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由多元流程觀點談婚姻平權議題發展

The Application of Multiple Streams Approach to the Development of Same-Sex Marriage Issue

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摘要

同性婚姻議題糾葛臺灣數十年，同運團體不斷努力推動同性婚姻，遲至2016年，婚姻平權民法修正案始經立法院初審完竣。多元流程觀點係為瞭解政策決策前過程之相關理論，本文試以此理論，運用內容分析方法，審視問題流、政治流、政策流是如何影響婚姻平權政策決策過程？以及政策櫥窗是如何開啟？政策企業家在此議題上又扮演了什麼角色？以作為後續政策制定者在制定政策時之參考。

本文研究結果顯示，1986年至2013年伴侶盟提出婚姻平權民法修正草案，同性戀問題仍是禁忌，後期同運團體雖已漸組織化，但因涉華人深層核心信仰，其仍屬社會對話，無具體備選方案。2013年婚姻平權民法修正草案補齊了政策流的不足，開啟了同性婚姻的政策櫥窗。政策櫥窗開啟之後，多版方案出爐，試圖凝聚共識，但法務部的被動，使得本議題的政策櫥窗半開半關，大法官七四八號解釋，始確定步入合法化階段。而John Wells Kingdon (1940-)的政治流架構，並未提及司法部門對決策之影響，但從同性婚姻議題，大法官釋憲確為其合法化重要關鍵。另外，Kingdon未具體說明政策櫥窗開啟時間長短，僅說明政策櫥窗稍縱即逝，惟我們觀察到，從2013年同性婚姻備選方案提出、2016年進入立法階段，乃至2017年大法官釋憲，這個政策櫥窗一直是開啟的，並未完全閉合。

關鍵字：同性婚姻、多元成家、婚姻平權、多元流程

Abstract

Taiwan has been bothered by the issues of homosexuality for so many decades. LGBT (Lesbian, Gay, Bisexual and Transgender) community has been trying to legalize same-sex marriage. Same-Sex Marriage, one of the Diverse Family Formation Issues promoted by Taiwan Alliance to Promote Civil Partnership Rights, an amendment to the Civil Code was approved by a legislative committee on Dec.26, 2016. The bill now is being sent for cross-party negotiations and the Civil Code was announced unconstitutionally by the Grand Justices Council for limiting same-sex marriage. In this paper, Multiple Streams Approach (MSA) was applied to analyze the predecision processes and the arguments of Same-Sex Marriage issue for understanding how it moved from problem identification to public and policy issue. Through five characters of the MSA, problem stream, politics stream, policy stream, policy window and policy entrepreneurs, we find that although the above three streams are coupling at the right time, the policy entrepreneurs, especially the Judicial Department that Kingdon ignored should be the key sector in this issue. And we also find that the period of policy window may not disappear quickly when this window is not closed completely.

Keywords: Diverse Family Formation, Same-Sex Marriage, LGBT Family, Multiple Streams