

“The Significance of the Republic of China for Cross-Strait Relations”

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What does it matter for cross-Strait relations today that the Chinese imperial government disappeared some one hundred years ago and the Republic of China took its place? After all, the elements of what we now call cross-Strait relations had not come together in 1911. Taiwan had been annexed by Japan in 1895. The Chinese Communist Party, which now rules the Mainland, did not exist in 1911 (it was founded a decade later). What we know as the Kuomintang, which has been Taiwan’s ruling party for 57 of the last 65 years, was quickly marginalized after the 1911 Revolution. Moreover, the issues that were important a century ago are very different from those that face the governments in Beijing and Taipei.

I would argue, however, that the creation of the Republic of China on New Year’s Day 1912 matters a great deal for cross-Strait relations. If it didn’t, I wouldn’t have given myself this topic. The ROC and what it means is *the* issue at the heart of the fundamental cross-Strait dispute. Unless that is understood, most importantly by the parties concerned, there will be confusion and misunderstanding.

Now it happens that the People’s Republic of China has taken the position that the Republic of China ceased to exist on October 1, 1949, the day that Mao Zedong declared the creation of the People’s Republic of China. Which raises the interesting question: how can Beijing address the reality of the ROC when it denies its existence?

There’s an interesting bit of history here. Mao’s initial intention, when it became clear that his military forces were going to win the fight with Chiang Kai-shek’s army in the late 1940s, was to keep the name “Republic of China” for his new government. That was what Chiang had done when he established the KMT regime in 1928. But people convinced Mao that the Communist revolution was so special that the old title was no longer appropriate. Hence the name, “People’s Republic of China.”

This afternoon, I wish to address the issue of the ROC from three different dimensions. The first is whether the ROC ceased to exist in 1949. The second is whether there can be only one Chinese government in the world. And the third is the issue of sovereignty.

I know I run some risk by addressing relatively arcane issues as the last presenter of our symposium, but I ask you to bear with me. The answers to my questions are interesting.

Did the ROC Cease to Exist in 1949?

Beijing's theory about the ROC, as elucidated in a white paper issued in February 2000, is as follows:

- When the central government of the People's Republic of China (PRC) was proclaimed on October 1, 1949, the ROC government was "replaced" as the government of all of China and its "historical status" was brought to an end.
- Even though "the KMT ruling clique" continued to use the terms "ROC" and "government of the ROC," it had "long since forfeited its right to exercise state sovereignty on behalf of China and, in reality, has always remained only a local authority in Chinese territory."

But this raises an interesting question? If the ROC was the government of China before October 1, 1949, as even Beijing seems to accept, what was the political character of the Chinese Communist Party and its army prior to the proclamation of the PRC?

In fact, Mao Zedong and the Chinese Communist Party had an ambivalent attitude towards and relationship with the ROC government. For most of the period from the mid-1920s, when the KMT and the CCP formed their first united front, until the PLA's victory on the Mainland in 1949, the two sides were locked in ideological and mortal combat. It is fair to say that the CCP rejected the KMT's legitimacy as the ruling party of China and sought to replace it. The main justification for that project was class-based, the CCP assertion that the KMT served the interests of China's landlords and big bourgeoisie and so was on the wrong side of history.

But there were a couple of times that the CCP accepted or contemplated accepting the authority of the ROC government. The first was the second united front, formed to oppose Japanese aggression. Under this arrangement, the CCP agreed to abandon its policy of armed revolt, abolish its soviet government, abolish the term "Red Army" and put its troops under government command, and to accept as its own the KMT's program: the Three Principles of the People of Dr. Sun Yat-sen.

Mao, of course, was unwilling to give up totally class struggle or the independence of the CCP, but these had less priority than the united front and the national struggle against Japan. Mao's *Selected Works* has items from this period in which he refers to the "central government" or the "national government." He did so even as relations between the two parties were breaking down, and he made some efforts to reverse the downward spiral in the interest of continuing the "national struggle." The problem, he asserted for awhile, stemmed from "ringleaders from the pro-Japanese clique," not from the KMT regime itself.

The second instance was the immediate postwar era. In January 1946, the People's Political Consultative Conference, at which all political parties including the CCP were represented, passed resolutions recognizing the national leadership of Chiang Kai-shek and calling for the writing of a new constitution, pending which a coalition government would be created. In February 1946, the KMT and the CCP reached an agreement which would integrate the communist armies into the *national* army. Of course, these agreements quickly fell apart in a climate of deep mutual mistrust. But their working assumption was that the CCP acknowledged and accepted – at least temporarily – the legal authority of the ROC government.

The end result of the two sides' unwillingness to coexist and cooperate was what we usually call the Chinese civil war. I find that the term civil war is striking for its political and legal neutrality. It suggests that the combatant forces in the conflict somehow appeared out of thin air and started fighting. That may be true in some cases, but what usually happens is that a rebel group takes up

arms against the established government. That government may be weak; it may not command much legitimacy. Yet it is still the government.

Consider the American example. We now refer to the conflict that began 150 years ago last month as the American civil war. But that was not the name that the Lincoln Administration used. The most common name then and for years thereafter – at least in the North – was “the war of rebellion.” The South, of course, called it something else: “war of secession” or “war of independence.” But as far as the national government was concerned, the South was in rebellion and it was the task of the national government to suppress that rebellion.

Similarly, what we call the Chinese civil war is, in essence, the CCP’s violent rebellion against the national government, which happened to be ruled by the Nationalist Party (the KMT). The latter enjoyed international recognition as the government of the Republic of China, and, as I have explained, even the Communists temporarily accepted that status. And just because the rebels won control of the Chinese mainland does not, in my view, negate the existence of that government. At least conceptually, the burden of proof should be on the CCP regime to justify its status rather than on the ROC to refute the allegations of its demise.

Note also that Beijing uses its unyielding claim that the Taiwan Strait issue is an internal to reserve the right justify to use force to resolve it. Note also the curious phenomenon that since the 1950s, Beijing has sought to convince Americans that Taiwan’s continued separation is analogous to the American civil war, with the Mainland as the North and Taiwan as the South. Ironically, however, Beijing has the roles reversed. If anyone in the 1940s was analogous to Lincoln, it was Chiang Kai-shek. Mao Zedong was China’s Jefferson Davis.

There is an argument that because the KMT government continued to claim that it was the government of all of China even after it retreated to Taiwan even though it doesn’t, its existence as a legal government is not valid. From the beginning, the ROC was jurisdictionally challenged. Territorial ambiguity was a constant feature of the ROC. With the possible exception of the early rule of Yuan Shikai, the government of the ROC—whether before 1928 or after—never had jurisdiction of all the territory it claimed. So the fact that the ROC on Taiwan constitutionally claims far more than it controls is neither new nor undermines the idea that it is a sovereign state.

One China or Two

The PRC government has consistently held asserted that there is one China in the world, which it represents, and rejected the idea that there might be two Chinas. Chiang Kai-shek took the same position, as he colorfully put it, “There can be no compromise between the legitimate government and a rebel group.” (Note Chiang’s use of the government-rebel frame here.) He of course asserted that the ROC was the sole, legitimate government of China. And within this consensus that there was one China, the two capitals battled over membership in international organizations and diplomatic partnerships. This was a battle that the PRC has by and large won.

But the fact of the battle, and the fact that both governments had taken a one-China stance begs the question of whether that is the only option. Or does international law permit and alternative, less zero-sum solution? Whether Beijing and Taipei would accept such a solution is another issue, but the conceptual question is worth asking.

Now it happens that the United States thought long and hard about the Republic of China in the late 1950s and early 1960s. Washington was committed to preserving the ROC's membership in United Nations, but decolonization was creating a number of new UN members, and they tended to side with Beijing's claim to China's seat. Drawing on international law, American diplomats came up with two theories to justify keeping the ROC in the UN.

The first was the "new state" theory. As one State Department official described it: The ROC "is an original and continuing member of UN, that has lost control over major portions of its territory, that the PRC has established itself as a government in that former territory, that the PRC has the attributes of sovereignty and is [therefore] eligible for membership in the UN."

The second theory was the "successor state" theory. That is, "the 1945 country of China has been succeeded by two States – one large and one small – and that these have both automatically succeeded to membership in the General Assembly."

These two theories remained just that – theories. They were also tactical devices to create terms for PRC entry that Beijing would be sure to reject. As it was, Chiang Kai-shek rejected a two-China solution until it was too late, and in October 1971, the General Assembly, as it put it, restored the PRC's rights and position in the UN, recognized its representatives as the "only legitimate representatives of China," and expelled "the representatives of Chiang Kai-shek."

My only point is that the international fate of the ROC was only one of several possible conceptual outcomes. And the sort of creativity that American diplomats demonstrated is available in cross-strait relations – should Beijing be willing to exercise it.

Sovereignty

The question today, for which the ROC is highly relevant, is the legal and political status of Taiwan and its government authorities. Is it a sovereign entity in any significant way The PRC view, as I read it, is "no." The Taiwan view has been most assuredly yes.

Now sovereignty is a complicated concept, and it's necessary to distinguish different dimensions. In my book, *Untying the Knot*, I identify four.

For our purposes, two are relevant. One is international legal sovereignty, that is, whether a government and the people under its jurisdiction may participate in the international system, including through diplomatic relations with other countries and membership in organizations like the United Nations that by charter are open to states only.

The other is called Westphalian sovereignty, which refers to independence vis-à-vis outside parties and non-subordination to them. The issue here is whether the governing authorities of a particular territory, however they are organized, have the absolute right to rule within their domain. Now those authorities may choose to limit their powers through treaties with other actors or to delegate some to international organizations, but they do so voluntarily.

When it comes to international sovereignty, as I just described, the ROC represented the state called "China" in the international system through the 1960s but has since fought a losing battle with the PRC over diplomatic relations with third countries and membership in international organizations.

When it comes to Westphalian sovereignty, which is the issue of the last three decades, there are really two questions. One is whether the geographic territory of Taiwan is a legally part of China, and, if it is, how. It is on this second issue that the ROC becomes important.

There is a minority view on Taiwan that goes under the term “Taiwan Independence.” That is, the island isn’t part of China at all and it should be a separate state and full member of the international community, preferably with the name the Republic of Taiwan. But for political and security reasons, that is a minority view.

The debate within the majority is whether Taiwan should consider uniting with China, and on what terms. About a half of the public prefers the status quo and would like to kick the can down the road.

But a great majority believes two other things: first of all that the Hong Kong formula for uniting with China (called one country, two systems) is unacceptable and second that the ROC is a sovereign state. It is the existence of and association with the ROC that makes the Hong Kong formula so unacceptable.

Now there are some complex issues here related to the territory over which the ROC government claims to be sovereign, but I don’t have time to go into them. My key point is that the PRC approach to resolving the fundamental dispute with Taiwan is not the only option. Beijing’s preferred outcome is a national union in which it is the exclusive sovereign and entities like Taiwan have autonomy but they are still subordinate. But there are a variety of political unions which accommodate what you might call dual sovereignty or shared sovereignty. They are not easy to create or maintain. No existing arrangement is necessarily a good model for China and Taiwan. But these arrangements do exist.

To sum up, the *facts* that the government on Taiwan can trace a historical lineage all the way back to January 1, 1912; that the Republic of China was the successor state to the Qing dynasty; and that it ruled somewhere continuously thereafter and to this day, gives it a standing vis-à-vis Beijing that no other relevant political entity possesses – neither Hong Kong, nor Macau, nor any province of the PRC (Tibet is more complicated but still different). That Beijing claims that it is the sole successor state to the ROC does not make it true (and after all, it has a vested interest in making that claim). As we have seen, regime change need not produce a single successor state. And, as we have also seen, the historical lineage that the PRC can claim is to an armed party that rebelled against that ROC government. In my humble opinion, therefore, unless the PRC is willing to address and accommodate the reality of the ROC, it will never achieve its political objectives.