

## Human rights are our global ticket

Written by Kao Yung-cheng 高永成  
Monday, 11 December 2017 06:50

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Pope Francis announced that the Vatican is to enter into “high-level talks” with the People’s Republic of China. Whether this would lead to the establishment of diplomatic relations between the two and whether Taiwan’s sovereignty and international status could sustain yet another blow is being hotly debated in Taiwan. Many people fear that this could set off a domino effect that would place Taiwan on the sidelines of global society as an “international orphan.”

However, an online search for “Taiwan” and “same-sex marriage” turns up millions of hits, including on the Web sites of major international media outlets such as the BBC, CNN, the Guardian, Time and the Washington Post. The media have reported the event as headline news, praising Taiwan for being the first Asian country to recognize same-sex marriage and saying that the move will have a far-reaching effect on marriage equality in other Asian states.

This makes it clear that democracy, liberty and human rights are the soft power and hard logic that will help Taiwan find a solid foothold in the international community.

It is difficult for China to keep up, and regardless of how impressive its economic growth and national strength, without fundamental respect for democracy, liberty and human rights, its dream of becoming a great power will remain just that — a dream.

This means that while economic development is important, the cornerstone of a secure future for Taiwan is to continue its efforts to develop its democracy, liberty and human rights, and to become a full-fledged member of the international community.

Since 2009, the government has instituted new laws to incorporate the International Covenant on Economic Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR) and other international human rights covenants into domestic law.

Taiwanese have also initiated international expert reviews in accordance with these covenants, which are in line with UN standards. These initiatives have been praised by international human rights circles, which are willing to assist Taiwan’s human rights efforts and attempts to

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join the international community.

The international reviews of Taiwan's implementation of the ICESCR and the ICCPR — specifically, No. 8 and No. 9 of the concluding opinions and suggestions in the 2013 review and No. 9 in this year's review — recommend that Taiwan make an effort to establish a national human rights council in line with the Paris Principles, a set of international standards that frame and guide the work of national human rights institutions, to be able to move even closer to international human rights standards.

In practice, Taiwan has been discussing a national human rights institution for nearly 20 years, and following nudges from international experts, civil society and the government have developed versions of what this would mean. The only thing required to complete the legislative process is for the government to make a policy decision.

On July 22 last year, the Presidential Human Rights Advisory Committee decided that Taiwan should set up a national human rights council or institution in accordance with the Paris Principles and that it should be, in descending priority, set up as an independent institution, under the Presidential Office or under the Control Yuan.

There are pros and cons to each option — the challenge is how to choose.

Both practical international human rights experience and the concluding suggestions in the two covenants show that the best approach is to set up a national human rights institution that is independent of the traditional three branches of government. The priority of having an independent institution would best match international human rights standards.

However, a national human rights institution that requires ample personnel and a substantial budget while remaining independent of the government would be difficult to set up without a constitutional amendment.

The second option — a council established as part of the Presidential Office — would ideally provide the same kind of independence that the Academia Sinica enjoys, but the Academia

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Sinica is a research institution and rarely has to externally exercise government power. A national institution that meets the requirements of the Paris Principles, on the other hand, would have to exercise the power to protect human rights and prevent human rights violations.

Given Taiwan's constitutional system, in which the division of power between the president and the premier is unclear, there would be suspicion that the presidential powers had been expanded in breach of the Constitution.

Rather than amending the Constitution to establish an independent national human rights institution or to further expand presidential powers and abolish the Control Yuan, the shortcomings of a five-branch constitution could be turned into an advantage by transforming the Control Yuan into a national human rights council independent from the government, and thus meeting the Paris Principles. This is the most feasible solution given the nation's constitutional framework.

The proposed draft organization act for a national human rights committee under the Control Yuan would make members of the Control Yuan into human rights committee members, with the Control Yuan president serving as the convener.

In accordance with the Paris Principles, the committee would be given considerable powers, and to compensate for the committee not meeting diversity requirements, there would be a group of human rights advisors comprising academics, experts and non-governmental organization (NGO) members with longstanding involvement in human rights issues.

Even with human rights advisors, the strong political affiliations of the Control Yuan members might keep the human rights council from meeting the Paris Principles.

Wellington Koo (高永成), while still a legislator for the Democratic Progressive Party, proposed an improved version, which suggested adding a requirement to the Organic Act of the Control Yuan (高永成草案) that people would be assigned to the committee who have specialized understanding of human rights protections, have made human rights contributions and have NGO experience.

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According to Koo's proposal, the draft organization act for a national human rights committee under the Control Yuan should specify that the president, when nominating members to the Control Yuan, should select 11 people who meet the amended Organic Act of the Control Yuan and charge them with human rights responsibilities.

These 11 committee members should then form a national human rights committee that would perform its duties apart from the other 18 Control Yuan members, thus allowing it to meet the Paris Principles.

However, some feel that this version would divide the Control Yuan in two, putting the parts in competition with each other and making it difficult for them to function properly.

In practice, abolishing the Control Yuan through a constitutional amendment and handing its powers — impeachment, correction and censure — to the Legislative Yuan, then establishing a national human rights committee that meets the Paris Principles requirements under the amended Constitution would be the ideal solution.

However, before the Constitution is amended, integrating the Control Yuan's human rights and control functions and transforming it into a human rights committee would not conflict with the Paris Principles, nor would it violate the Constitution.

The issue could then be discussed based on the amendment to the Organic Act of the Control Yuan and the proposed organization act for a national human rights committee as part of the Control Yuan.

As long as the Control Yuan can be successfully transformed, Taiwan will get a national human rights committee that truly meets the Paris Principles.

That would be a big step forward for human rights — Taiwan would become a nation that truly protects and safeguards human dignity, and the international community would no longer ignore the will of 23 million Taiwanese.

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Taiwanese can use democracy, liberty and human rights in its continued fight against China's ambition to annex Taiwan.

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Translated by Perry Svensson

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