



Premier Lai Ching-Tei
Executive Yuan
No.1, Sec. 1, Zhongxiao East Road,
Zhongzheng District,
Taipei City, 10058
Taiwan

21 December 2018

Open Letter to the Premier of the Republic of China (Taiwan), Lai Ching-Tei, from Amnesty International and Human Rights Watch, on legal recognition of same-sex unions in Taiwan

Dear Premier Lai,

We write concerning the results of the recent referendums in Taiwan in which same-sex marriage rights and LGBT-inclusive education in schools were rejected by voters on 24 November. We urge the Taiwanese authorities not to implement the outcomes of the referendums as this would violate human rights law, bolster discrimination on the basis of sexual orientation, and undermine comprehensive and inclusive education on gender and sexuality.

We would like to recall that despite the referendum results, the Taiwanese government still is under court order to enact legislation for recognizing same-sex unions no later than 24 May 2019, which is the time limit set by the Constitutional Court's interpretation of 24 May 2017. Now the period for this legislation has less than six months remaining. We urge your Government to table the related legislation proposal as soon as possible.

It is disappointing that the anti-marriage equality and anti-inclusive education referendum campaign, which provided a platform for fear-mongering, attracted sufficient support in Taiwan. It dealt a bitter blow to the promotion of fundamental rights protections, as well as to the LGBTI rights movement in Taiwan and to those in other Asian countries that see Taiwan as an example of human rights protection.

The referendum results do not change Taiwan's obligation to provide legal recognition to same-sex unions as laid out by the Constitutional Court. If implementing the referendum results is given primacy over the court's ruling, it would be a clear backward step for Taiwan and would have a severe impact on the lives of families who are not able to access the protections of marriage. And it will further undermine the rights of LGBTI people in Taiwan. In the campaign leading up to the vote, even the initiators of the anti-marriage equality referendums argued that they were not aiming to rescind the Constitutional Court interpretation. However, in any event your government's policy should be guided by what is lawful according to domestic law and international legal standards.

Facing both the Constitutional Court's mandate to achieve the equal protection of the freedom of marriage for two persons of the same sex and the results of the referendums, the Taiwanese government should be guided by its primary duty to protect, fulfil and respect everybody's human rights, including that of lesbian, gay and bisexual people. Human rights obligations of states are not dependent on whether these rights have popular support, and referendums should not be used to suppress people's rights. The Taiwanese government should not allow popular and in this case homophobic initiatives to override its obligations to protect basic rights under international law.

We believe that the rights to dignity and equality in this case demand that you ensure marriage rights for same-sex couples on the same basis and with the same rights as marriage between couples of different sex.

We trust the Taiwanese government will make a proposal for legislative change based on the above principles. We will continue to engage with your Government on this issue and look forward to a comprehensive legislation for recognizing and protecting same-sex unions in Taiwan.

We thank you for your attention and look forward to your earliest response.

Yours sincerely,

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