



# COUNTRY REPORT

## IMMIGRATION DETENTION IN TAIWAN

DETENTION "SHELTERS," INTERNATIONAL ISOLATION,  
GROWING MIGRATION PRESSURES

*DECEMBER 2024*

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## ABOUT THE GLOBAL DETENTION PROJECT

The Global Detention Project (GDP) is committed to ending arbitrary and harmful migration-related detention practices around the world, and to ensuring respect for the fundamental human rights of all migrants, refugees, and asylum seekers. To achieve this, we seek to:

- Increase public knowledge and awareness of immigration detention policies.
- Expand coverage of immigration detention by human rights monitoring bodies and other international agencies.
- Expand partnerships with local and international civil society organisations working to end arbitrary and harmful immigration detention practices.
- Strategically target research and advocacy so that it effectively challenges arbitrary and harmful detention laws and policies.

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**Front cover images:** (L) Map of Taiwan showing location of immigration detention facilities, © Global Detention Project; (R) Flag of Taiwan.

This report is also available online at [www.globaldetentionproject.org](http://www.globaldetentionproject.org)



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## EXECUTIVE SUMMARY

Immigration detention is an important tool of immigration control in Taiwan (also “Taiwan Province of China”), where detainee numbers have steadily risen in recent years. Although conditions in Taiwan’s detention centres have frequently been criticised, they have received little international scrutiny because of China’s opposition to Taiwan’s UN membership.

Taiwan also lacks an asylum system, though the need to establish asylum procedures has grown increasingly urgent as the numbers of Hong Kong residents seeking protection have grown.



## GLOSSARY

<b>APA</b>	Administrative Procedure Act
<b>ATD</b>	Alternatives to detention
<b>CAT</b>	Convention Against Torture
<b>CW</b>	Covenants' Watch
<b>GDP</b>	Global Detention Project
<b>IA</b>	Immigration Act
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>IDC</b>	International Detention Coalition
<b>NIA</b>	National Immigration Agency
<b>OPCAT</b>	Optional Protocol to The Convention Against Torture
<b>RGDA</b>	Regulations Governing the Detention of Aliens
<b>TAHR</b>	Taiwan Association for Human Rights
<b>UN</b>	United Nations



## KEY FINDINGS

- While there have been fluctuations in detention and deportation numbers over the past decade, since 2015 the number of people detained and deported has steadily increased.
- Immigration authorities have reported increases in visa “overstayers” since 2019, rising from 50,702 in 2019 to more than 90,000 as of October 2024.
- Taiwan operates four detention centres [Taipei Detention Centre](#), [Yilan Detention Centre](#), [Nantou Detention Centre](#), and [Kaohsiung Detention Centre](#).
- NGOs have criticised detention centres for poor conditions, and challenged the fact that detainees are required to pay for their own food and medical care.
- Legislative amendments in 2015 prohibited pregnant women and children under the age of 12 from being detained.
- Taiwan employs euphemisms for designating its detention centres, referring to them as “shelters.”
- Taiwan has long aspired to be a part of the UN system. Although it has been prevented from becoming a member of the UN, it has included key provisions from human rights law in its legislation.
- There is no refugee law; asylum is granted on a case-by-case basis.



## 1. INTRODUCTION

Immigration detention is an important tool of immigration control in Taiwan (also “Taiwan Province of China”) and in recent years, the number of people detained has steadily increased. Today, Taiwan operates four detention centres, [Taipei Detention Centre](#), [Yilan Detention Centre](#), [Nantou Detention Centre](#), and [Kaohsiung Detention Centre](#) (a fourth facility, the [Taipei Detention Centre](#), appears to no longer be in operation as it was removed from the National Immigration Agency website sometime in 2024<sup>1</sup>). Local civil society groups have long criticised conditions in these centres because of overcrowding, lack of privacy, and poor hygiene, amongst other problems. Internationally, however, these practices have received little attention because the People’s Republic of China’s opposition to recognising the territory as a sovereign state, which has prevented it from becoming a member of the United Nations and subject to international human rights monitoring bodies.<sup>2</sup>

It is estimated that there are several thousand asylum seekers in Taiwan Province of China.<sup>3</sup> Human rights groups have put pressure on the Taiwanese government to adopt a law on refugees, but significant political contention regarding the extent to which the law would apply to persons from Mainland China, Hong Kong, and Macau has hampered progress.<sup>4</sup> As a result of the lack of a centralised policy, asylum seekers are dealt with on a case-by-case basis.

Although the Republic of China was an original member of the United Nations and the UN Security Council, in October 1971 the General Assembly recognised the People’s Republic of China as the only legitimate representative of the country.<sup>5</sup> Since then, Taiwan Province of China’s government has made various unsuccessful attempts to participate in UN activities.<sup>6</sup> In 2009, its attempts to ratify two core human rights treaties were turned down by the UN Secretary-General.<sup>7</sup>

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<sup>1</sup> It was last captured on the National Immigration Agency website by the Internet Archive in June 2024, though it had disappeared from the website by October 2024. See: <https://tinyurl.com/3yxpbhvs>; and <https://www.immigration.gov.tw/5475/5478/141386/127061/127074/>

<sup>2</sup> S. Winkler, “Taiwan’s UN Dilemma: To Be or Not To Be,” *Brookings*, 20 June 2012, <https://www.brookings.edu/opinions/taiwans-un-dilemma-to-be-or-not-to-be/>

<sup>3</sup> B. Hioe, “Interview: Asylum Access,” *New Bloom*, 16 January 2020, <https://newbloommag.net/2020/01/16/asylum-access-tw/>

<sup>4</sup> N. Aspinwall, “Taiwan’s Human Rights Miracle Does Not Extend to Its Southeast Asian Foreign Workers,” *The Diplomat*, 10 October 2019, <https://tinyurl.com/2x4uz9v2>

<sup>5</sup> General Assembly Resolution 2758 (XXVI), “Restoration of the Lawful Rights of the People’s Republic of China in the United Nations, 1976<sup>th</sup> Plenary Meeting,” 25 October 1971, <http://www.un.org/documents/ga/res/26/ares26.htm>

<sup>6</sup> UN General Assembly, “Request for the Inclusion of a Supplementary Item in the Agenda of the Sixty-Third Session. Need to Examine the Fundamental Rights of the 23 Million People of the Republic of China (Taiwan) to Participate Meaningfully in the Activities of the United Nations Specialized Agencies Sixty-Third Session, A/63/194,” 22 August 2008, <http://www.taiwanembassy.org/public/Data/891723384371.pdf>

<sup>7</sup> W.A. Schabas, “Taiwan and the International Covenant on Civil and Political Rights,” *PhD Studies in Human Rights*, 15 March 2010, <https://tinyurl.com/rk974kdh>



Notwithstanding this rejection, the Legislative Yuan (parliament) adopted an Implementation Act making the Covenants on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR) legally binding in Taiwan Province of China. The act included provisions for a “national human rights reporting system to regularly monitor the implementation of the covenant.”<sup>8</sup> The country regularly undertakes its own human rights treaty review processes with the participation of an independent review committee and civil society organisations, in accordance with relevant UN guidelines.

Despite the UN legal monitoring vacuum, Taiwanese domestic law includes a legal framework for immigration detention. The government’s 2012, 2016, and 2020 reports on its implementation of the ICCPR provide related data and statistics.<sup>9,10</sup>

There are few up-to-date statistics on enforcement measures. Available data indicate that detainee numbers have fluctuated, though during the period 2015-2019 there were steady increases in detention numbers, rising from 7,090 in 2014 to 13,585 in 2019.<sup>11</sup> These increases parallel the reported numbers of visa overstayers, which official sources report rose from 44,417 in 2012 to more than 60,000 in 2021. These numbers continue to rise: As of October 2024, Taiwan was already reporting more than 90,000 visa overstayers.<sup>12</sup>

Advocates have had some success in encouraging reforms to the detention system. In 2011, the government introduced a time limit on detention; however, this time limit did not apply to residents of Mainland China, who could therefore still be detained indefinitely.<sup>13</sup> By 2017 however, legislative amendments had led to the implementation of time limits on detention for foreigners, residents of Mainland China, and residents of Hong Kong and Macau.<sup>14</sup> In 2015, the country adopted laws ending the detention of various vulnerable groups, including young children and women who are more than five weeks pregnant, and reducing the maximum duration of detention.<sup>15</sup>

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<sup>8</sup> P. Huang, “A Breakthrough in Human Rights,” *Taipei Times*, 8 April 2009, <http://www.taipeitimes.com/News/editorials/print/2009/04/08/2003440494>

<sup>9</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights – Second Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan),” *Covenants Watch*, April 2016, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report_EN.pdf)

<sup>10</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Initial Report Submitted Under Article 40 of the Covenant,” September 2012, <http://www.humanrights.moj.gov.tw/public/Attachment/541517201510.pdf>

<sup>11</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Third Report Submitted Under Article 40 of the Covenant,” June 2020, <https://bit.ly/3jb38X2>

<sup>12</sup> National Immigration Agency, Statistics, <https://www.immigration.gov.tw/5475/5478/141478/141380/>

<sup>13</sup> International Group of Independent Experts, “Concluding Observations and Recommendations Adopted by the International Group of Independent Experts” (Review of the Initial Reports of the Government of Taiwan on the Implementation of the International Human Rights Covenants), *Covenants Watch*, 1 March 2013, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2013-ICCPR-ICESCR-CORs\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2013-ICCPR-ICESCR-CORs_EN.pdf)

<sup>14</sup> International Review Committee, “Concluding Observations and Recommendations adopted by the International Review Committee (Second Report of the Government of Taiwan on the Implementation of the International Human Rights Covenants),” *Covenants Watch*, 20 January 2017, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-ICESCR-CORs\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-ICESCR-CORs_EN.pdf)

<sup>15</sup> International Detention Coalition (IDC), “Children and Pregnant Women No Longer Detained in Taiwan,” *International Detention Coalition*, 9 February 2015, <http://idcoalition.org/news/new-limits-detention-taiwan/>



## 2. KEY STATISTICS AND TRENDS

Most publicly accessible detention-related statistics are out of date, with the most recent numbers dating back to 2019. Available statistics indicate that between 2015 and 2019, there was a steady increase in the number of persons placed in detention: 8,526 in 2015, 9,876 in 2016, 10,979 in 2017, 10,688 in 2018, and 13,585 in 2019.<sup>16</sup> Previously, however, official sources reported declining detainee numbers: 9,451 “illegal foreigners” were detained in 2012; 9,346 in 2013; and 7,090 in 2014.<sup>17</sup>

This shift from steady decline to steady incline has also been seen in the number of deportations conducted. Between 2015 and 2019, numbers rose—from 9,296 in 2015, to 11,049 in 2016, 13,115 in 2017, 13,473 in 2018, and 16,577 in 2019.<sup>18</sup> Prior to 2015, however, the number of deportations had been decreasing: 12,756 were expelled in 2012; 8,166 in 2014; and 7,500 during the first ten months of 2015.<sup>19</sup>

According to official figures, 17,542 persons were prohibited entry due to a previous record of overstay and illegal work in 2014; 20,654 in 2015, 23,779 in 2016, 24,773 in 2017, 29,026 in 2018, and 13,687 in the first four months of 2019.<sup>20</sup>

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<sup>16</sup> Ministry of Justice, Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Third Report Submitted Under Article 40 of the Covenant,” June 2020, <https://bit.ly/2FYH0AS>

<sup>17</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights – Second Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan),” *Covenants Watch*, April 2016, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report_EN.pdf)

<sup>18</sup> Ministry of Justice, Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Third Report Submitted Under Article 40 of the Covenant,” June 2020, <https://bit.ly/3j0NmOr>

<sup>19</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights – Second Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan),” *Covenants Watch*, April 2016, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report_EN.pdf)

<sup>20</sup> Republic of China (Taiwan). “公民與政治權利國際公約》執行情形 (初稿) 簽約國根據《公約》第 40 條提交的第三次國家報告 (Implementation of the International Covenant on Civil and Political Rights – Third Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan) Draft,” *Covenants Watch*, July 2019, [https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd\\_review\\_iccpr\\_report\\_draft.pdf](https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd_review_iccpr_report_draft.pdf)



### 3. WHO CAN BE DETAINED AND WHY?

<b>Core pieces of national legislation providing a framework for immigration detention</b>	<ul style="list-style-type: none"> <li>• Constitution of the Republic of China (Taiwan)</li> <li>• Immigration Act</li> <li>• Regulations Governing the Detention of the Aliens</li> <li>• Act Governing Relations Between the People of the Taiwan Area and the Mainland Area</li> <li>• Laws and Regulations Regarding Hong Kong and Macao Affairs</li> </ul>
<b>What bodies are responsible for immigration detention?</b>	<ul style="list-style-type: none"> <li>• National Immigration Agency</li> <li>• Mainland Affairs Committee</li> </ul>
<b>Are grounds for administrative migration-related detention provided in law?</b>	Yes
<b>Are there reports of arbitrary migration-related detention?</b>	No

Taiwan’s legal norms relating to immigration detention are contained in several pieces of legislation. Article 8 of the [Constitution of the Republic of China \(Taiwan\)](#) provides that “personal freedom shall be guaranteed to the people.” The Article further provides that no person shall be arrested or detained other than by a judicial or a police organ in accordance with the procedure prescribed by the law, except in case of *flagrante delicto* as provided by law. Additionally, no person shall be tried or punished other than by a law court in accordance with the procedure prescribed by law. Any arrest, detention, trial, or punishment which is not in accordance with the procedure prescribed by law may be resisted.

The [Immigration Act](#) (IA) regulates the entry and exit of non-citizens to and from the country, and provides for the detention of aliens awaiting deportation (Article 38). In certain publications, the government refers to detention centres as “shelters.” However, as noted by the NGO Covenants Watch (CW), these are simply euphemisms for detention.<sup>21</sup>

The [Regulations Governing the Detention of the Aliens](#) (RGDA) regulate conditions of detention. These regulations were enacted pursuant to Article 39 of the IA, which requires the National Immigration Agency (NIA) to set up places for detention and enact regulations that govern the detention procedure and the means of administering facilities. Separate regulations for governing the temporary detention of foreigners attempting entry or exit under Article 64 of the IA are provided for in the [Regulations Governing Temporary Detention of Passengers](#).

Due to Taiwan’s geo-political situation, separate laws govern the treatment in detention of persons who have household registrations in Mainland China, Hong Kong residents, and Macao Residents. Regarding persons from Mainland China, the [Act Governing Relations between the People of the Taiwan Area and the Mainland Area](#) governs the entry and exit of persons from Mainland China, and includes provisions for detention. The Act defines

<sup>21</sup> Covenants Watch, “2011 Taiwan Human Rights Report: Parallel Report on the Implementation of the International Covenant on Civil and Political Rights,” 30 November 2012, [https://covenantwatch.org.tw/wp-content/uploads/2015/12/2011\\_ICCPR\\_Shadow\\_Report.pdf](https://covenantwatch.org.tw/wp-content/uploads/2015/12/2011_ICCPR_Shadow_Report.pdf)

"Mainland Area" as the territory of the Republic of China outside the Taiwan Area. "People of the Mainland Area" refers to the people who have household registrations in the Mainland Area. The [Enforcement Rules for the Act Governing Relations Between the People of the Taiwan Area and the Mainland Area](#) regulate the enactment of the Act. Meanwhile, the entry and exit of Hong Kong and Macao residents is governed by the [Laws and Regulations Regarding Hong Kong & Macao Affairs](#) (which also includes provisions for immigration detention.) The [Enforcement Rules of the Act Governing Relations with Hong Kong and Macao](#) regulate the enactment of the Act.

Under the Immigration Act, detention is undertaken by the National Immigration Agency. However, a separate body, the Mainland Affairs Committee, manages detention under the Act Governing Relations between the People of the Taiwan Area and the Mainland Area and under the Laws and regulations Regarding Hong Kong and Macao Affairs is managed under the Mainland Affairs Committee.

Article 38 of the Immigration Act (IA), which was adopted in 1999, contains detention and deportation provisions.<sup>22</sup> Grounds for detention include inability to present valid travel documents; to have "whereabouts unknown or intention to escape or unwillingness to leave the country"; and to be "wanted by a foreign government." A person will also be detained if a compulsory exit order is difficult or impractical to enforce.

According to Article 18 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, and Article 14 of the Laws and Regulations Regarding Hong Kong and Macao Affairs, a person from the Mainland Area, Hong Kong, or Macao can be detained if it is deemed that a forcible deportation would be difficult to enforce without their detention. Both articles provide the following grounds for detention: if "the person has no relevant travel documents therefore the deportation cannot be processed pursuant to the regulations"; "there exist sufficient facts to demonstrate that the person could disappear, flee or is reluctant to depart"; or "the person has been warranted for arrest abroad."<sup>23</sup>

The IA also provides grounds for temporary detention at ports of entry and exit. Under Article 64 of the IA, National Immigration Agency staff may detain a person at service units in entry and exit ports if there is sufficient reason to believe that one of the following conditions are met: that "the passport, other entry documents or exit documents held by the person are obviously invalid, counterfeited or changed"; "the person refuses to receive an inspection"; "the person is believed to conduct an act set forth in Articles 73 or 74"; "the person meets one of the circumstances on prohibition of entry or exit"; "the person is detained temporarily upon the notification from a judicial authority or a military authority due to his/her involvement in a case"; or if there are "other circumstances which temporary detention is deemed necessary pursuant to laws." This provision applies to aliens, people of the Mainland Area, and residents of Hong Kong or Macao.

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<sup>22</sup> Article 38, Immigration Act, <https://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCode=D0080132>

<sup>23</sup> Article 18, Act Governing Relations between the People of the Taiwan Area and the Mainland Area, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=Q0010001>; Article 14, Laws and Regulations Regarding Hong Kong and Macao Affairs, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=Q0010003>

### 3.a Length of Detention

<b>Maximum length for administrative immigration detention in law</b>	<ul style="list-style-type: none"><li>• 100 days (Foreign nationals, including Hong Kong and Macao Residents)</li><li>• 150 days (Mainland China residents)</li></ul>
<b>Average detention length</b>	33 days (2020)

Until December 2011, there were no time limits on detention.<sup>24</sup> This was amended in 2011 when the Taiwanese government introduced a time limit of 120 days, which was later reduced to 100 days in 2015. However, these limits did not apply to residents of Mainland China, who could therefore still be detained indefinitely. This was subsequently challenged by civil society organisations, as well as the International Group of Independent Experts who, in 2013, recommended that the 120-day limit for administrative detention of aliens should be equally applied to nationals from the People’s Republic of China. Amendments were passed in 2011 and 2015.<sup>25</sup> By 2017, legislative amendments had led to the implementation of time limits on detention for foreigners, residents of Mainland China, and residents of Hong Kong and Macao respectively,<sup>26</sup> although legislation still provides that persons from Mainland China can be detained for longer than other persons.

Today, according to Article 38 of the Immigration Act (IA), detention is divided into three periods: temporary (up to 15 days); continuous (from 16 to 60 days); and extended (from 61 to 100 days). Decisions within the temporary phase are at the discretion of the National Immigration Agency, which falls under the authority of the Ministry of Interior. However, a detention order beyond 15 days must be made by court order.<sup>27</sup>

These detention times are also applicable to Hong Kong and Macao residents, but Mainland China nationals can be detained for longer. According to the Act Governing Relations between the people of the Taiwan Area and the Mainland Area, detainees may be held for up to 15

<sup>24</sup> Covenants Watch, “2011 Taiwan Human Rights Report: Parallel Report on the Implementation of the International Covenant on Civil and Political Rights,” 30 November 2012, [https://covenantwatch.org.tw/wp-content/uploads/2015/12/2011\\_ICCPR\\_Shadow\\_Report.pdf](https://covenantwatch.org.tw/wp-content/uploads/2015/12/2011_ICCPR_Shadow_Report.pdf)

<sup>25</sup> International Detention Coalition (IDC), “Children and Pregnant Women No Longer Detained in Taiwan,” International Detention Coalition, 9 February 2015, <http://idcoalition.org/news/new-limits-detention-taiwan/>

<sup>26</sup> International Review Committee, “Concluding Observations and Recommendations Adopted by the International Review Committee (Second Report of the Government of Taiwan on the Implementation of the International Human Rights Covenants),” *Covenants Watch*, 20 January 2017, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-ICESCR-CORs\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-ICESCR-CORs_EN.pdf); Immigration Act, amended Articles 15, 36-38 and 91 as well as Articles 38-1 ~ 38-9 stipulated in the Presidential Decree hua-zong-yi-yi-zi No. 10400013351, promulgated on February 4, 2015 Ministry of the Interior of ROC, <http://girs.moi.gov.tw/EngLawContent.aspx?id=332>

<sup>27</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights – Second Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan),” *Covenants Watch*, April 2016, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report_EN.pdf); International Group of Independent Experts, “Concluding Observations and Recommendations Adopted by the International Group of Independent Experts (Review of the Initial Reports of the Government of Taiwan on the Implementation of the International Human Rights Covenants),” *Covenants Watch*, 1 March 2013, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2013-ICCPR-ICESCR-CORs\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2013-ICCPR-ICESCR-CORs_EN.pdf)

days (temporary detention); from 16 to 60 days (continuous detention); and from 61 to 100 days (extended) which can be extended once up to 150 days.<sup>28</sup>

The average length of detention in large-capacity detention centres was 28.96 days in 2015, 28.38 days in 2016, 27.42 days in 2017, 28.73 days in 2018<sup>29</sup>, and 28.00 days in 2019.<sup>30</sup> In previous years, the average number of days over which foreigners were detained was much longer: 44.11 days in 2012, 36.15 days in 2013, and 37.95 days in 2014.<sup>31</sup> For Mainland residents, the average length of detention was 80.17 days in 2012, 61.57 days in 2013, 50.96 days in 2014, and 51.94 days in 2015 (up to October 2015).<sup>32</sup>

Temporary detention under Article 64 of the IA for the purposes of National Immigration Agency (NIA) investigation has a shorter time limit. For Taiwanese nationals, the duration of temporary detention shall not exceed two hours. For aliens, people of the Mainland Area, and residents of Hong Kong or Macau, the duration of detention shall not exceed six hours (Article 64, IA).

Significantly lengthy detention periods have been recorded. For example, in 2008, a Taiwanese civil society organisation assisted a person with Sierra Leonean nationality who had been held in immigration detention for more than 10 years.<sup>33</sup>

### 3.b Criminal Penalties

<b>Does the country provide specific criminal penalties for immigration-related violations?</b>	Yes
<b>Can these penalties include prison sentences?</b>	Yes
<b>Are prison sentences imposed in practice?</b>	Yes

The Immigration Act (IA) provides grounds for the prosecution of individuals for immigration-related violations related to entry and exit. Article 74 of the IA provides that “a person who

<sup>28</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights – Second Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan),” *Covenants Watch*, April 2016, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report_EN.pdf)

<sup>29</sup> Republic of China (Taiwan), “公民與政治權利國際公約》執行情形 (初稿) 簽約國根據《公約》第 40 條提交的第三次國家報告 “Implementation of the International Covenant on Civil and Political Rights – Third Report Submitted under Article 40 of the Covenant, Republic of China (Taiwan) Draft,” *Covenants Watch*, July 2019, [https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd\\_review\\_iccpr\\_report\\_draft.pdf](https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd_review_iccpr_report_draft.pdf)

<sup>30</sup> Republic of China (Taiwan), “Response to the Concluding Observations and Recommendations Adopted by the International Review Committee on January 20, 2017,” June 2020, <https://bit.ly/32V5ALR>

<sup>31</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights – Second Report Submitted under Article 40 of the Covenant, Republic of China (Taiwan),” *Covenants Watch*, April 2016, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report_EN.pdf)

<sup>32</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights – Second Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan),” *Covenants Watch*, April 2016, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report_EN.pdf)

<sup>33</sup> Taiwan Association for Human Rights, “Global Detention Project Questionnaire,” 31 December 2013.



enters and/or exits the State without permission or breaks an exit ban shall be punished with imprisonment for not more than three years, detention, and/or a fine of not more than NT\$90,000” (nearly 3,000 USD).

According to a 2011 State report on the implementation of the International Covenant on Civil and Political Rights, “alien workers who are under judicial investigation or trial because of involvement in a criminal case and are handed over by the Judicial Authority to the [National Immigration Agency] NIA are not to be held in detention by the NIA directly.” Such workers must only be detained when they meet the requirements stipulated in Article 38 of the IA and detention is deemed necessary. 1,112 people involved in criminal cases were held in detention in 2007; 1,227 in 2008; 1,388 in 2009; 1,184 in 2010; and 1,295 in 2011.<sup>34</sup> In 2018, the Ministry of the Interior was tasked with revising the Kuan Hung programme to provide heavier fines and stiffer penalties on migrant workers, employers, and people involved in labour exploitation and trafficking.<sup>35</sup>

The IA also stipulates a re-entry ban. Article 18 provides that the NIA shall prohibit an alien from entering the State if they fulfil particular conditions, including if they have previously been denied entry, ordered to leave within a certain time, or been deported from Taiwan Province of China; or if they have overstayed their period of residence or worked illegally. The period of the re-entry ban is “1 year or up from the second day of the date of an alien’s exit of his/her country and shall not be more than 3 years.”

Article 87-1 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, and Article 47-1 of the Laws and Regulations Regarding Hong Kong and Macao Affairs provide that any Mainland, Hong Kong, or Macao residents who overstay their permitted duration of stay or residency will be punished with an administrative fine, that is no less than NT2,000 (approximately 68 USD) but not more than NT10,000 (approximately 340 USD).

### 3.c Asylum Seekers

<b>Is the right to asylum enshrined in domestic law?</b>	No
<b>Is the detention of asylum seekers provided in law?</b>	Yes

Taiwan Province of China is not a party to the UN Refugee Convention. According to the Statute Governing Issuance of ROC Visas to Foreign Passport Holders and its Enforcement Rules, seeking asylum is not a prescribed reason for applying for a visa.<sup>36</sup> Nevertheless, there have been ongoing discussions in the country concerning the need to legislate for a Refugee Act since 2006. In 2013 and 2017, the International Group of Independent Experts, which monitors Taiwan Province of China’s implementation of human rights treaties such as the

<sup>34</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Initial Report Submitted Under Article 40 of the Covenant,” September 2012, <http://www.humanrights.moj.gov.tw/public/Attachment/541517201510.pdf>

<sup>35</sup> K. Chuan, C. Chao-fu, and E. Hsu, “Taiwan Mulling Heavier Punishment to Stem Illegal Immigration,” *Focus Taiwan*, 30 December 2018, <http://focustaiwan.tw/news/aip/201812300007.aspx>

<sup>36</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Third Report Submitted Under Article 40 of the Covenant,” June 2020, <https://bit.ly/3kNtAGD>

International Covenant on Civil and Political Rights (ICCPR), recommended the “speedy adoption” of a Refugee Act, voicing concerns that the principle of non-refoulement had not yet been incorporated into domestic law.<sup>3738</sup> The first draft of the Refugee Act was submitted by the Executive Yuan to the Legislative Yuan for review on 1 February 2016. It passed the initial review of the Internal Administration Committee and Foreign and National Defence Committee of the Legislative Yuan on 14 July 2016, but there have been no developments since then.<sup>39</sup> According to one observer, writing in November 2024, “At present, a new draft law has been submitted to the Parliament, but details remain scarce. Until now, the 2016 effort stands as the most successful attempt to date, coming closest to achieving legislative approval.”<sup>40</sup>

With no formalised asylum system in place, asylum applications are dealt with on a case-by-case basis. The Taiwanese government has described the refugee review process as follows: “Reviews for determining refugee status in accordance with existing regulations are conducted by interministerial meetings. The government clarifies the cases, visits the parties concerned, investigates the facts, and organizes coordination meetings between different agencies. These procedures are conducted in accordance with the principles of the draft Refugee Act, the two covenants, and the principle of non-refoulement. Assistance is provided through the Ministry of Foreign Affairs for referrals to third countries and the United Nations High Commissioner for Refugees for queries on the determination of refugee status.”

Asylum claims filed by persons from China are processed by the Ministry of the Interior in accordance with the Act Governing Relations between the People of the Taiwan Area and the Mainland Area and the Regulations Governing Dependent, Long-term and Permanent Residency of Mainland Residents in Taiwan Province of China. Based on the circumstances of each individual case, people may be granted long-term residency in Taiwan Province of China based on political considerations.<sup>41</sup> As for asylum claims filed by people from Hong Kong and Macao, Article 18 of the Laws and Regulations Regarding Hong Kong and Macao Affairs provides that “[n]ecessary assistance shall be provided to Hong Kong or Macao Residents whose safety and liberty are immediately threatened for political reasons.”

Following the escalation of insecurity in Hong Kong surrounding Beijing’s imposition of a national security law, Taiwan’s lack of a refugee law again came to the foreground of national debate. Since pro-democracy protests started in 2019, rights groups estimate that some 200 Hong Kong citizens have fled for Taiwan out of fear of political persecution and extradition

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<sup>37</sup> International Group of Independent Experts, “Concluding Observations and Recommendations Adopted by the International Group of Independent Experts (Review of the Initial Reports of the Government of Taiwan on the Implementation of the International Human Rights Covenants),” *Covenants Watch*, 1 March 2013, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2013-ICCPR-ICESCR-CORs\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2013-ICCPR-ICESCR-CORs_EN.pdf)

<sup>38</sup> International Review Committee, “Concluding Observations and Recommendations adopted by the International Review Committee (Second Report of the Government of Taiwan on the Implementation of the International Human Rights Covenants),” *Covenants Watch*, 20 January 2017, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-ICESCR-CORs\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-ICESCR-CORs_EN.pdf)

<sup>39</sup> Republic of China (Taiwan), “Response to the Concluding Observations and Recommendations Adopted by the International Review Committee on January 20, 2017,” June 2020, <https://bit.ly/2RWesdI>; A. Gerber, “Draft Refugee Act Passes Initial Committee Review,” *Taipei Times*, 15 July 2016, <http://www.taipeitimes.com/News/taiwan/archives/2016/07/15/2003651069>

<sup>40</sup> Kristina Kironka, “Taiwan’s attempts to enact an asylum law: navigating politics, public opinion, and human rights,” Central European Institute of Asian Studies, 24 November 2024, <https://ceias.eu/taiwans-attempts-to-enact-an-asylum-law-navigating-politics-public-opinion-and-human-rights/>

<sup>41</sup> Republic of China (Taiwan), “Response to the Concluding Observations and Recommendations Adopted by the International Review Committee on January 20, 2017,” June 2020, <https://bit.ly/2Eximqy>



to mainland China.<sup>42</sup> Surveys, too, have shown that among Hong Kong people considering emigration, Taiwan remains the top choice of destination.<sup>43</sup> However, the lack of a formalised assistance system has left many of those seeking protection unable to gain residency or employment—an issue that Hong Kong protest leaders have urged Taiwanese authorities to address.<sup>44</sup>

In May 2020, in response to growing calls to assist Hong Kong people, Taiwanese President Tsai Ing-wen pledged to establish a “humanitarian action plan.” Shortly afterwards—and just one day after Beijing’s implementation of the Hong Kong national security law—officials established the “Taiwan-Hong Kong Services and Exchange Office,” which aims to help Hong Kong citizens, businesses, and NGOs to relocate to Taiwanese territory.<sup>45</sup> Critics note, however, that the “[humanitarian action plan](#)” avoids any use of the words “asylum” or “refugee”—instead, it speaks of “assistance and care”—and fails to define who is qualified to apply for assistance. No steps have as-yet been taken towards establishing a formal asylum process, and the office will instead reportedly utilise Article 18 of the Laws and Regulations Regarding Hong Kong and Macao Affairs, which allows Taiwanese authorities to provide “necessary assistance” to people in Hong Kong and Macao whose safety and liberty are threatened due to political factors.<sup>46</sup>

In a 2020 report, the government claimed that as of 2019, “no individuals had been repatriated to countries or regions where they could have been subjected to torture or other cruel, inhuman, or degrading treatment.”<sup>47</sup> There have been numerous high-profile cases of asylum seekers being deported in recent years. Two Mainland Chinese asylum seekers were detained in Taoyuan International Airport for five months, between September 2018 and February 2019, as they awaited the result of their applications.<sup>48</sup>

In 2020, the Taiwanese government stated that the National Immigration Agency (NIA) must provide foreigners facing deportation the opportunity to lodge an appeal against their order. If this is rejected, they may file a lawsuit with the Administrative Court to seek to have the penalty withdrawn. The government stated: “If the implementation of the original decision to deport the foreigner would result in irrecoverable damage, if the suspension of implementation does

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<sup>42</sup> Al Jazeera, “Taiwan Opens Office to Help Hong Kong Asylum Seekers,” 1 July 2020, <https://www.aljazeera.com/news/2020/07/01/taiwan-opens-office-to-help-hong-kong-asylum-seekers/>

<sup>43</sup> L. Nachman et al, “Hong Kongers Say Taiwan is Their First Choice as Exile Looms,” *Foreign Policy*, 8 July 2020, <https://foreignpolicy.com/2020/07/08/hong-kong-exile-taiwan-first-choice/>

<sup>44</sup> B. Hioe, “Despite Joshua Wong Visit, The DPP Remains Adamant on Refusal to Set Up an Asylum Process for Hong Kongers,” *New Bloom*, 10 September 2019, <https://newbloommag.net/2019/09/10/dpp-refugee-process-refusal/>

<sup>45</sup> C. Li-hua, “Taiwan Opens Office to Aid Hong Kongers Wanting Out,” *Taipei Times*, 2 July 2020, <https://www.taipetimes.com/News/front/archives/2020/07/02/2003739213>

<sup>46</sup> N. Aspinwall, “Taiwan Opens Office to Help People Fleeing Hong Kong in Wake of National Security Law,” *The Diplomat*, 2 July 2020, <https://thediplomat.com/2020/07/taiwan-opens-office-to-help-people-fleeing-hong-kong-in-wake-of-national-security-law/>

<sup>47</sup> Republic of China (Taiwan), “Response to the Concluding Observations and Recommendations Adopted by the International Review Committee on January 20, 2017,” June 2020, <https://bit.ly/32Xqdql>

<sup>48</sup> Taiwan Association for Human Rights, “20190723 兩公約第三次國家報告第一輪會議台灣人權促進會書面意見 [Taiwan Association for Human Rights’ Submission on the First Round of the Third Review of the Implementation of the International Covenant on Civil and Political Rights],” 25 July 2019, <https://www.tahr.org.tw/news/2462>

not impact the public interest, or if the defendant’s suit is not devoid of merit, the Administrative Court may rule to suspend the deportation and respect the principle of nonrefoulement.”<sup>49</sup>

According to a 2016 Shadow Report on the implementation of the ICCPR by Covenants Watch, asylum seekers do not receive legal aid in detention centres because they are not “legally entry and resident” aliens.<sup>50</sup><sup>51</sup> Subsequently, in the International Group of Independent Experts’ 2017 review, it recommended that the Legal Aid Foundation provide legal assistance not only to foreigners with legal status, but also to asylum seekers without such status.<sup>52</sup> In its 2020 response to the Committee’s recommendation from 2017, the Taiwanese government noted that “asylum seekers without legal status may apply for legal aid from the Legal Aid Foundation. If they meet criteria specified in... the Legal Aid Act, the Foundation will provide legal assistance accordingly.”<sup>53</sup>

In 2012, the Taiwanese government claimed that “there has not been a case where an asylum seeker was placed in custody in Taiwan.”<sup>54</sup> The Taiwan Association for Human Rights challenged this claim, stating: “there are Burmese, Chinese, Pakistani, and other populations in detention, and that there are no laws or procedures for identifying and protecting refugees among them. The fear is that if there are refugees in Taiwan now, and that refugees are regularly being deported from Taiwan, because there is no mechanism to identify them, let alone protect them.”<sup>55</sup>

### 3.d Children

<b>Is the detention of unaccompanied children provided in law?</b>	Yes
<b>Is the detention of accompanied children provided in law?</b>	Yes

According to Article 38-1 of the Immigration Act, children under the age of 12 are not subject to immigration detention. Article 7 of the Regulations Governing the Detention of Aliens

<sup>49</sup> Republic of China (Taiwan), “Response to the Concluding Observations and Recommendations Adopted by the International Review Committee on January 20, 2017,” June 2020, <https://bit.ly/32V4VKq>

<sup>50</sup> Covenants Watch, “Shadow Report 2016 on the Implementation of the International Covenant on Civil and Political Rights,” 4 September 2016, [http://covenantwatch.org.tw/wp-content/uploads/2015/12/2016\\_ICCPR\\_Shadow\\_Report\\_EN.pdf](http://covenantwatch.org.tw/wp-content/uploads/2015/12/2016_ICCPR_Shadow_Report_EN.pdf)

<sup>51</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Initial Report Submitted Under Article 40 of the Covenant,” September 2012, <http://www.humanrights.moj.gov.tw/public/Attachment/541517201510.pdf>

<sup>52</sup> International Review Committee, “Concluding Observations and Recommendations Adopted by the International Review Committee (Second Report of the Government of Taiwan on the Implementation of the International Human Rights Covenants),” *Covenants Watch*, 20 January 2017, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-ICESCR-CORs\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-ICESCR-CORs_EN.pdf)

<sup>53</sup> Republic of China (Taiwan), “Response to the Concluding Observations and Recommendations Adopted by the International Review Committee on January 20, 2017,” June 2020, <https://bit.ly/364E2po>

<sup>54</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Initial Report Submitted Under Article 40 of the Covenant,” September 2012, <http://www.humanrights.moj.gov.tw/public/Attachment/541517201510.pdf>

<sup>55</sup> Taiwan Association for Human Rights (TAHR), “Remark on Taiwan Initial CCPR and ESCR Review,” 5 March 2013, <https://www.tahr.org.tw/content/1200>

provides that “[i]f a female detainee requests to carry her child under three (3) years old, the request may be approved.” However, there appear to be no legal barriers to detaining children over the age of 12.

### 3.e Other At-Risk Groups

<p><b>What specific categories of vulnerable persons are protected from being placed in immigration detention?</b></p>	<ul style="list-style-type: none"> <li>• Individuals who are mentally impaired or physically sick,</li> <li>• Women who are more than five months pregnant, have given birth, or have had a miscarriage during the last two months,</li> <li>• Persons who have contracted infectious diseases (as listed in Article 3 of the Communicable Disease Control Act),</li> <li>• Persons unable to care for themselves due to senility or mental/physical disability,</li> <li>• Persons who have been banned from exiting the state by judicial authorities.</li> </ul>
<p><b>Can victims of trafficking be detained?</b></p>	<p>Yes</p>

Various vulnerable groups are protected from detention in Taiwan. According to Article 37 of the Immigration Act (IA), the following groups may have their detention temporarily suspended: aliens who are mentally impaired or physically sick, whose detention could affect their treatment or endanger their lives; women who are more than five months pregnant, who have given birth or have had a miscarriage during the last two months; persons who have contracted infectious diseases as listed in Article 3 of the Communicable Disease Control Act; persons who are unable to take care of themselves due to senility or physical or mental disability; or persons who have been banned from exiting the State at the request of judicial authorities.

Victims of trafficking can, however, be detained. Article 14 of the Human Trafficking Prevention Act, enacted by the Ministry of the Interior, provides for the separate detention of suspected trafficking victims from other detainees who have violated exit and entry regulations.<sup>56</sup> NGOs and academics have also pointed out that victims of trafficking who have been “de-identified”—that is, people whose victim status has been revoked because they are found to have violated the IA—may be detained and subsequently deported.<sup>57</sup> Prosecutors do not have to give reasons for de-identifying victims, and victims do not have the right to appeal such decisions.<sup>58</sup>

The exploitation of migrant workers is an area of particular concern for civil society advocates in Taiwan Province of China. The Taiwanese commercial fishing industry relies heavily on migrant workers, particularly those originating from Southeast Asian countries such as the Philippines, Indonesia, and Myanmar. In 2018, the Environmental Justice Foundation released

<sup>56</sup> Article 14, Human Trafficking Prevention Act, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0080177>

<sup>57</sup> Article 15, Guidelines for Law Enforcement Authorities Dealing with Human Trafficking Cases for Coordination

<sup>58</sup> C. Rong-rou, “是保護還是歧視？ [Is it protection or discrimination?]” *Taiwan International Workers’ Association*, 19 February 2017, <https://bit.ly/3mNw4Xt>; C. Rong-rou, “是保護還是歧視？ [Is it protection or discrimination?]” *Taiwan International Workers’ Association*, 19 February 2017, <https://bit.ly/2G6iPAc>

a documentary detailing how crew members on Taiwanese distant water vessels or Taiwanese-owned vessels committed human rights abuses against migrant fishermen, including inflicting physical beatings, withholding their identification documents, and failing to provide safe working and living conditions.<sup>59</sup> The NGO coalition Human Rights for Migrant Fishers criticised Taiwan Province of China's "two-tiered" system that provides for different standards of rights for migrant fishermen employed in domestic and extraterritorial waters respectively.<sup>60</sup>

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<sup>59</sup> Environmental Justice Foundation Staff, "Abuse and Illegal Fishing Aboard Taiwanese Vessel Let Slip Through the Net," *Environmental Justice Foundation*, 13 September 2018, <https://ejfoundation.org/news-media/first-hand-reports-of-grave-abuse-and-illegal-fishing-aboard-taiwanese-vessel-allowed-to-slip-through-the-net>

<sup>60</sup> Human Rights for Migrant Fishers, "Abolish the Overseas Employment Scheme for Migrant Fishers and Expedite the Domestication of ILO Convention No. 188," *Greenpeace*, 21 October 2019, <https://www.greenpeace.org/usa/wp-content/uploads/2019/10/Human-Rights-for-Migrant-Fishers.pdf>



## 4. DETENTION PROCEDURES AND AUTHORITIES

### 4.a Procedural Standards

There are four main procedural safeguards provided in the Immigration Act (IA): the possibility of filing claims objecting to detention; appealing the court order for continuous detention (16 to 60 days); appealing the court order for extended detention (from 61 to 100 days); and requesting cessation of the detention order after the court has approved the detention for a continuous or extended time. In addition, it is possible to pursue administrative litigation seeking revocation of the detention order.

The National Immigration Agency (NIA) must provide the reasons for the temporary detention order, the methods or ways to appeal, the duration of detention, relevant authorities, and other related regulations, as well as information about alternatives to detention and forcible deportation, to the individual subject to the order (Article 38-6, IA; Article 3, Regulations Governing the Detention of Aliens). After they have received a “Notice of Mandatory Temporary Detention,” the foreigner or their spouse, blood relative, legal representative, or sibling may verbally or file in writing a notice of motion or objection against the temporary detention order, with grounds, to the NIA (Article 38-2, IA). Upon receiving such a notice of motion or objection, the NIA should conduct a review based on its mandate. If it agrees with the objection, the detention order may be revoked or repealed. In cases where the NIA disagrees with the objection, “the detainee shall be presented in court within 24 hours along with the objection letter, objection records, NIA-written report and case file” (Article 38-2, IA). If the alien’s initial objection to the temporary detention order is rejected, they may file an administrative lawsuit seeking revocation of the detention order under the Administrative Procedure Act. Upon being notified of such a lawsuit, the NIA must transfer the detainee to a court within 24 hours.<sup>61</sup>

In order to extend the detention period beyond the 15-day temporary detention period (up to 60 days), the NIA must submit reasons for continuous detention (16 days to 60 days) to the Ministry of Justice, no later than five days before the deadline.<sup>62</sup> Similarly, the NIA must submit reasons for extended detention (61 days to 100 days), no later than five days before the deadline. The detainee may file claims against each of these sets of reasons respectively.

According to government statistics, from February 2015 to December 2018 there were 66 challenges to detention orders. Of those claims, four were permitted, 52 were rejected, and five were withdrawn.<sup>63</sup> There were 40,365 appeals against continuous detention, and of the 40,312 concluded cases 37,438 were permitted, 62 were rejected, and 2,804 were

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<sup>61</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Third Report Submitted Under Article 40 of the Covenant,” June 2020, <https://bit.ly/3j520oc>

<sup>62</sup> Article 38-4, Immigration Act.

<sup>63</sup> Republic of China (Taiwan), “公民與政治權利國際公約》執行情形 (初稿) 簽約國根據《公約》第 40 條提交的第三次國家報告 “Implementation of the International Covenant on Civil and Political Rights – Third Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan) Draft,” *Covenants Watch*, July 2019, [https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd\\_review\\_iccpr\\_report\\_draft.pdf](https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd_review_iccpr_report_draft.pdf)

withdrawn.<sup>64</sup> Of the 338 appeals against extended detention during this time period, one was permitted, 95 were rejected, and 20 were withdrawn.<sup>65</sup> Finally, of the 101 cases requesting the cessation of a detention order, one was permitted, 95 were rejected, and three were withdrawn.<sup>66</sup>

In 2013, the International Group of Independent Experts recommended that orders under the IA should be subject to judicial review.<sup>67</sup> Subsequently, in 2014, the Legislative Yuan amended the Habeas Corpus Act to ensure that all detainees, including residents of Mainland China, would have the right to obtain a timely judicial review of the legality, reasonableness, necessity, and proportionality of their detention, in response to Judicial Yuan interpretations 708 and 710.<sup>68</sup> Specifically, in interpretation 708, the Judicial Yuan found that Article 38 of the IA was unconstitutional because it did not afford temporary detainees with “prompt and effective judicial remedies.”<sup>69</sup>

#### 4.b Non-Custodial Measures

Taiwanese law provides for various alternatives to detention (ATDs). In the Taiwanese government’s Third Report on its implementation of the International Covenant on Civil and Political Rights, published in 2020, it stated that “persons who have been subjected to expulsion (deportation) and satisfy any one of the detention criteria will be detained only if all other alternative means have been exhausted and expulsion (deportation) is impractical or difficult without detention. This means that detention is the last resort.”<sup>70</sup>

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<sup>64</sup> Republic of China (Taiwan), “公民與政治權利國際公約》執行情形 (初稿) 簽約國根據《公約》第 40 條提交的第三次國家報告 “Implementation of the International Covenant on Civil and Political Rights – Third Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan) Draft,” *Covenants Watch*, July 2019, [https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd\\_review\\_iccpr\\_report\\_draft.pdf](https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd_review_iccpr_report_draft.pdf)

<sup>65</sup> Republic of China (Taiwan), “公民與政治權利國際公約》執行情形 (初稿) 簽約國根據《公約》第 40 條提交的第三次國家報告 “Implementation of the International Covenant on Civil and Political Rights – Third Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan) Draft,” *Covenants Watch*, July 2019, [https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd\\_review\\_iccpr\\_report\\_draft.pdf](https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd_review_iccpr_report_draft.pdf)

<sup>66</sup> Republic of China (Taiwan), “公民與政治權利國際公約》執行情形 (初稿) 簽約國根據《公約》第 40 條提交的第三次國家報告 “Implementation of the International Covenant on Civil and Political Rights – Third Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan) Draft,” *Covenants Watch*, July 2019, [https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd\\_review\\_iccpr\\_report\\_draft.pdf](https://covenantwatch.org.tw/wp-content/uploads/2015/12/3rd_review_iccpr_report_draft.pdf)

<sup>67</sup> International Group of Independent Experts, “Concluding Observations and Recommendations Adopted by the International Group of Independent Experts (Review of the Initial Reports of the Government of Taiwan on the Implementation of the International Human Rights Covenants),” *Covenants Watch*, 1 March 2013, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2013-ICCPR-ICESCR-CORs\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2013-ICCPR-ICESCR-CORs_EN.pdf)

<sup>68</sup> International Review Committee, “Concluding Observations and Recommendations Adopted by the International Review Committee (Second Report of the Government of Taiwan on the Implementation of the International Human Rights Covenants),” *Covenants Watch*, 20 January 2017, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-ICESCR-CORs\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-ICESCR-CORs_EN.pdf)

<sup>69</sup> Covenants Watch, “2011 Taiwan Human Rights Report: Parallel Report on the Implementation of the International Covenant on Civil and Political Rights,” 30 November 2012, [https://covenantwatch.org.tw/wp-content/uploads/2015/12/2011\\_ICCPR\\_Shadow\\_Report.pdf](https://covenantwatch.org.tw/wp-content/uploads/2015/12/2011_ICCPR_Shadow_Report.pdf)

<sup>70</sup> Ministry of Justice, Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Third Report Submitted Under Article 40 of the Covenant,” June 2020, <https://bit.ly/32WRsBz>



An alien may submit an objection to their temporary detention order under Article 38 of the Immigration Act (IA) before it is implemented. Upon a review of the alien's objection to the order, "the [National Immigration Agency] NIA may permit him/her to find a national with household registration in Taiwan Province of China or a representative of a charitable organization/NGO or embassy, consulate, or authorized organization in the ROC who can provide bail or pay a specific amount of bail bond, in compliance with part or all of the following conditions of detention alternative sanction, and to facilitate the execution of forcible deportation: 1. Report regularly on one's life activities at designated Specialized Operation Corps of the NIA; 2. Restrict his/her place of residency in designated locations; 3. Accept inspections at designated places; 4. Provide contact information and telephone, and respond promptly when being contacted by any personnel of the NIA. In case an alien who is temporarily released from detention violates the aforementioned conditions, the NIA may forfeit the bail bond as stipulated in the preceding paragraph."

The Taiwan Association for Human Rights (TAHR) have long advocated for the introduction of alternatives to detention (ATDs) in Taiwan Province of China, including translating the International Detention Coalition's (IDC) publication "[There Are Alternatives](#)" into Chinese, and presenting its findings regarding alternatives to detention to Taiwanese government officials.<sup>71</sup> In a [2016 Working Paper for the GDP](#), the director of the [IDC](#) described advocacy efforts aimed at encouraging the country to adopt alternatives. He wrote that the adoption of legal reforms in 2015 illustrates how local advocates can use the promotion of ATDs to effectively engage governments on reform ideas. A representative of a Taiwanese NGO said that without ATDs, advocates may have "continued to use legislative adversarial strategies and not sought to engage the government."<sup>72</sup>

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<sup>71</sup> International Detention Coalition (IDC), "Children and Pregnant Women No Longer Detained in Taiwan," 9 February 2015, <http://idcoalition.org/news/new-limits-detention-taiwan/>

<sup>72</sup> G. Mitchell, "Engaging Governments on Alternatives to Immigration Detention," Global Detention Project Working Paper No. 14, July 2016, <https://www.globaldetentionproject.org/engaging-governments-alternatives-immigration-detention>



## 5. DETENTION MONITORING AND TRANSPARENCY

### 5.a Transparency

<b>Is data pertaining to immigration detention readily available?</b>	No
<b>Does domestic law provide for the use of prisons for immigration detention?</b>	No
<b>Does domestic law regulate conditions and treatment in detention?</b>	Yes

The Regulations Governing the Detention of Aliens (RGDA), adopted by the Ministry of the Interior, provide guidelines for conditions within detention centres. Upon entering a detention centre, detainees are subject to a body examination by officers of the same gender. Article 3 stipulates that transgender detainees will be “detained separately in a solitary room in detention centre (according to the gender showing on his/her identification certificate).” While in detention, detainees are entitled to free medical treatment (Article 8) and visitations with relatives (Article 10, RGDA). Detainees may also engage in outdoor activities organised by the detention centres (Article 9, RGDA). If a detainee dies or is about to die of illness, their relatives or relevant government officials should be notified of such news (Article 12, RGDA). Detainees who violate the regulations of the centre may be punished with verbal warnings, community service, phone call restrictions, visitation restrictions, and solitary confinement (Article 6, RGDA).

According to the Ministry of Justice, the Ministry of Interior provides printed information in 17 languages (Bengali, Burmese, Chinese, English, Filipino, German, Hindi, Indonesian, Japanese, Khmer, Malay, Mongolian, Nepali, Tamil, Thai, Urdu, and Vietnamese) to detainees at the beginning of their detention to ensure they understand their rights and obligations.<sup>73</sup>

The [Regulations Governing Temporary Detention of Passengers](#) provide guidelines for the temporary detention of foreigners attempting entry or exit. This is to enable the National Immigration Agency (NIA) to investigate the individual under Article 64 of the Immigration Act (IA). Foreigners are detained in the “service unit” associated with the NIA staff that identified them as suspects. Article 3 of the Regulations provides that the NIA shall inform the detainee of the reasons for the temporary detention, unless it is deemed inappropriate. Article 6 provides that the NIA shall monitor the health of the individual, respect their rights, and notify authorities if the detainee is injured, in distress, or experiencing any other conditions that leave them unfit for detention. Article 7 provides that physical restraints or weapons may be used if the detainee attacks NIA staff or if they escape or attempt to escape (Article 72, IA).

<sup>73</sup> Ministry of Justice, Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Third Report Submitted Under Article 40 of the Covenant,” June 2020, <https://bit.ly/3kJBv85>



## 5.b Detention Monitoring

In 2018, the Executive Yuan proposed a draft Implementation Act to implement the Convention Against Torture (CAT) and Optional Protocol to the Convention Against Torture in domestic law.<sup>7475</sup>

Currently, the Control Yuan (political ombudsman), by its own description, "act[s] as Taiwan's National Preventive Mechanism in line with UNCAT to ensure the protection of people in detention through independent monitoring."<sup>76</sup> It is "responsible for regularly inspecting any facility under the government's jurisdiction or control where detained persons could be deprived of their rights." In 2018, the Control Yuan inspected Yilan Detention Centre, and proposed 13 opinions on improving the facilities.<sup>77</sup>

In June 2019, the Control Yuan passed the draft "Organic Law of the Control Yuan National Human Rights Commission," as well as draft amendments to "the Organic Law of the Control Yuan" and "the Organic Act of the Control Yuan Committees" to establish a formal National Preventive Mechanism (NPM) structure within the Control Yuan. The Legislative Yuan passed the bills in December 2019,<sup>78</sup> however, the bills expired in January 2020 due to parliamentary elections.<sup>79</sup>

Civil society groups have continuously called for the new NPM to be designed, structured, and staffed as a body which is independent of the Control Yuan, so that it may scrutinise conditions within places of detention more effectively.<sup>80</sup>

According to the Taiwanese government, representatives from country offices such as Indonesia, Vietnam, and Thailand pay regular visits to detained foreign nationals.<sup>81</sup>

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<sup>74</sup> Covenants Watch, "NPM Travelbook | Preface to the Column," 18 December 2019, <https://www.facebook.com/covenantwatch/photos/a.403160649729395/2820678344644268>

<sup>75</sup> Ministry of Justice, Republic of China (Taiwan), "Third Report for the Implementation of the ICCPR (Initial Report Submitted Under Article 40 of the Covenant)" *Ministry of Justice, Republic of China (Taiwan)*, 31 October 2019, <http://www.humanrights.moj.gov.tw/dl-33597-79682e3f66c04ad9ba39d3eabdbfd566.html>

<sup>76</sup> The Control Yuan Taiwan (Republic of China), "Control Yuan Inspects Detention Facilities to Ensure Protection of Inmates' Rights," *The Control Yuan Taiwan (Republic of China)*, 28 April 2018, [https://www.cy.gov.tw/EN/News\\_Content.aspx?n=252&sms=8938&s=13583](https://www.cy.gov.tw/EN/News_Content.aspx?n=252&sms=8938&s=13583)

<sup>77</sup> Ministry of Justice, Republic of China (Taiwan), "Implementation of the International Covenant on Civil and Political Rights, Third Report Submitted Under Article 40 of the Covenant," June 2020, <https://bit.ly/3coFSCC>

<sup>78</sup> Control Yuan, Taiwan, "Control Yuan to Establish National Human Rights Commission," *International Ombudsman Institute*, 3 January 2020, <https://www.theioi.org/ioi-news/current-news/control-yuan-to-establish-national-human-rights-commission>

<sup>79</sup> Covenants Watch, "Traveler's Note: A National Preventive Mechanism in Taiwan," 12 June 2020, <https://en.covenantwatch.org.tw/2020/06/12/travelers-note-a-national-preventive-mechanism-in-taiwan/>

<sup>80</sup> Covenants Watch, "Traveler's Note: A National Preventive Mechanism in Taiwan," 12 June 2020, <https://en.covenantwatch.org.tw/2020/06/12/travelers-note-a-national-preventive-mechanism-in-taiwan/>

<sup>81</sup> Ministry of Justice, Republic of China (Taiwan), "Third Report for the Implementation of the ICCPR (Initial Report Submitted Under Article 40 of the Covenant)," *Ministry of Justice, Republic of China (Taiwan)*, 31 October 2019, <http://www.humanrights.moj.gov.tw/dl-33597-79682e3f66c04ad9ba39d3eabdbfd566.html>



## 6. DETENTION FACILITIES, OPERATIONS, AND REGULATIONS

As of December 2024, Taiwan appeared to be operating four dedicated long-term immigration detention centres: [Taipei Detention Centre](#), [Yilan Detention Centre](#), [Nantou Detention Centre](#), and [Kaohsiung Detention Centre](#).<sup>82</sup> The NIA also employs different facilities depending on the expected detention duration. Persons expelled within “relatively short time are placed into temporary detention centres of the Specialized Operational Brigades of the NIA, whereas those who cannot leave within a short time-horizon are placed at large-capacity detention centres of the NIA.”<sup>83</sup> Non-nationals can also be detained for brief periods in airport holding areas, including at the Taoyuan International Airport.<sup>84</sup>

DEDICATED IMMIGRATION DETENTION FACILITIES	LOCATION
Yilan Detention Centre	Dongshan Township, Yilan Country
Nantou Detention Centre	Caotun Township, Nantou County
Kaohsiung Detention Centre	Kaohsiung City

### 6.a Conditions and Regimes in Detention Centres

All immigration detainees and detention facilities are under the authority of the National Immigration Agency (NIA). Although the government claims that conditions are suitable, many NGOs have criticised conditions at detention facilities, including due to overcrowding, lack of privacy, and poor hygiene.<sup>85</sup>

Migrants’ rights groups have criticised Taiwanese detention centres for charging detained persons for access to food.<sup>86</sup> In response to complaints by the Hsinchu Catholic Dioceses Migrants and Immigrants Service Centre and the Taiwan International Workers Association, Hsu Yun, deputy head of the NIA’s International Affairs and Law Enforcement Division replied

<sup>82</sup> Taiwan Government website, “Shelters,” accessed on 16 December 2024, [https://www-immigration-gov-tw.translate.goog/5385/5388/7181/7184/7190/?\\_x\\_tr\\_sl=auto&\\_x\\_tr\\_tl=en&\\_x\\_tr\\_hl=en&\\_x\\_tr\\_pto=wapp](https://www-immigration-gov-tw.translate.goog/5385/5388/7181/7184/7190/?_x_tr_sl=auto&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=wapp)

<sup>83</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights – Second Report Submitted Under Article 40 of the Covenant, Republic of China (Taiwan),” *Covenants Watch*, April 2016, [https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report\\_EN.pdf](https://en.covenantwatch.org.tw/wp-content/uploads/2018/12/2017-ICCPR-State-Report_EN.pdf)

<sup>84</sup> H. Hsiao-hwa, “Two Chinese Asylum-Seekers Stranded in Taiwan’s Airport After Claim,” *Radio Free Asia*, 1 October 2018, <https://www.rfa.org/english/news/china/stranded-10012018111006.html>

<sup>85</sup> Ministry of Justice, Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Third Report Submitted Under Article 40 of the Covenant,” June 2020, <https://bit.ly/2RXDM2U>

<sup>86</sup> China News Agency, “遭控收容人無錢購餐挨餓 移民署：查無個案 [Detainees Complained That They Went Hungry Because Did Not Have Money to Buy Food; the Immigration Department Said That They Had Not Found Any Such Cases]” *NewTalk*, 6 March 2019, <https://newtalk.tw/news/view/2019-03-06/215976>

that after investigation, the Division found no such case of detainees going hungry. She said that detainees who enter detention may feel “nervous or anxious, and so are unable to eat”; or that in some cases, people may enter detention in the late hours of the night, when the canteen is closed, which is why some may be deprived of a meal when they first arrive. However, she admitted that migrant workers must pay for their own food when they are detained; those who cannot afford it can borrow money from a government fund, but must eventually re-pay the fees.<sup>87</sup>

In a 2013 report on detention centres in Taiwan Province of China, the Taiwan Association for Human Rights (TAHR) noted that the centres located on the main island resemble prisons: the buildings are surrounded by high walls and a metal door, with iron bars dividing the space into cubicles. There was no air-conditioning—just fans and windows. Detainees were reported to lack privacy because toilets and shower facilities do not have a door separating them from the living area—an issue that also created potential hygiene problems.<sup>88</sup>

Regarding provision of medical care, TAHR noted that in Taipei Detention Centre, there was only one nurse while the other centres had no medical staff whatsoever. Detainees requiring hospitalisation were escorted to the hospital by detention centre staff; however, they were forced to pay for their own medical expenses. At the time, detainees with disabilities, mental health issues, or who were pregnant were not separated from other detainees.<sup>89</sup>

TAHR also noted a gender imbalance in detention centre staff. According to the NGO, most staff members were male, resulting in female detainees often being guarded by male staff members when using the toilet or bathroom. In general, TAHR also noted that there was insufficient manpower in detention centres, resulting in stricter controls on detainees, such as the use of handcuffs during hospital transfers and deportations. Lack of manpower and space also curbed the amount of time detainees were allowed to spend outside.<sup>90</sup>

TAHR also found that there were insufficient numbers of phones for detainees to use. It noted that detainees who had committed criminal offences were not separated from those who had not. Furthermore, those charged with crimes often did not have access to appropriate or sufficient legal assistance—a particular issue given that they may have limited knowledge of the local language and laws.<sup>91</sup>

In a 2011 shadow report on the implementation of the International Covenant on Civil and Political Rights (ICCPR), Covenant Watch noted that the detention of foreigners did not meet requirements for “humane and dignified treatment,” despite the government’s claim to the contrary. Problems included language barriers; a shortage of bedspace; overcrowding; difficulties in communication and meeting with family members; and unclear regulations about

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<sup>87</sup> N. Aspinall, “In Taiwan, Southeast Asian Migrant Detainees Must Pay for Their Own Food,” *The News Lens*, 8 March 2019, <https://international.thenewslens.com/article/115028>

<sup>88</sup> Taiwan Association for Human Rights, “Brief Report of Foreigner Detention Centers in Taiwan,” 17 April 2013, <https://www.tahr.org.tw/content/1218>

<sup>89</sup> Taiwan Association for Human Rights, “Brief Report of Foreigner Detention Centers in Taiwan,” 17 April 2013, <https://www.tahr.org.tw/content/1218>

<sup>90</sup> Taiwan Association for Human Rights, “Brief Report of Foreigner Detention Centers in Taiwan,” 17 April 2013, <https://www.tahr.org.tw/content/1218>

<sup>91</sup> Taiwan Association for Human Rights, “Brief Report of Foreigner Detention Centers in Taiwan,” 17 April 2013, <https://www.tahr.org.tw/content/1218>

release.<sup>92</sup> There were also no complaint channels for detainees to lodge concerns about their treatment in detention.<sup>93</sup>

In the 2011 State report on the implementation of the ICCPR, the Taiwanese government noted that multiple immigration officials had been “accused of directing air-conditioners/electric fans at female aliens leading to vomiting” and of “kissing and fondling female aliens against their will” in detention centres in 2007 and 2009.<sup>94</sup>

## 6.b Taoyuan International Airport

Non-nationals have also been held in Taoyuan International Airport. In one case from 2018, two Mainland Chinese dissidents made applications for asylum while in transit in the airport.<sup>95</sup> They were detained in the restricted area of the international airport for 125 days. According to one news report, the Immigration Department arranged for them to stay in a room with a sofa and chair, and provided them with additional clothing, and provided them with free meals.<sup>96</sup>

In January 2019, three Syrian Kurds fleeing persecution sought asylum in Taiwan Province of China using fake passports. They were subsequently sentenced to deportation. One filed an asylum case but was put on a plane home before the lawyer’s filing reached the judge.<sup>97</sup> The TAHR noted that they were detained for a period at an airport, during which time they were unable to access shower facilities or to meals.<sup>98</sup>

## 6.c Privatisation and Outsourcing

<b>Is detention centre management privatised?</b>	No
<b>Are private companies involved in the provision of services within detention centres?</b>	Yes

<sup>92</sup> Covenants Watch, “2011 Taiwan Human Rights Report: Parallel Report on the Implementation of the International Covenant on Civil and Political Rights,” 30 November 2012, [https://covenantwatch.org.tw/wp-content/uploads/2015/12/2011\\_ICCPR\\_Shadow\\_Report.pdf](https://covenantwatch.org.tw/wp-content/uploads/2015/12/2011_ICCPR_Shadow_Report.pdf)

<sup>93</sup> Taiwan Association for Human Rights, “Brief Report of Foreigner Detention Centers in Taiwan,” 17 April 2013, <https://www.tahr.org.tw/content/1218>

<sup>94</sup> Republic of China (Taiwan), “Implementation of the International Covenant on Civil and Political Rights, Initial Report Submitted Under Article 40 of the Covenant,” September 2012, <http://www.humanrights.moj.gov.tw/public/Attachment/541517201510.pdf>

<sup>95</sup> H. Hsiao-hwa, “Two Chinese Asylum-Seekers Stranded in Taiwan’s Airport After Claim,” *Radio Free Asia*, 1 October 2018, <https://www.rfa.org/english/news/china/stranded-10012018111006.html>

<sup>96</sup> H. Zhong-ming and L. Jun-qi, “滯留桃機 125 天終圓夢 2 中國異議人士昨深夜入境台灣 [125 Days in Taoyuan International Airport; 2 Chinese Dissidents Entered the Taiwanese Border at Night]” *Apple Daily*, 31 January 2019, <https://tw.appledaily.com/new/realtime/20190131/1507795/>

<sup>97</sup> N. Aspinwall, “Why Taiwan Won’t Welcome China’s Dissidents,” *The Nation*, 6 December 2019, <https://www.thenation.com/article/taiwan-refugee-china-hongkong/>

<sup>98</sup> Taiwan Association for Human Rights, “20190723 兩公約第三次國家報告第一輪會議台灣人權促進會書面意見 [Taiwan Association for Human Rights’ Submission on the First Round of the Third Review of the Implementation of the International Covenant on Civil and Political Rights]” 25 July 2019, <https://www.tahr.org.tw/news/2462>

According to Article 50 of the Immigration Act (IA), the transport service provider, or the captain of an aircraft or vessel, is responsible for arranging the transport for deportation in cases where a non-national has been banned from entering the country, has made a temporary entry into the state, has stayed for overnight lodging, or lacks the documents required to enter the state. Article 50 further stipulates that, with the exception of circumstance in which an alien has been banned from entering the state (Article 7 or Paragraph 1, Article 18, IA), “the concerned transport service proprietor shall pay for the related expenses.”





[www.globaldetentionproject.org](http://www.globaldetentionproject.org)