

Legal

台.灣.法.律.交.流.團

# INTERFLOW

23rd May - 31st May 1999

Tour



30<sup>th</sup>  
法  
Anniversary

LAW ASSOCIATION, HKUSU  
1969-1999



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# Foreward

For the past decade, the Legal Interflow Tour has been one of the most exciting events in the Year Schedule of the Law Association. As the External Secretary of 1999-2000, I have encountered the same doubt, repeatedly, from the skeptics,

“Are you sure it is worthwhile to spend so much of the LA resources to organize such a tour which benefits but a small group participants?”

“Yes. Definitely!”

It was my reply then, and now I am all the more convinced that I was right.

Being law students in the University of Hong Kong, we need a broad vision, which should not be confined to familiarity with news and issues at home only. We recognize the fact that Taiwan is closely linked to Hong Kong and China in terms of history and culture, and have been aware of the controversial issue of its possible the reunification with China, it must be confessed that Taiwan’s legal and political structure, doctrines and news have not received due attention among us. My expectation for the tour is that it is a valuable chance for our members to learn the legal system and history of Taiwan, in the very place and from the very people, not from the books. And thus our members would thenceforth build up an interest in the current development in Taiwan. Starting from the preparation period, through contacts with prominent Taiwanese officials in Hong Kong and library research, the subcommittee members of the Tour and I have already the pleasure to learn about the culture, current events and interesting news of Taiwan. Newspaper clippings were kept daily to follow up the recent development in Taiwan. It had occurred more than once that we were engrossed in the heated discussion over the prospective candidates for Taiwan’s presidential elections in our meetings instead of working on the itinerary, as we should have been.

During our visit in Taiwan, we were warmly received by prominent government officials, representatives from the two most influential political parties in Taiwan and law students from the prestigious Taiwan Tunghai University and

National Chengchi University to which we remember with great gratitude. We also had the precious chance to observe the culture and attitude of the Taiwanese people and discuss with them on controversial political and legal issues. We were rewarded not with intellectual benefit but also touching friendship.

I did not know how much each of our participants has benefited until I received their afterthoughts on the tour. On behalf of the Law Association I am very proud to present to you this publication, which has recorded what we have learnt in each of the visit and the personal feelings and reflections of our participants. I hope that, through the publication, all member of Law Association can benefit from our very inspiring trip. As we have entered into the Millennium, two immensely remarkable events are to be expected: the Taiwan's presidential election which will be held this year, and if Premiere Jiang Zhe Min's prophecy would come true and both sides of the channel could reach an agreement, Taiwan's unification to China. While the occurrence of the former is certain and the latter unsure, the former is definitely influential on the latter. It is my sincere wish that this publication can inspire your interest in the future development of Taiwan, share the views of the participants and develop your own in the future.



# Message From the Chairman

Martin Wong (I)

At the turn of the century, in a world that is so integrated and with the world economy highly globalized, lawyering requires a global perspective more than ever. This perspective must be built upon actual experience of the world and as the old Chinese saying says, "a thousand mile of travelling is better than a thousand pages of reading".

With the objective of broadening our members' horizon and made this law school known to the world beyond the horizon, the Law Association has organized Interflow Tours for 5 years. Having been to Beijing in 1988, 1994, Shanghai in 1993, Taiwan in 1995 and Singapore in 1998, the Interflow Tour has already accomplished a lot.

The tour has already brought many of our members to see and to know many different legal systems and societies. We have visited prestigious universities and their law schools and exchange ideas about our legal systems and our study of law. We have also visited governmental and political parties to know about their societies.

On the other hand this law school and our Association seek to gain international recognition. The best way to achieve this aim is of course presenting ourselves to the outside world. Every participant is a representative of this law school and this Association. We endeavor to make ourselves known and heard internationally.

Though with limited number of participants each time, such an invaluable experience could nevertheless be shared by all our fellow members through this very publication. This publication contains what we have seen, what we have heard and what we have thought. This is the second best thing to actually "travel the thousand miles".

Enjoy.

## Sub-Committee Member of the Legal Interflow Tour 1999

Chairperson:	Kildaria Lee (I)
Vice Chairperson:	Penny Lau (I)
Secretary:	Vencchi Ho (I)
Research PIC:	Charmaine Yip (I), Helene Chow (I)
Publicity PIC:	Vincent Lam (I), Raymond Siu (I)
Programme PIC:	Alice Fung (I)
Photographer:	Paul Chan (I)
Graphical Designers:	Marcus Chan (I), Raymond Siu (I)



# ACKNOWLEDGEMENTS

Every time I look at the photos of the interflow tour, I fall into reminiscences of all the memories, both happy and stressful ones. The interflow tour was my dream that I hope to make it come true. My dream would have never come true without the support and help from many different people. I would like to express my heartiest thanks to all those who have contributed in preparing the Interflow Tour, although nothing can hardly express my heartfelt appreciation of all those who have given me support, patience or even just a hand in organizing the tour.

First of all, I must express my greatest thanks to the government departments and organizations in Taiwan enlisted below for receiving us with great enthusiasm. All of our participants have been enlightened academically, and gained precious learning experience in law-related issues in Taiwan.

- National ChengChi University
- Taiwan TungHai University
- The Kuomintang
- The Democratic Progressive Party
- The Taiwan Taipei District Court
- The Taiwan Taipei High Court
- The Taipei Detention Centre
- The Strait Exchange Foundation, Republic Of China
- The Legislative Yuan
- The Ministry of Justice

On behalf of the Law Association, may I express my sincere gratitude to the following individuals and organizations; Without their benevolent sponsorship, it would be impossible to organize a tour of pure academic purpose.

- Hong Kong Bar Association
- The Law Society of Hong Kong
- Mr. Robert Kotwall, S.C.
- Mr. Robert Tang, S.C.
- Office of Students' Affairs, The University of Hong Kong

In addition, many thanks to:

**Hwang Hwa Cultural and News Agency** – for their help in providing us with useful information on Taiwan

**Mr. Chau Ching Wai** – for his immense assistance and valuable advice on the organization of the tour.

**Taiwan Visitors Association Ltd.** – for offering maps and tour booklet for the participants

**Hong Kong Macau Association Republic of China and Mr. Poon Wing Kuang** – for his assistance in contacting and organizing all the visits to the various government departments, such as the Ministry of Justice. Special thanks to Mr. Poon for assisting us when we had urgent problems during our stays in Taiwan.

**Mr. Gary Ho, the Public Relation Administrator of the National Chengchi University Association of Law Department** – for his thoughtful planning of our visit to the University, enabling

us to make friends with many Taiwan Law students and his precious time in touring around Taipei with us. **Mr. Cheng-Chiang Chen, Director of the Department of Youth Affairs, Kuomintang** – for his wonderful receptions and help during our stay in Taiwan.

Furthermore, many thanks to:

**The Faculty of Law, University of Hong Kong, Professor Johannes Chan and Mr. Benny Tai** – for their continuous support and guidance, invaluable advice on research, and for sharing with us their materials and resources.

Nothing can be accomplished without my dedicated sub-committee members.

Thanks to:

**Charmaine** for being my Research PIC, who wrote me many articles introducing basic information of Taiwan before the tour.

**Vincent** and **Raymond** for acting as my Publicity PIC, decorating the board and class files beautifully for me, attracted 40 participants to join the tour in less than a week! **Penny**, and **Martin** for being my “Mandarin Speaker” all the time.

**Vencchi**, and **Alice** for the tedious and incessant contact with the government officials.

**Helene** for keeping an accurate account of the expenses of the tour.

**Paul** for all the lovely pictures of the tour and for being my “Chinese typist”!

**Marcus**, the honourable designer of LA, for designing the lovely posters and tee-shirt and tolerating my last minute request.

Thanks to **Anthony** and **Jason** for preparing the speech, “One Country Two System” for the students in the National Chengchi University. They worked very hard on the material right after the exam! Special thanks to **Anthony** for presenting to the Taiwanese students such a professional and informative speech.

Furthermore, I must express my gratitude to all those who have contributed to the publication of this report in sharing with all the Law Association members their thoughts and experience in the tour. Endless thanks to **Anthony Sin, Paul Chan, Martin Wong, Angie Li, Tracy Lam, Nicholas Mak, Christie Chan** in translating and reporting lengthy speeches and discussion recorded during our visit.. Thanks to **Raymond** for designing such an artistic cover for the publication!

Last but not least, A big hug for the Exco members in giving me support and care in the tour, especially **Martin**, for being such an understanding, and reliable chairperson. Thank you for fulfilling all my “last minute” requests and made the tour as smooth as possible. Also, thanks to **Nicholas**, the “boss” of the external stream, for all the assistance you have given me. I must not forget to thank **Christie**, our valuable marketing secretary, for her hard work in finding sponsorship for the tour.

I can write another 1000 words of thank you if I have the chance. Thanks to all LA members in giving me the learning experience and made my dream come true. Hope you will enjoy the publication!

Kildaria Lee  
External Secretary  
Law Association, HKUSU





• **23 May**

Arrive in Taipei 台北機場  
Yehliu National Park 野柳風景特定區  
Shrlin Night Market 士林夜市

• **24 May**

Detention Centre 監獄  
National ChengChi University 國立政治大學

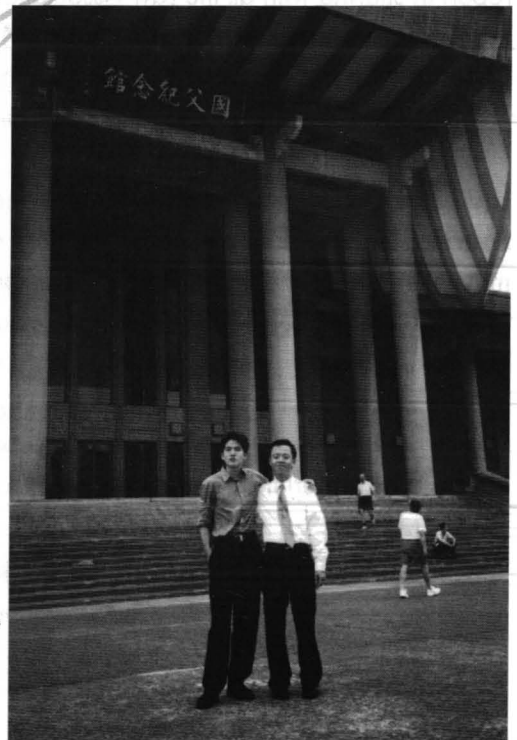
• **25 May**

Straits Exchange Foundation 海峽兩岸交流基金會,  
Taipei District Court 法院  
Taipei High Court  
Chiang Kai-Shek Memorial Hall 中正紀念堂

• **26 May**

Martyrs Shrine 忠烈祠  
Ministry of Justice 法務部  
Legislative Yuan 立法院  
Sun Yat-sen Memorial Hall 國父紀念館

Itinerary



• **27 May**

Democratic Progressive Party 民進黨  
Kuomintang 國民黨

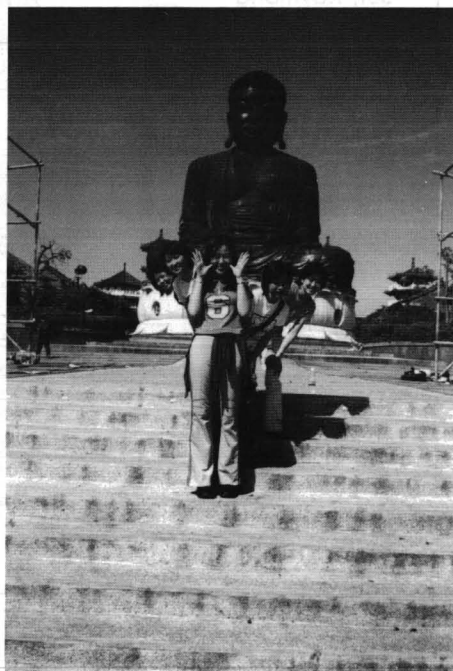


• **28 May**

To Tai Chung 往台中  
TungHai University 東海大學  
Formosan Aboriginal Culture Village 九族文化村

• **29 May**

Sun Moon Lake 日月潭 .....  
Confucius Temple 孔子廟  
Changhua Big Buddha 彰化八卦山大佛 .....  
Tai Chung City Tour



• **30 May**

Kam' s World' s Record Museum 金氏世界紀錄博物館  
LeoFoo Village 六福村

• **31 May**

Shopping  
Depart Taiwan , Arrive in  
Hong Kong



# Group List

1  
 Lam Chung Wai, Vincent 林仲煒 1  
 Lam, Joy Yue Joy 林在宇 1  
 Lo, Yuen Ki, Cyntheia 盧婉琪 1  
 Tsui, Yvonne 余行安 2  
 Yung Wai Man, Jennifer 容慧敏 2

2  
 Sui, Raymond 蕭鎮邦 1  
 Chow, Helene 周曦翎 1  
 Cheng, Venna 陳韻華 1  
 Lam, Tsz Leung, Tommy 林子良 1  
 Cheng, Chung Hon Christopher 鄭鍾漢 3  
 Yu, Pui Ling Betheny 余佩玲 3

3  
 Lau, Pui Ni Penny 劉培旎 1  
 Lam, Ngan Ling 林雁玲 1  
 Tse, Tsun Ting, Chris 謝俊庭 1  
 Au, Hiu Lam Helen 區曉嵐 1  
 Sin, Ping Ho Anthony 冼秉浩 2  
 Wu, Chi Hang Jason 胡志恒 2

4  
 Mak, Ming Lai, Nicholas 麥明禮 1  
 Lee, Hong Kiu Kildaria 李康喬 1  
 Lee, Kar Yee Clare 李家怡 1  
 Cho Ti Ping Rae 曹依萍 2  
 Lau Yik Chi Karine 劉翊智 2  
 Young, Bik Fug Betty 楊碧鳳 3

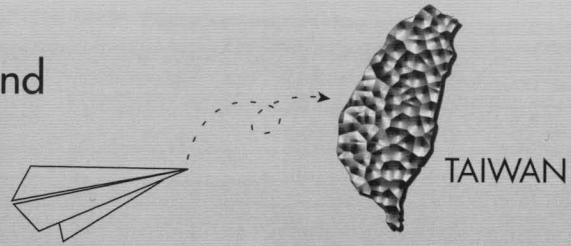
5  
 Wong, wing Hoi 王永愷 1  
 Li, Sau Lee Angie 李秀莉 1  
 Wong, Ka Leung 黃家亮 1  
 Wong, Tsz Sang Francis 汪子生 1  
 Fung, Shuk Chi Grace 馮淑芝 3  
 Mak, Sau Kuen, Sabrina 麥秀娟 3

6  
 Law, Anne 羅沛盈 1  
 Kotwall, Douglas 葛德麟 1  
 Chan, Paul 陳智遠 1  
 Wong, Hui See Ashley 黃海思 1  
 Yau, Ida 邱愷敏 3  
 Tam, Ssu May Amy 譚思美 3

7  
 Chan, Sze Kee Christie 陳思琪 1  
 Cheung, Kai Ling Michael 張嘉凌 1  
 Yip, Tung Sang Alan 葉冬生 1  
 Cheng, Veda 鄭蕙儀 2  
 Chan, Ka Yan 陳家欣 2  
 Wong, Lok Yan 黃樂欣 2

## National Chengchi University and Taiwan Tunghai University

■ Cynthia Lo (I)



In order to broaden my horizon, I decided to participate the interflow tour of Taiwan organized by Law Associations. It was an effective way of acquiring knowledge. In this journey, not only could I refresh myself after the long and exhausting examination, but I could also learn more about sundry aspects of Taiwan. This includes its judicial and cross straits relation; However, the most impressive part of the tour was visiting the universities.

One of the Universities we visited was National ChengChi University where I first knew more about Taiwan's legal education system. Similar to our system, the students there have to devote themselves to legal studies for four years; however, there are more universities than Hong Kong that offer legal studies. Only minority of the students can become lawyers or judges after their years of diligence. The severe competition is imaginable. Hard working is the only means to success. Nevertheless, the students there are by no means the bookworms. When walking around the campus, I seized the opportunities to communicate with them. They were really nice hosts. During the tour, they introduced to us all the interesting things both inside and outside the campus. Our conversation comprised both serious and relaxing issues. Current affairs, studying experience, values, shopping spots, television programmes and even the pop stars were all included.



Time flew, it was a high time we had dinner. They had arranged to bring us to a special place where they usually go for a meal. This was a peaceful and comfortable place called "Cat Hole"(貓空), which is an outdoor restaurant in a tea garden located on the mountain. We could see the night views of the Taipei city as the sun set. To me, a person trapped in a busy city, enjoying meal with the tranquility of nature was wonderful. The dishes, Sichuan-typed food, were unique. The cook was like a magician. He could transform the ordinary ingredients into dishes of special food. After fulfilling our stomachs, we played games together. Meanwhile, we discovered that day was the birthday of one of our companions, so we all gave our best wishes to her by singing her a birthday song. I believe that this wonderful scene would not be cut off from my memory.

Besides the National ChengChi University, we also visited Taiwan Tunghai University. The Style was quite different from the former one. The campus was filled with green lives. Accompanied by the



•The beautiful Architecture of the arts faculty in the Tunghai University•



campus guide, we strolled around the campus. What surprise me a lot was that some of the architectures were designed by a veteran Chinese architect who was also the designer of our building of Bank of China in Central. The most impressive one was the Church's design. Another was the Arts Department. It was full of ancient Chinese Features. After that, we met the students there. They were talkative and friendly. We even exchanged our email address for future communication.

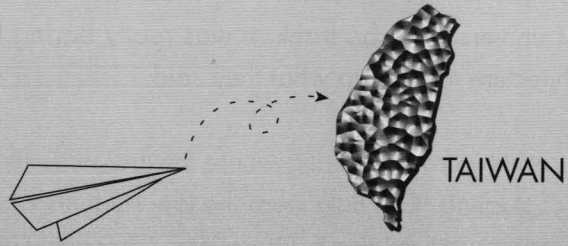
Apart from a series of formal activities, we also did sightseeing and shopping in Taiwan. I acquired a lot during this journey. Not only could I understand more about Taiwan, but I cold also get closer with my schoolmates. Without them, the tour might not have been so marvelous.



The beautiful church in Tunghai University

## Law Students in Taiwan

■ Tommy Lam (I)



Of all the places which we have been to during our 9 days visit to Taiwan, the two universities, National Chengchi University and Taiwan Tunghai University, have given me most wonderful memories.

National Chengchi University is in the suburb area of Taipei. Getting there was not that easy, as we had to spend more than one hour on travelling. When we arrived, we saw several students holding banners welcoming us to their campus. It was really a hot day when we visited the university. Some of you may think that by wearing T-shirt and shorts, all the problem can then be easily solved. Nonetheless, the sad fact was that we needed to wear formal dress that day. We could not help but keep wondering: Did this university have air-conditioning?

Although there were not many local students acting as buddies, all of them who did were really nice students. All of us were divided into several groups, and each group had one to two assigned local students. They took us to many places such as the university's different kinds of libraries, the room in which they did mootings, the law faculty which was located on top of a small hill (yes, we had to get there on foot). Everything was arranged in such a perfect way that we did not need to waste even a minute. We also attended one of the law lectures which was something about law and religion. Although our Putonghua was not that good, we did have a good time there.

At night, we had dinner with those local students. We went to a place called Maohong, which was located on a hill behind Chengchi University. The restaurant that we went to was very special, and it looked like a famous restaurant in Shatin which is facing the Tolo Harbour. We had many wonderful, delicious local Taiwan dishes there. All of us had an enjoyable night.

Several days later, we had another visit to Tunghai University in Taichung. To our amazement, we did not find any students as we did in Chengchi University. All we could find were some guides who were

The outdoor restaurant in the tea garden near Chengchi University



employed by the university. They tried their very best explaining the history and the architecture of their university. To be frank, it was really boring for someone who had no interests in history and architecture to listen to what they said.

Just as we were wondering where the law students were, we walked to a big lecture room which was full of students. Oh, they were the law students who we had been looking for. Students from Tunghai University were as nice as those from Chengchi University. We talked and chatted for some time. We asked them many questions about Taiwan, especially the educational system. Meanwhile, they also had great interests in knowing the corresponding situation in Hong Kong. One of them was even interested in knowing how to say foul language in Cantonese! This particular funny student was called Giordano- one of the most famous boutique in Hong Kong. He brought us to a place outside the university, where the feeling was completely different from that of inside. It was like a small town. We tasted a local drink called Xiancao, which has recently become quite popular in Hong Kong.

Although the two groups of Taiwan law students are from two different universities of two different places, they share something in common. To begin with, they are all nice students. At the time when we went to Taiwan to enjoy our summer holidays, they were having their final examination, which was of particular importance to them. However, they were still willing to devote their precious time acting as our buddies, accompanying us for a whole day. I could also observed that there was a strong sense of brotherhood among them. This is not the same as the situation in Hong Kong, as most students here are only focusing on their own academic results.

Another thing is that most Taiwan students are very hard-working. From what the local students told us, the competition in Taiwan is really vigorous. Only a small percentage of law students can ultimately become a lawyer when they graduate. They need to "push" themselves constantly so as to strike for better results in their examinations. One thing that impressed me most is that many students are studying law for pursuing the necessary knowledge and analytical skills. They are not like many Hong Kong students who are just looking for a better job and subsequently, a better salary.

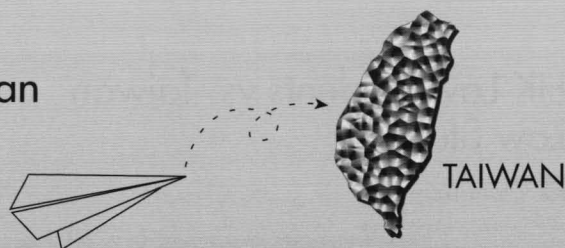
On the whole, the trip to Taiwan is really one of the most wonderful trip that I have ever had. I have gained much more knowledge and at the same time, made a lot of friends. I will never forget the good time when we were together in this good place.

Maohong, where everyone enjoyed a delicious meal



## The Students in Mainland, Taiwan and Hong Kong


■ Michael Cheung (I)



I've never imagined that I can visit both Beijing and Taiwan in such a special way in this summer vacation. I've acquainted with the students there, and have made friends with them already. Yet, I'm not here today to talk on the subject of my happy experiences. It is an "experience" that cannot be shared with you guys all unless I have three days and three nights. So may I confine my topic to the "consciousness of civil rights"?

As regard to it, it seems clear to me that Taiwanese care more about their civil rights than the Hong Konger. In a few years, the thought of independent of the Republic of China has grown sharply and the facts that Taiwan is extremely active when engaged in diplomacy, yet disappointed by PRC all the times. These are the vital factors why the Taiwanese has a sense of mother country, which cannot be altered. So it's reasonably that Taiwan students pay more attention to their own civil rights.

On the other hand, the Hong Kong students are lack of a sense of belonging and civil rights consciousness generally. The reason might be that when Hong Kong was still a colony, the British government had never intended to enlighten the Hong Kong people about their civil rights. Hong Kong people were accustomed to they please, they pay position in society and regulations at all. government just main-interference policy mystic environment to never helps to de-longing to every tors make the Hong "self-supporting" in a ter the transfer of was supposed that



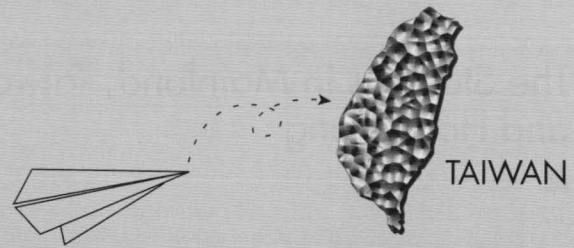
leave alone and do as no attention to their and even discipline On the contrary, the tains the positive non-and provides an opti-earn money only. And velop the sense of be-citizens. All these fac-Kong people quite sense. By the way, af-sovereignty, though it under the "one country, two systems", the Hong Kong people is now governed by themselves. And a sense of mother country will arise and they will pay more attention to civil rights. But, owing to the decline of democracy, losing of the confidence to the HKSAR government, so how the civil consciousness can be elevated?

The Beijing students are quite different. They have an idea that the national interest is above everything else. The rise and fall of a nation is the concern of every citizen. As China is beset by difficulties now, it's absolutely acceptable to put their personal civil rights aside unless China gets out of the difficult situation.



## HK Law Students vs. Taiwan Law Students

■ Clare Lee (I)



The interflow tour to Taiwan has marked the beginning of my first year summer vacation. This was really an exciting event to look forward to, and now to look backward.

The trip provided an opportunity for Hong Kong law students to come into contact with that of Taiwan, which I think was very valuable and memorable. Taiwan is not a place that is very different from Hong Kong. However, the way of living of a Taiwanese law student is quite different from that of Hong Kong.

As I recall, Taiwanese law students have to take many difficult examinations in order to get a license to be a lawyer. As a result, only a few of them can pass those hurdles and become lawyers immediately after graduation. Most of them study desperately and have to spend many years to do re-examinations. Therefore competition is keen and study pressure is extremely severe.

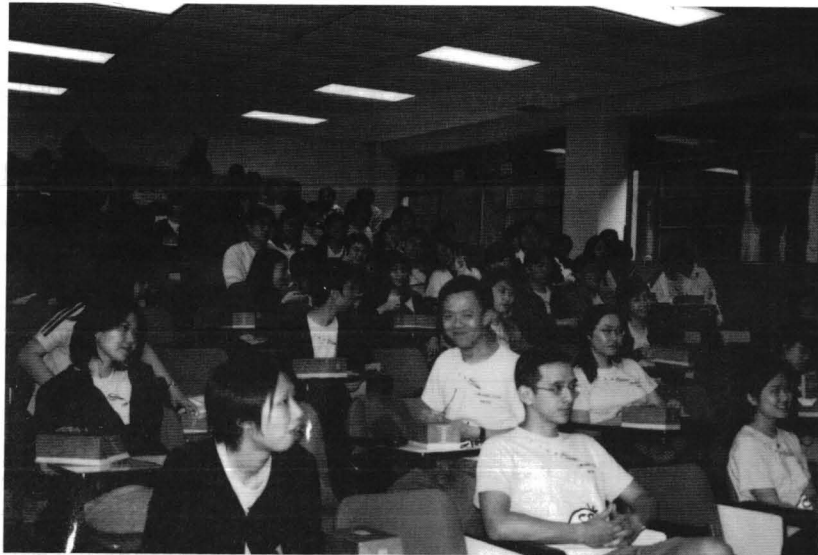
As Hong Kong law students, we need not take those harsh examinations and are lucky to have time to develop our own interests and hobbies. However, in the recent years, lawyers in Hong Kong have been over-supply. Some critics do make poor comments to the quality of Hong Kong's lawyers and the government is now considering new teaching methods to solve the problem. Should we follow Taiwan's example so as to restrict the number of lawyers and to improve the quality of the law graduates? In my opinion, that is not a good idea. What I have observed from the Taiwanese law students was that they are always under pressure and stress. Academic achievements become the most important thing in their university life and they have little space to explore their other talent and potentials. In my opinion, university students should not be that academic-results oriented.

The time spent in the university is a good time for us to deepen our insight and to enrich our life experience. LLB is by no means a light degree to accomplish. It would definitely overburden our students if further examinations are imposed. Besides, examinations may not necessarily improve the quality of lawyers but the other way round. We may become scholars if we spend most of our time in books, but we will not become good lawyers if we lose contact with the ever-changing world.

All in all, we should not depend on examinations to improve our quality. What we have to do is to do self-evaluation: Have we utilized our time wisely and keep improving ourselves? Or we just waste our time in pure entertainment? In order to preserve the prestige and dignity of lawyers in Hong Kong, as law students at this moment, we should try our best in studies as well as maintaining a healthy and intact personal development.



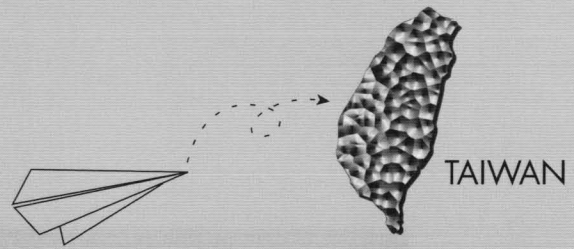
Students from Tunghai University



Friendly law students in Tunghai University welcomed us in a big lecture hall

## 香港九七前後的法律發展

■ 洗秉浩 (I)



在一九八四年九月，中英在多次談判後，終於制訂了<<中英聯合聲明>>，為香港的前途問題打開了一個新的境界，亦標誌著各種有關香港前途事務的談判和磋商正式展開。這一次中英聯合聲明的簽訂，亦開始了在國際政制上的一個重大突破——首次實施鄧小平先生的「一國兩制」，旨在落實港人治港這一個五十年不變的承諾。當中承諾所包括的，是讓香港特區行政區有著行政權、立法權和獨立的司法權及終審權，以及現今所用的法律亦能順利過渡。而基本法作為香港的憲法，其條文亦清楚列明香港擁有這些權利，而不受中央政府所管束。

但是主權移交的過程並非一帆風順。好像八九年「六四事件」，便已經令不少香港的市民對將來的信心，更令中央政府和香港的民主派人士之間的分歧、磨擦、不信任變得更大。就好像北京政府當面拒絕和民主派人士會面，並多次拒絕他們的入境申請，便是最佳的證明。

基本法是要做到以下三點：

- 1) 維持香港現有的行政、立法及獨立的司法制度，維持香港的高度自治（兩制）
- 2) 聯繫香港和中央政府的關係；（一國）
- 3) 保障香港市民的基本人權及權利。

- 1) 現今香港的情況：行政主導，弱勢的立法機關以及受中央干預的司法機構。

### 行政主導

- 1) 雙重責任：

a) 基本法四十三條說明，香港特別行政區行政長官是要對香港特區以及中國政府負責。

結果：

做成雙方面的矛盾，形成衝突。一方面需要維持香港的高度自治，另一方面不可和大陸對香港的政策所違背。所以在施行政策上，不少是對於立法機關和司法機關有所限制。

### 對立法會的限制

- 1) 立法會的組成——30 席由功能組別，20 席由地方區域，10 席由選舉委員會產生。

問題：

- 1) 選舉委員會的 10 席由 800 名選舉委員會的委員互選產生，代表性成疑。
- 2) 民主派人士只是佔了其中的 19 席，要提出反對政府或要求政府做事而得大多數的同意，十分困難。
- 3) 而其他議員亦受到行政會議及政府的影響而順服於政府，要制衡政府的工作變得更困難。

### 2) 私人草案

根據基本法第七十四條列明，議員不可提出有關於政治架構、公共開支的私人草案。而且，在提出私人草案前，要先得到行政長官書面上的同意才可以在立法會中辯論。而這一些的限制近來還有擴大之嫌。例如梁耀忠議員提出動議列抗日戰爭勝利紀念日為假期的私人草案，就因為是指涉及公共開支的理由而給拒絕，而最近才給通過。

## 對司法機關的限制

對司法機關的限制，不單來自行政機關，而且來自中央政府的最高權力——全國人民代表大會及人大常委會。

限制是源於中央政府和香港的法律制度有很多不同的地方——人大在中國來說是擁有絕對的立法權和行政權，是中國的最高權力，而香港又極力去維持自己建基已久的司法獨立，兩制於是出現了不少的衝突。

### a) 臨時立法會

而中英在政制上的不同立場亦為香港在主權移交的問題上加添了不少的困難。最後一任的香港總督彭定康先生，在九二年十月所發表的施政報告中，他所提及並在九五年立法局選舉落實的政改方案，便遭中央政府強烈批評為「三違反」- 違反基本法、中英聯合聲明及中英簽訂的往來文件，而彭定康先生所提出的直通車方案亦不能落實。

有鑑於直通車不能實行，中國政府於是在第一屆立法會產生之前，成立臨時立法會，避免了香港在一年可能出現法律真空的問題出現。但是，臨時立法會的成立，引起社會人士不少的爭議，而臨時立法會的法理地位亦同時受到挑戰。

在<<馬偉軍>>一案中，原來的訴訟是有關於一宗合謀詐騙的刑事案件，而這宗案件亦跨越了主權移交的時間。在七月這宗案件再次提堂時，被告就提出合謀的法例因沒有給中央政府接納而應不存在，並同時挑戰臨時立法會的法理地位。

上訴庭接受了辯方的論點，指臨時立法會不是依著基本法的規定來成立。但上訴庭亦同時指出，中央政府的全國人大常委會(即是中央政府的最大權力)，在一九九六年的時候授權給預委會來成立臨時立法會。因此，這是出於中央政府的決定，香港的法庭是沒有權去質疑或挑戰人大常委的決定和臨時立法會的法理地位。

判決一出，即受到社會人士以及法律界人士的猛烈抨擊。他們所持的論點有二：

- 1) 如果臨時立法會的法理地位不是從基本法的條文去成立立法會，哪臨時立法會的成立又有甚麼法律上的依據可以作為支持呢？
- 2) 基本法第十八條已清楚列明哪種法律可繼續在香港使用，其中包括在一九九七年六月三十日作為界線，而又符合基本法的普通法、法例、衡平法，由立法會所通過的法例，以及在基本法附件二上所列門可應用在香港的中國法律。而對於人大常委及預委會的決定可否成為香港法律的一部份，基本法

Anthony Sin introducing "One Country Two System" to students in Taiwan



上根本是隻字不提的。如照一般憲法上的應用來說，人大常委的決定根本不可成為法律。而且，英國的制度和中國的制度完全不同，所以不可以用相同的邏輯來判案。

#### b) 非法入境者的個案

這一個爭論到今天仍是繼續的。在馬偉軍案後十個月，對中央政府的挑戰又再出現。今次要解決的問題，是在基本法第二十四條中所定港人在中國大陸所生的子女的居留權問題。

為了試圖解決這個問題，政府及臨時立法會通過了二條具爭議性的入境修訂條例，而且其中一條是有追溯力的，來阻止可能引發的偷渡潮。但是這二條的修訂條例，在終審法院的判決中因違反基本法而被稱為無效。

而判案另一個值得注意的地方，就是提出人大常委的決定的問題。首席大法官李國能先生在他的判詞中，說明如果人大常委的決定是有違基本法，香港的法院是有權去把他稱為無效。

這個判決一出來，眾說紛紜。但是中央及行政機關就做了以下兩件事：

- 1) 律政司司長梁愛詩在判決後私自和首席大法官李國能作一個溝通，要求李法官對於他在判詞裏面有關人大常委決定的部份作出澄清。這個是香港司法制度裏面是前所未有的，更受到強烈的批評。
- 2) 在上個星期，行政長官決定要求人大常委根據基本法 158 條，解釋基本法 24 條第三項及第 22 條第四條有關於這一些港人在中國大陸所生的子女的居留權問題，以及他們要來香港的資格和安排。而一旦人大常委會把基本法解釋，香港法院必須要跟從。

我們不肯定的是，在何種情況之下，行政機關可以用或有需要用這一個方法去解決基本法上的問題。如果不是有充份的理由或沒有一個特定的機制去行使權力，而亦讓他們可以任意妄為，認為法院的判決不討好他們，就可以提出這個方法而推翻法院的判決，這必大大損害香港的司法權力及獨立，

#### c) 國旗法

這可以列明我們香港法制的另外一個憂慮——中央政府可以除了用基本法 18 條及第三項裏的特定範圍以外，為香港立法，好像香港的立法機關一樣。

結論

##### 1) 解決方法

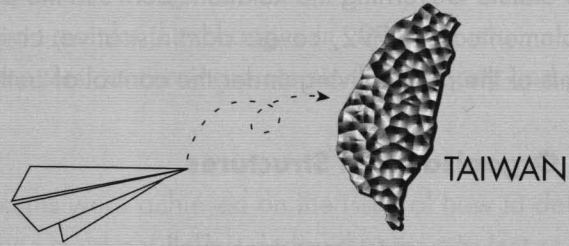
- a) 詳細列明要求人大常委解釋、或修改基本法的機制，以致制度不被濫用；
- b) 和中央政府建立互信，加強兩地的溝通和聯繫；
- c) 全面普選行政長官及立法會，以保持三權分立的平衡。

LA chairman, Martin introducing our law school to students in Cheng Chi University



## Pre-Tour Information: Cross-Straits Relationship

■ Charmaine Yip (I)



### Recent History

Having taken refuge in the island of Taiwan in 1949 the Kuomintang has existed, across the Taiwan Strait from the mainland, in a society that has a vastly different ideology and contrasting political, economic and social systems.

For nearly 30 years after the seizure of power on the mainland the Chinese Communists has gradually moved from a policy of explicit military threats to the island, to pursuing a course of peaceful confrontation since 1978. That year the American President, Jimmy Carter, switched the adoption of diplomatic relations with mainland China instead of with the ROC, previously recognised as the legitimate national government of China. Nevertheless Beijing continues to refuse to rule out the use of force towards the island in order to achieve the goal of unification, as was evident in 1995 and more recently, in the hawkish speeches by the PRC's Premier Zhu Rongji (朱鎔基) in his state visit to the US. Beijing has repeatedly stated that Taiwan, being a province of China, is inalienable from the mainland and thus all attempts to achieve political autonomy and foreign diplomatic relations by the island are to be condemned. On the other hand, the ROC has allowed personal-level exchanges to the mainland by Taiwanese citizens, and has encouraged educational and cultural visits between the two areas. Investment and trade has boomed in recent years too. More importantly, many attempts have been made by the Taiwanese government to increase bilateral contacts in the political spheres, as the following would show:

#### 1) Legislation

The Guidelines for National Unification was devised as a blueprint by the ROC government to outline the principles and positive steps that both sides can take to expedite China's reunification. Territorial unity, political freedom and equitable distribution of wealth for all Chinese are vital for the plan. Three phases are recommended:

- a short-term phase of exchanges and reciprocity: both sides should denounce the use of force, and recognise the other's existence as a political entity. Expansion of unofficial people-to-people contacts should be undertaken. (currently relations are primarily at this stage)
- a mid-term phase of mutual trust and cooperation: official channels for communication are to be established, such as for direct postal, commercial and transportation links. (many existing links are in fact now at this phase)
- a long-term phase of consultations and reunification: a bilateral consultative body should be established to jointly discuss the overall economic and political structure of a unified China, in accordance to the wishes of the people on both sides of the Taiwan Strait.

The Statute Governing the Relations between the people of the Taiwan Area and the Mainland Area, implemented in 1992, covers administrative, civil and criminal affairs, and largely recognises the rights of the people living under the control of authorities in the mainland.

## **2) Organisational Structures**

These includes, most important of all:

The Straits Exchange Foundation (海基會), the only private organisation empowered by the government to handle relations with the mainland, currently deals only with matters of a technical or business nature that might involve the government's public authority. The SEF is not authorised to deal with political issues, though it may be commissioned by the MAC to conduct "policy dialogues" (talks concerning the establishment of direct postal, commercial and transportation links).

### **Koo-Wang Talks (汪辜會談)**

Shortly after the establishment of the SEF in early 1992, Beijing set up its Association for Relations Across the Taiwan Straits (ARATS) (海協會), with Wang Daohan (王道涵) as its chairman. In April 1993, SEF chairman Koo Chen-fu (辜振甫) met Wang in Singapore and held the first discussions between Taipei and Beijing since 1949. This first round of Koo-Wang talks resulted in agreements concerning document authentication, the handling of mail, and future meetings. Provisions were also made for regular and non-periodic meetings between SEF and ARATS officials.

Seven further rounds of functional talks and three rounds of secretary-general-level talks were held, which focused on practical issues and led to agreements on areas such as

- the repatriation of hijackers,
- illegal entrants, and
- fishing disputes.

The second Koo-Wang talks were scheduled in July 1995 to deal with issues discussed in the earlier meeting, Taiwanese investment rights on the mainland, and a wide range of unofficial exchanges. Unfortunately, the mainland authorities postponed this round of talks indefinitely in June 1995, and began firing missiles to the Taiwan Strait in the following month. Relations deteriorated during this period.

The ROC government continued their attempts to secure bilateral dialogue and made over 100 public appeals to the mainland calling for a resumption of communications and consultations.

In February 1998 Beijing officially expressed their consent, and Koo and his 12-member delegation visited Shanghai and Beijing in September. The SEF chairman met Wang, President Jiang Ze-min (江澤民) and Vice Premier Qian Qichen (錢其琛). Four points were agreed between Wang and Koo during their meetings:

1. Wang is to visit Taiwan at an appropriate time (this has now been scheduled for September or October of 1999).

2. The two intermediary bodies are to resume contacts and negotiations.
3. The SEF and ARATS should help reinforce Taiwan-mainland exchanges at various levels.
4. They should also provide more assistance on matters concerning protection of property and personal safety of visitors from both sides.

Despite of the consensus, no significant breakthroughs were achieved on the issue of how to define the one China principle. The mainland authorities would not acknowledge that the two areas are ruled separately. Moreover, Beijing has kept intact its threat of military force against Taiwan in order to achieve unification.

### **Recent Developments**

The ROC appears to be rather isolated in the international political scene, with few diplomatic ties remaining. The more recently established relation is with Macedonia (馬其頓). The Vatican (梵帝岡) has also moved its embassy to Beijing from Taipei.

On the military side, the US had been contemplating the inclusion of Taiwan in TMD (Theatre Missile Defence) programme to protect her from a perceived missile threat from North Korea. Beijing has publicly condemned Taiwan's interest in this programme. On the other hand, the ROC has confirmed that she would install US-built long-range radar systems to lift her air defence capabilities, in view of the mainland's development of cruise and ballistic missiles as well as preparations for information and electronics warfare this decade.

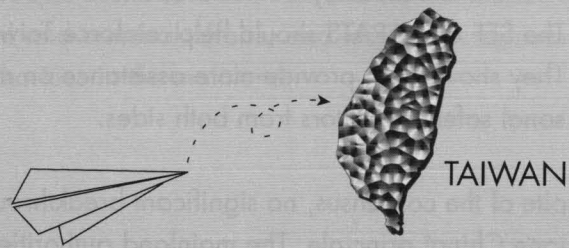
During the PRC's premier Zhu's visit to the US he reiterated that Beijing would not rule out the use of force against Taiwan, and compared China's military threat against the KMT stronghold with the American Civil War as a justification. This was retorted by the US President Clinton to be inappropriate and was also rejected by the Taiwan Premier Siew (蕭萬長).

The recent bombardment of the Yugoslav province of Kosovo and subsequently the Chinese Embassy to Yugoslavia (中國駐南斯拉夫大使館) has caused great waves of patriotic anti-American demonstrations both in the PRC and the ROC. Taipei has, during this period, nevertheless closely monitored the developments in the mainland for any possible anti-Taiwan feelings precipitated by this event.



# The Political Aspects Of The Republic Of China

■ Charmaine Yip (I)



■ This came into force in 1947, and declared that the Republic of China would be a democratic republic with sovereignty residing in the people. Although this guaranteed freedom of speech and equality before the law, the latter in particular was diluted somewhat by the Temporary provisions Effective during the Period of Mobilisation for the Suppression of the Communist Rebellion, which the Kuomintang (the political party in power at the time on the mainland) considered a valid justification in view of the Communist threat of invasion.

The President (currently Lee Teng-hui (李登輝) is head of state and commander of the army, and is vested with a number of other powers. The highest administrative organ is the Executive Yuan, headed by the Premier (now Siew Wan-chang (蕭萬長), while the highest legislative body is the Legislative Yuan (its member being directly elected). The Judicial Yuan oversees civil, criminal and administrative cases as well as those against public servants.

## The Electoral System

The Taiwanese electoral system is essentially a democratic mechanism. For executive offices such as the president, the vice president and municipality mayors, each voter casts one vote in a single-member district, and the candidate with the most votes (not necessarily an absolute majority) wins. As for the election of members to the National Assembly (the recent being held in 1991), the Legislative Yuan (1992) and other special regional councils, the Single Non-Transferable Vote (SNTV) system has been employed. Essentially several representatives stand in the election in a single constituency and the leading candidates (not just one) are elected, with the voters each having one vote. Overseas Chinese communities also participate in the internal elections (Parties submit two lists of candidates prior to the election, one for national, and the other for overseas Chinese communities). All seats are allocated by Proportional Representation (PR), with parties having to capture at least 5% of the total valid votes nationwide. In general, the SNTV and PR would benefit smaller parties that could secure the minimum number of seats required, but in elections for single-seat offices, usually only the two largest parties emerge victorious (the Kuomintang and the Democratic Progressive Party).

Recently, in April, there has been a hunger strike led by a leading DPP legislator in the call of a referendum law be passed by the Taiwan national legislature, in order for the people to vote directly on the issue of reunification. Passage, however, is very unlikely.

## 1996 Presidential Election

Taiwan's first-ever direct presidential election was held on Mar 23, 1996, after the Republic of China Constitution was amended to introduce direct popular elections for the president and the vice-president.

The amendments also specified that the winning candidate only required a plurality instead of an outright majority. Four teams of candidates emerged as the race commenced, with the KMT fielding the incumbent President Lee Teng-hui with Premier Lien Chan (連戰) as his running mate, while the DPP fielded their nominees. The KMT launched a very successful election campaign, with the indirect help of the mainland's military exercises and missile tests which prompted support for Lee's calls to "rally 'round the flag" nationalism. Over 76% of the eligible voters cast the votes on that day, and gave Lee an impressive 54% of the vote.

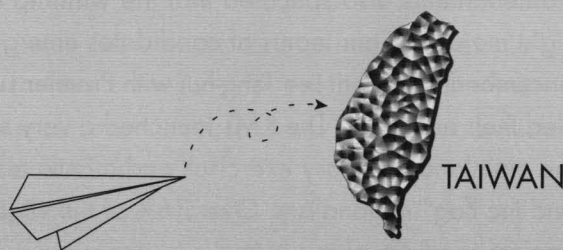
The next Presidential election will be held on the 18 Mar, 2000. The current President Lee have announced that he will not be in the running for the post (he had had two consecutive terms of office already and is barred from running for a third term. Vice-President Lien Chan has by far the strongest support among grassroot politicians and is tipped to be the "ideal national leader", while former Taiwan Governor James Soong (宋楚瑜) (also a member of the KMT) is a distant second and former Taipei Mayor Chen Shui-bian (陳水扁) for the DPP is a running third contestant. On the other hand, the previous DPP leader, Hsu Hsui-liang (許信良) has broken away from the party in order to run for presidency as an independent candidate in early May. However, in the popular votes Soong receives greater support from the Taiwanese people. It has been predicted that if Soong did not launch an independent campaign against Lien then the KMT is very likely to win in next March.

### **1998 "Three-in-One" Elections (台灣三合一選舉)**

December 5, 1998 was the day of the historical "Three-in-One" Elections in the Republic of China. Elections for legislative, mayoral and city council members were all held simultaneously, with the KMT triumphing in the Taipei mayoral election (Ma Ying-jeou (馬英九) defeating the incumbent DPP mayor Chan Shui-bian). In addition, the KMT managed to secure 96 of the 176 seats in the Fourth Legislative Yuan, and an increased percentage of votes in the elections for Taipei and Kaoshiung city councils. On the other hand, other parties fared worse: the DPP, the main opposition party, suffered major setbacks in both the legislative and city council elections, though in the Kaoshiung mayoral election their candidate, Frank Hsieh (謝長廷), ousted the KMT Wu Deng-yih (胡敦義) by a tiny margin of less than 5000 votes. Meanwhile, the New Party performed dismally overall, and the Taiwan Independence Party only secured a seat in the national legislature.

## Visit to Straits Exchange Foundation(海基會)

■ Paul Chan (I)



Reunification of Taiwan and China has been a burning issue in this decade. After the breakdown of China in 1949, cross-strait negotiation has been undergoing for many years. In the serial negotiation, Straits Exchange Foundation (海基會), the representative of Taiwan, serves an important role.

On 25th, May, we had the valuable opportunity to visit the office of Straits Exchange Foundation and giving our inquiry.

Talking about their aim, the representative attended emphasized achieving reunion would be their ultimate goal. However, Taiwan can only accept the so-called "conditional reunion." Different from "unconditional reunion", reunion would only come when democracy and liberty prevail in Mainland China. Until citizens in Mainland possess the right to choose who to rule and govern, the negotiation would lack fundamental basis.

The mission of Taiwan now is to maintain stability in internal governing and cross-strait relationship. "Pull Mainland China to negotiation table", discussing positively the reunion progress is now they are paying effort on.

Concerning the democratic progress of Mainland, he emphasized slow pace would not be a worry. Observing recent political development, he realized such progress had started already: Typical example is the introduction of market economy that creates such unprecedented impact on existing economy. Private ownership and privacy are developed. This would be the preliminary stage of human rights and liberty.

"One Country Two Systems" was first introduced by Deng Xiao Ping. Some people suggested it had



demonstrated its role in Hong Kong. Therefore, it could be a possible solution to the reunion. To this opinion, Straits Exchange Foundation's denial is firm and clear. Clear distinction between HK and Taiwan is that HK cannot decide its future but Taiwan can. If "One Country Two Systems" comes into practice, Taiwan government would be "engulfed" by PRC. The highest authority to decide and judge on controversial issues would belong to PRC. Taiwan would lose its foundation and space to protest. Even in unfair situation, foreign power cannot intervene under the agreement of "One Country" as this would be classified as internal affair. Absolutely, Taiwan would not accept such proposal.

Nevertheless, further asking method of reunion other than "One Country Two Systems", it seemed that he could not show a clear direction. He could only state prerequisite of reunion is that China undergoes its reform in all aspect such as cultural, economic, political and educational. If China can improve to certain standard, there is no reason why reunion cannot be achieved.

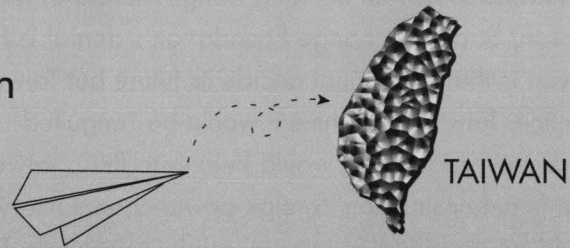
After our visit and interflow tour, President Li Deng Fai surprisingly introduced a new "State-to-State" Policy. Cross-strait negotiation has been totally freeze. In this critical point in cross-strait relationship, reviewing the content of this visit may leave us some hints on future development.



Speech given by the Deputy Secretary-General of the Straits Exchange Foundation

## Moderate Supporters Of Taiwan Independence

■ Francis Wong (I)



■ China and Taiwan have a very closed but complicated relationship. Reviewing the history, many mainland people already migrated to Taiwan to settle down in the Ming Dynasty. Before going to the trip, it seemed to me that Taiwanese were all radical who liked to challenge the government and strive for their own interests. They were just like energetic youngsters who will easily resort to violence in solving disputes. So I used to puzzle how this country will become after getting independence successfully. After the trip, however, I change my attitude towards Taiwan. The main reason is that there is the existence of a moderate organization which works hard to pursue a peaceful relationship across the Taiwan Straits—**the Straits Exchange Foundation**.

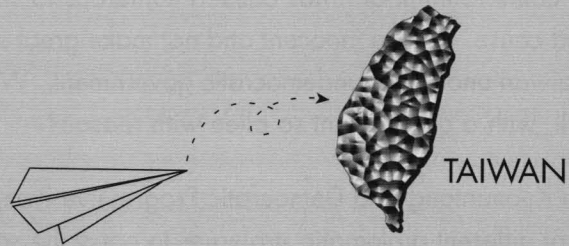
In solving the relationship between Taiwan and Mainland, the Straits Exchange Foundation does not resort to bombs and guns, but negotiation which is believed to be the unique and efficient method. This belief is later proved to be successful. A four-point consensus was reached in last year's meeting between the Straits Exchange Foundation and the Association for Relations Across the Taiwan Straits: First, to continue cross-strait dialogue; second, to promote exchange visits; third, to cooperate in the handling of functional issues arising from cross-strait exchanges; fourth, to arrange for Mr. Wang Daohan's visit to Taiwan at an appropriate time.

The Straits Exchange Foundation holds an objective attitude in tackling conflicts. It also adopts a gentle and practical diplomacy. During the visit, I learnt that this organization does not put emphasis on stylized questions like whether there is one or two China. Instead, it focuses on substantial issues such as the equal international status with China, the right to join international organizations, campaigns. It has an all-rounded attitude towards China and conditionally agrees on certain political issues. For example, it criticized China's narrow "open-door policy" which focused only on economic development. The "One country, two system" is also proved to be unsuccessful as central interference is inevitable. On the other hand, it has confidence in mainland's future development. From its point of view, the one-party system is acceptable provided that people's basic rights are protected.

If more moderate organizations like the Straits Exchange Foundation exist, there will be a brighter future between China and Taiwan. However, peaceful atmosphere depends on the work of both sides. Mainland China really needs to "open" itself wholeheartedly if she wants to pursue a good relationship with Taiwan.

## Pure Politics: Some Thoughts To Share

■ Yvonne Tsui (III)



The whole thing could be quite amusing if you look at it this way - Consider two suitors- one is young, ambitious, and energetic; but rather naive, relatively less powerful. The other is middle-aged, powerful, rich, traditional; but conservative and rather cliché in handling things and dealing with people. Whose hand would you take?

This might be an oversimplification of the political scene in Taiwan; but when voters make their decision in which parties to support, they are basically faced with these two choices- the Democratic Progressive Party or the Kuomintang.

What, however strike me when we visited them both, is not their differences, but their similarities. Both of them insisted that people like us- young people are cherished and treasured most; both of them, on the other hand, did not answer most of our questions directly (well, I think that is the similarity shared by all political parties and politicians or even lawyers alike!), both of them strive for an independent Taiwan and both of them say they are extremely concerned about the situation of post-1997 Hong Kong, and also of her ties with China.

If Hong Kong were the dress rehearsal for the "unification" with Taiwan, then perhaps they have every reason to be concerned about our situation. Whereas Hong Kong is like a poor, plain girl living at the feudal ages, who will never get to choose her husband; Taiwan, on the other hand is a wise girl living in the modern ages- well equipped (with its own national defense) and well protected(at least by the United States in a diplomatic way), and has every right to refuse a suitor. China, on the other hand, is an angry old man living in the Middle Ages. Therefore, whereas she can recover Hong Kong at a stroke of the pen, and later, unthinkingly strip her of her Basic Law; refusal of the Pope's visit to the refusal of entry to the mainland of rather harmless persons like Margaret Ng; she would be shocked to find Taiwan Not succumbing to her even at the point of a gun.

This is the point when a strong sense of loss would be felt by any citizen of Hong Kong- the loss of choices. Unlike Taiwan, we have no choice but to succumb, not only to all the unreasonableness of China's ruling; but also to the paranoid of the Tung Government.

I can recall clearly the enthusiasm of some of the Taiwanese students of the National Chengchi University when it comes to political affairs; it is somewhat an ironic contrast to the aloofness and disinterest of Hong Kong people towards politics. Their sense of control and involvement is an overwhelming reminder of our somewhat learnt- helplessness and our status of an "outsider" as far as politics is concerned.

A student of ours raised the point of nationalism whilst we were at a discussion session with the Democratic Progressive Party which is quite an interesting issue to reflect on. Nationalism, in history,

if we come to think of it has caused numerous to shed blood, and some might consider that is for a good cause. It is an innocent and not make great sense if it is to work at the expense of the suffering of Taiwan under and undemocratic government. Why should Taiwan be eager to unite, or even, unite at all, with a government so alien with reason?

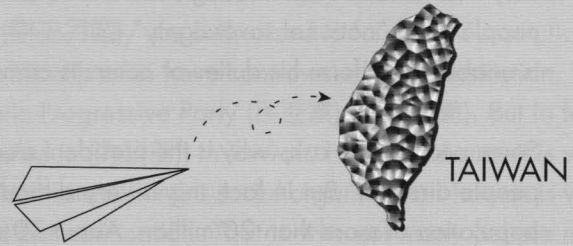
Both Kuomintang and Democratic Progressive Party alike agree on this point, even though they may adopt different diplomatic strategies to carry the same message across.

From the point of view of Hong Kong however, it is perhaps of greatest consolation that Taiwan and China are not in good terms- so far as the matter of unification is concerned, for this at least give China some incentive to keep up its promise of high autonomy and freedom so fiercely convincing not so long ago.

Hong Kong perhaps can still pride of ourselves in front of Taiwan with our "still" fairly independent and fair legal system, our freedom to trade etc. it is nevertheless, anything but amusing when you think of politics, of our plight; compared with that of the Taiwanese.

## Visit To The Legislative Yuan

■ Tracy Lam (I)



The visit started by an Opening speech given by the Vice Secretary of Legislative Yuan, followed by an introduction given by the Chairman of the Law Association, HKUSU, Mr. Martin Wong. The following is the report of the Question and Answer session:

Student A: I have heard that President Li Teng-hui has revised the Constitution of Taiwan for 4 times. I would like to know how have these revisions affected the administrative, legislative and judicial powers? Besides, what is content of these amendments?

Vice: Our Constitution has been revised for 4 times since 1991. There have been great changes, especially about the interrelationship between Legislative Yuan and Administrative Yuan.

From 1991 to 1997, the great constitutional changes are as follows:

### 1<sup>st</sup> change:

The term of the members in the National People's Congress/Assembly (NPC) (國民大會) been changed from 6 years to 4 years. And the Supervision Yuan (監察院) is no longer one of the houses in the Parliament. In other words, in the past, the members of Supervision Yuan were indirectly elected by the councilors of provinces and cities, but after the amendment, they are nominated by the President and then the nominations have to be passed by the NPC.

The Supervision Yuan (監察院) is responsible for impeachment, i.e. to impeach the government officials, who have committed serious unlawful crimes. Besides, it is under the duty to correct the minor mistakes made by the officials. Also, it should correct the public policies. This power should have belonged to the parliament. In a bicameral system (兩院國會制), this power is enforced by the other house. For example, in US, impeachment is put forward by the Representative House (眾議院) and the House of Lords is responsible for the trial of impeachment. The same procedure takes place in UK.

In the past, the power of impeachment falls into the hands of Supervision Yuan – Supervision Yuan was in fact part of the parliament. But since 1991, it is no longer one of the houses in the parliament. We cannot abolish the power of Supervision Yuan; otherwise, it becomes useless at all. Nevertheless, if we abolished the Supervision Yuan, the constitution would be tremendously affected as it would shake the constitutional structure of Taiwan. We may then have to change from 5 powers-constitution (五權憲法) to 3 powers- constitution (三權憲法). This would be very serious indeed. Therefore, the Supervision Yuan must continue to exercise its power.

### 2<sup>nd</sup> change:

The president is now directly elected by the people. The president used to be indirectly elected by the delegates of NPC. However, in this practice, the people could not participate directly. True democ-



racy should be realized through direct election. Only direct election can achieve the aim of "rule by people" and "national sovereignty" (國民主權). But still, NPC can denounce the President when he is unable to perform his duties or commits crimes.

Some people may ask, 'why is the president elected by the people directly, but not impeached by the people directly?' But in fact, this is very difficult to carry out in practice. Say, in Taiwan, here is a population of more than 20 million. About 10 million of them are qualified voters. It requires 2% of voters, i.e. 200,000 people, to propose the motion of "non-confidence". Then, it further requires another 13%, i.e. 1.3 million people, to second the motion. The proposers and the seconders cannot be the same people. This requires a time-consuming process of verification. After that, this election can only be declared valid only if 50% of voters participate. To succeed in the impeachment, half of the voters are required to vote for the motion. It is really a very difficult process. That is why we do not adopt this practice even it is theoretically ideal for democracy. In the 2<sup>nd</sup> amendment of the constitution, only the NPC remains the power to impeach the President.

### 3<sup>rd</sup> change:

This is about the relationship between Legislative Yuan (立法院) and Administrative Yuan (行政院). Before the constitutional amendment, the president of the Administrative Yuan has to be appointed by President with the approval of the Legislative Yuan. Many disputes arised in this process in the past, especially when there was no one dominant party in the Legislative Yuan. When no one single party dominated in the Legislative Yuan, the president had to compromise with other political parties to get enough votes. Very frequently, "an exchange of political benefits" was involved. To resolve this dilemma, the President can appoint the president of the Administrative Yuan directly without the approval of the Legislative Yuan.

However, at the same time, it is criticized that it is not democratic. Therefore, other measures and systems are also carried out. In the past, the Administrative Yuan is a cabinet to the Legislative Yuan and so Legislative Yuan cannot vote for "non-confidence" of the Administrative Yuan, but now it has this power. The appointment of the president of the Administrative Yuan is no longer approved by the Legislative Yuan and so it cannot denounce him. But now, we have adopted the most essential mechanism of the "cabinet system" (內閣制) to check and balance the powers. That is, the Legislative Yuan can denounce the president of the Administrative Yuan through the vote of "non-confidence". It is considered that Legislative Yuan may make mistakes, so the final decision is made by the people.

Legislative Yuan can pass the "non-confidence" motion. At the same time, the President can dismiss the Legislative Yuan. When the Legislative Yuan passes the motion of "non-confidence", the president of the Administrative Yuan has to resign within 10 days. The President can dismiss the Legislative Yuan. What to do when the Legislative Yuan is dismissed? A direct election will take place in 60 days. The result of the election can show the will of the people.

The president can appoint the president of the Administrative Yuan, but he does not have to be responsible to the Legislative Yuan. Is his power unchecked? Of course not, there is a Legislative Commission (立法委員會) in the Legislative Yuan. It can impeach the President for the serious crimes such as treason, sedition, etc.. After the passage of motion of impeachment in the Legislative Yuan, the NPC will denounce the President.

Minor changes: After the amendment of the Constitution, 4 Grand Justices (大法官) in the Judicial

Yuan are now responsible for the interpretation of the Constitution. They decide on whether the current legislation has contravened the Constitution. They are authorized to form the Constitutional Court (憲法法庭) to examine whether some political parties have contravened the Constitution. You may find only Kuomintang (國民黨), Democratic Progressive Party (民進黨) and (新黨). But in fact, we have more than 80 political parties (registered in (內政部)) in Taiwan. Here in Taiwan, it is very easy to establish a political party, even easier than establishing a social organization. Taiwan is very liberal in this sense. No permission is needed but notification. That is why not many people may know that there are more than 80 political parties in Taiwan. Of course, these parties do not have much influence. Our Constitution has safeguarded the freedom of association. How to determine whether a political party is unlawful? It depends on whether the mission of the party endangers the constitutional structure. No wonder, it is obvious that a party is unconstitutional if its aim is to overthrow the Republic of China (中華民國).

In addition, the tenure of a Grand Justice used to be 9 years and he can run 2 or 3 consecutive terms. Now, the term of office is 8 years and one can only run a consecutive term.

Student B: What is the democratic development in Taiwan? And what can be improved in your opinion?

Vice: It is a great achievement for Taiwan to practise democracy. Of course, there are still many problems existing. It is undoubted that democracy is a common value that we all pursue. Every country is trying to put it into practice, but indeed very few countries can do it.

Democracy originated from the Magna Carter in Britain in the 13<sup>th</sup> century. Having experienced a prolonged evolution, Britain has become a democratic country as we see today. Rome is not built in one day. US also takes 200 hundred years to do so.

Democracy is recognized as a fair system to secure liberty, dignity and rights of the people. One author has ever said, 'democracy is not the best political system, but since there is dictatorship in the world, democracy is comparatively good. However, when democracy put into practice, many pre-requisites are needed. To succeed democracy, we have to work together. Education is a must because people have to make independent decisions. People have to take part in politics, either to elect or to be elected. They have to express their views. If the people are simply indifferent to politics, it is very difficult to promote democracy.

The Legislative Hall



At the same time, some other social conditions are also required. If the country is poor, and the people cannot even have enough to eat, they will not care about politics. Generally speaking, a country is suitable for carrying out democracy if there is a large group of middle-class in that country. When people have jobs and property, they will then concern about social, political and cultural matters. If these conditions are not provided, democracy is only a "form" and its "quality" cannot be good.

To be frank, Taiwan is now democratized, but the quality is not good enough. There is still room for improvement.

Let say, there are still a lot of people unwilling to vote if they cannot receive some kind of benefits. This causes a great problem – capable candidate without financial support cannot run an election.

Nevertheless, democracy is absolutely better than dictatorship. Democracy, at least, provides a fair mechanism for everyone to compete. Distribution is according to contribution. Everyone has the opportunity. Everyone can have his own will. Everyone has the right to choose. Everyone is respected. This is what we treasure. In a democratic society, we emphasize individual responsibility, not collective responsibility. In a collective responsibility society, disputes are resolved by force, leading to violence among different groups of people. But in an individual responsibility society, people turn to government when disputes arise.

When we talk about democracy, human rights cannot be neglected. Human rights are recognized as the universal value that we pursue in the whole world nowadays. We emphasize human rights, not only civil rights. Human rights is a universal value. That is why the Americans believe that they can intervene the internal policies of other countries. For example, in the Kosovo dispute, the US troops were sent to save the refugees. Such an action contravened to the procedures of the United Nations because it was authorized by the Security Council. In fact, the Constitution of UN has safeguarded inter-boundary violence, but it keeps silent on what to do to restore order in the case of violence within a country.

But since the establishment, the UN has never been able to settle any disputes in countries. It does not



have its own troops. It wants to take military action, the proposal has to be passed by all (常任理事國). Even though only one country objects the motion, UN cannot send troops. That is why the UN cannot do anything to maintain international order since the establishment. Riots and rebellions in different countries cause inhumanity.

In the case of Kosovo, the UN cannot pass the motion to restore peace as it is an internal business of Yugoslavia. US then took up the role of "leader" to attack Yugoslavia to safeguard humanity.

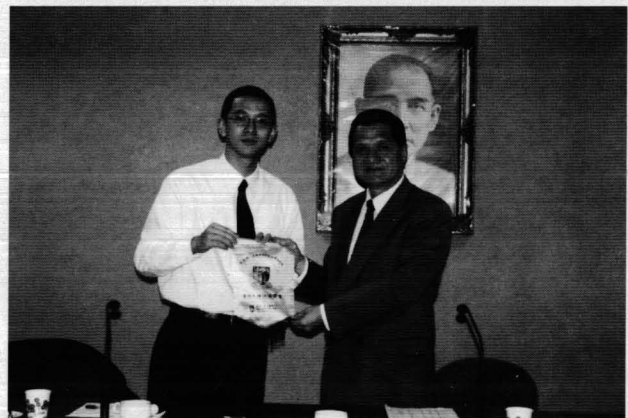
Human rights, the universal value, can only be secured in a democratic country. Human rights include a variety of rights, including economic, social, education rights, etc..

We can see that human rights are very important. US has the ability and responsibility to protect human rights. A former legal advisor of the House of Lords in US has written an essay entitled "新干預主義" to justify US military action in Kosovo. The basis of the action is international righteousness. Human rights can only be secured in a democratic society. This is why we treasure democracy.

Human society improves because people learn from unreasonable phenomena and revoke them. If the world is perfect, we do not have to improve, then the world will stop spinning. We are not afraid of unreasonable situations. Because of the presence of unreasonableness, we know the importance of "reform". Democracy is the best political system we can ever have after the prolonged development of human history. Even in the Soviet government or the Chinese government under the rule of Mao Ze-dong, they claimed that the sovereignty was in the hands of the people. The value of democracy is well-recognized.

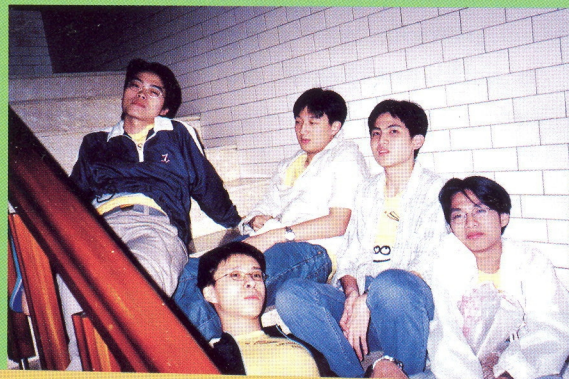
Student C: According to my understanding, some of the legislators now are directly elected by the people while some of them are apportioned by the political parties. In the future, will all the legislators be directly elected by the people?

Vice: Since the 2<sup>nd</sup> Legislative Yuan in 1993, we have adopted the representative apportion by political parties. The present Legislative Yuan has a total of 225 legislators: About 40 of them are apportioned by the political parties. They were nominated by the registered parties. Then they were apportioned according to the ratio of the number of seats each party could get in the election to the total number of seats. At present, the number of apportioned seats is not big at all. I think the number will increase in the future. Someone may question that how these legislators represent the people. It seems that they simply represent the political parties. But indeed, in many European countries, the





All drenched!!



That's how the guys looked when they refused to sleep for the 6th night.



The beautiful garden in the Formosan Aboriginal Cultural Village.



The external vice-chairman like to dress up sometimes.



The H



Let's remember this delicious noodle shop.



Oh my God! Free fall 30 meters ah!!!

# Snapshots



Kong gang has taken over the Taiwan street gang.



Leofoo village theme park



Wal Helene is so short.

adoption of the representative apportion is very extensive as it can save much money on running an election. Not every knowledgeable, capable and representative man is financially able to take part in the election. The Legislative Yuan needs different kinds of voices, including some minor groups, such as the disabled people. This is the main reason for the adoption of this system.

Student D: In Hong Kong, we have the statutory provisions on protection of human rights, i.e. the Hong Kong Bill of Rights Ordinance. In other countries, like New Zealand, we can find similar legislation – Bill of Rights Act. Such legislation has the same legal effect as those ordinary laws. But in US, Bill of Rights is superior to all other laws. How about the situation in Taiwan? Has the Constitution or any other laws in Taiwan incorporated human rights issues?

Vice: Bill of Rights was first introduced in Britain in 1668, when the Glorious Revolution took place. But the Bill of Rights was not the same as what we see today.

As you know, Britain is a common law jurisdiction, where legislation is a supplement or amendment to case law. For example, when a custom has lasted for a long time and not found as unsuitable for present situation, the parliament would revise it through legislation. On the contrary, Taiwan is a continental civil law jurisdiction, like Germany, France and Japan. We do not consider cases but simply follow statutes.

Back to our point, the scope of human rights is too wide to be fully incorporated into legislation in any single country. For instance, we have the laws to ensure the weak parties in society to have job opportunities. It is one of the ways to protect human rights. Nonetheless, human rights should include political, religious, educational, children's, women's rights, etc. It is impossible to include all of them in legislation. Therefore, it is the common practice for most of the countries to conform to the general principles of human rights, i.e. the Universal Declaration of Human Rights. In Taiwan, we put these ideas into practice through ordinary laws.

Student E: In Hong Kong, the imprecise of the articles of Basic Law has caused a great dispute (Right of Abode issue). My question is that if the legislative intent is different with the judicial interpretation, how do you settle the dispute in Taiwan? And has similar incident taken place in Taiwan?

Vice: In the common law system, the court has the power to determine the legitimacy/constitutionality of a law. But basically, in the continental civil law system, the courts are only responsible for the enforcement and application of the law, which are made by the legislature. They cannot declare a



law illegitimate or unconstitutional. It results that the bad law is still law, leading to some possible unfair and unreasonable situations. Luckily, we have another mechanism to avoid this take place. When anyone finds a law unconstitutional, he can apply for the interpretation from the Committee of the Grand Justices in the Judicial Yuan. It performs the same function as judicial review in the common law system. Different people interpret the law in different ways but the Committee of the Grand Justices gives the final decision in Taiwan.

I do not get to know the problem in Hong Kong and I can hardly comment on it.

Student F: How do you think about the relationship between the politics and the political parties? In Taiwan elections, do people pay more attention to the qualities of the candidates or the stance of the parties they belong to?

Vice: Democratic politics is party politics. In the mainland China, there are some political parties, but democracy cannot be realized. However, democracy can be put into practice only when there are different political parties. The function of a political party is to formulate policies. It is a political unit, which has to be responsible to the people. As a result, party politics is a necessary condition for democracy.

Why do we say that there is no democracy in the mainland China? It is because she has not yet opened up competition among political parties. Only one party, the Chinese Communist Party, dominates in China.

Back to Taiwan, do people vote for the individual or the party? Both exist. Sometimes, people may vote for an individual because of his distinguish qualities. However, the influence of the political parties cannot be neglected as they can mobilize many labour and resources in an election.

Questions asked by our participants,  
Anthony Sin and Jason Wu

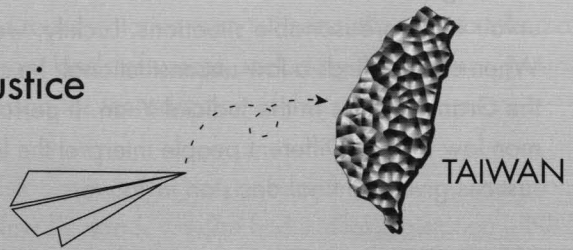
Introducing the Legislative Hall





## Speech From The Minister Of Justice - Ms Yeh Jin Feng

■ Martin Wong (I)



I am really glad to be here today with our young friends from Hong Kong. I have been in the Fa Wu Bu (法務部) for four months now, this is the first time to have visitors from The University of Hong Kong. Today I am here to welcome you all as the Minister of Justice, but I am also the chairperson of the Hong Kong Macau Association (HKMA 港澳協會), therefore I am here to welcome you in that capacity as well. In fact I have handled Hong Kong and Macau affairs back in those days when I was in Lu Wei Huei (陸委會) and got the chance to meet friends from both places from time to time. I have been to The HKU and have visited professors there too.

There are many exchange students from Taiwan studying in HKU and many have graduated and stayed for work. The communication between Taiwan and Hong Kong is thus very important, especially on the legal aspect. That is why we take your visit today very seriously, as you may well noticed from the arrangements we have today. We are taking this opportunity to get you all to know more about this bu.

The Basic Law issue is probably the focus of all your attention these days. Because I had handled Hong Kong and Macau affairs therefore those lawyers usually fax me a copy of their article before they publicize it. The communication between us is thus very important and Lu Wei Huei has been working to promote such communication too. I have invited Prosecutors' Association as well as legal professors to visit us. HKMA has also been sending students to universities in Hong Kong and Macau.

People used to say that Hong Kong and Taiwan are leaning on each other but actually we are pretty much isolated to each other. We all think we should promote communication between us. The problem



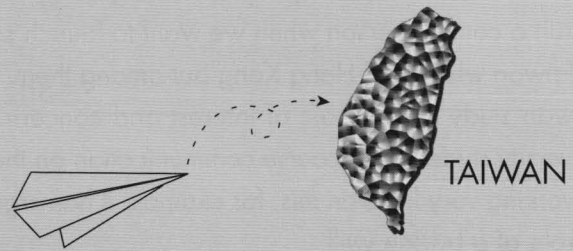
is that there are very few people in Hong Kong who study Taiwan and this makes us difficult to even recruit a contact person when we want to launch some programme. There are relatively more people in Taiwan who study Hong Kong but among them, few are young. We hope to turn such Hong Kong-Taiwan study into a topic of interest and concern and we hope to achieve this by first exchanging university students. Of course communication on the substantial level must also be pushed. The HKMA is working very hard on this, for example it has organized election-observation trip etc. and it will play its role of a bridge well.

The HKMA will always welcome visiting groups like you, like the way we do today. If the visit is related to Fa Wu Bu, we welcome direct contact made to us as well.



## 演講和問答— 法務部部長葉金鳳

■ Martin Wong (I)



今天很高興可以跟香港來的年青的朋友們共聚一堂。我到了法務部將近四個月，這還是第一次在這裡接待我們來自香港大學的朋友。今天我當然是以法務部部長的身份接待大家，但是我還是中華民國港澳協會會長，所以我今天也是以會長身份來歡迎大家。事實上在陸委會那四年時間也接待了不少港澳的事務。也常有機會與港澳的朋友見面。過去也去過香港大學拜訪過，也和香港大學的教授交換過意見。

香港大學裡有不少的台灣留學生和畢業生留校奉職，所以加強台港交流是重要的，特別是法律層面上的交流。因此今天大家的來訪我們就特別重視，從各方面的安排我想大家都可以感覺到這一點。我們希望藉此機會讓你們多了解我們法務部的業務情況。

最近大家最關心的話題應該就是香港基本法的問題了。由於我曾經處理過港澳業務所以有時那些大律師發表甚麼文章都有傳真一份給我看。所以說港台法律交流是非常重要的，陸委會也一直在推動這方面的交流。過去我也邀請過過檢察官協會來我們這邊訪問過，法學教授也來過，港澳協會也會選派台灣學生到港澳大學留學。

以前人們常說港澳台唇齒相依，但其實憑良心講是相當隔閡的。大家都認為交流方面應該加強，但是香港研究台灣問題的人是少數，所以有時候我們攬活動要找人都十分困難。相對來講在台灣研究香港問題的人有不少，但年青一代中又只有很少了。所以我們從大學生交換開始，希望將台港問題變成大家都關心、重視的問題。當然在實務上的交流也要推動，港澳協會也在努力推動，例如組織港台的觀選團等等，扮演好橋樑的角色。

今後港澳協會也一樣會歡迎像你們今天這樣的團體。如果是和法務部有關的。直接連繫我們也一樣歡迎。那今天時間也不早了，是不是請大家一起隨使用個便當？

問：請問葉部長覺得香港的法治在九七前後有甚麼不一樣？

答：我想這很明顯吧，九七後你們要用基本法。要問台灣看香港在九七前後有甚麼不一樣，這個問題基本上我想整個前提都不一樣了，整個法制都不一樣了。在台灣立場上，我們大家都知道中共提出來的是五十年不變我們這個暫且不管，因為五十年不變怎麼解釋都不知道。那麼另外這個高度自治，港人治港，我想這當初是標榜說香港要維持現狀這個重要因素。那時我們就說過如果香港人真的要保持高度自治，其中最重要的一環就是法律的部份，也就是你們在法律、法制方面的堅持。因為香

港是一向非常有法治觀念的，而且過去香港的法治在中國人社會裡面恐怕是最被稱道的。另一個其實是新聞方面，但是我們遺憾地看到好像九七之前已有很多媒體已自我設限了，那時我們陸委會也是很明顯地看到這個問題。基本上台灣在九七之後視香港為一個有別於其他大陸地區的特別區，但終究香港還是大陸地區。九七前我們沒有視它為大陸地區。大陸跟台灣的关系是從無到有，從封閉到開放來往。但港台關係則剛好相反，從過去的熱絡到現在，當不能說關掉。現在香港人才真正注意到了中華民國，知道中華民國的存在是對香港的一個保障，所以開始台港之間的來往都是在增長，而且增長的速度也很高。這其中還有一個因素就是香港發揮了第三地的功用。九七之前我們一直當它是完全的第三地，九七之後我們也務實地把香港當作第三地，因為香港到底和別的大陸地區不一樣。我們也希望跟香港之間維持過去的頻繁交往。因此我們也另有制定香港澳門關係條例，澳門部份當然要到今年十二月二十日才生效了。那在這條例中我們就在盡量保障和維持台灣和香港之間交往。所以自回歸以來台港的交往沒有受太大的影響。但這其中有一點要留意的是反而香港方面對台灣人士發証變得更嚴謹，所以當台灣到世界各地的數字增加的時候，到香港去的數字反而有所下降。相對的在台灣這邊我們卻一直在討怎麼給香港人士更多的方便，包括多次入境、縮短審查時間等等。總的來說我們是有條例保障台港交往的，在條文中也特別提到只有在非常特殊情況之下那些在兩岸關係條例中的限制才能適用，所以我們是在盡量維持台港的熱絡交往。

問：葉部長您對香港的司法獨立的前境有甚麼看法？另外您覺得台灣的司法獨立又如何？

答：對香港司法獨立的看法，那台灣是以一個局外人的身分去看。人大常委有權解釋基本法，這個問題在你們的立法會最近也有很激烈的辯論，最後變成部份議員退席抗議。所以我覺得是香港人民願不願意做他們後盾的問題。另外我想行政部門也蠻重要的，也就是你們特首是否願意擔負這個責任，為香港六百萬市民負責。你們特首是推舉出來的，不論是怎麼推舉的，推出來了就必須要維護香港人的利益，特別是維持香港在司法方面的獨立性。沒錯人大常委有它的解釋權，但香港法院也有它的審判和終審權。我認為這問題的關鍵在香港本身，有沒有前境就要看香港怎麼做，還有行政部門怎麼做。在立法會做會很困難，因為民主黨派在那裡是少數。所以行政部門或者特首怎麼做就很關鍵。我覺得還有一環很重要的就是香港人民、媒體和輿論，但是我覺得代表人民聲音的愈來愈萎縮了。我並沒有悲觀，這問是要取決於香港本身的。特別是特首和其他相關的行政部門人員，如果他們能有一點擔負，能夠為香港人的利益來講話、來爭取的話那還是有希望的。尤其有中華民國在這裡，因為中共就是希望一國兩制如果在香港實施成功將會是對台灣的一個誘因。但我可以在這裡說就算香港成功台灣還是不會接受的。所以說中華民國的存在對香港是一個很大保障。九七之後台灣給香港實質上的幫助可能很困難，但是只要我們這塊招牌豎在這裡，就是構成對中共的壓力，而這個壓力對香港是絕對有利的。

第二部份，在我們台灣那叫審判獨立，不叫司法獨立，也就是說法官在審判過程中必須依法辦理。我們在審判獨立方面是有信心的。法院就是享有這種獨立的機關，

特別的是我們台灣是檢、查一體的，法務部之下設有偵查部門和檢察部門。在過去我們不可否認，整個司法程度的發展與民主政治的發展跟審判是否獨立是息息相關的。過去在危險統治時期的確是有政治力介入司法，但是隨著民主政治的發展，台灣解除戒嚴也有十多年了。這十多年也是台灣社會動力最澎湃的一段時期，所以我們民主化的發展也是有目共睹的。在這個結果之下，大家都會去關切和期待審判怎樣獨立於政治力之外。民主愈發展，尤其現在台灣政黨政治也是有了雛型，那在這政黨政治下，司法怎樣獨立於政治力之外就變得非常重要了。民主與專制最大的不同就在於法律，民主社會裡法律是為人民服務的；在極權制度下法律卻是為政治服務。在大陸就是政策怎麼說，法律跟著走。今天在台灣這種現象已不復在，民眾也在高呼政歸政，法歸法。我們司法人員也要嚴守這樣的立場。事實上在台灣甚麼都愈來愈透明化的情況之下，政治力要介入審判也變得愈來愈不可能了。我們對審判獨立也愈來愈有信心。

問：法務部是否獨立於政府？法務部怎樣決定是否起訴一個人？會否有行政或其他方面的影響和壓力？

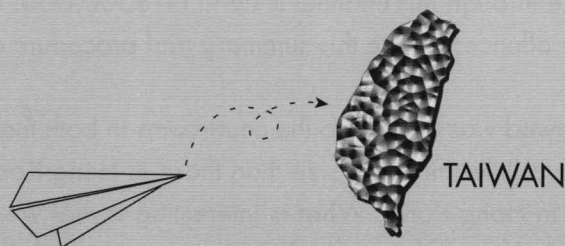
答：中華民國憲法規定我們實行五院制，跟你們英美法系的三權分立不一樣。五院除了行政、立法、司法之外還有考試和監察，審判工作是屬於司法院的。法務部是行政院之下許多部門之一，雖然組織體系上是屬於行政院，但各部會還是可以獨立運作的。法務部檢察官最重要的工作是偵查，是否起訴就要看偵查結果如何，犯罪證據是否足夠。雖然我們是行政院下的一個部，但我們強調的是依法行政，所以只要法律上認定應該起訴，我們就起訴，不會受行政機關的干涉，行政機關不能來指揮，也不能說你要起訴就起訴，否則就是行政力介入司法，在現在這個社會是不可能發生的。不過法務部的獨立跟法院的審判獨立還是不一樣，因為法院組織法有明文規定說檢察部門的檢察長對於檢察官的工作有指揮監督的權限。問題就在於這個權限會否被濫用而成一種干涉。為了避免這個問題，不它變成一種變相干涉，我們法務部已經提出了相關的規定，令整個運作能夠透明化、制度化和書面化，讓監督與被監督雙方都有一個共識。由於我們強調的是依法行事，所以在制度上我們還是給予檢察官一個相當的空間，讓他可以根據證據和自己的法律知識去判斷起訴與否。我們在七月間將舉行一個司法改革會議，將來我們會比較注重和加強像英美法系訴訟中的法庭辯論并且要加強檢察官的舉証責任。所以將來檢察官在決定是否起訴的時候就會更加的謹慎，因為起訴之後他必須要面對被告的辯護，要展開辯論，要呈上證據。這一些改革對將來檢察官工作水平的提高是很有幫助的。

問：請問你們台灣的這種活潑法律教育方式會深入到那一個層面？比如說到中學？大學？

答：這要看情況，有時候我們也會到社會上去推廣。事實上我們這個法治教育是全面的，我們希望深入到社區、學校，甚至深入到基層去。我們推的很廣，而且不只我們法務部在推廣，我們還和教育部合作，一起到學校去推廣；還有跟青輔會，也就是行政會青年輔導委員會合作。在推廣青年層面是以它們為主，我們為輔。我們還有一本漫畫式的法治教育書籍在籌備中，準備從小學三年級學生開始作法治教育工作。我們的宗旨是讓法治教育生活化，讓人們從小就有守法的觀念。

## The Visit To Taipei District Court And High Court

■ Anthony Sin (II)



The fortnight of our third day journey was the visit to the District Court and High Court in central Taipei. Upon our arrival to the District Court, we were kindly received by the Head of the District Court, as well as several judges who were responsible for thousands of cases there.

What was followed was a brief introduction to the Taiwan Court system. It was easy to observe a drastic difference between Taiwan and Hong Kong Court System from their general introduction.

The first basic difference is upon the maximum penalty and imprisonment. In Hong Kong, both the Magistrates and the District Court have their maximum limits on both two aspects, whereas in Taiwan, even the District Court can put forward a sentence equal to the maximum penalty or imprisonment of a particular offence. Taking an example of theft, the District Court can immediately sentence a maximum imprisonment of 5 years once the elements of the offence are proved in accordance with their civil codes. The High Court and the Supreme Court of Taiwan only provides a chance for appeal. The second difference is that the cases are tried either under a summary trial procedure or an ordinary trial procedure in the District Court. Unlike in Hong Kong of having various tribunals trying various aspects of cases, there exists a united mechanism in Taiwan for trying non-complex cases or summary offences, and also for both civil cases and criminal cases. The maximum amount for a civil trial to take



place through this channel is up to NT\$500,000. For criminal cases, the suspected must confess for their offences before this summary trial procedure can be used.

Followed was our visit to the courtrooms in both the District Court and the High Court. The courtrooms were a little smaller in size than those in Hong Kong, but solemn atmosphere was seriously kept like that in Hong Kong. What is interesting is that we were quite perplexed about some Chinese legal vocabulary such as 「除權判決」 on various daily trial timetables that needed explanations from judges accompanying us during our visit.

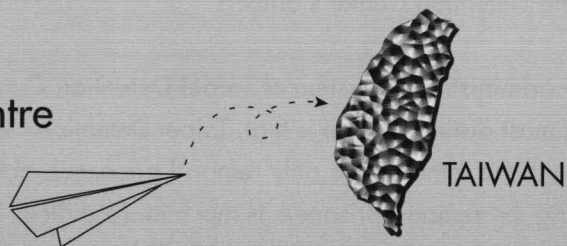
This visit has deepened our understanding the Taiwan court system as well as giving us an opportunity for an interchange of opinions and information on court system in both Hong Kong and Taiwan. We were especially impressed by the sincere and kind reception of various judges and officials in High Court and District Court that made our journey fruitful and memorable.

Talks given to us by the judges of different branches of the court.



## Visit To The Taipei Detention Centre

■ Angie Li (I)



The Taipei Detention Centre is a security institution operated to accommodate remand prisoners who are waiting for the first trial or the two levels of appeals they may bring. The centre accommodates around 2000 prisoners, which is one-fourth of the total remand prisoners in Taipei and most of them are remand prisoners of serious crimes. Besides detaining remand prisoners, the Centre also serves as an addiction treatment centre to examine, supervise and report the situation of drug addicted prisoners to the Prosecutor for reference in court.

'Good Care, Strict discipline' is the principle of the Centre. The Centre provides a wide variety of works for the prisoners there, for example, laundry, carpentry, metal work, electronics components processing etc. Besides these works, the Centre also provides vocational training like hairdressing, crafting and computer application. By establishing good habit of hardworking and equipping them with employment skills the Centre seeks to help its prisoners to re-integrate into the society after their release. Moreover, the Centre also takes care of the inmate's psychological needs. Besides organizing individual and group guidance and counseling programmes, the Centre also organizes educational, cultural and recreational campaign and activities for its inmates. There are also common rooms with wide ranges of facilities such as TV, newspaper, sports equipment and musical instruments for the enjoyment of the inmates in their leisure time.

Other than the remand prisoners, their friends and relatives are also the service target of the Centre. In recent years, the Centre has improved the meeting services in many ways. For instance, the environment of meeting rooms has been improved; the meeting system has been reformed and meeting time has also been extended. These improvements are also in line with the principle of caring about the needs of inmates.

The spokesman of the Taipei Detention Centre said that they emphasized benevolence and persuasion in reformation of the prisoners and administration of the Centre. They highly respect the inmates' human dignity while at the same time securing the safety of the public. Their aim is to help the prisoners to introspect and to learn the right virtues of society. Although every inmate has to do the compulsory work everyday, they can freely engage in the activities in the Centre after work, even if they finish the work earlier than the assigned time. It showed that the work aims at vocational training rather than restraining their movements.

We also asked them whether there is any complaining mechanism in the Detention Centre. They replied that all remand prisoners can made their complain by letter and their case will be referred to relevant department in the Judiciary which will investigate and follow up the complaint. Moreover, there are reward and punishment system in the Centre to assess and supervise the conduct and work

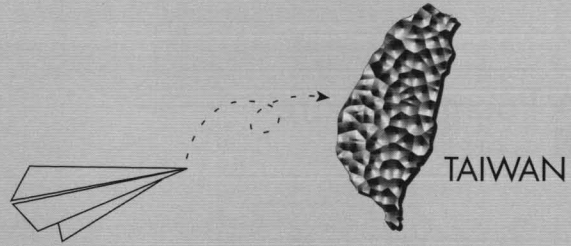


of the Detention Center's officers.

The administration system of Taipei Detention Centre is similar to that of Hong Kong in many ways. The most distinct feature is that, Taipei Detention Centre particularly emphasizes the work in education though the inmates are only remand prisoners, not those who are convicted. The reason is that managing the remand prisoners is much more difficult than those who are serving their sentencing. There are many inmates who have detained for a long time but yet to be sent to trial or waiting for appeal hearing. They are usually very discontented and even stir up trouble. Some of those who have committed serious crimes even have suicidal tendency or high tendency of escaping. All in all, the work of the Detention Centre is crucial in ensuring smooth carrying out of investigation and court procedure.

## Freedom-Detention Centre

■ Venna Cheng (I)



The coach stopped at the corner of the street. Right next to us is the detention centre! There aren't any bared wires, but the stone walls make the detention centre an isolated cold place erected in the main street.

When we got into the entrance, a totally different view captured my sight. Everywhere is green and clean. Surrounding a multi-storied main building, where the officials and staff work, are bushes and flowers. Next to it laid a long stone wall isolating the detainees with the outside world. We then got through gate, where there were some guards checking our identity, and had a tour in the inside world...

There were a few buildings, which were not very high. We got in one of them. At the ground floor, there was a board indicating the reason for detention and date of trial of each detainee. The offences they committed were less serious ones, like storage of drugs. We walked along the narrow but bright corridor, right next to us was the workplace. We encountered the detainees! They were all very disciplined and greet the officers loudly. They were divided into different groups working in different rooms. They did simple tasks, like packaging and making baskets. They were all very dedicated to work and the products were unexpectedly attractive. I was so impressed by them. The officers said the detainees were paid for work. A partial of the salary would be saved up and given to them after they left the detention centre, while some part will be used to set up a fund for the detainees' family. Not only the right of the detainees were not deprived, but his family was also being concerned with.

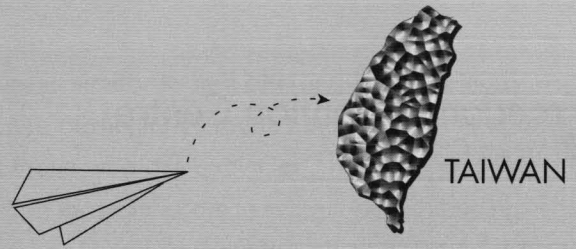
After visiting the workplace, we proceeded to the cells of the detainees. This floor was not as warm as the workplace. There were cells along both sides of the corridor. The iron gates of each cells made this inside world far more isolating. There was just a little transparent square on the iron gate for the guards to look through. We got in one cell, what we could see were just a few double-deck beds, buckets for containing water and bare walls. I can hardly imagine how life will be if I was locked in this unfurnished little cell!

The officers answered our questions patiently and they even prepared us with delicious lunch boxes and juicy fruit. They were all very kind and welcoming.

Visiting the detention centre is not merely watching around, it comes to my realization that freedom is priceless and we should never do wrongs!

## A Poem To Share

■ Joy Lam (I)



In retrospect, the trip is like sitting in an express train as it roars down the days. A hundred memories flooded into my mind, unfolding themselves in glories—inspiring visits, tedious seminars, brilliant speeches, funny questions in iMandarin, skilful answers from politicians, enthusiastic faces, welcoming smiles, hottest disco, ceaseless bowling alleys, heavenly sunrise, endless night! All of these are unforgettable to me.

Amongst the memories, there is one vivid picture that firmly fixed in my mind. It is a pair of helpless eyes that I met during a visit in a prison. Empty eyes, yet whispering its bitterness and anger.

The following poem is dedicated to the girl in prison I once met...

### A Voice

*Lord, let me fly*

*To fly off the problems that will never subside*

*And enable me to cry*

*In the endless sky.*

*Lord, let me shout*

*To howl down the strangers who always doubt*

*And rescue the poor scout*

*From a warmless house.*

*Lord, let me go*

*To go without the seeds of hatred that my parents sowed*

*And prepared for me a hole*

*To bury the sore soul.*

*Lord, let me pray,*

*To pray for a better place which is worthwhile to stay*

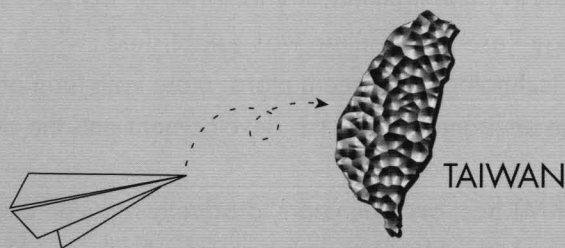
*And prevent me from going astray*

*In the next awful day.*

No fascinating reports, but just some feelings and thoughts that come into my mind. Thanks for giving me a room to express my views.

## Pretour Information: Introduction of Kuomintang

■ Charmaine Yip (I)



### History

Founded by Dr. Sun Yat-Sen and once the ruling party of China in the first part of the 20<sup>th</sup> century, the Kuomintang, troubled both internally (due to increasing divisions within the party) and externally (having to deal with the struggle against the warlords, the communists and the Japanese faced a humiliating defeat by the Chinese Communist Party in 1949. The KMT fled to Taiwan for refuge. It was only after some time that the KMT was able to gain sound support from the local Taiwanese.

The role of the United States over the years had been instrumental, despite of the American diplomatic stance of changing favor to Beijing in her hope to secure China as an ally against the USSR-headed Eastern Bloc during the Cold War after 1978. Much military and economic aid was given by the Americans that enabled the KMT to restructure and become the dominating party on the island.

### The State and the Party

The KMT pursued their policies along largely democratic lines (as the ROC recently prided herself as becoming a full-fledged democracy) though there is a trace of Leninism in the organisational structure (the party and its elite from the mainland would control policy and have a network to carry it out). The military was strengthened when the KMT first arrived in Taiwan and was an influential group in the government (though it is becoming less so since 1986), and was important group in the implementation of the emergency legislation. This martial law provision gave extensive powers to the Taiwan Garrison Command over a wide range of activities, including the ability to try certain criminal offences by military tribunals (thus limiting the freedoms as granted by the Constitution).

### Economic Development

The Council for Economic Planning and Development (CEPD) is a cabinet-level agency of the Executive Yuan that plays a crucial role in the formation of Taiwan's economic policy. It is responsible for the overall planning for national economic development, evaluating projects and programs for the Executive Yuan and monitoring the implementation of development programs.

Since the establishment of the Taiwan Production Board in 1949 for stabilizing the Taiwanese economy, government medium-term plans have been implemented. These plans reflected the ROC government's desired direction for the economy by setting guidelines and targets for the Taiwanese industries. Since the end of the giving of American aid in the late 1960s the government stressed the importance of the island's attraction to foreign investment and the growing needs of self-sufficiency. Economic modernization and diversification became vital, as was adhering to political objectives (e.g. in the 80s the government encouraged a more equitable distribution of income and more regional development to ensure social harmony). Taiwan's comparative advantage was also to be exploited, her strengths being a high-skilled and low-cost labor force and government-sponsored incentives for foreign corpo-

rations to open light-industry factories on the island (in 1973 the state organization the Institute Technology Research Institute was established, which showed the government's commitment to science and technology). In recent plans, more long-term objectives are adopted, such as in the improvement of the environment and the development and the development of infrastructure.

The KMT has, over the years, gradually reduced the role of the state in the market: instead of being an active player it has become more of a facilitator. During most of the years of the KMT's rule the public sectors has had a strategic role in a number of industries and the military. However, overtime, this interventionist approach gave way to a more detached role, as the government began extensive privatisation of many public corporations and the private sector grew steadily.

The ROC depends heavily on international trade in order to achieve a favourable Balance of Payment. The CEPD and the Ministry of Economic Affairs (MOEA) played a central role in promoting this aspect.

### **The Issue of Unification**

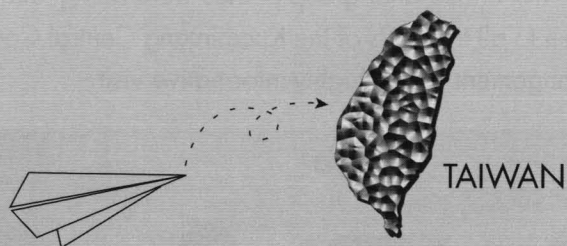
The KMT is largely in favour of unification with the mainland at some point in the future, and as the ruling party it has adopted a largely conciliatory approach towards the People Republic of China. The ROC has implemented a number of mainland-friendly policies, such as the enactment of certain legislation and the setting-up of various agencies to promote dialogue with the PRC, all of which are indicia of the party's attitude towards the issue. For more information, see the section on Cross Straits Relations.

### **Recent news**

The current party leader and President Lee Teng-hui (李登輝) has published a book titled < 台灣的主張 >, in which he proposed the partition of China into 7 provinces which include 中國大陸, 台灣, 西藏, 新疆, 蒙古, 東北 etc. and the preservation the autonomy of each of them. This would effectively render the whole of China into a federal system of government. However, although this "七塊論" was claimed by officials as one which does not hinder the steps to reunification, commentators have argued that this move might strain relations with the mainland due to the recent patriotic waves on both sides of the strait in response to the American bombardment of the Chinese Embassy in Yugoslavia (中國駐南斯拉夫大使館).

## Department of Youth Affairs, Kuomintang Central Committee

■ Christie Chan (I)



During the 9-day-tour in Taiwan, arrangements were made to visit two political parties, and one of them was the Kuomintang, the current ruling party in Taiwan. We were warmly received by the Department of Youth Affairs, The Kuomintang Central Committee (DOYA) where Doctor Lai Kuo-chou (賴國州), the General Director of DOYA gave us an introduction of the work of the department. The DOYA was established in 1972 with aims of developing youth party work, solving youth's practical problems and uniting youth to create a better future. The three-fold aims of the DOYA is reflected by the way in which it's various divisions are structured—there are separate offices governing the implementation of youth party work, co-ordination of youth policies and the organization of youth activities. Besides, careers counselling, education counselling, marriage guidance and establishing links with overseas and local organizations are also core works of DOYA.

After we were briefly introduced to the aims, policies and the various divisions of DOYA, we were then led on a tour around the department.. I was really impressed by the University Information Centre where they had a large database containing information of overseas and local universities. In addition to that, there was also the file internet service which provides another means of accessing university information.

After that, we were escorted by the staffs of DOYA to the Kuomintang Central Committee where we were arranged to take part in a talk on the life of Mr. Jiang Jing- Kuo, the second Vice-President of Taiwan, Republic of China. We were also directed by the officials to see the personal belongings which were once used by him. As a result, our understanding of the history of Kuomintang together with that of Taiwan were much intensified. Next, we were taken to the general meeting hall of the Central Committee. We were even allowed to take photos before the seat of President Li Deng-hui!

Talk on the life of Mr. Jiang Jing-Kuo,  
the 2nd Vice President of Taiwan



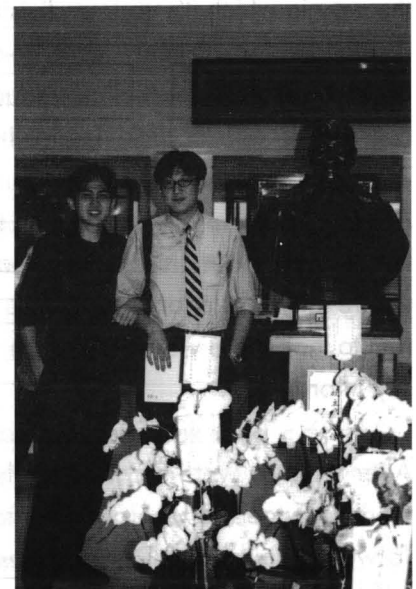
Our visit ended after group photos were being taken at the Central Committee. Special thanks must be given to all the staffs of the Kuomintang Central Committee and the DOYA for their kind reception and arrangement of this highly-informative visit.



LA Chairman presenting souvenir to the Director of Department of Youth Affairs, The Kuomintang Central Committee, Doctor Lai Kuo-chou



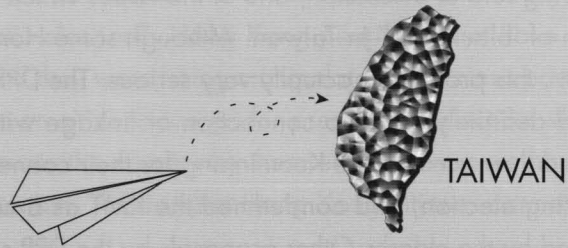
Taken in the Conference Room in the Kuomintang Central Committee headquarters



Kuomintang Central Committee Headquarters

## Report: Visit To The Democratic Progressive Party

■ Nicholas Mak (I)



On the 5<sup>th</sup> day of our itinerary, a visit was made to the Democratic Progressive Party (DPP). The DPP was established in 1987 and it has long been characterized as energetic and innovative. The main target of the Party are teenagers and the younger generation ranging from 20 to 30 years old, and its number of members is the second largest in Taiwan<sup>1</sup>, just below Kuomintang.

As expected before, this visit was one of the most fascinating and informative programmes in the tour. It was because the DPP is well-known for its aggressive attitude and its advocacy of independence of Taiwan from the Mainland China.

After a brief introduction by the reception team, we were led to sightsee the office. There are various departments such as finance, publicity (propaganda), party policy and China policy etc. As we have observed, most of the employees are the younger generation. This is different from the Kuomintang which many members are the elder generation. It is always said that an equilibrium should be obtained between the younger and elder generation in the composition of a political party, since the former is able to inject more innovative ideas and energy, while the latter is more capable of managing emergency situations and making important decisions.

The seminar started after the sight-seeing tour. First the basic policies of the DPP was introduced. The DPP advocates Taiwan as an independent sovereignty managed by Chinese (Taiwan citizens),<sup>2</sup> and basically rejects the 'One Country, Two Systems' policy since it is regarded as impractical in actual practise<sup>3</sup>. A survey was conducted in March 1999 on the future of Taiwan. Around a quarter of respondents preferred unification with the Mainland, one third supported independence; while the remaining desired to preserve the present condition<sup>4</sup>. This result provided a strong basis for the party to claim the tendency of Taiwanese towards total independence. Although the 'One Country, Two Systems' proposal is not accepted, the political situation in Hong Kong was said to be a very important indicator, especially the promise of preserving the existing condition within 50 years. The bargaining power of Taiwanese would be increased in case the outcome of the policy turns out to be undesirable in Hong Kong.

All participants were then asked, as being an University student, what is their main concerns on Taiwan affairs. Various answers such as 'One Country, Two Systems', the highly pressurized and intense examination system, traffic network, unemployment rate, environmental protection, sexual equality etc. were given. However one of the answers was so fascinating that it outweighed all the others. One of the participants claimed that Taiwanese are very enthusiastic and nice towards foreigners because they always provide lots of snacks and fruits to them<sup>5</sup>. The reception team was so embarrassed by this answer because they only provided tea on that day! Another joking answer was that the air-conditioning was too cold!



During formal discussion, one of the issues which many participants mentioned about was the problem of 'black gold' in Taiwan. Although some Hong Kong movies might have exaggerated the situation, this problem is actually very serious. The DPP claimed that they emphasize a clean government and definitely have no connection or linkage with any inappropriate organizations. On the other hand they accused the Kuomintang for their connection with black gold and their act of buying votes during election, and condemned the KMT as a corruptive government being flooded and mismanaged by the elderly. Other proposals by the DPP such as reduction of military force, enhancing work environment and environmental protection were also explained.

The climax was reached when Mr. Leung, an officer of the China policy department, came into the discussion. He first explained the Hong Kong policy. The DPP treats Hong Kong as a region rather than a part of China so that trade would be more convenient<sup>6</sup>. However he also arrogantly claimed that the livelihood of Hong Kong citizens depend heavily on Taiwan, because if at one day China declares war, economic transaction between the three coasts<sup>7</sup> will be terminated immediately. According to rough estimation, the GDP of Hong Kong will therefore drop for at least 1% and unemployment rate will increase drastically<sup>8</sup>. He then later rephrased his words as 'if the situation of Taiwan is no good, Hong Kong people might not be able to their jobs'. Such unfriendly intimidation has aroused much disgust and dissatisfaction among the participants.

The foreign affairs issue was then discussed. Mr. Leung proposed that rich countries have their own strategies in dealing with foreign affairs. Around US\$4 thousand millions budget is prepared every year for buying external relationships with other countries. The DPP regards such budget insufficient and proposes an increase of such amount. Although it was known to the participants that the PRC Government has tried very hard to restrict the international exposure of Taiwan for a prolonged time, the appropriateness of such policy is doubtful. Moreover, what the DPP proposed sufficiently showed their aggressiveness in achieving total independence from the Mainland.

Mr. Leung then compared the Hong Kong younger generation with the Taiwan younger generation. According to him, Hong Kong has been a British colony for more than a hundred years, and as a consequence Hong Kong citizens are generally unconscious of their political rights and they produce



an image of total frustration in terms of politics. In addition, as the Chief Executive is actually appointed by the PRC Government without democratic election<sup>9</sup>, Hong Kong people do not have any aspiration towards politics because for a long period they were being manipulated by various parties, first by British, and later by China. In contrast, Taiwan citizens can go for presidential election which is totally democratic<sup>10</sup>. Being able to run and innovate the country by themselves, Taiwanese have a very strong sense of political efficacy and participation. This is what Hong Kong citizens cannot do and achieve.

Concerning the most controversial 'One Country, Two Systems' policy, Mr. Leung claimed that the DPP generally would not accept such proposal, unless the terms are much more discretionary and wide than that applied to Hong Kong. A national voting would be the last resort to protect Taiwan because Taiwan citizens should have rights to choose their own way.

The statements by Mr. Leung has aroused lots of challenges and queries from the participants. One of them asked about the stance of DPP if the Mainland is willing to give more discretionary and concessionary terms to Taiwan as mentioned before. Out of expectation, Mr. Leung replied that if such terms are really being given, then Taiwan will not be much different from an independent country at all, and Taiwan people have no need for such unification just because the China bureaucrats want to keep their faces. This reply has stimulated the anger of the participants and they severely criticized such answer was simply selfish because it totally ignores the importance of unification of a nation and only takes self-benefit into concern. The DPP was also being criticized as not objective enough and has severe bias against the Chinese Communist Party, and that the arrogant intimidation from Mr. Leung was most disappointing.

Although another member of the reception team immediately confessed some inappropriateness in Mr. Leung's statement and soothed the situation, the participants left the DPP office with total disappointment and anger.

<sup>1</sup> Approximately 20,000 members in 1999



<sup>2</sup> Such statement is based on the information obtained during the visit in late May 1999. This point may not be completely true at the date when this article is written (in January 2000). As far as observed the DPP has adopted a more neutral approach recently, partly due to the election of the President in 2000. It would be very likely that the Mainland would use military assault to influence the election result if the DPP continues to insist unequivocally on Taiwan independence.

<sup>3</sup> The Kuomintang also steers against the 'One Country, Two Systems' policy and Soong Chu-yu, independent candidate of Presidential election 2000, also claimed the impossibility to accept the proposal by the Mainland.

<sup>4</sup> Such survey was conducted by a professional organization delegated by the DPP

<sup>5</sup> To certain extent it's quite true, as long as we have been provided lots of snacks and wonderful meals when visits were paid to the Prison, the Judicial Department, the Courts and the Kuomintang.

<sup>6</sup> As far as the writer understand there are many restrictions imposed on Taiwan businessmen by the Mainland for them to do business in China, unlike the HKSAR Government which adopts the *Laissez faire* policy

<sup>7</sup> i.e. Taiwan, China and Hong Kong

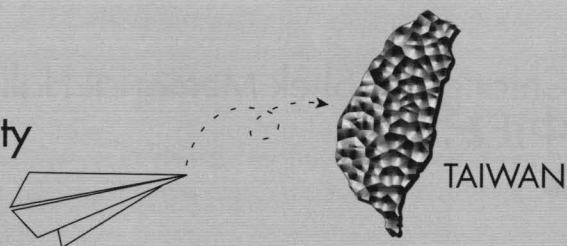
<sup>8</sup> No formal statistics or source of statistics have been provided however, the accuracy and truthfulness of this statement is in doubt.

<sup>9</sup> This is not perfectly true as there was an election by a group of 400 people from various professions.

<sup>10</sup> Ironically the recent 2000 presidential election turns out to be a nasty drama between the independent candidate Soong Chu-yu and the Kuomintang, while Chen Shui-bin, candidate from the DPP, is also affected by unfavourable rumors. Therefore it is doubtful whether total democracy means anything at all.

## Reflections Of The Visit To The Democratic Progressive Party

■ Gary Wong (I)



Before going to the Taiwan Interflow Tour, I was quite sure that it was a very worthwhile trip for me to go and many things could be learnt from this trip. Indeed, it was such a memorable trip that I cherished the experience that I obtained from it. There were many things that deserved my attention and consideration. Indeed, many things were so 'new' and 'fresh' that it widened my horizons.

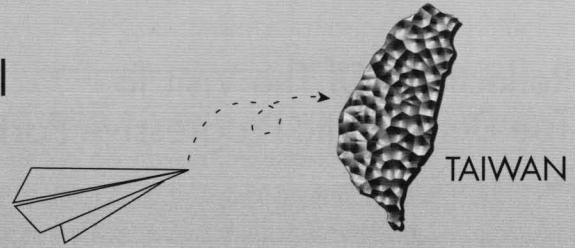
From this trip the visit of Democratic Progressive Party was so 'meaningful' that I want to focus on. At that day, with a nervous feeling, I stepped in the office of the Democratic Progressive Party, as it was my first time to visit a political party. The officers really were out of my consideration, as in my mind they might be some old people with serious attitude. They were very young and open-minded, from their behavior; I could not find any bureaucratic attitude. They were very friendly, patient and considerate. They first asked as our feelings of Taiwan. Each of us had a chance to express our opinion and also it was a chance for us to practice Putongwua especially for those did not familiar with! (Including me!). And then was a question and answer session. We had so many questions that wanted to ask. And it was the most exciting period as many of our colleagues gave out many 'sensible questions.' Indeed, it was the time that made me felt nervous. "Is it not so suitable for us to ask this kind of question at this moment?" I wondered. But the outcome was out of my expectation. The responder answered the question politely. Although the answer might not satisfy my colleague, but the responder really showed the manner of politician.

We had a discussion after the visit of the Democratic Progressive Party. Although I could not agree the idea and opinion of that responder, but it was a very good experience for me to see how a politician responds the question that was sensible and I hope I can apply this technique in the future!



## Chiang Kai Shek Memorial Hall 中正紀念堂

■ Anthony Sin (II)



Eventually, after the visit to the courts, I could visit the place that I have long expected – Chung Ching Memorial Hall. This was the place for memorizing Mr. Chiang Kai Shek upon his death in 1975, for his great contributions upon economic, social, political and other aspects of development in Taiwan.

Upon our entry to the Memorial Hall Plaza, our gang of 40 immediately rushed to the memorial hall to glance at the most essential part – the bronze statue of Mr. Chiang Kai Shek before the hall was closed at 5:00 p.m. (Upon our arrival, it was already 4:45 p.m.!!!) We were all fascinated by the huge statue and the solemn ceremony of the last marshal by Taiwanese soldiers before its closure.

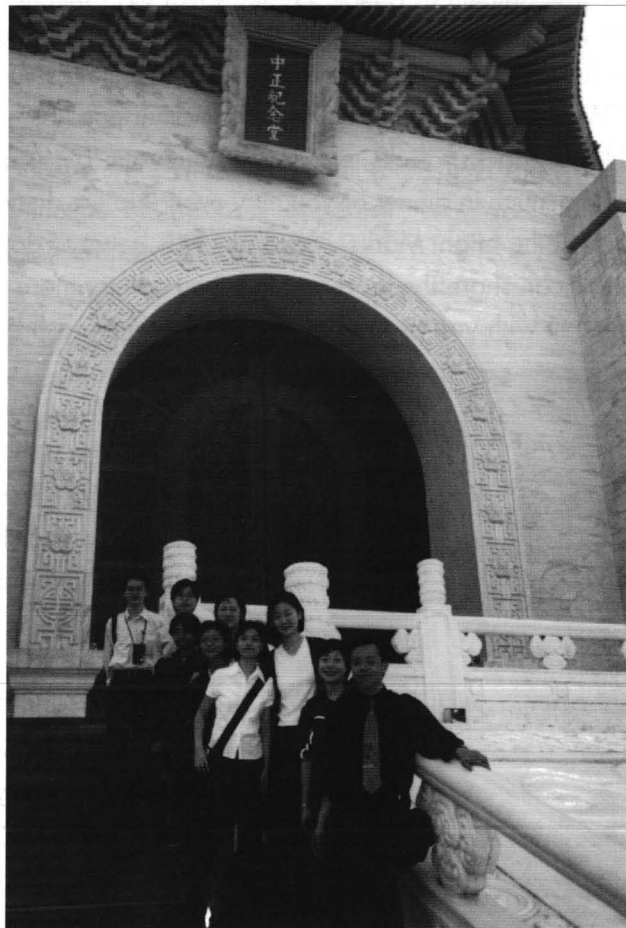
What impressed me most was the three Chinese words behind the statue – the pursuance for ethics (倫理)、democracy(民主) and science(科學). This aroused my memory of Chiang Kai Shek's contributions upon the development of Taiwan upon the escape from the Mainland China, especially for the "10 Infrastructure" in Taiwan (probably the memory is my knowledge of Chinese History up to Form 3 level!). Mr. Chiang will surely be one of the best examples in my life to follow in developing my future careers.

Looking down from the memorial hall to the plaza, in addition to your widest imagination, you can figure out a Taiwan national flag within the Memorial Hall Plaza. The tourist guide kindly told us that in spring, when thousands of red cuckoos bloomed throughout the plaza, accompanying with the white memorial hall and blue sky, it is easy to imagine the national flag of Taiwan – "blue sky, white sun and plenty of reds"(青天白日滿地紅旗).



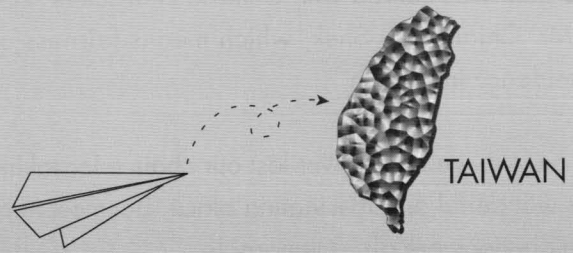
The gate was carved with Chinese characters「大中至正」, which was the most suitable modification to Mr. Chiang Kai Shek, which means fairness and justice throughout his contributions during his presidency in Taiwan.

Of course, we have never lost our chance for taking numerous photos, for having a good memory for this wonderful and fascinating place. But most importantly, the spirit for Mr. Chiang Kai shek and his contributions are also memorable.



## Delicious Food In Taiwan - My Recommendation

■ Kane Chan (II)



To me, Taiwan is really a good place for traveling. The weather is similar to Hong Kong, there are many tourist attractions and the people are so nice and friendly. However, I think the most wonderful things in Taiwan are the food, which are very tasty and attractive that you will almost want to try every thing!

In Taipei City, if you do not have much time but you want to try as many Taiwan foods as you can, the best place you have to go to is the Shihlin Night Market(士林夜市). In that Night Market, there are two main areas. One is full of stores and hawkers selling dry stocks such as clothes, shoes and accessories, just like the 'Women Street' of Hong Kong. The other one has hundreds of hawkers along the street selling cooked food, snacks, drinks, etc. To satisfied your 'big' stomach, here are some tips for you. Firstly, do not eat too much in dinner or you may even skip the dinner, because there are a lot of food you will want to try in the Night Market. Secondly, it is better to go with three or four friends, so that you and your friends can share the food and thus you can try more categories. Finally, do not forget to bring enough money with you as the hawkers only accept cash but not visa!

After doing the 'research' by me and my classmates, the followings are recommended.

Pepper bun (胡椒餅) — It is a bun filled with minced pork inside. The pork was minced manually by chopper, not by machine and seasoned with pepper. There was a lot of sesame seeds on the top, and the bun was grilled in a carbon stove. It was very very delicious and you should eat it when it is hot, don't let it cool down! When I have a bite on it, the source in the bun splashed out and I could not stop myself from eating it!

Big cake eats small cake (大餅吃小餅) — It is a very funny name, isn't it? Actually, it is a famous snacks in the Shihlin Night Market. The hawker used a thin flour wrapping wrapped up a small, crispy stuff, thus it is called 'a big cake eat a small cake'. The wrapping is sticky and the filling is crispy. There are many flavor you can choose, we have tried the sweet one and the salty one. I think the sweet one is more yummy.

Pig's blood pudding (豬血糕) — I think not every one will try this as they may think pig's blood is disgusting!. It is made of pig's blood and glutinous rice. Indeed, it is very popular in Taiwan. The taste is totally different from the pig's blood we eat in Hong Kong, it is a bit harder. You have to add pepper and serve hot.

Shredded ice cooler (刨冰) — The ice was shredded into very very tiny fragments and mixed with fruits essence, such as strawberry, passion fruit, pineapple, etc. We haven't tried it but it is extremely suitable for the hot summer.

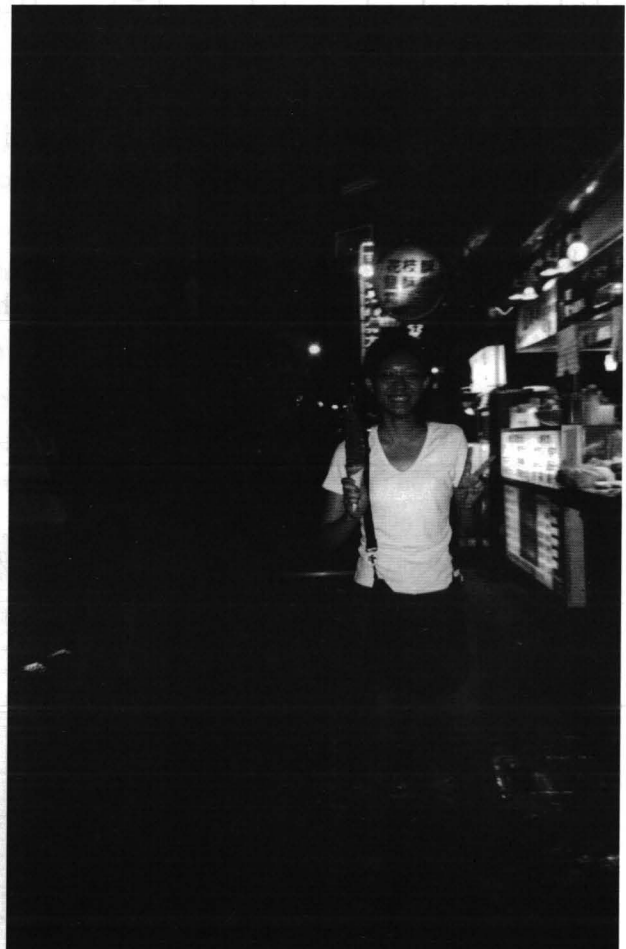
Fresh fruit juice — There were many hawkers selling fruit juice in the Night Market. The fruit was squeezed before you, so it must be very fresh. You may think that it is not so special as it can easily be found in Hong Kong. However, what I recommend is the bitter melon juice (苦瓜汁). When I drank it, it is not as bitter as I thought, or I can say it was not bitter at all. Why? The secret is that the hawker added some pineapple into the bitter melon when she squeezed the juice. It is my favorite drinks and I highly recommend it!

In fact, there are many many other food we want to try, however, due to lack of time, there were many Taiwan local food we haven't try. What a pity!

Apart from the Shihlin Night Market, there are hawkers or stores selling snacks every where in Taipei. I have bought an ice-cream cone from a store, but it was not a common ice-cream cone. Have you ever seen a one-foot 'tall' ice-cream on the cone? When I have it in my hand, I thought it is really a miracle! Nonetheless, no matter how fast I ate, the speed of melting was much faster and my hand was full of melted ice-cream!

Finally, I want to recommend the 'spicy hot pot' (麻辣火鍋) to you. There were different levels of spiciness, we have chosen the lowest level, but it was still very spicy! There were variance of ingredients, such as beef, beef brisket, mutton, shrimp ball, squid ball, vegetables, etc. As it was very spicy, we have drunk much tea and soft drinks.

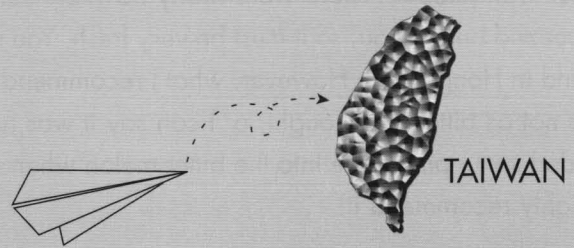
During the trip of Taiwan, I ate a lot. Thus, the following task was to do more exercise to reduce fats!





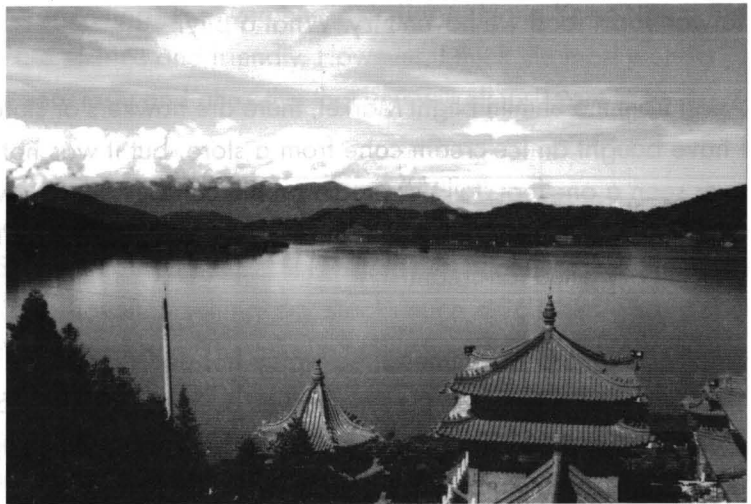
## Sun Moon Lake

■ Alan Yip (I)



Remember how many photos we took? Remember how late we stayed up? Remember how crazy we are in those famous night markets like Shrlin and Huashi Street?

In fact, I really don't want to talk too much about those 'lectures' given by various departments and political parties. Without doubt, they were all very meaningful and useful for me to know more about Taiwan affairs. However, they were not the material



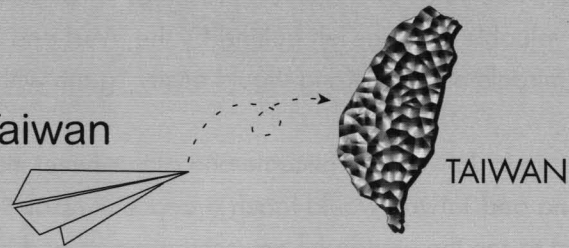
part in my memory. What refresh my memory most was the beauty and peace of the Sun Moon Lake which is located at the central part of Taiwan. We shared one whole night there for 'fishing' and chatting and few of us even waited for the sunrise! Since I seldom participated in the activities organised by LA and so I did not have too many friends in law, the gather at the Sun Moon Lake was the place I 'started' establishing deep friendship with some of my fellow classmates and I really treasured what I have gained there! — that's why I say the Sun Moon Lake was so special to me!

Well, the epicentre of recent earthquake in Taiwan was just near the Sun Moon Lake... the Lake and its surrounding area were seriously destroyed... That's really a tragedy... but I really hope that the friendship I have developed there is not as 'shaky' as that of the Lake!



## Democracy in China? Thoughts After The Visit To Taiwan

■ Jason Wu (II)



Amid strained Cross-Strait relations, perhaps it is too luxurious to depict my own easy-going life during the 9-day trip. To many people, Taiwan means more than a beautiful island for leisure. Set against her unique historical background, Taiwan struggles hard to acquire for her a place amongst the economic powers. And most important of all is that she witnesses a peaceful political transformation from a semi-dictatorial regime into a democratic region within 40 years after the Second World War. Such a Taiwan experience presents to the world a thought-provoking inspiration: democracy is not merely a western value peculiar to the Chinese soil.

Many people say that Mainland China should learn rule of law from Hong Kong and democracy in Taiwan. Unfortunately, while I was heading for Taiwan, the government proposal to seek NPC interpretation of the Basic Law over the Right of Abode issue posed a direct challenge to the rule of law in the former colony. True, we can see "horse-racing as usual; dancing as usual" after the transfer of sovereignty. However, some basic values like judicial independence are traded for political and social expediency with the support of the vast majority who puts present economic interests ahead of judicial integrity. Rule of law in Hong Kong is not well entrenched in the mind of the majority. I cannot help wondering if the Taiwanese would gradually attenuates democracy to solve whatever pressing questions facing her. Were it be the case, the Taiwan experience would become nothing but a short-lived performance, leaving to the future generations nothing but reminiscence.

Having such a concern in mind, I paid attention to different visiting programmes and swallowed the "duplicated materials" delivered in the hope that I might pretend to be an expert (or a fortune-teller) analyzing whether the Taiwan experience is really sound and the judicial system advanced. Needless to say, little meaningful analysis can come out from my small pool of knowledge. Yet, four pieces of information caught my attention: firstly, in order to qualify as a judge, the Taiwanese have to pass a civil examination to become a civil servant. Secondly, the courts have, apart from hearing cases and writing judgment, a lot more investigation work to do. Thirdly, members from the Democratic Progressive Party are always complaining about vote buying by the Nationalist Party. Fourthly, Taiwan still maintains capital punishment. It seems to me that Taiwan still has a long way to go. Yet, I am rather sure that the Taiwanese will continue to perfect their legal system after a secretary of the Legislative Yuan gave us a impressive "lecture" on democracy and rule of law. If any ordinary Taiwanese are so concerned about democracy and rule of law, who can doubt the genuineness of the Taiwan experience and the determination of the Taiwanese to struggle towards a even brighter future?

The political miracle of Taiwan was brought about by people's consciousness and constant struggle. In contrast, the legal framework of Hong Kong was transplanted here by colonial rule. Patriotic passion

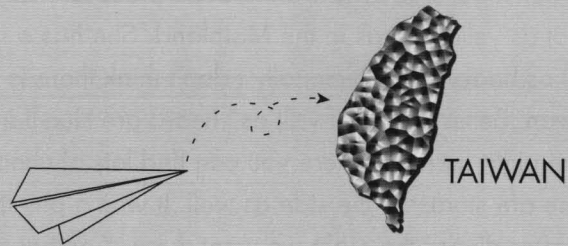
aside, 150 years of British rule preserves for us a precedent to learn from. Were we unable to treasure the valuable legacies left behind by the West and be conscious about the importance of rule of law, the miracle of Hong Kong would easily "gone with the wind".

The trip to Taiwan has become one of the sweet memories in my life. I genuinely hope that Mainland China and Taiwan would reach a peaceful resolution on the re-unification question. At least, I do not want to see the wonderful amusement parks and beautiful scenery destroyed by firearms.



## Afterthoughts

■ Amy Tam (III)



The interflow tour to Taiwan was exciting. Though we visited authorities of different nature, ranged from universities, detention centre to governmental departments such as the Ministry of Justice, interestingly, we are given quite similar reception there. When we first arrived, we were given a tour around the place. Then, we were served in one of their most nicely decorated conference rooms in which we sat around a ring-shaped conference table with a microphone set in front of each seat, very much like being a member in one of their important executive meeting! In the conferences, we heard introductory addresses followed by friendly Q&A sessions. Most of the authorities are very kind to have provided us with a nice box of assorted fresh fruits of Taiwan for us to enjoy during the conferences. They are very refreshing!

It was a memorable cultural inter-flow tour. We see in real practical difference between Taiwan's legal system and the common law system of ours. From the setting: with the judge and the party in the central, while the counsels of the plaintiff and the defence on the sides of a court room, we see the running of an inquisitorial mode of trial in the Taiwan District Court.

We felt very interested in the visits, and a number of us participated actively and asked questions. Among the various topics we exchanged our opinion on, our attention were frequently brought to politically sensitive questions, in particular the issue of unification of Taiwan and the Mainland. The answers from the various bodies, the authorities, the students, and the people generally, are, perhaps interestingly, consistent. They had given me a feeling that they have fairly deep faith and confidence in her concept of democracy, her competence and excellence of ruling by her own people, and their pride to be recognised as the people of the Taiwan Republic of China, as an independent country.

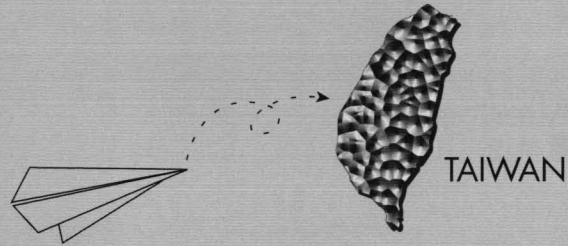
It was our honour that our conferences are hosted by some of their most important officials from the bodies. For instance, we all learn much from Mr. Jian Zhi Hong, the Principal Secretary of the Strait Exchange Foundation who visited the Mainland in earlier in July, who have us the view of the Foundation in the Cross Strait issue. I particularly enjoy the meeting with Ms. Yeh Jin Feng, the Minister of Justice, listening to her experience of being the Chief Judge and the functioning of the Ministry. We are interested in the issue of the independence of the Ministry from the Executive power of the legal system and the area of anti-corruption. Quite different from what we have in Hong Kong, they do not have an independent Commissioner Against Corruption, but have a 'rightful administration department' among all executive bodies. We can also see the much effort the Ministry put in public education. They issue many publications, the hard work behind the colourful and attractive booklets are impressive. These publications concerns various topics: about the concept of Rule of Law, prevention of crimes ranged from family violence, sexual offences, traffic accidents, defamation, information technology issues and personal informational privacy, intellectual property to national compensation.

The non-legal side of Taiwan is a fair place to visit. The colours are bright, by which I mean the green is not as yellowish as in the Mainland. She has a maritime climate, as there is plenty of sun shine as well as heavy rain. Personally I don't think there is much scenic spots to see in Taipei and the Central Taiwan. Better places of visit as I heard are Hua-lian and Southern Taiwan. One main feature of Taipei is the night markets. There you can find lots of cheap things to buy and some Tai-pai-dong food stalls. There are stores on the side as well. It was a pity that I did not have much of those food, as we were full after dinner the night we went there. Another repute of Taiwan belongs to the book street. There are at least over 50 bookstores there. Some of them are really huge, taking up 3 levels! Most of us are happy to bear with the much increase baggage on our way home!



## Afterthoughts

■ Jennifer Yung (II)



I must confess that I did not make any notes during our tour in Taiwan. In order to give you a better view of my perspective, I can only gather the bits and pieces from my memory.

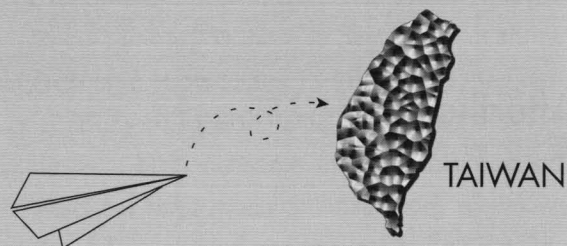
Unlike a lot of people, the purpose of my trip was to take a break with a couple of friends after exams. I really had not thought about the history and the situation in Taiwan much before I took off. I just thought that it was a good chance for me to legitimately have the permission and financial support of my parents since it was a "school trip" and I could serve my objective. I have heard a lot about Taiwan, the pearl tea, the beef jerky, the pineapple pastry, the iron egg, the night market etc. But after the nine-day visit, I saw more than just food and fun in this place that looks like a toe on the map.

We visited two universities in Taiwan, the students there are all taught in Chinese. Unlike us, the pressure they bear is much higher because the passing rate for the Bar Exam is about 13 to 14%. Students in Taiwan have strong political awareness. I have talked to some of them and they were quite clear of which political party they support and who has carried out their words as promised. They know the direction Taiwan is heading and they are quite united in following that direction. In comparison with them, we are definitely a much luckier bunch since we don't have to go through the tedious Bar Exam. However, on the other hand, we lack the pressure and sense of emergency to work harder. In regard to political awareness, I guess we are also too fortunate to have to worry about which political party we belong to and whether our political parties have fulfilled their promises. A lot of times we are more concerned of our own self-interests, such as salary and welfare cuts than the well being of the Special Administrative Region, which we called "home". There is another distinction between the universities in Taiwan and that in Hong Kong and that is the conditions of their classrooms. Although the classrooms in Taiwan lack air-conditioning and cushioned chairs, the students remained attentive during lessons. I guess that's something that we, HKU students, could not do now, at least not without complaining.

We have also visited the Court, the prison and we have met a couple of important people while we were in Taiwan. Apart from eating the food they constantly fed us, I began to have a better understanding of the present situation and history in Taiwan. I have started to appreciate this different culture and its uniqueness. Even now that I am back, I am more cognizant of what is going on in Taiwan, especially the upcoming presidential election in March next year and the relationship between Taiwan and China. I believe the more places I have travelled to, the more conscious I am of not becoming "a frog in the well". So, let there be more interflow tours and hooray for the efforts of the Law Association!!!

## Afterthoughts

■ 蕭鎮邦 (I)



Law Fac DM 好鬼多, 內容又悶又囉嘍  
讀書生涯真坎坷, 生活完全無突破  
好在系會人才多, 苦中作樂笑呵呵  
帶頭發起去對岸, 睇下人地搞邊科

換班儀式真複雜, 士兵哥哥好鬼慘  
惡人擋路佢照行, 吹沙入眼都唔眨  
踏足台中日月潭, 旭日景色真浪漫  
斜陽映襯湖水藍, 迷人景緻甲天下

台灣政府法務部, 招呼真係好鬼好  
西瓜蘋果水蜜桃, 幾乎多過水果舖  
精明一街行快步, 畫畫千祈叫唔好  
畫工奇差冇著數, Helene 畫到似 Michael

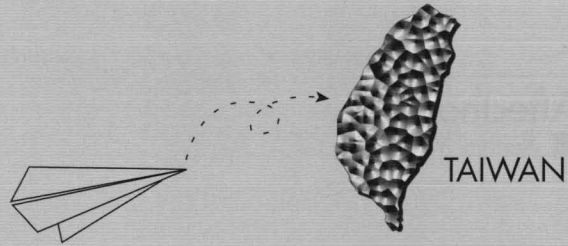
我們讀了一年 law, 實在唔知搞邊科  
幸好系會活動多, 好使會員笑呵呵  
台灣之旅真難忘, 三千五蚊無洗錯  
手信禮品一籮籮, 齊齊回港盼勁過

Helene looks like Michael ???



## Afterthoughts

■ Christe Chan (I)



When I first heard of Taiwan, what immediately comes up to my mind was the scene of the legislators fighting among themselves. But is Taiwan nothing more than that? I can tell you, the answer is a definite NO. Taiwan is such a magnificent place to visit, and such a meaningful place for us to base our trip.

We all know that the legal system of Taiwan is a continental one, a system quite different from ours, but I guess we can learn nothing more from textbooks than being actually in a country practising it. We are arranged to visit courts of various levels, and we can actually sit in courtrooms and experience the active roles played by judges. I also learn from the Taiwan law students that a fresh graduate can become a judge if he can manage to pass the entry examination. Is it a good news to some of us if the same system is practised in Hong Kong?

Besides, the political environment in Taiwan also impressed me a lot. Unlike Hong Kong, Taiwan is presently under the ruling of one party, though there are still many other parties existing. The citizens are very dedicated to their parties, and the parties also value the youth a lot. There are branches specializing in youth work and youth people can even join in as party members.

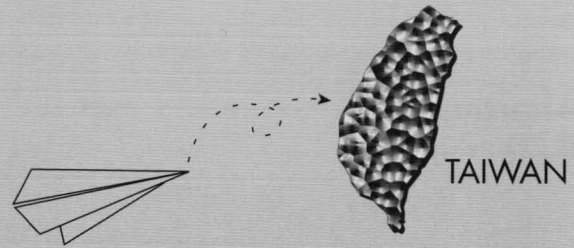
I am sure that no one in our trip would forget all the remarkable official visits, excursions and delicious food we had, and all the new friends we made in the trip. I really look forward to returning to Taiwan one day, and buy tons of sweet tomatoes in Shilin Night Market.





## Afterthoughts

■ Betheny Yu (III)



Taiwan is really a "Formosa". The general impression of Taiwan to me is civilized and modern. In fact, the life style of the people there is in no way different from that of Hong Kong.

I learnt a lot in this Taiwan Interflow Tour. It is very comprehensive in the sense that it struck a good balance among various aspects of Taiwan. It gave me an insight into the judicial, legislative, political and constitutional system of Taiwan. We received sincere and warm welcome from the representatives of every place we visited. Apart from that, we were given lots of information and booklets which provide a good basis for further study of the Taiwan system.

Among the various places that we have visited, I was particularly impressed by the Taipei Detention Centre. It is different from the kind of detention centre that we saw on the TV. They pay great respect to the rights of the defendants. They organized courses, like computer course, and entertainment for them. Besides, there are several mini-workshops which involve making paper bags, packaging and sealing the envelopes for advertising agents, etc. Through these workshops, not only that they can earn some money, but also contribute to the society. Another thing which made this visit even more impressive is the chance of seeing their death chamber and listening to the oral description of the way they execute capital punishment.

Apart from various government departments, we also visited two of the most prominent universities in Taiwan: National Chengchi University and Tunghai University. From my impression, Taiwanese students are very friendly, mature and hospitable. They accompanied us for a whole day despite the examination.

In this tour, we also visited some scenic spots. Some are active and some are informative. For me, I find the Guinness World of Records Museum and LeoFoo Village most worth going. It is quite obvious that the former is a place introducing the World's Guinness Records, like the "Believe It or Not" in the Peak in HK. LeoFoo Village is somewhat similar to the Ocean Park in HK and this is the first time I had my ride on the free-fall machine. Really a wonderful experience!

Taiwan is also known for its night markets, like Shihlin Night Market, 西門町 and 華西街. These are the places where we spent several nights.