

# THE HIDDEN FACE OF TAIWAN

## Lessons learnt from the ICCPR/ICESCR review process

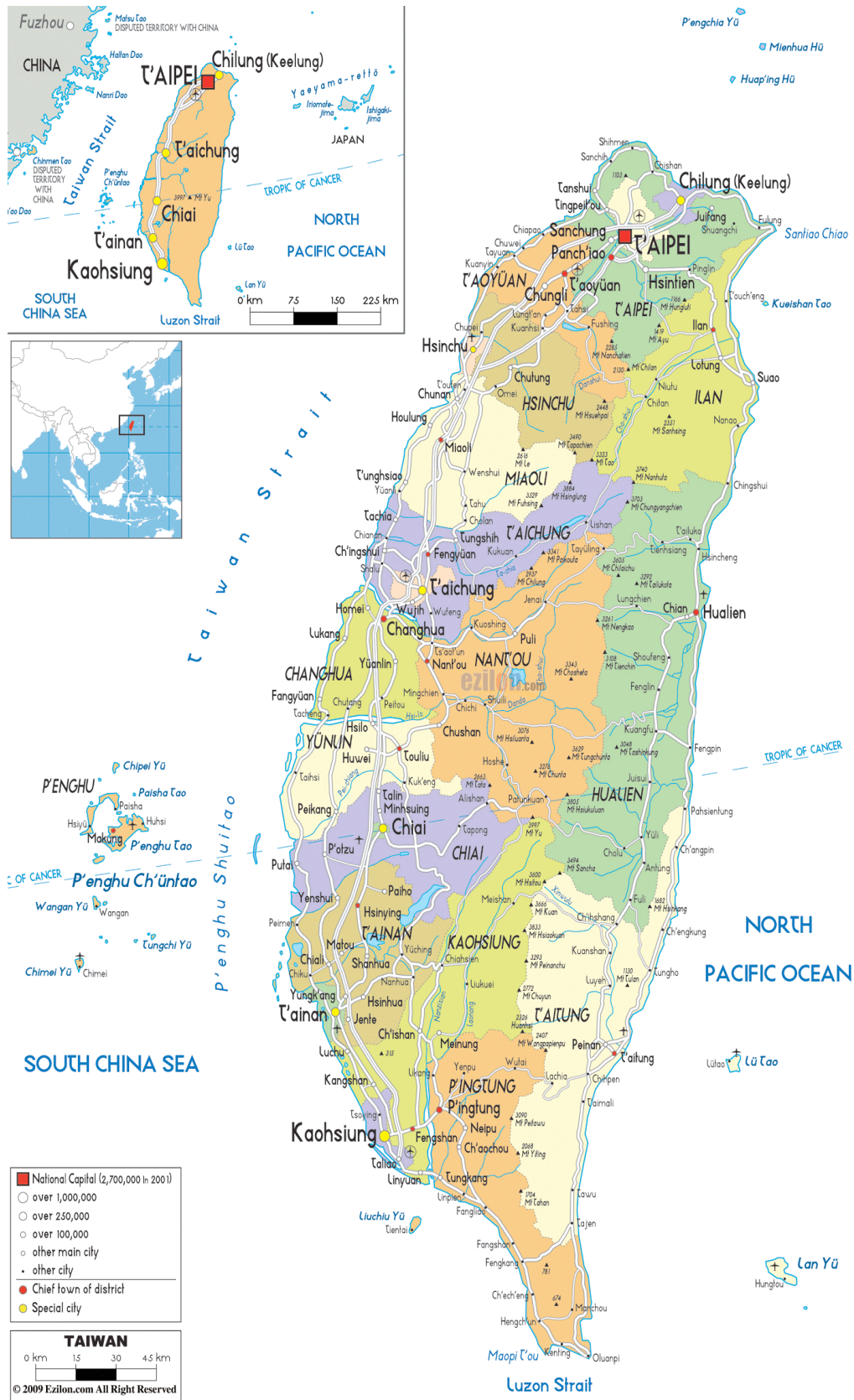
Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,





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# Map of Taiwan



Source: <http://www.ezilon.com/maps/asia/taiwan-maps.html>



# About this report

Since the end of Martial Law in 1987, Taiwan has gone through a deep transformation, bringing to an end the authoritarian regime of the past. Among the numerous legislative reforms undertaken, one of the most recent and remarkable took place in 2009 when the Government of Taiwan ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) which it had signed in 1967, prior to its exclusion from the United Nations in 1971.

From 25 February to 1 March 2013, a ten-member expert committee visited Taiwan to assess the government's initial report, released in April 2012, and make concluding observations.

Prior to this visit, the International Federation for Human Rights (FIDH) and Taiwan Association for Human Rights (TAHR) organised a joint mission in Taiwan from 5 to 14 November 2012 to assess the human rights situation in the country and the government's on-going efforts to address core human rights challenges highlighted in its initial report<sup>1</sup>. The mission presented its findings and recommendations to the expert committee.

At the occasion of their joint mission, FIDH and TAHR found that while progress has undoubtedly occurred in Taiwan, there remain major shortcomings opposing domestic laws, policies and regulations to international human rights standards. In addition to the critical issue of capital punishment, FIDH and TAHR found that tremendous challenges remain in the field of economic, social and cultural rights, which are not yet adequately addressed by domestic laws and policies. The most pressing issues are related to the pursuit of rapid economic expansion without regard for human rights, a policy exemplified by land expropriation in both rural and urban areas; lack of concern for environmental rights; the continued marginalisation of indigenous peoples; and human rights abuses affecting women and migrants from other parts of Asia.

FIDH and TAHR, which met government agencies, non-government organisations and affected communities, valued the work achieved by a multitude of NGOs, which joined in a large coalition<sup>2</sup> to express their views and share recommendations with authorities. The government's willingness to consult with civil society organisations and engage them in the review process was deemed commendable. The present report, published a few weeks following the review of the government's initial report by the expert committee, details FIDH/TAHR findings and recommendations in view of supporting further efforts to protect and promote human rights in Taiwan.

FIDH thanks all government officials who agreed to meet and discuss with FIDH and TAHR; the various Taiwanese NGOs (see annex) who shared extremely valuable data and information; its member organisation in Taiwan, TAHR, in particular Ms. Chi-Hsun Tsai, Ms. E-Ling Chiu and Mr. Yi-hsiang Shih; and last but not least community representatives and other people who took the time to give their testimonies.

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1. FIDH team members included Mr. Danthong Breen, director of the Union for the Civil Liberty (FIDH member organization in Thailand); Ms Puri Kencana Putri, researcher at the Commission for the Disappeared and Victims of Violence, KontraS (FIDH partner in Indonesia); and Mr. David Knaute (FIDH international secretariat).

2. <http://covenants-watch.blogspot.fr/>

# INTRODUCTION

## 1. General facts on Taiwan

**Name:** *Taiwan or Republic of China (ROC).*

**Government structure:** *Taiwan is a republic with a president and vice-president, and five branches of government, known as ‘Yuan’: Executive Yuan (consisting of 29 Cabinet level agencies, including the Ministry of Justice), Judicial Yuan (exercises the power to interpret, adjudicate, and judicial administration), Legislative Yuan (Parliament), Control Yuan (branch of government investigating allegations of abuse of power by government organizations and civil servants) and Examination Yuan.*

**Location:** *Taiwan is situated less than 160 kilometres off the south-eastern coast of the People’s Republic of China (PRC). It includes the islands of Taiwan, Kinmen, Matsu and Penghu (the Pescadores) and some smaller islands and islets.*

**Area:** *36,008 km<sup>2</sup> which corresponds to a total area of 3.6 million hectares including 13% of urban lands, 79% non-urban lands and 8% of natural parks.*

**Total population:** *23.16 million.<sup>3</sup>*

**Population growth:** *2.16%<sup>4</sup>*

**Ethnic groups:** *Taiwanese 84%, mainland Chinese 14%, indigenous 2%.*

**Migrant workers:** *Between 400,000 and 500,000 from South-East Asia (mainly Indonesia, the Philippines, Thailand, and Vietnam).*

**Languages:** *Mandarin, Taiwanese (Minnan), Hakka dialects, indigenous dialects.*

## 2. Historical background

The history of Taiwan goes back to the foundation of the Republic of China (ROC) in 1911 which then corresponded to the current area of mainland China. From 1927, a civil war erupted, opposing forces loyal to the government led by the Kuomintang (KMT)<sup>5</sup> to forces of the Chinese Communist Party. The present territory of Taiwan was at the time not under its own administration, but under Japanese colonial rule. The second Sino-Japanese war (1937-1945) ended when the Japanese lost World War II. Chiang Kai-shek, then leader of the KMT, represented the Allies as leader of the ROC military, which transferred administration of Taiwan to his government. In 1949, the Chinese Communist Party won the civil war and established the People’s Republic of China (PRC). Chiang Kai-shek and the KMT retreated to Taiwan, and after two military crises in the Taiwan Strait, the scope of the ROC’s rule shrank to Taiwan’s current area. In October 1971, the 26<sup>th</sup> General Assembly of the UN passed Resolution 2758, transferring representation at the UN from the ROC government to the PRC government, excluding Taiwan from the United Nations.

Taiwan’s current Constitution, entitled the ‘Constitution of the Republic of China’, was established in 1947, during the Chinese Civil War. In 1949, however, the ROC declared a state

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3. Dept. of Household Registration Affairs, Ministry of the Interior.

4. Ibid.

5. The Chinese Nationalist Party or Kuomintang (KMT) was founded in 1912 by Song Jiaoren and Sun Yat-Sen, and led by Chiang Kai-shek from 1925 till his death in 1975.

of emergency by enacting Martial Law<sup>6</sup>. From the mid-1970s to the early 1980s, democracy activists promoted the Tangwai movement (meaning “outside the Party”) to protest the one-party system and start democratic participation. Their efforts were severely repressed and many leaders were arrested. On 10 December 1979, the Kaohsiung Incident, during which 51 civilians were arrested and tried, made clear the government’s resolve to hold onto complete control. However, Chiang Ching-kuo – son of Chiang Kai-shek and president from 1978 - gradually adopted more open policies, culminating in the second half of the 1980s with more freedom of demonstration, association and press freedom laid down in new legislation. Martial law was lifted in 1987.

Following the end of military rule, the country followed the path of democratisation and progressively attempted to re-engage with the international human rights community. Primarily, this was justified because governance and democracy could only be improved by respecting and promoting human rights and, secondarily, in order to demonstrate to the international community Taiwan’s seriousness about rejoining the human rights movement, which may lead to greater international recognition. Direct presidential elections were introduced in 1996 under Lee Teng-hui’s presidency. A Law on Civic Organizations, passed on 20 January 1989, which had previously legalised new political parties, meant that the Democratic Progressive Party (DPP), established on 28 September 1986, could openly compete for power with the KMT. The DPP won elections in 2000 and governed Taiwan for 8 years under Chen Shui-bian presidency. In 2008, KMT candidate Ma Ying-jeou won the presidential elections; he was re-elected in 2012.

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6. A law called “Temporary Provisions for the Period of Mobilization to Suppress the Communist Rebellion” was first adopted in 1947. It was only repealed in 1991, four years after the end of Martial Law.

# PART I: Taiwan's human rights framework

## 1. National human rights mechanisms

For the past two decades, the Taiwanese authorities have proved to be aware of the inadequacy of domestic laws, policies and protection mechanisms in light of international human rights standards. In 2000, the government eventually developed a human rights policy that resulted in the 2002 Human Rights Policy White Paper of the Republic of China. Over the same year, President Chen Shui-bian established a Presidential Human Rights Advisory Committee of which the Vice-President was the Chairperson, to provide him with advice on human rights issues and work towards the establishment of a national human rights commission. It was however disbanded in 2006 due to political resistance.

A Presidential Office Human Rights Consultative Committee, currently comprising 16 members and including government officials, academics, experts, and NGO representatives, was re-established on 10 December 2010. It added to the existing Executive Yuan's human rights task force and the Control Yuan's Human Rights Protection Committee. The presidential committee has the following functions, according to directives set out when it was established: promoting and advising on human rights policy; producing national human rights reports; doing research on international human rights systems and legislation; advising the president on other human rights matters. The fact that the committee members are all unofficial staff, without an independent budget and manpower, makes, until today, the above-mentioned tasks difficult to achieve in practice.



*Assembly hall of the Control Yuan / Puri Kencana Putri*

Apart from it, the Control Yuan so far remains the only State body that has protection and promotion of human rights as a declared objective. Although it has the function of supervising the Executive Yuan's various agencies, having investigative power over government agencies and employees, and has created a Human Rights Protection Committee, its function of protecting human rights has not been very significant. A political deadlock stopped the Control Yuan from functioning from February 2005 to July 2008 and the post of President of the Yuan remained vacant from 2004 to 2008.

An individual can file a petition with the Constitutional Court once all judicial remedies have been exhausted. However, Constitutional Court's interpretations have generally been conservative on the question of human rights and international norms have rarely been used to interpret the Constitution.

Under the Legal Aid Act (2003), the Judicial Yuan funds a Legal Aid Foundation<sup>7</sup>, which began operations on 1 July 2004. Currently, there are 21 branch offices throughout Taiwan to provide legal aid services.

7. <http://www.laf.org.tw/en/index.php>



A proposal to create a National Human Rights Commission can be traced back at least to 1997. Yet, neither the Executive Yuan nor the Legislative Yuan has so far taken a firm stand on this. The Presidential Consultative Committee proposed the creation of a task force to research and plan national human rights mechanisms in June 2012. Options would be inclusion of a National Human Rights Commission within the Consultative Committee itself or in the mandate of the Control Yuan. To be compliant with the UN Paris Principles Relating to the Status of National Human Rights Institutions adopted in 1993, such a commission should have the resources and powers to be independent; any attempt to incorporate it into government structure would leave it weak and ineffective, lacking authority and credibility in both national and international arenas.

A “Parliamentary Cross-Party Promotion Group on International Human Rights” was formally established on 23 November 2012. A total of 52 legislators from DPP, KMT, other political parties including the People First Party (PFP), the Taiwan Solidarity Union (TSU) as well as independent parliamentarians joined it. However so far it has had limited impact to promote human rights in law-making process within the Legislative Yuan.

Judges and prosecutors have for long not received any human rights training during their studies at the Institute for Judges and Prosecutors. Since 2001, the Institute has implemented an educational plan on human rights. In spite of an optional course on human rights introduced in 2010 into the judicial continuing program managed by the Judicial Personnel Study Centre of the Judicial Yuan and on-going education seminars on human rights for prosecutors, recent surveys attest that judges and prosecutors are the strongest supporters of the death penalty, with 90% reportedly supporting it.

## **2. The ICCPR/ICESCR Review Process**

While Taiwan signed the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1967, its exclusion from the United Nations in 1971 means that it cannot officially ratify any of these covenants. However, in 2002, the government proposed a bill for their de facto ratification. In March 2009, the Ma government, with the support of both government and legislature, secured smooth passage for the ratification. In the same month, it passed an Implementation Act, which took effect in December 2009.

After reviewing domestic laws and executive measures for non-compliance, the Executive Yuan concluded there were 219 items to be adjusted to comply with both covenants. Eventually, in April 2012, the presidents of the five Yuan, as well as President Ma, attended a press conference to launch the State report on both ICCPR and ICESCR. The Ministry of Justice and the KMT kept pushing the Legislative Yuan to complete implementation. According to the Ministry of Justice, 290 laws (70% of the total) had been amended by 31 December 2012.

From the beginning of the drafting of the State Report, civil society groups have actively participated in, and monitored, the review process. Some have stated that the timetable for reviewing legislation and enacting, amending or repealing any laws, with a deadline set on 10 December 2011 (Article 8 of the Implementation Act) was not respected. According to them, the allocation of human rights budgets (Article 7 of the Act) or training of government employees (closely linked to effective implementation) were insufficient.

Civil society groups have organized training workshops, study groups, online platforms, editorial meetings, and communication within Covenants Watch - an NGO coalition of 60 civil society organisations and 57 authors from various relevant fields. A joint Shadow Report was published in May 2012, only one month after the State Report.

Among specific agencies, Covenants Watch observed the hostile attitude of the Environmental Protection Agency towards the requirement to submit its draft section, as well as in its exclusion of the suggestions put forth by experts during the editorial review stage. Most importantly, some essential sections were considered as non-relevant to the two Covenants: these included death penalty, the controversial Assembly and Parade Act, or issues related to the Environmental Impact Assessment Act.

According to the Judicial Yuan, most judges including 827 women and 1318 judges from district courts have been trained regarding the protection of human rights (154 training hours in total) from 2008 to 2012, including the fifteen Grand Justices. Article 4 of the Act to Implement the Two Covenants stipulates that: “In exercising their authority, governmental institutions and agencies at all levels should conform to the provisions in the two Covenants protecting human rights.” However, until today, judges prefer using existing domestic laws in line with ICCPR/ICESCR rather than referring directly to the Covenants. Meanwhile, some lawyers and legal aid NGOs have already begun to use the two Covenants, or specific General Comments, at every occasion.



*Panel of international experts / Danthong Breen*

A review of the initial State Report took place from 25 February to 1 March 2013, including three days of meetings and two days to draft and present concluding observations. Two review committees consisted of ten international experts who attended meetings with government agencies, national and international NGOs in Taipei.<sup>8</sup> Their concluding observations, which are partly reflected in the present report, included a final recommendation for the government to continue the review process and undertake a follow-up review<sup>9</sup>.

### 3. The need for transitional justice

While authorities have repeatedly declared transitional justice as a “priority” since the revocation of Martial Law in 1987, in practice little progress has been achieved apart from compensation. In 2004, President Chen Shui-bian issued “Reputation Rehabilitation Certificates” to political victims and their relatives. In 2012, President Ma Ying-jeou once again emphasized transitional justice as one of the most important agendas in Taiwan. He also publicly apologised for the treatment of political prisoners during the White Terror era. More than 2,000 victims of the “228 Massacre” have received compensation in addition to 5,000 White Terror victims. Another 3,000 have never received any compensation. The government has also constructed a 228 Incident Memorial Park, Museum and Monument.

8. For ICCPR, the committee consisted of Nisuke Ando (Japan), Jerome Cohen (USA), Shanthi Dairiam (Malaysia), Asma Jahangir (Pakistan) and Manfred Nowak (Austria); and the review committee for ICESCR of Philip Alston (Australia), Virginia Bonooan-Dandan (Philippines), Theodor van Boven (Netherlands), Eibe Riedel (Germany) and Heisoo Shin (South Korea).

9. <http://www.humanrights.moj.gov.tw/public/Attachment/33511371364.doc>



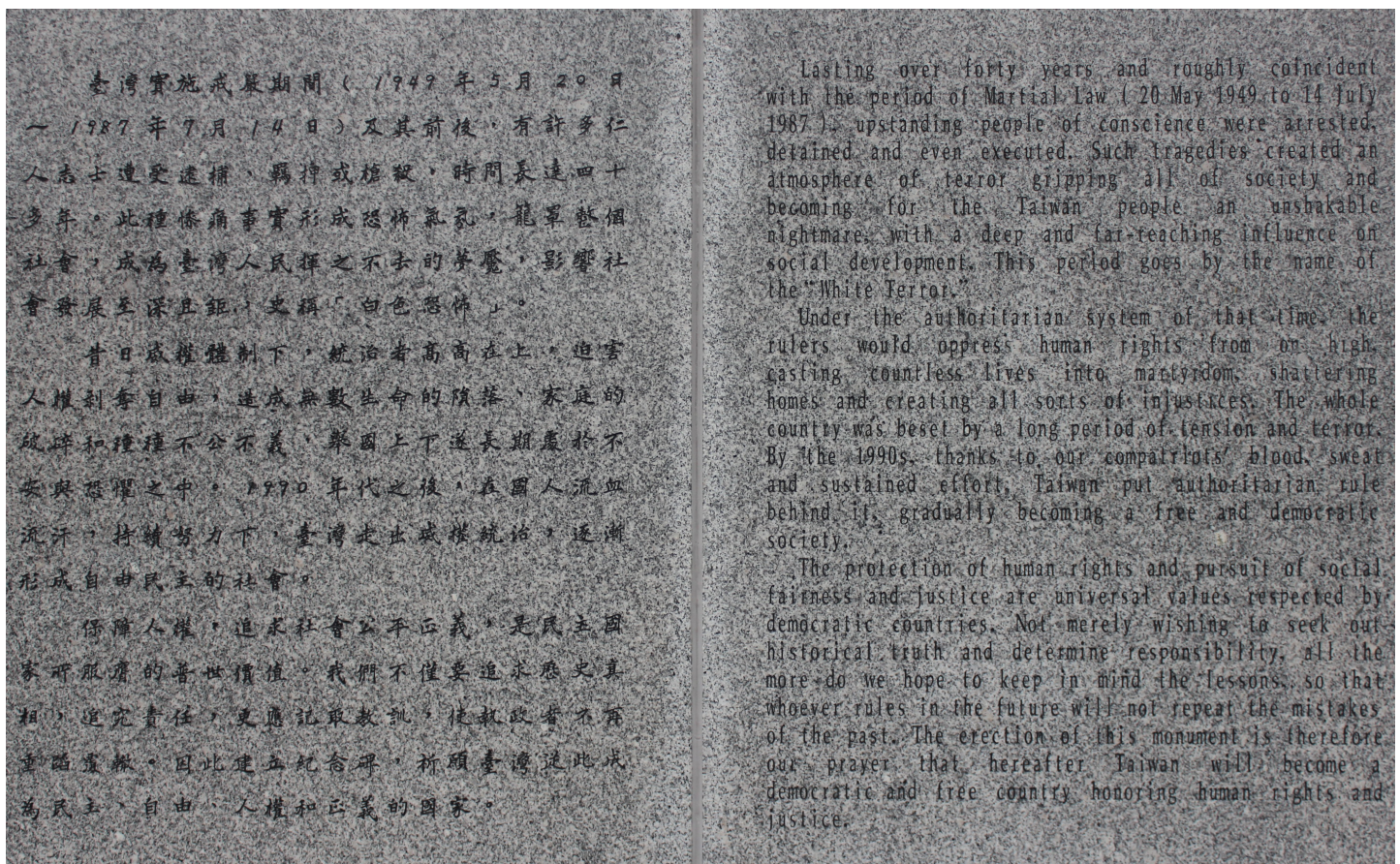
## The White Terror era

Under Martial Law, numerous people were imprisoned, tortured or executed, starting with the 228 Incident of 28 February 1947. The period running from 1949 to 1986 is remembered as the “White Terror” era.

228 Incident (1947-1948)	White Terror (1949-1986)
Execution: 681 Disappearance: 177 Imprisonment: 1,294	Execution: 699 Life imprisonment: 53 15–20 years imprisonment: 406 10–14 years imprisonment: 1,247 5–9 years imprisonment: 1,075 Less than 5 years imprisonment: 579 Educational confinement: 1,306 Other: 657
Total: 2,152	Total: 6,022

Numbers of Victims Under Authoritarian Rule

While the period of transition has not ended, institutional reforms as well as mechanisms allowing for accountability are still required to reconcile Taiwanese society. The right to compensation has to be accompanied by a right to truth and justice and the fair trial of perpetrators of human rights violations. Restrictions on accessing case files on political victims at the National Archives Administration have increased in recent years, affecting both victims and their families who have the right to know the truth, and academics who want to conduct historical research.



Memorial stone at the 228 Incident Memorial Park / FIDH

Victims of political persecution and their families still demand a special law allowing them to access legal remedies for their grievances. For example, Huang Wen-gong, a political dissident who was executed in 1953, wrote five letters on the eve of his execution, but these were only finally retrieved by his family in 2011. Huang's wife, now 90 years old and senile, couldn't understand the words her husband had left her just before his death.

In addition, Taiwan democratization process is still far from complete. In particular, the government has failed to effectively revise the three national security laws to control public assemblies and the creation of civic groups, that were enacted in 1987 as an alternative to restrictions suffered under Martial Law. The Assembly and Parade Act still stipulates that a permit is required before assembling and demonstrating. The police authority in charge of handling applications for assembly and demonstration may therefore reject an application and forcefully break up any assembly that has not applied for a permit, which considerably restricts freedom of peaceful assembly. The Government, which has acknowledged that Article 29 of the Act is in violation of Article 21 of the ICCPR (on freedom of association), has expressed its commitment to change the approval system to a notification system, to limit the power of the police to mandate dispersal and to follow the principle of proportionality. It also proposed to delete criminal punishment from the Act, to relax the registration deadline and to reduce the upper limit while deleting the lower limit for administrative fines. These amendments, however, failed to be ratified at the December 2011 session of the Legislative Yuan. Meanwhile, the Government has declared that despite the present legal situation, the Government has vastly relaxed the rules regarding the holding of demonstrations or rallies.



# PART II: Death penalty and the administration of justice

## 1. Death penalty

### *Current practice of the death penalty*

*Number of persons condemned to death: 56 (by February 2013)*

*Death penalty in the Constitution (Article 15): “The right of existence, the right to work, and the right of property shall be guaranteed to the people”. The wording is a dilution of Article 3 of the Universal Declaration of Human Rights and the ROC Constitution has been considered neutral on the death penalty. Appeals that the death penalty is non-constitutional have been rejected.*

*Offenders who may not be executed: Individuals below age of 18 at time of crime; pregnant women; the mentally ill; those over the age of 80.*

*Crimes subject to death penalty<sup>10</sup>: Aggravated murder, murder, other offenses resulting in death, drug trafficking resulting in death, drug possession, treason.*

*Method of execution: Gunshot at close range with a single gun.*

For the past decade, the abolition of death penalty has been presented as a long-term goal by successive governments in Taiwan. While no timeline has ever been set, substantial measures have been taken to gradually minimize the imposition of death sentence. In 2001, the Minister of Justice declared during a press conference that Taiwan hoped to abolish the death penalty “within three years”. Upon its return to power in 2008, the KMT paid lip service to the same policy. The Minister of Justice, Mrs. Wang Ching-feng, announced she would not authorize any execution. Her refusal was a matter of personal conviction, but she also referred to the ICCPR in this regard. In October 2011, her successor, Tseng Yung-fu, stated that “our policy remains unchanged – the death penalty will be used as little as possible, but will not be scrapped for the time being” and that death row prisoners “will be executed once all the relevant screening procedures are finalized”. In April 2012, President Ma declared that beyond reducing the use of the death penalty, he would “seek public consensus on the issue to move towards the abolition of capital punishment”.

However, actions speak louder than words. While there were more than four years from December 2005 during which the death penalty was not implemented, the government resumed executions in 2010. More death row prisoners were executed in 2011 and 2012. Last year, the number of death sentences has also increased. In November 2012, a spokesperson of the Ministry of Justice told FIDH and TAHR that Taiwan was not bound to abolition of the death penalty by Article 6 of ICCPR, which in his view allowed continued use of the death penalty. The official took up the arguments by which Taiwan justifies its practice of the death penalty, including the necessity of proportional retribution, the need to deter major crime, and the wish of the majority of Taiwanese that the death penalty be maintained. In December 2012, 6 death row prisoners were executed the day following the adoption

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10. And for which individuals have been executed since January 2008.



by the UN General Assembly of a resolution calling for a universal moratorium on death penalty, making Taiwan one of the few States worldwide having carried out executions in 2012.

<i>Year</i>	<i>Number of convicts with finalized sentence</i>	<i>Number of executed convicts</i>	<i>Year</i>	<i>Number of convicts with finalized sentence</i>	<i>Number of executed convicts</i>
1987		10	2000	25	24
1988		22	2001	11	10
1989		69	2002	7	9
1990		78	2003	5	7
1991		59	2004	5	3
1992	35	35	2005	9	3
1993	19	18	2006	11	0
1994	15	17	2007	4	0
1995	19	16	2008	2	0
1996	23	22	2009	15	0
1997	35	38	2010	4	4
1998	34	32	2011	15	5
1999	25	24	2012	7	6

*Statistics of death penalty convicts with no chance of appeal and number of executions from 1987 to 2012 (Department of Statistics, Ministry of Justice)*

In terms of trends, it appears that before elections, the number of executions decreases, presumably to avoid alienating any part of the electorate. After elections, under a government assured of majority support, executions resume. The thinking of Taiwan politicians on the death penalty seems to be strongly influenced by the policy of China, and Singapore, the “third China”. The moderating examples of Hong Kong and Macau are ignored. Taiwan cannot afford being seen as weaker or more lenient than the paramount exemplar of Chinese practice which endorses a culture of examination, accountability, reward and punishment.

As in other Asian countries influenced by the China ethic, the Taiwanese population is uninformed of the human rights charter and its requirements. The death penalty is not questioned, its practice is considered a defence against uncontrolled crime, violence can only be countered by violent measures. The Government makes no effort to inform its population but claims continued popular support of capital punishment as the will and wisdom of the people.

However, death penalty is not compatible with the abolitionist spirit of the ICCPR, which Taiwan has ratified. Experience in other countries shows that public opposition to abolition eventually ends, as people realize that abolition does not result in an increase of crime rates. Besides, death penalty leads to irreversible judicial errors when the administration of justice is not compliant with international standards. In 2010, the Taiwan Alliance to End the Death Penalty found that 27 of 44 inmates at imminent risk of execution had not had legal representation at Supreme Court level.

Despite the theoretical possibility of endless appeals, and regulations to assure this right, the fact is that prisoners in Taiwan may be abruptly executed, their latest appeals and mercy petitions ignored. In 2011, President Ma himself issued a public apology to the parents of an airman who had been exonerated by a Military Court after having been wrongfully convicted and executed in 1997 at the age of 20 for the rape of a 5-year old girl. Two inmates, Cheng Hsing-tse and Chiou Ho-shun, who both remain in the death row and are at risk of imminent execution, have not fully benefited from the right to a fair trial and their guilt remains highly uncertain.

Chiou Ho-shun spent 23 years in detention before his death sentence was finally certified by the Judicial Yuan in July 2011.

### ***The Hsichih Trio***

*In November 2012, FIDH met the Hsichih Trio, Su Chien-ho, Chuang Lin-hsun, and Liu Bin-lang, who had been interviewed in 2006 by a previous FIDH fact-finding mission<sup>11</sup>. They were met accompanied by their lawyer Law Bing-ching, co-founder of the Innocence Project Taiwan. In March 1991, at the ages of 18 and 19 the Trio was accused of robbery and murder in a Taipei suburb, and had no legal representation. A fourth accused, Wang Wen-hsiao, being a marine, was sentenced to death and executed under military law<sup>12</sup> on 11 January 1992. Confessions were extorted under torture and despite insufficient material evidence, they were condemned to death. For 11 and a half years they were detained in different cells and could not communicate with one another. In 2003 they were acquitted for the first time on the basis that the Court decision was based solely on confessions without any other evidence. In 2006 a forensic scientist in the US, Harry Lee, deduced from photographic evidence, criminal scene reconstruction and bloodstains forensics that only one person had carried out the murder, and thus the trio were exonerated. On 31 August 2012 they were acquitted permanently. Between 2003 and 2012 they attended about 130 court hearings as their case went through appeals and counter appeals. The procedure of obtaining compensation for wrongful detention remains in progress. The Trio is concerned by the fact that they may not be able to sue police officers who tortured them since the events took place 21 years ago while a complaint should be filed within 12 years.*



*The Hsichih Trio / Danthong Breen*

## **2. The administration of justice**

### **a) Conditions of detention**

The total prison population of Taiwan, which has increased of 20% over 10 years, is 66,163, corresponding to a rate of 285 per 100,000 inhabitants, which is high and placing Taiwan at the fifth rank in Asia. By the end of July 2012, the excessive incarceration rate was up to 20.5%, which is partly the result of harsh policies on drug use and restrictive provisions on pre-trial bail and parole. Compared with the incarceration rate in 2001, which was 9.6%, the situation has deteriorated. For instance, in November 2012, Taipei Taiwan prison, which was visited by FIDH, accounted for 4,077 inmates for a capacity of 2,705. Recent reports on prison conditions stress hygiene and medical treatment in detention as main concerns.

While FIDH was not shown any medical facilities in Taipei Taiwan prison, it was assured that prisoners benefited from the health scheme available to all Taiwan citizens. However, it has been reported that medical records are not properly kept in many prisons. Both the medical care budget and medical care personnel are inadequate. There also lacks a clear mechanism and procedure for applying medical parole while the decision, on average, takes ten days. Besides, correctional agencies do not provide standard and adequate facility and medical treatment to inmates having psychiatric illness. Only the inmates diagnosed before being sent to prison, or

11. See «The death penalty in Taiwan: Towards abolition?», FIDH/TAEDP, 2006 (<http://fidh.org/IMG/pdf/tw450a.pdf>)

12. On 4 April 2011, the Legislative Yuan amended the Punishment Act Violation to the Military Service System by removing capital punishment as an option in article 16 and 17.

those who are obviously mentally ill, or prisoners who are referred by medical care personnel, can receive mental health treatment. Isolation rooms for inmates suffering from epidemiological diseases have not been established in several correctional institutions.

Prisoners sentenced to death are kept in detention centers in Taipei, Taichung, Tainan, Kaohsiung and Hualien. They are kept in cells with two people per room and have 30 minutes outdoor activities per day. The rest of the time they stay in their cells unless they have a visitor or for other special reasons. Until 2011, death row inmates were allowed one visit per day from Monday to Friday. After 2011, the regulations were changed to restrict visits to one per week. A visit is a maximum of 20-minute long. Until 2005, death row inmates whose sentences were confirmed by the Supreme Court were kept shackled on foot, for lengthy periods, from their sentence to death until their execution.

Finally, prisoners are denied their right as citizens to vote in elections, although the exercise of this right has a rehabilitating effect in strengthening their sense of belonging to society.

## b) Judicial reforms

Since the end of Martial Law, substantial judicial reforms have taken place in Taiwan. In particular, new legislation is now aiming to promote the independence of judges. In this regard, a Judges Act was adopted in June 2011 after more than twenty years of negotiation. It established a system to evaluate judges and a mechanism to remove incompetent judges from their posts. The passage of the act came amid rising concerns over a series of rulings by judges that fell short of public expectations. However, almost two years after its adoption, the act has not lead to the dismissal of any judge or prosecutor and only one prosecutor and four judges have been punished, since the Review Committee of Judges and Prosecutors is not allowed to initiate an investigation by itself and relies on external complaint. The Act also limits the right to direct appeal by the subjects who can only do so through non-governmental organizations.



In May 2010, the Legislative Yuan also passed an act called the “Fair and Speedy Criminal Trials Act” aiming to expedite criminal cases and better protect the rights of defendants. In some controversial cases, including the one of Chiou Ho-shun, already mentioned above, the Act has lead judges to take hasty decisions in spite of uncertainties over guilt.

In addition, the Judicial Yuan has worked for long on legislation to allow some form of trial by jury. The latest effort came in January 2012, when the judicial branch submitted a draft of a Provisional Act Governing Lay Observation in Criminal Trials to the Executive Yuan. The draft, which calls for the creation of an ‘observer jury’ pilot program, received a green light from the Executive Yuan in May, and has been until today under review in the Legislative Yuan. If the act is approved, the pilot program will run for three years in Chiayi District Court in southern Taiwan and Shihlin District Court in Taipei City—two out of the 21 district courts in the country. Five members of the observer jury will sit on the same bench as judges to hear cases involving felony offenses that are punishable by the death penalty or a prison term of seven years or more. Juries will consist of citizens who are 23 years old or older and will be chosen by a lottery. After the prosecution and defence have concluded arguments, the jury will deliberate the case and render its decision on the defendant’s guilt or innocence and appropriate punishment, if any. Judges will take the decision into consideration, but will retain authority over the final verdict

Promotion poster by  
the Judicial Yuan for  
the new jury system  
/ FIDH

and any punishment. If judges disagree with the jury's decision, they will have to provide written explanation of the verdict. The judges always have the final say. This obviously limits the influence of lay people, since the opinion of fewer judges may predominate without there being separate procedure to give weight to the opinion of the two groups. Some suspect that the government simply attempts to drag people into trials and ask for their endorsement instead of genuinely sharing the judicial power with them.

While Article 14(5) of the ICCPR stipulates that everyone convicted of a crime shall have the right to his or her conviction and sentence being reviewed by a higher tribunal, in practice, Article 376 of Taiwan's Code of Criminal Procedure provides that certain types of cases may not be appealed to the court of third instance. In such cases, a criminal defendant, having been found not guilty in the first trial but guilty in the second instance, is thereafter denied the opportunity of appellate relief.

Another set of legal reforms relates to torture, which is supposedly less likely under revised laws. Indeed, the prosecutor must now prove that statements were made under free will of the person interrogated. A video recording must be made of interrogations related to serious crimes. Presumption of innocence is assured and evidentiary requirements clarified. Confession is not accepted as sole basis for conviction. As a result, reports of torture have almost disappeared.

As far as death penalty cases are concerned, the quality of legal representation remains poor as public defenders or appointed counsel very often have too little experience in death penalty cases. There is also no credential system for determining who is qualified to take up such a case. A Taiwanese attorney described to FIDH the public defender system as 'weak'.

# PART III: The rights of women and migrants

## 1. Women's rights in Taiwan

In Taiwan, women's rights were recognized from 1947 with the adoption of the country's first Constitution, which partly responded to the political aspirations of women. However, there was no progress for women during the era of Martial Law. For the past decade, more than ten laws have been adopted to promote and protect women's rights. Several of these laws specifically protect women against sexual violence<sup>13</sup> or aim at ending social discrimination<sup>14</sup>. At an institutional level, a Committee of Women's Rights Promotion, mostly composed of NGO representatives, was established under the Executive Yuan in 1997. In 2004, the Taiwan Civil League for Promoting the Convention on the Elimination of all Forms of Discrimination Against Woman (CEDAW) was formed to lobby for the implementation of CEDAW into domestic law. Following ratification in 2007, an initial State report was released in 2009 and an Enforcement Act was passed in December 2011. A Department of Gender Equality was established on 1 January 2012 under Executive Yuan, to promote the implementation of CEDAW. The 2<sup>nd</sup> periodic report is expected to be finalized in 2013.

While rape and cases of domestic violence, including marital rape, are categorized as crimes by law, victims remain afraid to report their situation to authorities, due to social stigma and other threats. The law requires all cities and counties to set up protection centers where victims are provided with medical treatment, emergency assistance, shelter, legal aid, counseling, education, and training. The Ministry of Interior estimates that the total number of sexual harassment and sexual assault cases is 10 times higher than the number reported to authorities. In 2012, public demonstrations lead to the forming of the White Rose Movement, in protest against the release of alleged rape perpetrators for lack of evidence.

In terms of discriminatory practices, women activists consider that women continue to be promoted less frequently than men, occupy fewer senior management positions, and receive lower salaries. According to the Council for Labor Affairs, women's salaries average 82% of those for men performing comparable jobs. Despite strong public mobilization, including the organization of an annual Gay Pride or the presence of groups of activists such as Taiwan Tongzhi Hotline Association, discrimination against members of the LGBT community remains high<sup>15</sup>. Transgender persons are widely considered to suffer from a form of mental illness and persons with gender identities different from their biological sex suffer many forms of discrimination, including bullying in schools. Suicide rates are high and physical and mental problems are frequent in the LGBT community.

According to the Taiwan Association of Obstetrics and Gynecology, several hundred thousands Taiwanese women abort every year, many illegally. Pregnancy and abortion rates are especially high amongst adolescents. Moreover, abortion is legal only for rape, maternal life, health, mental health, socio-economic factors, and/or foetal defects; the Genetic Health Act (2009) and its enforcement rules (2012) are due to be amended, putting even further restrictions on the right to abortion. The draft revision requires "medical institutions to provide mandatory counselling,

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13. Sexual Harassment Prevention Act, Sexual Assault Crime Prevention Act and Family Violence Prevention Act.

14. Gender Work Equality Act, Gender Equality Education Act.

15. <http://www.taipeitimes.com/News/taiwan/archives/2012/04/18/2003530636>



compulsory three-day reflection periods prior to abortion, mandatory notification of a woman's husband, consent from parents for girls under the age of 18, as well as compulsory therapeutic counselling for minors". However, the draft has not passed yet in the Legislative Yuan, and women's groups like the Awakening Foundation have proposed another version.

A Social Order Maintenance Act was adopted in November 2011 to better protect sex workers. The law legalized prostitution in red-light districts; however, in effect, no local government has yet been willing to establish such zones, effectively keeping prostitution illegal throughout Taiwan.

Finally, some foreign spouses are exposed to statelessness when they have previously renounced their previous nationality to meet the requirements stipulated in Article 9 of the Nationality Act that foreign nationals who apply for naturalization must provide certification of the loss of their previous nationality (dual citizenship being forbidden). Between 100 and 200 women, mostly Vietnamese, face this situation, losing their right to work or access to health insurance in Taiwan.

## 2. Migrants' rights

### a) An overview of Taiwan's migrant population

Migrant workers, most of whom come from Southeast Asia, make a needed contribution to the Taiwanese economy. Their number has reached a record-high of 440,000, increasing by 62,000 in less than two years. Some 45,000 of these new workers were hired in the manufacturing sector and 14,000 in the home-care nursing sector. Migrant workers are supposed to apply for a particular professional sector from the country of origin. However, once they reach Taiwan, local agents often force them to work in another sector. The situation of domestic workers is portrayed as worse than that of industrial workers. It has been documented that brokers impose disproportionate service fees on migrant workers. The latter face an almost complete dependence on their employers, restrictions on their transfer between employers and are legally prohibited to change their employer even if facing difficult situations with the previous one. Finally, they are not covered by basic labour protection legislation, such as the Fair Labour Standards Act and the Labour Safety and Health Act.

#### *The case of Indonesian migrant workers*

*In Indonesia, candidates for labor migration pay a fee of 37 million rupiah [3,000 euros] to the Indonesia Labour Agency. The National Agency on Placement and Protection Migrant Workers provides essential and on-line information before departure. Upon arrival in Taiwan, migrants first go through a health check and in case of a serious illness, have to stay at a migration detention center before being allowed to work in the country. Indonesia's Office for Economy and Trade may help migrants with administrative and legal duties. The office provides a pro bono attorney and interpreter who can accompany them when required. If migrants agree with their employer to extend their contract, they have to communicate with their latest employer and once again go through administrative procedures in Indonesia. The present employer is in charge of extending the contract with the domestic agency.*



Migrant workers gathering at Taipei Main Station / Puri Kencana Putri

In the past, government officials have acknowledged that migrant workers were regularly abused and exploited. In 2005, it was revealed that Thai migrant workers contributing to the construction of the subway system in the southern city of Kaohsiung had been mistreated which

was linked to kickbacks to politicians by the contractor. The then Thai Prime Minister asked that the workers return to Thailand and the chairperson of the Council of Labor Affairs resigned.

A special hotline (#1955) was set up for migrant workers. However, foreigners remain little informed about their rights in spite of efforts by authorities to provide multilingual services. A draft Law on Domestic Workers was submitted by the Council of Labour Affairs to the Executive Yuan on 21 September 2012.

Countries of origin have diplomatic representations in Taipei but most are not active in supporting their nationals facing difficulties. An exception is the Filipino representation which runs a weekly radio programme in Telugu to inform Filipinos about their rights and host debates.

It has to be highlighted that there is strong pressure from the business sector on the issue of minimum salaries. Some groups lobby to cut any link between the salary of Taiwanese nationals and that of migrant workers, which would represent a blatant discrimination prohibited under international law.

Finally, the Government has admitted that the right to habeas corpus<sup>16</sup> is not applicable to foreigners or Chinese mainlanders placed in detention centers of the National Immigration Agency. This problem was recognized by the Judicial Yuan when issuing Interpretation No. 708 in February 2013 and declaring Article 38 of the Immigration Act unconstitutional. The Legislative Yuan was given two years within which to bring this provision in line with the right to personal liberty and *habeas corpus*.

#### ***b) Human trafficking***

The fight against human trafficking is reportedly a key objective for Taiwan's National Immigration Agency (NIA), inaugurated in 2007. Taiwan's commitment to end trafficking was testified in November 2012 when ECPAT International, a Thailand-based international NGO working to end sexual exploitation, was awarded the 2012 Asia Democracy and Human Rights Award by the Taiwan Foundation for Democracy. Most importantly, Taiwan has passed a Human Trafficking Prevention Act in June 2009 in order to guarantee the protection of migrants' rights. The act stipulates that the government may grant residency to those whose life may be in danger if they return to their native countries. It also provides victims with security, medical care, translation, legal services, psychological guidance and counseling, accompaniment to investigations, and financial assistance. However, government efforts mostly focus on sexual exploitation, but not on the forced labor or, broadly speaking, on the failures of policies related to migrant workers.

In October 2012, an Indonesia-Taiwan Memorandum of Understanding was signed, thus legalizing immigration information exchanges between the two sides, despite a lack of diplomatic ties. One of the aims is to prevent human trafficking and the smuggling and exploitation of illegal immigrants. The Memorandum is reportedly Taiwan's first such agreement with a Southeast Asian country. Nevertheless, human trafficking remains a major challenge.

Although no statistics are available, it is reported that numerous female migrant workers are told they are being sent to Taiwan for work but end up becoming the victims of some form of exploitation, including sexual exploitation. In March 2004, a posting on e-Bay put three Vietnamese girls on auction, describing them as "items from Vietnam for shipment to Taiwan only". The bidding price was set at 180,000 Taiwanese dollars (approximately 4,500 euros). The auction was closed following strong protests from the Vietnamese diaspora and legal action by

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16. According to Article 9(4) of the ICCPR, anyone who is deprived of his or her liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of the detention and order release if the detention is not lawful (right to habeas corpus).

a Taiwanese women organization. The Coalition Against Trafficking in Women – Asia-Pacific has reported that in Taiwan, “trafficking happens through kidnapping for brothels, deceptive offers for jobs or tourist trips and marriage matchmaking with foreigners who sell and resell the women abroad. Organized tours of Taiwanese men come [to Vietnam] to buy brides for US\$3,000”.

One of the most vulnerable groups are foreign spouses. By September 2012, they were about 470,000, mainly from mainland China (about 316,000), Vietnam, Indonesia, Thailand. Most are extremely dependent on their husbands upon arrival in Taiwan, and fall victim to abuse and domestic violence. In 2009, the new Immigration Act banned international marriage brokers. Taiwanese citizens looking for foreign spouses have to turn to private organizations registered with the NIA, which may only charge reasonable costs but must not demand commissions. The Act also protects foreign spouses from deportation in cases of domestic violence or legal proceedings such as divorce.

Another concern is the deportation of mainland Chinese women shortly after giving birth, which exposes them to persecution in relation to the one-child policy.

# PART IV: Economic, social and cultural rights

## 1. Land rights

Taiwan's recent history has been marked by rapid economic growth and the country has been recognized for decades for its high productivity and competitiveness. However, such evolution has been the outcome of laws and government policies continuously favouring industrialization at the expense of land rights. Land-related conflicts have rapidly developed since the early 1980s as a result of on-going land seizure, the raising of fees and taxes, or specific regulations being imposed on specific professions. Workers movements against environmental pollution, corporate activities or bullying by companies have appeared over the same time scale.

While the end of Martial Law in 1987 permitted the development of more organized and more varied social movements, the strengthening of linkages between the government and major industries has since then prevented real progress. In 2010, a number of regulations proposed by the government in the name of development and construction made it easier for corporations to acquire land, in contradiction to existing laws<sup>17</sup> supposed to prevent land seizure<sup>18</sup>.

Affected communities argue that the official value of farmland is generally set well below its market value and the way in which the government assigns land to be expropriated for industrial use at prices set for agricultural use is perceived as grossly unfair.

### ***Land expropriation in Dapu***

*The Dapu neighbourhood borders the Jhunan Science Park. In March 2008 Innolux Display Corp. suggested that the special enterprise zone be expanded. Within one month the Miaoli County Government increased the surface area to be requisitioned from an original 23 hectares to 28 hectares, including a large number of private homes and farmland. Since the Miaoli County Government requisitioned land in Dapu at a price far below market price, farmers refused to hand over their land. The county government responded by forcibly destroying some rice crops that had already grown on the fields. When news of this incident was spread online, Internet users arranged to meet in front of the Presidential Office on 23 June 2010, to stage a protest in support of the Dapu farmers and to lodge a complaint with the Control Yuan. On 28 June, more police were brought in with more than 100 officers surrounding the fields and the entire rice crop which was not yet mature enough for harvesting was eradicated, triggering public outcry. Local residents also felt deceived by the county government regarding the allocation of lands located in remote areas, some on steep slopes or near graveyards or planned factories, and not suitable for building homes.*

The Legislative Yuan, intending to provide clear terms and procedures for land expropriation, as well as fair compensation for expropriated land, eventually passed amendments to the Land Expropriation Act on 13 December 2011. The revised law stipulates that land designated for agriculture should not be expropriated except for major development projects approved by the central government, as well as for facilities involving national defence and public facilities

17. The Land Act, the National Property Act or the Management of Local Public Property Act.

18. <http://www.moi.gov.tw/outline/en/en-05.html>

and transportation. It requires that if land has to be expropriated, compensation must be based on its market value, which should be calculated by local governments and submitted to a land appraisal committee twice a year. The act stipulates that quasi-judicial public hearings must be held when major government-approved projects requiring the conversion of prime agricultural or pastoral land to other use lead to controversy.

The Taiwan Rural Front (TRF) has argued that the terms of the revised law are too vague and do not provide for sufficient citizen participation in decision making, thus not curbing arbitrary expropriations, nor effectively protecting the people's economic, social and cultural rights attached to land ownership and tenure, and, finally, not protecting people's livelihood and their rights to life, work, food, water, adequate housing and property. Although the law stipulates that land designated for agriculture should not be expropriated except in the name of major development projects approved by the central government, most disputed expropriation events are exactly conducted under this name.<sup>19</sup>

## 2. Environmental rights

Industrialization has been the source of high levels of pollution across Taiwan. The most pollution originates from industrial clusters and polluting factories. One notorious scandal relates to nuclear waste management in Orchid Island, where the local population – composed mostly of 4,600 Tao indigenous people – has been subjected to pollution from nuclear waste since 1982, which became public knowledge long after. Initially, authorities failed to inform the local population about the presence of radioactive material, which local residents eventually suspected, breaching their rights to a healthy environment and to information. Following major protests from 2002, authorities acknowledged that there were close to 100,000 barrels buried on the island. Since 2005, the Indigenous People Basic Law stipulates that the government shall not go against the free will of indigenous peoples by storing hazardous materials within indigenous areas. However, other indigenous peoples are also affected by nuclear plants. In Taitung county, south-east of Taiwan, the Paiwan have protested since 1997 against the storage of radioactive waste within the site of a nuclear plant. Until today, there has been no alternative proposal for their management. A similar project is planned in Wuchiou Township in Kinmen County, a small archipelago in front of the Chinese Fujian province. Recently, a referendum has been scheduled in both cases; however it is not yet clear whether the indigenous peoples most directly affected or the overall population of the respective counties would decide in such referendum.

The head of the Environmental Protection Administration (EPA) has been quoted as saying that “if the petrochemical industry does impair the public's life expectancy, you have to take into account what growth in GDP it can add to life”. The EPA has also tended to ignore the basic Environmental Impact Assessment (EIA) precautionary principle, and not to respect the judicial judgements invalidating their decisions. As a consequence, it has refused to order the cease on construction even if the EIA decision was declared invalid by the court. In addition, while there are two phases in the EIA process, under the Environmental Impact Assessment Act, public participation is only required during a second phase. However, most EIA final decisions (over 80%) are made under the first phase of EIA, thus the right to public participation is often denied.

Finally, some Taiwanese corporations have built their competitiveness on poor labour conditions, lack of effective legal constraints or pressure over their reputation to observe human rights and operations in countries where human rights standards are poor. Taiwanese multinationals have been involved, for example, in a long standing land conflict in Koh Kong Province in Cambodia, over an Economic Land Concession that resulted in wide-spread displacement, livelihood impacts, and other human rights violations.

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19. On Tuesday 26th February during the Review Meeting a strong protest was staged outside the meeting place. Those protesting were representative of persons being driven from farm lands and urban dwellings by government action, as well as NGO supporters.



### 3. The rights of indigenous peoples

#### a) General situation of indigenous people in Taiwan

In 2009, Taiwan's indigenous population amounted to 499,500 people, approximately 2% of the country's population. Areas inhabited by indigenous people are very sparsely populated, with few resources, which has for long affected their access to education, medical treatment and other benefits, and contributed to de facto discrimination in the field of economic, social and cultural rights. With the rise of the so-called aboriginal movement in the 1980s, the characteristics of indigenous cultures and the value of their ways of living have eventually been considered, with a strong impact on Taiwanese cultural and political identity. From 1983 to 1996, the aboriginal movement was marked by major protests for land rights and other struggles such as that aimed at dispelling the Wu Feng Legend that portrayed indigenous people as uncivilized, or protests against death sentence for indigenous youth Tang Yingshen in 1986.

In the 1990s, the government began to accept the term 'Aborigine'. In a 1997 constitutional amendment, the term 'mountain compatriots' was eventually abandoned. On the individual level, it was not until 1995 that indigenous people were allowed to use their traditional names in the household registration system. Until then, they were required to use Chinese names. In 1996, a Council of Aboriginal Affairs (renamed Council of Indigenous Peoples in 2002) was established under the Executive Yuan. While fourteen tribes<sup>20</sup> were recognized as indigenous peoples, nine Ping Pu lowland aboriginal tribes have not yet been granted this status despite evidence of their distinct history and culture, language, customs and traditions.



FIDH/TAHR  
meeting  
with Bunun  
community  
members / FIDH

#### *Preservation of indigenous languages*

*The education system in Taiwan has long been hostile to mother tongues such as the Taiwanese language, the Hakka language, and Aboriginal languages. The Language Equality Act was one of President Chen Shui-bian's election promises. After he was elected, he sought the help of the Hakka Commission, the Aboriginal Commission and the Ministry of Education's Committee to Implement Mandarin Chinese to draw up legislation on protecting linguistic rights. Mother tongue education was launched in elementary schools in 2001. However,*

*after the Ministry of Education passed its draft Language Equality Act in 2007, it met with much opposition. Some questioned the feasibility and necessity or said it was an attempt to "de-Sinicize" Taiwan. After the Ma government took over, the legislature cancelled the funding that was needed to certify qualified teachers for Taiwanese language education. At the same time, to protect the right of indigenous students to receive education, the government has established preferential policies. For example, the school admission affirmative action guidelines have boosted indigenous students' admission rate through examination. Besides, the Council of Indigenous Peoples has established an aboriginal digital archive knowledge portal, compiled jointly with the Ministry of Education, published books on major historical aboriginal events and the relocation history of aboriginal tribes, and joined efforts by local governments in the compilation of a total of 30 aboriginal township journals. In spite of such measures, the lack of an environment for indigenous peoples to apply their languages will make it difficult to preserve them.*

20. Amis, Atayal, Bunun, Kavalan, Paiwan, Puyuma, Rukai, Saisiyat, Sakizaya, Seediq, Tao, Thao, Tsou and Truku.

One of the most important accomplishments of the indigenous movement has been an increased area of reserved land, especially for the past 5-10 years. However, the current 265 thousand hectares of reserve land are mostly located in remote mountainous areas and the actual usable land (for agriculture or construction) is limited. Besides, major construction projects are free from the restrictions in the Regulations on Development and Management of the Lands Reserved for Indigenous People. More recently, the Indigenous People Basic Law (IPBL), promulgated in 2005, declared that the government acknowledges the rights of indigenous peoples over their land and natural resources. The IPBL stipulates that when the government or a private person develops aboriginal lands, consultation with local indigenous people should be held to obtain their consent or participation before development takes place in accordance with their free will.

Article 34 of the IPBL also provides that “the relevant authority shall amend, legislate or repeal relevant regulations in accordance with the principles of this law within three years from its effectiveness.” However, the government has so far not only failed to amend the relevant regulations, but it has also adopted several regulations which violate the core principles of the Indigenous Basic Law, in violation of ICCPR Article 1.<sup>21</sup> and the ICCPR General Comment No. 12 on the right to self-determination.

In terms of access to justice, a program of free legal aid will be subsidized by the Council of Indigenous Peoples from April 2013 and nine district courts have special sections dedicated to indigenous people, which were reportedly established in January 2013. However, several major litigation cases have for decades opposed indigenous communities to authorities or private companies. One of the most renowned cases is the Asia Cement Case opposing the Taroko people to the Asia Cement Company and local authorities, which eventually lead in October 2012 to a landmark judgement by the Council of Indigenous Peoples which acknowledged the Taroko’s right to land. The parties had fought over land use in Hsiulin Township, located in Hualien County (eastern Taiwan), since the company occupied the Taroko ancestral land from 1974. It became a court case in 1994 when Taroko people established the “Return Our Land Self-Help Association” and claimed their land back, at a time when most of them had already been evicted. The case continues as the company is still authorized to carry on its mining activities.

## **b) Post-Morakot reconstruction**

Several controversies have emerged in the wake of Typhoon Morakot, which, in August 2009, caused 699 deaths including more than 400 residents in the indigenous village of Xiaolin, Kaohsiung county, as well as floods and mudslides which seriously damaged 1,766 houses in central and southern Taiwan, forcing the permanent relocation of at least 10,000 people.

This disaster raised questions about responsibility for disaster prevention and relief. In order to speed up post-disaster reconstruction, the Legislative Yuan, on 27 August 2009, passed a decree called the Special Statute for Post-Typhoon Morakot Reconstruction. The Executive Yuan established a Post-Disaster Reconstruction Council involving central and local government, private sector, academic, local populations, and disaster victims. Nevertheless, rebuilding efforts have been perceived by local communities as moving too slowly, especially on road repair judged besides to be of poor quality. For instance, residents of the Namasia and Taoyuan areas still relied, by late 2012, on embankment side-walks that traverse the riverbed for basic access.

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21. “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”.



*Difficult access  
to Morakot-  
affected areas/  
Danthong  
Breen*

The Special Statute for Post-Typhoon Morakot Reconstruction, similarly to the IPBL, stipulates that, except in cases of clear and present danger, the government shall not force indigenous communities out from their homeland; reconstruction in disaster-hit areas should be based on respect for local people, their social organizations, culture and life styles. Besides, the government shall designate certain sections within disaster-hit areas that are thought to be unsafe to disallow residence or mandate relocation of residences or villages by a given deadline after having discussed and reached an agreement with existing residents and adequately resettled the

residents. But while the government handed over free permanent new residences to the victims of the disaster<sup>22</sup>, civil strife resulted from the government's resettlement policies, perceived negatively by indigenous communities which felt forced to relocate or even to separate from community members, in contradiction with the Special Statute. Many people feared from the beginning that the "compulsory relocation policy" would make them more vulnerable in the future<sup>23</sup>. In addition, resettled indigenous communities face massive unemployment.

#### 4. Right to housing

With the country's economic take-off, many unauthorized constructions have been demolished in urban areas over the past decades. However, in spite of several government programs aiming at satisfying people's housing rights, the ratio of public rental housing in Taiwan has remained inferior to 0.1%, so that those who cannot afford the price in formal housing markets have had no choice but to live in informal residential areas.

The question of the right to housing in urban areas has actually been one of the most controversial issues in Taiwan over the past decades. Back in the 1990s, residents of Treasure Hill in Taipei faced forced evictions. Following protests, a settling plan was reached in 1997 but only 22 original families with low income managed to move back to the settlement. More recently, protests have been organized against the Urban Renewal Act, introduced in 1998, which regulates more than 1,000 urban projects currently under progress across Taiwan. In particular, disputes have resulted from discrepancies in information among residents and businesses, along with unclear legislation. Article 36 of the Urban Renewal Act authorizes the local government to demolish people's legal house in violation of ICESCR article 11 and ICESCR General Comment no.4.

22. [http://management.kochi-tech.ac.jp/ssms\\_papers/sms12-0432\\_ce456e610105bd45033412f86003697f](http://management.kochi-tech.ac.jp/ssms_papers/sms12-0432_ce456e610105bd45033412f86003697f)

23. <http://globalvoicesonline.org/2009/09/06/taiwan-the-future-for-the-aboriginal-people-after-typhoon-morakot/>



### ***Some provisions of the Urban renewal Act***

- *Article 10 stipulates that a majority vote within the renewal zone could legitimize the displacement of people from their personal property. This scope of the renewal zone can be drawn at the discretion of the developer which allows for gerrymandering;*
- *Article 11 stipulates that the scope of the renewal zoning could be drawn by any developer at will without the actual notice of landowners;*
- *Article 22 permits the developers to obtain renewal permits without consensus from all residents or owners even though they may have refused to be part of the renewal zone;*
- *Article 25, clause 1, notes that if a certain proportion of the owners of private land or buildings in an area designated for urban renewal agree to the project, those who oppose it can be forced to join, thus depriving people of a constitutionally protected right;*
- *Article 36 allows the developers to resort to public authorities to evict the residents and demolish their houses.*

In the name of public interest, the Taipei City Government also introduced a series of ‘Beautiful Taipei Projects’ in 2010, which, in effect, has allowed the construction sector to make profit by exploiting the ‘majority clause’ of the Urban Renewal Act that lead to forceful inclusion of some residential areas into development plans. In 2012, the government intervened to force the demolition of private homes that were part of the Wenlin Yuan urban renewal project which became a symbol of the struggle of several communities in the country. Affected families as well as the Taiwan Alliance for the Victims of Urban Renewal, on 26 April 2012, built a temporary shelter on the demolished site. The case is still pending, and local residents continue to face various forms of threats including psychological, physical and judicial harassment. The construction company has recently raised new lawsuits and requires a compensation of 118 million Taiwanese dollars (about 3 million euros). Local authorities refer to a “dispute between private agents” and keep themselves aside in spite of intervening in the past to forcefully evict the residents.

Another case concerns Taipei’s Shaoxing Community near Chiang Kai-shek Memorial, where residents have lived with no legal license for decades. In August 2010, they received a letter from National Taiwan University (NTU) that requested the demolition of their houses and the return of campus land, based on a policy called “Enhancing the Efficiency and Usage of State-Owned Real Estates”. Otherwise NTU would file lawsuits against them by claiming so-called ‘Unjust Enrichment’. The community is actually the outcome of two waves of migration, the first in 1949 when low-rank soldiers arriving from mainland China built houses on government land, the second when migrants from rural areas flooded into the capital during the 1960s-1970s. Some NTU students decided to take the side of residents and called on the university to negotiate with local residents rather than immediately ordering them to move elsewhere with a legal notice. University officials responded that they needed government assistance due to a lack of finance and that once authorized by the government, negotiations would immediately be launched with community residents. However, there has so far been no progress in that direction. In spite of recent negotiations, the NTU has still not withdrawn its lawsuits.



Shaoxing  
Community in  
Taipei / FIDH

Another community named Hua Kuang, also located near Chiang Kai-shek Memorial, is currently facing a similar situation. The residents have already lost a lawsuit, and the government announced it would tear down the houses by March 2013. Issued with eviction notice were demands for rent over a long period and an instruction that the inhabitants destroy their own dwellings. This case is of special interest in that the Ministry of Justice itself is owner of the area and many of those settled in this area were initially lowly officials at the Ministry who were given tacit permission to construct or expand living space in the area. While there were originally 400 households, 360 have already left the area; the 40 families remaining are the poorest, the most aged, and those who are sick or crippled. They seek a subsistence by scavenging, servicing motorbikes or running small food stalls. One home visited by FIDH in February 2013 at the occasion of the review meetings of Taiwan initial ICCPR/ICESCR report, was presented with a bill of 6,000,000 Taiwanese dollars (approximately 150,000 euros) and a further demand for demolition cost of 600,000 Taiwanese dollars. Such a demolition cost is exorbitant; a company was prepared to demolish the home freely if allowed to recycle the materials. The houses are mostly ramshackle without toilets or a kitchen. These are people who have no hope of payment, no ability to restart life elsewhere. One household had a mentally defective grown son, cared for by indigent and aged parents. The Ministry of Justice has publicly admitted it has no plan for the area, other than usual urban renewal. Following the review meetings, Mr Jian Yi-Hua, Premier of the Executive Yuan, declared to the press that some concluding observations by the ten international experts related to the right to housing were not suitable to the Taiwanese context.

The experts also expressed concern regarding other cases of forced evictions such as the those which have taken place in the development project of the A7 station and of the Airport MRT, affecting some 700 households and 5,000 persons. These cases has occurred without adequate consultation, notice and compensation nor alternative accommodation, in violation of people's right to adequate housing.

Finally, the situation and treatment of homeless people has been a growing source of concern in Taiwan, while their actual number is certainly underestimated by official statistics.



# CONCLUSION AND RECOMMENDATIONS

Taiwan is undergoing a period of major legal reform, displaying real evidence of good will and intent on the part of the government to achieve higher forms of justice. Still, more than 25 years after the end of Martial Law, traces of the authoritarian past remain in harsh policies, including forced evictions and land seizures. The death penalty is another remnant of this past. It is the conviction of FIDH and TAHR that capital punishment should not be part of any justice system. Nevertheless, when the death penalty persists, it acts as a supreme test; the dire consequences of faults in the justice system leading to the possible execution of innocent people reveal injustices and shortcomings which in ordinary matters may be rectified and corrected. Death is irreversible.

The daily monitoring work of NGOs in Taiwan draws attention to gaps and lacunae in the reformed laws, and to individual cases where rights are still seriously denied. FIDH and TAHR hope that domestic laws which need to be will be amended as required.

This report has shown that the real task of human rights lies with practice, not only legislation. Measures for the protection of human rights therefore need to be based on a clear plan of action. While Taiwan has not formally declared a national human rights plan, the Act to Implement the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) could clearly function as such.

The establishment of a ten-member expert committee to assess Taiwan's compliance with the self-ratification of the ICCPR and ICESCR was certainly a window of opportunity for Taiwan to assess its own human rights practice. However, FIDH and TAHR hope that the following recommendations, as well as those made by the international expert committee in its concluding observations, will contribute to support the reinforcement of a culture of human rights in Taiwan, as well as of the country's legal human rights framework.

FIDH and TAHR therefore make the following recommendations to the Government of the Republic of China:

## **Recommendations on its human rights framework:**

- Continue to urge government agencies to review whether the laws, decrees and administrative measures under their jurisdiction comply with ICCPR and ICESCR. Incorporate without reservation both Covenants into domestic law. The review process should be based on the principles of transparency, consultation and participation.
- Give effect to its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and take steps towards an acceptance of the obligations under the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities, and the Convention against Torture; set up the type of national preventive mechanism envisaged under the Optional Protocol to the Convention against Torture.

- Reinforce human rights education and training for new and currently employed judges about the two Covenants and subsidize the Legal Aid Foundation and Bar Associations to provide human rights education and training for lawyers, in order to contribute the concrete implementation of both Covenants. In addition, provide targeted training for specific occupational groups such as prosecutors, police officers and prison administrators. Focus on substance rather than volume. Most importantly, engage the whole population in an understanding of human rights, based at all levels of education on the principles of human rights enshrined in the Universal Declaration of Human Rights to which the Republic of China contributed significantly.
- Establish an independent and empowered national human rights commission that is in full compliance with the UN Paris Principles for Promoting and Protecting Human Rights.
- Publicize the results of the review of the ICCPR/ICESCR initial report to all government departments, NGOs, diplomatic offices, and to the general public.

#### **Recommendations on transitional justice:**

- Set up an investigation mechanism such as a truth and reconciliation commission to guarantee the right to truth; besides, the right to reparation should include measures of social and psychological rehabilitation of the victims.
- Guarantee effective access of victims and researchers to the National Archives.
- Revise Article 9 of the National Security Law, which stipulates that no verdict rendered by the Martial Tribunal during the four previous decades, could be appealed to the civil tribunal.
- Revise the Assembly and Parade Act to make it compliant with Article 21 of the ICCPR; civil society organizations should invoke the jurisdiction of the Judicial Yuan to challenge the legitimacy of the offensive provisions of the Act.

#### **Recommendations on the death penalty:**

- Adopt a moratorium de facto, or preferably, de jure, on execution of the death penalty, as an incremental step towards abolition of the death penalty. This could be brought about by the President commuting the existing death penalty sentences to life imprisonment, and then systemically granting commutation for all future condemnations, until the formal abolition of the death penalty takes place. The Minister of Justice, as justified by contemporary juristic interpretation of the ICCPR, should also refuse to sign execution orders.
- Publicly adopt a timeline for the abolition of the death penalty as recommended by the United Nations General Assembly 2012 resolution on a Worldwide Moratorium on the Death Penalty and current interpretation of the ICCPR in favor of abolition.
- Meanwhile, inform family members of death row inmates in the event of any further execution and provide them with the right to see their relatives before the execution.
- Prisoners who received a death and life sentence should have the right of mandatory defense during all the stages of their trial.
- Strengthen and broaden public education programmes on human rights, with specific components addressing the arguments against the death penalty and the function of punishment in a criminal justice system.

**Recommendations on conditions of detention and the administration of justice:**

- Take effective measures to reduce the number of prisoners by, inter alia, liberalizing harsh policies on drug use and by introducing less restrictive provisions on pre-trial bail and parole; and allocate resources to address the issue of prison overcrowding and increase the prison staff/prisoner ratio to meet actual needs, in order to comply with Article 10 of the ICCPR.
- Allocate resources to ensure that adequately trained medical personnel, good quality medicine and medical care are available in all prisons as a matter of urgency.
- Bring to an end the denial of prisoners' right to vote.
- Amend Article 376 of the Code of Criminal Procedure so that every defendant found guilty in the court of second instance after a not guilty verdict in the court of first instance will be guaranteed the right of appeal to the court of third instance.

**Recommendations on women's rights and LGBT's rights:**

- Strengthen all levels of government's and public officers' knowledge and strategies related to women's rights under CEDAW, and adopt measures to accelerate de facto equality of women; in particular, improve social care for children, the sick and the elderly in order to lift burden from women who want to develop a professional carrier.
- Amend the Genetic Health Act and its enforcement rules which violate women's right to physical integrity and their right to abortion; immediately amend legislation so as to enable a pregnant woman to decide for abortion of her own free will.
- Pay particular attention to the rights of mothers who have given birth to children in Taiwan, in cases where the children cannot be repatriated with their mother. In such cases citizenship or permanent residence with work permit should be granted to the mother.
- Establish a committee to review the Social Order Maintenance Act and its effect on sex workers and amend the law based on the Committee's suggestions.
- Take measures, legislative or otherwise, to prevent the situation of statelessness of marriage immigrants.
- Train regularly health care personnel, amongst them doctors, nurses and other hospital staff and teachers at all levels of education on the full respect of human rights of LGBT persons; public information campaigns should be developed.

**Recommendations on migrants' rights and human trafficking:**

- Deliberate, ratify and incorporate into domestic law the International Convention on the Rights of Migrant Workers and their Families.
- Sign bilateral agreements to protect migrant workers with the countries of origin and establish protection mechanisms.
- Basic labour protection legislation such as the Labour Standards Act and the Labour Safety and Health Act should be made more inclusive so as to cover migrant workers.
- Reject proposals to delink the basic wages of foreign workers from those of Taiwanese

citizens as it would violate United Nations and International Labour Organization (ILO) Standards.

- Any detention orders under the Immigration Act shall immediately be subject to judicial reviews in full accordance with Article 9(4) of the ICCPR relating to the right to *habeas corpus*.
- Strengthen protection mechanisms, in particular for female migrant workers and foreign spouses who increasingly suffer from exploitation, domestic violence and social discrimination.

#### **Recommendations on environmental and indigenous peoples' rights:**

- Reflect on the controversies resulting from the existing Environmental Impact Assessment regulatory system and seek improvements as soon as possible and prevent similar environmental hazards as a result of construction from occurring again.
- Ratify and incorporate ILO convention n.169 concerning Indigenous and Tribal Peoples in Independent Countries, 1991, aligning domestic legislation on that convention. Apply a human rights-based approach in engaging the various indigenous peoples in the country.
- Enact legislation requiring that genuine consultation is performed and consent is obtained from indigenous people prior to adoption of development programs, land assignments or other decisions affecting their rights to property, culture, religion, and non-discrimination in relation to lands, territories and natural resources, including sacred places and objects; rights to health and physical well-being in relation to a clean and healthy environment; and rights to set and pursue their own priorities for development, including development of natural resources, as part of their fundamental right to self-determination.
- Make further efforts to pass legislation to ensure indigenous peoples' right to land and stop adopting laws or regulations contradicting the Indigenous Peoples Basic Law.

#### **Recommendations on land and housing rights:**

- In order to prevent forced evictions, immediately review the Urban Renewal Act and other land laws such as the Urban Land Consolidation Act.
- Cease controversial urban development projects until they have been reviewed by independent third parties and after community members have been adequately noticed and have exercised their right to express their views and grievances as prescribed by ICESCR General Comment n. 4 (on the right to adequate housing, 1991) and ICESCR General Comment n. 7 (on the right to adequate housing, forced evictions, 1997). These amendments should seek to clearly envisage forced evictions as a last resort, after exhaustion of all feasible alternatives and provided that these are carried out lawfully and only in exceptional, well detailed circumstances.
- Take all necessary measures and in particular strengthen the domestic framework to protect people against forced evictions from their homes or land ensuring security of tenure and to:
  - contain the guarantees for protection from eviction and rehousing, based on genuine consultation with any persons living on or near to affected sites, in accordance to international standards, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (art. 11, para. 1), the Convention on the Rights of the Child (art. 27,



para. 3), the non-discrimination provisions found in article 14, paragraph 2 (h), of the Convention on the Elimination of All Forms of Discrimination against Women, and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination and the General comment 7 of the Committee on Economic, Social and Cultural Rights<sup>24</sup> and the Basic Principles and Guidelines on Development- Based Evictions and Displacement<sup>25</sup>;

- guarantee that affected people are not left homeless and given adequate alternative housing;
  - provide specific safeguards for vulnerable individuals and groups that may suffer disproportionately from forced evictions, such as women, children, youth, older persons, those who are sick or disabled, indigenous people, ethnic and other minorities;
  - punish those that carry out forced evictions without appropriate safeguards; and
  - provide effective legal remedies or procedures to those who are affected by eviction orders and regulates the right to adequate compensation for any property, both personal and real, which is affected.
- Provide complete information concerning monitoring of the right to adequate housing in the reports submitted under the Covenant, including specific large-scale development and urban renewal programs during the period under review.
  - Government departments, local authorities, and civil society organizations should cooperate closely in finding solutions for reaching the homeless and assist them.

#### **Recommendations on foreign investment:**

- Adopt binding legislation ensuring that public actors, international financial institutions and other private actors such as transnational corporations, meet their responsibility to respect internationally recognized human rights while operating in Taiwan, including (i) legislation allowing to hold corporations to account in case of violations of their responsibility to respect human rights; (ii) imposing human rights and environmental due diligence according to the UN Guiding Principles on business and human rights (2011); (iii) regulating extra-territorial activities of Taiwanese companies operating abroad, imposing the respect of human rights in all circumstances.

24. UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22, available at: <http://www.unhcr.org/refworld/docid/47a70799d.html>

25. Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HRC/4/18

# ANNEX:

## List of meetings in Taiwan

FIDH and TAHR organized a fact-finding mission in Taiwan from 5 to 14 November 2012. The mission met with a wide range of stakeholders from the government, the opposition, civil society groups including NGOs, lawyers, journalists, former death row inmates, migrant workers, representatives from indigenous communities affected by Typhoon Morakot and communities affected by urban renewal. The mission also visited Taiwan Taipei Prison.

In addition, FIDH participated as an observer to the ICCPR/ICESCR initial report review meetings between the government, NGOs and the international expert committee from 25 February to 1 March 2013.

### **Government:**

- Presidential Office Human Rights Consultative Committee;
- National Immigration Agency;
- Committee of Women's Rights Promotion, Executive Yuan and Department of Gender Equality;
- Secretary General of Judicial Yuan;
- Members of Control Yuan and Committee on Human Rights Protection of Control Yuan;
- Senior officials at the Ministry of Justice;
- Taipei police headquarters.

### **Opposition:**

- Legislator and chairperson of the Judicial Committee of the Legislative Yuan Ms. Yu Mei-Nu.

### **Non-government organizations:**

- Covenant Watch;
- Taiwan Association for Human Rights;
- Taiwan Alliance to End Death Penalty;
- Judicial Reform Foundation;
- Taiwan Rural Front;
- Wild at Heart Legal Defense Association;
- Garden Hope Foundation;
- Taiwan International Family Association and Trans-Asia Sister Association;
- Awakening Foundation.

### **Lawyers:**

- Members from Taipei Bar Association;
- Mr Bing-Ching Law, attorney-at-law and member of Innocent Project of Taiwan.

**Journalists:**

- Journalists from the Public Television Service News Network.

**Former death row inmates:**

- Mr Hsu Chih-Chung;
- Mr Su Chien-ho, Chuang Lin-hsun, and Liu Bin-lang, and their lawyer Law Bing-ching ('Hsichih Trio').

**Typhoon Morakot-affected indigenous communities :**

- Representatives from Bunun indigenous community in Kao De-hua and Du Chien-kuo.

**Communities affected by urban renewal in Taipei**

- Shaoxing community members;
- Wenlin Yuan community members;
- Hua Kuang community members.

**Migrant workers**

- Association of Indonesian migrant workers;
- Indonesian migrant workers at a shelter for female migrant workers in Taipei.







**The Ministry for Foreign Affairs of Finland has contributed to this project and made available financial resources therefore.**

### Establishing the facts

#### Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### Supporting civil society

#### Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### Mobilising the international community

#### Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

### Informing and reporting

#### Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.



台灣人權促進會  
Taiwan Association for Human Rights

### Taiwan Association for Human Rights (TAHR)

is an independent non-governmental organisation and was founded on 10th December 1984 (International Human Rights Day). It is a member-based NGO and run by full time activists and selfless volunteers.

At the early years, due to the long-term enforcement of Martial Law, provisions of fundamental human rights protection under the Republic of China (ROC) Constitution had not been able to be put into practice. In response to this, democratic reforms to ensure civil and political rights became the main TAHR's campaign topics in its initial years. Now TAHR has extended its engagement to a variety of human rights issues, some key works include:

**Individual Case Support:** TAHR looks after cases where authority seriously violates basic human rights, by assisting with investigations and offering actual support.

**Policy Monitoring/ Policy Monitoring and Advocacy:** TAHR follows the latest agenda from international human rights organizations on a regular basis and monitors domestic law and policy making before taking necessary actions. The main agenda that TAHR currently focuses on is: International human rights conventions and protection mechanism, Freedom of Expression, Right to Privacy, Asylum and Refugees etc and so on.

#### For more information about TAHR

Website: <http://www.tahr.org.tw>

Facebook: <http://www.facebook.com/tahrfb>

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**FIDH  
represents 164  
human rights organisations  
on 5 continents**



inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

## ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

### **A broad mandate**

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

### **A universal movement**

FIDH was established in 1922, and today unites 164 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

### **An independent organisation**

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

**fidh**

Find information concerning FIDH's 164 member organisations on **[www.fidh.org](http://www.fidh.org)**