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Josephine Chuen-juei Ho

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## **Queer Existence under Global Governance: A Taiwan Exemplar**

Josephine Chuen-juei Ho

On October 31, 2009, the seventh annual Gay Pride March trailed through Taipei's celebrated business districts and staged its climactic performances right in front of the presidential palace, a highly charged political space that had been off limits to the pride march since it began in 2003. The record turnout of 25,000 came as a great relief to organizers, who had worried that the march might be losing steam. The first ever antigay march, which took place the week before, organized by conservative Christian groups to openly denounce homosexuality as an abomination of God, had generated a sense of crisis and brought out the crowd. In the meantime, discontent with the lack of movement militancy and the increasing commercialization of the march also spurred young lesbian and gay activists of a new group, ALL MY GAY!!!, to bare it all on stage in order to dramatize the plight of sexual nonconformity under the tightening grip of the precarious Taiwan

state. Since the lifting of martial law in 1987, Taiwan's progress toward liberal democracy has claimed an ever-broadening understanding of human rights that now allegedly includes the rights of gays and lesbians. Yet in actuality, at the urging of Christian child-protection groups, a series of new laws, litigation, and regulations has been put into place since 2000 that now criminalizes practically *all* sex-related publications, video images, and in particular, Internet communication.<sup>1</sup> These new installations of law aim to demonize sexual minorities and their channels for cultural representation/communication, not to mention how the AIDS-prevention laws directly target gays as carriers.

How are we to understand such retrenchment in sexual matters in this age of seeming social openness and toleration? My contention is that as social and political activism gradually complicates social values in Taiwan, the politics of sexual stigma and shame that once made up the oppression of gays and lesbians and other sexual minorities is now shifting its field of operation from the realm of culture to that of law. The shift to intensifying legal codification in fact interpellates unspoken fear and anxiety toward an increasingly sexually open world. On the other hand, such codification not only facilitates the populist government's effort to consolidate its legitimacy and power, but also works in collaboration with expanding global governance through which Taiwan's nation-state status bid hopes to find a promising future, albeit at the expense of civil liberties for marginalized sexualities. In that sense, the politics surrounding sexuality is now lodged at the very heart of national and international politics in Taiwan.

### **Expanding Human/Gay Rights?**

In comparison with other Asian countries, Taiwan seems to have afforded more room and progress for the idea of gay rights, yet not without local complications. Thanks to three decades of political and social struggle, haunted by domestic as well as international volatilities mixed in with Taiwan's own precarious nation-state status, the liberal democracy that is Taiwan today proves to be especially vulnerable to populist fluctuations in opinions and values. In other words, against-the-grain views face formidable obstacles on the road to winning legitimacy, and progressive ideas such as human rights are

always slow to have their applicability extended to marginal populations. As history has it, political dissidents of the 1970s and 1980s championed human rights only in terms of freedom of speech in the political arena, against the censorship and oppression of the authoritarian government.<sup>2</sup> Later, organized labor extended human rights to include the right to work and freedom from economic exploitation, and went on strikes to resist the massive exodus of both Taiwanese factories and Taiwanese capital in the late 1980s and early 1990s. Significantly, labor mobilization was constantly goaded by the democratization movement to prioritize political liberalization—in the form of nation-state building—over labor liberation.<sup>3</sup> When Taiwanese feminist organization and mobilization picked up momentum at about the same time, they were likewise urged to view political liberalization as necessarily conducive to gender equality.<sup>4</sup> Later attempts to claim human rights for other marginal groups—such as gays and lesbians, sex workers, surrogate mothers, transgendered people, migrant sex workers, and foreign brides—achieved limited degrees of success in a rigidifying social atmosphere where the instability and consequent polarization of real politics obstinately frame every public discussion in terms of nation-state building, thus leaving social issues at the mercy of whimsical media sensationalism followed by conservative moral diatribe.

The actualities of human rights may be slow in coming for stigmatized subjects in their struggle, yet ironically, the tides of international politics have made it imperative for aspiring nations to at least nominally pledge support for the concept of human rights, most fashionably and conveniently gay rights. Hoping to improve the city's standing among international metropolises, then—Taipei mayor Ma Ying-jiou decided to allocate moderate funding for gay groups to orchestrate a gay civil rights forum in 2000 that featured American gay activists Nan Hunter and Michael Bronski. In competition, newly elected president Chen Shui-bian was compelled to receive and pose with the visiting American gay activists under the rainbow flag. Seizing upon such gestures of openness, LGBTQ groups began organizing annual gay pride marches in Taipei in 2003, now considered monumental achievements emulated by LGBTQ groups elsewhere in Asia.

Such feeling of euphoria hardly corresponds to the realities of gay existence in Taiwan as lesbians and gays continue to face prejudice, hostility, and

indifference, not to mention lack of recognition of their civil rights. In Taipei, malicious police raids were conducted on gay cruising grounds in 1997,<sup>5</sup> on gay saunas in 1998,<sup>6</sup> on lesbian pubs in 2002,<sup>7</sup> and on gay home parties in 2004,<sup>8</sup> all resulting in public exposure of gay individuals and violation of their basic human rights, not to mention stigmatization of gay lifestyles and gay-oriented businesses. Compulsory blood and urine testing at gay parties, as well as police collaboration with tabloid media, further testify to the treacherous urban space of Taipei for sexual minorities. This developing sexphobia culminated in the 2003 seizure and confiscation of gay pictorial publications from the only gay bookstore in Taiwan and, despite persistent gay demonstration and protestation, the consequent indictment and sentencing of its owner in the following year.<sup>9</sup> Such incidents fly directly in the face of the Taipei city government's claim of respect and diversity. The national government's track record fares no better. The Ministry of Education only removed degrading definitions of gays and transgendered people as "resulting from childhood gender identity problems or from sexual aberrance" from its official online *Chinese Language Dictionary* in 2003 after persistent protests by LGBTQ groups. Between 2001 and 2003, the Ministry of Justice and the President's Human Rights Consulting Committee made repeated announcements of an ongoing draft of the Human Rights Basic Law that would take a positive position on gay families and gays adopting children.<sup>10</sup> As world media gleefully reported on the upcoming monumental "legalization of gay marriage" in Taiwan, local lesbian and gay groups were left scrambling to debunk the publicity stunt.

More alarmingly, alongside the festivities and gesturing, an accumulation of prosecuted cases gradually brought home the chilling realization that a string of well-crafted civil actions, proposed and orchestrated by conservative Christian groups (dubbed child-protection groups or women's groups), has quietly come into place since the end of the 1990s and is gradually but firmly transforming the context and meaning of things sexual into actual criminal acts targeting the young. As a result, social space is no longer managed by the soft power of dominant culture, but increasingly by the iron rule of newly created state laws, which in turn exacerbates the silent stigma surrounding sexual nonconformity.

### **Vigilance over Things Sexual**

Significantly, such civil actions uniformly seek to erect more new laws to disrupt easy access to things sexual. Foremost among the social spaces targeted for purification is the Internet, where youths have proven themselves much better-versed than adults, and where it is rumored that rampant sexual flirtation, invitation, and possible transaction abound. Taking aggressive and comprehensive “prevention/protection” measures that aim to keep all children from coming into contact with any information that hints at sexual transaction,<sup>11</sup> Article 29 of the antiprostitution legislation “Law to Suppress Sexual Transaction Involving Children and Juveniles”<sup>12</sup> was amended in 1999 so that “anyone found using electronic signals and Internet or other media to publish or broadcast messages that seduce, broker, insinuate or by other means cause one to be involved in sexual transactions is to be sentenced to a fixed-term imprisonment of up to five years, which may carry an attendant fine of up to NT\$1,000,000 dollars.”<sup>13</sup> Significantly, whether the Web message “actually caused” any real transaction to take place, or whether any minors were “actually involved” in such communication or interaction, is totally irrelevant. The mere “posting” of any message deemed suspicious by the eager police constitutes violation of the law, for allegedly the message “just might be” stumbled upon by children or teenagers surfing the Internet, who “might” then become “negatively affected” by such insinuations of sexual negotiation. In fact, the law practically reads all sexual invitations, inquiries, flirtations, negotiations, or anything of the sort as possible preludes to illegal sexual transaction, and police entrapment is liberally applied so as to “ascertain” such criminal intention.<sup>14</sup> Between 2000 and 2008, more than 20,000 netizens were dragged through the judicial process and suffered the horrible weight of sexual stigma and the shame of legal indictment, with only one quarter of the cases eventually convicted. Still, the fact that they posted messages that in one way or another affirmed their sexual agency was ground enough for public castigation, if not legal indictment, in the name of child protection.

Worse, falling victim to the law are not only sexually active net citizens or marginalized sexual subjects who depend on the Internet for information, communication, and contact, but also sex radicals who produce sex-positive

discourses and information to combat sex phobia and chauvinism. The Center for the Study of Sexualities at National Central University, famous for its sex-positive activism and staunch refusal to toe the mainstream conservative line on gender and sexuality, had time and again issued its criticism and satire of the child-protection legislation and police entrapment of sexually active netizens. It was cited by religious groups in 2001 for “misleading the young and feeble-minded.” Undaunted, the center continued to deal out supportive statements of sex work and criticism of the incriminating law. In 2003, an alliance of eleven conservative and Christian groups filed a formal complaint with the court, saying that I, as the center’s coordinator, was “spreading obscenity” through the reference links provided on the center’s online sexual dissidence databank. If found guilty, the sentence would have effectively terminated my professional career as well as the center’s existence. Mobilization by numerous marginal groups and a massive international petition drive helped counteract the ensuing moral panic so that my detailed self-defense could be taken seriously by the court. Academic freedom was eventually safeguarded by the final not-guilty verdict in both the district court and the high court, thus thwarting conservative efforts to kill sexual dissidence and shrink social space.<sup>15</sup>

If the amended Law to Suppress Sexual Transaction Involving Children and Juveniles (1999) successfully sends a chilling message that aims to silence all sexual communication in the virtual world, the Children and Juvenile’s Welfare Act (2003) works to further restrict sexual things in the real world. Taiwan’s original Children’s Welfare Act (1973), which covers children under the age of twelve, and Juvenile’s Welfare Act (1989), which covers youths between the ages of twelve and eighteen, were collapsed in 2003 to gather up all under-eighteen-year-olds into one category, children, in compliance with United Nation’s *Convention on the Rights of the Child*. The move effectively reduces all under the age of eighteen to toddlers and subjects them to more stringent and protective measures. The act establishes a legal apparatus of censorship that brings into existence two more sets of regulations to purify social space in the name of child protection. The first is a new rating system created in 2004 that censors all publications deemed violent, offensive, or, in particular, sexually explicit—including the wide array of *mangas* (comic books) and romance novels widely favored by young

readers. Overnight, the publications that had given young gays and lesbians the first embodiment and representation of their desires and identities were now off limits, wrapped in plastic, and kept from minors. Then in 2005, a comparable “self-imposed labeling” rating system was created for all online content: Web sites are “strongly urged” to install the mark of “restricted” or suffer a large fine, should any content on the site be found to be moderately adult-oriented or include materials deemed unfit for children, such as references to homosexuality. Proactively, webmasters began to erect strict self-censoring regulations against any sexually explicit or mildly offensive messages, as well as seductive or licentious images even in encrypted personal online albums so as to avoid possible litigation.<sup>16</sup> The freedom and ease of Internet anonymity, which had afforded many gays and lesbians their first taste of friendship, camaraderie, and sexual negotiation, was further curtailed as ISP providers now submit, upon police inquest, personal registration data of Net users. The act also requires parents to execute more stringent parental duties in monitoring their children’s activities: parents can be prosecuted if their underage children are found lingering at so-called improper locations (including video arcades, gambling places, nightclubs, and other similar adult recreational establishments), smoking or using other illegal substances forbidden to minors, or in possession of “adult” materials.<sup>17</sup> It is in these far-reaching measures that the full scope of conservative protectionism can be partially glimpsed.

Gay and lesbian groups, as well as other sexual minorities in Taiwan, have gradually awakened to the bitter reality that their limited gains in visibility and equity prove to be quite fragile in the face of the social rigidification embodied in the enforcement of child-protection legislation. In reaction against the cost of devastated lives and growing fear of possible litigation, sexual minorities are embarking upon the torturously long and difficult task of legal reform to challenge the stranglehold of these laws. For what is the benefit of affirming the legitimacy of the gay identity, if at the same time the daily activities and communications that make up that identity are swept into illegality?



### **Juridification of Pastoral/Parental Power**

The question remains as to the timely efficacy and popular acceptance of the pastoral/parental power exercised by conservative Christian groups through the legal grid they have helped put up under the child-protection cause.

It is noteworthy that most of the conservative NGOs responsible for the institution and the continued amendments of the above-mentioned legislation originally came into existence as charity or social service groups organized by various Christian denominations after the 1987 lifting of martial law in Taiwan. They include Catholic Good Shepherd Sisters (est. 1987 by the Catholic Church), Garden of Hope (est. 1988 by protestant missionaries), Rainbow Project Center (est. 1988 by the Presbyterian church to watch over aboriginal affairs), and End Child Prostitution in Asian Tourism (ECPAT) (est. 1990 by a coalition of half a dozen Christian organizations, including the above-mentioned Garden of Hope). Though religious in origin, the groups have adopted non-religious-sounding names and propelled themselves into full-fledged NGOs through working on various campaigns of sexual moralism and child-protection legislation amidst the emergence of Taiwan's civil society in its democratization process in the 1990s. Now presenting themselves at times as women's organizations, at times as charity organizations, at times as child-protection organizations, at times as social services organizations, and at times as regular citizen groups, the Christian NGOs are able to participate in many civil affairs as protean delegates "of the people." And as such, their faith-based vigilance has succeeded in making the conservative agenda an important component, if not the general orientation, of emerging issues.

The present paper contends that the conservative agenda on child protection has been able to win favorable reverberation mainly because its proponents have succeeded in articulating an emerging structural crisis in Taiwan society, a crisis to which the conservative legislation claims to offer a promising solution. This crisis finds an apt explanation in Jürgen Habermas, who notes that newly emergent active civil participation demanded by bourgeois revolutions is accompanied by a tradition-based dampening of such participatory impulses so as to rein in the activism and to stabilize the regime that is coming into place. The result is a compromise subject position that com-

bines “familial-vocational privatism,” a lifestyle that is devoted to personal endeavors and achievements, and “civil privatism,” a civil political stance that leaves political decisions to the purportedly professionalized hands of the bureaucrats.<sup>18</sup> Habermas sees the formation of such privatisms as being fostered either by the Protestant ethic or individualism and civic utilitarianism, but in Taiwan, it is the Confucian ethic and its clan-based familial pragmatism that leads nicely into familial-vocational privatism, while forty years of martial law makes civil privatism the wise choice for many. Yet as Taiwan finds itself further incorporated into the global economic order, where ensuing late-modern economic restructuring continues to upset traditional social reward systems as well as incentives for upward mobility, traditional cultural mechanisms that help produce motives to serve the system are increasingly disturbed, leading to a “motivation crisis” in which “the socio-cultural system changes in such a way that its output becomes dysfunctional for the state and for the system of labor.”<sup>19</sup>

This crisis in economic reproduction is at the same time a crisis in class/cultural reproduction that produces its own generational problems: youths, taking the hint from “the ideology of self-determination” that underlies both Taiwan’s nation-state aspiration and its reigning mode of capitalistic consumption, are quickly absorbing the cultures of globalization to range beyond parental control. In response, new local neologisms, such as “the strawberry generation,” crystallize adult frustration with the younger generation’s alleged lack of resilience/perseverance in face of difficulties and pressure. The feelings of frustration and powerlessness are most acutely felt in the increasingly dysfunctional family, as local scholar Ning Yin-bin describes: “When homes are no longer sweet, with high rates of affairs and divorces, homosexual sons and daughters involved in casual sex work, who would continue to be devoted to familial privatism? When unemployment rate is high, glass ceilings are low, and even master’s degrees get you nowhere in the job market, what is the motive for vocational privatism?”<sup>20</sup> The conservative Christian cause of child protection through purification of social space thus articulates parental frustration into the fortified legal grid that embodies the pastoral desire of the Christian groups.

While Christian NGOs are usually the most severe critics of the tabloid media, they could not have found better allies to fashion folk devils

and fan up sexual panics to create a social atmosphere most conducive for conservative legislation. After all, such media specialize in magnifying the daily lives of marginalized sexual subjects, probing and exposing intimacies, demonizing alternative lifestyles, and affirming stereotypes and prejudices. Significantly, their narratives are consistently framed in such a way as to interpellate a unique subject position—that of concerned and vigilant parents, hysterical mothers in particular—through warning the latter about the imminent danger that faces their children. As gay saunas, lesbian bars, busted gay home parties, and the like increasingly come under the scrutinizing lens of the media, an alarming social sensitivity toward sexual nonconformity is cultivated so as to prepare “parents” to safeguard their children against such negative influences. The ignited moral hysteria then culminates in the reaffirmation of moral values and social vigilance, embodied in none other than the timely proposal of protective legislations that not only strengthen state power but also improve state legitimacy.<sup>21</sup>

Habermas uses the term “juridification” to name this kind of significant redeployment of power in modern states: increasing numbers of formal laws are instituted for the sociocultural sphere, the private sphere, and the body-related sphere, laws that probe deeply into everyday life.<sup>22</sup> The exemplary cases in Taiwan, as demonstrated, tend to concentrate in the areas of sexuality. They include not only laws that are directed against sex work, sexual transaction, sexual information, and sexual contact, but also laws that strictly regulate interpersonal relationships in the name of prevention of sexual harassment/assault.<sup>23</sup> Other forms of juridification—for example, regulations regarding surrogate motherhood, artificial insemination, new drugs such as RU486 and Viagra, and information on the Internet—have also come into place in the past few years. As such new technologies or new drugs introduce dramatic changes (such as producing new bodies or new relationships) into the private sphere previously dominated by traditional values and powers, they become prime targets for conservative agitation and state regulation. And as sexual conservatism prevails in public discourse, even existing legislation cannot escape such vigilance. Hard-won legislation that protects people with AIDS (PWAs) in relation to their legal rights to education, employment, medical care, and privacy are now facing new amendments that would strike out such clauses in order to enforce “the pro-

tection of national health.” At this “unusually dangerous conjuncture for children,” laws can now violate human rights, and universal surveillance is increasingly justified. A seemingly progressive “reason of state,” expressed as a national crusade to protect children, has become a hotbed for fascist language and fascist measures against all marginalized populations, from gays and lesbians, PWAs, brides from Mainland China, and alien laborers to innocent exploring Net citizens.

Heightened social anxiety and frustration constitute fertile ground for conservative maneuvers that invoke, oddly, the most traditionally Chinese, rather than Christian Western, values. And the main stock of this conservative offensive is directed at none other than the concomitant and accelerating Taiwanese sex revolution since the 1990s. As feminist sex radicals and gay and lesbian activists endeavored to direct the newly unleashed sexual energy toward more social openness and diversity, alarmed Christian groups that advocate at best moderation and at worst abstinence responded by articulating widespread adult anxiety onto the fear of rampant sexual exploration and experimentation spearheaded by the young. Motivation crisis was thus effectively described as a loss of traditional values and moralities in this day of affluence and hedonism, as the corruption of youths by the flourishing commercialization of cultural life, and as a deterioration of the fiber of the nation by the vulgarizing tendencies of imported popular cultures. Conservative legislation on child protection then pose as genuine efforts to alleviate adult anxiety and feelings of insecurity that would better manage and shape youths through increasingly insulating the latter from elements deemed distracting and corrupting for the reproduction of class, taste, and moral values, not to mention work ethic. Thorough insulation from such elements, of course, entails their total extermination.

As Christian groups and their legislative appeals endow the Taiwan state with the political legitimacy of a much-needed pastoral power that works through the creation and enforcement of the child-protection legislation, parental power, which had been diluted and undermined by the detraditionalization and individualization brought on by modern capitalism, is resurging again, this time openly anointed by state legislation and project franchises that execute the state’s pastoral duty of overseeing the smooth and successful reproduction of class and power structure. Viewed in this

light, the fierce resistance now put up by queers and other sexual minorities against such rigidification of social space carries ramifications on many more fronts than simply that of sexual identity.

### **NGOs and (Inter)National Politics**

The opportune rise of conservatism in such so-called “open societies” as Taiwan, and the continuous cultural warfare that rages there, may find a theoretical explanation in Habermas’s “motivation crisis”; still, the reign of sexual conservatism in Taiwan has a historical specificity that reflects not only the unique complexities in its nation-state status and political legitimacy, but also its aspiration to plant a presence in international communities. And it is this specific investment that has afforded the conservative Christian NGOs an important role to play in Taiwan’s (inter)national politics.

Though Taiwan’s government has never been especially partial toward Christian groups, it has found the latter’s services and symbolic value quite useful not only for national politics, but more importantly for opportunities of international participation. The child-protection/antitrafficking NGOs’ affiliation with international antitrafficking organizations, as well as their original global Christian connections, offer invaluable links to other international nongovernmental and intergovernmental organizations, a network that the precarious Taiwan government is eager to tap into in order to advance alternative routes of diplomacy and to promote affirmation of its envisioned independent nation-state status.<sup>24</sup> When ECPAT-Taiwan representatives attended the 2nd World Congress Against Commercial Sexual Exploitation of Children held by ECPAT International in Yokohama, Japan, in December 2001, Taiwan’s Ministry of Foreign Affairs’ Research and Design Committee provided funding for the travel cost of the delegation, which “happened” to include none other than the chair of the committee herself. She was in fact so impressed by the opportunity to attend international conventions in the capacity of a Taiwan government official that she wrote to commend ECPAT for conducting successful “citizen’s diplomacy.”<sup>25</sup> One year later, the First ECPAT-Taiwan Forum Against Commercial Sexual Exploitation of Children was held in Taipei with multiple international speakers and full funding from the government. Hosting such

international events not only affords visibility and international standing for Taiwan, but also enhances the status and importance of the locally situated but internationally endorsed child-protection cause. The NGOs themselves also benefit from such a network, for connections are set up for exchange of skills, information, and advocacy purposes between NGOs of the developed countries and NGOs of the developing countries, which quickly and dramatically enhance the effectiveness of local efforts as well as their power of influence. After all, international events hosted or promoted or assisted by an international organization give strength and credibility to its local chapters and affiliates by presenting them as actively dealing with “global issues and standards” rather than being mere embodiments of conservative Christian values. The formation of this complex of formal and informal institutions, mechanisms, and relationships between and among states, citizens, and organizations through which specific interests are articulated on the global scale constitute efforts that build toward what has come to be termed “global governance.”<sup>26</sup>

Affiliation with international organizations and active collaboration with the state have helped Taiwan’s conservative (Christian) NGOs rise to unprecedented power and influence, which has proven to be devastating for marginalized sexualities. Worse, the groups have become so successful that strategies devised in the Taiwan context are being exported to like-minded conservative Christian groups in other locations. For example, Taiwan’s most powerful conservative Christian NGO, Garden of Hope, has had a very close relationship with the notorious Society for Truth and Light, a Hong Kong–based conservative Christian group well known for its militant attacks on gay rights issues. The groups held joint conferences on stopping “the trend of sex liberation” and promoting Internet safety to not only propagate the conservative child-protection cause, but also to learn from each other as they function as nodal points on the web of global governance. The circle of influence of conservative groups has also grown immensely due to two other effective strategies. First, conservative international NGOs regularly give out human rights or social service awards (e.g., 2005 World of Children Awards) to select individuals of local conservative NGOs (e.g., executive secretary of Taiwan’s Garden of Hope), thus adding visibility and prestige to the conservative cause. Secondly, local conservative Chris-

tian NGOs are easily incorporated into international causes launched and defined by similar conservative groups in the advanced countries. In 2005, Taiwan's Garden of Hope hosted a conference on "Strategies for Combating Human Trafficking from Southeast Asia to Taiwan" in collaboration with Vital Voices, which "grew out of the United States government's successful Vital Voices Democracy Initiative, which was established after the United Nations Fourth World Conference on Women in Beijing to *promote the advancement of women as a U.S. foreign policy goal.*"<sup>27</sup> As skills and networking are provided and exchanged, influences and pressures from the United States and other advanced countries that are interested in building their presence in the region through nongovernmental means also touch ground. Conversely, by situating themselves on the map as key players in such global cause, local conservative NGOs can promote their antisex agenda while enhancing their social visibility and collaboration with the state. The active participation in exchange and collaboration both locally and globally continue to help the conservative NGOs become increasingly intertwined in this network of local as well as global governance.

Since 2000, such NGOs have found another powerful cause under which their conservative agenda can be advanced as they move deeper into the heart of the state. The United Nations' global protocol of "gender mainstreaming" now provides strong justification for the establishment of an overseeing committee that has the power to examine all planned action, including legislation, policies, or programs in all areas and at all levels of the government, as well as to make demands on all branches of the government to work toward the fundamental goal of gender equality. As a political entity that has been seeking entry to United Nations for decades, Taiwan has seized upon this opportunity to make a gesture, and conservative Christian NGOs as well as mainstream feminists and women scholars suddenly find themselves in hot demand to sit on various committees in the government, to take up project franchises and draft policies, to make annual reports on gender mainstreaming, to attend and organize training camps and conferences on gender issues, etcetera. Understandably, marginal and against-the-grain groups and activists are not only excluded, but are now feeling all the more pressure from the maneuvers of former peer groups,

whose experience in strategy and discourse is now helping to improve the clumsy operations of the state and its governance.

Scholars of global governance have celebrated the weakening of state power and the rise of the power of civil society. Yet in fact, in many parts of the Third World, state power is now horizontally transferred to various suprastate international organizations or downward to various local or grassroots citizen groups.<sup>28</sup> Such a “state-NGO” collaboration is often embodied in a mutual interpenetration of people and power/money (the NGOs serving as franchise for state bureaucracy), and other times through a network of exchanges between the state and the NGOs. Exchange of symbolic values (such as mutual endorsement or mutual legitimation or conferred awards) between states and NGOs is also quite frequent. The result is a new power formation that has been termed “the flat governance of new populism.”<sup>29</sup> Instead of state power being weakened, as most global governance theorists have argued, state power in such third-world nations has been expanding. With the help of local conservative-minded NGOs, state power now covers ever more social spheres and is gaining strength in relation to newly constructed subjects for rule (such as emerging sexual minorities) and new spheres where the regulation/surveillance of marginalized populations and their activities carry insurmountable weight, where bodies and everyday life serve as prime targets.

State rule, global governance, and oppression of marginalized sexualities have gone hand in hand in the case of Taiwan. The collaboration between the state and conservative Christian NGOs in civil society has made progressive activism all the more difficult as new forms of regulation/surveillance assume the form and power of legally enforceable laws supported by parts of the civil society. One can no longer presume a clear-cut opposition between the people and the state, the local or the global. Instead, a “state–civil society” conglomerate has become a formidable obstacle to the liberation of marginalized queers. As the double-bind of liberal rhetoric and juridical punishment increasingly makes up today’s “liberal democracy,” it is this child-protection-minded sexual authoritarianism, coupled with the shifting of alliances and developing global governance, that Taiwanese queers, and queers everywhere, will have to contest.



## Notes

This paper is an extensively revised and updated version of my keynote speech delivered at the Beyond the Strai(gh)ts: Transnationalism and Queer Chinese Politics Conference, held by the Institute of East Asian Studies at the University of California–Berkeley, on April 29–30, 2005. I want to thank my colleague Ding Naifei for reading the first draft and giving me invaluable suggestions. My heartfelt thanks also go to Petrus Liu and Lisa Rofel for their careful reading and insightful comments, which greatly helped with the revision.

1. With the exception of materials that the court adjudicates to be of educational, artistic, or medical nature. But even there, existing prejudices abound.
2. “Human rights” was originally used by the ruling KMT government mainly to highlight the “notorious human rights record” of its rival Communist government of the People’s Republic of China. During the 1970s and 1980s, the concept was gradually appropriated by Taiwanese political dissidents to draw attention to Taiwan’s own record of political oppression.
3. Labor efforts may have weakened along with dramatic changes in Taiwanese economic and labor structure, but labor struggles have since 1997 broadened to include sex workers, domestic workers, and migrant workers from Southeast Asia, who now make up an important part of that economic structure and are bringing new issues and new vigor into the movement.
4. Those who favored this state-oriented strategy would later enjoy favorable relations with the government even during all its transitions of power, while those who held onto the a-statist gender/sexuality line continue to be associated with marginal groups and issues.
5. Taipei city police repeatedly raided a longstanding gay cruising ground known as Chang-De Street because of its proximity to the presidential palace. In July 1997, police raided the one-block-long street again and demanded to check everyone’s ID card. Those who resisted were taken to the police station and photographed; mandatory urine tests were also performed. High caliber protests by gay and lesbian groups got the city government to agree to avoid such incidents in the future.
6. Taipei gay sauna AG was raided by the police in December 1998; its provision of condoms as safe-sex measures was treated as evidence of illegal sexual transaction. Police even forced patrons to remove their towels and pose in intimate scenes for picture-taking. With the help of human rights lawyers and continued gay protests, AG eventually won a court case against police harassment.
7. At least two lesbian pubs that featured occasional lap dancing were raided by the police in 2002. The owners suffered fines and losses in business and eventually closed down.
8. A police raid on a gay home party in January 2004 sparked social controversy as ninety-three gays in their briefs or bikinis were marched out of the party site in front of television cameras. Used condoms found on the floor were reported as evidence of a sex orgy rather than of well-practiced safe-sex measures. Human rights groups and gay groups protested strongly against this police and media invasion of privacy, yet such raids continue.

9. Jin-Jin Books, with the help of sex rights groups, submitted documents to challenge the verdict, claiming that Article 235 of the Criminal Code (concerning dissemination of obscenities) violates basic Constitutional rights to freedom of expression and freedom of speech. The Constitutional Court's reply in 2006 afforded limited room for soft-core materials provided they are wrapped and marked to be off-limits to anyone under the age of eighteen, but clearly stated that sexual violence (collapsed with S/M) and bestiality and the overtly pornographic are still considered obscene and thus criminal.
10. Ironically, at about the same time, in December 2003, the DPP party's own legislator, Hou Shui-sheng openly opposed legalization of gay marriage because, according to him, gay couples would "cause the nation to perish," while then-vice president Lyu Hsiou-lian referred to AIDS as "God's abomination for the morally degraded." Such public outbursts continue to expose the thinly veiled homophobia among political figures.
11. Such measures include severe penalty for sexual contact with minors, any act considered related to the "trafficking" of minors, and any sexually explicit advertisement. Minors involved in such incidents, or those deemed "likely" to be involved, are to be sent to special correctional institutions. For details of the transformation of this set of laws, see Josephine Ho, "From Anti-Trafficking to Social Discipline: Or, The Changing Role of 'Women's' NGOs in Taiwan," in *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, ed. Kamala Kempadoo, Jyoti Sanghera, and Bandana Pattanaik (Boulder, CO: Paradigm, 2005), 83–105.
12. Alternatively titled "Children and Juvenile Sexual Transaction Prevention Act," the legislation was worded in such a way that, except in the title of the act, no reference to minors is stated in any clause, which allows legal measures to be liberally applied to all Internet communication (even that between adults on adult sites).
13. The severity of the penalty for such Internet messages is only visible when compared with the penalty levied at non-Internet-based solicitation of sexual transactions, such as offers by regular sex workers, which carries only a three-day detention or a fine of NT\$30,000.
14. If the sexual transaction charge seems too far-fetched in some cases, the obscenity clause in the Criminal Code can still be applied to any message that hints at sexual invitation (even when posted in clearly marked adult chat-rooms or BBSs), including, for example, messages describing the size of one's own penis or inviting a bottom/master to collaborate in sexual play. Originally targeting commercial production and sale of pornographic material, Article 235 of the Criminal Code has now found new and universal application in this age of individual-initiated production of (noncommercial) sexual self-expression and interaction on the Internet.
15. For details about the case, see "Zoophilia Hyperlink Incident," Center for the Study of Sexualities, [sex.ncu.edu.tw/members/ho/english/jo\\_english-bestiality.htm](http://sex.ncu.edu.tw/members/ho/english/jo_english-bestiality.htm) (accessed January 3, 2010).
16. Kimo, one of the most popular sites for online personal albums, instituted restrictions that

would even ban photos of individuals in pajamas or swim wear, not to mention posing with hands over sensitive parts of a fully clothed body.

17. Local social work scholars warn that such amendments presuppose the so-called natural bond between children/juveniles and their parents, which may no longer be viable in late-modern society. See Wang Shuen-min, "Some Thoughts on the Combinatory Amendment of Children and Teenagers Welfare Act," NPF Commentary 092–046, National Policy Foundation, March 27, 2003, [old.npf.org.tw/PUBLICATION/SS/092/SS-C-092-046.htm](http://old.npf.org.tw/PUBLICATION/SS/092/SS-C-092-046.htm) (accessed January 3, 2010).
18. Jürgen Habermas, *Legitimation Crisis* (Boston: Beacon Press, 1975), 76–77.
19. *Ibid.*, 74.
20. Ning Yin-bin, "Exclusive Civil Society: Governance and Cultural Wars" (in Chinese), in *Rethinking and Recasting Citizenship: Social Exclusion and Marginality in Chinese Societies*, ed. May Tam, Hok Bun Ku, and Travis Kong (Hong Kong: Centre for Social Policy Studies, Hong Kong Polytechnic University, 2005), 17.
21. See for comparison, Habermas, *Legitimation*, 90–92.
22. Jürgen Habermas, *The Theory of Communicative Action*, vol. 2, *Life World and System: A Critique of Functionalist Reason* (Boston: Beacon Press, 1987), 357–73.
23. At the urging of mainstream women's groups, the Act to Prevent Sexual Harassment was drafted in 2005 and is now enforced nationwide as an antisex ordinance that encourages women to treat all sexual presentations, expressions, and negotiations as possible cases of sexual harassment.
24. ECPAT's Web page lists such important links as the Interpol, World Tourism Organization, and various United Nations agencies, especially UNICEF and International Programme on the Elimination of Child Labour, etcetera. See [www.ecpat.net/EI/Ecpat\\_Network.asp](http://www.ecpat.net/EI/Ecpat_Network.asp) (accessed January 3, 2010).
25. The letter had been available on the ECPAT-Taiwan official Web site ([www.ecpat.org.tw/html/view01\\_05.htm](http://www.ecpat.org.tw/html/view01_05.htm)) until 2008, when it was removed from the new Web page design. The mother organization, ECPAT International, may still be devoted to "the elimination of child prostitution, child pornography and the trafficking of children," but its Taiwan chapter is now repackaging itself as a child-protection organization with a wider range of concerns, hence the new Web design. Even its Chinese name is now changed to "Spreading Your Wings Foundation," thus eliminating any reference to child prostitution.
26. I have discussed the spread of global governance and its impact on East Asian queers in more detail in another paper. See Josephine Ho, "Is Global Governance Bad for East Asian Queers?" *GLQ: A Journal of Lesbian and Gay Studies* 14, no. 4 (2008): 457–79.
27. "About Us," Vital Voices, [vitalvoices.org/about-us](http://vitalvoices.org/about-us) (accessed January 3, 2010), italics mine.
28. Stephen Crook, Jan Pakulski, and Malcolm Waters, *Postmodernization: Change in Advanced Society* (London: Sage, 1992), 80.
29. See for comparison, Ning, "Exclusive Civil Society."