

# Legal preparedness as part of COVID-19 response: the first 100 days in Taiwan

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## INTRODUCTION

Taiwan has won international praises for its rapid and responsive containment strategy over the novel coronavirus severe acute respiratory syndrome-CoV-2. Taiwan was estimated to be the second-worst hit country with its close proximity and dense economic activities with China.<sup>1</sup> As of 7 April, the self-governing island nation of 23 million population has markedly low 373 cases and five deaths, with majority of cases from individuals returning from overseas.<sup>2</sup> While there is no one-size-fits all solution to the pandemic, public health legal preparedness explains part of Taiwan's success: it lays a critical foundation which centralises public health authority at the executive level, enabling rapid coordination across different ministries and agencies.

In liberal democracies, law is central to pandemic response and countries around the world have taken various approaches towards mitigation with varying successes. In Taiwan, relying on the pre-existing public health legislations means that the government has so far managed the health crisis without having declared a public health emergency. Significantly, this means that the ordinary constitutional framework remains in place and where public health measures remain subject to judicial review. While the law provides the backbone to Taiwan's COVID-19 response, it remains a human-centric approach, which recognises that successful containment requires cooperation and trust from individuals. As such, the government has engaged with various sectors of the society, mobilising a broad-base support as the epidemiological landscape evolves.

Taiwan revamped its public health laws after the severe acute respiratory syndrome epidemic where the country suffered from large-scale failures in epidemiological contact tracing and wide public in-compliance.<sup>3</sup> While Taiwan is not an official member state to the International Health Regulations (IHR), the

## Summary box

- ▶ Public health legal preparedness is essential for a coordinated whole-of-government response during an infectious disease outbreak.
- ▶ Recognition of vulnerable individuals affected by the outbreak is crucial to mitigate the disproportionate burdens placed on them.
- ▶ Taiwan model of precision prevention exemplifies that a clear legal framework which actively engage the civil society can engender social trust and solidarity.
- ▶ Open communication about challenges faced by the government can encourage civic contribution to solutions; where bottom-up community-led initiatives can complement the work of government.
- ▶ Religious leaders and faith-based organisations play a crucial role in COVID-19 response; sharing evidence-based information and recognising that the disruptive impacts of the pandemic on religious practices can facilitate health cooperation.
- ▶ During a health crisis, accurate science communication is vital; health policies based on scientific-based evidence add credibility to public health authorities.

self-governing island nation has developed a framework for detecting and reporting epidemics in accordance with the IHR, the global legal architecture for infectious disease control.

## LEGAL FRAMEWORK

Taiwan undertook a voluntary evaluation on its epidemic preparedness in 2016 using the IHR Joint External Evaluation tool developed by the WHO. The tool provides a standard metric to assess public health emergencies capability, which has been used by 97 countries since 2016 according to the WHO.<sup>4</sup> Taiwan updated and revised its legal framework to support the implementation of IHR, which has enabled the country to act responsively during the first 100 days of the pandemic.

The Communicable Disease Control Act (CDC Act) provides a broad overarching



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legal framework for the government to undertake various measures deemed necessary to prevent and contain the spread of an infectious disease.<sup>5</sup> The Disaster Prevention and Protection Act (DPP Act) further provides regulatory documents for preparedness and response.<sup>6</sup> The CDC Act provides a broad delegation enabling the government to undertake a range of actions swiftly through a range of legal tools. At the early stage of the pandemic, Taiwan has chosen to use guidelines and recommendations on ad hoc basis, while resorting to laws and regulations for logistical and financial preparations. The use of a combination of legal tools has enabled the government to adjust its public health measures as the epidemiology landscape evolves. At the same, Taiwan's COVID-19 response also created room for civil society engagement. A prominent example is face masks. Taiwan has harnessed the power of law to impose export bans, acquisition and distribution of face masks which now has become synonymous with its stewardship. However, Taiwan has avoided imposing a top-down bureaucratic approach towards rationalising masks, instead, the government has partnered with the civil society to harness tools of digital technology. With open data, technology-savvy individuals created various maps and applications to show the availability of masks across the island. As such, social input filled the gap in making the process of mask distribution more transparent and efficient.<sup>7</sup>

In response to the shortage of face masks and to prevent hoarding and price gouging in late January, the government invoked Article 54 of the CDC Act its Regulations Governing the Requisition of Materials Property for the Control of Communicable Diseases to procure all surgical masks produced domestically. To further ensure sustained supplies for general populations, hospitals and medical providers, the government ordered key local mask manufacturers to increase supplies progressively, with adequate compensation provided through the COVID-19 Special Act and authorised regulations, for all the requisitioned factories, services and personnel. The government also developed a system for prioritising supplies for frontline health professionals, first responders and children. Masks are distributed and sold at a government-set price by authorised pharmacies, local health centres and convenient stores at three masks per week per citizen, which later expanded to online distribution. Records are kept by tapping into the universal healthcare system to ensure fair distribution. Community-based initiatives such as the Face Mask Map—showing the availability of masks in-store on mobile apps—aided a smoother transition as the Taiwan government institutionalised a national rationalising scheme.

Law also galvanises social change. While experts disagree whether masks protect healthy individuals from COVID-19,<sup>8</sup> the wide availability of surgical masks combined with public education on the importance of practising good personal hygiene has created powerful signal for vigilance at the individual and societal levels.

Wearing face masks is less a stigma but commonly perceived as a sign of solidarity.

### COORDINATION

The DPP Act designates the Taiwan Centers for Disease Control as the lead agency for epidemic response.<sup>6</sup> Beginning in late January, Taiwan actively test, screen and isolate suspected individuals through fastidious contact tracing, after declaring COVID-19 as a contagious communicable disease under the CDC Act. The declaration provides a legal basis to enhance its national public health response capabilities. As the cases increased steady, the Central Epidemics Command Center (CECC) is established in accordance with Article 17 of the CDC Act. As the CECC is established at the executive level, it centralised public health authority to the CECC, which facilitates interagency collaboration, information sharing and communication across different ministries and agencies—for example, the National Immigration Agency, Council of Agriculture, Taiwan EPA, Ministry of Foreign Affairs, Ministry of the Interior and the Executive Yuan—as well as coordinated responses across state enterprise, reserve service organisations, civic groups and when necessary, military personals. As such, the CECC functions as a central commanding centre at high level which steers and coordinates COVID-19 response expeditiously.

Public health legal preparedness also involves the county and local governments, where they have own health departments to support public health crisis at the subnational levels. The CECC designates local medical care institutions to set up communicable disease isolation wards through the CDC Medical Network and Emergency Medical Services Network. County officials are responsible for organising care packages—which include medical supplies and food—for individuals under mandatory home quarantines after travelling from countries listed on the travel advisory. County officials are also responsible for additional services such as meal delivery and rubbish removal. Psychosocial support is provided through hotline.

Recognising quarantine individuals may face a disproportionate burden in the pursuit of protecting public health, subsidies are also available to individuals without employment and extends to foreign nationals. Taiwan also loosens its Medical Care Act in response to the COVID-19 pandemic, enabling telemedicine for those individuals with chronic diseases which made them more vulnerable to COVID-19.<sup>9</sup> The government has also introduced special compensation scheme for health professionals and hospital sanitation workers—recognising the reciprocal obligation of government for caring for frontline individuals whose close proximity to infectious diseases put them at higher risks.<sup>10</sup>

### RISK COMMUNICATION

The CECC conducts daily news briefing updating the public and the media as the epidemiological landscape

evolves. As Taiwan is not immune from disinformation, these daily updates also serve as a platform for accurate and reliable information about health risks. The Taiwan Centers for Disease Control (TCDC) constantly updates its information as new epidemiological evidence emerge. Key public health messages are available in seven languages as currently there are 700 000 migrant workers in Taiwan. Through an open and transparent process, the CECC has strengthened public confidence and maintained credibility, which in turn, facilitated public cooperation during the pandemic.

Respect for the diverse religious beliefs and practices has seen the government in open dialogues with local religious leaders about the increased risk of transmission stemming from large religious events. Instead of using the law to ban religious mass gatherings outright—which was proposed by the opposition party—the government reached an understanding with local religious leaders which resulted in the postponement of Dajia Matsu Pilgrimage, the largest annual religious procession in Taiwan.

The open dialogue involved the chairman of the Jenn Lann Temple, who served as an opposition party member in the Legislative Yuan previously and the Minister of Health and Welfare, Dr Chen Shih-chung.<sup>11</sup> Through sharing evidence-based information and appealing to devotees' to safeguard their own health during the pilgrimage,<sup>12</sup> the Health Minister recognised the major role religious leaders and faith communities in the COVID-19 response. After considering health advice from the experts, the organisers reversed their decision and the budget for the pilgrimage was later donated to the CECC. Dr Chen also reciprocated the gesture and visited the Temple on Matsu' birthday, expressing gratitude for the devotees' health cooperation during the crisis.<sup>13</sup>

However, even with its celebrated success over the containment, the government still faces questions over its public health policies from press and opposition parties. One persistent question is the absence of extensive testing as implemented in the Republic of Korea. The government defends its approach—termed by the CECC as 'precision prevention'—which relies on fastidious contact tracing and isolation of contacts as an adequate response. The CECC explains that as there are no large-scale community infections in Taiwan, population-wide testing would be scientifically unnecessary, and would overwhelm manpower at a significant economic cost, one estimate is at US\$154 000 000.<sup>14</sup> As the CECC clarified that its decisions are driven by science, positive public reception ensued.

## CHALLENGES AHEAD

Public health legal preparedness provides the backbone to a responsive and adaptive approach which so far has proven effective. Policymakers with public health mandates to protect communities in harms' way, must

act in real time as global health crisis unfolds, relying on available scientific evidence.

Like elsewhere in the world, implementing public health measures during global health crisis inevitably raises questions about potential infringement of civil liberties. As a young democracy, Taiwan's civil society is particularly sensitive to potential overreach over its hard-earned civil liberties during the pandemic. As the CDC Act expands the power of public health authority, it also invites questions about potential abuse.<sup>15</sup> The use of big data analytics for contact tracing and travel restrictions for health professions, for instance, have raised questions about the protection of privacy and the freedom of movement of health providers during pandemics.

## CONCLUSION

Furthermore, with the unprecedented social and economic disruption from COVID-19, possibly once-in-a-century pandemic, mitigating the effects will require global collective efforts. Social scientists and ethicists are currently not engaged in the national response team; an urgent need exists for institutionalising an ethical framework for navigating healthcare during public health emergencies and prevent psychological and physical drain of health professions. An additional challenge arises with COVID-19 quarantine, which is hindered by relatively non-compliant individuals, despite general compliance with public health measures. Taiwan's COVID-19 response underscores the importance of legal preparedness governed under the rule of law, but more must be done as the pandemic spreads.

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