



Taiwan's Journey to Marriage Equality

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Background



- Legalisation of the same-sex marriage, a long battle in Taiwan which has lasted for more than 35 years and still ongoing....
- Marriage Equality Movement started in 1986 with a man called CHI Chia-wei (祁家威) whose application for civil marriage with his partner was dismissed by Taipei District Court.



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Background



CHI Chia-wei, during LGBT Parade in Taipei.

Photo credit: 中央社

Source: <https://www.thenewslens.com/article/148044> (visited on 2021/10/07)

Background



- LGBT movement from 1990s
- Two different strategies (from 2010) of LGBT Rights NGOs
 1. Lobbying legislators:
Draft bill regarding “Marriage Equality” presented by NGO in 2012



Background



Two different strategies (from 2010):

2. Judicial review by Constitutional Court:

Petitioners joined by Ministry of Internal Affairs and Taipei City Government.



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Judicial Review by Constitutional Court

- 15 judges
- Open court hearing and debate on 2017/03/24. Live streaming online, the first time in Taiwan's history for a case pending at constitutional court



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Judicial Review by Constitutional Court



Photo credit: THE REPORTER 林佑威

Source: <https://www.twreporter.org/a/marriage-equality-constitutional-interpretation-oral-arguments> (visited on 2021/10/07)

Judicial Review by Constitutional Court



Photo credit: THE REPORTER 林佑威

Source: <https://www.twreporter.org/a/marriage-equality-constitutional-interpretation-oral-arguments> (visited on 2021/10/07)

Interpretation No. 748

(2019.05.24)



(1) The Civil Code prohibited two persons of the same sex to create a permanent union of intimate and exclusive nature for the committed purpose of managing a life together. To the extent of such failure, the provisions regarding marriage in Civil Code are in violation of both the people's freedom of marriage as protected by Article 22 and the people's right to equality as guaranteed by Article 7 of the Constitution

Interpretation No. 748

(2019.05.24)



(2) The authorities concerned shall amend or enact relevant laws, in accordance with the ruling of this Interpretation, within two years from the issuance of this Interpretation. It is within the discretion of the authorities concerned to determine the formality for achieving the equal protection of the freedom of marriage.

Interpretation No. 748

(2019.05.24)



(3) If relevant laws are not amended or enacted within the said two years, two persons of the same sex who intend to create the said permanent union shall be allowed to have their marriage registration effectuated at the authorities in charge of household registration, by submitting a written document signed by two or more witnesses in accordance with the Marriage Chapter of Civil Code.

Interpretation No. 748 (2019.05.24)



Photo Credit : 劉信德

Source: <https://news.ltn.com.tw/news/politics/breakingnews/2078514>

From the Interpretation No. 748 to the law change....

- Big debate on the “formality” of the law:
Union yes, but marriage? True equality?
→ The result of Referendum on 2018/11
 1. Marriage is the union between “A MAN
AND A WOMAN”
 2. Legislator shall protect the rights to form
an union of same-sex couple by
presenting a specific bill rather than
amending Civil Code



From the Interpretation No. 748 to the law change....

- Union or Marriage yes, but adoption and assisted reproduction?

Constitutional court did not mention if the same-sex couple would have the rights to do so.



Act for Implementation of J.Y. Interpretation No. 748 (2019.05.24)

- Open debate and vote article by article at the parliament on 2019.05.17.
- Live Streaming online.
- Huge crowd gathering organized by LGBT Rights NGOs in front of Parliament.



Act for Implementation of J.Y. Interpretation No. 748 (2019.05.24)

- Marriage registration.
- “Almost” the same rights and obligation as straight couples stipulated in Civil Code, except...
- Some stipulations even more avant-garde compared to Marriage in Civil Code :
(1) No-fault divorce (2) No in-law relationships one person and his/her spouse’s family



Act for Implementation of J.Y. Interpretation No. 748 (2019.05.24)



Photo Credit : mirror media

Source: <https://www.mirrormedia.mg/story/20200515edi039/>

Act for Implementation of J.Y. Interpretation No. 748 (2019.05.24)



Photo Credit : Taiwan Equality Campaign

Conclusion

- Still some amendment needed to achieve the true equality...
- Adoption of the spouse's adopted child
- Assisted Reproduction
- Marriage between a Taiwanese and a foreigner whose national law prohibits same-sex marriage



**Hope we will be soon joined
by other countries in Asia !**

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