



The Holy Land today, at first glance, has scant relevance for Taiwan. But President Donald Trump's new Jerusalem policy last month has set me thinking.

The international legal statuses of Taiwan and Jerusalem both are grounded in the murky diplomatic arcana of post-war peace treaties. Both Turkey and Japan “renounced all right, title and claim” to lost sovereign territories, and the victors in both cases declined to reassign sovereignty to any successor state. The city of Jerusalem has spent a century in this legal limbo. While its current “unsettled” status dates only to 1947, in fact, Jerusalem has been without a “sovereign” since 1917 when it was seized by the British Army from the Ottoman Turks.

Jerusalem's current indeterminate status grew out of the 1923 Treaty of Lausanne wherein the Ottoman empire's successor, the Turkish Republic “renoncer a tous droits et titres, de quelque nature que ce soit, sur ou concernant les territoires situes au dela des frontieres prevues par le present Traite... (renounces all right and title, of any nature whatsoever, over or related to the territories situated beyond the frontiers provided for in this Treaty...)”

Those “territories” mostly were reassigned to new sovereigns by international conventions; all except Jerusalem, Gaza and the West Bank. In November 1947, a United Nations resolution recognized the legal right of a Jewish state in Palestine alongside an Arab one. But in the same resolution, the General Assembly of the United Nations declared the City of Jerusalem a “corpus separatum” — to be administered under the UN as a special “body, separate” from the

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Arab and Jewish states. Alas, international law declares that thus must Jerusalem remain unto this day, absent a new international treaty.

Today, Jerusalem's international status is somewhat different from Taiwan's in that the United Nations considers it to be under UN sovereignty despite the fact that the UN neither followed up on its 1947 novel and unprecedented "separate body" proclamation nor ever moved to impose any administration on the city.

To the layman, unschooled in the arcana of international diplomacy, 70 years of unsettled legal status should be more than enough time to resolve ridiculous minutiae when the "facts on the ground" are solid. Jerusalem has functioned as Israel's capital since 1948, and that's that.

Indeed, President Trump, not known for his patience with legal fictions and diplomatic make-believe, broke with 70 years' American foreign policy to recognize Jerusalem as Israel's capital. He has ordered the US embassy relocated there. To be sure, the president's UN Ambassador, Nikki Haley, pointed out that Jerusalem is a big place with several overlapping jurisdictions, including the Temple Mount and the Old City, and that the president does not presume to finalize the status of all Jerusalem. Ambassador Haley simply reminded all that the US had not taken a side in any final-status issues, including on the borders of Jerusalem itself.

With this rich legal history as a backdrop, President Trump's historic decision on Dec. 6 to recognize Jerusalem as Israel's capital and relocate the American Embassy thither stunned the world. Seventy years of rock-solid diplomatic indeterminacy were upended by a self-assured US president who sees no use in US interests held prostrate by legal fictions.

Is there any likelihood that President Trump likewise may cast his gimlet eye on Taiwan's seven decades of legal limbo? Like the defeated Turks in 1923, the Japanese Emperor in 1945 surrendered to allied armies, and ultimately "renounced all right, title and claim to Formosa and the Pescadores" in the San Francisco Peace Treaty.

As with the Turks in 1923, the Japanese in 1951 were never permitted to specify to whom sovereignty over Taiwan would be transferred. The victorious allied powers then refused to choose a new sovereign for Taiwan, explicitly leaving the matter for "future" resolution.

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And so, for 70 years, the United States has considered Taiwan's international legal status "undetermined." And, as President Trump's China policy advisers, as well as the Congressional Research Service, all point out, Taiwan's "undetermined" international status is an unadvertised part of what American officials disingenuously call "our 'one China' policy."

President Trump's new Jerusalem policy, wholeheartedly supported by Congress, reminded me of former president of Taiwan Lee Teng-hui's (李登輝) 1995 pilgrimage to Mount Nebo overlooking the Jordan River valley. Just days before president Lee's Jordanian sojourn, on March 29, 1995, House Resolution CR H4449 "expresse[d] the sense of the Congress that the President should promptly indicate that the United States will welcome a private visit by President Lee Teng-hui of Taiwan to his alma mater, Cornell University"; the bill passed the House on May 2 by a vote of 396 to 0; and on May 9 passed the Senate 97 to 1.

Massive congressional support for Taiwan prompted then-secretary of state Warren Christopher to sit down with his Chinese counterpart, Qian Qichen (錢其琛), on April 17, 1995, and caution: "Very frankly the American public and particularly the American Congress do not understand the Chinese position" on keeping Taiwan President Lee out of the United States.

Secretary Christopher added: "We would consider a transit visit" for the Taiwan President.

On May 19, President Bill Clinton acquiesced to President Lee's visit to Ithaca, New York, and while frictions arose the following year, Clinton Administration dealings with Taiwan, particularly in security cooperation, were quite successful. President George W. Bush reversed the Clinton approaches seeking to mollify China during his Afghanistan and Iraq Wars. President Obama thought he needed China's support on climate policy. Of course, neither drew any concessions from China in return.

Unlike his predecessors, President Trump's brand of diplomacy is "transactional" in the sense that he bargains; he is a "deal-maker." As an outsider distrustful of bureaucracy, he rejects traditional policies of "that's the way it's always been done." His is a cost-benefit calculation, and if some always-been-done "policy" yields no profit; or never has shown a profit; or — worse still — results in losses, he is likely to abandon it, whether on climate, or Jerusalem or North Korea.

President Trump can look at 70 years of American diplomacy centered on Taiwan's "unsettled status" and ask the commonsense questions. "What's the profit in it?" "Why have previous US presidents unilaterally curtailed official exchanges with Taiwan that were well within 'our "one China"' bounds 20 years ago, but are now taboo?" "Can we work 'our "one China"' to enhance regional security or gain trade benefits from smoother, more direct ties with Taiwan?" "Has Beijing ever done anything to compensate us for ridiculous, self-imposed legal fictions about Taiwan that weaken our posture in the Western Pacific?" And "how much of this legal fiction is really necessary?"

It is premature to predict how soon President Trump will become so deeply antagonized by China's behavior in trade, cyber, intellectual property, espionage, environmental, market front-running, money laundering, opioid trafficking and maritime territories that he will re-examine the zero-sum Taiwan/China game. But I think China's duplicitous support for North Korea while professing compliance with American sanctions is certain to anger him sooner, not later.

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