

**A Referendum on Taiwan's Future:
No Easy Exit**

by David Lai

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Executive Summary

In the run-up to the 2004 presidential elections, Taiwan faces the prospect of a national referendum on whether it should join the World Health Organization (WHO) as an observer. This referendum is connected to Taiwan President Chen Shui-bian's desire to prepare the Taiwan people for a vote on the future of Taiwan: whether it should become an independent sovereign country called Taiwan or unite with mainland China. The complexity of the China-Taiwan question and the realities of the international relations and international legal provisions make a referendum on the China-Taiwan question a hazardous political event.

Any Taiwan referendum on independence is also a claim on the territory of Taiwan and its surrounding islands. Many countries would see this as a case of secession from China and a violation of the United Nations principle of national territorial integrity. The respect for both self-determination and territorial integrity is stressed in international law and practice, but the international community has not established a clear position on the issue of secession. There is a significant international legal framework that protects self-determination as an individual right, but there is no guarantee of self-determination at an aggregate level. While international law and institutions accept self-determination as a political right, they have not yet established the proper scope and content of this right, nor who is entitled to invoke it.

Because the PRC has no legal framework to deal with a referendum on independence in a peaceful way, the PRC will not use the law to deal with Taiwan's quest for independence. Rather, the PRC will use its political and military power (including the use of force) to settle the problem. Although Taiwan may draw international sympathy in pressing for independence, it may not receive solid international support (such as recognition and help to resist any PRC use of force). Whether the PRC and Taiwan will come to blows depends on the critical role played by the United States. Its obligations are outlined in the Taiwan Relations Act of 1979, which commits the U.S. to help defend Taiwan. If Taiwan and the PRC start a war, the United States is certain to intervene. It is the only outside power with the capability and presumably the will to hold the two sides in check. Given these factors, a premature push for referendum in Taiwan will do more harm than good.

Despite the Taiwanese public's division over the issue of unification and independence, most agree that the status quo is preferred. The unconditional peaceful settlement of the Taiwan-China question is possible only if the PRC is willing to abandon the use of force as an option. This will take a great leap of faith on the PRC's part. It is

going to take time if this willingness on the PRC side is to emerge, but there is yet no sign of such development. The U.S. role creates the conditions for a stable status quo in which both Taiwan and the PRC have time to work out a peaceful solution.

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The fight over referendums has taken center stage in Taiwan's political arena. Lawmakers of the Taiwan Legislative Yuan came to blows at sessions debating a referendum bill. President Chen Shui-bian has made repeated pledges to hold two referendums before Taiwan's presidential election in March 2004, regardless whether the Legislative Yuan passes the bill. One referendum will be on the fate of Taiwan's fourth nuclear power plant; the other will vote on Taiwan's quest to become an observer to the World Health Organization (WHO).

While a referendum on the nuclear power plant is indubitably Taiwan's own business, a popular vote to boost Taiwan government's effort to apply for membership at the WHO has international consequences. It will intensify a struggle with the People's Republic of China (PRC) at the WHO, and the United States will be part of this quarrel.

The PRC has steadfastly opposed Taiwan's quest to become a member of the WHO because membership at this international organization requires sovereign nationhood status. The PRC has ensured that the WHO agrees that Taiwan is not an independent sovereign country (in spite of Taiwanese rhetoric to the contrary), and therefore not qualified. The last time the WHO voted on Taiwan's membership issue was at its 1997 annual Assembly meeting in which 128 countries voted "no," 19 nations voted "yes," and the United States and four other countries abstained.

The U.S. now holds that observership at the WHO does not require nationhood status (the WHO provided observer status to entities such as the Vatican, the Knights of Malta, and the Palestinian Liberation Organization in the past). Congress has established two laws (Public Laws 106-37 and 107-10) and provided timely new resolutions to press the Bush administration to support Taiwan at the next WHO Assembly annual meeting in May 2004.

These proposed referendums, however, are only parts of a larger agenda. The real intent of initiating referendum is to prepare the Taiwan people for more serious business: a vote on the future of Taiwan, whether it should become an independent sovereign country or unite with mainland China.

This is not a trifling matter. The PRC has promised to use force against Taiwan if it takes this step. The United States will have to intervene diplomatically and militarily if a war breaks out between mainland China and Taiwan due to its commitments to the two sides (three joint communiqués with the PRC and the Taiwan Relations Act to the island). Indeed, U.S. *de facto* ambassador to Taiwan, Douglas Paal, has expressed concern to President Chen about the potential consequences of referendum in Taiwan.

Nevertheless, President Chen has vowed to press on. As referendums become a defining factor in Taiwan's upcoming presidential election, the situation in Taiwan and cross-Strait relations is bound to become more contentious.

Referendum: An Idea Distorted

At a glance, a referendum appears to be an ideal approach to settle the differences between mainland China and Taiwan. It is an exercise of direct and peaceful democracy. However, the complexity of the China-Taiwan question and the reality of international relations do not necessarily make referendum a peaceful means *per se*. Moreover, Taiwan and mainland China leaders propagandize referendum in distorted ways. A referendum on the China-Taiwan question thus can be dangerous business.

A new development in the referendum issue came largely from President Chen Shui-bian's forceful call in August 2002 and a persistent push since then. During his opening speech to the 29th Annual Meeting of the World Federation of Taiwanese Association (WFTA) in Tokyo, Japan on Aug. 3, 2002 (from Taipei through a video conference link),¹ Chen first lashed out against the PRC's "one-China principle," its refusal to abandon the use of force as an option for unification, and its effort to isolate Taiwan from the international community. Particularly, Chen was upset about the PRC's success in getting the Republic of Nauru, a tiny Pacific Ocean nation, to switch its diplomatic relations from Taipei to Beijing, reducing the number of nations with which Taiwan has formal diplomatic relations to 27. He went on to make the following remarks that caused quite a stir in China-Taiwan-U.S. relations:

...Taiwan is not a part of any other country, nor is it a local government or province of another country. Taiwan can never be another Hong Kong or Macau, because Taiwan has always been a sovereign state. In short, Taiwan

¹ The WFTA is a pro-Taiwan independence organization. Its annual meetings have been a rally-behind-the-flag occasion for pro-Taiwan independence activists around the world.

and China standing on opposite sides of the Strait, there is *one country on each side*. This should be clear.

...The decision to change the status quo for Taiwan cannot be made for us by any country, any government, any political party, or any single individual. Only the 23 million people of Taiwan have the right to decide the future, fate, and status of Taiwan. This is our long term ideal and common goal. And should the need arise, how will this decision be made? It will be made by referendum. *A referendum is a basic human right, and thus a basic right of the 23 million people of Taiwan, a right that cannot be deprived and restricted. I sincerely call upon and encourage everyone to give thought about the importance and urgency of initiating a referendum legislation* (emphases added).²

Chen's remarks caught Beijing, Washington, and even Taipei by surprise. (News reports revealed that the above was not on Chen's original prepared speech; it was an extemporaneous articulation of his view to the cheering crowd). His staff, along with Premier Yu Shyi-kun, head of the Mainland Affairs Council Tsai Ing-wen, and key figures of the president's party, the Democratic Progressive Party (DPP), all scrambled for damage control. Chen nevertheless had to send Chairwoman Tsai Ing-wen on an emergency trip to Washington to reassure the United States that there was no change in Chen's policy on the status of Taiwan.³

The PRC was furious with Chen's call of "one country on each side" of the Taiwan Strait. Its official newspaper, *People's Daily*, carried an editorial pairing Chen with his predecessor, former President Lee Teng-hui who in 1999 defined Taiwan and the PRC as having a "special state-to-state" relationship, as two troublemakers. Beijing reacted to Chen's call for referendum in a threefold manner. First, the official position, as always, was to dismiss it altogether – referendum understood as self-determination,

² Chen, Shui-bian, "Opening Address of the 29th Annual Meeting of the World Federation of Taiwanese Associations" Aug. 3, 2002, The Office of the President of the Republic of China.

³ Chen pronounced his policy on the future of Taiwan at his inaugural speech on May 20, 2002: "I fully understand that, as the popularly elected 10th-term president of the Republic of China, I must abide by the Constitution, maintain the sovereignty, dignity and security of our country, and ensure the well-being of all citizens. Therefore, as long as the CCP regime has no intention to use military force against Taiwan, I pledge that during my term in office, I will not declare independence, I will not change the national title, I will not push forth the inclusion of the so-called "state-to-state" description in the Constitution, and I will not promote a referendum to change the status quo in regard to the question of independence or unification. Furthermore, there is no question of abolishing the Guidelines for National Unification and the National Unification Council." Full text of Chen's speech is available at the Mainland Affairs Council website (<http://www.mac.gov.tw/english/>).

human rights, and direct democracy is simply not in the PRC's vocabulary.⁴ Second, semiofficial reaction came from the PRC's leading Taiwan watchers who have close government and military ties. They warned that Taiwan's decision to hold a referendum in the future would be tantamount to a declaration of war.⁵ Finally, there was a bullying demand from the Chinese propaganda machine (largely out of ignorance) that if a referendum is to be held over the status of Taiwan, all of China should take part in the vote. The Chinese believe that 1.3 billion mainlanders can easily outvote the 23 million people on Taiwan.⁶

Dr. Trong Chai, a prominent pro-Taiwan independence activist and a DPP legislator who has advocated the adoption of a referendum law for the past 12 years, embraced Chen's new initiative. Chai said the president's support would bolster those pro-referendum lawmakers' confidence. "If a referendum law were passed, it would be a precious sword that could be suspended above the head of China, so that Beijing won't dare lash out recklessly against Taiwan for fear of having to face pressure from international opinion."⁷

However, this may not be the case; international support will not necessarily come in handy either. The problem is as follows. First, even though Taipei maintains that Taiwan is an independent country called the Republic of China (ROC), by many accounts, ROC is history. Chen Shui-bian's push for a referendum on the political status of Taiwan is ultimately aimed at creating a new country called Taiwan (or the Republic of Taiwan as some pro-Taiwan independence activists call it). Many countries world would see this as a case of secession from China, and a violation of the United Nations (UN) principle of national territorial integrity. International law and the international community have not established a clear position on the issue of secession. The respect for both self-determination and territorial integrity is stressed in international law and practice. Taiwan may have many reasons to justify a referendum on independence. However, the PRC would be able to argue that the China-Taiwan issue is a Chinese internal matter and would be able to keep international intervention at bay.

⁴ Xu, Shiquan "Taiwan Authorities Warned to Shun from Dead End," *People's Daily*, Aug. 20, 2002.

⁵ One prominent scholar, Yan Xuetong, director of the Institute of International Studies at Tsinghua University, said a referendum is just the means with which the separatists in Taiwan attempt to legitimize their separatist activities to fulfill their own political ambitions. Yan warned that unilateral pursuit of separating a part from a country would only result in civil war. *People's Daily* "Taiwan Leader's Proposed 'Poll' a Disastrous Step," Aug. 18, 2002.

⁶ This has been a long-held position in the PRC's propaganda. Many Chinese Taiwan watchers share this view and routinely assert this demand in their writings.

⁷ Chai, Trong, "Referendum Law Could Be Precious Weapon" *Taipei Times*, Aug. 7, 2002.

Second, the PRC has no legal and moral framework to deal with secession in a peaceful manner. The Quebec quest for separation from Canada is a striking contrast to the Taiwan case. Taking note of the growing possibility that pro-independence Quebecois could win a referendum to separate Quebec from Canada, the Canadian Supreme Court ruled in 1998 that Quebec could declare independence through a clearly articulated referendum and with a clear majority vote by its people (the Quebecois only). But following such a vote, Quebec must negotiate with the rest of Canada to settle a wide range of relations (and conflicts) before the separation can take effect, and the rest of the union also has an obligation to enter the negotiations.⁸ The Canadian Supreme Court has not said anything about what happens if negotiation fails. In a democracy like Canada, one can expect the parties would continue to resolve the issues through peaceful means.

The situation in China is entirely different. The PRC will not turn to the law as the means to deal with Taiwan's quest for independence. Instead, it will use its political power, including the use of force, to settle the problem. In other words, the PRC is simply not prepared to deal with Taiwan's peaceful exit. If peaceful means fail, force is still the final arbiter of this dispute.

In a recent visit to Taiwan, John Duncan, a member of the Canadian House of Commons, gave the Taiwan leaders a heart-to-heart talk on referendum: Referendum is a complicated issue. It may not be necessarily the best thing for Taiwan. "I personally would not recommend it."⁹

Finally, one has to see that in the history of self-determination, bloodshed and violence have been the rule, and peaceful secession the exception. Furthermore, Taiwan's protectorate, the United States, is ambivalent about Taiwan's quest for independence. Although the United States was founded on the principle of self-determination and has been a chief advocate for this principle, it nevertheless has held a mixed record of support and opposition to national independence through self-determination in the past 100 years.¹⁰ Taiwan may count on the United States for support to continue the current "no-

⁸ "Reference on Secession of Quebec" Canadian Supreme Court Ruling, 1998.

⁹ *Taipei Times* "Lawmakers from Canada Highlight Referendum Pitfalls," Jan. 24, 2003.

¹⁰ The U.S. position on the Quebec case is that while the United States respects the principle of self-determination, it values its relationship with a "strong and unified Canada" (President Clinton's Federalism Speech at Mont-Tremblant, Canada, Oct. 8, 1999). It is silent about the Chechnya case. In the past, the United States once voted against or abstained on UN resolutions on self-determination. Its handling of the Micronesia, Spanish (Western) Sahara, Portuguese East Timor, and the Eastern Pakistan self-determination cases is questionable. See John F. Murphy "Self-Determination: United States Perspectives," in *Self-Determination: National, Regional, and Global Dimensions*, edited by Yonah Alexander and Robert A. Friedlander (Boulder: Westview Press, 1980) for a good discussion of these cases.

unification-no-independence” status quo, but not to back its quest for independence. In short, a referendum does not offer Taiwan an easy exit from the China-Taiwan question.

Self-Determination and Territorial Integrity

In his public statements, Chen Shui-bian argues that self-determination is a basic human right and the Taiwan people should have the right to determine their own future. However, this is only part of the story. Taiwan’s referendum to determine its political status is also a claim on the territory of Taiwan and its surrounding islands. The PRC will call this an attempt at secession, and many countries in the world would have to go along with the PRC’s position. The problem is that while international law and institutions accept self-determination as a political right, they have not yet established the proper scope and content of this right. Neither has international law made clear who is entitled to invoke this right. Moreover, international law and institutions are nevertheless ambivalent about secession. Thus in pressing for independence through a referendum, Taiwan may draw international sympathy, but it may not receive solid international support (such as recognition and actual help to resist the PRC’s forceful response). For proof, we should review the relevant international laws and claims about self-determination.

Self-determination as an idea and practice can trace its origins to the ancient Greek city-states. However, it gained significance first through the American Declaration of Independence and then the French Declaration of the Rights of Man and of the Citizen, both advocating civil and juridical equality through the exercise of popular sovereignty. At the end of World War I, President Woodrow Wilson put forward his famous Fourteen Points advocating the principle of self-determination for settling postwar territorial disputes. However, the major European powers did not accept Wilson’s call. The Paris Peace Treaty of 1919 did not even mention this principle. In the meantime, Soviet leader V.I. Lenin published *The Right of Nations to Self-Determination and Declaration of Rights of the Peoples of Russia* in 1914 and 1917, respectively, making self-determination and secession a legal right for the 15 Soviet republics. The Soviets kept this provision in their successive constitutions until the breakup of the Soviet Union in 1991. This provision is perhaps the main reason why the disintegration of the Soviet Union went so swiftly and without bloodshed.

Wilson’s ideas nevertheless continued to influence the development of international relations. Finally, in 1945, the United Nations accepted the principle of self-determination and stated it at the beginning of the UN Charter.

Article 1 (2) To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.

Article 1 (2) of the UN Charter was to become the standard text on self-determination for future international law and UN resolutions. However, from the beginning, this provision has suffered from two fundamental problems. What is “self-determination” and who are the “peoples”? The UN Charter drafters (government officials from the original 51 nations) did not make it clear. According to the record of the UN Conference on International Organization (the UNCIO drafted the UN Charter), the committee was divided on these terms. “The expansive view was that the ‘principle corresponded closely to the will and desires of peoples everywhere and should be clearly enunciated in the Charter’; the narrow view was that ‘the principle conformed to the purposes of the Charter only insofar as it implied the right of self-government of peoples but not the right of secession.’”¹¹

Nevertheless, because UN members must be sovereign states, many interpret equal rights and self-determination as principles governing the relations among member states. In other words, these terms suggest that UN member states, large and small, are equal; they have the right to determine their own form of government; there should be no interference on each other’s internal affairs.

Although the two key terms remained undefined, they were nevertheless used in other important international documents such as the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1976), and so on.

The framers of the UN Charter and other international law documents understood that the principles of self-determination, sovereign rights, and territorial integrity were antithetical to each other, yet they found no simple solution to this contradiction. Thus, with the exception of the Human Rights Covenants, we find in every international law document addressing the self-determination issue the reassertion of sovereign rights and territorial integrity.

The conflict between these two principles stands out in the landmark UN General Assembly resolutions addressing self-determination issues. The following provisions are

¹¹ Quoted in Musgrave, Thomas D., *Self Determination and National Minorities* (Oxford: Oxford University Press, 1997), p. 64.

from the Declaration on the Granting of Independence to Colonial Countries and Peoples, General Assembly Resolution 1514 (XV), December 14, 1960.

Paragraph 2: All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Paragraph 6: Any attempt at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.

Paragraph 7: All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity.

The main reason this declaration stressed the principle of territorial integrity is that while the UN General Assembly sought to facilitate de-colonization, it wanted the emerging independent states to stay within existing boundaries. If the emancipated “peoples” were allowed to break up existing boundaries and establish their own “states” in a truly self-determined way, it would have created an anarchic situation. Unfortunately, the colonies’ borders were all drawn and redrawn by the colonial powers based on the latter’s strategic designs rather than the former’s political, social, and cultural situations. As a result, the colonial age ended, yet the problem of self-determination remained.

Ten years later, the General Assembly passed another landmark resolution, the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations, G.A. Res. 2625 (XXV), 24 October 1970. This declaration made a far more substantial effort to elaborate the principles of self-determination and sovereign equality.

Paragraph 1 By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

Paragraph 4 The establishment of sovereign and independent State, the free association or integration with an independent State or the emergence into any

other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Paragraph 5 Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

These three paragraphs went beyond all previous efforts to expand the scope of self-determination. However, clearly mindful of the disruptive nature of self-determination, the drafters of this declaration had to impose some restrictions. Indeed, stretched to its extreme, complete self-determination would create a world of anarchy. Most of the nation-states in the world are multi-ethnic and multi-cultural. Complete and free self-determination as provided by these provisions could easily lead to the breakup of these nation-states. Hence the following paragraph.

Paragraph 7 Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.

There are other UN resolutions addressing the issue of self-determination in the post-World War II era but the declarations and resolutions presented above contain the basic provisions. Plainly, the world community accepts self-determination with reservations. The main problem is the difficulty in defining the scope of self-determination and the “peoples” who can invoke this act. Self-determination as an individual right makes sense, but is questionable at an aggregate level. Where can we draw the line? Since most nation-states are composed of multi-nations with crosscutting ties of history, religion, language, ethnicity, and so on, it appears close to impossible to come up with an all encompassing definition for these terms.

If Taiwan opts for self-determination, it will have to confront this issue. As is evident from the international laws cited, international support is not a foregone conclusion in Taiwan’s quest for independence.]

The Status of Taiwan: “He Said,” “She Said”

Can Taiwan argue that its call for independence is not secession and deserves international support? There is no simple answer to this question. The PRC maintains that Taiwan is a part of China; therefore, Taiwan independence is secession and should not have international support. The current Taiwan administration categorically rejects the PRC’s claim. The United States leans toward Taiwan and maintains that the status of Taiwan is undetermined. The international community is divided. Currently 165 countries in the world recognize the PRC as the sole legal government of China with Taiwan as part of this China. Only 27 small nations maintain formal diplomatic ties with Taiwan. However, the 165 countries view the China-Taiwan question in different ways. Some *endorse* the PRC’s claim on Taiwan. Others only *acknowledge* the PRC’s position. It is worthwhile to see what each party has to say to support its positions.

The PRC Position. The PRC claims Taiwan as an alienable part of China. The PRC White Paper on Taiwan asserts that “all the facts and laws” about Taiwan “prove” this claim.¹²

- Taiwan is a natural part of China’s territory. China’s 1993 White Paper on Taiwan states, “[I]ying off the southeastern coast of the China mainland, Taiwan is China’s largest island and forms an integral whole with the mainland.”¹³
- Taiwan has belonged to China since the Three Kingdoms of the third century A.D.¹⁴
- Taiwan is culturally part of China. “Taiwan culture is a part of Chinese culture. It has its roots in the mainland. The Chinese compatriots on both sides have the same ancestors and use the same language. Chinese culture is rooted in the spiritual and material life of Chinese people on both sides of the Taiwan Straits. In the modern history of Taiwan, Taiwan culture received strong

¹² Taiwan Affairs Office & Information Office of the State Council, PRC “White Paper: The One-China Principle and the Taiwan Issue,” www.chinataiwan.org. I added the quotation marks to show the typical style of the PRC’s ignorance and overbearing nature – one cannot have “all the facts”; “facts” do not speak for themselves; and facts are subject to interpretation and manipulation. Facts can disprove claims, but are hard pressed to “prove” things.

¹³ Taiwan Affairs Office & Information Office of the State Council, PRC “White Paper: The Taiwan Question and Reunification of China,” www.chinataiwan.org.

¹⁴ *Ibid.* Also, see Cui Zhiqing et al., *Taiwan: An Inalienable Part of China* (Beijing: People’s Publishing House, 2001) and articles on the PRC’s chinataiwan.org website, History as Witness section.

influences from Western culture, but compatriots in Taiwan have always kept their dignity as Chinese and Chinese cultural characteristics.”¹⁵

- There are legal bases for PRC’s claim on Taiwan. These range from the Cairo Declaration of 1943 to the current international recognition of the PRC. As the PRC White Paper (2000) puts it, “under both domestic and international laws Taiwan’s legal status as a part of Chinese territory is unequivocal.”
- The PRC and Taiwan fought for the legitimacy to represent China. No matter which side won the contest, Taiwan is to stay as a territory of China. A change in Taiwan’s government cannot change this status.

Taiwan’s Position. Taiwan’s position is divided. The pro-unification factions led by the former ruling party, Kuomintang (KMT), the People’s First Party (PFP), and the New Party (NP) share common views about unification and oppose Taiwan independence. However, they differ with the PRC on the terms, the approaches, and timing of unification. The pro-independence side headed by the current administration (with the support of the DPP, the Taiwan Solidarity Union (TSU) and pro-Taiwan independence organizations) rejects the PRC’s claims. The pro-Taiwan independence side’s arguments are listed below.

- On the geographical connection. The PRC’s claim – because Taiwan is geographically connected to China, it is part of China – is absurd. Hawaii is farther away from the U.S. homeland than Taiwan is from mainland China, but the distance does not prevent Hawaii from being a state of the United States. Hawaii does not need a geographical connection to become a part of the union. Yet although Vietnam, North Korea, and 13 other countries share borders with China, the geographical connections do not automatically make them “integral” parts of China.
- On the claim of historical ties. The PRC has omitted many details and its claim is designed to fool a less-informed audience.
 - It is true, as the PRC White Paper puts it, that there is a historical record of mainland Chinese sailing to Taiwan in ancient times; however, there is no record of them establishing permanent and effective governance of Taiwan.
 - During the Song (960-1279), Yuan (1271-1368), and Ming (1368-1644) times, China established garrisons on the Penghu Islands (the Pescadores), but did not occupy Taiwan.

¹⁵ China-Taiwan website, “How to Understand the Role of Culture in the Peaceful Unification of China?,” April 17, 2001 (www.chinataiwan.org).

- The Dutch and Spanish occupied parts of Taiwan from 1624 to 1642 and established effective sovereign control of their respective territories. The Chinese imperial government of that time, the Ming Dynasty (1368-1644), did not make any objection.
- The Dutch annexed the Spanish part and established effective sovereign control on the northern and southern parts of Taiwan from 1642 to 1662.
- In 1644, the Manchu overthrew the Chinese Ming Dynasty and established the Qing Dynasty on mainland China. Zheng Chenggong (Koxinga), a surviving adherent of the former Ming Dynasty, defied the Qing and mobilized troops in southern China to resist the Qing advance for about 15 years. In 1660, Zheng suffered a major defeat and decided to retreat to Taiwan with his troops, seeking a place to stage a comeback to the mainland (*i.e.*, to restore the Ming). Koxinga defeated the Dutch upon his arrival and established a kingdom that for the first time in Taiwan's history covered the entire island. It was also independent from the Qing across the Strait. Koxinga and his descendants ruled Taiwan for 23 years. Qing troops came in 1683 and conquered Taiwan. To a considerable extent, Koxinga's independent Taiwan refutes the PRC's claim that "at no time in history has Taiwan been a state in its own right."¹⁶
- In 1683, the Qing Dynasty included Taiwan into its map, making it part of Fujian Province. The second emperor of Qing, Shizong (1722-1735), issued an imperial order stating that Taiwan did not belong to China. He then asserted that the Qing conquered Taiwan and consolidated it in its territory.¹⁷
- For the next 200 years, the Qing maintained rather negligible control over Taiwan. Finally, in 1885, the Qing established Taiwan as a separate province. For the first time in history, a "Chinese" government exercised effective administration of Taiwan. However, it was a short-lived rule.
- The Qing lost a war to Japan in 1895 and ceded Taiwan to Japan. To the Qing, the secession of Taiwan was a small price to pay for the defeat. Presumably, Taiwan was an undeveloped and far-away island and had little strategic value for the Qing Dynasty. The secession was done

¹⁶ PRC White Paper on Taiwan 2000.

¹⁷ Qing official document quoted in Yuzin Chiautong Ng and Peng Mingmin, *Taiwan's Status in International Law* (Taipei: Yushan Publishing, 1998). PRC official writings generally celebrate Qing's efforts in making Taiwan an official part of China. However, these writings also admit that Qing initially did not want to incorporate Taiwan into China's territory, deeming it too far away to be strategically significant to the Qing and too costly to maintain such a far-away land (see Zhang Lianxi, Li Min, and Xiao Lan "Shi Lang, the Hero Who Pressed for the Incorporation of Taiwan in China's Official Map," (www.chinataiwan.org, April 2001).

through the Treaty of Shimonoseki on May 8, 1895. Japan ruled Taiwan for 50 years before relinquishing it upon its defeat in 1945.

- The claim of cultural ties does not hold water either. Common culture, such as history, language, ethnic origin, and religion is important for nation building. Yet it does not mean that peoples having a common culture have to stay together.
- On the legal status of Taiwan. The pro-independence side puts forward the following arguments to reject the PRC's "unequivocal" claim to Taiwan.
 - Upon Japan's surrender in 1945, the Republic of China recovered and maintained *de facto* control of Taiwan. However, in the peace treaty Japan signed with 48 other nations in 1951 at the San Francisco Peace Conference, "Japan renounces all right, title and claim to Formosa and the Pescadores," but has not mentioned to whom. Thus in international legal terms, the status of Taiwan was undetermined.
 - The international community does not have a solid position on the Taiwan question. Quite a number of countries have reservations on this issue. The United States uses the term "acknowledgement" of the PRC position on Taiwan.¹⁸ Australia, New Zealand, Spain, Malaysia, Thailand, and so on also use this term. Canada uses the term "take note" of the PRC's position. Close to 20 countries followed the Canadian approach when they established diplomatic relations with the PRC (*e.g.*, Italy, Chile, Belgium, Argentina, Greece, etc.). In 1972, when Japan established formal relations with the PRC, it stated in the Joint Communiqué that Japan "fully understands and respects" the PRC's position on Taiwan. Some countries recognized (or endorsed) the PRC's position upon establishing diplomatic relations with the PRC. Quite a few did not even mention the Taiwan issue (most of these cases occurred in the 1950s and 1960s). These diverse attitudes toward the Taiwan question suggest that the international community would have various reactions to the change of the status of Taiwan. They also suggest that while Taiwan may not have solid support

¹⁸ The United States "*acknowledges* that all Chinese on either side of the Taiwan Strait maintain there is but one China and Taiwan is a part of China" in the Shanghai U.S.-China joint communiqué of 1972. In the joint communiqué on the establishment of diplomatic relations between the U.S. and PRC of 1979, the United States "*acknowledges* the Chinese position that there is but one China and Taiwan is part of China." In the U.S.-PRC joint communiqué of 1982, the United States reiterated the line in the 1979 joint communiqué that "it *acknowledged* the Chinese position that there is but one China and Taiwan is part of China" (emphases added). Congress, however, has never endorsed the one-China acknowledgement. In the Taiwan Relations Act of 1979 Congress states it is the policy of the United States "to consider any effort *to determine the future of Taiwan* by other than peaceful means, including by boycotts or embargos, a threat to the peace and security of the Western Pacific area and of grave concern to the United States" (emphases added). The TRA clearly suggests that the status of Taiwan is undetermined.

from the international community, the PRC may not have assured international support either.

- Since 1949, Taiwan and mainland China have been divided and governed by two different governments; neither side had jurisdiction over the other. The PRC government is not elected by the people. The Taiwanese people have no voice and representative in the PRC government. Moreover, although the PRC claims to represent the whole China, it has never represented Taiwan in international organizations where Taiwan is excluded for not meeting the requirement of statehood. However, Taiwan is able to represent itself in many international organizations where statehood is not required, such as the Olympics, the Asia Pacific Economic Cooperation, the World Trade Organization, and so on. This argument qualifies Taiwan for self-determination under Paragraph 7 of the UN Declaration on Principles of International Law of 1970.
- In addition to these arguments, the pro-independence side also points to two other factors to support its objection to the PRC's claim on Taiwan.
 - The first factor is the persistent Taiwanese independence movement. In 1895 when the Qing ceded Taiwan to Japan, the Taiwanese people rose up in rebellion. The resistance was so strong that Japan and the Qing officials could not have their handover treaty signed in Taiwan but had to conduct the ceremony at sea on a naval vessel outside Taiwan. On May 25, 1895, before Japan forces set foot on Taiwan, a group of pro-Taiwan independence activists declared independence from both the Qing Dynasty and Japan and established the Republic of Formosa (also called the Taiwan Republic). The Republic lasted about six months before it was suppressed by Japan on Oct. 19, 1895.¹⁹
 - On Feb. 28, 1947 another large-scale Taiwanese rebellion broke out. The Republic of China government brutally suppressed this Taiwan people uprising. However, the "2/28" (Taiwanese and Chinese term for Feb. 28) rebellion has become the rallying symbol for the persistent pro-Taiwan independence movement.
 - The second factor is the *de facto* termination of the 50-year-old civil war between the PRC and the Taiwan during the 1990s and the eventual removal of the PRC's civil war enemy, the Kuomintang, from the thron following Taiwan's 2000 presidential election. Taiwan no longer pursues

¹⁹ Yuzin Chiautong Ng and Peng Mingmin, *Taiwan's Status in International Law* (Taipei: Yushan Publishing, 1998), Chapter 1. See also Zhang Lianxi, Li Min, and Xiao Lan, "Qiu Fengjia: an Anti-Japan Patriot," at www.chinataiwan.org, April 2001.

claims on China and wants to become an independent and friendly neighbor of the PRC.

Holding the Balance

From the above analysis, it is not hard for one to see the points made at the beginning of this article.

- Taiwan has good reasons for its quest for independence yet, it may not have assured international support.
- The PRC has done a poor job in its attempts at political persuasion. Its White Papers on Taiwan are poorly written and its claims on Taiwan poorly argued. Perhaps the PRC leaders think that their arguments in the White Papers are just for show; what really counts is the PRC's power capability and determination to keep Taiwan in the fold. Today, even though the use of force is becoming less and less acceptable in settling conflicts, the old saying still applies: The powerful do what they want but the weak suffer what they must. If the PRC leaders reject reason and rely only on military power to force unification with Taiwan, the international community can do very little about this brutal act from an international legal standpoint. However, this would mean the destruction of Taiwan. If the PRC wants to take Taiwan in whole and intact (in the great ancient Chinese military strategist Sun Tzu's terms), it must win the hearts of the Taiwanese people. To do so, the PRC must appeal to reason. The arguments presented in this article deserve the PRC's attention. The PRC must show more understanding in handling the referendum issue.
- Self-determination through referendum is Taiwan's own business. It is ridiculous to demand that the entire Chinese population vote on the issue. Currently, Taiwanese people are divided over the independence-unification issue. Repeated public opinion polls in Taiwan in the last decade or so have shown such steady divisions across all levels of society in Taiwan. Die-hard pro-Taiwan independence and pro-unification are the extreme portions of the polls. Together, they only make up less than 30 percent of public opinion in Taiwan. The majority of the Taiwan population want to continue the current status quo of "neither-unification-nor-independence," which differs from the PRC's propaganda claims that only a handful of people want independence. If the PRC's claims are true, why should it oppose a referendum? Why not let Taiwan people go to the polls and cast their votes for peaceful unification? The PRC's propaganda lacks understanding of and respect for the Taiwan people.

- If the pro-Taiwan independence movement can muster a clear majority of votes for independence through a clearly articulated referendum,²⁰ the PRC still has a choice to accept or reject the outcome of the referendum. Given that the PRC has no legal framework to deal with a referendum in a civilized way, it is more than likely that it will resort to the use of force. The price of a referendum is thus very high. Taiwan leaders must think twice before pushing for such an agenda – they must differentiate between what is wishful thinking and what is attainable.

Whether the PRC and Taiwan will come to blows depends on the critical role played by the United States. It is the only outside power with the capability and presumably the will to hold the two sides in check.

The United States has been involved in the Taiwan-China question since its inception. U.S. interests in Taiwan have evolved over the last 50 years. During the first two decades of the Cold War, Taiwan was an ally against communist China. The United States had a mutual defense treaty with Taiwan. When the United States established formal diplomatic relations with the PRC, Congress passed the Taiwan Relations Act of 1979 to maintain a strong relationship with Taiwan. As Taiwan made its transition from an authoritarian state to a democratic one in the late 1980s and 1990s, the “democratic connection” has become a new value in U.S.-Taiwan relations. Indeed, President Chen Shui-bian would go so far as to call the United States and Taiwan democratic allies.²¹

Taiwan also has strategic value to the United States – it is right in the middle of the Pacific island chains, overseeing the vital sea lanes and trade routes of Japan, South Korea, and the United States. As the PRC becomes stronger through economic reform and development, the United States has a strong interest in ensuring that Taiwan does not fall unwillingly into the PRC’s control and become a hostile checkpoint in the Western Pacific.

For all practical matters, the United States is not going to withdraw from this entangled relationship. The Taiwan Relations Act of 1979 commits the U.S. to help

²⁰ Currently, Taiwan lawmakers are debating the adoption of a referendum law and the scope of such a law. Pro-unification lawmakers oppose the passage of this law, and to a lesser extent, oppose the inclusion of referendum on issues such as unification or independence, constitutional amendments, bills to change national boundaries, national identity, etc. in the proposed law. Pro-independence lawmakers are pressing harder to adopt a referendum law. However, they have not given much thought on what questions to put on the ballot and how to articulate them in unambiguous ways.

²¹ President Chen Shui-bian made this remark in a speech to a conference on U.S.-China relations at Taiwan Cheng Chi University. He said that “current U.S.-Taiwan relations are the best since 1979; based on the universal values of democracy, freedom, and human rights, Taiwan and the United States have already formed an inseparable ‘democratic alliance’ relationship” (*Chinese World Journal*, June 5, 2002).

defend Taiwan. If Taiwan and the PRC start a war, the United States is certain to intervene. However, it can be stated that no matter how powerful the U.S. is, it cannot escape casualties in such a fight; no matter how hollow and backward the PRC's military power, it is a much formidable power than those the United States has fought since the end of the Cold War, namely Iraq, Serbia, the Taliban, and al-Qaeda terrorists. There will be potential high costs on all sides. It is therefore in the U.S.'s interest, and in the PRC's and Taiwan's interests, to see this issue come to a peaceful resolution.

It is clear that unconditional peaceful settlement of the Taiwan-China question is possible only if the PRC is willing to abandon the use of force as an option. This will take a great leap of faith on the PRC's part and there is no sign of such development. It is going to take time if this willingness on the PRC side is to emerge at all. A premature push for referendum in Taiwan does more harm than good in this respect.

Any U.S. effort to encourage Taiwan to move toward formal independence would make the situation worse by further antagonizing the PRC. Such a policy change would make the PRC leadership become more determined in its resolve to keep Taiwan at all costs. With increasing U.S. support for Taiwan, the PRC is seeing more than ever the strategic importance of Taiwan; it is a vital security position right in front of the "belly button of the PRC." With PRC leaders believing that the U.S. is attempting to encircle the PRC, we could expect that the PRC leadership to be less likely to abandon the use of force as an option for unification.

Although the Taiwanese people are divided over the issue of unification and independence, most agree that neither is imperative and that the status quo is the preferred course. The United States holds the conditions for a stable status quo. The two sides on the Taiwan Strait will then have some time to work out a peaceful solution.

About the Author

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