

Taiwan's status can't be changed unilaterally

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Maintaining the “status quo” has been President Tsai Ing-wen’s (蔡英文) theme for handling relations across the Taiwan Strait since she first mentioned it on April 9, 2015, during her election campaign. When she visited the US a month later, Tsai explained her position to the US side and gained its approval, paving the way for a smooth ride in the presidential election.

Then-president Ma Ying-jeou (馬英九) was not at all impressed.

“What ‘status quo’ does she want to maintain?” Ma asked.

However, at his groundbreaking meeting with Chinese President Xi Jinping (習近平) in November 2015, instead of talking about “one China, with each side having its own interpretation,” Ma echoed Xi by only mentioning “one China.”

Not willing to drop the issue, Ma in an interview in May accused Tsai of “ignoring the fact that the ‘status quo’ includes the [so-called] ‘1992 consensus,’ and without the ‘1992 consensus,’ this ‘status quo’ cannot exist.”

Ma sees the “status quo” as changeable and thinks that it shifted during his eight years in office. He also thinks his meeting with Xi is a fait accompli.

Ma should not get away with jumbling the concepts of “maintaining the status quo” and fait accompli.

“Status quo” is a straightforward description of the existing situation, so any given moment is a “status quo.” A shift in the “status quo” is a fait accompli that everyone just has to accept, and there is no point delving into the whys and wherefores.

Ma’s actions as president unilaterally changed the “status quo,” which, as well as being a big

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no-no in the international community, has seriously harmed Taiwan's interests.

After World War II, Taiwan came under unique juridical conditions that were a combination of military occupation, Chiang Kai-shek's (蔣介石) government-in-exile and unresolved territorial status. These things should be understood and acted upon within the context of the San Francisco Peace Treaty.

The idea of Taiwanese authorities "maintaining the status quo" is most closely expressed by the legal principle of *uti possidetis juris*, or "as you possess under law," which emphasizes legal mandates rather than mere descriptions.

The aim of this principle is to resolve political disputes peacefully through negotiations instead of by force. It was first used in the 19th century, when Spain was withdrawing from South America and newly emerging nations used it to prevent border wars from breaking out because of some territory being *terra nullius* or "nobody's land."

In consideration of new nations' inability to maintain their borders, the Organization of African Unity in 1964 passed a resolution reiterating this principle. It was applied not only when Asian and African nations were emerging from colonial rule, but also during the breakup of the former Soviet Union and Yugoslavia.

Tsai's "maintenance of the 'status quo'" implies keeping what Taiwan possesses under the law. It is the principle under which everyone, including what the US' Taiwan Relations Act calls "the governing authorities on Taiwan," the signatory nations of the San Francisco Peace Treaty and all belligerent parties of the Pacific War must respect that "Taiwan's status cannot be changed unilaterally."

Until and unless such a change is mandated by means of a treaty, nations must strive to maintain Taiwan's status as an undetermined territory that nonetheless has independence and autonomy, as was the case on the day the treaty was signed.

With respect to foreign relations, Tsai must "maintain the 'status quo,'" but when it comes to

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domestic governance, she does not need to keep looking over her shoulder. These two areas of policy are separate things that should not be lumped together.

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Translated by Julian Clegg

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