

Making a New Constitution: The Supreme Way Leading Toward a Normal Country

| TBT Forum

Since the termination of the Period of National Mobilization for Suppression of the Communist Rebellion in 1991, Taiwan has begun a series of constitutional reforms, the process of which has so far lasted two decades. However, Taiwan has always had a rather abnormal status when compared with other normal countries in the world. Although Taiwan is a de facto sovereign State, it has always identified itself as the Republic of China in the international community and therefore has been regarded as the old Government of China, which, since its recognition was denied, has become a de jure Chinese rebel group. As a result, a State named Taiwan does not exist, not to mention a constitution that has “Taiwan” in its title and has been made by the people of Taiwan.

Taiwan has worn the fake mask of “the Republic of China” for so long that multiple confusions and perplexities have been created for those inside and outside Taiwan. After the Ma Government came into power, it has extensively launched “de-Taiwanization” and “pro-China” projects in order to lock Taiwan into China, which has altered the status quo of Taiwan’s sovereignty, freedom, independence, democracy, and prosperity. Taiwan has gradually become the Taiwan Region under the Chinese administration and is now facing a grave and unprecedented crisis.

Because of that, we believe that the one who wins the 2012 presidential election, becomes the national leader, and will be entrusted with this country by the people of Taiwan must think about how to lead Taiwan in the direction toward

realizing the vision of becoming a normal State. Furthermore, presidential contenders should courageously and honestly tell the electorate whether they will, in the four-year presidential term, make a new, Taiwan-centric constitution that will answer to the Taiwanese people’s sentiments, or whether they will rather cling to the busted talisman of the Republic of China by continuing to use the Constitution of the Republic of China.

Therefore, the Taiwan Brain Trust (TBT) has taken this occasion not only to review and analyze Taiwan’s present constitutional issues, but also to propose “constitution making and name rectification that will enable Taiwan to march toward becoming a normal country.” This proposal shall become our vision and we hope it will in some ways help Taiwan make a new, Taiwan-centric constitution that will serve to consolidate the Taiwanese people’s consensus.

Having consulted both constitutions in various advanced countries and constitution-related regulations 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. Its features are as listed below:

(1) Manifesting Taiwan’s sovereignty and status

Different from the Constitution of the Republic of China 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 Government**

This draft constitution discarded the five branches laid out in the Constitution of the Republic of China, employed America's presidential system 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, The TBT 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 the coming generations to enjoy dignity and honor. 