

Deft moves

Jerome A. Cohen considers the roots of the tussle over Taiwan's legal status and how, despite this, rapprochement between Washington and Beijing was made possible at the landmark meeting of 1972

Just 40 years ago, US president Richard Nixon arrived in Beijing for what he immodestly but accurately called “the week that changed the world”. Knowledgeable observers knew that the success of the visit – so crucial to Nixon's 1972 re-election campaign – would turn on how he and his national security adviser, Henry Kissinger, dealt with the status of Taiwan.

That question had been central to Sino-US relations since the communist victory in the Chinese civil war and establishment of the People's Republic of China in 1949, and it continues to be so today.

For over two decades following the start of the Korean conflict in June 1950, the US denied that Taiwan was part of China. Yet that had not been its original position after the second world war. During the war, in the 1943 Cairo Declaration, the US, Britain and China had agreed that Japan, which had forced China to cede Taiwan to it in 1895, would have to return the island to China at the war's end. Thus, in October 1945, the victorious Allies authorised Chiang Kai-shek, then president of the Republic of China, to accept Japan's surrender on the island.

Chiang, without waiting for any peace treaty to formalise the island's return, reintegrated Taiwan into China's political system. By the



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autumn of 1949, Chiang's government, after being defeated by the forces of Mao Zedong (毛澤東) on the mainland, had made Taiwan its last refuge against the communist revolution, and Mao was preparing an assault on the island that was to complete the revolution.

In the United States, the Truman administration, which was under severe domestic political attack from the Republican Party opposition for supposedly having “lost China” to communism, was deliberating how to respond to demands that it prevent the impending Maoist onslaught by interposing the Seventh Fleet in the Taiwan Strait. After an agonising and acrimonious national debate, in January 1950 president Harry Truman and secretary of state Dean Acheson, in successive speeches, announced that the US would not intervene. To do so, they said, would involve the US in China's civil war and be seen as interference with the territorial integrity of an Asian state.

They based their decision on the premise that Taiwan had again become part of China, despite the fact that its new status had not yet been formally confirmed by any peace treaty.

As Acheson, an able attorney, put it: nobody “raised any lawyer's doubts” when Chiang's forces were placed in charge of Taiwan at the end of the war. That, he said, had been done in accordance with the Cairo Declaration and subsequent wartime commitments.

Yet, less than six months later, when North Korea invaded South Korea, the US interpreted the invasion as an attack by “international communism” not only in Korea but also against Taiwan and Indochina. With no national debate, Truman immediately announced that he had ordered the Seventh Fleet to protect Formosa, using Taiwan's Western name, and, to justify their momentous decision, Truman and Acheson changed the American legal position. The president proclaimed that the legal status of the island was as yet undetermined and would have to await restoration of security in the Pacific, a formal peace treaty with Japan or consideration by the United Nations.

Nevertheless, although the US thus cast doubt on China's claim to the island, it continued to maintain diplomatic relations with Chiang's government as the legitimate government of China and concluded a defence treaty guaranteeing the island's security.

When Nixon and Kissinger landed in Beijing on February 21, 1972, that was still the US view, anathema to their hosts, who had always maintained not only that the People's Republic is the only legitimate government of China, but also that Taiwan had “long been returned to the motherland”. As the Chiang government no longer controlled any indisputably Chinese territory except for two small islands off the mainland coast and had just been ousted from the UN in October 1971, its claim to be the legitimate mainland government no longer appeared to be a serious long-term obstacle to Sino-American relations.

The same could not be said of the status of Taiwan. How could the conflicting positions of Washington and Beijing on the key issue obstructing Sino-US rapprochement be reconciled? Would the US again change its position, this time sacrificing the security of the people on Taiwan? Would Beijing show flexibility?

In the artfully designed, if hastily drafted, Shanghai Communiqué of February 28, 1972, premier Zhou Enlai (周恩來) and Kissinger managed to foster rapprochement without actually disposing of the Taiwan problem or damaging Taiwan's security. One paragraph, from that part of the document in which the US unilaterally stated its views, was crucial.

Its first sentence declared: “The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China.” This sentence ambiguously implied either that all people on the island side of the Taiwan Strait regarded themselves as Chinese or, more likely, that others there were not Chinese. It could have been relatively innocuous in itself, since it



merely purported to take note of an asserted position.

But the next sentence stated: “The United States does not challenge that position.” And the paragraph went on to reaffirm the American interest “in a peaceful settlement of the Taiwan question by the Chinese themselves”.

The past four decades have witnessed many developments, including the establishment of diplomatic relations between Washington and Beijing, severance of formal relations between Washington and Taipei, adoption of the Taiwan Relations Act continuing US protection of the island, and the recent conclusion of many semi-official cross-strait agreements.

While the meaning of the Shanghai Com-

munique is still debated, one thing is certain. Its most famous paragraph cleared the path for progress that has plainly changed the world.

Some changes, however, especially the prodigious rise of mainland China, Taiwan's establishment of democracy and the rule of law and increasingly interdependent US-China-Taiwan relations, will, over the next 40 years, make it even more challenging for political leaders to preserve both peace in East Asia and freedom for the people on Taiwan.

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