

TAIWAN: FROM SELF-DETERMINATION TO NEGOTIATING IDENTITIES?

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This paper sets out to explore how the alternative conceptualizations of national identity influence the interpretation of the national self-determination principle in Taiwan. It will be argued that major disagreements about the application of the self-determination principle to Taiwan reflect the political priorities of different ethnic groups. An analysis of the political importance of historical imaginations is performed to demonstrate the ways the visions of the nation are endorsed and contested. It is concluded that the overlapping nationalities (Chinese and Taiwanese) and the lack of consensus in Taiwan inhibit the principle of the self-determination being put into political practice¹.

Taiwan's international status has been an area of dogmatic political disputes that find their parallel in equally diverse opinions within the academic community. Major disagreements about the island's international status are routinely expressed in terms of questions which contrast the "one China" principle versus the national self-determination issue. Is Taiwan a sovereign state or is it a province of China? What constitutes China today? Is China the PRC on the mainland or the ROC on Taiwan (Wachman 1994: 22)? Who owns Taiwan? Can the principle of national self-determination be applied for Taiwan? Sometimes called the "Republic of Confusions", the legitimacy of the ROC is typically dubbed exceptional. This anomalous situation is recognized by lawmakers, politicians and scholars, both camps who easily discern whether a writer (or a speaker) sympathizes with Taiwanese independence movement or Chinese nationalism in Taiwan and favors unification with China.

This paper will focus on this conflict and ignore the conventional discussion of a people's right to self-determination which attempts to identify who has the right to self-determination and who are the "people" granted this right in the United Nations Charter. I will show that major disagreements about the application of the self-determination principle to Taiwan reflect the political priorities of different ethnic groups. I present evidence that the conceptualizing of the nation in Taiwan in contradictory and overlapping ways has led to confusion in

¹ I am indebted to Barry van Soest, Lin Chun-yu, Mei-shun Lo and Arnold Ross for their comments and suggestions.

Taiwan's self-determination discourse. I develop the theme that this confusion is manifested in conflicting interpretations of this international law principle. Finally, I conclude that the overlapping nationalities (Chinese and Taiwanese) and the lack of consensus in Taiwan inhibit the principle of the self-determination being put into political practice.

The concepts of nation and nationalism are some of the most ambiguous and contradictory in sociological theory. Constructivist/postmodernist account will be adopted within this study, regarding the nation as "invented" or "imagined community" (E. Gellner and B. Anderson, respectively) and nationalism as a form of discourse (Ozkirimli Umut), a struggle between different political discourses or ideological narratives. This theoretical approach generally assumes that elites produce and nurture national identities, making history, ancestral myths and culture a significant part of nationalist ideology. In Taiwan, the process of making the nation, as I will discuss below, is marked by the contradictory layering of identity, as different ethnic groups produce their own visions of the nation.

The birth and development of the principle of national self-determination has a complicated history. First formulated in the context of the aftermath of World War I and the dissolution of the Austro-Hungarian, Russian and Ottoman empires, the principle was not meant to have universal application (Connor 1967: 31). Controversy surrounded the national self-determination principle shortly after its incorporation into positive international law in 1945. However, the principle became central to the language of the nationalist ideology, and, indeed has had a huge effect on international life. A. Cassese discussed the importance of going beyond the realm of law while studying self-determination principle (Cassese 1995: 2). This study will adopt an approach that will highlight how frequently this international law principle is intermingled with politics. Among numerous definitions of the national self-determination, I am choosing M. Moore's conception "which involves the *equal* recognition of different national identities" (Moore 1997: 900). This approach will be helpful in interpreting claims of different ethnic communities in Taiwan as equally legitimate.

Imagining a Nation

It is often argued that no nation is authentic, but in Taiwan the activity of negotiating identities and making pragmatic choices is no doubt one of the perfect examples of late twentieth century nation-building. What caused the quest for a Taiwanese identity to emerge and grow?

Voices promoting a Taiwanese national identity articulated it as an alternative to the official China-oriented nationalism, proposed by the Nationalist party (Guomindang or GMD). It ruled Taiwan for over a half of a century after it settled on the island following the Civil War in 1949. Guomindang attempted to reorient the native Taiwanese population, who spoke better Japanese than Mandarin, towards China. What followed was the February 28, 1947 uprising, when thousands of locals were killed in the clash with Guomindang's police and troops. The GMD confronted the emerging Taiwanese nationalist forces who sought to free the island from a repressive alien government. The government acted in response with martial law and decades of white terror. However, overseas exiled Formosan political dissidents mostly in the

United States cherished the idea of the Taiwanese national identity, independence and the right to self-determination.

In the late 1980's, the native Taiwanese (*bensheng ren*) were no longer willing to "accept the insulting status of second-class citizens" (Quoted in White and Cheng 1993: 176). *Waisheng ren*, or mainlanders who moved to Taiwan around 1949, also had to find the new meaning of their lives in Taiwan after GMD gave up the plan to "recover the mainland from Communist bandits (*gongfei*)". Abandoning this goal helped to create a new concept of "shared destiny" or "common fate". Formulated in the late 1980's, it aimed to bring together all Taiwanese residents. After years of waiting to return to China, mainlanders slowly realized that Taiwan is their homeland. At the same time, the suppressed Malay-Austronesian minority (less than 2 % of island's population), started to raise "their voices" and debate the island's identity (White and Cheng 1993: 175), particularly the sensitive question of to whom the island really belongs.

The question about which of the ethnic groups is the real master was partly solved by a process of homogenization. Tensions and hostility among different ethnic and linguistic groups on the island were gradually disappearing. Taiwan's democratization played an important role in this process. Chu and Lin have recently noted that "political participation under a democratic regime helped develop a sense of collective consciousness among the people, transforming the 'Taiwan' from geographic unit to a political community and the term 'Taiwanese' from an ethnic term for native Taiwanese to a civic term for citizens of Taiwan" (Chu and Lin 2001: 123).

Discussing identity issues on a regular basis aimed to define further the meaning of the common fate, *Taiwanese*ness, and to revise the island's past in order to understand the present and be able to envision the future. Different narrations of the past emerged. Consequently, conflicting visions of the future were presented: eventual unification with mainland China, self-determination, or self-determination which would mean independence (Chu 2000: 309).

Explaining the process of growing national consciousness, B. Anderson posits a "national imaginary" in terms of which individuals select facts that affirm eternal existence of a nation (Anderson 1999: 43, 45, 47). This is somewhat similar to the argument of M. Hroch that national communities are "individual discoveries", and that intellectuals "invent" and nurture national sentiments for language, history, folklore, religion, theatre and music as symbols of national identification (Hroch 1993: 4, 7). The drive to fictionalize helps us understand why committed secessionists re-wrote history and why a conception of Taiwanese language (*Taiwen* or *Taiwan hua*) suddenly emerged, and why its usage became fashionable among even high rank politicians; and why Taiwanese religion was found to be unique. These national imaginations were used to justify the view that Taiwan has always been an autonomous entity from China. Our discussion will be sensitive to the symbolic role of these imaginations.

History was strategic in shaping Taiwan's national identity from the start. Promoters of reunification and independence movement leaders interrelated the past differently according to their final political goals. A. Wachman writes:

Those who appeal to the past cite historical data or theories to justify their views. ... Some endeavor to show that Taiwan was always a part of China and, therefore, should not be considered an independent state today. Alternatively, others argue that for the past 300 years Taiwan was rarely under the effective

control of the Chinese court and, therefore, should not relinquish its *de facto* independence now. They assume that if they accrete sufficient evidence that the way things were accords with their view of how things should be, then the weight of history itself will be persuasive (Wachman 1994: 34).

The message of the independence movement leaders was that Taiwan's oceanic location, its long separation from the mainland and the Japanese rule all contributed to the unique way Taiwan "gradually developed a lifestyle and values that were suited to its own survival" or even "prepared the ground for a genuine sense of national unity" (Quoted in Wachman, 1994: 44, 48). The notion Taiwan has its own autonomous history was promoted against the mainlanders' belief that it was merely a part of China's history. A half-century of Japanese rule was reinterpreted as contributing to effective administration and urbanization – necessary prerequisites for the successful economic development in the postwar era. The positive consequences of the colonial past were the key to justifying Taiwan's "significant difference" from the mainland, and provided secessionists a historical basis demanding for national self-determination.

This discourse has extended into the present. Proud of their successful democratization, reunification was rejected by Taiwanese residents due to the apparent conflict with the PRC's undemocratic system. Moreover, some regarded democracy's success a document of its historical mission first time in Chinese history achieve a peaceful change of the government. The clear irony of this argument is that although Taiwan is not here being interpreted as separated from China's history, the completion of this historical mission can only be understood as making Taiwan very distinct from China.

Official nationalism adjusted to the new trends in the society and is now constantly searching for markers of "Taiwan consciousness" (*Taiwan yishi*). Although ethnic politics remains the main obstacle in creating a united nation's voice, the political, cultural and academic elites are trying to construct a new identity. Lee Teng-hui's article in *Foreign Affairs* in 1999 defined the "new Taiwanese" (Lee Teng-hui, 1999). Fu Jen Catholic University's Graduate Institute of Textiles and Clothing will, with the help of the public, design in its three-year project "a 'new Taiwanese' fashion aesthetic" aimed to "retain the 'unchanging' elements of Taiwan's essence" (United Daily News, April 11, 2002). In August 2000, President Chen Shui-bian established a new presidential committee headed by Nobel laureate Lee Yuan-tseh to handle the identity consensus-building. Will this Chen's ambition to transform Taiwan's disparate ethnic identities into a mature nation materialize? Today, we can merely observe the debate's intensity. If focused only on ethnic rivalries, it might, it has to be emphasized, fail.

Interpreting International Law

Like the discussion of Taiwan's history, there was fervent debate concerning Taiwan's international status. Secessionists and unification advocates, employing international law principles and treaties, interpreted Taiwan's present status and future differently. This is how a text co-signed by 24 non-governmental organizations (including Taiwanese Association of University Professors and Taiwan Labor Front) starts its discussion of Taiwan's status according to international law:

China attempts to claim its jurisdiction over Taiwan using four principles of international law: first, every sovereign country has the right to protect its unity and territorial integrity; second, Taiwan historically belongs to China; third, the proclamation issued at the Cairo conference in 1943 states that Taiwan be returned to China; lastly, Taiwan is considered a part of China in the international world. The above may sound reasonable at first glance; however, we will demonstrate that these so-called “principles” cannot hold under an intensive scrutiny of international law. Taiwan, logistically and juristically, is a sovereign state that should attain an international status equivalent to that of its equals. It should also be stressed that Taiwan’s future can only be decided by the Taiwanese, not any superpowers or alien regimes (“Taiwan”’s Status According to International Law”).

The text encompasses a comprehensive exploration of all four principles, urging a state’s territorial right cannot override the principle of self-determination. The second principle is criticized by claiming that the “territorial supremacy led by China, while neglecting the will of the Taiwanese, not only violates international law but also reveals its territorial ambition” (Ibid.). The critic goes further, reminding us that historical ties with China cannot definitively determine to whom the jurisdiction belongs. The third principle proclaimed by mainland China leads the text writers to question whether the proclamation made at the Cairo conference is legally equivalent to an international treaty, because Japan was not among the attendants. The fourth principle is the least persuasive to the authors: they argue that most countries, which recognize Taiwan as a part of China use words such as “understand” or “notice”. Finally, they remind the reader that “countries not directly involved in a territorial dispute have no right to decide on the ownership according to international law” (Ibid.).

Voices advocating unification interpret international law treaties quite differently. Opposing pro-independence advocates, Byron N. Tzou counters that the 1943 Cairo Declaration is not at all controversial. Citing Article 24 of the Vienna Convention, he stresses that “international law accepts that not all treaties – in the broad sense, including declarations – have to be ratified in order to be legally binding” (Tzou 1992: 78). According to Tzou, the same could be said about the Potsdam Declaration of 1945. The pro-independence forces had claimed that the San Francisco Peace Treaty was crucial for resolving the status of Taiwan, where Japan had renounced “all rights, title and claim to Formosa and the Pescadores” (Quoted in Tzou 1992: 79). Tzou’s rejoinder is that even though the Treaty failed to state to whom Taiwan was to be delivered, this was the consequence mainly “of the complicated international political situation” – Korea’s civil war and U.S. policy which at that time preferred to leave Taiwan’s status undetermined to allow the U.S. to interfere in case Chinese Communists attacked the island (Tzou 1992: 79–80).

An interesting and widely discussed issue is the U.S. “one China” policy and the afore mentioned reference to the use of defining terms regarding Taiwan’s international status. In the 1972 U.S.– PRC Shanghai Communiqué and the communiqués signed by the PRC and the U.S. in 1978 and 1982,

United States has consistently stated only that it *acknowledges* the Chinese position that there is but one China, and Taiwan is a part of China. This phrase was deliberately chosen as the key word – “acknowledge” indicates only “cognizance of, but not necessarily agreement with, the Chinese position”. Interestingly, the PRC used the Chinese equivalent of acknowledge (*renshi*) in the 1972 Shanghai

Communiqué, but has used the Chinese equivalent of acceptance (*chengren*) in all other communiqués (Van Vranken Hickey 1997: 143).

Tzou challenges the claim that Taiwan's independence has a legal basis, urging the view that the different word use in the Chinese version of communiqués was a "position which the United States did not refuse" (Tzou 1992: 81). He draws the conclusion that both "acknowledge" or "*chengren*" do not deny China's sovereignty over Taiwan, but is silent about the fact that U.S. officials "have stated that, in interpreting this phrase, the U.S will adhere only to the English version" (Quoted in Van Vranken Hickey 1997: 143).

Edward Wei writes in the "Washington Times" about issues that bring us back to the national identity question. Commenting on the statement in the 1972 PRC – U.S. Shanghai Communiqué that U.S. "reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves", he reminds us of considerable ambiguities of the label "Chinese":

Subtle, but far-reaching, the opinion that the "Chinese themselves" should resolve the conflict suggests two critical misconceptions of this highly charged debate. First, the statement insinuates that Taiwan is wholly composed of people of Chinese identity. Although in 1972, those heading Taiwan's authoritarian government considered themselves Chinese and the legitimate Chinese government, the statement implicitly disempowers and ignores all those living in Taiwan who don't consider themselves Chinese <...> That the China-Taiwan conflict involves more than the Chinese but also the Taiwanese people is imperative to remember in the forum for debate of American policy even if it still adheres to "One China" policy. Second, the Communiqué language of "Chinese themselves" implies the conflict is <...> an "internal affair" (Wei 1998).

This illustrates how sensitive the identity question is: one does not want to be called Chinese, if one does not *feel* Chinese. Accordingly, one might not be willing to return, as Hou Dejian's famous song says, "under the feat of the great dragon". A person's homeland and nationhood are defined subjectively.

The fact the Shanghai Communiqué ignored the existence of a separate Taiwanese identity evokes the feeling of frustration and injustice for some Taiwanese, especially independence activists. As A. Wachman puts it, "one can learn something from the words people choose to describe themselves" (Wachman 1994: 39). For instance, many in Taiwan, including President Chen Shui-bian, consider themselves *Hua ren*², but they do not identify themselves as *Zhongguo ren* or citizens of China.

In this context, the claims made by pro-independence forces in Taiwan aimed to protect the boundaries of the cultural and political community. The logic of their argument assumes and promotes the simultaneous disintegration of the old (Chinese) cultural identity and construction of the new (Taiwanese) identity. Wei has observed that if Taiwanese are not empowered to make the choice of nationality, they suffer a violation of their human right. Consequently, the unification with China – in case the 23 million Taiwanese people do not have a say in it – would also be a violation of their human rights, an arbitrary deprivation of their nationality (Wei 1998).

² The term *Hua* is used to refer to China in a cultural, ethnic and racial sense. *Ren* means person or man. *Huaren*, therefore, relates to a person's ethnic, cultural, and racial ties with China.

The interpretation of the right to national self-determination in Taiwan was always given within the particular nationalist imaginations. As nationhood is “a fluid concept with no natural standard” (Koskenniemi 2000: 579), there is no explicit answer whether Taiwanesehood is something unique or is a part of Chineseness. Moreover, the concepts of statehood and sovereignty, equally predominant in the independence/unification debate within the Taiwanese society, are also equally open to dispute. Indeed, “conclusions drawn from history and international law – especially about matters of sovereignty and statehood – are contestable <...> scholars and jurists wrestle with definitions of sovereignty and statehood because they are inherently open to interpretation” (Wachman 2000: 191). Finally, the principle of national self-determination applied to the context of the China/Taiwan conflict is not an exception in terms of its ambiguity.

It is a paradoxical characteristic of a generally formulated right or a principle such as “self-determination” that, stated *in abstracto*, it seems to convey a value that most people would immediately endorse. The more concrete it is made, however – that is, the more it is applied as a right of this or that entity – the most controversial it starts to appear, with the result, finally, that it becomes useless when it seems most needed: in a dispute about the boundaries of a particular “self” against another (Koskenniemi 2001: 578).

Inventing their own respective traditions, China and Taiwan’s sovereignty claims overlap, although they intend to represent their authentic selves. The fact is that China’s sovereignty claims over Taiwan must confront Taiwanese nationalism, and Taiwanese “separatism” must confront Chinese nationalism on the mainland. Both nationalisms as internal systems of values are clearly unquestionable *per se*. Is it possible for either of the claims of one of these overlapping nationalisms to somehow be superior?

Of course not. But the fact that we can raise the question demonstrates how profoundly difficult the national self-determination principle is to apply in practical situations. In the China/Taiwan context, Koskenniemi’s remark that “the law should not... be seen as a set of ready-made substantive solutions but in terms of a procedure for bringing about acceptable ad hoc adjustments” (Koskenniemi 2001: 579), seems particularly relevant.

Conclusion

It is widely accepted that the ROC is a *de facto* independent state, having a permanent population, a defined territory, a government, and is qualified to enter relations with other states. Jean-Marie Henckaerts writes that “Whatever its name, Taiwan is a state... That this state is still unrecognized by a large majority of states does not mean that it is not a state” (Quoted in Wachman 2000: 199–200). The main question, therefore, is whether Taiwan should still declare independence. As often noted, proclaiming independence on the basis of self-determination is not part of the Taiwanese government’s strategy. The Democratic Progressive Party, traditionally associated with the independence movement, vividly downplayed the independence theme winning the presidential elections in March 2000. President Chen Shui-bian regularly reaffirms his commitment to refraining from declaring Taiwan’s independence as long as

China does not use force against Taiwan (The China Post, July 5, 2001). From its earlier focus on independence, the DPP's policy has moved towards a "New Middle Way". And yet Chen did add three words "Issued in Taiwan" to the front page of the Taiwanese passports – an affair that angered Beijing.

Some scholars have argued that were the Taiwan government to declare independence, it would need to reassert that it has been and remains the government of an independent nation-state and would still withhold recognition (Wachman 2000:197). To reenter the United Nations and other international organizations, the government needs to "come up with a more contemporary national identity that specifically defines the territory and citizens of Taiwan" (Taiwan News, January 21, 2002). Frequently asked question "can nations survive without states?" in the Taiwan context translates into a dilemma: can a state survive without a nation?

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NACIONALIZMAS IR TAUTŲ APSISPSENDIMO TEISĖ TAIVANYJE**Rima Sondaitė-Van Soest****Santrauka**

Straipsnyje nagrinėjama, kaip įvairios Taivano etninės bendruomenės sprendžia tautų apsisprendimo klausimą. Autorė mėgina parodyti, kaip priklausymas tam tikrai etninei bendruomenei veikia šį diskursą ir kaip šios bendruomenės kuria konkuruojančius tautinius naratyvus, atspindinčius jų politinius motyvus ir tikslus. Šiam tyrimui pasitelkiama postmodernistinių konstruktyvistinių nacionalizmo teorijų metodologija.