

Police must adapt to era of ‘critical citizens’

Written by Lin Chia-ho 林佳豪

Thursday, 22 February 2018 07:29

As Italian philosopher Giorgio Agamben said: “The real problem, the central mystery of politics is not sovereignty, but government; it is not God, but the angel; it is not the king, but ministry; it is not the law, but the police.”

Protests are common in Taiwan and police’s handling of such activities often draws attention. This was the case during the Sunflower movement in 2014, a protest during the opening ceremony of the Taipei Universiade last year, and the arrest of protesters and lawyers during a march in December last year against the amendments to the Labor Standards Act (勞基法), who were forced into police cars and “dropped off” at random locations.

Take for example the “drop-offs.” From a legal perspective, the matter involved police bringing people under control through the use of force, which included restrictions on their personal freedom or actions, and even temporary or preventative deprivation of their freedom.

Even though such an exercise of police power is in line with the European Convention on Human Rights, its actual application remains controversial.

Then there are assemblies and parades: The key with these is how to accurately predict how a situation is likely to unfold. Police are required to use their discretion and judgement to decide whether a given situation is dangerous or not.

Simply claiming that protesters might intend to violate the Assembly and Parade Act (集會遊行法) is not sufficient reason to legitimize police intervention — even with regards to so-called preventive restriction.

Unless there are clear threatening acts at the scene, a simple march, in itself, is not dangerous.

According to the European Court of Human Rights, if police restrict protesters’ personal freedom first and then disperse them later, they must act on the premise that the dispersion is legal. Thus, the police must give a clear and definite order for dispersion.

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However, when people refuse to disperse, the restriction of their personal freedom must be according to the principle of proportionality. Since bringing people under control would violate their human rights, such control must be associated with the prevention of criminal acts, so as to prevent people from committing punishable crimes.

Considering this, police really need to review their use of force of “drop-offs” on Dec. 23.

This is an era of “critical citizens.” Spanish activists shouted “Real democracy now” during street protests and Time magazine named “the protester” its 2011 “Person of the Year.”

As political commentators have said, people no longer indulge in a sense of powerlessness while feeling sorry for themselves. Instead of whining that they cannot change anything, many people are now taking action to vent their anger.

UK economist Peter Jay once said that, like a snake biting its own tail, our democracy has started to swallow itself. In the face of a broken society, people’s search for new democracy and politics has highlighted the importance of protest.

It seems necessary that the police practice proper use of force when handling assemblies and parades, so that they can start to understand and promote true democracy.

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Translated by Eddy Chang

Source: [Taipei Times - Editorials 2018/02/22](#)