
J.Y. Interpretation No. 748 (May 24, 2017)*

Same-Sex Marriage Case

Issue

Do the provisions of Chapter II on Marriage of Part IV on Family of the Civil Code, which do not allow two persons of the same sex to create a permanent union of intimate and exclusive nature for the purpose of living a common life, violate the Constitution's guarantees of freedom of marriage under Article 22 and right to equality under Article 7?

Holding

The provisions of Chapter II on Marriage of Part IV on Family of the Civil Code do not allow two persons of the same sex to create a permanent union of intimate and exclusive nature for the purpose of living a common life. The said provisions, to the extent of such failure, are in violation of the Constitution's guarantees of both the people's freedom of marriage under Article 22 and the people's right to equality under Article 7. The authorities concerned shall amend or enact the laws as appropriate in accordance with the ruling of this Interpretation within two years from the date of announcement 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. If the authorities concerned fail to amend or enact the laws as appropriate 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

* Translation and Note by Szu-Chen KUO

or more witnesses in accordance with the said Marriage Chapter.

Reasoning

[1] One of the petitioners, the Taipei City Government, is the competent authority of household registration prescribed by Article 2 of the Household Registration Act. The household registration offices within its jurisdiction, in processing the marriage registrations applied for by two persons of the same sex, believed unconstitutional the applicable provisions under Chapter II on Marriage of Part IV on Family of the Civil Code (hereinafter “Marriage Chapter”) as well as the Ministry of the Interior (hereinafter “MOI”) Letter Tai-Nei-Hu-1010195153 of May 21, 2012 (hereinafter “2012 MOI Letter”), which refers to the Ministry of Justice (hereinafter “MOJ”) Letter Fa-Lu-10103103830 of May 14, 2012. Therefore, the Taipei City Government, through referral by its supervising authorities, the MOI and the Executive Yuan, filed a petition to this Court, claiming that the Marriage Chapter and the 2012 MOI Letter were in violation of Articles 7, 22, and 23 of the Constitution. Regarding the challenge against the Marriage Chapter, this Court considered this part of the petition as satisfying the requirements of Article 5, Paragraph 1, Subparagraph 1 and Article 9 of the Constitutional Court Procedure Act (hereinafter “Act”) and accordingly granted review. The other petition filed by Chia-Wei CHI arose from a case involving household registration. Petitioner CHI filed a petition to this Court, claiming that Articles 972, 973, 980, and 982 of the Civil Code as applied in the Supreme Administrative Court Judgment 103-Pan-521 (2014) (the final judgment) violated Articles 7, 22, and 23 of the Constitution as well as Article 10 of the Additional Articles of the Constitution. We considered his petition as satisfying the requirements of Article 5, Paragraph 1, Subparagraph 2 of the Act and accordingly granted review as well. We further decided that both petitions were concerned with the constitutionality of the Marriage Chapter and thus

consolidated the two petitions. On March 24, 2017, we heard oral arguments pursuant to Article 13, Paragraph 1 of the Act.

[2] The petitioner, the Taipei City Government, claims that the Marriage Chapter is in violation of Articles 7, 22, and 23 of the Constitution. Its arguments are summarized as follows. Prohibiting two persons of the same sex from entering into a marriage restricts their freedom to choose whom to marry as protected by the freedom of marriage. Neither the importance of its ends nor the relationship between the means and the ends justifies such prohibition. The prohibition fails the review under the proportionality principle as required by Article 23 of the Constitution. Furthermore, different treatment based on sexual orientation should be subject to heightened scrutiny. Excluding same-sex couples from marriage is not substantially related to the furthering of important public interests. As a result, the Marriage Chapter infringes upon both the people's freedom of marriage under Article 22 and the right to equality under Article 7 of the Constitution.

[3] The petitioner, Chia-Wei CHI, claims that Articles 972, 973, 980, and 982 of the Civil Code violate Articles 7, 22, and 23 of the Constitution as well as Article 10, Paragraph 6 of the Additional Articles of Constitution. His arguments are summarized as follows. (1) The freedom of marriage guaranteed by Article 22 of the Constitution is an inherent right in personality development and human dignity, the essence of which is the freedom to choose one's own spouse. Restrictions on such freedom can only be allowed to the extent compatible with the requirements of Article 23 of the Constitution. Prohibiting a person from marrying another person of the same sex, however, does not serve any important public interest. Nor are such prohibitive means substantially related to the ends, if at all. The prohibition, consequently, contravenes Articles 22 and 23 of the Constitution. (2) The term "sex" as referred to in Article 7 of the Constitution and Article 10, Paragraph 6 of the Additional Articles of the Constitution shall include sex, gender identity, and sexual orientation. Classifications based on sexual

orientation, accordingly, shall be reviewed with heightened scrutiny. The means that prohibits same-sex couples from entering marriages is ostensibly not related to the alleged end of encouraging procreation and hence in violation of equal protection. (3) Article 10, Paragraph 6 of the Additional Articles of the Constitution imposes on the State the obligation to eliminate sex discrimination and actively promote substantive gender equality. The legislature is obliged to enact laws to protect same-sex couples' right to marriage. The legislature's long-time failure to pass such laws thus amounts to legislative inaction violative of its constitutional obligation.

[4] The arguments of the authority concerned, the MOJ, are summarized as follows. (1) The precedents of the Constitutional Court have long held "marriage" as a union between husband and wife, a man and a woman. Therefore, it is rather difficult to argue that the freedom of marriage under Article 22 of the Constitution necessarily guarantees "the freedom to marry a person of the same sex." Proper protection of the rights and benefits of same-sex couples is a task better left to legislation. (2) The Civil Code, which regulates people's interactions in the private sphere, is an "enacted statute based on social autonomy." Statutory legislation on family should defer to the fact that the institution of family has existed since long before the enactment of the Civil Code. It follows that the legislature has ample discretion in shaping "private autonomy in marriage." Having considered "the social order rooted in the marriage institution of husband and wife," the legislature enacted the Marriage Chapter to protect the marriage institution. The marriage institution provided for in the Marriage Chapter is meant to serve social functions such as maintenance of human ethical orders and sex equality, as well as child raising; it is also a building block of family and society. All of the above are certainly legitimate ends. Restricting marriage to opposite-sex couples only, as a means, is not arbitrary, but rationally related to the ends of the marriage institution. The provisions of the Marriage Chapter, therefore, are

not violative of the Constitution.

[5] The arguments of the authority concerned, the MOI, are summarized as follows. As the competent authority of household registration, the MOI, upon certifying marriages, has followed the positions taken in those letters issued by the MOJ, which is the competent authority of the Civil Code. The MOI defers to the MOJ's opinions on the constitutionality of the Marriage Chapter.

[6] The arguments of the authority concerned, the Household Registration Office at Wan-Hua District of Taipei City, are summarized as follows. According to the letters issued by the MOJ, the competent authority of the Civil Code, marriage as referred to in the Marriage Chapter shall be limited to the union between a man and a woman. As to the constitutionality of the Marriage Chapter, it is within the competence of the Constitutional Court to have the final word.

[7] This Court, taking all arguments into consideration, made this Interpretation on the constitutional challenges to the Marriage Chapter raised by the petitioners. The reasoning is as follows:

[8] In 1986, the petitioner Chia-Wei CHI petitioned to the Legislative Yuan (hereinafter "LY") for "prompt legislative actions to legalize same-sex marriages." The Judicial Committee of the LY, after discussions among its full members, proposed to dismiss CHI's petition by a resolution stating that "there is no need to initiate a bill on the subject matter of this petition." The [First] LY adopted a floor resolution to confirm the said committee proposal in its Thirty-Seventh Meeting of the Seventy-Seventh Session in 1986 (*see* Citizen Petition Bills No. 201-330, LY Bill-Related Documents Yuan-Tzung-527 of June 28, 1986). In the committee deliberation, the Judicial Committee referred to the statement made by the representative of the Judicial Yuan at that time:

The union of marriage is not merely for sexual satisfaction. It too serves to produce new human resources for both State and society. It is related

to the existence and development of State and society. Therefore it is distinguishable from pure sexual satisfaction between homosexuals...

and the statement made by the representative of the MOJ at that time:

Same-sex marriage is incompatible with the provisions of our nation's Civil Code, which provides for one-man-and-one-woman marriage. It is not only in conflict with good morals of the society, but also incompatible with our national conditions and traditional culture. It seems inappropriate to legalize such marriage.

Then Chia-Wei CHI proceeded to petition both the MOJ and the MOI, but to no avail. On August 11, 1994, the MOJ issued Letter 83-Fa-Lu-Jue-17359, which stated:

In our Civil Code, there is no provision expressly mandating the two parties of a marriage be one male and one female. However, scholars in our country agree that the definition of marriage must be "a lawful union between a man and a woman for the purpose of living together for life." Some further expressly maintain that the same-sex union is not the so-called marriage under our Civil Code Many provisions of Part IV on Family in our Civil Code are also based on the concept of such opposite-sex union Therefore, the so-called "marriage" under our current Civil Code must be a union between a man and a woman and does not include any same-sex union.

(For similar statements, *see* the MOJ Letter Fa-Lu-10000043630 of January 2, 2012, the MOJ Letter Fa-Lu-10103103830 of May 14, 2012, and the MOJ Letter Fa-Lu-10203506180 of May 31, 2013.) In 1998, Chia-Wei CHI applied to the

Taiwan Taipei District Court for its approval to have a marriage ceremony performed by the notary public. His application was denied, but he did not seek any judicial remedy for the denial. In 2000, he applied to the same court for the same approval and was rejected again. After exhaustion of ordinary judicial remedies, CHI brought his case to this Court for constitutional interpretation. In May 2001, this Court dismissed his petition on the grounds that his petition did not specifically explain how the statutes or regulations applied in the court decisions violated the Constitution. In 2013, CHI applied for marriage registration at the Household Registration Office at Wan-Hua District of Taipei City and failed again. He then brought his case for administrative appeal and suit. In September 2014, the Supreme Administrative Court ruled against him, ending his quest for ordinary judicial remedies. In August 2015, CHI once again petitioned this Court for constitutional interpretation. For more than three decades, Chia-Wei CHI has been appealing to the legislative, executive, and judicial departments for the right to same-sex marriage.

[9] In addition, Legislator Bi-Khim HSIAO and her colleagues introduced a bill on the Same-Sex Marriage Act in the LY for the first time in 2006. This bill fell short of committee deliberation owing to lack of majority support among legislators. Later, in 2012 and 2013, some non-governmental organizations in the movement for marriage equality proposed legislative bills to amend the relevant laws. Echoing such calls, Legislator Mei-Nu YU and her colleagues introduced a bill on partial amendment of Part IV on Family of the Civil Code. Then, Legislator Li-Chiun CHENG and her colleagues further introduced another bill on partial amendment of Part IV on Family and Part V on Succession of the Civil Code. For the first time ever, both bills advanced to the Judiciary and Organic Laws and Statutes Committee for committee deliberation. The Committee held several public hearings to seek out various opinions. Both bills were deemed dead when the term of the Members of the Eighth LY came to an end in January 2016. Later

in 2016, Legislator Mei-Nu YU and her colleagues once again introduced a bill on partial amendment of Part IV on Family of the Civil Code. The LY caucus of the New Power Party, Legislator Yu-Jen HSU, and Legislator Yi-Yu TSAI also introduced several other amendment bills. On December 26, 2016, all of the above bills cleared the first reading after deliberation by the Judiciary and Organic Laws and Statutes Committee. However, it is still uncertain when these bills will be reviewed on the floor of the LY. Evidently, after more than a decade, the LY is still unable to pass the legislation regarding same-sex marriage.

[10] This case concerns the very controversial social and political issues of whether homosexuals shall have the autonomy to choose whom to marry and of whether they shall enjoy the equal protection of the same freedom of marriage as heterosexuals. The representative body is to conduct negotiations and reach compromise and then to enact or amend the legislation concerned in due time based upon its understandings of the people's opinions and taking into account all circumstances. Nevertheless, the timetable for such legislative solution is hardly predictable now and yet these petitions concern the protection of people's fundamental rights. It is the constitutional duty of this Court to render a binding judicial decision, in time, on issues concerning the safeguarding of constitutional basic values such as the protection of people's constitutional rights and the free democratic constitutional order (*see* J.Y. Interpretations Nos. 585 and 601). For these reasons, this Court, in accordance with the principle of mutual respect among governmental powers, has made its best efforts in granting review of these petitions and, after holding oral hearing on the designated date, made this Interpretation to address the above constitutional issues.

[11] Those prior J.Y. Interpretations mentioning "husband and wife" or "a man and a woman" were made within the context of opposite-sex marriage, in terms of the factual backgrounds of the original cases from which they arose. For instance, J.Y. Interpretations Nos. 242, 362, and 552 addressed the exceptional

circumstances that would tolerate the validity of bigamy under the Civil Code. J.Y. Interpretation No. 554 ruled on the constitutionality of punishing adultery as a crime. J.Y. Interpretation No. 647 adjudicated upon the issue of excluding opposite-sex unmarried partners from the tax exemption available to married couples. J.Y. Interpretation No. 365 considered the constitutionality of a patriarchal clause. Thus far, this Court has not made any Interpretation on the issue of whether two persons of the same sex are allowed to marry each other.

[12] Section 1 on Betrothal of the Marriage Chapter provides, in Article 972, “A betrothal agreement shall be made by the male and the female parties in their own concord.” It expressly stipulates a betrothal agreement ought to be concluded between two parties of one male and one female based on their autonomous concord to create a marriage in the future. Articles 980 to 985 of Section 2 on Marriage provide for the formal and substantive requirements for concluding a marriage. Though Section 2 on Marriage does not stipulate again that a marriage ought to be concluded between parties of one male and one female out of their own wills, the same construction of one-male-and-one-female marriage can be inferred from Article 972, which mandates a betrothal agreement to marry in the future be concluded only between a man and a woman. If we further refer to the naming of “husband and wife” as the appellations for both parties of marriage as well as their respective rights and obligations in those corresponding provisions of the Marriage Chapter, it is obvious that marriage shall mean a union between a man and a woman, *i.e.*, two persons of the opposite sex. The MOJ, being the competent authority of the Civil Code, has issued the following four Letters (83-Fa-Lu-Jue-17359 of August 11, 1994, Fa-Lu-10000043630 of January 2, 2012, Fa-Lu-10103103830 of May 14, 2012, and Fa-Lu-10203506180 of May 31, 2013), stating that “marriage is a lawful union between a man and a woman for the purpose of living together for life.” Based upon the above MOJ Letters, the MOI, being the competent authority for marriage registration, ordered the local

authorities in charge of household administration to exercise mere formalistic review on applications for marriage registration. Therefore, the local authorities in charge of household administration have been denying all applications for marriage registration filed by two persons of the same sex. As a result, two persons of the same sex have been unable to conclude a legally-recognized marriage so far.

[13] Unspoused persons eligible to marry shall have their freedom of marriage, which includes the freedom to decide “whether to marry” and “whom to marry” (*see* J.Y. Interpretation No. 362). Such decisional autonomy is vital to the sound development of personality and safeguarding of human dignity and therefore is a fundamental right to be protected by Article 22 of the Constitution. Creation of a permanent union of intimate and exclusive nature for the purpose of living a common life by two persons of the same sex will not affect the application of those provisions on betrothal, conclusion of marriage, general effects of marriage, matrimonial property regimes, and divorce as provided for in Sections 1 through 5 of the Marriage Chapter, to the union of two persons of the opposite sex. Nor will it alter the social order established upon the existing opposite-sex marriage. Furthermore, the freedom of marriage for two persons of the same sex, once legally recognized, will constitute the bedrock of a stable society, together with opposite-sex marriage. The need, capability, willingness, and longing, in both physical and psychological senses, for creating such permanent unions of intimate and exclusive nature are equally essential to homosexuals and heterosexuals, given the importance of the freedom of marriage to the sound development of personality and safeguarding of human dignity. Both types of union shall be protected by the freedom of marriage under Article 22 of the Constitution. The current provisions of the Marriage Chapter do not allow two persons of the same sex to create a permanent union of intimate and exclusive nature for the purpose of living a common life. This is obviously a gross legislative flaw. To such extent,

the provisions of the Marriage Chapter are incompatible with the spirit and meaning of the freedom of marriage as protected by Article 22 of the Constitution.

[14] Article 7 of the Constitution provides, “All citizens of the Republic of China, irrespective of sex, religion, race, class, or party affiliation, shall be equal before the law.” The five classifications of impermissible discrimination set forth in the said Article are only illustrative, rather than exhaustive. Therefore, different treatment based on other classifications, such as disability or sexual orientation, shall also be governed by the right to equality under the said Article.

[15] The current Marriage Chapter only provides for the permanent union between a man and a woman, without providing that two persons of the same sex may also create an identical permanent union. This constitutes a classification on the basis of sexual orientation, which gives homosexuals relatively unfavorable treatment in their freedom of marriage. Given its close relation to the freedom of personality and human dignity, the freedom of marriage promised by Article 22 of the Constitution is a fundamental right. Moreover, sexual orientation is an immutable characteristic that is resistant to change. The contributing factors to sexual orientation may include physical and psychological causes, life experience, and the social environment.^{Note 1} The World Health Organization, the Pan American Health Organization (the WHO Regional Office in the Americas),^{Note 2} and other major medical organizations, both domestic and abroad,^{Note 3} have stated that homosexuality is not a disease. In our country, homosexuals were once denied by social tradition and custom in the past. As a result, they have long been locked in the closet and suffered various forms of *de facto* or *de jure* exclusion or discrimination. Besides, homosexuals, because of the population structure, have been a discrete and insular minority in the society. Impacted by stereotypes, they have been among those lacking political power for a long time, unable to overturn their legally disadvantaged status through ordinary democratic processes. Accordingly, to determine the constitutionality of different treatment based on

sexual orientation, a heightened standard shall be applied. Such different treatment must be aimed at furthering an important public interest by means that are substantially related to that interest, in order for it to meet the requirements of the right to equality as protected by Article 7 of the Constitution.

[16] The reasons that the State has made laws to govern the factual existence of opposite-sex marriage and to establish the institution of marriage are multifold. The argument that protecting reproduction is among many functions of marriage is not groundless. The Marriage Chapter, nonetheless, does not set forth the capability to procreate as a requirement for concluding an opposite-sex marriage. Nor does it provide that a marriage shall be void or voidable, or a divorce decree may be issued, if either party is unable or unwilling to procreate after marriage. Accordingly, reproduction is obviously not an essential element to marriage. The fact that two persons of the same sex are incapable of natural procreation is the same as the result of two opposite-sex persons' inability, in an objective sense, or unwillingness, in a subjective sense, to procreate. Disallowing the marriage of two persons of the same sex because of their inability to reproduce is a different treatment having no apparent rational basis. Assuming that marriage is expected to safeguard the basic ethical orders, such concerns as the minimum age of marriage, monogamy, prohibition of marriage between close relatives, obligation of fidelity, and mutual obligation to maintain each other are fairly legitimate. Nevertheless, the basic ethical orders built upon the existing institution of opposite-sex marriage will remain unaffected, even if two persons of the same sex are allowed to enter into a legally-recognized marriage pursuant to the formal and substantive requirements of the Marriage Chapter, inasmuch as they are subject to the rights and obligations of both parties during the marriage and after the marriage ends. Disallowing the marriage of two persons of the same sex for the sake of safeguarding basic ethical orders is a different treatment also having no apparent rational basis. Such different treatment is incompatible with the spirit

and meaning of the right to equality as protected by Article 7 of the Constitution.

[17] Given the complexity and controversy surrounding this case, longer deliberation time for further legislation might be needed. On the other hand, overdue legislation will indefinitely prolong the unconstitutionality of such underinclusiveness, which should be prevented. This Court thus orders that the authorities concerned shall amend or enact the laws as appropriate in accordance with the ruling of this Interpretation within two years after the date of announcement of this Interpretation. It is within the discretion of the authorities concerned to determine the formality (for example, amendment of the Marriage Chapter, enactment of a special Chapter in Part IV on Family of the Civil Code, enactment of a special law, or other formality) for achieving the equal protection of the freedom of marriage for two persons of the same sex to create a permanent union of intimate and exclusive nature for the purpose of living a common life. If the amendment or enactment of relevant laws is not completed within the said two-year timeframe, two persons of the same sex who intend to create a permanent union of intimate and exclusive nature for the purpose of living a common life may, pursuant to the provisions of the Marriage Chapter, apply for marriage registration to the authorities in charge of household registration, by submitting a document signed by two or more witnesses. Any such two persons, once registered, shall be accorded the status of a legally-recognized couple and then enjoy the rights and bear the obligations arising on couples.

[18] This Interpretation leaves unchanged the party status as well as the related rights and obligations for the institution of opposite-sex marriage under the current Marriage Chapter. This Interpretation only addresses the issues of whether the provisions of the Marriage Chapter, which do not allow two persons of the same sex to create a permanent union of intimate and exclusive nature for the purpose of living a common life together, violate the freedom of marriage protected by Article 22 and the right to equality guaranteed by Article 7 of the

Constitution. This Interpretation does not deal with any other issues. It is also noted here.

[19] The petitioner the Taipei City Government also challenges the constitutionality of the 2012 MOI Letter. This Letter was a reply by the MOI to the Taipei City Government on a specific case regarding the issue of whether the latter should accept an application by two same-sex persons for marriage registration. We hold that the Letter is not a regulation of general application and therefore not eligible for constitutional review. In accordance with Article 5, Paragraph 2 of the Act, we dismiss this part of petition. It is so ordered.

Note 1: For example, the World Psychiatric Association (WPA), released in 2016 a *WPA Position Statement on Gender Identity and Same-Sex Orientation, Attraction, and Behaviours*, indicating that sexual orientation is “innate and determined by biological, psychological, developmental, and social factors.” (This position statement is available at http://www.wpanet.org/detail.php?section_id=7&content_id=1807, last visited May 24, 2017.) The Supreme Court of the United States, in *Obergefell v. Hodges*, 576 U.S. ___ (2015), 135 S. Ct. 2584, 2596 (2015), also held, “Only in more recent years have psychiatrists and others recognized that sexual orientation is both a normal expression of human sexuality and immutable.” (This decision is available at https://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf, last visited May 24, 2017.)

Note 2: The World Health Organization (WHO), in Chapter 5 of *The Tenth Revision of the International Statistical Classification of Diseases and Related Health Problems, ICD-10, Version 2016*, of which the first version was released in 1992, retains, under classification of diseases, the Category F66 “psychological and behavioural disorders associated with sexual development and orientation.” Nevertheless, it clearly points out, “Sexual orientation by itself is not to be regarded as a disorder.” (*See*

<http://apps.who.int/classifications/icd10/browse/2016/en#/F66>, last visited May 24, 2017.) The Pan American Health Organization, the WHO Regional Office in the Americas, also expressly mentions in its paper, “CURES” FOR AN ILLNESS THAT DOES NOT EXIST, that “there is a professional consensus that homosexuality represents a natural variation of human sexuality” Furthermore, “[i]n none of its individual manifestations does homosexuality constitute a disorder or an illness, and therefore it requires no cure.” (This paper is available at http://www.paho.org/hq/index.php?option=com_docman&task=doc_view&gid=17703&Itemid=2057, last visited May 24, 2017.)

Note 3: As to the positions of medical organizations abroad, the WPA has clearly expressed its position in *WPA Position Statement on Gender Identity and Same-Sex Orientation, Attraction, and Behaviors* as explained in Note 1. In *Sexual Orientation and Marriage*, first published in 2004 and later confirmed in 2010, the American Psychological Association also specifies that since 1975 psychologists and psychiatrists have held homosexuality is “neither a form of mental illness nor a symptom of mental illness.” (This document is available at <http://www.apa.org/about/policy/marriage.aspx>, last visited May 24, 2017.) As to the positions of medical organizations at home, in December 2016, the Taiwanese Society of Psychiatry (TSP) released *Position Statement in Support of the Equal Rights for Groups of Diverse Genders/Sexual Orientations and for Same-Sex Marriage*. In this position statement, the TSP asserts that sexual orientation, sexual behavior, gender identity, and partnership of non-heterosexuality are neither mental disorders nor defects of personality development. Rather, they are normal expressions of the diversity in human development. Moreover, homosexuality by itself will not cause any disorder in mental health and therefore requires no cure. (This position statement is available at

http://www.sop.org.tw/Official/official_27.asp, last visited May 24, 2017.)

The Taiwanese Society of Child and Adolescent Psychiatry released its *Position Statement on Gender Equality* in January 2017, which maintains that all sexual orientations are normal, and none of them is an illness or a deviation. (This position statement is available at http://www.tscap.org.tw/TW/News2/ugC_News_Detail.asp?hidNewsCatID=8&hidNewsID=131, last visited May 24, 2017.)

Background Note by the Translator

In 2013, the petitioner Chia-Wei CHI's application for marriage registration was rejected by the Household Registration Office at Wan-Hua District of Taipei City. After exhausting ordinary judicial remedies, CHI filed a petition to the Constitutional Court in August 2015. He claimed that Articles 972, 973, 980, and 982 of the Civil Code which prohibited same-sex marriage violated the Constitution. Another petitioner, the Taipei City Government, petitioned to the Constitutional Court in November 2015, claiming that the Marriage Chapter of the Civil Code was in violation of the Constitution. The Constitutional Court decided to consolidate these two petitions and heard oral arguments on March 24, 2017.