

多元地景與公民社會：從台灣文化資產保存實踐的困境談起

面對市場全球化帶來的同質化效果，文化多樣性不僅成為一種重要的價值，也被納入成為國家文化政策的一環。多元地景為地方發展與行銷開啟新的契機，文化資產因而能夠納入經濟發展，成為文化創意產業的一環。

為保存與延續文化資產，文化資產的登錄數量將與日俱增。然而，被列入國家資產名錄的數量與日俱增，是否即代表政策目標的達成？如何才能夠充分發揚保存的價值？如何取捨或評量保存的效益？以面對市場的競爭與挑戰。

文化資產的認定與登錄，雖然有利於各種文化資產成為尋求認識與觀光的對象，但是如果沒有相關專業人力的配置，相關資料的蒐集，累積與編輯，輔以厚實的闡釋與敘事，各種文化資產的內涵與意義將無以彰顯，文化觀光的功能與影響也將流於淺薄。

彰顯各種文化資產的內涵與意義，落實其傳播與教育的功能，是必要的。文化資產登錄數量的增加，導致所需的人力與經費逐漸擴張。文化資產保存實踐所面臨重大的挑戰，是必須正視的課題。

2001年，國際博物館協會 (ICOM) 再度修正其對於博物館定義的相關條文，納入以促進有形與無形文化資產 (如活著的傳承和數位創作活動等) 的保存，延續與經營管理為職志的文化中心或團體。因而，不僅擴大了博物館的藏品範圍，也擴展了博物館的定義與概念，使博物館有了新的角色與型態。博物館不再只是典藏，保存文物的機構，也可以是協助傳統與文化習俗，地景與生態環境的保存，延續與經營者。

博物館定義的擴大，可以說是文化資產博物館化的結果。對於歷史建築或古蹟，地景，自然生態環境等保存的作法，經常是使其成為一座博物館，因而能夠得到博物館既有保存科技知識專業的照顧，提供對於相關文化資產的知識訊息與解說服務，使其在當代的使用能夠符合公益，並具有永久性。博物館在西方經過長期的發展，作為知識的櫥窗和文化資產的保存機構，其經營模式已經證實具有一定的經濟效益與社會功能，並成為文化創意產業與知識經濟中重要的一環。

因而，檢視文化資產保存的效益，其博物館化或類博物館功能的表現，可以說是重要的指標。文化資產的登錄與保存如果未能夠輔以類博物館的工作模式與人力支援，將只能是形式的登錄保存，實未能發揮或達成保存的實質效益。

本文將思考台灣文化資產保存的實踐，所面臨的問題與困境。博物館或文化資產的相關理念與實踐自西方移植而來，模仿其外在可見的編制與內容，缺少相關的文化土壤條件，發展是否存在某種內在的困境？

1. 文化機構轉型的契機？

台灣博物館的發展，可以說主要是緣於政府的政策規劃。博物館被視為現代化建設的一環，特別是文化建設的指標。台灣主要博物館的興建有二波，第一波是成立現代民族國家時，作為代表國族文化的博物館。第二波則是在 1980s—1990s，經濟發展帶來的財富，促使國家進一步規劃成立其他大型的博物館。

台灣的國立博物館開始有了新的面貌，除了既有為榮耀國族文化的故宮之外，新成立的國立自然科學博物館(National Museum of Natural Science)，國立海洋生物館(National Museum of Marine Biology and Aquarium)，國立史前文化博物館(National Museum of Prehistory)等，引入了西方新的科學知識展示型態，為國民提供新穎的學習環境與知識體驗。國立博物館並開始輸入國外的特展，國民無需出國就可以欣賞到西方的繪畫與藝術。國立博物館提供高尚的文化展示，讓國民有機會朝聖國外的高級文化，其作為藝術的廟堂與現代化表徵的地位，因而屹立不搖。

同時，各地方政府紛紛興建公立博物館，許多企業也投入，成立眾多小型，民間的博物館。台灣現今約有 700 多所博物館，其中公立的約 400 多所，私立約 300 多所。

過去，知識的傳播與教育的重要性，以及博物館的歷史文化價值與公眾服務意義，使其能夠得到政府的支持，成為公立或國立的機構。同時，來自政府一定的經費補助，被認為可以避免博物館過度商業化可能帶來的傷害。然而 1980s，西方的博物館面臨國家財政緊縮，與經濟發展瓶頸的影響，必需裁減人事上的經費負擔，或自行負擔更多的營運經費，因而面臨調整的挑戰。

受到國際潮流的影響，1990s 台灣引入相關的概念與做法，即所謂“公辦民營”。另一方面，為提高身為公立機構在經營上的彈性與效率，也參考日本的作法，討論國立文化機構行政法人化的問題。雖然地方政府將所屬公立博物館，以“公辦民營”方式委託民間經營的案例頗多，國立文化機構至今僅有兩廳院達成行政法人化。國立博物館中唯一採用部分公辦民營作法的是國立海洋生物館。

博物館隸屬政府公務部門，仰賴政府經費的支持，使其從業人員能夠保有穩定的工作，免於面對市場的激烈競爭與被淘汰的命運。台灣博物館界對於國立博物館法人化持保留的態度，並不令人意外。其所提出的主要理由是：台灣民間資源投注暫不充裕，目前時機尚未成熟，不適合法人化 (Hsia)。

事實上，戒嚴以來，民間非營利的財團法人亦即基金會，在台灣已有顯著蓬勃的發展 (Wu 1999)。其中又以教育文化類數量最多 (Taiwan NPO Information Platform)，許多是成功的企業為回饋社會而成立。晚近國內外大型地震風災的救援中，民間也展現了高度的熱誠與動員力。台灣慈濟功德會的慈善救助規模更已發展至國際的層次。此一潮流中更產生了許多企業所支持設立的博物館，顯示文化與教育事業是許多企業心有餘力之後樂於貢獻的目標。

然而，台灣國立博物館界對於尋求企業在經費上的奧援卻無法樂觀，其癥結所在？是值得探究的。

相關議題的討論也認為，台灣缺少一部博物館法，是博物館發展難以開展的原因。2000 年後民進黨執政時期曾研擬“博物館法”草案，其所關注的僅限於公立博物館，民間成立的博物館在法案中並未受到重視。公立博物館受到政府人力與經費的支持，其經營績效問題較受到關注，是可以理解的。

立法院終於在今年通過新的博物館法，為台灣的博物館事業的發展建立新的基礎。該法言明旨在提高台灣博物館的專業性與公共性，並明訂相關作法，如：博物館可經由成立相關業務之專業諮詢會，以協助促進營運和發展；規定主管機關對博物館提供專業諮詢，相關技術協助與經費補助；博物館成立合作組織以利交流，共享等事宜。並參考“最高法國博物館委員會”之作法，規定中央主管機關應設置評鑑會，審議博物館的評鑑與榮譽認證，以提供提升博物館品質之方向與基準。

這部博物館法提供了私立博物館接受政府扶植的法源，規定了對私立博物館的補助與相關規範原則。接受政府補助的私立博物館可以進入國家的博物館評鑑制度，並因而可能受到較多的協助。

對於公立博物館造成的國家財政負擔問題，其參考法國的作法，由中央主管機關成立一公司性質的公營工商事業機構，以統整資源的運用和行銷，推動典藏增值應用等。此一作法卻受到主計處質疑其公營事業無償使用國有文物的合理性，認為以行政法人或公設財團法人的方式較為適宜。但故宮與教育部等則認為國營事業的方式才能解決台灣博物館的問題。

此外，為提高公立博物館的營運績效，規劃經由設置博物館基金，以基金之自籌收入得以進用編制外人員－即非公務人員，以提高博物館人事彈性，解決人力不足的問題。但由於不符合現行公務機關之人事，會計制度，受到主計單位質疑。文化部主張，博物館不同於一般公務機關，係參考已實施於大學和醫療機構之相關作法。

新的“博物館法”(Museum Act)反映了台灣的博物館發展所面臨的主要問題，即人力資源與經費的不足。其所提出的新作法，基本上是仿效英、法等國的作法，經由營利事業以自籌營運經費。其意圖保留公務機關的體制，但希望在人事，財政上得到某種特許的“彈性”。因此，最終提出了“專業法人”之說，經由所謂“專業法人”以擺脫行政法人或公設財團法人的行政束縛。

作為文化的公務機構，博物館意圖以營利活動穩固自身經濟基礎所面臨的挑戰，是值得關注的。台灣的公立博物館保有了自身公務機關的體制，另外成立營利性“子公司”，是否就足以面對多元文化的發展與國際競爭，而達成文化資產保存的效益？相關制度建立的條件或基礎是否已然存在於台灣？既有的“法人”體制與其運作，國人對於“專業”的認知和實踐，將有助於思考其可能的成效，是本文檢視的重點。

2. 文化事業與委外經營

戰後，中華民國政府撤退台灣，為鞏固其政權，致力於去殖民化教育，將被日本殖民統治 50 年之久的台灣人民教化成認同中國大陸的中華民族，在強調中華文化與國族歷史的教育中，台灣本土的文化與歷史被視為地方的，次要的，基本上不被重視。

1990s，台灣在政治民主化的過程中，政府開始重視本土文化與歷史，陸續設置台灣歷史，語言與文化的研究單位與教學課程，並成立國立台灣史前文化博物館，國立台灣歷史博物館與國立台灣文學館等機構。為追求台灣獨立建國，強調台灣的主體性，相關研究機構與博物館為公眾所建構的歷史敘事，偏向強調台灣與中國大陸的斷裂，如台

灣所經歷的荷西時期，大航海時代的國際競逐，與來台的國民政府之間發生的衝突如二二八事件，以及台灣原住民與南太平洋南島語族的關聯。對清廷在台長達 200 年的統治，台灣原住民與亞洲及中國大陸在史前的關連，及其受日本殖民統治影響的巨變，往往略而不提。

因而，分裂的國族意識主導了台灣國家博物館對台灣歷史文化的呈現，基本上是為了塑造選擇性的集體記憶，刻意忽略日本殖民統治對原住民的種族偏見與政治上的不義，以及清政府時期台灣與中國之間歷史文化上的連結。平埔族的歷史與社會文化變遷，及其與來台漢人之間的互動，也被簡化為二者經由通婚已全然融合，並造成台灣 (漢) 人與中國人不同的基因類型與血脈。

國立博物館代表國家，或致力於國際與學術外交，但對於台灣基本上主要則仍然被用於形塑國族意識。並未能承擔呈現多元史觀，歷史文化遺產的多樣與多音詮釋的重責大任，也無助於瓦解刻板印象，或改進社會認識自身與異己。當代人類學和史學在台灣原住民學術研究與知識成果，與博物館之間似乎是脫節的。

對於博物館事業的功能，台灣社會一般主要聚焦於其在產業與經濟發展上可能產生的效益。博物館被視為文化產業或文化創意產業中的一環。

1990s 重視本土文化的政策下，文建會(Council for Cultural Affairs)提出“社區總體營造”的政策，以發掘地方文化資源，協助地方文化產業發展，充實文化觀光的基礎建設。基於期望帶動地方觀光發展，政府也投入大量經費興建地方文物館，同時在選舉政治的影響下，為表現重視多元族群文化建設，全台興建了 40 多座大同小異的客家文化館和 50 多座原住民文化館。但由於週邊設施與專業經營人力的缺乏，失敗的案例頗多，產生許多“蚊子館”的問題。

地方政府受限於人力，頗多將所屬的公立博物館，以委外的方式經營。對於博物館的功能，地方政府主要是從文化產業與地方觀光的角度考量，誤以為初步提供了場所，設備，經由委託民間公司或非營利組織就能夠經營。不過，由於經營者必須考量商業效益以維繫自身，或受限於人力資源等，難以經由提供公益服務開展營運，因而往往無法經由良性循環形成永續經營。例如台中縣政府的 12 大旗艦建設之一，台灣唯一專為兒童打造的藝術館，斥資 4 億元興建並委外經營，2006 年開幕後第一年創造 10 萬人次的進場的佳績，其實比預估少了一半，但終究在去年提前解約，於今年閉館。

由於未充分認知博物館成功經營應有的條件，以及博物館的公益事業性格，其可能的教育與社會服務效益，因此，執行委託經營時，多半未能考慮委託的對象應該是具相關專業的公益法人，並且，彼此間不應僅止於契約關係，更應該是一種對等的合作與相互支援，長期性的夥伴關係。

政府與社會一般並不重視民間公益法人的專業性問題，另一方面，甚至認為民間私人的事業必然不存在公益服務性，也可能是重要的原因。以台中私人動物園業者天馬牧場的河馬運送疏失，所造成的死亡事件為例，政府，民眾與動物保護團體一致譴責並要求嚴懲。其實此一不幸事件多少與相關管理法制的闕如有關。既有的動物保護法或野生

動物保育法，都未有對於動物園或相關展演業者的規範。事實上，博物館的定義中也包含了動物園，植物園，水族館等提供認識各種生物的場所。私人的動物園業者如同私人博物館，為社會提供了某種休閒或教育服務的功能，卻全然未能得到政府與社會一般的認可與支持。公立動物園對於從事類似活動的私立動物園，也從未考慮給予動物照顧和運送技術等經驗知識上的協助。

重視地方社區文化發展的政策之下，文建會配置了“社區規劃師”以陪伴地方社區的總體營造，提供所需的協助。不過，長期得到穩固的經費支持，而能夠全面性在各地地方社區建制，持續提供服務的是所謂“社區大學”。各地“社區大學”的成立，緣起於1990s民間教育改革運動中所提出的理念之一——“解放知識”，是以民間社團的方式運作，並得到教育部的支持。“社區大學”結合在地人力資源，規劃各種課程與活動，借用各地中小學教室利用夜間與假日進行，為地方一般民眾提供了開放的學習管道。

除文建會，教育部之外，政府其他部門也有相關的社區工作政策，例如社政單位在各地興建“社區活動中心”，成立“社區發展協會”。上級政府不同部門的政策規劃分別向下推展，到了地方基層經常呈現重疊或多頭馬車的局面。地方社會內部分別爭取不同的計畫補助，互相競爭，各別苗頭，未必能將分散的資源整合或有效地集中運用，反而可能導致社區內部的分化。

以原住民部落為例，過去各族群分別有不同型態的部落組織，分立的家族或氏族能夠經由特定的機制如年度重要的祭儀，達成整合，凝聚共識。排灣族部落過去以貴族家系為核心，結集族人，並經由主持共同的部落性祭儀，尋求祖靈庇佑。然而，由於傳統部落領袖在當代國家體制中未被授予法律地位，族人可以依法分別向政府各單位提出文化活動的補助申請，無形中僭越了傳統領袖的權威，動搖了傳統的社會秩序，造成紛爭與分化。

古樓部落的五年祭向政府申請登錄為文化資產，由部落中的一個學會提出並登記其為該資產的保存團體，成為唯一能夠向政府申請相關經費補助的單位。就文化資產保存的體制而言，文化資產的持有人或實踐者，不必是其經營管理者。學會可以是文化資產的經營管理人，如同博物館在信託 (trust) 的體制之下，被授權處理文化資產的管理與經營，關鍵在於其是否得到文化資產持有人的信託。

學會是否是一個得到政府認可，合法的公益信託人，並且能夠承諾永續守護此一信託？在古樓部落五年祭的文化資產登錄過程中對此一必要程序的處理，顯然未盡完善。

晚近台灣原住民有了智慧財產權的概念，行政院原民會擬訂“原住民傳統智慧創作保護條例”，期望藉以保護原住民的文化財產權利。然而，由於原住民內部如特定家族或氏族的權利，往往僅依靠習慣法或原住民自身的社會認可，並未納入正式的法律保障。個別原住民如僅遵照國家的法律辦理，未遵循甚至違背其內部的習慣法或既有的社會慣例，即可能造成衝突與紛爭。

當政府經由各種政策措施提供經費，補助傳統祭儀或文化資產的經營時，如何避免類似原住民內部權利爭議的問題，落實有效或有意義的文化保護，瞭解並尊重原住民內

部相關的習慣與規範，是必要的前提。

文化資產源自於人們的生活，多樣的生態環境與生活方式，衍生了多元的文化，亦隱含多元的價值。文化資產的永續與其原有的生活與環境息息相關，認識並保有此一關聯，具有關鍵的作用，卻繫於當事人的意願與態度。由於無形文化資產持續的實踐，優先於固守外在的形貌，原住民社會的內部處於變遷中，傳統慣例的堅持或調適，或許不同部落因應主，客觀條件的異動，有不同程度的取捨，個別部落的自主性應當受到尊重。換言之，政府由上而下推動的政策，必須輔以原住民內部由下而上所形成的共識，才具有一定的正當性。

“原住民傳統智慧創作保護條例”中，主要以原住“民族”或“部落”，以及“全體原住民族”作為權利的單位。但是，由於原住“民族”與“部落”至今尚未是擁有權利的法人團體或得到承認的政府基層單位，因此其實無法對外主張其權利或採取法律行為。

不同層面的文化其產生條件上的差異，導致文化資產類型與經營管理存在著多樣，統一的規範未必能夠處理差異性的需求。因而，聆聽當事人或相關社群的意見與看法，接納並呈現多元的發聲，有助於釐清關連，是文化資產維護工作首要的原則。

3. 民有與公用的抵觸？

由於戰爭與內亂等因素，國民政府自 1930s 開始長期實施戒嚴，嚴格限制非政府組織的成立與民間社會的發展。戒嚴時期台灣的社會政策呈現“政治戒嚴，經濟自由”的特點，民間組織以工商團體與慈善團體如西方基督宗教的慈善服務組織居多。(Chang, Jiang).

解嚴之後，政府開始調整公共服務的提供方式，經由民營化引進民間資金。並以委託，減稅與補助等方式，藉由民間團體直接或間接的提供大量服務。1990s 之後，經濟成長的成果使政府的社會福利預算得以提升，民間團體能夠得到較多的政府支助。對於民間團體的補助，大都集中於執行社會福利政策的社福團體。

公民文化權的概念直到 2000 年以後，經由文建會引進台灣，不過，政府其他部門，學界與一般民眾似乎仍欠缺相關認知。多元文化主義的潮流下，台灣四大族群的說法經由媒體的傳播，已為一般民眾所熟知。但相關理念的實踐，受到既有社會結構與認知的限制，仍不時引發衝突與爭議。

例如平埔族中巴宰社群潘家祖傳文物要求歸還的案例爭議多年，博物館與史學界卻皆認為，該批文物學術價值極大且無可取代，並且已屬公共利益的範疇，遂而依據既成法律事實，認為仍應歸公，繼續由國家保管 (Chen, 2003)，因而反對歸還。

尊重該批文物原持有人權益者，則建議可以類似託管關係，由潘家提出相當的保存環境之保證後，交由潘家保存。但卻遭到反對，並認為潘氏族人眾多，公立博物館不能將文化資產移轉給私人(Chou, 2009)。

文建會提出的解決方案之一是，由政府出資興建平埔族博物館，專事保存該批文物，卻為潘家後代所拒絕。由於其對相關館藏單位過去消極的文物經營管理方式，頗為不滿，如僅供研究生使用，導致其對公營博物館的負面看法，因而打算用自己的力量興建博物館，以平埔族觀點介紹該批文物，並全部開放公眾使用。

學界或博物館界聲稱的公共利益，與潘家後代所認知的公共利益，顯然並不一致。博物館的定義與其所代表的公共利益，在民間與學界之間似乎並無共識，導致爭議始終無法得到合理的解決。

平埔族文物歸還問題未能解決，平埔族自治經營的博物館一可能成為重要的台灣歷史文化地景之一，未能成立，導致台灣民眾失去了一個能夠協助其認識清代的台灣，以及歷史中的平埔族社會與文化的場所。

同樣的問題也見於對先總統蔣介石日記的爭議。基於公益，政府與學界乃至於民間多半認為不宜將先總統的日記視為私產，而主張應將日記列為國家檔案，由政府出版或建專館儲存，並公開國人閱覽 (United Daily News, 2011)。然而，蔣家後代並不同意。

相關的案例顯示，國立博物館或文物保存機構並未全然得到民眾的信任或認可。問題的癥結似乎在於國家文物保存機構是否給予當事人應有的尊重與禮遇？文物捐贈者是否能夠保有某種參與的權利？當事人或文物的合法繼承人是否信任國家的文物保存機構？

多數國人似乎認為國立或公立才能夠代表公共利益，民間或私人不可能存在公共利益的信託者或實踐者。政府與民間似乎認為教育或類博物館的服務，理當由政府或公務機關提供，民間自主的參與並不受肯定，鼓勵與支持。相關爭議的案例卻顯示，公有的一般民眾卻未必能夠近用，一般更認為民有的必然無法公用，對學界而言相關文物與資料是重要的研究材料，流入民間將損害其研究的權益。或認為政府或公務機關才能夠主管公共財產，並代表公共利益。

排除民間介入或參與館藏與文化資產的工作，或許由於過去其主要是由政府與學界主導與執行，民間被認為不具備相關的專業性。這種態度卻造成民眾對文化資產的陌生與冷漠，文化資產的理念無法深入，根植民間並激起民間的熱誠，投入與奉獻。文化資產的保存成為政府與學者，專家由上而下的單向的登錄作業，只能成就形式化多元地景，呈現學界或特定知識菁英所主導單一的詮釋，無法引入民間多元的對話與互動，難以達成多元地景的實質效益。

經由公益信託保存並經營管理文化資產的方式，是先進國家主要的作法。公益信託是以民有的資產實踐公用與共享，將民間財產納入公民社會的共治。唯有民間參與，公私協力，以分擔政府的責任與工作，才能夠匯集必要的人力，物力與財力。台灣於 1996

年公布“信託法”(Trust Law)之後, Ministry of Justice, Ministry of the Interior, Council for Cultural Affairs, Atomic Energy Council and Environmental Protection Administration 分別頒布相關公益信託許可及監督辦法。

為保存經營文化與環境的公共資產, 英國著名的國民信託號召全國國民共同出錢出力, 點滴成河, 不需要仰賴大企業家的支持, 一般國民的投入也可以成就龐大的文化資產保存事業, 達到“人民是最大財團”的成效, 已成為各國的楷模。

1997 年台灣仿效日本, 由 professor Jiun-hsiu Wang 主持成立了台灣國民信託組織 (Taiwan National Trust), 基本上是以協會的社團活動形式成立, 其實是一虛擬的策略型組織, 擬以文化與環境外交手法帶動台灣國民信託運動為目標, 曾多次出國參加日本的國民信託年會, 國民信託工作假期, 與世界國民信託大會等. (Wang). 該組織 2010 年正式申請成立台灣國民信託協會, 期許成為推動台灣國民信託運動的平台。

台灣全國性的國民信託行動在 2010 年才正式展開, 民間相關的文化與環境保護團體共同推動募款, 買回彰化民俗村內的舊北投火車站以在北投重建, 以及全民認股為瀕臨絕種的白海豚買下彰化濁水溪口的棲地, 以阻止國光石化在該地建廠. 該年並邀請了國際國民信託組織代表來台, 參與台灣這次劃時代的環境與文化公益信託行動。

至 2011 年, 台灣登記在案的公益信託有 72 件, 其中只有 3 件為文化公益信託: 2003 年台北市文化局輔導成立的“台北市古蹟保存與發展基金”, 2007 年成立的“葉俊麟台灣歌謠推展基金”, 2008 “樹谷基金會” (Tree Valley Foundation)的考古文化資產維護基金. 一件環境公益信託: 2011 年的“自然谷環境教育基地”。

4. 社會運動=公民社會?

1970s 台灣民間社會力量才開始展現, 原因之一是新興社會問題的產生, 如工商業化造成的環境汙染, 消費者權益保障等. 各種民間自發的自力救濟, 分別與當時的黨外合流, 出現各種社會運動. 其中環保運動與消費者運動, 強化民間的權利, 環境與公共政策意識, 對民間社會生活有重大而深遠的影響. 特別是 1975 年以來台灣環保運動快速興起, 重要環保團體成立, 推動多次環境保護的抗爭, 培養出一批社運專業人才, 全時間投入社會運動, 並從事各種組訓, 教育工作, 推廣其運動經驗至其他社運組織中. (Chiu)

1986 年黨外正式組成民主進步黨, 並採取激烈的街頭運動抗爭方式, 政治反對運動成為社會運動者學習與模仿的對象, 民進黨與社會運動之間存在聯盟的關係 (Chiu, Jiang). 新潮流系特別重視社會運動如環保, 勞工, 農民等運動, “社會運動政治化, 政治運動社會化” 是其口號。

有學者指出, 這些社會運動看來多樣, 大多具泛政治性, 有強烈的抗議性, 具有反體制, 反權威, 反文化的色彩, 較少具有教育性質, 政府是主要的訴求對象. 性質相益的團體, 在運動中卻有相同的目標. 其最終的目的似乎是挪用社會運動, 公民社會之名對政府進行抗爭, 以取得政權, 達成政黨輪替. 援引社會力量進入選戰, 對於台灣既存

社會問題之真解決是否有相當助益？是值得探究的問題。

台灣的民間社團以公民社會之名，共同發起社會運動，進行抗爭，其模式經常是以環境保護或社會的公平正義之名，質疑政府的經濟或產業政策，例如反核四，反服貿，反財團的開發等。產業發展所需要的基礎建設，產業升級以面對全球化競爭所需要的開放措施，公私協力的開發計畫等，很容易被賦予官商勾結，圖利財團的連想與指控。

最近以學生為主發起的二次反對運動，針對立法院的反服貿，與針對教育部的反歷史課綱，最初都是以“反黑箱”為名提出。相較服貿與課綱等議題的複雜性，不正當的民主程序，台灣珍貴的民主制度不容踐踏的訴求，是否相對容易被學生理解並接受？

對程序正當性的質疑，阻礙了相關的政策行動，卻並未涉及產業與教育發展的實質核心問題，政策的必要性或偏差之處，並未能經由公開的論述與對話，加以釐清。程序正義，強調形式的平等與分配的抗爭，是否掩蓋了必須面對的實力與競爭，相關產業與國家的生存或被淘汰的問題？學生的民主實習是否犧牲了專業的判斷與實踐？

上述二例所謂的“黑箱”作業，其實也是立法院行之有年的慣例，所謂“政黨協商”或“包裹表決”的程序，僅繫於二黨黨團代表之間的談判與是否達成協議，外界或民眾對於交易的內容取捨或定奪，多半無從得知。長期以來政府內部的決策，也多僅經由邀集若干專家學者，以委員會議的形式進行討論與票決，某些會議的內容並被視為公務機密，不得對外公開。

台灣的民主強調的似乎僅止於形式與程序，爭議可以經由票決處理，實質的討論與共識的達成則不被重視，因而國家與社會發展的問題無法真正獲得解決。晚近政治學者提倡審議式民主，對立的雙方真誠彼此聆聽與對話，才能夠解決爭議造成的困境。

然而，三權分立的民主體制與政黨輪替，似乎已成為台灣社會對民主唯一的想像。政府雖然擁有公權力，但公務人員必須依法行政，凡事須通過立法院立法的程序，行政機關才有政策實施的正當性。在野時大力延誤或阻擋執政黨的政策法案，即可壓抑其政策的政績表現，形塑政府無能的形象，而有利於政黨輪替。公民社會的行動就是指責與抗議政府的不是，以達成政黨輪替，為自身取得參政的機會。民主政治被台灣視為社會進步最重要的表徵，個人唯有參選從政才能夠參與推動國家的發展與社會的進步。因而，參與政黨的對決，似乎是有志之士必走的道路。

一般對民主理念有限的認識，使各方發生爭議時，往往各持異見，無法達成協議或共識，司法的判決成為唯一能夠使爭議畫下句點的途徑。然而暫停爭議，不代表問題的解決，問題持續存在，徒然造成社會的“內耗”與“空轉”。

台灣國民信託協會理事長王俊秀指出，抗爭性的環保運動是治標，消極的，國民信託運動才是積極，治本的。台灣民間環保信託的推手—“台灣環境資訊協會”於2000年成立之後，台灣的國民信託運動才逐漸展開。

相關的指出，台灣的信託法主要參考日本，公益信託的受託人必須是信託業者（也就是銀行），然而銀行其實並不了解如何推動或進行文化或環境保存的公益計劃，因此多數公益信託的功能其實與財團法人或基金會雷同，多僅限於發放獎助或補助活動經費（p162）。

台灣現行的法制下，除經由遺囑委託遺產的管理，或以契約交付資產的管理之外，以公益為目的的條件下，法人（或財產所有人）可以以自己為受託人及委託人，經目的事業主管機關許可之後，對公眾宣言成立信託，並邀眾人加入為委託人。信託的公共使命與社會或道德責任是經由宣言所陳述，信託所衍生的法訂權利與義務，也得以經由宣言的內容界定。宣言信託可以集合多數人的少量資金，聚沙成塔，便於民間團體參與公益，以活絡公益事業。台灣目前嘗試以此種方式成立信託的有二個：2008 年的文化公益信託竹塹基金，2010 年的白海豚環境信託 (p15-16)。

民間社會經由對外提出公益宣言 (mission statement?)，號召民眾出錢或出力，共同為設定的公益目標，如特定的文化資產保存或環境保護而努力，這種社會運動的形式，是美國等西方國家體現社會力常見的方式。美國的博物館基本上必需是一民間公益法人 (charitable corporation)，也是一種宣言式的公益信託 (trust)，以提出的使命宣言作為其存在的主要依據和基礎，並以 Board of Trustee 即受託委員會（或稱董事會）主管資金的籌措與基本政策的擬訂。在專業層面的經營則交付館長承擔，館長必需對受託委員會負責。(Chin, 1988)。

受託委員會往往是由社群中傑出的人物出任，被視為可以代表公眾利益，基本上是不受薪的志願服務者。為使相關經營能夠維持獨立自主，減少法律或政府的干預，受託委員會高度重視自律 (self-regulation) 或對自身的管理，並對自身的管理發展出專業的標準以回應外界的質疑，例如提供可讓公眾檢視的記錄。大公無私與正脈經營的態度與作為，使其能夠符合一般的期望，能夠得到公眾的信任與支持。

以棘手的館藏原住民人骨與文物歸還為例。西方一般並不認同立法實施，認為法律並不是唯一重要的因素。西方學者認為原住民關於文化產權的主張應該被視為一種政治行動，其解決不適合透過法律，法律無法兼顧各文化之間的差異，因而應該經由政治、倫理的途徑來謀求解決(Combe 1997)。對於相關爭議，台灣一般偏向僅從法律的觀點來考量，雖然也有政府的相關主管單位如文建會願意在法律之外兼顧情理，繼續協商。

許多國家雖然沒有相關立法，其博物館界仍然經由建立專業指導方針與行事規範，積極正視問題，以相同的方式處理問題，並希望能夠經由專業方式妥善處理而最終無須訴諸法律。事實上，西方博物館界所提出的相關政策與措施，往往遠較政府的法規完善與先進(Simpson, 2001:231)。

西方博物館或學界作為專業的公民社會之一員，面對原住民提出要求歸還館藏人骨與文物的訴求，能夠提出說明並表述其認知，由下而上積極爭取，主動應變，顯示了勇於分擔社會責任的倫理意識，充分反映了公民（民間）社會對話與共治的實踐與精神。

晚近西方博物館界主張博物館的公共服務，應該發展多元文化與歷史對話平台的功能，並參與當代或社會所關注，重要的議題，成為議題的論壇。西方博物館界經由與外界的對話與反省，積極面對異議與壓力，經由文化展示民主化，開啟多元發聲的管道，呈現對多元詮釋的尊重，豐富了社會對自身的認識，以及對族群與異己的包容，其結果證實有助於社會正義與族群和解的達成 (Lavine 1992; Corsane, 2005; Pieterse, 2005)。

在國家現代化發展進程中，台灣大型或公立的博物館主要由政府設置並提供經費和人力的支持，被視為一種官方的機構。國立博物館較堅實的人力，物力與經費條件，或使其得以接軌國際，擔負引領國家博物館事業發展的任務。不過，國立博物館的主管由執政黨任命，勢必難以違抗其政治意識形態的左右，免於為政治服務的宿命。而公務機關的人員，無須面對市場的競爭與淘汰，也可能因循苟且，安於現狀，未能帶動社會的進步與發展。

博物館或各種文化，自然資產，以公益信託法人的形式存在，經由明文宣言昭告其事業經營的宗旨與專業標準，以進行遊說，募款，同時得以受到公眾檢視並取信於民，這種兼具公開，透明，有利於究責與建立公信力的制度，在台灣當今的社會文化環境條件之下，是否能夠成功移植？是否存在著阻礙或牽制？是值得探究的。

5. 公民社會治理的不足

台灣的非政府組織指出，民主化發展之後，台灣整體民間社團之自主性發展並未有預期的提升。多數小型民間組織需仰賴政府補助，自有財源比例相對偏低，成為政府達成其政策目標的“下游生產者”，是一種侍從附庸的關係。在中央政府有限的行政監督與預算支助下，地方政府對地方民間團體予取予求，存在二者之間非善治的情況 (Jiang)。

也有少數老字號大型民間團體不必依賴政府，具高度聲望與獨立自主性，與政府的互動並不熱絡。另一方面，與政府呈現共生依賴關係的新興大型非政府組織，往往是基於政治意識形態相同，經由靠攏，依賴政府，得以獨攬大型專案計畫。其在選舉時表態支持，政權轉移即面臨生存困難。

Jiang 指出，非政府組織與政府之間的關係，關係著國家的民主轉型和社會價值的深化，非政府組織的發展可以與市場經濟相互涵容，具有自治，契約與公益的精神與文化，可以引領社會走向成熟，完備的公民社會。然而，台灣目前相關法制的缺失，在於政府法令繁多且紊亂，卻未能處理民間組織財務透明度與公共責任問題。當務之急是修改非政府組織相關的現行法規，以創造良好，完備的法制基礎，建立公平競爭的環境。

公平競爭繫於建立合理的分配機制，江明修指出可參考仿照對企業界的分級分類獎勵制度進行補助。並應藉由民間團體的自我約束，相互評比，專業評審等評鑑機制，建立完善的獎勵制度，而非齊頭式的標準與補助。

然而，相關執行的困境在於民間組織專業化程度低，所以應先對各民間團體的組織目標，專業程度建立資料庫與評鑑機制，以建立專業評估與甄選，並對其公共服務實踐與品質進行追蹤式的管理與輔導。換言之，政府與民間團體應建立長期且穩定的輔導與協力夥伴關係。

台灣對於民間社團法人，經由民法，公司法與商業團體法等，已有相當的規範。但對於因資產集合所成立的財團法人，至今仍未能建立完整的法律規範，因而許多所謂公

益財團法人並未受到應有的監督。雖然相關草案進入立院已有 10 年以上，但因其規範財團法人必須公開資訊與財務，董監事的待遇與任期，以及利益迴避等問題，使其酬庸的功能大減，政治人物或企業或難以再經由此一管道吸收政府資源或避稅以謀一己之利。因而，在代表各方利益的立委之間，較難達成共識並完成立法。

西方先進國家，以公益之名聚集或經營資產的公益信託或公益財團法人，往往是經由宣告自我期許的行事規範與準繩—專業倫規章，提供社會大眾據以檢視，考核其誠信；是基於自律，並不全然仰賴法律。專業的聲望不僅來自於專精，還繫於態度，即提供無形且較具社會價值的服務。為善盡公共責任，對其成員的教育訓練，行為和機構都擁有自身所建立一定的標準，表現出有門檻，有組織的一種管理而非鬆散。19 世紀專業的概念在英國興起，緣於為自身所從事的行業謀得社會的尊重，在社會取得一席之地。專業的價值往往是從整體來看，而不是基於個人。

當博物館面臨社會的變遷而必須有所變革時，面對成員們可能的抗拒和焦慮，英國博物館協會主席指出，如果無法得到公眾明顯或強力的支持，將不足以維持其作為一個專業—空有守成，排除創新的心態，博物館專業將無法繼續存在。換言之，專業作為一種護身符，仍必須與時俱進，勇於變革，致力於公眾的認可與支持。英國博物館界並決定一改既有的專業尊嚴，採用商業的方法，以量化舉證考量市場和觀眾的需求。量化成為英國博物館專業的防護傘，然而卻也帶來影響深遠的問題，即求真的知識實踐被規格化的運作與量化的數字表現所取代。

另外，英國博物館協會主席也指出，英國的博物館應該更具開放性，納入更多博物館界之外的志願服務者。這可以說是借鏡美國的經營模式。英國博物館的經費來源主要仰賴政府，館員較具公務人員的性格，未若美國公益信託法人的形態主要來自於民間的行動，因而經費來源較多樣，民間也有較多參與的機會。

美國的博物館制度緣自美國特有的非營利部門，非營利或公益部門在美國蓬勃發展，為美國提供了強大而重要的社會力量，或被認為並不能夠全然移植於他國。台灣為博物館尋出路所提出的處方，認為專業是解決問題的藥方，較類似英國。不過，美國的博物館事業蓬勃發展，其如何能夠兼顧公益（或非營利）理念與市場的雙重挑戰？頗值得探究。比較台灣與美國在相關制度上的差異，或許能夠有助於認清自身，釐清主要的關鍵因素。

值得注意的是，美國的博物館作為一個民間團體，其專業性是經由參與另一個民間團體即美國博物館協會，得到支援與監管。美國博物館協會作為一個專業性的民間行會，為了贏得社會的認可與有力人士的支持，必需協助會員不斷精進其專業，回應社會的需求。美國博物館的公益使命與自我期許，使其對於社會的變遷與需求能夠保持敏感，並在使命感的驅使下提供因應之道，及時協助社會調整與同步發展。例如 1980s 面對變遷中的新挑戰，即發表了新的報告書—“新世紀的博物館” (Museums for a New Century)，宣示博物館界共同的新方向與新策略；1990s 因應多元文化的需求，也發表了“優良與平等：教育與博物館的公共面向” (Excellence and Equity: Education and the Public Dimension of Museums)。

美國的博物館協會不僅負責對於個別博物館的認證與評鑑，其評鑑的結果也成為

美國政府對各博物館經費補助的重要參考依據 (Yeh, 1993), 其所擁的權責主導著美國博物館界的專業自理與自治的能力, 協助博物館從業人員獲得應有的專業知能, 地位與社會信任, 可以說是美國政府在博物館事務與發展方面最重要的民間夥伴。

台灣一般對於專業的概念, 特別涉及公共 (或社會) 責任的部分, 其實是頗為不足的。以宜蘭縣部分中小學教師與縣政府簽署團體協議所引發的爭議為例, 相關教師並未考量他們是學校整體中的一部分, 是基於專業受到信託。相關教師或詮釋民主為平等的權利, 也許認為, 比照勞工享有相同的契約議定權利, 是一種進步。由於權利意識緣於被管理或統治, 專業擁有自訂標準的權利, 享有自理, 自治, 相對必須強調自身的社會責任與道德意識, 才具有邏輯上的說服力與正當性, 因而從西方的標準來看, 專業教師爭取勞工式的權利, 其實是一種墮落。

工讀學生指控大學教師違反受雇者的權利時, 政府相關主管機關依法受理, 卻有大學校長抗議政府違反大學自治, 並可能損害師生倫理。現今大學由學生給教師評分, 作為評鑑教師的重要依據, 早已破壞了傳統文化中“一日為師, 終身為父”的師生倫理。

大學對教師的評鑑, 一味強調學術績效, 並以期刊論文 (SSCI) 的發表篇數, 取得國科會支持研究計畫的數量與經費等作為主要的指標, 輕忽教學與社會服務績效。易於量化的評鑑指標, 被用以代表學術上的國際化與國際地位, 學術貢獻成為大學教師最重要的任務, 所謂專業無關於社會責任或師生倫理, 相關的社會爭議也可以事不關己。僅重視量化與數字, 形式化績效評量對高等教育所造成的問題與影響, 已受到注意和公開的檢討。

在台灣談到專業, 往往僅涉及個人的資格或條件, 並無專業社群的概念。所謂專業, 往往與學校中的學科或科系緊密相連, 只是關於特定知識或技能, 有助於就業或謀生。個人取得學位文憑或通過考試取得相關證照, 就可以一輩子享有專業的名分, 地位與相關利益。就職於公立機構, 其實就相當於取得終身就業的保障, 因此, 許多人願意耗費多年時間, 期望通過公務人員考試, 進入公務機關就職。近年為建設與發展博物館, 公私立大學如經教育部同意設置博物館學研究所, 取得其相關碩士學位, 即等同於個人得到專業認證。專業基本上是由政府機關所認可, 無需面對社會責任的挑戰或涉及專業社群自治的問題。

公立博物館或文化, 教育機構由政府經費支持, 公眾認可, 支持與否無關緊要。博物館界不存在共同面對社會的問題, 定期舉行的研討會是學術研究成果交流的平台, 而學術出版是為個人升遷或升等必要的條件。換言之, 政府成立的, 政府就需要負責, 專業人員無須直接面對; 民主政治有政黨輪替, 成敗一切可由執政黨承擔。

台灣對於民間公益團體組織的經營管理不彰, 無法形成專業自理與自治的能力, 有效的公民社會共治以及積極, 正向的公民社會力量 (Jiang)。傳統中國的社會實踐所形塑的文化思維, 如“一試定終身”, 經由考試刪選, 分數的比較, 取得資格或文憑, 就可以進入官紳階級, 享有任職於政府特訂的權位, 這樣的思想似乎仍然存在於台灣社會。政府, 知識菁英與社會一般對於第三部門的想像, 似乎是原因之一。

對於民間的工商事業與團體的管理與輔導協助, 政府頒有“工商業團體法”,

設立各行各業的同業公會，其享有業界合法的代表性，要求“業必歸會”，“一業一會”，“會必歸會”一下級公會歸上級公會，是正式的體制。各類工商團體代表其利益，與政府相關部門有密切的關係與互動。各類廠商之間不同的分合，往往反映了彼此在產業鏈中不同的利害關係，所產生的共識與結集。

此外，依據“人民團體法”關於職業團體的規定，企業負責人也參與組成各類“協會”，如工商協進會，中小企業協會等，代表其共同利益，面對社會與政府提出建言，協商。雖然，內政部社會司在名義上是人民團體的行政“主管機關”，事實上對其並無任何實質的管理作用。

至於，民間社會的非營利部門，即人民團體法中所指稱的社會團體，如各種慈善與社會服務團體，以及學術文化團體等，則全然不存在類似工商業團體的公會法制。雖然，有類似同業代表的組織如“中華民國博物館學會”，“台灣人類學與民族學會”，“台灣社會學會”等，但是其功能普遍低落。社會服務，學術文化等領域的專業，是經由大學的學科文憑認證，或學術出版績效評鑑等方式進行管理，無需自行考量或因應社會與市場的變動與需求。其利益與地位主要由政府背書，保障，無須直接面對社會的利害衝突，可能是主要的原因。封閉的學術高牆因而形成，並阻斷了社會服務，教育文化與經濟的結合。

然而，社會服務與學術文化領域是否不存在如工商領域內部的利害競合與衝突？僅重視學術期刊論文篇數與累計點數等量化指標，形式化績效評量的方式，是否意在以數字取代敘事，論述與對話一簡化以便於於政治操作與圖利？非營利，慈善或公益是否就無需面對專精與更高標準的挑戰？抑或政府所背書的形式化認證與績效評鑑，阻礙了公民社會內部交鋒與對話的可能？

晚近，國家財政漸趨困窘的情況下，先進國家已逐漸朝向鼓勵非政府組織產業化，走向社會企業。公益事業終需面對市場的挑戰，在相互監督，制衡的過程中，經由實質的對話與論述，相互理解，形成共識，共同面對社會責任，建立公正的檢核自身的機制，走向良性的競爭與發展。

A diverse landscape and civil society: a discussion from the perspective of predicaments of preserving cultural assets in Taiwan

In front of the effect of homogeneousness due to globalism, cultural diversity becomes not only an important value but also part of a nation's cultural policy. A diverse landscape brings new opportunities for regional development and marketing. As a result, cultural assets are able to be included in economic development and become part of the cultural and creative industries.

In order to preserve and continue cultural assets, the number of registered cultural assets is increasing day after day. However, does an increase in the number of assets in the national asset register mean that goals of policies are achieved? The questions are how to maximize the value of preservation, how to make one's choices on or evaluate the utility of preservation, and how to face competitions and challenges in the market.

The recognition and registration of cultural assets helps a diversity of cultural assets become objects of knowledge and tourism. However, without the deployment of relevant professional human resources, the collection, accumulation, and editing of relevant data, and supplementary solid narrations and descriptions, various cultural assets' inner substance and meanings are unable to show, and cultural tourism's functions and effects would become shallow.

Exhibiting various cultural assets' inner substance and meanings and ensuring their functions of dissemination and education is a must. With an increase in the number of registered cultural assets, there is also a gradual expansion on required human resources and funds. A big challenge in preserving cultural assets is an issue that has to be faced squarely.

In 2001, the International Council of Museums (ICOM) re-modified regulations on the definition of museums and included the definition of cultural centers or organizations that consider facilitating the preservation, continuation, operation, and management of tangible and intangible cultural assets (such as 活著的傳承 and digital creation activities) as a life mission. As a result, not only the range of museum collections was enlarged, the definition and concept of museums were also expanded, and museums were given new roles and styles. Museums, which are no longer institutions where cultural artifacts are archived and preserved but also, can assist to preserve, continue, and manage traditions, cultural customs, landscapes, and ecological environments.

The expansion of the definition of a museum is a result of preserving cultural assets in a museum. The usual way to preserve historical buildings, historical sites, landscapes, and the natural and ecological environment is turning these sites into museums. In these ways, these museums can be taken care of by using knowledge of current preservation techniques and receive professional care. Moreover, information and knowledge of cultural assets as well as guided tour services can be provided so that museums' contemporary use can be beneficial to the public and lasting for a long time. After a long time development in the West, museums' business model has been proven to have certain economic benefits and social functions as knowledge's display window and an institute to preserve cultural assets. Museums have also become an important part of the cultural and creative industries and the knowledge economy

Therefore, to examine how effectively cultural assets are preserved, the performance of turning cultural assets into a museum or the demonstration of some quasi-museum functions are important indicators. Without the support of some quasi-museum modes of operation and human resources to the registration and preservation of cultural assets, the registration of cultural assets would become a matter of formality yet is unable to achieve actual benefits of preservation.

This study aims to deliberate about problems and predicaments in preserving Taiwan's cultural assets. Concepts and practices of museums and cultural assets are transplants from the West whereas external observable systems and content from the West are copied. However, when relevant cultural soils and conditions are not in place, would the development encounter any predicaments inside?

1. An opportunity for the transformation of cultural organizations?

The development of museums in Taiwan mainly results from government policies and planning. Museums are considered as part of modern facilities and in particular indicators of cultural facilities. In Taiwan, there are two rounds of museum constructions. The first round of museums was established as museums that represented national cultures when the Taiwan nation-state was established. The second round of museums was established in 1980s—1990s when economic development brought about wealth and prompted the nation to plan establishing other large-scale museums. Since then, national museums in Taiwan started to have a new look. Other than the existing National Palace Museum that honored national cultures, the newly-established National Museum of Natural Science, the National Museum of Marine Biology and Aquarium, the National Museum of Prehistory, etc. also introduced new ways to exhibit scientific knowledge from the West and provided

nationals with a novel learning environment and knowledge experience. National museums started to export overseas special exhibitions so that nationals could appreciate Western painting and arts without going abroad. National museums provide novel cultural exhibitions so that nationals have opportunities to make a pilgrimage to admire high-class cultures from overseas. Museums' position as sanctuaries of arts and a symbol of modernism is therefore unshakable.

Meanwhile, local governments in different areas started to establish public museums one after another. Many businesses also got involved in establishing several small-scale and civilian-run museums. At present, there are over 700 museums in Taiwan. Some 400 museums are public and some 300 other museums are private.

Historically, the importance of the circulation of knowledge and education, museum's historical and cultural value, as well as museums' significance of providing services to the public allowed museums to become public or national institutions through government support. Meanwhile, receiving a certain amount of government subsidies was perceived as a way to preclude possible harms resulting from museums' over-commercialization. However, in the 1980s, due to a tight fiscal policy and bottlenecks in economic development, museums in western countries had to reduce expenses on human resources or self-pay more operating costs and therefore faced the challenge of making adjustments.

Subject to the influence of international trends, relevant concepts and practices, i.e. "state-owned but privately operated" were introduced to Taiwan in 1990s. On the other hand, in order to improve public institutions' flexibility and efficiency in operations, practices in Japan were also used as a reference to discuss about issues in relation to the corporatization of national cultural organizations. Despite a substantive amount of cases of "state-owned but privately operated" public museums which are consigned to civilian-run enterprises by local governments, only Taiwan's National Theater and National Concert Hall are corporatized among all other national cultural organizations. Meanwhile, the only national museum which adopts some state-owned but privately operated approaches is the National Museum of Marine Biology and Aquarium.

Museums belong to the government' public sector and rely on government subsidies so that museum workers could have a stable job and won't be replaced in a market with fierce competition. Unsurprisingly, people in the museum field start to take a reserved attitude towards the corporatization of national museum. The main reason they gave is that civilian resources are not abundant at this moment, the time is not ripe, and therefore it is not a good time for corporatization (Hsia).

In fact, ever since the period of martial law, civilian-run nonprofit foundations constituted as a juristic person, a.k.a. foundations, have been flourishing in Taiwan (Wu 1999). Particularly, education and culture foundations account for the largest number (Taiwan NPO Information Platform), and many of them were founded by successful enterprises to give back to the society. In recent domestic and foreign rescue efforts for victims from large-scale earthquakes and typhoons, civil society has demonstrated a high level of zest and the ability to mobilize support from people. The Buddhist Compassion Relief Tzu Chi Foundation in Taiwan has developed to an international level. This trend further spawned more museums sponsored by enterprises, showing that culture and education enterprises are what many affluent enterprises with extra resources and energy would like to contribute to.

However, the crucial reason why national museums in Taiwan are never optimistic about soliciting for a money contribution for enterprises is worth investigation.

A discussion of relevant issues also believes that having no museum act in place is the reason why the development of museums is difficult in Taiwan. After 2000, the Democratic Progressive Party used to create a "Museum Act" draft during its term of power. The Museum Act draft's focus was limited to public museums whilst civilian-run museums did not receive much attention in the bill. Given that public museums are supported by governmental human resources and funds, it is understandable that public museum's performance receives more attention.

The Legislative Yuan finally passed the new Museum Act this year as a new foundation for the development of the museum business in Taiwan. This act, which specifically aims to improve the professionalism and public-ness of museums in Taiwan, stipulates relevant measures. For example, museums' operations and development can be facilitated by establishing a professional advisory committee for associated museum affairs. This act also stipulates matters regarding government agencies' professional consultations, relevant technical assistance, and subsidies for museums as well as matters in relation to cooperative organizations established by museums for the purposes of exchange and sharing with each other. Besides, this act learns from "最高法國博物館委員會" to stipulate that central government agencies should have a review committee in place to deliberate about museums' evaluations and certificates of honor so as to improve the direction and benchmark of museum quality.

This Museum Act provides a source of laws regarding government subsidies to private

museums as well as stipulates subsidies to private museums and relevant regulations and doctrines. Private museums which receive government subsidies could be included in the nation's museum evaluation system and therefore may receive more assistance.

To handle the nation's financial burden caused by public museum, the act emulates France to let central government agencies set up a state-owned industrial and commercial institution with the attributes of a company to coordinate the use and marketing of resources and promote value-added applications for archives. However, the rightfulness for a state-owned enterprise to use national cultural artifacts gratuitously was questioned by the Directorate –General of Budget, Accounting, and Statistics on the ground that having an administrative corporation or a state-owned foundation constituted as a juristic person would be more appropriate. However, the National Palace Museum and the Ministry of Education believed that only having a state-owned enterprise could solve problems of museums in Taiwan.

In addition, in order to improve public museums' operating performance, the Museum Act plans to set a museum fund so that money contributions to the fund through fundraising could be used to recruit contracted staff members, a.k.a. non-government employees to improve museums' flexibility in human resources and solve the manpower shortage problem. However, it was questioned by the Directorate –General of Budget, Accounting, and Statistics as it failed to conform to government agencies' current human resources and accounting system. The Ministry of Culture's proposal that museums are different from general government agencies is based on relevant measures that have been implemented at universities and medical institutions.

The new "Museum Act" reflects the main problem of museums' development in Taiwan- a shortage of human resources and funds. The new approach proposed by the new Museum Act basically is an imitation of what has been done in France and the United Kingdom, where operating funds are generated thorough operating a for-profit organization. Expecting to keep the system of government agencies but wishing to have somewhat privileged "flexibility", The Museum Act finally put forward the notion of "a professional foundation constituted as a juristic person" and used it to get rid of administrative restrictions for an administrative corporation or a state-owned foundation constituted as a juristic person. It is worth noting challenges faced by museums in an attempt to secure their financial standing through for-profit operations as public cultural institutions. Would keeping the system of government agencies and establishing a for-profit "*subsidiary company*" on the side enable public museums in Taiwan to handle the development of multiculturalism and international competition and bring about benefits of preserving

cultural heritage? Does Taiwan already have the conditions or foundations required for the establishment of relevant systems?

The existing “juristic person” system and the system’s operations as well as our nationals’ cognition and practices of “professionalism” are helpful for our deliberation on its possible results and therefore are what this paper’s investigation focuses on.

2. Cultural undertakings and contracting out operations to the private sector

After the Chinese Civil War, The Government of the Republic of China retreated from mainland China to Taiwan. In order to stabilize its regime and domination, the government was dedicated to decolonization through education. Taiwanese people who had experienced the 50-year long Japanese colonial rule were educated to become Chinese people who identified themselves with mainland Chinese. In the education which emphasized on Chinese culture and national history, Taiwan’s local culture and history were considered provincial, secondary, and basically not valued.

1990s, in the democratization process of Taiwan’s political regime, the government began to attach importance to local culture and history, subsequently started Taiwan history, language, and culture’s research units and courses, and established institutions including The National Museum of Prehistory, The National Museum of History, and the National Museum of Taiwan Literature. To facilitate Taiwan’s transition to an independent sovereign state and stress on Taiwan’s subjectivity, historical narratives that relevant research institutes and museums constructed for the public tended to emphasize on the fissure/cleft between Taiwan and mainland China such as the period of Taiwan under Spanish and Dutch rule, international competition during the Age of Discovery, conflicts with the Nationalist Government in Taiwan such as the 228 Massacre, as well as Taiwanese aborigines’ association with Austronesian peoples. On the contrary, the Qing dynasty’s two-decade long rule in Taiwan, the association between Taiwanese aborigines, Asia, and mainland China in prehistory times, as well as big changes brought about by the Japanese colonial rule were usually neglected and not mentioned.

Therefore, the fractured national consciousness determines how Taiwan history and culture were presented in Taiwan’s national museums. Basically, the presentation aimed to construct selected collective memories, deliberately neglected the Japanese colonial rule’s racial prejudice towards Taiwanese aborigines and political injustice as well as the link between China and Taiwan’s history and culture during the rule of the Qing government. Pingpu Aborigines’ history, changes in Pingpu Aborigines’ social culture, as well as Pingpu

Aborigines' interaction with the Han Chinese who retreated to Taiwan were reduced to a simple story that the two ethnic groups had fully blended together through interracial marriages, resulting in Taiwan (Han) Chinese and mainland Chinese' different genes and bloodlines.

National museums are either a nation's representatives or are dedicated to international and academic exchange. However, national museums in Taiwan, which are basically used to cultivate national consciousness, neither shoulder the big responsibility of presenting diverse historical perspectives, showing diverse historical and cultural heritages, and interpreting multiple voices nor help break stereotypes, better the society, or understand oneself and others. Results of contemporary anthropological and historical academic research and knowledge of Taiwanese aborigines seem out of steps with museums.

When it comes to a museum business entity's function, the society in Taiwan normally focuses on possible benefits that its industrial and economic development may bring about. Museums are considered as part of cultural industries or cultural and creative industries. Amongst policies in the 1990s which valued local culture, the Council for Cultural Affairs put forward the "overall community planning and reorganization" policy to discover local cultural resources, assist the development of local cultural industries, and enhance fundamental infrastructure for cultural tourism. In hopes of driving local tourism's development, the government also invested a large amount of money to build museums to exhibit local cultural artifacts. Meanwhile, subject to the influence of elections and politics, more than 40 essentially similar Hakka culture museums and more than 50 museums featuring aboriginal cultures were established throughout Taiwan to show that cultivating several ethnic cultures is valued. However, there was no shortage of examples of failure due to insufficient auxiliary infrastructure and professional management personnel, and the problem of many "deserted and mosquito-infested exhibition pavilions" ensued.

Due to limited human resources, many local governments would contract operations of their museums to the private sector. In terms of a museum's function, local governments primarily consider from the perspective of cultural industries and local tourism and mistakenly think that by providing initial venues and facilities and then contracting operations of museums to civilian-run companies or nonprofit organization would be a proper way to run the museum business. However, the person who is running day-to-day operations of a business has to consider business profit in order to sustain itself or is limited by available human resources. Therefore, it is hard to run the business by providing public services and having sustainable operation through a benign cycle is usually impossible. Take

Taichung English and Art Museum for example, it was one of Taichung government's 12 flagship construction projects, Taiwan's only art museum for children, a product of a NT\$400 million investment, and was contracted out to private operators for operations. After its launch in 2006, the museum attracted one hundred thousand museum visitors at the first year, which was a brilliant record although the number of visitors actually met 50% of the projected number. Eventually, the contract was terminated prematurely last year and the museum has been officially closed down this year.

Due to a comprehensive understanding of necessary conditions for running a successful museum business, museum's public service enterprise characters, and museums' possible utilities of providing education and social services, most museum operators who intend to contract the operations of a museum to the private sector fail to consider that the contractor should be a public-service juristic person in a relevant profession. Besides, the relationship between the both parties should go beyond a contractual relationship to an equal and long-term partnership of cooperation and mutual assistance.

The government and the society normally do not value civilian-run public-service juristic persons' professionalism. On the other hand, the government and the society even postulate that civilian-run private enterprises certainly do not have the nature of public services, which may be another important reason. Take the incident of the death of a hippo that lived in Tianma Ranch, a private zoo operator in Taichung, due to negligence in the process of transport for example, the government, the public, and animal rights groups all unanimously denounced the zoo operator and requested punishments. Actually, this unfortunate incident was somewhat related to a lack of relevant governing regulations. Be it the existing animal protection legislation or the wildlife protection legislation, none of them have regulations on zoos or relevant animal exhibition businesses. As a matter of fact, according to the definition of a museum, a museum could be a zoo, a botanical garden, an aquarium, or a venue which display various living beings for people to know. A private zoo operator bears a resemblance to a private museum as it provides the society with the function of offering certain recreational or educational services yet is unable to get recognition and support from the government and the society in general. Furthermore, public zoos with relevant knowledge and experiences have never thought about giving private zoos, which operate similar activities, assistance in animal care and transport techniques.

With an emphasis on policies regarding the development of local communities' cultures, the Council for Cultural Affairs (CCA) had "community planners" in place to accompany local communities' overall development and provide necessary assistance. However, it is the

so-called “community colleges” which could receive long-term and stable subsidies and support, operate in communities in various places, and continue to provide services. The establishment of “community colleges” dates back to the 1990s when the notion of “liberating knowledge” was put forward by a civilian-run education revolution movement, which was mobilized by a civilian-run association and was supported by the Ministry of Education. “Community colleges” integrate local human resources, plan a variety of curriculums and activities, and borrow primary school and secondary school classrooms to have evening or non-weekday classes to provide an open learning channel for the general public.

Other than the Council for Cultural Affairs (CCA) and the Ministry of Education, other government agencies also have relevant community policies. For example, the Social Affairs Unit established “community activities centers” and “community development associations” in various places. When policies and plans of different government departments at a higher level reach to the local level, a common scene is policies and plans in duplication or driving in different directions. Inside a local community, there are competitions for different project grants, rivalries between each other, and striving to outshine others. Instead of integrating dispersed resources or making effective and collective use, it may even lead to division among a community.

Take aboriginal tribes in Taiwan for example, different ethnic groups used to have different types of tribe organizations. Separate families or clans could unite or gather consensus through a particular mechanism such as an important annual worship ceremony. In the past, Taiwan's Paiwan tribe's aristocratic families used to be a center to gather tribesmen and used to host the tribe's worship ceremonies together to seek protection from the spirits of their ancestors. However, as leaders in a traditional tribe did not have a legally-recognized position in a nation contemporary regime, tribesmen could submit an application to government departments for subsidies for cultural activities, which has essentially overstepped the authority of traditional leaders, shaken the traditional social order, and engendered conflicts and polarization.

An application has been submitted to the government, requesting Maljeveq, the once-in-five-year ceremony Ku-lo village, to be registered as a cultural asset. A tribe association proposed to register itself as an organization in charge of preserving the asset and the only unit which is eligible to apply for relevant grants from the government. In terms of the system of the preservation of cultural assets, those who possess or practice a cultural asset are not necessary those who operate and manage the cultural asset. An association could be an entity which operates and manages a cultural asset, which is

essentially similar to a museum which is authorized to manage and operate a cultural asset on a system of trust. The key is whether it obtains the trust of the entity which possesses the cultural asset. Is an association a legitimate charity trustee acknowledged by the government and can an association promise to patronize the trust indefinitely? It appeared that necessary procedures in the process of registering Maljeveq as a cultural asset were not done to the perfection.

Lately, Taiwanese aborigines began to be cognizant of intellectual property rights. The Council of Indigenous People under the Executive Yuan drafted the “the Protection Act for the Traditional Intellectual Creations of Indigenous Peoples” in the hope of protecting Taiwanese aborigines’ cultural property rights. However, rights of particular families or clans in Taiwanese aboriginal tribes, which conventionally rely on the common law of aboriginal tribes’ own social recognition, do not receive official legal protection. Conflicts and disputes may ensue when one applies national laws and regulations on a Taiwanese aborigines and not conforming to or even violating the aboriginal tribe’s existing common law,

When the government subsidizes traditional worship ceremonies or cultural assets through assorted policies and measures, how to avoid issues similar to disputes over rights in a Taiwanese aboriginal tribe, achieve effective or meaningful culture protection, as well as understand and respect relevant habits and norms in the Taiwanese aboriginal tribe is a necessary premise.

Cultural assets originate from people’s everyday life. Diverse ecological environments and lifestyles give birth to diverse cultures, which also imply diverse value systems. Sustainable cultural assets are closely associated with the original life and environment. Being cognizant of the association and sustaining the association has a critical function yet it is subject to the implicated party’s willingness and attitude. In terms of continuously practicing an intangible cultural asset, priority should be given to maintaining the exterior form. Transitions are taking place in Taiwanese aboriginal societies. When it comes to sticking to or adjusting conventional customs, perhaps different tribes have different degrees of give and take due to variations in subjective or objective situations. Therefore, individual tribe’s autonomy should be respected. In other words, a government policy which is promoted by employing a top-down approach must be supplemented by bottom-up consensus in Taiwanese aboriginal tribes so as to have a certain degree of legitimacy.

“The Protection Act for the Traditional Intellectual Creations of Indigenous Peoples” primarily considers individual aboriginal “ethnic groups” or “tribes” and “all Taiwanese aborigines” as units of rights. However, as aboriginal “ethnic groups” and “tribes” haven’t

become corporate bodies with rights or recognized grassroots government entities and therefore can neither declare their rights to others nor take legal actions.

Cultures in different aspects and the resulting different circumstances lead to diverse types of cultural assets as well as operation and management of cultural assets. Unified norms may not be able to handle differentiated needs. For that reason, listening to the implicated party or related groups' opinions and thoughts as well as accepting and presenting diverse voices help shed light on the association. It is also the foremost principle for safeguarding cultural assets.

3. Conflicts between Private Ownership and Public Use?

Due to wars, civil unrest, and other factors, the Nationalist government imposed a long-term martial law from 1930s onwards and put strict restrictions on the establishment of non-government organizations and the development of civil society. In the martial law period, social policies in Taiwan showed the "imposing martial law in politics yet giving freedom to the economy" characteristic. Industrial and commercial groups along with charity groups such as western Christian religious charitable organizations accounted for a large percentage of civilian-run organizations (Chang, Jiang).

After the martial law was lifted, the government started to adjust how public services were provided, acquire funds from civil society through privatization, and get civilian groups to provide a large amount of services through contracting out operations, tax reductions, and subsidies. After the 1990s, results of economic growth enabled the government to increase the social welfare budget, and civilian-run groups could receive more government aids. Most civilian-run organizations which received aids were social welfare organizations that carried out social welfare policies.

After 2000, the notion of cultural rights for all citizens was introduced to Taiwan by the Council for Cultural Affairs (CCA). However, other government agencies, academia, and the general public seemed to lack relevant knowledge. Under the trend of multiculturalism, the saying of four main ethnic groups in Taiwan became a public knowledge through media broadcasting. However, due to limitations by the existing social structures and cognition, there were still constant conflicts and disputes over the implementation of relevant concepts.

Take ancestral cultural artifacts of the Pan family in the Pazih community of the "Pingpu Aborigines" (plains aborigines) for example, there has been a longstanding

argument over whether the ancestral cultural artifacts should be returned. People in the museum sector and historical studies, however, refused to return the ancestral cultural artifacts and proposed that the nation continued to keep them according to the existing law on the ground that those ancestral cultural artifacts have remarkable and irreplaceable academic value and belong to the domain of public interest (Chen, 2003).

Those who respected the cultural artifacts' initial owners' rights and interests suggested a quasi-trust relationship, meaning that the ancestral cultural artifacts could be returned to the Pan family after the Pan family promise to provide an equivalent environment for preserving those ancestral cultural artifacts. Nevertheless, this suggestion was refuted on for reasons including there were too many people in the Pan clan and public museums shouldn't hand over cultural assets to private individuals (Chou, 2009).

Among solutions proposed by the Council for Cultural Affairs (CCA), one was to let the government contribute capital to build a Pingpu aboriginal heritage museum to specialize in preserving the batch of cultural artifacts. The proposal, however, was rejected by descendants of the Pan family due to their dissatisfaction with relevant museum organizations' previously passive cultural artifacts management approaches such as only giving graduate students access to museum collections. Having negative thoughts about state-run museums, they intended to use their own ability to build a museum of cultural artifacts, introduce those cultural artifacts from the perspective of Pingpu Aborigines, and give the public access to museum collections.

It seems that the alleged public interest by people in academia and the museum sector are incongruent with the public interest cognized by descendants of the Pan family. It seems that civil society and academia haven't reached a consensus on the definition of a museum and the public interest represented by a museum, resulting in no reasonable solution for the dispute ever.

As the issue of returning the Pingpu Aborigines' cultural artifacts or not remains unsettled, a museum self-operated by Pingpu Aborigines, which may become an important historical and cultural landscape in Taiwan, is unable to be established. The consequence is that people in Taiwan have missed out a place which could assist them to know the former Taiwan under the Qing dynasty's rule and the Pingpu society and culture in the history.

Similar issues can be spotted in a dispute over the late president Chiang Kai-shek's diary. In the name of public interest, members in the government, academia, or even civil society largely considered it inappropriate to make the late president's diary's personal

property and proposed that the diary should be listed as a national document, published by the government or kept at a museum founded by the government, and becoming public so our nationals could read it (United Daily News, 2011). However, descendants of the Chiang family did not agree to the proposal.

As indicated by relevant cases, the public did not fully trust or acknowledge national museums or cultural artifact preservation organizations. The crux of the problem seems to lie on whether the implicated party receives due respect and courteous treatment from national artifact preservation organizations, whether a cultural artifact donator could keep the rights to be involved in the preservation undertaking, and whether the implicated party or the legal heir of the cultural artifact trusts the nation's cultural artifact preservation organizations.

Most nationals seem to believe that only national or public entities could represent public interest whilst civilian-run or private entities can never become trustees or executors of public interest. The government and civil society seem to believe that educational or quasi-museum services naturally should be provided by the government or public agencies whilst civilian-initiated participation seems not acknowledged, encouraged, and supported. As revealed by the disputed case, the general public does not necessarily have access to state-owned objects. However, the general perception is that privately-owned objects absolutely cannot be accessed by the public. From an academia perspective, relevant cultural artifacts and data are important research materials and letting these cultural artifacts and data go into civil society would harm the academia's rights and interests in research. Another perception is that only the government or public agencies could manage public property and represent public interest.

Let's put civilian intervention or participation in tasks in relation to museum collections or cultural assets aside. Perhaps it is because the government and academia were parties that took charge of and carried out these tasks before whereas civil society was considered to possess no relevant professional competencies. Such an attitude made the public more aloof towards and unfamiliar with cultural assets, resulting in the concept of cultural assets unable to infiltrate and take roots in civil society and arouse civil society's enthusiasm, involvement, and contribution. As the preservation of cultural assets become the government, scholars, and scholars' one-way bottom-up task of registration, it could only create a diverse landscape formatively and present a one-dimensional interpretation dominated by academia or elites with particular knowledge. However, various dialogues and interactions in civil society are not included, making a diverse landscape's actual benefits hard to get.

Advanced countries mainly use charitable trusts to preserve and manage cultural assets. A charitable trust is a mechanism of collegiality that uses private assets to realize accessibility to the public and sharing amongst the public as well as include civilian property to civil society. Only thorough civil participation and collaboration between the government and civil society can the government's accountabilities and tasks be split and necessary human resources, materials, and funds can be gathered. Following the promulgation of the Trust Law in Taiwan in 1996, the Ministry of Justice, the Ministry of the Interior, the Council for Cultural Affairs and the Atomic Energy Council and Environmental Protection Administration promulgated regulations pertaining to giving permission to and monitoring of charitable trusts.

In order to preserve and manage cultures and environments-related public property, a famous British national trust summoned all nationals to contribute labor and manpower and money contributions and let little drops make the mighty ocean. There is no need to rely on big entrepreneurs' support as ordinary nationals' contributions could also generate a huge cultural assets preservation business, make people become the biggest financial conglomerates and become a role model for all other nations.

In 1997, Taiwan learned from Japan to let professor Jiun-hsiu Wang organize and establish the Taiwan National Trust Organization, which was basically founded as an association's club activities and was a virtual strategic organization. Aiming to use cultural diplomacy and environmental diplomacy to drive Taiwan national trust movement, it went overseas several times to participate in Japan's annual national trust conference, a national trust working holiday, and international conferences of national trusts (Wang). In 2010, the organization submitted an official application to become the Taiwan National Trust (TNT) and aspired to become a platform for promoting Taiwan's national trust movement.

It was not until 2010 when the nationwide national trust movement officially took place in Taiwan. civilian-run cultural and environmental conservation groups fundraised together to purchase the old Beitou train station in the Taiwan Folk Village and reconstructed it in Beitou, raised funds from the public to purchase endangered white dolphins' habitats near the junction of Jhuoshuei river and the ocean so as to prohibit the Kuo Kuang Petrochemical Corporation from building a factory on this site. In the same year, representatives of the International National Trusts Organization were invited to Taiwan to participate in the epoch-making environmental and cultural charitable trust movement in Taiwan.

In 2011, among 72 registered charitable trusts in Taiwan, only three were cultural charitable trusts and one environmental charitable trust. The three cultural charitable trusts are the "Taipei City Heritage Preservation and Development Fund" funded in 2003 under the coach of the Department of Cultural Affairs, Taipei City Government, Yeh Chun-Lin's Taiwanese Ballads Promotion Fund funded in 2007, and the Tree Valley Foundation's Archaeological Artifacts Preservation Fund in 2008. The one environmental charitable trust is the Natural Valley Environmental Education Base in 2011.

4. Social movements = Civil Society ?

In 1970s, there was an uprising power in Taiwan's civil society partially because of problems in a new society such as environmental pollution resulting from commercialization and industrialization and protection of consumer rights. A variety of civilian-initiated self-help groups merged with power outside the ruling party and spawned assorted social movements. Particularly, environmental movements and consumer movements strengthened concepts such as civil society' rights, the environment, and public policies and made significant and profound influence on civil society's life. In particular, after environmental movements' rapid development in Taiwan since 1975, important environmental groups were established to organize several environmental protection protests, cultivate a group of social movement specialists who were fully committed to social movements, organize a variety of organizational training and educational projects, and promote their social movement experiences to other social movement organizations (Chiu).

In 1986, those not in the ruling party founded the Democratic Progressive Party and resorted to aggressive street protests. The party's political opposition activities subsequently became what social movement organizers learn from and emulate whereas the Democratic Progressive Party and social movements also built an alliance (Chiu, Jiang). The New Tide Faction (NTF) of the Democratic Progressive Party in particular valued social movements in relation to environmental protection, labors, and farmers. "Politicalizing social movements political and socializing political movements" was its slogan.

Some scholars pointed out that these social movements seemed diverse. Most of them are related to politics, bent on protesting, rebellious against the existing system, authority, and culture, less related to education, and was targeted at the government. Groups with qualities that benefited each other had the same objectives in a movement and their ultimate goal seemed to be fighting against the government in the name of social movements and civil society to gain political power and make parties rotate to be the ruling party. It is worth delving into whether invoking social power in election competitions help

solve existing social problems in Taiwan.

Amongst Taiwan's civilian-run mass organizations which initiated social movements to protest in the name of social society, a lot of them often challenge or doubt the government's policies about economy or industries in the name of environmental protection or social equality or justice. Exemplary movements include movements that protested against Taiwan's 4th nuclear power movement, the Economic Cooperation Framework Agreement, and financial conglomerates' exploitation. Fundamental infrastructure required for industrial development, open-door policies required for industrial upgrading and facing global competitions, and development projects collaborated by public and private entities are easily associated with collusion between businessmen and government officials and being a financial conglomerate which seeks particular interests and accused herewith.

Speaking of two recent opposition movements initiated by students to protest against the Legislative Yuan's Economic Cooperation Framework Agreement and the Ministry of Education's history curriculum guidelines, these movements were initiated in the name of "anti-black box". In comparison with the complexity of the Economic Cooperation Framework Agreement and curriculum guidelines, would inadequate democratic process and the appeal that Taiwan's precious democracy shouldn't be treaded on be relatively easier for students to understand and accept?

A doubt about the rightfulness of the democratic process hindered the implementation of relevant policies yet does not touch real core issues in relation to the development of industries and education. The necessity for a policy or the policy's inadequacy is unable to be clarified through having public discourses and dialogues.

Do procedural justice and an emphasis on formal equality and 分配的抗爭 disguise real issues that have to be faced such as strength and capacities, competition, and relevant industries and a nation's survival or being eliminated through competition and selection? Are professional judgment and practice being sacrificed in students' democratic practicum?

The so-called business inside the black box exemplified by the two cases in a prior paragraph is actually a longstanding tradition of the Legislative Yuan. The so-called "party caucuses' negotiation" or "package vote" procedures actually are only determined by whether the two parties' caucus representatives reach consensus in negotiations whereas the outside world and the public normally have no way to find out the content of a deal or how a consensus was reached. For a long time, only a handful of experts and scholars are invited and gathered at a committee meeting to discuss and vote on the government's

internal decisions. Contents of some meetings are considered as official secrets and cannot be disclosed to the public.

Taiwan's democracy seems to only emphasize on formality and procedures. Disputes can be solved by voting whereas substantial discussions and reaching consensuses are not valued. As a result, issues with a nation and a society's development cannot be truly solved. Lately, political scholars put forward deliberative democracy, which advocated that only when both parties sincerely listen to each other and have conversations can predicaments resulting from disagreements be solved.

However, Checks and balances in a democracy and the rotation of ruling parties seem to have become the only picture of democracy in Taiwan's society. Despite the government's public power, government employees have to act according to the rule of law. All matters have to pass the Legislative Yuan's legislative process so that administrative organs would have the legitimacy to implement a policy. When a party is out of office, the party's endeavors to delay or prohibit draft bills for ruling party's policies may suppress the ruling party's performance in policymaking and implementation, create an image of an incompetent government, and facilitate the rotation of ruling parties. Civil society's movements are to denounce and protest against the government's wrongdoings, prompt the rotation of ruling parties, and obtain political opportunities for organizers of the protest movements. As democracy is considered as the most important embodiment of Taiwan society's advance and progress and individuals could only participate in prompting the nation's development the society's progress by playing a part in politics, it seems an inevitable path for aspiring and ambitious individuals to become involved in battles between political parties.

Generally speaking, limited understanding of the concept of democracy usually results in all parties sticking to their dissidents in a dispute and unable to reach consensuses. Consequently, judicial decisions become the only way to end controversies. However, pausing disputes is not equal to a problem solved. As long as the problem continues to exist, the society may face the problems of "internal energy dissipation" and "running a vehicle's engine when the vehicle is not in motion".

Taiwan national trust (TNT) President Wang Chin-shou pointed out that combative environmental movements are negative stopgaps whereas national trust movements are the positive permanent cure. After Taiwan Environmental Information Association (TEIA), the pushing hands behind civilian-run environmental trusts in Taiwan, was founded in 2000, national trust movements gradually took place in Taiwan.

Relevant parties pointed out that Taiwan's Trust Law is mainly an adaption of the custom in Japan. The trustee of a charitable trust must be a trust enterprise, which actually does not know how to promote or implement a public interest project pertaining to culture or environmental protection. Therefore, most charitable trusts' functions are similar to a juristic person or a foundation' functions, which are largely limited to giving out grants and help or subsidizing events (p 162).

Under the current legal system in Taiwan, in addition to entrusting the management of property or asset through a will or a contract, on the premise of public interest, a juristic person (or property owner) could make himself/herself both a trustor and a trustee, obtain approval from the industry competent authorities, announce to the public and establish a trust, and invite the public to participate as trustees. A trust's public mission and social or ethical responsibilities are stated in the declaration. Legal rights and obligations derived from a trust can also be defined in the declaration's content. A declaration of trust could gather funds from a large number of people. How every small each person's contribution is, a great many grains of sand grouped together can form a pagoda. As a result, it facilitates civil organizations' participation in public interest programs and incites public interest programs. At present, Taiwan has two trusts established this way, which are Hsinchu Chu-Chiann Foundation as a Cultural and Charitable Trust in 2008 and White Dolphin Trust in 2010 (p15-16).

Civil society puts forward a public interest mission statement, summons the public to contribute money for manpower, and strive toward a common goal of public interest such as preserving specific cultural assets or protecting the environment. This form of social movements is a common way to demonstrate social forces in western countries including the United States. Museums in the United States are basically civilian-run charitable corporations as well as a type of charitable trusts that rely on their proposed mission statements as the ground and foundation for their existence. They also have a board of trustees (or board of directors) to be in charge of raising funds and drafting basic policies. In terms of professional museum operations, museum curators are in charge and have to be accountable for the board of trustees (Chin, 1988).

Members in the board of trustees are usually brilliant people from a social group. They are considered as representatives of public interest and are basically unpaid volunteers. In order to enable relevant operations to remain independent, autonomous, and minimize interventions from law or the government, the board of trustees attaches great importance to self-regulation or self-management and develop a professional standard for

self-management so as to respond to the outside world's questions and challenges. Examples such as providing records which are reviewable by the public, demonstrating impartial and selfless attitudes, and have legitimate operations are to make museums meet general expectations and obtain the public's trust and support.

Take the case of returning the tricky museum collections of Taiwanese aboriginal people's bones and cultural artifacts for example, western countries generally do not agree with promulgating governing laws and believe that law is not the only important factor. Western scholars believe that Taiwanese aboriginal people's declaration of cultural property rights should be seen as a political action and using law to solve the issue is not appropriate as law is unable to factor in all cultures' differences. Therefore, one should seek solutions by taking a political or ethical approach (Combe 1997). With regard to relevant disputes, Taiwan generally only consider these disputes from a legal perspective whereas only a handful of the government's associated governance agencies are willing to factor in both reason and emotion besides law to continue negotiations like what the Council for Cultural Affairs (CCA) does.

Despite the lack of relevant legislation in many countries, the museum sector in those countries still face problems squarely and positively and use the same way to handle problems by establishing professional guidelines and behavioral norms, hoping that professional and proper handling would eventually make resorting to legal action unnecessary. As a matter of fact, relevant policies and measures by the museum sector in Western countries are usually more comprehensive and advanced than the government's law and regulations (Simpson, 2001:231).

To address the Taiwanese aboriginal people's appeal to get the human bones and cultural artifacts back from museum collections, the museum sector and academic in western countries, as members of professional civil society organizations, were able to give explanations and express their cognition, take a bottom-up approach to fight for what they wanted, take the initiative to adapt and respond to changes, demonstrate their ethical consciousness to step up to shoulder social responsibility, and fully manifest civil (civilian) society's practice and spirit of dialogues and joint governance.

Lately, the museum sector in western countries advocated that museums' public services should develop a platform for multiple cultures and dialogues with the history, participate in contemporary important issues that the society attaches importance to, and become a forum for discussing these issues. By having dialogues with the outside world and introspection, the museum sector in western countries adopted a get-up-and-go attitude

towards dissidents and pressures, used cultures to demonstrate democracy, initiated multiple channels for opinions to be expressed, showed respect for diverse interpretations, enriched the society's self-understanding, and helped acceptance of other ethnic groups and those not of one's own kind. The result proved to foster social justice and ethnic reconciliation (Lavine 1992; Corsane, 2005; Pieterse, 2005).

In the nation's modernization process, Taiwan's large-scale or public museums are primarily founded by the government, receiving the government's support in funds and human resources, and are considered a type of official organizations. National museums' more solid human resources, materials, and funds enable national museums to connect with the world and shoulder the responsibility of leading the development of a nation's museum business. However, as national museums' managers are appointed by the ruling party, these museum managers inevitably would find it hard to defy influences from the ruling party's political ideologies and are therefore destined to be the politics' service. Not having to face the market's competition and elimination, employees at government agencies may cling to the habitual ways, muddle along, be content with the status quo, and fail to prompt the society' progress and development.

Museum or various types of cultures and natural assets exist as charitable trust juristic persons, expressively stipulate the objectives of their business operations and professional standard in writing to carry out lobbying and fundraising activities, and be examined and trust by the public at the same time. Can this kind of open and transparent system, which is easy for attributing responsibility or fault and getting the public's trust, be successfully transplanted given Taiwan's current social, cultural, and environmental conditions? Are there any restrictions or hindrances? All these issues are worth exploring.

5. Insufficient civil society management

Taiwan's non-government organizations pointed out that following democratization, the overall autonomy of Taiwan's civilian-run mass organizations did not improve as expected. Most small-scale civilian-run organizations have to rely on government subsidies and the percentage of organizations that have their own sources of funds is relatively low. Therefore, these organizations become "lower-stream producers" for the government to reach its policy objectives and become subordinate to the government. With the central government limited administrative monitoring and budgetary support, local governments also make endless demands for local civilian groups, 存在二者之間非善治的情況 (Jiang).

Perhaps a small number of time-honored large-scale civilian groups have no need to

rely on the government, enjoy higher prestige, independency, and autonomy, and have no busy interactions with the government. On the other hand, new large-scale non-governmental organizations, which have a symbiotic relationship with the government, usually share the same political ideologies with the government and become able to take charge of large-scale projects through siding with and relying on the government. These organizations declare their position and support at elections and find it hard to survive at the time of political transitions.

Jiang pointed out that the relationship between non-government organizations and the government is related to a nation's democratic transition and social value's taking root. The development of non-government government organizations and market economy could bear with each other. A culture with the spirit of self-governance, mutual agreement, and public interest could guide a society to become a mature and full - fledged civil society. However, the deficiency of relevant laws in Taiwan lies in a plethora of government laws and regulations that are cluttered and unable to handle issues with civilian-run organizations' financial transparency and social responsibility. The urgent priority is to amend current laws and regulations regarding non-government organizations, build a good and well-developed legal foundation, and create an environment for fair competition.

Fair competition lies on a reasonable mechanism of distribution. Jiang Ming Xiu pointed out that subsidies can be handed out with reference to a rewarding system for businesses at different grades and categories. Meanwhile, a comprehensive rewarding system should be established through an evaluation system involving civilian groups' self-discipline, mutual evaluation, and professional assessment rather than setting a block-style standard and giving block-style subsidies.

However, there are difficulties in practice due to civilian-run organizations' inadequate professional competencies. For that reason, there should be a database and evaluation mechanism for each civilian-run organization' organizational goals and level of professional competencies to as to have professional appraisal and selection as well as provide follow-up management and mentoring to the practice and quality of public services provided by these organizations. In other words, the government and civilian-run organizations should establish a long-term and stable mentoring and collaborative partnership.

In Taiwan, civilian-run corporation aggregates are somewhat regulated by the civil law, the corporation law, and the business organization law. However, as there haven't been comprehensive legal regulations on juristic persons which are built on the basis of congregated assets, many so-called juristic persons are not monitored as they should be. Relevant draft bills were already sent to the Legislative Yuan over 10 years ago. However,

given the regulation that a foundation constituted as a juristic person must disclose information such as financial information and directors and supervisors' terms of service and remunerations, and steer away from conflicts of interests, the remunerations have been slashed a lot. It is no longer easy for politicians and businesses to seek personal interests such as taking government resources and evade paying taxes through this channel. Therefore, it is relatively difficult for legislators who represent different parties' interests to reach consensuses and finalize legislation

In advanced western countries, charitable trusts or public interest foundations constituted as a juristic person that gather or manage assets in the name of public interest usually use professional and ethical rules and regulations, which are behavioral norms and guidelines to declare self-expectations, for the public to examine and assess their integrity. They exercise self-discipline and do not fully rely on law. Professional prestige is not obtained by being a specialized expert alone. It is also associated with one's attitudes, i.e. providing intangible services that are more valuable for the society. In order to fulfill a profession's social responsibility, a profession's should have its own standard, threshold, and organized rather than loose management for education and training for members in the profession, these members' behaviors, as well as organizations of this profession. The concept of professionalism came into being in the United Kingdom in the 19th century. The initial attempt was to seek social respect for one's profession and obtain a place in the society. The value of a profession is usually judged as a whole rather than an individual.

When museums have to transform as a response to social changes and encounter museum members' possible resistance and anxiety, the president of The Museums Association (MA) pointed out that that a profession would be able to sustain without the public's evident or strong support – the museum profession won't be able to continue with a mindset of carrying on the accomplishments of previous generations and rejecting innovations. In other words, regardless of having profession as an amulet, professionals still need to keep up with the times, be brave to make changes, and be committed to win the public's recognition and support. The museum sector in the United Kingdom also decided to put aside its longstanding professional dignity, employ commercial approaches, and use quantization matrices to consider what the market and the audience's needs. Quantization has become the sheltering umbrella for the museum profession in the United Kingdom yet also brought about issue that may have a profound influence, which is that truth-seeking knowledge practices are replaced by standardized operations and performance represented by quantitative figures.

Meanwhile, the president of The Museums Association (MA) also pointed out

museums in the United Kingdom should be more open and should include more volunteers who are not from the museum field, which is learned from how museums are operated in the United States. Museums in the United Kingdom mainly rely on the government as a source of funds and museum employees possess more government employees' personality traits. In contrary, charitable trust corporations are mainly civilian-run and therefore having more diverse sources of funds and more opportunities for civilian participation.

The museum system in the United States originated from nonprofit departments in the United States. The booming development of nonprofit or public interest departments provides the United States with powerful and important social strength or is considered impossible to be completely transplanted to another country.

Bearing a resemblance to the United Kingdom's approach, Taiwan's prescription for museums' future believes that professional competencies are the solution to problems. However, it is worth delving into how the booming museum industry in the United States balances challenges from the public interest (or nonprofit) notion and the market? A comparison of Taiwan and the United States' differences in relevant systems may help to understand oneself and clarify the main critical factors.

It is worth noting that as civil organizations in the United States, museums' professionalism is endorsed by participating in another civil organization - The American Alliance of Museums (formerly the American Association of Museums), and receiving support and supervision accordingly. As a professional trade association in civil society, the American Alliance of Museums has to assist members to better their professionalism constantly and respond to the society's needs in order to win social recognition and obtain support from influential people. Due to its public interest mission and self-expectations, the American Alliance of Museums is able to stay alert to social changes and demands and offer corresponding solutions out of a sense of mission to timely assist the society to make adjustments and develop concurrently. For example, a new report entitled "Museums for a New Century" was published in 1980s as a response to new challenges brought about by changes to announce a new direction and new strategies for the museum sector. In response to demands brought about by multiple cultures, the book *Excellence and Equity: Education and the Public Dimension of Museums* was published in the 1990s.

Other than being in charge of accrediting and evaluating individual museums, the American Alliance of Museums also produces evaluation results that become important ground for the American government to allocate budgets to museums (Yeh, 1993). The American Alliance of Museums' rights and responsibilities steer American museum sector's

professional self-management and self-governance abilities, assist museum employees to acquire necessary professional competencies, position, and the society's trust, making it essentially American government's most civilian partner in museum affairs and development.

Generally speaking, Taiwanese people's cognizance of professionalism, in particular the parts in relation to public (or social) responsibility, is somewhat inadequate. Take the dispute resulting from a group agreement between some primary and secondary school teachers in Yilan County and the county government for example, involved teachers failed to consider that they are part of the entire school and they became trustees due to their professionalism. In order to interpret democracy as the right to equality, involved teachers might think that being entitled to the same right as laborers' rights to agree on an agreement is a form of progress. As the consciousness of rights and responsibilities originates from being managed or dominated, being professional is associated with the right to self-designing standards, self-management, and self-government. However, professionals also have to stress on their social responsibility and moral consciousness in order to logically convincing and legitimate. Therefore, from a western perspective, professional teachers are actually demeaning themselves by fighting for laborers' rights.

Employed students accused university teachers for violating rights that employees are entitled to. Relevant government agencies reviewed the case accordingly to law. However, some university presidents protested that by doing so, the government had disrupted universities' self-governance and may cause harm to the code of ethics for the teacher-student relationship. At present, universities let students mark teachers' performance as (an) important ground for teachers' evaluation. It has ruined the "who teaches me for a day is my father for a lifetime" code of ethics for the teacher-student relationship in the traditional culture.

University teacher evaluations are geared to stress on academic achievements. The number of journal papers in the Social Sciences Citation Index (SSCI) along with the number and amount of research grants from the National Science Council (NSC) of the Executive Yuan are considered as the main evaluation criteria whereas teachers' performance in teaching and social services is slighted. These evaluation criteria, which can be easily quantifiable, are used to represent internationalization in academia and position in the world arena, and making academic contribution becomes university teachers' most important mission. The professed professionalism could have nothing to do with social responsibility and the code of ethics for the teacher-student relationship. Problems and impacts on higher education resulting from merely focusing on quantifiable figures and

formalized performance evaluations have received attention and public criticism.

Professionalism in Taiwan usually refers to an individual's qualifications or advantages whilst the notion of a professional community is nonexistent. Being acclaimed as being professional is usually closely linked with an academic discipline or an academic department at school and is only about particular knowledge or skills which help finding employment or make a living. An individual who obtains credentials in the form of academic degrees or pass exams to receive relevant certificates could own a professional title, position, and relevant benefits for the rest of his/her life. Working at a public organization is essentially a guarantee for lifetime employment. For that reason, many people are willing to devote many years' time in hopes of passing the government's recruitment exams and get a job at government agencies. In an attempt to build and develop more museums in recent years, public and private universities are approved by the Ministry of Education to have postgraduate programs in museum studies. Obtaining a master's degree in a museum-related field is equal to obtaining a professional qualification. In this way, professionalism is basically determined by government agencies whereas an individual has to need to face the challenge of social responsibility or be involved in issues relating to a professional community's autonomy.

Given that public museums, cultural institutions, and education institutions are bankrolled by government funds, acknowledgment and support from the public are irrelevant and unimportant. Museums are not accountable for facing the society together. Regular seminars are a platform for exchanging results of academic research whilst academic publications are prerequisite conditions for an individual to get promoted. In other words, the government is responsible for entities that it founded whereas professionals have no obligations to bear the blunt. With the rotation of ruling parties in democracy, the ruling party can bear all successes and failures.

Due to improper operations and management, civilian-run public interest groups and organizations are unable to develop the self-governance and self-management abilities, effective civil society co-governance, as well as constructive and positive civil society power (Jiang). Cultural notions resulting from practices in the traditional Chinese society such as "one exam determines one's life forever" and one can become a scholar-bureaucrat and be entitled to civil servants' rights by means of passing exams' selection and elimination, competing exam marks with other contestants, and obtaining qualifications or credentials seem to continue to exist in the current society in Taiwan. The government, knowledge elites, and the society's general imagination of the third sector seems to be one of the reasons.

In terms of management, mentoring, and assistance provided to civilian-run industrial and commercial enterprises and groups, the government promulgated the “Industrial and Commercial Enterprises and Groups Act”, founded trade associations for various industries and made these trade associations legitimate representative in their respective industries. Requirements such as “an enterprise has become a member of the trade association in the geographic area where the enterprise operates is business”, “one trade association for one industry”, and “a subordinate association must belong to a head association” are in place. Various industrial and commercial groups and interests that they represent have a close relationship and interaction with relevant government departments. Various businesses’ conglomeration or split-up is usually reflective of these businesses’ consensus and coalition as stakeholders in a chain of industries.

In addition, according to the Civil Society Organizations Act’s regulations about occupational groups, the person in charge of a business may also participate in and organize various “associations” such as the Chinese National Association of Industry and Consumers, Taiwan (CNAIC) and the Small and Medium Enterprises Association to represent common interests as well as give advice to and negotiate with the society and the government. Although the Department of Social Affairs under the Ministry of the Interior is nominally the administrative agency of civil associations, it in reality has no substantial management function.

In terms of nonprofit departments in civil society, i.e. social associations such as a variety of charity and social service associations along with academic and culture associations in the Civil Associations Act, there is utterly nothing similar to governing laws for trade associations of industrial and commercial groups. Despite the existence of organizations that bear a resemblance to trade representatives such as “Chinese Association of Museums”, “Taiwan Society for Anthropology and Ethnology”, “Taiwan Sociological Association, these organizations’ functions are generally inadequate. Professionalism in the fields of social services, academics, and culture is verified by universities’ academic credentials or assessments of performance in academic publications. Therefore, professionals have no need to think about or respond to social and market changes and demands. It might be the main reason that these professionals’ benefits and position are mainly endorsed and guaranteed by the government and they do not have to face conflicts of interests in the society. A closed tall wall in academia is therefore erected to hinder social services, education, culture, and economy from joining together.

However, are interests, competition, and conflicts in the industrial and commercial

fields nonexistent in social services, academia, and cultural fields? When only quantitative indicators such as the number of published academic journals and papers, the accumulated points, and formal performance evaluations are valued, is the intention to replace narratives, discourses, and dialogues with figures so the simplification could make political manipulation and profit making easier. Does it mean that nonprofit, charity, and public interest have no need to face more specialized and higher-standard challenges? Alternatively, do the formal verification and performance evaluations endorsed by the government prohibit the possibility of civil society's internal confrontations and conversations?

Lately, due to all nations' progressively tightening financial conditions, advanced countries have gradually encouraged non-government organizations to become industrialized and become social enterprises. Public interest enterprises eventually need to face market challenges. In the process of monitoring and counterbalancing each other, enterprises could engage in substantial dialogues and discourses, have mutual understanding, reach consensus, face social responsibility together, establish an unbiased self-appraisal mechanism, and march toward virtuous competition and development.