Background

- Though the original Constitution of the Republic of China from 1947 mentioned the right for elections, recalls, initiatives and referendums, Taiwan was under the Kuomintang’s (KMT) authoritarian rule until 1992, and it was not until 2003 that the Referendum Act was passed and this right became enforceable under the Civil Code.
- In 1987, the government of the Republic of China announced the abolition of martial law.
- In 1991, elections replaced a large part of the members of the national assembly.
- In 1992, elections replaced a large part of the members of the legislative yuan (parliament).
- In 1996, the first direct presidential election was held.
- In 2000, the presidential candidate of the Democratic Progressive Party (DPP), Chen Shui-Bian was elected, ending the KMT’s 55-year rule over Taiwan.
- A few advisory local popular votes on substantive issues (“referendums”) were held before the enactment of the Referendum Act (such as the one held on September 12, 2003 in Pingling township, near Taipei).
- Taiwan’s Legislative Yuan passed the Referendum Act on November 28, 2003
- From 2004 to 2017, six citizens’ initiatives managed to make it onto the ballot. All of them failed by falling short of the 50% participation quorum on voting day.
- In January 2018 (before the 2018 Referendum), the Legislative Yuan amended parts of the Referendum Act to significantly lower the threshold for initiatives and referendums.
- In June 2019 (after the 2018 Referendum), the Referendum Act was amended again.

The 2018 Initiative & Referendum Act: End of the Birdcage Law?

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Voting age</td>
<td>20 years</td>
<td>18 years</td>
</tr>
<tr>
<td>Filing of I&amp;R proposal</td>
<td>1/5000 of the electorate in the most recent presidential election</td>
<td>1/10000 of the electorate in the most recent presidential election</td>
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<tr>
<td>Signature requirement</td>
<td>5% of the electorate in the most recent presidential election</td>
<td>1.5% of the electorate in the most recent presidential election</td>
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<tr>
<td>Validation Quorum on voting day</td>
<td>more than 50% turnout more than 50% valid votes</td>
<td>majority of votes for a proposal more than 25% of the electorate agree with a proposition</td>
</tr>
<tr>
<td>Reviewing referendum proposal</td>
<td>The Executive Yuan Referendum Review Committee（公民投票審議委員會）</td>
<td>Central Election Commission (CEC)</td>
</tr>
<tr>
<td>Absentee voting</td>
<td>Not specified</td>
<td>Permissible, but further legislation is required.</td>
</tr>
<tr>
<td>E-Gathering</td>
<td>No</td>
<td>Permissible, but further legislation is required.</td>
</tr>
</tbody>
</table>
The 2018 Initiative & Referendum Practice: A powerful experience

- A total of 37 initiative & referendum proposals were filed in the first phase - ten made it all the way to the ballot box.
- In seven cases, the required quorum was fulfilled. Average participation was 55.23%.
- The seven popular votes that were successful can be divided into two categories of topics: same-sex marriage and sexual equality education, and energy and food policy.
- 3 of the successful proposals were made by the main opposition party (KMT): they were on "air pollution", "nuclear power" and "food safety". 3 others had been launched by the Taiwan Family alliance on "marriage definition", "gender equality education" and "same-sex marriage". Finally, a pro-nuclear energy proposal passed as well.
- Three initiatives on "Olympic name correction", "marriage equality" and "gender equality education" did not pass the required threshold of an approval by at least 25% of the electorate.
- For the ten citizens' initiatives that were voted on, the timeline from being certified, to the nationwide debate, to the vote, was compressed into less than two months.
- Some voters complained that some of the ballot propositions were difficult to understand.
- Whether or not human rights should be taken into consideration was hotly debated. Already in 2017, the Taiwan Constitutional Court held that the failure of the Civil Code to recognize same-sex marriage is "unconstitutional." Fierce debate arose over whether the "marriage definition" proposition was unconstitutional and whether it could somehow overrule the 2017 Constitutional Court decision.
- Instead of changing the Civil Code, a special law for same-sex marriage was finally adopted on May 17th 2019, making Taiwan the first country in Asia to allow for equal marriage rights.
- The Initiative and Referendum Act was changed again in 2019 as a reaction to the 2018 experience.

Amendments in 2019: De-coupling referendums and elections

- Starting from 2021, popular votes on substantive issues are scheduled to take place every second year on the fourth Saturday of August – and cannot be coupled with other nation-wide elections.
- The CEC will have 60 days instead of 80 days to check the submitted signatures from now on.
- The deadline to submit the required signatures to put initiatives and referendums on the ballot was revised from 28 days before a voting day to 90 days before.
- A proposed anti-fraud requirement that signatures must be authenticated with photocopies of ID cards was dropped in the last minute. All threshold requirements remain the same.

Proposals for a more democratic I&R law: Allow for more time

- Initiative & referendum law should be strengthened on the local level.
- The household registration system makes it difficult to vote as many people do not live where they are registered (meaning they have to travel home to vote).
- As official information material is sent to the registered household many people don’t have access to this information source.
- 90 days is still too short for a more comprehensive deliberation in parliament and in civil society.
- After the submission of signatures, more time is needed for debate and campaigning.
- More time in general will allow the public to better understand the content and the consequences of a referendum.
- The CEC should have the right to combine initiatives and referendums with the same political direction - this was a major problem during the 2018 referendum, when citizens were asked to vote on contradicting proposals.
- Allow digital signature collection, but do not implement e-voting as there is no secure system at the moment.

*This factsheet has been compiled by Adrian Rauchfleisch and Tina Lu and has been edited by Yen-tu Su and Bruno Kaufmann*