

Tsung-Chun Chen
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Education

The University of Illinois College of Law

Candidate, Doctor of Science of Law (J.S.D.), 2019–present

- **Doctoral Dissertation:** (in progress)
 - *The Value of Civil Disobedience in Defending Constitutional Democracy—A Case Study of Taiwan (1996–2022)*
 - Advisor: Professor Jason Mazzone
- **Teaching Assistant (TA):** for the course *The Best of American Case Law* (College of Law, summer 2021)
- College of Law partial tuition scholarship

The University of Iowa College of Law

Master of Laws (LL.M.)(Research Track), 2019

- **LL.M. Research Track Thesis:** (unpublished)
 - *A Systematic Analysis of the Legitimate Issues of Judicial Review in the United States*
 - Advisor: Professor John C. Reitz
- **Research Assistant (RA):** (College of Law, fall 2018–summer 2019)
 - I assisted Professor Lea VanderVelde in researching the original intent of the 13th Amendment to the U.S. Constitution. I studied the Congressional Globe Volume 38th Congress to analyze the Radical Republicans' influence on the Reconstruction Congress.
- College of Law partial tuition scholarship

Soochow University (Taiwan)

Master of Laws (LL.M.), 2017

- **Master's Thesis:** (published in THE CONSTITUTIONAL REVIEW)
 - *The Historical Development of the Right of Freedom of Assembly in the United States: A Comparative Study on Tensions and Conflicts Between Public Order and Freedom of Assembly in Taiwan*
 - Committee: Nigel N. T. Li, Jenny H.Y Shyu, Sea-Wain Yau (chair)

Central Police University (Taiwan)

Bachelor of Arts (B.A.) in Police Administration, 2011

- **Undergraduate Thesis:** (published in NATIONAL TAIWAN POLICE COLLEGE BULLETIN)
 - *An Ethical Study on Police Issuing Traffic Tickets: Ethical and Legal Dilemmas* (2011)
 - Advisor: Tsui-Fang Weng
- Gender Equity Education Committee (student representative; summer 2010–spring 2011)
- Bayou Connection Exchange Program, University of Houston-Downtown (winter 2011)

National University of Kaohsiung

College of Law, fall 2007–summer 2009 (transferred to Central Police University)

Taiwan Police College

Associate of Arts (A.A.) in Police Administration, 2005

Work Experience

Special Police Sixth Headquarters, National Police Agency (Taiwan) 2011–present

- *Lieutenant Captain*
 - The Chief Justice’s Residential Team (2016–18)
 - The Premier’s Personal Security Detail (2013–16)
 - The Premier’s Residential Team (2012–13)
 - The Premier’s Advance Team (2011–12; 2020–)
- The Second Grade Police Medal (Awarded by the Ministry of the Interior, Taiwan, 2016)

Taichung City Police Department (Taiwan) Summer 2010

- *Police Inspector Internship*

Pingtung County Police Bureau (Taiwan) 2005–2009

- *Police Officer*
 - Duty Command Center (2008–09)
 - Foreign Affairs Division (2007–08)
 - Chaozhou Precinct (2006–07)
 - Criminal Investigation Corps (2005–06)

Kaohsiung City Police Department (Taiwan) Summer 2004; Winter 2005

- *Police Officer Internship*

Research Interests

My research interests include constitutional law and theory, legal and political theory, civil disobedience, social movement, and empirical methods in law. My dissertation focuses on how civil disobedience in the real world affects constitutional democracy, and I use long-term newspaper coverage in Taiwan as a research sample.

Publications (All under double-blind peer review)

- Tsung-Chun Chen, *A Comparative Study of Negligent Infliction of Emotional Distress (NIED) in the United States and Taiwan*, 35 CENTRAL POLICE UNIVERSITY LAW REVIEW 165–219 (2018) (Taiwan) (written in Chinese) (陳宗駿，過失侵權行為致第三人「休克損害」之美國法比較研究，中央警察大學法學論集，第 35 期)

In this article, I first explain why the NIED case is a loophole under Taiwan’s Civil Code. I then describe the controversies over NIED’s legal elements, causation, and the measurement of indemnity. Also, I analyze and evaluate how American state courts tackled the NIED case with different philosophies. Lastly, I conclude my analysis and propose how NIED cases should be resolved in Taiwan.

- Tsung-Chun Chen, *An Ethical Study on Police Issuing Traffic Tickets: Ethical and Legal Dilemmas*, 6-8 NATIONAL TAIWAN POLICE COLLEGE BULLETIN 1–12 (2018) (Taiwan) (written in Chinese) (陳宗駿，警察人員舉發交通違規之倫理研究—法律規範及執法倫理之探討，警專學報，第 6 卷第 8 期)

The article showed that some rigid traffic laws in Taiwan cause police officers to face ethical dilemmas because the law deprives officers’ discretion in certain cases. While the law has no moral issues on its face, it violates police officers’ moral duty (e.g., deontological ethics) in practice. This article suggests we should take the ethical dilemma of police work in traffic

regulations seriously and trust in the officers' professional judgment. So a proper expansion of police discretion in the future is desired.

- Tsung-Chun Chen, *The Historical Development of the Right of Freedom of Assembly in the United States: A Comparative Study on Tensions and Conflicts Between Public Order and Freedom of Assembly in Taiwan*, 42-4 THE CONSTITUTIONAL REVIEW 375-434 (2017) (Taiwan) (陳宗駿，美國集會遊行自由權保障之歷史發展－兼論我國集會遊行與公共秩序之折衝，憲政時代，第 42 卷 第 4 期)

This article systematically analyzes how the American courts, particularly the U.S. Supreme Court, shaped the development of the right of freedom of assembly in the U.S. The article shows that freedom of assembly in the U.S. develops from very lenient (Founding Era) to extremely strict (from the late 19th century when state courts endorsed permit requirements to the mid-20th century when the second “red scare” was ended). Then, the right expanded (during the 1960s Civil Rights Movement) but nevertheless shrank again to this date (Occupy Movements in the 21st century). Also, the article discusses how the U.S. Supreme Court stabilizes and clarifies the right by establishing a variety of principles and rules of law (e.g., public forum doctrine).

The U.S. experience shows that while the scope of the right is greatly influenced by historical contexts (e.g., war), each change brings the refinement of the right (and so the change of the law), which provides a clear rule for future courts and law enforcement to follow. Compared with the American counterparts, the development of the right in Taiwan is entirely different. The Taiwanese experience tells a story of how far “law in action” can deviate from “law in the book.” The Taiwanese law is rigid to the freedom of assembly and has been criticized as out of date and unconstitutional. Despite its controversy, the law survives to this date without causing too many troubles because the law enforcement and court systematically ignore the law and show leniency to unlawful assembly events, which caused the unlawful assembly to be more common than the lawful one. The article shows why this considerable gap is detrimental to both the rule of law and the freedom of assembly in Taiwan.

In Progress

- *A Systematic Analysis of the Legitimate Issues of Judicial Review in the United States*

As my LL.M. thesis paper (completed but unpublished), I systematically analyze the historical development of the debates on the legitimacy of judicial review in the U.S. The central debates over the legitimacy of judicial review have evolved over multiple time frames, and the article aims to draw a broad but clear picture of what these debates are arguing, how the centrality of these debates change over time, why the debates never end, and what prominent theories have been proposed to try to solve the issues. Specifically, the article analyzes and organizes debates from the Founding Era to the pre-Civil War era, the Reconstruction Era, the Lochner Era, the post-Lochner Era, and the Modern Era. The main argument of the debates includes the textual authorization of judicial review, the legitimacy of unaccountable Justices, counter-majoritarian difficulty, and the issues of judicial activism and judicial supremacy.

- *A Systematic Review of the Proslavery Constitution: From a Constitutional Perspective*

The 1787 U.S. Constitution was surprisingly a proslavery document. It is counterintuitive because constitutions should serve as a protective shield of basic human rights instead of an aggressive sword to attack them. The article's main purpose is to examine whether the proslavery Constitution was Revolutionary Sovereign Americans' true demand? If it was, can the Revolutionary Sovereign Americans make such a demand? In the article, I first explore how proslavery the document was by investigating the original intent of the three proslavery constitutional clauses (the Fugitive Slave Clause, the guarantee of slave trade before the 1808 Clause, and the infamous Three-Fifths Clause). In the process, I will answer questions such as to what degree the document protected slavery and what kind of supermajority hurdles the document imposed on later generations regarding slavery. Second, I examine the attitudes of the Founding Era Americans to the issue of slavery, and my initial finding is that the Founding Era Americans tended to keep the institution of slavery and delayed the date of actual abolition to their offspring. This finding is in line with the proslavery constitutional clauses. Lastly, I examine the constitutionality of the proslavery constitutional clauses—the Founding Era Americans' true mandates—from social contract theory and theories regarding the limitations on constituent power.

- *The Impact of Civil Disobedience as A Law-Changing Mechanism on Constitutional Democracy—A Case Study of Taiwan (1996–2022)*

From the concept of constitutional democracy, the core values and demands of democracy are never extremism but always a moderated path that can accommodate all citizens. Under this notion, current literature proposes that civil disobedience directly contributes to the goal. As John Rawls' maxim points out, civil disobedience would curb authorities' unjust behaviors if people exercise it; but if people do not exercise it and submit themselves to the injustice, then authorities would confirm the rightness of their unjust actions and behave more extreme in the future. However, since current literature lacks long-term and holistic research, the relationship between civil disobedience and preventing extremism is still unknown. Furthermore, by pointing out that current literature fails to analyze those extreme policies that did not trigger disobedience, it may wrongly conclude that disobedience contributes to constitutional democracy.

As my J.S.D dissertation, I apply empirical methods and use Taiwan as my research sample to test the general theories of civil disobedience. I use "Taiwan News Smart Web" to thoroughly investigate Taiwanese newspapers from 1996 to 2022 to critically analyze every case of disobedience and every controversial policy that does not trigger disobedience. There are three initial findings: First, while Taiwanese people frequently resist the government, they resist mostly for community interests or "China factor." People in Taiwan systematically do not resist the government's unlawful or unconstitutional behaviors. The implication is that there may have a gap between the normative and descriptive meaning of civil disobedience in the real world. Second, Rawls' maxim is true: There is a significant decrease in the newspaper coverage of the Taiwanese government's unjust behaviors after people vigorously engaged in civil disobedience. Third and the most worrying, disobedience in Taiwan systematically resists the right-wing party (KMT) but does not resist the left-wing party (DPP). At the same time, the number and degree of coverage of the DPP's extremely unjust policies in newspapers are also generally higher than that of the KMT. Suppose causality of the two can be established (people's systematic non-resistance to the DPP results in the extreme injustice of the DPP). In that case, Rawls' maxim is proved by long-term real-world data: Failure to resist the government's injustice may lead to extremism in party politics like the case of Taiwan.

Miscellaneous Publications

- 陳宗駿，因應疫情而禁止高中以下師生出國，是否違憲？憲法觀點下的顧慮有哪些？法律白話文運動 <https://plainlaw.me/2020/05/18/covid-19-2/> (A constitutional analysis of Taiwan's ban on overseas travel for teachers and students of high school and below due to Covid-19.)
- 陳宗駿，由中原大學招明威事件，看美國校園反歧視與言論自由間的兩難。法律白話文運動 <https://plainlaw.me/2020/06/23/freedom-of-speech-003/> (A Taiwanese professor's stereotype remarks about Chinese students: a reflection on how the U.S. handles the fine line between freedom of speech and anti-discrimination.)

Presentation

- **2022 National S.J.D. Roundtable**, American University Washington College of Law, Washington, D.C., April 7–8, 2022
 - *The Impact of Civil Disobedience as A Law-Changing Mechanism on Constitutional Democracy—A Case Study of Taiwan (1996–2022)* (virtual presentation)
- **The 9th Asian Constitutional Law Forum**, Institutum Iurisprudentiae, Academia Sinica (IIAS), Taipei, Taiwan, May 13–14, 2022
 - *The Impact of Civil Disobedience as A Law-Changing Mechanism on Constitutional Democracy—A Case Study of Taiwan (1996–2022)* (virtual presentation)

LANGUAGES

Mandarin Chinese (native), English (fluent)