

**REPORT  
ON  
PROTECTION OF  
THE RIGHTS  
FOR FOREIGN WORKERS  
IN TAIWAN**

**COUNCIL OF LABOR AFFAIRS  
EXECUTIVE YUAN**

**October 19, 2001**

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## Report

### On Protection of the Rights for Foreign Workers in Taiwan

#### I. INTRODUCTION

In recent years, the unbalanced labor supply and demand in Taiwan has resulted in a lack of basic manpower. This can be attributed to a number of economic factors such as the transformation of industrial structure, rising per capita income, rapid growth in service industries, higher education levels, and a change in job values. In response to these issues, the Council of Labor Affairs (MOL) decided to open up Taiwan's job market to foreign workers starting in October 1989. Migrant workers from Thailand, Philippines, Indonesia, Malaysia, Vietnam and Mongolia are now employed in Taiwan as part of the government's efforts to solve the problems of labor shortages.

As of the end of December 2013 there were 449,134 foreign workers in Taiwan, 54.33% employed as manufacturing workers, 0.69% construction workers, 2.00% fishing crews, 42.54% caretakers and 0.44% domestic helpers.

Foreign Workers in Taiwan (as of December 2013) unit: person

Country Industry		Thailand	Indonesia	Philippines	Vietnam	Malaysia	Mongolia	Others
Total	<b>489,134</b>	<b>61,709</b>	<b>213,234</b>	<b>89,024</b>	<b>125,162</b>	<b>4</b>	<b>0</b>	<b>1</b>
		<b>12.62%</b>	<b>43.59%</b>	<b>18.20%</b>	<b>25.59%</b>	<b>0.00%</b>	<b>0.00%</b>	<b>0.00%</b>
Manufacturing	<b>265,741</b>	<b>58,821</b>	<b>37,039</b>	<b>66,105</b>	<b>103,772</b>	<b>4</b>	<b>0</b>	<b>-</b>
	<b>54.33%</b>							
Construction	<b>3,390</b>	<b>2,126</b>	<b>548</b>	<b>33</b>	<b>683</b>	<b>0</b>	<b>0</b>	<b>-</b>
	<b>0.69%</b>							
Fishing crew	<b>9,788</b>	<b>17</b>	<b>8,332</b>	<b>1,304</b>	<b>135</b>	<b>0</b>	<b>0</b>	<b>-</b>
	<b>2.00%</b>							
Caretaker	<b>208,081</b>	<b>733</b>	<b>165,821</b>	<b>21,000</b>	<b>20,527</b>	<b>0</b>	<b>0</b>	<b>-</b>
	<b>42.54%</b>							
Domestic	<b>2,134</b>	<b>12</b>	<b>1,494</b>	<b>582</b>	<b>45</b>	<b>0</b>	<b>0</b>	<b>1</b>

helper	0.44%							
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This initiative has benefited Taiwan economically and socially:

1. **It supplies more basic manpower needs as well as encourages small and medium enterprises (SMEs) to keep their investment in Taiwan and offer more job opportunities.**
2. **It allows Taiwan to utilize global human resources to increase national competitiveness and speed up public construction.**
3. **It provides sufficient caretakers to those households in need, so that productive manpower can fully participate in the job market.**

Foreign workers need to make extra efforts to adapt into Taiwan's working environment due to language barriers, differences in religious belief, cultures and life patterns. This means that much more care from the public is needed for these workers. This thought is made for reasons of humanity, justice, fairness as well as being a gesture to respond to the contribution made by the foreign workers to Taiwan's economic development, embodying the traditional values of this country.

## **II. FUNDAMENTAL PRINCIPLES**

Taiwan is less likely to host a large number of immigrants because it is a small and densely populated island nation. Foreign workers are however introduced into Taiwan as "Guest Workers" because they are considered supplementary to the country's job market and economic development. The government has no intention of making differences between the foreign workers and the local citizens. Though some restrictions are imposed on foreign workers, significant efforts have been made to ensure the equality of their treatment, labor standards and legitimate rights in their host country. Under no circumstances will the government allow foreign workers on the island to be maltreated, rejected or left helpless. In short, the legitimate rights of foreign workers in Taiwan are well protected by the following fundamental policies:

### **1. Fundamental Rights: Equality and Justice**

Migrant workers leave their home country with the hope of earning more

money than what is being offered in their country of origin. Their legitimate rights must not be deprived in any way. In the process of obtaining job opportunities migrant workers often find that some external forces are taking a portion of their earnings as for whether the shares are reasonable, those should be scrutinized with fairness and justice.

## **2. Employment Rights: National Treatment**

Article 7 of the Universal Declaration of Human Rights states that “All are equal before the law and are entitled without any discrimination to equal protection of the law.” Every foreign worker in Taiwan, therefore, is under the protection of pertinent laws. These include the Labor Standards Law (LSL) that offers nondiscrimination and legitimate protection in minimum wages, working hours and working conditions as well as benefits regulated under the Labor Insurance Regulations and the Employee Benefit Regulations.

## **3. Living Rights: Universal Principle**

Foreign workers leave their homes and families behind for employment in an unfamiliar society, where mutual understanding between them and local citizens is of utmost importance. In this regard of understanding efforts have been made to help foreign workers understand more about local communities and offer workers a mechanism in counseling and adaptive service, so that they can feel at home and enjoy their stay in Taiwan.

# **III. SUBSTANTIAL MEASURES**

## **1. Protecting the Fundamental Rights of Foreign Workers**

### **(1) Reinforcing the management of brokerage firms**

- i. Regulation regarding service fee charging standards for Taiwan manpower agencies was revised on November 9, 2001. It stipulates Taiwan manpower agencies can only charge a monthly service fee from foreign workers and shall not charge any broker’s fees. The monthly service fee shall not be more than 1,800 NT dollars in the first year, 1,700 NT dollars in the second year and 1,500 NT dollars in the third year. On March 2, 2010, in order to avoid increasing the burden on

the part of the foreign workers, the MOL revised the said regulation that requires the broker's fees shall not be collected in advance in line with the commercial practice of "fee for service".

- ii. The MOL has reduced the service fee as of November 2001 and suggested the expected service fee shall not be more than the foreign workers' monthly minimum wages. The Foreign Worker's Affidavit for Wage/Salary and Expenses Incurred for Entry into the Republic of China to Work (the Salary/Wage Affidavit) is notarized by the authorities of the foreign worker's home country. The documents will be double checked by the home country. According to the Employment Services Act revised on January 21, 2002 brokers who collect unlawful compensation are subject to aggravation of fines, suspension or revocation of permits.
- iii. To mitigate the foreign labor's burden of excessive broker's fees, the MOL established the "Direct Hiring Joint Service Center (DHSC)" on December 31, 2007. The WDA (Workforce Development Agency) has set up five service counters in the public employment service institutions (one in northern, central, southern, eastern, and western Taiwan) to assist the employers in recruitment of the same employees without going through agencies, to eliminate the broker's fees and to shorten the process and time for foreign workers re-entering Taiwan. Services provided include counseling in different languages, query, proxy transfer, proxy send and text message / e-mail sending to remind employers on matters of foreign workers' post-arrival. In 2008 the direct hiring program was first available to the employers who wanted to rehire the same foreign domestic caretakers. As of 2009 the direct hiring program has expanded its services to service the employers rehiring the same

foreign workers that work in the manufacturing, fishing boat, construction, institution caretaking and domestic helper industries.

The "International Direct e-Recruitment System (IDeS)" was launched in January 2012. Through the IDeS employers may recruit new hires online or in person.

- iv. The practice of collecting excessive broker's fees is caused in part by employers who receive kickbacks from brokerage firms. In order to solve this problem and ensure the rights of foreign workers the MOL has revised the Employment Services Act and relevant regulations. As the law stipulates: if the employers have been found to receive kickbacks the applications for permits shall be denied or employment permits shall be annulled. The brokerage firms involved in these kickbacks shall be fined or have its operations suspended.

On July 14, 2011 the MOL interpreted the definition of "unjust interests" as referred to in Paragraph 6 of Article 40 and Subparagraph 10 of Paragraph 1 of Article 54 of the Employment Services Act as: the expenses that are supposed to be paid or shouldered by the employer based on legal requirement or contractual agreements, or the value of gifts received by the employer from the brokerage firm that have exceed acceptable value in social ritual or business practices Both tangible and non-tangible profit is included in this context to prohibit the rebate that employers may request from the brokers in order to safeguard foreign workers' welfare.

- v. The MOL in 2002 amended the checklist for local authorities' routine inspections, and the broker's collection of fees has been included in order to reduce broker's fees paid by the foreign workers. Unscheduled inspection visits to employers and foreign workers will be conducted to

check up whether brokers' collections of fees are consistent with "the Salary/Wage Affidavit" signed by employees. Taiwan manpower agencies engaging in excessive collection of fees will be penalized in accordance with the applicable laws and regulations. As for foreign manpower agencies engaging in excessive collection of fees they will have their licenses revoked in accordance with Taiwan's "Regulations for Permission and Supervision of Private Employment Services Institutions." The cases of offence shall also be referred to the authorities of the labor sending countries for proper handling.

- vi. The practice of receiving or collecting any amount of loan incurred abroad by Taiwan's brokers may cause the problem of an over-collecting fee. On August 20, 2009 the MOL revised the Salary/Wage Affidavit, stipulating that Taiwan's brokers shall not receive or collect any amount of loan incurred by the foreign worker, in order to prevent over-collecting. Those who violate Paragraph 5 of Article 40 of the Employment Services Act shall be fined or charged for the additional expenses. The loan incurred by the foreign worker in Taiwan shall be exclusively collected by the creditor specified in the Salary/Wage Affidavit and the collected amount shall be consistent with that which is specified in the Salary/Wage Affidavit.
- vii. The MOL amended the "Council of Labor Affairs Evaluation Guidelines for Violation of Employment Services Act by Private Employment Service Institutions and Professionals and for Revocation of Cases" on March 27, 2012 in order to prevent the manpower brokerage agencies from overcharging. Irrelevant with whether the overcharge is refunded or not, a suspension of 3 months will be imposed on those that violate the Act for the first time and a suspension of 6 months is imposed for

those that violate the Act for the second time, a suspension of more than 9 months is imposed each time for those that violate the Act three or more times. An additional suspension of 3 months is imposed if the overcharge is not refunded before the decision on suspension is rendered to prevent the brokers from overcharging effectively.

- viii. In order to enhance the management of manpower brokerage agencies and require that the local and foreign manpower brokerage agencies shall fulfill the obligation to select and care for workers, the MOL amended the “Regulations for Permission and Supervision of Private Employment Services Institution” on January 4, 2013. This amendment expressly defining that where the number of undocumented foreign workers as introduced by local manpower brokerage agencies attains the specific quota and ratio, the agencies shall be forbidden from establishing any branch company and no renewed permit for establishment shall be granted to the brokers upon expiration of the permit. In order to force the agencies to withdraw from the market no approval will be granted to the foreign manpower brokerage agencies which employ foreign workers when the agencies apply for re-recognition.
- ix. To effectively administer and enhance brokerage service quality and institute a market exit mechanism for brokers the MOL began carrying out the evaluation of brokerage agencies in 2003 and in 2007 revised the “Regulations for Permission and Supervision of Private Employment Services Institutions”. The revision was made to provide a legal basis for the evaluation system. The MOL carries out on-site evaluation of the quality management, customer service and others practices of brokerage agencies on an annual basis. These evaluations give grades of A, B or C



and publishing those grades on the website of the Workforce Development Agency to serve as a reference in choosing brokerage agencies. Brokerage agencies that receive C grade appraisals will not be allowed to set up any branches. C grade agencies must make improvements within one year's time. Agencies that fail to receive a B grade after improvement by the next year will not be allowed to renew their permit. This measure leads to the phasing out of disqualified brokers from the manpower brokerage market, helping the development of the brokerage market. The "Evaluation Guidelines for Private Employment Service Institutions Engaging in the Business of Cross-national Manpower Agency" was revised on February 11, 2011 due to the fact that the services provided by brokerage agencies will have an impact on the welfare and rights of employers as well as foreign workers. Branch offices of manpower brokerage agencies are included in the official evaluation and raise the bar for grade C appraisal from 60 points to 70 points. Certain quality excellence awards that go to private employment service institutions are taken into consideration in order to publicly commend excellent institutions and reward these institutions and the professionals of service. These quality excellence awards enhance the service quality of brokerage firms and ensure the brokerage firms emphasize their service quality.

- x. On July 6, 2007 an implementation plan was announced for local governments to carry out inspections based on the different levels of evaluations in order to increase the inspection frequency for agencies with bad appraisals. If any illegal practices are found during the inspections severe penalties for transgressions will be implemented with the purpose of eliminating disqualified agencies.

- xi. On April 29, 2011 the MOL set up the “Guidelines for Payment of Monetary Rewards to the Public Reporting the Violations against Employment Services Act.” to encourage the public to report any violations against the Employment Services Act committed by employers, private employment services institutes or individuals. The amount of rewards given for the report of offence that has been approved true will range from 20,000 NT dollars to 50,000 NT dollars based on the number of undocumented workers involved.

**(2) Stopping unjustified repatriation**

- i. The MOL has required in the “Regulations on the Permission and Administration of the Employer of Foreign Persons” that employers who request for early termination of employment contract/contracts shall go through Verification Processes for the Employment Termination Agreement conducted by local governments to prevent unjustified repatriation. The verification certificate shall be issued by the local city and county authorities upon the completion of the verification processes. The said verification certificate must be attached to the application for a replacement of the foreign labor; otherwise, the application will be denied.
- ii. The MOL has subsidized the local governments for the establishment of foreign workers counseling centers to provide foreign workers with services of psychological assistance, legal consultation, labor dispute settlement, etc to solve disputes between employers and the employees. The MOL has set up the measures for placement of foreign workers to provide foreign workers with appropriate care in cases where employers are unable to provide accommodation to the foreign workers during the dispute period. Appropriated care is achieved by entrusting the

representative offices of the labor sending countries in Taiwan, religious groups and charity groups.

- iii. On January 16, 2006 at the Taoyuan International Airport and on January 1, 2008 at the Kaohsiung International Airport the MOL set up the first foreign workers service stations to help foreign workers fully understand the pertinent employment regulations, information related to working in Taiwan and to assist foreign workers in solving all disputes incurred before leaving Taiwan. These stations provide arriving foreign workers with orientation services and reinforce their legal awareness in labor-related policies. Foreign worker service counters and multilingual hotlines are also available for foreign workers to file complaints. Bringing all the resources together to build a comprehensive foreign labor service network has been done to further protect the rights of foreign workers. As of May 1, 2012 the MOL organized the seminar to promote the foreign labor related laws and regulations at the service stations located at the international airports on a trial basis. Starting on July 1, 2013 the practice has been expanded to enable foreign workers to understand this country's laws, customs, their own interest and rights. The practice expansion works assuages their fear about being away from home to work in Taiwan alone and helps them be adapted to life in Taiwan.

### **(3) Prohibition of any form of forced conducts or discrimination**

- i. Some employers might detain workers' credentials or part of their salaries as forced savings to prevent foreign workers from "disappearing" however, foreign workers should always keep their passports or alien resident certificates with them according to the Immigration Law of this country. It is therefore strictly prohibited that employers detain the

above-mentioned credentials.

- ii. The prohibition of marriage or pregnancy regulations was amended with related regulations on November 7, 2001 by the MOL to cancel the regulation against marriage during employment period. Starting on November 9, 2002 the pregnancy test from the regular bi-annual medical examination was also cancelled. Foreign workers will follow the regulation based on the “Measures of Inspection and Supervision of Health Examination for Foreign Persons” as announced on January 13, 2004. Foreign workers will take the medical examination 6 months, 18 months and 30 months from their date of entry into Taiwan, however without the requirement of pregnancy tests. Foreign workers will not be repatriated if they fail the pregnancy test.
- iii. The rights of pregnant foreign workers are also protected under the “Gender Equality in Employment Act.” Where foreign labors are employed in the sectors governed by the Labor Standard Law, they may be entitled to the protection of female labor under the Act.

#### **(4) Protection of personal safety**

- i. The MOL has integrated all the resources provided by government agencies and set up a reporting system and guidelines of handling the assault cases (including sexual assault, sexual harassment, and physical abuse) incurred with foreign workers. The system will provide the translation services for physical checkups report, filing of legal action, deposition, and court-appearance; also included in the services are emergency shelter arrangements, legal aid, transfer of employers, or returning to foreign workers’ home countries, abolishment of employer permits, and disputes settlements, etc.
- ii. On July 1, 2009 the MOL initiated the 1955 hotline to provide 24/7

bilingual, toll-free consultation and complaints filing services to strengthen the foreign workers' complaint calls service,.

- iii. In 2012 the MOL distributed "The Handbook for Foreign Workers in Taiwan," promotional flyers for "1955" Foreign Workers' 24-hour Consultation and Protection Hotline, etc... in order to enhance foreign workers' self-protection consciousness, prevent sex abuse, provide the channels for filing complaints and propagate other relevant legal rights. These printing materials produced for passing to foreign workers have also been distributed to the service stations in international airports, NGOs, local governments, police stations, immigration agencies, radio stations, representative offices of labor-sending countries in Taiwan, churches and places where the foreign workers gather.
- iv. When hiring foreign workers if the employers, patients to be taken care of by foreign workers, co-living relatives, the employer's representative, the person in charge or anyone that represents the employer in dealing with the labor-related issues has commit any behaviors described as criminal as ruled in the Criminal Act, the employers will not be allowed to hire foreign workers in the future, according to the "Regulations on the Permission and Administration of the Employer of Foreign Workers" revised on December 30, 2010.
- v. On September 17, 2009 the MOL revised the "Subsidy Guidelines for Implementing Foreign Workers Management Measures" to integrate the resources of the private sector for the promotion of the measures on administration of foreign labor and implement the protection of the rights for foreign workers. Foreign workers who are injured from occupational hazard and not able to work or who are considered as the victim of experiencing physical assault regarding the status of a criminal

case are arranged to be sheltered in accordance with the “Guidelines for Temporary Sheltering of Foreign Labor Engaging in the Jobs Specified in Item 8 to Item 11, Paragraph 1 of Article 46 of the Employment Service Act ,” the maximum subsidy would be 10,000 NT dollars per person or per case, except for specific cases approved by Workforce Development Agency or local competent authorities, the maximum subsidy would be 100,000 NT dollars per person or per case.

**(5) Establishment of Counseling Service Network for Foreign workers**

- i. The MOL has been subsidizing local governments to set up Counseling and Service Centers for Foreign Workers to further protect foreign workers’ legal rights and assist them for swift adaptation in their assignments in Taiwan. All centers provide services and information of laws and regulation, psychological counseling, employment adaptation, labor dispute with the help of bilingual personnel. In case of the need of counseling or any act such as early termination of contracts without fair reason, maltreatment, detainment of properties, non-payment of salary or sexual assault, foreign workers can file complaints or report to local governments and the center.
- ii. Starting in July 1, 2009 the MOL set up a 24-hour Consultation & Protection Hotline for Foreign Workers and the people of Taiwan with 7 lines and 21 operators to offer a faster dial and easy-to-remember channel to seek consultation and file a complaint. From January 1, 2013 the 1955 hotline has been expanded to 18 lines and 44 operators to take complaints, provide free legal consultation, make referrals for protective placements, provide information on government services and offer a quick way to resolve complaints. Received complaints are electronically referred to local governments for handling and follow-up.

Beginning in February 2011 the MOL further expanded the scope of services offered by its “1955 24-hour Consultation & Protection Line for Foreign workers”, offering 24-hour interpretation services concerning adaptation to local life, obtaining medical care, official business, work, or living in Taiwan, as well as sending text messages of legal news services.

#### **(6) Prevention of Trafficking of Foreign Workers**

Foreign workers who suffer from human trafficking or are suspected as victims of trafficking shall be placed in shelters. The “Executive Yuan Coordination Meeting on Human Trafficking Prevention” was established in 2007 and the Human Trafficking Prevention Act was defined in 2009 to provide the concrete measures to promote the prevention, inspection and prosecution against human trafficking, and protection of victims:

- i. Prevention Perspective: The MOL periodically proposes an array of preventive campaigns, including conducting periodic educational training sessions and legal awareness campaigns, and publishing handbooks on prevention of human trafficking to raise the awareness among foreign workers, employers, brokers, the public, and personnel in consultation service centers of local governments, foreign workers service stations of international airports and the 24-hour foreign workers consultation & protection hotline “1955” about the prevention of human trafficking.
- ii. Protection Perspective: With the joint effort of counseling service centers of local governments and NGOs, mechanisms have been established to assist trafficking victims by providing protective placement and interpreters to accompany them to inquires, and offering them with living subsidies, physical and psychological therapy,

extension of resident status, subsidies for litigation expenses, subsidies to NGOs in relevant activities, financial aids to emergencies /disastrous incidents, assistance in changing employers or job cross work sectors, issuing short-term working permits, employment services and vocational trainings.

- iii. Investigation and Prosecution Perspectives: The MOL has integrated the overall bilingual complaint hotlines offered by the consulting service centers in local governments, the “1955” 24-hour consultation and protection hotline for foreign workers and foreign workers service stations at international airports to take complaints and provide assistant in claiming the unpaid salaries from employers or brokers, or refer suspected cases of human trafficking to the judicial authorities or the police authorities for investigation.

**(7) Providing Interpreters to help Foreign Workers during Inquires**

- i. On August 6, 2010 the MOL promulgated guidelines for local governments to arrange personnel in NGOs to accompany foreign workers during inquiries. The guideline indicates how to find interpreters from the counseling service centers and NGOs to accompany foreign workers to inquiries so the victims can be well informed of the legal rights and obligations.
- ii. The MOL amended and promulgated the guidelines for local governments to arrange personnel in NGOs to accompany foreign workers to inquiries on October 29, 2012 in order to recruit persons who have practical experience to take part in the inquiries and loosen the qualification requirements; as a result persons who graduate from colleges and university and have experience in labor or a social service related field for more than 3 years may take part in the inquiries.



Reimbursement to interpreters was also adjusted from NT\$500 per case to NT\$500 for no more than two hours per case and NT\$155 per hour as of the 3rd hour and the overtime hours for the same case shall be no more than 6 hours on the same day. The amendment was effective as of November 1, 2012. The appendix 3 of point 7.2.1 to the guidelines was amended on November 21, 2013 to add a qualification requirement, “high school graduate with 5-year work experiences in social or labor related works.” This was done to enable local governments to be able to handle labor disputes with the use of resources from the private sector and to allow the foreign workers to fully express their opinion and claim their legal rights. This amendment shall become effective on the date of promulgation.

## **2. Protection of Foreign Workers’ Employment Rights**

### **(1) Foreign workers enjoy the same protections under the labor laws as the local citizens**

- i. According to Article 7 of the “Universal Declaration of Human Rights” that “All are equal before the law and are entitled without any discrimination to equal protection of the law,” Taiwan will surely comply with international regulations. Under the principle of “National Treatment”, foreign workers are protected by the Taiwan labor-related laws while they are in Taiwan. If foreign workers are employed in the industries that are under the supervision of Labor Standards Law (LSL), they are be protected by LSL, which offers nondiscrimination and legitimate protection in minimum wages, working hours and working conditions. Although household maids and in-home caretakers are not currently covered under the protection of LSL, the “Regulations on the Permission and Administration of the Employment of Foreign Workers”

stipulate that the Salary/Wage Affidavit shall be specifically listed in the salary and related expenses after entering Taiwan, signed by all four parties: employer, foreign worker, brokers of both Taiwan and the labor sending country, notarized by the labor sending countries prior to foreign workers' arrival in Taiwan. The said regulation also stipulates that the written employment contract shall be concluded and signed by the employer and the foreign worker. For further protection of the rights of foreign workers, employers are required by law to pay full salary directly to foreign workers.

- ii. The MOL has consulted with labor and employer groups, scholars, experts and relevant entities many times and then drafted the "Domestic Workers Protection Act" in order to protect the interests and rights of domestic caretakers and domestic helpers. The Draft includes a break time for working a consecutive 8 hours per day, at least one-day leave per 7 days, special leave, leave (for marriage, funeral, personal reason and sickness), minimum wage, principles for pay, termination of labor contract, insurance and complaint. The MOL will continue promoting the official legislation of the Domestic Workers Protection Act with due diligence.
- iii. The MOL has issued a model directive to employers that regulate reasonable fees of utilities concerning water, electricity, meals and housing to prevent untrue charging of miscellaneous fees to foreign workers. Foreign workers are encouraged to report any violation of the directive to the MOL or local labor authorities.
- iv. Employers shall not detain the alien residence certificate or belongings of foreign workers without their consent based on Articles 54 and 57 of the Employment Services Act. In case of any violation, foreign workers

can file a complaint to the MOL or local governments. The MOL is amending Article 54 and Article 57 of the Employment Services Act to provide that where the employer withholds the foreign worker's ID, work permit or other certificates without justified reasons, no recruitment permit, employment permit or permit for extension of employment will be issued, or the same will be revoked.

- v. Upon the effective date of the revised Labor Union Act on May 1st, 2011 foreign workers who are 20 years of age or over may be elected as a director or supervisor of the labor union instead of playing the role of a union initiator without obtaining R.O.C citizenship. The restriction that only R.O.C citizen may be elected as a director or supervisor of the labor union has been abolished. The purpose is to ensure the equal employment rights and relevant union rights for foreign workers, and make them entitle to the same three fundamental rights (union right, negotiation right and dispute protection right) as the local workers.

**(2) Ensuring the employers pay the salary according to labor contract**

- i. Under the newly amended regulations by the MOL on November 7, 2001 an employer is not allowed to deduct brokerage and other fees from the workers' salary. The statement that "30% salary deduction as monthly deposits with the consent of the worker" has also been deleted.
- ii. The MOL regulated the new rules for the works' salary on November 9, 2001. When employees receive the salary from employers, it should be always accompanied by a salary slip which is translated to employer's home country language. If employers illegally withhold employee's belongings, employees can hand in salary slip as evidence in the court. Employers won't be permitted for further application if they fail to follow the rules. The authority may decide to stop the on-going

application procedure or revoke the already approved ones.

- iii. The MOL has assigned more than 240 inspectors since 2000 to visit foreign workers to understand their employment situations and to protect foreign workers' rights. As of January 1, 2013 the MOL will increase by 34 additional inspectors to visit foreign workers. The inspectors have been assisting in the explanation of pertinent legal regulations and management in their regular visits to the employers. The purpose is to ensure the employers have complied with the instructions listed on the "Living Care Service Plan" for foreign workers and carried out the employment contract faithfully to avoid illegal happenings and ensure the rights of foreign workers.
- iv. The Regulation on the Permission and Administration of the Employment of Foreign Workers was amended and enacted on December 24, 2008 to protect the rights of foreign workers. It stipulates that the terms and conditions of the employment contract shall be consistent with the Salary/Wage Affidavit notarized by the competent authorities of labor from the source country. If any discrepancies arise, the Salary/Wage Affidavit version shall prevail. Changes to contents contained in the Salary/Wage affidavits that would disadvantage the interest of the foreign worker shall be made by the employer. The salary slips shall be kept for 5 years for future reference.

### **(3) Preventing occupational accidents**

- i. According to the latest MOL regulations an employer is required to organize medical check-ups and safety seminars for the foreign workers hired. Warning signs in the language of the workers must be displayed in the workplace.
- ii. The MOL has compiled an educational kit that contains comprehensive

information on hazardous risks and labor health and safety in four languages (English, Thai, Indonesian, and Vietnamese) in order to make foreign workers more aware of the basic knowledge on personal interest, rights, and personal safety prevention and protection mechanisms. The information packet is made available to all foreign workers seeking visa application at Taiwan's representative offices abroad.

- iii. The MOL has taken occupational accidents of foreign workers into consideration in its statistical analyses. The variation of the data may serve as a reference and warning to occupational accidents so that proper measures can be put in place to prevent accidents from happening.
- iv. The MOL made further explanation on December 23, 2003 that if a foreign worker is incurred with occupational accidents and withdraws from the insurance program upon the termination of his employment contract during the period of medical treatment for the occupational injury or illness, he may still participate in the general accident labor insurance program until the completion of the medical treatment which must be proved by a doctor and issued by the MOL according to Article 30 of the Occupational Accident Labor Protection Law, In order to protect further foreign workers' right,.
- v. The MOL has set up a "task force for occupational accidents" to help foreign workers overcome the language barrier, the problems encountered in compensation processes in an unfamiliar environment and any other possible needs in occupational accidents. The MOL coordinates with governments at all levels, representative offices from all the labor-sending countries in Taiwan, caring groups for foreign workers and other resources to help with the confirmation of liabilities,

application for medical treatment and related compensation, mediation of disputes, assistance in legal appeals, caring and consoling of victims in occupational accidents, living assistance, family contact for foreign workers and other necessary assistance in a comprehensive reporting system. The MOL hopes the victims of occupational accidents can receive the most efficient and comprehensive assistance through this comprehensive protection system.

**(4) Cross-country change of employer or line of work**

- i. The procedure for foreign workers transferring to a new employer was deregulated and amended on February 27, 2008 to protect foreign workers' rights, to decrease the failure rate of transferring to a new employer, to shorten the application process time and procedure of transferring to a new employer and to comply with the establishment of the "Employment Network Registration System & Recruitment Database." The amendment allows that as long as consensus is reached among the original employer, foreign labor, and new employer the application for transfer to a new employer will be accepted by the MOL. The new employer may directly submit the application for transfer of employer to the MOL without going through a public employment service institution if the worker, old employer, and new employer all agree or if a worker whose employment contract has been abrogated and the new employer agrees. This new amendment also relaxes the number of times a foreign worker may transfer, extend the transferring period to 60 days during which a transfer must be completed and allowing foreign workers to transfer to a new employer or a different type of work of their free will.

The MOL revised the rules for foreign workers' transfer of employers on

June 29, 2011 to further reinforce the rules for the continuous employment of foreign workers agreed upon with the new employer and the foreign worker. The revision regulates the three-parties cooperation between the foreign workers and the employers (new and old) in continuing the employment agreement. The revision also specifically states that all parties concerned shall sign the documentation for continuous employment to protect the employment rights for the foreign workers after the transfer.

- ii. To protect the foreign workers who are not able to complete the transfer within a 60-day period the MOL revised the regulation on September 1, 2009. Foreign workers who due to specific reasons cannot complete the transfer in time and deportation will harm their interests should file an application for an extension of period of transfer to another employer. After the application is approved the foreign worker will be able to extend the period of transfer to another employer and the extension period is 60 days and is limited to a one time only extension. The number of transfers is not limited to those who are sexually abused by the employer or the colleague.

### **3. Protection of Foreign Workers' Living Rights**

#### **(1) More efforts on day-to-day counseling**

- i. The MOL has set up a network of counseling services throughout the country to help foreign workers adapt to the lifestyle in Taiwan. These services are provided in conjunction with local representative offices of labor sending countries, government institutions, local labor service centers, NGOs, manpower agencies and employers.
- ii. Article 40 and Article 41 of “the Regulation on Permission and Administration of the Employment of Foreign Workers” required that

employers shall assign supervisors and bilingual staff while hiring foreign labor to ensure the employers provide appropriate guidance to foreign workers, keep an eye on foreign workers' living conditions and reinforce the communication capacity between the two parties of employer and foreign worker. The number of supervisors and bilingual staff needed shall depend on the number of foreign workers the employer hired. Those who do not meet the staffing requirement shall be asked to make improvement within a limited period of time by the local competent authorities in order to enhance the employers' employment capacity.

- iii. The MOL requires that all employers shall manage their foreign workers in strict accordance with the "Living Care Service Plan for Foreigners". The Criteria for "Living Care Service Plan for Foreigners" revised on August 3, 2011 demands employers to respect the food concerns based on foreigners' religious beliefs. Employers should take "privacy" as the first priority in setting surveillance camera at foreigners' living quarters for safety reasons which lead to privacy/safety concerns. Employers should also provide "1955" hotline information to foreign employees.

## **(2) Prevent unjustified tax pre-deduction**

- vi. The itemized income tax rate and standard deductions was amended and announced by the Ministry of Finance on January 1, 2009 to relieve the income tax burden on low-income foreign workers. The new amendment stipulates that foreign workers staying in the R.O.C for less than 183 days in a tax year and earning less than 1.5 times monthly minimum wage per month shall pay 6% tax on income earned, effective on January 1, 2009.
- vii. The MOL has required that all employers obey the tax regulations



closely with regard to the issue of tax pre-deduction to prevent employers from making unjustified tax pre-deductions. Local manpower agencies are also requested by the MOL at the regularly held seminars to inform employers about the tax payment regulations.

- viii. The MOL has published the “What foreign works in Taiwan need to know” for foreign workers that outlines important information and tips on filing tax returns To prevent labor dispute concerning taxation issues and make the process of filing a tax refund more effective.
- ix. Investigation efforts have also been made by the MOL to find the employers who illegally withhold income tax from foreign workers. Employers are required to issue income and tax deduction receipts in both Mandarin Chinese and the native language of the hired foreign workers for foreign workers for their filing tax refund reference.

### **(3) Join the Labor Insurance & National Health Insurance Systems**

- i. Labor Insurance:  
  
Foreign workers enjoy the same rights as domestic labors. They will be protected by pertinent laws in this country. Employers of foreign workers that are required to join the insurance program in accordance with the “Labor Insurance Guidelines” will have to join the labor insurance program with the Labor Insurance Bureau by presenting foreign worker’s employment permit, alien residence certificate or a copy of the foreign worker’s passport. Foreign workers who are not obligated to enroll in the insurance program may still enroll in the labor insurance program and be entitled to compensation in case of sickness, injury, medical, disablement or death.
- ii. National Health Insurance:  
  
According to Article 10 of the “National Health Insurance Law,” foreign

workers who are employed in Taiwan and obtained an alien residence certificate in Taiwan will have to join the National Health Insurance program. Based on Article 2 of the said regulations, foreign workers will be compensated with insurance payment when incurred with sickness, injury or giving birth during the insured period.

**(4) Organize recreational activities**

The MOL offers a series of recreational activities such as radio programs in several languages and cultural events during holidays to help foreign workers cope with job pressure, homesickness and adapt themselves to the lifestyle in Taiwan. Many employers hold their own activities to make foreign workers feel at home.

#### **IV. CONCLUSIONS**

Improvement of human rights is related to every aspect of our country's economic development and social stability as an integral part of our overall national policy. The importance of safeguarding the rights of foreign workers couldn't be emphasized more.

Efforts to improve human rights around the world are now carried out in line with the current enlightened trends of globalization, liberalization and equalization. Taiwan is making every effort to ensure that its human rights practice conforms to international standards as a responsible member of the global community. Many aspects of the Universal Declaration of Human Rights have in fact already been embodied in our constitution. These include key statements proclaimed in Articles 1, 7, 12, 13, 14, 17, 18, 19, 22, 23 and 24: all human beings are born free; all are equal before the law and are entitled without any discrimination to equal protection of the law; everyone has the right to seek and to enjoy in other countries asylum from persecution; no one shall be arbitrarily deprived of his property; everyone has the right to freedom of

thought, conscience and religion; everyone has the right to expect and obtain favorable conditions of work; everyone has the right to equal pay for equal work; and everyone has the right to rest and leisure. This Report is prepared with a view to reinforce the fundamental stance of our constitution. We hope that such a stance will be honored and followed closely as we continue to demonstrate our sincerity and determination to safeguard the legitimate rights of all foreign workers in Taiwan.