

Taiwan's referendums lag behind the concept

Written by Yang Chun-chieh 楊俊吉
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In a referendum on Sunday last week, Chileans voted with an overwhelming majority of 78.3 percent in favor of writing a new constitution to replace one that has been in place since the military dictatorship of General Augusto Pinochet.

In Taiwan, the Constitution written and implemented by the old authoritarian regime remains firmly in place.

Not only is there a high threshold for constitutional amendments, there is also a ban on holding a referendum on whether to write a new constitution.

The Chilean constitution does not restrict the scope of a referendum, and Chileans can use referendums to decide on issues of sovereignty, and civil and other rights.

Chileans aged 18 or older and foreigners with permanent residency in Chile can vote in a referendum.

In Taiwan, Article 136 of the Constitution restricts the scope of referendums, saying: "The exercise of the rights of initiative and referendum shall be prescribed by law."

In other words, referendums can only bring about new laws that do not contradict the Constitution.

The Referendum Act (公職人員選舉罷免法) also stipulates that the public can only initiate the process of writing new laws or major policies, but they cannot initiate the writing of a new constitution.

Although opinion polls show that 80 percent of Taiwanese are in favor of a new constitution, it remains impossible for the public to set in motion a process leading to a new one.

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The only route forward is a referendum on a policy recommendation.

For example, the Taiwan Constitution Foundation's referendum proposal for a new constitution utilizes an indirect question: "Do you agree that a request should be made that the president should promote the formulation of a new constitution in line with Taiwan's status quo?"

Even after the abolition of the National Assembly, Taiwanese have lacked the right to directly participate in constitutional amendments.

If the public would like to initiate a constitutional referendum, they must first face examination by the Central Election Committee.

If there is any conflict of interest between the public and the government, the committee can easily come up with reasons, and excuses, to reject a referendum request.

The act gives much leeway to the government and does not represent the spirit of public political participation.

A referendum should be a symbol of self-governance and the freedom of expression of public opinion.

The narrow scope of a referendum in Taiwan is preposterous and not in line with the principle of popular sovereignty.

Taiwan is proud of its democracy and rule of law, but the referendum system lags behind Chile's.

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Taiwan's government will hopefully pay more attention to mainstream public opinion.

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