



Taiwan Communiqué

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May 17th rallies in Taiwan

Protesting Ma Ying-jeou's rush towards China

The middle of May 2009 marked an important moment for Taiwan: for the ruling Kuomintang of President Ma Ying-jeou it marked the first anniversary of the Ma presidency, and it thus wanted to present its accomplishments and to emphasize that tensions in the Taiwan Strait had been reduced.

For the opposition DPP it marked an opportunity to let its voice be heard on the policy directions and accomplishments – or lack thereof – of the Ma administration. This it did in a series of statements and larger-scale rallies in both Taipei and Kaohsiung. On the following pages we present an overview.

Say "no" to the KMT and China

Photo: Taiwan Association of Univ. Professors

From the perspective of the democratic opposition in Taiwan, the developments over the past year represent a throw-back to earlier times when the KMT's autocratic rulers unilaterally decided policies and the direction of the country. They argue that while Mr. Ma Ying-jeou was democratically elected, his administration has — through a number of actions and policies — undermined



University professors at rally in Taipei

democracy and freedoms on the island, and is steering Taiwan into an unwelcome embrace with China.

To voice these concerns, the DPP organized a large-scale rally in Taipei, which was attended by more than half a million people, while a number of civic groups organized a simultaneous rally in the Southern port city of Kaohsiung, which was attended by between 150 and 200,000 people.

Photo: Taipei Times

In Taipei, four separate marches each headed by a major DPP member started in the four corners of the city, and converged on Ketagalan Boulevard in front of the presidential office. DPP Chairwoman Tsai Ing-wen led a protest from National Taiwan University under a banner titled “Protect Taiwan”, focusing on the downsides of closer economic ties with China, in particular the threats posed to local workers and farmers by the influx of cheap Chinese products.



Massive crowd at Ketagalan Boulevard in front of the presidential office (upper right).

A second group, led by former Vice President Annette Lu, focused on policies by the Ma administration undermining Taiwan’s sovereignty. It started from commercial districts in East Taipei. The third group was led by former Prime Minister and presidential candidate Frank Hsieh. It started from the Chungshan Soccer Stadium in the North of the city, and focused on unemployment which has reached a record level of near 6% in spite of Mr. Ma’s “6-3-3” election promises that he would bring unemployment down to below 3%.

The fourth group was led by former Prime Minister Su Tseng-chang, who started from the Wanhua District, a relatively poor area in West Taipei. It focused on “protecting the weak”. Once at Ketagalan Boulevard, the peaceful crowd listened to speeches from politicians, singing by various groups, and watched political skits way into the night.

Who is defending Taiwan's sovereignty?

DPP Chairwoman Tsai Ing-wen voiced the concerns most eloquently in a speech calling for a “Second Democratic Reform”: she lauded the older generation in the DPP for their key historic role in changing Taiwan in the late 1980s and early 1990s, when Taiwan made its transition to democracy, leading to full parliamentary elections and direct presidential elections.

Photo: Taiwan News

Dr. Tsai referred to the eight years when the DPP was in power, saying “...we made our share of mistakes, sometimes we didn't do enough” but emphasized that those years “were the most free and open years in Taiwan's history.” She then said: “Today, we can see clearly that our sovereignty is being lost, our hard-won democracy is being rolled back.” In particular she referred to the disregard for checks and balances between the executive and legislative branches of government, and the fact that the judiciary is being used as a political tool against members of the former DPP government.



DPP Chairwoman Tsai Ing-wen speaking at May 17th rally

She strongly criticized President Ma's policies of edging closer to China, and said it would not solve Taiwan's economic crisis but aggravate it. She added: “*We must not become part of China, we must become part of the world.*”

The rally formally ended on Sunday May 17th at 10:00 pm, but the DPP had vowed to continue with a 24 hour sit-in in front of the presidential office, which was attended by several tens of thousands of protesters. The sit-in had been contentious, because initially the Taipei City government, headed by KMT mayor Hau Lung-bin, had not wanted to give a permit. When the DPP indicated it would go ahead with the sit-in in spite of the lack of a permit, the city changed its mind. However, the DPP went ahead without the permit after all, in order to express its opposition to proposed changes in the Parade and Assembly Law.

The sit-in proceeded smoothly, with speeches and singing. At 10 pm on Monday, May 18th, DPP Chairwoman Tsai announced an end to the sit-in and urged the participants to head home. In her speech, Dr. Tsai also stated that in the coming months, the DPP will promote a referendum *against* the signing of the “Comprehensive Economic Cooperation Framework Agreement” proposed by the Ma administration, arguing that under the present circumstances such an agreement would compromise Taiwan’s sovereignty and national interests.

Approximately 300 demonstrators refused to leave the sit-in and continued until the early hours of Tuesday morning, when they also left.

The Ma administration after one year

Rolling back Taiwan’s democracy and sovereignty

By Michael J. Fonte, Washington Consultant on US-Taiwan relations

“If swallows leave, they will come back again someday; if an economic cycle goes bust, it will boom again. However, if a country is lost, it will never reappear.” These words by Democratic Progressive Party Chair Tsai Ing-wen sum up the key concern of the hundreds of thousands of Taiwanese citizens who both took to the streets on May 17th to protest the policies of KMT President Ma Ying-jeou and then stayed for a 24 hour “sit-in” in front of the presidential office.

Protecting Taiwan’s very existence as a free and democratic country was at the heart of this huge Taipei rally. In the course of his one year as president, Ma Ying-jeou’s “*One China*” fantasy has effectively undercut and undermined Taiwan’s unique sovereignty.

Starting with his May 2008 inauguration speech, Ma has startled Taiwan’s citizens with concepts which were in stark contrast to those of his election campaign. Turning from his professed identification with Taiwan via his “long-stays” in the countryside and his attempt to use Hok-lo, the first language of some 70% of Taiwan’s population, on 5/20/08 Ma instead spoke about “*the people on both sides [of the Taiwan Strait] belonging to the Chinese race*” and “*the high intelligence of the Chinese race.*”

To the vast majority of citizens who identify themselves as *Taiwanese* and not *Chinese*, this language was, to say the least, disconcerting. Even more disconcerting,

however, was Ma's assertion, "*In resolving cross-strait issues, what matters is not sovereignty but core values and way of life.*"

DPP Chair Tsai's critique of the inaugural address went straight to this point, "*In his entire inaugural speech, Ma didn't say Taiwan or the Republic of China is a sovereign state. He didn't even mention that Taiwan's future should be decided by the Taiwanese themselves — something he repeatedly said during his presidential campaign. It is worrying that the Chinese Nationalist Party [KMT] seems to be overlooking the issue of Taiwan's sovereignty.*"¹

Photo: Brock Freeman

Speaking in Taipei in December 2008, former AIT Director Richard Bush also voiced concern: "*Taiwan must be careful with sovereignty issues,*" he said. "*When putting aside the sovereignty issue, you must be careful not to damage Taiwan's long-term interests.*"

Putting sovereignty issues aside is bad enough, but placing Taiwan's sovereignty within the China-defined "*One China principle*" framework is deadly. This has been a consistent mantra of the Chinese Communist Party – that China's sovereignty is indivisible and Taiwan cannot possibly hold separate sovereignty from the "motherland."

President Ma ploughed straight into this "indivisible Chinese sovereignty" view and articulated it in an interview with the Mexican newspaper *El Sol* in late August 2008. Ma stated that the relationship between the two sides of the Strait was "special" not "state-to-state." His reason: the ROC constitution "*does not permit any other country in our territory. Likewise, the mainland's Constitution also does not permit another country in the territory defined by its Constitution.*" How does Ma seek to square this circle? By, with his fine Harvard Law School trained mind, declaring a policy of "*mutual non-denial.*" The ROC will not affirm the existence of the PRC, but won't deny it either. And the PRC is to follow suit. Problem solved.

Further elaborating on this diplomatic finesse that borders on the absurd, the Presidential office later "clarified" the nebulous relationship as one between a "*Taiwan region*" and the "*mainland region.*"

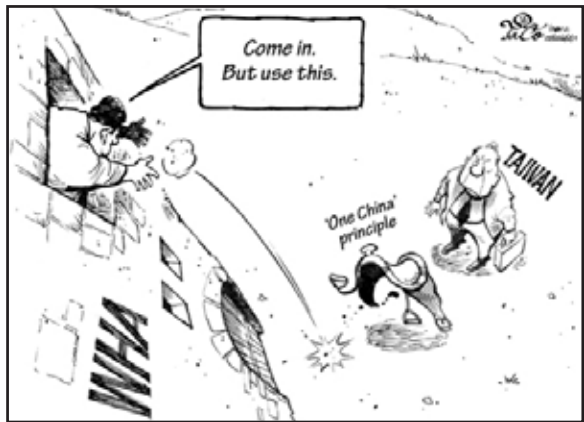


Young demonstrator protesting Ma in Seattle, June 2nd 2009

With this “creative” interpretation, the Ma Administration has proceeded to use the so-called ‘92 consensus as an agreed-upon “*One China*” framework for discussions and agreements with those-who-shall-not-be-denied across the Strait. Never mind that Mr. Su Chi, now Ma’s national security advisor, admitted that he made up this term. Never mind that all the participants in the 1992 meeting agreed upon was that they didn’t agree. Now, with the magical thinking of Ma and Su, and the connivance of their counterparts in the “mainland region,” there is agreement that a seemingly “virtual one China” exists and the two parties, the KMT and the CCP, can proceed with the business of denying any separate Taiwanese sovereignty.

Copyright: Taipei Times

Agree to “One China”, and the doors of the World Health Assembly open to the “Taiwan region.” Agree to “One China” and suddenly Chinese funds flow into the Taiwan stock market to prop up Ma’s faltering poll numbers. Agree to “One China” and PRC officials like Chen Yunlin, Taiwan Affairs Office director, can come to the “Taiwan region” and Ma will happily entertain him as “Mister Ma” and not fluster poor envoy Chen with any title like “President Ma.”



**China to Taiwan: "Come in, but use this
(One China principle) saddle."**

The Taiwanese citizens who marched on May 17th were there to forcefully proclaim their opposition to this denigration of Taiwan and its sovereignty.

To be sure, economic issues and the rollback of democracy were on the agenda as well. The Ma victory in 2008 was largely predicated on the KMT’s supposed “efficiency” at managing the economy and the promises candidate Ma made, summed up in the 6-3-3 slogan: 6% GDP growth per year, 3% or less unemployment and 3% or less inflation. Instead, as Chair Tsai has noted, “*Looking at these promises today is really quite ironic because the reality is that our unemployment rate is at 6%, young people looking for their first job are averaging over a 30 week search, real wages have been reduced by over 3% - these are the “6-3-3” results!*”

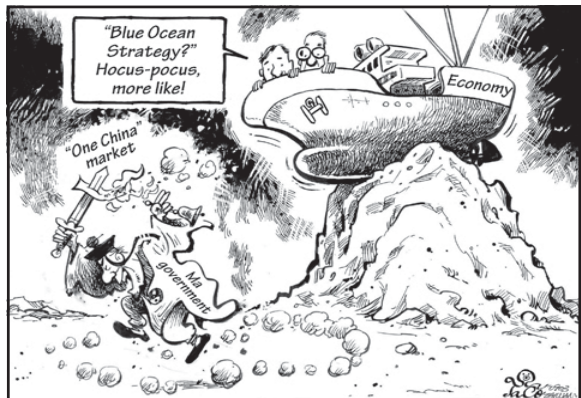
Beyond these statistics, though, lies the deeper issue of the Ma Administration looking to China to be the economic savior of Taiwan, again within the “One China” framework Ma loves so much. Instead of looking to diversify Taiwan’s economic partners and investment choices, the Ma Administration has opened only to China in the vain hope that the signing of an economic agreement with China would mean China’s compliance with Taiwan entering into free trade agreements with regional partners and the United States. That still remains very much an open question.

As the sit-in began the night of May 17th, Chair Tsai’s ringing denunciation of Ma’s economic policies echoed across the plaza in front of the Presidential office, “*We can expect nothing from Ma’s team. They haven’t got a clue how to get us out of this economic tempest. Their sole answer is to bring China into Taiwan and to lead Taiwan into one China. We Taiwanese must save ourselves. The key is our willpower and our democratic institutions! Let’s use them!*”

Just as forceful was Tsai’s anger at the rollback of democracy during Ma’s first year. She noted the November 2008 huge police presence used to “shield” Chinese envoy Chen Yunlin from any citizen protests and the amazing spectacle of police taking away ROC flags from ROC citizens. Students who protested during the Chen visit were held in custody for hours. Summarizing, Tsai declared, “*In Ma Ying-jeou’s dictionary, there are no checks and balances between the executive and legislative branches of government, nor any oversight of the executive by the legislature.*”

Copyright: Taipei Times

She added: “*In Ma Ying-jeou’s dictionary, there is no respect for public opinion. Because of his own incompetence, he must try to humiliate and eliminate the opposition. Because of his own incompetence, he must amend the Parade and Assembly Law in order to take away the streets from the people. Because of his own incompetence, he must make the government structure of Taiwan into a structure dominated by one person. Thus*



Economy on the rocks, while Mr. Ma does his "One China market" hocus pocus.

his ruling power will not have to face many challenges and no person will be able to challenge his ruling power.”

Tsai acknowledged the past shortcomings of the DPP and the need for the party to link with social movements in society to strengthen the opposition to the erosion of sovereignty, the debilitating economic situation and the loss of democracy. She closed her rally speech with these ringing words:

“Taiwanese don’t have the right to be pessimistic. It’s our country, and so we must take it upon ourselves to save it. We must be united and we must save this country using democratic means!”

“Democracy is our last defense. Without democracy, there are no human rights; without democracy, there is no sovereignty. We, the Democratic Progressive Party, will stand with the Taiwanese people. By combining all our strength and maximizing our best efforts, we will protect our democracy! Will you join us?”

“To meet this goal, today I am pronouncing the “Citizens’ Movement to Protect Taiwan!” Let’s start today! All citizens unite, let’s protect our democracy and protect Taiwan!”

Taiwan into the WHO?

Substance or political theater?

On April 29th 2009 it was announced in Taipei that the Ma administration had received a letter from WHO Director-General Margaret Chan, that “the Department of Health, Chinese Taipei” was invited to attend the mid-May 2009 annual meeting of the World Health Assembly as an observer.

The announcement by President Ma himself immediately generated a heated debate, with supporters of the KMT government welcoming it as a “breakthrough”, while supporters of the DPP called the move into question, wondering what the Ma government had compromised to achieve the result, and criticizing both the title “Chinese Taipei” (see below) and the lack of transparency leading up to the the

decision. Ma government officials didn't even want to disclose who participated in the negotiations or where they had been held. In a May 6th speech to George Washington University, DPP chairwoman Tsai Ing-wen called the decision a "black box", noting that it had neither involved the WHO itself or its member states.

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Critics also questioned the legal basis under which the delegation from Taiwan would be participating in the meeting: under WHO rules, only three headings are possible: 1) representatives of a sovereign state, 2) representatives of a NGO, 3) an entity under the auspices of another entity (China?). This became clear in the subsequent days, when on the WHO website, Taiwan was identified as "Taiwan, Province of China." In overviews of countries affected by the swine flu (H1N1 virus), cases from Taiwan were initially simply included under China. After protests from Taipei, the WHO did list the "Chinese Taipei" numbers in a footnote.



Taiwan into the WHA ... in the "One China" principle cage

Taiwan Communiqué comment: The question is whether the move is "political theater" designed to make it appear as if the Taipei-Beijing rapprochement is showing results, or whether there is real substance to the matter, resulting in direct access by Taiwanese doctors and researchers to WHO documentation, scientific exchanges and alerts in case of epidemics. Only time will tell whether there is real substance or whether this will lead to Taiwan's membership in other international organizations like ICAO or the ILO.

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"Chinese Taipei", what's in a name?

The name "Chinese Taipei" generated the hottest debate: KMT government officials stated they didn't prefer the name, but "could live with it." Public opinion polls in Taiwan suggested that only about 25% of respondents supported the title, while a significant majority preferred the title "Taiwan."

The anachronistic “Chinese Taipei” title has its origin in the 1976 Olympic Games in Montreal, when the IOC sought a compromise under which Taiwan could participate in the games. The IOC had proposed “Taiwan” but this was rejected outright by the authoritarian Chinese Nationalist KMT regime. Eventually “Chinese Taipei” was accepted as a temporary compromise, but it stuck, to the chagrin of many in Taiwan who fought for democracy on the island and the country’s full and equal membership in the international community.

Taiwan Communiqué comment: *To the average American or European the issue looks like a backroom fight over minutia, so it would be good if it would be transposed to the American situation: how would Americans react to a reference by other countries to the United States as “British Washington”? Not so welcome, perhaps?*

This is why people in the Taiwanese community, who during the past decade worked hard for Taiwan’s membership in international organizations like the WHO, consider it a step backwards. They see Taiwan being relegated to a second-rank position, subject to the whims of a still very authoritarian China.

International scholars write again

Open letter to President Ma Ying-jeou

*This Open Letter first appeared in the Taipei Times on May 21st 2009.
Reprinted with permission.*

Dear President Ma,

On the occasion of the first anniversary of your presidency, we, the undersigned, scholars and writers from the US, Canada, Europe and Australia, wish to publicly address our concerns to you about a number of trends in Taiwan, as well as several specific developments.

We raise these issues as international supporters of Taiwan’s democracy who care deeply about the country and its future as a free and democratic nation-state. As you recall, we voiced concerns on three previous occasions, most recently in a letter to you, Mr President, dated 17 January 2009, in which we expressed our concern regarding the fairness of the judicial system in Taiwan.

These concerns have not been alleviated by either the response from Government Information Office Minister Su Jun-pin the cessation of troubling, flawed and partial judicial proceedings, in particular involving the case of former president Chen Shui-bian.

We reiterate that any alleged corruption must be investigated, but emphasize that the judicial process needs to be scrupulously fair and impartial. In the case of the former president, it is evident that the prosecution is heavily tainted by political bias, and that the former president is being treated badly out of spite for the political views and the positions he took during his presidency. Such retribution does not bode well for a young and fragile democracy, as Taiwan is.

Copyright: Taipei Times



Judiciary independence?

The second issue that we feel we need to highlight is press freedom. In spite of earlier expressions of concern by international organizations such as the **Committee to Protect Journalists** and **Freedom House**, there continue to be reports of impingement on press freedom by your administration. A case in point is the recent disturbing report that Central News Agency staff were instructed to write only “positive” stories about the policies of your administration, and that reports containing criticism of your administration or China were excised.

As supporters of a free and democratic Taiwan it is disheartening to see that in the annual report on press freedom by the New York-based **Freedom House**, Taiwan dropped from 32nd to 43rd place. In addition, it is disconcerting to see reports that groups with close ties to China are buying their way into Taiwan’s media circles, gaining a controlling voice in major publications such as the China Times. We need to remind ourselves that China is still an authoritarian state with a long history of control of the news media. Its financial influence in Taiwan’s free press will in the long run be detrimental to hard-won freedoms.

This leads us to a third general issue: the means by which rapprochement with China is being pursued. While most people in Taiwan and overseas agree that a reduction of tension in the Taiwan Strait is beneficial, it is crucial to do this in a manner befitting a democratic nation: with openness and full public debate. Only if there is sufficient transparency and true dialogue — both in the Legislative Yuan and in society as a whole — will the result be supported by a significant majority of the people.

Transparency and true dialogue have been lacking in the process. Decisions and agreements are arrived at in secrecy and then simply announced to the public. The

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Legislative Yuan seems to have been sidelined, having little input in the form or content of the agreements, such as the proposed economic cooperation framework agreement (ECFA). The administration simply sends to the legislature the texts agreed to in the negotiations with the People's Republic of China, allowing virtually no possibility of discussion of the pros and cons of such agreements.



The legislature's role in ECFA: *standing still...*

This undermines the system of checks and balances, which is so essential to a mature democracy. We may mention that recent opinion polls show overwhelming support for a referendum on an ECFA and for better legislative oversight of China policy.

Mr President, as international scholars and writers who have followed Taiwan's impressive transition to democracy during the past two decades, we know the sensitivity in Taiwan of the issue of relations with China. Rapprochement needs to be carried out in a way that ensures that the achievements of the democratic movement are safeguarded, that the political divide within Taiwan is reduced and that Taiwan's sovereignty, human rights and democracy are protected and strengthened.

However, during the past year we have seen that the policies of your administration are being implemented in a way that is causing deep anxiety, particularly among many who

fought for Taiwan's democracy two decades ago. This was evident in the large-scale rallies held in Taipei and Kaohsiung on Sunday (17 May 2009).

We have also seen a further polarization in society due to the lack of transparency and democratic checks and balances. Many observers believe that the rapprochement with China has occurred at the expense of Taiwan's sovereignty, democracy and freedoms. To some, the judicial practices and police behavior toward those who criticize your policies are even reminiscent of the dark days of martial law.

In this respect, symbols are important. It does not help that your administration has renamed National Taiwan Democracy Memorial Hall in Taipei back to Chiang Kai-shek Memorial Hall. It doesn't bolster your case that the funding for the Ching-mei Human Rights Memorial in Hsin-tien has been cut drastically and that the location is being turned into a "cultural" park. It doesn't help that changes are being made to the Assembly and Parade Act that infringe on freedoms of protesters instead of enhancing freedom of speech.

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Mr President, we appeal to you to take measures that alleviate these concerns. A first step would be to initiate and implement reforms in the judicial system that safeguard the human rights of the accused and ensure a fair trial. A second step would be to guarantee complete press freedom, and instill in those engaged in the media the determination to live up to the highest standards.



**Who cut the "Freedom of expression" cherry tree?
Ma Ying-jeou: "Uh ... he did it."**

Thirdly, rapprochement with China needs to be brought about in such a way that the people of Taiwan have a full say in determining their future as a free and democratic nation. Closed-door deals that bring Taiwan increasingly into China's sphere of influence are detrimental to Taiwan's future and undermine the democratic fabric of society.

Due to its complex history, Taiwan has not had the opportunity to be accepted as a full and equal member of the international family of nations. We believe the people of Taiwan have worked hard for their democracy, and that the international community should accept Taiwan in its midst. Your actions and policies can help the island and its people move in the right direction. We urge you to do so.

Respectfully yours,

The letter was signed by a group of 26 international scholars and writers, including former American Institute in Taiwan chairman Nat Bellocchi, Professor Stephane Corcuff (University of Lyon, France), Gordon Chang (author, *The Coming Collapse of China*), Professor Peter Chow (City College of New York) Prof. June Teufel Dreyer (University of Miami), Mr. Michael Danielsen (Taiwan Corner, Copenhagen, Denmark), Prof. Bruce Jacobs (Monash University, Australia).

Also signed: Mr. David Kilgour (former Canadian member of parliament and secretary of state for the Asia-Pacific), Mr. Michael Rand Hoare (University of London), Prof. Victor Mair (University of Pennsylvania), Prof. Peter Tague (Georgetown University), Prof. Arthur Waldron (University of Pennsylvania), Prof. Michael Yahuda (London School of Economics, and Visiting Scholar, George Washington University), and Mr. Stephen Yates (former deputy assistant to the US vice president for national security affairs).

Commemorating Cheng Nan-jung's death *Magazine publisher gave life for press freedom*

In late March and early April 2009, several commemorations were held in Taipei in remembrance of press freedom pioneer Cheng Nan-jung, who died through self-immolation on April 7th 1989 while police stormed his magazine office to arrest him (for a detailed account, see *Death of a Journalist* in *Taiwan Communiqué* no. 40, June 1989).

In the period 1984 through 1989, Chen Nan-jung's **Freedom Era Weekly** was one of Taiwan's leading publications, very much in the forefront of Taiwan's democracy movement, which pushed for an end to the Kuomintang's four-decades-old martial law, and in favor of a free, democratic and independent Taiwan.

Mr. Cheng himself was a Chinese mainlander, but in the early 1980s became one of the most outspoken leaders of the native Taiwanese-based pro-independence movement. On May 19th 1986 he started the “Green Ribbon” campaign, a series of street protests which eventually led the Kuomintang authorities to decide to end martial law.

Photo: Freedom Era Weekly

In late 1988, he published a “Republic of Taiwan Constitution” in his magazine, which had been drafted by Prof. Koh Sekai, a prominent Japan-based pro-independence leader. The authorities charged Mr. Cheng with “sedition” and policemen surrounded the office of his magazine. In the morning of April 7th 1989, after a 71-day stand-off, the police stormed the office. However, Cheng did not want to be taken alive and set himself on fire. His funeral took place on May 19th, three years to the day after he had started the “Green Ribbon” campaign.

In the subsequent years, Mr. Cheng’s widow, Yeh Chu-lan, became a prominent opposition figure, serving in the Legislative Yuan for four terms. In 2000, in the first Cabinet of President Chen Shui-bian, she served as Minister of Transportation, while later on she was appointed Deputy Premier, and also served as interim mayor of Kaohsiung.



Mr. Cheng Nan-jung in 1986

During the April 2009 commemorations, Mrs. Yeh and her daughter Chu-mei stated that they wanted to carry on the fight for freedom of expression of their husband and father in the hope that the next generation of Taiwanese could live free from fear and political persecution. At the main commemoration, musicians and poets played music and read poetry in remembrance of Cheng.

60 years since declaration of Martial Law

The longest in recent history

The date of May 19th also has a different significance in Taiwan: it was the day in 1949 when the Kuomintang authorities declared martial law, which lasted for some 38 years – until May 1987 – and constituted the “legal” basis for the Kuomintang’s “White Terror” campaign, which sent thousands of people in Taiwan – both native Taiwanese accused of pro-independence activities and Chinese mainlanders suspected of “communist leanings” — to political prison camps, and hundreds to their death in front of firing squads.

The KMT’s martial law gave the infamous Taiwan Garrison Command and the Investigation Bureau of the Ministry of Justice (IBMJ) wide-ranging powers to arrest, detain, and torture people. In addition, there were even more shadowy organizations, like the Military Intelligence Bureau (MIB), which had a free hand in going after people who were critical of the KMT’s one-party rule. In 1985, MIB Director Admiral Wang Hsih-ling was found responsible for ordering the assassination of California-based Henry Liu, who had written a critical biography of then president Chiang Ching-kuo. Only after strong pressure from the US, he was tried in court and sentenced to life imprisonment, but released on bail in 1991.

Copyright: Freedom Era Weekly



**1986 "Green Ribbon" campaign,
which helped end martial law in
1987**

In 1987, the old martial law was replaced by a “National Security Law”, which preserved some of the restrictive legislation. This law was not lifted until 1991, after the “Article 100 Campaign” (see *Taiwan Communiqué* no. 51 and 52, October and December 1991).

Chen Shui-bian trial drags on

Heaping charges upon charges

During the months of April and May, the trial against former President Chen Shui-bian, which had started on March 26th 2009, dragged on and on. Peculiarly, in early May, the prosecutors added a number of charges to the existing list, thus changing the game in mid-stream: the additional charges related to a number of political contributions. The prosecutors charged that these constituted “bribery and profiteering” while Chen and his wife maintained they were political donations.

On 7 May 2009, the Taipei District Court also decided to agree to a request by Special Investigation Panel prosecutors to extend Chen’s detention beyond the statutory four months of “pre-trial” detention. The prosecutors argued that Chen “could flee” or that he could “influence witnesses.” This decision caused a major uproar in Taiwan: Mr. Chou Chan-chun, the judge who presided over the case before the curious switching of judges in December 2008, commented openly that the decision to keep Chen detained until the Court finished question all witnesses “*infringes on the defendant’s litigation and defense rights.*”



Former President Chen behind bars

Medical condition goes from bad to worse

Former President Chen himself was so deeply hurt by the decision that in the afternoon of May 7th he decided to go on hunger strike. This aggravated his already precarious medical condition – which included heart problems, asthma and arthritis – and on Saturday May 9th the former President’s condition went from bad to worse: he had to be hospitalized in the neighboring town of Panchiao. Medical officials indicated he showed signs of dehydration.

On the same day, his wheel-chair bound wife Wu Shu-jen tried to visit him, but detention center officials denied the request, arguing that “*no guests are allowed on Saturdays.*”

Chen: “Let’s end the judicial circus”

Chen was subsequently returned to the detention center, but he vowed to continue his hunger strike until May 17th – the date of the massive demonstration against the policies of President Ma Ying-jeou. In the meantime he had also released a statement telling the presiding judge to “end this circus” and give him a life sentence. In the statement, the former President also indicated that he was dismissing his defense lawyers, and would not appeal his sentence.

Photo: Taipei Times

In the statement, the former president also said he considered the process “judicial prosecution and a political vendetta” by the KMT administration of Mr. Ma.

A few days later, on May 12th and 14th, several high-level DPP officials, including DPP Chairwoman Tsai Ing-wen, former Prime Minister Su Tseng-chang, and former Presidential candidate “Frank” Hsieh Chang-t’ing visited the former president in prison, and urged him to stop his hunger strike.

The three officials strongly criticized the flawed procedures followed by the court. DPP Chair Tsai said that the court’s decision to extend Chen’s detention had very little legitimacy and the judicial system lacked impartiality. Former Prime Minister Su stated that the purpose of the visit was not only to show support for Chen, but also to protest the extreme political bias in the legal system.

A few days later it became known that the prison officials had “punished” Chen Shui-bian over the hunger strike by restricting him to

his cell, not allowing the daily exercise, restricting his visitation privileges, as well as confiscating his TV and radio.



Prison cell at the Taipei Detention Center, where the former president is being held. *The cell does not have a bed: the prisoner sleeps on a mat on the floor.*

Taiwan Communiqué comment: *As we have stated on earlier occasions, we do not dispute that any alleged corruption should be prosecuted. But such prosecution needs to be even-handed, fair, and follow due process of law. In the case of former President Chen, it is obvious that the judicial system is heavily tainted by political bias. The Kuomintang authorities are treating the former president badly, while obvious cases of corruption within the KMT go unpunished.*

Such utter lack of balance and fairness in the judicial system does not bode well for Taiwan's young and fragile democracy.

Report from Washington

US Congress reaffirms Taiwan Relations Act

By Coen Blaauw, FAPA Headquarters

In March and April 2009, in two separate actions, the US House and Senate reaffirmed the Taiwan Relations Act, the 1979 US law which came into place after the US de-recognized the Kuomintang regime in Taipei as “government of China” and established relations with the PRC. The House passed a resolution, while on March 24th 2009, a group of 30 members of the US Senate addressed a letter to president Obama in which they expressed “...continued support for freedom, security and prosperity for the people of Taiwan.”

Photo: Shelley Berkley



Congresswoman Shelley Berkley (D-NV)

House Concurrent Resolution 55 had been introduced on February 23rd 2009 by Congressional Taiwan Caucus co-chair Rep. Shelley Berkley (D-NV) and upon passage enjoyed the co-sponsorship of 125 cosponsors. It concluded: “Resolved by the House of Representatives (the Senate concurring), that Congress— (1) reaffirms its unwavering commitment to the Taiwan Relations Act as the cornerstone of United States relations with Taiwan.”

However, to the dismay of friends of Taiwan on Capitol Hill and elsewhere, the reference to the TRA as being the “cornerstone” of U.S.-Taiwan relations had been taken out when the resolution was marked up by the House Subcommittee on Asian and Pacific Affairs on March 19. But when the bill went to the floor on March 24, the “cornerstone” reference was back in the bill. Not only that, several Members of Congress referred to the significance of the bill as being the “cornerstone.”

Chairman of the House Foreign Affairs Committee Rep. Howard Berman (D-CA) stated: *“I am confident that the Taiwan Relations Act will remain the cornerstone of our relationship with Taiwan.”* Taiwan Caucus co-chair Lincoln Diaz-Balart (R-FL) said: *“This resolution reaffirms the United States’ commitment to the Republic of China on Taiwan and describes the Taiwan Relations Act as the cornerstone of US-Taiwan relations.”*

Photo: Stephen Hung

And ranking member of the House Foreign Committee Rep. Ileana Ros-Lehtinen, (R-FL) echoed: *“This resolution recognizes the TRA as the cornerstone of the unbreakable relations that exist today between the US and Taiwan.”*

Shortly thereafter, during remarks at a Capitol Hill conference organized by Project 2049 on April 2nd 2009, Senator Sherrod Brown (D-OH) lauded the significance of the TRA for the US-Taiwan relationship as well.



**Senator Sherrod Brown (D-OH) at
April 2nd TRA-event**

The Senator stated that the U.S. needs to continue work for Taiwan’s sovereignty, including full membership in the United Nations, and in the WHO. He then added that the US and other Western nations need to break out of the outmoded “One China” policy and move towards a new *“One China, One Tibet, One Taiwan”* policy.

He strongly emphasized the human rights clause in the TRA, and stated that human rights violations are taking place in Taiwan and that it should be a central tenet of the government in Taipei to protect such rights. He concluded with: “I look forward to the 40th anniversary of the TRA and to welcome the *ambassador* of Taiwan there (with a nod to the former representative of Taiwan to the US, Dr. Joseph Wu, who was in attendance).”

This important Human Rights clause of the TRA had earlier also been discussed by the aforementioned Rep. Ileana Ros-Lehtinen (R-FL) who stated at a TRA Anniversary reception in the Capitol on March 26: “*An often overlooked phrase, however, is that the Act reaffirms the objective of the United States to seek “the preservation and enhancement of the human rights of all the people on Taiwan.”* She added: “*It is in the interest of the Congress to ensure that Taiwan, as a young democracy, always clings to the path that further enhances human rights. For only by staying on this straight and narrow path can Taiwan serve as a beacon of liberty for the imprisoned Chinese people across the narrow strait.*”

Book Review

Strait Talk; US-Taiwan Relations and the crisis with China
by Nancy Bernkopf Tucker. Reviewed by Gerrit van der Wees

This is an excellent book, particularly for those who want to understand the ups and downs in the triangular relations between the US, Taiwan and China, and how these were influenced by various people during the past six decades. The author is Professor Nancy Bernkopf Tucker, professor of history at Georgetown University and at the Edmund A. Walsh School of Foreign Service. She is a diplomatic historian who specializes in American-East Asian relations. In the book she covers events and policy debates from the days of the Truman presidency all the way through the end of the Bush administration in 2008.

Prof. Tucker did an incredible amount of research – both interviews and in archives – which resulted in a highly readable account of the intricacies of US policy towards Taiwan, as it moved from recognition of the Taipei authorities as “government of China” to “informal” relations with “the people of Taiwan” after de-recognition of the “ROC” in 1979.

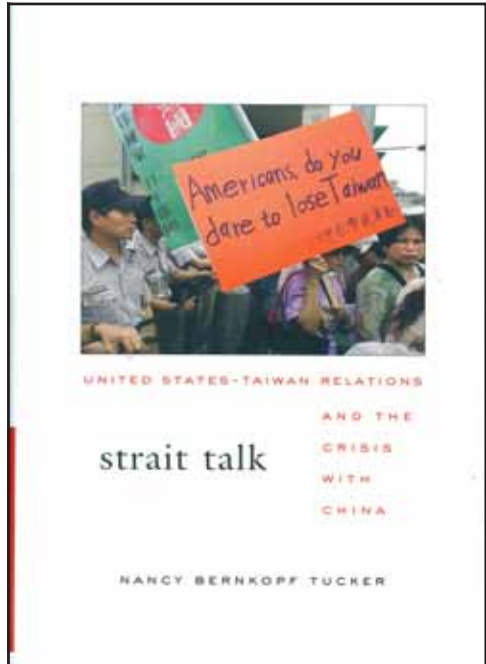
An important contribution of the book is that it shows how the various personalities shaped policies, and how the policies did vary significantly, depending on the background, knowledge and political insights of the people involved. Tucker is most unsparing in her criticism of Richard Nixon and Henry Kissinger and their motivations. A quote (p. 68):

"Nixon and Kissinger viewed Taiwan as expendable, as less valuable than the strategic and political advantages that a new relationship with the PRC would secure. As a result, they decided to give Beijing what it wanted in order to make a deal. In the process, they misled China's rulers into believing that the US would step aside and allow Taiwan to collapse. When that did not happen, Beijing, like Taipei, felt betrayed."

In their eagerness to play the China card, Nixon and Kissinger undermined the effectiveness and durability of their initiative. They underestimated support for Taiwan and ignored Taiwan's capacity for meaningful political reform, which would provide the wherewithal for survival. Their shortsightedness, virtually guaranteed by excessive secrecy, bred mistrust everywhere. This collateral damage to US integrity, diplomacy, and democracy, at home and abroad, constitutes the most serious indictment of the policies pursued".

The research also shows that all through the 1950s, 1960s and early 1970s, there was widespread support for "dual representation" in the United Nations, both inside successive US governments as well as among governments of other countries. Tucker in particular quotes the 1959 **Conlon Report**, written by political scientist Robert Scalapino, which called for diplomatic relations with Beijing, but also for recognizing the ROC as Republic of *Taiwan* (p. 32), and describes how then UN ambassador George H. Bush fought gallantly for such an outcome in the UN (p. 50). Interestingly, the USSR also expressed support – albeit briefly – for Taiwan independence (p. 66). However, all these efforts ran into one major roadblock: dictator Chiang Kai-shek's stubborn refusal, which eventually was the major reason for Taiwan's increasing international isolation.

Tucker also describes vividly how, in the run-up to normalization, *US officials tended to make policy towards the island without consultation or much warning, without*



excessive thought or planning, ... (p. 79). This pattern would repeat itself decades later, e.g. with President Clinton's embrace of the "Three Noes" in 1998, and President George W. Bush – standing next to Chinese Premier Wen Jiabao — wagging his finger at President Chen Shui-bian and telling him that the US was opposed to a planned referendum, since this was interpreted as a "change of the status quo."

Tucker leads the readers through fascinating chapters on the shaping of the 1979 Taiwan Relations Act and the subsequent transition to democracy, the 1996 missile crisis and the shift by Clinton which followed in 1997-98, which eventually resulted in his trip to China and the pronouncement of the infamous "Three Noes."

A main theme by Tucker is that Taiwan's democratization is a *new* element in the equation, which has strengthened the rationale for support for Taiwan, but which was perceived by many of those who had been associated with the Nixon/Kissinger effort of normalizing relations with China as adding "*unwelcome volatility in the cross-strait situation*" (quoting Chas Freeman, p. 249).

Another theme is that the lack of adequate communication at the higher levels has led to misunderstandings and distrust. In the conclusion of the book, Tucker pleads for "diplomacy at higher, more authoritative level" to break down the existing barriers between the US and Taiwan. She argues that "*American national interests, defined as much by values as by security or strategic goals, render sacrifice of Taiwan unacceptable. The US must do more than merely confront and be party to a Strait impasse. For itself and for Taiwan and China, the US has a political and moral obligation to contribute to a solution.*"

Conclusion: overall an excellent contribution to knowledge and understanding of US policy towards Taiwan. The only place where we would differ is her assessment of the new administration of Ma Ying-jeou in Taiwan. Both in the beginning and the end of the book the author presents an all-too-rosy picture ("The politics of hope") of Ma's rapprochement with China, underestimating the pitfalls, and increase of political tension this is generating within Taiwan itself.

The complete title of the book is *Strait Talk; US-Taiwan Relations and the Crisis with China*, by Nancy Bernkopf Tucker. Harvard University Press, Cambridge MA, February 2009.

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The goals of FAPA are: 1) to promote international support for the right of the people of Taiwan (Formosa) to establish an independent and democratic country, and to join the international community; 2) to advance the rights and interests of Taiwanese communities throughout the world; and 3) to promote peace and security for Taiwan

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