

Party Alternation and the Development of Political Human Rights in Taiwan

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In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms..... That is no vision of a distant millennium. It is a definite basis for a kind of world attainable in our own time and generation. That kind of world is the very antithesis of the so-called new order of tyranny which the dictators seek to create with the crash of a bomb.

— Franklin D. Roosevelt, excerpted from the State of the Union Address to the Congress, January 6, 1941

Introduction

Concerning the essence of “human right”, it should be defined that “everyone is endowed with certain entitlements merely by reason of being human” while it’s conceived in a universalist and egalitarian fashion. “*The Charter of the United Nations*”, by the General Assembly, has been approved the importance and insurance on human rights, and hence the ratification of “*Universal Declaration of Human Rights*” in 1948, “*International Covenant on Civil and Political Rights*” and “*International Covenant on Economic, Social and Cultural Rights*” in 1966 as the “*International Bill of Rights*”, has become an international consent from a national concept. To assure the human right protection, the *U.N. Economic and Social Council* has found the *U.N. Commission on Human Rights* to specialize in human right issues,

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and renamed as *Human Rights Council (HRC)* in 2006.

Moreover, U.N. has developed more human rights conventions from the “*International Bill of Rights*”, which includes “*International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*.”, “*Convention on the Elimination of All Forms of Racial Discrimination (CERD)*”, “*Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*”, “*Convention on the Rights of the Child (CRC)*”, “*United Nations Convention Against Torture (CAT)*”, “*Declaration on the Rights of Indigenous Peoples*” et cetera. And the ratification of these conventions has expanded the context of human right protection from “*life, freedom, and property*” ,to “*citizen liberty, social right, equality, and any other collective rights*”, to make the concept of human right more sound.

Since the U.N. no longer recognized R.O.C. as a member in Oct. 25th 1971, the Legislative Yuan has not initiated the domestic codification of “*International Covenant on Civil and Political Rights*” and “*The International Covenant on Economic, Social and Cultural Rights*” until the term of President Shui Bien Chen. On March 31st 2009, the Legislative Yuan eventually approved “*International Covenant on Civil and Political Rights*” and “*The International Covenant on Economic, Social and Cultural Rights*”. And on May 14th 2009, President Ying-jeou Ma signed the ratification of the both covenants and promulgated nationwide on May 22th 2009. President Ma asserted that since the ratification, the context of two covenants is a part of the domestic legal system as a milestone in our judiciary and legislative development. Thanks to Legislative Yuan for the great support, and he expected the similar application in the future.³ , so the application of the two covenants becomes the important index for observing human rights development in Taiwan.

³ Although the ratification has been transferred to the U.N. but on Jun. 15th 2009 was denied for not being a legitimate member in the U.N. assembly.

The first party alternation took place in the year of 2000, which the Democratic Progressive Party (DPP) replaced Koumingtang (KMT)'s long-term of ruling. According to Freedom House, Taiwan has been judged as "free" from "partly free" since then, but the first party alternation has yet brought about the complete political transition from a totalitarian/authoritarian state to a democratic one. Samuel P. Huntington claims that democracy becomes consolidated when an electoral regime is fully entrenched and capable of delivering free and competitive elections. He argues that there is consolidation if "the party or group that takes power in the initial election at the time of transition loses a subsequent election and turns over power to those election winners, and if those election winners then peacefully turn over power to the winners of a later election. This is known as the "two-turnover test". Hence, the second party alternation in the year of 2008 is regarded as the key process of the democratic consolidation.

Above all, we make a hypothesis on human right development in Taiwan that it should go with the political development: The human right circumstances in Ying-jeou Ma's term should be better in the Shui-bien Chen's. However, we need empirical study to approve whether the human right development is progress or regressive.

Research Method

The dual complexity of human rights consists of 1) the direct impact on citizens which can be inquired throughout questionnaires and 2) the understanding of scholars and NGO experts which be procured by expert survey to have further knowledge. To know the difference of performance on human rights between DPP and KMT ruling, I have been assisted the human right survey with Chinese Human Rights Association (CHRA) from 2006 to 2009 whilst the previous two years are the term of DPP and the latter are KMT. The survey method is taken with Computer-assisted Telephone Interview (CATI) to have popular survey on public and Delphi Method to acquire

qualitative and quantitative data:

1. CATI :

Computer-assisted telephone interviewing (CATI) is a telephone survey technique in which the interviewer follows a script provided by a software application. The independent interviewees are citizen over 20 years old in Taiwan. Sampling from the phone book of current year edition, the system is randomly modified in order to reach the last three numbers in order to reach the user who didn't register in the telephone book. From 2006 to 2009, the survey was held on October for there to six days. With approximately 1000 effective samples, which estimates to 95% reliability, the maximum possible sampling error is approximately $\pm 3.00\%$. With a view to making sure the representativeness of the sample, therefore weighted the survey outcome on gender, age, and geography.

The questionnaire is like “concerning the citizen’s political right, do you think the assurance of basic freedom and political rights form the government is good or not?” the answer can be “very good” (01), “good” (02), “bad” (03), “very bad” (04)⁴. If the interviewee is reluctant to take questions, these are for such situation: “no” (95), “it depends) (96), and “not know” (98).

2. Delphi Method :

The Delphi method was originally developed by RAND CO. in 1948 for forecasting the possible effect from nuclear threat of the Soviet and hence developing a method for communal communication process.⁵ And the creation of the report was for the U.S. Army Air Corps on the future technological capabilities that might be used by the military. Delphi represents a useful communication device among a group of experts and thus facilitates the formation of a group judgment. The importance of the Delphi Method as a monovariable exploration technique for technology forecasting and has been developed in order to make discussion between experts

⁴ The digit in “ () ” is for coding.

⁵ As stated previously, the Delphi Method was created and first applied in the early 50s when the United States Air Force wanted to prepare for the possibility of an atomic war with the Soviet Union. The goal was to project how many atomic bombs that the Soviet Union would deploy in the event of war. The results from the first round of expert responses showed estimates ranging from 50 to 5000 bombs. After proceeding through four more iterations of the survey and response process, that estimate reached a consensus: 167 to 360 bombs. Using the repeated-ranking process of the Delphi methodology, a professional and focused prediction was obtained.

possible without permitting a certain social interactive behavior as happens during a normal group discussion and hampers opinion forming. Moreover, for lacking full scientific knowledge, decision-makers have to rely on their own intuition or on expert opinion. The Delphi method has been widely used to generate forecasts in technology, education, and other fields, and hence could procure qualitative and quantitative data.

The Delphi Method was based on the discovery by Norman Dalkey that ideas from brainstorming could be more inaccurate than the average evaluated before, which conformity has taken place in the process. (Norman , 1969 : 14) ◦ Hence, the process of Delphi Method will take rounds of paper work so each experts' opinion are revealed.

According Harold A. Linstone and Murray Turoff, the Delphi Method is about design and evaluate groups communication systems for large groups dealing with complex problems. (Linstone & Turoff , 1975 : 4) ◦ William N. Dunn introduced as a an instinct-forecasting procedure to procure, exchange and develop the reliable opinion on the upcoming event. (Dunn , 1981 : 196) ◦ There are three basic principles of “Delphi Method”:

1. Structuralized information flow: to have effective communication, the Delphi Method applies to a structuralized flow of information to continuative “structuralized” questionnaire and “repetitive” survey.
2. Anonymous group decision: the participants do not face each other but only throughout rely on the last result.
3. The consent of the expert judgment: after each survey, the participant will reckon on the last result and so on till the level of dissent lies to the littlest.
(Linstone & Turoff , 1975)

It takes three roles in participation:

1. Decision makers: To help with understanding the facts and decision-making, the Delphi Method takes five to nine decision-makers aggressively enrolling as a crew in the design questionnaires and explaining results.
2. Staff: the personnel of the staff relies on the contexts of this project, which is about four to eight, and at least one is familiar with the whole process as a

coordinator.

3. Respondents: the qualified respondents are the key to the successful survey while the respondents are voluntary and professional and even authoritatively expertise in the whole process. (Delbecq, Andrew & Gustafson , 1975 : 84-87

According to the rules above, the process of Delphi Method is as following:
(Riggs , 1983) :

1. Recruiting the survey crew⁶ ;
2. Choosing the Delphi respondents⁷
 - A.) range of the matrix.
 - B.) rules of the sampling
 - C.) recommendation and nomination
 - D.) confirmation
 - E.) acquirement for agreement on responding.
3. Editing the survey tool
 - A.) questionnaire
 - B.) introduction of study
 - C.) introduction of answering
 - D.) repetitive surveys⁸
 - E.) statistical analysis

Start



Confirmation of questionnaire



Choosing the range of expert respondents

⁶ The decision-makers and the staff.

⁷ How many respondents should be taken in a process is not for certain. Dalkey (1969) says that it take at least ten to the best reliability. Linstone 和 Turoff (1975) for fifteen to twenty-five, but fifteen to thirty in a harmonious group. Delbecq (1975) suggests that five to ten in a harmonious group while fifteen to thirty in a disharmonious one. But Moore (1987) says it should take five to ten each category while it takes hundreds in the high disharmony.

⁸ The “Delphi Method” takes more than once that the first round is an open questionnaire while the second, third, and four is based on the last. The term of each round is about forty-five days ° (Moore , 1987)

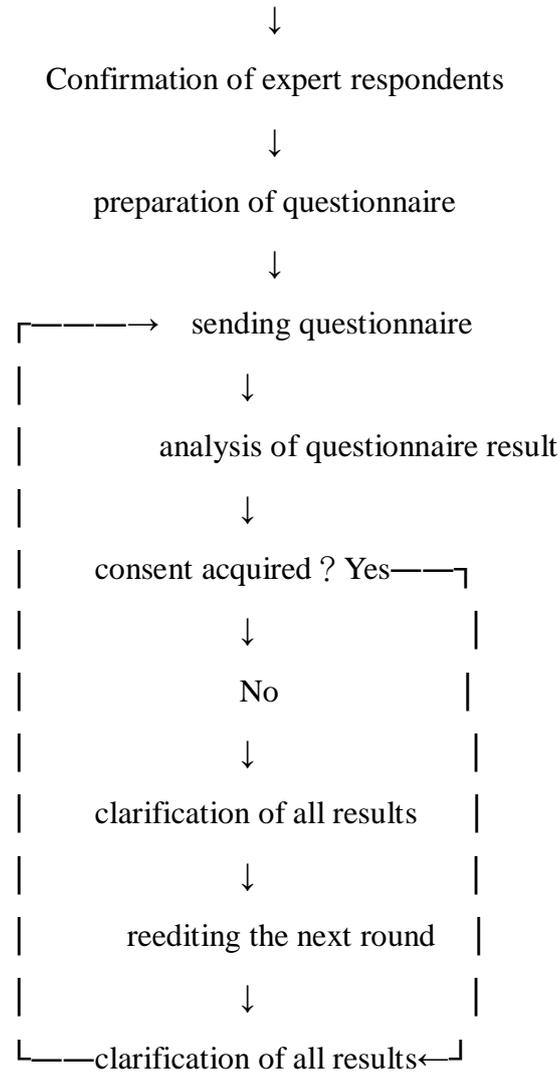


Diagram 1. The process of the Delphi Method

The survey takes two rounds: the first is taken in October while the second is in November after the basic analysis. The thirty respondents are including eight scholars of politics and laws, six legislators, and eight attorneys and members of the Judicial Reformation Foundation.

The indicators of political human rights are: 1.) citizenship and freedom, 2.) equality, 3.) feeling of political efficiency, 4.) democratic consolidation. And we take Likert 5-point scale which score one is for the worst and five is for the best, while three is for average.

Table 1. The indicators of political human rights

Indicators	Questions
1.) citizenship and freedom	1. The freedom of speech, lecture, editorial, and publish assured by the government.
	2. The privacy of communication respected by the government.
	3. The right of habeas corpus assured by the government.
	4. The right of gathering and allying assured by the government.
	5. The basic human rights of foreigners assured by the government.
	6. The government will use fidelity or counterespionage investigation to terrorize people.
	7. The right of individual autonomy.
2.) equality	8. The equality in political participation assured by the government.
	9. The policy making and executing by the government is suit for the minority.
	10. The electoral system is equal to all citizens.
3.) feeling of political efficiency	11. The despondence against the improper policies can be addressed and regarded by the government.
	12. the public service is equal and efficient.
	13. The legal licenses application for the people is respectful and not hindered.
	14. The elected representatives can quickly to the people and check the government.
	15. The government is free of corruption.
4.) democratic consolidation	16. The electoral system is fulfilling the equality and competitiveness of party politics.
	17. The public service and military is politically neutrally.
	18. The public is acceptable for the others' political opinions.
	19. The recruitment of public officials is only considering abilities not political inclination.

	20. The legal system is independent.
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Statistical Analysis and Report

According to the CATI, in the 2006 report, there is 50% who are positive (for good and very good) while 33% are negative (bad and very bad). In the 2007, 42% are positive while 37% are negative. In the 2008, the same as the last year's, 42% are positive while 37% are negative. In the 2009, 45% are positive while 32% are negative. The details are as following:

Table 2. 2006—2009 the evaluation of political human rights

Year	Very Good	Good	Bad	Very Bad	No Respond	Sum
2006	11.4	38.5	19.6	12.9	17.6	1084
2007	11.5	30.8	18.6	18.2	21.0	1079
2008	10.5	31.9	15.0	21.6	21.1	1091
2009	8.3	36.2	17.6	14.2	23.7	1082

To sum up, in the four years the positive evaluation is always higher than the negative. The 2007 under DPP's ruling and 2008 under KMT's are not so ideal while the 2006 and the 2009 is better which presents a u-curve situation. However, the u-curve is yet confirmed that the political right is declining while the KMT is uprising.

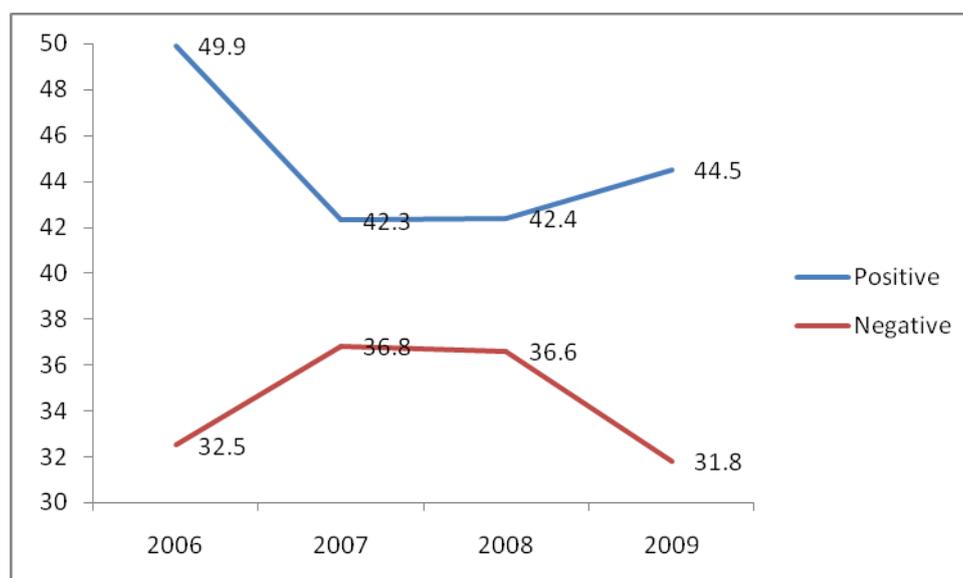


Diagram 2. 2006—2009 Trend of political rights assurance

On Delphi Method, the average for each year is: 3.01 in 2006, 2.91 in 2007, 2.93 in 2008, 2.86 in 2009. Expect the score in the 2006 is above average (3) meaning the “normal but good”, the others are all below meaning “normal but bad”. And from partisan perspectives, the DPP’s ruling seems better than KMT’s.

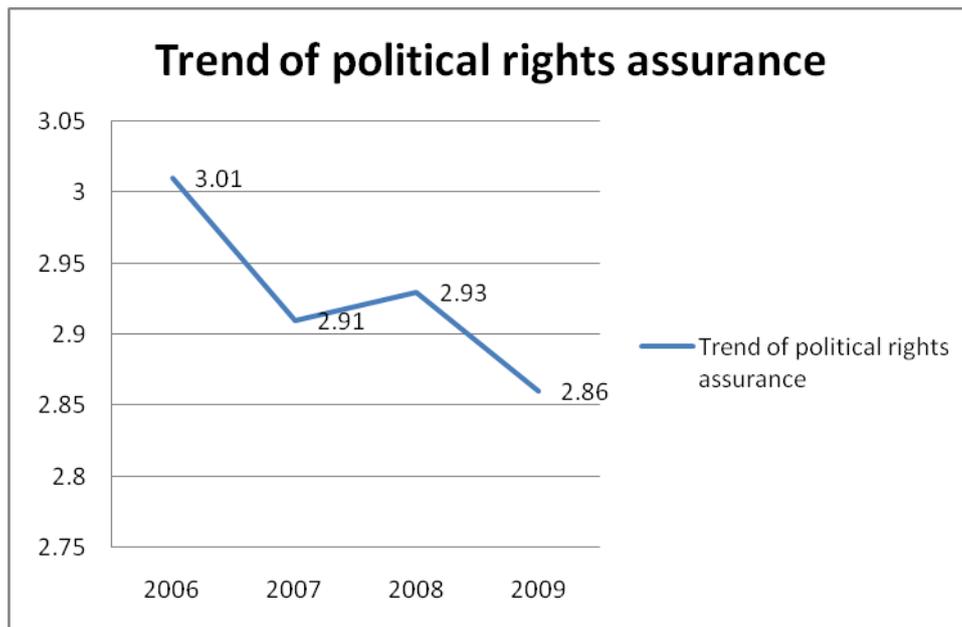


Diagram 3. 2006—2009 Trend of political rights assurance

From each indicator, in the year 2006, the average of respondents’ evaluation for “citizenship and freedom” is 3.37 meaning “normal but good”; “equality” is 2.97 meaning “normal but bad”; “feeling of political efficiency” is 2.74 meaning “normal but bad”; and “democratic consolidation” is 2.79, meaning “normal but bad”.

Indicator	Average	Meaning
Citizen and freedom	3.37	Normal but good
Equality	2.97	Normal but bad
Feeling of political efficiency	2.74	Normal but bad

Democratic consolidation	2.79	Normal but bad
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Table 3. 2006 Average of human rights evaluation by each indicator

From each indicator, in the year 2007, the average of respondents' evaluation for "citizenship and freedom" is 3.24 meaning "normal but good"; "equality" is 2.90 meaning "normal but bad"; "feeling of political efficiency" is 2.80 meaning "normal but bad"; and "democratic consolidation" is 2.60, meaning "normal but bad".

Indicator	Average	Meaning
Citizen and freedom	3.24	Normal but good
Equality	2.90	Normal but bad
Feeling of political efficiency	2.80	Normal but bad
Democratic consolidation	2.60	Normal but bad

Table 4. 2007 Average of human rights evaluation by each indicator

From each indicator, in the year 2008, the average of respondents' evaluation for "citizenship and freedom" is 3.26 meaning "normal but good"; "equality" is 2.90 meaning "normal but bad"; "feeling of political efficiency" is 2.74 meaning "normal but bad"; and "democratic consolidation" is 2.66, meaning "normal but bad".

Indicator	Average	Meaning
Citizen and freedom	3.26	Normal but good
Equality	2.90	Normal but bad
Feeling of political efficiency	2.74	Normal but bad
Democratic consolidation	2.66	Normal but bad

Table 5. 2008 Average of human rights evaluation by each indicator

From each indicator, in the year 2008, the average of respondents' evaluation for

“citizenship and freedom” is 3.15 meaning “normal but good”; “equality” is 2.77 meaning “normal but bad”; “feeling of political efficiency” is 2.63 meaning “normal but bad”; and “democratic consolidation” is 2.72, meaning “normal but bad”.

Indicator	Average	Meaning
Citizen and freedom	3.15	Normal but good
Equality	2.77	Normal but bad
Feeling of political efficiency	2.63	Normal but bad
Democratic consolidation	2.72	Normal but bad

Table 6. 2009 Average of human rights evaluation by each indicator

In other words, observing the evaluation each year, the “citizen and freedom” stands for “normal but good” while the other three “equality”, “feeling of political efficiency” and “democratic consolidation ” are “normal but bad”. And from partisan perspectives, the progress of “citizen and freedom”, “equality”, and “feeling of political efficiency” are not so significant while only “democratic consolidation ” is.

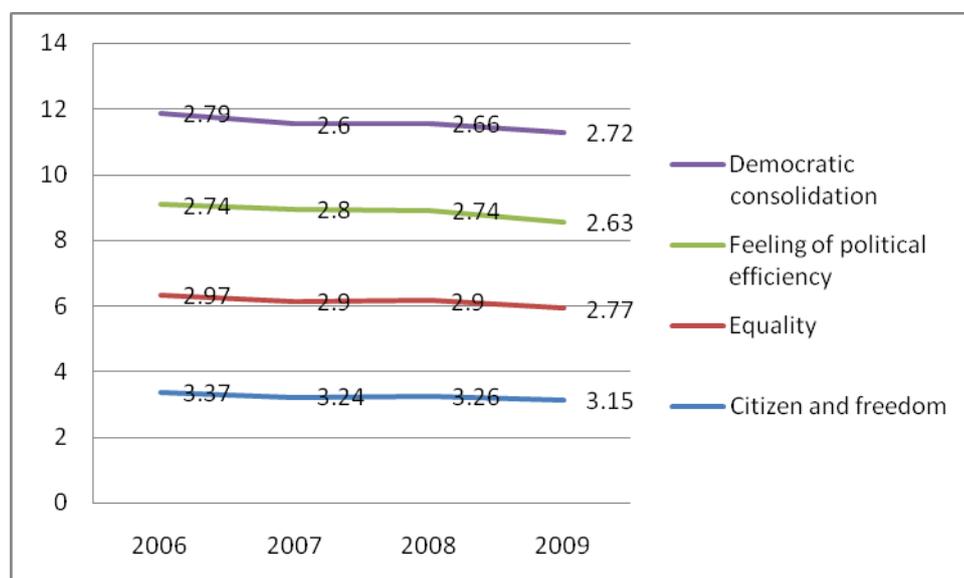


Diagram 4. 2006—2009 Trend of Political Rights Evaluation

Conclusion

Since the presidential direct-election in the 1996, the initial democratization in Taiwan has been progressive for fourteen years till now. The involvement of political rights is quite sound from results of CATI and Delphi method. And hence, from the evaluation of basic citizenship and freedom is above t 3.0 while the others are between 2.6to 3.0. Why are the evaluation of the three indicators, “equality”, “feeling of political efficiency” and “democratic consolidation”, are so frivolous needs further discussion.

In my opinion, concerning democratization and liberalization, the latter is easier to earn, that equality is more difficult for source allocation and public attention. That is the reason why equality is more difficult than freedom in the era of democratic consolidation. The feeling of political efficiency is about the public participation and confidence, while the inclination is “unsatisfied” after the democratization, for respondents’ dissatisfaction about the government’s irresponsible with the public, while the public servants despise the public opinion and the representatives only for their pork barrel. What’s more, the evaluation of corruption is the lowest that the transparency of government is the now key issue for the democratic consolidation in Taiwan. On Delphi Method, the lowest is also “The recruitment of public officials is only considering abilities not political inclination” in the worst indicator “democratic consolidation”. After the second party alternation in 2008, the reshuffle in the government is yet affirmed by the public.

Furthermore, from the mentioned analysis, the hypothesis is not proved that human right development in Taiwan should go with the political development: The human right circumstances in Ying-jeou Ma’s term should be better in the Shui-bien Chen’s. From 2006 to 2008, CATI reveals the assurance of political human rights is declining that only little uprising in 2007 under KMT’s ruling, while Delphi shows the declination from 2006 to 2007 and up in 2008 but down in 2009, which represents the dissatisfaction with performance on human rights of Ma administration.

And for indicators, “citizen and freedom”, “equality”, and “feeling of political efficiency” are declining, while “democratic consolidation” is lowest in 2007 and upsurge then. In other words, the respondents do not have better feeling about the performance on three indicators but the two turn-over stands for “democratic consolidation” that it has higher evaluation.⁹

After the second turn-over, the expectation on the human right reform is also more and more intense. President Ying-jeou Ma signed the ratification of the both covenants-“*International Covenant on Civil and Political Rights*” and “*The International Covenant on Economic, Social and Cultural Rights*”- and promulgated nationwide in 2009, the government should take further steps like:

1. The training program of the administration

On the program “Human Right Great Leap” of Justice Ministry, the training program should include the two covenants that the context of the program should be further in study.

2. The unfitness with any law and regulation

The two covenants are in the criteria of the international law, the domestic constitution has yet clarified the domestic adoption of international law.

However, according to Act 141, the custom international law is available in the domestic law system without ratification, that our signing is just a further approve. And according to the Act 8 of application, “「 Any department should obey the context of the two covenants and amend or abolish any unfitness since the ratification in two years.」” However, whether is unfitness or not should invite professional scholars and NGOs to have comprehensive ideas. And it probably needs an coordinating unit to comprehensively be in charge of the affair.

3. Better legislation

Besides the amendment of unfitness, the important laws concerning human rights

⁹ Its only a brief survey which lies four years. However, it’s an annual survey whether the 2008 analysis is about KMT’s or the DPP’s performance. That’s a question.

should be made, including “prevention on crime against humanity and torture”, “prevention on hated crime”, “refugee law” , while the amendment of “law of genocide crime” and “immigrant and emigrant law”.

4 NGO’s functions

Act 71 of UN Charter encourages NGO’s participation in the UN affairs that since 1993 the NGOs can have parallel conference with UN officials. Although Taiwan is yet a member of UN that only the NGOs in Taiwan can only be in the conference as international NGOs, the nationals or the government cannot have appeal to the UN but Asia Pacific Forum of National Human Rights Institutions (APF) throughout the national human right committee. According to Act 5 of the application, the government should cooperative with INGO like Amnesty International (AI), International League for Human Rights, Federation of International Human right, International Commission of Jurists, International Council on Human Rights Policy and so forth. On the other hand, the domestic human right institutions like human right oarsmen and national human right committee, should be established in accordance with “Paris Principles”

4. Reference to other countries

For every country has its own application. For instance, the British government legislated Human Rights Act in 1998 and ratified after two years, to have *European Convention on Human Rights* applied domestically, which had the same effect as our ratification of the covenant application. However, the British government took two year of training program till the ratification in 2000 while not only the attorneys and government officials but also the civil public have such involvement until November 2003. What’s more, in the 2008, the British justice department called for more training. This should take as our consideration.

5. Establishment of “Human Right Committee”

According to the Presidential Office, Human Right Committee should be established to study and report on human right performance. First, the current proposal is yet accordance with the civil society and international community, and the

committee should be independent from the administration. The idea of human right committee is based on the Paris Principles, to draw up a comprehensive series of recommendations on the role, composition, status and functions of national human rights instruments. Therefore, ratification and signature of human right conventions is the primary goal of such committee. And according to the Paris Principles, the committee has the rights to investigate on affairs of human right violations. The Control Yuan takes it as a conflict, but it is not relevant in South Korea that it should be complementary for more comprehensive in human right assurance and in avoidance with corruption.

Above all, the mentioned suggestions are as recommended for the human right development in Taiwan.

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