From 2015 to 2019, the number of newly registered nationwide civil associations was 357 in 2015; 1,201 in 2016; 877 in 2017; 1,681 in 2018; and 1,611 in 2019.

**217.** In 2011, the Ministry of Labor established a labor administration system to record union applications. A total of 534 new unions were registered from the establishment of the system to December 2019.

### **Amendment of Laws Concerning Civil Associations**

**218.** According to Judicial Yuan Interpretation No. 733, the Civil Associations Act, which required civil associations to elect one chairperson from among the managing directors or the directors if they do not have managing directors, imposed as an unnecessary restriction on the internal affairs of a civil association. As this requirement was considered to violate the principle of proportionality and the people's right to association in the Constitution, it was declared unconstitutional and lost its validity. A draft of the Social Associations Act and amendments to the Industrial Group Act have been formulated and submitted to the Legislative Yuan for review. Legislation involving the people's freedom of association, such as the Commercial

Group Act, Educational Association Act, and Political Parties Act, have been promulgated and implemented.

## **Unions**

**219.** See Notes 92 to 97 and Note 102 of the third national report on the ICESCR for protections and restrictions concerning the right to organize and join unions, the number of unions, and the right to strike.

## **Civil Servant Associations**

**220.** Civil servants may exercise their rights of association in accordance with the Civil Servant Association Act by forming civil servant associations. These associations have the right to recommend and participate in decision making and serve a major role in dispute resolution.

**221.** There are two tiers of civil servant associations: the national level (National Civil Servant Association) and agency level. Those at the agency level can be further distinguished between central and local government associations. The National Civil Servant Association comprises agency-level associations as members, including 20 formed those at the central government level and 15 at the local government level.

## **Article 23**

### **Definition of Family**

**222.** According to the Civil Code, a house is a community of relatives who aim to live together permanently in the same household. Persons belong to the same house are, except for the head of the house, the members of the house, including relatives and persons who are not relatives but live in the same household. All members of a house are eligible to elect or be elected as the head of the house. House members, whether relatives or not, may live in the same household permanently and accept a mutual obligation to maintain one another. As house members and relatives have different connotations, their marriage(s), property, insurance, medical care, inheritance, and legal rights and protections thereof are not the same.

### **Legal Requirements and Implications of Marriage**

**223.** The Civil Code specifies that the minimum age of marriage is 18 for males and 16 for females.

Regarding the proposed amendment to specify 18 as the minimum age for marriage for both males and females, refer to Note 213 of the Response to the Concluding Observations and Recommendations by international experts on the second national reports on the two covenants.

**224.** The Act for Implementation of J.Y. Interpretation No. 748 promulgated on May 24, 2019, already specifies that two persons of the same sex over the age of 18 may form a permanent union of intimate and exclusive nature for the purpose of living a common life. They may also register their marriage at a household registration office. Unless related regulations in the Act Governing the Choice of Law in Civil Matters Involving Foreign Elements are amended, except for same-sex marriages involving an individual from Taiwan and an individual from countries that recognize same-sex marriages, partnerships, or civil unions, same-sex marriages involving an individual from other countries will not be recognized. The Judicial Yuan is currently studying whether to amend related regulations in this Act. In addition, as same-sex unions between individuals from Taiwan and China involve the consolidation of laws and administrative measures pertaining to the purpose for entry, interview mechanism, and registration procedures, feasible plans for such cases will also have to be formulated. Furthermore, as Hong Kong and Macau residents are currently unable to come to Taiwan to register a marriage with a Taiwan national, related regulations have to be studied and amended by the competent authority.

### **Rights and Obligations of Spouses**

- 225.** A husband and wife are obligated to cohabit, unless there are extenuating circumstances. Regarding daily household matters, they act as agents for each other. Household living expenses are to be shared according to each party's economic ability, household labor, or other matters unless otherwise provided for by law or mutual agreement.
- 226.** Matrimonial property must follow statutory and contractual regimes. The contractual regime is further divided into the community of property regime and separation of property regime. The husband and the wife may, before or after getting married, adopt by contract the management, use, collection of fruits from, disposal, and distribution of property and choose

to adopt the community of property regime or separation of property regime. This choice must be registered in court. If not registered, the statutory regime will apply.

- 227.** Parents must agree in writing whether a child is to assume the father's or mother's surname. Between 2015 and 2019, the percentage of children given the father's surname in the birth registry decreased from 95.57% to 94.96%, with the percentage of children given the mother's surname increasing from 4.43% to 4.98%. In addition, a small percentage of children were registered with traditional aboriginal names.
- 228.** In terms of the exercise of parental powers, parents are required to exercise the rights and assume the duties with regard to their minor children. Parents are the statutory agents of their minor children. Parents are to jointly exercise their rights and assume their duties with regard to their minor children, unless otherwise provided by law. If one of them cannot exercise such rights, the rights are to be exercised by the other party. If parents cannot assume the duties jointly, the duties will be assumed by the parent who has the ability. If there is inconsistency between the parents in the exercise of rights with regard to a grave issue involving a minor child, they may apply to the court for a decision in accordance with the best interests of the child. Before reaching such a decision, the court must conduct a hearing with the minor child, the authorities concerned, or the social welfare institution involved.
- 229.** In the event of a divorce, the court is required to take into consideration all relevant factors and award parental rights in accordance with the children's best interests. In addition to relying on reports made by social workers or family affairs investigation officers, courts may also base their decisions on the findings of police authorities, tax authorities, financial institutions, schools or other government agencies, groups, or appropriate people. If the parents do not divorce and do not continue their cohabitation for more than a certain period of time, regulations for divorce apply *mutatis mutandis* to the exercise of the rights or assumption of duties with respect to the minor.
- 230.** Each spouse has the right to inherit the property of the other, and his or her entitled portion when inheriting the estate with blood relatives is determined according to the difference in the order of all the coheirs.

## **Rights of Same-sex Marriages**

- 231.** As of 2019, a total of 2,939 same-sex couples had married, including 928 male couples and 2,011 female couples. Since the registration of same-sex marriages became available on May 24, 2019, ROC nationals wishing to marry another ROC national or someone from a country that recognizes same-sex marriage have been eligible to register their same-sex marriage. The partnership registration for same-sex couples has been discontinued. If a same-sex couple registered for a same-sex partnership later registers for a same-sex marriage, their same-sex partnership will be annulled. An ROC national wishing to marry someone from a country that does not recognize same-sex marriage may not apply to register a same-sex marriage with that person. However, the couple may still register for a same-sex partnership. Previously registered same-sex partnerships of such couples will not be annulled.
- 232.** The Act for Implementation of J.Y. Interpretation No. 748 specifies that parties entering a same-sex marriage may not have certain types of kinship or guardianship relations, or engage in bigamy or polygamy. In addition, they must register their marriage at a household registration office. The parties are also obligated to cohabit and act as agents for each other in daily household matters. The living expenses of the household will be shared by the parties according to each party's economic ability, household labor, or other conditions unless otherwise provided for by law or mutual agreement. The individuals in a same-sex marriage are obligated to look after each other and are legal heirs to each other. A party may adopt the biological child of the other party, and the provisions of the Civil Code and other laws concerning the rights and obligations of parents and children apply *mutatis mutandis*. With the exception of relatives by law, the agreement to marry, minimum marriage age, scope of relatives for which marriage is not permitted, grounds for revocation of the marriage (sexual impotence), prefixing surname, grounds for ruling of termination, presumption of legitimacy and acknowledgment of paternity for post-marital legitimization, and scope of adopted children, all other issues are to be governed by regulations for marriage specified in the Civil Code.

## **Divorce System**

**233.** The three systems for the termination of marriage in the Civil Code include divorce by agreement (divorce by mutual consent), divorce by judgment, and divorce by court mediation or settlement. The Act for Implementation of J.Y. Interpretation No. 748 specifies that the methods of terminating the relationship are the same as those specified for marriage in the Civil Code. However, either party may petition for a juridical decree of termination upon the occurrence of any gross event that renders it difficult to maintain the union, thus realizing the principle of breakdown of marriage.

## **Exercise of Parental Rights after Divorce**

**234.** In domestic proceedings, the court must, based on the age and discernment capacity and other physical and mental conditions of the children, inform them, inside or outside the court, of the implications of the judgment and provide them with opportunities to express their intent or state their opinions. Therefore, to obtain the opinions of minor children and seek their true intent, the court may have them attend court to provide a statement or seek to indirectly learn about their true intent through visits by social workers, investigations by family matters investigation officers, or interviews with the guardian ad litem. When minor children need to attend court to state their opinions, the Family Act allows for a private court with a friendly environment for the proceedings to protect their privacy and safety. To protect the rights of children and youths to express their opinions, the Act also allows social workers to accompany children; separate sessions to be arranged for parties to present their cases; the guardian ad litem, experts in child or adolescent psychology, and other professionals to provide assistance; and several other assurance and protection systems to be provided.

**235.** Of the 5,523 divorce cases involving child custody concluded by District Courts from 2015 to 2018, custody in 1,661 cases (30.07%) was awarded to the father and in 3,341 cases (60.49%) to the mother. In another 521 cases, the parents were awarded joint custody. The statistics on the exercise of rights and obligations with respect to underage children by divorced parents from 2015 to 2019 are provided in Table 20.



**Table 20 Exercise of Rights and Obligations with Respect to Underage Children by Divorced Parents**

Unit: persons; %

Year	Total	Fathers		Mothers		Joint custody	
		Number of people	Ratio	Number of people	Ratio	Number of people	Ratio
2015	59,370	25,639	43.19	21,986	37.03	11,745	19.78
2016	59,861	25,064	41.87	22,783	38.06	12,014	20.07
2017	58,217	23,637	40.60	22,612	38.84	11,968	20.56
2018	58,480	23,102	39.50	22,470	38.42	12,908	22.07
2019	58,250	22,195	38.10	22,174	38.07	13,881	23.83

Source: Ministry of the Interior

Details: This table has been organized according to registration dates.

### **Family Court**

**236.** The Taiwan Kaohsiung Juvenile and Family Court was created in 2012 specifically to conduct first-instance trials of all family matters. At locations that lack a dedicated juvenile and family court, all related cases are processed by the family tribunal of the District Court. As of 2019, there were 141 judges that specialized in or concurrently handled family affairs at District Courts. Judges who specialize in such cases are required to complete more than 12 hours of related training each year. The Judicial Yuan offers specialized courses to train both new and experienced family court judges and regularly organizes professional on-the-job training courses on family affairs. To encourage judges to enhance their professional skills and serve longer terms in their roles, judges may apply for the issuance or reissuance of professional family affairs certificates. The effective duration of these certificates is three years. After a judge obtains professional certification, he/she may be prioritized for handling family affairs cases.

**237.** See Notes 165 to 168 of this report for information on interpretation services and translation of litigation documents in trial procedures of family affairs cases.

### **Naturalization of Foreign Spouses**

**238.** According to the regulations of the Nationality Act, after an individual is naturalized as an ROC citizen, the naturalization may be revoked in accordance with the Act, and the Ministry

of the Interior may revoke approval within two years of discovering any circumstances that are not in conformity with the Act. However, naturalization or loss or restoration of ROC nationality may not be revoked if five or more years have passed since taking effect. A total of 34,219 people were naturalized between 2012 and 2019. Of them, 32,139 (93.92%) were female, and 2,080 (or 6.08%) were male. On the other hand, 5,852 people lost ROC nationality during this time. Of them, 3,238 (55.33%) were female, and 2,614 (44.67%) were male. In addition, 2,070 people restored ROC nationality during this time. Of them, 1,398 (67.53%) were female, and 672 (32.47%) were male. Regarding their main reason for becoming naturalized, the main reason in 30,934 cases (90.40%) was marriage, with females again being the majority in this category. Vietnamese accounted for the highest number of people to naturalize (67.64%), followed by Indonesians, Filipinos, Thais, and Burmese. From 2012 to 2019, the number of people who had their ROC nationality revoked (which was acquired through marriage with ROC citizens) was three in 2012, eight in 2013, nine in 2014, 10 in 2015, seven in 2016, five in 2017, two in 2018, and one in 2019, totaling 45 people.

### **Residency of Mainland Chinese Spouses**

**239.** The time needed for mainland Chinese spouses to acquire ROC ID cards has been aligned with that needed by foreign spouses under the draft amendment of Article 17 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area. The amendment awaits the completion of legislative procedures by the Legislative Yuan. The number of mainland Chinese spouses whose applications for residency were approved from 2015 to 2019 is as follows: 878 in 2015; 957 in 2016; 895 in 2017; 870 in 2018; and 1,032 in 2019 for men; and 14,088 in 2015; 13,096 in 2016; 11,314 in 2017; 10,028 in 2018; and 9,396 in 2019 for women.

### **Right to Family Reunion**

**240.** The right to reside in Taiwan is to be handled in accordance with related regulations set under the Statute Governing the Issuance of ROC Visas in Foreign Passports, the Immigration Act, and the Regulations Governing Visiting, Residency, and Permanent Residency of Aliens. Before entering Taiwan, applicants are required to apply for and obtain a resident visa first

from a foreign mission of the ROC. An applicant who holds a valid visa with a duration of stay for at least 60 days and has not been prohibited from extending the duration of stay or has been given any other restriction by the visa-issuing authority, will be permitted to present an effective passport and the said visa to apply for an Alien Resident Certificate from the National Immigration Agency service station with jurisdiction over the area of his/her residence within 15 days of entry. If the application is approved, the National Immigration Agency will issue to the applicant an Alien Resident Certificate, allowing him/her to legally take up residency in Taiwan. The residency of mainland Chinese spouses in Taiwan is divided into four stages, namely, reunion, dependent residency, long-term residency, and permanent residency. Once an applicant applies for reunion in Taiwan with proper legal documents, passes the interview, and obtains approval to enter Taiwan, the applicant may register his/her marriage at the Household Registration Office and apply for dependent residency with the National Immigration Agency. He/she may apply for long-term and permanent residency after residing in Taiwan after the appropriate specified periods of time.

- 241.** Foreigners who adopt ROC nationality or are permitted to reside in the country may also apply for residence permits for their spouse and underage children who do not possess ROC nationality. From 2015 to 2019, 11,231 Alien Resident Certificates were granted to children of immigrants and foreign workers (including sponsoring relatives who are already ROC citizens). Among these cases, 295 involved residency applications for children of immigrant workers. The term *immigrant workers* refers to low-level technical (and nontechnical) personnel engaging in jobs specified in Items 8 to 11, Paragraph 1, Article 46 of the Employment Services Act. According to Articles 18 to 22 of the Regulations Governing Dependent, Long-term and Permanent Residency of Mainland Residents in Taiwan, qualified mainland Chinese residents in Taiwan may also apply for the long-term residency of their parents and underage children.
- 242.** To better ensure the security of ROC territory, protect the legal interests of both parties in cross-border marriages, and deter human trafficking, the foreign missions of the Ministry of Foreign Affairs conduct interviews of individuals who are dependents and come from certain

countries and, on August 1, 2019, launched improvements to the single-window processing mechanism. The Ministry simplified procedures for their convenience and enhanced the grounds for foreign missions to approve or deny applications, while protecting the right to family reunion and right to cohabit of ROC citizens and foreign spouses. The 22 countries that require dependency interviews include Bangladesh, Belarus, Bhutan, Cambodia, Cameroon, The Gambia, Ghana, India, Indonesia, Kazakhstan, Mongolia, Myanmar, Nepal, Nigeria, Pakistan, the Philippines, Senegal, Sri Lanka, Thailand, Ukraine, Uzbekistan, and Vietnam.

- 243.** Children who are not ROC citizens but were born in Taiwan and whose father or mother holds a valid Alien Resident Certificate or Alien Permanent Resident Certificate may apply for an Alien Resident Certificate from the National Immigration Agency. In 2017, the government also issued an official letter promulgating related standard operating procedures to assist children who are not ROC citizens and whose father is unknown and the whereabouts of his/her foreign mother are unknown. While helping children locate their birth mothers, social service units are to find them accommodation, and the National Immigration Agency is to provide them Alien Resident Certificates based on the nationality of the birth mothers. If the search for their birth mothers fails and the Ministry of the Interior deems the children stateless, they become eligible to be adopted and naturalized. All of their related rights and interests are protected. Refer to Notes 181 and 182 of this report.
- 244.** Tibetan spouses are accorded the same rights as foreign spouses of ROC citizens and may apply to change their visitor visa to an Alien Resident Certificate in accordance with the Immigration Act. They may also apply for review and approval with the National Immigration Agency in accordance with the Regulations Governing Visiting, Residency, and Permanent Residency of Aliens to obtain residency in Taiwan. In addition, minor children of Tibetan people may apply for residency with the procedures accorded citizens' minor children in accordance with Immigration Act regulations.
- 245.** Mainland Chinese spouses granted long-term or permanent residency may apply for the long-term residency of their children, provided that the children made their first visit to Taiwan before reaching the age of 16 and made legal visits to Taiwan for four consecutive years and

stayed for 183 days or more per year. The number of youth granted such residency is capped at 60 individuals per year. Mainland Chinese spouses with registered identity in Taiwan may apply for the long-term residency of their children aged 20 and below. The number is capped at 300 individuals per year. A total of 1,800 applications for such individuals were approved from 2015 to 2019.

## **Article 24**

### **Protection of Children**

- 246.** Citizens are required to register new births at a household registration office within 60 days of birth, recording his/her official name in Mandarin. Household registration offices must remind people who fail to meet the deadline to register the new birth and, if all reminders are ignored, may register and name the newborn child at its discretion. According to the Civil Code, children born to married couples or out of wedlock have the same inheritance rights.
- 247.** The Child and Youth Sexual Exploitation Prevention Act was amended in 2017 and 2018 to further stress the legal status of such victims, improve measures for the prevention of related cybercrimes, strengthen the diverse treatment services, expand the scope of individuals responsible for submitting reports, and make criminal penalties more severe. The Protection of Children and Youth Welfare and Rights Act was amended in 2019. The amendment added judicial and early-intervention investigation procedures for cases requiring the protection of children and youths. It established records on penalties imposed on perpetrators of crimes against children and youths and mechanisms for the retrospective analyses of the deaths of children. It also increased penalties for inappropriate behavior toward children and youths and added regulations for putting perpetrators of crimes against children and youths under protective measures. Of cases involving the abuse and death of children and youths, approximately 30% had previous records of reports calling for their protection, while no such records were present for the remaining 70%. The child and youth population from 2015 to 2019 was 4,043,357 in 2015; 3,987,202 in 2016; 3,900,662 in 2017; 3,778,520 in 2018; and 3,702,207 in 2019. During this period, the number of child deaths as a result of abuse was 31

(14 by suicide) in 2015, 27 (10 by suicide) in 2016, 29 (13 by suicide) in 2017, 15 (five by suicide) in 2018, and 23 (13 by suicide) in 2019.

### **Special Judicial Protections for Children**

- 248.** The Juvenile Justice Act was amended in accordance with related opinions in Judicial Yuan Interpretation No. 664, the Act to Implement the ICCPR and the ICESCR, and opinions from different sectors of society. The amendments were promulgated in 2019. They called for the abolishment of the delinquency system and added important regulations. These covered such areas as a pilot administrative assistance mechanism for at-risk teenagers (to be promulgated on July 1, 2023), respect for the moral rights and right to protective procedures of juveniles, alternative treatment measures, introduction of restorative mechanisms for juveniles, and restoration of the accommodation identification function of juvenile detention centers. According to the Convention on the Rights of the Child and the Concluding Observations and Recommendations by international experts on the initial national reports for the Convention, juvenile criminal cases are to be processed in accordance with the Protection of Children and Youth Welfare and Rights Act instead of the Juvenile Justice Act. Therefore, based on the new system implemented after the amendment, such cases will no longer be processed in accordance with regulations of the Juvenile Justice Act starting from June 19, 2020. Instead, their cases will be processed using the 12-year compulsory education program and student counseling system.
- 249.** With regard to regulations for the application of the Juvenile Justice Act in juvenile criminal cases, the MOE has worked with the MOHW and related agencies to formulate counseling and protective measures for children aged seven to 12 who exhibit inappropriate behavior. Through online collaboration, it has also helped implement related education and counselling measures to strengthen the three-tiered assistance measures for students and children, as well as youth protection work. All related measures are to be completed before June 19, 2020.
- 250.** When a juvenile court decides that a juvenile needs placement and guidance, the MOHW is to use institutionalized care and guidance when carrying out the decision. Based on the requirements of each case, the juvenile protection officer and the placement institution are to

jointly formulate a treatment plan; provide guidance with respect to the juvenile’s education, employment, and psychological needs; and conduct follow-up work after the youth leaves the institution. The number of placement and guidance cases from 2015 to June 2019 was 265 (for 181 males and 84 females) in 2015, 223 (for 150 males and 73 females) in 2016, 177 (for 121 males and 56 females) in 2017, 165 (for 114 males and 51 females) in 2018, and 146 (for 107 males and 39 females) in 2019.

### Protections for Children Lacking Normal Family Life

**251.** If children and youth can no longer live normal lives in their family environment because of a family crisis, their parents or guardians may apply to the authorities for placement or assistance. Priority for placement is to be given to the home of a relative, a foster family, and lastly a placement institution. Table 21 shows the conditions of placement at children’s and juveniles’ facilities and foster families between 2015 and June 2019.

**Table 21 Placement at Children’s and Juveniles’ Facilities and Foster Homes**

Units: cases; persons

Year	No. of institutions	Total beds	Those sheltered in facilities		Households	Those sheltered in foster homes	
			Male	Female		Male	Female
2015	122	5,004	1,771	1,704	1,326	804	858
2016	121	5,094	1,702	1,617	1,299	786	836
2017	124	5,211	1,583	1,565	1,193	769	852
2018	122	5,076	1,485	1,500	1,014	762	840
2019 (Jan.-June)	120	4,908	1,425	1,452	1,051	786	836

Source: MOHW

Note: Each foster family may accommodate two children.

### Protection of Stateless Children

**252.** Harmony Home Association (hereinafter referred to as Harmony Home) rents apartments in Taipei City and other areas to accommodate absconding immigrant workers and their children. The sites of accommodation consist mainly of air raid shelters with limited space. Accommodations are provided for absconding immigrant workers and their minor children. Such arrangements do not meet the regulations in the Standards for Establishing Children and Youth Welfare Institutes. The Department of Social Welfare of the Taipei City

government has repeatedly conducted joint investigations and has discovered that the number of illegally sheltered individuals has continued to rise. In addition, the lack of professional assistance leads to alarmingly low-quality care. Government intervention and assistance are required. As Harmony Home and the immigrant workers it accommodates are worried about their repatriation, they are all hesitant to accept government intervention and assistance. They have therefore failed to actively cooperate with related assistance and treatment measures. The government has subsequently adopted the following measures: (1) Non-ROC children with parents whose whereabouts are unknown or who have failed to visit them are provided with assistance and transferred to children's welfare institutions. They are provided with general care, medical services, and education assistance, as well as assistance with obtaining Alien Resident Certificates so they can then enroll in the NHI program. (2) Non-ROC children who live with their birth mothers in Harmony Home are assisted with their repatriation. They are also provided health handbooks for use during their stay in Taiwan, other medical services, and measures to link them with related social welfare resources.

### **Prevention of Child Trafficking**

**253.** The government has drafted an antislavery plan to combat human trafficking. Police authorities across the country have been instructed to strengthen their antihuman trafficking efforts with the aim to arrest key suspects, sponsoring spouses, and other suspects of related crimes to deter such practices. The Human Trafficking Prevention Act covers adults over the age of 18, as well as children and youths under the age of 18. However, to provide more comprehensive protections for children and youths, the Act specifies that at first, consideration should be given to processing human trafficking cases involving children and youths in accordance with the Child and Youth Sexual Exploitation Prevention Act. To provide children and youths who are sexually exploited or at risk of sexual exploitation with channels to seek assistance and services, social workers must accompany such children and youths during interrogations and provide them emergency shelter after interrogations so as to protect them from human traffickers. They must also petition to court rulings to extend the shelter service within 72 hours. If extended shelter is deemed necessary, the children and



youths are then placed in halfway houses or placement and educational institutes to help them complete their education or learn life skills. Local governments conduct at least one year of counseling and intervention to children and youths after their placement period has ended so as to help prevent them from falling victim to sexual exploitation.

### **Protection of Child Labor**

**254.** The Labor Standards Act defines child labor as that performed by an employee over 15 but below 16 years of age. Employers are not allowed to subject a child laborer to more than eight hours of work per day for a total of 40 hours per week and he/she may not work on regulated days off or at night. In addition, a child laborer and individuals over 16 and under 18 years of age may not work during regulated days off or at night, and may not engage in potentially dangerous or hazardous work. Employers must also maintain proof of the age and consent signed by the legal guardian of employees less than 18 years of age. The Occupational Safety and Health Act also expressly prohibits employers from assigning workers under 18 years of age dangerous or hazardous tasks. Employers or those accepting labor are required to seek permission beforehand from the local labor authority when the workers to provide the labor service are below 15 years of age. They must also ensure that work conditions comply with the Labor Standards Act concerning child labor protections. Employers who violate the above laws may be sentenced up to six months' imprisonment, detained, or fined a total maximum amount of NTD 300,000. The number of applications for the employment of laborers less than 15 years of age was 533 in 2015; 1,080 in 2016; 729 in 2017; 605 in 2018; and 906 in 2019.

**255.** The number of individuals who were under 18 years of age and covered by labor insurance (excluding individuals participating in industry cooperation programs, individuals receiving training at professional training institutions, and individuals not employed but still being covered, such as those on unpaid parental leave to raise children; an individual insured by two or more places of employment is only counted as one) was 27,930; 29,011; 29,638; and 27,180 as of the end of each year from 2015 to 2018, respectively. These figures include the following for that timeframe: (1) three, three, one, and four individuals under 15 years of age;

(2) 2,743; 2,329; 2,106; and 1,905 individuals over 15 but under 16 years of age; and (3) 25,184; 26,679; 27,531; and 25,271 individuals over 16 but under 18 years of age.

**256.** When government authorities conduct labor inspections, they must be especially careful when needing to use the Principles for Inspections of Labor Conditions of Child Labor and Youths. A total of 67,194 inspections of labor conditions (including seven complaints of violations of related child labor regulations) were conducted in 2016, uncovering 15 violations of related child labor regulations (10 violations of the employment of child labor, one violation of overtime work of child labor, and four violations of nighttime work of child labor). A total of 40,282 inspections of labor conditions (including six complaints of violations of related child labor regulations) were conducted in 2017 and 14 violations of related child labor regulations were discovered (eight violations of the employment of child labor, one violation of overtime work of child labor, and five violations of nighttime work of child labor). A total of 67,005 inspections of labor conditions (including 12 complaints of violations of related child labor regulations) were conducted in 2018 and 24 violations of related child labor regulations were discovered (13 violations of the employment of child labor, five violations of overtime work of child labor, and six violations of nighttime work of child labor). A total of 57,772 inspections of labor conditions (including 16 complaints of violations of related child labor regulations) were conducted in 2019 and five violations of related child labor regulations were discovered (all violations involved the failure to maintain proof of the youths' ages and the signed consent of the legal guardian in accordance with child labor regulations). Violations were found in such industries as the accommodations/food and beverage services industry, wholesale and retail trade industry, art industry, entertainment industry, recreational services industry, and manufacturing industry. In addition, the Ministry of Labor established the youth occupational safety and health protection program to provide related safety and health education, training, awareness campaigns, and assistance for students of domestic high schools (vocational high schools), colleges, and universities, as well as enterprises. The Ministry also enhanced collaboration between different government agencies to better protect youths' labor rights.

**257.** The Ministry of Labor implemented the youth occupational safety and health protection program, improvements for nighttime work safety for laborers less than 18 years of age employed in convenience store chains, and other measures. It also established measures for employers to improve occupational safety at nighttime business premises operated by one person and organized seminars to request convenience store operators to establish prevention plans for workers when facing threats at work and take measures to prevent violence in order to protect the physical and mental health of workers. The Ministry conducted 1,358 safety and health inspections in 2018 at enterprises with a substantial number of youth employees, such as gas stations, convenience stores, and catering businesses. It also started requiring employers not to allow laborers under the age of 18 to engage in work inside pits, carry heavy objects, operate cranes, process explosive materials, or engage in dangerous or hazardous tasks. These measures were implemented to protect the rights and interests of youths and prevent enterprises from engaging in illegal activities.

## **Article 25**

### **Right of Participation in Political Affairs**

**258.** ROC citizens, except otherwise provided in the Constitution or those still under guardianship for any reason, are entitled to vote in referendums when they reach 18 years of age. They are also entitled to vote in elections when they reach 20 years of age. Individuals who have the right to vote in elections and referendums must reside in their electoral district continuously for four months or six months, respectively, to be entitled to vote in elections or referendums. The regulation stipulating that individuals who have been deprived of civil rights without those rights being reinstated do not have the right to vote was deleted in 2007. Citizens aged 40 and above may register as presidential or vice presidential candidates. Citizens aged 23 and above may register as candidates for other public offices at the area in which they are entitled to vote. This restriction does not include elections for special municipality mayor, county magistrates, and city mayor, for which a candidate must be at least 30 years of age, and township mayor elections, for which a candidate must be at least 26 years of age.

Individuals over 18 years of age may take the Civil Service Examination. Individuals over 20 years of age may apply to the competent authority for approval to set up a civil association. The Referendum Act states that referendums include national referendums and local referendums. Permanent residents or foreign spouses who have not obtained ROC citizenship do not enjoy the right to vote in an election, the right to be a candidate in an election, the right to vote in a referendum, or the right to take civil servant exams.

**259.** Considering that naturalized citizens may have limited knowledge of the national conditions of the ROC when they renounce their original nationality and obtain ROC nationality, the Nationality Act prohibits foreigners from assuming senior civil servant/public official positions (e.g. president, vice president, deputy minister or above, and elected public officials at the central or local government level) within 10 years of naturalization. The Civil Servants Election and Recall Act allows persons who have adopted ROC nationality to register as candidates only after 10 years of naturalization. In addition, given the differences in the understanding of democratic values by people of mainland Chinese origin, the time needed to adapt to Taiwan society, as well as the issues of loyalty and working relations with the state established once employed, the Act Governing Relations between the People of the Taiwan Area and the Mainland Area specifically stipulates that only persons who have adopted ROC nationality for at least 10 years are allowed to register as candidates. However, to protect the rights to work of mainland Chinese spouses, the government has relaxed regulations to allow mainland Chinese residents with dependent residency, long-term residency, or household registration to be appointed as temporary staff in government agencies (institutions) and schools.

### **Regular Elections**

**260.** Certain public officials, such as the president, vice president and legislators, are elected on a nationwide basis, whereas other positions, such as mayors, village chiefs, and local representatives, are elected on a regional basis. All the above officials serve a term of four years, and such elections occur once every four years. Following the announcement of the Additional Articles of the Constitution, all legislators have been directly elected since 1992,

whereas presidents and vice presidents have been directly elected since 1996. These elections are held to set schedules and apply to local public officials as well.

### **Other Restrictions on Suffrage Rights**

**261.** The Presidential and Vice Presidential Election and Recall Act and the Civil Servants Election and Recall Act stipulate that those with a declaration of guardianship that has not been revoked may not exercise their right to vote. To protect the basic civil rights of individuals with a declaration of guardianship and implement the spirit enshrined in the Convention on the Rights of Persons with Disabilities, the government has formulated amendments to the aforementioned legislation to delete regulations preventing individuals with a declaration of guardianship that has not been revoked from voting. The draft has been submitted to the Legislative Yuan for deliberation.

**262.** As of December 2019, there were 59,865 people accommodated in correctional institutions who had the right to vote but were unable to do so.

**263.** The election deposit has been introduced as an appropriate and reasonable means to discourage abuse of the election system that would result in the waste of social resources. Deposits for the presidential election are set according to the Presidential and Vice Presidential Election and Recall Act, whereas deposits for public official elections are set by the Central Election Commission. Deposits of major elections that took place between 2012 and 2018 were set at NTD 15,000,000 for the presidential election; NTD 200,000 for legislator, county magistrate, city mayor, and municipal councilor elections; NTD 2,000,000 for special municipality mayor elections; and NTD 120,000 for county/city councilor elections.

### **Voting Rights for Persons with a Physical or Mental Disability**

**264.** The Central Election Commission has introduced a number of accessibility and assistance measures for the convenience of voters with physical or mental disabilities. In addition to recording audio versions of electoral bulletins, arranging sign language services for electoral public forums, setting up wheelchair-accessible polling booths, accommodating visually impaired voters by providing ballot slip covers with braille printing, and allowing assistants

to vote on behalf of the person, the Commission also requires local election commissions to enhance accessibility inspections and increase the number of assistants at local polling stations to assist the elderly and disabled voters. Meanwhile, a section has been created on the Commission website to provide video clips encoded with Chinese subtitles, helping voters obtain vital information. The Commission also invited scholars and experts to provide accessibility courses in its election affairs training programs and organized a series of seminars on suffrage rights of disabled persons. It also added notes on assistance for disabled persons to training materials.

### **Election Annulment**

**265.** According to the Constitution, an elected person may be recalled by his/her constituency. The Presidential and Vice Presidential Election and Recall Act and the Civil Servants Election and Recall Act are clear on the criteria and procedures for recalling or annulling an election. The Local Government Act empowers the government to dismiss any local public official whose election was annulled by the Judicial Yuan.

### **Rights to Civil Servant Exams**

**266.** To ensure the people's right to take Civil Service Examinations and hold public office, the Ministry of Examination has lifted or relaxed restrictions on age, compulsory military service status, physical fitness, and gender for all national exam takers. Some restrictions still apply. Maximum age limits currently apply to 10 exams, including the Special Examination for Intelligence Personnel. Compulsory military service status restrictions apply to five exams, including the Special Examination for Investigative Agents. Physical fitness restrictions apply to a total of 16 exams, including the Level 3 Senior Examination and the Junior Examination for Aviation Pilots and Aircraft Maintenance, the Special Examination for Investigative Agents, the Special Examination for Intelligence Personnel, the Special Examination for Police Officers, the Special Examination for General Police Officers, the Special Examination for Transportation Enterprise Railway Personnel, the Special Examination for Civil Aviation Personnel, the Special Examination for Customs Personnel, the Special Examination for the Coast Guard, the Special Examination for Indigenous Peoples (for judicial police and

correctional facility custodial personnel), the Special Examination for Consular and Diplomatic Personnel, the Special Examination for International Trade Personnel, the Special Examination for Judges and Prosecutors, the Special Examination for Immigration Personnel, and certain categories under the Special Examination for Judicial Personnel. Gender restrictions are in place for categories under the Special Examination for Judicial Personnel, including prison wardens, judicial police, and correctional facility custodial personnel.

### Right to Civil Service of Disabled Persons

**267.** Special Examinations for the Disabled are held at sites that accommodate disabled people’s needs. During training sessions, necessary equipment and support are available for recruited personnel with disabilities. Improvements to the facilities are continuously being developed to create a training environment that meets the learning needs of people with disabilities and protects their rights. Between 2015 and 2019, a total of 863 people passed the Civil Service Special Examination for the Disabled, with 804 reporting in for training. Most of the 25 people who did not attend or complete their training withdrew for personal reasons. Overall, 96.89% of candidates who completed training were offered positions. Table 22 shows the number, gender, and rank of persons with disabilities working as civil servants from 2015 to November 2019.

**Table 22 Number and Ratio of Disabled Civil Servants by Gender and Rank**

Unit: persons; %

Year \ Item	Total	Male		Female		Senior		Mid-level		Junior	
			%		%		%		%		%
2015	7,389	4,818	65.21	2,571	34.79	165	0.05	2,488	0.72	2,483	0.71
2016	7,395	4,811	65.06	2,584	34.94	161	0.05	2,521	0.73	2,549	0.73
2017	7,300	4,704	64.44	2,596	35.56	153	0.04	2,533	0.72	2,501	0.72
2018	7,138	4,535	63.53	2,603	36.47	151	0.04	2,568	0.72	2,544	0.71
2019 (Jan.-Nov.)	6,755	4,273	63.26	2,482	36.74	151	0.04	2,465	0.68	2,418	0.67

Source: Civil Servants Database

Note: The table shows all senior, junior, and elementary rank (detail) civil servants with disability status. The percentages were calculated based on the total number of civil servants.

**268.** According to the People with Disabilities Rights Protection Act, when the total number of employees at a government agency, public school, or state-run enterprise or organization

exceeds a certain level, they are required to appoint a certain ratio of disabled persons possessing employment qualifications. The government has established the Guidelines for the Recruitment of People with Disabilities. Government agencies (institutions) and schools can plan their overall manpower allocation and recruit employees in response to the resignation of other employees with disabilities in accordance with the specified recruitment regulations. Government agencies (institutions) and schools that fail to recruit a sufficient number of employees with disabilities are required to submit improvement plans and work with local governments to provide assistance with such issues as employment services and redesign of job responsibilities to help match manpower needs with eligible disabled people. The number of government agencies (institutions) and schools that failed to recruit a sufficient number of people with disabilities from 2016 to October 2019 was 47 in 2016, 44 in 2017, 46 in 2018, and 42 in 2019. The number of shortfalls in the recruitment of people with disabilities was 49 in 2016, 65 in 2017, 72 in 2018, and 45 in 2019.

### **Discipline, Penalties, and Remedies of Public Functionaries**

**269.** To protect the litigation procedures of public functionaries, a disciplinary case regarding a public functionary must be adjudicated by collegiate bench. There are several kinds of disciplinary dispositions that could be taken against public functionaries, including removal from civil servant duties, dismissal from office, deprivation or reduction of pension/retirement allowance/maintenance payment to military officials, suspension, demotion, salary cut, fines, recording of demerits, and reprimands. The removal from civil servant duties would discharge all his/her current duties and render the public functionary unable to assume any public functionary role in the future, creating a withdrawal mechanism. Once the Public Functionary Disciplinary Sanction Commission has issued judgement, an appeal may be submitted to the Commission to review the case, if there are justifiable grounds for a remedy. Public functionaries may also submit an appeal to the Civil Service Protection and Training Commission and request the review of any other personnel administrative disposition (including suspension or dismissal of duty) imposed against them. If they disagree with the outcome of the secondary review, the administrative court may intervene to



determine whether the decision of the secondary review is valid. From 2015 to 2019, the civil servant status of three dismissed civil servants were reinstated after expiration of their suspension-of-employment period.

**270.** Amendments to the Armed Forces Punishment Act were promulgated in 2015, introducing new penalties, such as rank reduction and demotion of military officers; dismissal, rank reduction and restriction of non-commissioned officers; and salary deduction for enlisted men. The amendments also abolished disciplinary punishments previously applied to noncommissioned officers and soldiers, and reduced the duration of solitary confinement in a repentance room from 30 days to no more than 15 days. In addition, those who disagree with their demotion, salary reduction, or repentance penalties may file an administrative appeal or administrative litigation in accordance with the law. In the case of a repentance penalty, if the punished person or another party considers that the subject's personal freedom is deprived during the execution, he/she is entitled to file an oral or written objection for appeal with the reasons to the court or the execution unit. Upon receiving such an objection, the supervisor in charge of the punishment must complete a review within 24 hours, and if the review finds no issue of concern, the case has to be referred to the court and handled according to the Habeas Corpus Act.

#### **Assurance of Women's Suffrage Rights**

**271.** According to the Additional Articles of the Constitution and the Civil Servants Election and Recall Act, at least one half of elected legislators of each party in at-large and overseas compatriot legislator elections must be female. The Local Government Act also requires that at least one female be elected in elections for councilors of special municipalities and counties (cities) and for representatives of townships (cities) for every four seats available; that at least one female be elected in elections for councilors of special municipalities and counties (cities) representing mountain and plain-land indigenous districts for every four seats available; and that at least one female be elected in township (city) elections for representatives of plain-land indigenous districts for every four seats available.

272. The number and ratio of female candidates in Legislative Yuan elections in 2012 and 2016 are provided in Table 23. The number and ratio of female candidates in elections for special municipality mayor, county magistrate (city mayor), special municipality councilor, and county (city) councilor held from 2014 to 2018 are provided in Table 24.

**Table 23 Ratio of Female Candidates in Legislative Yuan Elections**

Unit: persons; %

Year	Type of election	Total	Male	Female	Percentage of female candidates
2012	At-large and overseas compatriot legislator elections	127	64	63	49.60
	Regional constituent legislator elections	267	202	65	24.34
	Indigenous legislator elections	16	13	3	18.75
	Total	410	279	131	31.95
2016	At-large and overseas compatriot legislator elections	179	87	92	51.40
	Regional constituent legislator elections	354	263	91	25.71
	Indigenous legislator elections	23	19	4	17.39
	Total	556	369	187	33.63

Source: Central Election Commission

**Table 24 Percentage of Female Candidates in Local Elections**

Unit: persons; %

Year	Type of election	Total	Male	Female	Percentage of female candidates
2014	Municipal/county/city mayor elections	84	70	14	16.67
	Municipal/county/city councilor elections	1,600	1,146	454	28.38
2018	Municipal/county/city mayor elections	93	74	19	20.43
	Municipal/county/city councilor elections	1,751	1,219	532	30.38

Source: Central Election Commission

## **Assurance of Suffrage Rights of Indigenous Peoples**

- 273.** The Additional Articles of the Constitution stipulate that the state must safeguard indigenous peoples' social status and right to political participation. In indigenous legislator elections, three members must be elected from both the plain-land and the mountain indigenous districts. The electorate is divided into two separate electoral districts, the plain-land and mountain indigenous districts, each with three seats in accordance with the Civil Servants Election and Recall Act. The Local Government Act stipulates that in special municipalities where the plain-land and mountain indigenous population exceeds 2,000, there must be councilors elected from the plain-land and mountain indigenous population. Where there were mountain indigenous townships prior to the change of an area into a special municipality, there must be councilors elected by the mountain indigenous population. Counties (cities) and townships (cities) with plain-land indigenous population of 1,500 must have a councilor or representative seat elected by the plain-land indigenous population. Where a county includes mountain indigenous townships, there must be councilors elected by the mountain indigenous population.
- 274.** The Indigenous Peoples Employment Rights Protection Act stipulates regulations on the ratio of indigenous employees. Of the total number of personnel hired by each level of government, public schools and state-owned businesses, except for those located outside of Penghu, Jinmen, and Lianjiang County, there must be one indigenous individual for each 100 workers. For workers not requiring the qualifications of civil servants hired by each level of government, public schools, and state-owned businesses, indigenous employees must account for at least one third of such workers. For workers requiring the qualifications of civil servants, the number of indigenous employees hired may not be lower than two percent of the current number of civil servants hired. From 2015 to 2019, 642 people were recruited through the Special Examinations for Indigenous Peoples. Table 25 shows the number of indigenous employees hired by the public sector from 2015 to 2019.

**Table 25 Number of Indigenous Employees Hired by the Public Sector**

Unit: persons

Year	Civil servants	Personnel of five categories*	Total
2015	6,626	4,242	10,868
2016	6,498	4,070	10,568
2017	6,413	4,059	10,472
2018	6,514	4,081	10,595
2019	6,594	4,166	10,760

Source: Council of Indigenous Peoples website

Note: \*The five categories are defined by law as contract workers; stationed security guards; technicians, drivers, caretakers, and cleaners; toll collectors; other non-civil servants and non-technical roles.

**Article 27****Respect and Preservation of Minorities**

**275.** Of Taiwan's minority ethnic groups, there are 16 indigenous peoples recognized by the government, including the Amis, Atayal, Bunun, Hla'alua, Kanakanavu, Kavalan, Paiwan, Pinuymayan, Rukai, Saisiat, Sakizaya, Seediq, Thao, Truku, Tsou, and Yami/Tao, as well as Mongolians and Tibetans. There are also several language minority groups in Taiwan, including new immigrants (foreign spouses); migrant workers from Indonesia, the Philippines, Thailand and Vietnam; indigenous peoples; Mongolians; Tibetans; and Hakka people. As of 2019, the total population of all 16 indigenous peoples recognized by the government was 571,427, accounting for 2.4% of the total population. Among them, 272,883 have migrated to urban areas, accounting for 47.75% of the total indigenous population. There are other indigenous peoples not recognized by the government that are still fighting to restore their indigenous people status.

**276.** The Council of Indigenous Peoples established by the state and the Indigenous Peoples Cultural Foundation manage the Taiwan Indigenous Television Station and a radio station for indigenous languages. A feasibility study on the construction of the proposed National Indigenous Peoples Museum was also approved. Indigenous peoples are also provided with one day of leave for annual rituals.

- 277.** Regarding the promotion of the Mongolian and Tibetan languages and cultures, the Ministry of Culture organizes courses on a regular basis, traditional festivals and memorial ceremonies, and other activities to protect the traditional languages, writing, and customs of the Mongolian and Tibetan peoples, help the public learn more about their culture, and pass on their traditional cultures. The Ministry continues to communicate with and engage in consultations with the Mongolian and Tibetan community in Taiwan to help Mongolian and Tibetan youth with their education and preserve their culture and customs.
- 278.** In 2018, the Hakka Basic Act was amended, and the Hakka language was officially designated a national language. Areas with higher concentrations of Hakka population are listed as key areas for the development of Hakka culture and the promotion of the Hakka language. The government offers subsidies to government agencies and affiliated facilities, public/private hospitals, financial institutions, and public transportation that broadcast information and provide services in the Hakka language. The government also sponsors training to develop Hakka interpretation talents and implements Hakka language proficiency certification. The government also organizes regular nationwide Hakka conferences as platforms and comprehensive system for communicating with and obtaining opinions of the participants with respect to policy-making so as to discuss, coordinate, and promote national Hakka initiatives.
- 279.** Taiwan adopted the United Nations International Migrants Day as its own Immigrants Day. On this day, multicultural events were held, such as the New Hands for Building Dreams and Passing on Culture event in 2015, the Magnificent New Culture and Art event in 2016, the New National Power and New Youth Power performance and creativity exhibition for second-generation immigrants in 2017, the Welcoming New Immigrants to Happy Taiwan event in 2018, and the Taiwan, Diversity Calls it Home event in 2019.
- 280.** Elementary students are required to choose one native language (Hokkien, Hakka, or an indigenous language) as part of their education. An electronic dictionary featuring standardized spelling, pronunciation, and phrases for native languages has been developed. In addition, a Native Language Day was introduced to promote the study of native languages.