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A PEACE PERSPECTIVE ON THE TAIWAN UNITED NATIONS MEMBERSHIP QUESTION

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This Essay approaches the questions we are discussing today from a peace perspective; that is, within the framework of the United Nations Charter, specifically Article 6 which commits the world community to the peaceful resolution of disputes. All of the speakers agree, and I want to emphasize that Taiwan cannot and is not being ignored by the world community. The specific question this Essay raises is how should other governments respond to the United Nations membership question if peace is the goal.

Article 4 of the United Nations Charter opens membership to "all . . . peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations."

As Professor Chiu stated in a 1989 paper, there are four essential qualifications of a *State*: permanent population, defined territory, a government, and a capacity to enter into relations with other states. From that perspective, Taiwan is arguably entitled, as of right, to be a member of the United Nations. This assumes Taiwan is, as are all governments, "peace loving." Peace, then, is the first problem. According to many, the overriding purpose of the United Nations is peace—even at the expense of justice. Would membership in the United Nations for the Republic of China move the world closer to peace? It seems clear that the answer to this question is no. The People's Republic of China has made it plain that it would view such action negatively and take "appropriate" action.

Is there any problem that the world community faces that requires United Nations membership for Taiwan? Again, this must be answered in the negative.

What about "recognition"? As Professor Chiu acknowledged in his earlier paper, recognition decisions rest with individual governments. These decisions are political, rather than legal, in nature. The same two problems, more frankly objections, arise here.

First, recognition will not advance the cause for peace. Recog-

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dition is not necessary for the solution of any problems facing another country, or at least the United States. Importantly, the results of recognition decisions made without consideration of all the consequences can be seen in the Balkans. It is clear in retrospect that recognition of the new/restored nations of Croatia, Bosnia-Herzegovina, Serbia, Slovenia, and Macedonia would not, and did not, move the world closer to universal peace. In fact, recognition has complicated seeking a just solution to that area's problems.

The second problem area involves the question of justice. There are at least two issues here. First, should the People's Republic of China be able to "veto" membership (or even recognition) for Taiwan? This is primarily a question of non-intervention under Article 2 of the Charter. Article 2 denies the United Nations jurisdiction over "matters which are essentially within the domestic jurisdiction of any state." The second issue arises under the principle of self-determination in Article 1.

Until very recently, the government of the Republic of China insisted it was the sole and exclusive legitimate government of China. The same claim is unequivocally made by the People's Republic of China. Rather than viewing the matter as one involving the People's Republic of China vetoing the rights of the Republic of China, other states may reasonably see this dispute as an internal dispute which is "essentially within the domestic jurisdiction" of China.

In his 1989 paper, Professor Chiu referred to the precedents of the two Germanies and the two Koreas. However, the respective countries arrived at transitional phases through negotiations between the superpowers, their surrogates, and representatives of the particular governments. Today, there are no longer two superpowers and neither government involved is a surrogate. Thus, the only similarity is negotiations between themselves as the method of transition.

The second aspect of justice, the issue of self-determination, also has at least two parts. First, who is the "self"? And second, how is its will to be determined?

First, as to the self: Is it Taiwan alone which decides or does all of China have a say? Assuming it were agreed that Taiwan alone should decide its future, which group is Taiwan? Is it the indigenous people who represent a large majority? Or the current government of Taiwan?

Second, is the question of how matters are to be determined. This is directly related to the first question. Is such a decision made by voting or through an opinion poll? If through an election, is it an open, competitive, party election or a plebescite on the question of a new government? And of course, who drafts the question?

The history of the governance of Taiwan before the Cold War is relevant to all of these questions. According to Professor John Copper's 1990 book, *Taiwan: Nation-State or Province*, Taiwan was not thought of as part of China until the Ming Dynasty. It was even illegal to emigrate from China to Taiwan during that time. After the Manchus took control of China, the remnant Ming took control of Taiwan from the Dutch who had taken it over during the late Ming period. After two hundred years of Manchu control, Japan took over in 1894. For a brief period in 1894, the native Taiwanese proclaimed it the Independent Republic of Taiwan.

Although Professor Crawford in his 1979 book, *The Creation of States in International Law*, sets forth his and other contrary views, as the Chinese see it, at the end of the second world war, Taiwan was "receded" to China. Significantly, the Kuomintang viewed the Taiwanese as traitors for their behavior under the Japanese, while the Taiwanese viewed the Kuomintang as outside governors.

There is a 1920 League of Nations Committee of Jurists opinion which addressed the dispute over the Aaland Islands between Finland and Sweden. The determination was based in part at least on a consideration of whether the Islanders had fought with the Finns in their liberation struggle. If they fought together, they were to be considered as one nation.

Applying this opinion to the current situation between China and Taiwan, and assuming the second world war in China was in some form a war of liberation, then Taiwan is not one with China, either the Republic of China or the People's Republic of China. Interestingly, still according to Copper's history, in the 1930's, Mao specifically denied any interest in, or claim over, Taiwan.

Basil Davidson in his 1992 book, *The Black Man's Burden—Africa and the Curse of the Nation-State*, reviews the modern history of Africa. He sees the separation of the government and the people, in large part because of the artificial boundaries of the created nations, as the "prime reason" for the political-economic failures of the post-colonial period. Professor Partha Chatterjee in his book, *Nationalist Thought and the Colonial World*, provides the theoretical basis for distinguishing two nationalisms: the nationalism of the ruling elite (state nationalism) and the nationalism of the people (populist nationalism). This second nationalism is often more accurately referred to as an ethnicism or tribalism which is not congruent with state boundaries.

These insights, and the additional insight of international law scholars that democratic governments do not go to war against each other, make the question of what is a democratic nation a matter for serious analysis rather than rhetorical self-ascription.

CONCLUSION

All of this suggests that the way to peaceful change is not through recognition as an independent nation-state and membership in the United Nations. The two keys to progress are pragmatic, not dramatic; and evolutionary, not revolutionary. They are formed by interest, not ideology. We need to transcend the "realist" diplomacy which brought the endless war which has been the 20th century.

The first key is continued creative diplomacy both across the straits and between other countries and the Republic of China and People's Republic of China. Other countries should pursue their self-interest but in such a way that they not intervene in the dispute between the Republic of China and People's Republic of China. Certainly no attempt should be made to get an "official" statement of rights. The focus must be on preserving the current commitments to diplomacy. No third countries should make further arms sales of potentially offensive weapons in the area.

The second key is further democratization of both the Republic of China and People's Republic of China and democratization of diplomacy between nations generally. What the latter requires is to embrace and enhance the seventh proposal of the Chinese people to the founders of the United Nations—cultural and educational exchanges—massive broad based people-to-people contact and communication. Then the rest of the world will benefit from the long history, experience, and wisdom of China and the Chinese people.