

“One China” Contention in China–Taiwan Relations: Law, Politics and Identity

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Abstract

This article examines the abiding “one China” contention between the People’s Republic of China (PRC) and the Republic of China (ROC or Taiwan), focusing on their 2008–2016 cooperation and the ensuing political stalemate. It does so by investigating the PRC’s and the ROC’s respective legal frameworks and the positions of the major political actors, including the Chinese Communist Party and both Taiwan’s Kuomintang and its Democratic Progressive Party. While the PRC maintains its “one-China principle,” and the ROC’s legal system retains some “one China” elements, the idea of “one China” has been in flux in Taiwan. The traditional conceptualization of “one China” has been increasingly challenged in Taiwan’s democratic era by the rise of a countervailing Taiwanese national identity and opposition to the PRC’s insistent agenda to absorb the island. These dynamics are rapidly minimizing the appeal and political utility of any “one China” notions in China–Taiwan relations.

Keywords: “one China”; “one country; two systems”; “one China; respective interpretations”; “1992 Consensus”; dissensus; Taiwanese national identity

The year 2022 marks the 50th anniversary of the “Shanghai Communiqué” between the United States and the People’s Republic of China (PRC) and the normalization of the PRC’s relations with Japan. These momentous events in 1972 witnessed a critical turning point in Beijing’s relations with its two most important international partners of the 1970s and 1980s. They laid the cornerstone for the PRC’s dynamic expansion of its foreign relations over the past half-century. As discussed in this special section’s lead article, a central enabling factor was a “myth of consensus” – a tacit agreement to disagree – between Beijing and these two other governments over Beijing’s “one-China principle,” whose core was the PRC’s claim that Taiwan belonged to it.¹

To understand how the “one China” framework has worked as a vague and strikingly flexible informal international institution for the past 50 years, it is crucial to not only examine important third-party cases – especially the US, Japan

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1 Liff and Lin, 2022.



and the European Union² – but also how the inherent subjectivity of the concept’s definition is reflected in the fundamental disagreement across the Taiwan Strait itself and, especially following the Republic of China’s (ROC, hereafter also referred to as Taiwan) democratization,³ how perspectives in Taiwan have themselves evolved. After all, effective “one China” positions and policies of many important international political actors have been, and will inevitably continue to be, influenced by Taiwan’s decisions about whether and how to resolve its dispute with the PRC. Indeed, regardless of how things play out – whether Taiwan eventually opts to unite with the PRC under any kind of “one China” framework, declare *de jure* independence, or something in-between – the international meaning and practical significance of the “one China” framework will be profoundly affected. In the first scenario, foreign governments would find it difficult not to recognize – unambiguously – that Taiwan is part of “China.” In the second, it would be all but impossible for them to avoid taking a more explicit position on Taiwan’s international status – one way or the other.

Thus it is the continued uncertainty and lack of consensus – at the heart of which lies the fact that, since 1949, Taiwan’s official view on “one China” has always differed from Beijing’s position – that enables other countries to maintain vague (or not) official positions on Taiwan’s status and to modify (or not) their own “one China” policies based on shifting assessments of their own interests. Therefore, the discussion of Taiwan’s evolving positions over time and its current contention with the PRC on the issue of “one China” is essential to understanding the significance and vicissitudes of the “one China” framework in international politics.

One prominent example of using a flexible “one China” framework to bridge cross-Strait cooperation is when the ROC’s former president Ma Ying-jeou 馬英九 of the Kuomintang (KMT) was in office from 2008 to 2016. During that period, the KMT and the Chinese Communist Party (CCP) both embraced what had been coined the “1992 Consensus” – a political formula that was then ambiguous enough to accommodate different views of the two parties on what “one China” meant.⁴ Under this framework, Taipei and Beijing, through their respective semi-official proxies, signed no fewer than 23 cross-Strait agreements designed to facilitate cooperation in multiple areas, including transportation, tourism, judicial assistance, trade, investment and safety standards.

The cooperation relaxed the tension in the region. Moreover, it appeared to contribute to justifying “one China” in the international arena because the

2 Ibid.; Liff, 2022; Brown, 2022.

3 For important political background relevant to this article’s discussion, especially Taiwan’s transition to democracy in the early 1990s, see generally Leng and Lin 1993; Tien and Chu 1996; Chu and Lin 2001. For discussions of Taiwan’s state-building project during democratization, see also Tien and Chu 1996; Chu and Lin 2001.

4 There have been attempts to generate a common view on “one China” across the Taiwan Strait. The 1992 Consensus is a relatively successful case in point, but, as discussed below, the 1992 Consensus did not create a uniform understanding of “one China.” See the section on political framings of “one China” and “no to ‘one China’” in this article.

KMT government at the time, based on its own definition of “one China,” launched no campaign to challenge notions of “one China” for Taiwan’s entry into international organizations. China then was willing to offer Taiwan some international space, including allowing Taipei to be an observer at the World Health Assembly (WHA) from 2009 to 2016 under the name of “Chinese Taipei” and to be a guest at the 2013 summit of the International Civil Aviation Organization.

Six years into cross-Strait cooperation, however, there was increasing Taiwanese dissatisfaction with the Ma administration’s policy to form closer ties with the PRC and to minimize popular domestic and legislative checks on cross-Strait agreements.⁵ It is in this context that an already-growing Taiwanese national identity eventually erupted into the Sunflower Movement in March 2014.

In the wake of the popular Sunflower Movement, the KMT suffered major electoral setbacks, losing to the Democratic Progressive Party (DPP) in local elections in November 2014 and in the legislative and presidential elections in 2016. Despite a comeback in the 2018 nationwide local elections, the KMT in 2020 again lost both the legislative and presidential elections to the DPP. President Tsai Ing-wen 蔡英文 of the DPP, both in her first term and now two years into her second term, has largely advocated a moderate stance on cross-Strait relations that does not seek *de jure* independence. She has stated that her government is open to resuming dialogue with Beijing, but not on the precondition of the 1992 Consensus, which in the DPP’s view would concede that Taiwan is part of China. Tsai’s position is considered unacceptable by the CCP’s general secretary, Xi Jinping 习近平, who insists that Taiwan recognize the 1992 Consensus. Beijing has therefore rejected cooperation with Tsai’s government, suspending official contact and applying various non-cooperative and coercive measures on Taiwan’s political, economic and military fronts.

The DPP government’s contention over “one China” apparently spills over to the international system. Taiwan’s current position challenges “one China” internationally rather than vindicating it. The WHA, the World Health Organization’s highest decision-making body, is a case in point. Since 2017, Taiwan has continued to apply for observer status without the endorsement of the PRC that the previous KMT administration received. Arguing that Taiwan should be allowed to become an observer at the WHA, Tsai’s government has reasoned that the relevant resolutions of the United Nations General Assembly and the WHA,⁶ which recognized the PRC government’s representatives as the

5 For an analysis of Ma’s policy and the causes of the Sunflower Movement, see Ho 2015.

6 See United Nations General Assembly Resolution 2758 “Restoration of the Lawful Rights of the People’s Republic of China in the United Nations,” *United Nations Digital Library*, 25 October 1971, <https://digitallibrary.un.org/record/192054>. Accessed 6 June 2022; and World Health Organization Resolution 25.1 “Representation of China in the World Health Organization,” *World Health Organization*, 10 May 1972, https://apps.who.int/iris/bitstream/handle/10665/91916/WHA25.1_eng.pdf. Accessed 28 August 2022.

only lawful representatives of China, do not adequately address the question of the participation of Taiwan's 23 million people, or authorize the PRC to represent Taiwan. This stance is tantamount to disputing "one China" in these international institutions. Moreover, with Taiwan's publicly pronounced disagreement with "one China," other countries, notably Japan and the US, find Taiwan's backing in their own position that does not recognize China's claim over Taiwan's sovereignty. All in all, cross-Strait agreement or disagreement on "one China" ideas impacts not only the region's stability but also the dynamics of the "one China" framework in international politics.

This article analyses the enduring question of "one China," crucial to making possible the cooperation between the KMT and CCP in 2008–2016 and to preventing that same alliance between the CCP and the DPP. It uses this recent history of cross-Strait cooperation and the current tension as a prism and discusses relevant legal and political framings of "one China" and what this article terms "no to 'one China'," which expresses the DPP's unequivocal refusal to concede Taiwan's sovereignty to the PRC. Highlighting one of the core themes of this special section – the myth of consensus,⁷ this article points out that there has never been a consensus on the meaning of "one China" between the PRC and Taiwan, even during their earnest cooperation between 2008 and 2016.⁸

Yet, despite their differences over "one China," I note that the KMT and the CCP employed astute diplomacy in creating the appearance of a consensus to clear the way for cooperation. The usefulness of the 1992 Consensus as one of the various "one China" notions was its ability to accommodate different positions. However, I also highlight a countervailing force against "one China" – a bona fide consensus emerging among Taiwanese: that Taiwan is already an independent sovereign state under the name of the ROC in which *Taiwanese* can enjoy the democratic way of life without outside interference. This genuine consensus has impelled changes in the Taiwanese interpretation of what "one China" means over time. A strong Taiwanese national identity, combined with the popular aversion to Beijing's increasing unification push, is fundamentally challenging the idea of "one China" in Taiwan. In light of this, I argue that "one China" as both an ideal and an informal institution in cross-Strait relations is quickly losing appeal and utility. This, in turn, has significant implications for "one China's" practical operation in international politics beyond the Strait. In particular, this consensus in a democratic Taiwan is likely to attract more sympathy from democracies than policies developed in Taiwan's authoritarian past.⁹

The article proceeds as follows. The first section examines the legal framings of "one China" in the PRC and the ROC and compares their different meanings.

7 For Beijing's meaning by and political use of the "one-China principle," see Liff and Lin, 2022.

8 This is not new. Even during the Cold War there was never a consensus on the meaning of "one China." See Liff and Lin, 2022.

9 Other articles in this special section also note that Taiwan's democratization has led to more identity-based solidarity and support for what effectively is opposition to coerced unification from most major democratic US allies. See Liff, 2022; Brown, 2022; Kastner et al., 2022.

The following section turns to the political framings used by the CCP and both Taiwan’s KMT and DPP. Given the parameters of the legal and political framings discussed above, the penultimate section discusses what appears to be the emerging consensus in Taiwan. A final section concludes.

While there has been much discussion about the question of “one China” in cross-Strait relations,¹⁰ this article contributes to the scholarship in several ways. First, by discussing the skillful diplomacy between the KMT and CCP to create a façade of “consensus” but also by demystifying the oft-repeated “consensus” about “one China” in cross-Strait cooperation. Second, the article underlines that the ROC’s constitution leaves room for interpretation for both “one China” and “no to ‘one China’” positions, which compete fiercely in Taiwan’s democracy. Third, and relatedly, the article argues that in this competition the growing Taiwanese national identity and Xi Jinping’s agenda to pressure Taiwan to accept “one country, two systems” (OCTS) have not only rendered “one China” increasingly unappealing in Taiwan but also diminished the political utility of any “one China” notions for future cross-Strait cooperation. The time window for salvaging “one China” in cross-Strait relations may be quickly closing if the two sides cannot find a compromise. Finally, the article joins other contributions to this special section in offering an original analysis of “one China,” zooming in on the perspective of Taiwan, whose agency is often side-lined in the literature that leans heavily towards a focus on China and the US.

The Legal Basis of “One China” in the PRC and the ROC

This section outlines how the domestic legal frameworks of the PRC and ROC define and interpret “one China,” respectively.¹¹ The PRC’s constitution (1982) has consistently maintained that Taiwan is part of China. By contrast, the ROC’s constitution experienced momentous changes during Taiwan’s democratization in the early 1990s. Notably, the amended constitution is ambiguous enough to encompass various positions in Taiwan for or against “one China,” which has paved the way for the later competition over sovereignty claims presented by Taiwan’s two dominant political parties.

The PRC

“One China” as a political term began to develop in the PRC in the mid-1950s. It was presented by the PRC government to refute what it thought to be threatening notions such as “two Chinas” or Taiwan independence, which Beijing regarded as ideas raised by the US.¹² As early as 1956, for example, the then PRC premier, Zhou Enlai 周恩来, remarked to the First National People’s Congress (NPC) that “the United States has tried its best to exclude the new China in international

10 For example, Chiang 2017; Su and Cheng 2003; Su 2009; Tung and Chen 2004. For discussion of cross-Strait relations more generally, see, for example, Bush 2013; Sullivan and Lee 2018.

11 For a thorough discussion as to Taiwan’s status in international law, see, for example, Chiang 2017.

12 Huang 2001, 1–2.

affairs,” adding that “some would like to create a delusion that Taiwan is another China or an independent country...and to attempt to enable a situation of ‘two Chinas’ in international organizations and meetings.”¹³ In a later session of the First NPC, Zhou again emphasized, “The Chinese government and people are firmly opposed to the scheme to create ‘two Chinas.’”¹⁴

In terms of legal framings, Taiwan was not mentioned in the PRC’s first (1954) and second (1975) constitutions. The first explicit reference to Taiwan came in the preamble to PRC’s third, short-lived constitution (1978): “Taiwan is China’s sacred territory.¹⁵ We must liberate Taiwan and finish the great task of unifying the motherland.”

This constitutional language of “liberating Taiwan” was soon dropped when Chinese leader Deng Xiaoping 邓小平 heralded the era of “reform and opening up.” The Deng-era Taiwan stance, which was more relaxed compared to the “liberate Taiwan” position, was first articulated in the famous 1979 “Message to Compatriots in Taiwan” passed by the NPC Standing Committee. The “Message” called for people-to-people exchanges across the Strait and an “early reunification of our motherland.”¹⁶ Accordingly, the 1982 constitution, which is still in effect, relinquished the militant term of “liberating Taiwan” and asserted in the preamble: “Taiwan is part of the sacred territory of the People’s Republic of China. It is the inviolable duty of all Chinese people, including our compatriots in Taiwan, to accomplish the great task of reunifying the motherland.” Additionally, the 1982 constitution (Article 31) set up the “special administrative region” system, preparing for the policy of OCTS, which was proposed by Deng with regards to Taiwan, and was later applied to Hong Kong and Macau.¹⁷

Besides the constitution, the most important PRC law regarding Taiwan is probably the 2005 Anti-secession Law. Passed by the National People’s Congress, it is considered a “basic law” in the PRC’s legal hierarchy. The law sought to unify Taiwan by peaceful negotiation or, under the law’s vaguely defined circumstances, by means of force. As Beijing felt provoked by what it viewed as “Taiwan independence” promoted by the then Taiwan president, Chen Shui-bian 陳水

13 “Zhou Enlai zongli jian waijiao buzhang guanyu muqian guoji xingshi, woguo waijiao zhengce he jiefang Taiwan wenti de fayan” (Remarks by Premier Zhou Enlai and the Minister of Foreign Affairs on the Current International Situation, National Foreign Policy and the Question of Liberating Taiwan), *Central People’s Government of the People’s Republic of China*, 28 June 1956, http://www.gov.cn/test/2008-03/06/content_911550.htm. Accessed 31 August 2022.

14 “Muqian guoji xingshi he woguo waijiao zhengce” (The Current International Situation and National Foreign Policy), *Central People’s Government of the People’s Republic of China*, 10 February 1958, http://www.gov.cn/test/2008-03/07/content_912563.htm. Accessed 31 August 2022. See also Chai 1999, 66.

15 For the evolution of this terminology and the history of the CCP’s policy towards Taiwan in the 1950s, see Tsang 2020.

16 “Quanguo renda changweihui gao Taiwan tongbao shu” (The NPC Standing Committee’s Message to Compatriots in Taiwan), *Ministry of Foreign Affairs of the People’s Republic of China*, 1979, <https://www.mfa.gov.cn/chn/pds/ziliao/tytj/t10733.htm>. Accessed 30 August 2022. For a translation, see “Message to compatriots in Taiwan,” *China.org.cn*, 1 January 1979, <http://www.china.org.cn/english/7943.htm>. Accessed 1 September 2022.

17 For OCTS as it was designed and developed for the Hong Kong context, see, for example, Weng 1987.

扁,¹⁸ the Anti-secession Law was said to provide the legal basis to oppose “two Chinas,” “one China, one Taiwan” and the earlier formulation of “special state-to-state relations” proposed by Lee Teng-hui 李登輝 as well as the “one country on each side” formulation proposed by Chen Shui-bian.¹⁹

Remarkably, compared to the constitutional expression that Taiwan is part of the sacred territory of the *People’s Republic of China*, the Anti-secession Law stated that *both the mainland and Taiwan belong to “one China,”* which appeared to suggest a kind of equal status between the mainland and Taiwan in order to appeal to the Taiwan side.²⁰ It also stated that “Taiwan is part of *China*,” instead of the *People’s Republic of China*, and the title of the law refrained from referencing “the People’s Republic of China” at all, unlike any other Chinese law. All this nuanced, exceptional wording pointed to a subtle distinction between the 1982 constitutional position and Beijing’s policy under Chinese leader Hu Jintao 胡锦涛 in 2005.²¹

The language of the Anti-secession Law arguably created room for constructive dialogue about what “China” meant and under what “one China” framework Taiwan could be unified with the mainland. It was meant to offer Taiwan room for negotiation with the PRC on equal footing.²² Given the law’s provisions about the use of force against Taiwan, however, Beijing’s approach was two-sided: resorting to both coercion (threat or use of force) and persuasion (room for peaceful negotiation).

Yet, given the constitution’s supreme status, even a basic law such as the Anti-secession Law would never supersede Beijing’s “one-China principle” enshrined in the constitution. The Anti-secession Law’s nuanced tone can be understood as a passing reflection of China’s policy direction back in 2005.

The ROC

The ROC constitution was drafted on the mainland and implemented in 1947 in both mainland China and Taiwan. In 1948, however, facing the advance of Mao Zedong’s communist forces, the ROC’s National Assembly, dominated by President Chiang Kai-shek’s KMT, enacted the “Temporary Provisions Effective During the Period for Mobilization Against Communist Rebellion” (hereafter the Temporary Provisions), which essentially declared the CCP to be a rebellious group that must be eliminated. The Temporary Provisions also gave the president the power to issue “emergency measures” without constraint. After Chiang Kai-shek lost the Chinese Civil War to Mao Zedong and the KMT government retreated to Taiwan in 1949, the ROC constitution as well as the Temporary Provisions continued to be applied to Taiwan.

18 Sullivan and Lowe 2010.

19 Jiang 2007, 113.

20 For the purpose and impacts of the narrative change, see Lin, 2022.

21 See Zhou 2018, 4.

22 Shaw 2006, 16.

The ROC constitution and the Temporary Provisions, however, have undergone far-reaching changes since the ROC government lifted the martial law decree (1949–1987), initiating Taiwan’s democratization.²³ In 1991, the late Taiwan President Lee Teng-hui announced the termination of the Temporary Provisions (and the “Period for Mobilization Against Communist Rebellion” itself), symbolizing the end of the Chinese Civil War from the ROC government’s perspective. In addition, Taiwan’s Constitutional Court, emboldened by the end of martial law, issued a groundbreaking decision to require the retirement of representatives of the “ten-thousand-year-old parliament” (members of which were elected in mainland China in 1947–1948 and had held office ever since). Elections were then held in 1991, 1992 and 1993 to elect new representatives for the National Assembly, the Legislative Yuan and the Control Yuan, respectively. The new parliamentary bodies, freely voted for by Taiwanese, no longer claimed to represent the people of mainland China. Taiwan also held its first direct presidential election in 1996 and saw its first peaceful transition of power in 2000. All of these were milestones of Taiwan’s democratization.

The ROC constitution was first amended in 1991 – in the form of the “Additional Articles to the Constitution of the Republic of China” (hereafter the Additional Articles) – to facilitate the process of democratization and to redefine *the relationship between the Chinese mainland and Taiwan*. The 1991 Additional Articles reflected that the ROC government only effectively controlled the “free area” of the ROC (e.g. Taiwan, Penghu, Quemoy and Matsu), not the “mainland area.” In addition, based on the constitutional authorization, in 1992, Taiwan’s legislature passed a law entitled the “Act Governing Relations between the People of the Taiwan Area and the Mainland Area” (aka the “Cross-Strait Relations Act”) to regulate the rights and obligations between the people of the “free area” and those of the “mainland area.” In other words, people of the “mainland area” are not treated as ROC citizens, but neither are they simply treated as “foreigners” in Taiwan’s legal system.

Despite these changes, the ROC constitution continues to deem the Chinese mainland part of the ROC’s territories. In addition, the preamble of the Additional Articles states that “To meet the needs of the nation *prior to national unification*, the following articles of the ROC Constitution are added or amended to the ROC Constitution.”²⁴ This expressed goal of “national unification” suggests that the relationship between the “free area” and the “mainland area” is one of a divided nation. From this perspective, the ROC constitution still has important “one China” elements.

The amended constitution, however, appears to also be ambiguous enough to allow for different interpretations. Despite the stated goal of “unification,” the

23 Clough 1996, 1057–1058, 1064.

24 The Taiwan government’s English-language translation of the Additional Articles can be found here: <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=A0000002>. Accessed 28 August 2022.

Additional Articles demand no timetable whatsoever for achieving this goal, which is interpreted by many to mean that Taiwan can continue to maintain the status quo – de facto independence – without foreseeable end.

Based on the new constitutional order in Taiwan, by the mid-1990s, President Lee Teng-hui began to use new political terminology: “ROC on Taiwan” (*Zhonghua minguo zai Taiwan* 中華民國在台灣).²⁵ This term implied that the ROC was associated with Taiwan and with Taiwan only. It also reflected that Taiwan people and Taiwan people only elected the government of the ROC.

In accordance with the new constitutional arrangement, scholars in Taiwan have offered views that opposed “one China” notions. One of the most well articulated was that of Professor Hsu Tzong-Li 許宗力 (who currently serves as Taiwan’s chief justice). According to Hsu, the 1991 constitutional amendment redefined the two sides of the Strait to be “two Chinas” engaged in “state-to-state relations.”²⁶ In his reasoning, the amended constitution demonstrated the following reality: (1) the ROC’s territories have been separated; (2) the legal effect of the ROC constitution is only applicable to Taiwan, not mainland China, thereby recognizing the legality of the government on the other side (the PRC government) to govern the mainland; and (3) all the ROC representatives are elected by the people in Taiwan only, showing that the government’s authority comes exclusively from the authorization of the people in Taiwan, and does not include people on the mainland. Other scholars have echoed this view.²⁷

The most famous political rendering of the above position is President Lee Teng-hui’s 1999 statement that the relationship between Taiwan and mainland China is one of “special state-to-state relations.”²⁸ Years later, this was followed by President Chen Shui-bian’s similar characterization of cross-Strait relations as one of “one country on each side.”

Finally, the current ROC legal framework has redefined *the relationship between the ROC and Taiwan* as well. After democratization, the people in Taiwan – not the people on the mainland – could vote for their own president and representatives to run the ROC regime. The ROC’s political and legal systems only exist in Taiwan, and not on the mainland. As scholars have keenly observed, the amended constitution initiated a process of the “Taiwanization of the ROC,”²⁹ meaning that there is an “emerging constitutional consensus for thinking of Taiwan as an already independent sovereign state under the name of the ROC.”³⁰

25 See “Pres. Lee Teng-Hui, Cornell University Commencement Address, June 9, 1995,” <https://china.usc.edu/pres-lee-teng-hui-cornell-university-commencement-address-june-9-1995>. Accessed 4 September 2022.

26 Hsu 1996, 40.

27 For example, see Chen 2012, 36–37.

28 Jacobs and Liu 2007, 388–390.

29 Su and Lin forthcoming.

30 Ibid.

Political Framings of “One China” and “No to ‘One China’”

To illustrate the contention over “one China” in China–Taiwan relations, the following two subsections will examine the relevant political framings used by the two sides of the Taiwan Strait, with a focus on the more recent history of their cooperation and the ongoing tension since 2016.

The 1992 Consensus and the Ma Ying-jeou era of deepening China–Taiwan cooperation

During 2008–2016, both sides resorted to what is known as the “1992 Consensus” as the basis of their cooperation. As scholars³¹ have extensively examined the development of the 1992 Consensus during the negotiation between China’s and Taiwan’s proxy organizations, i.e. the PRC’s Association for Relations Across the Taiwan Straits (ARATS) and ROC’s Straits Exchange Foundation (SEF), the following section will only focus on what the 1992 Consensus meant vis-à-vis “one China” and analyses how the formula was later strategically used by the CCP and KMT.

During the SEF–ARATS negotiations in 1992, neither organization could agree with the other on the “one China” question. They ended up issuing their own statements separately regarding their positions to set aside the differences on this question, proceeding to discussing practical matters on cooperation and eventually signing four cross-strait agreements in Singapore in 1993. These negotiations and agreements appeared to signal both Taipei’s and Beijing’s relaxation on the “one China” issue in the early 1990s.

The fragmentary SEF–ARATS exchanges in 1992, however, were later relied upon by those who claimed the existence of the 1992 Consensus. The term “1992 Consensus” was only coined in 2000 by Su Chi 蘇起 of the KMT – the then chairman of the ROC Executive Yuan’s Mainland Affairs Council.³² What Su had in mind was the formula of “one country, respective interpretations” (OCRI) which was designed to allow the two governments to hold their own respective interpretations of “China.” The KMT’s position was that there is only one “China” and that Taiwan is part of that “China,” but it disagreed with the CCP about the legitimate, exclusive representative of that “China.” In the KMT’s interpretation, “China” here meant the ROC, not the PRC, but the OCRI formula recognized that the CCP government had its own interpretation of “China.”

Beijing began to officially and consistently mention the 1992 Consensus starting in 2005 after a meeting in Beijing between the PRC leader Hu Jintao and the then KMT chairperson, Lien Chan 連戰 (which made Lien the first KMT leader to visit the mainland since 1949). However, in Beijing’s narrative, the 1992 Consensus embodied its own “one-China principle,” claiming itself as the only

31 See, generally, Su and Cheng 2003; Tung and Chen 2004; Su 2009; Chen and Cohen 2019.

32 Tung and Chen 2004, 34.

legitimate government representing the whole of China, including Taiwan, *without acknowledging Taiwan’s different interpretation*. In the PRC’s view, the phrase “respective interpretations” in the OCRI formula did not exist. Indeed, from 1995 to 1998, when cross-Strait relations were at a low point, the PRC denied there was ever a consensus about OCRI.³³

Despite this crucial disagreement, when Ma Ying-jeou became president in 2008, both the KMT and the CCP were eager to resume cooperation and to weaken the DPP’s stance seeking international recognition of the sovereignty of Taiwan. The 1992 Consensus provided a convenient veneer of consensus, and neither the KMT nor the CCP wished to publicly confront the other on the term’s interpretation, thus enabling them to negotiate more immediate issues.³⁴

Hence, the 1992 Consensus must be understood as a formula strategically constructed post factum allowing the KMT and CCP governments to shelve their differing positions concerning which was the exclusive representative of “China.” The formula was thus, despite its then politically expedient name, not a consensus. This fictional “consensus” was designed to conceal a deep dissensus that was preventing progress in areas of shared interest.³⁵

The current China–Taiwan stalemate

The 2014 Sunflower Movement reflected general public sentiment against the 1992 Consensus-enabled cross-Strait cooperation between the KMT and the CCP. In 2016 and 2020, the DPP’s Tsai Ing-wen scored two landslide victories in the presidential elections, and the DPP has also held a legislative majority since 2016.

Unlike the KMT, the DPP does not recognize the existence of the 1992 Consensus. The DPP’s “Resolution on Taiwan’s Future” – its current official position on Taiwan’s sovereignty – was incorporated into the party charter in 1999. According to the “Resolution,” Taiwan is already a democratic, independent country under the name of the Republic of China. Any change in “Taiwan’s independent status quo” must be decided through referendum by all the residents of Taiwan. The party does not accept Beijing’s “one-China principle” or OCTS. The “Resolution” also states that Taiwan should renounce the claim of “one China” to prevent China from exploiting that position and annexing Taiwan.³⁶ This official stance of the DPP’s – essentially that Taiwan is not part of China – is what this article calls a “no to ‘one China’” framing.

Tsai Ing-wen follows these major tenets. Yet, in her 2016 inaugural speech, she tried to reach a middle ground between Beijing’s stance and that of her own

33 Ibid., 43.

34 Chen and Cohen 2019, 10–11, 14.

35 See, generally, *ibid.*

36 “Taiwan qiantu jueyiwen” (Resolution on Taiwan’s Future), Democratic Progressive Party, 9 May 1979, <https://www.dpp.org.tw/upload/download/%E9%BB%A8%E7%B6%B1.pdf>. Accessed 30 August 2022. See also Chen 2010, 156–157.

party, by referring to the “historical fact” of the 1992 SEF–ARATS meeting and the shared understanding of seeking common ground while shelving differences.³⁷ These words were apparently carefully crafted. While Tsai did not accept the 1992 Consensus, she acknowledged that the 1992 meeting took place in a positive spirit that should lay the groundwork for sustaining cross-Strait peace, which she hoped would continue.³⁸

China did not seize this opportunity to initiate communication with the DPP government. Instead, Beijing has unilaterally broken off official contact with Taipei and limited or ceased the implementation of some cross-Strait agreements. From Beijing’s perspective, only the 1992 Consensus can serve as a “common political foundation” for any future SEF–ARATS talks or more official dialogues as well as further cross-Strait agreements.³⁹

Since taking power in 2012, Xi Jinping has proclaimed his vision of a “Chinese Dream of national rejuvenation,” under which the imposition of the PRC’s rule on Taiwan is crucial. Tsai Ing-wen’s government was confronted with a dramatic shift in the cross-Strait political atmosphere from the post-2008 Ma Ying-jeou “honeymoon” period for China–Taiwan relations.⁴⁰ Beijing has intensified political, economic and military pressures on Tsai’s government, including poaching Taiwan’s diplomatic allies, slashing the number Chinese tourists to Taiwan and increasing military activities in and around the Taiwan Strait.

This approach of Xi’s is significantly different from that of his predecessor Hu Jintao, who in 2002 launched the “three can-discusses” policy – that is, Hu’s government was open to discussing with Taipei “the issue of officially ending cross-Strait hostility; of the Taiwan area’s economic, cultural, and social activities that are compatible with its status in the international arena; and of the Taiwan authorities’ political status.”⁴¹ Hu’s more relaxed policy was later counteracted to some degree by the 2005 Anti-secession Law, but, generally speaking, Hu’s policy appeared to suggest negotiating room about *how* – i.e. under what kind of “one China” framework – Taiwan could be integrated into the PRC.

By contrast, Xi’s insistence on OCTS has constricted the parties’ negotiation space. In a speech in January 2019 marking the 40th anniversary of the issuance of the “Message to Compatriots in Taiwan,” Xi said that peaceful unification under OCTS is the “best approach to achieving reunification.”⁴² He also defined the 1992 Consensus as “the two sides of the Strait belonging to one China and

37 “Inaugural address of ROC 14th-term President Tsai Ing-wen,” 20 May 2016, <https://english.president.gov.tw/News/4893>. For an analysis of Tsai’s 2016 inaugural address about cross-strait relations, see Chen and Cohen 2019, 21–23.

38 Chen and Cohen 2019, 8.

39 *Ibid.*, 24.

40 Cabestan 2017.

41 See Tung 2005, 350.

42 “Xi Jinping, “Wei shixian minzu weida fuxing tuijin zuguo heping tongyi er gongtong fendou—zai ‘Gao Taiwan tongbao shu’ fabiao sishi zhounian jinian hui shang de jianghua” (Jointly strive to fulfil the great rejuvenation of the Chinese nation and promote peaceful unification of the motherland – speech at the 40th anniversary of “Message to Compatriots in Taiwan”), *Xinhua*, 2 January 2019, www.xinhuanet.com/politics/2019-01/02/c_1123937757.htm. Accessed 4 September 2022.

working together to seek the unification of the nation.” Xi’s important speech directly linked the 1992 Consensus with OCTS, leaving little room for the ambiguity originally intended by the 1992 Consensus. Tsai Ing-wen responded the next day, making clear that her government has never accepted the 1992 Consensus because Beijing defines the 1992 Consensus as “one China” and OCTS.⁴³ She stated that most Taiwanese resolutely oppose OCTS, and that this opposition is a “Taiwan consensus.” Tsai’s response was well received in Taiwan and her popularity surged. Xi’s speech was so unpalatable in Taiwan that it even solicited a response from the KMT. The KMT insisted that the 1992 Consensus meant OCRI, and that Xi’s OCTS was not part of the 1992 Consensus,⁴⁴ thus making clear their divergent views of the 1992 Consensus.

The tone of Tsai’s second presidential inaugural address was notably different from the first. While still open to engaging in dialogue with China, she instead emphasized that her government would not accept the Beijing authorities’ use of OCTS to “downgrade Taiwan and undermine the cross-strait status quo.” Unlike the 2016 inaugural speech, she did not mention the 1992 SEF–ARATS meeting at all.

Tsai’s 2019 National Day speech is arguably more noteworthy, in which she unveiled new political terminology: the “Republic of China (Taiwan)” (*Zhonghua minguo Taiwan* 中華民國台灣).⁴⁵ The speech emphasized the Taiwan people’s shared memories over the past 70 years; memories that serve a politically formative function.⁴⁶ The word “together” (*gongtong* 共同 or *yiqi* 一起) appeared several times in the speech to stress the journey that people in Taiwan have taken as a community.

This article argues that the new political term “Republic of China (Taiwan)” is a step forward compared to Lee Teng-hui’s “the Republic of China on Taiwan” in terms of equating the ROC with Taiwan. The new term “Republic of China (Taiwan)” no longer distinguishes between the ROC and Taiwan. In this sense, the ROC is Taiwan and Taiwan is the ROC. People in Taiwan are bound by their shared memories over the past 70 years as a political community, and these memories are distinct from those of people on the mainland.

The summary tables below conclude this section. [Table 1](#) uses the three sub-propositions in Beijing’s “one-China principle” to examine the differences among the CCP, KMT and DPP positions. [Table 2](#) focuses on their differences in the political formulations of the 1992 Consensus and OCTS.

43 “President Tsai issues statement on China’s President Xi’s ‘Message to Compatriots in Taiwan,’” Office of the President Republic of China (Taiwan), 2 January 2019, english.president.gov.tw/News/5621. Accessed 4 September 2022.

44 “Zhongguo Guomindang shengming” (Statement of the KMT), *Kmt.org.tw*, 3 January 2019, kmt.org.tw/2019/01/blog-post_3.html. Accessed 4 September 2022.

45 Note that in the Chinese expression of this term there are no parentheses around Taiwan.

46 “President Tsai delivers 2019 National Day Address,” *President.gov.tw*, 10 October 2019, <http://president.gov.tw/News/5869>. Accessed 4 September 2022.

Table 1: Positions on “One China,” Taiwan’s Sovereignty and China’s International Representation

	CCP	KMT	DPP
“One China”	There is only one China in the world.	There is only one China in the world.	Taiwan should renounce the claim of “one China.”
Taiwan’s sovereignty	Taiwan is part of “China” – the PRC.	Taiwan is part of “China” – the ROC.	Taiwan is already a sovereign state under the name of the ROC.
China’s representation	The PRC is the legitimate, exclusive representative of China.	“One country, respective interpretations” (OCRI)	Taiwan should not seek to represent “China.”

Table 2: Positions on Political Formulas

	CCP	KMT	DPP
The 1992 Consensus	The 1992 Consensus is in line with the “one-China principle,” which emphasizes the PRC as the only legitimate government that represents the whole of China, including Taiwan, without acknowledging that the Taiwan side can have a different interpretation.	The 1992 Consensus refers to OCRI, which allows the two governments to have different understandings of “China.”	There is no 1992 Consensus.
“One country, two systems” (OCTS)	OCTS is the best approach to achieving reunification of Taiwan.	Unacceptable.	Unacceptable.

Emerging Consensus in Taiwan and Its Tension with “One China”

What is the future of notions of “one China” and “no to ‘one China’”? While the PRC government has consistently asserted its “one-China principle,” in Taiwan “one China” as an ideal end state has been declining for a long time and is now fading quickly. Although the KMT and the DPP seemingly have vastly different China policies, their positions on Taiwan’s sovereignty are remarkably similar: *the ROC exists as a democratic sovereign state*. This jointly held position is arguably an emerging consensus in Taiwan and is incompatible with Beijing’s “one-China principle.”⁴⁷

47 For a discussion of Taiwan’s national identity crisis and the differences between the KMT and the opposition camp, see Tien and Chu 1996, 1145–1147, 1168.

Most Taiwanese favour their current *de facto* independence and democracy. Public opinion in Taiwan appears to be largely averse to any “one China” idea that implies Taiwan is part of the PRC.

An often-cited poll conducted by the National Chengchi University’s Election Study Center (ESC) on stances of unification and independence consistently shows that people in Taiwan favour the “status quo.” In 2020, people who chose the status quo – including the option of “maintain the status quo, decide at a later date” (28.7 per cent) and “maintain the status quo indefinitely” (23.6 per cent) – account for 52.3 per cent of the population. However, one must consider that many Taiwanese favour this option simply because China has threatened to use force if Taiwan declares independence. Facing Beijing’s belligerence and uncertainties,⁴⁸ the Taiwan people’s choices will continue to be limited to the oft-referenced “status quo,” which means *de facto* independence under the name of the ROC.

While public opinion has remained largely constant over time, recent polls have demonstrated dramatic pro-independence shifts. An ESC survey in June 2020⁴⁹ found that since 2018, support for independence had climbed quickly while support for unification – already low – had further plummeted. That is, the most notable changes for the two-year period were in the following two categories:⁵⁰ support for “maintain the status quo, move towards independence,” which was 27.7 per cent in 2020, a steep rise from only 15.1 per cent in 2018; and support for “maintain the status quo, move towards unification,” which was 5.1 per cent in 2020, a significant decline from 12.8 per cent in 2018. To appreciate the overall direction as well as the dramatic change since 2018, [Table 3](#) presents survey results for the years 1994 (when the survey began), 2018 and 2020.

The survey suggests that people in Taiwan are leaving behind “one China” as well as the option of unification. This shift corresponds with a steadily ascendent Taiwanese identity: an ESC poll in June 2020 also showed that 67 per cent of respondents identified themselves as exclusively “Taiwanese,” the highest figure since the poll began in 1992 and a sharp increase from 54.5 per cent in 2018.⁵¹ People who identify themselves as “both Taiwanese and Chinese” dropped to 27.5 per cent in 2020, the lowest level since 1992, while those identifying themselves as “Chinese” remained very low, at 2.4 per cent (see [Table 4](#)).

Xi Jinping’s unification agenda has likely exacerbated “one China’s” unpopularity. Any “one China” framework backed by the threat or the use of force naturally alienates the already apprehensive society of Taiwan. Furthermore, what has happened in Hong Kong since June 2019 has engendered much sympathy in Taiwan for Hong Kong’s democratic movement as well as antipathy towards

48 Huang and James 2014, 687.

49 ESC 2020a.

50 These two categories can arguably be understood as more moderate groups – those who would be more reluctant to pick a stance of either independence or unification first (and therefore choose the status quo before moving to other policy directions).

51 ESC 2020b.

Table 3: Survey on Independence, Unification or the Status Quo by the ESC

	1994	2018	June 2020
Unification as soon as possible	4.4%	3.1%	0.7%
Maintain the status quo, move towards unification	15.6%	12.8%	5.1%
Maintain the status quo, decide at a later date	38.5%	33.4%	28.7%
Maintain the status quo indefinitely	9.8%	24.0%	23.6%
Maintain the status quo, move towards independence	8.0%	15.1%	27.7%
Independence as soon as possible	3.1%	5.0%	7.4%
No response	20.5%	6.6%	6.8%

Sources:

Adapted from ESC 2020a.

Table 4: Survey on Identification by the ESC

	1992	2018	June 2020
Taiwanese	17.6%	54.5%	67%
Both	46.4%	38.2%	27.5%
Chinese	25.5%	3.6%	2.4%
No response	10.5%	3.7%	3.1%

Sources:

Adapted from ESC 2020b.

OCTS. The fierce street protests and widespread discontent against China's Hong Kong policies in general as well as Beijing's stunning enactment of the National Security Law for Hong Kong resonated deeply in Taiwan, as the Hong Kong movement's grievances echoed Taiwan's own democratization movement of the 1990s, albeit with polar opposite government responses to the protests.

In essence, people in Taiwan, as well as the two leading political parties, seem to have converged on a consensus that favours the existence of the ROC as a democratic, sovereign state in which Taiwanese enjoy their self-governing way of life. While the ROC constitution still retains some elements of "one China," a powerful argument exists that if anything approximates a "fundamental constitutional consensus in Taiwan," it is the "unwritten über-constitutional norms with respect to popular sovereignty and the fundamental constitutional order of liberal democracy."⁵²

I argue that this emerging consensus in Taiwan renders the "one China" elements in the written constitution unfeasible, if not plainly window dressing. A question exists on whether the ROC should amend the constitution again to rid itself of these elements and declare Taiwan de jure independent. This pathway, however, is impractical. It is extremely difficult, if not impossible, to amend the constitution with regard to any question involving sovereignty both because of China's threat to use force against Taiwan and because of the

52 Su and Lin [forthcoming](#).

extremely high threshold required for a constitutional amendment. Moreover, given the rising consensus in Taiwan that Taiwan is an already independent, democratic, sovereign state under the name of the ROC, from a practical perspective among the general public there is little to gain in amending the constitution to establish Taiwan as a sovereign nation to replace the ROC.

Going forward, political parties that rule Taiwan will find it difficult to sell any “one China” stances to voters. The implication for China is significant. Taiwan–China cooperation seems unlikely unless Beijing is willing to relax its “one-China principle” and to set aside OCTS, as well as accept the ambiguity of whatever formula the two sides of the Strait can agree on. Moreover, the current global backlash against China’s international behaviour will only contribute to Taiwan’s reluctance to negotiate any future agreements with China. How other state actors – including Taiwan – view the “one China” framework has informed and will continue to inform international opinion of the framework’s sustainability. Beijing’s move to silence political dissent in Hong Kong with the imposition of its repressive National Security Law has diminished support in the international community and in Taiwan for OCTS.

Conclusion

This article discusses the persistent “one China” contention between China and Taiwan. Despite their actual dissensus on “one China’s” interpretation, during 2008–2016, the CCP and the KMT governments used the 1992 Consensus as a convenient façade to mask their disagreements. If one were pressed to find a consensus during this period, it was the political will shared by the CCP and KMT governments to circumvent controversies regarding “one China” by adopting pragmatic, cooperative diplomacy. The two parties pulled off a brilliant diplomatic tactic that lived up to the spirit of what then Chinese leader Hu Jintao said in 2005 to honorary KMT Chairman Lien Chan: “Establish mutual trust, shelve disputes, seek common ground while reserving differences, and together create a win-win situation,” which set the tone for cross-Strait cooperation shortly before President Ma Ying-jeou took office. It was this political trust, along with Beijing’s earlier, more relaxed policy towards Taiwan, that enabled the two sides to conclude 23 cross-Strait agreements.

What has prevented constructive DPP–CCP engagement appears to be a lack of trust that the KMT enjoyed with the CCP,⁵³ likely because of the DPP’s “no to ‘one China’” position. But when Tsai Ing-wen became Taiwan’s president in 2016 she rightly captured the real consensus between the KMT and the CCP from 2008 to 2016 as one of “shared understanding of seeking common ground while shelving differences,” which was the exact wording in her 2016 inaugural speech.

As the DPP has long accepted the existence of the ROC as a sovereign state, under whose banner Taiwan can continue to enjoy democracy, both the KMT

53 For a discussion on the mistrust, see Lin, 2022.

and DPP, despite their differences about “one China,” have more in common than they would like to admit – both share the view that the ROC is a democratic, sovereign state. This position is converging with the direction that Taiwanese society is taking.

There is no obvious source of future reconciliation unless Beijing and Taipei can find a political formula acceptable to both, which would require the two governments to allow the formula enough ambiguity and flexibility to accommodate the other side’s differences. However, the time window for finding common ground may soon be closing. “One China” as an ideal and as an informal institution is losing its viability in Taiwan, indicating that Beijing and Taipei are now short one valuable tool in their already limited toolkit to support cross-Strait stability.

Another future diplomatic battleground is the unexpected, perplexing question of how the PRC will view the continued status of the ROC as Taiwan President Tsai Ing-wen increasingly intertwines Taiwan – and Taiwan only – with the ROC designation. The PRC’s official position has been that the ROC ceased to be a legitimate government upon the PRC’s founding in 1949, and that the PRC, as the ROC’s successor, is China’s sole legitimate government, with the right to rule Taiwan under the succession of states theory. As the Taiwan government continuously reappropriates the ROC banner and equates it with Taiwan, however, Beijing may be confronted with a dilemma: if the PRC followed the succession of states theory as written in its constitution’s preamble,⁵⁴ it would have to acknowledge that the ROC was once the legitimate government ruling Taiwan and that the PRC’s claim on Taiwan succeeded the ROC’s. This approach, however, might give force to what Beijing sees as the growth of Taiwan independence under the facade of the ROC. On the other hand, if the PRC sought to somehow dissociate Taiwan from the ROC, this approach would be discordant with its own constitution and potentially undermine its claim on Taiwan, given that from Beijing’s perspective, it is the ROC from which the PRC inherits the right to rule Taiwan.

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54 The PRC constitution’s preamble recognizes the genesis of the ROC *and the PRC* by the statement that “the Revolution of 1911, led by Dr. Sun Yat-sen, abolished the feudal monarchy and gave birth to the Republic of China...In 1949...the Chinese people of all ethnic groups led by the Communist Party of China with Chairman Mao Zedong as its leader finally overthrew the rule of imperialism, feudalism and bureaucrat-capitalism, won a great victory in the New Democratic Revolution, and founded the People’s Republic of China.” See “Constitution of the People’s Republic of China,” National People’s Congress of the People’s Republic of China, 20 November 2019, <http://www.npc.gov.cn/englishnpc/constitution2019/201911/1f65146fb6104dd3a2793875d19b5b29.shtml>. Accessed 30 August 2022.

Conflicts of interest

None.

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摘要: 本文检视中华人民共和国（中国）与中华民国（台湾）之间持续存在的“一个中国”争议，聚焦于两方在 2008 年至 2016 年间的合作，以及其后的政治僵局。为此，本文探讨中国与台湾各自的法律框架和主要政党的立场，包括中国共产党以及台湾的国民党与民进党。虽然中华人民共和国坚持其“一中原则”，且中华民国的法律制度保留了一些“一中”的元素，但“一中”的想法在台湾一直在流动。“一中”的传统构想在民主时期的台湾受到越来越多的挑战——与其对抗的是台湾正在兴起的国族认同，以及台湾对于中国坚持并吞该岛议程的反对态度。因为以上这些动态，在中国与台湾的关系中，任何“一中”概念的吸引力和政治功用正在迅速消减。

关键词: “一个中国”；“一国两制”；“一中各表”；“九二共识”；分歧；台湾国族认同

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