

# **Democracy, International Human Rights, and Diplomacy in Taiwan**

Draft working paper for the NZ Centre for Human Rights Law, Policy and Practice

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31 August 2012

**ABSTRACT:** In the past quarter century the Republic of China on Taiwan (ROC) has evolved from authoritarianism to democracy. Motivated by the need to ease diplomatic isolation, ROC leaders recently set about ratifying international human rights treaties including the ICCPR, ICESCR, and CEDAW. The ROC submission of the articles of ratification was rejected by the UN Secretary General but its leaders have persisted with human rights reforms, believing that Taiwan's power of example will project soft power and raise its international profile.

**KEY WORDS:** Taiwan Republic of China democracy human rights diplomacy  
ICCPR ICESCR CEDAW

## **Introduction**

As an exemplar of democratic practice and human rights protection, the Republic of China on Taiwan (ROC) would have been a poor choice twenty-five years ago. Now it is a model. This working paper traces Taiwan's transition from authoritarianism to liberal democracy and indicates how Taiwan's ambiguous international status contributed to this transformation.

## **Democratic transformation 1987-2000**

The ROC entered the 1980s as an international pariah led by a quasi-Leninist expatriate political party exercising martial law. Since losing the civil war in China

and retreating to the island of Taiwan the ROC had been led by the Kuomintang Party (KMT) comprised of mainland Chinese military and civilian elites as a one-party state whose authoritarian government intimidated, suppressed, or imprisoned political opposition leaders and media dissenters.

However, starting in 1987 the ROC government led by President Chiang Ching-kuo began instituting a series of domestic civil liberties reforms that brought liberal multi-party democracy to the country in little over a decade. These reforms included the lifting of martial law, the ending of media censorship and public assembly constraints, the abolition of distinctions between mainlanders and Taiwanese, and the institution of direct elections for the legislature and the presidency.

### **International human rights treaty ratification**

In 2000 the heretofore opposition DPP party was elected peacefully to power. The newly elected president, Chen Shui-bian, proposed further to broaden the scope of political reforms to embrace international human rights standards. His approach was to ratify the principal international rights treaties including the ICCPR, the ICESCR, and CEDAW, and to incorporate each into Taiwan's domestic law. This initiative was to be supplemented by establishment of an independent national human rights commission.<sup>1</sup>

The necessary legislative steps to ratify the international human rights treaties and to pass them into domestic law were slowed by resistance from the Control Yuan (a quasi judicial executive agency dominated by older mainlanders still sympathetic to the KMT Party), by President Chen's preoccupation with other economic and social reforms, and finally by Chen's loss of legitimacy as allegations of corruption emerged in his second term.<sup>2</sup> Nevertheless President Chen, spurred by the lobbying of women's NGOs, enthusiasm by DPP legislators, and the endorsement of his Ministry

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<sup>1</sup> Chen Shui-bian, "Taiwan Stands Up: Advancing to an Uplifting Era (Inauguration Speech, May 20, 2000)," *Taiwan Today*, <http://taiwantoday.tw/ct.asp?xItem=17992&CtNode=103>

<sup>2</sup> Jimmy Chuang and Ko Shi-ling, 'First Couple Questioned over Slush Fund', *Taipei Times*, September 8, 2006, found at <http://www.taipeitimes.com/News/front/archives/2006/09/08/2003326656>. After he left office in 2008 Chen was convicted of bribery and is now in prison..

of Foreign Affairs, in March 2007 authorised the signing of the CEDAW treaty. CEDAW was subsequently incorporated into Taiwan's domestic law.<sup>3</sup>

The next president of the ROC, Ma Ying-jeou, holder of a doctorate in international law from Harvard, carried on Taiwan's international human rights treaty initiatives. In May 2009 President Ma signed the instruments of ratification of the ICCPR and ICESCR and in December 2009 these covenants entered into force as law in Taiwan.<sup>4</sup>

The ROC's two decades of reforms have been recognised abroad: in 2012 Freedom House rated the ROC as 7 (top) on political rights and 6 (next to top) on civil liberties. These scores stand in contrast to those of the PRC at 1 (worst) on political rights and 2 (next to worst) on civil liberties.<sup>5</sup> The ROC can now claim to be one of the most liberal-democratic governments in the world.

### **Diplomatic Motivation**

At this point the question arises: what motivated the ROC leaders to carry out democracy and human rights reforms? The answer has two parts. One is domestic, relating to the rise of an educated and cosmopolitan civil society accompanying Taiwan's rapid export-led economic growth model, but lies beyond the scope of this brief working paper.<sup>6</sup> The other part of the answer relates to Taiwan's unique external relations, and is explored here more detail.

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<sup>3</sup> "CEDAW delegates link with NGOs," *Taipei Times*, March 4, 2007, <http://www.taipetimes.com/News/taiwan/archives/2007/03/04/2003350911>

<sup>4</sup> Office of the President, Republic of China (Taiwan), Ma Ying-jeou, "Remarks on Signing United Nations Human Rights Covenants", May 14, 2009, <http://english.president.gov.tw/Portals/4/images/PresidentOffice/AboutPresident/pdf/section11.pdf>

<sup>5</sup> Freedom House. *Freedom in the World 2012* (New York), found at <http://www.freedomhouse.org/report/freedom-world/freedom-world-2012>

<sup>6</sup> Winston Hsiao, "The Development of Human Rights in the Republic of China on Taiwan", *Pacific Rim Law & Policy Journal*, Vol 5, No. 1 (1995), 161-202. found at <http://digital.law.washington.edu/dspace-law/handle/1773.1/908>

In 1971 the ROC was expelled from the United Nations General Assembly and most international organisations, and the Peoples Republic of China (PRC) took its place in accordance with the One China Policy. The ROC was reduced to three dozen diplomatic partners, mostly Pacific and Central American mini-states, as most governments, including New Zealand's, switched diplomatic recognition to the PRC. The ROC was obliged to conduct its relations with the rest of the world through trade and cultural offices and informal or unofficial contacts by officials, within the limits set by Beijing, backed by the threat of retaliation.

### **Human rights as soft power**

Consequently ROC leaders turned to NGO channels to facilitate international contact, and this led them to adopt 'soft power', or power of example, as a means to win respect and gain voice in the absence of formal diplomatic relations. ROC leaders set about adopting Western democracy and human rights standards (and economic, social, and environmental standards as well) in order to make Taiwan into a model polity, thereby gaining influence by attraction.

Regarding adoption of international human rights standards, seeds sown earlier were ready to germinate, for the ROC had helped negotiate the UDHR in 1946-48, had signed the ICCPR and ICESCR in 1967, and was governed by a constitution with numerous human rights and civil liberties protections formally mandated (if not consistently implemented). As human rights standards became more prominent in international discourse, encouraged not least by democracy promotion by the United States in its Cold War rivalries and later 'democratic peace' doctrines, Taiwan embraced them. And as Beijing embarked on its post-Mao Open Policy led by Deng Xiao Ping and became less overtly threatening, the security rationale for Taiwan's authoritarianism eroded.

Throughout this transition period the ROC attempted to rejoin international organisations. It was eventually successful in joining APEC, the WTO, the International Olympic Committee, and the World Health Assembly, although not as a sovereign state but as a hybrid entity labelled Chinese Taipei or other title devised to mollify Beijing.

The ROC government's initiative to ratify international human rights treaties was part of this effort to ease Taiwan's diplomatic ostracism, for it promised to link the ROC to treaty bodies such as the ICCPR's Human Rights Committee, and to the UN Secretariat where treaty ratifications are deposited, thus enhancing the ROC's engagement with international institutions and raising the ROC's profile as a constructive actor. It was President Chen's assertion at his inaugural speech in 2000 that set this process in motion: 'The ROC cannot and will not remain outside global human rights trends...We will bring the ROC back into the international human rights system.'<sup>7</sup>

### **UN rejection but persistence with reforms**

But the ROC faced unique obstacles to completion of the ratification process. Because the ROC had no official status in the UN, it asked Nauru to submit the instrument of ratification of CEDAW, but the Secretary-General Ban Ki-Moon rejected it in March 2007.<sup>8</sup> Similarly, the ROC's instruments of ratification of the ICCPR and ICESCR, submitted on its behalf by Nauru, Belize, The Gambia, and St Vincent and the Grenadines, were rejected in 2009.<sup>9</sup> Undeterred by these brush-offs, the ROC in 2012 published its first report on compliance with ICCPR standards, fulfilling its obligation as if it were a treaty member, outperforming those treaty parties chronically delinquent in submitting reports.<sup>10</sup> Reports on compliance with CEDAW,

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<sup>7</sup> Chen Shui-bian, "Taiwan Stands Up: Advancing to an Uplifting Era (Inauguration Speech, May 20, 2000)," *Taiwan Today*, <http://taiwantoday.tw/ct.asp?xItem=17992&CtNode=103>

<sup>8</sup> Ministry of Foreign Affairs, Republic of China (Taiwan), "Ministry of Foreign Affairs proactively promotes Taiwan's participation in the Convention on the Elimination of All Forms of Discrimination against Women" (press release), April 30, 2007, <http://www.mofa.gov.tw/EnPDA/News/Detail/fa9796ae-10ce-4f79-8224-9952cedd2721?arfid=7b3b4d7a-8ee7-43a9-97f8-7f3d313ad781>

<sup>9</sup> "Rights ratification documents sent to U.N.," *The China Post*, June 15, 2009, <http://www.chinapost.com.tw/taiwan/foreign-affairs/2009/06/15/212217/Rights-ratification.htm>

<sup>10</sup> "Taiwan: Initial State Report on ICCPR & ICESCR" FIHR news item 25 April 2012 found at <http://www.fidh.org/Taiwan-Initial-State-Report-on>

which entered ROC law on 1 January 2012, are to be issued every four years as prescribed.<sup>11</sup>

Other initiatives to raise the ROC's international profile continued in parallel. In 2000 the Ministry of Foreign Affairs established the NGO Affairs Committee which served, among other functions, as an unofficial channel through which ROC officials could participate in international conferences, including those on human rights. In 2003 the Chen administration established the Taiwan Foundation for Democracy (TFD), modelled after the US National Endowment for Democracy. In 2004 its chairperson noted how the TFD helped the ROC to 'keep in step with international democratic processes to spread Taiwan's democratic experience'.<sup>12</sup> The following year the TFD established the Taiwan Youth for Democracy in Asia which in turn supported the World Forum for Democratisation in Asia.<sup>13</sup> It later collaborated with President Ma's administration and the Taiwan National University to conduct an international symposium on ICCPR and IESCR ratification on June 18, 2012. While President Chen's hope in 2000 of establishing a national human rights commission has not yet been realised, President Ma in 2009 reiterated that goal and in the interim has set up a Presidential Human Rights Advisory Committee to keep the project alive.

## **Conclusion**

Taiwan's adoption of international democracy, human rights, and civil liberties standards and their institutionalisation and implementation have been rapid, transforming Taiwan from an authoritarian one-party state into a model liberal democracy in less than a quarter-century. The reforms were driven in part by economic development and social liberalisation facilitated by the spread of education and cosmopolitanism. But also ROC leaders' need to reduce diplomatic isolation

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<sup>11</sup> June Tsai, "Legislative Yuan passes UN convention on gender discrimination," *Taiwan Today*, May 23, 2011, <http://taiwantoday.tw/ct.asp?xItem=164989&ctNode=452&mp=9>

<sup>12</sup> *Taiwan Foundation for Democracy* (Taipei, n.d.) Promotional brochure (received during an interview at the TFD on April 10, 2012, Taipei, Taiwan). I am indebted to my graduate student Mr Andrei Zhavoronko for sharing this brochure and his interview notes with me.

<sup>13</sup> Taiwan Youth for Democracy in Asia (official website), [http://www.tfd.org.tw/english/TYDA/index\\_english.htm](http://www.tfd.org.tw/english/TYDA/index_english.htm).

and amplify Taiwan's voice internationally entailed the adoption of high standards so that Taiwan's best-practice examples could be projected as 'soft power' through non-official institutions such as NGO conferences, scholarships, and personal exchanges. So ROC leaders' on-going project to enhance democracy and human rights has produced diplomatic utility abroad as well as achieved high political and social standards in Taiwan.