

從國際兩公約爭取市民結社經濟權的落實

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即將於 2017 年元月 16-19 日舉行第二次兩公約審查會，政府邀請聯合國的兩公約國際委員 10 位前來，進行審查「公民與政治權利國際公約第二次國家報告 (ICCPR)」、「經濟社會文化國際公約第二次國家報告 (ICESR)」暨對應民間團體的「2016 影子報告」和平行報告(約 30 個團體提交)。

此次，中國合作學社協同中華民國儲蓄互助協會、基隆第一住宅公用合作社於 2016 年 4 月底獨立提交乙份影子報告「**建立合作經濟及社會經濟發展架構，確保市民與婦女平等享有經濟社會權利**」，這是首次合作界自提公約報告，審查前歷經許多狀況與危機，但是秉持合作理念是「努力致勝」，終於在 2016 年歲末，化危機為轉機。本文撰寫作為一項經驗紀錄，內容中提供審查報告之中英文供參，希冀合作界多加利用公約的督促力，來爭取各級政府落實經濟結社權。

一、提交歷程的危機與轉機

首先，在 2016 年四月間，「兩公約人權聯盟」(簡稱人約盟)與「婦女權益促進基金會」(簡稱婦權基金會)共同召集說明審查

流程，邀約 2014 年 CEDAW 公約曾提交報告團體的意願而成案。因為時程十分逼近，為提交報告，在極短時間內必須大量研讀，找出適合合作社訴求的條文，有以下的步驟：(一)必須先研讀兩公約的內容暨第一次國家報告(2013 年)與專家建議(大量的報告)；(二)再讀政府為 2017 年審查的大量報告；(三)從中對照出合作界要爭取的權益條文與政府清單。經本人確認：(一)為落實 ICCPR 第 22 條以及 ICESCR 第 2, 6, 8, 11, 13 條，讓市民認知合作社是結社經濟權，是勞動經濟組織之一，發揮住宅保障權與合作教育學習機會。(二)回應 2013/3/1 專家結論性建議點次：17-19, 37, 43-45；(三)對應 CEDAW 公約第 14 條農村婦女參與和籌組合作社。

當時，本人曾邀婦女團體共同提交，但因婦女團體的訴求存在差異，而分別提交報告。經總統府的七人小組整併後，將二者歸納如前述標題(最後於本年元月 3 日加入市民)。

其次，在法務部兩公約秘書處與民間的人約盟處理過程中，合作界提交的成為「遺失的報告」，此事本人在 12/23 出席法務部

的協調會議中才獲知，除力爭出席權之外，還要發言權，但是會議裁決：「由有資格的團體(已提交報告單位)自行協商」，因為總名冊中已經列出合作界三個單位，並且經婦權基金會與人約盟證實，可以補辦報名手續；但有關發言權則是難題，幸好協調會中即獲得在場「台灣性別不明關懷協會」理事長葉若瑛女士讓渡，取得一個經社文公約第 11 條住宅權的發言權；在當天晚上除了補辦報名取得出席權之外，再經由「兩公約人權聯盟」黃嵩立教授/召集人協助，緊急信件聯繫「經濟民主連合」之許博任先生協調內部(年輕人全部採用 Facebook 聯繫)，很快地在 12/24 下午來信回覆「同意讓渡」，合作學社再取得一個經社文第 2 條有關自由權利保障的發言權，經周末後於 12/26 通知法務部的兩公約秘書處有關的異動，再三電話與書信確認，已經列入審查會的排序紀錄，至今(1/12)正式通知入場編序第 10 號。

第三，關於已提交的「遺失報告」，商請黃召集人與婦女權益促進基金會協助，經副執行長黃鈴翔女士協助送交專業翻譯後，再請「人約盟」於 1/3-4 單獨寄送給 10 位國際委員審閱(如下全文)。

第四，限時提交發言單至法務部兩公約秘書處，內容須同時以中文、英文撰寫，收件在本月 3 日午夜前截止，本次合作學社共

提交四份發言單，其中分別在 1/17 與 18 兩場有發言權，另二場則附在會議中當參閱文件。實質審查會在 1/16-18，發言權是非常寶貴的，只有三分鐘，此次發言者可以採中文，但合作學社將以英文報告(因為口譯者不諳合作經濟用詞，會誤用而誤導)，逾時即消音，每個民間團體藉此機會，盡力說服委員們看到訴求。在審查會結束後，1/19 全日以不公開會議方式，經「公政公約」與「經社文公約」的 10 位委員協議討論後，將民間團體的訴求納入「結論性建議」，做為未來四年督促政府執行的依據。

二、影子報告的中英文內容

以下是 2017 年元月 3 日最後送交國際審查委員的中英文對照報告，這是經由兩公約的工作小組合併為 11 個點次後，再次整編為 10 個點次(此與合作經濟第 129 期有差異)。前四項是問題，後六項是建議，盼請學術界多加研析與追蹤，協助國內合作團體爭取各級政府措施與結社經濟權益的落實，此後合作社可增加一個運用國際公約管道，爭取機會，惠請各界參閱。

Proposed by: 1. Chinese Cooperative Economics Association (CCEA); 2. Credit Union League, ROC(CULROC); 3. Housing Cooperative in Keelung, Taiwan.

「建立合作經濟及社會經濟發展架構，確保

市民與婦女平等享有經濟社會權利」

Establish a Cooperative Economy and Social Economy Development Framework; Ensure Citizens and Women have Equal Economic and Social Rights¹

1. 全球化加劇資本主義的貧富差距，婦女經濟安全尤其受到威脅，除了傳統市場模式運作之企業體外，政府應實踐「性別平等政策綱領」中的「混合式經濟體制」，透過發展追求民主平等的合作事業，以及強調公益助人、培力賦權的非營利組織經濟力，對女性就業、創業必能帶來質變。

The trend of globalization has further increased economic inequality in the capitalist market, threatening in particular women's economic security. Aside from enterprises that operate under the traditional market model, the government should also duly implement the "mixed-economy system" proposed in the Gender Equality Policy Guidelines. By developing cooperative enterprises that pursue democracy and equality, and by stressing economic strengths of non-profit organizations that strive to promote public welfare and are dedicated to empowering

the public, women's employment or company startup may enjoy significant changes.

2. 政府在近年間動員 6 個部會所推展的「社會企業」，仍缺乏國際發展「社會經濟事業」的包容性，亦即應多元涵蓋合作社、社區企業、社會型企業、基金會事業化、協會事業化、障礙者的自立事業等。

The government has recently appointed six ministries to jointly promote the "Social Enterprise" concept; however, it still does not include the whole scope of the "Social Economic Enterprises" concept promoted by the international society. The "Social Economic Enterprises" concept include a more comprehensive scope consisting of cooperatives, community enterprises, social enterprises, foundations and associations that operate like enterprises, and disability-owned business enterprises.

3. 因政府長期漠視與稅制不公允，造成台灣的照顧勞動合作社（婦女社員占八成以上）參與照顧服務的公共機會受阻而紛紛解散，小型社區照顧合作社又難以維繫，與美、德、英、瑞典等國長期發展住宅合作社連結信用儲蓄、勞動合作來照顧人民的趨勢完全背反。這些都讓我國公民難以

¹ 本英譯版，因受限於 1/3 同時提交四份中英文發言單，本人僅增補提交單位與標題中的「市民」二處於婦權基金會送來文稿。

參與長照體系、環境安全、以及身心障礙者家庭照顧和住宅，也難以實現結社經濟權。

Countries such as the US, Germany, UK and Sweden have long promoted the linking of cooperative housing with credit unions and labor cooperatives so as to provide better care for their people. And yet in Taiwan, due to the government's long-term negligence and unfair taxation system, the care service labor cooperatives (made up by 80% female members) have been blocked from public participation and have gradually faded out, whereas small-size local care cooperatives are difficult to maintain. As such, the situation in Taiwan has completely deviated from the international trend. The said reasons block the Taiwanese people's participation in bettering the long-term care system, improving environment security, and caring for disabled families and their housing, and make it hard to truly realize people's freedom of association and economic rights.

4. 政府缺乏整體的合作經濟政策，漠視學校型消費合作社衰退超越整體下降率達兩倍之多，不但背離國際發展，也阻礙向下紮根之公民經濟教育和參與機會學習，更未能落實《憲法》與《合作社法》，各部會與縣市政府的法律不一、行政協力不

足，以及「結社經濟人權」基本教育未普及化，都使得人民至今在合作社籌組及經營發展機會上仍多受嚴重阻礙。

The government lacks a comprehensive policy for cooperative economy, neglects the sign that consumers cooperatives' operation within schools have dropped over double folds. This not only deviates from international development trends, but also hinders the rooting of civil economics education and blocks learning through actual participation, and is also not in accordance to stipulations of the Constitution and Cooperatives Act. The incoordination of regulations in respective ministries, cities, and provinces, the lack of administrative cooperation, and the insufficient promotion of basic education for freedom of association and economic rights concepts, all act as obstacles on the path to the establishment, operation, and development of cooperatives.

5. 建議制定涵蓋多元社會經濟事業發展的基本法，如「社會經濟促進法」，以更全面性、更高位階、更符合時代需求的法律經濟視野，為發展包括合作社、社區企業、社會型企業、基金會事業化、協會事業化、障礙者的自立事業等型態的「社會經濟」立法奠基，宣示政府發展新經濟的

決心，並且避免政府資源的分立及行政作為的各行其事。

It is proposed that a basic law stipulating the development of various social economic enterprises should be drafted, such as a “Social Economy Promotion Act.” The establishment of such a law would provide a more comprehensive and times-demanding legal economic perspective, and serve as a legal basis for social economy development, including cooperatives, community enterprises, social enterprises, foundations and associations that operate like enterprises, and disability-owned business enterprises. It would also avoid problems such as division of government resources and administrative incoordination, and further declare the government’s determination in developing a new economy.

6. 建議於行政院下設置由政務委員以上層級擔任召集人之「社會經濟促進委員會」²或「合作暨社會經濟促進委員會」³，廣納包括合作社、社會型、財團法人、社團法人企業等經濟體之代表，建立公私夥伴機制，並且盤點、整合政府內包含經濟、勞動、衛福、財政、內政等各部會資源，

² 此為婦女團體提出之訴求。

³ 此為合作界提出之訴求。

建立非以追求利潤為唯一目標、而兼著重社會責任、正義平等、財富重分配、弱勢照顧等公共價值的社會經濟架構。

It is proposed for the Executive Yuan to establish under itself a “Social Economy Promotion Council” or “Cooperative and Social Economy Promotion Council” headed by a Minister without Portfolio (or higher rank). The Council should include representatives from cooperatives, social enterprises, foundations, and corporations to establish public-private partnership, and should also check, integrate resources within the government’s economic, labor, health and welfare, finance, and interior agencies. The goal of the Council should not only be of profit, but should also establish itself into becoming a social economic framework that balances common values of social responsibility, justice and equality, redistribution of wealth, and care for minority groups.

7. 政府政策與作為應落實《憲法》第 145 條及《合作社法》之保障，並符合 ILO 第 193 號「關於促進合作社建議書」、聯合國「創造有利於合作社發展環境準則」、CEDAW 委員會第 34 號「關於農村婦女權利」一般性建議等國際社會經濟趨勢之精神，促進合作社的社會經濟效益。

Government policies and actions should

fully accord with guarantees stipulated in the Cooperatives Act and in Article 145 of the Constitution. They should also accord with international social economic trends, such as that stipulated in ILO Promotion of Cooperatives Recommendation (No. 193), United Nations Guidelines Aimed at Creating a Supportive Environment for the Development of Cooperatives, and CEDAW General Recommendation No.34 on the Rights of Rural Women, so as to facilitate the social economic benefits of cooperatives.

8. 政府應檢視當前法規，避免阻礙合作社發展，如住宅合作相關的《國民住宅條例》、《所得稅法》、《公寓大廈管理條例》、《土地法》、《農業發展條例》、《農業用地興建農舍法》；勞動照顧相關的《加值型與非加值營業稅法》、《老人福利服務提供者資格要件及服務準則》等。

To avoid any obstacles for co-operatives development, the government should review current existing laws. For example, cooperative housing related regulations such as the Public Housing Act, the Income Tax Act, the Condominium Administration Act Building Administration Division, the Land Act, the Agricultural Development Act, and the Regulations for Building Farm Houses on Agricultural Lands; labor care related

regulations such as the Value-Added and Non-Value-Added Business Tax Act and the Regulations for Qualification and Service of Senior Citizens Welfare Service Providers.

9. 仿效性別平等教育的施行模式，在各級學校基礎教育的基本教材如「公民」，皆納入愛與關懷、互助合作經濟內容、結社經濟人權之觀念及運作學習。

針對各級政府內部的人員任用、培育，以及外部的人民就業、職訓等，提供「合作暨社會經濟」的理念價值和運用課程，包括：合作社、儲蓄互助社、社區企業、社會型企業、基金會事業化、協會事業化、障礙者的自立事業等型態，讓人民從兩公約的保障，擁有更多元的金融和經濟參與管道，來選擇親民的創新社會經濟模式。

It is proposed to adopt the gender equality education implementation model in embedding the contents and concepts of love, care, mutual assistance, cooperative economics, freedom of association, economic rights, and actual operations into basic textbook materials of “Civics” courses at all levels of basic education. It is also suggested to include concepts, values, and actual operations of “cooperative and social economy” into government personnel and private employment training programs. For example, assist the

public in better understanding the concepts of cooperatives, credit unions, community enterprises, social enterprises, foundations and associations that operate like enterprises, and disability-owned business enterprises. Also, assist the people in fully understanding guarantees stipulated in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which enables them to enjoy diverse financial and economic participation channels through which they may choose a new friendly and innovative social economy model.

- 10 提升合作事業之主管機關層級至行政院，並賦予合作事業執行公部門各項積極社會福利政策之權利，以落實《憲法》獎勵與扶助合作事業之基本國策。

It is also proposed for the Executive Yuan to become the competent authority overlooking cooperative affairs, and to empower all government agencies implementing cooperative affairs with the right to formulate social benefit and welfare policies so as to fully realize the basic national policy of encouraging and assisting cooperative businesses, as stipulated in the Constitution.

三、結語

合作界所遭遇的種種困難，當今以中央政府與地方政府認知不足、行政人員不足，以及一般社會人士、學生接觸有限而不認識，最為嚴重，因此在 2015 年 5 月通過合作社修法後的今天，仍未見行政上、發展上改善狀況。誠懇地呼籲，合作業者遵守合作社七大原則，殷實經營；學術界要相互連結實務界，並與 NPO 團結互助，在此艱鉅的時刻，我們需要更多人加入來認識國際公約，逐條地、或全面地在國際會議中發聲，爭取機會與權益，督促政府所應負起的憲法上責任，協助市民落實結社經濟權益，朝向聯合國 (UN) 與國際合作社聯盟 (ICA) 宣告，合作社經濟網絡有助於消除貧窮、不平等，創造就業，建立美好生活，並成為 2030 年的 17 個永續發展目標的行動力。這正是臺灣社會當代與下一代所需要的，如歐洲聯盟 (EU) 各國長期提倡合作社之社會經濟以促進社會融合與凝聚力。

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