

Self-rule not the same as declaring a free country

Written by Chris Huang 黃子明

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The people of Taiwan have voted in six direct presidential elections since 1996, electing presidents of the Republic of China (ROC). Since the constitutional area of the ROC used to include all of China, a president was only legitimate in the past if they were elected by representatives of the entire Chinese population.

Those who were opposed to direct presidential elections at that time, such as former president Ma Ying-jeou (馬英九), were worried that the ROC — which is so closely intertwined with their destinies — would change substantially and become a political entity that only included Taiwan's territory. As a result, they accused those who supported direct presidential elections of being traitors, who were persecuted and punished.

After six direct presidential elections, as well as the first free elections of the whole legislature, some say that Taiwan's status has already changed. This is what is referred to as “the theory of actions of self-determination” or “the theory of evolutionary independence,” according to which direct popular elections have given Taiwan the democratic mechanisms that are required to become an independent state, and that the accumulated results of these elections are the same as self-determination.

As Taiwan has evolved into an independent nation through these elections, they claim that in order to avoid upsetting China there is no longer any need for Taiwan to exercise self-determination or declare independence.

However, both theories are problematic. In neither theory nor practice of international law is it possible to find a connection between direct presidential elections and national independence.

International law defines sovereign states as having a permanent population, defined territory, a government and the capacity to enter into relations with other sovereign states.

Even the law regulating direct presidential elections denies any ties between elections and Taiwanese independence. Such elections are held in accordance with the Presidential and Vice Presidential Election and Recall Act (總統、副總統選舉及罷免法) based on the Additional Articles of the Constitution, which was designed for all China. In other words, Taiwanese voters elect

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presidents of the authority that has occupied Taiwan, not Taiwanese presidents.

Also, no matter how innovative the additional articles are, they are not a new constitution for a new nation, since the ROC has repeatedly written new constitutions or amended them since its establishment in 1912. Besides, the additional articles define Taiwan and China as the “free area” and the “mainland area” of “one China.”

How can the direct elections of ROC presidents by the people of the “free area” equal a referendum on Taiwanese independence?

Perhaps the results of direct presidential elections allow Taiwanese to display a “constitutional allegiance” completely different from that of Chinese. However, is that enough to obtain independence? Of course not. Building a different constitutional allegiance is just a prerequisite for moving immature sovereignty toward independence.

There is no shortcut to independence. While it is true that direct presidential elections have allowed Taiwanese to achieve effective autonomy and ensure that sovereignty rests with the people within the remaining fragments of the ROC, they have not turned Taiwan into an independent state.

This is why the international community has asked Taiwanese to further declare their willingness to be independent from China clearly and definitely.

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Translated by Eddy Chang

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