

場次四：人權公約教育培訓

Panel IV: Education and Training of
Government Officials on the Two Human
Rights Covenants

主持人/Moderator：尤美女 理事長
(President Mei-Nu Yu)

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人權意識、教育與培訓： 「人權大步走計畫」的初步檢視

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摘要

2009年3月31日我國立法院審議通過《公民與政治權利國際公約》與《經濟社會文化權利國際公約》，以及《公民與政治權利國際公約及經濟社會文化權利國際公約施行法》(以下簡稱兩公約施行法)。馬英九總統隨即於2009年4月22日公佈《兩公約施行法》，並於2009年12月10日正式施行。兩公約施行法第二條明定，兩公約「具有國內法律之效力」。自此，兩公約的內容成為我國國內法的一部分。這不僅對我國提升人權意識，深化民主具有指標意義，也為我國重返國際人權體系，履行國際人權義務，跨出重要的一步¹(馬英九, 2009)。然而簽署兩公約是一回事，能否落實又是一回事，兩公約的簽署能否確實使我國政府朝向「人權治國」的理念邁進，讓執法公務員的作為能符合人權的基本要求，使人權理念與價值得以在日常生活中具體實踐，仍需要從多面向加以檢視與評估。自兩公約施行法通過以來，關於兩公約的簽署對於我國的影響，國內學術界與民間組織已有許多重要的研究著作²，主要集中於對於國際人權公約內國法後的法律效力、以及如何因應兩公約之後的種種機構配套設施的分析，然而對公務人員的人權教育與培訓的研究則較少提及，本文試圖彌補此一面向的不足。本文針對自2009年法務部所負責統籌的「人權大步走計畫」中，有關公務人員人權教育「種子講師培訓」的推動及成效，進行檢視與評估³。本文認為，人權培訓應該有明確的目標與方法，才能達致具體成效。藉由檢視2011年3月聯合國所通過

¹ 請參見馬英九總統於法務部「人權大步走種子培訓營」開幕式致詞全文。

² 例如黃昭元, 2010 “憲法.” 臺大法學論叢 39(2): 6-30。廖福特, 2010, 〈法院應否及如何適用公民與政治權利國際公約〉, 《臺灣法學雜誌》, 163, 45-65。廖福特, 2009, 〈批准聯合國兩個人權公約及制訂施行法之評論〉, 《月旦法學》, 第174期, 頁223-229。朱楠, 2010/2, 推動「廢除死刑」之新契機--立法院通過兩國際人權公約施行法之實務分析, 法學新論。孫友聯, 2010/3, 兩公約對國內勞動法制的影響, 全國律師雜誌。林佳範, 2010/3, 論兩公約對憲法人權保障的補充 -- 一個初步架構的探討, 全國律師雜誌。王自維, 2010/11/15, 人權兩公約之國內法化暨其施行法之實施--從國際法的內化與人權在我國憲政體制下之法律地位論起, 臺灣法學雜誌。彭坤業, 2010/12/10, 人權大步走, 政府推動兩公約之實踐, 百年人權之省思與展望國際研討會。而民間組織的研究包括由臺灣人權促進會所出版的2010年三月號《TAHR報》也收錄了許多精采文章。民間兩公約施行監督聯盟也於2010年出版了《一年又七個月來政府落實兩公約及其施行法之檢討》的報告書, 對政府的政策與作為提出檢視與批評。

³ 本文部分訪談內容取自於作者主持由研考會委託之「落實兩公約施行法之研究」。感謝協同主持人黃默教授與黃秀端教授, 以及施逸翔、陳博文、王瑩芬、魏培軒、葉亭君、邱博詩同學的協助, 特此致謝。

的《聯合國人權教育和培訓宣言》以及正在積極推動的《世界人權教育方案》第二期的規劃方針中，針對公務人員培訓所提出的目標與方法，以及透過分析行政機關中十一個已經成立人權工作小組的部會所獲得的訪談資料，本文發現，「人權大步走」的種子講師培訓計畫，不論在培訓的策略，抑或培訓的方式與內容上，仍有很大改進的空間，政府相關部門應盡速調整作法，參考聯合國相關準則與教案，盡速解決成效不佳的問題。本文最後提出幾點建議，以作為未來我國進行公務人員人權教育與培訓的參考。

關鍵字

人權大步走、人權教育、人權培訓、兩公約

壹、國際人權公約與臺灣民主化

2009年3月31日我國立法院審議通過《公民與政治權利國際公約》與《經濟社會文化權利國際公約》，以及《公民與政治權利國際公約及經濟社會文化權利國際公約施行法》(以下簡稱兩公約施行法)¹。馬英九總統隨即於2009年4月22日公佈《兩公約施行法》，5月14日正式簽署「兩公約」中英文版批准書，並於2009年12月10日正式施行。兩公約施行法第二條明定，兩公約「具有國內法律之效力」。自此，兩公約的內容成為我國國內法的一部分。回顧自2000年民進黨執政時期陳水扁總統以「人權立國」為號召，承諾與國際人權標準接軌，並進而在總統府及行政院建立人權相關的機構，以推動一系列人權政策；至2008年馬英九總統在競選期間發表「2008年新世紀人權宣言」，主張上任後將批准兩公約，以期國內人權保障制度與國際接軌，並進而在其當選後批准具有國際人權規範綱領性的兩公約，以及通過兩公約施行法，強調以「人權治國」作為施政方針，皆充分展現過去十年來在兩個不同政黨執政時期，我國政府表達對於國際人權規範的認同與承諾。

事實上，中華民國早已於1967年由常駐聯合國代表劉鍇簽署兩公約，並同時簽署《公民與政治權利國際公約》第一任擇議定書。但在1971年10月25日聯合國大會通過第2758號決議，使得中華民國失去代表權之後，我國就一直未就此三份文件進行批准的程序，因此關於國際人權的重要性以及締約程序所涉及相關國際法的議題，在臺灣社會也一直未能受到應有的重視。

如同許多亞洲國家，臺灣歷經長期殖民與威權體制的統治。從1949-1987年，臺灣經歷長達38年戒嚴令的統治，在當代歷史中，從未有一個國家像臺灣一樣，經歷這麼久的戒嚴統治。在威權統治時期，人權被視為禁忌，更遑論國際人權規範的實踐，在這樣的環境之下，很難想像人權文化或傳統有任何成長的空間。而自1987年解嚴以來，人權議題已不再是禁忌，臺灣的人權狀況已有相當的進展。和威權體制下的過去相比，這些誠然是可觀的進步。但是從比較寬廣、踏實的角

¹ 「公民與政治權利國際公約及經濟社會文化權利國際公約施行法」，共計九條，分述如下：第一條、為實施聯合國一九六六年公民與政治權利國際公約（International Covenant on Civil and Political Rights）及經濟社會文化權利國際公約（International Covenant on Economic Social and Cultural Rights）（以下合稱兩公約），健全我國人權保障體系，特制定本法。第二條、兩公約所揭示保障人權之規定，具有國內法律之效力。第三條、適用兩公約規定，應參照其立法意旨及兩公約人權事務委員會之解釋。第四條、各級政府機關行使其職權，應符合兩公約有關人權保障之規定，避免侵害人權，保護人民不受他人侵害，並應積極促進各項人權之實現。第五條、各級政府機關應確實依現行法令規定之業務職掌，負責籌劃、推動及執行兩公約規定事項；其涉及不同機關業務職掌者，相互間應協調連繫辦理。政府應與各國政府、國際間非政府組織及人權機構共同合作，以保護及促進兩公約所保障各項人權之實現。第六條、政府應依兩公約規定，建立人權報告制度。第七條、各級政府機關執行兩公約保障各項人權規定所需之經費，應依財政狀況，優先編列，逐步實施。第八條、各級政府機關應依兩公約規定之內容，檢討所主管之法令及行政措施，有不符兩公約規定者，應於本法施行後二年內，完成法令之制（訂）定、修正或廢止及行政措施之改進。第九條、本法施行日期，由行政院定之。

度去看，臺灣人權保障的缺陷仍然是十分明顯的。臺灣過去二十多年的經驗證明，民主化並不必然帶來人權價值與規範的深化與拓展。主要原因即在於經歷了長期威權的統治及國際孤立之下，我們缺乏人權進展的基本條件。而這些基礎建設的缺乏，造成人權價值的促進與落實，出現了相當的阻力，也造就當前選舉式民主(Electoral Democracy)的弊端(Chen, 2001)。在許多第三波民主化的新興民主國家，都極為注意人權保護的制度設計，但是在臺灣，歷經幾次的修憲，只有零星點綴式的強調，但大都未以人權保障為重點，同時朝野菁英對人權觀念缺乏應有的重視，而一般公民人權意識仍普遍低落。因此批准兩公約之後，所帶來的對於法規、制度、政策的全面性檢視與改進，不僅有助於基本人權的保障，落實「人權治國」的理念，更透過對於公約的承諾與落實，試圖與國際人權建制接軌，將中華民國重新納入國際人權體系。因此，兩公約以及兩公約施行法的通過與施行，對於未來我國國民人權意識能否提升，以及人權保障制度能否建立，具有開創性的指標意義。

另一方面，由於我國特殊的外交處境，自 1971 年退出聯合國時，也同時退出了以聯合國為主軸的國際人權體系，這一個國際孤立的結構性因素使臺灣缺少人權進展所不可缺的國際參與及壓力(人權政策白皮書,2002:16)。無疑地，長期的孤立否定了臺灣參與國際人權機制，運用資源以及面對不同的刺激，(例如來自於官方進行人權報告的過程所面對的種種壓力與刺激)，同時也降低了許多與其他國家互動的機會。這種國際的互動，通常可以提供許多場域，讓各種不同的團體進行對大眾的動員與教育，同時也可以提供誘因，讓國家，學術界，法學界以及 NGOs，發展出落實公約所需的專業與技能。威權體制的過去，本來就已導致人權文化無由生根成長，而長期的國際孤立，更使臺灣缺少人權進展所不可缺的國際參與、交流、刺激與壓力。在這樣的環境之下，臺灣社會長期對於人權觀念感到陌生，與對人權事務缺乏經驗，實是不難理解。因此批准兩公約之後，所帶來的對於法規、制度、政策的全面性檢視與改進，倘若切實貫徹執行，不僅有助於基本人權的保障，落實「人權治國」的理念，更可透過對於公約的承諾與落實，進一步與國際人權建制接軌，將中華民國重新納入國際人權體系。

我們可以從國內層次以及國際層次兩個面向來說明批准兩公約的重要意義：

一、從國內而言：兩公約的批准以及施行法的通過，可以加速我國國內人權保障的落實與提升。一般而言，人權的改善與進步有賴兩個主要因素的互動：人權意識的生根和保障機制的建立。然而，臺灣有關人權知識和資訊仍有待提升；政府機關目前仍尚未存在符合聯合國標準專司人權事務的機構。在目前這種狀況下，臺灣的人權狀況如果要有更上層樓的進展，顯然在這些基礎建設上進行大規模的改革與創建，實為刻不容緩的課題。因此透過兩公約的批准，一方面藉由批准程序以及適當的配套立法，讓兩公約的國際規範在我國國內具有法律效力，另一方面藉由兩公約的內容，進一步對於當前我國法令中與兩公約內容不一致、或未能加以規定者，進行必要的修訂與規定。此外，藉由兩公約的落實，有計畫地

推廣、進而普及人權理念，讓執法公務員的作為能符合人權的基本要求，並提升公民的人權意識，將使人權理念與價值得以在日常生活中具體實踐。

二、從國際方面而言：馬英九總統在競選期間發表「2008 年新世紀人權宣言」，主張上任後將批准兩公約，以期國內人權保障制度與國際接軌，並將「全面檢討國內相關法令，徹底落實我國對國際人權憲章的承諾，使臺灣成為人權保障的國際楷模。」如今批准具有國際人權規範綱領性的兩公約，以及通過兩公約施行法，正是具體展現我國對於國際人權規範的認同與承諾。儘管我國因為當前險峻孤立的外交處境無法完成存放的程序²，然而批准兩公約並完成施行法的具體作為，仍有重要的國際宣示意義(馬英九: 2009)。

貳、人權保障的基礎建設：人權教育與培訓

如上所言，人權的促進與保障有賴兩個主要因素的互動：人權意識的生根和人權保障機制的建立。具體而言，透過人權價值的宣揚，和有關人權知識的傳播，以及培養由價值與知識所構成的人權意識，同時輔以保障與促進人權機制的設計與運作，才能有效促進人權價值的具體落實。因此，人權的教育與研究，可以稱為人權基本建設的關鍵成分(人權政策白皮書:2002;51)。而數十年來，人權教育作為國際社會試圖建立人權文化的一項基礎工程，受到不同國家的高度重視，而成為遍及全球(world-wide)的國際運動(Ramire, Suarez and Meyer,2007; Tibbitts, 2008)。而在聯合國成員以及國際非政府組織多年的努力之下，聯合國人權理事會³終於在 2011 年 3 月 23 日第 16/1 號決議，通過《聯合國人權教育和培訓宣言》。《宣言》中明確指出人權教育和培訓⁴，是促進人人享有的所有人權和基本自由，得到普遍尊重和遵守的關鍵⁵。所謂人權教育⁶，儘管在聯合國的文件或民間組織

² 2009 年 6 月 15 日聯合國秘書處退回我國送交的批准書，我國最終無法完成存放的程序。

³ 值得一提的是，當聯合國大會第 60/251 號決議決定成立人權理事會時，便一再重申人權教育和培訓的重要性。在第五(a)段主張人權理事會的任務之一，為「促進人權教育和學習以及諮詢服務、技術援助和能力建設。」

⁴ 從聯合國所通過的文件中一直呈現出對人權教育的重視。《世界人權宣言》第二十六條第一款即表明「人人都有受教育的權利」，並在第二款規定「教育的目的在於充分發展人的個性並加強對人權和基本自由的尊重」；《經濟、社會、文化權利國際公約》也規定，所有國家均須保證教育的目的在於加強對人權和基本自由的尊重。1968 年德黑蘭第一屆世界人權大會進一步通過議案，敦促所有國家使用「所有的教育方法」來提供年輕人一個在尊重個人尊嚴與平等權利的環境中成長的機會。而在 1993 年世界人權會議通過的《維也納宣言和行動綱領》更呼籲「所有國家和機構將人權、人道主義法、民主和法治……納入所有……教學機構的課程」，同時指出，「人權教育應包括各項國際和區域人權文件所載的和平、民主、發展和社會正義，以便達成共識和瞭解，從而增強對人權的普遍承諾。」而在《2005 年世界首腦會議成果文件》中，各國元首也強調「促進各級人權教育和學習，包括酌情實施《人權教育世界方案》。」

⁵ A/HRC/RES/16/1 第一條第二款

⁶ 從聯合國所通過的文件中長期以來呈現對人權教育的重視。一般而言，聯合國文件所提到的人權教育含有廣狹二義。廣義的人權教育泛指「尊重人權的教育活動」(如，國民受教權的落實)，狹義的人權教育則是指「以人權為活動重點的教育」。例如在《世界人權宣言》第二十六條第一款即表明「人人都有受教育的權利」，並在第二款規定「教育的目的在於充分發展人的個性並加

的實務操作上，存在許多不同的定義⁷，但在《宣言》中將其定義為「旨在建立普遍的人權文化的任何學習、教育、培訓和資訊交流的努力」，具體的面向包括：(a) 了解人權(about human rights)，包括對人權規範和原則的知識和了解、這些規範和原則所依據的基本價值觀，以及保護人權的相關機制；(b) 藉由教學過程實踐人權(through human rights)，包括採用尊重施教者和學生雙方權利的教學方法；(c) 實現人權(for human rights)，包括使人們能夠享有和行使他們的權利，尊重和維護他人的權利⁸。《宣言》第二條指出，藉由人權教育與培訓提供知識與技能，幫助人們理解並形成正確的態度與行為，不僅有助於防止侵犯和踐踏人權的行為，同時也能為營造與增進人權文化的建立有所貢獻。因此《宣言》第七條特別強調，國家、民間社會與企業負有增進人權教育與培訓的責任，而國家更應該確保對政府官員、公務員、法官、執法人員與軍事人員進行適當的人權培訓⁹。《宣言》第八條更主張，各國應當基於國家具體需求與優先事項，制定開展人權教育與培訓的戰略與政策，必要時制定行動計畫與方案，以及執行與評估和後續跟進(follow-up)的具體進程¹⁰。《宣言》第九條則再次重申遵照「巴黎原則」所建立的國家人權機構，在積極開展人權教育與培訓方面所能發揮的重要作用¹¹。《宣言》第十三條更鼓勵各國應將他們在人權教育和培訓的具體作為，收入他們提交相關人權機制的人權報告中，以成為未來人權理事會進行普遍定期審議

強對人權和基本自由的尊重」；《經濟、社會、文化權利國際公約》也規定，所有國家均須保證教育的目的在於加強對人權和基本自由的尊重。此處的「教育」可擴大解釋為廣義的人權教育。一九六八年德黑蘭第一屆世界人權大會進一步通過議案，敦促所有國家使用「所有的教育方法」來提供年輕人一個在尊重個人尊嚴與平等權利的環境中成長的機會。而在1993年世界人權會議通過的《維也納宣言和行動綱領》更針對人權教育作出符合狹義的定義，呼籲「所有國家和機構將人權、人道主義法、民主和法治……納入所有……教學機構的課程」，同時指出，「人權教育應包括各項國際和區域人權文件所載的和平、民主、發展和社會正義，以便達成共識和瞭解，從而增強對人權的普遍承諾。」而在《2005年世界首腦會議成果文件》中，各國元首也強調「促進各級人權教育和學習，包括酌情實施《人權教育世界方案》。」。

⁷然而對於人權教育的性質與內容，在國際社會已逐漸形成一個共識：一、人權教育必須同時包括「內容」與「過程」，同時特別強調參與式的教學方法有助於人權教學，二：人權教育的目標應該包括三個面向：認知、情意，以及行動取向的元素。參見 Monisha Bajaj, *Human Rights Education: Ideology, Location, and Approaches*, in *Human Rights Quarterly*, Vol 33, May 2011: 481-508. Anja Mihr, *Human Rights Education, Methods, Institutions, Culture and Evaluation, Discussion Papers Series, Magdeburg: Institut fuer Politikwissenschaft at the University of Magdeburg (2004)*.

⁸ 在《世界人權教育方案》第一階段行動計畫中，則將人權教育的面向分為：(a) 知識和技能—瞭解人權和各種機制，並掌握在日常生活中實際運用的技能；(b) 價值、態度和行為—發揚擁護人權的價值觀並強化這種態度和行為；以及 (c) 行動—採取行動保護和促進人權。參見 <http://unesdoc.unesco.org/images/0014/001478/147853e.pdf>, p 16.

⁹換言之，國家不僅有義務尊重公民接受人權教育和培訓的權利，而且有義務以一切適當手段，例如通過種種立法措施，逐步落實這項權利，另一方面國家有義務積極推行政策，確保公部門的執法人員受到適當的人權培訓。

¹⁰ A/HRC/RES/16/1 第八條

¹¹ 巴黎原則特別指出，國家人權委員會可以「協助制定人權問題教學方案和研究方案，並參加這些方案在學校、大學和專業團體中的執行」；以及「宣傳人權和反對各種形式的歧視，特別是種族歧視的工作，並透過宣傳和教育來提高公眾認識。」參見 A/RES/48/134 有關國家機構的地位與原則的說明：
<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/116/24/PDF/N9411624.pdf?OpenElement>

(*universal periodic review*) 的重要內容。

除了藉由通過《宣言》展現聯合國重申人權教育與培訓，乃作為人權基礎建設的重要性之外，事實上，為了有效落實人權教育，早在 1994 年 12 月 23 日，聯合國於第 49 屆大會第 94 次全體會議中通過的第 49/184 號決議，即宣佈自 1995 年 1 月 1 日至 2004 年 12 月 31 日為「聯合國人權教育十年」(*United Nations Decade for Human Rights Education*)，具體展現聯合國推動人權教育的決心¹²。兩年以後，聯合國第 51 屆大會通過《1995-2004 年「聯合國人權教育十年」行動計畫》¹³，鼓勵各國擬定和實施在全國進行人權教育的全面、有效和永續戰略的聯合國人權教育十年及其行動計畫。而為了有效落實人權教育十年所擬定的預期目標，聯合國大會於 2004 年 12 月 10 日第 59/113 A 號決議宣佈分階段進行的《世界人權教育方案》，則是試圖在各會員國推動實施人權教育方案的一項全球舉動¹⁴。

《世界人權教育方案》第一階段期間為 2005-2009 年¹⁵，主要重點目標是將人權教育納入小學和中學教育制度。聯合國大會並於 2005 年 7 月 14 日第 59/113 B 號決議，通過了《世界人權教育方案》第一階段的行動計畫，以作為締約國執行人權教育時可供參考的具體戰略。而《世界人權教育方案》第二階段(2010-2014)行動計畫，在人權理事會第 12/4 號決議中已經通過，並開始啟動¹⁶，除了持續進行中小學人權教育的推動之外，重點將針對高等教育¹⁷中的人權教育和對教師、教育工作者、公務員¹⁸、執法人員¹⁹和軍人，進行一系列的人權培訓行動計畫。此一行動計畫的具體目標，除了提供各國在促進高等教育以及對公務人員、執法人員與軍人的培訓方案應納入人權教育之外，並就高等教育及對公務員、執法人員和軍人的人權教育培訓方案中的關鍵要素，提供指導原則，並針對培訓應有的戰略方針、培訓內容以及教學的方式，提出綱領性的建議。基於篇幅，以下即針對行動計畫以及聯合國相關文件中，與本文有關之公務人員與執法人員培訓部分，進行簡要分析。

¹² *United Nations Decade for Human Rights Education*, U.N. Doc. A/RES/49/184 (1994). <http://www.un.org/ga/49/r/184.pdf>

¹³除了鼓勵詳細擬定和實施在全國進行人權教育的全面、有效和永續戰略的聯合國人權教育十年(1995-2004)及其行動計畫之外，聯合國其他與人權教育相關的行動包括：著重撰寫和傳播人權宣傳資料的世界人權宣傳運動(1988 年至今)、世界兒童和平非暴力文化國際十年(2001-2010)、聯合國教育促進永續發展十年(2005-2014)、國際人權學習年(2008-2009)及國際文化和睦年(2010)等。

¹⁴ 參見 A/Re/59/113B, <http://www.worldlii.org/int/other/UNGARsn/2005/44.pdf>

¹⁵ 第一階段行動計畫原定為 2005 至 2007 年，後來執行延長至 2009 年。

¹⁶ 參見 A/HRC/RES/12/4 決議：<http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G09/174/42/PDF/G0917442.pdf?OpenElement>

¹⁷ 「高等教育」是指「由大學或由國家主管當局批准為高等教育機構的其它教育機構提供的各類學習、培訓，或為高中後研究進行的培訓」。高等教育部門可以包括各級教師、社會工作者及醫療和法律專業人員的培訓和認證機構。

¹⁸公務員指的是「根據國家法律和政府結構，可能包括政府部門的官員和決策者、外交官、地方政府和市政府及財政和經濟機構的雇員、公共衛生專業人員和社會工作者。」

¹⁹執法人員指的是包括「員警、監獄工作人員和邊防員警，以及被賦予治安權力的安全部隊和軍隊等人員。」

一、策略方針

針對公務員、執法人員和軍人的人權教育培訓，行動計畫指出，若要使培訓計畫對受訓者的行為和職業表現產生預期效果，培訓必須與學員所在組織或機構目前執行的相關政策規定產生具體聯繫。因此在培訓政策的制定上應該採取下列策略：(a) 審查職前和在職訓練政策，確定其包括人權培訓，並將針對受訓者的人權課程作為職前培訓的必修課程；(b) 鼓勵實行有關職前和在職培訓的綜合人權培訓政策，將此類培訓作為執業資格和晉升的強制性標準；(c) 招聘與培訓適合與弱勢群體打交道的官員；(d) 不應該僅為個別官員開設一次性的培訓課程，而應鼓勵設立一個健全的國家培訓結構，將人權培訓制度化，使有關部門及其應當服務的社會各部門都參與其中；同時應該根據各國的制度，建立對制度化人權培訓的評估機制²⁰，針對培訓的效果進行分析與評價。

二、教學方式

而在培訓程序與工具方面，該行動計畫特別引用了聯合國「高級專員辦公室」所出版之《人權培訓-人權培訓方法手冊》(Human Rights Training: A Manual on Human Rights Training Methodology)²¹的幾項策略：

(一) 聽眾針對性(Audience specificity)

必須直接針對具體聽眾的情況，並按照他們的需求來安排培訓，無論他們是員警、衛生工作者、外交人員、軍人還是研究發展問題的專家。同時必須訂立具體的學習目標（培訓後學員在知識、態度、行為和技能方面的預期變化）；並應設計評估策略，特別是如如何衡量學習目標的實現程度。

(二) 相關並實用的內容(Relevant and practical content)

培訓材料應圍繞與學員日常生活直接相關的人權標準和實踐。學員不僅需要瞭解人權是什麼，而且需要知道如何在現實生活中加以運用。因此，教學過程中必須避免照本宣科地講述人權文件，而是應該讓學員們更深刻地瞭解，促進與保障人權對他們的工作能帶來哪些好處，並實際傳授對學員從事實際工作切實有用的技巧²²。畢竟僅僅知道人權標準，並無法使學員將這些規則轉變為適當的職業行為。因此，人權意識的培養，應該被看作是一個透過實踐和應用而不斷完善的過程，培訓內容的設計應該圍繞學員的工作職能，以及如何在實際工作業務中運

²⁰因此理想的執行步驟應為（1）分析受訓學員人權培訓的現狀。步驟（2）確定優先事項，並擬定國家執行戰略，確定目標和優先事項，並計畫執行活動。步驟（3）執行和監測 步驟（4）評價。見《世界人權教育方案》第二階段行動計畫：<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/151/48/PDF/G1015148.pdf?OpenElement>: p24-26

²¹例如，對於執法人員、移民官員、檢察官的培養訓練方案，應著重在如何使他們更敏感地注意到種族主義、種族歧視、仇外心理和相關的不容忍現象；而處理移徙問題工作或接觸移徙工人及其家庭成員的官員，則更需要了解《保護所有移徙工人及其家庭成員權利國際公約》的內容。

²² 《人權培訓—人權培訓方法手冊》，p7。

用人權，尤其重點應放在具體可能遭遇的人權問題之上²³。

（三）參與式和敏感察覺的培養訓練技巧（Participatory and sensitizing training techniques）

為保證學員的積極參與，培訓方案應採用各種創造性的參與式培訓技巧，包括自由討論會、角色扮演、小組學習、案例研究、專題小組討論和實地訪問等。採取參與式培訓的方法，是因為人權如何落實，是每個人生活經驗的一部份，因此必須從真實生活中，關注人權的存在、被侵犯以及如何被保障，同時從真實的生活經驗中分享不同觀點以及發展分析技術，去理解、運用以及提倡人權²⁴。倘若藉由設計良好的實作，可以使學員認識到，自己有可能導致侵犯人權的行為（例如，加強學員對自身態度或行為中的性別或種族偏見的認識），也能有效促進並捍衛人權。而聯合國人權事務高級專員辦公室所出版的《人權培訓-人權培訓方法手冊》更明確指出：「僅僅講述空洞的一般性原則對特定學員的實際行為不會產生多大影響。要使培訓和教學富有成效，讓人確實感到不枉費時間，必須直接針對具體學員的情況，按照他們的需求安排培訓，無論他們是員警、保健工作者、律師、學生、還是研究發展問題的專家。²⁵」

（四）同儕學習(Peer learning)

透過同儕學習，例如，令員警和軍人接受同行的培訓，而不採用師生培訓的模式，可以取得更大的效果。例如由業務性質相近的學員，例如警察與執法人員之間彼此討論與交流，比起單調的講授方式能夠達致更好的成效。因此講師最好不完全是由教授和人權理論家擔任，還應該包括具有實際經驗的人權工作者。這種模式確保講師接觸並體認到不同類別的受訓者，所處的獨特職業文化或氛圍。

（五）自尊的作用(The role of self-esteem)

在重視學員學習過程的自尊維護方面，應鼓勵受訓學員將他們的專業知識和實際經驗帶到培訓課程，這將對培訓活動有所助益。培訓講師應該設法創造一種氛圍，便利於彼此交流知識和經驗，並承認學員的專業知識。由於學員都是實務工作者，因此任何有意義、有成效的培訓活動都應該鼓勵他們把豐富的經驗帶到培訓班，並在學習過程中積極汲取這些經驗，讓學員體認他們既可以學到東西，也可以作出貢獻²⁶。

²³ 例如《消除對婦女歧視委員會》在其關於對婦女的暴力行為的第 19 號(1992)一般性建議第 24(b)段中便指出，向司法和執法人員及其他公務官員提供對性別問題敏感的培養訓練，對於有效執行《消除對婦女歧視公約》是根本必要的。

²⁴ 有關參與式培訓的方法論，請參見 Dave Donahue, “Why a Participatory Method for Human Rights Education?” in *Training for Human Rights Trainers, Book 1: Facilitator's Manual* (Montreal, Canadian Human Rights Foundation (Equitas), 2001); Felisa Tibbitts, *Transformative Learning and Human Rights Education: Taking a Closer Look*, in *Intercultural Education*, 107-113 (2005).

²⁵ 參見《人權培訓-人權培訓方法手冊》，P8

²⁶ 《人權培訓-人權培訓方法手冊》，P9

三、培訓內容:

在有關培訓內容方面，行動方案中明確指出，基於「聽眾針對性」的要求，應針對公務員、執法人員和軍人的職業屬性，開發不同的教材內容。例如，當國家為公共利益而採取的行動可能威脅到弱勢群體的人權時（如兒童、女性、老年人、殘疾人士、囚犯、難民和移徙者），社會工作者需要保障對其人權的保護。因此對社會工作者的人權培訓應該著重於對弱勢群體的認識與保護。而對員警的人權培訓，應包括涉及各種員警職能的人權標準，例如：警察調查方法、搜查和扣押、逮捕和審前拘留、武器的使用、在內亂、緊急狀態時維持治安、合法的人群控制措施等。對員警的人權培訓也應著重於需要特殊保護的群體，如青少年、婦女、移徙者、難民和殘疾人等。而對監獄官員的人權培訓應該使學員熟悉監獄工作中的國際人權標準，促進對監獄官員工作中執行較具人道的檢查手段，並使學員能夠將此內容納入日常工作。至於軍人的人權培訓，則需要接受相關國際人權準則和標準的培訓，涉及到與衝突有關的任務，以及現代職業軍人作戰之外的職責。這些職責越來越多地包括民事治安責任、在緊急狀態下維持秩序和公共安全、參與國際維和行動等。因此軍人需要瞭解並意識到各項人權標準，以及培養如何將其運用在軍隊日常工作中的技能。²⁷

參、他山之石：英國經驗

關於人權教育與培訓的努力，英國的經驗值得參考。自從 1998 年人權法通過之來，英國政府便持續關注如何在公部門之間將人權原則融入於立法過程、政策制定與公共服務之中。英國《人權法》在 2000 年正式生效前，英國政府設定一個兩年準備期（1998 年 11 月至 2000 年 10 月）。在這兩年的準備期，一方面主要對公務人員進行教育訓練，另一方面則透過對行政、立法、司法三權的積極把關，檢視新法案與舊有法律是否有任何違反人權法之公約權利。其中英國法務部（Ministry of Justice），主要負責針對司法人員提供法庭訓練及相關司法培訓，一方面對於新進司法人員提供初階基礎訓練，另一方面也持續對在職的司法人員提供專業性的訓練。2000 年 1 月至 10 月，司法研究委員會（Judicial Studies Board, JSB）主掌了《人權法》所有面向的法官培訓。培訓內容包括介紹性講座、個案研究和全體法官開庭等，並由資深的法官來訓練新進的法官。而自 1999 年 9 月以來，司法院也針對治安法官的法律顧問（Magistrates' legal advisers）²⁸——提供了類似培訓。之後由訓練完成的法律顧問（Legal advisers）針對治安法官

²⁷ A/HRC/15/28, p 23.

²⁸ 在英國的刑事程序有一個特色，即在刑事法院最底層者，即審理輕罪案件之治安法院（magistrates courts），其所屬法官是由非法律人之業餘裁判官（lay magistrates）所組成，約有 3 萬人左右。治安法院由三名非專業法官（Lay Magistrates）和一名法律顧問（Legal Advisor）組成，非專業法官是受過法庭訓練無給職之工作，主要負責審理較不嚴重的案件，如竊盜、危害公共安全、刑事毀壞、道路安全等。

(Magistrates) 舉辦培訓，訓練的規模浩大，在 1998 年英格蘭和威爾斯有超過三萬名非專業法官 (Lay Magistrates)，每一位都需要受訓，除此之外，所有和法庭運作相關的公務人員也都必須接受訓練。

除了法務部的培訓計畫之外，各部門也都有自己的人權培訓計畫。在 1998 年與 2000 年之間，每一個政府部門都開始了該部門的人權訓練計畫，依各部門以及下屬部門機關不同的功能，設計不同性質與難易程度的課程，提供訓練的講師由不同領域、背景的律師、學者和非政府組織共同參與。例如由衛生部所推動的「保健中的人權計畫」(Human Rights in Healthcare Project)，也透過撰寫指導手冊、個案研究以及操作工具，以及人權線上學習資訊等，以提供該部會公務員一個以人權為本(rights-based approach)的衛生保健途徑應該如何落實的人權教育方案²⁹。而在對於英格蘭以及威爾斯獄政人員的人權訓練上，英國政府也有所作為。所有的新進獄政人員需要完成一年的基礎訓練課程，其中許多的課程要求將《人權法》的基本精神融入於教學過程中，特別是有關溝通技巧(包括語彙的使用、肢體語言以及傾聽的態度與技巧)，在面對衝突情境時該如何行使武力、以及針對包括身心障礙、種族、年齡以及性別等特徵，獄政人員在行使公權力過程如何妥善應對，以切實尊重差異(diversity)。

此外，英國皇家檢察局 (The Crown Prosecution Service) 針對所有檢察官及行政人員舉辦培訓，以確保所有人員都能在執勤過程中切實理解並應用《人權法》，特別針對第六條有關公平審判權的規定，列舉所有相關的歐洲案例，以確保所有檢察官在職權行使過程中，能確保當事人的權利與自由的保障，能夠符合歐洲人權公約的規定。檢察局並定期更新法律實例，每兩周提供一次關於新判例法的最新法律情報，同時定期審閱政策的語彙使用上，是否違反《人權法》的精神。

而為了檢視人權法施行成效，並設計一套讓公務人員更加瞭解《人權法》與其實務工作，英國法務部於 2006 年 7 月提出的《落實人權法的評估報告》(Review of the Implementation of the Human Rights Act) 中指出，即使在 1998 年施行人權法之前與之後，英國已經進行不同程度的人權培訓，但英國政府檢討培訓的成果後發現，公務人員對人權法的熟習還是明顯不足。因此法務部於 2006 年 10 月設計了包括 Human Rights, Human Lives 手冊 (以下稱為 2006 英國法務部手冊) 等培訓教材，專門提供給公務人員參考³⁰，並且也與獨立的人權教育組織 British Institute for Human Rights (以下簡稱為 BIHR) 合作，繼續提供公務人員關於人權法的訓練。該手冊開宗明義即強調，手冊盡可能就常民素樸的語彙來陳述與分

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參

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<http://www.dh.gov.uk/en/Managingyourorganisation/Equalityandhumanrights/Humanrights/index.htm>

³⁰ 教材包括: Human Rights: Human Lives- a Handbook for Public Authorities; Making Sense of Human Rights: A Short Introduction, 以及 DVD 教材: Human Rights-Human Lives: How the Human Rights Act Impacts on the Public Sector. 請參見 <http://www.justice.gov.uk/guidance/docs/human-rights-handbook-for-public-authorities.pdf>

析，以便讓最大多數的公務人員的作為找到遵循的入門基礎。這些資料與訓練有幾個特點：

一、顧慮到第一線實務人員，使其能加以應用

這些資料與訓練，是要讓第一線的實務工作人員可以應用，改善他們日常服務的品質，使其更符合人權公約的規範。而 BIHR 所提供的訓練，也非常明確是針對各式公務人員的業務性質所需而打造，包括對警察、對移民業務承辦人員、對地方政府的社福業務人員等。每一個培訓計畫都會明確指出該次培訓的目標團體(target group)、課程難度是屬於初階或進階、以及預期的目標等。而 BIHR 所提供的公務人員培訓，典型的課程設計是依循「觀念(the ideas)→ 法律現狀(the law)→ 實務處理(the practices)」³¹三個層次來進行。在介紹完人權與《人權法》的概念之後，就會安排案例探討、並進行團體討論，確認如何在個別工作中落實人權規範。

二、對人權法及人權概念作提綱挈領的說明，而非講課式的解釋條文

2006 英國法務部手冊的前言，開宗明義說：「你不會在這本手冊裡看到一堆法律專業術語(jargons)。」但是並不表示這本手冊只提供簡單的人權 ABC。該手冊簡要但完整說明了《人權法》、《歐洲人權公約》裡所涵蓋的 15 種權利類型，同時包括人權案例與申請救濟的流程圖；且說明「絕對的權利」(absolute rights)、「可被限制的權利」(limited rights)、「可被保留的權利」(qualified rights)等類型及其判斷標準；也談到權利的「比例原則」，以建立對人權的正確認知，並提出人權流程圖(human rights flowchart)，提供第一線的公務人員在執行公務時，如何應用《人權法》的精神於實際的案例之中，避免「人權就是把一切權利擴大解釋」的迷思。而這些內容，該手冊強調，都是以庶民可以理解、簡單扼要、切入實務需求的方式來呈現。

三、提供案例、討論實務需求

在手冊中，對於《歐洲人權公約》每一條文及其規範權利的說明之後，都有附上「案例探討(case study)」，提供 1 則至 2 則實際在法庭上、或在行政申訴機制裡發生的案例，並分析該案例是否適用《人權法》。除了「案例探討」，手冊還有提供「執行範例(best practice example)」，明示怎樣的處理方式最妥當。

除了提供公務人員的人權教育與培訓之外，法務部也同時進行一般大眾的人權教育工作，為建立人權文化而努力。因此法務部出版了許多適合一般大眾閱讀的指導文件，例如 *A Guide to the Human Rights Act 1998*; *The Human Rights Act: An Introduction*; *Human Rights: Fact and Fiction*; 以及特別針對身心障礙人士所編寫的: *A Guide to the Human Rights Act: a Booklet for People with Learning*

³¹ <http://www.bihhr.org.uk/training-and-consultancy/public-service-providers-training>

*Disabilities*³²。

藉由上述對於《人權教育與培訓宣言》以及《人權教育方案》第二階段行動計畫的內容分析，大致呈現了聯合國當前對於人權教育與培訓的思考方針與執行步驟。同時藉由英國落實人權法的經驗，也可以理解他國的落實經驗與遭遇的困境。以下即基於聯合國所提出的戰略方針與內容以及英國的落實經驗，針對我國當前為促進《兩公約施行法》的落實，對於公務人員所進行人權教育與培訓，進行初步的檢視。

肆、人權大步走計畫

為因應兩公約的具體落實，2009年4月24日在馬英九總統聽取「『兩公約』暨『兩公約施行法草案』推動進度報告簡報」後作出以下六點裁示：

1. 「兩公約」之內容因涉及各機關，所以法務部宜按部就班推動，辦理種子講師培訓營之講義教材，編纂為總論部分，各論部分可由各機關自行依權責編纂。
2. 法務部辦理種子講師培訓營之講義編纂，應包括「兩公約」與我國現行法規之比較及各機關檢討因應之建議，因牽涉各部會之權責，宜將「兩公約」之內容，相對應各條分別函請各機關權責，由法務部作一對照表（清單），某一條文涉及國內哪一有關機關的法律，該相關機關，提供該機關符合「兩公約」相對應權責內容之內涵與其主管之相關法規及檢討因應之作法。
3. 法務部於彙整各相關機關意見後，應擬具講義教材初稿及題綱，並組成教材委員會審查，再邀請專家，召開座談會研議教材的編寫，綜整各界意見。
4. 法務部應考慮架設網站，做為推動人權基石，才能永續推動。將推動「兩公約」、「兩公約施行法」及相關人權之經過及訊息在網站上公布。
5. 有關國際公約在我國法律體系上之定位、效力及國內法化之方式，法務部可委託學者、專家針對哪些國際公約可以國內法化（如：制定施行法方式或對已簽約之公約得否包裹立法方式）之方式，及哪些公約對我國司法實務有可能適用等進行研究。
6. 另請法務部於法官及檢察官之職前訓練，加強對於國際公法之相關訓練，未來國家考試應加考國際法³³。

在聽取馬英九總統的裁示後，法務部隨即研擬完成「人權大步走計畫—落實執行《公民與政治權利國際公約》及《經濟社會文化權利國際公約》」（簡稱人權大步走計畫），並由行政院於2009年5月7日核定。法務部「人權大步走」計畫

³² link: <http://www.justice.gov.uk/guidance/humanrights.htm> .

³³ 參見人權大步走計畫總說明 <http://163.30.117.129/peowalk.htm>.

主要著重於三大面向：1、檢討本國法規是否違反兩個國際公約；2、對公務人員進行人權的教育訓練；3、研究國際公約取得內國法效力之方式，以及我國當前參加國際公約之困境及效力³⁴(彭坤業，2010)。法務部一方面著手推動教育培訓的活動以及進行因應內國法之後相關的法案研究，同時也負責彙整各部會進行法規檢視的執行成效。因此法務部不僅為「人權大步走計畫」的「宣導統籌」機關，也是落實各部會執行成果之「彙整」機關。目前的執行成效可分為下列幾個面向：

一、講義的編纂：依循馬總統所裁示之 1-3 點，法務部負責編撰兩公約種子培訓的「總論」講義。總論的核心部分³⁵主要著重在對兩公約的每一條文進行背景說明以及逐條釋義。而自 2010 年 10 月 27 日起，法務部著手推動中階種子培訓營，同時編撰中階培訓講義，而與總論講義的性質相同，中階培訓講義內容仍是由專家、學者針對《兩公約》各條所表彰的人權理念與背景進行逐條釋義。

二、種子講師培訓：種子講師培訓營的目的在於訓練種子講師，藉以受訓完畢之後可以訓練其他人員，並協助法令與行政措施的檢討。種子講師培訓的目的，在於培育每一個部會中除了專業職能之外，兼具人權知識與技能的講師。倘若每個參與培訓的學員，都能在種子培訓營中獲得基本的知識與技能，日後回到各部會進行人權的宣導與講習時，他們將是最能理解與探究該部會業務中涉及相關人權議題的專家。種子講師培訓自 2009 年 9 月及 10 月共分 6 個梯次進行，主要對象為各級政府機關人員。受訓的人員共有近 2400 人。講師主要是以法務部所建構之「人權專家名單」為主³⁶，主要教材為法務部所編撰之「總論」，課程規劃共四堂課 12 小時。

三、中階種子培訓：在進行六個梯次的初階種子培訓營之後，法務部進一步研擬「《兩公約》學習地圖」計畫，規劃自民國 2010 年至 2013 年舉辦「《兩公約》

³⁴具體而言，此計畫的工作項目，基本上可區分為四大項：(一)、宣導：1、總論講義之編撰、審查與印製：法務部負責編撰兩公約培訓「總論」講義以及「各論」講義，並協助國家文官培訓所撰寫人權課程大綱及講義。2、培訓種子人員。3、製作宣導品及託播。4、洽請各機關、學校、部隊辦理宣導、講習會。(二)、敦促各級機關檢討修正與兩公約不合之法規及行政措施；同時函請各級政府機關依「兩公約施行法」第八條預為因應，檢討所主管之法令及行政措施，有無符合「兩公約」規定。此外，要求各級政府機關依「兩公約施行法」第八條檢討所主管之法令及行政措施，有無不符「兩公約」規定，應邀請學者、專家及相關人權團體召開會議審議，並綜合整理各界意見。(三)、在法務部全球資訊網設置「人權大步走」專區：架設「人權大步走資訊網」專區。(四)、委託學者研究「國際公約國內法化的實踐」：研究內容包括公約取得內國法效力之方式、重要民主先進國家內國法化情形及作法、我國當前參加國際公約之困境及效力面臨之疑義暨解決方式、我國當前公約內國法化可採取之作法及其優缺點研析等。見彭坤業,2010,人權大步走政府推動兩公約之實踐,發表於「百年人權之省思與展望國際研討會」。

³⁵總論共分為六大部分，分別為(一)序言，(二)總統裁示，(三)《公民與政治權利國際公約及經濟社會文化權利國際公約施行法》總說明及逐條說明，(四)序文及逐條釋義：針對兩公約的條文進行背景說明以及逐條的釋義，(五)問題例示：針對各部會所彙整的相關法令政策可能不符兩公約的條文，以例示的方式呈現，以及(六)附錄：兩個公約原條文。

³⁶「人權專家名單」究竟以何種方式加以認定與建構並不清楚，但成員既包括具學術背景的學者，也包括專業的人權工作者，有些則屬於人權團體的理監事，然具備何種人權專業，從該名單中無法得知，導致許多受訪部會在面臨尋找符合該部會議題的講師的過程中，出現許多困難。不過從目前所進行的種子培訓講師名單看來，大部分是委由法律學者及律師擔任。

中階種子培訓營」。自 2010 年 10 月 27 日起，已舉辦七場中階培訓營，目前共有 2,565 位公務員參與³⁷。培訓內容依場次性質分別為《公民及政治權利國際公約》第 1 條至第 5 條逐條釋義、《公民與政治權利國際公約》第 6 條至第 15 條逐條釋義，與《經濟社會文化權利國際公約》第 1 條至第 5 條以及《經濟社會文化權利國際公約》第 6 條至第 8 條逐條釋義；講義內容主要是由專家、學者針對《兩公約》各條所表彰的人權理念所撰寫，並由專家擔任講座，以逐條宣導的方式進行。兩公約其他各條文之培訓將分三年舉辦，預計至民國 2013 年完成所有條文的講授與宣導。

四、講習：自 2009 年 10 月開始，法務部即開始督導各機關辦理公務人員的講習，教材仍為「總論」講義，並輔以各機關依權責編撰的各論講義³⁸。講習會以演講的方式進行。而自 2009 年 10 月至 2010 年 12 月，總共有 66 個部會機關已辦理過 4,256 場講習會。

五、宣導：法務部藉由出版兩公約學習光碟、宣傳海報、插播卡以及報紙廣告等方式，向社會大眾進行宣導的工作，並將這些資料與「《兩公約》學習地圖」計畫中「《兩公約》中階種子培訓營」講義資料，放置於法務部全球資訊網「人權大步走專區」，供各界作為辦理《兩公約》宣導之教材。

表一、兩公約之公務員培訓及宣導講習會人數與場次統計表

項目	兩公約種子培訓營	法務部所屬機關各論講習會	兩公約宣導 ³⁹ 與講習會	兩公約中階培訓營
時間	2009/09/10	2009/12	2009/10-2010/12	2010/10-2011/05
人數/場次	2400 人	297 人	4,256 場	2,565 人

伍、人權教育與培訓：初步檢視

從上述種種培訓與講習的場次與參與人數，可以看出過去二年來，法務部統籌之《人權大步走計畫》推動的方向與規模，以及試圖藉由培訓與宣導，加速公部門落實兩公約的決心。然而人權培訓應該有明確的目標與方法，才能達致具體成效。從法務部的觀點而言，培訓的成效是可以預期的，儘管如何呈現成效的具體數據有其困難性。然而，若從其他接受培訓的各部會成員而言，參與種子培訓

³⁷ 參見人權大步走網站：<http://163.30.117.129/peowalk.htm>

³⁸ 依據馬英九總統在「『兩公約』暨『兩公約施行法草案』推動進度報告簡報」後作出的六點裁示中，特別要求各機關自進行種子講師培訓過程中必須依各機關權責編撰各論講義。然而各機關在此部分的成效非常有限，除了法務部與國防部之外，並未依職權編撰各論講義，若干部會僅有邀請的專家學者進行講授時的講綱或投影片，但未做有系統的編撰。其中法務部已於 2010 年 11 月針對所屬機關舉辦各論的講習會共 297 人參與。

³⁹ 至於各部會進行宣導的方式，較不拘形式，可能是以書面或是其它的方式來宣傳兩公約的相關資訊。

的成效卻與法務部的觀察有所落差，同時不論從各部會訪談資料，或是人權教育方案的戰略綱領而言，各部會有關公務人員的訓練仍有很大改善的空間：

一、缺少公約正式上路之前的準備期，導致培訓品質大打折扣

如上節所述，在人權教育方案的執行步驟中，建議各國應針對人權教育與培訓的現狀進行評估，找出既有的方案及其缺點與障礙，以及可能影響人權教育和培訓的歷史和文化背景，才能在既有的環境下確定目標以及優先事項。而國際非政府組織《國際特赦組織》(Amnesty International)所出版的《對政府官員進行人權培訓和教育的良好執業規範的12點指南》(A 12-point guide for good practice in the training and education for human rights of government officials)中也明確指出，進行培訓之前評估人權現況的重要性⁴⁰。關於此一事前評估步驟對於執行成效的影響，可以英國落實《人權法》經驗為例。如上所言，英國《人權法》在正式生效前，英國政府設定一個兩年準備期(1998年11月至2000年10月)。在這兩年的準備期，一方面主要對公務人員進行教育訓練，另一方面則透過對行政、立法、司法三權的積極把關，檢視新法案與舊有法律是否有任何違反人權法之公約權利。其中就教育訓練而言，對象極為廣泛，包括中央及地方政府機關、法人與公民社會團體，從法官到公務員、法人機關成員，皆在其內。在1998年英國和威爾斯有超過3萬名非專業法官⁴¹(lay magistrates)，每一位都需要訓練，可見其訓練的規模。除此之外，所有支持法院運作的公務人員也都必須接受訓練，所以即使是提供給政府各別部會的訓練，規模都相當浩大⁴²。而每一個政府部門皆依照機關職權的性質，設計各部會的人權訓練計畫。然而2000年訓練期限屆滿之前，英國政府認為，由於法院尚未在審判實務上正式運用人權法案，無法預測法庭如何妥適地在個別案例中使用人權法，有必要將實際案例也列入訓練內容，因此立即啟動第二階段的訓練計畫，直至2003年才進入總結經驗的收尾階段⁴³。反觀臺灣在兩公約施行法正式生效前，並未進行充分的培訓準備，培訓的規模也僅止於少部分的公務人員，而每梯次種子講師僅上12小時四堂課，即完成講師訓練，在質與量的要求上，明顯不足，因此種子教師在受訓完畢後，能否切實訓練其他同仁，並協助法令與行政措施的檢討，不無疑義⁴⁴。如上所述，種子教師培訓營的目的，就是希望透過訓練種子講師，藉以受訓完畢之後，可以訓練其他人員，並協助法令與行政措施的檢討。倘若每個參與培訓的學員，都能在種子培訓營中獲得基本的知識與技能，日後回到各部會進行人權的宣導與講習時，他們將是最能理解與探究該部會業務與相關人權議題的專家。然而由於種子

⁴⁰ 十二點指南第一點指出：在開始人權培訓計劃前，不可或缺的步驟是根據特定國家的人權狀況確定培訓計劃是否可行。還應進行需求評估，以確定優先目標，並確定計劃的範圍和實施方法。

⁴¹ 意指法院最低層的人員

⁴² Eric Metcalf, 〈英國之人權法及位其施行所作的人權訓練〉, TAHR 報, 2010 春季號: p64.

⁴³ Eric Metcalf, 〈英國之人權法及位其施行所作的人權訓練〉, TAHR 報, 2010 春季號: p65., 兩公約施行監督聯盟, 〈一年又七個月來政府落實兩公約及其施行法之檢討〉, 2010, p9.

⁴⁴ 亦有部會出現受訓的人員，與真正負責人權相關業務辦理的人員不同，抑或受訓人員被調離部會的情況，導致這些受訓人員是否能發揮傳授及宣導之功效，許多部會皆有所質疑。

培訓的成效不佳，這些種子講師無法擔任知識傳播的角色，導致種子培訓的目標無法具體實現。

二 教材不易理解

從教材而言，根據「人權大步走計畫」，教材分為「總論講義」，以及各機關「依權責編纂之各論講義」。以總論的內容而言，除了序文以及緒論之外，主要的內容是針對兩公約的條文進行逐條釋義。儘管這樣的教材內容可以提供受訓者對於兩公約內容一個初步的輪廓，但與上述聯合國人權教育方案所建議，抑或國際上進行人權訓練時所常用之「教案」的訓練教材，有明顯的差異，導致許多受訪部會認為，教材內容過於形式與抽象，不易理解⁴⁵。其中主要的原因在於法務部的培訓教材的撰寫，主要是從兩公約的概念與一般性介紹，進而對各條文進行逐條釋義，然而在理解條文之後，究竟如何在實務上進行操作，出現轉譯過程的困難，導致培訓的內容與各部會的專責業務的關聯，產生嚴重的斷層⁴⁶。

三、從種子培訓而言，培訓內容仍採取專家演講的方式進行，缺乏對具體案例與實務的探討，同時缺乏活用的、針對不同實務需求、不同對象的培訓教材，導致所學內容無法應用於實務操作。

除了培訓的教材呈現抽象艱澀的問題之外，以專家演講的方式進行培訓，也是導致成效不佳的主因之一。一方面由於在未有準備期的前提之下匆促上路，大部分部會皆缺乏人權培訓所需的經費與能力，另一方面也缺乏同時熟悉各部會職責範圍及人權專業之培訓講師，使得《人權大步走》種子培訓的內容，仍借重法學教授與律師講述抽象的法條概念、歷史發展等理論部分，缺乏個案或教案的模式，引導學員在操作面上與其工作業務產生實質關連，並進而思索如何才能達致消極地不侵害人權或是積極地保障人權，導致本來就對人權議題及兩公約不熟悉的官員，在自認自己並未具備法律專業背景的情形下，不僅對兩公約內容的理解產生怯步，更無法輕易的將理論運用於實務層次⁴⁷。依照法務部原初的規畫，希望各部會在進行種子培訓之後，可以進一步針對各部會的業務性質，撰寫各論並執行進階的專業培訓。然而除法務部與國防部已編有各論之外⁴⁸，其它的部會並

⁴⁵ 在十一個受訪的部會中，有八個部會工作小組成員有此一反應。

⁴⁶ 正如一位受訪者 B 所言：

「...如果說舉的例子都是跟我們業務相關的東西，我覺得大家會比較進入那個情境，如果單純只是講法條的話，我會覺得那個東西比較枯燥，相對的在業務擴展這方面就會有一點限制。」

⁴⁷ 對部分學員來說，對公約進行逐條釋義之外的講授內容，反而引發更高的學習動機。一位受訪者 c 認為：

「.....有的老師真的不錯，他不一定會照那個東西講，可是反而他講得讓你能夠吸收，...，不舉一些生活上的實例，我覺得其實蠻抽象的，如果說逐條照文字在闡釋，我是覺得既枯燥也很難理解。」

⁴⁸ 國防部的各論教材內容是由軍法司提供素材和方向，並請北部地方軍事法院邀集軍法官，針對目前國軍裡的主要案例，用判例的方式呈現，以活潑簡約的方式進行編撰。

未依其機關權責編撰各論講義，導致在提升各部會人權意識的努力大打折扣⁴⁹。另一方面，由於在種子培訓中對於總論的內容，大部分學員已經出現無法瞭解與轉化的情形下，期待種子講師在自己的業務單位上進行進階的人權培訓，難度著實很高。

另一方面，當前法務部所研擬之「《兩公約》學習地圖」計畫，實與上述的聯合國的教學建議有很大的差距。如上所言，在目前所規劃並已完成的七場「《兩公約》中階種子培訓營」，講義內容主要是由專家、學者針對《兩公約》各條所表彰的人權理念所撰寫，仍採取初階訓練時的論文形式，而非「教案」式的訓練教材，並由專家擔任講座進行逐條宣導，預計2013年才會完成所有條文的講解，具體成效如何，仍待後續的評估，但以當前初階種子培訓的成效來看，前景恐不樂觀。

除了上述英國的具體經驗之外，聯合國人權事務高級專員辦公室(OHCHR)，也針對特定對象包括社工人員、法官、警察、獄政人員的人權訓練，出版許多教案。除了本文一再提及的《人權培訓——人權培訓方法手冊》之外，尚包括：社工人員的部分有《人權與社會工作：社會工作專科學校和社會工作專業手冊》，警察的部分有《人權與執法：員警人權培訓手冊》；《人權與執法：員警人權培訓教員指南》；和《員警人權標準與實踐：員警使用的人權袖珍手冊增訂本》。監獄官員培訓教材則包括：《人權和監獄：監獄官員人權培訓手冊》；《人權和監獄：有關司法的國際人權文件彙編》；《人權和監獄：監獄官員人權培訓員指南》；和《人權和監獄：監獄官員國際人權標準手冊》。然在目前的培訓過程中，仍未見採用，實屬可惜。

陸、幾點建議

從各部會訪談的資料可以得知，不論是「人權大步走」的初階培訓，或是目前正在進行的中階培訓課程，在培訓的內容方法與目標上，都出現許多問題。本文建議法務部應針對目前種子培訓執行成效進行評估，同時政府相關部門應盡速調整作法，參考聯合國相關準則與教案，以解決成效不佳的問題。同時各相關機關之訓練中心，應採納上述作法進行各論的編撰，並將兩公約納入訓練課程，以盡速達成各機關自行依權責編撰各論的要求。除此之外，本文建議可以採取以下幾點作法，以作為未來政府部門落實公務人員人權教育與培訓的參考。

一、立即擬定「國家促進及保障人權行動計畫」

有鑑於目前兩公約施行法落實的狀況，亟需一個整體性的規劃，才能全面性地解決包括機制、政策與教育培訓等問題，本文建議應由總統府人權諮詢委員會

⁴⁹有六個部會工作小組強調內部培訓的教材，主要依據法務部的總論講義，並輔以外部邀請的專家自行編寫講綱的方式呈現。

立即研擬一個「國家促進及保障人權行動計畫」。所謂「國家促進及保障人權行動計畫」(National Plan of Action for the Protection and Promotion of Human Rights, 以下簡稱「國家人權行動計畫」)乃是一九九三年維也納世界人權會議的產物。根據《維也納宣言和行動綱領》(Vienna Declaration and Program of Action, VDPA) 第二部分第 71 條規定:「世界人權會議建議每個會員國考慮是否可以擬定國家行動計畫, 認明該國促進和保護人權所應採取的步驟。」

因此, 國家人權行動計畫是國際上促進與保障人權的重要機制, 其目的在於透過國家的策動與社會的參與, 為一國的人權落實, 制定短、中、長期的全面計畫, 以及持續評估、修正之機制。而在聯合國 2002 年出版之《國家人權行動計畫手冊》更闡明, 若要成功促成對於人權的尊重, 並以人權考量作為公共政策的一項要素, 必須考慮許多的因素, 包括在社會規劃方面要進行全面性的需求分析、提出廣泛的和漸進式的方案建議、資源配置以及有效的評估。另外, 還需要態度上的改變、教育和培訓、健全和獨立的法律和司法體系、以及尊重法治等⁵⁰。同時也需要資源和政治意願來讓這套政策和計畫可以落實。因此透過國家人權行動計畫的啟動, 將有助於對於未來人權落實狀況, 進行全面性檢視, 持續的評估、修正現有機制並找出具體的行動策略。經過〈維也納宣言及行動綱領〉之呼籲, 截至目前為止已有 29 個國家推動 37 個「國家人權行動計畫」, 以落實對人權的保護與促進的任務⁵¹。

因此, 本文建議, 總統府人權諮詢委員會可以根據《維也納宣言和行動綱領》與《國家人權行動計畫手冊》擬定「國家人權行動計畫」, 針對當前我國必須處理的人權保障與促進事項, 包括: 如何強化國家促進及保障人權之能力、設立或強化人權專責機構的可行性、對於其他國際人權公約批准的問題、建構可以確保改善弱勢群體處境之有效救濟程序、加強及促進政府各部門、地方政府與非政府組織及其他民間代表間之合作計畫, 推動各部會進行撰寫報告所需的基礎培力訓練計畫等。其中在人權教育與培訓部分, 藉由行動計畫的啟動, 提出落實人權教育的具體方案, 訂定明確的優先順序與重點, 同時列出執行步驟與時程, 以及必須完成的短、中、長期「目標」、「戰略方案」和確定「經費」來源, 以達至有效落實《兩公約》及《兩公約施行法》的相關要求。

二、儘速加強新進與在職法官對於兩公約所保障之人權的教育培訓

以防止法官由於對國際人權法不甚了解, 下意識的避免引用兩公約之規定作為裁判之依據。因此除了馬總統所要求對法官及檢察官之職前訓練, 加強對於國際公法之相關訓練之外, 本文建議不論是司法官訓練所亦或司法人員研習所, 在

⁵⁰ 參見聯合國《國家人權行動計畫手冊》
<http://www.ohchr.org/Documents/Publications/training10en.pdf>.

⁵¹http://www2.ohchr.org/english/issues/plan_actions/。中國政府於 2009 年四月制定了《國家人權行動計畫 2009-2110 年》, 中國官方宣稱, 該人權行動計畫的內容係參照聯合國大會 1993 年通過的維也納宣言和行動綱領, 以及聯合國人權事務高級專員辦公室 2002 年頒布的人權行動計畫綱領指南。

培訓課程的規劃上，應持續進行人權教育的培訓，特別是有關國際人權法的訓練，同時針對不同對象應有不同層級的培訓課程。

三、補助法扶或律師公會進行律師的人權培訓

司法審判實務促成的法治發展，有時才是實質引領國際人權公約內國法化的主要動力，然而如何落實此一發展，不單是法官的責任，更是檢辯雙方等當事人在法庭中必須扮演重要的角色。由於法院只能被動受理訴訟後作成裁判，因此律師不僅是單純辯護或諮詢角色，而是必須嘗試引用兩公約提起人權訴訟，或是在既有個案中發揮兩公約的保護力量（翁國彥，2010;61）。因此除了各級法院在人權的司法審查上扮演前所未有的重要功能之外，律師界對於兩公約的認識與引用，也將是未來兩公約是否落實的重要關鍵。藉由補助法律扶助基金會與律師公會，舉辦律師的人權教育和在職的訓練，將有助於兩公約的具體落實。

四、研擬將人權培訓，作為公務員職業資格和晉升之強制性標準的可行性

「人權大步走計畫」中建議，考試院、行政院人事行政局應將「兩公約」納入公務人員訓練課程、並規劃未來國家考試加考國際法的可行性。日前考試院已經在院內根據「考試院及所屬部會人權保障工作小組設置要點」，成立人權保障工作小組，接續人權保障業務，值得高度肯定。然為了更有效培養並檢視公務人員的人權意識，本文建議考試院可以將人權工作小組提升為人權委員會層級，負責研擬公務人員的人權培訓計畫，包括職前和在職培訓的綜合人權培訓政策，並研擬將此類培訓作為職業資格和晉升之強制性標準的可行性。

五、增進與非政府組織在人權教育活動與培訓的合作

不論從聯合國的建議綱領，或是其他國家的經驗，非政府組織在培訓計劃的規劃與進行，均發揮相當重要作用。而根據兩公約施行法第五條第二項規定：「政府應與各國政府、國際間非政府組織及人權機構共同合作，以保護及促進兩公約所保障各項人權之實現。」為增進民間社會對於政府推動兩公約具體作為的理解，或可考慮藉由專案補助人權團體的方式，到臺灣各地以工作坊的模式，進行種子教師的培訓。

六、設立國家人權資源和培訓中心

從長遠的規劃而言，應審慎考慮設立一個健全的國家培訓結構的可行性，將人權培訓制度化，並建立對制度化人權培訓的評估機制，針對培訓的效果進行分析與評價。儘管臺灣有相對豐富的法律、人文與社會科學的人才，然而知識界對人權研究的忽略，卻是一個明顯的事實。此一「知識赤字」的問題，已經成為人權進一步發展的瓶頸。因此未來可以考慮在國家教育研究院之下設立一個人權資源中心，或是仿效國家衛生研究院的模式以財團法人的形式成立。這些中心負責以下幾項任務：(a)人權研究；(b)人權教材的編撰、翻譯與收集；(c)國際人權文

件的收集與彙編；(d)人權培訓；(e)協助執行國際上舉辦的人權教育合作項目；(f)人權教育的推廣服務等，以補強目前我國在國際人權領域中，因為知識、經驗與人才三者嚴重短缺所造成的問題。

柒、結論

《聯合國人權教育和培訓宣言》明確指出，人權教育和培訓，是促進人人享有的所有人權和基本自由，得到普遍尊重和遵守的關鍵。而公務人員的人權意識的培養，更是國家能否落實人權義務的重要依據。我們說公務人員在執法或執勤時，都有一定的心證裁量空間，則人權的價值和規範，不論是否法規化，都應在其中有一席之地。然而人權培訓應該有明確的目標與方法，才能達致具體成效。倘若政府部門重新思考如何針對第一線的執法人員，司法官、警察、監獄人員以及其他公務人員的人權培訓，重視種子講師的培訓以及人權教材的編纂，讓執法公務員的作為能切實符合人權的基本要求，並提升公民的人權意識，將使人權理念與價值的實踐，不再只是空中樓閣。

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(二) 聯合國文件

聯 合 國 人 權 教 育 與 培 訓 宣 言：
<http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G11/124/78/PDF/G1112478.pdf?OpenElement>

聯 合 國 《 世 界 人 權 教 育 方 案 》 第 一 階 段 行 動 計 畫：
<http://www2.ohchr.org/english/issues/education/docs/A.59.525.Rev.1.pdf>

聯 合 國 《 世 界 人 權 教 育 方 案 》 第 二 階 段 行 動 計 畫：
<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/151/48/PDF/G1015148.pdf?OpenElement>

Human rights Consciousness, Education, and Training: An Analysis of
the Training of Trainers Program

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Abstract

In March 2009, Taiwan ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. In December, the president Ma Ying-Jeou announced an implementation act which gives these covenants the force of domestic law in the Republic of China (ROC). It means that domestic laws will now have to come into compliance with the two covenants. The ROC government will amend all laws, regulations, directions and administrative measures to ensure they are aligned to the Covenants within two years. This is a milestone in the development of human rights in Taiwan, and brings the nation more into line with the international community. However, do international human rights treaties make a difference in state's behavior? By studying the training of trainers program initiated by the Ministry of Justice, which was given the responsibility for leading and coordinating the implementation of the covenants, this paper is an attempt to make an overview of what we have achieved so far, and to suggest to which directions we need to move ahead in the near future.

Keywords

Project Great Stride, Human Rights Education, Human Rights Training, the Two Covenants

I. The International Human rights Covenants and Democratization in Taiwan.

The R.O.C. Legislative Yuan has passed the International Covenant on Civil and Political Right, International Covenant on Economic, Social and Cultural Right, and the Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights(Act to Implement the Two Covenants) on 31 March 2009. ¹The Act to Implement the Two Covenants has announced by President Ma Ying-Jeou on 22 April 2009, and implemented on 10 December 2009. According to the Article 2 of the Act to Implement the Two Covenants, the Two Covenants “ have domestic legal statutes ”, which means the contents of the Two Covenants have become part of our domestic law. By looking back to the Democratic Progressive Party (DPP) ruling period from the year 2000 to 2008, President Chen Shui-Bien used the slogan “building of a human rights state.”(人權立國) to call for, and promise to let the human rights standard in Taiwan to connect with the international human rights norms, also, the DPP administration has established institutions which related to human rights issue in the Office of President and Executive Yuan in order to promote a series of human rights policies. By the time in 2008 when President Ma Ying-Jeou was running the

¹ Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights has nine articles, which mentioned below: Article 1 :This Act is made to implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (hereafter the two Covenants), which were both adopted by the United Nations in 1966, and to strengthen our country's human rights protection system. Article 2: Human rights protection provisions in the two Covenants have domestic legal status. Article 3: Applications of the two Covenants should make reference to their legislative purposes and interpretations by the Human Rights Committee. Article 4: Whenever exercise their functions all levels of governmental institutions and agencies should confirm to human rights protection provisions in the two Covenants; avoid violating human rights; protect the people from infringement by others; positively promote realization of human rights. Article 5: All levels of governmental institutions and agencies should take the responsibility for preparing, promoting and implementing human rights protection provisions in the two Covenants within their functions that are governed by existing laws and regulations. When multi functions are involved distinct governmental institutions and agencies should contact and coordinate themselves to carry out their responsibilities. The government should cooperate with other national governments and international non-governmental organizations and human rights institutions to realize promotion and protection of human rights provisions in the two Covenants. Article 6: The government should set up human rights reports system in accordance with the two Covenants. Article 7: All levels of governmental institutions and agencies should preferentially allocate funds to implement human rights protection provisions in the two Covenants according to their financial status, and take steps to enforce. Article 8: All levels of governmental institutions and agencies should review laws , regulations, directions and administrative measures within their functions according to the two Covenants. All laws, regulations, directions and administrative measures incompatible to the two Covenants should be amended within two years after the Act enters into force by new laws, law amendments, law abolitions and improved administrative measures. Article 9: The date of coming into force of the Act shall be decided by the Executive Yuan.

election, he announced the “ New Century Declaration of Human rights 2008 ”, which mentioned that after taking up an official post, the government will adopt the Two Covenants in order to connect the domestic human rights safeguard institution with the international human rights standard. After the Kuomintang (KMT) won the election, President Ma Ying-Jeou adopted the Two Covenants, which both contain the international human rights norms and guiding principles, also, by adopting the Act to Implement the Two Covenants, the KMT administration has focused on “governing on the basis of human rights ” (人權治國) as a guiding principle for ruling. We can see that in this decade, our government has expressed the identification and promise to the international human rights norms, even we have been ruled by two different parties.

In fact, the R.O.C. delegate in the UN, Liu Kai(劉鍇), had signed the Two Covenants in 1967, and also signed the International Covenant on Civil and Political Right Operational Protocol 1. However, the UN General Assembly (UNGA) passed the Resolution 2758 on 25 October 1971, which made the R.O.C. lose the representation in the UN. Since then, Taiwan was deprived of the international interactions that normally accompany a state's adoption of international human rights law and the potential positive effects that normally come with such interactions. After that, the R.O.C. government did not fulfill the procedure of the adoption to these three documents. Therefore, the Taiwan society does not respect the importance of international human rights and the issue of international law which related to the procedure of signing a treaty.

Like most Asian countries, Taiwan had long been under the yoke of colonial and authoritarian regimes hostile to democracy and human rights. From 1947 to 1987, Taiwan was under the Martial Law rule of Nationalist party (KMT thereafter) for 38 years. There has never been a country as long under martial law as Taiwan in modern history. In this situation, we can hardly imagine the human rights culture and tradition can have a space to grow. The human rights issue has become taboo in that period, and international human rights standards were plainly a luxury that the authoritarian regime did not feel it could afford. After martial-Law rule came to an end in 1987, Taiwan entered the process of liberalization and became part of the so-called “ Third Wave of democratization”. However, there are still many obvious disadvantages in the Taiwanese human rights protection. Although the profile of Taiwan’s human rights conditions in the process of democratization has improved greatly ,it does not bring the deepening and broaden human rights value and norms. The reason is Taiwan has faced a long period of authoritarian governance and isolation in the international community, so we are lack of the basic terms of human rights improvement. The scanty of these human rights infrastructures has become the obstacles of the

promotion and practice to the human rights value in Taiwan, and also result in the abuses of the electoral democracy which we lived currently. In many “Third Wave of democratization countries, the government pay a great attention to the design of the institution to the human rights protection. But in Taiwan, after a few times of amending the constitution, we still do not have a main point to the human rights protection in the constitution. Also, the politician of the ruling party and the opposition do not sincerely respect the human rights, and the citizen has low human rights conscious. Therefore, after adopting the Two Covenants, we may bring the examination and improvement to the law, institutions, and policies in a comprehensive way, it will encourage the basic human rights protection, carry out the “Human rights Governance ” idea, and connect ourselves with the international human rights regime and bring the R.O.C. back to the international human rights system. By adopting and implementing the Two Covenants and the Act to Implement the Two Covenants, the R.O.C. has an innovative meaning in raising the citizen’s human rights conscious and the creation of the human rights protection institution.

After the R.O.C. withdrew from the UN in 1971, we also withdrew from the international human rights system which the spindle is the UN. This structural element made Taiwan lack of international participation and stress, which are the essential element for human rights improvement. There’s no doubt that the long time isolation had negated the participation of Taiwan in the international human rights institution, to use the resources and face stimulus (Like the pressure and stimulus from the official human rights report.), also, the R.O.C. has less chance in interact with other countries. These international interactions can provide many spaces to let the human rights organizations to mobilize and educate the people. Also it can provide inducements to let the states, academia, jurisprudence academia, and NGOs to create the profession and skills to carry out the Covenants. The authoritarian governance has bring about the lack of nutrition of the raising of human rights culture, and the long tome international isolation made Taiwan lack of the international participation, communicate, stimulus, and pressure, which are all essential to the human rights improvement. No wonder that the Taiwanese society is unfamiliar about the idea of human rights over a long period of time, and lack of experience of human rights issue. After adopting the Two Covenants, we may bring the overall examination and correction to the law, institution, and policies, if we can carry out this adoption certainty, it’s will not only have advantages in the protection of basic human rights, carry out the idea of “governing on the basis of human rights, and connect ourselves with the international human rights regimes in order to bring the R.O.C. back to the international human rights regime.

We can explain the importance of adopting the Two Covenants by the domestic

and international level:

1. The Domestic Level

By adopting the Two Covenants and the Act to Implement the Two Covenants, the R.O.C. government can speed up the implementation and promotion of the domestic human rights protection. Generally speaking, in order to improve the human rights, two elements need to interact: the establishment of human rights conscious and the creation of the human rights protection institutions. However, the human rights knowledge and information in Taiwan still need to be improved. The governmental institutions still do not have a special agency which tally with the UN standard to deal with the human rights issue. Therefore, by adopting the Two Covenants, we can use the appropriate legislation to let the international norms which contain in the Two Covenants to be domestic legalized; also, by examining the contents in the Two Covenants, we can fix the domestic law which do not suitable and inconsistent with the contents in the Two Covenants. Also, by carrying out and promoting the Two Covenant, we can popularize the human rights ideas and let the actions of the civil servants to fulfill the human rights. These actions will promote citizen's human rights conscious and make the human rights ideas and value to be carried out in our daily life.

2. The International Level

When President Ma Ying-Jeou was running the election, he announced the “ New Century Declaration of Human rights 2008 ”, which mentioned that after taking up an official post, the government will ratify the Two Covenants in order to connect the domestic human rights safeguard institution with the international human rights standard, and will “ overhaul the related domestic law, carry out the promises which the R.O.C. made to the International Bill of Human rights, in order to make Taiwan becomes a good example of the human rights protection. ”. By adopting the Two Covenants and the Act to Implement the Two Covenants, it's a concrete expression of the identification and promise to the international human rights norms to the R.O.C. government. Although the R.O.C. government still facing the problem of an isolated situation,² and cannot fulfill the process of depositing the instrument of ratification in the archives of the UN, adopting the Two Covenants and the Act to Implement the Two Covenants still have important meanings.(Ma Ying-Jeou: 2009)

² The UN Secretariat has sent back the instrument of ratification of the R.O.C. government on 15 June 2009, we cannot fulfill the process of leaving in the document of UN.

II. The Infrastructure of Human rights Protection: The Education and Training of Human rights.

As mentioned above, the promotion and protection of human rights may need two elements to interact: the establishment of human rights conscious and the creation of human rights protection institutions. More specifically, by advocating the human rights value, spreading the human rights knowledge, and bring up the human rights conscious which constructed by the value and knowledge, with the support of the protection and promotion of the design and operation of the human rights institutions, so that we can carry out the promotion of the human rights value. Therefore, the human rights education and research are the key elements of the construction of the human rights infrastructure.(2002 Human Rights Policy White Paper of the Republic of China (Taiwan): 2002;51) In decades, human rights education has become an infrastructure which the international community tries to build up the human rights culture, many countries place a high value on, and become a world-wide international activities. (Ramire, Suarez and Meyer,2007; Tibbitts, 2008) Also, by the efforts of the UN member states and NGOs, the United Nations Human rights Council³ adopted the Resolution 16/1 on 23 March 2011, which adopted the United Nations Declaration on Human Rights Education and Training (The Declaration). The Declaration has mentioned human rights education and training⁴ is essential for the universal respect for and observance of all human rights and fundamental freedoms for all.⁵ The human rights education,⁶ although it has different meanings⁷ in the documents of

³ When the UNGC pass the Resolution 60/251 and decide to establish the UN Human Rights Council, it has reaffirmed the importance of human rights education and training. In the 5 (a) there has mentioned that one of the missions of the Human Rights Council is to “Promote human rights education and learning as well as advisory services, technical assistance and capacity-building, to be provided in consultation with and with the consent of Member States concerned ”

⁴ We can see the respect of the human rights education from the documents that the UN adopted. The Article 26 (1)of The Universal Declaration of Human Rights has mentioned that “ Everyone has the rights to education ” and the Article 26 (2) has talked that “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. ” The International Covenant on Economic, Social, and Cultural Rights also mentioned that all the countries should guarantee the purpose of education is to enforce the respect to human rights and basic freedom. In 1968 the First World Conference on Human Rights hold in Teheran has urged every country to use “ all the ways of education ” to provide teenagers can live in a environment which can respect individual’s dignity and equal rights. And in 1993, the World Human Rights Conference had adopted “ Vienna Declaration and Programme for Action ” has urged that “ All countries and institutions should include the human rights, humanitarian law, democracy and law and order into all courses in the educational institutions ”. It also mentioned that “ Human Rights education should include the peace, democracy, development, and social justice which contain in the international and regional documents, in order to get the consensus and understand, and enforce the general promise to the human rights. ”. And in the “2005 World Summit Outcome”, the leaders in the countries are emphasize to “ promote the human rights teaching and learning in levels, include carrying out the World Program for Human Rights Education. ”.

⁵ Article 1 (2) in A/HRC/RES/16/1

⁶ From the documents which the UN adopted, we can see the respect to the human rights. Generally speaking, the education trainings which mentioned in the UN documents has talked about that the

the UN or the operation of NGOs. In The Declaration, it “comprises all educational, training, information, awareness-raising, and learning activities aimed at promoting universal respect for and observance of all human rights. ”. The specific aspects include: (a) About human rights, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection; (b) Through human rights, which includes learning and teaching in a way that respects the rights of both educators and learners; (c) For human rights, which includes empowering persons to enjoy and exercise their rights, and to respect and uphold the rights of others.⁸ According to the Article 2 of The Declaration, Human rights education and training comprises all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing to, inter alia, the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviors, to empower them to contribute to the building and promotion of a universal culture of human rights. Therefore, the Article

human rights have broad and narrow meanings, The broad meaning means “ educate others to respect human rights ”, like carry out the right to educate. The narrow meaning means “ The education that the main point is human rights. ”, like in the Article 26 (1) of The Universal Declaration of Human Rights has mentioned that “ Everyone has the rights to education. ” and in the Article (2) it has mentioned that “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. ”. The International Covenants on Economic, Social, and Cultural Rights has ordered that all the countries should guarantee that the purpose of education is to enforce the respect to the human rights, this “ education ” can be broaden explained that it means “ human rights education ”. In 1968 the First World Conference on Human Rights hold in Teheran adopted the motion to urge the countries to use “ all the ways of education ” to provide teenagers can live in a environment which can respect individual’s dignity and equal rights. And in 1993, the World Human Rights Conference had adopted “ Vienna Declaration and Programme for Action ” has urged that “ All countries and institutions should include the human rights, humanitarian law, democracy and law and order into all courses in the educational institutions ”. It also mentioned that “ Human Rights education should include the peace, democracy, development, and social justice which contain in the international and regional documents, in order to get the consensus and understand, and enforce the general promise to the human rights. ”. And in the “2005 World Summit Outcome”, the leaders in the countries are emphasize to “ promote the human rights teaching and learning in levels, include carrying out the World Program for Human Rights Education. ”.

⁷ We have a consensus for the nature and content to human rights education in the international community: 1. The human rights education should include both “ content ” and “ process ”, and specialize the participation type of education style can be positive in human rights education; 2. The purpose of human rights should include three directions: cognition, affection, and action orientation. See Monisha Bajaj, “Human Rights Education: Ideology, Location, and Approaches”, in *Human Rights Quarterly*, Vol 33, May 2011: 481-508. Anja Mihr, Human Rights Education, Methods, Institutions, Culture and Evaluation, *Discussion Papers Series, Magdeburg: Institut fuer Politikwissenschaft at the University of Magdeburg* (2004).

⁸ According to the Plan of Action for the first phase in “ World Programme for Human Rights Education ”, the human rights education encompasses: (a) Knowledge and skills — learning about human rights and mechanisms for their protection, as well as acquiring skills to apply them in daily life; (b) Values, attitudes and behaviour — developing values and reinforcing attitudes and behaviour which uphold human rights; (c) Action — taking action to defend and promote human rights. See <http://unesdoc.unesco.org/images/0014/001478/147853e.pdf>, p 16.

7 of The Declaration has point out, states, civil society, private sector, and other stakeholders have the responsibility to promote and ensure human rights education and training, states should definitely ensure adequate training in human rights of State officials, civil servants, judges, law enforcement officials and military personnel.⁹ The Article 8 of The Declaration has claimed that states should develop, or promote the development of, at the appropriate level, strategies and policies and, where appropriate, action plans and programs to implement human rights education and training, and implementation and evaluation of and follow-up to such strategies and action plans.¹⁰ The Article 9 of The Declaration has showed that States should promote the establishment, development and strengthening of effective and independent national human rights institutions, in compliance with the Paris Principles, recognizing that national human rights institutions can play an important role.¹¹ The Article 13 of The Declaration has encouraged the states to include information on the measures that they have adopted in the field of human rights education and training in their reports to relevant human rights mechanisms, in order to become the important content of the universal periodic review of the Human Rights Council.

By adopting The Declaration, UN signifies the human rights education and training is very important to the human rights infrastructure. In fact, to carry out the human rights education effectively, on 23 December 1994, the UN adopted the Resolution 49/184 in the 94th plenary meeting of the 49th UNGA session, which declared the *United Nations Decade for Human Rights Education* from 1 January 1995 to 31 December 2004, to show the determination of the UN.¹² After two years, the 51th UNGA session adopted the World Programme for Human Rights Education (*Plan of Action*) to encourage the world to frame and implement the overall, effective, and sustainable human rights education,¹³ in accordance with the United Nations

⁹ In other words, the state should not only respect the right for the citizens to take human rights education and training, but also carry out this right step by step in legislating.. Also, a state needs to use any proper ways to ensure the law executers in the governmental institutions to have proper human rights trainings.

¹⁰ Article 8 in A/HRC/RES/16/1.

¹¹ The Paris Principles have mentioned that the National Human Rights Commissions can “ Assist to establish the human rights education questions plan, and participating in the implementation of the plan in schools, colleges, and other professional groups. ” and “ propagating the human rights and against every types of discrimination, especially the racial discrimination, and use propaganda and education to raise the public understanding. ”. See <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/116/24/PDF/N9411624.pdf?OpenElement>

¹² *United Nations Decade for Human Rights Education*, U.N. Doc. A/RES/49/184 (1994). <http://www.un.org/ga/49/r184.pdf>

¹³ Except encouraging setting up the and implementing the comprehensiveness of human rights education, we should effectively and sustain using the UN strategy like *United Nations Decade for Human Rights Education* and the Plan of Action. The UN has some activities which relate to human rights include *World Public Information Campaign for Human Rights* (1988-), *International Decade for a Culture of Peace and Non-Violence for the Children of the World* (2001-2010), *UN Decade for*

Decade for Human Rights Education and the Plan of Action. Furthermore, in order to carry out the anticipated goals which drew up in the *United Nations Decade for Human Rights Education*, the UNGA declared to implement the World Programme for Human Rights Education, it's a worldwide movement to let the member states to carry out the human rights education implementation.¹⁴ In the first phase (2005-2009),¹⁵ the main point is to bring the human rights education into the primary and junior high school . The UNGA adopted this point in the Resolution 59/113B on 14 July 2005, in order to let the member states have a specific strategy to consult. The second phase (2010-2014) has adopted in the Resolution 12/4 of the Human Rights Council, and began since last year.¹⁶ Also, the program will aim at the human rights education to the staff of higher education,¹⁷ such as teachers, teaching staffs, civil servants,¹⁸ law executers,¹⁹ and soldiers, to provide them a series of human rights training action plan. The specific goal of the action plan is not only encourage countries to bring the training plan for the high educated people into the human rights education, but also provide the guideline of the training plan. Due to the space of this article, I will analysis briefly about the human rights training to the civil servants and law executers which contains in the UN documents and simultaneously relate in this article.

1. The Strategy

According to the Plan of Action, in order to let the training which focused on the civil servants, law executers, and soldiers have the anticipated effect that relate to the trainees' behavior, the training should communicate specifically with the related policies that executed by the organizations and institutions which the trainees work for. Therefore, we should adopt these strategies on establishing policies for training: (a) investigate the policies of before-the-job and on-the-job training that they have include the human rights training, and make the human rights courses as the require

Education for Sustainable Development (2005-2014), *International Year of Human Rights Learning* (2008-2009) and *International Year for the Rapprochement of Cultures* (2010).

¹⁴ See A/HRC/Res/12/4

¹⁵ The period of the action for the first phase is 2005-2007 in original, and extend to 2009.

¹⁶

See

<http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G09/174/42/PDF/G0917442.pdf?OpenElement>

¹⁷ “ High level educated ” means “ The education, training, or learning which carry out by the high level education institutions which are adopted by the relate national institutions and universities. ” The high level education institutions can be the training and authentication institutions for teachers, social workers, and medical and law professions.

¹⁸ The civil servants means “ According to the national law and governmental structure, it may include the governmental officials and decision makers, diplomats, employees from the local government, central governments, and other finance and economical ministries, public health professional and social workers. ”

¹⁹ Law executers means “ Police officers, prison officers, border police officers, and security forces and soldiers who have been given the authority to protect the public security. ”

courses to the trainees' before-the-job training; (b) encourage implementing a mixed human rights training policies in the before-the-job and on-the-job training policies, and make it as a compulsory standard to the promotion qualifications of the job; (c) invite and train the officials which are suitable to communicate with the disadvantaged minority; (d) encourage to establish a well-formed state-managed training institution, institutionalized the human rights training, in order to let the relate ministries and the social organizations which they should help for to join in, instead of setting up training courses only for once. Also we should establish institutionalized human rights training and evaluation mechanism according to every countries' institutions,²⁰ in order to analysis and evaluate the effect of training.

2. Teaching Style

In terms of the training procedure and tools, the Plan of Action has recommended some strategies which include in the *Human Rights Training: A Manual on Human Rights Training Methodology*²¹ which was published by the High Commissioner for Human Rights:

(1) Audience specificity

Training and education efforts must be directly targeted and appropriately addressed to a particular audience, be they police, health-care workers, lawyers, students or development professionals. By the same time, we need to carry out the specific goals (the anticipated change of the trainees' knowledge attitude, action and skills), and design the evaluation strategy, especially on how to evaluate the levels of achieving the learning goal.

(2) Relevant and practical content

The training materials should relate to the human rights standards and implementations which connect to the trainees' daily life. The trainees not only need to understand what is human right, but also need to implement it in the daily life. Therefore, we should avoid only explaining the human rights documents, but to sensitize participants to their particular role in protecting and promoting human rights

²⁰ The ideal implement steps are: (1): Analysis the present human rights training's situation of the trainee; (2): Set up the prior agenda: Carry out the national implement strategy, confirm the goal and prior agenda, and plan to implement the actions; (3): Implementing and supervising;(4): Evaluate. See <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/151/48/PDF/G1015148.pdf?OpenElement>: p24-26

²¹ For example, the training programs to the law executers, immigrants officials, and public procurators should focus on how to let them understand racism, racial discrimination, xenophobia, and other relate situations sensitively. The officers who deal with the immigrants, migrant workers, and their family should understand the content of " International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ".

and their own potential for affecting human rights in their daily work.²² After all, only understand the human rights standards cannot make the trainees to transform these norms to the practical actions. Therefore, we should view the cultivation of human rights conscious as a process which needs to be perfect by practice and application, so the designation of the content of training should relate to the trainees' daily life and the practice in their professional area, especially on the human rights problems which they would face.²³

(3) Participatory and sensitizing training techniques

To ensure the trainees' positive participation, the training programs should use multiple creative skills of participation, include free discussion, role play, cell learning, case study, seminar, and field works. The reasons to use these ways is to focus on the appearance of human rights in our daily life, how to protect it when being violated, sharing the different views in the daily life, and develop the analysis skills to understand, exercise, and advocate the human rights.²⁴ After all, to carry out the human right is a part of the daily experience of every single person. The trainees can understand that their movement may cause the action of violating human rights (For instance, strengthen the trainee's understanding for their prejudice in their action toward sexual and racial discrimination) and promote and defend the human rights by the well practice of the training programs. The Human Rights Training: A Manual on Human Rights Training Methodology has pointed out specifically that “ The mere recitation of vague principles of general applicability offers little hope of affecting the actual behavior of a given audience. To be effective—indeed, to be at all worthwhile—training and education efforts must be directly targeted and appropriately addressed to a particular audience, be they police, health-care workers, lawyers, students or development professionals. ²⁵”

(4) Peer learning

By peer learning, like training the police officers and the soldiers together, we can have a better effect. From training the trainees who have a similar business, we can have a better effect compare to just simply lecture. For instance, the police

²² *Human Rights Training: A Manual on Human Rights Training Methodology*. p. 7

²³ For example, the “ Committee on the Elimination of All Forms of Discrimination against Women ” has mentioned in its general recommendation No. 19 in 1992 which talk about violence against women that “Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention .” in 24 (b).

²⁴ The methodology of participative training can be seen in Dave Donahue, “Why a Participatory Method for Human Rights Education?” in *Training for Human Rights Trainers, Book 1: Facilitator's Manual* (Montreal, Canadian Human Rights Foundation (Equitas), 2001); Felisa Tibbitts, Transformative Learning and Human Rights Education: Taking a Closer Look, in *Intercultural Education*, 107-113 (2005).

²⁵ *Human Rights Training: A Manual on Human Rights Training Methodology*. p. 8

officers can have a better communication together. Therefore, the lecturers should not be complete the professors and human rights theoreticians, but need to include the human rights crew who has practical experiences. This model may let the lecturers can get in touch with the different professional culture atmosphere by knowing different kind trainees.

(5) The role of self-esteem

In respect to the preserve the self-esteem for the trainees' learning process, we should encourage the trainees to share their professional knowledge and practical experience in the training courses, and the lecturers should create an atmosphere in the class in order to make each other share their knowledge and experiences, and acknowledge the trainees' professional knowledge. Because the trainees are all professional, so we should encourage them to bring their practical experience to the training courses, and let other trainees derive these experiences, in order to let the trainees realize that they can learn new things and make contributions.²⁶

3. Training Contents

The Plan of Action has also mentioned that we should aim at the professional capacity of the civil servants, law executers, and soldiers to develop different teaching materials. For instance, if the states may sacrifice the human rights of the disadvantaged minorities because of the national interests (for example, children, female, elders, handicapped, prisoners, refugee and immigrants) , the social workers should protect these people's human rights. Therefore, the human rights training for the social workers should focus on the understanding and protection to the disadvantaged minorities. With regard to the police officers, it should include the human rights standards that involve various functions, like the ways of investigation, detainment, arrest and intern, the use of weapon, maintain the public security in the emergency period, and control the multitude of people legally. Also, the human rights training to the police officers should focus on the groups that need special help, like youth, female, immigrants, refugees, and handicapped. For the officials who work in the prison, it needs to let the trainees to familiar with the international human rights standards of the prison job in order to promote the officials use the humanitarian ways in the investigations to the prisoners, and put it in the daily work. For the soldiers, we should let them accept the training that relate to the international human rights norms and standards, which may involve the missions that relate to conflicts and other jobs that not relate to warfare. These jobs include the responsibility to the public order, maintaining the order and public security, and joining the international peacekeeping.

²⁶ *Human Rights Training: A Manual on Human Rights Training Methodology*. p. 9

So the soldiers need to understand the varieties of human rights standards, and bring up skills that can use these training in the daily work.²⁷

III. The British Experience

We can take the British Experience as a great example. By the Human Rights Act was adopted in 1998, the British government has been focused continuously on how to integrate the human rights standards into the legislating process, policy establishment, and public service between the government institutions. Before the Human Rights Act become effective in 2000, the British government set up a two-year preparation time (From November 1998 to October 2000). In this period, the British government had trained the civil servants and examined the old and new laws incompatible with the Human Rights Act. The Ministry of Justice was focused on the court training and other related trainings to the judicial officials. On the one hand, it supplied the basic trainings for the new employed judicial officers; on the other hand, it continuously supplied the professional training to the on-the-job judicial officers. On 10 January 2000, the Judicial Studies Board (JSB) took over all kinds of judge trainings the Human Rights Act contained. The contents of the training include introductory lectures, case studies, and mass judge court session opening, also, the senior judges will train the new employed judges. In addition, from September 1999, The Ministry of Justice has also supplied the magistrates' legal advisers similar trainings,²⁸ after that the well-trained legal advisers will hold a huge training for the magistrates. In 1998 there are more than 30,000 lay magistrates in England and Wales have been trained.

Besides the training plans that from The Ministry of Justice, other departments have their own human rights training plans. From 1998 to 2000, every department has started their own human rights training plans, design different kinds of courses in different difficulty level, supply lecturers that are lawyers, scholars from different backgrounds and NGOs. For example, the Human Rights in Healthcare Project which was promoted by the Ministry of Health has supplied their civil servants a rights-based approach healthcare ways to show how to carry out the human rights education program by introducing guidelines, case studies, implementing skills, and

²⁷ A/HRC/15/28, p. 23

²⁸ In The U.K., the penal procedure has a character that the lowest level of the criminal courts, which means the magistrates courts, have lay magistrates that are belong to courts, about 30,000 people. The magistrate courts are contained three Lay Magistrates and one Legal Advisor. The Lay Magistrates are received the court trainings and without remuneration. Their jobs are judging the cases that are not serious, like larcener, endanger public security, derogate, road security.....etc.

other human rights online information.²⁹ For the human rights trainings to the prison officials in England and Wales, the new employed prison officials should take one-year basic training courses, some of the courses are requested to integrate the spirit of the Human Rights Act into the teaching process, especially in the courses relate to communicate skills (including the using of words, body languages, and the listening attitudes and skills), some of the courses are on how to use force in the conflict situations, and on how to act appropriately when facing the prisoner's characteristics like physical and mental disability, races, age and sex, in order to respect diversity.

Furthermore, The Crown Prosecution Service will hold the trainings for all public procurators and executives in order to make sure that all the people will understand and use the Human Rights Act, especially through rules which mentioned in the Right to a Fair Trial in Article 6. The trainings list out the relate cases in Europe in order to make sure the protection to the rights and freedom of the person involved in the case can conform to the norms contain in the European Convention on Human Rights (ECHR) when the public procurators exercising the authority. Also, The Crown Prosecution Service will renew the judicial examples regularly, supply the new judicial information about the legal precedents every two weeks, and examine the words use in the policies regularly in order to understand that whether they have violated the spirit of the Human Rights Act.

In order to examine the implementation of the Human Rights Act, and design a work which may let the civil servants fully understand the Human Rights Act and its practical work, the Ministry of Justice published “Review of the Implementation of the Human Rights Act ” on July 2006. It mentioned that even The U.K. had implemented human rights trainings in different levels before and after the Human Rights Act was adopted, it was still not enough. Therefore, the Ministry of Justice had designed some training materials for the civil servants to consult,³⁰ include the *Human Rights, Human Lives* handbook. Also, it has cooperated with an independent human rights organization, *British Institute for Human Rights* (BIHR), in order to supply trainings about the Human Rights Acts to the civil servants. In the beginning of the handbook, it has emphasized that the handbook will express interpretation and analysis in general terms in order to let the civil servants can have basic knowledge about human rights. These information and trainings have some characteristic:

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See

<http://www.dh.gov.uk/en/Managingyourorganisation/Equalityandhumanrights/Humanrights/index.htm>

³⁰ The materials include Human Rights: Human Lives- a Handbook for Public Authorities; Making Sense of Human Rights: A Short Introduction, and DVD materials: Human Rights-Human Lives: How the Human Rights Act Impacts on the Public Sector. See <http://www.justice.gov.uk/guidance/docs/human-rights-handbook-for-public-authorities.pdf>

1. Practicability

These information and trainings are made to let civil servants can renew their quality of their daily service, and let it compatible with the norms of International Human Rights Covenants. The trainings that the BIHR provide focus on the different characteristics of the jobs of civil servants, include the police officers, immigrants affairs undertakers, and welfare affairs undertakers to the local governments. Every single training plan will clearly point out the target groups of the training course, the difficulty level of the courses, and the anticipated goals. In the training programs that the BIHR provide, the typical courses design are followed “the ideas→ the law→ the practices” three levels.³¹ By finishing the introduction of Human Rights Act, they will arrange case studies and group discussions to know how to carry out the human rights norms in every individual works.

2. Readability

In the forward of the *Human Rights, Human Lives*, it has mentioned that “ You will not find lots of legal jargons in this handbook. ”, but it does not mean that it only provides simple human rights knowledge. This handbook was easy to read but completely explained the fifteen types of human rights contained in the “ Human Rights Act ” and “ European Convention on Human Rights ”, also it includes human rights cases and the human rights flow charts. Also, it explained the human rights types such as absolute rights, limited rights, qualified rights and their judging standards, and the principle of proportionality. It also provided the human rights flowchart to provide the civil servants the appropriate way to practice “ Human Rights Act ” in the different situations.

3. Provide Case Studies

Furthermore, the handbook affixes the case studies to every article contain in the European Convention on Human Rights and their norms that guide the rights. These case studies are contained one or two cases which exist in the court and the administrative appeal, and there are analysis about whether the cases are suitable for using “ Human Rights Act ”. Except the case studies, the handbook also provides practice example to explain which is the best way to deal with the cases.

In addition to the human rights education and trainings that provide to the civil servants, the Ministry of Justice also proceeded the human rights education to the normal people in order to construct the human rights culture. To fulfill this work, the Ministry of Justice published some guidebooks that suitable for the public to read, like

³¹ <http://www.bihhr.org.uk/training-and-consultancy/public-service-providers-training>

A Guide to the Human Rights Act 1998; The Human Rights Act: An Introduction; Human Rights: Fact and Fiction, and A Guide to the Human Rights Act: a Booklet for People with Learning Disabilities which focused on the people with disabilities.³²

By analyzing the United Nations Declaration on Human rights Education and Training and the second phase action plan of the World Program for Human Rights Education, we can understand the planning and implementing steps of the UN human rights education and training. Also, by examining the British experience in carrying out the Human Rights Act, we can understand the lessons that how the other countries deal with the human rights education and training and the difficult position when implementing. Now I will focus on how to carry out the Act to Implement the Two Covenants to the R.O.C. government by consulting the UN strategies and the British experience, and examine primarily the human rights education and training to civil servants.

IV. The Training of Trainers Program: A Preliminary Review

To carry out the Two Covenants, President Ma Ying-Jeou announced after hearing the “Promotion Progress Reports of the Two Covenants and the Act to Implement the Two Covenants” :

1. The contents of the Two Covenants are relate to all departments, so the Ministry of Justice should promote them step by step, start compiling the introductory handbook of the teaching materials to the training camp for the seed personnel.
2. The compilation of the teaching materials to the training camp of the seed personnel should include the contrast of the Two Covenants with the present laws, and the suggestions of the all departments after reviewing laws, directions and administration measures within their functions according to the two covenants .
3. The Ministry of justice should draw up the draft of the teaching materials and invite the experts to discuss the contents of the teaching materials.
4. The Ministry of Justice should set up a website to promote the Two Covenants and the Act to Implement the Two Covenants.
5. The Ministry of Justice should invite the experts and scholars to discuss what kinds of international covenants can be legalized domestically and applicably to the judiciary practice.

³² Link: <http://www.justice.gov.uk/guidance/humanrights.htm>

6. The Ministry of Justice should stress the importance of the international law on the before-the-job training of the judge and the prosecutors.³³

After receiving the announcement from President Ma Ying-Jeou, the Ministry of Justice adopted “The Great Stride Project—Carry out the International Covenant on Civil and Political Right and International Covenant on Economic, Social and Cultural Right.”(Great Stride Project) and it was ratified by the Executive Yuan on 7 May 2009. This project focus on three directions: 1. reviews all of laws, directions and administration measures according to the two covenants; 2. initiates the human rights trainings program to the civil servants; 3. study the ways for the international covenants to be legalized domestically, and the difficulties and the effectiveness that the R.O.C. government participating in the international covenants.³⁴(Kun-Yeh Peng, 2010) Seen in this light, the Ministry of Justice, which was given the responsibility for leading and coordinating the implementation of the covenants, published educational materials and conducted training program for officials The current performances can be examined respectively:

1. The trainings of the seed personnel:

Following the President Ma’s announcement, the Ministry of Justice takes the responsibility of compiling the general handbook of the teaching materials to the training camp for the seed personnel. The core of the handbook focus on the background of every article and their explanation.³⁵ Moreover, the goal of the training camp is that, after finishing the training courses they can train other colleagues, and help review all problematic laws, regulations, directions and administrative measures back in the government institutions or agencies they came

³³ See the main explanation of the “ Project Great Stride ” in <http://163.30.117.129/peowalk.htm>.

³⁴ The working projects can be divided into four parts: 1. Guiding, which include: (1) Compiling, Examining, and Printing the teaching materials of general provisions. (2) Training seed lecturers. (3) Making propaganda. (4) Inviting every ministries, schools, and troops to held study groups. 2. Let the ministries to correct the laws and administrative measures that are not suitable for the Two Covenants, request the ministries to correct their laws and administrative measures according to the Article 8 of Act to Implement the Two Covenants, and invite scholars, experts, and human rights organizations to give opinions in the deliberation conferences. 3. Set the “Great Stride Project ” area in the website of the Ministry of Justice. (4) Entrust the scholars to study “ The Practice of Domestic Legalizing the International Covenants ” which may include the ways to domestic legalize the covenants, the examples of the important democratic countries, the difficulties of our country to join the international covenants and solutions. See Kun-Yeh Peng, 2010, “Great Stride Project—The Practice of the Government to Promote the Two Covenants ” in Centennial of Human Rights in Taiwan: Retrospect and Prospect.

³⁵ The general provision can be divided into six parts, which are : 1. Preface; 2. President’s reply; 3. The general explanation and on by one explanation of the Act to Implement the Two Covenants; 4. Preamble and on by one explanation: Explain the backgrounds of the articles of the Two Covenants and explain the meanings on by one; 5. Exemplify the questions: Use the style of exemplify to show the unsuitable laws of the ministries which relate to the Two Covenants; 6. Annex: The original of the Two Covenants.

from . In other words, the purpose is to train the lecturers that have both profession and human rights knowledge and skills. These people will be the one that may fully understand the human rights issues in their own office after being trained. The actual training took place in September and October and divided into different stages, and there are about 2400 of officials from all levels of governments have been trained. The lecturers are the experts in the “Human Rights Experts List”³⁶ which made by the Ministry of Justice. The teaching materials are the introductory handbook which compiled by the Ministry of Justice, and the trainees were given only four lectures in 12 hours.

2. Average-Level of the Seed Training

By finishing the six stages primary-level seed training camp, the Ministry of Justice planned the “Learning Map of the Two Covenants”. It planned to hold a “Average-Level Seed Training Camp of the Two Covenants ” from 2010 to 2013. From 27 October 2010, it has held seven Average-Level Training Camp, and 2,565 civil servants have joined in.³⁷ The contents of the trainings are the explanation of the Article 1 to 5 in the International Covenant on Civil and Political Right, the explanation of the Article 6 to 15 in the International Covenant on Civil and Political Right, and the explanation of the Article 6 to 8 in the International Covenant on Economic, Social and Cultural Right. The teaching materials are written by experts and scholars according to the human rights ideas contained in the Two Covenants. The training of the Two Covenants and other articles will be hold in the following three years, and expecting to be finished before 2013.

3. Lecture and Study

From October 2009, the Ministry of Justice started to ask for other departments to hold lecture and studies for the civil servants. The teaching materials are still the introductory handbook.³⁸ From October 2009 to December 2010, there are 4,256 lecture and study sessions which was held by 66 ministries.

³⁶ The members contain in the “Human Rights Experts List ” are scholar in academia and professional human rights workers, some of them are directors of human rights groups. According to the list of the seed training lecturers, most of the lecturers are law scholars and lawyers.

³⁷ See the website of “ Project Great Stride ”. <http://163.30.117.129/peowalk.htm>

³⁸ According to the six reply of President Ma Ying-Jeou in Promotion Progress Reports of the ” Two Covenants and the Act to Implement the Two Covenant”, every ministries should compile the kind teaching materials in the process of seed lecturer training, but the achievements are limited. Except the Ministry of Justice and Ministry of Defense, other ministries do not compile the teaching materials, some of the ministries only have the power point and the syllabus that the lecturers use, but do not compile systematically. There are 297 people participating in the study group which held by Ministry of Justice.

5. Guidance:

In order to promote the human rights idea for the public, the Ministry of Justice published the learning disk of the Two Covenants, guiding posters, and newspaper advertisements, and put these information with the information of the teaching materials that contained in the “Seed Training Camp of the Two Covenants” which has included in the “Learning Map of the Two Covenants” on the website of the “Great Stride Project” .

**Table I: The Statistics of the Training and guiding conference
for the Civil Servants**

Types	Seed Training Camp of the Two Covenants	The Lecture and Study Session held by the ministries possess to the Ministry of Justice	The Guiding Session for the Two Covenants ³⁹	Average-Level Training Camp of the Two Covenants
Time	2009/09/10	2009/12	2009/10-2010/12	2010/10-2011/05
People/Sessions	2400 people	297 people	4,256 sessions	2,565 people

V. The Primary Examination to the Human Rights Education and Trainings

We can figure out the direction and magnitude of the “Human Rights Great Stride” by the sessions and people of the conference that mention above, and the determination that the Ministry of Justice wants to speed up the government institutions to carry out the Two Covenants by this training program. However, we need to have a specific goal and ways to fulfill the effectiveness. From the perspective of the trainees, the training of trainers program has got some serious problems.

1. Insufficient preparation

During the proceeding stage of the human rights education program, it is important to evaluate the present situation of the human rights education and training, and the background of history and culture that will affect the human rights education

³⁹ The guiding ways which the ministries use are not to stick to style. They may use the written form of other ways to propagate the information of Two Covenants.

and training, so that we can specify the goal and the prior agenda in the given environment. The INGO Amnesty International has mentioned in “*A 12-point guide for good practice in the training and education for human rights of government officials*” that the importance of evaluation the human rights situation before training.⁴⁰ We can use the experience of the British as an example. Before the Human Rights Act adopted, the British government set out a two-year preparation time (November 1998 to October 2000). In this period, the British government executed the training programs to the civil servants, and review all problematic laws, regulations, directions and administrative measures. the targets of training programs are very broad, including the members of central and local governmental institutions, civil groups, judges, civil servants.....etc. On 1998, there are more than 30,000 lay magistrates⁴¹ in Wales had been trained, and we can imagine the magnitude of the training.⁴² Also, every governmental institution would create their own human rights training plans according to the characteristics of every governmental institutions. However, before 2000, the British government thought the courts is not to apply yet the Human Rights Act in the practice, thus, it cannot anticipate whether the court use the Human Rights Act properly in individual cases, and the practical cases needed to be contained in the training program. Accordingly, the British government started the second stage of training plan, and completed until 2003.⁴³ In contrast with Taiwan, we do not have a fully preparation to the training, and the magnitude only focus on a small range of the civil servants, also, the trainees were given only four lectures in 12 hours, yet they were expected to help train others and help review all problematic laws, regulations, directions and administrative measures back in the government institutions or agencies they came from. Surely, this is hardly suitable for training novices.⁴⁴ If the seed personnel have got the basic skills and knowledge, they will be the one that can fully understand the relate human rights issues in their own institutions. However, due to the poor preparation of the seed training program, it is not difficult to imagine the performance when they start to conduct training program for their colleagues

⁴⁰ The 12 points guide has point out in the first point that : Before starting a human rights training program it is essential to determine whether it is feasible in light of the human rights situation in the particular country. A needs-assessment should also be carried out so as to identify priority objectives and determine the scope and approach of the program.

⁴¹ The lowest level of the members in the court.

⁴² Metcafe, Eric, 2010, “ British Human Rights Act and the Trainings to Implement it.”, TAHR, 2010 Spring: p. 64

⁴³ Metcafe, Eric, 2010, “ British Human Rights Act and the Trainings to Implement it.”, TAHR, 2010 Spring: p. 65; Covenants Watch, 2010, “ The Review of Carrying out the Two Covenants by Government in One and Seven Months. ”, 2010, p. 9

⁴⁴ There are different people between the trainees and the people that responsible to human rights affairs, and trainees may be transferred to other ministries, so it's a problem to the trainees that they can really bring the skills into full play or not, and other ministries also have questions about it.

2. The Teaching Materials are Hard to Understand

According to the “Great Stride Project”, the educational materials has divided into introductory handbook and the other kinds. The contents of the introductory handbook are mainly focused on the explanation of the Two Covenants. Although this kind of contents can provide a good outline to the trainees about the Two Covenants, there are still some obvious differences comparing to the suggestion of the UN Human Rights Education Programs and other human rights training materials that use in other countries. According to our intensive interview with trainees, the teaching materials and lectures are too abstract and abstruse to understand.⁴⁵ The main reason is that teaching materials and lesson plans did not appropriately adapted and modified for each target group, and it cannot provide useful guidance for the conceptualization, planning, implementation and evaluation. Therefore, it is very difficult for the trainees to translate and modify the abstract concept and principle into their own business.⁴⁶

3. Lack of Discussing to the Practical Cases and the Training Materials Suitable for Different Jobs and Different Targets

The training style which invites the experts to give a lecture also becomes a cause of poor performance. Most of the departments are lacking of funds and abilities for training, and also lacking of the training lecturers who are working in various professions in fields of human rights which touch on their particular field of competence.. So most of lecturers are professors of science of law and lawyers, and their lectures are mainly to explain the abstract concept of law and other theoretical parts. Accordingly, it is lack of case studies that can make students understand the relations between theory and practice. Therefore, the officials will daunting in realizing the contents of the Two Covenants, and cannot easily put the theory into practice.⁴⁷ Also, according to the plan of the Ministry of Justice, the other departments need to compile the kinds of advanced training programs and professional trainings in order to make the human rights education and training suitable for their own business. However, besides the Ministry of Justice and the Ministry of Defense,⁴⁸ the other ministries do not compile the kinds of hANDOuts.⁴⁹

⁴⁵ There are working groups in eight ministries have this problems in eleven interviewing ministries.

⁴⁶ A survey candidate has mentioned: “ If the examples can relate to our business, then we can be integrate into the atmosphere, if only explaining the articles, I guess it will be boring, and will have limitation on our business. ”.

⁴⁷ For parts of the trainees, they can have better learning motive without only explaining the articles, one survey candidate has mentioned: “ Some lectures can raise the interests of the trainees by talking in practice issues without only explaining the articles, and this can let us easy to understand. ”

⁴⁸ The resources and the directions of the teaching materials of the Ministry of Defense is from the Department of Military Justice, and invite the judges from the military tribunal from north, and focus on the main cases in the national military, use the way of legal precedents, and compile in lively styles.

By virtue of most of the trainees cannot suitably understand and translate the contents of the introductory handbook, it is hard to expect they are qualified to conduct training program for their colleagues.

Besides the British experience, the Office of High Commissioner for Human Rights (OHCHR) has published a lot of teaching materials and lesson plans which appropriately adapted and modified for each target group, which can provide useful guidance for the conceptualization, planning, implementation and evaluation of human rights training programs for adult professionals. In addition to the *Human Rights Training: A Manual on Human Rights Training Methodology* which has been mentioned in this article, the *Human Rights and Social Work. A Manual for Schools of Social Work and the Social Work Profession* which is for the social workers; *Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police*, *Human Rights and Law Enforcement: a Trainer's Guide on Human Rights for the Police*, and *Human Rights Standards and Practice for the Police: expanded Pocket Book on Human Rights for the Police*, which are for the police officers; the education materials for the prison officers are include *Human Rights and Prisons: Manual on Human Rights Training for Prison Officials*, *Human Rights and Prisons: a Compilation of International Human Rights Instruments concerning the Administration of Justice*, *Human Rights and Prisons: Trainer's Guide on Human Rights Training for Prison Officials*, and *Human Rights and Prisons - a Pocketbook of International Human Rights Standards for Prison Officials*. It is pity that the training program didn't make full use of these materials during the training process. It was exposed again how international isolation would hamper the efforts of carrying out international human rights norms.

VI. Some Advices

According to our intensive interview with trainees,, we found out that there are many problems not only appeared in the primary training of the “ Project ”, but also in the proceeding average-training courses. The Ministry of Justice needs to evaluate the performance of the training of trainers program, the governmental institutions or agencies should adjust their ways of human right education and training, adopting the UN standards and teaching plan, in order to solve the problems. Also, the respectively training center of the departments should accept the ideas mentioned above to compile the educational materials, and integrate the Two Covenants into the training courses. I

⁴⁹ There are six ministries that focus on the internal training materials, they may be based on the general provision that the Ministry of Justice compiled, and supply the outline of the experts who they invite from exterior.

will suggest some directions that we can move ahead in the near future.

1. Draw up the National Plan of Action for the Protection and Promotion of Human Rights

We should have a comprehensive plan for the Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights so that we can completely solve the problems exposed in the institutions, policies, and educational training programs. In this article, we suggest that The Presidential Office Human Rights Consultative Committee needs to draw up a National Plan of Action for the Protection and Promotion of Human Rights. It is a plan that delivered in the World Conference on Human Rights on 1993 in Vienna. According to the Article 71 in the Part II of the Vienna Declaration and Program of Action (VDPA), “The World Conference on Human Rights recommends that each State consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights. ”.

Therefore, the National Plan of Action for the Protection and Promotion of Human Rights is an important mechanism in promoting and protecting human rights in the international community. The purpose is to create short-term, medium-term, and long-term comprehensive plans to carry out human rights in one country by state’s planning and social participation, and establish an institution to evaluate and correct the plan. Also, in the *Handbook on National Human Rights Plan of Action* which was published on 2002 by the UN, it clearly point out that in addition to mechanism and resources, we need to change our attitude, and to have a sound but independent law and judiciary system, and rule of law, and so forth.⁵⁰ By starting the National Plan of Action for the Protection and Promotion of Human Rights, we can pursue the overall examination, evaluate continuously, fix the present mechanisms, and find out the concrete strategy in order to carry out the situation of human rights in the future. After the appeal of VDPA, there are 29 countries has promote 37 National Plan of Action for the Protection and Promotion of Human Rights so far.⁵¹

Therefore, we suggest that The Presidential Office Human Rights Consultative Committee can draw up the National Plan of Action for the Protection and Promotion of Human Rights according to VDPA and *Handbook on National Human Rights Plan of Action* to focus on the business of human rights protection and promotion, these

⁵⁰ See the *Handbook on National Human Rights Plan of Action*. <http://www.ohchr.org/Documents/Publications/training10en.pdf>.

⁵¹ See http://www2.ohchr.org/english/issues/plan_actions/. The Chinese government has established the “ National Plan of Action for the Protection and Promotion of Human Rights (2009-2010) ” in 2009. The Chinese official has declared that the plan of action was consult in the VDPA and the Handbook in National Human Rights Plan of Action which adopted in 2002 by OHCHR.

include how to strengthen the capability to promote and protect the human rights, figure out the feasibility of establishing or strengthening the authorizing institutions of human rights, the studies of ratifying the other international covenants, constructing the useful relief procedures that can improve the situation of the disadvantaged minorities, strengthening and improving the cooperation plans between the governmental institutions, local governments, NGOs. In terms of human rights education and training, we can carry out the specific plan to implement the human rights education and set up the priority and time schedule to carry out the Two Covenants and the Implement Act effectively.

2. Strengthen the Human Rights Education Training for the New Employed and the On-the-Job Judges about the Rights within the Two Covenants

By preventing the judges doing the verdict without understanding the International Human Rights Law and avoid using the norms in the Two Covenants subconsciously, it is necessary to strengthen the human rights education training for the new employed and the on-the-job Judges . Therefore, besides teaching the international law, we suggest that the Training Institute for Judges and Prosecutors and the Judicial Personnel Study Institute should do the training for the human rights education continuously, especially in the courses relate to the international human rights law in the planning of the courses.

3. Sponsor the human rights education for lawyers hosted by bar association and legal aid foundation.

The responsibility to implement the two covenants is not only from the judges, but also from the lawyers who play important roles in the court. So the lawyers need to understand and recommend the Two Covenants to implement the Two Covenants in the court. By financing the human rights education for lawyers hosted by bar association and legal aid foundation, it would be very helpful in carrying out the Two Covenants.

4. Study the Possibility to Put the Human Rights Trainings into the Compulsory Standards for the Civil Servants in the Professional Promotion

The “Project” has suggested the Examination Yuan and the Central Personnel Administration should adopt the Two Covenants into the training courses to the civil servants, and figure out the possibility to test civil servants the international law in the future national examinations. In order to bring up and examine the human rights conscious more effectively, this article suggested that the Examination Yuan can study the feasibility to put these trainings into the compulsory standard to the professional

qualification and promotion.

5. Invite domestic non-governmental organizations to assist the training of trainer program

Definitely, we can see the importance of the NGOs in planning the training plans in the UN suggestion programs and the experiences from other countries. According to the Article 5 of the Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, “The government should cooperate with other national governments and international non-governmental organizations and human rights institutions to realize promotion and protection of human rights provisions in the two Covenants.”. In order to achieve the implementation of the Two Covenants, we can consider to fund domestic non-governmental organizations to assist the training of trainer program.

6. Establish the National Human Rights Resources and Training Center

Moreover, we should consider the possibility to establish a well National Human Rights Resource and Training Center in the long run. We can consider to establish a human rights resource center in the National Academy for Educational Research. The center takes the responsibility of the missions below: A. Human Rights Research; B. Compiling, Translating, and Collecting the Human Rights Teaching Materials; C. Collecting and Compiling the International Human Rights Documents; D. Human Rights Trainings; E. Assist to Implement the International Human Rights Education Cooperation; F. Promote the Human Rights Educations in Order to solve the problems of lacking of human rights knowledge, experience, and expert in Our Country.

VII. Conclusion

As the “ United Nations Declaration on Human Rights Education and Training “ has point out, human rights education and training is the key to promote the human rights and basic freedom which everyone have can be respected generally. In principle, human rights values and norms, whether they have been legally codified or not, should be an important basis for judgment when civil servants perform their duties; however, this phenomenon is all too rare in Taiwan. In fact, this poor awareness of human rights has its roots in a long-term lack of human rights education. Our civil servants, police, military and intelligence officials are not taught about human rights in school or in on-job training. It provides a very good opportunity to train all levels of governmental officials by this training program. However, as mentioned, the training of trainers program has got some serious problems. These developments

described above demonstrate that, thus far, efforts to the implementation are insufficient. Therefore, apart from making fine-sounding promises and announcements, this paper suggests that the Ministry of Justice should evaluate the effect of the current training of trainer program, and make full use of the teaching materials from the UN and other International organizations in the following training process so that “governing on the basis of human rights” may not become a mere slogan.

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國際人權標準與臺灣國中小之人權教育— 從「友善校園」到「校園世界人權日活動」*

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摘要

臺灣已將公民與政治權利公約和經濟社會文化權利公約國內法化，但在國中小校園之人權教育，在介紹權利主張的時，能否把所謂「國際規準和國際機構取向」的面向帶入，或能否擴張從憲法到人權公約之人權保障視野，將係本文之討論重點。換言之，被聯合國摒除於外之臺灣，當我們在談人權時，我們所講的權利，有無國際人權標準之視野，將會從普世性和人權公約引用等兩個角度來檢視。本文將分別從「友善校園政策」、「九年一貫課程綱要」、「人權教育教材」、「校園世界人權日活動」等，來討論我國國中小以下校園之人權教育之實施。國際人權標準，在提供人權的普世性觀念上，是不可或缺的重要資源，也挑戰臺灣的國中小校園在人權教育的實踐。

關鍵字

人權教育、兩公約、校園人權

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壹、前言：人權保障的視野，國內或國際？

世界人權宣言第一條明訂：「人生而自由，不論是在權利或是尊嚴上都處於平等的地位」，如此天賦人權的理念，強調其係跨越國界、地域、種族、性別、階級等的普世價值。然而，就其發展的歷史與理論基礎而言，以英國十七世紀的自然權利為例，如學者 Michael Freeman (2006:22) 指出：「自然法與歷史爭論的混合產生了一些關於權利是英國人還是普世人權的不明確。Roshwald 認為實際上關注的是英國人的權利，但他們的邏輯是普世的」。在人權觀念的發展史，已存在著如此觀念的指攝範疇，是否超越國籍限制之緊張，既然講的是人權，邏輯上當然包括所有的人，就不會僅侷限國土的限制。可是，「革命時期，美國人的自然權利之觀念並不包含婦女權利，而一般認為可以與奴隸制度相容」(p24)。相對地，後來的法國大革命，用更多的普世性語言，如婦女權利之興起和奴隸制度的取消等，皆已被提及。不管是英國、美國、法國的歷史，在其憲法為首的國內法制下，普世人權的價值，不斷地挑戰其既有的性別、階級、種族、地域等各種社會的藩籬，甚者，其所帶領的關懷當然不會被侷限於一國的國境內。甚者，以聯合國為首所建立的國際人權標準，更已將抽象且哲學上有爭議的自然權利觀念，建立在國際人權公約之中，如 Michael Freeman (2002, 32) 所指出，「從歷史的角度來看，這是一個令人驚奇的發展。一個不久前還被懷疑的概念有了非凡的重生，普遍被認為是西方概念的人權已經全球化」。

雖然人權的理念，強調其普世性，但就法律保障的體系而言，不可否認地，其仍受限於不同的政治組成，其仍可區分為國內的憲法與或國際的人權公約層次。而我國憲法的第二章，明訂人民的權利與義務，但在其內容上並無清楚地區分所謂「人權」與「公民權」，前者指超越國籍的權利，而後者以國籍為前提之權利，換言之，非屬我國國籍者，即不得主張這些權利。有趣的是，在聯合國人權保障的國際公約體系中，透過兩個國際人權公約，更將人權區分為「公民與政治權利」和「經濟、社會、文化權利」，在此所謂的「公民權」或「公民自由」，實指作為一公民在民主社會，最基本之公民自由與政治參與權，如生命權、人身自由、思想信仰自由、意見表達之自由、集會結社之自由、營私人生活不受侵犯之自由等，實為超越國籍限制的普世人權。

臺灣因為在國際地位的特殊性，並非是聯合國的會員國，因此，以實際的人權保障機制而言，人民僅能訴諸國內憲法層次的法律體制，來主張人權保護。然而，在 2009 年 3 月 31 日立法院通過，(當我們仍是聯合國之會員國) 早在 1966 年 12 月 16 日所簽署之公民與政治權利公約和經濟社會文化權利公約(俗稱「兩公約」)，且同時通過其施行法，並明訂於該年之 12 月 10 生效。換言之，我們已將此兩國際人權公約國內法化，而就人權教育之落實而言，若僅侷限於憲法的層次，而未能更擴及國際人權公約之層次，來介紹人權的理念，在視野上當然是有所不足。以非法移民的小孩，可否主張其受教權應受到保障為例？答案會有所不

同，端視我們如何看待受教權的保障，視其為人權或公民權結果會有所不同，前者會承認其權利但後者則否，蓋後者係以國籍為利益主張之前提。在美國即承認非法移民之小孩 (Cary,1997:20)，仍可主張其受教權，但在臺灣根據外國學生來台就學辦法第 19 條仍以「合法居留身分」，為其得以就學之前提。

人權教育學者 Betty A. Reardon (2002:16-18) 提到「國際規準和國際機構取向」的重要，「人權是關於倫理道德的一種現世公約，它要求實現地球村的遠景，也同時形成世界和平的基礎」。臺灣的人權教育，在介紹權利主張的時，能否把所謂「國際規準和國際機構取向」的面向帶入，或能否擴張從憲法到人權公約之人權保障視野，將係本文之討論重點。換言之，被聯合國摒除於外之臺灣，當我們在談人權時，我們所講的權利，有無國際人權標準之視野，將會從普世性和人權公約引用等兩個角度來檢視。本文將分別從「友善校園政策」、「九年一貫課程綱要」、「人權教育教材」、「校園世界人權日活動」等，來討論我國國中小以下校園之人權教育之實施。

貳、國際人權標準與「友善校園政策」

教育部從 2004 年年底起發佈「友善校園總體營造計畫」(93 年 12 月 27 日台訓(二)字第 0930169777 號函發布)，中間雖經過兩次的修正(96 年 11 月 29 日台訓(二)字第 0960185285 號函修正、100 年 3 月 18 日台訓(二)字第 1000032575 號函修正)，仍是教育部在推動學生事務工作之整體性的政策主張，「乃立基於學校本位管理之觀點，強調學校教師及學生在進行教與學的歷程上，必須『如師如友，止於至善』，任何教育活動以及輔導管教措施均可建立在「友善校園」上發展，其主要內涵包括校園安全、人權法治教育、關懷弱勢、選替性教育、輔導偏差行為學生，建立系統輔導機制管道，和諧組織文化」(教育部，2011:1-2)。

人權教育亦屬友善校園之重要政策之一環，其不僅在計畫目標提到「營造尊重人權的法治校園」，並條列出八點的實施策略，如下：(一)推動人權教育(二)定期調查弱勢族群學生(三)推動校園正向管教(四)扶助高中職以上弱勢學生就學(五)輔助國中小弱勢學生學習(六)加強品德教育(七)強化公民意識(八)加強法治教育。進一步在具體執行項目與內容，則羅列：

- 1、規劃人權教育之研究發展，並輔導縣市政府督導學校進行校園人權環境指標自我檢核評估工作。
- 2、培訓人權教育師資，於師資職前教育專業課程中，將人權教育納入選修課程中，並規劃辦理人權教育教師在職進修研習活動。
- 3、發展人權教育課程及教材，推動國民中小學人權教育課程與教學，並鼓勵各大學及技專校院開設人權教育相關課程。
- 4、加強人權教育宣導，推動社區人權教育方案、補助民間團體辦理人權相關活

動。

- 5、改善學校人權措施，督導縣市政府於年度友善校園學生事務與輔導工作計畫規劃辦理人權教育相關研習及活動，並輔導各校將人權公民教育實踐議題納入學校年度行事曆並辦理相關活動。
- 6、依據「公民與政治權利國際公約」及「經濟社會文化權利國際公約」，檢視現行相關法規及行政措施是否符合前開兩公約事宜，並辦理相關宣導工作。

從以上有關友善校園之政策實施，從國際人權標準的使用而言，直接有關者係前揭「1、規劃人權教育之研究發展，並輔導縣市政府督導學校進行校園人權環境指標自我檢核評估工作」和「6、依據『公民與政治權利國際公約』及『經濟社會文化權利國際公約』，檢視現行相關法規及行政措施是否符合前開兩公約事宜，並辦理相關宣導工作。」針對「6」的工作，教育部要求學校必需檢視其校規和行政措施，是否符合公約之要求，係直接與國際人權的標準關連項目，惟公約的規範對象並非學校，其在適用上勢必需經過轉化，且未必每個公約之內容，與校園皆可直接的關連，再加上校園並非有法律特別是國際公法之專長，若未經過有效的配套措施協助，其政策成效恐堪虞。

相對地，有關「1」之工作項目，有關校園之人權環境指標自我檢核評估工作，這些人權環境指標，不若人權國際公約，係直接針對校園環境而設，係將許多國際人權標準融入校園之情境（馮朝霖，2004），以和公平的決定程序有關者，在公民與政治權利公約第14條第二項：「凡受刑事控告者，在未依法證實有罪之前，應有權被視為無罪」，在人權環境指標，則有類似「師生在未證實有過失之前都能被視為沒有過失，並尊重其應有權利」。其有經過轉化，自然比較容易在校園中施行，教育部實可以人權環境指標為主，在指標後可以羅列相關之國際人權標準，使校園在檢視指標時，瞭解到指標背後的價值，係源自國際的人權標準，甚或認知到其具有普世性。

在國外的人權教育教材，亦有以校園之情境為對象的「校園人權溫度計」（Shiman, 2011: 65-77），以世界人權宣言之內涵為核心，轉化為校園內之情境，共25題由學生來填寫，並由老師來帶領學生一同檢討結果。其重點在於透過學生一起的參與並共同來檢視所處的校園或教室環境，從人權的價值而言，還有哪些可以改進之地方，並順帶介紹每一題背後的國際人權標準。換言之，其比人權環境指標更進一步，將背後的國際人權價值，介紹給老師和同學，其不僅是一個環境指標，更重要地也是一種課程模式。這種轉化過之模式，實為教育部在引進國際人權標準進行入校園之參考。

參、國際人權標準與「九年一貫課程綱要」

我國的中小學課程，雖然在1998年實施九年一貫課程以前，不能說沒有提

到人權的價值，但直接在課綱中標示「人權教育」，正式成為國訂課程的一部份，則絕對是從其開始。與人權有關之能力指標，在九年一貫課程中，除在社會學習領域的主題軸「六、權力、規則與人權」和「九、全球關連」外，更在重大議題課程，亦規劃有完整人權教育指標，惟其並非如領域課程有明確的教學時數，但期待在不同的領域能採「融入式」的教學，即在適合的地方帶入人權教育。以下將分別檢視社會領域和人權教育重大議題之課綱能力指標與說明，是否有帶入普世性和國際人權標準。

在主題軸六，當其有提到權利者，如指標「6-2-2 舉例說明兒童權（包含學習權、隱私權及身體自主權等）與自己的關係，並知道維護自己的權利」、「6-4-3 舉例說明各種權利（如學習權、隱私權、財產權、生存權、自由權、機會均等權及環境權等）之間可能發生的衝突」，其並未特別區別法律或憲法層次的權利，更未提到國際公約的層次，此部份留給老師和教材空間，但所謂權利，最少需符合普遍性和合理性，才是受法律保障之利益，在強調普遍性時，即可強調「任何人」，在這種狀況下，都是合理正當地應受到保護，甚者，可以將憲法或國際人權公約帶入，來凸顯其「普世性」。相對地，在指標「6-3-4 列舉我國人民受到憲法所規範的權利與義務」，則明白地侷限在憲法層次的權利，除應區別人權與公民權之不同外，其仍可將國際人權標準帶入學生的學習，蓋有許多的憲法權利，可以被國際人權標準所補充，且如此來擴大學生的視野。

在主題軸九，其從全球關連的角度來提人權，如在指標「9-3-4 列舉當前全球共同面對與關心的課題（如環境保護、生物保育、勞工保護、飢餓、犯罪、疫病、基本人權、經貿與科技研究等）」和指標「9-4-5 探討當前全球共同面對與關心的課題（如環境保護、生物保育、勞工保護、飢餓、犯罪、疫病、基本人權、媒體、經貿與科技研究等）之間的關連性，以及問題可能的解決途徑」，這些指標皆提及基本人權為全球共同關心的議題之一。這些指標雖未直接提及國際的人權標準，但已清楚地提醒人權的議題，絕非僅是單一國家的問題，教師或教科書當可帶入國際人權標準與普世性的面向，來印證其係全球性的議題。

在人權教育的課程綱要，其區分為「人權的價值與實踐」和「人權的內容」兩個部份，在指標「2-3-2 瞭解兒童權利宣言的內涵及兒童權利公約對兒童基本需求的維護與支持」、「2-4-4 瞭解世界人權宣言對人權的維護與保障」、「2-4-5 認識聯合國及其他人權相關組織對人權保障的功能」，很明顯地來提國際人權標準和國際性組織，此外，如指標「2-4-7 探討人權議題對個人、社會及全球的影響」、「2-3-5 理解戰爭、和平對人類生活的影響」、「1-4-5 討論世界公民的責任，並提出一個富有公平、正義永續發展的社會藍圖」、「1-2-2 知道人權是普遍的、不容剝奪的，並能關心弱勢」，這些指標雖然沒有直接提到國際人權標準，但從「人類」、「世界」、「全球」、「普遍」等面向，其亦在強調人權的普世性。其他的指標，亦直接提及許多的權利觀念，但因其本身即在人權教育的課綱下，很清楚地絕非一般性的權利，而與其最大之差別，或許即在於更強調人權的「普世性」、「固

有性」、「不可分性」等面向。

肆、國際人權標準與「人權教育教材」

誠如前所揭，在九年一貫課程中，比較明顯和人權教育有關之課程，主要在於社會領域，另外有人權教育議題融入之課程。相應地，在教材的部分，我們可以檢視現有坊間的社會領域教科書。此外，針對所謂議題融入之課程，教育部在其中央與地方課程與教學輔導網絡下，亦成立所謂「人權教育輔導群」來協助地方的「人權教育輔導團」（林佳範，2009：144-145）。人權教育輔導群為推動校園的人權教育課程，亦會發展人權教育之教材，不僅作為師資的培育課程，亦可以進一步融入在相關之領域課程中。

我國坊間的教科書多集中在翰林、南一、康軒等三家出版公司，以國中的社會領域教科書，有提及國際人權公約者，如教科書有直接提到世界人權宣言的部分，一則在介紹「社會中的團體」，會引用世界人權宣言，來指出「結社自由」：「人人有和平集會結社之自由，並不得強迫加入任何集會」（南一，2010；翰林，2010）；另一則在有關「社會福利」，為強調社會正義，而引用世界人權宣言：「人人生而自由，在尊嚴及權利上一律平等」（康軒，2010；南一，2010）。可見我國的教科多僅片面地引用國際人權標準，並非直接或完整地介紹國際人權標準。且在「全球關連」的部分，本來應該可以介紹聯合國，順便帶出世界人權宣言，但並無任何的教科書有提到。

再者，若以公民自由的觀念為例來檢討，所有的教科書，均會在介紹憲法有關人民權利與義務，提到「自由權」，均已含括公民政治參與有關之基本自由，如人身自由、言論自由、集會結社之自由。然而，每本教科書的介紹，對個別自由權的觀念介紹，均相當簡短，且並未和實質公民參與政治生活之面向關連（南一，2010a；康軒，2010a；翰林，2010a）。如此形式地介紹自由權，並無法和實際的社會政治運作關連。在2009年我國國中二年級學生參與一項國際性公民資質的比較性研究（2009 International Civics and Citizenship Study，簡稱2009ICCS），針對民主體制調查學生的態度與價值傾向，在回答是否同意「沒有公司或政府應被允許掌控國家中所有的媒體」和「人民可以抗議法律的不公」，這兩題我們學生的回答，在38個國家的比較中，是遠地低於平均值，頗值得我們警惕（Schulz et al，2010：89-90）。

然而，這兩個題目，正是和實施民主政治最重要的公民自由（即表現自由）有關。顯然我國的國二學生，對於公民自由的認識和認同，仍有許多進步的空間。公民與政治權利公約，所講的公民自由與政治權利，正是實施民主政治所不可或缺的重要人權。我國坊間的教科書，很形式地依憲法的規定來介紹，僅能提供所謂「自由權」的觀念，若能結合國際人權標準，而與「公民自由和政治權利」觀念相關連，如此不僅能與實際社會政治生活連結，更能擴大學生人權保障的視野。

除前揭社會領域之教科書外，在臺灣國中小校園的人權教育的教材，最主要的來自人權教育輔導群所翻譯國外的人權教育教材。他們翻譯聯合國在推動人權教育十年計畫時，所發展出來的教材：《人權教育 ABC—中小學基礎人權教學及活動演練手冊》(ABC: TEACHING HUMAN RIGHTS-Practical activities for primary and secondary schools)。這本書當然以聯合國的國際人權標準體系為核心的價值，將這些重要的國際人權標準，如世界人權宣言、兒童權利宣言、公民與政治權利公約、經濟社會文化權利公約等等，轉化為校園可以依不同的年齡階段，以具體的生活例子與活動，來介紹這些抽象的國際人權標準。

以衝突解決為例，這本教材更從低年的教室，將「衝突解決」的議題，帶到世界的「戰爭、和平、和人權」面向，此部分亦可以融入前揭九年一貫課程人權教育重大議題之能力指標「2-3-5 理解戰爭、和平對人類生活的影響」。此外，就拓展人權保障之國際視野而言，除強調聯合國體制之機構與公約以外，其更提及「企業和人權」的議題，更是國內教材較少提及的面向。企業不僅雇用許多的人，不僅在經濟上有其影響力，更在人權的侵犯或保障上皆可以檢討其角色。然而，如此和個人與社會密切的組織，不僅在課綱上沒有直接的指標，更在教材上雖有提到「民間的團體」，但多從人民團體法的區分為「職業團體」、「政治團體」、「社會團體」(南一，2010)(翰林，2010)(康軒，2010)，而非直接介紹與人民生活或許更密切的「企業」本身。

除這本基本的教材以外，人權教育輔導群，更翻譯美國明尼蘇達大學人權資源中心所出版的系列叢書共七本，其分別為《人權實踐在當下》(Foundation Volume: Human Rights Here and Now)、《從人權觀點和經濟和社會正義》(Topic Book 1: Economic and Social Justice: A Human Rights Perspective)、《教導兒童基本觀念、權利和責任》(Topic Book 2: Raising Children With Roots, Rights & Responsibilities: Celebrating the UN Convention on the Rights of the Child)、《女同性戀者、男同性戀者、雙性戀者和跨性別者的權利》(Topic Book 3: Lesbian, Gay, Bisexual, and Transgender Rights: A Human Rights Perspective)、《人權教育教學手冊—學習、活動與改變的有效方法》(Topic Book 4: The Human Rights Education Handbook: Effective Practices for Learning, Action, & Change)、《性靈提升—宗教信仰之人權與自由》(Topic Book 5: Lifting the Spirit: Human Rights and the Freedom of Religion or Belief)、《身心障礙者人權的倡導與行動》(Topic Book 6: Human Rights. YES! Action and Advocacy on the Rights of Persons with Disabilities)。這套叢書有針對特定主題或對象，惟其亦包括介紹國際的人權標準，可作為前揭《人權教育 ABC—中小學基礎人權教學及活動演練手冊》的進階或補充。

從介紹普世性的觀念和國際人權標準的角度，以其中《從人權觀點和經濟和社會正義》(Shiman, 2011, 69-77)書中的一個活動：「馬丁路德金恩—從公民權到人權」為例，以著名的美國民權運動領袖的努力，讓學生理解其奮鬥不僅有

「公民權」的意涵，更可以延伸到「人權」的角度，帶進國際人權標準，如「世界人權宣言」、「公民與政治權利公約」、「經濟社會文化權利公約」等。此外，其更凸顯人權保障的不可分性，即公民與政治權利和經濟社會文化權利等，對任何社會中的個人，都是不可或缺且相互關連。這些都是我國的教科書所欠缺的面向。

伍、國際人權標準與「校園世界人權日活動」

2010年12月10日，人權教育輔導群針對世界人權日，發展出一個簡單課程與教學活動：「兒童關心兒童、一人一信送愛到達弗」。非洲蘇丹南部的達弗地區，從2003年起被回教民兵和政府軍迫害，已造成六十萬人被屠殺，且有兩百萬人流離失所，已造成國際的關注，不僅聯合國介入，且其總統在2010年七月亦已被國際刑事法庭，以違反聯合國的殘害人群公約被起訴。在不到二十分鐘的課程，除讓學生認識蘇丹達弗的地理外，更希望學童能關心遠在非洲孩童的人權狀況，並以實際的行動來改善他們的人權狀況，以國際特赦組織常用的方式，即寄關心的明信片，來協助弱勢的孩童發聲。

人權意識的形成，或人權行動的踐行，都不可能被強迫，必需是發自內心的理解而決定採取行動，才是真正的人權行動與教育。希望如此受注目的人權議題，來擴展臺灣學童的國際視野，並發展學生的人權意識與行動能力，甚至藉此認識國際的人權標準。任何的縣市人權教育輔導團、學校、或班級，只要認同如此的活動，即可以將如此的課程融入。它可以是在歷史與地理的課程，利用 google earth 或地球儀，讓小朋友認識蘇丹達弗的地理與人文歷史。或是國語的課程，讓學生練習書寫明信片的格式，甚至學習抗議或關心文字的使用。或是英語的課程，將學過的英文應用在撰寫關心兒童人權的語句表達。它可以是生活的課程，藉此使學生認識郵局與郵政。它可以是公民課，介紹國際的人權標準。甚者，也可以在非正式的課程，如班會或朝會，以主題的方式來介紹，特別是在像世界人權日這樣的日子。

人權教育輔導群蒐集到的訊息與資料，陸續從11月開始至12月10日，在全台已有十七個縣市的地方人權教育輔導團，和四十八個國中小響應如此的課程，或許仍有許多我們尚未獲悉但也有在進行的班級或學校。我們看到各地方團的創意與努力，如花蓮縣團聯絡郵局，實際將郵筒搬到學校，讓學生來投遞。台中縣團更讓學生在朝會，排列「H」和「R」的圖樣，來認識 Human Rights。有台北市輔導團的教師回饋，其實在課程的進行中，小朋友反應從來沒有機會，認識在世界的另一端，仍有小朋友過著如此皮包骨的境況，讓他們不禁為自己的生活感到慶幸，並對戰爭的恐怖，有深刻的印象。甚者，亦有老師反應，有學生會以激烈的言詞表達憤慨，但老師亦藉此機會提醒理性抗議文字的使用。這樣的課程，能帶給學生各種的學習層面。

人權的行動與課程，當然並不會止於這一次，亦不會侷限於人權日才可以進

行。世界、臺灣、各地方縣市、甚至學校或班級本身，仍有許多的人權議題，可以在各種的課程中融入。人權行動的方式，亦不限於寫明信片，報紙投書、畫一張海報、完成一項壯舉（以喚醒關注）、繫上黃絲帶等等，表達關心的方式，可以再發展，但最重要的是，能真正的關心與理解人權的價值，即對人性尊嚴的尊重。然而，選擇國際性的人權議題，不可否認地可以開拓學生的國際視野，且更符合人權的普世性理念。有趣的是，在這次的活動進行中，亦有老師們提出，寫好的明信片，是否真的要寄出去的問題。有「真」的寄到，或僅是讓學生「活動」一下，不必「真」的寄到，就教育的意義來講，有無差別？茲提供幾點看法，如後：

不要窄化學生的學習。有許多教師認為，讓學生參加活動，如聽老師講解並寫下明信片，即已達到教育的目的，如此實已窄化學生的學習目的。就像許多教師，在升學的考試壓力下，無形中也窄化自己的教學目的，限縮在使學生會會回答考試的題目即可。這樣的想法，忽略教育的最終目的，在使學生具備未來在社會中，解決問題的能力；社會中的問題，絕對比考試的題目複雜，必需使學生能考量真實生活中，更複雜變數的能力與視野，才是在培養其解決問題的能力。愈是能貼近真實情境的學習，才是好的教學。根據前揭 2009ICCS 的調查研究，我們的學生在參與社會上人權的相關行動，是 38 國中次數最少者(Schulz et al, 2010: 132-133)。

第二、真正的社會行動，才能提升學生的政治效能(Meintjes, 1997)。以寫明信片為例，學習的目標，並非僅在於文字表達或寫信的技能，或地理知識上能知道蘇丹達弗的所在，或認識到人權的普世性（包括外國的小孩也有人權）；其實當他或她親自以實際的行動（寄明信片），給遠在他方的不相干的人，相信這樣的一封信，能為從未謀面的外國小孩，來真正影響他們的生活；從公民教育的角度，如此的行動，即在提升學生的政治效能，亦即培養其關心公共議題，並建立其能改變社會可能的意識。當然，學生或許也會質疑，如此行動的實際效能，但老師也不必誇大它，或許也可能不被重視，但更重要的是，就算是微不足道的心力，至少已採取行動。有行動才有改變的可能，若光說不練，根本不可能有改變。

第三、規範價值教育，必需在生活中實踐。人權不是存在於抽象的法律條文或教科書中，而是要落實在實際的人與人的相互對待上。九年一貫課程的社會領域，提到「全球關連」，一張接一張的明信片，如雪片般地送到蘇丹的總統府，遠在天邊的臺灣，居然有如此的多的小朋友，關心蘇丹小朋友的處境，希望和平與反對戰爭，我們不就是真的在「地球村」中嗎？在這樣的行動中，我們的小朋友，無形中已肯認，就算是不同的種族、膚色、語言的人，他們也一樣的應享有人權。

第四、「造假」的教育，違背專業倫理。學校的教育關係，必需建立在學生對老師的信任與信賴。雖然有些時候，在校園無法複製完全一樣的社會情境，我

們會以假設性的情況，來使學生認識和學習。然而，縱使如此，仍並非在「造假」，而當我們向同學說，我們可以行動來改變社會，卻未將明信片寄出，若被學生知道，不僅造成師生信賴關係的破壞，甚至使學生以後對社會行動的懷疑，甚至可能演變為日後犬儒的態度。老師或許僅是便宜行事，但卻可能對學生造成深遠的影響。

此外，在引用國際人權標準或關心國際的情勢上，亦會引發校園在政治或外交上的疑慮。在人權教育的推動上，許多人會以太過「政治」，而限制或剝奪學生認識爭議性的人權議題。然而，人權議題，很難不「政治」，不管是生活中或制度上（包括政府的強制力），其往往在對抗強權對弱勢的欺凌。甚者，有人認為，作為「教育部」的人權教育議題輔導團，我們僅能「遵照」教育部的「官方」立場嗎？以「政治敏感」為理由，而不去討論爭議性或針對性的人權議題嗎？或相反地，我們必需謹守「人權」與「教育」的專業的立場，引導學生來討論這些議題，才是盡到我們的職責？又如何引導學生的討論，才不會違反教育中立的原則？茲針對這些問題，幾點意見如下：

第一、維持教育中立，並不表示不可以討論政治。政治，是管理眾人之事。民主政治，係實施多黨政治，因此，不得不要求行政中立、司法獨立、甚至是教育中立。然而，其所謂「中立」，強調是針對「政黨」與「宗教信仰」，換言之，不得為其宣傳或強迫老師與學生接受。民主的公民教育，更強調學生必需學習政治參與，且必需尊重多元意見的表達。只要不是對特定政黨或信仰宣傳，政治的討論或參與，不僅是被鼓勵，更被視為是必要的。

第二、不碰觸爭議性或針對性的議題，無法培養人權與民主素養。民主社會，本來就是意見多元的社會，且意見表現的自由，本身即是受憲法保障之重要基本人權。更重要的是，如此包容的人權與民主素養，更需從生活中，能和平與理性地討論各種爭議性、甚至針對性的人權議題，不斷地實踐與培養，甚至培養出解決衝突的能力（聯合國，2009：24-25）。人權教育的課程，若規避這些面向，不僅老師會教的心虛，學生亦無法在生活中印證與實踐，更無從形成人權意識。

第三、教師針對爭議性議題的立場的表達，不必然是為特定政黨做宣傳。基於教育中立原則，教師或學校本就不應為特定政黨或宗教，進行宣傳。其實針對爭議性議題的教學，重點不在結論，更在討論之過程，老師甚至必需扮演對立立場的發言者，以此帶出學生更深刻的思考與論辯。就算老師表達其立場，亦需允許學生得以保有其不同的立場，如此才是實踐民主與包容之教學，也才不會是為特定立場進行宣傳。再者，進行人權教育之教學，站在人權的立場，本來就是要超越黨派的立場，才是真正的人權主張。換言之，就算是政府（包括教育部）有侵犯人權之爭議，更應正視而非逃避，才是真正的站在人權的立場。

第四、人權教育的落實，是教育部或地方教育機關之職責，不是其專有之特權。人權是憲法的核心價值，教育基本法亦明訂培養學生的人權意識，是我國的重要教育目標，九年一貫課程綱要，更明列為正式課程的一部份。教育部或地方

教育機關本即應遵守法令，在各級學校進行人權教育。然而，此非謂教育部長或教育部，擁有人權教育之特權。沒錯教育部擁有許多的資源，但這些資源並非其專有，毋寧是全民納稅人所擁有。教師或任何人，來協助教育部推動人權教育，並非其下級公務員，係本於教育或人權之專業，共同來推動教育之事務。

第五、教育部以「政治敏感」為由，限制輔導群或輔導團討論爭議性議題或相關的課程與活動之進行，係侵犯其教育專業自主性。教育部或地方教育機關本身的作為，若傷害到教育或學生的權利，教師、輔導團、或輔導群，本即應本於人權、法律、教育等專業，提出改進的意見，才有盡到其職責。教育部或地方教育機關，若基於政治顧忌，不願意參與或出席輔導群或輔導團所辦之活動，也就罷了，那僅是其喪失其登高一揮引導與推動人權教育的機會。可是，甚至進一步限制輔導群或輔導團的活動辦理，則即在侵犯其專業自主性。

陸、結語

臺灣雖然不是聯合國的會員，而無法享受聯合國所建立的人權保障機制，但我們的民主當然不能自外於國際的人權標準。甚者，國際的人權標準，在鞏固臺灣的民主，或深化臺灣的人權教育，所不可或缺。本文從人權的普世性觀念和國際人權標準的角度，來檢視臺灣的國中小人權教育的實施。

首先，針對「友善校園之政策」，不管是在人權環境指標的運用，或學校校規與行政措施的檢討，本文指出國際人權標準，皆可以發揮其引導之作用，惟在校園中引用國際人權標準，必須經過轉化，以適合校園的脈絡情境，始能發揮其作用。

再者，針對「九年一貫課程綱要」，本文指出國際人權標準，可以補充與深化社會領域之「主題軸六、權力、規則與人權」和「主題軸九、全球關連」，特別在區別「公民權」和「人權」的不同，或在憲法和國際法層次對人權保障之異同上。

此外，針對「人權教育教材」，本文亦指出我國的國中社會領域教科書，在引用國際的人權標準上，仍僅止於條文之引用，而非完整與直接地介紹國際人權標準，甚至在全球關連的部分，本有機會藉由聯合國的介紹或全球性議題的介紹，來帶出較完整的國際人權標準，如世界人權宣言，但都闕如。國際人權標準，如以公民與政治權利的概念為例，可以彌補坊間教科書僅形式地介紹憲法的自由權，而無法與實際的公民與政治生活相關連。且在人權教育輔導群所翻譯的相關書籍上，正可補充坊間社會領域教科書，在「企業與人權」、「人權的不可分性」、「公民權與人權之不同」等面向之不足。

最後，針對「校園世界人權日活動」，根據人權教育輔導群所規劃「兒童關心兒童、一人一信送愛到達弗」活動，國際視野和國際人權標準更是此次活動的

主要目的，且透過信件是否實際寄達的議題討論，更讓老師們理解人權行動在人權教育所扮演不可或缺的角色。特別是透過實際的國際性關懷行動，人權的普世性和國際人權標準的重要性，才可能被真正的實現。惟在關懷人權的國際參與和行動上，行政官員仍以外交和政治疑慮來限制校園的課程活動進行，則是侵犯到教育的專業自主。國際的人權標準，絕對不僅有所謂「兩公約」，人權教育的落實，更不僅在介紹國際人權標準，這些全球化的人權標準，從我們前面所揭的檢討，仍是臺灣中小學校園所必須面對之挑戰。

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International Human Rights Standards and Human Rights Education at Primary and Secondary Schools in Taiwan - From Friendly Campus Campaign to Human Rights Day at Campus

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Abstract

Taiwan has legalized the ICCPR and ICESCR into its legal system, but it is questionable that the international human rights standards are used for teaching human rights education at Taiwan's primary and secondary schools. As we refer to rights, we usually mean legal and constitutional rights but hardly in terms of international human rights laws. Is it the same as we teach human rights education at primary and secondary schools? Human rights education in Taiwan are to be examined in terms of the concept of universal rights and the usage of international human rights standards with respects to 'the policy of friendly campuses', 'the national curriculum for primary and secondary school', 'the textbooks of human rights education, and 'the World Human Rights Day'. International human rights standards are important resources for human rights education, which are challenges for Taiwan's primary and secondary schools.

Keywords

Human Rights Education, the Two Covenants, Human Rights at Campus

I. Introduction: Are human rights protected domestically or internationally?

Article 1 of the Universal Declaration of Human Rights states that all human beings are born free and equal in dignity and rights. Human rights are thus conceived as universal values whereby everyone is equal without distinction of race, color, sex, national or social origin, birth or other status.

Historically and theoretically, however, the concept of universal human rights has had its fair share of debate and controversy. According to Michael Freeman (2006:22), “This mixture of natural law and historical argument created some ambiguity as to whether the rights claimed were those of Englishmen or universal human rights. Roshwald suggests that their practical emphasis was on the rights of the Englishmen, but their logic was universalistic.” He also pointed out, “The American conception of natural rights at the time of the revolution did not include the rights of women, and was generally considered compatible with the institution of slavery” (24).

After the French Revolution, progress was made in the development of human rights with the abolishment of slavery and women gaining more rights. In Britain, the United States and France, attempts have been made to challenge barriers originating from sex, origin and race. The United Nations has even developed international human rights standards and adopted international covenants on human rights on the basis of the philosophical and controversial concept of natural rights. As Michael Freeman stated, “Seen in historical perspective, this is astonishing. A concept, not long ago discredited, has made a remarkable revival; furthermore, although widely perceived as Western, it has become global” (2002:32).

Despite having universal values, the protections of human rights are undeniably subject to various political systems. For legal protection, human rights are classified into two categories - national constitution and international covenants on human rights. The Chapter 2 of the R.O.C. constitution states the rights and duties of the people without dividing them into human rights, which are beyond national border, and civil rights, which are based on citizenship and thus cannot be claimed by non-R.O.C. citizens. According to the United Nations, human rights are categorized into civil and political rights enshrined in the ICCPR, and economic, social and cultural rights enshrined in the ICESCR. Civil rights refer to the rights of every citizen to freedom of thought, freedom of conscience, freedom of expression, freedom of movement, freedom to enjoy privacy and autonomy in the management of one's personal affairs, freedom of private individuals to associate voluntarily and to form

organizations for pursuing common purposes, and freedom to participate politically in ways that do not infringe upon the similar rights of others. In essence, these rights are tantamount to universal human rights not confined to national boundaries.

Due to Taiwan's special status as a non-UN member, people in Taiwan can only rely on its constitution for legal protection. However, the ICCPR and the ICESCR, signed on Dec. 16th, 1966 (when Taiwan was still a UN member.), were passed on March 31st, 2009 by the Legislative Yuan and took effect on Dec. 10th the same year, which means the two covenants have already been incorporated into Taiwan's domestic law. As a result, when implementing human rights education or introducing the concept of human rights at primary and secondary schools, we should broaden students' view on human rights from what is stated in the constitution to those covered by international covenants on human rights. The difference between viewing human rights from constitutional point of view and the perspective of international covenants on human rights will inevitably lead to different interpretations and decisions with respect to the rights to education for children of illegal immigrants. Whether children of illegal immigrants are entitled to educational rights depends on how these rights are defined. If they are regarded as human rights, the answer is yes. If we consider these rights to be civil rights, which are based on citizenship, the answer is no. In other words, no entitlement to educational rights will exist. Take the United States and Taiwan for example. In the U.S. children of illegal immigrants are entitled to educational rights (Cary, 1997:20), whereas in Taiwan such entitlement requires as a prerequisite the acquisition of legal permit of his or her immigrant status, as specified in Article 19 of the M.O.E. Regulations Regarding International Students Undertaking Studies in Taiwan.

Betty A. Reardon, one of the foremost scholars on human rights education, advocates an international standards and institutions approach, stating that human rights are a secular code of ethics and morality for the world community, and as such, form the fundamental basis for peace (2002 : 16-18). Given the fact that Taiwan is a non-U.N. member, our concept of human rights may seem narrow compared to international human rights standards and international covenants on human rights. To address this concern, this paper will discuss the implementation of human rights education at primary and secondary schools in Taiwan from various perspectives, including Friendly Campus Campaign, Grade 1-9 Curriculum Guidelines, selection of textbooks for human rights education and Human Rights Day on Campus.

II. International human rights standards and Friendly Campus Campaign

The Ministry of Education (M.O.E.) launched Friendly Campus Campaign on Dec. 27th, 2004 (promulgated in official document No. 0930169777). Though the campaign was later amended twice on Nov. 29th, 2007 and March 18th, 2011 (No. 0960185285 and 1000032575 respectively), it remains the underlying policy of the M.O.E. in promoting student affairs. Aimed at creating a harmonious relationship between teachers and students and encouraging the pursuit of moral excellence, Friendly Campus Campaign encompasses a wide range of issues: security on campus, education on human rights and that of law and order, care for minorities, alternative education, counseling students with deviant behaviors, and creating a harmonious environment (M.O.E., 2011: 1-2).

Human rights education is another key feature of Friendly Campus Campaign, with the aim of creating a campus culture of law and order where human rights are well respected. There are eight steps to be carried out for the implementation of human rights on campus: (1) enhance human rights education (2) monitor minority students regularly (3) promote positive discipline on campus (4) provide assistance to minority students in high schools and vocational schools who would like to continue their education (5) help minority students at primary and secondary schools with their learning (6) strengthen character education (7) raise civic consciousness (8) improve education on law and order. There are six specific measures:

1. Plan research projects on human rights education; ensure that with the help of county and city governments, self-evaluation of human rights environmental indicators conducted by local schools runs smoothly.
2. Train teachers in the field of human rights education; incorporate human rights education as part of pre-service elective courses; organize in-service training programs for teachers.
3. Design courses and textbooks for human rights education; promote human rights education at primary and secondary schools; encourage universities and technological and vocational colleges to open courses on human rights education.
4. Raise awareness of human rights education; promote human rights education programs on a community level; provide assistance to civil groups in organizing human rights events.
5. Improve human rights measures in schools; ensure that county and city governments organize events related to human rights education as part of the

annual Student Affairs and Counseling of Friendly Campus Campaign; provide assistance to schools in planning events related to human rights and civic education for their annual school calendars.

6. Evaluate existing laws and regulations to ensure they are consistent with the ICCPR and the ICESCR.

Of the above six measures, 1 and 6 are of particular relevance to the application of human rights international standards. With respect to the 6th measure, the M.O.E. requests that primary and secondary schools examine their existing regulations and administrative policies to make sure they meet the requirements laid out in the two covenants, or the ICCPR and the ICESCR. However, since the two covenants are not intended for application in a school setting, adjustments will have to be made to facilitate application of human rights standards on campus. Regarding the 1st measure, or self-evaluation of human rights environmental indicators, we can connect these indicators to the international covenants on human rights to highlight the fact that human rights environmental indicators are based on international human rights standards and reflect universal values of human rights. Similarities can be found between the indicators and the ICCPR. For example, Article 14(2) of the ICCPR states that everyone charged with a criminal offence shall have the right to be *presumed innocent* until proved guilty according to law. Similarly, human rights environmental indicators state that teachers and students shall have the right to be presumed innocent until proved wrong. Connecting the human rights environmental indicators to international human rights standards will help people understand the true meaning and universality of those indicators.

A similar approach to assess how human rights education is carried out on campus can be found outside Taiwan. Human Rights Thermometer on Campus applies the Universal Declaration of Human Rights to the school setting for the evaluation of human rights environment on campus. 25 questions were answered by students under the guidance of their teachers. Students examined and evaluated their learning environment and discussed what areas could be improved. During the process, they learned the true meaning of each of the 25 questions from the perspective of international human rights standards. This case demonstrates how the M.O.E. can incorporate international human rights standards into the education system in Taiwan.

III. International human rights and Grade 1-9 Curriculum Guidelines

Human rights education wasn't officially listed as part of school curriculum until 1998 when Grade 1-9 Curriculum Guidelines were created, despite the fact that the concept of human rights had never been entirely ignored in primary and secondary education. Two of the nine themes of competence indicators in social studies of the curriculum guidelines are related to human rights - Theme Six (Power, Rule and Human rights) and Theme Nine (Global Connections). In addition, human rights education is one of the six Primary Topics that are supposed to integrate into the social study curriculum. The following discussion will be focused on some of the indicators of those two themes and how they are related to international human rights standards.

Indicator 6-2-2 states children's rights, including their rights to learning and privacy. Indicator 6-4-3 exemplifies how different rights could potentially conflict each other, such as children's rights to learning, privacy, property, life, freedom, equal opportunities and the environment without specifying or referring to constitutional rights or international covenants. Indicator 6-3-4 lists the constitutional rights and duties of the R.O.C. citizens, which is clearly confined to the constitutional level. It is advisable to include international human rights standards so as to broaden the view of the students on the meaning of rights.

Theme Nine also mentions human rights from the point of view global connections. Indicator 9-3-4 raises such global issues as environmental protection, protection of species, protection of laborers, hunger, crime, disease, fundamental human rights, economy and trade, and technological research. Indicator 9-4-5 looks at how the above issues are correlated and propose possible solutions to those problems. These indicators show that fundamental human rights are an issue of global concern and attract worldwide attention. While no direct reference to international human rights standards can be found in these indicators, the issue of human rights is clearly shown to be of great significance and by no means confined to any single country. International human rights standards and their universal values can be introduced by teachers in the classroom or included in textbooks to raise awareness of their global nature and impact.

As one of the Primary Topics of the curriculum guidelines, human rights education is further divided into (1) values and implementation of human rights and (2) content of human rights. Indicator 2-3-2, indicator 2-4-4, and indicator 2-4-5 all refer to international human rights standards and international organizations. Indicator 2-3-2 is about understanding the Declaration of Rights of the Child and protection and

support of children's needs by international covenants on children's rights. Indicator 2-4-4 mentions understanding the Universal Declaration of Human Rights and its protection of human rights. Indicator 2-4-5 talks about getting to know how human rights can be protected by United Nations and other organizations related to human rights. While no direct reference to international human rights standards can be found in indicator 2-4-7, indicator 2-3-5, indicator 1-4-5, and indicator 1-2-2, words such as "humans", "world", "global" and "universal" all indicate universal values of human rights. These indicators look at the impact of human rights from an individual, societal and global point of view (2-4-7), the impact of war and peace on humans (2-3-5), responsibilities of world citizens and the blueprint for a fair and just society with sustainable development (1-4-5), and inalienable and universal nature of human rights, respectively. Other indicators listed under the Topic of human rights education within the curriculum guidelines also emphasize the universal, inherent and inalienable nature of human rights.

IV. International human rights standards and selection of textbooks for human rights education

As discussed above, human rights education is primarily addressed in the area of social studies in Grade 1-9 Curriculum Guidelines. It is also listed as one of the Primary Topics. Human rights education is supposed to be included into textbooks of social studies. To facilitate the implementation of human rights education, the M.O.E. has set up a curriculum and instruction network which includes the Human Rights Education Curriculum and Instruction Team at the central-government level and the Human Rights Education Curriculum and Instruction Organizations at the local-government levels (Lin, Chia Fan, 2009: 144-145). To promote human rights education, the Human Rights Education Curriculum and Instruction Team does not only develop teaching materials for human rights education, but also organizes training programs of human rights education for teachers at primary and secondary schools.....

The three leading textbook publishers in Taiwan are Han Lin, Nan Yi and Kang Hsuan. References made to international covenants on human rights can be found in social studies textbooks for secondary school students. For example, the Universal Declaration of Human Rights is cited where social groups and freedom of private individuals to associate voluntarily and to form organizations for pursuing common purposes are discussed. Article 20 of the declaration states that everyone has the right to freedom of peaceful assembly and association, and no one may be compelled to

belong to an association (Nan Yi, 2010; Han Lin, 2010). Where social welfare and social justice are concerned, for another example, Article one of the Universal Declaration of Human Rights is cited, “All human beings are born free and equal in dignity and rights (Kang Hsuan, 2010; Nan Yi, 2010).” These two examples indicate that textbooks for primary and secondary schools merely cite statements from the Universal Declaration of Human Rights instead of offering a comprehensive introduction of international human rights standards. In addition, no textbooks talk about the United Nations and the Universal Declaration of Human Rights where the Theme Nine of Global Connections is concerned.

In terms of civil liberties, when introducing constitutional rights and duties, all textbooks mention rights to freedom. Yet they only briefly and formalistically describe each type of rights to freedom such as personal freedom, freedom of speech and freedom of association without explaining how the concept of right to freedom can be applied to civic participation in politics (Nan Yi, 2010a; Kang Hsuan, 2010a; Han Lin, 2010a). 8th graders or 2nd year middle school students from Taiwan participated in the 2009 International Civic and Citizenship Education Study, or 2009 ICCS, a comparative study conducted by the International Association for the Evaluation of Educational Achievement (I.E.A.) which looks at lower secondary students’ value beliefs and attitudes towards citizenship issues in 38 countries. The ICCS student questionnaire sought to ascertain the extent of student endorsement of basic democratic values. Students indicated their level of agreement (“strongly agree,” “agree,” “disagree,” “strongly disagree”) with the following statements: (1) Everyone should always have to the right to express their opinions freely. (2) Political leaders should not be allowed to give government jobs to their family members. (3) No company or government should be allowed to own all newspapers in a country. (4) All people should have their social and political rights respected. (5) People should always be free to criticize the government publicly. (6) All citizens should have the right to elect their leaders freely. (7) People should be able to protest if they believe a law is unfair. (8) Political protest should never be violent. It is noteworthy that percentage of Taiwanese students agreeing with statements (3) and (7) reflecting democratic values is far below the ICCS average among the 38 countries (Schulz et al , 2010 : 89-90). However, these two statements are most closely related to civil liberties, which lie in the heart of the implementation of democracy. It is obvious that 8th graders in Taiwan have yet to understand more about the concept of civil liberties. Civil liberties and political rights covered by the ICCPR are precisely the type of human rights that are indispensable for the implementation of democracy. Most textbooks in Taiwan formalistically include the constitution and the concept of the right to freedom without connecting them to international human rights standards and

the idea of civil liberties and political rights. By making such connections, we can broaden students' view on human rights protection.

In addition to the textbooks in the social studies area discussed above, the Human Rights Education Curriculum and Instruction Team also translated ABC: teaching human rights - practical activities for primary and secondary schools, a book developed and published by the United Nations during the U.N. Decade for Human Rights Education, and used this book for implementing human rights education. Based on international human rights standards such as the Universal Declaration of Human Rights, the Declaration of the Rights of the Child, the ICCPR and the ICESCR, this book is being applied to different age groups and used to translate abstract international human rights norms into practical day-to-day reality on campus. For example, this book extends conflict resolution among students to the broader issues of war, peace and human rights. The same approach can be adopted in addressing the issue of human rights education under Grade 1-9 Curriculum Guidelines, in particular competence indicator 2-3-5 regarding our understanding of the impact of war and peace on human beings.

This book also addresses the issue of corporations and human rights, which is a little-discussed aspect of locally published textbooks. Corporations not only have significant influence on economy but also play a key role in human rights violations and protections. In spite of its importance with respect to human rights education, Grade 1-9 Curriculum Guidelines merely talk about such private associations as trade groups, political groups and social groups without establishing competence indicators for business corporations, which are more closely related to people's daily lives (Nan Yi, 2010, Han Hin 2010, Kang Hsuan 2010).

Other translations on the topic of human rights education done by the Human Rights Education Curriculum and Instruction Team include a series of seven books published by the Human Rights Center of the University of Minnesota - Foundation Volume: Human Rights Here and Now, Topic Book 1: Economic and Social Justice: A Human Rights Perspective, Topic Book 2: Raising Children With Roots, Rights & Responsibilities: Celebrating the UN Convention on the Rights of the Child, Topic Book 3: Lesbian, Gay, Bisexual, and Transgender Rights: A Human Rights Perspective, Topic Book 4: The Human Rights Education Handbook: Effective Practices for Learning, Action, & Change, Topic Book 5: Lifting the Spirit: Human Rights and the Freedom of Religion or Belief, and Topic Book 6: Human Rights. YES! Action and Advocacy on the Rights of Persons with Disabilities. These books also include international human rights standards and can be used to supplement ABC: Teaching Human Rights - Practical Activities for Primary and Secondary Schools.

By introducing ‘From Civil Rights to Human Rights: Martin Luther King, Jr’., a chapter mentioned in *Social and Economic Justice: A Human Rights Perspective* (Shiman · 2011 · 69-77), we can help students understand that the struggle of this widely celebrated civil rights hero not only shows what it means to have civil rights but also brings out the significance of human rights. Again, the Universal Declaration of Human Rights, the ICCPR and the ICESCR can be included in the curriculum to promote the idea of universality and the importance of these international human rights standards to our lives.

V. International human rights and Human Rights Day on Campus

On Dec. 10th, 2010 when Human Rights Day was celebrated across the world, the Human Rights Education Curriculum and Instruction Team launched an event called ‘Kids for Kids - Send Postcards of Love to Darfur’. In 2003, tired of being treated like second-class citizens, or worse, by the government, Muslim militants of the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM) launched their first attack on Sudanese government forces in Darfur, which is a western region of Sudan in Africa. The Sudanese government responded swiftly and viciously to extinguish the insurgency. Consequently, up to 600,000 people have been killed since and two million people displaced. Darfur soon came to be a synonym for genocide and the crisis has since become a global concern. International response to the Darfur conflict includes intervention by the United Nations and International Criminal Court (ICC), which charged [Sudan's](#) President [Omar al-Bashir](#) for orchestrating Darfur genocide in violation of the Convention on the Prevention and Punishment of the Crime of Genocide. The school event lasted less than 20 minutes, during which students got to learn about the geographic location of Darfur and express their concern about human rights of the children in Africa by sending hand-written postcards, which is a way Amnesty International or AI members all over the world use to raise government concerns about human rights in order to improve human rights conditions.

In fact, neither promotion of human rights nor implementation of human rights action plans can be forced by any government or anyone for that matter. Instead, they should be absolutely voluntary and spontaneous. Therefore, rather than forcing the concept of human rights on students, we should show them the importance and true meaning of human rights issues through concrete social actions. Take Events like ‘Kids for Kids - Send Postcards of Love to Darfur’ for example. Events like this can be organized by primary and secondary schools in a wide range of classes. In history

or geography class, students can use Google Earth or a world globe to get to know the Darfur region of Sudan. In language class, they can learn how to write postcards or use different ways to express protest and love. In English class, they can express their concern about children's human rights using words and phrases they have learned. In civics class, they can expand their knowledge and broaden their view from rights and duties of citizenship to international human rights standards. In addition, teachers can show them how postal service in Taiwan works by helping them send postcards to children overseas. Such events do not need to be limited to taking place on Human Rights Day only. Any other occasion would offer the same opportunity to address the issue of human rights and promote international human rights standards on campus.

According to the Human Rights Education Curriculum and Instruction Team, as of Dec. 10th, 2010, a total of 17 Human Rights Education Curriculum and Instruction Organizations at the local-government levels and a total of 48 primary and secondary schools have responded to 'Kids for Kids - Send Postcards of Love to Darfur'. There were perhaps more schools and organizations out there participating in this event. For example, the post office in Hualien County set up mailboxes on campus for students to send their postcards. Students in Taichung County formed the letters of H and R, which stand for human rights, during morning assembly to raise awareness of human rights. Some students are said to have expressed shock at the horrendous situation kids in other countries are in and as well as gratitude for having better lives. They are also reported to have said they were impressed with the horrors of war. When students are angry and shocked about a situation like the one in Darfur, teachers could teach them how to verbally express dissatisfaction and anger in a rational manner.

There will certainly be more human rights events in the future, and they don't have to be confined to taking place on Human Rights Day. There are also many other ways to promote human rights besides sending postcards. For example, one can write a letter to the editor of a newspaper, make posters or tie yellow ribbons to express their concern about the issue of human rights. The most important thing is to truly understand the meaning and values of human rights and show genuine respect for human dignity. However, events like 'Kids for Kids' are probably one of the best ways to broaden students' view on international human rights.

Unfortunately, during 'Kids for Kids - Send Postcards of Love to Darfur', some teachers wondered if students should have actually sent out the postcards, or would a symbolic gesture of writing them have sufficed. This is a good question and the following are my personal opinions. First, we should not limit students' opportunities to learn. Asking students to write postcards without sending them out would be restricting their learning opportunities. Likewise, asking students to do well on

entrance exams without teaching them how to acquire real-life problem-solving skills would be narrowing their scope of education and would go against the ultimate goal of education. Problems that students will encounter when they leave school are trickier and much more complicated than those they see on tests. Students should learn how to solve problems in real life and acquire the ability to adjust to changes. According to 2009 ICCS, Taiwanese students ranked the lowest in their participation in human rights events (Schulz et al, 2010: 132-133).

Second, genuine social actions can enhance students' political efficacy (Meintjes, 1997). Take writing postcards for example. The objective is not so much to practice writing skills, or to gain knowledge of the geographic location of Darfur, or to know about universal values of human rights (i.e. kids in other countries also have human rights). The goal is for participating children to realize that the mere act of sending a postcard can have tremendous impact on the lives of children in another country whom they've never met. From the perspective of civic education, such an event can enhance students' political efficacy, develop concern for public issues, and help them realize their ability to change the world. Some students may question the amount of difference their action can make. Instead of reinforcing their doubt, teachers should tell them it's their action that counts, that even small actions can make big differences, and that without evening trying, there would be no chance for change.

Third, values education should be placed in the context of real life. The concept of human rights should not be something that exists only in laws and regulations or textbooks. Rather, it should be applied to interpersonal interactions. Grade 1-9 Curriculum Guidelines include the issue of global connections in the area of social studies. When one postcard after another arrived in Sudan, children over there must have been impressed with and moved by the love and affection coming from the children in Taiwan. Through such an event, children in Taiwan had the opportunity to learn that people across the world all enjoy the same human rights, notwithstanding their race, color and language.

Fourth, honesty is an integral part of education, which should be built on mutual trust between teachers and students. When we teach our students about the importance of making a difference in our society by taking action, we must practice what we preach. In the case of 'Kids for Kids - Send Postcards of Love to Darfur', failing to actually send out the postcards to Darfur would go against what we try so hard to preach in school and lead to an education system full of hypocrisy. If the students found out the postcards they'd written were not sent over to Africa, they would likely lose their trust in the teachers. They would even become cynical about social actions of any kind in the future. Such potential impact on students is too great to be

overlooked. While we can only simulate social contexts in a school setting, organizing events such as ‘Kids for Kids - Send Postcards of Love to Darfur’ can increase students’ understanding of the real world. Simulation of social contexts is by no means a form of false education, while failure to send out students’ postcards is.

Some people are concerned that introducing the issues of international human rights standards and international current events on campus might be too political. Some even try to limit students’ understanding of human rights for the same reason. Yet politics is an integral part of human rights. Human rights are claimed for the purpose of fighting the imbalance between great powers and weak states, and in the process politics is inevitably involved. Should we avoid addressing the issue of human rights just because it’s controversial and politically sensitive? Or should we simply regard human rights as an essential part of education from a professional rather than a political point of view? If the answer to the second question is yes, how do we guide students in discussing the issue of human rights without undermining the neutral stance of education?

First, taking a neutral stance does not mean avoiding the issue of politics. Politics is defined as the governing of public affairs, and multi-party systems are a key feature of any democracy. Therefore, it’s essential that legislative, judicial and educational independence be maintained at the highest level possible. However, participation by students in politics and respect for diverse opinions and points of view should be highly encouraged. What should be avoided, on the other hand, are political propaganda and religious beliefs forced upon students and teachers, not their participation in or views on politics.

Second, we cannot expect to promote the concept of human rights and develop the ability to appreciate the true meaning of democracy by sidestepping controversial issues like human rights. A democratic society allows for diverse opinions and encourages freedom of expression. These are the fundamental rights protected by the constitution. Instead of turning a blind eye to these problems, we should address them in a peaceful and rational manner, actualize the concept of human rights through daily practice, and learn how to find solutions to conflicts (United Nation, 2009: 24-25). Education on human rights would not be complete if we swept any controversial issues under the rug and pretended they did not exist.

Third, making clear their position on certain controversial issues does not translate into campaigning for a particular political party. Neither teachers nor schools are allowed to propaganda for a certain political party or religion, but when faced with controversial issues like human rights, they should teach students the importance of critical thinking and allow them to express different opinions. This kind of freedom

and tolerance represent the true spirit of democracy. They are by no means the same as showing support for any preferred political party. Moreover, no human rights education should be affected by any political party or authority. In other words, any violation of human rights should be addressed and denounced even when the government is involved.

Fourth, it's the responsibilities, not privileges of the M.O.E. and other local education agencies to implement human rights education. Human rights are the core values of the constitution. Fundamental Law for Education states that raising students' awareness of human rights is one of the primary goals of education in Taiwan. It is also included in Grade 1-9 Curriculum Guidelines. Both the M.O.E. and other local education agencies have the responsibilities to carry out human rights education across the education system in Taiwan. However, neither the M.O.E. nor its minister has exclusive rights to such implementation. Rather, all taxpayers, including teachers, should be a part of this task and share with the M.O.E. all the resources available to make human rights education a success.

Fifth, the M.O.E. violated the principle of professional autonomy when it banned the Human Rights Education Curriculum and Instruction Team and the Human Rights Education Curriculum and Instruction Organizations from discussing controversial issues or organizing controversial events considered to be "politically sensitive." When such violation occurs, teachers, the Human Rights Education Curriculum and Instruction Team, and the Human Rights Education Curriculum and Instruction Organizations have the responsibilities to offer advice for improvement in the spirit of human rights, education and the law.

VI. Conclusion

Despite the fact that Taiwan is a non-U.N. member and thus prevented from its human rights protection, we cannot afford to exclude international human rights standards from our democratic system. This paper looked at how human rights education is being carried out at primary and secondary schools on the basis of universal values of human rights and international human rights standards.

First, this paper talked about Friendly Campus Campaign and pointed out international human rights standards can be applied to either measure human rights environmental indicators or to evaluate school rules and administrative policies. However, international human rights standards will have to be adjusted so as to fit the school setting in Taiwan.

Second, this paper examined Grade 1-9 Curriculum Guidelines and suggested international human rights standards be adopted to fill the gaps in two of the nine themes in the area of social studies, that is, Theme Six (Power, Rule and Human Rights) and Theme Nine (Global Connections), especially by comparing civil rights and human rights or by distinguishing human rights protection by the constitution from human rights protection by international covenants.

Third, this paper discussed human rights education textbooks, indicating social studies textbooks used by secondary schools merely cite certain provisions on international human rights standards rather than providing a comprehensive view. As far as global connections are concerned, these textbooks do not cover the United Nations and the Universal Declaration of Human Rights.

In terms of civil liberties, when introducing constitutional rights and duties, all textbooks make reference to rights to freedom. Yet they only briefly and formalistically describe each type of rights to freedom without making real connections to people's daily lives. In addition, the issue of business corporations and human rights, despite its tremendous influence and significance, is a little-discussed aspect of locally published textbooks. It is suggested that translations on the topic of human rights education done by the Human Rights Education Curriculum and Instruction Team be used to fill the gaps.

Finally, this paper looked at Human Rights Day on Campus, citing as an example 'Kids for Kids - Send Postcards of Love to Darfur', organized by the Human Rights Education Curriculum and Instruction Team. This event served as a great opportunity for students to broaden their view on international human rights standards. Teachers also learned the true meaning of social actions in the implementation of human rights by discussing whether or not they should 'actually' send out the postcards. They were able to realize that universal values of human rights can only be actualized through concrete actions rather than words only. Unfortunately, some government officials tried to stop the events to take place on campus out of political and diplomatic concerns. Such restrictions run the risk of violating professional autonomy.

The application of international human rights is not confined to the two international covenants on human rights. Nor is the implementation of human rights limited to introducing international human rights standards on campus. How to actualize the concept of universal human rights and turn them into reality is indeed a daunting task for primary and secondary schools in Taiwan.

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