

Taiwan's response to the *2012 Trafficking in Persons Report*

Foreword

In the *2012 Trafficking in Persons Report*, published by the US Department of State on June 19, Taiwan was placed on the Tier 1 list in recognition of its efforts in combating human trafficking. Nonetheless, government agencies in Taiwan have been urged to review and follow up on the report's recommendations on how Taiwan can further enhance its anti-trafficking programs. This document outlines the specific measures and practices Taiwan has adopted with regard to prosecution, protection and prevention.

I. Prosecution

1. Strengthen enforcement of anti-trafficking laws

1.1 Designate special prosecutors

The Ministry of Justice (MOJ) has designated prosecutors at each district court to be in charge of human trafficking cases. At the high court level, a supervisory team meets regularly to monitor and expedite the progress of trafficking cases by streamlining operations among prosecutors' offices. The MOJ carefully tracks trafficking cases to ensure that they are aggressively dealt with and that offenders are properly punished.

1.2 Form alliances among judicial police forces

Each judicial police force has a designated unit focusing exclusively on anti-trafficking tasks. Coordination among different agencies, such as the national police's foreign affairs team, the National Immigration Agency's specialized operation brigades, and the coast guard, optimizes the use of resources and strengthens law enforcement. Joint raids are conducted at places known for hiring runaway migrant workers for labor or sex exploitation. Evidence thus uncovered is often very effective in prosecuting traffickers. Starting in 2012, protecting minors against sexual exploitation has become another top priority of enforcement efforts.

1.3 Enhance front-line efforts

Front-line civil servants receive regular training, so that they stay abreast of anti-trafficking laws and regulations. This is extremely important, as an officer has to be able to identify potential trafficking offenses in cases he or she handles. Front-line personnel need a high level of competency to make these judgments.

2. Increase conviction rates and streamline sentencing practices

2.1 Reform sentencing practices

2.1.1 Develop sentencing databases

In February 2011, the Judicial Yuan – one of the main branches of the ROC government – set up a team to study sentencing practices in the United Kingdom, the United States, Australia and the Netherlands. Rape was the first offense for which a sentencing database was developed. Seven months later, a group of analysts was charged with creating similar databases for other types of crimes, at a pace of one database every six months. When these databases are completed, judges will be able to base sentences on a number of different factors. By referring to previous sentences for a similar offense, fairness and transparency will be increased.

2.1.2 Quantified approach

Sentencing databases have been developed for rape and driving under the influence (DUI). More databases, for offenses related to firearms, fraud, and controlled substances, are currently being developed. Workshops are held to solicit judges' input to help them impose fair and just sentences reflecting people's expectations. Meanwhile, a feasibility study is being conducted with regard to a quantified approach to DUI sentencing, as a large number of such cases are decided by summary judgment.

2.2 Formulate sentencing guidelines for trafficking crimes

2.2.1 The essence of a sentencing database lies in looking at a vast number of prior cases using regression analysis, so as to identify key sentencing factors, which can then be used to create a model for recommending future sentences. However, only 1,137 persons were indicted from 2008 to 2011 for trafficking; too few to create a sound statistical model. Therefore, a sentencing database for human trafficking offenses is currently listed as a long-term project.

2.2.2 With only over 1,000 indictments, it is still too early to determine whether trafficking offenders have received proper sentences. The Judicial Yuan has instructed courts at all levels to collect relevant data from now on. Meanwhile, the large number of DUI cases decided by summary judgments may lead to a quantified sentencing model pending a feasibility study. The American model could be considered, so as to incorporate aggravating and mitigating factors specified in Article 57 of Taiwan's Criminal Code.

3. Learn from a Taiwanese diplomat's labor law violation

3.1 Administrative penalty

The ROC government launched an investigation upon becoming aware on November 10, 2011, of an alleged labor law violation. It was concluded that Jacqueline Liu, the former head of Taiwan's representative office in Kansas City, Missouri, the United States, tarnished Taiwan's image abroad, failed to demonstrate leadership, and overstepped her official authority by failing to follow hiring rules that apply to diplomatic missions. In view of her serious misconduct, she was impeached on April 10, 2012, and suspended for two years starting July 5, 2012.

3.2 Educate personnel stationed abroad

As Taiwan continues to engage with the world, more and more Taiwanese from the public and private sectors are dispatched to foreign countries, where they hire an increasing number of local workers. Without full knowledge of local labor regulations, one may inadvertently violate regulations with regard to hiring and managing local employees. To uphold Taiwan's reputation as a responsible member of the international community, public and private entities are urged to observe local laws in their foreign operations and educate their personnel about these laws.

3.3 Expand knowledge of anti-trafficking policies and laws in other countries

The Ministry of Foreign Affairs (MOFA) has put a priority on collecting each country's policies, laws and high-profile cases related to human trafficking. MOFA thereby aims to expand its knowledge of human trafficking and create reference material that can be used when Taiwan decides to amend related laws and regulations in the future.

4. Elevate civil servant competency

4.1 Raise prosecutors' skills

The MOJ holds annual courses for prosecutors assigned to human trafficking cases. The courses – designed to improve prosecution skills – cover the Human Trafficking Prevention and Control Act, investigation and prosecution of trafficking cases, and protection of victims. Human trafficking courses are included in judiciary personnel's pre-job and on-job training.

4.2 Improve judges' understanding of human trafficking

The Judicial Yuan has arranged various events for judges to improve their understanding of human trafficking.

- 4.2.1 On March 12, 2012, a workshop on human trafficking was held to review real cases and examine related criminal procedures, investigation processes and evidence gathering techniques.
- 4.2.2 On April 27, 2012, a panel discussed language used in court decisions and trials. This issue was raised in consideration of rape and trafficking victims who tend to suffer humiliation when having to recount in court the horrific events they have been through. According to women's rights groups and scholars, judges' choice of words during trials and in written decisions could be more respectful of the victims.
- 4.2.3 A compendium of regulations and a list of available resources related to human trafficking are being compiled for publication by the end of the year.
- 4.3 Cultivate judicial police's capabilities
 - 4.3.1 The National Immigration Agency (NIA) has conducted two training courses (in May and September) this year on various aspects of human trafficking for front-line law enforcement personnel. In June and August, the NIA hosted seminars to set up anti-trafficking networks for future collaboration among various agencies.
 - 4.3.2 The NIA trains its specialized operation brigades to detect human trafficking when tracking down runaway migrant workers, interviewing prospective immigrants, and visiting new arrivals. The police have prepared more training for new recruits in the foreign affairs department and for front-line police officers. In addition, the coast guard has scheduled four training events on human trafficking this year.
 - 4.3.3 Starting in 2012, cadets in their senior year at the Central Police University have to attend a course on human trafficking prevention to prepare them for their jobs after graduation.
- 4.4 Raise labor counselors' and inspectors' awareness

The Council of Labor Affairs (CLA) has conducted four workshops to raise awareness of human trafficking among counselors (management of migrant workers) and inspectors (visiting workplaces of foreign nationals, including white-collar professionals).

II. Protection

1. Help victims make informed decisions

1.1 Adopt a victim-centered approach

Article 11 of the Human Trafficking Prevention and Control Act stipulates that, before someone is identified as a trafficking victim, judicial police should inform the suspected victim of procedures that will follow, as well as protection extended to a trafficking victim. This step is crucial for the suspected victim to make informed decisions during the investigation, with the help of interpretation service and social workers. The victim-centered approach aims to respect the suspected victim's decision on whether to testify or to be placed in a shelter.

1.2 Keep victims informed

Prosecutors handling trafficking cases should inform victims of their case's progress to an extent not violating Article 245.1 of the Criminal Procedure Law (non-disclosure of information concerning ongoing investigations).

1.3 Expedite judicial processes

Trafficking cases tend to move slowly through the court system. Uncertainty about the future affects victims' willingness to cooperate and testify against traffickers. It is essential to improve cross-agency communications (the judiciary, social and labor affairs authorities and shelters) to expedite investigations and judicial proceedings. Starting in 2010, the progress of sheltered victims' cases is regularly reviewed, so that these cases can be closed in a timely manner, allowing victims to return to their home countries. On March 20, 2012, the MOJ set forth a revised measure to not determine someone's status as a trafficking victim until a decision is made on whether to indict the perpetrator. The original agency referring a case to the prosecutor will receive a notice stating whether or not the person was designated as a victim of human trafficking.

2. Improve language competency to offer better services

2.1 Offer interpretation service

Most trafficking victims placed in shelters are from Southeast Asian countries such as Indonesia and Vietnam. They may not be able to express themselves adequately in a widely spoken international language such as English, but after many years in Taiwan their Mandarin skills are sufficient to communicate with shelter staff through verbal and non-verbal means. For in-depth interviews, an interpreter speaking the victim's native language is present to facilitate articulation of thoughts and needs. Interpretation service is particularly critical during judicial

investigations to safeguard victims' human rights.

2.2 Expand the 1955 hotline service

The toll-free 1955 hotline was launched in 2009 to offer 24x7 services for migrant workers in their own native language. The five types of services offered include consultation (for employees and employers), complaint procedures, legal aid counseling, protective placement, as well as services available from public agencies. Online, real-time interpretation is also available for communication among employees, employers and government agencies, as well as for seeing a medical doctor, dealing with administrative paperwork, fulfilling job duties, and living in Taiwan.

3. Enact laws to deter forced labor

3.1 Raise awareness and increase monetary fines

Taiwan's Labor Standard Act (LSA) prohibits employers from forcing people to work by means of violence, threats or confinement. The penalty for people convicted of this crime used to be imprisonment for less than five years and/or a fine of less than US\$5,000. The maximum fine was increased to US\$25,000 in June 2011. In collaboration with administrative agencies of industrial parks, where blue-collar migrant workers are concentrated, the CLA has conducted roadshows on LSA enforcement. Starting in 2012, penalty clauses are highlighted in the roadshows to ensure awareness and compliance.

3.2 Promote domestic worker protection bill

The CLA has drafted a bill on domestic worker protection and continued to revise the bill after two cabinet reviews, conducted in March 2011 and April 2012, respectively. Pushing this law through the Legislative Yuan has been a top priority for the council.

III. Prevention

1. Curb child sex tourism and reduce child exploitation

1.1 Reach beyond borders

In 2011, there were no cases of ROC nationals being prosecuted for having sex with minors when travelling abroad. Most likely, incidents of this nature did occur. However, investigation and prosecution of these cases on foreign soil is difficult enough, and Taiwan's limited diplomatic ties with most nations in the world make it even harder to obtain information from foreign judicial agencies. Taiwan is actively seeking to sign mutual

judicial assistance agreements with other countries to overcome these obstacles and enhance prosecution and deterrence.

1.2 Enforce domestic law

Taiwan's laws prohibit people from having sex with minors, and enticing, acting as an intermediary for and holding minors to engage in commercial sex. Police in Taiwan have been proactive in cracking down on sex transactions involving minors. During the first six months of 2012, 91 suspects were charged for engaging in sex with minors, and another 109 were indicted for acting as an intermediary for minors to engage in commercial sex or for forcing minors into prostitution.

1.3 Cooperate with foreign police

Taiwan's police authorities have liaison officers stationed in eight nations/territories, including Thailand, Vietnam and the Philippines. They serve as a conduit for cross-border crime investigations, including cases involving Taiwanese nationals engaged in sex tourism.

1.4 Anti-sex tourism campaigns

1.4.1 Government-sponsored messages

The Child Welfare Bureau under the Ministry of the Interior has secured long-term exposure for anti-sex tourism messages on radio broadcasts and LED bulletin boards at main transportation hubs.

1.4.2 Outreach programs

To educate women and children on how to protect themselves against sexual assault and exploitation, police authorities at all levels conduct roadshows in communities, schools, workplaces and among civil organizations. After all, an enlightened citizenry is the best deterrence against sex tourism.

1.4.3 Tourism sector

The Tourism Bureau under the Ministry of Transportation and Communications reminds hotel staff to be vigilant against child sex during routine hotel audits. Relevant information on gender equality, human trafficking prevention and efforts to curb sex with minors is readily available on the bureau's website. This information is also part of e-learning material for people seeking tour guide licenses. Tour operators always remind members of their travel groups that child sex is prohibited, whether traveling in Taiwan or abroad.

1.4.4 Fishing industry

Through trade publications, the Fisheries Agency under the Council of Agriculture regularly reminds fishing ship owners to guard against smuggling and trafficking of goods and people. In certification courses, ship operators and crews are reminded of the legal consequences associated with human trafficking and sex with minors during port calls, whether in domestic or foreign ports.

2. Suppress commercial sex and deter exploitation

2.1 Clamp down on acts violating social norms

2.1.1 Reduce prostitution-related crime

It has been a police priority to stub out acts that violate social norms, especially those involving minors and organized crime. The police have invested substantial resources into uncovering such cases, with remarkable results. Starting in 2006, this mission has been coordinated by a cross-agency task force protecting women and children. Progress is closely monitored, with effective quarterly reviews.

2.1.2 From January 2011 to May 2012, 10,011 suspects in 2,833 different cases were indicted for behavior violating social norms in establishments such as karaoke bars, dancing clubs, cabarets, nightclubs, pubs, teahouses, taverns and brothels.

2.2 Promote gender equity

2.2.1 Taiwanese law requires gender equality education at the primary and junior high school level, with at least four hours of lectures and/or activities. At the senior high school level, relevant concepts should be incorporated into the regular curriculum. Also, the lessons should cover sex education and advice on how to deal with emotional issues. Knowledge about homosexuality should be taught as well.

2.2.2 At the primary and junior high school level, gender equity is a major subject in health and physical education classes, with ten key indicators. Guidelines to implement senior high school curriculums require that gender equity be incorporated in five areas.

2.2.3 Specific programs

During 2011, a major sex education resource website set up by the Ministry of Education received 1.11 million visitors, with 130,000 downloads; a hotline for sex education and consultation received

300 calls; junior high school health and physical education teachers were trained to teach sex education courses; the Gender Equity Education Quarterly continues to be published; and funding is offered to help universities, colleges and civic groups run activities related to sex education.

3. Enhance anti-trafficking operations

3.1 Organize regional networks

The NIA and partners have learned from experience that human trafficking issues and victims' needs are too diverse for one single agency to handle. Therefore, an anti-trafficking network has been established including central and local government levels in addition to NGOs. Also, four regional networks (North, Central, South and East) have met in March, April, July and September to consolidate and streamline resource utilization within each region. Regular meetings, case studies, and discussions are conducive to building strong relationships among participants from various agencies and NGOs, thereby forming efficient horizontal and vertical coordination networks. Services are expected to be further improved and expanded.

3.2 Develop anti-trafficking consultation network

Starting in 2012, a network of officers has been set up at each judicial police unit and local government. These officers met in June and August to receive training on issues related to combating human trafficking, such as enforcement practices and protective placement. After attending these training courses, they go back to their own agencies and share their knowledge with colleagues, thereby helping to educate more civil servants on human trafficking issues.

3.3 Evaluate performance at local government level

The Ministry of the Interior has formulated an evaluation program and related procedures to assess the performance of each city/county government in combating human trafficking. These evaluations will start in 2013.

4. Asia-Pacific anti-trafficking forum

Taiwan's successful efforts in stamping out human trafficking are well known. From May 31 to June 1, the NIA, MOFA and the CLA jointly organized a forum on combating human trafficking in Asia. Foreign officials, international NGO representatives and members of the diplomatic corps from 12 neighboring

countries and territories attended the event. They met with Taiwanese officials and specialists to compare notes and form alliances to further enhance communication and cooperation.

Conclusion

Taiwan is committed to defending human rights. Public and private resources are combined to focus on prosecution, protection and prevention. The government has every intention to maintain Taiwan's Tier 1 status and to safeguard human rights through even better collaboration, both inside and outside Taiwan.