

Discussion

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DISCUSSION

VALERIE WATTS JAMES: I have a question for Mr. Wu. I am Assistant Professor of International Law and Political Science at Morgan State University. Mr. Wu made reference to the fact that there are no strikes in Taiwan, or very few strikes. He also mentioned the unions. What positions do unions play insofar as the economy of the ROC is concerned?

DR. CHIU: Dr. Wei will be more competent to answer that question.

DR. WEI: There are labor unions in Taiwan, and their way of getting what they want is not to strike, but to put pressure upon the government, and through the government to put pressure upon the factories. For instance, when the pay of some local

factory financed by foreign investors is too low in the opinion of the workers, then the workers have several ways of getting what they want. In the first place, they can make their wage demand to the owner of the factory directly. In most factories there is someone called the officer of labor relations, so usually this worker or representative of the workers goes to that officer and says, "It's too low, we have to increase the pay." If they cannot find satisfactory answers from the factory, then they can go to the provincial or City Bureau of Social Affairs. There is a branch in that Bureau which can serve as an intermediary between the workers' group and the factory. So this is the way to get things done. Maybe this is in the traditional Chinese cultural context and is not by direct confrontation. It's by some kind of behind-the-scenes maneuver that the workers are able to get what they want. That's as much as I can say. I do not know the detailed legal arrangements as to how the workers actually resolve differences between themselves and the factory owners.

DR. HEUSER: I would like to ask Dr. Wei another question. Dr. Wei emphasized in his quite articulate overall presentation of the present circumstances in Taiwan, that Taiwan will remain a democratic land. It seems to me that people in western countries are wondering why despite the facts that in Taiwan there are economic improvement and political stability, as well as a growing living standard, nevertheless the country is still in a situation of emergency and martial law. People in western countries are interested to hear something from the people who are in government in Taiwan why this is so, because for us it is not easy to understand, viewing the facts I have just mentioned.

DR. WEI: As to this question, again I will answer not in the legal sense; I think Dr. Chiu can add to my answer in that regard. I will give you essentially a political assessment of the situation. Taiwan has martial law, but no curfew. There are cases in which there are constant curfews in some countries, such as in South Korea and the Philippines, and there are nations in which curfew is the martial law. We have martial law, but no curfew. The martial law has been declared more for preparation for the possible emergence of a critical situation. In other words, at least formally speaking, we are still in continuous conflict with Mainland China, and if you review the developments after 1971 after we withdrew from the U.N., then I think we have a pretty good record in protecting civil rights, particularly in the areas of private citizens. South Korea, to my knowledge, has nine times declared national emergencies, and the Philippines has suspended

its democracy by proclaiming martial law for the whole country, and Thailand has a coup and student revolt. What we did, we not only resisted any change in the form of government, we initiated two supplementary national elections, adding more than fifty new members to the national Yuan, to the Control Yuan, and to the National Assembly. People have asked this question of martial law again and again. We are aware of this problem, and we are concerned with this problem, but again, my answer here is that it is more for preparation for a possible emergency situation rather than actually applying every facet of law to restricting the freedom of the people of Taiwan.

DR. CHIU: With respect to the question of martial law, I just want to remind you that there is a *de facto* martial law curfew in all United States cities. So I warn you not to go out after the conference is over in the evening (laughter). But martial law here is enforced not by the government but by the gangsters in this country.

QUESTION [to Prof. Prybyla; speaker unidentified]: What is the viability of economic expansion in the ROC?

PROF. PRYBYLA: There are some problems. I'll mention some of the less innocuous factors. I think there is serious question among some Chinese as to viability in some labor projects. There is some question in the people's minds as to the educational qualifications of the labor leaders in the Republic of China. There is, I think, a certain growing restlessness, too, in the labor force, in regard to wage structures, wage levels, consumer aspirations and so on, which may not be as easily dealt with by legal injunctions. . . there are problems, I think, in management, the quality of management in Chinese firms. So these are some. And also, I am not as optimistic about the future international climate for investment in Taiwan as some of the speakers. I do tend to share Mr. Wu's and Mr. Wei's fears that some shift in our relations with China may very adversely affect the climate of investment. I am not sure whether Ms. Schroder mentioned this — I think she did — but much of the foreign investment, especially American investment in Taiwan, is rather short-term in terms of equity. This may be in part because of the concentration of investment in light industry. But it is symptomatic that the United States investor has confidence in the future of Taiwan, but it is not very long-term.

QUESTION [speaker unidentified]: How much investment in Taiwan is short-term?

DR. WEI: I agree with Ms. Schroder that a more extensive answer to this question should be based upon a careful review of data. But I can base an answer on my own experience up here as an Eisenhower Fellow visiting the U.S. While I was in New York I met with four major bank executives, including the J. P. Morgan Bank & Trust Co., I asked a question, "Before you loan the money to the ROC, with whom do you check? Do you check with the U.S. Department of Commerce or Export-Import Bank?" And I got an answer from the J. P. Morgan vice-president for foreign investment. He told me that we rely on our own experts; we make our own assessments, because the amount of money is too large to be insured by *anybody*, so we'd better be sure what we're doing. So they invested in a loan for building six nuclear power plants, and this is a very large amount of borrowing. Of course we Chinese in Taiwan are more careful, you may say more prudent, in borrowing money. In our economic situation, we could have borrowed much more. If we follow, say, the example of Korea, we would have at least doubled or tripled our borrowing from international markets. But we want to maintain our good record and to maintain a relatively low portion of our economy which is based upon borrowing money. So this much I can say. The kind of projects which involve large amounts of money are on long-term loans, not short-term loans. I know less about the investment part, but I do know about the loan part.

MS. SEUNARINE: This question is for Mr. Pilachowski. I would like you to comment on whether Maryland National Bank finds any special allure in the Republic of China as compared to other eastern countries for investment.

MR. PILACHOWSKI: We find it a great deal more attractive than some other countries. We are primarily a bank concerned with the financing of trade, again connected with the Port of Baltimore. The Republic of China offers us as an institution an opportunity to do both the medium-term lending that Dr. Wei was referring to and short-term lending. If you look at other countries, their demand for short-term funds is not as strong, and also we view them as being less stable for varying reasons. Other developing Asian countries have been mentioned — I do not mean that we do not do business with those places also. But our desire to increase our business is dependent upon more immediate evidence of stability in those countries than is presently seen vis-a-vis what we see in the Republic of China. It's a very favorable atmosphere for us. The only more favorable atmosphere is that of Japan.

QUESTION [speaker unidentified]: I want to comment on Dr. Heuser's remark about national emergency in Taiwan. Actually, the United States has been in a national emergency since 1917. Indeed, that's how the President regulates foreign activity. My question is, what do you see as the ultimate situation in the Republic of China — what will it be in the year 2000?

DR. CHIU: I think I will call Dr. Wei to answer that question, as a scholar, not as a government official (laughter).

DR. WEI: Thank you very much, Hungdah. You have just saved my case. Let me put it this way. Let me give you three pitfalls which we try not to fall into. I have met so many people in the United States while representing the ROC in Taiwan in varying capacities, first as Director of the Institute of International Relations, and now as Chairman of the Research, Development and Evaluation Commission. There are several traps which we can fall into if we are not careful. One is that Taiwan can continue trading (after the U.S. has normalized its relations with the PRC); and that Taiwan is now economically so good that it does not need formal ties with the U.S. So to the person who asks, "Do you think Taiwan's economy is good?" One may say, "Yes, it is good." "Do you think Taiwan's economy can withstand any shock?" One may say, "I think maybe yes." "Then why should you worry about diplomatic ties with the U.S.? We think you can stand any shock." This is one pitfall. Another question asked is, "You people have been very successful in dealing with unfavorable money situations since 1971. You have been able to even increase trade with countries with which you have no ties — is that correct?" One would say, "Yes." "And you have developed substantive ties with many countries (without diplomatic ties with the ROC)." One would say, "That's correct." Then they say, "Why should you worry about ties with the U.S.A.? You have developed a whole bunch of substantive ties. You can keep up the same thing." This is another pitfall. The third pitfall is this: "Is Taiwan secure?" Now, the instinctive response is, "Yes, Taiwan is secure." "Well, can you be secure in the near future? Can you defend yourself against Mainland China?" We are more likely to answer, "Yes, we will be able to defend against Mainland China." "Then, why should you worry about a defense treaty?" These three pitfalls I have encountered again and again. I got so tired of it that whenever I had anything to do in the U.S.A., I would say first, let me tell you three things. Then we are in business.

My honest evaluation as a person trained in development, international law, and political science is this: There is no

substitute for formal ties. Without formal ties, your existence at best is something of a para-social, political, and economic entity, something which is less than that of a state. In this regard, we recently had a meeting at St. Louis of the International Studies Association on the legal status of divided states. What we have is a situation in which there is a zero-sum game in the chapter of recognition and the conventional international law. That is, the winner gets all. Until 1971, the ROC was a beneficiary of conventional international law in which we received the recognition of the majority of the states of the world. After 1971 we were the victim of conventional international law in which a diminishing number of states recognized the ROC. How can we resolve this question? The resolution is not going to come from us; it is for the international jurists to deal with this question. Under international law, there are three types of international personalities: states, belligerents, and insurgents. Where do you find divided states? Are they belligerents? Are they insurgents? They are more than that. The experience of the ROC has been that we try very hard to be a good member of the international community. We behave as a state. We adhere to all the regulations and codes of behavior which are worthy of any entity that is a state. We are out of the W.H.O. (World Health Organization), we are out of the I.C.A.O. (International Civil Aviation Organization), we are out of many international organizations, but we still adhere to the rules of behavior, with the hope that the international community will treat us as a political system worthy of the recognition of the world community. We are trying very hard to increase diplomatic ties with other countries. We are not satisfied with substantive ties — ties that are maintained only in the absence of diplomatic/formal ties.

COMMENT, MR. CLOUGH: American companies investing directly in the ROC, e.g., EXXON, do not invest lightly in countries like Taiwan without some confidence in the future.

QUESTION [speaker unidentified]: I would like to ask Dr. Wei about the extent of political participation in Taiwan. You have indicated in your discussion that most of the political power is in the hands of the Taiwanese Chinese What had been the experience of minority groups in light of the fact that you have varying political power groups in Taiwan?

DR. WEI: The ruling party is the Chinese Nationalist Party (Kuomintang, K.M.T.). For those who have done research on Taiwan's political process, it has become apparent that the process of political representation on Taiwan is far more complex

than has been described by western scholars. In order to win election in Taiwan, one generally must gain nomination by the ruling party. In some cases nomination by the ruling party as a candidate amounts to election. In selecting candidates to run for positions, the ruling party is very careful. They want to get a person who is respected, who has the means to run in the election and win. So in this case, in local areas if you seek out a Mainland Chinese to run in a predominantly Taiwanese area, you are not going to win. So by necessity, the party has to select a Taiwanese Chinese candidate. So because the Mainland Chinese are mostly living in the cities and only a few in the countryside, the proportion of Mainland Chinese who have won seats in the Taiwan Provincial Assembly is less than their overall percentage in the whole population, a situation which can be compared with the United States in some ways. What I can say here is that it is a deliberate effort made by the government of the ROC as well as a natural process of gradual emergence of the majority influence. The Constitution of the Republic of China does have certain guarantees for minority groups to be represented in the National Assembly and other representative organizations. The Aborigines in Taiwan have guaranteed seats, as well as women. According to our constitution, women must have 10 percent of the seats in all levels of legislative bodies, which I understand is not the case in many countries.

DR. CHIU: I want to call to your attention that in China there are some small minorities. They have representatives in the National Assembly. The Aborigines in Taiwan, for example, number only 200,000, and in order to be seated in the National Assembly you need 400,000. But they are guaranteed one seat. For instance, in the United States, if you have about 12 percent Black, if you use the Chinese formula, Blacks would be guaranteed at least 12 to 15 percent or 20 percent in the U.S. Congress.

[Dr. Chiu then invited Professor James P. Chandler — the third discussant — for this session to speak.]

PROF. CHANDLER: Dr. Chiu, I appreciate the invitation to come. I had other commitments in St. Louis which prevented me from leaving there until this morning. As I listened to the panel and I looked at the panel, I noted that except for the Chairman, they were economists and bankers and not international lawyers. But that is what I am — I am a professor of international law. The last question that was discussed by Dr. Wei, I should say, the second to the last question he discussed in response to a question concerning the future of the ROC in the year 2000, is of interest to

me. I have only two comments which I want to make in connection with that. First of all, in my travels in the Republic of China in Taiwan I have found a delightful and beautiful country, and I have found there an extremely hospitable and happy and contented people. This is significant, I think, in terms of our conceptions of international law, particularly as it relates to rights of self-determination. I think at bottom the question becomes whether or not the current evolution of relations between the People's Republic of China and other countries in the world will result in great harm to the existing state of the Republic of China. I think, under conventional ideas of international law, the right of a desirable people, in a desirable territory, to determine for themselves the type of government, the type of state, and the type of allegiance they will have, is a basic and a fundamental human right, and one that ought to be respected by the people in the Republic of China as well as the people in the People's Republic of China. So it is that principle of contemporary international law which should be of overriding importance here, and I think the current emphasis on the importance of individual rights at the national level in this country and its probable evolution in terms of its influence upon other states is undoubtedly to have an impact as yet unforeseeable upon the future prospects of the Republic of China. I want to commend Dr. Chiu for sponsoring this very fine conference and to thank all of you for coming.

DR. CHIU: Thank you, Professor Chandler. You mentioned that you are an international lawyer. But I want to advise the audience that Professor Chandler is also a computer scientist. He is now putting out a book called *Computers and the Law*, to be published by the West Publishing Company, which is one of the leading law publishers. We can entertain one more question.

QUESTION [speaker unidentified]: This concerns investment on Taiwan. Taiwan is apparently self-sufficient in generating capital. In the area of capital, does it really matter very much to the Taiwan people what kind of investments are made?

MR. PILACHOWSKI: That is a very good and also a very difficult question. In regard to the statement that only five percent of private capital comes from outside sources, I personally believe that it is probably a bit optimistic to say that this part of outside capital is of the least importance. The types of projects the government is looking toward — and this is my personal view — are going to need substantially more input from outside, not only in dollars but in the technology necessary to continue to expand. If you look at their trading partners in the area — Korea, Hong

Kong, Japan — the basic products are pretty much the same. What flight of capital would do to the economy of Taiwan is, again, very difficult to estimate. Obviously it would end the expansion of technical capabilities. In case of flight of capital, it would certainly hurt the economy of Taiwan; it's very difficult to put a dollar value on the actual economic impact that would result from the flight of capital.

DR. WEI: I have a comment. Foreign investment has not only an economic meaning but also a political meaning for Taiwan, particularly investment by important, established companies in Taiwan. It imparts a feeling of security to overseas Chinese investors. Also the fact that a foreign company is willing to invest in Taiwan gives some assurance to local people and indicates something about an objective evaluation of Taiwan. In that light, foreign investment, although not very large in percentage terms, has a meaning. Capital flight is a wise decision if the country falls. If you transfer your capital out of the country and the country does not fall, you have had it. This actually occurred with a few people in Taiwan. There were a few people in Taiwan in 1971 or 1972 who tried to get their capital out of Taiwan — but the problem is, Taiwan is a very favorable investment market. It has a good stable government, stable social environment, and relatively reasonable wages. Consider, for example, a textile factory owner with, say, 20 million NT, which is a small, but not too small, establishment in Taiwan: when he converts that money into U.S. dollars, it amounts to \$500,000. He can only open one or two restaurants in the United States, that's all. What can he do with that? Therefore, when someone thinks of transferring to the United States, he only finds that his competition with the same factory is earning more money. So the final analysis is still the question of profits and the favorable environment, and that, I think, is probably a more crucial factor in determining whether capital will stay in Taiwan.

PROF. PRYBYLA: That's like jumping over the Grand Canyon and finding yourself short (laughter). I think that, seriously, whatever the religion one is practicing at the moment, it is the kind of capital that I don't think Taiwan is at present capable of generating. They are moving to a very high-powered, very sophisticated skill-intensive technology.

MR. HSU: I just want to stress one point. We talk about capital. Capital actually has several meanings. For a wealthy Chinese industrialist who has made a lot of money in the past, well, he's sitting on the money, he doesn't know what to do. This

type of capital has little meaning on Taiwan economy. On the other hand, a foreign company is trying to make an equity investment in Taiwan — a loan that would bring in mass technology would be used quite differently.

I also want to make a brief comment on the national emergency situation. We all recognize that change of legislation will take time. In the process, we also realize that many existing laws are not being enforced. So there are two separate issues, looking at the existence of certain laws and at what laws are being enforced. In other words, just reading in the law books there is a national mobilization act or a national emergency law, is quite different from saying as a fact how much these laws are enforced on a daily basis.

DR. CHIU: Thank you. The afternoon session will start at 2:30 p.m. sharp. The Chairperson will be Oliver Oldman, Learned Hand Professor of Law and Director of the International Tax Program at Harvard Law School.

The first session ended at 12:30 p.m.

Reported by Joyce Seunarine