The Paradox of Taiwan’s Human Rights Conditions

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My assignment today is to present an overview of Taiwan’s human rights conditions as the conditions have evolved over the post-war years, and to do so in 20 minutes. This is certainly a tall order. I can only hope that towards the end of my presentation, the meaning of the word “paradox” in my title will become clear. It’s my view that getting an idea of the paradoxical nature of Taiwan’s human rights conditions is crucial. It not only will tell us the particular paths we have followed; it may be our best guide as well as to how we should go on.

I choose to concentrate on the post-war years for intellectual as well as pragmatic reasons. As is well known, it’s after WWII that the universalization of human rights reached its most important watershed. It was also in the early years of this period that Taiwan’s history took a fateful turn. One colonial power, Japan, departed in 1945. Into its place stepped a semi-Lenist and semi-colonial rightwing regime in the shape of General Chiang Kai-shek’s one-party dictatorship. And, ironically, back in those years the Chiang regime was not only part of the UN, but a permanent member of the UN Security council no less. The human rights implications of this turn of events were clear almost right away. In February 1947, the year before the Universal Declaration of Human Rights (UDHR), KMT tyranny touched off an island-wide uprising. By the time UDHR made its appearance, thousands had already been massacred, and an ensuing “Operation Cleaning the Countryside” was building up into another period of state terrorism. This latter period, which peaked in 1955, is now commonly known as “White Terrorism”. A few thousands more were added to the death toll. And tens and hundred of thousands more were arrested and otherwise terrorized.

There were two things at once terrifying and chillingly ironic about this long period of state terrorism. First, the KMT not only helped pass the UNHR but also duly signed, ratified and deposited the convention on the Prevention and Punishment of the Crime of Genocide. It even had the hypocrisy and temerity to produce a domestic version of the Genocide Convention, which entered into Taiwan’s Law book in 1953 just when “White Terrorism” was building up to a peak. Secondly, on a lesser scale but no less effective for the Regime’s purposes, this terrorism by the state was to continue well into the early nineties. Indeed this is how the current compensation law for victims of “improper trials” defined the period of coverage.

The effects of this long period of state violations of human rights on Taiwan’s society was to demolish whatever budding ideas of rights and freedoms that came with modernity and
that somehow survived Japan’s also very hush colonial rule. In the earlier period, a Taiwanese communist’s worst fate was imprisonment. Now it was death and worse. In 1930, activists of the People’s Party of Taiwan were able to get a League of Nations mission to come and investigate the colonial government’s opium policy, making good use of the rivalry between the imperial forces. Now in a cold war context anything like it was totally inconceivable. The West simply turned its eyes away: Taiwan was one of its anti-communist frontline states. The combined chilling effect was such that, until about a decade ago, professors of constitutions still did their best to skirt the issue of rights. Under such conditions, there was little room for a human rights culture or tradition to grow.

Here it’s important to note that many countries share a history similar to Taiwan’s, but there were conditions peculiar to Taiwan, and it’s Taiwan’s peculiarities that I wish to stress today. Two peculiarities are particularly worth noting, one to do with international and the other domestic situations. Internationally, when Taiwan was expelled from the UN in 1971, it was also severed from the World human rights regime. The timing, 1971, was critical. It was in the mid-70’s that the two Covenants entered into force and the related institutional and operational mechanisms came into place. Yet Taiwan was gone before then. By 1971, Taiwan did sign and ratify 7 human rights conventions, including the two conventions, and signed 4, but these were international PR acts to polish the image of what’s then called “Free China”. Once done, the papers were duly locked away in the Ministry of Foreign Affairs before the ink was dry. In fact, Taiwan will not have a compilation of international human rights instrument until a NGO-compiled volume appears next month, although the first UN compilation came out in 1966 and Chinese was, then as now, one of the major languages officialized by the UN.

So Taiwan has been severed from the international regime for 30 years. What might have happened had Taiwan stayed in? We shall soon see that the speculation is by no means idle when we compare the facts with the counterfactual. Taiwan’s government would have had to have enough officials who know enough about human rights to know how to vote at the annual conferences in Geneva and at the General Assembly (right now it has none.) Second, Taiwan’s government and NGOs would have had to be part of a large number of UN conferences and projects relating to human rights (right now it’s totally out except for a few NGOs attached to accredited international groups). Third, Taiwan would have had an UN depository (right now Taiwan’s Largest seven Libraries contains a grand total of 162 items of information in Chinese relating to human rights). Fourth, Taiwan would have had to accede to at least the major conventions and summit the required national reports( so
far it has never had to). Fifth, to do this, universities would most likely have to step into help (right now less than half a dozen courses are offered at over 100 universities and colleges). Sixth, Taiwan’s government would have to have human rights policies of sorts (until last May, it had none). The cataloguing could go on.

Now, suppose we try to imagine not only counterfactuals like these but also their accumulations and their combined impacts over 30 years on Taiwan’s human rights awareness and practice. What a great and irreplaceable loss they would translate into! I believe it is hard to escape two conclusions from this exercise. First, Taiwan has a very poor infrastructure for advancing rights. Second, it’s severance from the international human rights regime has played a large part in this lack of a more adequate infrastructure, one in proportion to its economic strength and standard of education. It would also be hard, I think, to imagine a better negative argument for the necessity of an international regime to advancing rights in individual countries.

This is the first of the two peculiarities I mentioned earlier. Now the second, the one to do with domestic evolutions. Taiwan has made undeniable progress in human rights since our Liberalization and democratization began about a decade and a half ago. This progress has taken mainly two forms. First, personal, political and certain civil rights (such as freedoms of speech and association) are now relatively secure. These might be called “beachhead rights” because they help open up space for Taiwan’s civil society to emerge from severe state domination of society in the pre-democratization period. Over the last decade, civil society organizations have made possible a second cluster of gains beyond the “beachhead rights”. The gains are uneven and scattered, reflecting the varying strengths of the civil movements; improvements in legal rights (but not the badly needed structural reform of the judicial system), in welfare rights (we have a national health insurance scheme, but no unemployment insurance or a pension scheme worthy of the names), women’s rights (but worker’s rights fall far behind). I shan’t go on. It appears that Taiwan has settled down quickly, too quickly one might say, into the politics and business as usual one wouldn’t expect from a society so soon as after its transitions to democracy.

Although we will have to oversimplify, there is an explanation for this overall pattern. Taiwan is supposed to have gone through a “Quiet Revolution”. In fact, it’s neither quiet nor revolution. The ruling party, the KMT, had continued in power until six months ago. What happened was that, caught in the most recent worldwide wave of democratization and under popular pressure in the mid-80’s, it had to make concessions in order to stay in
power. The concessions mainly took the form of opening up the political process, hence the unfreezing of those “beachhead rights”. But everything else has to be struggled for bit by bit. At least as far as human rights are concerned, this is not a healthy situation. To see this, we need only remind ourselves of the case of South Africa, of how much that country’s National Actions Plan Steering Committee has achieved in building an infrastructure and structure for securing and advancing human rights. The comparison is enlightening because Taiwan enjoys advantages over South Africa in terms of economic and educational standards.

Even from a survey as brief as this one, three conclusions are clear. First, the near-impossibility to build up a human rights culture and tradition in Taiwan’s pre-democratization makes for the lack of a strong independent internal drive for advancing rights in Taiwan. Second, this lack has combined with Taiwan’s international isolation to result in another lack of an adequate infrastructure for advancing rights, either by international standards or in proportion to Taiwan’s other achievements. And third, if Taiwan is to achieve greater advancement of human rights either for itself or for the world, it can not continue to rely on bit-by-bit accretion. Seen in this light, I think the new administration that took office last May should be applauded for beginning to address the problems by proposing to establish a national human rights commission, to legislate the International Bill of Human Rights into a domestic bill of rights, and to build up and intensify international human rights exchanges. I need only to point out that this is but a beginning. Something more comprehensive such as a national action plan is still needed. For this, and for putting plans into daily practice, encouragement and assistance from the international human rights community, such as this conference exemplifies, will be both crucial and welcome.

I don’t know whether my survey succeeds in conveying and diagnosing what I have called the paradoxical nature of Taiwan’s human rights conditions. Indeed, no 20-minutes survey can escape its own paradoxical elements. I can only hope that my brief talk is not entirely useless for our discussions over the next few days. I look forward to the discussions, and I thank you all.