



WP4 (Taiwan) Civil Society Engagement Report

Expert Panel Survey on Legal Experts

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Civil Society Engagement Report: Expert Panel Survey on Legal Experts*

As part of WP4 Taiwan's civil society engagement, we conducted three sets of expert surveys to understand how people in legal professions, medical service providers and the local civic tech communities evaluate Taiwan's COVID-19 responses. All three surveys consist of three parts: 1) demographic information, 2) general attitude toward COVID-19 responses and 3) field-specific questions.

For context, Taiwan was one of the last strong holds of zero-COVID policy and did not officially shift to "live with COVID" until May 2022. The Taiwanese border was fully closed to non-nationals as early as mid-March 2020 and only gradually reopened starting from March 2022. For most part of the first two years of the global pandemic, Taiwan only had a small-scale community outbreak in Spring 2021, with the daily count peaked at around 700 new cases in one day. Vaccination began to roll out in spring 2021 and by January 2022, more than 70% of the population had received the first dose. The community outbreak in the Spring of 2022 was briefly suppressed in March but bounced back again, with the daily count of new COVID cases surpassing 1K per day for the first time in mid-April.

Prior to the COVID-19 outbreak, Taiwan already had a general Communicable Disease Control Act (CDCA) in place. In January 2020, the Taiwanese legislature enacted the Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens (Special Act COVID-19). Article 7 of this Special Act granted the executive branch a broad mandate to take "any necessary measures." Until its repeal in July 2023, neither the Special Act COVID-19 nor the CDCA was amended in response to changes in the pandemic situation.

In terms of COVID-19 governance, Taiwan maintained a long-term zero-COVID stance but never implemented a strict lockdown. The main measures included border controls, quarantine for arrivals and those at risk of infection, restrictions on certain business venues, mask mandates, and digital surveillance measures such as:

* Statistical analysis was conducted by WP4 Taiwan Junior researcher Guan-Hung Liu (National Cheng Kung University). We would like to thank everyone who participated in the survey.

digital fencing: using existing cell phone signals to triangulate the owner's location. A quarantined person was asked to provide their cell number and quarantine address. An alert would be triggered if the signal was picked up by other cell towers, suggesting that the person had breached quarantine. To further ensure compliance, an alert was sent to the authorities if the handset was turned off for more than 15 minutes, and officials contacted the phone user twice a day to confirm they had their mobile to hand and to ask about their health, and

SMS check-in: using a cell phone to scan a QR code on entering certain premises/areas to obtain a prefilled text message that include the date, time, and location code. Users then sent the message to the number “1922” to store their location visit record with their service providers. This data could be retained for 28 days and could be accessed by the authority for contact tracing purposes.

Most of these measures were announced by the Central Epidemic Command Center (CECC) during daily 2:00 p.m. press conferences. This approach to policy announcements often lacked a clear legal basis, making implementation difficult for administrative agencies and frontline civil servants. Furthermore, issuing administrative orders in this manner led to numerous legal disputes as it was argued that this approach was in violation of the Administrative Procedure Act which required the issuance via the Official Gazette.

To understand legal experts' views on the legal controversies surrounding Taiwan's COVID-19 governance, a questionnaire was designed for individuals with law degrees. The questionnaire consisted of three parts: the first two were common to all respondents (with the first collecting basic information), while the third was specific to legal experts.

A total of 73 respondents participated, with an even gender split and two-thirds aged between 30 and 49. 78% held an educational background above a Master of Laws (LL.M.). Over 80% lived and worked mainly in Taipei City and New Taipei City during the pandemic. Regarding political affiliation, 49.7% leaned toward the ruling party (DPP), about 15.3% toward opposition parties (KMT, TPP, NPP), and around 30% expressed

no party preference. Occupationally, 9.6% were researchers, 32.9% lawyers, 19.2% judges, 16.4% prosecutors, and 16.4% civil servants. 74% had received three or more vaccine doses.

In the common question section, legal experts' responses showed that satisfaction with the central government (72.6%) was higher than with local governments (56.1%). The most common reason for dissatisfaction was the lack of transparency in decision-making by both central and local governments. Support for specific COVID-19 control measures, from highest to lowest, was: mandatory quarantine for those at risk of infection (83.6%), fines for violating mask mandates (74%), banning indoor dining during Level 3 alert (69.8%), linking health insurance and immigration records (54.8%), monitoring and recording individuals' movement (49.3%), universal vaccination mandate with health exemptions (43.8%), using cell tower data to locate individuals (34.2%), and vaccination mandates for employees in certain workplaces (26%). When asked about support for the zero-COVID policy at different stages (distinguished by community transmission and vaccination rates), support never exceeded 30%, and 9.3% believed a zero-COVID policy should not have been adopted at all.

In the third part of the questionnaire, legal experts were asked whether they believed the government's pandemic response measures met the requirements of the rule of law. The majority of respondents did not support the issuance of the Emergency Order in March 2020, but at the same time believed that the Taiwanese government's pandemic control measures did not have the sufficient legal basis required under the normal legal framework. Regarding the allocation of powers for pandemic measures, most respondents felt that vaccine procurement should have been left to the executive branch, but restrictions on personal freedom and privacy should be decided by the legislature; and pandemic investigation and reporting of confirmed cases should be decided by the central government. While over 70% agreed with the CECC announcing policies via press conferences or soft guidelines, a quarter opposed using such processes to force the closure of entertainment venues, ban overseas travel for healthcare workers, or implement digital surveillance.

On whether pandemic measures infringed fundamental rights, more than half believed that indiscriminate quarantine measures excessively restricted personal liberty, entry bans overly restricted the freedom of

movement for foreign spouses and minors, and penalties for violating quarantine, combined with the lack of alternative voting measures, infringed on voting rights. On the other hand, most respondents supported the government strictly controlling pandemic-related rumors through proactive or deterrent measures. Regarding digital surveillance measures, respondents ranked the severity of privacy restrictions as follows: digital fencing was the most severe, followed in decreasing levels of severity by health insurance card annotation for Travel, Occupation, Contact, and Cluster history, SMS check-in, and retroactive location-based service (RLBS) by which at the government's request telecom providers shared historical data from cell tower to retroactively identify cell phone numbers that had been in the same cell as confirmed cases. More than half also opposed the 2024 draft amendment to the Communicable Disease Control Act, which would broadly authorize the CECC to implement digital surveillance and even temporarily suspend privacy protections. Notably, respondents were generally more accepting of data linkage for pandemic purposes, with over half supporting linking health insurance and immigration databases, travel history, and mask distribution records, but opposing the linkage of SMS check-in data and criminal records. Finally, nearly half believed that when quarantined individuals petitioned for habeas corpus, courts should apply the strictest standard of review, i.e. that the court should state that restricting movement should only be considered where the risk to others was heightened.