

President Ma Ying-jeou's (馬英九) recent elaborations on the issue of Taiwan's statehood, given the complex nature of the legal status of the Republic of China (ROC), was likely "international legal suicide" and a deception of the people of Taiwan, academics said in a forum last week.

Ma appears to have been self-conflicting and inconsistent in his interpretation of the cross-strait framework, Brad Roth, a professor of political science and law at Wayne State University in Michigan, told a forum organized by Taiwan Thinktank.

The president said that the relationship between Taiwan and China "is not one between states, but a special relationship for which the model of recognition under conventional international law is not applicable," but sought to promote his initiative of "mutual non-recognition of sovereignty and mutual non-denial of authority to govern" under the "one China" framework.

"However, if cross-strait relations are not subject to international law, they could only be internal affairs of the People's Republic of China's [PRC]," Roth said.

He added that the Taipei government might be recognized either as representing an undivided China or as representing Taiwan, but there is no third option.

According to Roth, the PRC's interpretation of "one China" is that Taiwan lacks any international legal protection, and that threats and use of force across the Taiwan Strait represents matters "essentially within the domestic jurisdiction."

While Ma's policies has relaxed bilateral tensions, his insistence on the "one China" framework could come at a price — a signal to the international community that Taiwan is no longer in need of its protection against potential PRC predation, he said.

"To return to the idea that Taipei is a contestant government of an undivided China is to commit a kind of international legal suicide," he said.

Ma in 'international legal suicide'

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Bold moves, such as constitutional reforms that overtly assert Taiwan independence, are not likely to affect the determinants of Taiwan's legal status, Roth said, adding that it would better suit Taiwan to build on international legal consciousness of its non-subjugation to the PRC.

On Taiwan's normalization as a state, academics debated on Australian academic James Crawford's opinion that Taiwan is not a state because it "still has not unequivocally assert its separation from China and is not recognized as a state distinct from China."

Taiwan New Century Foundation chairman Chen Lung-chu (陳龍渠) said he aligned himself with the declaratory theory on the creation of states and added that Taiwan could be an exception because it had evolved through the years.

It was what Chen called an evolution theory, which explained how Taiwan had transformed itself from the Martial Law era to the present as a sovereign and democratic, yet "abnormal" country.

The people of Taiwan's collective effort as a nation has been a compelling case and a strong testimony to the international community, he said, adding that the bid for UN membership under the name Taiwan in 2007 was a formal declaration of self-determination, a universal right protected by the UN Charter.

Former deputy foreign minister Michael Kau (高志彬) said there are legal and political aspects to Taiwan's status and statehood, but he felt that eventually political intervention would be needed to settle the matter, citing the cases of Bosnia, Kosovo and East Timor.

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