CHAPTER 5

Case Study 2: Taiwan

1 Introduction

In contrast to South Korea, Taiwan (the Republic of China) has been one of the most active destination states in Asia in building and implementing an anti-trafficking regime. Taiwan enacted the Human Trafficking Prevention and Control Act in 2009, adopting the 3P paradigm discussed in Chapter 3. As the Taiwanese government and NGOs have been remarkably active in initiating and implementing the anti-trafficking framework, Taiwan makes for a good case study to investigate the efficacy of the current framework and its actual impact on individuals concerned.

This Author visited Taiwan from May to July 2013 and interviewed 36 individuals in 25 entities engaged in the fields related to human trafficking. The interviewees include government officials, judges, prosecutors, lawyers, scholars, journalists, and NGO representatives. On the government side, interviewees include officials at the National Immigration Agency (NIA) and the Council of Labor Affairs (CLA); a former minister without portfolio in charge of national action plans on human trafficking; a judge in charge of judicial policy on human trafficking; and four prosecutors who have been leading the investigation and prosecution of trafficking cases. In the civil sector, lawyers at the Legal Aid Foundation who have been representing trafficking victims; expert scholars in the area of labor migration and human trafficking; and directors, case managers, and service providers at eight NGOs and three specialized shelters for trafficking victims were interviewed. The specific names of interviewees and their affiliated entities are anonymized to protect their privacy and the independence of their work.

This chapter first discusses the background behind Taiwan's anti-trafficking initiatives. It explores how Taiwan's own aspiration for international recognition, the influence of the U.S. government, and active roles by NGOs have been intertwined in the new regime building. It then examines the most frequently identified cases of human trafficking in Taiwan, including migrant women in prostitution with fraudulent marriage visas, migrant domestic workers, and migrant workers who escaped from their original workplaces. Continuing from Chapter 4, this part of the chapter discusses the ambiguous nature of human trafficking cases and questions whether the current framework is capable of addressing the complex realities of migrant trafficking victims. Next, the
chapter closely examines the structure and operation of the anti-trafficking framework in Taiwan. It investigates whether the current framework centering on criminal justice and immigration control is properly serving the rights and needs of the victimized individuals.

2 The Background of the Anti-Trafficking Framework in Taiwan

A Taiwan’s Pursuit of International Recognition through Human Rights Commitments

To understand the context of Taiwan’s active engagement in global anti-trafficking campaigns, it is helpful to consider the nation’s unique political situation in the international community: its aspiration to achieve international recognition of Taiwan’s statehood and the importance of its human rights commitments in pursuing that path. Taiwan has not been a member state of the United Nations (UN) since 1971, when the representatives of the Republic of China (ROC) led by Chiang Kai-shek were expelled from the UN and the representatives of the People’s Republic of China (PRC) took over their seat.1 Taiwan’s continuous applications for a UN membership have yet to come close to success.2

However, Taiwan has been striving to attain international recognition in various possible ways. Taiwan joined the World Trade Organization in 2002, and is a member of the Asian Development Bank and the Asia-Pacific Economic Cooperation Forum. Showing strong commitment to human rights has been integral to this effort. For example, the Legislative Yuan of Taiwan passed the Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 2009—the two Covenants that the ROC had signed in 1967, but could not ratify before its expulsion from the UN. Although Taiwan still cannot join the two Covenants under the UN system, the mandates of the Covenants became the

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1 See G.A. Res. 2758, U.N. GAOR, 26th Sess., Supp. No. 29, U.N. Doc. A/8429, at 2 (Oct. 25, 1971) (deciding “to restore all its rights to the People’s Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organization related to it”).

2 The issue of Taiwan’s membership has never been included as an agenda of the General Assembly, due to a strong opposition by the PRC. For more discussion on the relevant issues, see, e.g., Eric Ting-Lun Huang, Taiwan’s Status in a Changing World: United Nations Representation and Membership for Taiwan, 9 Ann. Surv. Int’l & Comp. L. 55 (2003).