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Look, the World is Watching How We Treat Migrants! The Making of the Anti-Trafficking Legislation during the Ma Administration

Isabelle CHENG and Lara MOMESSO

Abstract: Employing the spiral model, this research analyses how anti-human trafficking legislation was promulgated during the Ma Ying-jeou (Ma Yingjiu) presidency. This research found that the government of Taiwan was just as accountable for the violation of migrants' human rights as the exploitive placement agencies and abusive employers. This research argues that, given its reliance on the United States for political and security support, Taiwan has made great efforts to improve its human rights records and meet US standards for protecting human rights. The reform was a result of multilevel inputs, including US pressure and collaboration between transnational and domestic advocacy groups. A major contribution of this research is to challenge the belief that human rights protection is intrinsic to democracy. In the same light, this research also cautions against Taiwan's subscription to US norms since the reform was achieved at the cost of stereotyping trafficking victimhood, legitimising state surveillance, and further marginalising sex workers.

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Keywords: Taiwan, spiral model, human trafficking, migration governance, human rights, Ma Ying-jeou

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Migrant Outsiders in a Young Democracy

Since the late 1980s, Taiwan has become a major destination for regional migration in East Asia. Men and women from the People's Republic of China (PRC) and neighbouring Southeast Asian economies, including Vietnam, Indonesia, Thailand, the Philippines, Cambodia, and Myanmar, have arrived on the shores of Taiwan for employment and marriage (LY 1991 80(96): 77–78, 90; LY 1991 80(98): 30; Lee and Wang 1996; Selya 2004; Tsay 2004; Kaneko 2009). In addition to being a hub for regional migration, Taiwan is also marked as a transit point on the map of world migration *en route* to further destinations, such as Japan, Australia, North America and Western Europe. On the one hand, labour migration to Taiwan since its legalisation in 1992 has been marred by draconian government regulations, exploitative contracts executed by placement agencies and Taiwanese employers, and abusive working conditions (Tseng and Wang 2011; Cheng 2003). Allegedly, these malpractices in their totality amounted to labour servitude. Marriage migration, on the other hand, has also been plagued by suspicions of fraudulence, for instance sham marriages for employment including sex work, and domestic abuse. These problems were partly blamed on the practice of marriage brokering (LY 2005: 128, 135, 141). Over the past 20 years, the involvement of human trafficking in the movement of migrants and the plight of guest workers and migrant spouses in Taiwan have made sensational headlines in the domestic and international media from time to time. Finding itself likely to be the receiving destination for some of the trafficked persons that pass through Taiwan, the US government has kept a close eye on the transit role of the island in global migration routes. Since 2001, the release of the *Trafficking in Persons Report* (TIP) by the US State Department has become an annual assessment of the human rights conditions of migrants in Taiwan. Working alongside domestic organisations, transnational advocacy groups in the region also regularly monitor migrants' working and living conditions in Taiwan.

Since 1992, coinciding with the growth of inbound migration to Taiwan, a series of specialised laws was gradually adopted in the wake of democratisation. The core of this package of legislation included the Employment Services Act of 1992 (就業服務法, *jiuye fuwu fa*, ESA), the Act Governing the Relations between People of the Taiwan Area and the Mainland Area of 1992 (臺灣地區與大陸地區人民

關係條例, *Taiwan diqu yu Dalu diqu renmin guanxi tiaoli*, conventionally known as the “Cross-Strait Act”), the Immigration Act of 1999 (入出國及移民法, *ru chu guo ji yimin fa*), and the Nationality Act amended in 2000 (國籍法, *guoji fa*). These laws regulate the movement of people into and out of Taiwan, as well as conferring various rights on the different categories of migrant. At the heart of these legal treatments is the right to work and reside on the island. As the volume of in-bound migration grew, consecutive Taiwanese governments gradually acknowledged the existence of the organised trafficking of migrants destined for Taiwan, particularly women from China for sex work. However, from the early 1990s through to the end the 2000s, no specialised legislation existed to exclusively tackle the problem of human trafficking and to protect victims of trafficking (LY 2005: 138–139, 158). As highlighted by the civil movement advocating migrants’ rights in the early 2000s, the plight of migrant workers and migrant spouses was a slap in the face of the Democratic Progressive Party (DPP) government, which had pledged to construct “a nation built upon the principles of human rights” (人權立國, *renquan liguo*) when it assumed power in 2000. When the Kuomintang (KMT, Guomindang) returned to power under the presidency of Ma Ying-jeou (Ma Yingjiu) in 2008, it inherited its predecessor’s legislation, the normative nation-building project based “upon the principles of human rights,” and international criticism of the way migrants were treated in Taiwan. Consequently, one of the most significant reforms undertaken by the Ma government was the passing of the Human Trafficking Prevention and Control Act (人口販運防制法, *renkou fanyun fangzhi fa*, HTPCA) in 2009. The promulgation of this law finally put in place the legal tools and resources for criminalising human trafficking and for providing assistance to victims of trafficking. Not surprisingly, the Ma government publicised its adoption of this legislation as a significant achievement for human rights protection in Taiwan.

Research Question: How were Changes Made?

The rather late adoption of an anti-trafficking law in Taiwan pushes this present research to ask what exactly the circumstances were during the early years of the Ma government to eventually lead to the emergence of this crucial piece of legislation. Furthermore, also deriv-

ing from this puzzle is the essential question: why were migrants' human rights neglected, abused or violated in a democracy that failed to realise the seemingly intrinsic value of human rights protection? To underline the impact of US pressure on the change of behaviour of the target state (Taiwan), this research employs the spiral model with which to explore why and how the government of Taiwan sprang into action during Ma's presidency. The emphasis on external factors is complementary to the existing studies on migration legislation in Taiwan. The latter tends to concentrate on the internal factor of the migrant movement led by domestic activists who problematise the difficulties encountered by migrants as an issue of human rights violation. More fundamentally, to investigate why migrants endure human rights abuses in a democracy calls for an analysis that articulates how the actions of the state address the disparity between its publicised claims and the actual policy-making. The spiral model's embedded value of human rights protection makes it a critical approach to underline the framing strategy adopted by the migrant movement and the Taiwan state's self-identity as a defender of human rights. Placing human rights at the centre of this enquiry offers an opportunity with which to examine how, in the political context of controlling migration, the reform of migration governance may be embraced as realising normative values, while also being pursued in the strategic interests of the host state.

Thus, by linking Taiwan's human trafficking legislation to pressure from the United States and transnational advocacy groups, this paper argues that the adoption of the HTPCA manifested Taiwan's political will to tackle the global problem of human trafficking both within Taiwan and transiting *en route* to another country. Given that anti-trafficking has been a long-overdue issue ever since Taiwan opened its doors to inbound migration, this present paper regards the passing of the HTPCA as marking the threshold of Taiwan's migration governmentality. Having transitioned from being only interested in the benefits of production and reproduction contributed by migrants, Taiwan now acts as a stakeholder in global migration and provides assistance to the victims of human trafficking who fall under its jurisdiction. Singling out these external pressures as a major factor behind the promulgation of anti-trafficking legislation, this paper will show that the passing of the anti-trafficking law was a hard-learned lesson from a time when turning a blind eye to the human rights of

migrants drew global attention. The lesson is that ignoring the mistreatment of migrants and being unwilling to redress their suffering, as was shown by past governments since 1992, has serious repercussions: this negligence may seriously tarnish Taiwan's carefully cultivated image of being a young democracy that is committed to human rights protection. Thus, it appears clear to the Taiwanese government that the good governance of migration has the potential to not only realise its political pledge of protecting human rights, but also to serve the strategic interest of securing its self-identity for domestic, as well as international, audiences.

Literature Review: Internal and External Factors

To understand the significance and consequences of external pressures, it is important to examine the literature that elucidates the contribution of domestic forces to the reform of migration governance. Arguably, the study of migration legislation in Taiwan is driven by morality and justice. It is largely motivated by the interest in citizenship legislation and the social movement that aimed at reforming citizenship legislation. In this regard, two specific strands have developed concerning the rights of migrant workers and migrant spouses. Regarding citizenship as a set of civil, political, socio-economic and cultural rights, one strand explores the differentiation of migrants' entitlement and access to substantive rights (Tierney 2011; Lee 2011; Lan 2006; Lee and Wang 1996; Chin 2013; Kaneko 2009; Tseng and Wang 2011). Viewing citizenship as a legal status, the other strand investigates the acquirement of citizenship as a membership of a national community and polity through naturalisation and integration (Cheng, Shih-ying 2013; Cheng, Isabelle 2013, 2014a, 2014b; Friedman 2010a; Sheu 2013). When the focus shifts to the social movement that campaigned for the reform of the legislation, another strand of literature delves deep into migrants' collective agency in Taiwan as shown in the rights-claim movement which emerged as various informal networks in the late 1990s and their later organisational activities in the first decade of the twenty-first century. Arguing along the theory of political opportunity, these studies offer insights into how the rights-claim movement framed the discriminatory and exclusionary legislation as an issue of human rights violation and how the legislation was reformed, from the late 1990s to 2008, as a conse-

quence of the negotiation between the state and civil society (Chang 2004; King 2011; Hsia 2006, 2008, 2009, 2010; Liao 2009; Tseng, Cheng, and Fell 2014; Momesso and Cheng 2017). This campaign also advocated the necessity of a robust legal system in order to combat human trafficking (Cheng 2009: 46).

Overall, the studies outlined above are largely concerned with how internal factors made significant differences. They document the negotiation between the state and civil society that took advantage of political opportunities and pushed forward reform. Yet, in an era when the good governance of migration is being pushed globally by the United States, it is imperative to look at how Taiwan socialises itself with the norms unilaterally advocated by the US government as its share of global migration rises and it relies on the US government for survival. In this regard, there is a plethora of legal studies that examine whether and how international law-making to protect foreign workers' human rights, including anti-trafficking and the principle of national treatment, can be applied to the case of Taiwan (Chen 2006; Cheng 2008; Lin 2015; Tsai 2011). With a strong philosophical and normative interest, or from a "human security" perspective, these legal studies are valuable to articulate what the norms are. However, they render limited explanations as to why and how the specific discourse endorsed by the United States was adopted by the KMT government in 2009. A study on the migrant movement (Momesso and Cheng 2017) mentions in passing that, in 2003, Taiwan was accused by the US government of ignoring the abuse of marriage migration by smugglers of women for the sex trade and labour exploitation. The same study argues that this US criticism was taken seriously by Taiwan and served as an external push for the government to undertake legislative reforms. Also noted in this study is the phenomenon of transnational networking between local movements and their counterparts in neighbouring regions, such as the Asia Pacific Mission for Migrants (APMM), Migrant International-Taiwan Chapter, and the Action Network for Marriage Migrants' Rights and Empowerment (AMM♀RE). Established in 1994, the Migrant Forum in Asia (MFA) is another transnational network that brings together organisations in the sending and the receiving countries (Law 2003).

A common feature of this transnational activism is that, rather than going global, the organisations dedicate themselves mainly to issues that are commonly identified within the region. This is partly

because the destination countries in this region receive migrants from a pool of similar source countries. These organisations' local and regional commitment is evident in their collaboration with the migrant movement in Taiwan. Transnational activism offers important resources to Taiwan's indigenous migrant movement for exchanging information, participating in policy debates, and networking with other social campaigns that have developed within other neighbouring receiving countries (Chen 2001; Momesso and Cheng 2017). Considering that transnational networking is an explanatory variable integral to the spiral model, this paper will also evaluate the effect and limitations of the influence of transnational advocacy networks on changes in the behaviour of the Taiwanese government.

Thus, by focusing on the often overlooked pressures from abroad, this research will provide a fresh look at how a significant change to domestic politics was made possible partly due to consistent external pressures. By pointing to external factors, the authors wish to supplement the existing literature that focuses on internal factors, as well as to examine, from the outside in, the impact of human rights discourse on legislative reform. In this paper, the external push is an embodiment of normative values, the universality of which is endorsed by the hegemonic ideational power of the United States. Thus, the interaction between the Ma government and the United States, and the debate between the ruling and opposition parties within Taiwan's Legislative Yuan (LY) illuminate how the universality of human rights protection has been "naturalised" so as to take root in the specific socio-political environment of Taiwan. The findings of this paper will show how a democracy treated migrants whose well-being was measured by material rewards alone, while their social needs for safety and security were therefore set aside. In this light, the passing of the anti-trafficking legislation in 2009 is a timely litmus test of Taiwan's proclaimed commitment to human rights protection. The process of legislation will highlight the hypocrisy embedded in Taiwan's self-identity as a democracy.

Taking a close look at the making of anti-trafficking law by the Ma administration, this research sets out to answer the following questions: how did external influence, including US pressure and the transnational networking of the migrant movement, contribute to the adoption of this anti-trafficking legislation; and how did the Ma government respond to these external pressures? To answer these ques-

tions and re-link Taiwan's indigenous migrant movement with these external inputs, this research utilises three sources of primary data for three specific lines of investigation. These are the annual reports issued by the US State Department: the *Trafficking in Persons Report* (TIP) (2001–2015) and the *Country Report on Human Rights Practices* (CRHRP) (1999–2014), which demonstrate how “shaming” is being adopted by the US government as a tool to press human-rights violators like Taiwan into correcting their wrongdoings; the *Legislative Yuan Gazette* and the news releases of the cabinet meetings of the Executive Yuan (EY), which inform how US pressure was perceived and reacted to by the executive and legislative branches of the Taiwan government; and the shadow reports issued by the Asia Pacific Mission for Migrants (APMM), a Hong Kong-based transnational advocacy organisation, which demonstrate evidence of the growing transnational pressure from civil societies in the region. These contextual analyses are reinforced by the authors' communications with the APMM which provide detailed information on how their influence can, or cannot, effectively be exerted on the socio-political environment of Taiwan. Such an exploration will reveal that the agenda of the APMM is also strongly affected by the interests of the United States.

In the following pages, we will first of all explain why the spiral model theory is a significant tool with which to elucidate the impact of external pressure on domestic reform. We will then examine how the external inputs from the United States and the APMM may have made critical differences to the anti-trafficking efforts of Taiwan.

Framework of Analysis: The Spiral Model

Scholars of international relations have developed different approaches with which to explain why any given state does, or does not, comply with human rights norms. Whilst realists and modernists tend to look separately into external and internal factors, more recently, constructivists combine the two and stress the roles of various actors at the domestic, international and transnational levels in shaping democratic development. Taking a constructivist approach, the spiral model draws a picture of how a human rights-violating state changes its behaviours to norm-adhering as a consequence of a matrix of

factors relating to international norms, as well as domestic human rights practices (Risse, Ropp, and Sikink 1999).

The spiral model proposes the view that sovereign states act independently, as dictated by their respective national interests. Yet, they are fearful of each other for the potential threat to their survival (Jervis 1976: 62–63). A solution to contain aggression and prevent hostility is to create a system of sanctions that would force the state to respect the international order (Jervis 1976: 78). In clear contrast to the deterrence model, which suggests that providing positive incentives is crucial to achieve international cooperation, the spiral model extrapolates that the compliance of the state can be induced by threatening punishment. In other words, given the two options of using either sticks or carrots, the spiral model prescribes the former as a more effective incentive to bring about cooperation. Being an inherently temporal approach, the spiral model proposes a trajectory of stages whereby a human rights-violating state changes its behaviour in reaction to the pressure it receives. From repressing and denying, to negotiating and giving strategic concessions, the state gradually moves to a prescriptive state (for instance, by signing international treaties). It eventually enters a phase of compliance. In addition to the threat of punishment, a critical factor for transition is the strength of transnational networks comprised of human rights organisations which share common values and exchange information (Risse, Ropp, and Sikink 1999). Ratifying international treaties and implementing them in domestic laws is seen as a measurement with which to assess the final move to abiding by international norms.

The spiral model was originally applied to non-democratic states which inflict human rights violations on their own citizens (see for instance, Aksoy 2003; Fleay 2006a, 2006b; Alhargan 2012; Bustgaard 2013; Heo 2014). Yet, with the growing volume of migration globally, it is clear that migrants, the non-citizen outsiders, appear to be more vulnerable than citizens in the institutions of democracy where the priority of resource allocation is given to citizens. In contrast, the rights accorded to migrants are justified by the measure of their economic desirability (Martin 1997). As Gosh (2003: 2–3) argues, given their *limbo* legal status, the rights of migrants are one of or even the least clear and least enforced category of human rights among marginalised groups such as refugees, women and children. As shown in the following pages, in Taiwan, migrants' human rights are not only

abused or exploited by traffickers, placement agencies, and employers, but equally or more significantly, their rights are also neglected by the state because of questionable legislation, tolerance for malpractice and, in some cases, outright corruption. Thus, the spiral model is deployed by this research in order to confront head-on the hypocrisy of the presumption that human rights protection is an embedded value of liberal democracy.

This paper regards the years since 1992, when the importation of guest workers to Taiwan was legalised, through to 2000 as a long period during which migrants' human rights were repressed. Although espousing a political vocabulary of respecting human rights in the late 1990s, the KMT government persistently violated migrants' human rights by implementing problematic legislation or lacking any integrated legislation for anti-trafficking and protecting migrants' rights. Between 2000 and 2008, the DPP government presented a mixed balance sheet. On the one hand, its articulation of human rights protection can be regarded as its subjective will to enter the prescriptive stage, which coincided with a positive assessment by the United States on the issue of anti-trafficking. But, on the other hand, this period was also the era when the domestic migrant movement flourished. As mentioned above, local activists utilised the discourse of human rights publicised by the DPP government to legitimise their campaign to improve migrants' rights. A second DPP presidential term saw the "downgrade" of Taiwan's human rights record as evaluated by the United States (see below). Inheriting the mounting US pressures from the previous DPP government, the KMT government under Ma conceded and complied with the norms enforced by the US government when it came to power in 2008.

Asymmetrical Power Relations: The Global Sheriff and the Willing Apprentice

The application of the spiral model requires a close look at the relationship between the United States and Taiwan, whereby pressure from the former may have a real impact on the latter. Since the end of the Second World War, the United States ascended to the position of superpower and took on the mission of promoting the values of liberal democracy, free trade and open markets. This undertaking was supported by the optimistic belief in the arrival of a new era when the

“rule of force” was to be replaced by the “rule of law” (Alqama and Nawaz 2010: 8; Magen and McFaul 2009: 20–21). In spirit, this new era was embraced as one of equality among all nations in a “free world.” But, in reality, what was at play was a “hierarchy in which the United States was a hegemonic power with a contender in the Soviet Union” (Alqama and Nawaz 2010: 8). In the post-Cold War era, without the ideological adversary of the Soviet Union, whose collapse was deemed “the end of history” (Fukuyama 1993), the United States seemed to enjoy a free hand in universalising the values of liberal democracy, human rights, free trade, and open markets. Arguably, making the world a mirror image of itself is of vital interest to the United States for the expected benefits of stability and security. As shown below, the action of exporting values that are to be embedded in other nations’ domestic laws, such as those of anti-trafficking and regulating marriage brokering, serves this purpose.

This ideational pursuit is evident in the unilateral assessment of the United States of the performance of other states with regard to their human rights activities. The United States’ efforts to homogenise the specific prioritisation and content of the human rights that it endorses can be supported by its material resources and ideational power vis-à-vis target states. Thus, the dominance of the United States has been criticised for its coercion and unilateralism (Magen and McFaul 2009: 17), as well as for the perpetuation of the existing hegemonic system (Chuang 2006). The relationship between Taiwan and the United States is situated against the backdrop of US hegemony and the hierarchy of power between Taiwan and the United States. Moreover, it is also punctuated by Taiwan’s reliance on the United States for security, political support and export markets for its survival. As explained below, this hierarchy between the global hegemon and its internationally-isolated ally has morphed into a relationship between the “global sheriff” (Chuang 2006) and its “willing apprentice.”

The Global Sheriff

In its role as the global sheriff, the United States has to utilise various diplomatic tools to exert its influence. Two such tools are the imposition of sanctions and the publication of assessment reports. Supported by the resources at the United States’ disposal, the use or even threat of sanctions elevates US domestic norms above international

norms by giving the former the teeth that the latter so often lack (Chuang 2006: 439). Although the use of sanctions seems to have resulted in some notable successes (for instance, the target state's socialisation of the international regime leading to the adoption of international norms), whether these successes are achieved on a global scale is still debatable (Chuang 2006: 440). Another critical issue derived from the utility of sanctions is the prioritisation of various categories of human rights. Anti-human trafficking efforts are a case in point. Human trafficking did not occupy a central place within international human rights discourse until 2000 when the United States began its global campaign with the passing into US law and subsequent promulgation of the Trafficking Victims Protection Act (TVPA) (Chuang 2006: 439). Thus it could be argued that values which are deemed significant are prioritised and mainstreamed into the international regime by the US hegemonic power so as to ensure the exportation of its own values. Along these lines, this paper argues that the prioritisation set out by the United States has dictated, and continues to prescribe, how the government of Taiwan drafts its agenda for reforming migration legislation.

In addition to sanctions, regular reporting is also integral to the diplomatic toolbox employed by the US government. The *Trafficking in Persons Report* (TIP Report) and the *Country Reports on Human Rights Practices* (CRHRP) are the two examples of regular monitoring that inform this research of the US government's global anti-trafficking campaign. As mentioned above, the ideational hegemony of the United States is viewed globally as coercive and unilateral. However, in the US–Taiwan bilateral relationship, the authority, as well as the assessment, of both reports is largely welcomed by domestic and transnational advocacy organisations with a level of criticism of the questionable justification of reinforcing surveillance. As shown below, the improvement of migrants' human rights in Taiwan has been made possible by concerted multilateral efforts that involve a hegemonic power's shaming and prioritising, a national government's concession and socialisation, and a transnational network's collaboration and communication with indigenous movements.

Viewed from the spiral model, the TIP Report symbolises the unilateral pressure applied by the US government to socialise countries and organisations around the world with the norms encoded by US domestic laws. The Report divides countries into three “tiers,”

according to their level of compliance with the “minimum standards for the elimination of trafficking” found in the Victims of Trafficking and Violence Protection Act of 2000 (also known as the Trafficking Victims Protection Act, TVPA) (US Department of State 2015). Enjoying global publicity, the Report identifies sources of trafficked persons, examines types of human rights violation, scrutinises the effectiveness of statutory prevention, assesses the availability of support for victim protection, and recommends solutions. By detailing the violations that are inflicted on and by individuals or exacerbated by the inaction of governments, the Report’s strategy of “naming and shaming” human rights abusers is effected with citations of exact numbers of arrests, indictments and convictions.

Also released annually, the CRHRP keeps a track record of human rights conditions on a country-by-country basis. This annual monitoring can be seen as one of the ways the United States piles pressure onto violating states and holds them accountable to their obligations on their human rights practices. Yet, unlike the TIP Reports, the CRHRP does not compile rankings of the human rights conditions of the assessed countries. Conceivably, this is because the TIP Report assessment is measured against a specific US domestic law (that is, the TVPA), whereas the CRHRP observes and evaluates a wider range of rights and freedoms that are embedded in a complex web of international and domestic law-making.

The Apprentice

As a destination for regional migration and a transit point in global movement, Taiwan is a country regularly assessed by the two reports. Taiwan’s young democracy has been praised as a “beacon of democracy” in Asia (Glaser 2007). As such, it is more prone to normative suasion as “targeted state and societal beings come to perceive democratic institutions and principles as legitimate, fair and suitable for the needs of their society” (Magen and McFaul 2009: 14). The asymmetrical bilateral relationship between the United States and Taiwan proves a fertile ground for the application of the spiral model. An earlier example is that of the Labour Standards Law (*laodong jizhun fa*), enforced in 1984, which had, amongst others, the purpose of gaining a more favourable standing with the United States under its 1984 Trade and Tariff Act (Liu 1996: 602). In addition, US pressure to tackle human trafficking was clearly articulated during the

legislative review of the draft bill of Taiwan's Immigration Act. In 1998, during the run-up to the bill's passing into law, the United States succeeded in pressurising Taiwan to include articles stipulating the penalisation of human trafficking (of mainland Chinese *en route* to the United States, Canada, Australia and New Zealand) (LY 1998b: 188). At the time, the government argued that it had made this concession to US pressure in order to avoid being seen as aiding human trafficking, a consequence that would damage Taiwan's international image (Tseng 1999: 168–169). At the same time, it was revealed that, also due to US demands, a similar article of criminalisation had been inserted into the earlier Cross-Strait Act (LY 1998b: 858). Nevertheless, the US interference in the nascent Immigration Act met with open resistance and nationalistic sentiment from some legislators. They criticised the executive branch for bowing to US pressure and for reducing Taiwan to the status of a “US colony” or a “poodle” that kowtowed to an imperialist bully who sought to cement an “unequal treaty” (LY 1998b: 854, 856, 858, 860).

The resistance of legislators marked Taiwan's nonlinear socialisation with the imposed norms. The negotiations with the United States were clearly conveyed in the tug of war between the nationalistic legislators and the members of the pragmatic executive branch, who were keen to collaborate with the United States. During the legislative proceedings, however, awareness of the inherent values of human rights within migration began to appear on the horizon. Legislators were congratulated on the promulgation of the Immigration Act in May 1999 for making Taiwan a “state that respects human rights,” thanks to its realisation of the rule of law, observation of international norms, and respect for fundamental human rights (LY 1999a: 229). However, a closer reading of the commentary on the passing of the law reveals that the praise for the implementation of human rights protection referred mainly to the rights of Taiwan's citizens, namely the fact that, during the martial law era when citizens' freedom of movement was suspended, there had been no laws, only administrative decrees for such restriction (LY 1999b: 299). In other words, the progressiveness being applauded was the restoration of deprived citizenship rights rather than the protection of migrants' human rights.

The DPP's rise to power in 2000 unveiled Taiwan's movement towards the prescriptive stage. Having been an anti-establishment party with its roots in the “outside-the-KMT” (黨外, *dangwai*) move-

ment and its members having been the victims of human rights suppression under the KMT's one-party authoritarian regime, the DPP government vowed to rebuild Taiwan as "a nation built upon the principles of human rights" (人權立國, *renquan liguo*) (Hsia 2006: 24). This political manifestation was integral to the narrative of Taiwanese identity and was also utilised to underline the contrast between democratic Taiwan and authoritarian China. The pledge to found Taiwan on human rights was strengthened by the government's promise to establish an independent National Human Rights Commission (國家人權委員會, *guojia renquan weiyuanhui*) and to ratify the United Nations' International Covenant of Political and Civil Rights and the International Covenant of Economic, Social and Cultural Rights. Although these pledges were not realised until the succeeding Ma government, arguably, the US pressures exerted via the TIP Report and the CRHRP after 2001 were amplified by Taiwan's self-proclaimed commitment to human rights protection. However, as seen in the celebration of human rights when the Immigration Act came into being, the main focus of the island's human rights protection was its own citizens, rather than migrants, with the result that the first DPP presidential term's record of protecting migrants' rights was inconsistent. On the one hand, Taiwan was evaluated by the United States as a Tier 1 country, which suggested its compliance with the US standards outlined in the TVPA. On the other hand, however, as mentioned above, the DPP was heavily criticised by the domestic migrant movement for its inadequate protection of migrants' rights. Between 2005 and 2009, during the last three years of the second DPP presidency (2004–2008) and the first year of the KMT presidency under Ma Ying-jeou, however, the US government marked Taiwan as a Tier 2 country (in 2006, it fell further to Tier 2 Watchlist) for the deterioration of labour servitude and sexual exploitation on the island.

Given Taiwan's reliance on the United States for security and export markets (Dumbaugh 2009: 11), the negative publicity from successive TIP assessments was a pressure that the Taiwanese government could not afford to ignore. Against this backdrop, the following sections will outline how the state of Taiwan ignored migrants' rights and how this negligence created an environment conducive for trafficking and exploitation. This close examination will be followed by an investigation of how the DPP and early subsequent

KMT governments were “shamed” by the United States between 2005 and 2009, and how the Ma government conceded to US pressure. As an apprentice, the Ma government was not only willing, but also keen to learn and improve from the preaching of the global sheriff. As such, the Ma government finally moved into the compliance stage and restored the human rights reputation of Taiwan as recognised by the United States.

Negligence: Shamed by the Sheriff

Taiwan has been identified on the global migration map as a source, transit point, and destination for human trafficking. The island is named as a source country for local women to be trafficked to Japan, Australia, the United States and the United Kingdom for sex work (LY 2005: 157; TIP 2006, 2008, 2009). It is also marked as a transit point for Chinese migrants from the PRC to be trafficked to the United States for employment (LY 2005: 155–156; TIP 2001, 2003, 2008, 2009). However, the United States is most concerned about Taiwan being a destination to which victims, mostly identified as women from China in the case of sex work and migrant workers from Southeast Asia, are trafficked for sexual exploitation and involuntary servitude. Whilst sexual exploitation specifically concerns women who are trafficked to Taiwan through fraudulent marriages, matchmaking, or deceptive employment offers and coerced into sex work, the victims of involuntary servitude include both men and women.

The United States cautions against marriage migration in the form of family reunion because of its association with human trafficking. This suspicion was evident in the debate in the 1990s leading up to the 2005 International Marriage Broker Regulation Act (IMBRA) concerning its effectiveness at protecting foreign wives whose marriages to US citizens were brokered via the Internet. This law-making resulted in the founding of a system which monitored and assessed other nations’ efforts in combating human trafficking (Constable 2012). As one of the most popular and affluent destinations for cross-border marriages in East Asia, Taiwan became an easy target for US attention. Thus, in September 2003, under US pressure, the DPP administration began interviewing Chinese spouses for entry clearance at landing ports with the aim of filtering out bogus marriag-

es. However, this practice was also criticised for its bias of constructing a normative idea of family and marriage (Lan 2006: 845; Friedman 2010b; Hsia 2007). In 2005, the DPP government strengthened its requirement for spousal visa interviews at its foreign missions (also see below). An abrupt drop in the number of cross-border marriages occurred afterwards, which the government publicised as an indication of its success in deterring sham marriages. However, not only was the effectiveness of this form of deterrence considered debatable, but the interviews themselves also came under heavy criticism for their apparent arbitrariness, particularly in the first few years of implementation. The system was condemned because the interviews were not officially audio or video recorded, the interviewers invaded interviewees' privacy, and the decision to permit or deny entry seemed to be subject to the interviewers' personal understanding of moral standards (LY 2005: 131–132; Chen 2010: 71).

In the case of migrant workers, prior to the promulgation of the Employment Services Act which legalised the employment of foreign workers in 1992, all migrant workers were illegal in Taiwan. The lack of legislation, on top of their illegality, made them extremely vulnerable to exploitation (Liu 1996: 610). However, as shown below, the ESA itself did not necessarily bring about improvements. On the contrary, the legislation, as well as the practices derived from the implementation of the law, actually became a source of suppression. Firstly, Article 5 of the ESA, which ensures equality and prohibits discrimination of any kind, was celebrated as a manifestation of Taiwan's high level of civilisation (LY 1991 80(97): 42–43); however, in practice, Article 5 was interpreted as applying exclusively to ROC nationals. Legislators categorically pointed out that it should not be invoked by foreign workers demanding equal pay (LY 1991 80(97): 37; Shao 2007). Nor should migrant workers be awarded compensation for occupational injury or be given any maternity benefits or allowances (LY 1991 81(5): 43, 56).

Anchored in classism (Tseng and Komiya 2011; LY 1996: 146), the Employment Services Act was modelled after the laws and experiences of Singapore and Hong Kong (LY 1996: 146). As a consequence, the employment of foreign guest workers in Taiwan is arranged via brokering agencies which charge them high placement fees and sometimes the cost of food, lodgings and job training before their departure for Taiwan (APMM 2009: 21–22). Prior to a change in

the law in 2016, the foreign guest worker's residency was limited to a maximum of 12 years (Article 52, the Employment Services Act). As contract renewal could not commence until the worker had departed and re-entered Taiwan, their aggregated duration of residency became discontinued. This technicality was intended specifically to deprive them of the eligibility for permanent residency and citizenship (LY 2001: 389). As a result, these regulations adversely motivate migrant workers to unilaterally disrupt their contracts before expiration and thus become '*runaways*' as they are commonly known (Lan 2006; Tseng and Wang 2011; APMM 2009: 28).

When looked at from the intersection of gender and ethnicity within this classism, we see that the law authorised the government to expatriate pregnant female migrant workers. It is ironic that it was the legislators, rather than the government, who initiated this measure and who made repeated references to the same practice in Singapore (LY 1992a: 42). However, it is important to note that at least one legislator condemned this compulsory repatriation as "barbaric" and pointed out the hypocrisy of the measure since it did not apply to white-collar workers (LY 1992b 81(6): 14; LY 1992b 81(31): 46, 66; LY 1992b 81(32): 27). The same legislator also criticised this enforced expatriation as an extreme form of discrimination which multiplied biases by class, gender and occupation. Such calls for the human treatment of migrants were countered by an Enoch Powell-styled rebuttal which accused this advocacy of being blind to the grave dangers of "breeding mixed children" and the potential for the unchecked chain migration of their foreign grandparents (LY 1991 80(96): 46; LY 1992b 81(32): 27; LY 1992b 81(31): 67–68), a danger that some warned was even greater than that of an invasion by China (LY 1992b 81(31): 67; LY 1992b 81(32): 28). The initiative was eventually voted down by a margin of five votes (LY 1992b 81(32): 29), but a revolving door was conveniently opened by an enforcement rule which required migrant workers to present evidence of good health. For female workers, this included providing evidence of non-pregnancy prior to entering Taiwan and then, after entering Taiwan, being required to undergo a pregnancy test every six months. Failing the test resulted in compulsory repatriation. This practice was eventually abolished in 2002 (Tierney 2011: 305–306). However, the episode outlined above vividly demonstrates that Taiwan's government did not

hesitate to violate migrant's human rights, in spite of its political pronouncements.

Although it continued to implement migration legislation biased by gender, class and ethnicity, the DPP government received a positive assessment by the United States for its compliance with the minimum standards for anti-trafficking in its first term. Taiwan's downgrade to Tier 2 status occurred in the 2005 TIP Report during the second DPP presidential term. A focal point of the 2005 and 2006 TIP reports was the protection, detention and repatriation of the victims of sexual exploitation from the PRC. In addition, the maltreatment of Vietnamese spouses was the central concern of the 2006 Report. Taiwan was repeatedly called upon to show "a greater political will" (TIP 2006, 2007) to address sexual exploitation and involuntary servitude. The latter referred, in particular, to the plight of domestic workers and caregivers (TIP 2006). In the case of migrant spouses who became sex workers, matchmaking agencies were identified as the main culprits for luring foreign women into deceptive arrangements (TIP 2006), however Taiwan's government was also blamed for its lax regulations for admitting migrant spouses (TIP 2006). In addition, placement agencies were criticised for charging migrant workers high fees (TIP 2001, 2006, 2007, 2009), deducting salaries for "forced savings" (a practice sanctioned by the government) (TIP 2009), arranging deceptive offers, deporting "troublemaking" workers (TIP 2007, 2009), and not specifying working hours in contracts or protecting foreign workers from working outside the scope of their contracts (TIP 2008). Furthermore, employers' complacency worsened migrants' already poor working conditions. In sum, these malpractices amounted to forced labour, rendering domestic workers and caregivers particularly vulnerable since their workplaces were in private homes, and they were not entitled to the assistance provided by the Labour Standards Law (TIP 2006, 2008, 2009, 2010).

As an external party to the private contract between the employer and the employee, the government was accused of failing to create and enforce fair legislation. Specifically, the government was shamed for lacking a comprehensive anti-trafficking law (and thus insufficient criminalisation of trafficking) (TIP 2005, 2006, 2008) and having unsatisfactory enforcement of relevant laws to curb trafficking, inadequate victim identification procedures and insufficient victim protec-

tion (TIP 2005, 2006). Moreover, the government was charged with failing to prosecute perpetrators, preferring instead to mediate compromises between the employers and migrant workers (TIP 2007) and even accompanying employers to mediation meetings with migrant workers (TIP 2009, 2010). Another blow to the integrity and fairness of the government was the allegation that local government officials reportedly received bribes or sexual favours for turning a blind eye on some court cases (TIP 2008, 2009). In addition, the signals being sent by Taiwan's lawmaking body, the Legislative Yuan, also appeared contradictory: whilst legislators, on the one hand, were delineating new laws and amending several existing laws in 2006, 2007 and 2008 to protect migrants' rights (TIP 2006, 2007, 2008, 2009), on the other, they were also reported as axing funding for the maintenance of trafficking victims' shelters by non-governmental organisations (NGOs) (TIP 2008). This seems to indicate that the DPP government was sending a confusing signal with regard to its determination to tackle human trafficking.

Echoing the TIP Reports, the CRHRP also documented coherent concerns. For instance, throughout the 1990s, Taiwan was criticised for its patrilineal citizenship legislation, which meant that the children of foreign fathers could not be granted ROC nationality (CRHRP 1999). Since the early years of the twenty-first century, the reports' concerns about patrilineal citizenship legislation gradually faded away and attention turned to foreign labourers instead. In particular, the 2005 CRHRP included a description of the riot by Thai workers in Gaoxiong and detailed the restrictive regulations they were subject to, such as having their period of residency limited by a work permit, their ineligibility for protection under the Employment Services Act and the Household Services Act, the difficulty for them to change employers, and the complacency of local governments, employers and brokers about malpractice (CRHRP 2005). US attention did not return to foreign spouses until 2006 when the focus turned to "women from China, Vietnam, Indonesia, and Thailand" (CRHRP 2006–2014). Beyond the concerns listed by the TIP Reports, the CRHRP also raised the problems of statelessness for foreign spouses during the process of applying for Taiwanese citizenship, discrimination inside and outside their homes, negative media coverage, the exceptionally high rates of domestic abuse due to the social and economic marginalisation of these migrants, and the differentiated legal

treatment of Chinese and foreign spouses in terms of citizenship eligibility and the right to work (CRHRP 2006–2014).

In their narratives, the US-authored TIP Reports' shaming strategy imparted the impression that not only organised crime syndicates, the brokering industries, and individual employers, but also the government, were all accountable for the inhumanity of trafficking.

As well as highlighting the negative aspects, the Reports also recorded how the DPP government was rising to its criticism. For instance, they mentioned, in 2005, that the DPP government had strengthened the scrutiny of spousal visa applications at its foreign missions; in 2006, that the government had also adopted a National Anti-Trafficking Plan for enhancing the prevention, protection and prosecution of human trafficking; and, in the same year, that the government had banned the formation of new marriage brokering agencies and had announced that existing agencies would be subject to stricter regulations and monitoring (CRHRP 2006, 2008). Then, in 2007, the National Immigration Agency was founded, and in 2006, 2007 and 2008, the relevant legislation was enhanced (TIP 2006–2009). This seems to indicate that the DPP government was sending a confusing signal with regard to its determination of tackling human trafficking.

The Apprentice's Performance: Under the KMT Administration

In May 2008, the KMT returned to power under the presidency of Ma Ying-jeou, inheriting the TIP Report's condemnation of Taiwan as a Tier 2 country. Given the KMT's track record of authoritarian rule and its need for US economic and political support, this US pressure was equally critical of the Ma administration (Chiang 2014: 101). Domestically, the US pressure multiplied after the KMT borrowed the DPP's motto of "a nation built upon the principles of human rights" (for examples see EY 2010). This slogan-borrowing was shown in a citation by the Interior Minister at the Legislative Yuan during the deliberation of the draft HTPCA (LY 2008: 78, cf. 95; also EY 2015a). Thus, ridding Taiwan of its human rights record shame, restoring its damaged reputation, and salvaging its tarnished self-identity both internationally and domestically were strategic interests pursued by the Ma government.

The Ma government was given recommendations for reform by the United States. Starting with the 2008 TIP Report, the US State Department put forward a selection of suggestions for remedial action, alongside its naming and shaming of Taiwan. For instance, the adoption and implementation of a comprehensive anti-trafficking law was prescribed as a top priority (TIP 2008, 2009); and a persistent appeal was made to apply such legislation to care workers (TIP 2009; CRHRP 2008–2014). As shown in the news releases of cabinet meetings and parliamentary debates on the passing of HTPCA, the KMT government did not deny or protest against the shaming. Instead, it was fully on board with the US recommendations and actively drafted them into the new law (EY 2012a).

The KMT's willingness to engage in a step-by-step learning process should not come as a surprise, however, as there had been regular consultations between the KMT government and the American Institute in Taiwan, the *de facto* US embassy in Taiwan. This dialogue served as a channel whereby the United States could directly exert its influence through pressure, annotate agendas, and indicate prioritisation. A case in point was the US appeal for Taiwan to offer permanent residency to victims of trafficking as an incentive for them to help prosecute wrongdoers. This suggestion generated a heated debate within the judicial, executive and legislative branches of the Taiwan government. In the end, the US pressure was so deeply felt that any reluctance to grant residency to migrants from less affluent countries gave way to the strategic interest of meeting the "international standards of human rights" (國際人權指標, *guoji renquan zhibiao*) enforced by the United States (LY 2008: 80–81, 89). These debates highlighted the fact that US-endorsed "international norms" were not automatically inserted into legislation without negotiation and calculation. Meanwhile, the communication channel between Taiwan and the *de facto* US embassy was also utilised by the Taiwan government to provide information that put the island in a favourable light within the United States' drafting of its TIP Report (EY 2013b).

From 2010 to 2015, Taiwan's reputation was restored and the island returned to Tier 1 status. Overall, the KMT government scored well on the US mark sheet for the categories of prevention, protection and prosecution. Between 2008 and 2009, the KMT was also highlighted sympathetically for several improvements. These included assisting the US government in cracking down on the trafficking of

females, outlawing commercial marriage brokerage, allocating budget to anti-trafficking activities, amending the Immigration Act, granting six-month temporary residency and work permits to victims of trafficking, opening Foreign Workers Consultation Service Centres (外籍勞工諮詢服務中心, *waiji laogong zixun fuwu zhongxin*) and the International Airport Service Centre (機場外籍勞工服務站, *jichang waiji laogong fuwu zhan*), passing the HTPCA, and amending the Crime Victims Protection Act (犯罪被害人保護法, *fanzui beibairen baohu fa*). The government was also reported as prosecuting and convicting traffickers who received penalties commensurate with their offences, referring more victims to shelters, opening more shelters, increasing funding for public awareness campaigns, reaching out to migrant workers and enhancing their understanding of their rights, and boosting the capacity of governmental and non-governmental personnel for anti-trafficking and victim identification activities (TIP 2010–2015). As shown in the news releases of cabinet meetings, the KMT government did not miss any opportunities to publicise the positive assessments given by the United States to boost its self-identity as a civilised nation and a human rights defender (EY 2010, 2011a, 2011b, 2011c, 2011d, 2012a, 2012b, 2013a, 2013b, 2015a, 2015b). As one DPP legislator perceptively pointed out in 2005, although Taiwan had been shamed by TIP Reports, meeting the US standards could create a positive image that, in turn, could be conducive to international publicity (LY 2005: 139, 155–156).

However, the KMT's "success" may not be as clear-cut when other costs are taken into consideration. Constable (2012) reminds us that the United States' global campaign against trafficking appealed to a broad range of activists and organisations in targeted regions, which adjusted their priorities and activities accordingly. Taiwan was not an exception. Over the years, the involvement of Taiwan's NGOs in anti-trafficking campaigns increased. The TIP Report consistently recorded collaboration between NGOs and the government. For example, during the DPP era, NGOs were recognised for operating shelters, assisting in the identification of victims, offering safe housing for victims, and providing counselling and interpretation (TIP 2005–2008). Yet, this cooperation may not have been the blessing it seemed. It has been argued that the collaboration in Taiwan between NGOs and the government in implementing anti-trafficking laws ran the risk of reifying the categorisation of "perpetrator," "victim," and

“saviour” without engaging fully with complex human subjectivity (Wang 2014). Anti-trafficking was conflated with anti-prostitution and this resulted in the legitimisation of the state surveillance of migrants who were considered at risk of trafficking. This conflation also led to the exclusion of the marginal voices of sex workers and the criminalisation of the sex industry as a “public enemy” (Cheng 2009; Hsu 2012). Regrettably, these critiques were not included within the mainstream anti-trafficking discourse.

Nevertheless, the public shame brought by the international scrutiny via the TIP Reports was utilised by transnational advocacy networks to push the government to reform legislation. As stressed above, another source of external pressure was the networking of civil society groups with transnational advocacy organisations. One such transnational organisation is the APMM that has been active in Taiwan since the late 1990s. The APMM has regularly reported on the situation of migrants in Taiwan, including the problems encountered by migrants and the latest actions undertaken by the APMM’s local partners. More recently, the APMM published investigative reports in 2009 and 2013 that critically evaluated the lingering human rights problems encountered by migrants in Taiwan and laid out suggestions as to how to improve migrants’ conditions. Building on statistics and on migrants’ personal accounts, these reports rendered insights into the multi-layered exploitation that migrant workers in Taiwan were subject to. The suppressive conditions were said to amount to “modern-day slavery” (APMM 2009: 42). The servitude was criticised as being the result of the connivance of negligent states (sending and receiving), an exploitative brokering industry, and abusive employers. This situation was further exacerbated by migrants’ exclusion from legal protection (APMM 2009). Thus, having access to information across borders, through extensive networks with local organisations, institutions, faith groups and other groups related to migrants, the APMM was able to draw a regional picture and appeal to the societies in Taiwan and the sending countries (APMM 2009: 6).

Considering Taiwan’s determination to foster its international image as a model democracy, the pressure exerted by the APMM was something that the government of Taiwan could not easily shrug off. However, the APMM observed that there was a synergy between the Taiwanese and US governments. On the one hand, the US government provided comprehensive information in its TIP Reports. On

the other hand, the Taiwanese government often referred to the content of the TIP Reports in their publicity campaigns. Working hand in hand with its local counterparts, the APMM coordinated its transnational actions within this synergy: it monitored the legislative reform, supported the local migrants' movement, and contributed to the capacity-building of its Taiwanese counterparts (Anonymous 1 2016). In this light, the actions of the APMM did not result in the surfacing of any new issues, but rather they reinforced the discourses that were being dictated by the United States and that were accepted by its willing apprentice, Taiwan.

Image Restored, Persisting Problems

On the whole, in 2010, Taiwan under the Ma government was judged as “fully comply[ing] with the minimum standards” for the elimination of trafficking and consequently was re-classified as a Tier 1 country. This “restoration” occurred in the second year of the KMT administration, and Taiwan has retained this status ever since. The upgrade of its status notwithstanding, Taiwan continued to be identified as a source of local women for trafficking abroad for sex work (TIP 2010–2015; CRHRP 2010–2014) and a transit point for Chinese being trafficked to the United States (TIP 2010–2012). Also, the APMM continued its monitoring of Taiwan. In its report released in 2013, the APMM criticised the unsatisfactory enforcement of relevant laws, disagreed with Taiwan's prioritising of prosecution over protection and prevention, critiqued the absence of empathy for migrants (particularly amongst law enforcement agents), and lamented the lack of brokering system reform and insufficient public awareness of human trafficking. Despite US reports of the government forming partnerships with NGOs (TIP 2010), the APMM pointed out that the exchange of information between the government and civil society actors was poor (APMM 2013: 11–13).

These persistent problems aside, the propagated success should also be measured against the strategic interests of whether or not it safeguarded Taiwan's self-identity. In an online campaign in 2014 that aimed to advertise the accomplishments of the Ma presidency, the upkeep of Tier 1 status from 2010 to 2013 was considered an improvement in Taiwan's human rights record (EY 2014: 6). The Tier 1 status was placed alongside the ratification of the two international

covenants on human rights in 2009, the promulgation of the Law on the Implementation of the Convention on the Elimination of all Forms of Discrimination against Women (消除對婦女一切形式歧視公約, *xiaochu dui funü yi qie xingshi qishi gongyue*) in 2011, the island's first-ever publication of a National Human Rights Report in 2012, and the visit, in 2013, by 10 “internationally renowned” human rights experts who were invited to “scrutinise (審察, *shencha*) and improve [Taiwan's] human rights shortcomings” (改善人權缺失, *gaishan renquan quesbi*).

Clearly, it was the more high-profile securing of Tier 1 status, rather than the passing of the domestic anti-trafficking law, that was the achievement used by the government to advertise the credibility of its endeavours to meet not just US but “international” standards of human rights protection (as embodied by the visit by the international experts). As if subscribing to the belief that there was an internationally validated human rights league table, a government performance review released by the Executive Yuan in 2014 on the sixth anniversary of Ma Ying-jeou's presidency announced that the government's goal was to strengthen Taiwan's standing in the international ranking of human rights records (提昇國際人權地位, *tisheng guoji renquan diwei*) (EY 2014: 6). This willingness of the Ma administration to subject itself to external standards reveals that the yearning for international recognition of its membership of the family of civilised nations was pivotal to the success of its mission to build a nation centred on human rights discourse. As the process is ongoing, the progress and success of this nation-building project is subject to appraisal through claimed conformity to external standards.

Under the symbolic measures highlighted by the 2014 review, the progress of the nation-building project was realised in a series of policy outputs with regard to anti-trafficking. In 2014, Taiwan signed a Memorandum of Understanding with the United States to disseminate and exchange information about human trafficking. The signing itself – the first such agreement in the Asia Pacific area – was celebrated as a major achievement by Taiwan's government (MoFA 2014). Meanwhile, the KMT government had also been busying itself with signing anti-trafficking collaboration agreements with Nauru, Swaziland, Guatemala, Paraguay, and Indonesia between 2012 and 2015 (EY 2015b, 2013c, 2012b). Regardless of their actual effectiveness, these international agreements seemed to mark Taiwan's rite of

passage from apprentice to graduate, as well as its promotion to assistant to the “global sheriff.” As it is now located at the centre of a self-woven web of several bilateral agreements for migration and anti-trafficking collaboration, Taiwan now imagines itself as being a source for the dissemination of anti-trafficking practices that are “certified” by the US government. This “graduation” has generated new political resources for safeguarding its self-identity as a champion of human rights. Having moved along an imagined lineal progression, this graduation marked Taiwan’s advance towards the final stage of construction of “a nation built upon the principles of human rights.”

Conclusion

Employing the spiral model and drawing from rich empirical data, this research provides a temporal explanation of the passing of long-overdue anti-trafficking legislation that was brought about by the Ma Ying-jeou government. The findings show that circumstances became conducive for significant change due to multilayered inputs. US pressures were directly piled onto the Ma government; networking between transnational organisations and local activists reinforced the discourses imposed by the United States; and the Ma government conceded to US pressures and adopted the advice prescribed by the global sheriff (with negotiation and calculation in the case of granting residency to trafficking victims). However, this success was gained at the cost of stereotyping trafficking victimhood, legitimising state surveillance, and further denouncing sex work. Having examined how the Ma government graduated from an apprentice to the regional assistant to the global sheriff (the United States), this paper asserts that cultivating a positive international image in the field of human rights protection is a strategic interest that Taiwan cannot afford to lose, given its weakness vis-à-vis the global hegemon as its sole security supporter. Viewed from a constructivist perspective, this strategic interest is further compounded by Taiwan’s self-identity as a democratic defender of human rights.

Our analyses of primary data show that Taiwan not only restored its tarnished credibility, but also “ascended” to the position of regional centre in terms of exporting its experiences. Conceived as a contribution to its nation-building project, this progression came after a long period when the Taiwan state, in addition to the marriage

and employment brokering industries, abusive employers and crime syndicates, was a party to the violation of migrants' human rights. Although it made claims of human rights protection a part of its self-identity, Taiwan failed to live up to its self-image of being a young democracy with human rights defence at its core when the subject of that protection was not a ROC citizen but a migrant from outside. The Taiwan state was accountable for negligence in its implementation of biased legislation and for turning a blind eye to malpractice during the 1990s and during the first DDP administration. Nevertheless, it was the DPP government that made political gestures towards human rights protection between 2000 and 2004, nudging Taiwan towards the prescriptive stage that coincided with Taiwan's TIP Report Tier 1 status. This phase was short-lived, however, when the DPP government fell into disgrace during its second term. The succeeding KMT government conceded to US pressure and entered the stage of compliance without making any effort to deny, protest or counter-attack the global shaming imposed by the US government. The KMT's earnestness and diligence in implementing the recommendations prescribed by the US were not only "rewarded" with the island's TIP Report status upgrade, but also with the generation of positive publicity at home and abroad.

Nevertheless, this research also notes that the US global campaign against trafficking resulted in unintended consequences for target countries. The anti-trafficking cause has given the Taiwan state a free hand to strengthen its authority and control over migrants whilst lawfully combating human trafficking. Thus, we find that a more effective strategy for countering human trafficking would require the state to recognise the often obscured distinction between documented and undocumented migration, and between voluntary and forced migration. It would also have to address the intersectionality of the gender, class and ethnicity bias that is embedded in the legislation. These findings complement earlier studies which have focused on the interplay of domestic forces between the indigenous migrant movement and the change of ruling party in 2000 and 2008. Whilst these studies analysed how human rights discourse made available political opportunities for the reform, this research shows from the outside in the impact of human rights discourse that was packaged as a set of norms endorsed by the hegemonic US power. This paper also complements legal studies by enabling a dynamic

understanding of how and why migrants' rights have been improved or neglected over the past 20 years.

These findings suggest that the rights of migrants in the legislation of Taiwan serve as a good case study for the utility of the spiral model. First of all, the fact that migrants' rights were not necessarily protected in a democratic state (Taiwan) highlights the hypocrisy of the presumption that human rights protection is intrinsic to democracy (see, for example, Neumayer 2005; Davenport and Armstrong 2004; Eran 2006). Secondly, the reforms were passive and reactive rather than proactive. Therefore, the chain reaction triggered by the shaming strategy was not linear, as shown in the transitory stages between the late 1990s and early 2000s. Thirdly, the passivity of the reforms was as a result of the superpower's subjective prioritisation; its primary interest was in tackling human trafficking. Lastly, the legislative reform was made possible by multilevel inputs, including the pressure of an external power, the willingness and socialisation of the target state, and the collaboration between transnational and domestic advocacy groups.

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