

Balancing Freedom of Expression and National Security

Starting from the NHRC's Independent Opinion on the Fourth ICCPR & ICESCR State Reports

2025 World Human Rights Day Webinar

Kao Yung-cheng | Commissioner

National Human Rights Commission, Taiwan

8 December 2025

言論自由與國家安全之平衡

從NHRC兩公約第四次國家報告獨立評估意見談起

2025年世界人權日視訊專題講座

高涌誠 | 國家人權委員會 委員

2025年12月8日

From Ukraine to Taiwan

Learning from Ukraine's Wartime Experience



Ukraine

Documenting war crimes during the war, advancing human rights and pursuing international justice.

Geopolitical realities



Taiwan

Not at war, but under long-term military threat and cognitive warfare.

What can we do?



NHRC

Apply ICCPR standards to review measures against war propaganda and their impact on free expression.

從烏克蘭到臺灣

從烏克蘭戰時經驗，看臺灣的處境



烏克蘭

在戰爭中記錄戰爭罪行，推動人權保障並訴諸國際司法

地緣政治現實



臺灣

尚未開戰，卻長期面對戰爭威脅與認知作戰的挑戰

我們可以怎麼做



**NHRC
角色**

根據《公政公約》標準，檢視防制戰爭宣傳與言論自由

International Human Rights Law Framework

ICCPR Articles 19 & 20



Article 19

Protects freedom of expression; any restriction must meet **legality, legitimate aim, necessity and proportionality.**



Article 20

Requires prohibition of war propaganda, but within the safeguards of Article 19.



State Obligation:
Ensure compliance with international human rights law.



國際人權法框架

《公政公約》第19條、第20條



第19條

保障言論自由，限制必須符合**法律明確**、**正當目的**、**必要性與比例性**



第20條

需要禁止鼓吹戰爭的宣傳，但必須在第19條的框架下進行

國家對國際人權法的遵循



Taiwan's Context and Institutional Gaps

Speech Challenges under Foreign Hostile Influence

- Long-term **foreign hostile threats** and **information manipulation** challenge free expression and social stability.
- Relevant laws use broad terms such as “**endangering national security**” and “**affecting social order.**”
- **No clear definition or standard** for ➤ what constitutes “war propaganda.”
- Decisions **rely heavily on administrative discretion**, with weak procedural safeguards and judicial review.

臺灣的處境與制度缺口

境外敵對勢力下的言論挑戰

- 長期面臨境外敵對勢力的威脅與資訊操弄，挑戰國內言論與社會穩定
- 法律規範多以「危害國家安全」、「影響社會安定」概括規定
- **缺乏明確定義與標準** ➤ 何種言論構成「鼓吹戰爭」？
- 處置方式過於依賴行政裁量，缺乏明確程序保障與司法審查

Key Recommendations of the NHRC

Building Clear, Tiered and Accountable Mechanisms



Clarify Legal Elements

Define the elements of “war propaganda” and “supporting foreign hostile forces.”



Establish Tiered Responses

Prioritize clarification, counter-speech and warnings; resort to harsher measures only when necessary.



Strengthen Judicial Safeguards

Any decision revoking residence or nationality must have a solid legal basis and access to judicial remedies.

國家人權委員會的關鍵建議

建立清楚、分層、可受監督的機制



明確界定構成要件

釐清「鼓吹戰爭」與「附和境外敵對勢力」的構成要件



建立分層處理機制

優先採取澄清、勸導等較溫和手段，必要時才採取更嚴厲措施



強化司法審查保障

撤銷居留、國籍等重大決定，必須有充分法律依據，並提供司法救濟機制

Case Reflections | Ya-ya and Qian-li

Ya-ya case

- PRC-national spouse and internet influencer openly supported war on social media.



- Residence permit revoked and deported to China on national security grounds (Mar 2025).

Raises issues of **family unity** under ICESCR Art. 10 and the **best interests of the child** under CRC Art. 3.

Qian-li case former PRC & ROC national

- PRC spouse at ASUS, later ROC citizen; supported the war of aggression online and in company chats.



- ROC nationality and dependent residence revoked; reclassified to short-term “visitor” status (Dec 2025).

May engage ICCPR Art. 12 on **freedom of movement** and **choice of residence**.



Reflections

How should we balance genuine security concerns with protection of individual fundamental rights?

Both cases involve legal responses to **war propaganda** and **national security risks**.

個案反思 | 亞亞案與錢麗案

亞亞案

- 網紅中國籍配偶在社群平台公開支持戰爭



- 以危及國家安全為由，遭撤銷居留並遣返 (2025.03)

引發《經社文公約》第10條 (家庭團聚權) 與《兒權公約》第3條 (兒童最佳利益) 問題

錢麗案

曾具中國與中華民國國籍

- 任職華碩的中國籍配偶，後取得臺灣國籍，在網路及公司群組公開支持侵略戰爭



- 被註銷中華民國國籍與依親居留，改為停留身分 (2025.12)

可能涉及《公政公約》第12條 (居住自由與遷徙自由) 規定



問題反思

面對真實安全威脅時，如何同時兼顧個人的基本權利

兩案均涉及**鼓吹戰爭**與**國家安全風險**的法律挑戰

Conclusion

Designing Democratic Defence with Human Rights Standards

- **Countering war propaganda is a legitimate national security aim, but all restrictions must comply with ICCPR Art. 19.**
- **We must distinguish clearly between extreme views, peaceful advocacy and genuine war propaganda, and design measures that are proportionate, transparent and subject to judicial review.**

結語

以人權標準設計民主防衛

- 防制戰爭宣傳是正當的國家安全目的，但所有限制措施必須符合《公政公約》第19條的要求
- 必須清楚區分極端立場、和平主張與實質鼓吹戰爭的言論，並設計符合比例、透明、且有司法救濟的機制

Thank you for your attention.



感 謝 聆 聽

Scan the QR code

to read the NHRC's full Independent Opinion.



中文



English

歡迎掃描 QR code

了解更多獨立評估意見內容



中文



English



國家人權委員會
NATIONAL HUMAN RIGHTS
COMMISSION, TAIWAN