Democratic Reforms in Taiwan: Issues for Congress

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Summary

Taiwan, which its government formally calls the Republic of China (ROC), is a success story for U.S. interests in the promotion of universal freedoms and democracy. Taiwan's people and their leaders transformed politics from rule imposed from the outside with authoritarian abuses to the relatively peaceful achievement of self-government, human rights, and democracy. The purpose of this CRS report is to succinctly discuss Taiwan's transformation and current concerns, paying particular attention to the role of Congress and implications and options for U.S. policy.

Taiwan's people did not fully enjoy democratic self-government until the first direct presidential election in 1996. The opposition Democratic Progressive Party (DPP), formed in 1986, and its candidate Chen Shui-bian won the presidential election in 2000, ending Taiwan's 55 years of rule by the Kuomintang (KMT), or Nationalist Party of China. Taiwan enjoyed a second democratic transfer of power in 2008, when the KMT's Ma Ying-jeou won the election for president.

After two democratic transfers of power, Taiwan has an unfinished story in promoting rule of law and maintaining a strong multi-party system, with implications for U.S. security, economic, and political interests. U.S. policy has played important roles in Taiwan's transition to democracy, by decreasing Taiwan's sense of insecurity through continued arms sales and other contacts after the end of the mutual defense treaty with and diplomatic recognition of the ROC in 1979, by continuing business ties that have provided for prosperity, and by pressing the KMT to end authoritarian abuses of power in favor of freedoms for all Taiwan's people, including the majority Taiwanese. Some say Taiwan could be a model for the People's Republic of China (PRC).

Promoting an environment conducive to rule of law and business, President Ma has led his government to fight corruption in Taiwan, a complaint of some U.S. firms. He has touted his administration as a defender of democracy, enhancing Taiwan's rule of law and protection of human rights. He championed Taiwan's long-awaited ratification of the United Nations (U.N.) International Covenant on Civil and Political Rights and International Covenant on Economic, Social, and Cultural Rights. Nonetheless, domestic and international scrutiny of Taiwan's democracy and rule of law has increased. Some events under the Ma Administration have raised domestic and foreign concern about Taiwan, most prominently the heavy police presence to control protesters during the visit of a PRC figure from Beijing in November 2008 and the prolonged detention of ex-president Chen on charges of corruption since 2008.

Before reformist leaders in the KMT and the opposition forces pushed for political liberalization that began in Taiwan in 1986, Congress played an important role in U.S. pressure on the KMT's authoritarian regime to reform the political system. Congressional oversight is provided by law. In 1979, just after the United States switched diplomatic recognition from the ROC in Taipei to the PRC in Beijing, Congress carefully crafted the Taiwan Relations Act (TRA), P.L. 96-8 of April 10, 1979, and included a section on human rights. Congress has a long record of oversight of the human rights aspect of the Executive Branch's foreign policy toward Taiwan, external pressure on the KMT moderates to end authoritarian abuses (particularly involving the United States), and support for advancement of Taiwan's democracy. In addition to U.S. policy interests and relevant roles, Congress and the Administration continue to have a number of options concerning Taiwan's democracy, human rights, and rule of law, including remaining a more passive observer in deference to Taiwan's voters and their elected leaders in a fellow democracy. The clearest U.S. statement came in November 2008, when the U.S. Representative in Taipei expressed an expectation that Taiwan's legal system be transparent, fair, and impartial.

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Introduction

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Taiwan, which its government formally calls the Republic of China (ROC), is a success story for U.S. interests in the promotion of universal freedoms and multiparty democracy. Taiwan's people and their leaders transformed politics from rule imposed from the outside with authoritarian abuses to relatively peaceful achievement of self-government, human rights, and democracy. The purpose of this CRS report is to succinctly discuss Taiwan's transformation and current concerns, with particular attention to the role of Congress and implications and options for U.S. policy.

For centuries, forces and peoples from various Asian and European countries landed on the island called by the Portuguese name of **Formosa** (from "Ilha Formosa" for "Beautiful Island"). In more modern history, Taiwan's people did not enjoy democratic self-government until the first direct presidential election in 1996. The Qing Empire had incorporated Taiwan as a province in 1885. Then, under the Treaty of Shimonoseki of 1895, the Qing rulers of China ceded in perpetuity Formosa and the nearby Pescadores islands to Japan. Japan ruled Taiwan as a colony until the end of World War II in 1945. According to the Kuomintang (**KMT**), or Nationalist Party of China and the ruling party of the Republic of China (ROC) that replaced the Qing rulers in 1912, KMT forces claimed the ROC's sovereignty over Taiwan on October 25, 1945, upon Japan's surrender. Generalissimo Chiang Kai-shek dominated the KMT and the ROC's political and military power from the 1920s until his death in 1975. After the KMT lost the civil war on mainland China to the Communist Party of China (CPC) in 1949, Chiang Kai-shek as the commander of the KMT's military and ROC's president (he was elected by a National Assembly in 1948) retreated with their forces to Taiwan and ruled its local people. When he died, his son, Chiang Ching-kuo, ruled as the KMT chairman and ROC president from 1978 until his death in 1988. His vice president, Lee Teng-hui, took over as the president. Lee was re-elected in Taiwan's first direct, democratic presidential election in 1996. That Lee was the first president born in Taiwan was significant. Until democratization, the local majority "Taiwanese" people (about 85% on the island) felt oppressed under what they called the "White Terror" of the imposed rule of the KMT and its "Mainlander" supporters who fled to Taiwan in 1945-1949. Still, Taiwan has never been ruled by the CPC regime under the People's Republic of China (PRC) based in Beijing that claims Taiwan as belonging to "China." While many governments face political divisions, Taiwan has the added complexities of ambiguous national and ethnic identities and unsettled sovereign status.

The opposition Democratic Progressive Party (**DPP**), formed in 1986, and its candidate Chen Shui-bian won the presidential election in 2000. Taiwan enjoyed a second democratic transfer of power in 2008, when the KMT's Ma Ying-jeou won the election for president.

Importance for U.S. Interests

The ability of Taiwan's people to exercise democratic determination of policies affects U.S. interests. While U.S. policy does not support or oppose a particular **outcome** for the settlement of Taiwan's status, the United States has stated its stance on the **process** for how the Taiwan question will be determined. In the U.S.-PRC "Shanghai Communique" of 1972, President Richard Nixon stated the U.S. interest in "a peaceful settlement of the Taiwan question by the Chinese themselves." The **Taiwan Relations Act (TRA)**, P.L. 96-8, that has guided U.S. policy

toward Taiwan since 1979, stipulated that U.S. diplomatic recognition of the PRC rested upon the expectation that "the future of Taiwan will be determined by peaceful means." Also, in 2000, President William Clinton added the U.S. expectation that dispute over Taiwan would be resolved "with the assent of the people of Taiwan." Lastly, in 2003 President George W. Bush declared U.S. opposition to "any unilateral decision by either China or Taiwan to change the status quo."[1]

U.S. policy has played important roles in Taiwan's transition to democracy, by decreasing Taiwan's sense of insecurity through arms sales and other contacts even after terminating the mutual defense treaty with and diplomatic recognition of the ROC in 1979, by continuing business ties that have provided for prosperity, and by pressing the KMT regime to end authoritarian abuses of power in favor of freedoms for all the people in Taiwan, including the majority Taiwanese. Thus, a premise for policy has been that U.S. support has increased the security of Taiwan's government to help give it confidence to carry out internal and external policies that advance U.S. interests. Another premise with salience for Taiwan has been that it presents a successful model of a democracy in a culture with roots in China, with implications for U.S. interests beyond Taiwan.

Taiwan's respect for democracy and human rights has affected the extent of U.S. support, including support for arms sales for Taiwan's self-defense. Representative **Henry Hyde**, Chairman of the House International Relations Committee, said in Beijing in December 2002 that "the bedrock of the very strong support for Taiwan in the U.S. Congress" is the shared experience as democracies. He highlighted Taiwan's model as a "Chinese democracy" that proved democracy is compatible with Chinese culture. At a hearing of that committee on the 25th anniversary of the TRA in April 2004, Representative **James Leach**, Chairman of the Subcommittee on Asia and the Pacific, noted his pride in authoring the TRA's section on human rights. He also stated that "all Americans strongly identify with Taiwan's democratic journey." He said that the "miracle of Taiwan's peaceful democratic transition is of great significance not only to the 23 million citizens of Taiwan, but also to the billion residents of the Chinese mainland who have yet to enjoy the political freedoms many Taiwanese now take for granted." On the day of Taiwan's presidential election in March 2008, President Bush called Taiwan a "beacon of democracy" to the world. Taiwan has helped the expansion of partners in Asia that share U.S. values in freedom and democracy. At the same time, some in Congress have taken into account Taiwan's different voices for self-determination or independence, in addition to democracy.

After two democratic transfers of power, Taiwan has an unfinished story in promoting rule of law and maintaining a strong multi-party system, and this process has implications for U.S. economic, political, and security interests. The distrust of some Taiwanese lingers from past experiences with the KMT's authoritarian abuses. Partly because that record involved activities even on U.S. soil, Congress has a legacy of active support for Taiwan's democratic reform and for some goals of Taiwanese-Americans. Also, the persistent mutual suspicion between the KMT and DPP has exacerbated the polarized, partisan battles that have challenged effective governance, bipartisanship, and consensus-building, including implementation of policies that benefit U.S. interests. Good governance and rule of law affect U.S. businesses operating in Taiwan, the 10th largest trading partner of the United States in 2009.

[1] CRS Report RL30341, *China/Taiwan: Evolution of the "One China" Policy—Key Statements from Washington, Beijing, and Taipei*, by (name redacted).

Further, while a coup is unlikely, Taiwan's military continues to push professionalization that includes the de-politicization of the military from loyalty to the KMT to loyalty to the nation as well as toward civilian control. Moreover, given concerns about Taiwan's closer ties to or separation from the PRC, any assessment of critical changes to challenge stability would be based on confidence in Taiwan's democracy. Strong checks and balances moderate extreme options to change the U.S.-supported status quo in the Taiwan Strait. A sustainable democracy helps Taiwan to guard against undue PRC influence as cross-strait engagement has intensified since 2008. Finally, a Taiwan that promotes values of democracy and freedom would be more likely to be strategically oriented in alignment with the United States and U.S. allies in Asia and Europe.

Martial Law 1947-1987: Authoritarian Abuses

Successive U.S. presidents tended to support the ROC, or Taiwan, as an ally against Communist movements in mainland China and elsewhere. If there was U.S. pressure on the KMT dictatorship to alleviate authoritarian abuses under Martial Law, the messages were largely quiet and unpublicized. The U.S. military worked with Taiwan's military, with a Military Assistance Agreement, Mutual Defense Treaty (from 1954 to 1979), and assignment of a Military Assistance Advisory Group (MAAG). The MAAG included officers from the U.S. Army's Judge Advocate General (JAG) Corps. One officer assigned to the MAAG in Taiwan from 1973 to 1976 believed that the military justice system of the Taiwan Garrison Command was generally fair. He recounted that most U.S. personnel stationed in Taiwan were happy under Martial Law. For local citizens, the Taiwan Garrison Command tried defendants for alleged civilian crimes, including executing 12 people for robbery in two months, from December 1975 to January 1976.[2]

At a congressional hearing on human rights in Taiwan held by the House Subcommittee on International Organizations in June 1977, driven in part by concerns about the Taiwan Garrison Command, the State Department's witness testified that Taiwan's situation had improved but acknowledged problems. Those problematic practices of the government, police, or security forces included: torture, harsh treatment, and psychological pressure on detainees; surveillance and harassment of relatives and other associates of dissidents; sentencing of an average of ten years for several hundred political prisoners; use of Martial Law to try a variety of crimes in military courts; limited freedom of speech, political assembly, freedom of the press, and labor strikes; lengthy detentions incommunicado and without charges or trials of those suspected of sedition and critics of the KMT; military trials without adequate due process; and unrepresentative elections for the legislature and national assembly.[3] A foundation in Taiwan estimated by 2010 that there were about 9,000 political prisoners during the Martial Law era.[4]

A civilian American staying in Taiwan in 1984 offered an eye-witness view of an example of the oppression. He observed a disproportionate deployment of massive security forces armed with grenade launchers and clubs in response to a meeting that was not a protest or rally. Security forces cordoned off some streets for three days and even interrogated the American (a bystander).

[2] Ministry of National Defense (MND), ROC, *U.S MAAG-Taiwan: An Oral History* (Taipei: MND, 2008).

[3] Richard Bush, *At Cross Purposes* (New York: M. E. Sharpe, 2004).

[4] *Taipei Times*, May 24, 2010. Prisoners were kept in places with Orwellian names like "New Life Correction Center."

"228 Incident" of 1947

Upon Japan's surrender in 1945, KMT forces had deployed from mainland China for the first time to occupy the island then called Formosa. On February 27, 1947, in Taipei, armed agents of the KMT government's Monopoly Bureau accused a woman selling cigarettes at a small stand of evading taxes and seized her stock and money. When she resisted, the agents struck her. A crowd that witnessed the episode surrounded the agents, who opened fire and killed at least one person. On February 28, about 2,000 protestors marched to the Monopoly Bureau, and another crowd beat to death Monopoly agents who were seen abusing children selling cigarettes. In the aftermath, the KMT authorities declared martial law in the city and deployed soldiers armed with machine guns or rifles who shot unarmed civilians, including right outside the American Consulate. By early March, Chiang Kai-shek sent additional reinforcements from the mainland. The troops shot or assaulted people indiscriminately as well as targeted for execution the educated elites of writers, lawyers, doctors, businessmen, teachers, students, and influential families who sought reform and who often had foreign education or connections. Americans and other foreigners witnessed much of the slaughter that extended throughout the island, what they called the "March Massacre." The confrontation saw "mainland Chinese" forces "terrorizing" local "Formosans," according to a U.S. diplomat in Taiwan. With mass disappearances (of people likely detained, tortured, or executed), he estimated that 5,000-10,000 were killed in March, and more deaths of additional detainees after that month could have resulted in about 20,000 people killed.[5] It was not until Lee Teng-hui became president in 1996 that he offered the government's apology and compensation to what he estimated as 30,000 victims (killed or jailed).[6]

Kaohsiung Incident of 1979

On December 10, 1979, in the southern city of Kaohsiung, dissidents who were involved with the "Formosa Magazine" led tens of thousands of protestors, partly in response to the KMT's postponement of parliamentary elections in 1979 and to rally for Human Rights Day. The KMT authorities deployed security forces armed with tear gas to crack down on the protestors and detained about 50 prominent opposition leaders without trials. Some in Taiwan suspected even politically motivated murders of the family of a dissident, Lin I-hsiung. Some also alleged that the KMT regime instigated what it called a "riot," planting violent instigators to attack the police, a concern that congressional hearings examined in February 1980. The United States promptly urged the KMT government to restrain its repression after the Kaohsiung Incident. In January 1980, David Dean, the Chairman of the American Institute in Taiwan (AIT) (the organization that the TRA set up to function in place of the embassy in Taipei) visited Taipei to argue against death penalties for the demonstrators. Dean persuaded President Chiang Ching-kuo to decide against death sentences, in order to sustain U.S. support. Noting a link between Taiwan's insecurity and intolerance, James Lilley, the U.S. Representative at AIT in Taipei from 1982 to 1984, stressed U.S. support while prodding President Chiang to pursue his goal of democratizing Taiwan.[7]

The political crisis galvanized a group of defense lawyers, including Chen Shui-bian, who later became president in 2000. The KMT government used military trials to sentence dissidents to jail

[5] George Kerr, *Formosa Betrayed* (Riverside Press, 1965). Kerr was stationed with the State Department in Taiwan.

[6] Lee Teng-hui, *The Road to Democracy: Taiwan's Pursuit of Identity* (Tokyo: PHP Institute, 1999).

[7] Marc Cohen, *The Unknown Taiwan* (Taipei: Coalition for Democracy and North American Taiwanese Women's Association, 1992); Richard Bush, *At Cross Purposes*; James Lilley, *China Hands* (Public Affairs, 2004).

for sedition, including Shih Ming-teh who went to jail for ten years and later became Chairman of the DPP. In April 2010, Shih issued a book on the 30th anniversary of the Kaohsiung Incident. Some in Taiwan have continued to call for full disclosure of information related to that event.

U.S.-Related Cases in the 1980s

According to observers as well as subsequent events, U.S. efforts that included quiet diplomacy and congressional criticism had limited effectiveness on the KMT regime to end abuses. There were egregious cases in the 1980s that involved even activities on American soil.

Death of Wen-chen Chen

In July and October 1981, the House Foreign Affairs Subcommittees on Asian and Pacific Affairs, and Human Rights and International Organizations held hearings on "Taiwan Agents in America and the Death of Professor **Wen-chen Chen**." The hearings found that Wen-chen Chen, a Taiwan-born professor at Carnegie-Mellon University in Pittsburgh, PA, died in Taiwan on July 3, 1981, while under detention by the Taiwan Garrison Command that stemmed from surveillance of him by Taiwan's security agents operating in the United States. An American forensic scientist testified that Professor Chen was beaten before he was thrown to his death from the fifth floor of the library at National Taiwan University in Taipei. Chen's widow alleged murder, disputing Taiwan's claim of Chen's suicide. On July 14, 1981, a spokesman at the State Department said it expressed to Taiwan the U.S. concern about Chen's case, and the FBI opened an investigation. Reportedly, the Taiwan Garrison Command picked up Chen when he visited Taiwan and interrogated him for 13 hours for alleged anti-KMT activities by using tape recordings of Chen's phone calls and speeches in Pittsburgh as well as photographs of his letters written to Shih Ming-teh (in jail for the Kaohsiung Incident). Representative Jim Leach said, "at issue is the infiltration of American universities by informants who, directly or indirectly, report to the Taiwan Government." Supporting the FBI's investigation, Leach also said that "it would appear that massive violations of U.S. law have been made by Taiwanese officials in this country. It would also appear that information gathered in Pittsburgh is directly responsible for a death in Taiwan."[8]

Death of Henry Liu

In another high-profile case in the United States, Taiwan's Military Intelligence Bureau allegedly ordered the killing of **Henry Liu**, an American citizen and author in Daly City, CA, in October 1984. Liu had just published a biography that was critical of President Chiang Ching-kuo in Taiwan. His widow called his death a political assassination. The FBI investigated the shooting of Liu outside his home, including questioning in Taiwan of arrested gangsters who admitted to killing Liu and who implicated the Military Intelligence Bureau in the plot. In January 1985, Taiwan's government arrested some military intelligence officials for Liu's murder. The Director of the Military Intelligence Bureau, Admiral Wang Hsi-ling, plotted with the boss of the Bamboo Gang, Chen Chi-li, to carry out covert operations against anti-KMT people and groups worldwide, including killing Liu. The U.S. National Security Agency recorded incriminating

[8] Richard Bush, *At Cross Purposes* (New York: M. E. Sharpe, 2004); *UPI*, July 14, 1981; *Newsweek*, August 3, 1981; *Associated Press*, September 12 and 14, 1981; *Pittsburgh Post*, November 9, 2001.

phone calls between Taiwan and California. Liu's murder shocked and angered President Chiang, who worried about the negative impact on U.S. support for Taiwan, including arms sales.[9]

Arrest of Ya-ping Lee

In a third case involving activities on U.S. soil, in September 1985, the Taiwan Garrison Command arrested **Ya-ping Lee**, a newspaper publisher in Monterey Park, CA, and citizen of Taiwan. During Lee's visit to Taiwan, military authorities detained her for publishing articles on possible cross-strait contacts that allegedly violated Taiwan's Anti-Sedition Act, a charge that could have resulted in a prison sentence if not the death penalty. After 10 days of detention, a military court released her with a judgment of a two-year term of "protective guidance," or probation. Requesting her release, some Members of Congress and the State Department expressed concern about violations of the freedom of the press and speech in the United States. Representative Stephen Solarz warned that Taiwan's arrest of Lee could have resulted in a crisis in U.S.-Taiwan ties, including implications for arms sales to Taiwan.[10]

Pro-Democracy Reforms since 1986

Partly stemming from the shock and shame of the killing of Henry Liu in the United States, President Chiang Ching-kuo began in 1985 to plan to implement political reforms. In addition to sustaining U.S. support for Taiwan's security, Chiang likely had other considerations that included providing for the KMT's political legitimacy. In 1986, opposition forces could hold rallies against Martial Law in Taipei. The security forces did not crack down on at least one political meeting in Taipei at which banned books about Chiang Kai-shek and Chiang Ching-kuo were sold, and some Taiwanese demanded that politicians speak in the majority, local Taiwanese language (not Mandarin). President Chiang allowed the opposition Democratic Progressive Party (DPP) to form on September 28, 1986, even before he ended Martial Law in July 1987.

More milestones on the road of democratization included the following events. In 1991, the DPP amended its party platform to state its objective of establishing a "Republic of Taiwan" and the use of a referendum on Taiwan's future status. The KMT government did not crack down on the DPP. Representative Solarz urged the government's restraint, stating that "to crack down on parties that advocate Taiwan independence would be a violation of fundamental principles of human rights. It would also betray a distressing lack of confidence in the political wisdom of the people of Taiwan."[11] In December 1992, Taiwan's people elected a new Legislative Yuan, without the KMT returning the same old members who had run for election on mainland China in the 1940s and stayed in the legislature without elections for decades. In March 1996, the government held the first direct, democratic election for the presidency. The KMT's Lee Teng-hui, who had succeeded Chiang Ching-kuo when he died in January 1988, won the election to continue as president. That election took place just after the PRC's military threats and President Clinton's response by deploying two aircraft carrier battle groups near Taiwan.

[9] *New York Times*, January 16, 1985; *Wall Street Journal*, January 18, 1985; *Los Angeles Times*, January 18, 1985; *New York Times*, January 19, 1985; CRS Report 85-42F, *Taiwan and the Killing of Henry Liu*, February 1, 1985, by Robert Sutter (as with all CRS products and citations, available upon request); *New York Times*, December 31, 1989; *Far Eastern Economic Review*, January 31, 1991; Jay Taylor, *The Generalissimo's Son* (Harvard University Press, 2000).

[10] *Los Angeles Times*, September 18, September 27, October 19, 1985.

[11] Quoted in Richard Bush, *At Cross Purposes*.

Power Transfers

Taiwan has experienced two democratic transfers of power, with the presidential elections in 2000 and 2008. On March 18, 2000, the DPP's Chen Shui-bian won the presidential election in Taiwan with 39% of the votes. Independent James Soong won 37%. The ruling KMT's Lien Chan won 23%. Chen's administration brought Taiwan's first democratic transfer of power from one party to another, after 55 years of KMT rule. The strength of Taiwan's democracy was demonstrated after the next presidential election on March 20, 2004, when Chen Shui-bian won re-election with 50.1% of the votes, while Lien Chan lost again with 49.9%. The KMT vehemently disputed the result, in which Chen won with a margin of 0.2 percentage points after surviving an alleged assassination attempt the day before. The KMT charged that Chen staged his own shooting. On March 22, 2008, the KMT's Ma Ying-jeou won the presidential election with a solid margin of victory, against the DPP's Frank Hsieh. Ma won 58.5% of the votes, while Hsieh won 41.5%.

Anti-Corruption Campaign and U.N. Covenants

Promoting an environment conducive to rule of law and business, President Ma has led his government to fight corruption in Taiwan, a complaint of some U.S. firms. Transparency International, an international group, has ranked Taiwan as relatively not corrupt. Among 180 countries, Taiwan ranked in 34th place in 2007, 39th in 2008, and 37th in 2009. In a speech delivered by video conference to a U.S. university on April 5, 2010, Ma stated his belief that a society that is truly modernizing should not be limited to wealth and power but must also include the foundations for freedom and democracy. He added that he was proud that the "Republic of China on Taiwan has in fact achieved all these three pillars." He touted his administration as a defender of democracy, enhancing rule of law and protection of human rights. He championed Taiwan's long-awaited ratification of the United Nations (U.N.) International Covenant on Civil and Political Rights and International Covenant on Economic, Social, and Cultural Rights. Ma also said that combating corruption has been a cornerstone of his presidency. In May 2010, an opinion poll taken on the occasion of President Ma's 2nd anniversary in office showed that a clear majority, 73% of those surveyed, saw Ma as clean, while 6% viewed him as corrupt.[12]

Continued Concerns

Nonetheless, there are continued concerns about Taiwan's need for further democratic reforms. Some events since 2008 have raised domestic and foreign media and other scrutiny.

Protests of Chen Yunlin's Visit

After Ma Ying-jeou became president in May 2008, he promptly resumed the dialogue across the Taiwan Strait for the first time in a decade but met with questions about policing of protestors. In November 2008, **Chen Yunlin**, the head of Beijing's quasi-official organization for cross-strait contact, the Association of Relations Across the Taiwan Strait (ARATS), visited Taiwan for talks with Chiang Pin-kung, his counterpart of Taiwan's quasi-official Strait Exchange Foundation (SEF). Chen's visit occurred after Zhang Mingqing, his deputy, visited Taiwan the previous

[12] Ma Ying-jeou, "Quest for Modernity," speech delivered to Harvard University, April 5, 2010; public opinion poll conducted by *United Daily News*, a pro-KMT newspaper in Taipei, on May 19, 2010.

month and was mobbed by protestors in the southern city of Tainan. Some in Taiwan contended that the police had to respond to that incident by stepping up security for Chen's visit. However, the opposition DPP and others in Taiwan protested that the heavy police presence was abusive of power and repressive against dissent, indicating that the government placed priority on police protection for Chen at the expense of safeguarding the liberties of Taiwan's own people. Taiwan's media reported the police taking ROC, U.N., and Tibetan flags from people, setting up checkpoints to stop vehicles near the airport and Chen's hotel, confiscating banners and balloons with messages on them, and shuttering a private music store to shut down pro-Taiwan music that the police said was too loud. After those controversial incidents, there was a confrontation between riot police and perhaps 2,000 protestors including DPP politicians outside a hotel where KMT Chairman Wu Poh-hsiung hosted a banquet for Chen Yunlin, trapping them inside until 2:00 AM. Tens of thousands of people then protested. President Ma visited injured police officers but acknowledged there was "room for improvement" in how the National Security Bureau and National Police Agency handled dissent.

U.S.-based Freedom House urged Taiwan's government to set up an independent commission to investigate the violence on both sides; Amnesty International also asked for an independent inquiry into the alleged excessive force used by police; and the Heritage Foundation held an event on December 8, 2008, to examine the contrasting versions of what happened between protestors and police. For Chen's next visit to Taiwan in December 2009, even Jason Hu, KMT Mayor of Taichung city that hosted the meeting, warned Ma's government against violating the constitution by setting up protest zones for dissenting voices.

Detention of Ex-President Chen Shui-bian

The most controversial case in Taiwan has concerned the detention of former President **Chen Shui-bian** of the DPP (2000-2008). President Ma Ying-jeou has contended that the handling of Chen's case has demonstrated judicial neutrality and rule of law in a democratic way. Some in Taiwan, mostly aligned with the KMT, have viewed the prosecution and detention of Chen as justified by charges of corruption against Chen and his family, including former First Lady Wu Shu-jen, cases that began even while Chen was president and enjoyed immunity while in office. Others in Taiwan, largely aligned with the DPP, have criticized corruption but contended that anti-corruption charges have been applied in a selective way against DPP politicians, since both the DPP and KMT have reputations of corruption and the use of expense accounts has been well-known and wide-spread among many officials. Some fear that Chen's detention moved beyond legal justification to political persecution. Taiwan's Code of Criminal Procedure legally authorizes prosecutors to apply to a court to approve the pre-trial incommunicado detention of suspects even before indictment for up to two months, with a possible extension of two more months. Such detention intends to preclude a suspect from fleeing, colluding with others, or destroying evidence. On November 12, 2008, ex-President Chen was arrested and taken with handcuffs to the Tucheng Detention Center on suspicion of corruption, with no charges. In October and November, prosecutors also questioned or detained other DPP officials.

A month later, on December 12, 2008, prosecutors indicted Chen on charges of corruption involving up to $15 million in his alleged abuse of the "state affairs fund" as president and embezzlement of funds in Swiss bank accounts held by Chen's wife, son, and daughter-in law. The next day, the Taipei District Court released Chen without bail pending trial. However, after a change in the presiding judge over Chen's case, a new panel of judges at the court ordered his return to detention on December 30. Further, at a party in January 2009 at the Ministry of Justice with the minister in attendance, prosecutors performed a skit to mock ex-president Chen's arrest.

On September 11, 2009, the Taipei District Court found Chen guilty of corruption, forgery, and money-laundering, and sentenced him to a life sentence and a fine of $6.1 million. While Chen awaited a court's decision on whether to release him while he mounted his appeal and built his defense, prosecutors on September 22, 2009, issued additional indictments related to the use of Chen's funds for secret diplomacy, two days before the Taiwan High Court decided to keep Chen in custody for three months more. On December 17, 2009, that court ordered Chen to remain in detention for two months more. On December 24, prosecutors indicted Chen for the third time, charging him and his family with bribery of $18.9 million and money laundering of $22.9 million transferred to Swiss banks. Then on February 2, 2010, prosecutors indicted Chen for a fourth time, on charges of abetting subordinates to give false testimonies, just days before the Taiwan High Court held a hearing on February 5 that decided to continue Chen's detention until April 23. On April 16, the court ordered Chen to remain in custody for two months more.

Under the ROC's Constitution, President Ma has the authority to grant amnesties or pardons. Since 2008, a question has been whether and when Ma might use this power for former President Chen. Ma has not exercised that option and has not criticized his government, including the Justice Ministry and prosecutors. Ma has opted for distance from Chen's case.

Aside from the opposition DPP's seemingly partisan charges and questionable invocation of the specter of the martial law period, some observers in Taiwan and the United States also raised concerns. A number of professors, writers, activists, and ex-officials primarily in the United States have signed "open letters" on what they called the "erosion of justice" in Taiwan.[13]

In addition, Jerome Cohen, an authoritative legal scholar at the U.S.-Asia Law Institute at New York University who had taught President Ma when he studied at Harvard University's Law School in the 1970s, has critiqued the police protection for the PRC's visitor Chen Yunlin amid President Ma's placing priority on cross-strait ties rather than civil liberties in Taiwan. He also has examined critically the detentions of Chen and other DPP politicians. Cohen did not find that the detained DPP figures were denied court hearings or right to counsel, or that the case against Chen was the KMT's political vendetta. But he warned that the harshness of pre-indictment detention could obstruct an adequate defense (especially since a detainee's communication with a defense lawyer could be monitored), challenges the presumption of innocence, and should be applied rarely. Cohen criticized the skit that mocked Chen at the Ministry of Justice for a "disturbing circus atmosphere," with no rebuke from Ma's government. Cohen lamented that Taiwan's legal community tended to keep quiet about their concerns because of a hostile political atmosphere and criticized Taiwan's Justice Ministry for trying to restrict defense attorneys.[14]

After Cohen urged Taiwan's legal professionals to speak out, 10 attorneys, academics, and activists issued a statement in June 2009 about their concerns over the damage to the credibility of Taiwan's judicial system stemming from Chen's prolonged detention. They included Nobel

[13] The "open letters" on "erosion of justice" were published in *Taipei Times* (a pro-DPP English-language newspaper in Taiwan) on November 6, 2008; December 2, 2008; January 21, 2009; May 21, 2009; November 13, 2009.

[14] Jerome Cohen's opinions published in *South China Morning Post* (an independent English-language newspaper in Hong Kong), November 13, 2008; *Wall Street Journal*, December 23, 2008; *South China Morning Post*, January 8, 2009; *South China Morning Post*, September 17, 2009; *Apple Daily* (Hong Kong), October 9, 2009; *South China Morning Post*, October 15, 2009; *Kyodo*, November 19, 2009; *South China Morning Post*, June 11, 2009; *South China Morning Post*, January 20, 2010; *South China Morning Post*, April 28, 2010.

Laureate Lee Yuan-tseh, Taiwan Bar Association Chairman Wellington Koo, and DPP chairwoman Tsai Ing-wen.[15]

Further increasing international scrutiny of Taiwan, in January 2009, Freedom House chose Taipei and the Taiwan Foundation for Democracy (TFD) to host the release of the annual report on "Freedom in the World" in 2008. Freedom House also questioned Taiwan's democratic rights.[16] After that event, the DPP raised concerns that Ma's government issued changes to TFD's leadership for political retribution, and the U.S. counterpart, the National Endowment for Democracy (NED), wrote a letter to President Ma expressing NED's support for TFD's independence from political interference and partisanship.[17] In January 2010, Freedom House issued its annual report on freedom in the world in 2009, assessing that Taiwan improved on political rights due to anti-corruption enforcement but hurt civil liberties with flaws in the protection of criminal defendants' rights and a law to curtail political actions of academics.

Congressional Role

Actions Against Authoritarian Abuses[18]

Before reformist leaders in the KMT and the opposition forces (called "dang wai"[19]) pushed for political liberalization that began in Taiwan in 1986, Congress played an important role in U.S. pressure on the moderate part of the KMT's authoritarian regime to reform the political system. Congressional actions included hearings, statements, resolutions, meetings with Taiwanese-Americans, FBI briefings, and visits to Taiwan that engaged the opposition as well as ruling KMT. Some Members sought the leverage of arms sales to try to influence democratization.

Starting in 1977, congressional critics of the KMT's repression began to look more closely and publicly at Taiwan's human rights situation. Representative **Donald Fraser**, Chairman of the House International Relations Subcommittee on International Organizations and Movements, held the first congressional hearing on human rights in Taiwan. Representative Fraser had promoted the advancement of human rights in overall U.S. foreign policy. Other Members of Congress supported the KMT government in Taipei, particularly as President Nixon started to reach for rapprochement with the PRC regime in Beijing early in the 1970s. Some Taiwanese-Americans sought congressional support for a free, democratic, and independent Taiwan. Other Taiwanese in the United States stayed out of the public view for fear of surveillance by the KMT's security forces. After an alleged assassination attempt on Chiang Ching-kuo (Chiang Kai-shek's son) outside the Plaza Hotel in New York City in 1970, the KMT's security forces intensified surveillance and harassment of students and dissidents in the United States.

[15] "Joint Statement Calling for Reform of the Detention System, Implementation of Human Rights in the Administration of Justice, and an Immediate End to the Detention of Former President Chen Shui-bian," June 25, 2009.

[16] Freedom House's opinion published in *Taipei Times*, February 17, 2009; Taiwan's response on March 15, 2009.

[17] Carl Gershman, President, National Endowment for Democracy, letter to President Ma Ying-jeou, June 16, 2009.

[18] This section is drawn from Richard Bush, *At Cross Purposes* (New York: M. E. Sharpe, 2004). Bush served as a staffer for Representative Stephen Solarz on the House Subcommittee on Asian and Pacific Affairs from 1983 to 1992.

[19] Without a legal political party until the opposition formed the Democratic Progressive Party (DPP) in 1986, the opposition was simply called "dang wai," or "outside the party," which was the ruling Kuomintang (KMT).

The Kaohsiung Incident of December 1979 took place when Congress was out of session. Congress focused attention on Taiwan's human rights situation during hearings held in February 1980 that included Representative Jim Leach's testimony. He warned the KMT regime that harsh sentences would result in "profound consequences for the future stability of Taiwan and for U.S.-Taiwan relations." The Kaohsiung Incident galvanized political advocacy by Taiwanese-American activists to raise awareness and action in Congress. Especially since the 1970s, advocacy organizations have included: World United Formosans for Independence (**WUFI**), the publication "**Taiwan Communique,**" and Formosan Association for Public Affairs (**FAPA**). Still, congressional support for Taiwan's human rights did not necessarily extend to support for advocacy of self-determination to potentially declare a "Republic of Taiwan" instead of "ROC."

The KMT authorities' actions even on American soil against Taiwanese activists prompted greater congressional concern before and after U.S. diplomatic recognition switched from the ROC in Taipei to the PRC in Beijing and the passage of the Taiwan Relations Act in 1979. Some Members of Congress were particularly provoked by alleged actions of the KMT regime in the United States. Such activities included the suspected surveillance of professor Chen Wen-chen before his mysterious death in 1981. After Chen's death, Representative Solarz said that "what happens in America is primarily the business of the Congress of the United States, and we cannot and will not tolerate any act to intimidate or harass Taiwanese or other people living in our country. It is high time for the United States to make clear to the world that our soil will not become a playing field for international hoodlums."[20] Solarz introduced an amendment that became Section 6 of the Arms Export Control Act (AECA) (**P.L. 90-629**) to prohibit arms sales to a country that had a pattern of intimidating or harassing individuals in the United States.

However, the ROC government on Taiwan did not heed congressional and other U.S. warnings. Professor Chen's death (some suspected murder) was followed by the killing of writer Henry Liu in 1984 and monitoring of editor Lee Ya-ping for articles she published in a Chinese-language newspaper in Los Angeles that led to her arrest by the Taiwan Garrison Command in 1985.

Key hearings included:

- House Subcommittee on International Organizations, "Human Rights in Taiwan," June 14, 1977
- House Subcommittee on Asian and Pacific Affairs and Subcommittee on International Organizations, "Human Rights in Asia: Non-Communist Countries," February 4, 6, 7, 1980
- Senate Subcommittee on East Asian and Pacific Affairs, "Oversight of the Taiwan Relations Act," May 14, 1980
- House Subcommittee on Asian and Pacific Affairs, "Implementation of the Taiwan Relations Act," June 11, 17, and July 30, 1980
- House Subcommittees on Asian and Pacific Affairs, and Human Rights and International Organizations, "Taiwan Agents in America and the Death of Prof. Wen-chen Chen," July 30 and October 6, 1981
- House Subcommittee on Asian and Pacific Affairs, "Martial Law on Taiwan and United States Foreign Policy Interests," May 20, 1982

[20] Quoted in Richard Bush, *At Cross Purposes*.

- House Subcommittee on Asian and Pacific Affairs, "The Murder of Henry Liu," February 7, March 21, and April 3, 1985

Taiwan Relations Act (TRA), P.L. 96-8

Key Members of Congress who paid attention to Taiwan's human rights situation were Representatives **Jim Leach** and **Stephen Solarz**, and Senators **Claiborne Pell** and **Edward Kennedy**. Sometimes called the "Gang of Four," these Members criticized the KMT government's martial law, detentions of political opponents, and blacklisting of exiled Taiwanese banned from Taiwan.[21] In 1979, just after the United States switched diplomatic recognition from the ROC in Taipei to the PRC in Beijing, Congress carefully crafted the Taiwan Relations Act (TRA), **P.L. 96-8** of April 10, 1979. The TRA has continued to guide the practice and principles of policy toward Taiwan. The TRA included a section on human rights. Section 2(c) states:

> Nothing contained in this Act shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

Senators Claiborne Pell, **Jacob Javits**, and **Charles Percy** offered this language as an amendment to the Administration's bill. While the congressional intent was to authorize the AIT to advance human rights when and as appropriate, it did not authorize U.S. officials to support any particular group in intervention in Taiwan's domestic politics.[22]

However, while the TRA explicitly called for the advancement of human rights for "all" of Taiwan's people, thus including the under-represented Taiwanese majority, the legislative history showed that the section could have had stronger language as preferred by Senator Pell as well as Representatives Leach and Donald Pease. Senator Pell introduced original language that would have required that the AIT "shall take all appropriate steps to strengthen and expand the ties" between the people of the United States "and those individuals and entities on Taiwan that are representative of the majority of the people on Taiwan." Senators Javits and Percy persuaded Senator Pell to amend the language to authorize AIT to promote human rights for all the people. Representative Leach preferred language to require AIT to monitor political freedom.[23]

The TRA has language that could contradict Section 6 of the AECA (as discussed above, to ban arms sales to a country that intimidated or harassed individuals in the United States). Section 3(b) of the TRA stipulates that both the President and the Congress shall determine the nature and quantity of defense articles and services "based solely" upon their judgment of Taiwan's needs.

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[21] According to his Chief of Staff, Thomas Hughes, Senator Pell's long record of attention to Taiwan started when he served as an officer in the Coast Guard in World War II. He was trained as an officer to serve in a military government after liberation of Formosa at the end of the war, but no American occupation of the island took place. See Thomas Hughes, "Claiborne Pell, Former U.S. Senator," *Taiwan Communique*, November/December 2007. According to George Kerr who wrote *Formosa Betrayed*, the U.S. Navy began in late 1943 to plan a possible assault on Japanese forces on Formosa, which was called "Operation Causeway." The Navy also began a program to train officers for duty on the island, dubbed "Island X." Training for a "Formosa Unit" took place at Columbia University until November 1944, when the research unit was disbanded. President Franklin Roosevelt decided to attack the Philippines instead.

[22] Lester Wolff and David Simon, *Legislative History of the Taiwan Relations Act* (New York: American Association for Chinese Studies, 1982).

[23] Richard Bush, *At Cross Purposes* (New York: M. E. Sharpe, 2004).

Implications and Options for Policy

Thus, Congress has a long record of oversight of the human rights aspect of the Executive Branch's foreign policy toward Taiwan, external pressure on the KMT moderates to end authoritarian abuses including activities on U.S. soil, and support for advancement of Taiwan's democracy. Congressional influence has implied the strength of U.S. government support for Taiwan. That congressional role even included a statement on September 28, 1986, the day the opposition set up the DPP. The four key Members (Solarz, Leach, Pell, and Kennedy) called on the KMT regime not to crack down on the new party and to allow genuine multiparty politics.[24]

Shifting Congressional Concerns

Since then, the Congressional role has shifted with Taiwan's evolution into a fellow democracy. Congress has looked at whether reforms resulted in faster and fuller democracy. An added question has been whether the PRC's rising military power or coercion could undermine Taiwan's democracy. The United States demonstrated its interest in Taiwan's democracy and security, when the PRC's military, the People's Liberation Army (PLA), carried out missile tests and other military exercises in the Taiwan Strait Crisis from July 1995 to March 1996 (the month of Taiwan's first direct, democratic presidential election). On March 19 and 21, 1996, the House and Senate passed **H.Con.Res. 148** to support Taiwan's democracy and security. Less than two weeks before the election, President Clinton deployed two aircraft carrier battle groups near Taiwan, in response to the PLA's provocations.

Also, after the achievement of democracy in Taiwan, Taiwanese-American advocates and the DPP have stressed the other objective of Taiwan's separate independence or identity (vs. the KMT's view of a sovereign ROC since 1912 and the CPC's view of Taiwan as a part of the PRC). The legislative history of the TRA showed that the definition of human rights for Section 2(c) referred to the Helsinki Declaration of 1975. The Helsinki Declaration included not only respect for human rights but also the right of self-determination in accordance with the U.N. Charter. Still, some Members have considered whether such a goal would be compatible with the U.S. "one China" policy. It does not "oppose" Taiwan's independence, because the more hands-off U.S. interest stated since the U.S-PRC "Shanghai Communique" of 1972 has been the "peaceful settlement of the Taiwan question by the Chinese themselves." More neutral U.S. policy "does not support" Taiwan's independence. Just after President Chen's re-election, at a hearing on April 21, 2004, on the 25th anniversary of TRA, Representative Leach, Chairman of the House International Relations Subcommittee on Asia and the Pacific, pointed out that Taiwan has the unique situation in which it can have de facto self-determination only if it does not attempt to be recognized with de jure sovereignty. He urged Taiwan's people to recognize that they have greater security in "political ambiguity" and called for continuity, saying that "together with our historic 'one China' policy," the TRA has contributed to ensuring peace and stability in the Taiwan Strait."[25]

Moreover, some Members have exercised oversight of the Executive Branch on the issue of whether it has interfered in Taiwan's electoral politics in favor of one party. For example, on June

[24] Richard Bush, *At Cross Purposes*. Bush coordinated the congressional statement for Representative Solarz.

[25] House International Relations Committee, hearing, "The Taiwan Relations Act: the Next 25 Years," April 21, 2004.

18, 2007, President Chen Shui-bian called for a referendum on whether to join the U.N. using the name "Taiwan" to be held at the time of the upcoming presidential election in March 2008. On December 19, Representatives **Tom Tancredo** and **Dana Rohrabacher** wrote a letter to Secretary of State Condoleezza Rice asking her department to "cease its repeated efforts to affect the outcome of the upcoming elections in Taiwan, and specifically, the outcome of the planned referendum on membership in the United Nations." But at a press conference two days later, Secretary Rice still criticized the largely symbolic referendum as "provocative."

Further, the U.S. role has entailed a balance in supporting universal freedoms while respecting Taiwan's democratic outcomes. This question has been complicated by the highly partisan political disputes in Taiwan after the detention of ex-president Chen amid corruption charges and restrictions against protestors during the visit of a PRC official in 2008. U.S. policymakers have faced the issue of whether to examine judicial reforms to advance rule of law in Taiwan. In any case, even while Taiwan increasingly has depended on U.S. support (particularly arms sales for its self-defense), there has been the added concern that U.S. influence in Taiwan has declined since the 1970s, given Taiwan's partisan polarization and dominance in discourse about the PRC.

Relevance of U.S. Roles

The bases for the arguments for U.S. actions to show concern about Taiwan's democracy include implementation of Section 2(c) of the TRA, advancement of human rights worldwide without an exception for Taiwan's people who are left out of the U.N. system, and preservation of Taiwan as a political model as the only democracy with historical roots in China, particularly for the PRC's people. Over the decades, arguments against actions critical of the political situation in Taiwan have cited support for an "ally" against Communist China, absence of diplomatic recognition, lack of an "official" relationship, non-interference in independent judicial processes, and deference to the will of Taiwan's voters and their elected leaders in a fellow democracy.

Nonetheless, U.S. roles remain relevant. While there is no longer a diplomatic relationship, the TRA does not specify the relationship as official or unofficial. Also, there is a distinction between a president's supervision of the appointed justice minister and accountability of prosecutors, versus interference in the impartial and independent work of judges (in the judicial part of government). In September 2009, Jerome Cohen implicitly criticized President Ma for the government's failure to rebuke his Justice Minister who attended a skit put on by prosecutors to mock the detention of ex-president Chen. Cohen also wrote in January 2010 that under Taiwan's adversarial legal system, prosecutors cannot be considered as members of the judiciary.

Also, President George W. Bush and his officials rebuked Taiwan's President Chen, including publicly, for perceived pro-independence referendums and changes for names of companies. Moreover, as seen from Representative Leach's warning to the KMT against a crackdown after the Kaohsiung Incident, public congressional concerns strengthen the Executive Branch's position that is sometimes communicated in closed channels. Congress also has spurred more sustained and stronger actions. In addition, the State Department has continued to report on Taiwan and other democracies that include allies in the annual report to Congress on human rights (to cover rights set forth in the U.N.'s Universal Declaration of Human Rights of 1948).

Furthermore, concerning Taiwan's presidential elections, foreign delegations have observed them (including the one in March 2008), foreign capitals including Washington have congratulated the winner (implying a legitimizing role), and foreign leaders have sent envoys to the inaugurations.[26] After President Chen Shui-bian's close re-election on March 20, 2004, the White House did not issue its congratulation until March 26, waiting until after the results were certified in Taiwan. Representative Leach represented the United States at President Chen's second inauguration in May 2004 in Taipei. Members of Congress enjoy greater flexibility than other officials in the Executive Branch in communicating directly with Taiwan's officials, including the president. Even if there is a view that the United States should not support one party over another out of respect for Taiwan's democracy, there is a strong consensus that U.S. interests are served by a strong multi-party system with at least one viable, loyal opposition party.

Moreover, when Taiwan's Minister of the Interior in September 2009 criticized Uighur leader **Rebiya Kadeer** in Washington for "terrorist" ties, that unfounded attack involved the United States as her supporting host and raised questions about Taiwan's approach toward minorities oppressed by the PRC. Also, a congressional role has persisted partly by request. Both Taiwan's government and Taiwanese-American activists have at times come to Congress for confirmation or criticism of Taiwan's policies. After Taiwan's President Ma Ying-jeou delivered via videoconference speeches to the United States in 2009 and 2010 (cited above), his officials asked that his remarks be inserted into the *Congressional Record* (excerpt in remarks of Representative **Phil Gingrey** on April 30, 2009; text in remarks of Representative **Dan Burton** on April 26 and Senator **James Inhofe** on April 29, 2010). On February 25, 2010, Representatives **Scott Garrett** and **Kenny Marchant** issued statements in the *Congressional Record* to commemorate the 63rd anniversary of Taiwan's "228 Massacre" of February 28, 1947.

Finally, Secretary of State Hillary Clinton issued a statement to support **Google** on January 12, 2010, when it warned against cyber attacks originating from China. Clinton pointed specifically to the PRC government for an explanation. Taiwan's information technology (IT) companies are major players in global business and Internet freedom. Taiwan also has extensive experience in facing suspected PRC cyber attacks. However, in July 2009, Taiwan's Acer and Asustek IT firms voluntarily submitted to the PRC Ministry of Industry and Information Technology's demand for installation of its Green Dam Internet filter in products in China. Thus, the Executive and Legislative Branches have U.S. policy interests, relevant roles, and options concerning Taiwan.

Policy Options

Congress or the Administration continue to have a number of options concerning Taiwan's democracy, human rights, and rule of law, including remaining a more passive observer. The Executive Branch, including the State Department, largely has refrained from speaking out against Taiwan's government after Ma Ying-jeou took office as president in May 2008. But there were a couple of mentions. At a news conference on November 12, 2008, that coincided with the day that ex-president Chen Shui-bian was first detained, Stephen Young, the Director of AIT in Taipei, said that "not only Taiwan but also your friends around the world will be watching this process very closely, and we believe it needs to be transparent, fair, and impartial." When the new AIT Director, William Stanton, met with Taiwan's Justice Minister in September 2009 and

[26] CRS Report RL34441, *Security Implications of Taiwan's Presidential Election of March 2008*, by (name redacted).

mentioned that some people in the United States have commented on Chen's case, he nonetheless encountered controversy in Taiwan's government and media for supposed U.S. interference.

There are other policy options. The State Department has the options of making statements from Washington, DC, and adding critical concerns in the annual reports to Congress on human rights around the world. The State Department could expand contact with Taiwan under the Assistant Secretary for Democracy, Human Rights, and Labor, including voicing U.S. concerns about the conditions of Tibetan and Uighur minorities in the PRC. Taiwan has hosted the Dalai Lama. The State and Justice Departments have considered an Extradition Treaty with Taiwan, at its request. The Administration, U.S. firms, and human rights organizations could encourage Taiwan and its IT companies to support Internet freedom. U.S. agencies, including the Agency for International Development (USAID), could coordinate closely with the Taiwan Foundation for Democracy (TFD) and Taiwan's International Cooperation and Development Fund (ICDF) on foreign assistance programs, including to promote democracy and governance. U.S. and Taiwan programs could promote the international freedom and professionalism of the press.

Congress could enact legislation or take other actions to implement Section 2(b) of the TRA and promote human rights and legal reform in Taiwan. Members as well as staff could intensify inter-parliamentary exchanges with Taiwan's Legislative Yuan and its staff to build up that democratic institution. Congressional and staff delegations could further observe Taiwan's elections and attend presidential inaugurations. Delegations could specifically visit the TFD as well as the museum in Taipei dedicated to the victims of the "228 Incident." In contrast to the Executive Branch which is restricted by the State Department's guidelines on contact with Taiwan's officials, Congress could use its greater flexibility in communicating with Taiwan's officials up to the president to enhance engagement that promotes U.S. values, democracy, and rule of law.

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