

Our Constitutional System Reform Vision

~Making a new Constitution, rectifying the name, leading Taiwan toward a Normal Country

Since the termination of the period of the National Mobilization for Suppression of Communist Rebellion in 1991, Taiwan has begun a series of constitutional reforms for so far lasted two decades. However, Taiwan has always had an abnormal status when compared with other normal countries. Although Taiwan is a de facto sovereign State, it identifies itself as the Republic of China (ROC) that has been derecognized by the international community and thus Taiwan becomes a de jure Chinese insurgent group. Consequently, a country named Taiwan has never existed, not to mention a Constitution named after Taiwan and made by the people of Taiwan.

For a long time, ROC has become the false substitute for Taiwan causing a number of confusions and disorders for those inside and outside Taiwan. Ever since Ma Ying-jeou came to power, he has engaged in his project to “de-Taiwanization” and “pro-China” for locking Taiwan into China and thereby altered Taiwan’s sovereignty and its status quo of a free, independent, democratic and prosperous society. In the end, Taiwan will face unprecedented crisis which is that Taiwan will gradually become a region under the Chinese Administration.

Accordingly, we believe that the new leader of this nation standing out from 2012 presidential election entrusted by the people of Taiwan must think over how to lead Taiwan in the direction toward a normal state. Moreover, all presidential candidates run for the election should tell us honestly and bravely that: whether she or he will set up a new Taiwan-centric Constitution based on Taiwanese society and people’s will or she or he will continue to use the current ROC Constitution and stick to living under the fragmented Republic of China?

Therefore, the Taiwan Brain Trust (TBT) has seized this opportunity not only to review and analyze current constitutional issues of Taiwan, but also to propose a vision of “making a new Constitution and rectifying the name which will enable Taiwan move toward the direction of becoming a normal country.” We hope that this vision will to certain extent helps Taiwan make a new Taiwan-centric Constitution and consolidate the Taiwanese people’s consensus.

Having consulted both constitutions in various advanced countries and constitution-related provisions in international covenants, we have woven new versions of the Constitution drafted by Taiwan’s past democracy-minded leaders as

well as constitutional theories and political realities into the warp and woof of a brand-new draft of the Constitution of Taiwan, which is the one we are now presenting. Apart from the preface, this draft of the Constitution of Taiwan contains 11 chapters and 98 articles. The special features of this draft are as listed below:

1. Manifesting Taiwan's sovereignty and status: Different from the ROC Constitution made in China in 1947, this draft constitution specifically emphasizes the centrality of Taiwan and demonstrates the belief that the people of Taiwan live as members of one and the same body. More importantly, it states that endeavors should be made to promote Taiwan's "brotherhood relations" with China so as to highlight Taiwan's status.
2. Instituting the presidential system with the separation of powers into three branches of the government: This draft constitution discarded the five branches laid out in the ROC Constitution, employed the presidential system of the United States as its blueprint, and adopted the principle of the separation of powers into three branches as the foundation for the establishment of government institutions.
3. Emphasizing the enshrinement of human rights and right to referendum in the Constitution: This draft constitution encompasses first-generation human rights (liberty rights), second-generation human rights (social rights), and third-generation human rights (collective rights). Moreover, it enshrines right to seek referendums on important matters in the Constitution and regulates compulsory referendums on constitutional amendments, territorial changes, and matters concerning changes in sovereignty, in order to demonstrate that the people of Taiwan are the real masters of their country.
4. Laying out clear regulations on political parties: In general, democratic countries' constitutions rarely mention political parties. However, given Taiwan's particular situation, this draft constitution specifically states principles of freedom to form political parties and of party democracy as well as other significant principles that forbid political parties' involvement in enterprises, restore ambiguous party assets to the national treasury, and enforce transparent party finances. The purpose is to make the operations of political parties cleaner, more efficient, and more transparent and to promote all political parties' fair development and legitimate competition.

In order to consolidate Taiwan's status as a State and establish a constitutional order that will ensure lasting prosperity and peace, we propose this draft constitution at this crucial juncture so that the people of Taiwan can take the occasion of the 2012

presidential election to solemnly and seriously contemplate the future of this country. Only by making their own constitution, establishing their own country, proactively participating in the international community, and maintaining brotherhood relations with China that will bring peace and joint prosperity can the people of Taiwan continue to survive, move forward, and allow future generations to enjoy dignity and honor.