

A. Preface

Due to fast economic development, Taiwan has attracted a tremendous number of marriage- and employment-based immigrants from Southeast Asia. In recent years, various crime syndicates have engaged in illegal smuggling or trafficking of persons for monetary gain. Complicated cross-strait relations, together with geographic and social structure factors, have resulted in the illegal smuggling of people, false marriages, human smuggling rings, and trafficking in persons. The human trafficking problems faced by Taiwan have been mainly related to sexual and labor exploitation. Most cases have involved false marriage and other pseudo-legal means to apply for entry visas to Taiwan. After arriving, they engage in activities different from the stated purposes of their visits. Such cases have severely affected public order and greatly tarnished Taiwan's image.

In order to demonstrate Taiwan's determination to fight trafficking in persons, the Executive Yuan has established an inter-ministerial coordination mechanism to elevate the effect of all measures adopted. Through this mechanism, the crackdown on human trafficking has made great strides.

B. Response to the US 2007 Report on Trafficking in Persons

(A) The response to the inference that Taiwan is a country of destination for men, women, and children trafficked for labor and sexual exploitation:

a. Trafficking in persons is a typical transnational organized crime

closely related to such crimes as money laundering, drug smuggling and certificate forgery. In order to curb crimes involving human trafficking, Taiwan's competent authorities investigate human trafficking ring members and give them higher penalties as those for individuals in organized crime.

- b. To strengthen the crackdown on related illegal activities and stop exploitation, Taiwan's related authorities, including the National Police Agency (NPA), National Immigration Agency (NIA), and Costal Guard Administration have collectively implemented an ad hoc program. According to statistics, 104 human trafficking cases (73 involving sexual exploitation, and 31 labor exploitation) and 760 illegal brokers were uncovered during the first half of 2007. (In 2006, 5 human trafficking cases and 33 illegal brokers were uncovered.)
- c. As for the results of investigations, the prosecutors, police, and Bureau of Investigation agents cooperated to prosecute 455 people involved in 113 human trafficking cases. A total of 45 people were jailed as accused during the first half of 2007. (In 2006, 229 people involved in 38 human trafficking cases were prosecuted, among whom 11 people were sentenced to jail.)
- d. Human trafficking intelligence involving foreigners obtained from the investigation of human trafficking cases is forwarded to related administrative agencies, such as the NIA and NPA. They then share it with the related foreign police agencies through NIA immigration liaison officers stationed overseas or the international non-governmental organizations. Through

intelligence exchanges, investigations can be broadened to look into illegal trafficking in persons committed overseas by foreign and Taiwan nationals.

- e. The Taipei Economic and Cultural Office in San Francisco prompted the Taoyuan District Prosecutor's Office, Criminal Investigation Office, and NIA to work with the US State Department, Homeland Security Department, and Federal Attorney's Office in the investigation of an international human trafficking ring involved in prostitution and led by Lin Min Tang.

(B) Response to the inference that Taiwan is still unable to clearly guarantee a fair working environment to household workers:

- a. Principle of treating foreign laborers as Taiwan citizens: In the treatment of foreign laborers, Taiwan has always followed Article 7 of the World Human Rights Declaration in that everyone shall be equal before the law and that everyone shall be equally protected by the law. Accordingly, Taiwan has adopted the principle of treating foreigners as its own nationals. Foreign workers in Taiwan are protected by labor affairs legislation, with provisions governing their working conditions. Provisions concerning health insurance, welfare, and safety are equally applicable to both foreign and local workers.
- b. Continuous review and revamping of foreign caregiver protection mechanism: Taiwan's laws governing labor affairs are applicable to local and foreign workers. Because of the nature of household work, although the Labor Standard Law

does not discriminate against foreign household workers, it is not applicable to local and foreign household workers in the same way. As the government is very concerned about the employment rights of foreign household workers, it invites scholars, experts, social welfare groups, and representatives from other related industries to participate in meetings so as to reach better conclusions. Because household jobs vary case to case and are complex, it is difficult to enact a law that possesses general applicability. Moreover, the follow-up administrative supervision and inspection, and resolution of practical problems remain uncertain. Therefore, the government invites comments and suggestions from all circles and hopes to create a protection mechanism that takes into consideration the rights of both the laborers and employers.

- (C) Response to the inference that the Taiwan government lacks a specific and well-coordinated victim protection plan:
- a. To place victims in protection, the government has mapped out an Anti-Human Trafficking Enforcement Program (2008~2010) for establishing shelters for victims in 18 communities throughout Taiwan over the next three years. In addition, the government will also discuss how to enhance victim protection and ensure their safe repatriation through international exchanges and talks with civic groups and source countries.
 - b. Current placement services provided for victims are as follows:
 - (a) The Ministry of the Interior (MOI) and the social welfare department at all levels of local government are working

with NGOs to provide human trafficking victims with emergency shelter services. There have been 18 shelters exclusively created for human trafficking victims of sexual exploitation, and 13 others for victims of labor exploitation. These victims are no longer housed in detention facilities with criminals.

(b) Supportive service activities: The MOI has created the Pilot Plan for the Protection of Human-Trafficking Victims, putting it under the MOI's 2007 Operation Directions for Promoting Social Welfare Subsidies. This requires local governments to work with NGOs to organize support and therapy groups, individual growth courses, psychological counseling and other types of related support. During the first half of 2007, the central government worked with the county governments of Pingtung and Taoyuan, as well as local civic groups to provide victims with relevant services. The participants organized professional service seminars, accompanied victims at interrogations and trials, and assisted in case management. A total of NT\$862,780 has been provided to fund such services.

(c) Necessary financial subsidies: Concerned Ministries have coordinated with local governments to provide necessary subsidies as stipulated by law. The funds will help cover emergency shelter, child education, replacement, legal fees, medical treatment, and psychotherapy. In addition, the lawyers retained by local governments also provide legal

counseling and assist in filing lawsuits to meet the specific needs of each case.

- c. Temporary placement and protection of labor exploitation victims: Foreign workers reporting employer transgressions, having disputes with their employers, or being subject to mistreatment by their employers may be unable to continue staying with their current employer. They therefore may be provided with temporary shelter by the local government if it deems necessary in accordance with the Operation Directions for Temporary Placement of Foreign Workers enacted on October 23, 2001. The government also provides NT\$500 per day to each foreign worker in protection. From January to May 2007, the government placed in shelters a total of 1,572 foreign workers, of which 513 were placed in 9 NGO-registered shelters.
- d. Establishment of a special task force to increase crackdowns on employers and brokers: In order to further protect foreign workers' rights and prevent their mistreatment by employers, the government has increased crackdowns on transgressions by employers and brokers. Between January and June 2007, city/county governments had investigated 45,667 cases, among which 963 involved various transgressions.
- e. Establish procedures for handling reports of personal abuse against foreign workers: In order to protect the rights of sexually abused foreign workers, Taiwan promulgated the Principles Guiding the Strengthening of the Mechanism for

Reporting Sexual Abuses against Foreign Workers and the Inter-Departmental Coordination and Labor Division on August 30, 2004. These regulatory procedures help authorities handle cases concerning sexual abuse against foreign workers and ensure the personal safety of foreign workers. In addition, to further protect the foreign workers' right to reside and work in Taiwan, Taiwan promulgated the Standards Procedures for Strengthening the Principles for Coordinating Handling Cases Involving Personal Abuse against Foreign Workers on September 13, 2006. This aims at establishing procedures for handling cases involving personal abuse against foreign workers, reducing the time required to handle cases, and preventing their right to be employed from being affected.

- f. Safeguard foreign workers' privacy and freedom to choose whether to accept housing provided: The government hopes to improve the management of the living conditions of foreign workers and better respond to amendments to the Regulations Governing Foreign Workers' Employment Permission and Management. Therefore, it amended the Discretionary Standards Governing the Review on the Management of the Living of Type II Foreign Workers Recruited for the First Time or Re-recruited. The standards cover the rights enjoyed by foreign workers to decide whether to accept the housing provided. They also make the employers take into consideration gender differences when making lodging arrangements and respect the privacy of their employees. Since November 1, 2006,

people/enterprises wishing to employ foreign workers must submit a copy of a management plan to the local city/county government within 3 days of the arrival of their foreign workers. The government office should carry out spot inspections of their living conditions within 2 months of receiving the plan. By the end of June 2007, city/county governments around the country had received 41,425 management plans.

- g. Assist foreign workers needing to change employer: To protect legal foreign workers' rights to work in Taiwan, they should be allowed, with government approval, to change employer or employment status if their employers die or immigrate, close their business, fail to pay compensation according to the employment contract, or engage in any behavior that results in the termination of such a contract. This holds true in instances where the foreign workers are not responsible for such changes and meet the provisions set forth in Article 59 of the Employment Services Act. For foreign workers with special circumstance, such as having been sexually abused, the government should assist them in changing line of employment out of consideration of the foreign workers' choices and their right to work. In total, 17,992 foreign workers changed employers in 2006. Between January and June 2007, a total of 9,700 foreign workers had changed employers.
- h. Paragraph 2 of Article 44 of the special chapter Transnational Human Trafficking Prevention and Victim Protection to be added to the Immigration Act being amended: The competent

central labor authority may issue a work permit to human trafficking victims as provided for in the preceding paragraph without being restricted by the Employment Act. The above-mentioned article went through bipartisan negotiations in the Legislative Yuan on May 31, 2007. It will be enforced after receiving approval.

(D) Response to the inference that the prosecution of human traffickers involved in labor exploitation is lacking in Taiwan:

- a. Taiwan actively pursues prosecutions: Taiwan pursues prosecutions against human traffickers involved in labor exploitation. Article 63 of the Employment Service Act may be applied for such cases, as it carries penalties ranging from imprisonment for a maximum of 3 years, community service or/and a maximum fine of NT\$1.2 million. As one can see, a legal basis for prosecutions of such infringements exists. If the infringement constitutes labor exploitation via human trafficking, it is also punishable under Articles 302 and 304 of the Criminal Code and subject to public prosecution. According to the statistics released by Taiwan's National Police Agency and Ministry of Justice, 62 cases were referred to district prosecutor's offices in 2006.
- b. Taiwan increasingly refers cases to prosecutor's offices for investigation: On April 17, 2007, the government sent an official letter to all city/ county governments around the country. The letter informed them that, should they find a foreign worker whose freedom of movement is being restricted or who is

engaged in sexual transactions, the said worker might be human trafficking victims. Therefore, the government may refer the cases to the prosecutor's office for investigation pursuant to Article 241 of the Criminal Procedure Law. This would help ensure that the principles for persecution based on the Executive Yuan Human Trafficking Prevention Action Plan are followed, thereby preventing illegal activities.

- (E) The response to the inference that Taiwan has no law to protect foreign workers from abuse and repatriation by brokers or employers:
- a. Establish a mechanism to verify whether the employment contract between foreign workers and their employers have been terminated prior to expiration: To protect the rights of both employers and foreign workers and prevent transgressions like the forceful repatriation of foreign workers by employers, the Review Procedures for the Termination of the Contract between Type 2 Foreign Workers and Employers was promulgated on November 2006. The procedures clearly provide that the termination of employment contracts between foreign workers and employers prior to expiration must be reviewed by the local government to look into the real intentions of the foreign workers. In the event of a dispute between the foreign workers and their employers, the local city/county government must promptly intervene. As of the end of June 2007, a total of 18,964 reviews had been conducted, effectively preventing brokers or employers from improperly repatriating their foreign

workers.

- b. Provide complaint channels and enhance the protection of foreign workers: to prevent foreign workers from being improperly repatriated and to protect their rights to work in Taiwan, the Foreign Labor Service Center was established at Taoyuan International Airport on January 16, 2006. Foreign workers about to be improperly repatriated by brokers or employers can directly file complaints at the center in the airport before embarking. If necessary, the center can help refer foreign workers for placement and protection before it proceeds to investigate the complaint. Between January and June 2007, 81 complaints were made at the airport.
- c. Set up a complete foreign laborer complaint and consultation network:
 - (a) Establish Foreign Labor Consultation Service Centers to provide complaint and consultation services: in order to strengthen consultation services for foreign workers in Taiwan, 100 bilingual officers have been stationed at 25 Foreign Labor Consultation Service Centers partly funded by the government. They provide various services such as giving legal consultation and handling complaints and labor disputes. According to statistics, 71,613 people in 2006 received consultation services provided by Foreign Labor Consultation Service Centers nationwide. The total number from January to June 2007 was 38,412.
 - (b) Set up free complaint hotlines for foreign workers: to

protect the personal safety of foreign workers and to provide a complaint channel for them, free complaint hotlines (English: 0800-017858, Thai: 0800-885995, Indonesian: 0800-885958, Vietnamese: 0800-017858) manned with staff who speak foreign languages were established in November 2000. These complaint hotlines are also open during holidays and the service hours have been extended to 10:00 p.m. to better serve people reporting sexual abuse. Once complaints are registered, the local government is required to immediately send officers to investigate and follow up. In 2006, 16,905 complaints were made through these complaint hotlines. The total number from January to June 2007 was 6,689.

(F) Response to the inference that foreign workers are unfairly exploited by brokers:

- a. The competent authorities have amended the Regulations Governing the Licensing and Management of Private Employment Agencies to incorporate the management of living conditions for foreign labor. Furthermore, to prevent employment agencies from evading penalties by establishing dummy agencies, local city and county governments shall inspect applications before approving agency licenses. At the same time, an evaluation system that rewards good agencies and weeds out bad agencies will also be incorporated.
- b. Evaluating reasonable broker's fees: to ensure that the fees charged foreign workers to work in Taiwan by brokers are

reasonable, three meetings were convened in 2006. These meetings set the principle that service users shall only pay for services rendered rather than paying fees for services that are not used. We will continue to review and improve the current foreign labor agency charges.

- c. Strengthening the investigation on illegal foreign labor agencies: pursuant to Article 40 of the Employment Services Act, to prevent labor exploitation or infringement of rights, agencies and/or their employers shall be punishable by a fine, suspension of business or license cancellation. From January to June 2007, 46 cases related to trafficking in persons involving illegal agencies had been handled.

(G) Response to the inference that Taiwan has not completely prohibited all forms of human trafficking, and has not charged traffickers involved in labor exploitation and bonded labor:

- a. The Executive Yuan's Human Trafficking Prevention Action Plan defines human trafficking as the use of violence, coercion, threat, control, drugs, hypnosis, fraud, improper debt bondage or other coercive measures to organize, recruit, transport, transfer, hide, broker, and accommodate domestic or foreign population for the purpose of buying, selling, or holding people, exploiting them sexually or for labor, or removing their body organs. According to the above definition, Articles 231, 231 · 1, 233, 277, 278, 296, 297, 296 · 1, 302 and 304 of the Criminal Code, Articles 23 to 25 and 31 of the Child and Juvenile Sex

Transaction Prevention Law, Articles 5 and 75 of the Labor Standard Law, Articles 15 and 79 of the Regulations Governing the Relations of People from the Taiwan Area and People from the Mainland China Area, Article 53 of the Immigration Act, and Articles 23 to 25 of the Passport Regulations are applicable to trafficking in persons.

- b. According to Articles 5 and 75 of the Labor Standard Law, labor exploitation is subject to criminal charges in Taiwan. As for those workers not covered by the Labor Standard Law, forced labor by employers constitutes the offence of coercion provided for in Article 304 of the Criminal Code. Employers found guilty thereof shall be charged with a criminal offense. Forcing workers into labor by means of abuse, either physical or mental, or depriving them of freedom of movement may violate Articles 277, 278 or 305 of the Criminal Code, and violators are subject to criminal charges. Thus it is not only Articles 296 and 296 · 1 of the Criminal Code that provide for punishment for enslavement.

(H) Response to the inference that there is a need to enact comprehensive legislation that covers all forms of trafficking in persons:

- a. After bipartisan consultations in the Legislative Yuan on May 31, 2007, the Transnational Human Trafficking Prevention and Victim Protection special chapter has been added to the draft amendment of the Immigration Act. The protection of human

trafficking victims is provided for under this Act.

- b. The premier has instructed that the Ministry of the Interior and Ministry of Justice work together to draft an ad hoc anti-human trafficking law in order to effectively combat human smuggling gangs and to protect victims. The Ministry of the Interior invited scholars and experts to participate in a conference on the formulation of the anti-human trafficking law. It was decided at the conference that a task force should be established to compile existing laws and regulations that protect victims, and that a letter should be sent to the Ministry of Foreign Affairs to request its assistance in collecting the related legislation of other countries to facilitate the enactment of Taiwan's own ad hoc anti-trafficking law.

- (I) Response to the inference that it is difficult to collect data on related court decisions and criminal sentences in Taiwan:

Collecting statistical data on human trafficking is complicated by the fact that sexual and labor exploitation cases come in many forms and are therefore covered by different provisions of the law and counted separately. To improve the situation and present a true and complete picture of Taiwan's crackdown on trafficking in persons, executive departments established a mechanism in January 2007 to analyze individual human trafficking cases according to the charges. This mechanism will allow the sentences resulting from these cases to be tracked.

C. Future Prospect

Preventing human trafficking is a transnational issue. Internationally, it requires information exchange and mutual support. Domestically, it requires a long-term and inter-ministry effort. While the preventive measures currently put in place by the departments of related ministries may be omissive and incomplete, the Ministry of the Interior is working with the related ministries, including the Council of Labor Affairs, to draft the Anti-Human Trafficking Enforcement Program (2008~2010). This program is geared towards reinforcing the protection, housing and repatriation of victims, as well as international cooperation. We believe that implementing this enforcement program shall effectively elevate our overall accomplishments in preventing trafficking in persons.