

A Methodological Review to Annual Survey of Taiwan's Human Rights

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In this paper the methods and methodology applied in the annual survey of Taiwan's human rights, sponsored by The Chinese Association of Human Rights (CAHR), but carried out by the Taiwan Studies Center (TSC), National Chengchi University (NCCU), will be reviewed to find out whether the annual report of realization of Taiwan's human rights development is under proper evaluation or not.

In 1991, the CAHR started the experts' survey to overall evaluation of Taiwan's human rights annually, but without rigorous research design methodologically. In 2006, the CAHR sponsored College Of Social Sciences, NCCU to investigate the annual promotion and realization of human rights development in Taiwan; though this investigation was actually carried out by university level research center—the TSC. The annual research project to Taiwan's human rights has been lasting from 2006 to 2010, although the 2010 investigation is not finished yet, is undergoing and the result will be released in a press conference held on 10<sup>th</sup> December, 2010, the World Human Rights Day. It is very precious of the accumulated four consecutive years' data of Taiwan's human rights, which is valuable to have a description or analysis to explain how to evaluate human rights development to a state. This description or analysis could be a useful reference for the research into realization of human rights to every country.

For the purpose of this paper it is to make a primitive exploration to how to evaluate the development or realization of human rights in terms of the usage of methods and methodology; therefore in this paper, the research design of the CAHR Human Rights Research Project (CHRRP) will be mainly discussed. Many questions here need be answered for example, how many categories of human rights have been taken into account for evaluation, and why? In each category how and why have those indicators been selected and decided in what theoretical implications? What methods have been adapted in the survey of public opinions to human rights (HR hereafter) and why? And, how has the project investigator selected the samples to answer questionnaires or evaluate the HR developments in Taiwan?

Of course, the research findings would reflect on whether the research design has reached its research purpose or not. Obviously, the accumulative four-year data may not have any statistical significance at all, but do the data have anything meaningful to suggest a better research design for the future appraisals of Taiwan's HR? Could we compare those indicators in each category of HR evaluation in Taiwan to those of other countries or international organizations?

### **Research Design**

In 1991, when the CHAR began to survey Taiwan's HR, in which the survey was taken as an expert-based approach; all samples were designated from a list of experts which especially was composed of university scholars in the relevant fields to HR. There were around 500 experts and scholars filled out questionnaires from the beginning of the survey. Those experts and scholars as samples for HR evaluation were fixed and few were replaced afterwards in order to distinguish the differences and changes made by same samples to evaluate Taiwan's HR developments annually. But there lacked any complicated statistical analysis for it with only the simple percentage change presented yearly. This kind of survey has unfortunately stopped for years. In 2006, the survey of HR in Taiwan restarted by the new board of the CAHR. The TSC took over the task of investigation to HR in Taiwan; first of all, it had to consider the methods to evaluate and the methodological significance for its research design. In 1991, when the survey began; in it the categories of HR were set in seven issues which included the issues of the female, children, jurisdiction, politics, economy, culture-education and society problems. Those around 500 experts had to answer the questionnaire to all issues which seemed ridiculous and certainly the answers were biased since that it is impossible any expert or scholar is qualified to properly answer all questions of all seven fields. The horrible problem was that the CHAR carried out this investigation by itself, but never explained how to pick up those around 500 samples and according to what criteria. Therefore, in 2006 the TSC decided to take the Delphi method to evaluate the HR development of Taiwan. The original thinking or idea is that there was a tradition of the CAHR in doing the investigation for Taiwan's HR in expert-based approach although without any

scientifically sophisticated research design, but the research results have been accumulated for years. The Delphi method is kind of expert-based approach too; therefore the research result from the Delphi method may be able to be compared to those accumulated data of Taiwan's HR developments done by the CAHR from 1991. Of course, in debating the research approach in the meeting of scholars of the TSC, nobody had the confidence that the comparison would be possible because the investigation before 2006 lacked any material of methodological discussion.

Another problem to be considered was that how many issues or categories are enough to evaluate the HR development or realization? Is there any evaluation of HR which includes enough world-wide recognized categories that can be a good pattern to be copied? From 1991 has the CAHR had seven categories whether which could cover all dimensions to HR development? This problem remains unanswered even now. It seems that right now everything of humankind can be related to the problems of HR. How can we build up a perfect and complete list of categories to evaluate HR globally and universally? For example, the foreign labors' HR has been a immense issue for those countries that import workforce from abroad. But in 1991, there was not a serious problem for that moment. However, for now, there are more than thirty hundred thousand foreign labors in Taiwan; and at least they only have had the minimum wage by law, but no mention to other exploitations by their employers, such as to limit their freedom to use cell phone to call home.

To cover more HR issues, the TSC invited many scholars to decide how many categories should be included for the survey of Taiwan's HR development. In 2006, finally The TSC has taken 10 categories which are: the HR of culture-education, jurisdiction, the aged people, the handicapped and disabled, the children, the female problems, labor rights, political rights, economy, and environmental issues. The new four categories, the aged, the handicapped and disabled, labor problems and environmental issues were actually derivative from the social problems, in which, one can understand the tremendous change of HR development in Taiwan from 1991 to 2006.

As mentioned previously, Taiwan became a country in need of the imported foreign labors by the beginning of the last decade of 20th century, but serious turbulence of foreign workers at the edge of strikes or demonstrations happened in the beginning of 21<sup>st</sup>. And, increasingly the aged part takes the more percentage of the demographic structure in Taiwan's society. The old and single people living along without caretaking increased more and more social work loadings to local governments. Of course, that how to give more opportunities of development to the disabled and handicapped has been distributed more budget which has its legitimacy from the basic idea of HR by the end of twentieth century. As to the environmental pollution problems, Taiwan has struggled in the economic growth by industrialization and environmental protection since 1980s. In 1990s, after the shut-down of the period of mobilization and anti-rebellion to the Communist China, back to the normal order of Constitution, people began to have the rights to demonstrate, there have been a lot of movements against to the pollution from the heavy industrial construction of factories, like petro-chemical industry. Taiwan has been lingering on the cross-road of economic growth and environmental protection during the past twenty years. It is the current tendency of HR that people have the rights to live in a healthy environment. Especially when the global warming problem seems more urgent and worsening than expected that endangers the survival of humankind; certainly the environmental issues should be included in the categorical list of HR realization.

The aboriginal issue was added in 2007; there was no doubt, as well as the female, the aged people, the disabled and the indigenous, all of them belonging to the disadvantageous parts of any countries. Therefore the list of category for HR survey of Taiwan maintains 11 until now. Here the problem is that what is the criterion to decide which category should be included. According to the discussion of TSC scholars the criterion depends on the situation of political, social and economic developments of a state. The HR development indicators in the HR development in UN may not be able to apply to all countries.

## **The Samples**

The Delphi method is based on expert-based approach, in which, there are around thirty experts to answer questionnaires; in general, even less than thirty but more than 25 samples to reach the requirement of statistics as a small-sample analysis. The method to select experts is through the expert's workshop which was organized by senior professors or practitioners of HR. Each category had at most the five of experts and practitioners to nominate those who are qualified to answer the questions of each category. The list of qualified samples can be numbered to 100 or so in each category. On the surface the list for each category seems recommended subjectively by the senior of experts' workshop, but some considerations thought by the senior were as follows:

- Those who teach the related courses at universities.
- Those who has published articles or books academically.
- Those who were or are practitioners in HR groups.
- Those who were or are duty-bearers or implementers of HR policies.
- Those who were or are doing certain jobs related to HR protection, realization.

Of course, one would doubt that it is a very subjective way to decide the sample person who is strongly recommended only by one of the workshop participants as a sample of a category because this person has a fame in this field, who is not a scholar or a practitioner, possibly but a commentator of a mass media; however this certain person would be a sample or not depending upon the discussion of the workshop participants and in the end decided by the consensus of all workshop participants. After the list of samples is fixed, the research team groups all samples according to some factors, such as university scholars, professional experts, job doers, residential areas (southern or northern Taiwan), social workers, NGO practitioners, and so on. Then, research assistants make calls to sample people in the way from one of each group to another one of another group to avoid bias, through random calls of each group that form the final 30 samples to answer the questionnaires finally.

## **The questionnaires and survey**

Although the questionnaires used by the CAHR did not have proper research methodology, but all questions were able to be referred when thinking the questions of HR for each category. The research team of the TSC again was based upon the experts' professional knowledge to modify the used questions from 1991 survey and others afterward. There were at least two or three times of workshop of scholars and experts to review and modify the used questions and create new ones. From 2006 to 2009 the TSC has had these questions check and review in every year investigation. Except the questions of questionnaire for the survey of political rights, all questions were counting upon academic and professional judgments. But, here it needs more explanation to all questions of each category. The Delphi method is a research way to combine survey with questionnaire and experts meeting. This method assumes that participants might not tell the truth or facts in front of other participants in a meeting, partly because of the politeness and future relationships among participants and partly because of the limited time to speak in a meeting. Therefore, the Delphi method provides more questions than those of a survey of public opinion. Under each question in a Delphi survey the concrete facts or statistic data relevant to the question were offered by the investigators for answers to make a judgment or a evaluation of that question. So that the research team expects two answers from sample people:

1. According to the data or facts with a question, a sample person can evaluate the duty bearers or the government and the state had the realization of the right asked by that question.
2. According to the data or facts with a question the sample people can express their degree of satisfaction or dissatisfaction to the policy-makers and policy implementers about the realization of HR.

As previously mentioned, questions of political rights were changed a lot. The workshop of scholars and experts decided to use all questions from the questionnaire of the Freedom House. The purpose is quite simple; the survey result of HR annually in Taiwan can have a comparison to the result made by the freedom House, although this comparison may not be meaningful methodologically. Taiwan is usually ranked as a complete free state since the completion of democratization in the late 1990s; this ranking has been made by a relative comparison to other countries of the world. But the annual survey

of HR in Taiwan intends to rank what the progress of the realization or development is and to evaluate the degree of satisfaction or dissatisfaction to Taiwan's HR fulfillments and protection.

The research team of the TSC assumed that because the Delphi method is still taking the expert-based approach; therefore the survey results of HR would be the judgment or evaluation that might not be the reality of Taiwan's HR development from the view of the general people, although the Delphi method has been used for more than fifty years and is a scientific way to figure out what the problems are in policy-making, implementation and evaluation. To try to find the difference of the judgment to Taiwan's HR made from the professionals and general people, the TSC asked the Election Studies Center( the ESC ), NCCU, to carried out a public survey from 2007. The ESC is famous and has its esteemed privilege in Taiwan's elections survey; this institute is much more qualified to do a public opinion survey to Taiwan's HR development. The ESC survey questions are very few and focus on two kinds of questions:

1. Do you think there is any progress of a certain HR in Taiwan this year comparing to it of the last year?
2. Are you satisfied with the performance of HR to a certain HR in Taiwan this year?

The purpose of the first question is to find out the progress of HR development and realization in Taiwan, but the progress is estimated from the last year's performance, although the estimation is made by the sample's impression. The second question implies that the answers' evaluation to the government and the state in the realization of HR norms or laws; because the government and the state are the major duty-bear in HR development.

### **The findings**

There are some papers presented in this conference which will deal with the findings in details to some certain categories of HR of the CAHR investigations from 2006 to 2009. Therefore the findings will not be discussed here, but the findings tell us some general characteristic of research about Taiwan's HR



development.

First, who are qualified to be the evaluators of Taiwan's HR realization and fulfillments? Second, what are the proper indicators of each category for Taiwan's HR? Third, who or which institute has the major responsibility to develop those indicators? Fourth, last but not the least, what is the process to create and refine those indicators of HR observation in Taiwan? These questions will be discussed in my tentative conclusion of this paper. Here, I would like to give some descriptions about the findings in general and I think it might be meaningful when thinking about the proper way to observe Taiwan's HR methodologically.

It is very interesting that evaluation from experts and that from general public seems without too much difference in a rough impression. Mostly the evaluation from two sample groups—experts and the common people—to the tendency toward HR development in Taiwan in each category is consistent, for example when public survey told that one category of HR having progress and being satisfied on the one hand; on the other, the experts showed their more positive evaluation to this category of HR. The more interesting thing is that there was the second turn-over of Taiwan's ruling party in 2008 and the DPP (the Democratic Progressive Party) has ruled the state from 2000 to 2008 with the emphasis in promoting HR in Taiwan as the major policy of its government. But, the HR development and realization do not have too much drastic change of the evaluation during the past four years. One possible reason is that there has not accumulated enough data to make statistic analysis. The other reason might be the methodological problem of the research design of the TSC investigations, in which, there might be many problems of questionnaires, samples or the methods used for this investigation.

### **Conclusion (Tentative)**

Taiwan was no more a member of the UN since 1972; about HR it has not been one of HR treaty bodies of the UN. In 2009, the KMT government signed the two covenants—the International Covenant on

Civil and Political Rights, the International Covenant on Economic and Social Rights—and hereafter, the government asked all branches to check the norms, regulations and laws to see whether they have to be revised or adjusted, even by the national legislative process. More importantly, there is an annual review report of Taiwan's HR implementation, realization and development to be submitted to the UN. The yearly report is becoming as a vital document to be examined to Taiwan's HR development to secure, fulfill and protect the people in this island. However, the methodology of implementation in this report seems to have drawn more attention in academia in recent years.

There is a report prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in response to a request from the inter-committee meeting of treaty bodies (ICM) in June 2006 asking the Secretariat to undertake validation of the approach on the use of statistical information in States parties' reports, develop further list of indicators and submit a report on this work to the seventh Inter-committee of Treaty Bodies (ICM) in 2008. The contents mainly offer a very valuable discussion about the conceptual and methodological framework, the relevance and selection of structural, process and outcome indicators and so on. Especially the latter part all indicators of HR are divided into three inclusive categories which are the indicators of structure, process and outcome. The ICM, also the OHCHR gave the illustrative indicators and put all these indicators into the categories of the structure, process and outcome. These major items of the illustrative indicators are as follows:

1. Arbitrary deprivation of life.
2. Disappearances of individuals.
3. Health and nutrition.
4. Death penalty.
5. Arrest and detention based on criminal charges.
6. Administrative deprivation of liberty.
7. Effective review of court.
8. Security from crime and abuse by law enforcement officials.

9. Nutrition.
10. Food safety and consumer protection.
11. Food availability.
12. Food accessibility.
13. Sexual and reproductive health.
14. Child mortality and health care.
15. Natural and occupational environment.
16. Prevention, treatment and control of diseases.
17. Accessibility to health facilities and essential medicines.
18. Physical and mental integrity of detained or imprisoned persons.
19. Conditions of detentions.
20. Use of force by law enforcement officials outside detention.
21. Community and domestic violence.
22. Exercise of legislative, executive and administrative powers.
23. Universal and equal suffrage.
24. Access to public service positions.
25. Income security for workers.
26. Affordable access to health care.
27. Family, child and adult dependent support.
28. Targeted social assistance schemes.
29. Access to decent and productive work.
30. Just and safe working conditions.
31. Training, skill upgradation and professional development.
32. Protection from forced labor and unemployment.
33. Freedom of opinions and to impart information.
34. Access to information.

35. Special duties and responsibilities.
36. Access to and equality before courts and tribunals.
37. Public hearing by competent and independent courts.
38. Presumption of innocence and guarantees in the determination of criminal charges.
39. Special protection for children.
40. Review by a higher court.

If one checks all indicators used in the investigations of the CAHR, one would find the above indicators all appear; although some maybe in different ways to ask but are narrative from the norms of HR that emphasized by the ICM. The remained problem to the CAHR annual observation is to put its all indicators into the categories and the framework of the OHCHR and examine whether its questions can reach the norms of the indicators of the OHCHR or not. However, the CAHR may keep its indicators and methods of doing observation yearly because the CAHR is a NGO in Taiwan, which can have its way to monitor Taiwan's HR development and realization. And Taiwan's government should take over the task to develop the indicators from those of the OHCHR to fit into Taiwan's case.

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