

# **Implementation of the International Covenant on Economic, Social and Cultural Rights**

Initial report submitted under articles 16 and 17 of the Covenant

**Republic of China (Taiwan)**

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## Table of Contents

	Paragraph	Page
ARTICLE 1 .....	1-9 .....	1
ARTICLE 2 .....	10-30 .....	4
ARTICLE 3 .....	31-41 .....	19
ARTICLE 4 AND ARTICLE 5 .....	42 .....	31
ARTICLE 6 .....	43-71 .....	32
ARTICLE 7 .....	72-91 .....	48
DEDICATED CLAUSES ON FOREIGN WORKERS .....	91-107 .....	62
ARTICLE 8 .....	108-118 .....	70
ARTICLE 9 .....	119-165 .....	76
ARTICLE 10 .....	166-199 .....	93
ARTICLE 11 .....	200-221 .....	106
ARTICLE 12 .....	222-253 .....	115
ARTICLE 13 .....	254-281 .....	126
ARTICLE 14 .....	282-284 .....	142
ARTICLE 15 .....	285-297 .....	144

## List of Tables and Figures

<b>Table 1</b>	<b>Statistics of Subsidizing for the Disabled, 2009–2011.....</b>	<b>7</b>
<b>Table 2</b>	<b>Employment discrimination cases processed by the Employment Discrimination Review Committees of local governments, 2007-2011 .....</b>	<b>12</b>
<b>Table 3</b>	<b>Statistics of students with disabilities in each stage of education, 2007–2011 .....</b>	<b>15</b>
<b>Table 4</b>	<b>Statistics of District Court decisions based on Article 25 of the Sexual Harassment Prevention Act, 2007–2011 .....</b>	<b>30</b>
<b>Table 5</b>	<b>Statistics of High Court decisions based on Article 25 of the Sexual Harassment Prevention Act, 2007–2011 .....</b>	<b>30</b>
<b>Table 6</b>	<b>Statistics of Supreme Court decisions based on Article 25 of the Sexual Harassment Prevention Act, 2007–2011 .....</b>	<b>31</b>
<b>Table 7</b>	<b>Labor force participation rates by gender and age, 2007–2011 .....</b>	<b>32</b>
<b>Table 8</b>	<b>Employment rate, 2007 to 2011 - by gender and age.....</b>	<b>32</b>
<b>Table 9</b>	<b>Status of labor and employment of individuals with disabilities aged 15 to 64, 2009 .....</b>	<b>33</b>
<b>Table 10</b>	<b>Implementation of subsidy programs to promote employment and associated employer reward programs, 2007-2011.....</b>	<b>34</b>
<b>Table 11</b>	<b>Percentage of women in the workforce, 2007-2011 .....</b>	<b>35</b>
<b>Table 12</b>	<b>Statistics on the employment of individuals from indigenous communities working in the public sector, 2007-2011 .....</b>	<b>38</b>
<b>Table 13</b>	<b>Statistics on the employment of individuals from the indigenous communities by the private sector, 2007-2011 .....</b>	<b>38</b>
<b>Table 14</b>	<b>Results of vocational training for individuals in the indigenous communities, 2007-2011 .....</b>	<b>39</b>
<b>Table 15</b>	<b>Statistics for pre-employment training for the unemployed, 2007-2011 .....</b>	<b>45</b>
<b>Table 16</b>	<b>Employment statistics associated with post-training target populations, 2007-2011 .....</b>	<b>47</b>
<b>Table 17</b>	<b>Statistics on occupational changes because of childbirth with married women aged 15 to 64 years, 2010.....</b>	<b>51</b>
<b>Table 18</b>	<b>Individual with disabilities aged 15-64 labor and employment status and wage levels, 2006-2009 .....</b>	<b>53</b>
<b>Table 19</b>	<b>Statistics on the number of employees, income and working hours, 2008–2011 .....</b>	<b>54</b>
<b>Table 20</b>	<b>Statistics on occupational accidents and injuries, 2007-2011 .....</b>	<b>59</b>
<b>Table 21</b>	<b>Statistics on the number of occupational disease insurance claims, 2007-2011 .....</b>	<b>60</b>
<b>Table 22</b>	<b>Statistics on the number of uninsured workers suffering from occupational accidents, injuries or diseases, 2007-2011 .....</b>	<b>61</b>
<b>Table 23</b>	<b>Statistics on occupational accident insurance benefit payouts, 2007-2011.....</b>	<b>61</b>
<b>Table 24</b>	<b>Foreign worker statistics, 2011 — by country and industry sector .....</b>	<b>62</b>

<b>Table 25</b>	<b>No. of persons insured by Labor Insurance, 2011 - by category and nationality .....</b>	<b>64</b>
<b>Table 26</b>	<b>Participation of Taiwan's labor unions in global federations of labor unions ....</b>	<b>72</b>
<b>Table 27</b>	<b>Historical strikes with significant impact .....</b>	<b>74</b>
<b>Table 28</b>	<b>Social welfare budget of the Central Government, 2008-2012 .....</b>	<b>76</b>
<b>Table 29</b>	<b>Various social welfare budgets of the Ministry of the Interior, 2008-2012 .....</b>	<b>77</b>
<b>Table 30</b>	<b>Social welfare budgets and legal obligation expenditures of the Ministry of the Interior, 2008-2012.....</b>	<b>77</b>
<b>Table 31</b>	<b>The 2011 minimum living expense criteria announced in different areas of the Republic of China.....</b>	<b>83</b>
<b>Table 32</b>	<b>2010 ~ 2011 Statistics of Living Assistance to Children and Juveniles and Medical Care Subsidies .....</b>	<b>84</b>
<b>Table 33</b>	<b>2010 ~ 2011 Statistics of Child Care Subsidies.....</b>	<b>85</b>
<b>Table 34</b>	<b>Statistics of marriages involving girls 18 or under between 2007 and 2011.....</b>	<b>94</b>
<b>Table 35</b>	<b>The number of people covered by labor insurance and the number of people with approved elderly farmers' welfare allowance .....</b>	<b>103</b>
<b>Table 36</b>	<b>Statistics of people covered by the civil servant and teacher insurance applying for retirement payments between 2007 and 2011 .....</b>	<b>103</b>
<b>Table 37</b>	<b>Statistics of civil protection orders handled and issued between 2007 and 2011 .....</b>	<b>104</b>
<b>Table 38</b>	<b>The influence of government shifting of income and expenditure on the distribution of family income between 2006 and 2010 .....</b>	<b>107</b>
<b>Table 39</b>	<b>2009–2011 Statistics of grains released as part of public assistance .....</b>	<b>109</b>
<b>Table 40</b>	<b>2007–2011 Statistics of students benefiting from school lunch subsidies .....</b>	<b>110</b>
<b>Table 41</b>	<b>Number of various medical practitioners in 2011 .....</b>	<b>117</b>
<b>Table 42</b>	<b>Accidental injury death rates of international children and teenagers by age group .....</b>	<b>122</b>
<b>Table 43</b>	<b>Statistics of recidivism among those under monitored rehabilitation or having been discharged from rehabilitation centers between 2007 and 2011...125</b>	
<b>Table 44</b>	<b>Changes in the number of students attending vocational high schools from the 2006 Academic Year to the 2010 Academic Year .....</b>	<b>128</b>
<b>Table 45</b>	<b>Changes in the number of students attending junior colleges of technology from the 2006 Academic Year to the 2010 Academic Year .....</b>	<b>129</b>
<b>Table 46</b>	<b>Statistics of certification among students from junior colleges of technology from the 2006 Academic Year to the 2010 Academic Year .....</b>	<b>130</b>
<b>Table 47</b>	<b>Statistics of the employment rate among students from junior colleges of technology from the 2006 Academic Year to the 2010 Academic Year .....</b>	<b>130</b>
<b>Table 48</b>	<b>Number of students accepted and the acceptance rate of universities from the 2007 Academic Year to the 2011 Academic Year .....</b>	<b>131</b>
<b>Table 49</b>	<b>Registration and acceptance outcome of the Star Plan for universities between the 2007 Academic Year and the 2011 Academic Year.....</b>	<b>132</b>

<b>Table 50</b>	<b>Statistics of beneficiaries of various tuition and miscellaneous exemption fees among universities from the 2006 Academic Year to the 2010 Academic Year .....</b>	<b>134</b>
<b>Table 51</b>	<b>Statistics of student loans for senior and vocational high schools, college, and universities between the 2006 Academic Year and the 2010 Academic Year .....</b>	<b>134</b>
<b>Table 52</b>	<b>Statistics of approved openings for in-service programs from the 2006 Academic Year to the 2010 Academic Year .....</b>	<b>136</b>
<b>Table 53</b>	<b>Gender ratios among students at schools of all levels from the 2006 Academic Year to the 2011 Academic Year .....</b>	<b>139</b>
<b>Table 54</b>	<b>Number of dropout students and the dropout rates from the 2005 Academic Year to the 2010 Academic Year .....</b>	<b>140</b>
<b>Table 55</b>	<b>Number of dropout aboriginal students and the dropout rates from the 2005 Academic Year to the 2010 Academic Year .....</b>	<b>140</b>
<b>Table 56</b>	<b>Male-female ratios among dropout students from the 2005 Academic Year to the 2010 Academic Year .....</b>	<b>141</b>
<b>Table 57</b>	<b>Attendance in intervening education programs between 2008 and 2011 .....</b>	<b>141</b>
<b>Table 58</b>	<b>Overview of student insurance subsidies budget from the 2006 Academic Year to the 2010 Academic Year .....</b>	<b>142</b>
<b>Table 59</b>	<b>Statistics of subsidies for collectable fees from the 2006 Academic Year to the 2010 Academic Year.....</b>	<b>143</b>

## **Article 1**

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

1. The Republic of China was founded on October 10, 1911. Its Constitution (hereinafter referred to as the "Constitution") was promulgated on December 25, 1947. The Constitution stipulates that the Republic of China is a sovereign and independent democratic nation, whose sovereignty resides with the whole of its citizens. The Republic of China relocated its government to Taiwan in 1949 and began a period of martial law that lasted for 38 years, during which people's freedoms of speech, assembly and association were restricted. Martial law was lifted in 1987. As the authoritarian regime broke up, social movements started to gain prominence. People initiated political and social reforms to gradually promote the consolidation of various rights. The First Amendment to the Constitution took place on April 22, 1991, which legitimized the generation of the second intake of the central government representatives and resolved the long-term inability to comprehensively re-elect congressmen. The Third Amendment to the Constitution on July 28, 1994 laid the legal groundwork for the direct popular election of the president. The comprehensive re-elections of congressmen in 1991 and 1992, the direct popular elections of the governor and Taipei and Kaohsiung mayors in 1994, the direct popular election of the president in 1996, and the first regime change in 2000 put an end to the one-party authoritarian system that had been in existence for 50 years. Currently both central and local governments are created through elections. Parties that have won elections shall form the governments.

2. Starting in 1945, when Taiwan was restored, the Republic of China government has rebuilt the executive and judicial systems, released new currency, and gone through seven constitutional reforms and five presidential elections between 1988 and 2012. It is a sovereign and independent nation as defined by International Law.

3. Peoples' right to self-determination means that people can independently determine their political status and even the sovereignty of their nations through their votes. The Seventh Amendment to the Constitution in 2005 incorporated the people's right to referendum on constitutional revision as part of the Constitution. Given the constitutional revisions and changes of territory specified in the Additional Articles of the Constitution and the high initiation and

endorsement thresholds established in the Referendum Act for a referendum initiative to sustain, there have not been any successfully approved referendum initiatives thus far. Nevertheless, the possibility of an approved referendum initiative in the future cannot be denied.

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

4. The Republic of China has gradually given protection, assistance, and aid in the promotion of the status, political involvement, education, culture, transportation and water resources, healthcare, economy, land, and social welfare for indigenous peoples. The Council of Indigenous Peoples (CIP) was founded under the Executive Yuan in 1996, on June 17, 1998, the Education Act for Indigenous Peoples was promulgated, in 2000 the Draft Act of Indigenous Self-governance was drafted and promoted, in 2003 the traditional customs and norms of indigenous peoples were included in applicable laws and regulations, on February 5, 2005 the Indigenous Peoples Basic Law (IPBL) was promulgated, in 2006 the Directions of Indigenous tribal community assembly was established, on December 18, 2007 the Regulation of Resource Co-management in Indigenous Areas was promulgated, on December 26, 2007 the Ordinance on the Protection of Aboriginal Traditional Intellectual Creations was promulgated, and in August 2011 the Aboriginal Land and Sea Water Draft was forwarded to the Executive Yuan for deliberations.

5. Despite the fact that both the Constitution and IPBL stipulate that the government shall implement self-governance of Indigenous peoples, since disputes remain in terms of "the rights of self-governance region residents", "the authority of Indigenous government", "finance", and "the effective date and trial mechanism" involved in the Executive Yuan's Draft Act of Indigenous Self-Governance, the Act has not been approved by the Legislative Yuan.

6. Although the IPBL declares that the government acknowledges the rights of indigenous peoples over their land and natural resources and has established the aboriginal land survey and management council accordingly and that indigenous peoples may hunt wild animals, pick wild plants and fungi, harvest minerals and stones, and utilize water resources, among other non-profit activities, legally for the sake of their traditional culture, rituals, or self-use within aboriginal regions. When exercising the aforementioned rights, however, indigenous peoples are restricted by other special laws, such as the Water Conservancy Law, the Mining Act, the Soil

And Stone Quarrying Law, and the Firearms, Ammunition, and Knives Control Act, etc. Violations of the foregoing regulatory requirements shall still be subject to penalties. For example, after the Firearms, Ammunition, and Knives Control Act was amended on November 14, 2001, indigenous peoples who produce, transport, or possess self-made guns or spear guns without a permit shall be subject to an administrative fine unless there are other applicable criminal penalties in place.

7. The IPBL stipulates that when the government or a private person develops aboriginal lands, consultation with local indigenous people should be done to obtain their consent or participation before development takes place in accordance with their free will. The government shall not go against the free will of indigenous peoples by storing hazardous materials within aboriginal regions. In the event that the recommended candidate final disposal site for low-level radioactive waste chosen by the government is located in an aboriginal region, the voting results of the people in the township the facility is located should be prioritized in a local referendum. It shall be considered approved only with no less than 50% consent. For the recent hotel and resort development project at the Dulan Bay and Shan-Yuan Coast of Taitung, and the controversial development of the Luming Hydropower Plant along Lakulaku River, the CIP asked the developers to follow the IPBL requirements and intended to plan related packages in the “Draft of Indigenous Land and Sea Territory Act” in order to further protect the rights of indigenous peoples over their lands, however the proposal was not passed in the Legislative Yuan.

8. In accordance with the Regulations on Development and Management of the Lands Reserved for Indigenous Peoples, the government shall only grant the ownership of reserve land to indigenous peoples when the indigenous peoples have obtained farming rights and surface rights and have continuously managed the land for a full five years. As is indicated in the Draft of Indigenous Land and Sea Territory Act, ownership shall be granted directly after aboriginal reserve land has passed review. The traditional territorial land is to be ascertained through the designation process. After the right to aboriginal reserve land is granted, the private ownership system shall be maintained. The traditional territorial land is owned by the public and is to be used by the tribe through application. This draft, however, has not been approved by the Executive Yuan.

9. During aftermath reconstruction, indigenous peoples promoted "special zone designation" for disaster-ridden areas (also referred to as the "dangerous regions") or settlement of aboriginal land. Because it involves the traditional regions that indigenous peoples rely on for a living and the future livelihood of indigenous peoples, prior approval by the tribal council or tribal decision-making function should be obtained to respect diversified and different voices in the tribe. Indigenous peoples do not have sufficient land for them to utilize and economic activities to support their lives so some of them decide to leave their tribes and move to cities to make a living. The Sanying Tribe in the water resource land along Dahan River is a community for aboriginals who work in cities. They rebuilt their houses after they were dismantled by the government. Many indigenous peoples are striving to survive in the midst of deprivation. How are they to consolidate their right to self-determination? If applicable laws approved by the government have recognized the fact that indigenous peoples should have the right to self-determination, it must work precisely to accomplish this goal.

## **Article 2**

### **International cooperation and development assistance**

10. In order to maintain and strengthen diplomatic ties with its international allies, to fulfill its international responsibility, to protect the security of fellow human beings, to give back to the international community and to contribute to humanitarian relief efforts, Taiwan has provided foreign aid to a number of countries. Between 1950 and 1980, Taiwan accepted donations and aid from international organizations, the U.S., Japan and Saudi Arabia for the amount of approximately US\$100 million per year, which accounted for about 9% of the country's GNP throughout the 1950s, and the funds were used for the construction of a number of infrastructures essential to economic development. Taiwan has now become a country that provides rather than receive foreign aid. In 2010 the funding allocated to international cooperation projects was US\$380,915,755, which accounted for 0.101% of the country's gross national income. In 2009 the contributions made by Taiwan's non-governmental organizations in foreign aid amounted to US\$70,192,196 in monetary donations and US\$1,305,279 in supplies. For 2010, the total amount of donations to other countries was US\$733,437,672, with US\$36,329,916 in supplies. In 2010

Taiwan was the 23rd largest economy in the world, and the country actively shares its development experience with and gives back to the international community through its foreign aid programs.

### **Anti-discrimination measures**

11. Senior citizens: In addition to living allowances for medium to low-income senior citizens, the government has also introduced other economic security programs, such as the National Pension system's old-age pension, Old Age Basic Guarantee Pension Payment, subsidies for elderly farmers and home-care benefits for veterans. In order to protect the livelihood of medium to low-income senior citizens over the age of 65, the government provides direct financial assistance to those who live in poverty, those whose children are incapable of taking care of them, and those who have not been provided shelter by the government. Each senior citizen receives a monthly living allowance of NT\$ 3,000 or \$ 6,000, depending on their financial conditions. In 2010, a total of 1,431,345 benefit payments were issued, with 119,278 individuals receiving these benefits each month on average (1,431,345/12 months: as the number of beneficiaries varies each month, this is calculated by dividing the total number of benefit payments by 12 months). The total amount of these benefits was approximately NT\$7,609,070,000. In 2011 a total headcount of 1,424,019 people benefited from the welfare. The approved appropriations totaled over NT\$7.61806 billion.

### 12. Individuals with disabilities

(1) As of the end of December 2011, there were 1,100,436 individuals with physical or mental disabilities in the ROC, or 4.74% of the country's total population. The government enacted the Handicapped Welfare Act in 1980 to provide welfare for the disabled to its citizens. The law was renamed People with Disabilities Protection Act in 1997. In the past individuals with disabilities were perceived by the public to be physically or mentally disabled, in need of protection or simply different from "normal people," the ideas of which are now generally recognized as being prejudicial, stigmatizing, labeling or discriminatory. In order to eliminate the unfair and discriminatory attitudes of the public towards individuals with disabilities, the government has amended relevant laws and regulations in 2007, and the original People with Disabilities Protection Act was renamed and amended to become the new People with

Disabilities Rights Protection Act in order to raise the awareness of the public regarding the basic human rights of individuals with disabilities. Article 4 of the original People with Disabilities Protection Act states that individuals with disabilities may not be denied the right to receive education, participate in examinations, be recruited, or treated in a discriminatory manner. The phrasing of this clause was later determined to encourage discrimination, and was subsequently amended as Paragraph 1, Article 16 of the People with Disabilities Rights Protection Act, which states that the dignity and legal rights and interests of people with disabilities shall be respected and guaranteed. People with disabilities shall not be discriminated on the rights and interests of education, (examination) participation, employment, residence/housing, migration and medical care service.

(2) The Ministry of the Interior has established the Task Force for the Protection and Promotion of the Rights of Individuals with Disabilities to coordinate and process complaints regarding the infringement of the rights of individuals with disabilities. The Ministry has also compiled a list of notes on handling the opposition by local residents of the rights to residential and community services of individuals with disabilities so as to protect them from being unfairly discriminated against. In addition, the Ministry of the Interior provides annual subsidies to disability groups in organizing various events and activities in order to promote the public's acceptance of people with disabilities. Furthermore, in response to the rising population of individuals with disabilities and also the increasing number of economically disadvantaged families, the Ministry of the Interior now provides subsidizing for the disabled (refer to the relevant data in Table 1) in order to reduce the likelihood that people who have disabilities will face multiple discriminations if they become financially disadvantaged at the same time. To prevent discrimination against individuals with disabilities, the government will continue to improve the awareness and understanding of civil servants regarding the rights and interests of people with disabilities. The government will also continue to work with civil organizations and respond to their oversight efforts in order to protect the rights of individuals with disabilities.

**Table 1 Statistics of Subsidizing for the Disabled, 2009–2011**

Unit: Person; NT\$

Year	Item	Living allowance	
		Average number of benefit recipients each month	Amount of subsidy
2009		321,902	NT\$15,652,700,000
2010		333,245	NT\$16,219,420,000
2011		353,479	NT\$16,894,120,000

Source: Ministry of the Interior

13. Low income families: To provide special protection to low income families that meet multiple assistance criteria, relevant measures have been provided by the Public Assistance Act on the qualification requirements for low-income household status and the disbursement of cash benefit payments. For example, Article 12 of the Public Assistance Act specifies the "Standard operating guidelines for percentage increase in cash benefit subsidies for low income families," which states that if a low-income household includes a member who is aged 65 or above, has been pregnant for at least 3 months, or holds physical or mental disability certification, the county (city) competent authority may offer an additional subsidy amounting to as much as 40% of the original cash benefit.

#### 14. Single-parent families and families with children raised by grandparents

(1) Pursuant to the Act of Assistance for Family in Hardship, the Ministry of the Interior provides emergency living assistance, living allowances for children, child care subsidies, educational subsidies for children, medical subsidies, subsidies for litigation and subsidies for career development loans to families falling into any of the following categories and with incomes and savings under a specific level: single-parent families, families with children raised by grandparents, families with pregnancies out of wedlock, families with victims of domestic violence, families with spouses serving sentences for over 1 year, and families suffering life accident within 3 months. In 2009, 18,776 households falling under special circumstances received family assistance, and 153,175 benefit payments amounting to a total of NT\$409,126,390 were issued. In 2010, 20,879 households falling under special circumstances

received family assistance, and 188,433 benefit payments amounting to a total of NT\$478,608,664 were issued. In 2011, 20,834 households falling under special circumstances received family assistance, and 188,987 benefit payments amounting to a total of NT\$481,594,793 were issued. The number of families receiving assistance under special circumstances, the number of benefit payments and total amount of payments are on an upward trend, and it appears that families requiring assistance are increasing.

(2) To provide assistance to disadvantaged families, such as single-parent families and families with children raised by grandparents, and to ease their child care burden as well as to provide the required support, the Ministry of the Interior makes available various financial assistance benefits to these families, e.g. living allowances for children and juveniles, child care subsidies, educational subsidies and medical subsidies. In addition, the Ministry is also actively engaged in urging civil organizations to implement community care services to children and juveniles in disadvantaged families, after-school care services for children of single parent families, single-parent family welfare services and single-parent casework services. Services that are provided include casework services, group counseling and guidance, after-school on-demand child care services, simple housework assistance for children, living assistance and counseling, leisure and recreational activities, parenting education, parent-child development groups, and other complementary, supportive and preventive services. In 2010, 248,333 benefit payments amounting to a total of NT\$33,555,000 were provided to civil organizations in implementing various financial assistance programs. The number of benefit payments and total amount for 2011 were 264,000 and NT\$60,202,740, respectively. In addition, disadvantaged single-parent families are also provided with subsidies on tuitions and fees and subsidy for temporary nursing of children under 12 years. In 2010 there were a total of 580 participations by empowerment project for single-parents, and the total amount of subsidies provided was NT\$6,928,712. For 2011, there were 761 participations by single parents and the total amount of subsidies provided was NT\$8,518,622.

15. Children: The government provides a variety of subsidy measures, including medical subsidies for children under 3 years of age, National Health Insurance premium subsidies for children and juveniles in middle-to-low income families, medical subsidies for children and

juveniles in low-income and disadvantaged families, early intervention subsidies, child care subsidies for low-income families, child care and educational subsidies for young children in middle-to-low income families, child care and educational subsidies for young children in indigenous families, free tuition educational subsidies for 5-year-old children, child care subsidies for children 0-2 years of age, and these measures are designed to reduce discrimination against disadvantaged children. In addition, the government has also enacted the Regulations for Placement of Helpless Children and Youth, which stipulates how helpless children and juveniles are to be protected and placed. For children and juveniles whose parents cannot be located, the government shall authorize children and youth welfare organizations to seek suitable adoptive families for them, and if suitable adoptive families cannot be found, the children and juveniles shall be placed with foster families or other placement agencies.

16. Patients with rare diseases: Article 4 of the HIV Infection Control and Patient Rights Protection Act, amended in 2008, authorizes the implementation of the Regulations Governing Protection of the Rights of HIV Patients, and consequently a grievance mechanism for the infringement of HIV infected patients' rights has now been fully established by law. In addition, in order to ensure that the rights of mental patients are fully protected, Article 22 of the Mental Health Act requires that the individuality of the patient and his/her legitimate rights should be respected and protected and may not be discriminated against.

17. Veterans: Pursuant to the provisions of the ROC Veterans Assistance Act and Article 2 of the Act's associated Enforcement Rules, individuals who are qualified as veterans and meet relevant criteria and requirements may receive education, employment, home care, medical care and veteran service care benefits. Currently the number of qualified veterans is just over 452,000 (of whom 14,944 are women). Retirement homes for veterans at various locations are made available to veterans who have applied to receive care at Veterans Homes (including 5,022 members of active-duty military personnel injured or disabled in line of duty and military personnel in substitute service), veterans with old-age disabilities (2,569) and veterans with dementia (462). Non-home care veterans will be referred to local long-term care centers, and assistance will be provided to them in the application for in-home nursing (care) services. In addition, veterans with psychiatric disorders will be referred to the veterans' health care system

for therapy and rehabilitation before they are returned to their families and society.

18. Relevant measures to protect female soldiers from discrimination: To ensure that female soldiers are protected from discrimination, the appointment and promotion of military officers and noncommissioned officers under the Ministry of National Defense shall be carried out in accordance with the provisions of the Act of Commission for Officers and Noncommissioned Officers of the Armed Forces Commission Act for Officers and Noncommissioned Officers of the Armed Forces and Enforcement Rules, which will take into consideration the units' mission requirements in conjunction with the candidates' department, expertise, qualifications and experience. The selection will be based on the principles of openness, fairness and impartiality, and the most qualified persons will be chosen in a prudent manner without any discrimination whatsoever. However, currently there is only one female high-ranking military officer on active duty, and the female officer whose seductive picture was posted on the Internet received disciplinary action for conduct unbecoming of a military officer.

19. Immigrants: To eliminate all forms of discrimination, Article 62 of the Immigration Act, amended in 2008, stipulates no one may discriminate against any person residing in the Taiwan Area on the basis of his or her nationality, race, color, class and place of birth. In addition, the above Article authorizes the implementation of the Regulations Governing Discrimination Complaint Filing Procedures for Residents of the Taiwan Area and the Guidelines for the Establishment of the Review Panel for People Residing in the Taiwan Area Filing Complaints against Discrimination in order to accept and review complaints about discriminatory practices. Furthermore, in order to provide full protection to the rights of immigrants, the government initiated the Care and Guidance Measures for Foreign and Mainland Spouses in 2003, which includes the following 8 major task areas: adaptation to new life, medical and genetic healthcare, protection of employment rights, enhancement of educational and cultural levels, child care assistance, protection of personal safety, improvement of regulatory system, and promotion of public awareness. In order to effectively integrate government and private resources, the government introduced the Foreign Spouse Assistance Fund in 2005 to implement services aimed at providing assistance and counseling to foreign spouses and to ensure that their rights are protected.

20. Refugees: In order to strengthen the ROC's protection of refugees, asylum seekers and their families, the Ministry of the Interior has drafted a refugee bill, which was sent to the Legislative Yuan by the Executive Yuan on February 23, 2012 for review. Before the legislative process for enacting the proposed refugee law has not completed, the length that refugees are permitted to stay in the ROC may be extended in accordance with the provisions of Article 16 of the Immigration Act and on a case-by-case basis. To protect the rights of asylum seekers from mainland China, the Mainland Affairs Council has proposed an amendment to Article 17 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, which was submitted to the Legislative Yuan for review in 2009.

21. Employment rights: Pursuant to the provisions of Article 2 of the Enforcement Rules of the Employment Services Act, each special municipality, county or city government shall be required to establish an Employment Discrimination Review Committee. For each case that has been ruled to have violated employment discrimination regulations, the employer shall be fined an amount between NT\$300,000 and NT\$1,500,000 in accordance with Article 65 of the Employment Services Act. An employer that has been penalized may file an appeal within one month (refer to the relevant statistics in Table 2 below). To protect members of disadvantaged groups from being discriminated against, the following measures are being actively implemented by the government: First, employment quotas are imposed in accordance with the law to protect and promote the employment of individuals with disabilities and members of the indigenous communities. Secondly, providing individuals with disabilities the opportunities to take part in vocational training with the general public and to encourage them to participate in ordinary, integrated training to improve their prospects for employment and their competitiveness; to continue to improve barrier-free training environments and to implement job redesign to help them overcome training participation obstacles. Thirdly, implement relevant measures to facilitate the employment of members of the indigenous communities and senior and middle-aged persons. Fourth, providing employment services such as subsidies for temporary work following the occurrences of natural disasters. Fifth, managing foreign workers and protecting the rights to which they are entitled, and ensuring that they are being treated equally as the citizens of Taiwan.

**Table 2 Employment discrimination cases processed by the Employment Discrimination Review Committees of local governments, 2007-2011**

Unit: Case; %

Item	Year									
	2007		2008		2009		2010		2011	
Total no. of complaints	203		223		411		197		337	
No. of complaints resulting in fines	23		23		41		26		46	
Complaints about employment discrimination	No. of cases	%								
Race	3	1.48	3	1.35	2	0.49	6	3.05	4	1.20
Class	1	0.50	2	0.90	0	0	4	2.03	3	0.90
Place of birth	1	0.50	3	1.35	2	0.49	2	1.02	8	2.38
Gender	153	75.37	154	69.06	259	63.02	95	48.23	165	48.97
Age	31	15.27	41	18.39	81	19.71	42	21.32	63	18.70

Source: Commissions on employment discrimination under individual city and county governments throughout Taiwan (Statistics of the Bureau of Employment and Vocational Training, Council of Labor Affairs, Executive Yuan)

Description: Information regarding the number of complaints and the number of cases with merit: The number of grievance cases is larger than that of actual cases judged to have merit due to the following reason. Job seekers or employees may file complaints with the competent authorities of their local governments in charge of labor affairs whenever they feel that they are being discriminated against. However, if the results of the investigation indicate that the complaint is actually a case of labor dispute, it will be handled accordingly. If the complaint is indeed judged to be a case of discrimination, it will be submitted to the Employment Discrimination Review Committee for review. Members of the Committee shall then determine whether the employer has violated the law based on the actual occupational qualifications, the employer's business operational requirements and evidence provided by the employer, which has the burden of proof. A fine will be imposed accordingly if it is ruled to be in violation of discrimination laws.

22. Right to receive medical care: With the promulgation of the Medical Care Act in 1985, the government instituted the Medical Network Project and introduced the Regulations Governing the Establishment or Expansion of Hospitals, which helps to narrow regional medical and healthcare resource gaps. As of the end of 2011, the urban-rural gap ratio was reduced to 1.87. In addition, since the launch of the Medical Network Project, the growth of the supply of physicians in urban areas has stabilized, while the number of physicians in other areas around the country

has increased substantially. Therefore the urban-rural gap has gradually narrowed. In terms of the number of physicians practicing Western medicine, the ratio of regions with the highest and lowest numbers has been reduced from 2.91 in 1984 to 2.34 in 2010. To fully implement holistic healthcare regimes in mountain areas and outlying islands of the country, the government instituted the National Health Insurance Integrated Delivery Health Care Plan for Remote Mountain Regions and Offshore Islands in November 1999. A total of 24 hospitals successfully made otherwise inaccessible medical and healthcare resources available to 48 mountain areas and outlying islands, benefiting a population of over 400,000. In order to facilitate the exercising of the rights of patients and their families to receive medical care, Hospital Accreditation Standards require that all hospitals shall provide barrier-free access that complies with regulations. In 2011, 122 local community hospitals were inspected for their barrier-free environments, and 116 of them were found to be compliant, an achievement rate of 95.08%.

23. Right to receive education:

(1) In order to protect students in difficult situations and those who have been marginalized, the government has enacted the Compulsory Education Act, which requires elementary schools and junior high schools to implement normalized class assignment to provide differential education to accommodate the needs of students. In the normalization of instruction, differences in the allocation of educational resources based on the following criteria are not permitted: race, color, gender, language, religion, political persuasion or other assertion, national origin, social class, property or birth. This ensures that students in difficult situations and those who have been marginalized have equal rights to education and are not being classified or labeled unfairly. Regardless of their level of intelligence, all students should be educated adequately so that their dignity can be preserved and they will be able to grow physically and mentally in a healthy environment.

(2) The Gender Equity Education Act, promulgated by the President in 2004, aims to promote actual equality in gender status, eliminate gender bias and discrimination, protect human dignity, and improve and establish education resources and environment of gender equality. Paragraph 2, Article of 17 of the Act states that: "Elementary and junior high schools, in addition to integrating gender equity education into their curriculum, shall provide at least four

hours of courses or activities on gender equity education each semester." In addition, Article 13 of the Enforcement Rules for the Gender Equity Education Act states that: "The curriculum related to gender equity education shall cover courses on affective education, sex education, and gay and lesbian education in order to enhance students' gender equity consciousness." Therefore by law these elements are to be included in the curricula of elementary and junior high school education. The newly issued Gender Equality Education Syllabus for Elementary and Junior High Schools have incorporated "sexual orientation" competence indicators aimed at enabling students to understand different sexual orientations and to learn to respect the sexual orientations, and at reducing the occurrences of gender discrimination incidents.

(3) To protect the rights of students with disabilities to receive education, the Special Education Act, amended in 2009, requires that citizens with disabilities have the right to receive differential education. The Act also stipulates that a school may not use a student's disability status to deny his or her admission to the school, nor is an examination administration authority allowed to use the same factor to deny the student's participation in an examination. For students with disabilities from economically disadvantaged families, local competent authorities shall waive their educational fees based on their families' financial conditions. The Ministry of Education provides annual subsidies to local governments in the funding for special education programs in pre-school and compulsory education. Beginning in 2009 the minimum amount of funding provided is required by law to be at least 4.5% of the total annual educational budget allocated by the Central Government. To improve their opportunities of receiving higher education, each year the government commissions an institution to conduct college and university admissions for students with disabilities. In addition, college and university resource classrooms are also established to provide counseling and support services to students with disabilities. The government also provides assistive devices for learning to students through commissioned learning aid centers for the visually impaired, hearing and speech impaired and physically disabled. In addition, each year the government allocates funding between NT\$100 million to NT\$200 million to improve barrier-free facilities and environments, but this is a far cry from NT\$7 billion, the amount required for making improvements across the board. The government should pick up the pace in making overall improvement as reality.

**Table 3 Statistics of students with disabilities in each stage of education, 2007–2011**

Unit: Person

Year \ Item	Pre-school	Elementary school	Junior high school	Senior high school and vocational school	College and university	Total
2007	9,860	37,512	21,740	16,835	7,788	93,735
2008	10,341	38,970	22,956	17,633	8,827	98,727
2009	10,740	40,048	23,618	18,946	9,489	102,841
2010	10,204	39,074	22,846	17,143	10,659	99,926
2011	12,355	41,869	25,289	21,358	10,853	111,724

Source: Special Education Transmit Net, Ministry of Education: <http://www.set.edu.tw/default.asp><http://www.set.edu.tw/default.asp>

(4) To protect the right of indigenous students to receive education, the government has established preferential policies and subsidy measures pursuant to the provisions of Education Act for Indigenous Peoples and the Five-year Medium-term Indigenous Education Development Project to implement the government's policy to provide for ethnic minorities. For example, the school admission affirmative action guidelines have boosted indigenous students' admission rate through examination from 75.82% to 84.90%. To ensure that indigenous students are able to attend school without obstacles, educational grants, accommodation and meal subsidies, as well as tuition and fee waivers are provided to them. Various measures such as educational programs for members of the indigenous communities are introduced to raise the competitiveness of indigenous students, promote their schooling and employment capabilities, as well as to develop their potential in order to lay a solid foundation for their adaptation in the society and to cultivate talent in the indigenous communities. Moreover, the current syllabus has specified competence indicators on ethnic harmony and respect for diversity. In addition, central counseling groups and local county/city guidance groups implement advocacy and teacher empowerment activities, and there are multicultural competence indicators in each related field to help students develop respect and understanding of cultural and ethnic diversity, the purpose of which is to promote ethnic harmony and to prevent discrimination.

24. Right of dwelling: To address the dwelling problem associated with citizens who do not own their own homes, the Construction and Planning Agency of the Ministry of the Interior has introduced the Integrated Housing Subsidization Program and provided Subsidized Interest Loans and Subsidized Rents of Housing Subsidies for Young Households Program. Applicants who meet the criteria for these subsidy programs shall receive the subsidies and be able to rent or purchase the houses that they desire upon approval. Statistics show that the program to encourage young people to get married and raise families have provided funding of NT\$1,393,500,000 to 21,658 approved households in 2009. In 2010, total funding of NT\$1,615,280,000 was provided to 28,561 approved households. In 2011, total funding of NT\$2,442,040,000 was provided to 24,380 approved households. The Integrated Housing Subsidization Program provided total funding of NT\$1,772,970,000 to 29,786 households in 2009. In 2010, total funding of NT\$1,235,810,000 was provided to 53,064 approved households. In 2011, total funding of NT\$1,168,830,000 was provided to 62,468 approved households.

25. Cultural rights: The Council for Cultural Affairs (CCA) is committed to promoting the following measures: (1) Free admission to cultural facilities: All cultural facilities and venues under the administration of the Council for Cultural Affairs are available to the general public free of charge, with the exception of the National Center for Traditional Arts and the National Taiwan Museum (however, individuals with disabilities and pre-school children are admitted free-of-charge, and persons with proof of low-income household status may purchase admission tickets at 50% off the usual price). (2) Free participation in performing arts activities: In 1997 the Council for Cultural Affairs began to introduce performance tours of the following four major artistic genres around the country: music, dance, modern drama and traditional Chinese opera, the purpose of which is to provide citizens living in remote areas to gain access to cultural resources otherwise unavailable to them. In addition, to celebrate the Centennial of the Republic China, specific quantities of free tickets were made available to members of disadvantaged groups or individuals with disabilities through local governments of the communities where the activities were held. (3) Providing assistance to individuals with disabilities to participate in cultural life: Beginning in 1997, Braille versions of 30 to 40 specially selected books, mainly about culture and the arts, are produced each year; they have become part of the collection in the

Chinese Language Electronic Library for the Visually Impaired and are made available through local libraries for the visually impaired, and thus far the collection has grown to 431 titles. In order to encourage the individuals with disabilities to participate in the affairs of the society, the Council established the Wenhui Award - National Literary Award for Individuals with Disabilities in 1998. (4) The Council has initiated the local cultural museum project, and local cultural venues and facilities who have received assistance will be able to benefit communities in remote areas, and these cultural museums will be located in areas that are accessible within 30 minutes to 1 hour by surface transportation.

26. Consumer rights: When individuals with disabilities wish to purchase commercial insurance, they are often declined or required to pay higher premiums. Article 107 of the Insurance Act has made it illegal to insure a person who is mentally impaired or of diminished mental capacity that he or she is incapable of comprehending his or her own action or lacks the ability to act based on his or her comprehension. However, specific mechanisms that can be used to identify such persons are not yet available. Some insurance companies decline coverage of micro-insurance for individuals with disabilities, even though microinsurance is designed with the low-income population in mind. Other problems include: visually impaired persons are required by banks to produce witnesses when they attempt to open bank accounts, and the visually impaired are unable to use ATM machines. The government should clearly define reasonable limits that apply to the insured and provide assistance to insurers in calculating premium rates based on the risks involved. The government should also develop guidance tools and multifunctional voice-based ATM machines to reduce the obstacles facing individuals with disabilities in their consumption of financial products.

### **Rights associated with the economic rights of foreigners**

27. The Statute for Investment by Foreign Nationals protects the rights of foreigners approved by the government to engage in investment-related economic activities. These include the right to conducting foreign exchange settlement, interest and surplus allocation rights, and the right to receive reasonable compensation for government expropriation or acquisition. A foreigner approved by the government to invest in Taiwan shall be treated as if he or she were a citizen of the ROC.

28. Article 79 of the Employment Services Act states that the provisions of the Act regarding foreign workers shall be applicable to the employment of stateless persons as well as nationals of the ROC also possessing the nationality of foreign country(s) but with no permanent residence in the ROC. To safeguard the economic rights and interests of refugees in Taiwan, Article 51 of the same Act also stipulates that refugees who have received permission to stay in Taiwan may, without their employers' initiation, apply on their own initiatives to the Council of Labor Affairs, Executive Yuan for employment permits in the ROC, and they are exempted from restrictions on the type of work they are allowed to engage in, the time limit of work, changing employers, health examinations and the payment of employment stability fees.

29. To further protect the economic rights and interests of non-ROC citizens, following the promulgations of the amended Act Governing Relations between the People of the Taiwan Area and the Mainland Area and the Regulations Governing the Permission of Join-family Residency, Long-term Residency, or Household Registration of People from Mainland China in the Taiwan Area in 2009, the requirement that spouses from mainland China shall provide proof of financial status when they apply for residency in Taiwan has been removed. Restrictions on their right to work have been lifted, and those who have obtained family-dependent residency permits may engage in work immediately without the need to apply for work permits separately. This has been designed to safeguard the basic rights of mainland spouses. In addition, the specific amount required in Article 7 of the Enforcement Rules of the Nationality Act on the proof of financial status and self-supportive capability for foreigners who apply for ROC citizenship via naturalization as spouses of ROC citizens have been removed. Applicants now have a large number of options with the relaxed requirements on naturalization of foreign spouses.

30. The taxation of wages earned by foreigners shall depend on their tax status, i.e. whether they are residents or non-residents, and not their specific nationality. A foreigner who resides in the ROC for a period of no less than 183 days during a taxable year, or has domicile within the ROC and resides at all times within the ROC, his or her taxes shall be withheld based on the withholding rates that apply to residents, and the withholding taxes shall be deducted from the gross amount of tax payable as declared in his or her annual consolidated income tax return for the current year. If the total number of days the foreigner resides in the ROC is less than 183

days, his or her taxes shall be withheld based on the withholding rates that apply to non-residents (i.e. 6% or 18%), and the withholding taxes shall be the final amount of taxes payable.

### **Article 3**

#### **Elimination of gender discrimination**

31. The Legislative Yuan approved the accession to the UN Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW") in 2007. On May 20, 2011 the Legislative Yuan passed the Act to Implement the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW Implementation Act"), which came into effect on January 1, 2012. Gender discrimination, according to CEDAW, includes direct and indirect discrimination based on gender, and it is necessary to assess the impact of the implementation of policies, regulations and measures on the genders. Government agencies at each level should enact legislation or take relevant measures to eliminate gender discrimination and actively promoting gender equality. CEDAW lists various gender equal rights, including the right to participate in political and public affairs, right to participate in international organizations, right to nationality, right to receive education, employment rights, rights of women in rural areas, right to health, social and economic rights, legal rights, and right to marriage and family. The CEDAW Implementation Act requires that governments at all levels shall carry out their authority in accordance with the provisions of the Convention regarding the protection of gender and human rights, and shall plan, promote and implement the provisions of the Convention. In addition, in accordance with the provisions of the Convention, the ROC shall issue the country's National Report on the Elimination of All Forms of Discrimination Against Women every 4 years and invite scholars, experts and representatives of civil organizations to review the report. The funding required by government agencies at all levels to implement the various measures specified by the Convention to protect the gender and human rights shall be allocated in priority if the country's financial position permits it. The Act also requires government agencies at all levels to complete the enactment, amendment or repeal of relevant laws within 3 years following the promulgation of the Act, as well as the improvement of administrative measures, in order to comply with the provisions of the Convention.

32. Through the introduction of regulations and implementation of specific measures, the government aims to achieve the ideal of gender equality. Examples are as follows:

(1) Promotion of gender equality education: In the ROC, society began to pay attention to the plight of women beginning in the 1990s. Due to the successive occurrences of a number of sexual assault cases in 1996, civil organizations concerned about women's situation demanded that the government set up a mechanism to promote the gender equality policy. In 1997 the Gender Equity Education Committee, Ministry of Education was established to promote gender equality education. In 2004, the Legislative Yuan passed the Gender Equity Education Act. The main reason the law was renamed from Gender Equality ("equality of the two sexes" in Chinese) to Gender Equity was due to the sudden death of junior high school student Yeh Yung-chih in 2000, who was believed to have died because of his sexual identity. This Act not only stresses the equality between the two sexes but also emphasizes that citizens shall not be discriminated against directly or indirectly due to their gender characteristics, sexual orientation, or sexual identity. Between 2004 and 2011, gender equity education committees were established by a total of 4,057 elementary, junior high, senior high and vocational high schools as well as colleges and universities. From 2004 to 2010, the Ministry of Education allocated a total of NT\$373,030,000 in funding to enforce gender equality education. Schools and educational institutions, local governments and the Central Government has all established their respective gender equity education committees, which are responsible for planning the following: Formulating annual plans for promoting gender equality education. Developing teaching methods and materials that introduce the concept of gender equity and incorporating gender equity topics into elementary, junior high and senior high school syllabuses. Training seed instructors in gender equality education. Incorporating gender equity education in teacher training programs as required courses and encouraging colleges and universities to offer general gender equity education-related courses; During the 2010 academic year (August 2010 to July 2011), 71 universities offered 718 courses in gender equity, which were enrolled by a total of 28,167 students. A total of 88 technological and vocational colleges offered 779 courses, which were enrolled by 36,774 students. A total of 54 issues of Gender Equality Education Quarterly were published and 312 episodes of radio programs were produced and broadcast. The

government is also actively engaged in preventive work in campus sexual assault or sexual harassment and the investigative work of these cases, as well as in the design of reporting systems and investigative and processing mechanisms.

(2) Prevention of domestic violence and sexual assault: The Sexual Assault Crime Prevention Act was enacted in January 1997, the Domestic Violence Prevention Act was enacted in June 1998, and in June 1999 the Civil Protection Order system was fully implemented. The Sexual Harassment Prevention Act went into effect in February 2006, and through advocacy, the issues of domestic violence, sexual assault and sexual harassment as well as their prevention have become more important to the general public. The number of people requesting assistance has been on the rise as the public becomes increasingly aware of the existence of these problems. Between 2006 and 2011, the 113 Protection Hotline provided a total of 1,720,344 instances of assistance. A victim protection and assistance network was also created to promote prevention education, advocacy and training, to carry out offenders relocation programs and to prevent the occurrences of violent acts so that the personal safety of women can be protected. To respond to the White Rose movement, which occurred in 2010, and to strengthen the mechanisms of community supervision of sex offenders and the prevention of recidivism, the draft amendments to the Sexual Assault Crime Prevention Act was passed on October 25, 2011 by the Legislative Yuan and the Act was promulgated by the President on November 9. The amended law went into effect on January 1, 2012.

(3) Elimination of employment discrimination: The Act of Gender Equality in Employment went into effect in 2002 and the name of the act in Chinese was changed in 2008 to reflect the concept of sexual identity. The act stipulates that employers may not discriminate against applicants or employees based on their gender or sexual orientation in the course of recruitment, screening test, employment, placement, assignment, performance appraisal and promotion, or in the course of providing education, training or various welfare measures, or in matters related to retirement and severance. To prevent employees from being treated differently due to their gender in terms of the levels of salaries and wages they receive, Article 10 of the Act expressly states that employers shall not discriminate against employees because of their gender or sexual orientation in the case of paying wages. Employees shall receive equal pay for equal

work or equal value. In addition, if an employer violates the above regulations or terminates, transfer or take any disciplinary or adverse action against an employee who has registered a complaint, the employee may file a complaint with the local competent authority. If the employer and employee are not satisfied with the decisions made by the local competent authorities, they may apply to the Gender Equality in Employment Committee of the Council of Labor Affairs for review or file an administrative complaint directly.

(4) Eliminating gender discrimination in civil service employment and performance appraisal: In order to gradually eliminate disparate recruiting and appointment quotas for men and women, Paragraph 2 of Article 5 of the Civil Service Examination Act states that the Examination Yuan may only specify the criteria of military service status and gender of candidates of Civil Service Special Examination based on the actual requirements and requests of the recruiting departments. In order to adhere to the basic human rights principles of gender equity, the Ministry of Examination has adopted the following improvement measures to ensure the rights of female examination candidates: ①Urging recruiting departments and agencies to provide explanations on the reasons and necessity for specifying gender restrictions, if any, when they plan to administer examinations for recruitment purposes. ②Urging recruiting departments and agencies to improve their work environments in order to facilitate the elimination of gender-based constraints; currently gender restrictions on the special examination of customs officers and special examination of diplomatic and consular officers have been lifted. ③Establishing the Committee for Gender Equality in National Examinations to provide consultation and opinions. ④ Issuing the White Paper for Gender Equality in National Examinations. In practice, currently the special examination of judicial officers for wardens and prison officers is the only examination that maintains separate recruitment quotas for men and women due to practical considerations associated with the segregation of male and female inmates. The Ministry of Examination shall continue to coordinate with recruiting departments in reviewing their hiring practices. In addition, the Enforcement Rules for Civil Service Performance Evaluation Act stipulate that government agencies may not base the level of performance rating of their employees on the number of days taken from family care leave, infertility treatment sick leave, menstruation leave, maternity leave, paid leave for miscarriage

and paid leave for accompanying maternity or any other time off work for parental needs.

(5) Elimination of gender discrimination in the police system: In July 2010, the Policewomen Policy was renamed Police Gender Policy, and the government has since required all recruiting departments to conduct recruitment activities in campuses, education and training and personnel assignments as well as the planning of police equipment acquisition, office space and duty assignments based on the concept of gender equity, the purpose of which is to enable police personnel of each gender to achieve self-realization in the workplace. In current years the percentage of policewoman recruitment has reached above the 10% mark, and plans are in place to gradually increase this percentage in the future. In 2010, female police officers accounted for 5.8% of the total police force, and the percentage increased to 6.02% in 2011.

(6) Elimination of gender discrimination in the inheritance of ancestral memorial property: Traditional practices based on male superiority dictate that ancestral memorial property, considered independent possessions created to honor the ancestors, be inherited only by male descendents, which is a Han Chinese custom. To fulfill the principle of gender equity, the Ancestral Memorial Property Act was enacted in 2007, and female descendents are no longer excluded from inheriting ancestral memorial property (becoming heir to property).

(7) The Act of Assistance for Woman in Hardship, passed in 2000, was amended in 2009 and renamed the Act of Assistance for Family in Hardship. The act provides assistance to the widowed, persons who have been divorced, victims of domestic violence, women who are pregnant out of wedlock, families with spouses serving sentences, families with children raised by grandparents and families experiencing major adverse circumstances. The assistance may be emergency living assistance, medical subsidies, subsidy of litigation, living allowances for children, educational subsidies for children or career development loans. As of 2011, a total of 1.49 million instances of assistance have been provided to ensure the economic security of families in special circumstances, and the total cumulative amount was NT\$3.6 billion.

(8) In order to encourage entrepreneurship, to provide employment assistance and to care for members of disadvantaged groups, the competent authorities in charge of the relevant enterprises are responsible for formulating their policy loan programs, establishing operating guidelines and regulations, allocating funding and interest subsidy programs, which are

supplemented by credit guarantee mechanisms and other supporting measures and shall be carried out whenever they are allowed by the available financial resources and applicable laws. A number of banks are also actively in support of government policy to provide various policy-based career development loans for women. Examples include the Micro-Business Startup Phoenix Program promoted by the Council of Labor Affairs' and the "Smile Loan" and indigenous micro-economic activity loan programs by the Council of Indigenous Peoples.

### **Enforcing gender equity**

#### 33. Promoting gender mainstreaming:

(1) The Executive Yuan has introduced the gender mainstreaming implementation project by each of its subordinating ministries and departments (for the period from 2010–2013). Each ministry or department shall carry out the following six major aspects of gender mainstreaming tasks based on this plan: gender statistics, gender analysis, gender budgeting, gender impact assessment, gender awareness training and gender equity mechanisms. Different gender perspectives will therefore be incorporated into various legislative policies and the development of projects and programs, and budgeting and resource allocation decisions are also implemented accordingly. Currently, gender statistics mechanisms have been implemented in the ROC and include 11 major categories based on the National Women's Policy framework. As of year-end 2010, each ministry or department has completed its gender statistics website, and the amount of data published has since grown substantially.

(2) To improve the gender awareness of civil servants, the Executive Yuan instituted the training programs for civil servants on gender mainstreaming in 2004, which has since undergone three revisions and came into effect in 2010. The two subordinating training centers of the Directorate-General of Personnel Administration organize annual gender mainstreaming training programs, and they also produce digital learning materials from these courses and place them online as distance learning tools for civil servants. Each government agency shall plan its gender mainstreaming training program based on the above plan. Statistics indicate that each civil servant within the Executive Yuan receives on average at least two hours in gender mainstreaming training per year. Civil servants who have participating in the training have been able to incorporate gender awareness and gender mainstreaming-related tools into their work,

and to include gender mainstreaming perspectives when developing laws and regulations, policies, programs and initiatives as well as resource allocation in order to strengthen the gender awareness of civil servants.

(3) Beginning in 2009, all important mid- to long-term projects and legal cases of each government agency are required to undergo gender impact assessments. The numbers of projects and cases for 2009, 2010 and 2011 are about 360, 290 and 300, respectively.

(4) In 2006, 38 ministries and departments of the Central Government established gender equality project task forces, chaired by their respective heads or deputy heads. These task forces have been set up to help promote gender equity within the ministries or departments and to create environments that are free from gender discrimination. The responsibilities of each gender equality project task force include: Gender equality advisory and guidance planning, gender equality advocacy and the promotion, implementing the promotion and training of current employees in gender mainstreaming, gender budgeting and gender impact assessment matters. To promote joint administration and decision-making between the genders, as of January 15, 2012, 421 out of 447 (i.e. 94.18%) of all ministerial or departmental committees under Executive Yuan have fulfilled the requirement that members of each given gender shall make up at least one-third of each committee. Only 26 committees (or 5.82%) have not complied with this requirement. However, this rule does not apply to committees that are established by law and are unable to satisfy the one-third rule for each gender.

#### 34. Promotion of gender equality policy guidelines:

(1) The National Women's Conference was convened in March 2011 and ideas and opinions were solicited from the general public on the formulation of gender equality policy guidelines, including a dedicated agency charged with the responsibility of overseeing the implementation of gender equity policies, authority, decision-making and influence, employment, economy and welfare, education, media and culture, personal safety and judicial matters, health and medical care, population, marriage and family, and the environment, energy and technology. Before the National Women's Conference was convened, 38 seminars had been held around the country in order to communicate and establish dialogue with members of different ethnic groups around the country. In September 2011, the Committee of Women's Rights

Promotion, Executive Yuan approved the gender equality policy guidelines in principle and pronounced on December 19, 2011 that these guidelines are to be the guiding principles on which the gender equality policy objectives of the Republic of China.

(2) With respect to the equal participation in public decision-making in the gender equality policy guidelines, the Gender Equality Commission, Executive Yuan was established in 2012 and is responsible for promoting gender equity as well as strengthening the gender equity mechanisms within the Examination Yuan, Control Yuan, Judicial Yuan and Legislative Yuan in the Republic of China, thus facilitating the promotion of collaboration in gender equality among the five branches of government. In terms of establishing a friendly workplace and welfare society, the government provides enhanced vocational training to empower women in seeking employment and makes additional channels for resources and service contacts available for financing and the promotion of entrepreneurship. Regarding the concern for population and alternative family structures, the government provides childcare subsidies and establishes high-quality, affordable and universal childbearing and nurturing environments in order to create a comprehensive system of care and services that required for different stages of life. With respect to laying a solid foundation on gender equity education and the self-regulation of the media, the government shall endeavor to rectify gender segregation in education at all levels and academic majors and encourage students to pursue careers that suit their talents and aptitudes, thus eliminating cultural elements in traditional rituals, such as marriage, burial rites, ancestral memorial and inheritance, that discriminate against women. The government also encourages the media to produce programs that promote gender equality on their own in order to promote awareness in gender equality and to eliminate gender discrimination and gender stereotypes. In order to improve personal safety and the justice system, the government will enhance the gender awareness of the judicial, prosecution and law enforcement agencies in their handling of cases involving women and children. The government will also create gender-friendly judicial environments, improve law and order and inspect public space in order to construct a secure living environment. In terms of the integration of healthcare and gender awareness, the government has initiated legislation on the Long Term Care Services Act along with its various supporting measures, and the government is also committed to establishing friendly medical

environments that respect the rights of women to receive medical treatment and their independence, thus allowing the medical and healthcare systems to fully meet the needs of members of both sexes. With respect to the integration of sustainable environment and gender perspectives, the government shall endeavor to reduce gender segregation within the environmental, energy and technological fields, and shall strengthen the competence and participation in decision-making by women in the fields of environment, energy, technology, engineering, transportation, disaster prevention and rescue and reconstruction, as well as ensure that policies formulated by the government properly incorporate gender perspectives.

35. Since 2005, to promote the advancement of comprehensive gender equality education, apart from the Gender Equity Education Act, the Ministry of Education has enacted the regulations and policies such as the Educational Fundamental Act, Enforcement Rules for the Gender Equity Education Act, Regulations on the Prevention of Sexual Assault, Sexual Harassment or Sexual Bullying on Campus and the School Guidelines for Sex Education and Care of Pregnant Students to eliminate differential gender treatment with respect to learning environments, campus space, and in student recruitment, schooling admission, teaching, activities, rewards and punishment. At the same time, the government also emphasizes that teachers may not treat students differently based on their gender or sexual orientation, and that members of faculty and staff of any academic institution shall receive pre-service and in-service training on gender equality.

36. In order to protect the rights and interests of domestic workers with respect to their working conditions, the government has drafted the Labor Protection Act for Domestic Workers, which will provide a set of guidelines on the termination of employment contracts, payment of wages, break time, vacation leave, personal leave, insurance and the filing of complaints. However, the bill has yet to be reviewed by the legislature.

37. Women's Health Policy Action Objectives established in 2008 include the following: Ensuring gender mainstreaming is enforced in the healthcare decision-making mechanism, enhancing health information and research with gender perspectives, and developing gender-aware medical and public health education. To follow through with its policy objectives, the Department of Health of the Executive Yuan has planned to initiate amendments of the

Genetic Health Act in order to help pregnant women obtain adequate information that will enable them to make appropriate decisions. The amendments include a requirement that the competent authority shall establish a childbirth health-related advisory and counseling service network and that medical institutions shall provide consultation services. In addition, Paragraph 3, Article 16 of the Artificial Reproduction Act states that the selection of embryos based on their sex is prohibited. It also states the penalty for the violation of law against fetal sex selection and establishes the rules governing prenatal sex selection by physicians in order to perform the diagnosis of non-sex-linked genetic diseases.

38. In observing today's universal values of respecting diversity and gender equality, the Ministry of the Interior has established the Task Force on the Improvement of Funeral Rites, which is charged with the task of proposing to the Council of Labor Affairs changes to the certification examination for "Class C Certified Technician for Funeral Services" regarding the examination's elements of gender inequality. In addition, the Task Force has also proposed notes on multicultural family for funeral service the coordination personnel. In order to continue to promote gender equality in funeral services, the government has planned to publish the book entitled *Modern Funeral Guidelines* in order to eliminate the obstacles unfairly imposed on women by traditions.

39. To ensure gender equality in the area of cultural rights and to eliminate the barriers for the pursuit of apprenticeship opportunities by arts students due to gender stereotyping, the government has commissioned gender experts and scholars to perform gender-based inspection on traditional art forms designated by the central competent authority in order to provide appropriate recommendations for making adjustments. When conducting various traditional rituals and activities, practices that violate gender equality shall be rectified. The government has also enacted the Sexual Assault Crime Prevention Act and the Sexual Harassment Prevention Act, respectively, to address violations of the rights of others relating to sexual or gender-related assaults. Sexual harassment in the workplace is addressed by the provisions of the Act of Gender Equality in Employment, including sexual assault and sexual harassment cases. Sexual assault is a criminal offense. If an instance of sexual harassment is determined to be a violation of Article 25 of the Sexual Harassment Prevention Act, it also constitutes a criminal offense.

Article 20 of the Sexual Harassment Prevention Act provides that a person who sexually harasses another person has violated the Administrative Law and shall be fined by the competent authority of the special municipality or county (city) in which he or she resides. Between 2007 and late 2011, local governments around the country received a total of 1,736 complaints and 149 second appeals, of which 327 cases involved penalties and fines. In addition, if a person who commits sexual assault or sexual harassment against another person, the victim may file a civil compensation with the court against the perpetrator in accordance with the provisions of the Civil Code on tortious acts.

40. The following are statistics regarding Article 25 of Sexual Harassment Prevention Act on offense of forcible touching between 2008 and 2011: No. of persons prosecuted: 138, 155, 203 and 234, respectively. No. of persons who received deferred prosecution: 3, 5, 8 and 6, respectively. No. of persons with non-prosecutorial disposition: 125, 162, 210 and 250, respectively; in particular, the no. of person not prosecuted due to insufficient suspicion: 42, 51, 72 and 86, respectively; no. of persons for which lawsuits were withdrawn: 76, 106, 128 and 160, respectively. No. of persons receiving guilty verdicts: 106, 101, 130 and 147, respectively, which accounted for 66.25%, 64.33%, 64.04% and 63.36% of the number of defendants of the respective years.

41. With respect to civil claims, Article 9 of the Sexual Harassment Prevention Act states that the victim of sexual harassment may seek monetary and non-monetary damages from the offender, and if the victim's reputation is harmed, a proper punishment that includes the restoration of reputation should be required. With respect to criminal cases, refer to Table 4, Table 5 and Table 6 for statistics on the number of cases with guilty ruling by the courts in accordance with Article 25 of the Sexual Harassment Prevention Act.

**Table 4 Statistics of District Court decisions based on Article 25 of the Sexual Harassment Prevention Act, 2007–2011**

Unit: Person

Year	District Courts						
	Guilty						Not guilty
	6 months or less	Over 6 months and up to and including 1 year	Over 1 year and up to and including 2 years	Detention	Fine	Exemption of punishment	
2007	39	2	0	37	3	0	1
2008	39	3	0	44	2	0	6
2009	38	4	0	54	3	0	6
2010	64	2	0	70	3	0	5
2011	84	5	0	66	3	0	3

Source: Statistics Department, Judicial Yuan

**Table 5 Statistics of High Court decisions based on Article 25 of the Sexual Harassment Prevention Act, 2007–2011**

Unit: Person

Year	High Courts						
	Guilty						Not guilty
	6 months or less	Over 6 months and up to and including 1 year	Over 1 year and up to and including 2 years	Detention	Fine	Exemption of punishment	
2007	7	0	0	0	0	0	1
2008	11	2	0	2	0	0	3
2009	12	5	0	5	0	0	7
2010	14	0	1	4	0	0	5
2011	20	1	0	4	0	0	3

Source: Statistics Department, Judicial Yuan

**Table 6 Statistics of Supreme Court decisions based on Article 25 of the Sexual Harassment Prevention Act, 2007–2011**

Unit: Person

Year	Supreme Court			
	Guilty			Not guilty
	6 months or less	Over 6 months and up to and including 1 year	Over 1 year and up to and including 2 years	
2007	0	0	—	0
2008	0	0	—	0
2009	1	0	—	0
2010	1	0	—	0
2011	0	0	—	0

Source: Statistics Department, Judicial Yuan

## Article 4 and Article 5

### Restrictions that limit the rights specified by the Convention

42. The Republic of China has accepted the rights recognized by the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as the "Covenant") in its entirety, and the ROC requires that all government agencies consult the legislative purposes of the Covenant and the interpretations made by the Committee on Economic, Social and Cultural Rights. In addition, Article 22 of the Constitution states that "All other freedoms and rights of the people that are not detrimental to social order or public welfare shall be guaranteed under the Constitution." Article 23 of the Constitution states that "All the freedoms and rights enumerated in the preceding articles shall not be abridged by law except such as may be necessary to prevent infringement upon the freedoms of others, to avert an imminent danger, to maintain social order, or to promote public welfare."

## Article 6

### Description of the status of Taiwan's labor force

43. The average labor participation rate of the ROC falls within the 57%–58% range in recent years. The average male labor force participation rate is higher than that of female, although the female labor force participation rate has been on the rise. In addition, the labor participation rate of juveniles and young adults (aged 15–24) has been on a downward trend over the past 5 years due to the increasing number of young people continuing their higher education. Refer to relevant statistics in Table 7 below.

**Table 7 Labor force participation rates by gender and age, 2007–2011**

Unit: %

Year \ Item	Total	Male	Female	15-24 years Juvenile and young adults	25-44 years Mature adults	45-64 years Middle-aged	65 years & over Senior citizens
2007	58.25	67.24	49.44	31.10	83.41	60.55	8.13
2008	58.28	67.09	49.67	30.17	83.81	60.83	8.10
2009	57.90	66.40	49.62	28.62	84.19	60.25	8.05
2010	58.07	66.51	49.89	28.78	84.72	60.31	8.09
2011	58.17	66.67	49.97	28.56	85.56	60.36	7.93

Source: "Manpower Survey", Directorate General of Budget, Accounting and Statistics, Executive Yuan

Description: The labor force participation rate refers to the number of members of the labor force (both employed and unemployed) as a percentage of the population above 15 years of age.

**Table 8 Employment rate, 2007 to 2011 - by gender and age**

Unit: %

Year \ Item	Total	Male	Female	15-24 years Juvenile and young adults	25-44 years Mature adults	45-64 years Middle-aged	65 years & over Senior citizens
2007	55.97	64.52	47.61	27.78	80.20	59.19	8.14
2008	55.86	64.15	47.77	26.60	80.44	59.28	8.10
2009	54.52	62.06	47.16	24.49	79.21	57.90	8.03
2010	55.05	62.65	47.66	25.00	80.20	58.26	8.08
2011	55.62	63.52	47.99	25.00	81.74	58.75	7.91

Source: "Manpower Survey", Directorate General of Budget, Accounting and Statistics, Executive Yuan

Description: Employment rate refers to the number of employed persons as a percentage of the population above 15 years of age.

**Table 9 Status of labor and employment of individuals with disabilities aged 15 to 64,  
2009**

Unit: Person; %

Item	Population	Employed	Unemployed	Labor force participation rate (%)	Unemployment rate (%)
All	614,053	163,112	34,176	32.1	17.3
Male	360,670	110,782	23,950	37.4	17.8
Female	253,383	52,330	10,226	24.7	16.3

Source: Labor survey for individuals with disabilities, 2009

### **Employment promotion and vocational training strategy**

44. Pursuant to the provisions of the Employment Services Act, the Council of Labor Affairs allocates an annual budget of more than NT\$1.4 billion on employment promotion programs aimed at individuals with disabilities, sole breadwinners of families, senior or middle-aged persons, members of the indigenous communities and households receiving living assistance.

45. To promote employment, the government utilizes 356 employment services offices, the Virtual Employment Services Center and the National e Job network as well as other brick-and-mortar and virtual employment service networks. Services provided include job application registration, employment consultation, recommendation of employment opportunities, participation in vocational training and accompanied interviews. In addition, tools such as timely individual case management employment services, subsidies to promote employment and employment assistance are utilized and combined with sociopolitical, educational, healthcare and related social welfare resources to create a collaborative job referral mechanism and resource network, the purpose of which is to provide appropriate employment services. After employment recommendations have been made successfully, service personnel will contact the job seekers and inquire about their employment status, and with respect to individuals who are less successful in obtaining employment, case manager will follow up on their development for 3 months in order to gauge the stability of their employment.

46. The government encourages employers to provide job opportunities to certain groups of unemployed persons, utilizes subsidies for employers to hire unemployed workers, subsidies for

temporary work and other subsidies to promote employment, organizes workplace learning activities and retooling programs, provides employers with management training subsidies and subsidies for the participation in individual learning in the workplace and readaptation.

**Table 10 Implementation of subsidy programs to promote employment and associated employer reward programs, 2007-2011**

Unit: Person; NT\$

Year	2007	2008	2009	2010	2011
Item					
No. of persons receiving assistance	3,913	5,304	26,328	7,023	1,169
Final amount approved (NT\$)	151,205,055	183,594,234	440,296,257	194,077,881	114,845,000

Source: Bureau of Employment and Vocational Training, Council of Labor Affairs, Executive Yuan

47. In order to combat the economic recession triggered by the global financial crisis that began in the second half of 2008, the government instituted short- and long-term employment measures between the second half of 2008 and 2010. These measures included the Program of Getting to Work Immediately, Subsidy for Sustainable Employment Program, recommending employment following training, wage subsidies and other long-term measures. The government also introduced short-term public sector employment projects, the Multi-Employment Promotion Program, the Dawn Employment Promotion Program, the Project of Hope for Employment and other short-term programs. A total of 256,433 people took advantage of these employment incentive programs. In particular, senior and middle-aged workers, women, members of the indigenous communities, individuals with disabilities and university graduates with no work experience received priority in treatment in obtaining public sector short-term job opportunities, and combined with both practical work and on-the-job training, workers are readiness for the labor market was ensured.

**Providing assistance to women in seeking employment**

48. In order to provide assistance to women in their search for employment opportunities, the Council of Labor Affairs instituted the following programs: "Employment information and job matching platform to enable effective access to employment resources," "Employment consultation and assessment, supplemented by support measures such as employment promotion

learning and vocational training in order to help achieve readiness for employment," "Workplace experience opportunities to cultivate confidence and the right attitudes, and to adapt to the employment environment," "Providing various allowances and subsidies to remove barriers to employment, and promote successful employment of women," "Joining forces with civil organizations, government agencies, and the governments of special municipalities and counties (cities) to provide employment opportunities for women," "Reserving public service employment opportunities for designated disadvantaged persons and women," "Assisting with the advocacy of Act of Gender Equality in Employment and improving the matching of part-time and short-term manpower to supply employers with short-term manpower needs and remove employment barriers for women," "Combination local resources to provide response measures to address employment obstacles," "Enhancing temporary and special employment service measures aimed at helping foreign and mainland spouses, victims of domestic violence and sexual assault." A total of 591,222 persons applied for job opportunities through these programs in 2010, and 282,530 of them successfully received job recommendations. In 2011, 340,494 persons out of a total of 576,673 job seekers were offered employment through these programs.

**Table 11 Percentage of women in the workforce, 2007-2011**

Unit: %

Year Item	2007	2008	2009	2010	2011
Total	45.11	45.44	46.06	46.24	46.18
Aged 15-24	56.88	55.70	57.12	55.98	54.58
Aged 25-44	45.87	46.26	46.96	47.36	47.57
Aged 45-64	38.60	39.85	40.69	41.03	40.92
Aged 65 and above	26.67	32.26	28.57	27.03	27.03

Source: "Manpower Survey", Directorate General of Budget, Accounting and Statistics, Executive Yuan

### **Providing assistance to individuals with disabilities in seeking employment**

49. Pursuant to the provisions of the People with Disabilities Rights Protection Act, the Council of Labor Affairs implements general, supportive and sheltering employment services measures for individuals with disabilities based on their ability to work and the extent of employment

support required. In addition, the Council also provides subsidies or assistance to employers' in carryout out recruitment efforts and job redesign, as well as lays a solid foundation for the employment quotas system, the purpose of which is to provide more opportunities to help individuals with disabilities enter the job market, to maximize their potential and to encourage them to participate in the community.

50. To reduce employment barriers for individuals with disabilities, the Council of Labor Affairs has actively promoted job redesign and has implemented special projects and subsidy programs to help employers to improve their work environments and work equipment or machinery, provide assistive devices, improve working conditions and make adjustments to work approaches. In addition, the Ministry of the Interior is currently developing a draft resource integration, research and development service guidelines on assistive devices for individuals with disabilities. In particular, each local government shall be required to establish a single point of contact for accepting applications for assistive devices by individuals with disabilities so that the required devices will be readily available to any persons with disabilities.

51. To enable individuals with disabilities who are unable to enter the competitive job market to maximize their potential and talent and to provide them with opportunities to improve their work capabilities, the Council of Labor Affairs has fostered the development of sheltered factories. In 2011, there were a total of 112 sheltered factories around the country, providing 1,665 sheltering job opportunities to individuals with disabilities.

52. In view of the fact that it is required to provide specialized courses designed for individuals with disabilities, apart from localized vocational training, the government has implemented enhanced promotion of integrated vocational training programs for individuals with disabilities. In terms of participation rate, the current target is 3% for trainees who are individuals with disabilities for government-operated training courses. In 2011 a total of 274 persons with disabilities participated in these training programs and they represent 3.2% of all trainees. In addition, individuals with disabilities who apply to participate in these training programs are accorded appropriate assistance after assessment of their training requirements has been conducted. For example: The hearing and speech impaired will be provided with sign language interpreters and the visually impaired will be provided with visual assistance. The visually

impaired may also request Braille materials, computers for the blind and visual enhancement hardware and software equipment; in other words, adequate and appropriate hard and soft infrastructures and measures are provided to help individuals with disabilities with their training process. The Council of Labor Affairs will continue to improve barrier-free environments and facilities at vocational training institutions in order to improve the opportunities for individuals with disabilities to receive inclusive training.

53. Currently vocational training aimed at individuals with disabilities includes only specific courses instead of a comprehensive selection of courses. Neither are a wide variety of vocational training courses available on an inclusive basis. Furthermore, many training facilities also lack soft and hard infrastructures with barrier-free access, and as a result individuals with disabilities are in genuine need of access to adequate vocational training opportunities. The government should require that all vocational training institutions provide barrier-free facilities when offering courses at their training locations, as well as provide aids such as sign language interpreters, Braille instructions, computers for the blind and video magnifiers in order to protect the rights of individuals with disabilities to receive the same employment rights.

#### **Providing assistance to individuals in the indigenous communities in seeking employment**

54. In order to promote employment among members of the indigenous communities and to protect their right to work and their livelihoods, the government has instituted employment quotas for the indigenous population pursuant to the provisions of the Act to Protect the Right to Work of Indigenous Peoples, which was enacted in 2001. Government agencies, public schools and academic institutions as well as state-owned enterprises located in non-indigenous areas are required by law to employ one citizen with indigenous status for every 100 employees without civil service qualifications hired, with the exception of Penghu, Kinmen and Lienchiang Counties in the outlying islands. Employees of government agencies, public schools, academic institutions, and state-owned enterprises located in indigenous areas who do not possess civil service qualifications shall comprise at least one-third of indigenous peoples. For employees who are required to have civil service qualifications, the percentage of indigenous employees may not be less than 2% of the current number of employees. Refer to Table 12 for the statistics on the employment of individuals from the indigenous communities by the public sector, 2007-2011

**Table 12 Statistics on the employment of individuals from indigenous communities working in the public sector, 2007-2011**

		Unit: Person				
Item	Year	2007	2008	2009	2010	2011
	Civil servants		6,016	6,203	6,498	6,647
Five categories of personnel		4,095	4,170	4,512	4,643	4,688
No. of persons employed		10,111	10,374	11,011	11,289	11,688

Source: Human Resources System of the Directorate-General of Personnel Administration, Executive Yuan

Description: The legal definition of the five categories of personnel include: contract-based workers, security guards, technicians, drivers, workers, janitors, fee collectors and administrators and other non-technical categories of positions that do not require civil service qualifications.

55. Pursuant to the Act to Protect the Right to Work of Indigenous Peoples and the Government Procurement Act, a vendor that has won a government tender carried out in accordance with the provisions of the Government Procurement Act and has a staff of at least 100 in Taiwan shall hire at least 1% of its total employees from members of the indigenous communities during the performance of the contract. Refer to Table 13 for the statistics on the employment of individuals from the indigenous communities by the private sector, 2007-2011

**Table 13 Statistics on the employment of individuals from the indigenous communities by the private sector, 2007-2011**

		Unit: Person				
Item	Year	2007	2008	2009	2010	2011
	No. of effective employments		129,248	132,290	138,516	147,623

Source: Council of Indigenous Peoples, Executive Yuan

56. The Council of Labor Affairs provides various employment-oriented vocational training programs to members of the indigenous communities who are unemployed, seeking employment or changing jobs and who lack or are in need of improving their job skills; the Council also provides associated allowances and subsidies for their participation in training programs in order to enhance the job skills of the indigenous people and to improve their employment and living conditions. To meet the training needs of members of the indigenous communities residing in the townships of mountain and plain areas as well as to maximize the utilization of training resources in the private sector, the government provides training courses dedicated to the indigenous communities through direction authorization of and subsidy programs to private training institutions in order to increase the training opportunities for members of the indigenous communities. Indigenous people who are unemployed will be able to participate in training programs with tuitions fully subsidized by the government. During their training, the government also provides monthly living allowances to persons engaged in these vocational training programs. In addition, to encourage members of the indigenous communities to obtain certification of technicians, the government also provides full subsidies on their participation in technician certification examinations (on both academic and technical subjects), including application fees, examination fees and application fees for the issuance of technician certificates.

**Table 14 Results of vocational training for individuals in the indigenous communities, 2007-2011**

Unit: Class; Person; NT\$1000

Year	2007	2008	2009	2010	2011
Item					
No. of courses offered	90	89	77	77	77
No. of trainees	2,439	2,423	2,139	1,963	2,247
Funding (\$1000)	58,536	58,152	51,336	47,112	53,928

Source: Training Information Management System (TIMS), Bureau of Employment and Vocational Training, Council of Labor Affairs

## **Providing assistance to workers who have been laid off and long-term unemployed persons in seeking employment**

57. To help workers who have been dismissed to return to work promptly, Article 8 of the Act for Worker Protection of Mass Redundancy states that upon formation of the Consultative Committee, the competent authority shall dispatch employment service personnel to assist both the labor and employer by providing them with appropriate consulting services in connection with employment service and vocational training. A company who has laid off workers is required to notify the government of the special municipality or county (city) in which it is located and public employment services centers. Upon receiving the notifications, the public employment service centers shall then employ relevant employment resources to help the workers seek employment based on their interests and job capabilities.

58. The Employment Insurance Act went into effect in 2003. The Act has been designed to enhance workers' job skills, promote employment, protect the basic livelihood of workers during the period in which they receive vocational training and for a designated period of time during which they are unemployed. The law also aims to encourage unemployed workers to return to work as soon as possible and not simply remain idle while receiving unemployment benefits from the government. In order to help the long-term unemployed to reenter the job market, the Employment Services Act was amended in 2009 to include long-term unemployed persons as members of society that the government shall endeavor to persuade to regain employment. In addition to free training, the government also provides vocational training living allowances and encourages employers to hire long-term unemployed persons. The government has also introduced subsidies for temporary work to accommodate the long-term unemployed and provided training to help them regain the ability to be employed. In 2009 a total of 2,211 long-term unemployed persons received government assistance in seeking jobs, of whom 992 successfully obtained employment. The number of long-term unemployed persons seeking jobs grew to 24,807 in 2010, with 16,063 receiving employment through recommendation. The number of unemployed persons seeking jobs was 16,290 in 2011, 9,312 of whom successfully obtained employment.

### **Provide assistance to workers in the informal economy**

59. Currently the government has not yet provided a precise definition of the term "informal economy." However, its examples include street vendors and unregistered factories (commonly known as "underground factories"), which are operations that have not filed business registrations with the government and their economic activities are not regulated by the government. According to data compiled by the Directorate General of Budget, Accounting and Statistics (DGBAS) of the Executive Yuan, some people choose to become street vendors mainly because of one of the following reasons: the profession provides more freedom; they do not possess other job skills; they produce supplementary income to support their families; and the businesses for which they work have ceased operations and they could not find suitable work subsequently. In order to help street vendors to return to the formal economy and to protect their existing right to work, the Ministry of Economic Affairs has been assisting local governments to develop self-governing and regulations for management and guidance of street vendors, which will gather street vendors at a centralized location and allow them to operate at designated time periods, thus legalizing and bring their operations under government control as well as improving the conditions of the market, including the temporary centralized area (section), and ensuring that vendors have access to safe, sanitary, clean, and well-organized work space. On the other hand, the government provides street vendors, the unemployed, and new graduates with training and guidance on business operation improvement - Competitiveness enhancement plan and improve their business and job skills. Furthermore, the government helps street vendors to operate in established markets and provides initial assistance and guidance on business operations in order to help them transition to the formal economy.

60. The Ministry of Economic Affairs actively provides guidance to unregistered factories to help them obtain legal status. Unregistered factories are defined by law as factory buildings constructed on non-industrial lands in urban or non-urban areas for manufacturing which have not been registered in accordance with the Factory Management Act. Once an unregistered factory has been reported to the authorities, it may face administrative sanctions, including being fined, ordered to cease operation and closed down completely. This will not only reduce the overall industrial output of the country but also impact the workers' right to work negatively. As

a result, pursuant to Article 33 and Article 34 of the Factory Management Act, the Ministry of Economic Affairs has announced the guidelines to allow unregistered factories to apply for temporary factory registration and drafted an initiative for the legalization of unregistered factories, and through the use of advertising, information sessions, advisory services, visits by guidance services teams to these factories and other mechanisms, the government intends to help unregistered factories to become legal by urging them to obtain the required factory registration, so that the labor conditions of workers can be protected and workers will be able to work in safe and sanitary environments.

61. Currently the Labor Safety and Health Act applies only to the mining and quarry industries, construction industry, manufacturing industry, public utilities and transportation industry, as well as the workplace of some other industry sectors. In other words, the law does not yet apply to all workers. The Council of Labor Affairs is currently planning to amend the Labor Safety and Health Act to expand the law's coverage to all industries so that the safety and health of all workers will be protected and no workers will be treated differently simply because they work in a different industry. The amended law, if approved, will also be applicable to all self-employed persons, volunteers, trainees at vocational training organizations, and their safety and health will be protected.

62. To provide support to citizens who wish to become entrepreneurs, the Council of Labor Affairs introduced the Micro-Business Startup Phoenix Program in 2009. The initiative does not require guarantors or collaterals, and the loans are interest-free for the first two years. Women between the ages of 20 and 65 and anyone between ages 45 and 65 may apply for the loans. Enterprises that meet all of the following criteria may apply for up to NT\$500,000 in loan assistance: not having participated in government classroom-based entrepreneurship courses within the past three years, having gone through entrepreneurship guidance advisory, having a workforce of less than 5 persons (excluding the entrepreneur), and not being a Business Registration Certificate holder but a registered taxpayer. In addition, the government also promotes the entrepreneurial guidance services program and offers a series of free entrepreneurial courses and business startup consulting services.

### **Protection of the right to work by law**

63. The Labor Standards Act requires that the termination of employees by employers shall be carried out in accordance with the provisions of Article 11 (regarding termination based on economic reasons) and Article 12 (regarding errors and negligence of employees) of the Act. In addition, employers are also required by law to unilaterally terminate the employment contract as a last resort. In addition, an employer shall not terminate an employment contract with a worker who is on medical leave due to occupational accidents or on maternal leave, unless otherwise provided by the conditions specified in Article 13 of the Labor Standards Act. For workers who have been terminated under the provisions of Article 11 or Article 13 of the Labor Standards Act, employers shall give advance notice pursuant to Article 16 of the same Act and shall issue severance pay to the workers in accordance with the provisions of Article 17 or Article 84-2 of the same Act, or with Article 12 of the Labor Pension Act (as of July 1, 2005, the severance pay for the seniority being applicable to the Labor Pension Act). If a worker is wrongfully terminated by an employer, he or she may file a complaint with the local competent authority in charge of labor administration in accordance with the provisions of the Act for Settlement of Labor-Management Disputes. The worker may also apply to the local competent authority for labor dispute mediation for relief purposes. If mediation is ineffective, the worker may seek relief via legal avenues.

64. On February 7, 2003 the Act for Worker Protection of Mass Redundancy went into effect. If a business group terminates the employment of its employees equal to or exceeding the workforce ratio specified in Article 2 of this Act within a specific period of time, the employer shall be required to, within 60 days, prepare an employee dismissal plan, submit it to the competent authority and the labor union, and carry out negotiations with its workers. If both the management and workers refuse to engage in negotiations or are unable to reach an agreement, the competent authority shall convene a consultative committee composed of both labor and management for negotiation purposes and proposes an alternate plan in a timely manner. Between 2004 and 2011 there were a total of 1,558 instances of mass layoffs, of which 86 cases were negotiated within the consultative committees established by the competent authorities after labor and management failed to reach agreements in their own negotiations. Agreements were ultimately reached in 62 of those 86 cases, and the success rate was 72%.

65. On March 2, 2009 the government implemented the Immediate Support Program for Labor Litigation, and on May 1, 2009 the Labor Rights Fund was officially established. The government has since allocated annual funding dedicated to labor litigation assistance, and basic living subsidies are also provided to workers during the period of litigation. From the time the Labor Rights Fund was established until the end of December 2011, there were 15,860 cases of labor legal aid applications, of which 8,239 were of general legal advisory and the remaining 7,621 were granted legal aid by attorneys. Thus far 3,565 lawsuits have been settled, with the results of about 80% of the cases being favorable to labor and the amount recovered on behalf of labor being NT\$708,770,000.

66. To promote gender equity in the workplace, Paragraph 2, Article 11 of the Act of Gender Equality in Employment states that work rules, labor contracts and collective bargaining agreements shall not stipulate or arrange in advance that when employees marry, become pregnant, engages in childbirth or child care activities, they have to sever or take leave of absence without payment. Employers also shall not use the above-mentioned factors as excuses for termination. Employers shall not dismiss employees for reasons related to marriage, pregnancy and labor, or child care. Case: An outsourced vendor of the National Taiwan Museum of Fine Arts was suspected of violating the Act of Gender Equality in Employment. After the complainants filed a complaint and administrative remedy in accordance with Article 34 of the same Act, Taichung City government determined that the vendor did indeed violated Article 7 of the Act in May 2010 and appropriate penalty ruling has officially been imposed on the vendor. The government has implemented Prohibition of Discrimination against Pregnancy checklist and provides assistance to pregnant employees in determining whether they are being discriminated against in the workplace. The government also reminds employers to take a positive and supportive attitude toward pregnant employees. Statistics indicate that between 2002, the year the Act of Gender Equality in Employment went into effect, and the end of 2010, there were a total of 23 violations of Paragraph 2, Article 11 of that Act for which the employers involved were penalized.

67. The Act of Gender Equality in Employment, emended in 2008, stipulates that employers may not discriminate against job applicants or employees based on their gender or sexual

orientation in the course of recruitment, screening test, hiring, placement, assignment, evaluation and promotion, or in the course of providing education, training or various welfare measures, paying wages, retirement discharge, severance, and termination. Violators shall be fined an amount between NT\$100,000 and NT\$500,000. Gay or lesbian job applicants or employees who have been treated unfairly in the workplace due to their gender or sexual orientation may file a complaint and relief in accordance with the Act of Gender Equality in Employment. The Employment Services Act also prohibits discrimination against gender and sexual orientation.

**Providing assistance to the unemployed to enhance their job skills**

68. The government has planned a diverse selection of employment-oriented vocational training courses based on economic development and industrial restructuring as well as the requirements of the job market and job seekers. The courses include those aimed at cultivating talents in the six major emerging industries, ten major service industries and four intelligent industries. The government provided vocational training assistance to 49,133 unemployed persons in 2007, 49,861 in 2008, 59,245 in 2009, 53,763 in 2010 and 55,933 in 2011.

**Table 15 Statistics for pre-employment training for the unemployed, 2007-2011**

Unit: Class; Person; NT\$1000; %

Year	Pre-employment training for all unemployed persons			Pre-employment training for unemployed disadvantaged persons		
	No. of pre-employment training classes	No. of trainees (Persons)	Funding (NT\$1000)	Employment rate after training (%)	No. of trainees (Persons)	Employment rate after training (%)
2007	1,765	49,133	998,826	53	26,325	43
2008	1,694	49,861	1,038,240	50	27,797	45
2009	2,021	59,245	1,226,487	51	36,563	46
2010	1,844	53,763	1,168,992	55	34,476	51
2011	1,938	55,933	1,230,077	56	35,508	51

Source: Training Information Management System (TIMS), Bureau of Employment and Vocational Training, Council of Labor Affairs, Executive Yuan

Description: Data for the number of trainees as of the end of December 2011; employment rate after training as of the end of October, 2011.

69. In consideration of the special needs of unemployed members of disadvantaged groups and for the purposes of helping them to improve their job skills and to return to employment as early as possible, the government has adopted several approaches in conjunction with resources in the private sector to provide the unemployed with suitable government-operated, commissioned and subsidized training programs that will enable them to return to work, based on regional industrial characteristics, demand of manpower by the labor market and the training requirements of unemployed persons. The purposes of the programs also include providing localized and diverse vocational training courses to increase the number of career choices for the unemployed and improve the accessibility of these courses to them. In 2010, a total of 55,933 participated in the training, with 56% gaining employment successfully after the training (data as of the end of October 2011). In particular 35,508 unemployed members of disadvantaged groups took part in the training (63.48% of all participants), and 51% of them were able to obtain employment after the training (data as of the end of October 2011).

70. Trainees who meet the criteria for receiving additional benefits as defined by the Employment Services Act (including those who left work involuntarily, sole breadwinners of families, senior or middle-aged persons, individuals with disabilities, members of the indigenous communities, households receiving living assistance, the long-term unemployed and rehabilitated offenders under protection) will receive vocational training living allowances in addition to the free training, the purpose of which is to allow trainees to be able to live without worries during their training. In addition, the government also provides employment guidance at the conclusion of the training programs. From 2007 to 2011, the government allocated annual funding of amounts NT\$540 million, NT\$590 million, NT\$760 million, NT\$750 million and NT\$820 million, respectively. The numbers of participating in vocational training over the same period were 26,325, 27,797, 36,563, 34,476 and 35,503, respectively. In 2007, the number trainees who were able to obtain employment following the training was 23,702. The numbers for 2008, 2009, 2010 and 2011 were 23,281, 27,713, 27,070 and 11,006, respectively (data as of the end of October 2011). Refer to Table 16 below for post-training employment figures for target populations such as women, young adults under 29 years of age, senior and middle-aged persons, individuals with disabilities and foreign spouses over the years.

**Table 16 Employment statistics associated with post-training target populations, 2007-2011**

Unit: Person

Year Item	Women	Young adults under 29 years of age	Senior and middle-aged persons	Individuals with disabilities	Foreign spouses
2007	14,793	7,491	5,325	656	79
2008	15,354	6,864	6,154	697	123
2009	16,413	8,877	5,731	468	156
2010	16,539	7,546	6,790	663	154
2011	12,648	4,951	6,383	611	83

Source: Training Information Management System (TIMS), Bureau of Employment and Vocational Training, Council of Labor Affairs, Executive Yuan

Description: 1. The post-training employment figures listed in this table represent those of specific target populations. Those for women and young adults are not among the main target populations, and their figures may be repeated in other categories (for example, If a female trainee is also a young adult with disabilities, she will be counted 3 times here, each in the women, young adult and individuals with disabilities categories).

2. Data for 2011 as of the end of October.

### **Providing assistance to individuals in difficult situations to reenter the labor market**

71. For specific events (e.g. the floods caused by Typhoon Morakot in 2009) the government has implemented vocational training assistance measures, including: (1) The Resettlement and training program for children in areas devastated by the August 2009 floods: provided residents in disaster-stricken areas with free training and free meals and accommodations; a total of 3 training sessions were held which benefited 63 people. (2) Career exploration and study project on individuals affected by Typhoon Morakot: enabled residents in the disaster stricken areas to understand the essence of each occupation so that they may be able to choose their desired professions and participate in vocational training that suits their needs in the future; a total of 7 sessions were held, which benefited 127 people. (3) Based on the industrial characteristics of the disaster areas and the training requirements of the unemployed, the government implemented industrial and home reconstruction measures for the benefit of residents affected by the disasters,

including vocational training courses in construction skills related to reinforced steel, formworks, cement, electrical work and plumbing. The government also introduced related measures such as employment programs to help residents of the disaster areas to rebuild their homes and return to the workforce. In 2009 a total of 7 sessions were held, which benefited 177 people. In 2010, a total of 54 sessions were held which benefited 1,487 people. In 2011, a total of 28 sessions were held in which 774 people participated. Furthermore, in order to enhance the vocational training for the permanent housing community of the reconstructed area following the Typhoon Morakot disaster so that residents will be able to improve their job skills, the government conducted 8 training sessions in 2010, which benefited 218 residents; and 7 sessions were held in 2011, which benefited 112 residents.

## **Article 7**

### **Protection of working conditions**

72. The minimum standards for working conditions are guaranteed mainly by the Labor Standards Act, including protection from termination of employment, wages, working hours, break, vacation leave, child labor, women workers and compensation for occupational accidents. Pursuant to the provisions of Article 3 of the Act, the law shall apply to all forms of employee-employer relationships. However, this principle shall not apply if the application of the Act would genuinely cause undue hardship to the business entities involved due to the factors relating to the types of management, the administration system and the characteristic of work involved and if it belongs to the business (or industries) or worker designated and publicly announced by the Central Competent Authority. Currently the Labor Standards Act applies to 6.51 million workers, which account for 96.6% of the country's total workforce. Industries and occupations that are not covered by the Labor Standards Act fall into the following categories: domestic and family services physicians in the medical and healthcare industry; attorneys in the legal services industry; professional sports coaches, players and referees in the entertainment industry; international and other extra-territorial bodies; teachers and staff at academic institutions; farmer groups; unclassified and other social services as well as other unclassified other restaurant and catering industry. It is hoped that through detailed industry-by-industry and

category-by-category inspection, the Labor Standards Act will be able to apply to all forms of employee-employer relationships. The Council of Labor Affairs is currently developing amendments to the Labor Standards Act dedicated to labor dispatch in order to protect the rights of dispatched workers.

73. The Council of Labor Affairs released the Guiding Principles on the Labor Dispatch Rights on October 2, 2009, and Public Construction Commission of the Executive Yuan revised and released the Model Contract for Services Procurement on December 30, 2010. Labor Dispatch is one of the avenues with which the government acquires its required manpower. The Executive Yuan released the Notes on the Utilization of Labor Dispatch by the Executive Yuan on August 27, 2010, which requires all competent authorities to observe the overall labor dispatch quotas allocated to government agencies when they are requesting dispatched workers. In particular, all competent authorities may utilize up to a maximum of 15,514 dispatched workers (including 10,518 for administrative agencies, 4,645 for state-owned enterprises and 351 for academic institutions), and no additional dispatched workers will be authorized. Government agencies are also instructed to allocate the wages and other labor costs for dispatched workers as fixed expenses and not included in the quotations submitted by tenderers of government procurement projects, the purpose of which is to ensure that dispatched workers are not exploited and forced to accept lower wages. The government also requires labor dispatch agencies to aggregate the number of service years of each worker stationed at the same client organization when calculating the number of special leave days for that worker, which prevails over those stipulated in the Labor Standards Act, to protect the rights of dispatched workers to receive special leave. The government also requires each government agency to accord dispatched workers equal treatment of their rights and obligations, unless otherwise provided by the law.

74. With respect to labor dispatch, each government agency shall conduct the acquisition of its required labor in accordance with the provisions of the Government Procurement Act, and the objective of each procurement project shall be the completion of the contractual obligations, and the manpower recruited shall be determined by the contracting vendors based on actual requirements. The Executive Yuan sent a directive to all subordinate agencies in 2010 requiring them to avoid entering into contracting agreements with natural persons as much as possible.

75. For contractual workers employed by agencies of the central government pursuant to the Contract-based Worker Employment Act and the Contract-based Worker Employment Practices of the Executive Yuan and its Subordinate Agencies, the provisions of the Labor Standards Act do not apply. The central government allocated budget to employ a total of 16,201 employees in the 2011 fiscal year.

76. Foreign domestic helpers are not covered under the Labor Standards Act, and their working conditions are not properly protected, the result of which is that some foreign workers are being exploited by their employers.

### **Employment and salary levels**

77. Refer to the following paragraphs for the employment rates and wage levels for women, young people, senior citizens and individuals with disabilities.

(1) Female employment rate and salary and wage levels: According to data compiled by the Directorate General of Budget, Accounting and Statistics (DGBAS) of the Executive Yuan, the female employment rate was 47.99% in 2011, an increase of 0.38 percentage points compared with 2007. The average monthly earnings of female employees in 2011 was NT\$40,187, with regular monthly income being NT\$33,035, which represent increases of 5.66% (NT\$2,152) and 4.05% (NT\$1,286) compared with 2006, respectively. (Employees' Earnings Survey). In addition, in 2010 the reinstatement rate for married women aged 15 to 64 who left work to get married and subsequently returned to work was 44.73%. For those who left work for childbirth, their reinstatement rate was 55.48%.

**Table 17 Statistics on occupational changes because of childbirth with married women aged 15 to 64 years, 2010**

Unit: 1,000 persons

Item	Total	Ever changed occupation after childbirth																	Never changed occupation after childbirth				
		Subtotal	After-childbirth occupation of those who ever quitted									After-birth occupation of those who never quitted								All	Ever quitted	Never quitted	
			All	Legislators, government administrators, business executives & managers	Professionals	Technicians & associate professionals	Clerks	Service workers & shop & market sales workers	Agricultural, animal husbandry, forestry & fishing workers	Prod., machine operators & related workers	Other	All	Legislators, government administrators, business executives & managers	Professionals	Technicians & associate professionals	Clerks	Service workers & shop & market sales workers	Agricultural, animal husbandry, forestry & fishing workers	Prod., machine operators & related workers				Other
Occupation before quitted because of childbirth	542	263	202	1	5	39	27	64	7	59	-	61	1	3	19	12	13	1	11	-	279	279	-
Legislators, government administrators, business executives & managers	1	1	1	-	0	-	-	0	-	-	-	-	-	-	-	-	-	-	-	-	0	0	-
Professionals	24	14	8	1	0	4	2	1	-	-	6	-	0	3	1	1	-	-	-	-	11	11	-
Technicians & associate professionals	87	46	32	0	2	13	7	7	-	2	-	14	1	1	5	5	3	-	-	-	41	41	-
Clerks	116	58	43	-	2	12	4	17	0	9	-	15	-	1	5	4	2	-	3	-	58	58	-
Service workers & shop & market sales workers	106	43	34	-	1	6	8	8	1	11	-	9	1	0	2	1	2	1	3	-	63	63	-
Agricultural, animal husbandry, forestry & fishing workers	7	2	2	-	-	-	-	0	-	2	-	1	-	-	-	-	0	0	0	-	5	5	-
Prod., machine operators & related workers	200	100	83	-	-	4	7	30	6	36	-	17	-	0	4	1	5	0	4	-	101	101	-
Other	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Source: *Report on Women's Marriage, Fertility and Employment, July 2010*, DGBAS, Executive Yuan

(2) Young adult employment rate and salary and wage levels: According to survey data compiled by DGBAS, due to the widespread availability of higher education, in 2011 the employment rate for juveniles and young adults aged 15 to 24 was 25%, a decrease of 2.78 percentage points compared with that of 2007. The main source of monthly income for juveniles

and young adults aged 15 to 24 in May 2011 was NT\$21,403, a decrease of NT\$2,016, or 8.61% compared with that of 2007.

(3) Senior citizen employment rate and salary and wage levels: Based on survey data compiled by DGBAS, the employment rate for senior citizens aged 65 and above was 7.91% in 2011, a decrease of 0.23 percentage points compared with that of 2007. The main source of monthly income for senior citizens aged 65 and above in May 2011 was NT\$30,004, an increase of NT\$7,652, or 34.23% compared with that of 2007.

(4) Individual with disabilities labor and employment status and comparison of wage levels: Individual with disabilities labor and employment status and comparison of wage levels: Based on statistics compiled by the Ministry of the Interior, there were 1,100,436 individuals with disabilities in the ROC as of the end of December 2011. Accord to data provided by the CLA's *Labor survey for individuals with disabilities*, in 2009 the labor force participation rate and employment rate of individuals with disabilities aged 15 to 64 was 32.1% and 26.6%, respectively, which were both decreases, by 5.1 and 4.5 percentage points respectively, compared with those published in the 2006 edition of the Ministry of the Interior's *Physically and Mentally Disabled Citizens Living Demand Survey*, which were 37.2% and 31.1%, respectively. The unemployment rate of the group was 17.3% in 2009, an increase of 1 percentage point compared with that of 2006, which was 16.3%. The overall average wage level of individuals with disabilities aged 15 to 64 in 2009 was NT\$23,126, which was a decrease of NT\$1,209 compared with NT\$24,335 in 2006.

**Table 18 Individual with disabilities aged 15-64 labor and employment status and wage levels, 2006-2009**

Unit: Person; %; NT\$

Item \ Year	September	August 2007			June 2009		
	All	All	Male	Female	All	Male	Female
Population (no. of persons)	583,464	588,647	358,854	229,793	614,053	360,670	253,383
Labor force (no. persons)	216,811	161,389	114,747	46,643	197,288	134,732	62,556
Employed (no. of persons)	181,507	134,432	95,523	38,909	163,112	110,782	52,330
Unemployed (no. of persons)	35,304	26,957	19,224	7,734	34,176	23,950	10,226
Labor force participation rate (%)	37.2	27.4	32.0	20.3	32.1	37.4	24.7
Unemployment rate (%)	16.3	16.7	16.8	16.6	17.3	17.8	16.3
Employment rate (%)	31.1	22.8	26.6	16.9	26.6	30.7	20.7
Wage level (NT\$)	24,335	24,830	26,468	20,778	23,126	24,817	19,560

Source: *Physically and Mentally Disabled Citizens Living Demand Survey, 2006*, Ministry of the Interior; *Labor survey for individuals with disabilities, 2007 & 2009*, Council of Labor Affairs

Description: 1. Currently relevant government agencies involved in conducting surveys for individuals with disabilities include: The Population and Housing Census conducted every ten years by the DGBAS has incorporated items associated with individuals with disabilities. In addition, the Ministry of the Interior conducts the Physically and Mentally Disabled Citizens Living Demand Survey every five years with respect to persons with disabilities over 15 years of age. The Council of Labor Affairs also conducts the Labor survey for individuals with disabilities aged between 15-64 in the median year during which the Ministry of the Interior conducts its survey.

2. In order that the bases of the comparison are consistent, in the table the survey data for 2006 has been adjusted to the labor and employment status of individuals with disabilities aged 15 to 64. However, the drawback is that the data cannot be broken down by gender.

3. The calculation of "wages" does not include work performed by unpaid family members.

78. Agriculture, livestock farming, fishery and mining industries: According to survey data compiled by the DGBAS, on average workers in the agriculture, forestry, and fishing & animal

husbandry industries earned NT\$22,258 in May 2011 as their principal monthly income, an increase of 15.45% (or NT\$2,978) over 2007. Workers in the mining and quarrying industries earned NT\$35,005, a decrease of 20.24% (or NT\$8,882) over 2007.

79. Atypical employment: Currently in the Manpower Utilization Survey conducted by the DGBAS, part-time, temporary or dispatched employees fall into the atypical employment category. In 2011 their number was 641,000, which accounted for 7.33% of all employees. Their average monthly income was NT\$19,038, an increase of NT\$487 over the preceding year. The number of regular working hours each week was 30.16 hours, a decrease of 0.61 hours over the preceding year. If broken down by the number of hours worked each week, on average part-time workers earned NT\$14,312 each month and the number of regular working hours worked each week was 20.15. If classified based on the type of work involved, temporary or dispatched workers earned NT\$19,526 each month and the number of regular working hours worked each week was 32.41.

**Table 19 Statistics on the number of employees, income and working hours, 2008–2011**

Unit: 1,000 persons; NT\$; Hour

Year	Item	No. of persons	Average monthly income	Weekly usual hours of work
2008	Part-time, temporary or dispatched workers	572	19,843	32.77
	Part-time workers	245	14,765	21.14
	Temporary or dispatched workers	480	20,020	34.65
2009	Part-time, temporary or dispatched workers	632	17,516	30.37
	Part-time workers	318	12,886	19.86
	Temporary or dispatched workers	508	17,889	32.50
2010	Part-time, temporary or dispatched workers	667	18,551	30.77
	Part-time workers	337	13,879	20.42
	Temporary or dispatched workers	525	19,079	33.28
2011	Part-time, temporary or dispatched workers	641	19,038	30.16
	Part-time workers	333	14,382	20.15
	Temporary or dispatched workers	519	19,526	32.41

Source: *Manpower Utilization Survey*, Directorate General of Budget, Accounting and Statistics, Executive Yuan

Description: As part-time workers may also be "temporary or dispatched workers," the sum of both categories is greater than the number of the combined "part-time, temporary or dispatched workers" category.

80. Both the Labor Standards Act and the Act of Gender Equality in Employment provide for the principle of Equal Remuneration for Men and Women Workers for Work of Equal Value. Based on survey data compiled by DGBAS, in 2011 female employees earned NT\$30,862 each month on average as their main source of income, and the corresponding figure was NT\$ 38,636 for male employees. Over the past five years, the average monthly income earned by female employees in their main job as a percentage of that of male employees has increased from 76.76% in 2007 to 79.88% in 2011, and the gap between the genders appears to be closing gradually.

### **Minimum wage levels**

81. The Basic Wage system has been established in Taiwan. The wages are agreed upon between the employers and employees, but they may not be lower than the basic wage level. The basic wage is set by the Basic Wage Commission, which is established by the Council of Labor Affairs, and the basic wage thus determined is submitted to the Executive Yuan for approval. The basic wage was adjusted to NT\$18,780 per month on January 1, 2012, NT\$103 per hour. It remains impossible to ensure that this level of wages is sufficient for workers and their families to maintain an adequate standard of living at this time.

82. As the work abilities of individuals in sheltering employment cannot be compared to those of workers in competitive job markets, the People with Disabilities Rights Protection Act specially stipulates that the wages of persons with disabilities under sheltering employment may be calculated according to their productivity. If the productivity is not sufficient, the wages may be reasonably reduced. Other than this condition, all labor-related laws and regulations shall apply to workers in sheltering employment. In 2010, 5% of individuals in sheltering employment earned NT\$17,280 or more per month on average; 11.4% of them earned more than NT\$10,000 but less than NT\$17,280; 36.6% earned more than NT\$5,000 but less than NT\$10,000; and 47% earned less than NT\$5,000. As the law allows the wages of persons with disabilities under sheltering employment to be calculated according to their productivity, the majority of individuals in sheltering employment earn less than the minimum wage. As of December 31, 2011 there were a total of 1,550 individuals in sheltering employment throughout the country.

83. Due to their physical limitations and strength, individuals with disabilities generally receive lower wages than those without disabilities. They also usually engage in atypical employment and are unable to maintain an adequate standard of living. There are currently no solutions to address the problem with individuals with disabilities who have to exit the workplace due to premature aging. Therefore, the government should provide a diverse selection of employment services to persons with disabilities, as the situation remains that if individuals with disabilities are unable to receive basic wages in their employment, the government will not be able to make up the balance so that they can achieve an adequate standard of living. The government should investigate whether public agencies and organizations that employ persons with disabilities in atypical labor environments have violated the Labor Standards Act and constituted discrimination in employment. At the same time the government should also provide active support to bring persons with disabilities into the regular labor market. Examples of these support measures are: government institutions making available regular job openings, conducting job redesign and providing assistive devices for the benefit of individuals with disabilities.

#### **Working hours and leave**

84. The Labor Standards Act has clearly defined the rules that apply to regular daily working hours, extended hours and flexible working hours. A worker shall not have regular daily working hours in excess of eight hours a day and eighty-four hours every two weeks. The extension of working hours combined with the regular working hours shall not exceed 12 hours a day. The total number of hours of overtime work shall not exceed 46 hours per month. Business entities may also enforce 2-week, 4-week and 8-week flexible working hour systems in accordance with the provisions of the Act. To urge business entities to comply with the requirements of the Labor Standards Act and provide workers with the working conditions, labor environments required by law, and their basic rights and interests can be protected, the Council of Labor Affairs carries out annual special labor inspection in accordance with its labor inspection directives. With the occurrences of karōshi cases due to excessive overtime work in recent years, the government should adopt effective measures to address this issue to protect the rights of workers.

85. Pursuant to the provisions of the Act of Gender Equality in Employment, employers have the obligations to provide employees with non-pay parental leaves for raising children, feeding

time, reduced or reschedule working hours and family care leave. In addition, when employees request the above leave, employers may not decline the request and treat it as absence from work and affect the employees' perfect attendance bonuses, performance appraisal or take any disciplinary action that is adverse to the employees. Furthermore, employers hiring more than 250 employees shall set up childcare facilities or implement suitable childcare measures. Based on the survey conducted by the Council of Labor Affairs in 2011 on gender employment management, 77.3% of all business groups provided childcare facilities or implement childcare measures to their employees in 2011, which is an increase by 41 percentage points compared with 36.3% in 2002. To encourage business groups to establish childcare facilities or implement childcare measures, the Council of Labor Affairs has provided subsidies in the amount of approximately NT\$112,180,000 to 752 enterprises since 2002.

#### **Prevention of sexual harassment in the workplace**

86. Provisions regarding the prevention of sexual harassment in the Act of Gender Equality in Employment mainly require employers to prevent the occurrences of sexual harassment behavior in the workplace and effective correctional and remedial measures promptly once sexual harassment incidents have occurred. If an employee believes that his or her employer has violated the provisions of Article 13 of the Act of Gender Equality in Employment, he or she may file a complaint with the Gender Equality in Employment Committee or Employment Discrimination Review Committee of the local competent authority. Between March 2002 and 2011, county (city) governments have received a total of 492 sexual harassment complaints cases, 337 of which were reviewed. If the rights of an employee or job seeker are violated due to the employer's failure to fulfill the obligations stated in Article 13 of the Act of Gender Equality in Employment, the employer shall be liable for the damages. The prevention of sexual harassment has been incorporated into labor inspection procedures.

#### **Workplace safety and prevention of occupational accidents**

87. The organizational structure of government agencies responsible for maintaining labor safety and health includes the Council of Labor Affairs (Department of Labor Safety and Health, with a staff of 19 people; and Department of Labor Inspection, with a staff of 35) and Research

Institute of Labor Safety and Health (with a staff of 59 currently and may be expanded to 62-76) at the central government level. Agencies that are dedicated to conducting labor inspection include the Northern Region, Central Region and Southern Region Inspection Offices of the Council of Labor Affairs, as well as CLA-authorized local agencies, including the Labor Standards Inspection Office, Department of Labor of Taipei City Government; the Labor Standards Inspection Office, Labor Affairs Bureau of Kaohsiung City Government; and special zones with single points of contact: Export Processing Zone Administration, Ministry of Economic Affairs; Science Park Administration; Central Taiwan Science Park Administration; and Southern Taiwan Science Park Administration. The 9 labor inspection agencies throughout the country currently have a combined workforce of 289, which can be expanded to 321. In addition, the labor administration agencies of local competent authorities also coordinate with the central competent authority to carry out work associated with labor safety and health advocacy as well as counseling in their local communities.

88. Industries that are currently not covered by the Labor Safety and Health Act include: Self-employed, accounting services, social work services, labor dispatch, barber and beauty shops as well as books and stationery retail. Currently the Act does not apply to about 3.8 million workers in these industries. The draft amendment of the Act shall expand the law's coverage to all industries so that no workers will be treated differently simply because they work in a different industry. The new law, if passed, will cover all self-employed persons, volunteers, trainees at vocational training organizations, and their safety and health will be protected. The government will also continue to promote 33 projects to reduce the occurrences of occupational accidents.

**Table 20 Statistics on occupational accidents and injuries, 2007-2011**

Unit: Per thousand workers (‰)

Per thousand workers (‰)	Year					
		2007	2008	2009	2010	2011
Occupational accidents		4.439	4.606	4.292	4.333	4.150
Injuries or diseases		4.049	4.231	3.967	4.014	3.826
Disabilities		0.356	0.339	0.291	0.290	0.294
Fatalities		0.034	0.036	0.034	0.030	0.030

Source: Bureau of Labor Insurance, Council of Labor Affairs

Description: The figures of occupational accidents per thousand workers include only injuries or diseases, disabilities or fatalities that occur in the workplace, and exclude occupational accidents with traffic accident benefits. Occupational accidents per thousand workers = No. of occupational accident insurance benefits received ÷ Average no. of workers enrolled in labor insurance × 1,000.

89. In order to understand the work status of disabled workers before and after they suffered occupational injuries, the Council of Labor Affairs commissioned the Survey on the Employment of Workers with Disabilities from Occupational Accidents, Injuries and Diseases in October 2009. Out of the 3,011 respondents surveyed, 66.1% had returned to work, and on average they performed 41.24 hours of work, which was 4.04 hours less than the average number of hours they worked prior to the occupational injuries, i.e. 45.28 hours. Their average monthly income was NT\$28,186, which was NT\$4,512 less than the level prior to occupational injuries, or NT\$32,698.

90. The occupational disease detection rate of Taiwan is lower than those of other countries. Since 2003 the government has gradually commissioned hospitals around the country to establish centers for the prevention and treatment of occupational injuries and diseases as well as occupational injury and disease diagnosis and treatment networks, the purpose of which is to provide services such as occupational injury and disease prevention, diagnosis and investigation. This has resulted in an increase in both the occupational disease detection rate and benefit payment rate since 2008. In particular, engineering-related occupational diseases (e.g.

occupational low back pain and the diseases of the arm, neck and shoulder) account for 78% of all occupational diseases. In that same year the occupational injury and disease reporting system was also implemented. In order to improve occupational accident labor protection legislation, the Council of Labor Affairs is currently developing the draft amendment to the "Occupational Accident Labor Protection Act," the main objectives of which are the prevention of occupational hazards, workers' compensation and occupational accident rehabilitation. In addition, the legislative amendment will also provide the legal basis for the rehabilitation of occupational accidents in order to achieve the objective of protecting workers from occupational accidents via prevention, compensation and rehabilitation. Currently there are 165 items associated with statutory occupational diseases.

91. Refer to Table 21 for the number of occupational disease insurance claims over the past 5 years.

**Table 21 Statistics on the number of occupational disease insurance claims, 2007-2011**

Unit: Headcount; Per thousand worker ratio

Year	2007	2008	2009	2010	2011
Injuries or diseases	216	326	424	523	652
Disabilities	86	76	94	105	184
Fatalities	24	24	14	24	57
Total (1)	326	426	532	652	893
No. of insureds (2)	8,799,405	8,795,248	9,029,279	9,397,608	9,725,761
Per thousand worker ratio (1) / (2)	0.1	0.1	0.1	0.1	0.1

Source: Bureau of Labor Insurance, Council of Labor Affairs

**Table 22 Statistics on the number of uninsured workers suffering from occupational accidents, injuries or diseases, 2007-2011**

Unit: Case

Item \ Year	Year				
	2007	2008	2009	2010	2011
Living allowances	111	110	100	107	109
Disability subsidies	46	30	38	31	25
Death subsidies	24	33	31	24	20

Source: Bureau of Labor Insurance, Council of Labor Affairs

Description: Data for uninsured workers is from those who applied for disability subsidies in accordance with Article 6 of the Occupational Accident Labor Protection Act; the number of death subsidies is from the number of workers who suffered from disabilities and the number of deaths. In addition, the number of workers with injuries or disease is estimated from the number of persons who applied for living allowances in accordance with the provisions of Article 9.

**Table 23 Statistics on occupational accident insurance benefit payouts, 2007-2011**

Unit: Headcount

Item \ Year	Year				
	2007	2008	2009	2010	2011
Total	39,072	41,045	38,684	40,621	40,746
Injuries or diseases	35,607	37,672	35,741	37,605	37,497
Disabilities	3,148	3,029	2,628	2,721	2,874
Fatalities	317	344	315	295	375

Source: Bureau of Labor Insurance, Council of Labor Affairs; Research Institute of Labor Safety and Health

Description: 1. This table includes only workers who suffered from illness, disability or death caused by the building, equipment, raw materials, chemicals, toxic gases at the workplace and excludes occupational accidents with traffic accident benefits.

2. The figures contained in this table are the total number of benefit payments from occupational injuries and occupational disease insurance coverage.

## Dedicated clauses on foreign workers

### Policy on importing foreign workers

92. The Employment Services Act was promulgated on May 8, 1992. Pursuant to Article 42 of the Act, for the purpose of protecting nationals' right to work, no employment of foreign worker may jeopardize nationals' opportunity in employment, their employment terms, economic development or social stability. As the law has been enacted primarily to protect the citizens' employment rights, labor that is in shortage in Taiwan can be imported from abroad under the complementary principle. Currently the following types of labor may be imported: manufacturing workers, construction workers, fishing vessel crew members, domestic caregivers, institutional caregivers and domestic helpers. Refer to Table 24 for the number of foreign workers, broken down by nationality, currently residing in Taiwan.

**Table 24 Foreign worker statistics, 2011 — by country and industry sector**

Unit: Person; %

Item		Country						
		Indonesia	Malaysia	The Philippines	Thailand	Vietnam	Mongolia	
Manufacturing industry	Total No. of people	215,271	20,166	3	58,667	67,268	69,167	0
	%	50.57						
Construction industry	Total No. of people	3,865	29	0	48	3,407	381	0
	%	0.91						
Fishing (sailors)	Total No. of people	8,670	7,134	0	1,109	20	407	0
	%	2.04						
Domestic caregivers	Total No. of people	185,317	145,091	0	21,336	1,002	17,887	1
	%	43.54						
Institutional caregivers	Total No. of people	10,409	1,677	0	960	54	7,718	0
	%	2.45						
Domestic helpers	Total No. of people	2,128	1,312	0	721	12	83	0
	%	0.50						

Item	Country		Indonesia	Malaysia	The Philippines	Thailand	Vietnam	Mongolia
	Total	Total No. of people	425,660	175,409	3	82,841	71,763	95,643
	%	100	41.21	0.00	19.46	16.86	22.47	0.00

Source: Bureau of Employment and Vocational Training, Council of Labor Affairs, Executive Yuan

93. The basic rights to which foreign workers in Taiwan are entitled are protected by Taiwan's labor laws. Foreign workers who are employed by industries to which the Labor Standards Act applies shall be entitled to the protection of working conditions such as basic wage and working hours. In addition, laws such as the Labor Insurance Act and the Employee Welfare Fund Act do not discriminate against foreign workers.

94. Foreign workers in Taiwan are subject to certain restrictions of the Employment Services Act and related regulations. For example, after they have entered the ROC they are required to undergo medical examinations before they begin working and after they have completed their term of service; they are allowed to work in Taiwan for a maximum number of 12 years only; they are required to present proof of absence of criminal records when applying for entry visas to Taiwan; and they are not permitted to change employers without justification except with reasons that cannot be attributable to them.

#### **Prohibition of coercing foreign workers to engage in work against their will**

95. Foreign workers who are employed by industries to which the Labor Standards Act applies shall be entitled to the same rights accorded to ROC citizens by the Act, including basic wage and overtime wage as well as the rules that govern working hours and leave of absence. In addition, employers are required by law to enroll all employees, foreign workers included, in labor insurance. (Refer to Table 25 below for the enrollment of workers in labor insurance.) In addition, Paragraph 7, Article 57 of the Employment Services Act states that employers are prohibited from coercing foreign workers to engage in work against their will. The employment permits of violators shall be annulled by the CLA. In addition, Article 32 of the Human Trafficking Prevention Act states that: Anyone with the intent to profit using such means as force, threat, intimidation, confinement, monitoring, drugs, hypnosis, or by other means against the subject's will, who subjects another person to labor exploitation or pay not commiserating with

the labor, shall be sentenced to an imprisonment under seven years, and may also be fined up to NT\$5 million. Anyone with the intent to profit using such means as debt bondage or the abuse of the subject's inability, ignorance, or difficulty in seeking help, who subjects another person to labor exploitation or pay not commiserating with the labor, shall be sentenced to an imprisonment up to three years, and may also be fined up to NT\$1 million. From 2007 to December 2011, 1,078 foreign workers who held work visas were identified as victims or suspected victims of human trafficking and were placed in shelters.

**Table 25 No. of persons insured by Labor Insurance, 2011 - by category and nationality**

Unit: Person

	Industrial, transportation, and public utilities workers	Workers of commercial firms and shops	Employees in journalistic, cultural, nonprofit organizations or cooperative enterprises	Employees in government agencies and schools	Craft workers	Voluntary insured persons	Persons receiving training in vocational training organizations	Class A members of fishermen's association	Workers employed in fishing production	Total
Total	2,773,763	3,076,222	266,171	383,882	2,557,361	361,590	7,634	297,223	1,915	9,725,761
ROC Nationals	2,573,989	3,030,484	259,519	381,823	2,553,350	355,613	7,526	297,221	1,463	9,460,988
Foreign Nationals	199,774	45,738	6,652	2,059	4,011	5,977	108	2	452	264,773

Source: Council of Labor Affairs, Executive Yuan

Description: The number of insured foreign workers is the number of foreign workers who are employed by enterprises to which the Labor Standards Act applies, including: Foreign professionals, foreign workers, foreign spouses and mainland spouses. However, as the Labor Standards Act does not apply to domestic workers, domestic caregivers and domestic helpers, even though they are foreign workers, are not included in this category.

96. The employment permit issued by the Council of Labor Affairs to employers for the purpose of hiring foreign workers clearly states that the foreign worker's "type of work" and "place of work" fall within the scope of permission, and if an employer assigns work to a foreign worker that is beyond the permitted work category, or if the employer changes the foreign

worker's place of work without permission, the employer shall be fined between NT\$30,000 and NT\$150,000 in accordance with the provisions of the Employment Services Act. The employer shall also be ordered to rectify the situation within a prescribed time limit, and the employment permit shall be revoked if the employer fails to do so.

### **Protection of the rights of foreign workers**

97. Any fees that a foreign worker pays prior to entering Taiwan are prescribed and administered by his or her home country. In addition to recommending to the home governments of foreign workers in Taiwan that the amount that corresponds to one month of basic wages specified by the ROC's Labor Standards Act should be the maximum applicable brokerage fee for each worker who will travel to and work in Taiwan, the Council of Labor Affairs also coordinates with these countries in formulating a well-defined fee schedule that includes paid service items and their amounts charged by their local employment brokerage firms. Furthermore, before a foreign worker is allowed to enter Taiwan, both the employer and the foreign worker are required to sign the Foreign Worker's Affidavit Regarding Expenses Incurred for Entry into the Republic of China to Work and the Wage/Salary, which shall detail the wage/salary level, airfares, statutory fees and expenses, board and lodging expenses and the amounts of loans, all of which must then be certified by the government of the foreign worker's home country before he or she may apply for a visa to travel to Taiwan. The affidavit shall be the basis on which to determine whether the worker is subsequently overcharged, and the terms of the affidavit may not be altered in such a way that they are less favorable to the foreign worker.

98. In order to protect the rights and welfare of foreign workers and to prevent them from being subject to forced labor and exploitation, the Council of Labor Affairs subsidizes local governments in establishing Foreign Workers Consultation Service Centers with visitation personnel. Employers who have applied for importing foreign labor shall be required to notify the local competent authority in charge of labor affairs within 3 days of the arrival of the foreign workers, after which visitation personnel from Foreign Workers Consultation Service Centers will be visiting the foreign workers to find out about the status of their living arrangement and employment conditions as well as to determine if the employers have complied with all legal employment requirements and whether the foreign workers have been settled in accordance with

the service items and standards outlined in the "Foreign Worker's Care Service Plan." If it is determined that the employers have not followed the Service Plan and they are ordered to rectify the situation within a prescribed time limit, local competent authorities may fine the employers for violating the Employment Services Act and the Council of Labor Affairs may also revoke their employment permits if they fail to comply.

99. If a foreign worker is employed by an industry to which the Labor Standards Act applies, his or her wages and overtime wage shall be governed by that Act. An employer who violates the provisions of the Act shall be investigated by the local competent authority in charge of labor affairs and penalized accordingly. The purpose is to ensure that foreign workers are indeed paid the actual amounts of wages and overtime wage to which they are entitled. The Council of Labor Affairs promulgated the amended "Regulations on the Permission and Administration of the Employment of Foreign Workers" on January 3, 2008. The amendments stipulate that employers shall pay the wages directly to foreign employees in full in accordance with the law. If employers fail to do so, they shall be ordered to make full payments within a prescribed time limit, or be fined between NT\$60,000 and NT\$300,000, depending on the seriousness of the circumstances. In addition, the employers' recruitment and employment permits shall also be revoked in full or in part, and the affected foreign workers shall be allowed to change employers accordingly.

100. Pursuant to Paragraph 1, Article 22 of the Labor Standards Act, a worker shall be paid such wages as determined through negotiations with the employer. However, part of such wages may be paid in kind in accordance with the employment contract entered into by both parties. If part of the wages is paid in kind, the conversion price of such wages in kind shall be fair and reasonable and shall meet the needs of both the worker and his or her family members. Based on these requirements, regardless of whether the workers are domestic or foreign, employers and employees may agree that part of the wages are to be paid with board and lodging in their employment contracts in lieu of cash payments. The Council of Labor Affairs recommends that maximum board and lodging expenses that apply to a foreign worker be at most NT\$5,000. According to the 2010 Report on Foreign Labor Utilization and Management, the amount of monthly board and lodging expense agreed upon by most employers and foreign workers in the manufacturing and construction industries is currently between NT\$2,500 and NT\$3,000, and for

the majority of cases of foreign workers engaged in domestic caretaking work, no board and lodging expenses are deducted from their wages.

101. To prevent the overcharging of foreign workers from the practice of domestic employment brokerage firms collecting the workers' loan repayments on behalf of the workers' creditors in their home countries, the Council of Labor Affairs amended and released the "Foreign Worker's Affidavit Regarding Expenses Incurred for Entry Into the Republic of China to Work and the Wage/Salary" on August 20, 2009 (which became effective on October 20, 2009), which states that Taiwan's employment brokerage firms may not collect the workers' loan repayments on behalf of themselves or others, and those that have failed to comply shall be deemed to have violated the provisions of Paragraph 5, Article 40 of the Employment Services Act regarding the acceptance of fees beyond what is required. In addition, the affidavit must also be certified by the supervisory agencies of the foreign workers' home countries, and employers are prohibited from altering the terms of the affidavit in such a way that they are less favorable to the foreign worker. This purpose is to protect the rights and interests of foreign workers.

102. In order to strengthen the licensing and management of employment brokerage firms, the Council of Labor Affairs has established a list of permitted fee-based intermediary services and the corresponding fee standards. Brokerage firms that overcharge foreign workers will be fined, suspended or have their business permits revoked. Moreover, the Council has regularized the appraisal of employment brokerage agencies, initiated the measure of "rewarding excellence and eliminating the inferior" and classified the results of the evaluation into three grades: A, B and C. Those agencies that have been given the "A" grade (excellent) are given public recognition and the amount of the security deposit required to be licensed in employment services will be reduced as a reward. On the other hand, agencies that have been given the "C" grade will not be permitted to establish branch offices, and if they fail to attain the "B" grade after a prescribed period or are unable to rectify the situation, the licenses of their main and branch offices will not be renewed. The government shall continue to conduct investigations of these agencies frequently, depending on the results of the appraisal, the purpose of which is to force employment agencies of poor quality to exit the brokerage market. Statistics show that a total of 368 employment brokerage agencies received the "C" grade between 2007 and 2011.

103. To prevent incidents of sexual assault or harassment on foreign workers, the Council of Labor Affairs issued the "Strengthening of foreign workers sexual assault reporting mechanism and principles of coordination of responsibilities among government agencies" on August 30, 2004 (subsequently amended on October 15, 2009). Sexual Assault Prevention Centers of local governments, competent authorities in charge of labor affairs and Foreign Workers Consultation Service Centers are given separate responsibilities to provide emergency assistance and relevant follow-up services to the victims. In addition, local governments in charge of labor affairs are responsible for handling labor-management disputes and change of employers arising from the recruitment and employment of foreign workers in accordance with the Employment Services Act and relevant labor laws and regulations. Employers that have been determined to have violated the Act of Gender Equality in Employment by their local governments' Gender Equality in Employment Committees shall have their recruitment and employment permits revoked in full or in part in accordance with the provisions of the Employment Services Act.

104. To prevent foreign workers from being sent back to their home countries by employers without justification, the Council of Labor Affairs instituted the Verification Procedure for the Termination of Employment Relationship in November 2006, which requires employers and foreign workers to verify the termination of their employment relationship at their local government before they are allowed to terminate the employment contract prematurely. The purpose is to find out the employers' true intention in terminating the employees as the law prohibits them to do so without adequate explanation. To address the issue that a foreign worker's employment is terminated unilaterally and he or she is forced to leave the country by the employer, or requires to be protected and placed in a shelter due to physical abuse or assault, disputes regarding the interpretation of the law, illegal employment or attempt by the employer to force the worker back to his or her own country in violation of the employment contract, the Council of Labor Affairs has established the "Temporary Accommodation Arrangement Guidelines for Foreign Workers Engaging in Employment Specified in Item 8 through Item 11, Paragraph 1, Article 46 of the Employment Services Act," and local governments are charged with the responsibilities of determining the need for foreign workers' placement in shelters according to their authorities.

## **Issues Relating to the Rights of International Migrant Workers and Their Outlook**

105. With respect to the import of foreign labor, Taiwan has adopted the principle of complementarity and limited quantity in specific businesses. In order to maintain the stability of employment and protect the rights of foreign workers, Article 59 of the Employment Services Act stipulates that employed foreign workers may change their employers due to circumstances that are not attributable to the workers if they have received prior approval from the Council of Labor Affairs. To protect the rights of foreign workers who are unable to change employers, the Council of Labor Affairs plans to allow foreign workers to do so in order to meet the needs of both employers and employees, under the principles that the rights of both the employers and employees are given equal consideration, the total number of permitted foreign workers is not increased, the provisions outlined in Article 14 of the Labor Standards Act regarding the causes that give foreign workers the right to terminate their employment contract unilaterally without notice, and the intended purposes of Article 59 of the Employment Services Act are observed, provided that the termination is approved by the local competent authorities in charge of labor.

106. Pursuant to the provisions of Paragraph 8, Article 57 of the Employment Services Act, employers are expressly prohibited from illegally withholding the passports of foreign workers and their residence certificates or embezzling their belongings. Employers who have received approval from their foreign workers to keep their travel and identification documents as well as belongings are not in violation of the law mentioned in the preceding paragraph. As foreign workers and their employers are generally unequal in terms of rights and social positions, the Council of Labor Affairs intends to eliminate the possibility that foreign workers are signing the agreement to allow, under involuntary circumstances, their employers or private employment agencies to keep their passports by introducing amendments to existing regulations, which will prohibit employers or private employment agencies to withhold their passports, residence certificates or property, so that the rights of foreign workers to control their own property can be protected.

107. To help reduce foreign workers' high brokerage fees, which are charged by the employment agencies in their home countries, the Council of Labor Affairs established the Direct Hiring Service Center in December 31, 2007, which provides prospective employers with

another avenue for recruiting the same foreign workers apart from employment brokerage firms. As this approach eliminates the need for brokerage services, foreign workers pay less fees to employment agencies with in Taiwan or in their home countries, and the schedule for their reentrance into Taiwan can be shortened and the corresponding procedure can be simplified. In order to continue to expand the scope of direct hiring services, the Council of Labor Affairs completed the implementation of the "Direct Hiring Transnational Job Selection Management Services Network System" in 2011, and starting in 2012, integration with the labor information databases of foreign countries will be gradually implemented following the completion of administrative support measures for each of the home countries of foreign workers in Taiwan. This will enable prospective employers to search for workers online in the future, and they will also be able to recruit the labor that they require, whether or not the workers are under initial or renewed recruitment, and the employers will be able to complete the employment process through direct hiring.

## **Article 8**

### **Right to join labor unions**

108. The Council of Labor Affairs completed the amendments to the Collective Agreement Act, Act for Settlement of Labor-Management Disputes and Labor Union Act between 2008 and 2010, all of which officially went into effect on May 1, 2011. The amended Labor Union Act has lifted the excessive restrictions previously imposed on the organization of labor unions and the scope of associations. The Act for Settlement of Labor-Management Disputes contains a dedicated chapter on industrial actions, and the Collective Agreement Act stipulates negotiations on a good faith basis, which requires that both the labor and the management shall proceed in good faith when bargaining for a collective agreement.

109. The number of labor unions increased from 4,574 at the end of 2007 to 5,042 by the end of 2011, an increase of 468 or 10.23%. The number of collective agreements decreased from 71 to 59, or 16.90%.

110. The Labor Union Act clearly defines the manner of unfair labor practices and a mechanism for handling unfair labor practices—the Arbitration Committee for Unfair Labor Practices—has been created in the amended Act for Settlement of Labor-Management Disputes. The purpose is to restore the interests of employees whose rights have been violated through a professional, impartial, and prompt process. To deter employers from conducting unfair labor practices, the amended Act for Settlement of Labor-Management Disputes also stipulates that employees shall be penalized if they are determined to have committed unfair labor practices. In addition, these employers may also be ordered to take specific actions or prohibited from taking specific actions by administrative remedies, and if employers fail to comply with these administrative remedies they will be penalized again. The purpose is to ensure that the Collective Labor Relations Laws are properly enforced. As the handling mechanism for unfair labor practices was introduced in the new Act for Settlement of Labor-Management Disputes, no prior statistics are available on the number of instances of unfair labor practices. For the past five years, however, there have been a total of 49 cases of labor-management disputes with labor unions being the principal complainants.

111. Article 4 of the Labor Union Act states that all workers shall have the right to organize and join labor unions. However, each labor union shall have at least 30 members. Active military personnel and employees in the munitions industry that is affiliated with and supervised by the Ministry of National Defense may not organize labor unions. However, employees of munitions industry in the private sector are not subject to these restrictions. Teachers may also organize and join labor unions in accordance with the Labor Union Act. Teachers may organize and join industrial unions and craft unions, although currently they may not organize enterprise labor unions.

112. As of 2011, a total of 17 teachers' unions and 12 education unions have been established in special municipalities, counties and cities around the country. The National Federation of Teachers Union was also established on July 11, 2011. As teachers have just been incorporated into the scope of application of the newly amended Three Labor Laws, no data or cases on the exercising of collective bargaining rights by teachers are currently available. The membership of the National Federation of Teachers Union currently stands at just over 100,000.

113. Taiwan's labor unions may enter into alliances themselves, and they may also become members of international trade union organizations. Refer to Table 26 below for a list of international labor organizations participated by Taiwanese labor unions.

**Table 26 Participation of Taiwan's labor unions in global federations of labor unions**

Name of international trade (labor) union organization	Currently participation by labor unions in Taiwan
International Trade Union Confederation (ITUC)	Chinese Federation of Labour
Education International (EI)	National Teachers' Association, R.O.C.
International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM)	Taiwan Petroleum Workers' Union Taiwan Power Labor Union
Building and Wood Worker' International (BWI)	National Federation of Chinese Construction Workers Union Nation Federation of Formwork Workers, R.O.C.
International Federation of Journalists (IFJ)	Association of Taiwan Journalists
International Metalworkers Federation (IMF)	IMF-Republic of China Committee
International Transport Workers' Federation (ITF)	National Chinese Seamen's Union Federation of Taiwan Cargo Handling and Transportation Workers National Federation of Railway Workers' Union, R.O.C. Cathay Pacific Airways Limited (Taiwan) Employees Union China Airlines Employees Union Taipei Travel Labor Union
International Textile, Garment and Leather Workers' Federation (ITGLWF)	Chinese Federation of Labour - Textile Industry Labor Committee
Public Service International (PSI)	Taiwan Power Labor Union
Union Network International (UNI)	Chunghwa Telecom Workers' Union Chunghwa Post Workers' Union National Insurance Workers' Union, R.O.C.

Source: Council of Labor Affairs, Executive Yuan

### **Collective agreement legislation**

114. Between the end of 2006 and late September 2011, the number of collective agreements decreased from 75 to 44, or 41%. The principal purpose of labor unions is to negotiate collective

agreements with employers on behalf of union members and to improve their working conditions. As of the end of September 2011, a total of 44 collective agreement that were in force, including 13 in state-owned enterprises and 31 in private enterprises.

115. The Collective Agreement Act has established the requirement of negotiations on a good faith basis. In other words, both labor and management may not deny negotiations for collective agreements proposed by the other party without justification. If the proposals are declined by a party without reason, that party shall be fined and for more than one occasion if it is found to have conducted unfair labor practices, as determined by the Central Government's unfair labor practice arbitration committee. The government is currently taking concrete measures to foster the development of collective bargaining mechanism in the future.

116. To prevent workers from incurring civil and/or criminal liabilities when exercising their right to dispute, and thus causing them to become apprehensive of going on strike, the amended Act for Settlement of Labor-Management Disputes stipulates that labor unions and their members are exempt from any losses resulting from their actions in undertaking their right to dispute in accordance with the law, and employers are prohibited from seeking damages from the employees. Justifiable industrial actions undertaken by a labor union and its members that are pursuant to the requirements under the Criminal Code and other special criminal statutes are not penalized. However, the aforementioned rule is not applicable when force and threat are used and the life or body of another person is or may be harmed.

### **Right to strike**

117. The amendments to the Three Labor Laws in 2011 provide the following guidelines on exercising the right to strike: (1) Simplifying the procedure for organizing strikes and preventing the strikes from being realized due to procedural obstacles. (2) Establishing the regulation that workers are exempt from criminal and civil liabilities when conducting a legal strike, the purpose of which is to reduce workers' fear of incurring liabilities when going on strike. (3) Apart from the considerations of national security and students' right to receive education, which prohibit agencies and organizations subordinate to the Ministry of National Defense and teachers from going on strike, no other categories of workers are currently prevented from carrying out their right to strike.

**Table 27 Historical strikes with significant impact**

Year	Name of labor union	Cause(s) of strike	Location
1988.02	Taoyuan Bus Company Workers' Union	Disputes regarding bonus and leave regulations	Taoyuan
1989.05	Far Eastern Chemical Fiber Company Workers' Union	Changes in labor union officers and controversy surrounding employer's severance practices	Hsinchu
1995.04	Zheng Da Nylon Co. Worker's Union	Disputes surrounding unreasonable salary arrangements, poor working conditions and dismissal of labor union officers	Taipei
1996.09	Lian Fu Co. Employees Self-Preservation Alliance	Failure of the employer to maintain the company's solvency led to unpaid pensions and severance pay to employees	Taoyuan
2004.01	Hsin-Li Chemical Industrial Corp. Worker's Union	The employer terminated the employment contracts without justification, outsourced operations to external entities, hired fixed-term contract workers, changes workers' salary structure and withheld wages as performance bonuses.	Tainan
2005.08	Chunghwa Telecom Workers' Union	Protests against privatization of their state-own enterprise	Taipei
2008.07	Bao Shun Can Manufacturing Co. Workers' Union	The employer planned to relocate the company's production lines to other countries and as a result needed to lay off a large number of employees	Hsinchu
2011.10	Auto21 Workers' Union	The company owed employees back wages in the amount of NT\$200 million	Taipei

Source: Council of Labor Affairs, Executive Yuan

### **Protection of unions in exercising the right to go on strike**

118. Rules and restrictions on labor unions' exercising of the right to strike: Article 54 of the Act for Settlement of Labor-Management Disputes states that a labor union shall not call a strike and set up a picketing line unless the strike has been approved by no less than one half of the members in total via direct and secret balloting. The interpretation of this argument implies that a labor union essentially has the right to strike. In consideration of public interest, exceptions to the regulations apply to the following categories of workers and special circumstances:

(1) With respect to the prohibition of teachers and employees of the Ministry of National Defense and its subordinate agencies or institutions from undertaking a strike, Article 25 of the Act for Settlement of Labor-Management Disputes has established a mechanism to address the interest disputes of workers and labor unions in these labor categories with the employers. The Article states that if any party to the disputes applies to the competent authority of the local special municipality, county or city for arbitration, the competent authority shall conduct compulsory arbitration in accordance with the law and shall not be restricted by the requirement that both labor and management shall agree to the arbitration. The purpose is to seek rapid solutions to the dispute and to reduce the damages to employees who may otherwise be deprived of their right to strike.

(2) In order to prevent the exercising of the right to strike by workers from causing a significant impact on public lives, national security or essential public interests, the Act for Settlement of Labor-Management Disputes states that labor unions of the following categories of businesses may call a strike only when the labor union and its counterpart have reached a minimal service clause: water supply businesses, power and fuel supply businesses, hospitals, and financial information service businesses engaging in the transfer or settlement of funds between banks, businesses dealing with securities or futures trading, settlement and custody, and other businesses handling payment systems. If the labor and management are unable to reach a mutual agreement, any party to an interest dispute may apply to the central competent authority for arbitration in order to obtain administrative remedies, as outlined in Article 25 of the Act for Settlement of Labor-Management Disputes.

(3) Type I telecommunication businesses, which possess basic communications infrastructures, must maintain basic voice telecommunication services due to their attribute as public utilities in order that communications regarding the country's security and defense, people's lives and social order can continue to be supported. Therefore, a labor union may not call a strike for Type I telecommunication businesses which provide fixed or mobile telecommunication service, unless that the basic voice telecommunication service can be maintained without interruption.

## Article 9

### Social security system

119. The Constitution stipulates that the State shall establish a system of social insurance and public assistance to promote the social welfare of its citizens. The social welfare policy guidelines amended in 2004 has reestablished the basic principles for social welfare policy planning, including the following 6 major categories: social insurance and subsidies, public assistance, welfare services, employment security, social housing, community building, and health and medical care.

120. Refer to Table 28 to Table 30 for social welfare budgets and legal obligation expenditures of the Central Government and the Ministry of the Interior over the past 5 years. It can be deduced from the following tables that the social welfare budgets of both the Central Government and the Ministry of the Interior are on an upward trend. In addition, the social welfare budget as a percentage of the General Budget of the Central Government has risen from 17.43% in 2008 to 21% in 2012.

**Table 28 Social welfare budget of the Central Government, 2008-2012**

Unit: NT\$1000; %

Year \ Item	Central Government General Budget	Social welfare budget	Social welfare budget as a percentage of Central Government General Budget (%)
2008	1,711,717,426	298,289,475	17.43
2009	1,809,667,004	324,786,004	17.95
2010	1,714,937,403	325,128,001	18.96
2011	1,788,411,931	350,648,559	19.61
2012	1,938,839,047	422,205,160	21.78

Source: Department of Social Affairs, Ministry of the Interior

Description: Both 2008 and 2011 figures include supplementary budgets.

**Table 29 Various social welfare budgets of the Ministry of the Interior, 2008-2012**

Unit: NT\$1000

Year \ Item	Total	Social insurance	Public assistance	Welfare services
2008	72,086,214	59,913,087	2,247,799	9,925,328
2009	92,441,888	61,975,792	1,726,130	28,739,966
2010	72,968,449	60,354,806	1,458,866	11,154,777
2011	78,180,345	64,141,688	1,454,895	12,583,762
2012	102,363,853	83,117,319	1,793,676	17,452,858

Source: Department of Social Affairs, Ministry of the Interior

Description: Both 2008 and 2011 figures include supplementary budgets.

**Table 30 Social welfare budgets and legal obligation expenditures of the Ministry of the Interior, 2008-2012**

Unit: NT\$1000; %

Year \ Item	Social welfare budget	Legal obligation expenditure	Legal obligation expenditure as a percentage of social welfare budget (%)
2008	72,086,214	64,260,848	89.14
2009	92,441,888	67,371,434	72.88
2010	72,968,449	65,482,276	89.74
2011	78,180,345	71,675,960	91.68
2012	102,363,853	95,720,509	93.51

Source: Department of Social Affairs and Child Welfare Bureau, Ministry of the Interior

Description: 1. Both 2008 and 2011 figures include supplementary budgets.

2. Items for legal obligation expenditures include the following: (1) Premiums for farmers' participation in the farmer's health insurance coverage; (2) Compensation for losses in the farmer's insurance program; (3) Premiums for farmers' participation in the National Health Insurance program; (4) Compensation for deficiency in farmers' health insurance premiums; (5) Subsidies on National Health Insurance premiums for low income families; (6) Subsidies on National Health Insurance premiums for individuals with moderate to severe disabilities; (7) Subsidies for National Health Insurance premiums for senior citizens over the age of 70 in low income/middle households; (8) Guaranteed pension payments to the elderly and individuals with disabilities (which took effect in 2008); (9) Providing funding to local governments on

family assistance under special circumstances (which took effect in 2010); (10)Funding for supporting the amendment to the Public Assistance Act (which took effect in 2011); (11)Providing personal care and family support services to individuals with disabilities (which became effective in 2012); (12)Providing funding to the portion of the National Pension that is the responsibility of the Central Government (which took effect in 2012); (13) Medical subsidies to children and juveniles; (14)Funding for the nursery education voucher program; (15)Funding for educational subsidies for young children to low/middle income households; (16) education subsidies for aboriginal young children; (17) education support for 5-year-old children; (18)home child care management and cost subsidies;(19) free tuition education support for 5-year-old children (starting in August 2011).

121. To respond to major changes that its people suffer, such as disease, aging, disability, unemployment, occupational accidents, death, and others, the social security system of the Republic of China features primarily social insurance, public assistance, and welfare services, etc. At present, besides national health insurance, our social insurance system is divided by the occupation. Insurance for different occupations is governed by different competent authorities. Public assistance, on the other hand, is meant to protect the security of people's economic life through insurance reimbursements or related living support, among other measures.

### **Health insurance**

122. The national health insurance is mandatory social insurance. Its main purpose is to have everyone enrolled in the program so that they can receive equal medical services and to boost national health. Starting in March 1995, the coverage rate of the national health insurance already reached 99.51% of the total population eligible for enrollment in 2011. The premium needed for the insurance is shared among the insured, the employer, and the government. The government started to subsidize national health insurance cost for the disadvantaged people in 2011. A total of 3.07 million people have received the subsidies that have amounted to around NT\$22.6 billion.

### **National Pension Insurance**

123. The national pension system was enforced in 2008. It is a form of social insurance. The reimbursements are paid by the pension fund. Nationals aged 25 and above but younger than 65 who do not have military, civil servant and teacher, labor, or farmer's insurance are enrolled in

the social security network so that the insured and their families are entitled to adequate and basic economic insurance protection for use upon reaching old age, giving birth to a child, or suffering physical and/or mental disabilities, or even dying.

124. Because people insured under the national pension insurance program are mostly unemployed and/or financially disadvantaged (low income), the National Pension Act adopts a soft compulsory enrollment approach for those who have not paid the premium. Non-payment of the premium does not subject this group to any penalty, and will not refer them for compulsory enforcement. As of the end of December 2011, there were a total of 3,783,731 people covered by the insurance. As of January 10, 2012, the premium due from the insured was over NT\$93,127.37 million and the actual collected premium was NT\$53,640.17 million. The premium payment rate was 57.66%. By the end of December 20, 2011, the expected number of indigenous people to pay the national pension insurance premium was over 113 thousand. The number of those having made their payments was over 29 thousand. The payment rate was 25.97%. Because there is no referral for compulsory enforcement or fine for those who do not pay the national pension insurance premium, Article 17 of the National Pension Act stipulates that the insured person shall pay for their past due premium as long as it is not over the 10-year timeframe and if they do not pay the premium and interest within the said timeframe, the years will not be included as their insured years. In addition, before the insured pays off his or her insurance premium and interest, the insurer shall suspend benefits for the insured. The insured shares 60% of the premium, with the remaining 40% to be sponsored by the government. For disadvantaged populations, the government increases the sponsored portion to 55%, 70%, or 100%.

### **Insured by the occupation**

125. The Farmer Health Insurance Act was established and enforced in 1989. Farmers who are enrolled in the farmer health insurance are entitled to childbirth, disability, and funeral reimbursements in cash. In addition, there is the retirement annuity fund.

126. The Labor Insurance Act was enforced in 1958 to protect the work and life of workers and ensure secured income upon accidents. According to applicable regulations, the employer should have related workers included as the insured in the policy and the premium is to be shared

among the worker, the employer, and the government. Directorate General of Budget, Accounting and Statistics (DGBAS) show that there were 10,709,000 people employed in 2011 and the number of people covered by labor insurance reached over 9.72 million by the end of 2011. The Act stipulates that when the number of workers for the same employer is five and above, labor insurance is mandatory. On the other hand, when the number of workers for the same employer is four and fewer, enrollment in the labor insurance is voluntary. In the event that workers fall victim to occupational accidents while they are not covered by the labor insurance, they shall apply for allowances and reimbursements in accordance with the Act for Protecting Worker of Occupational Accidents. To provide workers with equal protection, however, insurance for employers with less than four workers should be included in the legislation as soon as possible.

127. Coverage of the labor insurance includes general accidents and occupational accidents. There are five types of general accidents covered in the insurance, namely childbirth, injuries and diseases, disability, old age, and death. There are four types of occupational accidents covered in the insurance, namely injuries and diseases, medical care, disability, and death.

128. In light of the fact that Taiwan has an aging population and a very low birth rate, old age, disability, and survivor annuity systems were incorporated into the labor insurance on January 01, 2009 to provide workers and their families with long-term protection of their economic well-being and prevent decreases in living standards as a result of improper labor investment and inflation.

129. For disabled workers who are incapable of working for the rest of their lives, the insufficient life protection as a result of the shortened insured years should be proactively reflected upon and adjusted to meet the basic survival needs of the said workers. (For those who have insured years for both the national pension insurance and the labor insurance, the reimbursements shall be issued together after they are calculated separately according to respective insurance requirements.)

130. In addition, to verify the actual annuity purchasing power, the Labor Insurance Act stipulates that the amount of pension for this insurance will be adjusted according to the accumulated growth rate of Consumer Price Index published by the Budget, Accounting and

Statistics institutions in the central government if the accumulated rate reaches -5%. To ensure the basic economic life of workers with lower insured wages and shorter insured years, the minimum benefits under the old age annuity and survivor annuity changed from NT\$3,000 to NT\$3,500 and those under the disability annuity changed from NT\$4,000 to NT\$4,700 on January 01, 2012. A mechanism for adjusting the price index every four years is also in place.

131. For the insufficient protection for workers suffering from occupational accidents, it is found that the current labor insurance is comprehensive insurance in nature. Besides the condition where old age (retirement) benefits in social insurance have been applied for, the employer is unable to have its employees covered by separate occupational accident insurance. For workers who are not covered by labor insurance, there are related allowances and reimbursements in accordance with the Act for Protecting Worker of Occupational Accidents in cases of occupational accidents. In order to establish a complete occupational accident protective system, the separation of occupational accident insurance as an independent act has been included as part of the mid-term to long-term policy objectives to better protect workers suffering from occupational accidents.

132. Employment insurance was initiated in 2003. All employees are covered by the insurance according to law. The insurance offers unemployment benefits, vocational training living allowance, early employment incentives, child care allowance while positions are retained without pay, and National Health Insurance premium subsidies for the unemployed and his or her families. As of the end of 2011, there were 6.11 million people covered by the employment insurance. There are, however, still some workers without steady employers who are not covered by employment insurance as required, resulting in the situation where they are unable to benefit from the insurance when they are unemployed. The government should reflect upon the issue and seek improvements.

133. The protection over workers suffering from occupational accidents in the Republic of China is still insufficient. For workers not covered by labor insurance who suffer from occupational accidents, despite the applicability of the Act for Protecting Worker of Occupational Accidents, there is the disability (disability level) restriction. The time to release of the benefits is shorter than those covered by labor insurance. The disability annuity under the

labor insurance is payable by the insured salary and seniority at work. In addition, there is no partially payable disability annuity. In other words, the annuity reimbursement that workers suffering from occupational accidents with shorter seniority get cannot meet their needs in life. It is advised to reflect upon the needs of workers suffering from occupational accidents and their insurance and financial status to adjust existing applicable requirements.

134. The public service pension system was established in 1943 with the Civil Service Retirement Act as the statutory basis. As of July 01, 1995, the new system became effective, from a totally government-financed system to a “Contributory Pension Fund” that is supported by funds jointly contributed by the government and civil servants to pay for the pension payments.

135. The Civil Servant and Teacher Insurance Act was promulgated in 1958. The Act is applicable to appointed full-time personnel with pay in the system of legal agencies, appointed full-time teachers with pay in the system of public schools, and appointed full-time teachers and staffs with pay in the system of private schools established in accordance to the Private School Act and registered as consortium legal person while approved by competent authority of education. The Act shall also apply, mutatis mutandis, to the public servants with pay at legal agencies. There were a total of 593,949 people covered by the insurance as of December 2011.

136. For the care of retirees and survivors of civil servants who died as a result of performing official duties, the mechanisms for applying for survivor annuity and compensation payment is regulated in Article 18 of the Civil Service Retirement Act and Article 4 of the Civil Service Survivor Relief Act, respectively. Families of armed forces to be taken care of include the families in Taiwan, injured and disabled soldiers and officers of the armed forces, and their dependents who lost their support.

### **Public assistance, allowance, and subsidies**

137. Public assistance is provided on the basis of the Public Assistance Act. To maximize the care for disadvantaged people, the Public Assistance Act amended in 2010 adjusted the minimum living expense criteria, relaxed the review threshold for low income families, legitimized the eligibility of low/middle income households, reinforced employment counseling, and encouraged social participation, among other measures, to help the disadvantaged people

enhance their competitiveness and rid poverty.

138. The minimum living expense criteria announced in different areas of the Republic of China are shown in Table 31.

**Table 31 The 2011 minimum living expense criteria announced in different areas of the Republic of China**

Minimum living expenses announced in different areas		Family property limit	
Region	Minimum living expense	Personal property (savings + investment)	Real property (land + house)
Taiwan Province	NT\$10,244	Not to exceed NT\$ 75,000 per person per year	Not to exceed NT\$ 3,000,000 per household
Taipei City	NT\$14,794	Not to exceed NT\$ 150,000 per	Not to exceed NT\$ 5,500,000
Kaohsiung City	NT\$11,146	Not to exceed NT\$ 300,000 per household (of no more than four people) per year. For each additional person, additional NT\$ 75,000 is allowed.	Not to exceed NT\$ 3,000,000 per household
New Taipei City	NT\$11,832	Not to exceed NT\$ 75,000 per person per year	Not to exceed NT\$ 3,250,000 per household
Taichung City	NT\$10,303	Not to exceed NT\$ 75,000 per person per year	Not to exceed NT\$ 3,000,000 per household
Tainan City	NT\$10,244	Not to exceed NT\$ 75,000 per person per year	Not to exceed NT\$ 3,000,000 per household
Kinmen County, Lienchiang County	NT\$8,798	Not to exceed NT\$ 400,000 per household (of no more than four people) per year. For each additional person, additional NT\$ 100,000 is allowed.	Not to exceed NT\$ 2,300,000 per household

Source: Ministry of the Interior and announcements of special municipalities

Description: The data are valid for July 01, 2011 through December 31, 2011.

139. There are multiple allowances available in the Republic of China such as the farmer's allowance, living allowance for seniors, disability living support, emergency living assistance for families under special circumstances, living allowance for children, child care allowance, child educational subsidies, medical subsidies for the injured and the sick, subsidy of litigation, and career development loans, etc. Workers covered by labor insurance who suffer from

occupational accidents can apply for occupational disease living allowance, disability living allowance, vocational training living allowance, caretaker subsidies, instrument grant, reimbursements for families of workers who are dead as a result of occupational accidents, and veteran's care benefits, etc.

140. For children and teenagers, there are the emergency living assistance program, living assistance (for middle-to-low income families), Medical care subsidies for children under the age of three, national health insurance subsidies for children and teenagers in middle-to-low income families, medical care subsidies for medium-to-low income and disadvantaged children and teenagers, early intervention subsidies, etc. In terms of child care and education, there are the child care subsidies for middle-to-low income families, child education subsidies for medium-to-low income families, education subsidies for aboriginal young children, free tuition for five-year-old children, and child care subsidies children aged 0 to 2.

**Table 32 2010 ~ 2011 Statistics of Living Assistance to Children and Juveniles and Medical Care Subsidies**

Unit: Headcount; Person (s); NT\$

Item	Year	2010		2011	
		Headcount	Amount of subsidy (NT\$)	Headcount	Amount of subsidy (NT\$)
Living assistance for low/middle income children and teenagers		1,355,253	2,053,520,000	1,383,337	2,055,760,000
Medical care subsidies for children under the age of three		12,440,841	1,720,430,000	10,900,809	1,591,310,000
National health insurance subsidies for low/middle income children and teenagers		121,660	623,000,000	1,905,865	904,830,000
Medical care subsidies for low income families and disadvantaged children and teenagers		93,444	99,580,000	39,493	577,910,000
Emergency living assistance for disadvantaged children and teenagers		22,804 (people)	354,150,000	16,929 (people)	344,500,000

Source: Child Welfare Bureau, Ministry of the Interior; Bureau of National Health Insurance, Department of Health, Executive Yuan

Description: Statistics for the medical care subsidies for children under the age of three were tallied till November 2011.

**Table 33 2010 ~ 2011 Statistics of Child Care Subsidies**

Unit: Headcount; NT\$

2010						
	Ministry of Education				Ministry of the Interior	
	Headcount			Amount of subsidy	Headcount	Amount of subsidy
	M	F	Subtotal			
Child Care Subsidies for low income families	—	—	—	—	118,332	304,109,985
Child education for low/middle income households	2,463	2,331	4,794	28,761,190	9,597	57,557,656
Education coupon for young children	35,043	30,775	65,818	329,090,000	76,279	381,395,000
Education for young aboriginal children	450	435	885	6,562,500	950	8,360,000
Child support for five-year-old children	50,535	46,758	97,293	1,711,281,952	—	—
Free tuition for five-year-old children	4,075	3,893	7,968	119,998,909	106,201	2,079,893,720
Child care for children aged 0 to 2	—	—	—	—	19,412	386,828,600
2011						
	Ministry of Education				Ministry of the Interior	
	Headcount			Amount of subsidy	Headcount	Amount of subsidy
	M	F	Subtotal			
Child Care Subsidies for low income families	—	—	—	—	150,629	432,614,030
Child education for low/middle income households	2,448	2,323	4,771	28,619,654	11,761	70,537,025
Education coupon for young children	16,631	14,652	31,283	156,415,000	36,350	181,750,000
Education for young aboriginal children	222	189	411	3,010,000	466	4,112,500
Child support for five-year-old children	23,936	22,435	46,371	843,518,281	149,369	2,907,854,809
Free tuition for five-year-old children	55,787	50,842	106,629	1,791,994,626	—	—
Child care for children aged 0 to 2	—	—	—	—	23,648	473,379,100

Source: Ministry of the Interior, Ministry of Education

141. Helpless children: The Ministry of the Interior has established the Regulations for Placement of Helpless Children and Youth stipulating the protection and placement for helpless children and teenagers. For the best interest of children and teenagers who cannot find their parents or relatives, children and juveniles welfare organizations are authorized to find appropriate adopters. For children and teenagers who cannot be adopted, assistance should be provided to place the helpless children and teenagers at foster families, children and juveniles welfare organizations or other placement agencies.

142. Employment insurance: In 2009, the Employment Insurance Act was amended to include child care leave with positions retained without pay in the coverage of the insurance to reimburse the lost salaries of those who must go on child care leave and secure their employment. As of the end of December 2011, a total of over 101 thousand people benefited from the insurance. Over 509 thousand applications were approved, bringing the total value of the reimbursements to more than 8.41 billion.

143. The Civil Service Retirement System has had the annuity system in place since 1943. Payment from the existing civil servant pension can be over 75% of the pay of an equivalent-ranking incumbent civil servant (the monthly retirement pay for retired civil servants shall also be adjusted according to the pay adjustment of incumbent civil servants).

144. Compensation for civil servants: For civil servants who died after having been employed more than 15 years, their survivor can apply for lump-sum compensation payment and annual compensation. The annual compensation shall be given from 10 to 20 years based on the cause of the death of civil servants. Survivors after expiry of the time stipulated for continuance in force of the annual compensation may extend the year limits. For survivors who are childless widows (or widowers), may receive lifetime annual compensation. Surviving dependent children who are still under the legal age may continue to receive the same compensation benefit through to their majority; such children who may have already reached majority, but who are then still enrolled in school, the benefit continuity shall expire upon their obtaining the bachelor's degree. For those who died after having been employed less than 10 years, an additional lump-sum compensation payment shall be provided according to the difference between the actual years employed and 10 years.

145. The payment system for the retirement and termination of service of military personnel in the Republic of China was established in 1959. The maximum pay for the retirement and termination of service can be over 75% of the salary of an equivalent-ranking military person (the retirement payment for retired military staff shall also be adjusted according to the salary of existing military staff).

146. The Indemnity Act for Military Personnel stipulates that casualty compensation can be applied for active duty officers, sergeants, and soldiers who are injured or dead. Death and injury

include dying (injured or disabled) in battle, dying (injured or disabled) while on duty, dying (injured or disabled) due to sickness or accidents. When the basic salary does not reach the standard of the Second Grade Sergeant in volunteered service, the computation should be based on the standard of the Second Grade Sergeant. In the case of those who died while on duty, the minimum bereavement and the standard lump sum bereavement pay of NT\$836,063 and the annual bereavement pay of NT\$191,100 (an average of NT\$15,925 per month), totaling NT\$1,027,163, are available to support the basic living of the surviving families and injured or disabled officers and soldiers.

147. There are statutory adjustment mechanisms in place for the labor insurance, national pension insurance, civil service insurance and retirement, military insurance and retirement, and veteran's home care.

148. There were originally no statutory adjustment mechanisms available for low/middle income old age allowance and living support for the disabled. After amendments on December 27, 2011, and December 26, 2011, respectively, it is added that the adjustment will be made once every four years by the central competent authority after referring to the growth rate of the consumer price index announced by the Directorate-General of Budget, Accounting, and Statistics for the past year from that announced in the previous year.

149. Employment insurance: According to Articles 16 and 19 of the Employment Insurance Act, the current unemployment benefits shall be 60% of an applicant's average insured monthly salary in the six-month period right before employment separation and withdrawal from this insurance program. In addition, according to Article 19-1 of the Employment Insurance Act, in the event that the unemployed has spouses without income, minor children, or disabled children to support, the reimbursement or allowance shall be increased to up to 80% of the average insured monthly salary while he or she is on unemployment or vocational training living allowance.

150. Occupational accident insurance: Upon occupational accidents, workers covered by the labor insurance can apply for medical care, injury or disease, disability, or death reimbursements. The medical care reimbursement is paid in kind based on the actual medical demand. The injury and disease reimbursements are the compensation for lost salary or bereavement. The value for

the first year is 70% of the insured salary and that for the second year is 50% of the insured salary.

151. Disability and survivor annuity: The annuity system of labor insurance was just enforced in 2009. The Welfare for the Disabled depend on the degree of disability. When the worker can no longer work throughout his or her life, he or she is entitled to disability annuity benefits. The annuity benefit is calculated by the insured years  $\times$  insured monthly average salary  $\times$  1.55%. The minimum payment is NT\$4,000. In addition, for those meeting the requirements for dependent subsidies, an additional 50% at maximum can be issued. For those who do not lose their working ability permanently, it is paid by the standards for general accidents in a lump sum with additional 50%. When the insured dies in an occupational accident, besides the bereavement allowance for five months, the surviving families shall apply for the survivor annuity with additional lump sum of death compensation for ten months. In addition, for surviving families meeting the requirement for additional pay, up to 50% can be issued.

152. Grand Justice Interpretation No. 472, made in January 1999 by the Judicial Yuan, holds that the mandatory enrollment, payment of premium, and collection of delinquency fees of the national health insurance are not unconstitutional. Nevertheless, adequate assistance should be provided to those incapable of paying the premium and it is disallowed to discontinue the benefits directly in order to honor the purpose of the national health insurance to protect the old, the weak, the disabled, and the incapable as indicated in the Constitution. The secure medical care solution for disadvantaged people was enforced in October 2010. Although cards of those who are delinquent in paying the premium and are not financially disadvantaged continue to be blocked, for those who are financially disadvantaged, the delinquency in paying the premium and medical care are unpegged and the cards are unblocked. The government also periodically checks the list of delinquent payers whose cards are blocked or accepts case reports. As soon as it is determined that a certain card holder is financially disadvantaged, the card will be spontaneously unblocked. Nevertheless, for mishaps that occurred before the separation of premium payment and right to medical care was thoroughly enforced, such as workers unable to seek medical treatment upon occupational accidents because of blocked cards and lack of labor insurance and a case in 2011 in which a poor woman on relief, whose insurance cards were

blocked for outstanding premium, dared not go to a hospital for treatment and died as a result, the government should proactively discuss every possible measure — abolishment of the national health insurance card block system, for example — to facilitate equal and complete protection over people's right to health and right of life.

153. Statistics from the Bureau of National Health Insurance, Department of Health show that around 756,000 people owed the premium as of December 2011. For disadvantaged people among those mentioned in the foregoing, around 559 thousand people already received the medical care protection assistance under the national health insurance, including those who had applied for paying installments of outstanding premium, met the criteria for financial difficulty, or received premium sponsorship, disadvantaged children and teenagers under the age of 18, near poverty households, and families with special circumstances. There were 197 thousand people whose cards were blocked for failure to pay the premium as of December 2011.

154. Protection for workers suffering from occupational accidents: The Act for Protecting Worker of Occupational Accidents was enforced in 2002. When workers not covered by labor insurance are dead because of occupational accidents or suffer from moderate to severe disability, death and disability compensation can be applied for with the minimum insured salary in accordance with the criteria established in the Labor Insurance Act if the employer fails to provide compensation according to the Labor Standards Act. In addition, as long as requirements are met, various living allowances and subsidies can also be applied for, such as the occupational disease allowance, disability allowance, vocational training living allowance, caretaker subsidies, instrument grant, and reimbursements for families of workers who are dead as a result of occupational accidents. The funding sources for the aforementioned allowances are the budget appropriated by central competent authorities to secure the life of workers suffering from occupational accidents and their families.

155. Commercial insurance: In order to provide the people with adequate personal insurance protection and to respond to the aging social developments and the declining birth rate in Taiwan, the Financial Supervisory Commission hopes to help establish a social safety net through commercial insurance. Besides encouraging the insurance industry to design diversified products for the people, it proactively promotes the protective insurance products, micro-insurance

products, annuity insurance products, long-term care insurance products, etc. From November 2009, when micro-insurance first became available, to December 2011, the accumulated number of the insured people exceeded 34,000. There were 1,045,000 and 352,000 in-force contracts, respectively, on annuity and long-term care insurance products as of June 2011 and the numbers have been on steady growth for the past three years.

156. For financially disadvantaged people, the government provides various subsidies or allowances in accordance with applicable laws and regulations, such as the Public Assistance Act so that they will not fall into desperate financial straits or lead a deprived life. For disadvantaged people who are in the regulatory gray area, however, the government must combine grassroots resources to adequately expand the protection service network so that people who are unable to pass applicable regulatory eligibility review can still get proper assistance. Currently there are 21 nationwide foundations including Tzu Chi and Fa Gu Shan to help the government with various emergency aid services, including care visits, emotional support, placement services, and emergency aid to maximize the scope of government services.

157. There is no differential treatment between men and women in the Republic of China. The age requirement for the application for lump sum retirement benefits, however, was set to be 55 years old for women and 60 years old for men who were enrolled in the labor insurance prior to January 01, 2009.

158. National health insurance and labor insurance in the Republic of China include workers of non-formal economic departments under the enrollment system of professional labor unions and the national pension system. Nevertheless, there are workers without protection of social insurance and hence in need of social welfare and public assistance.

159. Aliens holding the Residence Certificate should be enrolled in the national health insurance after they have stayed in Taiwan for four months. Employees, however, should be covered by the national health insurance since the date they are legally hired. In 2011, there were 480,077 aliens (including foreign spouses) covered by the insurance. Among them, 406,469 people were insured as employees.

160. The numbers of non-nationals and people without a nationality who had stayed in Taiwan for over six months between 2007 and 2011 (excluding mainland Chinese and residents

of Hong Kong and Macau, people without a nationality, which account for 0.03%) were 433,169 (foreign workers: 74.29%; people without a nationality: 0.02%), 417,385 (foreign workers: 75.75%; people without a nationality: 0.02%), 403,700 (foreign workers: 75.90%; people without a nationality: 0.09%), 418,802 (foreign workers: 77.74%; people without a nationality: 0.05%), and 466,206 (foreign workers: 78.86%; people without a nationality: 0.04%), respectively.

161. The Foreign Spouse Assistance Fund was established in 2005. Each year NT\$300 million is raised over a period of ten years for a total of NT\$3 billion. The Fund includes personal safety protection for spouses, related welfare and support for foreign spouses suffering from special circumstances before household registration, public assistance for foreign spouses before household registration, health insurance for financially difficult foreign spouses before household registration, and related legal consultation and assistance service programs to help take care of the life of foreign spouses in Taiwan. The Bureau of National Health Insurance (under the Department of Health) began applying for utilization of the Fund in 2009 to help pay for the national health insurance premium of financially disadvantaged foreign spouses (including those from Mainland China, Hong Kong, and Macau) before household registration. A total of 2,536 people benefited from the Fund in 2011. The amount of sponsorship funds amounted to NT\$7,374,754. To protect the life of foreign spouses in Taiwan, the Ministry of the Interior promoted care and counseling measures for foreign and mainland spouses in 2003. The measures encompass eight major action items, namely adaptation to new life, medical care and eugenics, protection over employment rights, enhanced education and culture, child care assistance, personal safety protection, improvement of regulatory system, and promotion of public awareness. A total of 33 family service centers for foreign spouses were established in 2011 with as many as 83 social workers (six were contract manpower of county governments and 77 were temporary manpower). The budget invested in care visits, case management, integration and combination of community service sites, and establishment of resources support networks, among other services amounted to NT\$68,486,415.

162. When foreign workers fall victim to personal assault criminal cases or cannot work because of occupational accidents, injuries, or diseases, they are entitled to subsidies and

emergency fund for up to NT\$10,000. For special conditions, once approved as a special case, up to NT\$100,000 of subsidies is available.

163. Existing Employment Services Act stipulates that without the employer submitting an application and obtaining the approval, non-nationals shall not work in the Republic of China. However, in light of the fact that foreign workers introduced legally are often missing for certain reasons so that they are unable to be enrolled in insurance in accordance with applicable regulations of the Labor Insurance Act despite the fact that they are actually working, the CLA has submitted the Draft Amendment of the Act for Protecting Workers of Occupational Accidents to the Legislative Yuan for deliberations. The draft amendment adds the regulation that aliens who enter the Republic of China for work in accordance with the Employment Services Act but are unable to show the Work Permit for other reasons shall be entitled to disability, death compensation, and various other allowances and subsidies upon occupational accidents.

164. To reinforce the protection of the Republic of China for refugees, asylum seekers, and their families, the draft Refugee Law and the draft amendment of Article 17 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area have been proposed. They are currently under deliberations by the Legislative Yuan. With regard to mainland Chinese seeking asylum in the Republic of China, in consideration for human rights, the current practice is that the government will handle it as a special case by issuing the entry permit and help the person go to a third country. Starting from 2010, the Ministry of the Interior has been in charge of assigning necessary budget and giving each person NT\$20,000 per month as the living and placement support to help the person with life and related needs while he or she stays in Taiwan.

165. There are approximately 120,000 Tibetans in exile. Most of them live in the Tibetan settlements of India and Nepal while some have come to Taiwan. Besides the Government of Republic of China had issued Resident Permits to the 140 Tibetans, who had overstayed in Taiwan, under special case in 2001, there were also over a hundred of Tibetans who overstayed in Taiwan due to lack of valid permit and identity certificate for the past seven years since the enforcement of the Immigration Act. Taking into consideration of human rights, the government

had amended, and promulgated Article 16 of the Immigration Act in 2009, relating to the criteria for overstayed Tibetans to apply for the Resident Permit in Taiwan. According to legal procedures, identity verification process for 134 Tibetans had been completed. Finally, 87 Tibetans were given Resident, and Work Permits while the other 47 people did not meet the required criteria for Resident Permit and were repatriated by the National Immigration Agency of the Ministry of the Interior. However, in order to help Tibetans who had just received their Resident Permit to adapt themselves to the local environment, the government has provided medical emergency relief, vocational training, language classes, various livelihood care, counseling measures and also acts as employment matchmaker. In collaboration with Mongolian and Tibetan Foundation's Care projects for Tibetans in Taiwan, the Commission renders additional services to Tibetans depending on their cultural backgrounds, difficulties, and personal needs. Moreover, it has also provided 120 poor and sick Tibetans emergency assistance, and their children education grants respectively from 2009 to 2011.

## **Article 10**

### **Protection for Women, Children, and Families**

#### **Autonomy over marriage**

166. Articles 972 and 982 of the Civil Code stipulate that an agreement to marry shall be made by the male and the female parties in their own concord and shall be effected in writing, which requires the signatures of at least two witnesses, and by the registration at the Household Administration Office. Paragraph 1, Article 33 of the Household Registration Act stipulates that registration of marriage must be done with both parties concerned being the applicants. Therefore, the parties concerned register their marriage at the Household Registration Office out of their free will. In addition, when nationals marry people from Southeast Asia and specific countries, the review mechanism of the Ministry of Foreign Affairs requires that they complete statutory marriage procedures in their home countries first and then attend interviews with the overseas government offices of the Republic of China before they return to Taiwan and register the marriage with Household Registration Office by presenting the marriage documents authenticated by the overseas government offices. Both the conclusion of marriage and

application for marriage registration for minors are subjected to consent from their legal representatives and must be completed by both parties concerned at the Household Registration Office. Table 34 shows the statistics of marriages involving girls under the age of 18 in the Republic of China.

**Table 34 Statistics of marriages involving girls 18 or under between 2007 and 2011**

		Unit: Case				
Year	2007	2008	2009	2010	2011	
Item						
Number of marriages involving girls under the age of 18	2,012	1,915	1,560	1,297	1,350	
Total number of marriages	135,041	154,866	117,099	138,819	165,327	

Source: Department of Household Registration Affairs, Ministry of the Interior

Description: The number of marriages is tallied on the basis of their registration dates.

167. The Immigration Act amended and enforced in 2008 prohibits cross-national (cross-border) marriages for profit purpose. Between 2007 and 2011 a total of 2,433 cases of false marriages between the ROC nationals and aliens were found. Among the victims of human trafficking who were placed in the shelters in 2011, 40 came to Taiwan through marriage frauds.

168. The AGEЕ stipulates that employers with over 250 employees should have child care facilities in place or provide adequate child care measures. Rewards and subsidies are also available to encourage employers set up child care facilities on their own or jointly with others or collaborate with government registered child care institutions in child care services through contracts to address child care issues bothering their employees. Statistics of the survey conducted by the CLA in 2011 among business groups with over 250 employees on their day care or child care preferred measures show that 77.3% of the business groups had child care facilities or provided child care options in 2011. It was an increase of 41% from the survey results of 2002 (36.3%) and it is steadily increasing on a yearly basis.

### **Child care system**

169. The care for pre-schooling children aged 2 to 6 was placed under the charge of competent education authorities, starting in 2012. The management over care centers for infants and young

babies aged 0 to 2 and home-based nannies, on the other hand, was placed under the charge of competent child and youth welfare authorities. To lessen child care burden for families, there are multiple child care supportive measures available at the moment.

170. The free tuition education program for five-year-old children released in 2010 provides all five-year-old children with free pre-school education. The program comprised different stages. The three offshore counties, three offshore townships, and aboriginal townships were the first to benefit from the program in 2010. Starting in August 2011, the subjects eligible for subsidies extended to all five-year-old children. The efficacy of the free tuition education program for five-year-old children in 2011 is as follows: There were around 193,000 beneficiaries. The enrollment rate among all five-year-old children was 94.5% and the rate among all five-year-old children with household annual income of NT\$500 thousand and below was 95.37%. The number of elementary schools with affiliate kindergartens in aboriginal townships increased from 128 in 2004 to 282 in 2011. The establishment rate was 80.11%, an increase of 43.64%.

171. The after-class care project was begun in 2003 in elementary schools in the Republic of China. It is meant to let parents focus on their work while at the same time enable students to complete their homework and participate in group and physical activities. Any child who needs after-class care can apply for it. Low income, disabled, and aboriginal students are given priority and may participate in the program free of charge. There were 1,600 schools participating in the project in 2010. The organization rate throughout the nation was 61% with participation from 145,678 students. The total number of schools participating in the project for the first semester of Academic Year 2011 (September 2011 to January 2012) already reached 1,667. The organization rate throughout the nation was 63% with participation from 135,917 students. In addition, to strengthen educational assistance at nights for students from disadvantaged families, the Night Angel Illumination Program started in 2008. Free after-class safe, loving, and caring educational environments are available at nights (from 17: 00 to 20: 00) and dinner is provided so that students from disadvantaged families can receive sound after-class education and care at nights. Since its commissioning in 2008, 46,490 students have benefited from the program. The after-class care and support for disadvantaged families is maintained with limited budget from the government and non-government resources proactively sought.

172. A headcount of around 1.01 million children received preventive healthcare services in 2011. The average utilization rate reached 80.5%. Sight, amblyopia and strabismus screening services are available for pre-school four to five-year-old children to facilitate early diagnosis and early correction. A total of 352,375 people were screened in 2011. Preschool hearing screening is provided through communities or preschools for children aged 3 to 4. A total of 179,898 children were screened in 2011. 308,760 children received fluoride gel; 1.52 million elementary school students received mouth rinse services, and 2,500 disadvantaged elementary school students had pit and fissure sealing in 2011.

### **Child Death Rate and Children's Right to Health**

173. There were 166,886 infants born in 2010. The gross infant death rate was 4.1‰ and the gross newborn death rate was 2.4‰. Among the causes of death for infants, specific perinatal conditions ranked first, accounting for 46.9%. The gross youth (1 to 14 years old) death rate was 16.3/10<sup>5</sup>. The No. 1 cause of death for teenagers is accidental injuries, accounting for 26.1% of all injuries, with a death rate of 4.2/10<sup>5</sup>.

174. Comprehensive preventive care services are available for children under the age of seven, including physical examination, development clinic, and health education instructions in order to detect, confirm the diagnosis, and treat underlying child problems early and reduce subsequent medical expenditure. In order to enable children suspected of having a developmental delay to receive joint assessments as soon as possible, at least one child development joint assessment center is authorized to be established under each of local governments. In addition, two to four joint assessment centers were added under each of the local governments starting in 2010 based on their child population (6 years old and under), township sizes, and medical accessibility. Currently there are already 42 child development joint assessment centers throughout Taiwan.

### **Care Services for the Disabled and Elderly**

175. For social services for the disabled and elderly, please refer to contents of Article 12.

### **Regulations on Protection for Pregnant Employees**

176. According to the AGEE, there shall not be terms and conditions in the employee's code of conduct, employment contract, or collective agreement that specify or pre-determine that employees should resign or go on leave without pay upon marriage, pregnancy, labor, or child

care. Employers shall not dismiss employees for reasons related to marriage, pregnancy and labor, or child care. Employees shall file complaints about violations by their employers, which can be subjected to a fine of no less than NT\$100 thousand and no more than NT\$500 thousand.

177. According to the AGEE, non-typical workers who are not covered by labor insurance shall be protected by applicable regulations of the Act.

178. Since the AGEE was enforced ten years ago, the ratio of gender equality protective measures adopted by business groups has steadily increased. The ratios of various types of leaves offered by business groups in 2011 were all higher than those in 2002. In terms of the implementation ratio, for example, it was 96.8% for maternity leave, 57.7% for paternity leave, 55.0% for miscarriage leave, 45.6% for menstruation leave, and 39.0% for tocolysis leave. In addition, after the family care leave was extended to all employees in 2011, the implementation rate among business groups was 37.2%. That for business groups with over five employees increased from 37.4% in 2008 to 39.3% in 2011 and that for business groups with over 30 employees surged significantly from 34.0% in 2002 to 63.6% in 2011. A main reason for business groups that do not offer certain types of leaves is that "the employees can use other types of leaves instead" or "the employees do not have the needs."

179. To protect pregnant women with disabilities, besides general examination services and the ten prenatal examinations and one ultrasound exam that started in 1995, additional prenatal examinations are available for high-risk pregnant women or those with medical needs who seek treatment of national health insurance-covered diseases. A headcount of around 1.53 million people were subsidized throughout 2010. The ratio of at least one examination reached 98.29%. A headcount of around 1.85 million people utilized prenatal examinations in 2011. The average utilization rate was 93.28%.

### **Regulations on Protection for Pregnant Women**

180. Regulations in Eugenics and Health Care Act on protection for pregnant women: Benefits available for pregnant women include ten prenatal examinations and one ultrasound exam. For pregnant women at high risk of giving birth to babies with genetic diseases (e.g. over 34 years old, with family history, serum screening showing risk chance of greater than 1/270, possible abnormality indicated through ultrasound), partial subsidies of NT\$2,000 are provided

for prenatal genetic diagnosis. Pregnant women aged 34 and above, with prior abnormal children, and residing in remote areas, mountains, offshore islands, and with low income are entitled to total subsidies of NT\$5,500.

181. The good will outpatient visit program for teenagers is organized to provide unmarried pregnant girls with good will child care services and pre-marriage pregnancy consultation services. When the teenager girls have psychological adaptation or family or partner issues, they will be helped to receive psychological consultations.

182. To prevent insured women from interrupted or lost income while on maternity leave, the Labor Insurance Act stipulates that when the insured women go into labor after they have been enrolled in the insurance for 280 days or give birth to preemies after they have been enrolled in the insurance for 181 days, they shall apply for child birth benefits over a period of 30 days. Meanwhile, to boost the child care benefits for female workers who are pregnant while they are covered by the insurance but give birth to babies after they are no longer covered by the insurance, Paragraph 2 is added to Article 20 when the Act was amended in January 2009. When the insured gets pregnant while the insurance is valid and meets the aforementioned number of days enrolled in the insurance, labor or premature delivery for the same pregnancy within one year after the insurance expires shall still be entitled to child care benefits. Statistics of the Council of Labor Affairs show that 123,941 cases were approved for childbirth benefits under the labor insurance in 2011. The amount totaled around NT\$3,359,600,000. The Employment Insurance Act amended and enforced in 2009 added maternity leave in the coverage to reimburse the lost salaries of those who must go on maternity leave and secure their employment.

183. The support for families under special circumstances is currently only available for unmarried women at three months pregnant and above to up to two months after labor, including emergency living assistance, child support, injury and disease subsidies, and child care allowance, etc.

### **Child Care Leave without Pay**

184. Before the Employment Insurance Act was amended in May 2009, there were around 2,600 to 5,500 people applying for premium subsidies while they were on child care leave without pay each year, among which 96% were women. The allowance while on child care leave

without pay became available in May 2009. The number of applicants surged significantly. There were accumulatively 101,188 people applying for the allowance as of December 2011, among whom around 82% were women and around 18% were men. The application ratio of men obviously increased. For the applications in 2011, around 73% of the applicants on child care leave without pay returned to their original positions after the duration of their child care leave without pay expired.

185. According to the AGEE, employers should stop female employees from working and grant them maternity leave before and after childbirth for a combined period of eight weeks. In the case of a miscarriage after being pregnant for more than three months, the female employee should be permitted to discontinue work and granted maternity leave for four weeks. In the case of a miscarriage after being pregnant for over two months and less than three months, the female employee should be permitted to discontinue work and granted maternity leave for one week. In the case of a miscarriage after being pregnant for less than two months, the female employee should be permitted to discontinue work and granted maternity leave for five days. The computation of wage during maternity period shall be made pursuant to the LSA if it is applicable. For female employees who have worked for over six months, the wage should continue to be paid while on maternity leave. When it is less than six months, the wage will be paid in half. If the LSA does not apply, related laws and regulations should be followed as is indicated in the AGEE. From March 2002 to November 2011, local governments handled a total of 184 complaints involving resignations or position retained without pay upon marriage, pregnancy, labor, or child care agreed upon in advance in accordance with applicable regulations of the AGEE. Ninety-two cases were deliberated.

186. According to the AGEE, while employees' spouses are in labor, their employers should grant them three days off on paternity leave. After having been in service for one year, employees may apply for child care leave without pay before any of their children reaches the age of three years old. The period of this leave is until the child reaches the age of three but cannot exceed two years. When both parents are employed, they shall apply for parental leave with their positions retained without pay separately as long as they meet the aforementioned statutory requirements. While on parental leave with the position retained without pay,

employees should remain enrolled in their original social insurance and do not need to pay the premium that was afforded by their employers. The premium that was originally afforded by the employer shall be deferred by three years. When both parents are employed, they shall apply for parental leave with their positions retained without pay separately as long as they meet the aforementioned statutory requirements.

### **Requirements for Maternity Leave for Civil Servants**

187. When tocolysis is necessary during pregnancy, civil servants shall apply for leave in accordance with the Civil Service Leave Regulations. Except for paid leave for personal affairs beyond the allowed number of days, which is subjected to deduction of pay by the day, the pay shall be paid as usual. When family members of civil servants receive vaccines, experience serious diseases or suffer from other major events that require care by the civil servants, they shall apply for family care leave. Seven days of family care leave are allowed each year, which shall be included as part of paid leave for personal affairs .

188. For regulations regarding the timing of paid maternity leave, before or after labor, eight days of prenatal leave are allowed before labor and shall be taken separately but shall not be retained till after labor. After labor, 42 days of maternity leave are available. On August 01, 2009, the payment of subsidy for parental leave started under the civil servant and teacher insurance. Everyone, man or woman, is entitled to apply for the subsidy to subsidize the lost income during the period of child care where the position is retained without pay. The subsidy became available on August 01, 2009. From August 01, 2009 to December 31, 2011, a total of 10,853 people applied for the subsidy, among which 847 were men and 10,006 were women. The subsidy was issued to a total of 10,068 people and amounted to over NT\$851,410,000.

### **Related Regulations Protecting Child Workers**

189. Articles 44 to 48 of the LSA are protective measures for child workers. A worker over 15 years old, but less than 16, shall be considered as a child worker. No child worker shall be permitted to do heavy and hazardous work. No employer may hire a worker below 15 years old. Employer of workers who are below 16 years old should keep the letters of consent from the legal guardians and age certificates of such workers on file. Child workers shall not work more than eight hours per day. No child worker shall be permitted to work on a regular day off or

between eight o'clock in the evening and six o'clock in the following morning. In addition, there are the determination criteria for works that are dangerous or hazardous for child workers and female workers in order to protect their labor safety and health. For entertainers or models that are less than 15 years old, unless they have graduated from junior high schools, the nature of their work and the workplace should be determined by labor or social affairs bureaus (offices) of individual county/city governments to be harmless to their mental and physical health in advance before employment and commencement of work. Protective requirements in Chapter V of the LSA for child workers shall apply with regard to the labor criteria for the said employment. An employer in violation of the LSA provisions protecting child workers is subject to up to six months in prison or a fine of up to NT\$300,000.

190. Protective measures promoted in the prevention against child and youth abuse include (1) 113 Protection Hotline, mandatory reporting system, emergency aid and placement system, case management services, and child and youth protection social workers; (2) high-risk family care and management services, emergency living assistance for disadvantaged families, care and referrals for children of inmates, proactive care mechanism for disadvantaged children under the age of six, and extended care for high-risk families; (3) maximized community counseling and care for disadvantaged children and teenagers, reinforced preliminary preventive promotional and educational training, and introduction of correct child-raising concepts to parents. For children and teenagers who are victims of abuse and negligence, the government exercises its public power to intervene and protect them. A total of 18,454 children and teenagers were protected by the government through intervention in 2010, among which 9,043 were men and 9,411 were women. There were 17,667 children and teenagers protected by the government through intervention in 2011, among which 8,277 were men and 9,390 were women.

191. In 2009 a total of 14,552 rounds of labor criteria inspections to factories were carried out to find two violations of the Child Labor Law. In 2010 a total of 10,387 rounds of labor criteria inspections to factories were conducted to find 17 violations of the Child Labor Law (one for illegal employment of child workers, six for overtime and excessive working hours for child workers, and ten for having child workers work at nights).

### **Related Regulations on Protection for the Elderly**

192. The Senior Citizens Welfare Act devoted a chapter to protection of the elderly in 1997 and added in 2007 that related staff involved in elderly welfare-related operations is responsible for reporting suspicious elderly protection cases that they become aware of while performing duties. In addition, local governments hold meetings on the protection for the elderly periodically in order to reinforce the protection network for the elderly.

### **Related Regulations on Protection over Retired Workers**

193. The current labor pension system of the Republic of China comprises two parts. The Labor Pension Act was enforced on July 01, 2005 to govern the new labor pension system. Before implementation of the new labor pension system, the retirement followed the LSA (old labor pension system) that was enforced on August 01, 1984. Under the old labor pension system, workers had to work for the same employer for over 25 years or for 15 years by the age of 55 (the amendment on April 22, 2009 added the criterion of ten years by the age of 60) to be eligible for applying with the employer for labor pension. For workers eligible for the new labor pension system, the employer must appropriate a retirement fund on a monthly basis whose value "shall not be less than 6% of the monthly wage." As of December 2011, there are over 8.69 million people with individual accounts of labor pension. There are currently around 430,000 units and 5.48 million people of contribution of the new labor pension. The collected pension fund totaled over 737.8 billion between July 2005 and December 2011. As many as 158,380 cases of disbursement of pension payment were approved.

194. To secure the long-term life of workers after retirement, the Labor Insurance Act stipulates that an employee who is sixty years or older and has been insured for at least fifteen years, shall claim for monthly pension payment. An employee aged 60 or over who has been insured for less than fifteen years, on the other hand, may claim for lump-sum payment of retirement. An employee who has insured years before enforcement of the labor pension fund shall choose lump sum payment of the pension as long as he or she meets related requirements.

195. The Republic of China's civil service, labor, national pension and military insurances provide economic life protection to the insured elderly (or retirees). The old age annuity under labor insurance and national pension insurance, in particular, adopts the preferred calculation

approach to guarantee minimum payment of NT\$3,000. Despite the fact that the farmer's insurance does not offer old age benefits, elderly farmers are entitled to a monthly welfare allowance of NT\$6,000.

**Table 35 The number of people covered by labor insurance and the number of people with approved elderly farmers' welfare allowance**

Unit: Person

Type	Labor insurance	National pension insurance	Farmer's allowance
Enrollment (number of people approved)	9,725,761	3,783,731	684,637

Source: Department of Social Affairs, Ministry of the Interior; Bureau of Labor Insurance, Council of Labor Affairs, Executive Yuan

Description: Statistics as of the end of December 2011

196. In accordance with the Civil Servant and Teacher Insurance Act, when the insured retires, is severance, or has paid the premium for at least 15 years and reached the age of 55 as required by law, he or she is entitled to lump sum old-aged benefit. Payment for 1.2 months is available for each year of insurance but shall not exceed 36 months at maximum.

**Table 36 Statistics of people covered by the civil servant and teacher insurance applying for retirement payments between 2007 and 2011**

Unit: Case; NT\$

	2007	2008	2009	2010	2011
Number of cases (cases)	13,520	12,852	12,897	16,333	17,365
Value (NT\$)	18,921,039,224	17,785,186,271	17,602,881,604	22,016,131,594	23,927,577,535

Source: Bank of Taiwan

### **Prevention of Domestic Violence**

197. To effectively prevent against domestic violence, Taiwan established the Domestic Violence Prevention Committee in accordance with the Domestic Violence Prevention Act in 1999. It was later consolidated to be the Domestic Violence and Sexual Assault Prevention Committee in 2002. Judiciary, police administration, health, social administration, education, and news authorities, among others, are coordinated to jointly establish the domestic violence

prevention system. Local governments are also assisted in the establishment of domestic violence and sexual assault prevention centers. Governments at all levels establish their domestic violence prevention policies in accordance with the Domestic Violence Prevention Act to consolidate implementation of various prevention tasks, including support for the victims, follow-up on and counseling for the inflictors, and public promotion and education on domestic violence prevention, etc. Substantial projects having been promoted include the Safety Protection Network for Victims of Domestic Violence and vertical integrations of services available for victims of domestic violence, etc. A headcount of 2,852,541 victims of domestic violence in total were supported between 2006 and 2011, among which 624,834 were men and 2,227,707 were women. The total value came to NT\$1,563,890,000. Related professional trainings on the prevention against domestic violence are organized. Around 345 rounds of related professional trainings and seminars on the prevention network, support for victims, management of inflictors, and for police administration experts were held between 2006 and December 2011 with a headcount of 31,811 participants.

198. Table 37 shows the number and ratio of civil protection orders (including general, temporary, and emergency protection orders) handled and issued by individual district courts in accordance with the Domestic Violence Prevention Act between 2006 and 2011, as is indicated by the statistics of the Judicial Yuan.

**Table 37 Statistics of civil protection orders handled and issued between 2007 and 2011**

		Unit: Case; %				
Year	Item	2007	2008	2009	2010	2011
	Number of cases handled	21,425	20,966	22,245	25,013	24,537
	Number of cases closed	20,028	19,730	20,737	23,492	23,063
	Number of cases approved	12,276	11,679	12,669	14,225	14,296
	Number of cases overruled	2,412	2,429	2,553	3,030	2,866
	Number of cases withdrawn	4,584	4,801	4,951	5,673	5,528
	Ratio of approved cases to cases with court decisions (approved and overruled) (%)	83.58	82.78	83.23	82.44	83.33

Source: Judicial Yuan

Description: 1. Civil protection orders can be divided into general, temporary, and emergency ones.

2. When cases are withdrawn by the party concerned, a court decision is unnecessary.

Therefore, the ratio of protection orders approved by the court has the closed cases with a court decision (including approved and overruled ones) as the denominator.

Cases can be closed for change in the application reason (e.g. change from the general restraining order to the temporary restraining order). However, because of the relatively small number of cases, it is not shown in the table.

199. Statistics of the NPA show that police authorities handled 197,151 cases of domestic violence between 2006 and 2011, among which 7,231 were about violation of protection orders and 5,138 were about domestic violence offenses. Also, according to the statistics of the Domestic Violence and Sexual Assault Prevention Committee of the Ministry of the Interior, among the reported cases of domestic violence between 2006 and 2011, female victim reporters accounted for around 75.86% of all victims and the number of female victims of marital violence accounted for around 90% of all victims of marital violence. A total of 517,813 cases of domestic violence were reported and there were 107,745 cases involving protection orders between 2006 and 2011. Between 2008 and 2011, there were a total of 16,032 cases of domestic violence suffered by people with disability, accounting for 3.9% of all cases of domestic violence reported. To protect the rights of people with disability who fall victim to domestic violence, the Ministry of the Interior reinforces community and neighborhood anti-violence awareness education and strengthens the reporting and handling procedures for related responsible parties through educational training to enhance their sensibility with violence suffered by people with disability. In addition, related teaching materials and projects are developed to reinforce self-protection for people with disability. Diversified protective and placement measures are also available for people with disability. Despite all these, services and resources for people with disability continue to be lacking and pending continuous development and cultivation through related social administration and health administration systems.

### **Prevention of Human Trafficking**

200. Human trafficking was once a very serious problem in the Republic of China. Aliens came to Taiwan for work or prostitution in various illegal ways. In 2003, it happened that a human smuggling ring caught by law enforcers in nearby waters of Taiwan ready to approach the

shore and land 22 mainland Chinese women pushed all of the 22 women into the sea and drove off with the boat, resulting in deaths and missing people. The government continued various efforts, including arrival control, enhanced professionalism and disciplines of law enforcers, cooperation with other government and non-government organizations, crackdown of the crime, and placement and protection for victims. The Human Trafficking Prevention Act announced and enforced in 2009 combines functions of central and local competent authorities concerned to establish a complete prevention mechanism. The 2010 and 2011 Trafficking-in-Persons Reports of the U.S. included Taiwan in the Class 1 list for two consecutive years. Taiwan and South Korea are both Class 1 countries among the 36 Asian countries rated.

## **Article 11**

### **Entitlement to Adequate Living Standards**

201. The 2010 Public Assistance Act defines a low income household as one that has been approved by the municipality or county (city) competent authority, in which the applicant is registered and household is located, and shall have the average divided monthly income among all family members below the minimum living expense per person and the total household assets not to exceed the specific amount announced by the central and municipality competent authorities for the current year. The so-called minimum living expense in a region is calculated as: 60% of the median disposable income per person per month in the region. As of the end of December 2011, there were 128,237 low income families with 313,406 members in total, accounting for around 1.59% of all households in the nation and 1.35% of the total population, respectively. Among them, 160,178 were men and 153,228 were women, accounting for 1.38% and 1.33%, respectively, of the national male and female populations. The definition of poverty line and how family income is calculated should take into account the actual needs of disadvantaged families, be continuously reflected upon and improved.

### **Ensuring Basic Life Necessities of Poor and Disadvantaged People Are Protected**

202. In response to the issue of income equality, the Executive Yuan formed a task force to improve distribution of income in 2010. The task force drafted seven strategies to improve distribution of income. Substantial measures to minimize the gap between the poor and the rich

include extended scope of care and career counseling for the disadvantaged: the Public Assistance Act, for example, should be amended to bring the number of people meeting the regulatory requirements for care from the current 273 thousand to 860 thousand; reinforced disposability of income: standard deductions, for example, should be increased to reduce the tax burden for people with medium to low-level income and salaries and increase their disposable income; and increased tax burden on people with high income: the individual overseas income has been included in the tax base of the Income Basic Tax starting from 2010 and the Specifically Selected Goods and Services Tax Act took effect in 2011 to collect taxes on specifically selected goods and services, such as short-term real property transactions and high-value consumption of goods and services, etc. Effects of the various measures to shift income and expenditure as mentioned above on the redistribution of income will gradually surface. The factor of difference already dropped by 1.53 in 2010.

**Table 38 The influence of government shifting of income and expenditure on the distribution of family income between 2006 and 2010**

Unit: Factor

Year	Factor of difference prior to government shifting of income and expenditure (1)	Income redistribution efficacy			Actual (current) factor of difference (1) + (2)
		Government shifting of income (social welfare subsidies etc.)	Government shifting of expenditure (direct tax and fees, etc.)	Total (2)	
2006	7.75	-1.29	-0.15	-1.45	6.01
2007	7.52	-1.40	-0.14	-1.54	5.98
2008	7.73	-1.53	-0.16	-1.69	6.05
2009	8.22	-1.75	-0.13	-1.88	6.34
2010	7.72	-1.42	-0.11	-1.53	6.19

Source: "2010 Family Income and Expenditure Survey Report", Directorate General of Budget, Accounting and Statistics, Executive Yuan

203. Employment services, career training, and protection of foreign worker management-related rights are provided in order to help protect certain designated people, disadvantaged populations, and foreign workers from all forms of economic and social rejection when working in Taiwan. The Employment Services Act prioritizes people who are the only source of income in their families, who are capable of working in households receiving living assistance, and who have been unemployed for a long term as subjects of assistance in employment and adds disadvantaged women such as those returning to work, victims of domestic violence and sexual assault, foreign spouses and mainland Chinese spouses as subjects of assistance through the integrated employment program. Public employment service agencies reinforce provision of case management and employment services so that people from low income and low/middle income households can get more complete and advanced employment counseling.

204. The government has started to provide after-school support projects since 2006 to provide disadvantaged junior high and elementary school students whose academic performance is unfavorable with additional assistance and diversified adaptive learning opportunities free of charge. Between 2006 and 2011, the sponsorship came to NT\$3.32 billion in total. The number of schools offering the projects throughout the nation has exceeded 90%. A headcount of over 220,729 teachers have participated in the projects to help an accumulated headcount of 1,050,488 students.

### **Prices of Staple Foods**

205. Faced with the price surge trends among domestic and foreign staple foods in the past few years, the government continues to promote mechanisms to monitor, alert on, and stabilize the production and distribution prices of various agricultural products and prevent against artificial manipulation over commodity prices despite the fact that it is impossible to hold back the price surge for foods in the short term.

### **Management of Food Hygiene and Safety**

206. The Executive Yuan holds the food safety presentations and meetings periodically to strengthen management over food sources and ensure that foods and their raw materials are effectively controlled from production to manufacturing and transport. The strategies taken

include normalization of regulatory standards, consolidation of source management, reinforced supervision over food manufacturing and circulation, strengthened capability in the assessment of food safety and risk, enhanced consumer education and risk communication, and promotion of international collaboration on food safety, etc. The government continues to educate the public on the idea of a healthy diet and organizes nutritional education and promotion for target populations such as pregnant and breastfeeding women, overweight or obese people, and those with chronic diseases. Nevertheless, the 2011 DEHP incident created panic and uneasiness among the public. The government should continue to reflect on the efficacy of related meetings.

### Sufficient Food Supply

207. The Food Assistance Guidelines indicate that when local governments need to provide food assistance, they shall apply for public grains and white rice and use them to help low income families, low/middle income old people on living allowance, those meeting welfare subsidies for children and teenagers or people with disabilities, families under special circumstances, old people who live on their own, indigenous peoples, financially disadvantaged families, those housed and placed in social welfare institutes on public sponsorship, and other people meeting the assistance criteria. The quantities released in recent years are shown in Table 39.

**Table 39 2009–2011 Statistics of grains released as part of public assistance**

		Unit: Ton of rice		
Year	2009	2010	2011	
Item				
Quantity of grains released as part of public assistance	1,610	1,856	2,187	

Source: Council of Agriculture, Executive Yuan

208. In terms of school lunch for financially disadvantaged students, junior high and elementary school students from low income or low/middle income households, with sudden family issues, and those determined by class teachers after home visits are subsidized the cost of their lunch (See the headcount of students benefiting from lunch subsidies in the following table). To ensure quality of school lunch and food safety, the government also visits schools and the suppliers. In 2011, cases of unhealthy lunch supply and suspicious cases of collection of

rebates were reported on junior high and elementary schools. The government should conduct investigations and reflect on the issues for possible improvements.

**Table 40 2007–2011 Statistics of students benefiting from school lunch subsidies**

Unit: Headcount

Year	2007	2008	2009	2010	2011
Item					
Headcount of students benefiting from school lunch subsidies	298,308	351,342	494,610	524,803	550,328

Source: Ministry of Education

209. Some local governments combine non-government resources to establish food banks or provide food coupons. For borderline households that are economically deprived but do not qualify as low income families, food, clothes, and other types of support are provided. A total of 18 local governments are engaged in 21 projects and plans and have set up 70 storage sites and 120 distribution sites. There are seven local governments which cooperate with convenience stores or restaurants in the printing of food stamps.

210. In Food Self-Sufficiency Ratio, Taiwan consumes around 1.32 million tons of brown rice each year. The Self-Sufficiency Ratio for rice is about 90%. The remaining 10% is open for imports as requested by the World Trade Organization. Each year, more than 140 thousand tons are imported. In terms of wheat, the annual consumption is approximately 1.24 million tons. Nearly all wheat comes from imports. The 2011 National Food Security Conference discussed five topics, namely the Food Self-Sufficiency Ratio in the Republic of China, control over import sources of grains, food safety and risk management, agricultural land, and water management. Related conclusions were reached and the Food Self-Sufficiency Ratio was established to adjust the domestic production structure and make the best use of agricultural land and water resources. It was also set that 40% of the goals would be achieved by 2020.

211. To prevent soil and groundwater pollution that further pollutes the environment and food sources, the Environmental Protection Administration of the Executive Yuan (EPA) specifies in the Soil and Groundwater Pollution Remediation Act that upon establishment or discontinuation

of businesses or potentially highly polluting businesses, assessment, survey, and test data should be submitted for reference. As of 2011, a total of 2,099 control sites with polluted agricultural land were announced, accounting for a total area of approximately 471.7 hectares. Among them, 1,607 sites, occupying around 380.1 hectares, had completed restoration and were announced to have been removed from the control list. Currently, there are 492 pieces of land still under control. The total area comes to around 91.6 hectares. Monitoring of pollution amelioration on agricultural land will continue.

### **Water Resources**

212. The cancellation of the environmental impact assessment of the Stage III Project of the Central Taiwan Science Park was the first time in history that an administrative court ruled and overturned conclusions reached in an environmental impact assessment review. Civil organizations believed that the ruling protected the rights of the people confirmed in the International Covenant on Civil and Political Rights. Nevertheless, the EPA and Executive Yuan determined that the ruling was not binding for construction contractors and hence let the contractors continue with the construction and operations. Environmental protection groups could not agree with what the government agencies did. They said that what the agencies did would result in the contamination of agricultural irrigation water, increasing the health risk for people in the Houli District and undermining judicial authority. Since the existing environmental impact assessment regulatory system has given rise to many controversial cases, it is necessary to reflect on the issue and seek improvements as soon as possible and prevent similar environmental hazards as a result of construction from occurring again.

213. The Water Act stipulates that household water is superior to agricultural water and agricultural water is superior to industrial water. In terms of the distribution of all water resources, household water comes first and must be supplied on a frequent basis to satisfy individual and household use. Due to topography and geology, however, water reserves in existing reservoirs in Taiwan continue to be insufficient. To respond to the development of emerging industries, such as the Stage IV Project of the Central Taiwan Science Park - Erlin Science Park, it is necessary to allocate agricultural water for the short term before development of water resources is completed. As a result, some farmers continue to complain about lack of

water for irrigation. In addition, major catastrophes—such as Typhoon Morakot—have led to serious silt sedimentation in reservoirs. As a result, the risk of water shortage remains during the dry season. Centralized allocation of water for individual purposes and water conservation are necessary in order to survive the water shortage crisis.

214. The Water Supply Act stipulates that water utilities shall not reject water supply to requesters within the water supply zone unless with justified reasons so as to ensure that everyone is entitled to water supply services provided by public and private water utilities. Statistics as of the end of December 2011 show that there were still around 552 thousand households without water supply. The statistics of Taiwan Water Corporation as of the end of December 2011 show that there were eight counties and cities, namely Hsinchu, Miaoli, Changhua, Nantou, Chiayi, Pingtung, Taitung, and Hualien, where the water pipeline connection rate was still under the national average.

### **Right to Residence**

215. The government has not done any nationwide survey on people without a home, without a proper residence, or in over-crowded or incomplete-structured homes. The proposal for normalized housing market was approved in April 2010 with the hope to satisfy the basic housing needs of people with low/middle income and living on salaries and adjust the supply of housing land. Nevertheless, residential pricing in the Taipei metropolitan area continues to be high.

216. To help satisfy people's basic housing needs, the government provides mortgage interest subsidies and rent subsidies and joins non-government efforts in the construction of "appropriate houses." In addition, the short-term social housing proposal that started on June 16, 2011 prioritizes five areas including Taipei City and New Taipei City. Social houses will be built for disadvantaged people who cannot afford the rent of houses on the market, low/middle income households, young people from out of town who go to school or work in the Taipei metropolitan area, and newlyweds to address their housing needs. According to the Housing Law that is to come into effect on December 30, 2012, social housing is for rent only. It is built by the government and/or non-government organizations through incentive programs. In addition, at least 10% of the houses should be for rented to people with special circumstances or identities.

Social housing enables disadvantaged people or young people who just entered the work force, single-parent families or women to rent an adequate residence at a fair price.

217. The success of the government in inhibiting the surging land and housing prices is limited, resulting in the public criticizing that financial groups or opportunists making profits through real estate speculation. To facilitate recall and sale of national land in expensive zones, the government even asks residents on the national land to relocate on the excuse that the land is to be used for other purposes. The government's housing policies in the past did not take the needs of the general salaried population into prioritized consideration. The non-stop sale of national land should also be discontinued, regardless of the size. State-owned land is an important asset of the nation. The Executive Yuan has indicated that national land consisting of 500 ping and above (1 ping = approx. 3.3 square meters) throughout the nation is not for sale, effective from October 2009 on. Sale of national land in Taipei City and New Taipei City has been discontinued since March 2010. National land that is already rented out will not be recalled and sold unless the recall is necessary for public operations or public use. For illegal occupants, recall is done through judicial procedures before any disposition is made. To realize housing justice, amended articles of the Real Estate Broking Management Act, Land Administration Agent Act, and Equalization of Land Rights Act that were announced on December 30, 2011 have demanded specifically declaration and registration of the actual prices to promote transparent real estate transaction prices.

218. Reflections on prior experiences with national housing: There were problems such as fewer than desired public facilities and unfavorable community environmental planning, the inability to have complete control over construction quality and the subsequent repair problems before the procurement system was enforced, or the lack of barrier-free space-related design and social counseling mechanism that led to overstocking of capital, labeling, and focus of social issues, etc. In the future, social housing will feature reinforced barrier-free space and overall environment planning and will combine social and political resources to enhance protection over the residents.

219. There are currently around 265 thousand hectares of reserve land for indigenous peoples but most of them are located in remote mountainous areas. The actually useable land

(agricultural or construction land) is limited. Around 133 thousand hectares are used by indigenous peoples, accounting for 50% of the reserve land. The Regulations on Development and Management of the Lands Reserved for Indigenous People stipulate that lands reserved for indigenous peoples can only be transferred to indigenous peoples. For economic reasons, however, there is private sublet or transfer of land to non-indigenous peoples, resulting in indirect loss of land. It is also a problematic part of management of lands reserved for indigenous peoples pending a solution.

220. Typhoon Morakot: Typhoon Morakot hit Taiwan on August 8, 2009, resulting in the biggest catastrophe of all in the past two hundred years. Multiple houses in aboriginal tribes were destroyed by floods and mudslides. People were forced to flee their homes and even got displaced. The IPBL and the Special Act for Reconstruction for Post-Typhoon Morakot Disaster stipulate that, except in cases of clear and present danger, the government shall not force aboriginals from their homeland; reconstruction in disaster-hit areas should be based on the respect for local people, their social (tribal) organizations, culture, and life styles. The government shall designate certain sections within disaster-hit areas that are thought to be unsafe or on the land with illegal buildings 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 should adequately resettle the residents. Policies on the relocation of residences or villages established by the government for the sake of protecting disaster-affected people's life and property must be based on the respect for the said people. The people's consent must be obtained before the policies are implemented. For specific areas or areas determined to have safety concern, intentions of the residents to relocate are obtained through resolutions reached in tribal meetings or village/borough conferences, among other mechanisms. In addition, when the number of households applying for permanent houses built by civil organizations accounts for over 80% of the total number of registered households in the aforementioned areas (or tribes, villages), the solution should be followed in the collective relocation of villages.

### **Cambodian Investment**

221. The government should inform domestic enterprises investing overseas their corporate social responsibilities and international regulations protecting human rights to avoid cases of

human right prosecution as those indicated in the 2007 United Nations Report of Special Representative of the Secretary-General for Human Rights in Cambodia: Land Concessions for Economic Purposes in Cambodia - A Human Rights Perspective from happening again.

## **Article 12**

222. To protect people's right to health, the Constitution has specific articles on health, healthcare, public medical systems, national health insurance, medicine for people with disability and veterans, and the protected support and development of healthcare for indigenous peoples and people on offshore islands. A general and fundamental national medical care system has been in place at present through the implementation of national health insurance and construction of the nationwide medical network. Since the government has established the "2020 White Paper on National Health", national health policies should be consolidated as soon as possible.

### **Medical Care Services and Distribution of Resources**

223. A main purpose of the national health insurance is to enroll every citizen so that everyone can get fair medical services. Started in March 1995, the enrollment rate of the national health insurance already reached 99.51% of the total population eligible for enrollment in 2011. The premium needed for the insurance is shared among the insured, the employer, and the government.

224. People enrolled in the national health insurance can receive necessary and complete medical care services at affiliate hospitals, clinics, pharmacies, and clinical laboratories, among other affiliate healthcare facilities by presenting their national health insurance cards if they experience disease, injuries, child birth accidents, etc. The national health insurance has included all necessary diagnostic and treatment services in the coverage.

225. Victims whose right to health is infringed upon can claim tort damages in accordance with Articles 184 and 195 of the Civil Code. Articles 80 and 170 of the Constitution, the Enforcement Law For International Covenant On Civil And Political Rights And International Covenant On Economic, Social And Cultural Rights and the Covenant are the laws that judges follow during trials. Therefore, when the holder of the right to health regulated in the substantive laws is infringed upon and files a claim for damages, trials will naturally be held in

accordance with the laws. The Judicial Yuan holds related seminars from time to time on knowledge that judges need to enrich themselves with to facilitate their hearing of lawsuits on violated right to health in order to boost trial efficacy.

226. The Senior Health Promotion Plan - a Four Year Plan started in 2009. It combines community units (including community construction units, the care service sites of the Ministry of the Interior, temples, community centers, etc.) with substantial strategies such as the eight action items, namely to boost health and physical performance, enhance fall prevention, promote a healthy diet, reinforce oral hygiene, strengthen tobacco hazard prevention, fortify psychological health, boost social participation, and enhance preventive care and screening services for the elderly.

227. To improve quality of medical care services in areas deficient in medical care resources, the government adopts related measures as follows: (1) The plan to establish and operate special emergency and critical care centers: Cities and counties are considered as a whole to evaluate the special emergency medical care needs of people and provide them with emergency and critical care services. Priorities are placed on the development of trauma, cardiac catheterization, stroke, perinatal, emergency, and pediatric critical care centers. Twenty-four special emergency and critical care centers were approved at a total of 17 hospitals in Kinmen County, Lienchiang County, Penghu County, Hsinchu County, Miaoli County, Nantou County, Yunlin County, Pingtung County, and Taitung County between 2010 and 2012. (2) Improvement programs in areas deficient in emergency care resources: In order to strengthen emergency care services at all times or during special hours in areas deficient in emergency care resources, incentives are provided for local hospitals to collaborate with one another in offering medical care services. Twenty-one programs were approved in 2011. (3) Points-based additional percentages for emergency medicine coverage in the national health insurance: 30% is added for the hospital responsible for the rescue in areas deprived of medical care resources as announced by the Department of Health. When both nighttime and holiday requirements are met, 80% is added.

228. The Rare Disease and Orphan Drug Act was established. Taiwan became the fifth country in the world with the legislation and the only country that includes the prevention and subsequent medical care for rare diseases into the rare disease act. The prevention and

subsequent medical care include(1) It is announced that rare diseases are covered by the national health insurance as major illness/injury. Patients are entitled to waiver of co-payments. (2) 185 rare diseases and 74 orphan drugs were announced; imports of over 30 types of orphan drugs were approved; 35 permits for orphan drugs were issued; subsidies are available for 40 types of special nutrition foods and reserve emergency drugs that are necessary for maintaining life. (3) Testing services and subsidies are available through international medical cooperation. (4) Patients from low income and low/middle income households have been subsidized for the full amount since 2010.(5) Subsidies for the costs of home medical care devices necessary for maintaining life, domestic verifying diagnostic tests, nutrition consultation, and emergency care are added.

229. As of 2010, there were a total of 508 hospitals, 20,183 clinics, and 360 public health centers throughout the nation. In other words, the goal of having a public health center in each township is accomplished. The number of various medical practitioners and that per ten thousand people as of the end of 2011 are shown in Table 41.

**Table 41 Number of various medical practitioners in 2011**

Unit: Person

Category	Number of practitioners	Number of practitioners per ten thousand people	Category	Number of practitioners	Number of practitioners per ten thousand people
Western medicine	40,275	17.34	Occupational therapy	2,591	1.12
Dentistry	12,166	5.24	Physical therapy	5,684	2.45
Chinese medicine	5,644	2.43	Counseling psychology	1,259	0.54
Medical laboratory science	8,958	3.86	Clinical psychology	836	0.36
Medical radiology	5,282	2.27	Nutrition	2,581	1.11
Pharmacy	32,227	13.87	Respiratory therapy	1,829	0.79
Nursing	112,642	48.49	Speech therapy	507	0.22
Midwifery	137	0.06	Hearing care	159	0.07

Source: Department of Health, Executive Yuan

## **Long-term Care**

230. The Ten-Year Long-Term Care Plan (Long-term Care Plan) started in 2008. Long-term care programs have been promoted in three stages, including: (1) a Ten-year Long-Term Care Plan as the pilot project to develop a LTC service model; (2) Long-term Care services Network Plan, based on which to construct the long-term care service network system and (3) launch of LTC insurance. The Long-term Care Plan integrates community and medical care resources to provide diversified home, community, and institution-based services, including daily life care and healthcare services, eight services including: home care, day care, home care nursing, community and home rehabilitation, respite care service, transportation service, acquiring or renting of auxiliary appliances, improvement of access-free environment at home, meal for the senior citizen, long term care institutional services. After the Long-term Care Plan is implemented, the ratios of its services in the disabled old age population are as follows: 2.3% in 2008, 5.7% in 2009, 16.3% in 2010, and 21% in 2011. Incapacitated people with physical and mental disorders and disabled people of all ages are gradually included in long-term care.

231. The Long-term Care Plan should provide basic respite care. The number of family caregivers utilizing respite care who receive subsidies from the government reached 61,675 days at the end of 2011, a growth of nearly 3.5 fold from that in 2008 but it is still not enough. The ultimate goal should be a day off on a weekly basis for family caregivers and establishment of the family caregivers support system network should be completed within five years.

## **Individuals with disabilities**

232. The government provides multiple services and measures, such as dental services, early treatment, preventive care for adults, living support, subsidies for social insurance premiums, in-home services for people with disabilities, community care for people with disabilities, diversified community service experimental plans, subsidies for the purchase or repairs of living and rehabilitation devices, rehabilitation bus-related services, consultation on and assessment of medical care devices, and individualized design, research, and development, among other professional services in accordance with laws and regulations such as the People with Disabilities Rights Protection Act.

233. The government should introduce health policies for people with disabilities, establish statistical data from health and medical care studies on people with disabilities, plan various short-term to mid-term projects, promote and provide the healthcare and care service models for people with disabilities. People with disabilities should be invited to evaluate various services and measures from the user's perspective. To address the unique needs of people with disabilities, education on the human rights of people with disabilities should be reinforced and provided to healthcare professionals and nurses.

### **Medical Subsidies for Disadvantaged Populations**

234. The Public Assistance Act stipulates that the central competent authority shall assign budget to subsidize the full amount of premiums for low income families to be enrolled in the national health insurance and one-second of the premiums to be paid out of the pocket for middle-to-low income families. Injured or sick people from low income families or those with financial difficulties and unable to afford the cost of medical care can apply for medical care subsidies (a headcount of 7,980 people were subsidized as of the end of December 2011). Child medical care subsidies are available for children under the age of three (a headcount of 10,900,809 people were subsidized as of the end of November 2011). For children and teenagers from middle-to-low income families, there are the national health insurance subsidies (a headcount of 1,905,865 people were subsidized as of the end of December 2011).

235. In 2010, a total of around 3.07 million disadvantaged people (low income families, unemployed veterans, unemployed workers and their families, people with disabilities, low/middle income people over the age of 70 and under the age of 18, unemployed indigenous people under the age of 20 and over the age of 55, financially disadvantaged foreign spouses with household registration, financially disadvantaged people, victims of Typhoon Morakot) and around NT\$22.6 billion were subsidized.

236. The phenomenon of health inequality has also attracted attention for the past few years in Taiwan. For example, the life expectancy at birth of aboriginals is 13 years less than that of people living in Taipei. This reflects the differences in resource distribution, cultural, public health, political, and economic structures among different areas in Taiwan. The government should locate areas with the issue of health inequality and seek improvements one by one. In

addition, the concept of the right to health is not limited to health insurance or acute medicine. It also includes having control over environmental pollution, food sanitization, and establishment of a long-term care system. The government should be capable of protecting its people's physiological, psychological, and social health.

### **Educating Healthcare Professionals**

237. The nurturing education for healthcare professionals includes basic education, renewal of licenses, and in-service training. Implementation of the subsidy program for instructional expenses of teaching hospitals started in July 2007. The two-year post-graduation clinical training system for healthcare professionals was established, too. Clinical attitudes and skills for patient-centered and whole-person care are attained under guidance from clinical experts. Healthcare professionals also learn how to practice independent care to ensure quality of medical services and patient safety. Between July 2007 and December 2011, a total of 52,976 healthcare professionals participated in the training.

### **Teenagers' Sexual Health**

238. To lower the pregnancy and abortion rates among female adolescents' abortion rate (decreasing the number of abortions spike annually during the month of September), immediate government attention is required.

### **Health Policies for Women**

239. The Women's Health Policies were approved on March 05, 2008. Individual organizers and co-organizers ensured gender mainstreaming in the health decision-making mechanism, strengthened health information with gender perspectives, and studied and developed medicine and public health education with gender significance according to the objectives of the Women's Health Policies to eliminate the paternal perspective of women's health problems, the emphasis on treatment over prevention, and sex bias associated in past health services. Issues such as gender analysis and gender equality are included as the mainstream of the health service and care system. On November 04, 2009, the Women's Health Policies were also included in the revised "Women's Health and Medical Care" Section in the Checklist of Action Items of the Committee of Women's Rights Promotion, Executive Yuan. Roll-out reflections (three times a year) are carried out periodically, too.

## **Safe Drinking Water**

240. Despite the fact that the government has made concerted efforts to ensure the safety of water sources, water quality, and drinking water, and also despite the fact that, after purification, the water supplied by water utilities (including the Taipei Water Department and Taiwan Water Corporation) meets the Tap Water Quality Criteria and Drinking Water Quality Criteria and can be drunk directly, most people still use separate purification equipment to filter or boil tap water before drinking it because Taiwan is located in a subtropical region where bacteria grow more easily than in colder regions. In addition, there are many other factors which affect water safety during the distribution process and in water purification stations, such as leakage of water piping, internal piping at individual households, and private water storage tanks.

## **Immunization**

241. The government provides multiple vaccines for infants, young children, and the elderly free of charge. The coverage rate among infants and young children is over 95%. The Vaccine Injury Compensation Program (VICP) has been established in accordance with the Communicable Disease Control Act. The ratios of cases receiving relief to cases applying for relief between 2006 and 2011 were 23/39, 16/24, 24/55, 40/64, 120/601, and 68/98, respectively. The total amounts paid between 2006 and 2011 were NT\$5.4, 3.4, 1.9, 6.3, 18.6, and 8.2 million, respectively.

## **Estimated Death Rate of Infants and Young Children in Taiwan and International Standards**

242. Compared with major countries around the world, the infant death rate in Taiwan in 2010 (4.2‰) was comparable with that in Germany (4‰), lower than that in Canada (5‰) and the United Kingdom (5‰), and the United States (7‰), and slightly higher than that in France (3‰). Compared with nearby countries in Asia, it is slightly higher than that in Japan (3‰) and Singapore (2‰) and lower than that in South Korea (5‰), Malaysia (6‰), mainland China (18‰), and the Philippines (26‰).

243. The death rates of children less than one year old and between one and four years old as a result of accidents and injuries in 2004 were 37.2% and 10.8% respectively out of every 100 thousand people. These rates are higher than those in high income countries. By 2010, the rates

were 21.8% and 5.8%, respectively, which is not higher than those in high income countries. The comparison between Taiwan and high income and low income countries is shown in Table 42.

**Table 42 Accidental injury death rates of international children and teenagers by age group**

Unit: %

Item	Age group (years)					
	Less than 1	1 to 4	5 to 9	10 to 14	15 to 19	Less than 20
Year and country						
High income countries (2004)	28.0	8.5	5.6	6.1	23.9	12.2
Low income countries (2004)	102.9	49.6	37.6	25.8	42.6	41.7
World (2004)	96.1	45.8	34.4	23.8	40.6	38.8
Taiwan (2004)	37.2	10.8	5.6	5.7	31.6	14.6
Taiwan (2010)	21.8	5.8	2.9	4.5	21.0	9.9

Source: 2008 World Report on Child Injury Prevention, World Health Organization; 2004 and 2010 Statistics of Causes of Death, Department of Health, Executive Yuan, Taiwan

Description: Out of every 100 thousand children.

### **Prevention of Tuberculosis**

244. The estimate detection rate of tuberculosis in 2011 was 81% in the Republic of China, which is higher than the value of 70% recommended by the World Health Organization. The treatment success rate, on the other hand, was around 71%, falling short of meeting the value recommended by the World Health Organization. The primary reason that accounts for the gap is that over half of the cases consist of old people who are more prone to other causes of death.

### **Prevention of Acquired Immunodeficiency Syndrome**

245. The promotion of the prevention against the acquired immunodeficiency syndrome (AIDS) features stipulation of the strategies and methods in response to the change in the AIDS status and associated issues. The prevention, discovery, management, and care of cases are the underlying frameworks to proactively promote all-around prevention and control efforts, e.g. the prevention of AIDS in young people, prevention against vertical transmission (mother to child), blood transfusion safety and comprehensive protective measures, normal disease surveillance and reporting system, extensive screening services, prompt health education, counseling, and

follow-up activities, promotion of high-quality medical care for the infected, reinforcement of social support and long-term care services for the infected. Major preventive efforts at present include strengthened screening and reporting. Nearly 60 thousand, 86 thousand, and 71 thousand people were screened in 2009, 2010, and 2011, respectively. The HIV/AIDS Prevention and Control Manual was also compiled and given to grassroots disease prevention and control staff for their reference. The harm reduction program for injecting drug users (IDUs) was implemented through joint efforts by the government and the people in 2005 and has effectively reduced the new infections among IDUs.

246. The AIDS fatality rates were 6.37%, 4.54%, 4.87%, 4.03%, 3.60%, and 3.98%, respectively, from 2006 to 2011. It has been on a decreasing trend.

### **Reduced Defamation and Discrimination against AIDS in Society**

247. The HIV Infection Control and Patient Rights Protection Act was amended in 2007 to specify the protection over AIDS patients' rights to education, employment, medical care, examinations, residence, home care, privacy, and publicity. Regarding the protection of employment rights, medical institutions should organize physical examinations for their staff in accordance with applicable labor laws and regulations but shall not include HIV testing as a routine examination item. In addition, when blood is collected for HIV testing, related education and the informed consent procedure should be completed. The result shall not be included in the individual person's overall or the company's overall report or made known to a third party. Violators are subjected to fines. In addition, aliens who are in Taiwan exercising their right to visit relatives through short-term entry and during the appeal period shall be allowed to stay in Taiwan for reasons of fairness and humanitarian concerns. Furthermore, according to the Regulations Governing Protection of the Rights of HIV Patients that were promulgated upon authorization from the aforementioned Act, when government agencies, civil institutions, schools, and groups receive complaints, they should invite related staff, experts, or group representatives to form a task force that takes charge of coordinating and handling the cases. As of December 2011, there had been a total of seven complaints received, among which four were confirmed to be in violation of the foregoing Act and fines were issued according to law. The Department of Health Communicable Disease Prevention Review Committee was established to

handle applications for secondary reviews of the entries of nationals without registered permanent addresses or aliens. The applications can be submitted domestically or from overseas.

248. The Harmony Home Association, Taiwan was once asked to leave the community after the Community Management Committee filed a petition with the court. The verdict of the first instance requested relocation of the Association. This led to the amendment and name change of the AIDS Prevention and Control Act to HIV Infection Control and Patient Rights Protection Act in July 2007, which includes specific protection over the right of habitation and right to domiciliary care. The court of second instance held that the relocation petition filed by the Community Management Committee was discrimination against AIDS patients and relocation would be an infringement on their right of habitation and right to domiciliary care. As a result, the court ruled that relocation was unnecessary.

#### **Prevention and Control of Tobacco Hazards**

249. Article 5 of the Tobacco Hazards Prevention Act stipulates how to control sales of tobacco products in order to block access by children and teenagers. Education and communications on the prevention of tobacco hazards should also be provided to children and teenagers in order to protect the health of minors.

#### **Illegal Substances**

250. The recidivism rate of those under monitored rehabilitation and those who have been discharged from rehabilitation centers has been on a steady decrease each year since 2007.

**Table 43 Statistics of recidivism among those under monitored rehabilitation or having been discharged from rehabilitation centers between 2007 and 2011**

Unit: Person (s); %

Year of discharge	Statistics of recidivism among those under monitored rehabilitation			Statistics of recidivism among those under compulsory abstinence and treatment		
	Number of people discharged	Number of people with recidivism	Recidivism rate (%)	Number of people discharged	Number of people with recidivism	Recidivism rate (%)
2007	7,482	2,972	39.7	2,772	1,440	51.9
2008	7,660	2,710	35.4	3,696	1,722	46.6
2009	6,348	1,899	29.9	3,145	997	31.7
2010	7,882	1,070	13.6	1,737	156	9.0
2011	7,854	846	10.8	1,344	89	6.6

Source: Ministry of Justice

Description: 1. The statistics of recidivism among those under monitored rehabilitation targeted those who were discharged from rehabilitation centers after having discontinued the use of narcotics and recidivated as of the end of 2011 and were prosecuted, petitioned to be sentenced through a expedited verdict, subjected to deferred prosecution, not to be indicted, and referred for monitored rehabilitation or compulsory abstinence and treatment by the public prosecutor after completion of investigations.

2. The statistics of recidivism among those under compulsory abstinence and treatment targeted those who were discharged from abstinence and treatment centers but recidivated as of the end of 2011 and were prosecuted, petitioned to be sentenced through an expedited verdict, subjected to deferred prosecution, not to be indicted, and referred for monitored rehabilitation or compulsory abstinence and treatment by the public prosecutor after completion of investigations.

### **Payment for Medicinal Drugs**

251. Anti-retroviral drugs are covered in the public budget of the government. Patients need not pay out of their pockets. Seventy-four drugs applicable under the Rare Disease and Orphan Drug Act have been officially announced. More than 30 kinds of orphan drugs have also been approved for imports as a special case with a total of 35 drug permits issued. In the future, efforts will be made to reinforce the prevention, screening, and research of rare diseases and expand subsidies for patients with rare diseases on necessary life support medical devices for use at home in order to reduce the incidence of rare diseases and the burden on the shoulder of the caretaker.

## **Prevention and Control of Occupational Accidents**

252. Despite the fact that psychiatric diseases from stress at work are not included as occupational diseases yet, to protect workers' rights in case of occupational accidents, the review criteria for the insured of labor insurance who suffers injuries or diseases as a result of his or her work were amended on November 06, 2009. It is indicated in the labor insurance that when the insured develops a psychiatric disease that has a cause and effect relationship with the performance of the duty, it is considered an occupational disease. In addition, the determination reference guide to psychiatric diseases arising from psychological stress is established to help with the determination of occupational accidents.

253. To protect the rights of workers suffering occupational accidents and reinforce the prevention against occupational accidents, the government enforced the Act for Protecting Worker of Occupational Accidents in 2002 and has been establishing occupational injury and disease prevention and control centers through outsourcing since 2003. In addition, establishment of the occupational injury and disease service network started in 2008 and promotion of onsite occupational health services began in 2009. To solve the issue of underestimated occupational diseases in the Republic of China and monitor the operating environments of workers and exposure status, the occupation injury and disease notification system was established in 2008. The headcount of people receiving reimbursements for occupational diseases through labor insurance grew from 387 in 2008 to 742 in 2011. In addition, the establishment of the Republic of China operating environment database has been ongoing since 2010 to monitor hazardous environments and worker exposure status in individual sectors.

## **Article 13**

### **Right to Education**

254. Citizens of the Republic of China are entitled to receive an education. The Grade 1-9 Curriculum for Elementary and Junior High School Education officially began in 2003. Education for economic, social, and cultural rights is included in the human rights education and encompasses what roles and functions the government plays in areas such as the economy, the relationship between the economy and individuals, as well as cultural diversity and appreciation.

## **Primary Compulsory Education**

255. The Constitution stipulates that children aged 6 to 12 must be able to receive primary education without having to pay tuition. The government provides textbooks to children from poorer backgrounds. The Civil Education Act stipulates that elementary and junior high school students do not have to pay tuition. The government provides textbooks and waives other regulatory fees for children from poorer backgrounds. The Republic of China is not a country that offers completely free compulsory education. Students receiving compulsory education still have to pay some fees. According to the Compulsory Education Act, citizens aged 6 to 15 should receive compulsory education. Those over the said age range should receive national supplementary education. Compulsory education for citizens aged 6 to 15 is established in separate laws. The attendance rate of school-age children in the past five years has been around 98% and the literacy rate in 2010 was 98.04%. As is indicated in the Criteria for Non-school Experimental Education during Compulsory Education Stage, parents shall apply for home education for their children. Non-national students shall be entitled to the tuition criteria for nationals as long as they can provide proof of long-term residency. Students without a nationality can apply with local governments which will coordinate their schooling as special cases.

256. Certain fees now collected by elementary and junior high schools will be deleted, including class fees, swimming pool utility and management fees, student activity fees, and computer equipment maintenance and management fees. It will become effective in Academic Year 2012. Textbook fees, boarding fees, parent association fees, student group insurance and the cost of lunch will continue to be collected. (The cost of lunch is collected on a monthly basis to cover fuels and basic expenditure for preparing lunch.)

## **Technical Education and Vocational Education**

257. Implementation efficacy of education provided at vocational schools: Students attending vocational schools are the important cornerstones for social and economic prosperity and progress. There were a total of 362,514 students attending vocational schools in Academic Year 2010 (including vocational departments in senior high schools), accounting for 47.5% of all students in senior high schools throughout the nation.

258. Changes in the number and ratio of students attending vocational high schools and junior colleges of technology in the past five years.

(1) The number of students attending vocational high schools is shown in Table 44.

**Table 44 Changes in the number of students attending vocational high schools from the 2006 Academic Year to the 2010 Academic Year**

		Unit: Person (s); %				
Academic Year ※	95	96	97	98	99	
Item						
Comprehensive High School	112,677	110,215	103,575	96,396	89,088	
Vocational High School	335,554	339,497	346,563	354,608	362,514	
Total number of students receiving later-stage high school education	754,694	754,054	752,879	757,791	763,156	
Ratio of students attending vocational high schools (%)	44.5	45.0	46.0	46.8	47.5	

Source: Ministry of Education

Description: 1. "Number of students receiving later-stage high school education" = number of students attending comprehensive senior high schools + number of students attending vocational high schools + number of students attending senior high schools.

2. The Republic of China adopts the "academic year" to delineate years in education. Academic Year 2006: August 2006 to July 2007; Academic Year 2007: August 2007 to July 2008; Academic Year 2008: August 2008 to July 2009; Academic Year 2009: August 2009 to July 2010; Academic Year 2010: August 2010 to July 2011; Academic Year 2011: August 2011 to July 2012;

3. The start and end times shown in Tables 44 and 59 are identical when statistics are obtained according to academic year.

(2) The number of students attending junior colleges of technology is shown in Table 45.

**Table 45 Changes in the number of students attending junior colleges of technology from the 2006 Academic Year to the 2010 Academic Year**

Unit: Person

Academic Year Item	95	96	97	98	99
Doctoral program	2,241	2,460	2,681	2,786	2,887
Master program	24,767	28,635	32,777	34,767	36,307
Four-year technology institute	357,982	391,603	425,051	448,572	467,839
Two-year technology institute	125,473	104,183	83,340	62,695	50,576
Two-year junior college	61,380	47,060	32,866	22,941	15,818
Five-year junior college	92,598	86,830	84,787	85,614	86,971
Continuing education academy (two-year technology institute)	28,774	29,265	27,495	24,633	21,858
Continuing education program at junior colleges	42,090	39,344	38,143	31,775	28,801
<b>Total</b>	<b>735,305</b>	<b>729,380</b>	<b>727,140</b>	<b>713,783</b>	<b>711,057</b>

Source: Ministry of Education

259. Statistics of the certification ratio and employment rate among students from vocational high schools and junior colleges of technology.

(1) Statistics of certification among students from vocational high schools and junior colleges of technology are shown in Table 46.

**Table 46 Statistics of certification among students from junior colleges of technology from the 2006 Academic Year to the 2010 Academic Year**

Unit: Person (s); Number of certificates

Academic Year Item	95	96	97	98	99
	M	24,958	39,295	58,406	82,980
F	49,509	75,633	95,850	134,213	74,719
Total	74,467	114,928	154,256	217,193	116,642

Source: Ministry of Education

Description: The statistics of Academic Year 2010 are applicable for the first semester only, i.e. from August 2010 to January 2011.

(2) Statistics of the employment rate among students from junior colleges of technology are shown in Table 47.

**Table 47 Statistics of the employment rate among students from junior colleges of technology from the 2006 Academic Year to the 2010 Academic Year**

Unit: Person (s); %

Academic Year Item	Employment		Advanced studies		Overseas studies		Military service		Other		Graduate Total No. of people
	Number of people	%	Number of people	%	Number of people	%	Number of people	%	Number of people	%	
95	79,079	41.25	27,486	14.17	485	0.25	28,940	14.91	33,303	17.31	189,997
96	80,343	42.06	25,293	12.99	522	0.27	32,021	16.64	33,883	17.56	190,835
97	80,775	45.77	22,530	12.52	460	0.26	33,454	18.92	30,787	17.15	177,314
98	76,998	44.59	20,890	11.91	413	0.24	34,878	20.76	27,690	15.99	170,694

Source: Ministry of Education

Description: Data was collected from the Basic Database of Higher Technological and Vocational Education. Schools are asked to update their data for Academic Year 2010.

### Cooperative Education Measures and Protection over Rights of the Students

260. To maintain the cooperative education system in vocational schools and protect the rights of existing students in the system, the Republic of China has taken measures to investigate

cooperative education frauds in student recruitment and the implementation status of cooperative education, organize negotiations between schools and the CLA on the rights of students in the cooperative education system, draft training contracts for skilled students, include violations as inspection priorities, urge schools to establish sound supervisory mechanisms, include resident inspection and supervision, reinforce communication on the rights of students in the cooperative education system, discipline schools at fault, and stipulate specialty laws.

### Higher Education

261. According to the University Act, student recruitment by a university should follow the principles of equity, justice and openness to ensure equal opportunities for people to enter a university. Current eligibility for the Joint College Entrance Examination (JCEE) is third-year students in senior high schools, senior high school graduates, or people with equivalent education. There is no particular restriction with regard to the eligibility. The restrictions, if any, have been gradually relaxed, too, for the past nearly five years. The number of people accepted and the acceptance rate for the JCEE in the past five years are shown in Table 48.

**Table 48 Number of students accepted and the acceptance rate of universities from the 2007 Academic Year to the 2011 Academic Year**

Unit: Person (s); %

Academic Year Item	96	97	98	99	100
Number of students accepted through JCEE	86,652	81,409	76,434	71,165	66,683
Number of students accepted through screening test	31,388	32,907	34,905	41,439	41,037
Acceptance rate of JCEE (%)	96.28	97.10	97.14	94.87	90.44
Acceptance rate for diversified admissions (%)	74.20	73.18	75.48	76.31	71.31

Source: Ministry of Education

Description: 1. The acceptance rate of JCEE is the number of students accepted through specific subject tests ÷ number of students registered by submitting cards × 100 %.

2. The number of students accepted includes additional openings.

262. The Star Plan trial began in Academic Year 2007 to help direct students to nearby academic institutions, promote community-based schooling patterns among senior and vocational high school students, boost balanced development of urban and rural education, and enrich diversified campus culture in universities. The Star Plan and screening test were consolidated in Academic Year 2011 into the Star Referral System. For the registration and acceptance outcome of Star Plan for universities in individual academic years, see Table 49.

**Table 49 Registration and acceptance outcome of the Star Plan for universities between the 2007 Academic Year and the 2011 Academic Year**

Unit: University; Person

Academic Year	Item	Recruiting university (school)	Number of openings	Number of eligible senior high schools	Registration		Acceptance		Number of students who gave up their acceptance status	Accepted for the first time in three years	
					Number of senior high schools	Number of students	Number of senior high schools	Number of students		Number of senior high schools	Number of people
					96	12	786	403		304	3,714
97	26	1,770	385	357	8,375	323	1,478	77	172	293	
98	26	1,463	368	359	6,508	311	1,324	65	129	186	
99	33	2,006	369	352	6,950	326	1,966	128	167	293	
100	68	7,649	384	369	18,630	360	6,790	379	261	748	

Source: Ministry of Education

263. In accordance with the Special Education Act and the Guidelines for Counseling Students with Disabilities Having Completed Compulsory Education on Advanced Studies, the following measures are available for students with disabilities, including

(1) the screening test for students with disabilities wishing to attend universities or colleges and incentives for schools in universities to organize their own recruiting tests for students with disabilities. In addition, individual screening tests for advanced studies or recruitment committees provide appropriate test services and measures after review to reflect the type and extent being applied for by the students with disabilities. Such services and measures include extended test time and question answering aids to protect the rights of students with disabilities.

(2) The number of students with disabilities who were able to attend universities and colleges grew from 2,874 in Academic Year 2002 to 10,853 in 2011, an increase of 7,979 students.

264. The tuition of public and private universities in the Republic of China is approximately NT\$29,000 per semester for a public university and approximately NT\$55,000 for a private university. The tuition gap between public and private universities is steadily decreasing each year. The tuition/miscellaneous fee ratio has dropped from 1: 3 in Academic Year 2002 to the current 1: 1.82.

265. Advanced education is not compulsory in the Republic of China. To avoid undermined schooling opportunities, however, various subsidies are now available for financially disadvantaged students.

266. Despite the fact that the expansion of universities or technology universities has provided more students with access to advanced education, issues such as squandered education resources, recruiting difficulties due to lower birth rates, and the rising unemployment rate among people who have received advanced education, require constant attention and monitoring.

267. Assistance provided for disadvantaged students attending universities and colleges: University disadvantaged students subsidized through tuition exemptions include those from low income families, with disabilities, with parents who have disabilities, who are aboriginals, or from families in dire straits, etc. Since the 2011 Academic Year, tuition exemptions for students from low-to-middle income families included in the range of relief.

**Table 50 Statistics of beneficiaries of various tuition and miscellaneous exemption fees among universities from the 2006 Academic Year to the 2010 Academic Year**

Unit: Headcount; NT\$

Item		Students with disabilities and children of people with disabilities	Students from low income families	Aboriginal students	Children from families in dire straits
95	Headcount	53,536	6,901	7,272	301
	Amount	1,326,811,270	283,786,645	151,235,553	4,490,703
96	Headcount	55,212	7,598	7,949	535
	Amount	1,382,051,106	316,244,603	163,726,356	6,744,302
97	Headcount	58,636	8,621	9,692	1,065
	Amount	1,449,097,361	356,934,082	202,744,336	19,472,571
98	Headcount	50,496	10,231	10,807	1,719
	Amount	1,248,713,197	419,909,664	224,465,802	42,132,089
99	Headcount	50,672	11,803	12,329	2,328
	Amount	1,233,317,475	477,408,427	255,791,186	57,058,483

Source: Ministry of Education

268. Student loan applications are indicated in Table 51. Students applying for loans in order to complete their studies: Students do not need to begin repaying their loans until a year after they graduate, and there is some assistance such as the deferred payment and the extension payment.

**Table 51 Statistics of student loans for senior and vocational high schools, college, and universities between the 2006 Academic Year and the 2010 Academic Year**

Unit: Headcount; NT\$ million

Academic Year	95	96	97	98	100
Total number of applicants	728,077	759,595	800,809	817,406	777,305
Value	28,121	28,628	29,906	30,202	28,123
Interest subsidies	3,637	4,160	3,612	2,887	3,092

Source: Ministry of Education

Description: The headcount of applicants includes that for the first semester and that for the second semester.

## **Adult Education and Lifetime Learning**

269. National supplementary education is implemented through national supplementary education programs in elementary schools and junior high schools. Adult basic education seminars, on the other hand, target nationals without elementary school diplomas and aim to prepare uneducated people and foreign spouses with skills and knowledge required for attending supplementary education programs in elementary schools. There is a headcount of more than 40 thousand people each year who attend the programs. The literacy rate increased to 98.04% as of 2010. Local governments also assist students who have completed their studies in adult basic education seminars by referring them to supplementary education programs at elementary schools, new immigrant learning centers, senior learning centers, or community colleges for continuous studies.

### **270. Recurrent Education**

(1) Access to advanced recurrent education is available as part of continuing education. Current continuing education comprises credit and non-credit programs. It can be provided through school outings, distance learning, and international learning.

(2) Update on recurrent education: For recurrent education, options include open universities and in-service programs in junior colleges, in-service bachelor's degree programs in universities, two-year programs for working professionals at universities, master's programs for working professionals, and other programs.

(3) Total openings available from Academic Year 1999 to Academic Year 2010: There were 130,663 openings for graduate school programs for working professionals and 190,770 openings for two-year programs for working professionals and in-service bachelor's programs in universities.

**Table 52 Statistics of approved openings for in-service programs from the 2006 Academic Year to the 2010 Academic Year**

Unit: Person (s);%

Academic Year	Item	Master's programs for working professionals		In-service bachelor's programs and two-year bachelor's programs for working professionals	
		Openings	Growth (%)	Openings	Growth (%)
95		13,646	7	23,500	5
96		13,642	-0.03	19,933	-43
97		13,575	-0.05	19,603	-1.7
98		13,562	-0.1	18,421	-6
99		15,419	13.7	17,091	-7.2

Source: Ministry of Education

Description: Universities of education and physical education colleges were added in Academic Year 2010.

(4) There was a headcount of 2,450,554 people in total who attended credit and non-credit programs as part of continuing education offered at individual universities and colleges from Academic Year 2001 to Academic Year 2009.

271. **Promoting Lifelong Learning:** Multiple social education policies are being proactively promoted in accordance with the Lifelong Learning Act, the Social Education Act, and the Family Education Law to accomplish the prioritized goal of creating a learning-oriented society. Individual social education institutions, municipal and county (city) governments, related schools under the jurisdiction of local government, family education centers, public libraries, community colleges, open universities, and cultural and educational funds have joined efforts to provide extensive learning opportunities and channels for this purpose.

**Teaching Local Dialects and Minority Languages to Children**

272. Starting in the 2001 Academic Year, dialects have been included into the language learning section of the Grade 1-9 Curriculum for Elementary and Junior High School Education. Elementary school students can select and study a language from among the following: Taiwanese, Hakka, or various aboriginal languages. Local dialect learning is offered to junior high school students as an elective course.

273. There were 9,033 classes studying Hakka language in junior high and elementary schools in Academic Year 2011, with a total of 157,694 students. The offering rate was 94%. For aboriginal languages, on the other hand, there were 8,982 classes with a total of 50,447 students. The offering rate was 87%.

274. The Ministry of Education and the CIP jointly authorized the National Chengchi University to compile learning materials of various aboriginal languages. The compilation of a total of 360 volumes comprising 40 languages and nine learning stages was completed in March 2009. Printing and delivery of Stage 1 to Stage 5 learning materials were completed in 2011. It is expected that Stage 6 learning materials will continue to be printed and delivered in 2012. The Ministry of Education has authorized the National Academy for Educational Research to edit phased learning materials of the Hakka language since 2008 and to complete the compilation of Volumes 1 to 9 for six tones in 2012.

#### **Language Learning Policies and Implementation Status for Aboriginal Students**

275. The CIP started to hold the cultural and language proficiency certification test for aboriginal students to facilitate preferred admission since Academic Year 2007. The test covers basic vocabulary, a hundred daily life dialogue sentences, mimic test questions and practice questions from Stages 1, 2, and 3 aboriginal language learning materials published by the Ministry of Education to be part of the nine-year consistent curriculum. The accumulated number of examinees since the test was available in Academic Year 2007 has reached 68,411. The qualification rate is 72.9%.

276. Despite the fact that the government has multiple incentive measures for the indigenous peoples to use their tribal languages, such as the subsidies for organization of tribal language cultural classrooms (language nests), assisted preparation for the tribal language proficiency test, topic-oriented tribal language learning experience, language and cultural documentation, compilation of the simple graphic-based tribal language dictionary, publication of children's picture books in tribal language, aboriginal language learning materials (letters and daily conversation editions), restoration of nine extinctive languages, training of tribal language teachers throughout the nation, promotion of the written symbol system of 14 tribal languages, the utilization rate of these languages is not high. The lack of an environment for indigenous

peoples to apply their tribal languages will make it difficult to substantially preserve aboriginal languages.

### **Gender Equality Admission**

277. Applicable laws have the admission criteria for men and women in place and stipulated that everyone has equal access to schooling. Since the enforcement of the Gender Equity Education Act in 2004, the Guidelines for Counseling and Managing Pregnant Students have been established to protect these students' right to education. There are also schooling subsidies for disadvantaged female students or those in unfavorable situations to ensure that they do not discontinue studies as a result of pregnancy or the disadvantaged situation. The schooling opportunities for homosexuals or students with unique sexual orientation and sexes should also be equally respected.

278. Considering male and female enrollment ratios at all levels of education for the 2011 Academic Year, the proportion of female students was 47.52% in kindergartens, 47.70% in elementary schools, 47.92% in junior high schools, 49.82% in senior high schools, and 48.94% in universities. While these were all close to 50%, the ratio of female students at vocational high schools for the 1999 Academic Year (from August 1999 to July 2000) was 44.45% while that in junior colleges rose to 72.33% as a result of the fact that domestic nursing schools were gradually reformed and upgraded to become junior colleges. For graduate institutes, the ratio of female students in master and doctoral programs for the 2011 Academic Year were 43.31% and 29.66%, respectively, a growth of 3.80% and 3.01% from those in the 2006 Academic Year, respectively. (For related statistics, see Table 53.)

**Table 53 Gender ratios among students at schools of all levels from the 2006 Academic Year to the 2011 Academic Year**

Unit: %

Academic Year	Kindergarten		Elementary School		Junior High School		Senior High School		Vocational High School		Junior College		Bachelor's Program		Master Program		Doctoral Program	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
	95	52.23	47.77	52.10	47.90	52.11	47.89	50.16	49.84	55.62	44.38	40.85	59.15	50.58	49.42	60.39	39.61	73.35
96	52.26	47.74	52.14	47.86	51.98	48.02	50.29	49.71	56.03	43.97	38.13	61.87	50.92	49.08	59.65	40.35	72.68	27.32
97	52.38	47.62	52.17	47.83	51.98	48.02	50.20	49.80	55.93	44.07	34.49	65.51	51.02	48.98	58.33	41.67	72.15	27.85
98	52.57	47.43	52.21	47.79	51.99	48.01	50.28	49.72	55.76	44.24	31.13	68.87	51.14	48.86	57.30	42.70	71.53	28.47
99	52.45	47.55	52.29	47.71	52.06	47.94	50.15	49.85	55.56	44.44	28.75	71.25	51.12	48.88	56.70	43.30	71.09	28.91
100	52.48	47.52	52.30	47.70	52.08	47.92	50.18	49.82	55.53	44.47	27.67	72.33	51.06	48.94	56.59	43.41	70.34	29.66

Source: Ministry of Education

### Reduced Dropout Rate among Children and Teenagers

279. Schools must investigate and discuss individual cases for the students' reasons for discontinuing studies and introduce resources to help the students. If the students are from low income families, the schools can provide assistance upon applications through the social administration and welfare system. There is also the school safety network established by the Ministry of Education that offers various platforms and channels through which assistance or schooling subsidies are provided so that no children will drop out of schools.

280. Policies on education for dropouts and the implementation efficacy and educational resources for dropouts

(1) It is specified in the Constitution and the Compulsory Education Act that nationals aged 6 to 15 should receive compulsory education. The Statute For Mandatory Schooling With School Age Children has explicit mandatory schooling requirements in place. To effectively consolidate counseling for dropout students to reinstate studies and protect the right to schooling of school-age children, the reporting system was established in 1994. The strategies for reinforced counseling that helps elementary and junior high school dropouts to resume studies were amended in 2006 to combine authorities in charge of education, internal administration, police administration, and social administration and introduce various resources in the planning of the preventive, follow-up, and reinstatement counseling mechanisms concerning discontinued studies.

(2) The number of dropout students and the dropout rate are higher than average among aboriginals. The Ministry of Education particularly asks local governments to have a precise control over the status and analyze why these students drop out. Schools should adopt counseling or reinstatement measures that are reflective of the reasons for discontinued studies and ask the CIP to supervise aboriginal family and women service centers in individual counties and cities, to reinforce the prevention against discontinuation of studies among aboriginal students.

**Table 54 Number of dropout students and the dropout rates from the 2005 Academic Year to the 2010 Academic Year**

Unit: Person (s);%

Academic Year Item	94	95	96	97	98	99
No. of dropout students	2,981	2,061	1,498	1,156	1,045	1,057
Dropout rate (%)	0.107	0.076	0.056	0.044	0.041	0.043

Source: Ministry of Education

Description: 1. No. of dropout students: the number of students who continue their dropout status at the end of the specific academic year (month)

2. Dropout rate: the number of students who continue their dropout status at the end of the specific academic year (month)/the total number of students in elementary and junior high schools.

**Table 55 Number of dropout aboriginal students and the dropout rates from the 2005 Academic Year to the 2010 Academic Year**

Unit: Person (s);%

Academic Year Item	94	95	96	97	98	99
No. of dropout students	408	267	180	153	120	142
Dropout rate (%)	0.547	0.357	0.243	0.206	0.160	0.159

Source: Ministry of Education

Description: The dropout rate is the number of aboriginal students who continue their dropout status at the end of the specific academic year (month)/the total number of aboriginal students in elementary and junior high schools.

**Table 56 Male-female ratios among dropout students from the 2005 Academic Year to the 2010 Academic Year**

		Unit: %				
Academic Year	94	95	96	97	98	99
Item						
Boys	55.80	56.01	56.24	54.65	56.03	55.40
Girls	44.20	43.99	43.76	45.35	43.97	44.60

Source: Ministry of Education

281. Establishment of diversified alternative education measures: After they resume studies, students who have dropped out of elementary and junior high schools should return to their original schools to resume their studies in principle. In the event that they are assisted in returning to their original schools but they cannot adapt themselves to the schooling environment, as long as they are approved through assessment and receive consent from their parents or custodians, they can attend alternative education programs. The said alternative education measures include the Cih-Huei Class, the Cooperative Halfway Class, and the Resource-based Halfway Class, etc. The average attendance rate of over 50% has met the actual requirement.

**Table 57 Attendance in intervening education programs between 2008 and 2011**

		Unit: Person (s);%			
Year	2008	2009	2010	2011	
Establishment status					
Number of openings	2,374	2,371	2,309	2,348	
Average number of students	1,228	1,415	1,241	1,179	
Average attendance rate (%)	51.73	59.68	53.75	50.21	

Source: Ministry of Education

## Article 14

### 282. Free Primary Education

(1) According to the Civil Education Act, "primary education" is the education provided in elementary schools, the early stage of the compulsory education in the Republic of China. For applicable requirements on the collection of fees, please refer to the clarifications in Article 13.

(2) In addition, financially disadvantaged students are sponsored by the central government with appropriated budget. If the rich is not excluded and all students are exempted from paying fees collectable by schools, it is expected that the annual budget will have to be NT\$30,387,424,478. The Ministry of Education has already related subsidy plans in place to help disadvantaged students complete their studies. In accordance with the foregoing principle of subsidization, the Ministry of Education already provided partial subsidies to cover outstanding collectable fees in 2010, which totaled NT\$262,466,220 in value.

**Table 58 Overview of student insurance subsidies budget from the 2006 Academic Year to the 2010 Academic Year**

Unit: NT\$

Academic Year \ Item	95	96	97	98	99
First semester	220,479,982	216,686,578	212,224,435	207,348,168	184,418,629
Second semester	222,211,693	217,718,600	213,317,312	208,554,408	186,908,048

Source: Ministry of Education

**Table 59 Statistics of subsidies for collectable fees from the 2006 Academic Year to the 2010 Academic Year**

Unit: NT\$

Academic Year	Item	Elementary and junior high school beneficiaries		Value	
		First semester	Second semester	First semester	Second semester
95		42,835	50,792	34,454,500	37,769,496
96		59,964	59,972	44,384,300	37,235,800
97		66,076	127,681	43,791,066	108,329,969
98		185,760	171,398	141,243,034	130,391,486
99		163,210	197,261	132,074,733	144,955,415
Total		1,124,948		854,737,275	

Source: Ministry of Education

283. The Republic of China is planning to extend the duration of free compulsory primary education to 12 years. Article 11 of the Educational Fundamental Act stipulates that the duration of fundamental national education should be extended to reflect the social development status. The 12-year fundamental national education to be implemented in the Republic of China is not compulsory in nature and mostly does not require tests and is free of tuition. To gradually put the policy of comprehensive free tuition for senior and vocational high schools into practice, the Republic of China has enforced free-tuition policies for students attending practical skill programs, continuing education schools, cooperative education programs or aboriginal students. In addition, the standard tuition measures have been adopted in private senior and vocational high schools for households whose income is below NT\$900 thousand per year to lay the groundwork for 12-year fundamental national education. Promotion of the free tuition policies is done in different stages - Stage 1: Students whose household income is below NT\$1.14 million a year do not have to pay tuition when attending vocational high schools. Those attending private senior high schools shall pay tuition equivalent to that charged by a public school. Stage 2: Tuition is completely free for both senior and vocational high schools.

284. To overcome aforementioned challenges and restrictions, the Republic of China has the following applicable strategies in place.

(1) Related collectable fees will be gradually deleted. For the time being, certain fees that are more relevant to instructions are deleted and are afforded jointly by the central government and respective local governments. Related requirements in the Civil Education Act and its enforcement rules have also been amended. Besides specific fees collectable by elementary and junior high schools, the Ministry of Education is also empowered to coordinate and supervise applicable fee collections at the municipal and county (city) government levels.

(2) Because it involves an enormous expenditure in accomplishing completely free compulsory education, related budget will be explored and authorities will be coordinated proactively so that there is sufficient budget to subsidize gradual elimination of certain collectable fees and accordingly accomplish the goal of completely free compulsory education throughout the nation.

(3) In light of the requirements in Article 5 of the existing Civil Education Act, individual municipal and county (city) governments are to establish their own income and expenditure criteria for miscellaneous fees and various fees collectable by elementary and junior high schools. It is considered to amend related regulations in the Civil Education Act to provide basis for the criteria. Principles are given to govern the definitions of tuition, miscellaneous fees, and collectable fees in elementary and junior high schools in the Enforcement Rules of the Civil Education Act.

## **Article 15**

### **Participation in Cultural Life**

285. Taiwan is a country of immigrants. Besides diversified tradition and culture of indigenous peoples, immigrants from Europe, mainland China, and other Asian countries at different points of time have also brought along various characteristic culture, customs, or historical architecture. Taiwanese people are highly involved in cultural life and welcome people from other countries to experience the beauty of Taiwanese culture.

286. Further efforts are required from the government to precisely protect the right of people with disabilities to take part in cultural life. The government should establish service criteria for cultural exhibitions and performing arts to ensure participation of people with disabilities in

cultural events. plan barrier-free sightseeing routes, and provide service-related information to encourage participation from people with disabilities. Individual government agencies should verify the status of the barrier-free page of each of their related websites. Locations of spots for wheelchairs inside, entrances and exits of, and barrier-free routes in surrounding environments of cinemas throughout the nation should be checked and reflected upon. Improvements within a certain timeframe should also be planned. It is advised to mandate that bus operators must plan barrier-free routes and apply for transport carriages and include them as major items during operation route accreditations. The National Communications Commission should demand that individual television stations provide related services such as sign language interpretation, real-time typing among others, and proactively urge individual television stations not to block the sign language interpretation screen in the programs they make in order to protect the audio-visual rights of people with disabilities. The government should take universality and reasonable distribution of resources into consideration when planning cultural events to avoid any disputes.

287. The National Palace Museum holds exhibitions all year round. In 2010 and 2011, the Museum was visited by 3.44 million people and more than 3.84 million people, respectively. The National Palace Museum also offers free admissions to student groups to increase their participation in cultural events.

### **Protection over Cultural Diversity**

288. The Republic of China has diversified culture and society. It is home to indigenous peoples, Taiwanese, Hakka people, new inhabitants, Tibetans, Mongolians, and new immigrants, among other populations. To honor the purposes of the Additional Articles of the Constitution that recognize diversified culture and protectively protect and develop the languages and culture of indigenous peoples, the government established the CIP in 1996, created the IPBL, the Statute for Protecting Aboriginal Intellectual Creations, and set up the Bureau of Cultural Park, the Skills Training Center, the Historical Records Committee, the Library and Information Center, and the aboriginal TV station. It also joins efforts from 28 local aboriginal culture houses and the Indigenous Peoples Cultural Foundation to proactively promote preservation, relay, and creative development, communication, and international exchange of aboriginal culture.

289. In terms of the preservation of the culture of minority groups, the Lo-Sheng Sanatorium that witnessed the medical care and public health developments for Hansen's disease in Taiwan and some of its architecture were registered as a cultural landscape and historical building in 2009. In addition, military dependents' villages, the unique buildings and residences during special times in Taiwan, are also one of the cultural preservation priorities for the government.

### **Professional Cultural Education**

290. The Ministry of Education announced the White Paper on Art Education Policies in December 2005 and formed the Art Education Committee in 2009 to discuss art education developments at schools of all levels periodically. The Republic of China 2011 Education Report included solutions for the promotion of art and aesthetics education as administrative policies. To restore the nurturing environment for talent at arts and design-related departments and graduate institutes in universities, industry-academy cooperation resources were promoted and extended in 2005 to encourage students to participate in international arts and design competitions. There were a total of 55 universities and colleges with 141 departments and graduate institutes available on art education in 2011.

### **Protection over Authorship**

291. In terms of the protection over intellectual property rights, there were 2,890 cases of illegal infringement upon other's authorship, 2,271 cases on trademark violation, 1,348,523 pieces of CDs confiscated, and 2,646 cases of cyber crimes, respectively, in 2010. The numbers were 3,382, 2,251, 615,528, and 2,986, respectively, in 2011. The market value involved was estimated to be NT\$12,290,914,218. The Republic of China established a separate prosecutors office in 2008 to handle exclusively appeals concerning publicly prosecuted intellectual property criminal cases or appeals against rulings of a court of second instance. In terms of violation of the Copyright Act, 1,645, 1,326, 1,061, 905, and 924 people were prosecuted from 2007 to 2011, respectively. As far as the Trademark Act is concerned, 1,613, 1,287, 1,099, 1,082, and 1,427 people were indicted from 2007 to 2011, respectively. The Republic of China also established the Intellectual Property Court in 2008 to quickly and adequately solve issues concerning intellectual property rights. Since it was established, the court has handled a total of 5,497 civil, criminal, and administrative lawsuits concerning intellectual properties rights, among which

5,032 cases are concluded. The closure rate is 91.54%. On average, the number of days required to conclude a case is around 137.74. The maintenance rate of cases to be appealed to the third instance is up to 86.75%.

292. The CIP has completed compilation of first drafts of fundamental cultural materials for 14 aboriginal tribes, established the aboriginal digital archive knowledge portal, compiled jointly with the Ministry of Education the "Taiwan Aboriginal History, Language, and Culture Encyclopedia Dictionary", promoted jointly with the Academia Historica theme studies of indigenous peoples, published 19 books on major historical aboriginal events and the relocation history of aboriginal tribes, and joined efforts from local governments in the compilation of a total of 30 aboriginal township journals. In addition, to develop an aboriginal knowledge system and establish an aboriginal knowledge database, the Taiwan Indigenous Peoples Resource Center became operative in 2005. As of the end of December 2010, a total of around 2,586 volumes/pieces of books in Chinese/Japanese and Spanish and 846 volumes/pieces of multi-media data were collected. Digital archive: Interpreted data from 800 series have been digitized; among them 10,800 pieces are digital historical data. In addition, the Aboriginal Publication Committee under the CIP was established on January 29, 2010 to take charge of collecting, compiling, editing and translating, archiving, studying, and preserving aboriginal publications.

293. The government sponsors three to five aboriginal performing arts groups each year by enhancing their professional skills. One hundred and fifty cases have been subsidized. Each year, around 150 aboriginals specializing in various culture and arts are developed through joint efforts from government agencies, schools, and tribal groups. There are approximately 50 rounds of aboriginal traditional sports competitions and cultural ritual events being organized each year. Under the resident program, around 50 aboriginal artists are being sponsored each year to promote the development of aboriginal cultural industry. In addition, subsidies are provided to 28 local aboriginal cultural houses throughout Taiwan to preserve aboriginal traditional cultural artifacts. Aboriginal culture exhibition sites are set up to showcase aboriginal culture. The Bureau of Cultural Park is also established under the CIP to be responsible for collecting, organizing, researching, archiving, editing and printing, displaying and exhibiting aboriginal

cultural data and artifacts so as to advance academic exchange and training, maintenance, and management of talent specializing in aboriginal music, dance, folklore events, and traditional architecture.

294. Those meeting the requirements for patent and trademark applications and copyright protection are entitled to all indispensable freedoms to eliminate infringement from others and keep intact personalities, the protection indicated in the Patent Act, Trademark Act, and Copyright for the right holders in scientific research and creation events. Despite the fact that copyrights, patent rights, and trademark rights are exclusive in nature, for the sake of public interest, the exercise of these rights is restricted. This is why Articles 44 to 65 of the Copyright Act establish the type of behavior that does not constitute copyright infringement as long as copyright is exercised properly. Article 69 of the Copyright Act requires mandatory authorization in musical works. The Patent Act specifies the extent to which validity of patent rights does not apply in Article 57 and the requirements for the enforcement of a patent charter under Article 76. The existing Trademark Act has regulations about disallowed applications and registrations in Article 23 and non-restrictions by the power of others' trademarks in Article 30. All of these are to strike a balance between the protection over inventors' freedoms to scientific research and creative activities and the protection of public interest.

### **Preservation Measures and International Collaboration**

295. The National Science Council was established in 1959 under the Executive Yuan to be exclusively responsible for promoting scientific and technical developments on behalf of the government. Related measures in the scientific developments and communications include the promotion of science events, issuance of both the hard copy and electronic copy of science magazines, establishment of science websites, promotion of catalyzing programs for science communications businesses, development of science audio-visual producers, and organization of international symposiums, etc. In addition, to facilitate combination of archived contents and techniques in educational, research, industrial, social, and international developments, the multi-disciplinary Taiwan e-Learning and Digital Archives Program has been promoted. With digital technology, valuable collections of the country are available online, ranging from humanity, arts, history, social science, and life science. A total of more than 100 universities and

libraries are enrolled in the program. The number of digital collections has exceeded three million pieces, which will be made available in the Taiwan e-Learning & Digital Archives portal for access by various aspects of society in the future.

296. The National Palace Museum promotes international collaboration by participating in overseas exhibitions and organizing international loan exhibitions. Utilizing professional expertise and technology, the Museum has been able to fully preserve over 690,000 historical artifacts.

297. The Preparations Office for the Bureau of Cultural Heritage under the Ministry of Culture signed the Administrative Collaboration Agreement with France's Office for Undersea Archaeological Research (DRASSM) in 2007 in order to preserve and maintain the undersea cultural heritage in Taiwan and has been proactively applying for membership with international organizations on cultural heritage in order to keep its idea of how to preserve world heritage on par with its international counterparts. Taiwan is currently a member of seven organizations, namely ICOMOS, ICOM, AIC, AAM, IIC, JSCCP, and TICCIH. The multi-disciplinary World Heritage Committee is also in place to subsidize local governments and help them with fundamental investigation and research, preservation, maintenance, and management, among other pre-operations in separate years. However, the Republic of China is not a United Nations member state or a signatory of related covenants, which makes applications for being part of world heritage difficult. For the time being, the government can only start with various preparations and restorations and engage itself in the relay and protection of related heritage to honor the idea of preserving world heritage.