

# Looking for a Better Governance in Taiwan: An Observation on the Democratic and Educational Impact from Significant Assemblies

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## Abstract

Since 1997, Taiwan has been a “free” country according to Freedom House Evaluation. During her progress of liberalization and democratic transition, significant assemblies establishing the civil society supplementary with the development of rule of law were a key factor realizing demos’ cry compatible with Juan Linz’s criteria seeking for a consolidated democracy. “Formosa Incident of 1979” (美麗島事件) contributed to the lift of ban on the newspapers and parties, and “Wild Lily Student Movement of 1990” (野百合學運) led to the initiation of substantial legislative elections, to name but a few.

Albeit passing Samuel P. Huntington’s “two-turnover test” in 2008, Taiwan has been undergoing ordeals challenging good governance. Remarkably in 2013, the death of an army conscript triggered “White Shirt Movement” (白衫軍運動) resulting in military reforms. Continually in 2014, “Sunflower Student Movement” (太陽花學運) brought about a reassessment of cross-strait economic and trade relations. Additionally, outside the occupied Legislative Yuan, multitudinous scholars, students and civil groups jointly established and participated in democratic forums called “D-Street” representing the concept of “deliberative democracy.” The organism shows a novel composition and function of mobilization; that is, youth and academic participation makes “instant and democratic education.”

Nevertheless, the Taiwan government is still unwilling to give up the authority of prior approval towards assembly applications, and the oppression on “Sun Flower Movement” also caused unwanted injuries. Thus, there is still space for a “better” governance and the Taiwan government should pay more attention to the causes and appeals of significant assemblies. Besides, since Taiwan and Hong Kong have been sharing a similar historical background and facing the same China factors, there might be a mutual reference upon the task and experience of respective democratic progress.

To sum up, this paper will focus on 3 dimensions about the right of assembly in Taiwan: the impact on democratic transition/consolidation, the function of democratic education/mutual reference, and the better governance upon legality and administration.

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## 1. Introduction

Since 1997, after holding her first presidential election in 1996, Taiwan (Republic of China, R.O.C.) has been a “free” country according to Freedom House Evaluation (Freedom House, 2015a). Albeit passing Samuel P. Huntington’s “two-turnover test” in 2008 (Huntington, 1991:266-267), Taiwan has still been undergoing ordeals challenging her quality of good governance. Remarkably in 2013, the death of an army conscript triggered “White Shirt Movement” (白衫軍運動) resulting in military reforms. Continually in 2014, although “Sunflower Student Movement” (太陽花學運) brought about a reassessment of cross-strait economic and trade relations after the peaceful occupation in the Legislative Yuan, the outdoor suppression on the streets by Kuomintang (KMT; 國民黨) government was also regarded as one of the reasons leading to its defeat suffered in municipal elections in November of the same year, which showed that citizens were not satisfied with the performance and quality of its governance (Freedom House, 2014; 2015b).

This essay assumes that the democratic process and governance quality could be assessed by the performance between significant assemblies and the government’s responses; that is, the protection and performance of right of assembly. I will also try to explain the catalyst assumed, the intervening variable, might be the accumulative energy and learning organism of “civil society”, which empowers the profession, organization and even communication among social groups. Besides, the diverse composition of assemblies might simultaneously provide with educational function. Obviously, this essay will take Taiwan as an example which could be compared with other 2 articles with the same concern about Hong Kong (HK) and China.

In the next section, to establish a legal and conceptual background for the further discussion, I will first introduce statutes, constitutional interpretations and legislative controversies towards the right of assembly in Taiwan, and the concepts about “democratization”, “civil society” and “good governance.” In the section 3, I will introduce significant assemblies selected from 1975 to 2008 in Taiwan and their impacts upon her democratic process and the empowerment in the civil society. In the section 4, I will introduce “White Shirt Movement” and “Sunflower Student Movement”, discussing about the more mature empowerment of civil consciousness which resulted in voluntary and organized movements, and the latter movement even produced the educational function among civilians, students, and scholars. In the section 5, I will discuss about the performance of Taiwanese government during the abovementioned 2 movements, and try to mention their positive and negative aspects of mutual reference between HK. Last, I will put down my conclusion in the section 6.

## **2. Conceptual Background for Latter Discussion**

Since this essay will try to discuss whether assemblies in Taiwan have been influencing on its democratic transition and consolidation with the catalyst of civil society supplementary by rule of law, it is necessary to mention and ensure what these ideas are about in this article. Thus, 3 ideas will be discussed as follows: (1) democratic transition and consolidation, (2) civil society, and (3) right of assembly in Taiwan.

### **(1) Democratic Transition and Consolidation**

To discuss the democratic progress, it is important to differentiate the concepts between “liberalization”, “democratic transition” and “democratic consolidation.” For Juan J. Linz and Alfred Stepan, the first indicates a nondemocratic state entails a mix of policy

and social changes, such as less censorship of the media and the toleration of opposition; the second indicates free competitive elections; and the last indicates that democracy has behaviorally, attitudinally and constitutionally become “the only game in town.” Besides, they proposed that 5 necessary arenas as working definitions of consolidated democracy: civil society, political society, rule of law, usable bureaucracy, and economic society (Linz & Stepan, 1996:1-11); obviously, this essay will focus more on factors number 1 and 3. Consequently, here we will adopt the abovementioned criteria for discussion because of two reasons: (1) for its comprehensiveness for theoretical coherence, not for clarifying all prominent definitions from different view of points; (2) it is possible to dynamically and strictly assess the progress and regression of consolidation, which could not be reached by negative single-index concepts.

For example, though it would be honorable and joyful to adopt Samuel P. Huntington’s “two-turnover test” to easily justify Taiwan’s democratic achievement in 2008 when KMT took the presidency back from Democratic Progressive Party (DPP; 民進黨) again, it is rather difficult to assess the subsequent democratic performance merely based on the adding number of party alternation for new democracies, and we could not observe the changing situation between the very alternation, either. Thus, this article would rather conservatively and strictly examine whether there might still be space for the improvement, especially the empowerment of civil society and the right of assembly protected under rule of law through good governance, though it is indeed hard to establish a clear threshold of unquestionable attainment of “the only game in town.” Additionally, Andreas Schedler exquisitely delimited the concepts of democratic consolidation for dynamic shifts among 4 stages from authoritarian regime to advanced democracy, clearly but exclusively referred the term to “avoiding democratic breakdown and erosion” concerning with “democratic survival” which is not the main

focus in this essay, either (Schedler, 1998:94, 103).

Last, as for the concept “good governance”, a notion highly associated with democratic consolidation, democratic deepening and democratic quality, the United Nations Economic and Social Commission for Asia and Pacific (ESCAP) enumerated 8 major characteristics adopted by this essay: participation, rule of law, transparency, responsiveness, consensus oriented, equity and inclusiveness, effectiveness and efficiency, accountability (The United Nations Economic and Social Commission for Asia and Pacific [ESCAP], 2009:1-3). Since this essay adopts the definition of democratic consolidation from Linz and Stepan, here the concept “good governance” would be regarded as a way to assess and even assist to reach the standard of democratic consolidation, not merely the subsequent task for a consolidated democracy.

## **(2) Civil Society**

For Linz and Stepan, civil society refers to the polity where self-organizing groups, movements and individuals, relatively autonomous from the state, attempt to articulate values, create associations, and advance their interests. Thus, in this arena, they reckoned that the primary organizing principle would be “freedom of association and communication”; furthermore, “rule of law” which might establish legal guarantees would be one of necessary supports from other arenas (Linz & Stepan, 1996:7, 14). For the same reason as abovementioned, this definition will be fundamentally received by this essay, and it could be understood as the reason why I might both focus on the performance of civil society and the protection of assembly rights in Taiwan.

However, contrary to the strict delimitation of liberalization and democratization, this essay would not like to exclude other descriptions of civil society, especially those do

not conflict with each other and can be regarded as complements to the idea of empowerment, which would be one of the observational axes. For example, Michael Edwards draws this “big idea” in 3 dimensions: associational life, the good society, and the public sphere, respectively in terms of voluntary non-governmental organizations (NGO), civil corporations for equality and social responsibility, and even democratic deliberation (Edwards, 2009:20, 58-60, 63). Similarly, a Taiwanese scholar Ku, Chung-hwa (顧忠華) enumerated several aspects of civil society: democratic politics, the market economy, private affairs and associations, the public sphere, and the social capital. Besides, he argued that the form of civil society in Taiwan is vital to her democratization and the subjectivity of civil society is manifested by social movement (Ku, 2012:5-20, 140), namely significant assemblies which will be discussed as follows.

### **(3) Right of Assembly in Taiwan**

According to Article 11 of Constitution of the Republic of China (Announced Date: 1947 January 1): “The people shall have freedom of speech, teaching, writing and publication.” Article 14 provides that: “The people shall have freedom of assembly and association.” Moreover, the reasoning of Judicial Yuan Interpretation NO. 445 made by Justices of Constitutional Court in 1998 states that: “...the freedom of assembly, which is a kind of freedom of expression exercised mainly by action, it is a direct means for the general public, who do not have easy access to the media, to express their opinions openly.” (Justice of Constitutional Court of R. O. C., 1998). Thus, we might regard freedom of assembly as one of the branches of freedom of expression, or one kind of expression forms of free speech within Taiwanese constitutional framework. If we could agree upon that free speech provides at least 3 functions: truth-seeking, democratic process, and self-expression (Lin, 2002:1, 7), freedom of assembly as its branch or expression form should be recognized to share the identical functional

capabilities. This essay will mainly focus on the second phase: democratic process.

The statute regulating assembly in Taiwan is “Assembly and Parade Act” (Amended Date: 2002 June 26), and the legislative controversy has mainly laid in article 8: “For outdoor assemblies and parades, a permit shall be applied for with the competent authority...” For many years, the question is still around that the permit systems might result in prior restraint on free speech or assembly and might infringe the communication fundamental right assessed by the proportionality principle. Besides, it is also not possible and too stringent for participants of urgent and incidental assemblies (which might be even without a leader) to apply for a permit in advance. Thus, many scholars and social groups have been urging the modification from the permit to notice systems.

The enduring argument was partly settled by Judicial Yuan Interpretation NO. 718 held on March 21 in 2014, just 3 days after the occurrence of “Sunflower Student Movement”, states that the permit systems should not be applied to urgent and incidental assemblies based on the abovementioned reasons (Justice of Constitutional Court of R. O. C., 2014). Nevertheless, although scholarly consultant opinions asked by the Executive Yuan as far back as in 1992 already suggested two compromising routes of modification for the permit systems (Research, Development and Evaluation Commission of Executive Yuan of R. O. C., 1992:5), plethora of academic papers supporting the notice systems have been published for more than several decades, and even a legislative public hearing was also held in 2008 for legislators, bureaucrats and advocacy groups to clarify this long-term struggle, the core of status quo seems hard to be challenged. One of the advocacy movement is “Wild Strawberries Movement of 2008” (野草莓運動), obviously failed to achieve the goals of legislative modification

perhaps resulting from its flat organizational structure and insufficient coordination because of the segmented social networks merely mobilized through the Internet (Hsiao, 2011:45-46, 73), whereas empowered the profession and communication of members who also initiated “Sunflower Student Movement” after several years, which will be discussed later in the section 4.

### **3. Significant Assemblies in Taiwan from 1975 to 2008: Neophyte and Growing Empowerment**

The former president Chiang Kai-shek (蔣介石) passed away in 1975, and Taiwan just passed Samuel P. Huntington’s “two-turnover test” after KMT won back the presidency again in 2008. Both years respectively marked 2 terminals of momentous changes deserved observations from undemocratic authoritarianism to negative democratic consolidation, though not congruous with the stance of this essay, still presented a great improvement. Thus, this section select several significant assemblies in Taiwan during this period, and present their historical backgrounds, impacts upon democratic transition and empowerments upon civil society.

#### **(1) “Zhongli incident of 1977” and “Formosa Incident of 1979”**

Different from the military strong man Chiang Kai-shek, his descendant and political successor Chiang Ching-kuo (蔣經國) tried hard to build the image in touch with the people on the media press and recruit Taiwanese as cabinet ministers, which seemingly symbolized a refreshed epoch of openness and localization seeking for legitimacy under the rising wind and scudding clouds of upcoming international crisis (Wu, 2007:66; Hu, 2013:46-47). Nonetheless, these ostensible deeds did not waive the electoral frauds and

tight restraints on political assemblies and associations.

In 1977, KMT government implemented a large-scale local election. Hsu Hsin-liang (許信良), the outside-the-party candidate as well as the subsequent triumphant elected magistrate of Taoyuan county (桃園縣), appealed his supporters stayed at polling station as ballot scrutineers. As expected, a doctor and a dentist claimed that they saw one station officer turned an old couple's ballots voting for Hsu into invalid ones by pressing his thumb with ink on them. After being told, the couple who went back arguing with the very officer were not only rejected to vote again but interrogated by prosecutors (Hu, 2013:79, 88-90).

The news spread like wildfire burning Taoyuan civilians' anger which resulted in the envelopment, penetration and arson towards police stations with several anti-riot vehicles shaken and toppled. On the other side, the police shot tear gas onto the crowds and even a bullet into a college student's head with the blockade of transportation and media. However, the other polling stations became discreet to count and announce the ballots, and finally 4 outside-the-party candidates won the local elections as magistrates, including Taoyuan county, Taichung City (台中市), Tainan City (台南市) and Kaohsiung county (高雄縣) (Hu, 2013:90-92).

“Zongli Incident” (中壢事件) was reckoned as the biggest mass movement since 1950s, and also shocked the authoritarian government led by Premier of Executive Yuan, Chiang Ching-kuo. Although he decided not to suppress the mass during the incident, he began to positively build and utilize anti-riot forces even after elected as President in 1978. Facing the Carter administration of the United States terminating the diplomatic relations with Taiwan in 1979, the insecure and melancholy atmosphere was

filled with Taiwanese society. Furthermore, this last straw not only led to the broken glass of envoy sedan carrying Warren Minor Christopher, Deputy Secretary of State for Carter, but also Chiang Ching-kuo's unbridled repression on outside-the-party movements (Hu, 2013:93-95, 112-116, 191).

In 1979, for example, Formosa Magazine (美麗島雜誌) founded by outside-the-party activists who initiated a parade and speeches celebrating "Human Rights Day" and appealing for democracy, freedom and abolishment of martial law. With an official permission under the table failing to keep faith, the activity still came up against fierce oppression with tear gas, anti-riot forces and vehicles. The conflict was called "Formosa Incident" (美麗島事件). After the incident, members of publishers and weighty participants were arrested and tortured with severe penalty. During the military trial, one of the defendants Lin Yi-hsiung (林義雄) confronted with family massacre without identifying the murderer until today (Hu, 2013:133, 140-143, 160-161, 187-188, 194-196).

Clearly, before the lift of Taiwan martial law in 1987, the main political demand was substantial liberalization and even democratization including elections without frauds, and freedom of speech, assembly and association. The main initiators were outside-the-party political elites who represented a neophyte source of empowerment upon immature civil society. Since political parties were banned to form then, it was the time without opposition supervision, not to mention other civil groups could possibly make a cry of reformation. Under the dome of authoritarian restriction, merely rather few civilians joined social movements, especially supporters of outside-the-party elites with the arisen consciousness of civil liberties and political rights. Besides, Presbyterian Church in Taiwan (台灣基督長老教會) led by Reverend Kao Chun-ming (高俊明)

provided vital assistance to participants of Formosa Incident, bringing about international concerns from the Vatican, World Council of Churches (WCC) and the other human rights organizations, exerting inconvenient pressure on KMT government who commuted the penalty from military to general jurisdiction (Hu, 2013:186-187).

In this period, substantial rule of law has not been established and random assemblies held crying for fundamental but unequipped rights compatible with liberalization and primary democratization. Without the bona fide right of assembly and association, parties were banned to form and the civil society was rather weak. Conservatively speaking, the sloganized appeals of these movements obviously didn't realize like a shot, whereas became the nutrients of thought-provoking views seeding down into the empowerment of civil society, turning main participants into members and leaders of DPP subsequently founded in 1986.

## **(2) “Wild Lily Student Movement of 1990” and “Wild Strawberries Movement of 2008”**

Right after “Tiananmen Square Protests” (天安門事件) happened in China in 1989, “Wild Lily Student Movement” (野百合學運) happened in Taiwan in the next year with thousands of students gathering in the Chiang Kai-shek Memorial Square for a six-day sit-in demonstration, and became the biggest student movement since 1949 when Chiang Kai-shek's defeated troops retreating Taiwan. The movement proposed several political requests, including dissolving National Assembly (國民大會) consisted of octogenarians as representatives of provinces in Mainland without being reelected for 40 years, and holding a national conference (國是會議) for discussing constitutional reforms. A Taiwanese scholar Wang, Jenn-hwan (王振寰) stated that the genuine meaning of movement was her position as an enlightenment campaign which

created a space to educate the society (Lin ed., 1990:17, 65-69, 272-275; International Committee for Human Rights in Taiwan [ICHR], 1990:8).

The movement ended up with the promise of the former President Lee Teng-Hui (李登輝) whose government afterwards in 1991 rescinded “Temporary Provisions Effective During the Period of Communist Rebellion” (動員戡亂時期臨時條款) enacted in 1948 restricting the substantial implementation of Constitution. Besides, in 1990, about 30 legislators submitted a petition of constitutional interpretation about the periodical reelection controversy of first-term national representatives. In the same year, Judicial Yuan Interpretation NO. 261 was made and stated that “representatives who have not been reelected on a periodical basis shall cease the exercise of their powers no later than December 31, 1991” and “The Central Government is further mandated to hold, in due course, a nationwide second-term election of the national representatives, . . . , so that the constitutional system will function properly.” (Justice of Constitutional Court of R. O. C., 1990).

After nearly a decade, in 2008, the first year of presidential term of Ma Ying-jeou (馬英九), who proposed a much closer relationship with China and positively promoted cross-strait negotiations via semi-official conferences between “Straits Exchange Foundation” (SEF; 海峽交流基金會) and “Association for Relations Across the Taiwan Straits” (ARATS; 海峽兩岸關係協會) respectively as the agents of Taiwan and China government. Nonetheless, during the period in 2008 when the ARATS chairman Chen Yun-lin (陳雲林) visited Taiwan, the police brutally intervened protesters’ rights of expression. For instance, national flags of Taiwan were banned to show in public with the damage or forfeit, and native songs played by a record store were shut down with police trespass (Wild Strawberries Movement, 2008).

Relative incidents violating free speech urged “Wild Strawberries Movement.” The advocates decided to initiate sit-in demonstrations without applying for permissions in order to emphasize the inappropriateness of “Assembly and Parade Act” and demanded for a correspondent modification (Wild Strawberries Movement, 2008). KMT legislators subsequently held a public hearing (Legislative Yuan of R. O. C., 2008:51-90), but “compulsory notice system” with penalty proposed by Ministry of Interior (內政部) could not satisfy the advocates, and even a Taiwanese scholar Liao, Yuan-hao (廖元豪) reckoned that the bill was even stricter than the current law (Liao, 2008). Though the disagreement maintained the status quo of assembly system in Taiwan, the abovementioned Judicial Yuan Interpretation NO. 718 held in 2014 exempting urgent and incidental assemblies from prior permission also exempted one of the initiators Lee Ming-tsung (李明璽) from prosecutorial accusation (Chang, 2014).

The year 1990 was right during the transitional process of Taiwan’s liberalization when it was free to press the newspaper and form opposition parties, but still not allowed to initiate a sit-in in the Chiang Kai-shek Memorial Square. Though the subsequent democratization in 1996 was coined “transformation” by Huntington (Huntington, 1991:124-125), it was still not a spontaneous fruitful result without any last-ditch struggle from vested interest holders. Though the former president Lee Teng-Hui, who did not shut the reform out as a way to consolidate his precarious position right after the succession from Chiang Ching-kuo (ICHR, 1990:2, 6), Wild Lily Student Movement could still be at least regarded as a political opportunity not only for Lee to make his mind to accelerate the pace of democratic transition, but also for numerous participants who later became political or academic elites continuously devoting themselves to the career of social and educational empowerment.

On the other hand, “Wild Strawberries Movement” had been the largest student movement after 1990, but the scale and outcome were both inferior to “Wild Lily Student Movement.” Nevertheless, it provided a chance not only for the Legislative Yuan to assess our imperfect rule of law and performance of governance, but also for several participants empowering themselves who obtained great success in “Sunflower Student Movement” in 2014. What’s more important, different from previous assemblies, virtual community of new media like the bulletin board system (BBS) and online live streaming platforms were first used for initiation and broadcast in this movement for instant communication which has gradually become indispensable tools for initiators of social movements (Hsiao, 2011:46, 54), as the evident effect we could clearly see in the Jasmine Revolution and the Arab Spring after 2011 (Soong et.al, 2012:93-98). New media was also played a crucial role on subsequent significant assemblies in Taiwan around 2013 to agglomerate atomic and scattering civic awakening and consciousness in terms of issue-oriented concerns about the tarnished performance of democratic governance even with rule of law expected under bona fide and substantial constitutionalism. Thus, the former movements could also be regarded as a kind of empowerment upon structural and technological aspects for the latter possible upgraded reference.

#### **4. “White Shirt Movement of 2013” and “Sunflower Student Movement of 2014”: More Mature Empowerment**

In 2013, an 24-year-old army conscript Hung Chung-chiu (洪仲丘) was sent in solitary confinement and passed away after subjecting to intense punishment exercises in the

hot sun because of a misconduct for bringing a cellphone with built-in camera into his military camp, merely before 3 days of his discharge. This incident triggered “White Shirt Movement” (白衫軍運動) initiated by “Citizen 1985” (公民 1985 聯盟), a voluntary civil group formed by the Internet, especially the new media like Facebook and BBS. Since the investigatory results made by Military Prosecutors’ Office (軍事檢察署) existed several suspicious points including rationalizing monitor records with totally black scene during Hung’s punishment, the movement cried for a military reform and received supports from more than 110,000 participants sitting in front of the Office of the President (Lee, 2014b: 82-89; Freedom House, 2014).

This incident not only led to the resignation of minister of national defense, Kao Hua-chu (高華柱) (Yu, 2013), but also the modification of “Code of Court Martial Procedure” (軍事審判法) substituting general court and prosecution for military ones when any military personnel on active duty who commits crimes while not at war time. Dramatically and swiftly, the modification passed right after 3 days of the second demonstration of the movement, and contributed to a de facto abrogation of martial procedure system in Taiwan (Chou, 2013).

Continually in 2014, The Huffington post stated that 2014 was a year of extraordinary protests and selected 8 unforgettable ones, including “Sunflower Student Movement” in Taiwan and “Umbrella Revolution” (雨傘革命) in HK (Alfred, 2014). This section will focus on the former incident and I will try to mention the common “China factors” of both movements in the next section.

On March 17, a KMT legislator Chang, Ching-chung (張慶忠) as the convener of Internal Administration Committee (內政委員會) of Legislative Yuan, secretly spent

only 30 seconds announcing that the deliberation of Cross-Strait Service Trade Agreement (CSSTA; 海峽兩岸服務貿易協議) between KMT and Peking government was completed at the review stage of committee examination. Afterwards, he simultaneously dispersed the meeting still with clamor. Since CSSTA was highly controversial making a great number of citizens feel doubtful and anxious about the other party of agreement, namely China, who might utilize its economic predominance in order to exert political influence on cross-strait sovereign deadlock, while witnessing the tighter restriction on autonomy of HK on the spot, legislator Chang's act swiftly irritated many NGOs which have showed their distrust upon this bilateral negotiation for a long time (Hsu, 2014; Li, 2014).

The opaque black box operation of examination procedure generated "Sunflower Student Movement." On the evening of March 18, civil groups held an assembly outside the Legislative Yuan and hundreds of students unexpectedly broke through the weak defense line of police guards and had successfully occupied the Chamber for nearly 3 weeks. The occupation finally came to an end as the speaker of Legislative Yuan Wang Jin-pyng (王金平), who was having a political struggle with the president Ma Ying-jeou, decided not to use force on the protesters and promised that the monitoring mechanism upon the agreement would be established to oversee cross-strait negotiations (Tiezzi, 2014).

However, just at a distance of several blocks away from the Legislative Yuan, on the evening of March 23, another multitude of students also successfully occupied the Executive Yuan. Unlike the amicable attitude of speaker Wang Jin-pyng, Premier of Executive Yuan Jiang Yi-huah (江宜樺) decided to use anti-riot police, teargas and water cannon to forcefully disperse the crowds and caused unwanted bloody injuries

startling the society (Cole, 2014). A proof of the government's wrongdoing was that after one year, the Taipei District Court ruled that a male, Lin Ming-hui (林明慧), who was beaten by the police during a crackdown could receive NT\$300,000 as compensation. "The protesters sat on the ground peacefully, and nobody had a weapon. But the riot police used violent tactics and wielded batons, striking people," said Mr. Lin (Pan, 2015). As a disgraceful example, this incident showed that even passed the criteria of democratic transition and the negative "two turn-over test", the Taiwan government still has to look for not only a "good" but a "better" governance. The urgent task suggested here is to improve the quality of rule of law as a supplementary base for the development of civil society which is also one of necessary arenas for a consolidated democracy, especially when confronted with controversial issues which might trigger conflicts between the mass and the police during significant assemblies. If not, the status quo might make lots of people be reluctant to admit that Taiwan has already been a consolidated democracy.

In addition to the drastic scene of occupations, it is still worth mentioning that during the movement, "citizen class on the street" and "deliberation on the street" (D-street) were held by voluntary participants as hosts, listeners and teachers composed of citizens, students and scholars. As for the latter activity, it was estimated that in 10 days, 13 deliberation meetings were held and about 250 panels were formed with almost 4,000 participants joining the discussions (Shih, 2014). Main points and conclusions were recorded online and even summarized into a "Written Opinion of People's Congress" (人民議會意見書) with 6 most common claims about monitoring rules of CSSTA, including "supervision from citizens and the Legislative Yuan", "transparent information and people's right to know", "comprehensive evaluation of impact", and "equal status of cross-strait negotiation." (The Black Island Nation Youth Front and

Taiwan Democracy Watch, 2014). Thus, these scholarly, democratic and grassroots organism showed a novel composition and function of mobilization in contrast to the stereotyped image of conflict and violence; that is, youth and academic participation could make “instant and democratic education” and bestow the crown of human rights education upon assemblies. Besides, the multidimensional characteristics including a democratic deliberation forum commonly established by several NGOs and academic institutions exactly showed the vitality and momentum of an empowered “civil society” proposed by Michael Edwards. The claims of “Written Opinion of People’s Congress” were also compatible with the concept of “good governance” as a more advanced need from the citizens of a liberal democracy.

In a word, although “White Shirt Movement” and “Sunflower Student Movement” were both initiated by citizens, namely without highly political mobilization, presenting different types of organization however with similar effect arousing common intrinsic need of people for transparent and procedural justice that should be unquestionably provided and maintained by democracies. The former was regarded as the first large-scale assembly promoted by ordinary small potatoes via the new media advocating humanistic and resonant request for the truth of a young man’s suffering from the cover-up military system whose officials could possibly shield one another with ease (Lee, 2014b:82-89). Moreover, the incident urged the young man’s elder sister Hung Tzu-yung (洪慈庸) to run for the upcoming legislative election in 2016, as a candidate representing for New Power Party (時代力量) formed in 2015 and chaired by Huang Kuo-chang (黃國昌), one of the leaders of “Sunflower Student Movement” (Chen, 2015; Formosa News, 2015)

Different from “White Shirt Movement”, “Sunflower Student Movement” was

organized by experienced academics and activists, including Huang Kuo-chang who was a legal researcher and initiated “Anti-Media Monopoly Movement” (反媒體壟斷運動) against a multimedia group in 2012 (Lin & Hsu, 2012), Tsai Pei-hui (蔡培慧) who is a professor and also an experienced NGO participant concerning about agricultural issues for a long time (Wang, 2013), and even several student leaders such as Lin Fei-fan (林飛帆) and Chen Wei-ting (陳為廷) who both previously joined a number of assemblies, such as “Wild Strawberries Movement” and “Anti-Media Monopoly Movement” (Central News Agency, 2014). That is, this essay assumes that the success of “Sunflower Student Movement” was highly based on the accumulating empowered experience and networks of former social movements. Thus, if we could accept the hypothesis that significant assemblies might tend to exert positive influences on the democratic progress, perhaps we should also pay more attention to the chronological profile of active members as a way of observation upon the accumulation of empowerment.

To sum up, these two movements not only showed a more mature empowerment of civil society from citizens, students, academics and political novices, but also prompted the reform or reinforcement upon rule of law when existing mechanisms which should shoulder democratic accountability however reacted passively as democratic failure happened in reality. These are also two essential factors assumed by this essay that could help assess and assist significant assemblies exerting great influence on democratic transition and consolidation. Not surprisingly, some movements even played an educational role among participants and even foreign outsiders with their own struggles, especially those who have been sharing and suffering from the same pressure, just like Taiwan and HK.

## **5. Looking for a Better Governance in Taiwan and Mutual Reference with HK**

As we could observe through the contemporary history of Taiwan's liberalization and democratization since 1970s, several elements belonging to Linz's definition of democratic transition and consolidation seemed played an important role as the claims of appeals upon the progress. For example, before 1990s, the appeals of significant assemblies from "Zongli Incident", "Formosa Incident" to "Wild Lily Student Movement", mainly focused on fair and competitive election as well as the legality for opposition parties, which obviously needed not be often reiterated after her democratic transition labeled by the first direct presidential election in 1996. Take significant assemblies after 2008 as example from "Wild Strawberries Movement", "White Shirt Movement", to "Sunflower Student Movement", the appeals on the cutting edge, away from issues like bona fide elections still tangling HK, mainly focused on unrestricted participation, rule of law and transparency, which overlapping the arena between democratic consolidation and good governance.

As abovementioned, though negative definition of democratic consolidation could provide with a much clearer threshold for academic classification to tell whether a state like Taiwan has already become a consolidated democracy, it could not, however, faithfully reflect her succeeding and dynamic progress or even regression which have been exactly exposed and curbed via significant assemblies retrospectively turning back the tide of opaque military and diplomatic arbitrariness. Thus, these movements held after 2008 dialectically justify that a static milestone with intaglioed "consolidation" is not able to provide with a guarantee ensuring good governance with no possibility of democratic reversal.

Back to the definition of democratic consolidation from Linz and Stepan for examination, “behaviorally”, it could be acknowledged that no significant political (or even social) groups in Taiwan right at this moment might attempt to overthrow the democratic regime, so the main task of newly elected governments would not be avoiding democratic breakdown. “Attitudinally”, there is few evident showing strong majority might support anti-democratic alternatives. “Constitutionally”, political actors might generally habituate to solve conflicts according to established norms as well as judgments of general and constitutional court, such as several Judicial Yuan Interpretations with binding effects upon the other two branches of separation of powers (Linz & Stepan, 1996:5-6).

As a whole, though perhaps teleologically, through a more detailed and multifaceted definition, we might relatively assume that Taiwan has been compatible with three dimensions of consolidation. Nonetheless, we should keep vigilant upon the inter-related support of five connotative arenas, especially civil society and rule of law concerning the protection towards right of speech and assemblies, and utilize the criteria of good governance to improve her democratic deepening and democratic quality.

Furthermore, there have been several potential factors which might deteriorate the yearning and incomplete consolidation, not only objectively but subjectively. For instance, it has long been controversial whether Taiwan is a democracy applying for presidential or semi-presidential system when it comes to the blurring and fickle provisions and operations of constitution. In 2015, KMT and DPP tried to negotiate for the constitutional amendment partly resulted from KMT’s loss in the local elections influenced by Sunflower Student Movement. The debates included whether we should

lower the voting age and even switch presidential system to a parliamentary one, but eventually 2 parties still could not reach a win-win consensus according to respective uncompromising political interests (Lin, 2015). Maintaining the status quo merely saved the turbulence and adaptation of political change, but not the ones of unsettled political chasm. Thus, in the long term, this essay assumes that the constitutional controversy might still be an uncertain and negative factor of democratic consolidation in Taiwan.

Another obvious example might be more correlating with our topic here is the attitudinal discrepancy of cross-strait relationship in Taiwan. That is, unification with or independence from China could be regarded as two terminals of political spectrum, along with which marks the partisan stances reflecting voters' divergence changeable at times. A trend leaning to maintenance of status quo and independence (Global Views Survey Research Center, 2015) might just mirror the doubtful fear of unwanted political and economic interference from China, especially when the citizens could not fully trust their government. The opaque and violent operation initiated by KMT was partly believed as one of the reasons why this old-brand party heavily fell down in municipal elections in 2015. Thus, the attitudinal uncertainty of doubt towards the uncontrolled hegemon which might not be believed to loosen any possible control on both southern islands is highly assumed as one of the causes of "Sunflower Student Movement" and "Umbrella Movement." Just as a leader of the former movement, Lin Fei-fan (林飛帆), also reckoned that the similarity between these two incidents is "China Factors", which should be dealt with the integration of civil societies as the lines of defense for Taiwan and HK against the failure of democracy (Lin, 2014).

Nonetheless, these are two movements perhaps with the same impetus but different

results. While Taiwanese government promised to reconsider the monitoring mechanism upon cross-strait economic agreement, the Standing Committee of the National People's Congress (NPCSC; 全國人民代表大會常務委員會) and Beijing government made up their mind sticking to previous decision about electoral rules in HK. An HK professor Sing, Ming (成名) categorized HK as “semi-democratic” without a bona fide and competitive election generating her Chief Executive who has been in reality decided by the 1200-member election committee controlled by Beijing government (Sing, 2014:159-160). As for this equivocal situation, another HK professor Law, Wing-sang (羅永生) coined a tailored term “virtual liberalism” (虛擬自由主義) mixing the spurious with the genuine by operating a democratic ceremony not founded on a consolidated constitutional base of liberalism (Law, 2014:213-214). These characteristics compatible with HK’s aggravating “partly free” rank graded by Freedom House since 1970s sprang from the passive decolonization without local participation passing over the ruling power to a new but undemocratic motherland in 1997. Different from most decolonized experience in Africa and Asia obtaining the ticket of independence, the HK model of handover unsurprisingly accompanied the lack of self-determination and “stateness”, as a necessary prerequisite of democracy reckoned by Linz and Stepan (Linz & Stepan, 1996:16-18).

Additionally, it is worthwhile mentioning that HK and Taiwan have long been sharing a similar historical background and knotty task. For example, both of them underwent the experience of decolonization in the past and have to face the pressure from China in the present (Lii, 2014:150); therefore, it might be worthy of discussion about their mutual reference to be and ought to be. Retrospectively, similar to Taiwan’s authoritarian phase before 1990s, as in which right at this moment for HK citizens who desire to demand for political rights including a competitive election seeking for the

next-stage democratic transition; however, this essay assumes that it would be a much stormier and tougher voyage for HK when compared with Taiwan for several reasons as follows.

- (1) As abovementioned, HK is not a sovereign state or at least a de facto independent regime, that is, with no stateness as a necessary prerequisite of democracy.
- (2) As Chiang Kai-shek and Chiang Ching-kuo necessarily needed a democratic packing for their make-or-break legitimacy while confronting with the domestic and international pressure, the Beijing government contrarily has to prevent a domino effect of the democratizing demand to become a “democratic political subsystem” sprouting from the island thrusting into the inland (Linz & Stepan, 1996:18-19).
- (3) KMT has begun to change from an authoritarian party to a pragmatic one based on Giovanni Sartori’s classification of one-party system since 1970s (Wu, 2007:62, 66), and her social basis of political allegiance established from the local elections held during authoritarian period also provided the very party with the confidence of democratic compromise; however, Beijing government might not have the same degree of confidence that the Pro-Beijing Camp could obtain a consequential victory if a bona-fide general election opens for a democratic experiment (Lii, 2014:157-158).
- (4) Without a relatively neutral constitutional jurisprudence like Taiwan, HK as a semi-democratic special administrative region merely has a legal framework of virtual liberalism, and the genuine highest authority holding court behind the screen can manipulate the extent of her rule of law and the effect of horizontal accountability.

Nevertheless, the objective toughness should not fatalistically result in irreversible

passiveness. In 2003, the July 1 march (七一大遊行) attended by around 500,000 people successfully made the HK government suspend the enactment of a bill required by the basic Law article 23 (香港基本法第 23 條) which prohibits subversive acts leading to the extensive fear of excessive control on fundamental rights including freedom of speech and assembly (Lee, 2014a:26, 35). Besides, although Umbrella Movement did not make its mark, the voter turnout of 2015 district council election, the first whole-territory election after the Movement, increased from 41.49% in 2011 to 47.01% as the ever highest ratio (Information Services Department and the Registration and Electoral Office of the Hong Kong Special Administrative Region Government, 2011 & 2015); what's more, 8 political neophytes called "umbrella soldiers" (傘兵) who decided to enter politics after the Movement surprisingly won their battles (Kwok & Baldwin, 2015). Both examples could be regarded as the essential effect initiated from the gradually empowered civil society of HK with the accumulation of self-consciousness, especially through significant assemblies which could cut off the official monopoly of decision-making and discourse power.

To sum up, while seeking for the political goals which have already achieved in Taiwan, it might be precious for the HK citizens and pan-democratic elites to look back similar obstacles and upgrade compatible strategies. Similarly, it might also be inevitable for the counterpart in Taiwan to draw lessons from HK while seeking for further dialogues with China. Last but not least, it is vital for both governments discreetly pay more attention to the causes and appeals of significant assemblies which might have key impacts not only on the democratic performance but also on the ballots.

## 6. Conclusion

Since freedom of expression as one right-oriented characteristic of polyarchy proposed by Robert A. Dahl (Dahl, 1971:3), the protection and performance of the very right should be seen as an essential variable to assess the progress of democratization of a country. Particularly, since freedom of assembly is one of the branches of freedom of expression, the former should be recognized to share the function of democratic process of the latter. Thus, this essay enumerates significant assemblies in Taiwan as the independent variable so as to observe their impact upon her democratic transition and consolidation. Besides, the empowerment of civil society as one of the arenas of consolidated democracy proposed by Linz and Stepan, is assumed as a catalyst between the abovementioned two variables with the supplementary support from rule of law.

The causes and appeals of significant assemblies reflected chronological political restrictions, and might even have essential impacts upon the incremental or instantaneous political change or development concerning the progress of liberalization and democratization. That is to say, “Zongli Incident” suspended the vote rigging, “Wild Lily Student Movement” contributed to bona fide Legislative Yuan elections, “Wild Strawberries Movement” led to Judicial Yuan Interpretation NO. 718 loosening the application of urgent and incidental assemblies, “White Shirt Movement” pushed through the reformation of military justice, and “Sunflower Student Movement” blocked and reassessed an opaque cross-strait economic agreement. These movements indicated the institutional inadequacy which invoked intrinsic grievance of masses, and facilitated more or less official responses and settlements beneficial to the conditions for the democratic transition, consolidation and even good governance.

Additionally, this essay assumes that the civil society could be seen as a catalyst helping assemblies influence the democratic progress in Taiwan, whereas assemblies could also play a reverse role to empower the civil society for subsequent movements. However, this essay also assumes that the outcome of these effects sometimes depends on the performance of rule of law, and it is lucky for Taiwan to have a rather impartial constitutional court even during the liberalization of authoritarian regime. For instance, Judicial Yuan Interpretation NO. 261 held in 1990 declared that a nationwide election of the national representatives should be held so that the constitutional system will function properly. After her democratic transition in 1996, Interpretation NO. 445 held in 1998 implanted the two-track theory which supposes that the content-based restrictions upon the applications of assemblies should be strictly scrutinized. The circular and dynamic dialogue that judicial reviews resulted from assemblies and/or further fed back with legal or constitutional protections should be seen as a clearer progress of mutual support between civil society and rule of law, as two essential bases for the targeted consolidated democracy.

Furthermore, assemblies could also play an educational role via the forums of deliberative democracy. When appealing issues arise and gather diverse participants to join the parading procession, democratic classrooms on the streets might be voluntarily formed by scholars or activists. Similar activities were both seen in Sunflower Student Movement in Taiwan and Umbrella Movement in HK. This function could provide with the semi-academic information for participants to rethink and reorganize their views about the controversy encouraging them to walk onto the pavements, and might decrease the stereotype or side-effect of some impulsive participations with sufficient passion but incomplete comprehension.

Last, since Taiwan and HK have been sharing a similar historical background and present pressure of “China factors”, it might be important for both to refer to mutual experience while seeking for the next-stage political openness or proficient negotiation with Beijing government. One of the crucial dimensions is to take notice of the causes and effects brought about by significant assemblies reflecting the institutional defect which could be beneficial to the democratic performance and governmental legitimacy when being appropriately responded and dealt with, or vice versa.

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