Asia Pacific Labour Law Review

Asia Pacific Labour Law Review

Workers' Rights for the New Century

Asia Monitor Resource Centre

2003

Asia Monitor Resource Centre Ltd.

AMRC is an independent non-governmental organisation
that focuses on Asian and Pacific labour concerns.
The Center provides information, research, publishing, training, labour networking
and related services to trade unions, pro-labour groups, and other development NGOs.
AMRC's main goal is to support democratic and independent labour movements in Asia and the Pacific.
In order to achieve this goal, AMRC upholds the principles
of workers' empowerment and gender consciousness, and follows a participatory framework.

Published by
Asia Monitor Resource Centre Ltd (AMRC), 444 Nathan Road, 8-B, Kowloon, Hong Kong, China SAR
Tel: (852) 2332 1346 Fax: (852) 2385 5319 E-mail: admin@amrc.org.hk URL: www.amrc.org.hk

ISBN 962-7145-18-1

Editorial Team
Stephen Frost, Omana George, and Ed Shepherd
Layout
Tom Fenton
Cover Design
Eugene Kuo

Acknowledgements
AMRC expresses sincere thanks to the following people and organisations for their gratefully received contributions to this book.
Suchada Boonchoo (Pun) is co-ordinator for the Asian Network for the Rights of Occupational Accident Victims. We thank her for all the help in organising our conference of authors in Bangkok.
Thanks to the American Center for International Labor Solidarity, Bangkok, Thailand for a financial contribution towards printing the book.
We are indebted to Oxfam Hong Kong for their financial contribution towards the production costs.
Thanks to the International Labour Organisation for allowing us to use photographs from their library free of charge.
Eugene Kuo, a freelance photographer and designer, a big thank you for contributing photographs and designing the cover free of charge. Look at www.226-design.com for some of Eugene's stunning work and ideas.
To Tom Fenton, co-founder (with Mary Heffron) of AMRC – thanks a lot for advice, maps, and all the time devoted to the layout of the book, free of charge. E-mail: tfenton@igc.org.
Finally, we would like to thank the International Centre for Human Rights and Democratic Development, Canada, for an extremely generous contribution that covered much of the publishing costs of this book. Without their last-minute financial assistance, it is possible that this book would never have proceeded beyond the editing stage. E-mail: ichrdd@ichrdd.ca; URL: www.ichrdd.ca.

Labour Legislation in Taiwan, 2000-2002

Joseph Chi-Feng Hsu and Michael Ming Wei

Introduction

Taiwan's legal framework for regulating the labour market has been developing since the 1920s when the Nationalist government effectively occupied mainland China. Three major collective labour laws were enacted in the late 1920s and early 1930s concerning workers' rights to organise, bargain, and engage in collective action. They are The Settlement of Labour Disputes Law 1928, the Trade Union Law 1929, and the Collective Agreement Law 1932.

Most of the legislative protection of workers' rights was accomplished after the nationalist government established its authority in Taiwan. The Labour Insurance Act was promulgated in 1958 to provide insurance coverage for workers in the private sector. It was revised in 1995 to transfer the medical care aspects of ordinary labour insurance to the National Health Insurance Programme. In 1974, the Labour Safety and Health Law was promul-

gated to regulate the installation, control, supervision, and inspection of the entire labour safety system. The most significant labour law, the Labour Standards Law enacted in 1984, was largely based on the Factory Law 1929. It prescribes the minimum requirements for labour contracts including wages, working hours, leaves of absence, sick pay, and employment of women and children. The Employment Service Law, enacted in 1992, guarantees equal job opportunities and access to employment services for all. The Labour Inspection Law, promulgated in 1993, empowers central and local governments to inspect working conditions with special emphasis on safety in the workplace.

The year 2000 was a watershed in Taiwan's political development. The major opposition party, the Democratic Progressive Party (DPP), won the presidential election on 18 March ending more than five decades of power by the Nationalist Party (Kuomintang). The DPP has long claimed to be 'pro-labour' and under its rule the Protection for Workers from Occupational Hazards Law was passed in 2001 and the Employment Insurance Law in 2002. The former provides all victims of occupational accidents with direct aid from the state for medical treatment including nursing; the latter guarantees benefits for unemployed workers. In addition, two laws aimed at protecting the rights of disadvantaged groups were enacted in 2001 and 2002. They were respectively the Aborigine Employment Rights Protection Law and the Gender Equality in Employment Laws (see Appendix 2).

Contemporary labour legislation

Provision for individual worker

Two major laws, the Labour Standards Law and the Labour Insurance Act, provide individual workers with a variety of benefits. Another major law establishing the National Health Insurance Programme, the National Health Insurance Law enacted in 1995, is also beneficial to workers. It is not discussed in this paper since its coverage applies to all citizens, not just workers.

Basic wage

A worker's wage is under the protection of a 'basic wage' system. Article 21 of the Labour Standards Law reads, 'A worker shall be paid such wage as is determined through negotiations with his employer, provided, however, that it shall not fall below the basic wage.' The Basic Wage Deliberation Committee, under the cabinet-level Council of Labour Affairs, determines the basic wage. The committee is comprised of representatives of government agencies, employers' associations, and labour unions. The present basic wage, amended in 1997, stands at NT$15,840 (US$470) per month.

Working hours

Regular working time is eight hours a day and 84 hours every two weeks. With the prior consent of either the labour union or a majority of workers in the company, the employer may transfer regular working hours from any one workday in every two weeks to other workdays. It is known as 'flexible working time.' However, no more than two hours should be transferred to any one other workday.

Overtime

Employers are required to pay overtime at the following rates: 1) Where the overtime does not exceed two hours, the worker should be paid at least an additional one third of regular hourly rate; 2) Where the overtime is over two hours but less than four, the worker should be paid at least an additional two thirds of regular hourly rate. Overtime is limited to three hours a day and a total of 46 hours a month for men workers and two hours a day and a total of 24 hours a month for women workers.

Paid holidays and vacations

According to the Labour Standards Law, all workers are entitled to two kinds of holidays. One is a regular holiday, namely one day off every seven days. The other is a prescribed holiday, i.e. national holidays such as the Founding Day of the nation, and popular holidays such as Spring Festival, Tomb-Sweeping Day, and Mid-Autumn Festival.

A worker who has completed a full year of service with the same employer is entitled to vacation time or special leave. The worker should be granted seven days' holiday for service of more than one year but less than three, 10 days for more than three years but less than five, 14 days for more than five years but less than ten, and one additional day for each year of service over ten. Special leave ranges up to a maximum of 30 days a year.

In cases of natural disaster or other emergencies, an employer may terminate employees' holidays or special leaves and require them to work. That employer must then pay an overtime wage of two times the regular hourly rate and later grant these workers time off.

Pension schemes

In the broadest sense, a worker's pension includes both the retirement payment from the employer and the old-age benefit payment from the labour insurance programme. According to the Labour Standards Law, a worker may apply for voluntary retirement if s/he has worked for the same business for 25 years or if s/he is 55 years of age and has worked for the same business 15 years. When a worker who reaches 60 years of age, must retire. Whether the worker is voluntarily or compulsorily retired, he is entitled to receive a retirement payment from the employer. The employer is required to pay two 'units' for each year of service. After the completion of the fifteenth year, it should be one 'unit' per year. The total units may not exceed 45. Each 'unit' is computed as one month of average wage at the time of approved retirement.[1]

According to the Labour Insurance Act, an insured worker is eligible to receive old-age benefits from the labour insurance programme under any of the following four conditions. First, a male worker age 60 or a female age 55, who has held the insurance for at least one year and resigns from his/her job; second, a worker age 55 who has carried the insurance for 15 years and resigns; third, a worker who has been insured in the same business for over 25 years and resigns; fourth, a worker age 55 who has been employed for more than five years in hard physical labour, certified by the competent central authority as dangerous, and resigns. As with the retirement payment, the old-age benefits payment is calculated on a basis of the worker's number of years insured and average monthly insurance wage.[2]

Contract termination provisions and protection for laid off workers

The Labour Standards Law classifies labour contracts into fixed term or non-fixed term. A fixed term contract refers to one for temporary, short-term, seasonal, or special work, whereas a non-fixed term contract refers to one for continuous work. An employer may terminate a labour contract due to business suspension or contraction, ownership transfer, operating loss, or necessary workforce reduction. When a worker is confirmed to be incompetent to perform work duties, the employer has the right to terminate the contract. In the case of non-fixed term contract termination, an employer is required to give the worker advance notice. The prior notice period extends from 10 to 30 days depending on the length of the employee's service for the firm. After receiving such notice, the worker may demand a paid leave of absence to find a new job. But the paid leave cannot exceed two workdays per week. The worker is also entitled to receive severance pay equivalent to one-month's average wage for each full year of continuous service.

Collective labour rights

Taiwan's collective labour rights are protected by two major laws, the Collective Agreement Law and The Settlement of Labour Disputes Law.

According to the Collective Agreement Law, a labour union with members' authorisation may conclude a collective agreement with an employer. The term of the agreement should not exceed three years. In addition to covering wages, working hours, lay-offs, pensions, and compensation for occupational injuries, a collective agreement may stipulate that an employer can employ only the members of a particular labour organisation. The law requires every collective agreement to be submitted by one or both parties to the competent governmental authority for approval. The agency has the authority to cancel or amend any provision of the agreement if it finds that the provision is contrary to law or incompatible with the progress of the employer' business, or does not ensure the maintenance of the workers' normal standard of living.

Labour disputes and arbitration procedures

The Settlement of Labour Disputes Law draws a sharp distinction, at least in theory, between a rights dispute and an adjustment (or interest) dispute. The former concerns labour ordinances, collective agreements, or labour contracts; the latter involves disagreements over continuations or changes regarding the terms and conditions of work. A rights dispute is resolved through medi-

ation and/or litigation; an adjustment dispute is settled through either mediation or arbitration.

The mediation procedure is divided into four steps. First, either party may request the competent authority to mediate.[3] When the competent authority deems mediation necessary, it may initiate the procedure. Second, after receiving the application, the competent authority is obliged to set up, within seven days, a mediation commission to deal with the dispute. The commission should be composed of three to five mediators, of who one to three members are to be appointed by the competent authority and one member each chosen by the parties to the dispute respectively. Third, after the commission has been set up, it must immediately conduct a meeting, and assign mediators to investigate. The mediators should complete the investigation within 10 days and then bring findings and settlement proposals to the commission. Finally, if the mediation is concluded successfully, the agreement is deemed to be a contract between the parties to the dispute; and in case one of the parties is a workers' organisation, as a collective agreement between the parties. If the mediation fails, a rights dispute may be brought to court, whereas an adjustment dispute goes to arbitration.

The arbitration procedure is divided into three steps. First, both parties must file an application for arbitration of an adjustment dispute. If the competent authority considers the dispute to be serious, it may be referred to arbitration. Second, after receiving the application, the competent authority must set up, within five days, an arbitration commission. The commission should be composed of between nine and 13 arbitrators, of who between three and five are appointed by the competent authority or other government agencies concerned. The parties to the dispute may each choose between three and four members of the Arbitration Committee. This Committee, much like the pool of arbitrators, consists of 12-48 eligible persons. Each is recommended by either a labour organisation or an employers' association and is approved by the competent authority. They serve for a term of two years. Finally, the award rendered by the arbitration commission is considered to be binding with regard to both parties. If one of the parties is a labour organisation, the award may serve as a collective agreement.

Labour disputes resolved in Taiwan, 1999-2001[5]

Year	No. of disputes	Result (case)			
		Conciliation	Mediation	Arbitration	Unresolved
1999	5,860 (5,806)	4,861 (4,803)	946 (946)	- (-)	139 (139)
2000	8,026 (6,579)	6,603 (5,192)	1,445 (1,445)	- (-)	117 (81)
2001	10,955 (7,405)	8,807 (5,229)	2,170 (2,170)	- (-)	95 (87)

Note: The figures in the parentheses represent disputes resolved by labour administration agencies.

Most disputes resolved in an informal way

The Settlement of Labour Disputes Law provides parties to rights disputes with a mediation procedure and parties to adjustment disputes with a mediation-arbitration procedure.[4] However, most disputes have been settled through an informal, or extra-legal approach known as 'conciliation'.

Technically, conciliation is more passive intervention than mediation. A conciliator could be a government official, a member of an administrative agency, a member of an intermediary organisation, or just a person with public reputation. The conciliator offers no specific advice but instead encourages the parties involved to reach an agreement. Workers, employers, and government officials often prefer this approach since it typically requires less time and effort and certainly less paperwork.

Litigation generally places workers in a disadvantageous position relative to management. In the event of a dispute, employees must file a civil case against their employer. However, many workers who claim to be victims are financially unable to file a lawsuit. Such suits often take the courts years before a decision is finally reached. For instance, in 1990 a worker who was employed by Tatung Company for 16 years filed a lawsuit against his employer for unfair dismissal. It took him a full eight years to win the case.

Labour union rights

Labour union rights are mostly protected by the Trade Union Law. This law also regulates the establishment, operation, and dissolution of labour unions.

Formation of union

A labour union can be formed at a factory or workshop, or in an administrative area, with 30 or more employees. The jurisdiction of a labour union should coincide with an administrative area. Communication and transportation enterprises, or public utilities, which extend over one administrative area, are exceptions to the rule. Only one labour union can be organised by workers of one industry or in one area, or in one factory or workshop or by workers engaged in one craft in the same area. With respect to the federation of labour unions for a specific industry or craft, only one federation is allowed to organise for each specific industry or craft. At least 21 provincial, municipal general federations, or national federations for a specific industry or craft, are required to organise a national confederation of labour unions.

Union registration requirements

The Trade Union Law specifies in details the process for the registration of a labour union. In general, when workers form a labour union, they have to file an application with the competent authority for registration. At the completion of organisation, the union must submit a report on preparatory work, the name list of its members, the résumé of its officers, and its constitution to the competent authority for record. The competent authority may then issue a certificate.

Restrictions on unions

Once a labour union is established, it must submit annual reports every December including the names and résumés of its officers, its account books, and details regarding any labour dispute conciliation. The government may dissolve a labour union if the union does not possess the fundamental requirements for its establishment or if its activities are proved to disrupt social order. A labour union may itself declare dissolution in the case of bankruptcy or insufficient membership.

Anti-union discrimination

The Trade Union Law protects unions and their officers from discrimination. A labour union is indeed defined as a 'juristic person' and its property is not subject to confiscation. An employer cannot refuse to hire, cannot dismiss, and cannot treat a worker unfairly merely because that worker participates in a labour union. Furthermore, during a dispute between labour and management, an employer cannot terminate a worker's contract due to his/her participation in the dispute.

In addition, board directors and supervisors of a labour union are entitled to request official leave of absence with pay to handle union affairs.[6] The total of such leave for each director and supervisor, however, is limited to 50 hours per month. For standing directors, official leave of absence may extend to a full day.

Occupational health and safety legislation

The Labour Insurance Act, the Labour Safety and Health Law, the Labour Standards Law, the Labour Inspection Law, and the Rules for Leave-Taking by Workers provide a variety of protection for workers especially involving sick leave and occupational disease and injury compensation. Recently, the Protection for Workers from Occupational Hazards Law was passed, enhancing measures that prevent occupational illnesses and accidents.

Sick leave and pay

According to the Rules for Leave-Taking by Workers, a worker is entitled to ordinary sick leave when receiving medical treatment for ordinary injury or sickness etc. A non-hospitalised worker is entitled to 30 days of sick leave with pay per year, whereas the hospitalised worker is entitled to a full year. A worker whose sick leave does not exceed 30 days per year receives 50 percent of normal salary for each day off.

Injury compensation

A worker whose disability, injury, or sickness is caused by occupation is entitled to occupational sick leave with pay during the entire period of medical treatment and recovery. However, according to the Labour Standards Law, special provisions apply to a worker who has not recovered after two years off work. In that case, the employer may pay the worker a lump sum equal to 40 months' average wage. The employer is thus exempt from further responsibilities to that worker. The government's Labour Insurance Programme also covers the worker's medical expenses and provides compensation for any disability. A list of occupational diseases that are covered along with medical treatments that are

provided is specified under the Labour Insurance Act. If a worker dies as the result of an occupational injury or disease, the labour insurance programme pays a funeral subsidy equivalent to five months of the worker's average wage and a lump sum 'survivor's compensation' subsidy equivalent to 40 months to surviving relatives.

The Protection for Workers from Occupational Hazards Law 2001 extends protection and compensation to all workers even those who are not covered by the labour insurance programme. The law states that all victims of occupational accidents are entitled to compensation from employers and aid from the state for medical treatment and nursing. It also requires the state to provide vocational training for the victims of occupational accidents to assist them in returning to work.

Workplace safety regulation

The Labour Safety and Health Law covers workers in mining and quarrying, manufacturing, construction, electricity, gas, water, transportation, and other essential industries such as agriculture, forestry, fishery, and animal husbandry. In order to safeguard the health and safety of workers, the law requires employers to meet a variety of standards regarding the installation of safety and health equipment in workplaces, particularly at dockyards and fireworks factories. It also prohibits women and workers under the age of 16 from being employed in dangerous or harmful situations. Furthermore, according to Rules of Protection for Workers' Health, any business with more than 300 workers at one site is required to establish a formal medical centre.[7] For businesses engaged in potentially hazardous operations, the same requirement applies when the number of workers reaches 100.

The Labour Inspection Law empowers the government to inspect labour conditions in the workplace. The scope of inspections carried out under the law extends to health and safety issues, labour insurance, employee welfare funds, and hiring foreign workers. The approval of labour inspectors is required before workers are allowed to work on potentially dangerous sites such as petroleum cracking plants, agricultural and chemical plants, firework and gunpowder factories, sites with containers of gases under high pressure, and construction sites. Under the Protection for Workers from Occupational Hazards Law, government departments are required not only to promote occupational safety but also to monitor job-related diseases.

Gender-related labour law

By 2001, the legal protection of women's labour rights was deemed to be insufficient. The Gender Equality in Employment Law, which took effect on 8 March 2002, is now seen as an historic landmark for Taiwan in the field of labour relations. In guaranteeing women's rights, it provides female workers with a broad range of protection at the workplace including maternity (as well as paternity) leave, equality in terms of the right to work, and the overall elimination of sex discrimination.

Maternity/paternity protection

According to the Gender Equality in Employment Law, a female worker is entitled to paid maternity leave for a combined period of eight weeks before and after childbirth (as already provided by the Labour Standards Law). A male worker is also eligible for two days of leave with pay when his wife gives birth.

A female worker who has served at least one year with a business having a staff of more than 30 is entitled to take 'baby-caring' leave for a maximum of two years without pay. She can demand this leave any time before her baby reaches the age of three. An employee who needs to feed his or her baby in its first year is permitted to do so for 30 minutes twice a day. Feeding sessions are deemed to be paid work. For purposes of raising a child less than three years of age, an employee with a firm staffed by more than 30 may demand either reduced working time of up to one hour without pay per day or adjusts his or her normal working time. Any company with more than 250 employees is entitled to a government subsidy to set up its own childcare facilities.

Menstruation leave

Women workers are entitled to one day of sick leave per month during their menstruation period if it interferes with work.

Sexual discrimination policy and gender equity provisions

This legislation outlaws discrimination against job applicants on the grounds of sex during the course of recruitment, examination, appointment, and assignment.

It requires employers to pay workers who do similar jobs equal salaries and benefits. In addition, an employer is prohibited from treating employees in a sexually discriminatory fashion with regard to worker education, training, retirement, and termination.

The new law takes an initial step in eliminating sexual harassment in the workplace. It obliges companies with more than 30 employees to adopt measures to prevent and punish such offences. It also requires each level of governmental agency to set up its own working conditions committee to hear complaints regarding sexual harassment. Such committees are to consider all matters pertaining to gender equality in employment. The law further requires the government to adopt employment services and occupational training for employees who leave their jobs due to marriage, pregnancy, childbirth, or childcare. Any company that achieves outstanding results with regard to the treatment of women in the workplace is eligible to receive additional funding as a reward from the government.

Laws dealing with ethnic discrimination

In addition to the Gender Equality in Employment Law, another law regarding discrimination in employment is the Aborigine Employment Rights Protection Law, which took effect in 2001. This law mandates affirmative action in employment for Taiwan's ethnic minorities. It requires all government agencies, public schools, and state-owned enterprises to employ one aborigine for every 100 workers employed as contract workers, police, technicians, drivers, janitors, cleaners, or toll/fee collectors. If these jobs are located in aboriginal regions, the employment quota increases to one third of the workforce.

Effectiveness of labour law implementation

Labour law enforcement agencies

Each level of government has an agency that is the competent authority for enforcing labour laws. The highest authority is the Council of Labour Affairs at cabinet level. It was established in 1987. At the special municipality level, the competent authority is the Bureau of Labour Affairs. At the county or city level, it is either the Bureau of Labour Affairs or the Bureau of Social Affairs. In addition, there are a variety of special committees at every level to deal with labour-related matters. These include employment discrimination evaluation committees, sexual harassment prevention committees, and gender equality in employment promotion committees.

Article 5 of The Settlement of Labour Disputes Law requires the government, when necessary, to set up labour courts in the judicial system. As a consequence, the High Court and eight district courts have established special courts to deal with labour cases. Other district courts without special labour courts have assigned special judges to hear labour cases.

Obsolete laws and improper monitoring of law implementation

As indicated earlier, some labour legislation was enacted in the 1920s, 1930s, and 1940s. These laws are now, for the most part, out of date. They therefore need to be revised or abolished. For example, the Trade Union Law was formulated on the basis of the territorial area of the Chinese mainland. So, for the sake of political and social stability, lawmakers placed stringent restrictions on union formation and operation. However, today in Taiwan substantial freedom is granted to union organisers and leaders. Thus, the old law no longer applies to Taiwan's current territorial and political situation.

Other laws need to be revised since they no longer conform to present reality. For example, the Labour Standards Law states that a person who has worked for a single business for at least 15 years is entitled to a retirement pension. Today, 98 percent of firms in Taiwan are small- or medium-sized, i.e. their regular employees number fewer than 200. And, on average, their survival rate is around 13 years.

A factor that frequently disadvantages workers is the government's own attitude toward implementing labour laws. Since the 1960s, policymakers have prioritised economic development and international competitiveness over the protection of workers. In order to promote national interest and global trade, government officials typically favour management over labour. This is especially true regarding labour disputes, working conditions, and workers' retirement funds. For instance, under the Labour Standards Law and the Rules for the Alloca-

tion and Management of Workers' Retirement Fund, the government set up the Workers' Retirement Fund. Employers are thereby required to allocate an amount equivalent to between two and 15 percent of their employees' total monthly wages bill into this fund. However, by January of 2002, only 8.43 percent of companies had actually complied.[8] Most employers failed to do so because the government was lax in supervision and punishment. Such behaviour has occurred repeatedly and the government has thus far been unable to formulate sufficient measures on behalf of workers. In many cases, employers have evaded their responsibilities for severance payments as well as retirement pensions. In April 1997, Gloria Electronics shut down its business after 24 years of operation without prior notice leaving 378 native workers without severance payments or retirement pay. These workers later learned that the company had only set aside NT$2 million out of the required NT$100 million in its retirement fund. They then demanded that the government assume responsibility since it failed to ensure effective enforcement of the law.

Major events and changes in labour legislation

Reinterpretation of the trade union law and union confederation split

The Trade Union Law permits only one union confederation to be established at the national level. The Chinese Federation of Labour (CFL) is that entity. Prior to the mid-1980s, under a state-corporate political arrangement, the CFL was used by the KMT government as a political vehicle for soliciting labour votes and as an administrative arm for implementing governmental policies. It apparently failed to fulfill its obligations to protect workers' rights. Thus, its role as the sole substantive representative of labour was questioned. Any attempt to challenge its status was, however, consistently opposed by the government.

With full lifting of martial law in 1987, a militant labour movement emerged. In the1990s, a group of labour activists began to form an alternative union confederation at national level. It was known as the Taiwan Confederation of Trade Unions. Most of these activists were friends of the DPP. So, when they asked that their organisation be granted legal status, the Council of Labour Affairs refused claiming that it would violate the Trade Union Law.

Once the DPP took the reins of power, the government launched a new legislative programme to revise the Trade Union Law. This allowed workers the freedom to form a union and unions the freedom to form a federation. The new administration was anxious to reward its friends and could not wait to complete the legislative process. So, in May 2000, the Council of Labour Affairs granted the Taiwan Confederation of Trade Unions legal status by issuing an executive order using a re-interpretation of the law. Other activists in the labour movement subsequently followed suit. They withdrew from the CFL and organised separate national confederations. In the process, the sole union confederation at national level was eventually replaced by six.

Shortening maximum working hours and political struggle

In the 1990s, a proposed revision of the Labour Standards Law which including a reduction in legal working hours was knocked back and forth between the legislative and executive branches of government. During the presidential election of 2000, the DPP nominee, Chen Shui-bian, promised that if elected he would immediately cut the maximum number of working hours from 48 per week to 44, and within two years to 40. He was of course applauded by the labour movement. After Chen assumed power, the Council of Labour Affairs requested representatives of workers and employers to negotiate over this issue. On 13 June, both sides agreed to shorten the maximum number of weekly working hours to 44. However, during the legislative process, KMT legislators countered with a bill cutting working hours to 84 a fortnight. Since the legislature was dominated by the KMT, this bill finally became law. In December, the executive branch, the Executive Yuan, sent yet another bill to the legislature, attempting to adjust the workweek to 44 hours. This amendment failed even to get onto the legislature's agenda.

Working time is of course important not only in terms of workers' rights but also in terms of businesses' costs. It naturally has a significant impact on overall employment and economic growth. After the bill reducing working hours was passed, the Council for Economic Planning and Development estimated that 80 percent of

companies in the industrial sector would be affected. Wage costs in all enterprises were expected to go up by 7.46 percent and in small- and medium-sized businesses by 18.7 percent.[9]

Needless to say, an issue as important as shortening maximum working hours deserves the most thorough consideration and deliberation. Instead, the decision-making process was marked by political struggles. President Chen made the promise hastily during his campaign. The opposition party then adopted a strategy of killing two birds with one stone by placating workers on the one hand and embarrassing the new administration on the other.

Unemployment and economic development advisory conference

Since 2000, an economic depression of decreasing business and increasing unemployment has confronted Taiwan. In 2001, the negative economic growth rate stood at 1.91 percent while the unemployment rate surged to a record high 4.57 percent. Government officials typically blamed the slowdown on the international economy while opposition parties blamed the new and inexperienced administration. They pointed to the fact that Taiwan's economic problems were more severe than many other countries'.

Regardless of blame, the new administration at least recognised the seriousness of the situation. President Chen organised a cross-party economic advisory council in July 2001. Its aims included developing new industries, improving the investment environment, promoting financial reform, and boosting overall employment. Labour leaders participated in the council, either selected by the president or recommended by political parties. Most of them were invited to the employment panel as well. The formal meeting of the Economic Development Advisory Conference was held from 24 to 26 August. When the conference concluded, 53 consensus recommendations by the employment panel were approved. Among those, the most important were as follows:

1. Maintain the basic wage system but modify its decision-making mechanism.
2. Maintain the '84 working hours per fortnight' policy.
3. Amend the Labour Standards Law to allow flexible working time and female workers to work during the night shift.
4. Develop new retirement pension systems that cover all employees and allow them to choose the one most beneficial to them.
5. Continue to reduce the total number of foreign workers and increase job opportunities for native employees.

After the conference, the government took a series of legislative and policy actions to cope with the unemployment problem. As mentioned earlier, the passage of the Employment Insurance Law was one such accomplishment. Many of the government's proposals are however still awaiting legislative approval.

Notes

1. The 'average wage' is arrived at by taking the total amount of wages for the six months preceding the day on which a matter of computation occurs divided by the total number of days of that period.
2. In the case of the old-age benefits payment, the 'average monthly insurance wage' is arrived at by taking the total amount of insurance wage for the 36 months preceding the day on which a matter of computation occurs divided by 36. It is common for a worker's monthly 'insurance wage' to be lower than the real wage received.
3. When both parties to an adjustment dispute agree, the case may directly be referred to arbitration without going through the mediation procedure.
4. Over 99 percent of labour disputes in Taiwan concern rights.
5. *Monthly Bulletin of Labour Statistics, Taiwan Area*, (Republic of China, Council of Labour Affairs, February, 2002, pp. 42-47).
6. A union official is paid regular wages to do union work.
7. An executive order, issued in 1990 based on articles 5 and 10 of the Labour Safety and Health Law.
8. *Monthly Bulletin of Labour Statistics, Taiwan Area, Republic of China*, (Council of Labour Affairs, February 2002, p. 58).
9. *Economic Daily News,* (18 June 2000).
10. Passed on 25 April 2002, and will come into force on 1 January 2003.

Appendix 1

Chronology of significant events, 2000-2002

18 March 2000

Democratic Progress Party candidate elected president, replacing the KMT for the first time since it took over the island.

16 June 2000

Amendment of Labour Standards Law passed, cutting maximum working hours to 84 every fortnight from 96.

10 December 2000

Labour activist Tseng Mau-hsing released from jail by presidential pardon.

1 June 2001

A leading newspaper, *China Times*, laid off 102 employees, provoking a serious labour dispute.

23 July-26 August 2001

Labour leaders participated in the Economic Development Advisory Conference.

10 September 2001

Employees of a newspaper, the *Independence Evening Post*, filed a lawsuit against management for allegedly appropriating their labour insurance and national health insurance fees.

11 October 2001

Protection for Workers from Occupational Hazards Law passed.

12 October 2001

Aborigine Employment Rights Protection Law passed.

21 December 2001

Gender Equality in Employment Law passed.

25 April 2002

Employment Insurance Law passed.

11 June 2002

Government Employees Association Law passed, allowing public servants to organise but not strike.

Appendix 2

Major labour legislation in Taiwan

Category	Labour legislation	Coverage
Labour standards and workers' welfare	Employee Welfare Fund Law 1943 Labour Insurance Act 1958 Labour Standards Law 1984 Employment Insurance Law 2003[10]	Employee welfare fund allocation Unemployment, old-age, disability, and death benefits Basic wage, working hours, severance pay, and pension Unemployed workers' benefits
Collective labour rights	The Settlement of Labour Disputes Law (1928) Collective Agreement Law (1932)	Mediation and arbitration procedures Collective bargaining and agreement
Labour union rights	Trade Union Law (1929)	Labour union formation, operation, and dissolution
Occupational health and safety	Labour Safety and Health Law (1974) Labour Inspection Law (1993) Protection for Workers from Occupational Hazards Law (2001)	Preventing from occupational accidents and safeguarding workers' safety and health Working conditions inspection Compensations for all victims of occupational accidents and diseases
Gender equality	Gender Equality in Employment Law (2002)	Gender equality in employment, sexual harassment, menstruation leave, and maternity/paternity protection
Against discrimination	Employment Service Law (1992) Aborigine Employment Rights Protection Law (2001)	Against ethnic, political, and sexual discrimination Employment quotas for aborigines at all levels of government agencies and state-owned enterprises

Appendix 3

National labour confederations

Chinese Federation of Labour
Board Director: Lin Huei-kuan
Address: 11th Floor, 201-18 Duenhua North Road, Taipei, Taiwan, Republic of China
Phone: (886) 2-2713-5111
FAX: (886) 2-2713-5116

Taiwan Confederation of Trade Unions
Board Director: Huang Ching-hsien
Address: 2nd Floor, 168 Section 2 Nanchang Road, Taipei, Taiwan, Republic of China
Phone: (886) 2-8369-3522
FAX: (886) 2-2365-9390

Chinese General Labour League
Board Director: Hou Tsai-feng
Address: 22nd Floor, 91 Jungshan 2nd Road, Kaohsiung, Taiwan, Republic of China
Phone: (886) 7-537-0056
FAX: (886) 7-536-8076

National Trade Union Confederation
Board Director: Wu Hai-jui
Address: 4th Floor, 170 Boai Road, Taoyuan City, Taoyuan, Taiwan, Republic of China
Phone: (886) 3-332-2774
FAX: (886) 3-332-2944

Workers protest against privatising Tang Eng Iron Works company (Credit: China Steel Labour Union)