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The evolution of Taiwan’s policies toward the political participation of citizens abroad in homeland governance

Pei-te Lien and Dean P. Chen

The year 2011 is celebrated by the government in Taiwan as entering the one-hundredth anniversary of the founding of the Republic of China (ROC). The Republic was founded by Dr Sun Yat-sen and his followers after overthrowing a corrupt Qing (Manchu) dynasty rendered impotent by decades of domestic strife and foreign aggression. To facilitate the revolutionary efforts, Dr Sun organized a Xing Zhong Hui (Revive China Society) in Honolulu in 1894. This organization later joined forces with other revolutionary groups to form a Tong Meng Hui (Revolutionary Alliance) in Tokyo in 1905. The Alliance became the basis of the Nationalist Party (Kuomintang or KMT hereafter) when it was established in 1912 by Dr Sun in Beijing to contest the first national elections. The KMT, after being defeated by the Chinese Communist Party (CCP) at the end of the Chinese Civil War in 1949, retreated to Taiwan, where it remained the dominant party until 2000, and regained control of the presidency in 2008. Because of this convoluted history originating from overseas, and to put the Taiwan perspective in the proper context, this chapter will attempt to capture a century of political development in ROC (Taiwan) and its changing policy toward constituents abroad, with a special focus on their rights to participate in homeland politics.

We use the term “constituents abroad” to highlight the subordinate and entangled nature of the transnational or trans-territorial relationship between emigrants and their homeland government in Asia. More conventionally called Overseas Chinese or Chinese overseas (haiwai huaren), the term refers to persons of ethnic Chinese descent residing abroad or in areas outside of mainland China, Taiwan, and Hong Kong/Macau (the “three Chinas”). It may refer to all ethnic Chinese in diaspora regardless of nationality. A more restrictive term huaqiao is usually reserved for nationals or citizens of Chinese descent living abroad. It is often used together with huaren, which means persons of Chinese descent in diaspora, to refer to all the Chinese overseas. The management of affairs dealing with nationals abroad is called qiaowu. Owing to ROC’s nationality law explained later in this chapter, qiaowu for Taiwan may include affairs that deal with all ethnic Chinese/Taiwanese abroad regardless of whether they have adopted a new citizenship in the host country or not.
Migrants from Taiwan who settled outside of the “three Chinas” are part of the Chinese diaspora, for most can trace their ancestral origins to somewhere in mainland China, especially the southern provinces of Guangdong and Fujian (Williams 2003; Brown 2004). In 2009, two-thirds of Taiwanese abroad were found to reside in the USA. Although nearly all Taiwanese (except for the indigenous people) are Chinese by ethnicity, an increasing number of Taiwanese migrants, especially those who have a strong sense of Taiwanese identity, prefer to be called overseas Taiwanese (or Taiwanese overseas). Rejecting being lumped together with huaqiao, these Taiwan identifiers prefer a separate identity called taiqiao. This new term also serves to distinguish themselves from laojiao or old migrants from Chinese provinces of Guangdong and Fujian who may have settled down in overseas communities for generations and some have ancestors who contributed to Dr. Sun’s revolutionary causes at the turn of the twentieth century. The emergence of different identities among US Chinese is both the cause and consequence of homeland government policy regarding citizens abroad.

The terms of tongbao, “compatriots,” or qiaomin are often used by the homeland government in official documents to refer to loyal nationals or citizens abroad. Trans-territorial loyalty has been a historic norm assumed by the Chinese government of nationals abroad, especially at a time when these overseas constituents were not permitted to become naturalized or participate in the politics of their new country. That the homeland government can make a claim on the political identity and orientation of its citizens abroad is an emblem of the extraterritorial rule inherited from a feudal, colonial, or an authoritarian past. Because of this history and premise, it is curious that the democratic government in Taiwan recently opted for the more restrictive “compatriot” in renaming its chief agency that manages qiaowu. The ministry-level office is now called Overseas Compatriots Affairs Commission instead of Overseas Chinese Affairs Commission. Although its English acronym OCAC remains the same and the Chinese name is still qiaowu, the boundaries of constituency abroad have been redefined. A main purpose of this chapter is to account for this identity change in qiaowu policy as ROC (Taiwan) marches into the second century.

To understand the transformation of Taiwan’s policy priority from serving the overseas Chinese to compatriots only, we focus on studying the changing notions of citizenship and political rights regarding ROC nationals living permanently abroad who migrated either from Taiwan after 1945 or from Chinese mainland before 1950. We consider first the guiding ideology and legal framework of ROC’s policies toward citizens abroad. We then trace changes in the degree of involvement of overseas citizens in homeland governance and laws regulating their political participation in light of the changing political context and associated legal and identity changes in the homeland, especially the rise of Taiwan-centered identity and consciousness that came with the democratic change in Taiwan. We conclude by commenting on the implications of identity change for the future of Taiwan’s qiaowu policy.

Before we move on, it is important to note that qiaowu is “a large industry, both domestic and international at once, involving a range of government ministries, educational institutions, business organizations and other non-governmental organizations” (Chen 2002: 174). It is closely linked to the political and diplomatic objectives of the homeland government. It is also structured by the particular brand of nationalism subscribed to by the leaders in charge. Although we shall restrict our attention to issues affecting the exercise of citizenship, such as the acquisition and loss of nationality, suffrage, rights to political representation, and degree of political freedom, we cannot but have to deal with many political developments and the larger political context in accounting for qiaowu policy change. Examples of these political milestones include: the 1911 Revolution, KMT’s Northern Expedition campaigns, ROC’s economic development and nation-building in the Nanjing Decade, war against Japanese aggression, KMT annexation of Taiwan
and the Martial Law era, *dangwai* (opposition outside the KMT) and movement for political liberalization, and, under the Lee Teng-hui and Chen Shui-bian administrations, democratization and Taiwanization of island politics. To help organize our thinking and understanding, Table 3.1 shows the chronologies of key political epochs and critical junctures in history, and also lists key policies and laws affecting the citizenship rights of overseas constituency and associated changes in the policy direction and organization of OCAC.

**Table 3.1 A chronology of major political and policy changes regarding the political representation and participation of Overseas Citizens of the Republic of China (Taiwan)**

<table>
<thead>
<tr>
<th>Critical Junctures and Historical Contexts</th>
<th>Policies and Laws on Overseas Chinese Citizenship Rights</th>
<th>OCAC Policies and Organization</th>
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<tbody>
<tr>
<td><strong>Pre-1949 KMT on Mainland Era</strong></td>
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<tr>
<td>1912: Founding of the Republic of China (ROC)</td>
<td>1912: Propagation of the Provisional Constitution of the ROC and Organic Law, stipulating OC representation in the legislature</td>
<td>1922: Bureau of Overseas Chinese Affairs established in Beijing</td>
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<tr>
<td>1912–16: Early Republic</td>
<td>1913: 6 OC Senators were elected</td>
<td>1926: OCAC was formed in Guangzhou under the Nationalist-KMT Government</td>
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<td>1916–28: Warlord Era</td>
<td>1928: 21 OC attended the National Congress</td>
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<td>1928–37: The Nationalist-KMT Nanjing Decade</td>
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<tr>
<td>1937–45: Sino-Japanese War</td>
<td>1931: National Congress convened to draw up the Provisional Constitution of KMT Party Tutelage</td>
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<tr>
<td>1945–49: Chinese Civil War, KMT took over and retreated to Taiwan</td>
<td>1938–47: 34 OC were elected to National Affairs Council</td>
<td>1932: OCAC was reinstalled under the Executive Yuan</td>
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<tr>
<td>1947: ROC Constitution took effect</td>
<td>1946: 41 OC participated in Constitutional National Assembly</td>
<td>1933: Policies for OC education were propagated</td>
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<td></td>
<td>1947: 22 OC were elected to the National Assembly; 8 to the Legislative Yuan; and 1 to the Control Yuan</td>
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<tr>
<td><strong>KMT on Taiwan Era– 1947–87: KMT Authoritarian Rule Era</strong></td>
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<tr>
<td>1949–87: Taiwan under Martial Law</td>
<td>1972–89: KMT handpicked 139 OC Legislative Yuan</td>
<td>1960: Policies to encourage returned OC to invest in Taiwan were propagated</td>
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<tr>
<td>1971: ROC withdrew from United Nations</td>
<td>representatives and 24 Control Yuan representatives</td>
<td>1972: Overseas Chinese schools mushroomed; OC youths were encouraged to attend cultural camps in Taiwan</td>
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<tr>
<td>1978: PRC began to emphasize Qiaowu</td>
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<td>1984: Service-oriented notion of Qiaowu was introduced; Overseas Chinese Cultural Centers were founded</td>
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<td>1979: USA recognized PRC as sole legitimate government of China</td>
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<td>1986: Taiwan’s key opposition party DPP was formed</td>
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<tr>
<td>Critical Junctures and Historical Contexts</td>
<td>Policies and Laws on Overseas Chinese Citizenship Rights</td>
<td>OCAC Policies and Organization</td>
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<tr>
<td><strong>KMT on Taiwan Era—1987–96: Liberalization/Constitutional Reform Era</strong></td>
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<td>1988: Taiwan-born Lee Teng-hui was sworn in to succeed President Chiang Ching-kuo</td>
<td>1990: Overseas Taiwanese dissents were pardoned and allowed to return</td>
<td>Debates over abolishing OC representation as well as the OCAC itself surfaced</td>
</tr>
<tr>
<td>1988: Press and Assembly bans were lifted</td>
<td>1991: Revisions to the Election and Recall Law—changed methods of elections and representation for OC</td>
<td>Pragmatism was advocated as necessary virtue in Qiaowu diplomacy</td>
</tr>
<tr>
<td>1990: Lee was elected President by NA</td>
<td>1991: OC representatives in Legislative Yuan and NA greatly reduced; no OC seat in Control Yuan</td>
<td>Growing influence of DPP and Taiwan-first followers in OC policy making</td>
</tr>
<tr>
<td>1991: Abolition of Temporary Provisions</td>
<td>1992 Constitutional reform: put greater emphasis on ROC citizenship for OC representatives</td>
<td>Overseas Taiwanese joined OC as core OCAC constituency</td>
</tr>
<tr>
<td>1995: PRC tested its missile fires near Taiwan</td>
<td></td>
<td></td>
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</table>

| **1996 to Present: Multi-party Democracy Era in Taiwan** |
| 1996: Lee became the first President in Taiwan by popular vote | 2000: Article 20 of the Nationality Act prevents a dual citizen to hold government offices in ROC | 1999: Policies on the returned overseas citizens were promulgated |
| 2000: Taiwan-born Chen Shui-bian was elected the first non-KMT President | NA was suspended in 2000 and abolished in 2005 | 2000: first Taiwan-born OCAC Minister Chang Fu-mei was sworn in; criticized for favoring new migrants from Taiwan over old migrants from China |
| 2004: DPP’s Chen was re-elected by a hair-thin margin and under controversy | 2005: Constitutional reform to cut in half the number of seats in Legislative Yuan starting in 2008; no reserved seat for OC representative | 2002: Overseas Chinese Certification office established |
| 2005: PRC passed Anti-Session Law | 2009: Age limit was relaxed to allow easier access to national id card for children of returned overseas citizens | 2006: OCAC replaces “Chinese” with “Compatriots” in its English name |
| 2007: National Immigration Agency established | 2012: Absentee voting would be made available to residents in Taiwan area | 2006: PRC adopts a multi-pronged, peaceful expansion strategy in Qiaowu |
| 2008: Hong-Kong born Ma Ying-jeou helped KMT regain control of the presidential palace | | 2008: Flexibility and harmony were stressed as key in new OC policy gearing toward the overseas compatriots |
Unique interdependency of China and the Chinese overseas

Fundamental to an understanding of ROC (Taiwan)’s policies regarding constituents abroad is to appreciate the close-knit and bounded nature of the relations between Chinese overseas and the homeland government as well as the legal framework and guiding ideology that help construct the relationship. Unique in world politics, ROC (Taiwan) nationals abroad enjoy special rights and protection in the Constitution of the homeland government even if they may have settled permanently and for generations outside of Taiwan. There are six articles in the current Constitution of the Republic of China effective in 1947 that deal with the political, economic, and educational rights of citizens abroad. Article 26 specifies that the National Assembly shall be composed in part by delegates elected by Chinese citizens residing abroad and the number shall be prescribed by law. Article 64 states the same for members of the Legislative Yuan. Article 91 specifies that eight members of the Control Yuan shall be elected from Chinese citizens residing abroad. Additionally, under the foundational national policies section, Article 141 of the ROC Constitution published in the ROC Yearbook 2010 states that, based on the principles of equality and reciprocity, the ROC government is obligated to seek equal and fair protection of the rights and interests of citizens abroad as part of its foreign policy goals (p. 545). Similarly, Article 151 pronounces that, “[w]ith respect to Chinese citizens residing abroad, the State shall foster and protect the development of their economic enterprises” (p. 546). Finally, Article 167 stipulates that “the State shall give encouragement or subsidies to … [e]ducational enterprises which have been operated with good record by Chinese citizens residing abroad” (p. 546).

ROC citizens abroad were granted these trans-territorial rights and protection in the Constitution in part because the Chinese overseas were instrumental to the founding of the Republic through monetary donations, bloodshed, and other material and moral support. Moreover, because the Nationalist Party began virtually as an overseas Chinese party, it had every intention and purposes to want to keep the financial and political support from the Chinese diaspora, especially those of the merchant elite class (Fitzgerald 1972; Lee 1997). For over eighty years, huaqiao representatives handpicked by the KMT from the diaspora were involved in making key decisions concerning governmental organization, operations, and the legal framework of the Republic. Their involvement in these decisions helped secure, in return, constitutional protection and rights for nationals/citizens abroad. On the other hand, because the Chinese overseas were treated as the “rightful human capital” by their homeland government(s), a complex network of governmental institutions were set up to mobilize and control them (Kuhn 2008: 265). Thus, the close and interdependent relations between China and the Chinese overseas can be considered a mixed blessing for citizens abroad. Although Kuhn argues that the nature of nationalism for the overseas Chinese “was a congeries of attitudes and strategies” (249) and that the overseas Chinese would identify more with the homeland people and culture than its government, the homeland government has exploited the identity complex to advance its trans-territorial political goals (Wang 1995; Rawnsley 2000; Thuno 2001; Barabantseva 2005).

The Nationality Law of 1909 (1929): the principle of jus sanguinis

A major rationale for the far-reaching, trans-territorial direct governance of citizens abroad practiced by the governments in China is found in its nationality laws, first set in place in 1909 during the late Qing dynasty era and promulgated by the Nationalist government in 1929, that instituted the principle of jus sanguinis or bloodline as the only determinant for automatic possession of Chinese nationality. According to this law, China practically treated anybody who was born anywhere to a Chinese father – dead or alive – or to a Chinese mother and an unknown or
dead father a Chinese national. MacNair (1971) notes that two developments at the turn of the twentieth century accounted for the adoption of this principle that aims to preserve the cultural ties to and political identity of Chinese residing in occupied foreign lands with the homeland: the nationality of Chinese born in Dutch East Indies and the nationality of Chinese residing in foreign possessions in close proximity to China (such as treaty ports and the interior of China). They helped the Qing dynasty realize belatedly that to protect the rights and equality of overseas subjects required formal legal standing such as the establishment of a nationality law.

As Qing diplomatic officials experienced increasing contacts with their overseas compatriots in foreign nations, they also gained better knowledge and understanding about Chinese communities abroad (Tsai 1983). Specifically, the Chinese mandarins realized that the wealth and connections of many overseas Chinese could provide an invaluable source of political and economic capitals for strengthening and improving the fortune of China (Armentrout Ma 1990). The Imperial Court in Beijing also hoped to win the hearts and minds of these overseas groups so that they would not lend their allegiance to revolutionaries like Dr. Sun Yat-sen. “In the last two decades of the dynasty,” observed Stephen Fitzgerald (1972), “there was a quickening of interest in the Overseas Chinese, prompted by their support for monarchist, revolutionary or constitutional factions, and also by a realization that their wealth was more than just a few ‘sands they have scraped together’” (p. 6).

Comprising of 24 articles and a series of minor provisions and clauses, the law, as will be demonstrated later, has had lasting impact upon Kuomintang government’s qiaowu after 1929. As having another country’s nationality does not nullify Chinese nationality, all Chinese emigrants are essentially nationals and citizens. Thus, the principle of dual nationality is allowed. According to the 1929 Law, while an overseas national can choose to give up his or her Chinese nationality and citizenship, such voluntary renunciation would require stringent approval of the ROC Ministry of the Interior. On the other hand, if a former national were to resume his or her Chinese nationality, it could be done rather easily. The goal is to keep as many Chinese nationals as possible globally (Lee 1997: 124). Since the overseas Chinese were encouraged by the KMT government to identify with Chinese rather than local politics, wrote Stephen Fitzgerald, “this in turn fostered the growth of Overseas Chinese nationalism which has remained to trouble the countries of Southeast Asia and complicate the CCP’s policies in the region” (1972: 6).

The founding of the Republic of China and overseas Chinese in the first parliamentary elections of 1913

Thus, as early as 1909, the doctrine of *jus sanguinis* fostered overseas Chinese nationalism and explained their fervent contributions to Dr Sun Yat-sen’s republican revolution. Because the decadence and ineptitude of the old regime were too apparent to all, Chinese intellectuals and bourgeoisie abroad were quickly convinced that to save China from further decline and foreign aggressions the Qing dynasty must be overthrown. Sun’s revolutionary power base was situated mainly in the overseas Chinese communities in Japan, the USA, and Southeast Asia. It owed its financial backing mostly to *huaqiao*. The overseas Chinese also directly contributed money and blood to the toppling of the Qing regime on 10 October 1911 through the Wuchang Uprising. If not for the staunch sacrifices made by *huaqiao* to the revolutionary cause of Sun, the creation of the ROC would not have been possible in the first place (Sheng 1990). Thus, as the Father of the new Republic, Sun frequently commented that the overseas Chinese were “the mothers of the [Republican] revolution.” Moreover, as the Provisional President in 1912, Sun pledged that the political participation rights of the overseas Chinese would be guaranteed in the new government.
These included the rights to vote, recall, veto, run for offices, and to participate in civil service examinations (Lee 1997: 147).

When the ROC’s Provisional Constitution and Organic Law were promulgated in March 1912, a bicameral parliament was established, comprising the Senate in the upper house and the House of Representatives in the lower chamber (Sheng 1990: 19–20). The first national elections were to be held in the spring of 1913. Nonetheless, despite the general gratitude toward the Chinese overseas and their efforts in the Republic’s inception, there were intensive debates over whether they should be involved directly in the governance and politics of ROC. The proponents argued that overseas Chinese political engagement could strengthen Chinese nationalist unity abroad and promote greater expertise and investment in domestic modernization and economic developments. Opponents, however, stressed the technical difficulties in conducting and monitoring overseas campaigns and elections. Furthermore, since many overseas Chinese hold foreign nationalities, their participations in ROC politics would inevitably generate international opprobrium and conflicts with foreign governments. Finally, given overseas Chinese exemption from taxation and military conscription in ROC, skeptics stressed that it would be unfair to allow their representations if they were not required to fulfill these citizen duties (Lee 1997: 150–2).

As a result of these heated polemics and exchanges, a political compromise was struck in the end to mollify both camps. Though the political participation rights of the overseas Chinese were ensured, there were restrictions. In particular, overseas compatriots could run for parliamentary elections on 10 February 1913, but only in the Senate upper house. The reason was that the lower house (House of Representatives), elected based on population proportionality (as in most Western liberal democracies), has more substantial representative power than the more elitist upper chamber (Lee 1997: 155). Of the 274 Senators, six seats were reserved for the overseas Chinese. They would be elected from Overseas Chinese Electoral College, whose electors were prominent leaders in overseas Chinese organizations and associations in various foreign countries (Zhong 1991a). The six Senators were all KMT members. This marked the beginning of overseas Chinese participation in the governing of homeland political affairs.

The KMT Party Tutelage and overseas Chinese participation in the 1931 National Congress

Immediately following the birth of the Chinese Republic on 1 January 1912, China was plunged into new rounds of internal chaos and conflicts – this time, between Yuan Shi-k’ai’s Northern militarists and Sun’s Southern republicans. The political break between Yuan and Sun in July 1917 has been recounted thoroughly elsewhere (see Lee 1970). It is sufficient to note that the clash erupted out of Yuan’s ambition to restore the monarchy (with himself as the new emperor) and his expelling the KMT republicans, including Sun Yat-sen, from the Beijing government (also known as the Beiyang Administration). Notwithstanding his cunning political maneuvers and political assassination schemes, targeting revolutionary leaders, Yuan’s Beiyang Administration was, between 1912 and 1928, recognized internationally as the legal government of the ROC. It was in 1922 that the first Bureau of Overseas Chinese Affairs was established in Beijing. This was the first of nine other regional qiawu offices to come. Meanwhile, Sun and his revolutionary forces retreated to the South and set up a Nationalist government in Guangzhou (of the Guangdong province) to continue their struggle against the Northern warlords. At the urge of the returned overseas Chinese, the first Overseas Chinese Affairs Commission (OCAC) was set up in 1926 under the Central Executive Committee (CEC) of the KMT there. In 1932, again in response to suggestions from the Chinese overseas, the OCAC was reinstated under the Executive Yuan of the Nationalist government in Nanking.
Given the overseas Chinese historical affinity to Sun Yat-sen’s KMT since the revolutionary era, it is no surprise that *huaqiao* espoused firmer support behind the southern government. Yet, the Beijing government also understood the importance of overseas Chinese contributions to China’s nation building and construction projects; therefore, the Yuan Administration and the provisional National Assembly both affirmed *huaqiao*’s political rights to participate in Chinese politics (Lee 1997). In April 1927, Chiang Kai-shek’s KMT forces unified China and set up the National government of ROC in Nanjing. As the revolutionary phase was completed, the KMT authority, following Sun Yat-sen’s teaching, declared that the next stage of political tutelage would ensue. The Kuomintang Party, under the highest authority of the CEC, would exercise sovereignty on behalf of the people and, at the same time, train and educate them in preparation for eventual democratic self-government and constitutional rule (Tien 1972; Eastman et al. 1991).

In early 1928, the CEC called for the election of the National Congress (NC), and 26 of the 520 seats (5%) were slated for overseas Chinese representatives to be elected from 21 overseas districts (Zhong 1991a: 66). Nevertheless, because overseas elections were either prohibited in some countries like Malaysia and Thailand or were technically infeasible, only 18 were elected and three were specially appointed (Lee 1997: 167). All in all, 21 overseas Chinese representatives attended the NC convened on 5 May 1931. It officially propagated the Provisional Constitution of the KMT Party Tutelage on 1 June 1931. Though the NC election was only for the purpose of institutionalizing the KMT one-party rule, it showed that overseas Chinese political participation was valued by KMT leaders.

**Wartime Congress, 1938–47: overseas representatives in the National Affairs Council**

After Japan invaded China proper in July 1937, the National government postponed the Constitutional National Assembly (originally scheduled in May 1937) indefinitely, pending war progress and development. However, to continue the functions of wartime government, policymaking, and implementation, as well as to unite the whole nation in confronting the Japanese aggressions, the National government proclaimed the creation of a Wartime Congress, also known as the National Affairs Council (NAC) in April 1938 (Zhong 1991b; Lee 1997; Myers 2001). Since the objective was to gather all ideas, resources, and policy initiatives from all areas and all occupational sectors, representatives from the Chinese overseas could not be excluded from this special congress.

The process of selecting members to the NAC was strictly controlled by the central KMT authority, and overseas delegates were chosen and reviewed by the Overseas Chinese Affairs Commission (OCAC), established in 1932 under the Executive Yuan and which remains the same today. The qualifications of the overseas candidate were evaluated based on his or her social, educational, and professional experience and reputation in the overseas communities (Lee 1997: 179). Then, the OCAC would recommend their list of candidates from the diaspora to the KMT’s Central Executive Committee, which would make the final choice of selection. Five to eight overseas Chinese members would participate in the 200-member NAC Congress, which, between 1938 and 1947, convened four times (Zhong 1991a, 1991b; Lee 1997). The first and second NAC Congresses had six overseas members each. The third and fourth Congresses increased overseas delegates to eight as the total members were also increased to 240 (290 in the fourth Congress). In the end, a total of 34 overseas Chinese members served in those four NAC Congresses. In addition to discussing and enacting national wartime policies, the NAC Congresses also focused on overseas Chinese affairs such as promoting and protecting overseas Chinese investment, education, and job training in both China and other countries (Lee 1997: 179).
The ROC Constitution and overseas Chinese participation in parliamentary elections in 1947

In the immediate aftermath of Japan’s defeat in August 1945, the National government was preparing to resume the Constitutional National Assembly that had been suspended in 1937. To select overseas delegates to the Constitutional National Assembly, 23 overseas electoral districts were drawn, of which 41 representatives would be selected either through indirect overseas elections from qualified local overseas Chinese associations or, when such methods were impossible to carry out, through “handpicking” by the OCAC (Sheng 1990; Lee 1997: 171–3). The Constitutional National Assembly convened on 15 November 1946 to draft the ROC Constitution, which was adopted on 25 December 1946 and promulgated on 1 January 1947.

Under the framework of the 1947 ROC Constitution, Chinese overseas had the right to political representation in the National Assembly, the Legislative Yuan, and the Control Yuan (the parliamentary bodies). In the first National Assembly of 1947, 65 of the 3,045 seats (2.1%) were set aside for the overseas delegates from 41 overseas districts. For Legislative Yuan elections, 15 overseas districts were allotted and from which 19 overseas candidates (2.5%) could be elected out of 773 seats. There were eight overseas districts apportioned for the Control Yuan elections which allocated the same number of spots (or 3.9%) for overseas Chinese candidates out of 223 seats. Unfortunately, the actual electoral process and outcome were less promising than anticipated. In the National Assembly elections, only 17 overseas districts had successfully voted, electing only 22 overseas Chinese members. Only seven out of 15 overseas districts held elections for the Legislative Yuan, resulting in eight overseas Chinese legislators. As for the Control Yuan election, only one district completed election and, therefore, one Control Yuan member was elected from abroad (Sheng 1990; Zhong 1991b; Lee 1997: 176). In addition to the technical and transportation problems for political participation from abroad, many foreign governments held hostile attitudes toward the open and direct electoral campaigns by the overseas Chinese in homeland elections, accusing the ROC government of intruding on their national sovereignty and violating their jurisdictions. Dual nationality also was not accepted everywhere, preventing many overseas Chinese from exercising their political rights as ROC citizens.

Furthermore, although the ROC Constitution recognized and protected the rights for citizens abroad to access political representation in three national parliamentary bodies in 1947, one should not overrate the weight of the Chinese overseas in participating in homeland governance. Despite their long and sustained involvement in homeland politics, the number of overseas representatives was only a fraction of any legislative body and they seemed to enjoy the best representation in the parliamentary body that had the weakest power. Thus, even if few questioned the wisdom of awarding overseas Chinese with seats in the National Assembly, more raised doubts about the inclusion of overseas Chinese in the Legislative Yuan and the Control Yuan. In fact, until after protests from the overseas Chinese delegates in the 1946 Constitutional National Assembly, there was no mention of seats for the overseas delegates in the original draft of the ROC Constitution (Lee 1997: 174). Given this checkered history, it was possible to anticipate the de facto removal of overseas representation in the parliamentary bodies of the Legislative and the Control Yuan and the abolition of the National Assembly in the constitutional reforms of the 1990s and 2000s as Taiwan constructed and consolidated its fledgling democracy.

Taiwan under siege, 1947–89

Taiwan was incorporated into the Chinese empire in as early as the Tang dynasty (618–907), but significant immigration of the Chinese from Fujian and Guangdong Provinces did not occur
until the seventeenth century or during the early Qing dynasty (1644–1911). Taiwan was ceded by the Qing government to Japan through the Treaty of Shimonoseki in 1895. The ROC assumed control of Taiwan at the end of the Second World War when, according to the Cairo Declaration of 1943, the Japanese troops in Taiwan surrendered to KMT representatives on 25 October 1945. Whilst under Japanese rule (1895–1945), Taiwan was transformed into a modern state with improved literacy, health care, agricultural productions, and an economic infrastructure emphasizing transportation and communication (Williams 2003). The colonial government also made a significant and largely successful effort to assimilate Taiwanese locals into Japanese royals. In their sporadic but sustained protests to resist Japanese colonization, a unique Taiwanese consciousness among the locals was born (Wu 2001; Brown 2004).

As the conflicts between the KMT and the CCP escalated in the postwar years, and China’s national and economic conditions drastically deteriorated as a result, the KMT-led government practically treated the island as a war relief center and stripped the island of foods, industrial goods, and other wealth (Williams 2003). In addition, doubting the identity and loyalty of the former Japanese subjects, the Nationalists adopted a policy of forced assimilation to make the Taiwanese Chinese. Tension between the Taiwanese and the Nationalists erupted in the 2–28 Incident, which was triggered by the beating of a Taiwanese cigarette peddler suspected of selling smuggled cigarettes and the death of a bystander who protested the beating on 28 February 1947. An estimated 8,000 to 20,000 people were killed as a result of the subsequent March massacre launched by the KMT forces to cramp out all traces of real or potential opposition to its rule (Kerr 1965; Mendel 1970).

To stem Communist infiltration and political subversion in Taiwan, and amidst mounting setbacks of the Nationalist army in its war against Communist rebels, the Nationalist government proclaimed on 10 May 1948 the “Provisional Amendments for the Period of Mobilization of the Suppression of Communist Rebellion” (also known as the Temporary Provisions). Months after its physical relocation to Taiwan in early 1949, the Nationalist government declared a state of Martial Law in Taiwan. The Temporary Provisions strengthened the emergency powers delegated to the President in times of national emergency, as outlined in Articles 39 and 43 of the ROC Constitution, and essentially gave the ROC President an unlimited authority in times of national crisis or emergency. Together with the declaration of Martial Law, these executive orders effectively stopped all political activities and free elections in both mainland China and Taiwan. They further legitimized KMT’s political repression campaigns, also known as the “White Terror,” on the island (Kerr 1965; Mendel 1970; Tien 1989; Rigger 1999). Between 1945 and 1952, approximately one million Nationalist soldiers and civilian Chinese mainlanders migrated to Taiwan. Although they constituted only about 13% of Taiwan’s population, they were able to maintain themselves in a position of power over the native Taiwanese through tight control of the political system, police, military, media, and the educational system. A large-scale “Sinification” program to reeducate and rehabilitate the Taiwanese, predating on Sun Yet-Sen’s idea of global Chinese nationalism and the Mandarin language and culture, was introduced and strictly enforced (Lynch 2006).

Because of the Nationalists’ stated goal to regain control of mainland China (until 1991 when the Temporary Provisions were abolished), the KMT government skillfully managed the island’s economy through selective privatization, massive industrialization, and urbanization to achieve the “economic miracle” within a relatively short period of time (Tien 1989). Between 1949 and 1989, the KMT government, to maintain the claim that it still had legitimate representation of all of China, froze the government’s institutional framework and political structures, making only minor or incremental adjustments to reflect the political reality on Taiwan and offshore islands. Under the Temporary Provisions and the Martial Law, the ROC President, for national
security and interest considerations, could authorize additional members to be elected or appointed to the National Assembly, Legislative Yuan, and Control Yuan.

Between the years of 1972 and 1989, the KMT-controlled government decided to expand its power base by increasing the number of legislators in the Legislative Yuan and delegates in the Control Yuan through three elections. The party set such selection rules that it practically handpicked all the additional members from overseas. The number of overseas seats doubled in the 18-year period to 29, while a similar rate of increase was found among overseas seats reserved in the Control Yuan (from 5 to 10). In the six Legislative Yuan elections (1972, 1975, 1980, 1983, 1986, and 1989), a total of 139 legislators were appointed from overseas. In the three Control Yuan elections (1972, 1980, and 1986), 24 overseas Chinese members were selected (Yang 1992). It is interesting to note that qualifications of overseas candidates were assessed according to their contributions to Taiwan/ROC and to their respective overseas communities. Exemplary members were expected to exhibit high virtues, education backgrounds, professional achievements, and, more importantly, anti-communist sentiments (Sheng 1990; Zhong 1991b). Only 11% of the overseas legislators and none of the overseas Control Yuan members were of Taiwanese descent (Yang 1992).

Taiwan’s transition to liberalization and democratization through Taiwanization

In the 1970s and 1980s, the KMT was forced to examine its agenda for global or pan-Chinese nationalism amidst a rapidly deteriorating international stance beginning with the withdrawal of the ROC representation from the United Nations in 1971, the visit by President Nixon to the People’s Republic of China in 1972, and the USA replacing ROC with PRC as the sole legitimate Chinese regime in 1979. Meanwhile, growing domestic agitations in Taiwan with the one-party, autocratic State and the flourishing overseas movements for Taiwan independence challenged the ruling elites to adjust their relationship with native Taiwanese citizens (Lynch 2006). Increasingly, a significant portion of the Taiwanese intellectuals began to question ROC’s sovereign claim and political legitimacy over Taiwan, including the assertion that Taiwan was a legal part of China (Bush 2004).

The search for new bases of legitimacy and national consensus led the KMT to open up the organs of government to rising numbers of native Taiwanese and to non-KMT views on governing. Opposition from outside the (KMT) party or Dangwai movement, harshly suppressed in the 1950s and 1960s, gained momentum and acceptance by the mid-1970s, as activists carried out demonstrations and protests to demand the KMT government implement full constitutional democracy, abrogate the Martial Law, and grant the Taiwanese people greater access to the ROC government apparatus (Tien 1989; Lynch 2006). The Chungli and the Kaohsiung (Mei Li Diao) Incidents of 1978 and 1979 were the first large-scale anti-government demonstrations since February 1947 (Rigger 1999).

Beginning with the presidency of Chiang Ching-kuo in 1978, Taiwan began the transition from hard-authoritarianism to soft authoritarianism through the loosening of KMT political preponderance to allow more political participation and through the sharing of political power with a broader segment of the Taiwan-born population (Dickson 1998; Tien 1989). The successive liberal policies of Taiwanization not only fostered the establishment of Taiwan’s first genuine opposition party, the Democratic Progressive Party (DPP) in 1986, but it also facilitated the lifting of Martial Law in 1987 (Rigger 1999). During the presidency of Lee-Teng-Hui, the first Taiwan-born person to lead the ROC, progress made in democratization, Taiwanization, and further KMT party reforms, such as direct party primary elections, were expedited and institutionalized.
After Lee was elected by the National Assembly as the first Taiwan-born ROC president, he issued a special amnesty that pardoned and permitted the return of prominent overseas Taiwanese dissenters.

### Downward turn in overseas representation: the 1991 parliamentary elections and beyond

As political liberalization gained momentum, President Lee sought to push through a series of political reforms, including the ending of the Temporary Provisions in 1991, which effectively ended the “White Terror” era, revising ROC’s Election and Recall Law, and amending the ROC Constitution on the political representation of overseas Chinese. In the 1991 revisions to the ROC Election and Recall Law, all legislators and National Assembly members would be directly elected from the people in Taiwan. Overseas representation would be allocated based on the proportional representation (PR) system, in which each political party in Taiwan would nominate a list of its own overseas candidates, who would, then, be appointed as legislators in proportion to the votes received by each party in Taiwan’s national elections (Chen 2002). In terms of overseas representation, greater emphasis was put on the possession of ROC citizenship than the traditional bloodline for qualification as overseas representatives. And dual nationality no longer was acceptable to hold certain high public offices in Taiwan.

The second national parliamentary election was held in 1991 and all the senior delegates elected back in 1947 were finally forced to let go of their seats. In the Second National Assembly, 20 of the 327 total delegates (6.2%) were elected from overseas. In the Second Control Yuan, two of the 52 members (3.9%) were elected from abroad. In the Second Legislative Yuan of 1991, six of the 161 members (3.7%) were legislators from overseas. Although the raw numbers were down from 1947, the percentage of overseas delegates actually rose after the 1991 election. Nonetheless, after Taiwan instituted the direct election of the president and vice president by popular vote in 1996, the National Assembly was suspended in 2000 and officially abolished in 2005. As another casualty of Taiwan’s democratization, Article 91 that ensures the overseas representation in the Control Yuan was declared defunct in the constitutional amendment of the 1990s and none of the 29 current members is designated to represent citizens abroad. In 1998, despite an increase in the number of overseas legislators by two, they still represented a mere 3.6% of 225 members. Because of a major overhaul in the Seventh Legislative Yuan in 2008 that cut down the total seats by half to 113, there is no longer any reserved seat in the ROC parliamentarian bodies for overseas citizens. Currently, overseas citizens may receive representation in the Legislative Yuan only and the overseas candidates need to compete with candidates running to represent the national constituency in the Taiwan area.

### Consolidation of Taiwanization under Lee and Chen

Symbolically, in 1995 Lee became the first head of the state to openly apologize for the KMT atrocities in the 2–28 Incident. The Legislative Yuan then passed the 28 February Incident Disposition and Compensation Act, which paves the way for the establishment of the 28 February Memorial Foundation and the designation of that date as a national commemoration day. After Lee became the first president elected by popular vote in 1996, he began to advocate for various Taiwan-first policies to differentiate the island from Mainland China. In July 1999, he openly suggested, during an interview with the German press, that Taiwan and China are essentially “two states” (Ross 2000). By the end of his presidency in 2000, native Taiwanese would hold the most predominant positions, including the presidency, vice-presidency, and the premiership (Dickson and Chao 2002).
Government-led Taiwanization efforts were further magnified during Chen Shui-bian’s administration from 2000 to 2008, as the DPP President ushered in an era of a more radical de-Sinicification project, aiming to expunge the legacies of the KMT rule and its pan-Chineseness indoctrinations (Lynch 2006). The DPP Administration also sought to remind the Taiwanese of KMT’s brutality in the 2–28 Incident. They wanted to portray the Chinese mainlanders as “butchers” aiming to stifle liberal democracy and self-determination in Taiwan. For instance, President Chen managed to change names of many government organizations and state-owned enterprises from “China” to “Taiwan.” As noted earlier, in the example of the agency to manage affairs dealing with nationals abroad (OCAC), the word “Chinese” as in overseas Chinese was replaced by “Compatriots” in 2006. Failed initiatives to close down the Chiang Kai-shek Memorial Hall, and to change Taiwan’s country name (from ROC to ROT), national flag, and anthem were suggested by the more extreme DPP politicians and independence activists (Taylor 2009). The Taiwanization initiatives taken up by Presidents Lee and Chen, in short, may be understood as interchangeable with processes for democratization and de-Sinicification. To remove the influence of Chinese nationalism, a founding principle of the Republic of China, is considered by DPP supporters as imperative to sustain the democratic progress in Taiwan which, in turn, may be instrumental in the founding of a new Taiwan state. In this sense, only compatriots are welcomed.

Guarded encouragement of democratic participation from abroad

Although the democratized Taiwan disfavored overseas Chinese representatives, the rights of its citizens abroad to return and vote in ROC elections were affirmed in Articles 2 and 10 of the constitutional amendments, which were made prior to the holding of the first direct election of the president and vice president in Taiwan. Also, although the jus sanguinis principle remains intact in the present day, the ROC nationality law has been amended in 2000 to remove gender bias against women by permitting citizenship to be passed on from either father or mother of ROC nationality to a child born anywhere. Thus, as before, a person born abroad to father or mother of ROC nationality may apply for a ROC passport even if she or he may not have lived or set foot in the Taiwan area.

To help preserve the integrity of the electoral process in Taiwan, not all nationals, especially those residing permanently abroad, may receive the same rights to vote or work as local citizens in Taiwan. Key to accessing most citizenship benefits such as suffrage, labor rights, and national health insurance in Taiwan is the possession of a national identification card, which is only issued to persons aged 14 and older with household registration in the Taiwan area. Taiwan’s Huji or the household registration system, inherited from a system adopted by the Japanese Empire when it ruled Taiwan, officially records the personally identifying information such as name, parents, spouse, place and date of birth, and current residence. It identifies a person as a resident of Taiwan, but it no longer serves to limit a resident’s movement in Taiwan as it did under the Martial Law and Temporary Provisions era.

ROC nationals without household registration in Taiwan, such as the returned overseas Taiwanese (referred to as “nationals without registered permanent residence” in statute), may obtain a national identity card only if they live in Taiwan for a minimum period of time. According to Article 9 of Taiwan’s Immigration Act of 2003, children born abroad to Taiwanese nationals and who have obtained household registration before 12 years of age automatically become eligible for a national identity card when they turn 14. In 2009 the age restriction was relaxed from before 12 years old to before 20 years old. For those unregistered nationals who are 20 years old or above, they are currently required to have continuously stayed in Taiwan for more than one year, or 270 days a year for two consecutive years, or 183 days a year for five
consecutive years, in order to qualify for permanent residency and household registration. While the application procedure is shorter, by three years, than the procedure required for naturalization application, the procedure for foreign-born nationals to obtain a national identity card is still rather cumbersome. As the government is gearing up once again to attract overseas investments, the Minister of the Council of Economic Planning and Development recently suggested that the age limit should be completely removed to welcome the return of foreign-born children of returned Taiwanese overseas and help them acquire household registration certificates and national ID cards (Yu 2011).

As Taiwan became a multi-party democracy with open competition and direct election of the presidency and vice presidency, interest from overseas in voting in Taiwan’s elections also rose, especially when the stake was considered high. To ensure the KMT could win back the presidency lost by a hair-thin margin to the DPP in 2004, as many as 50,000 pro-KMT supporters returned to vote in Taiwan’s 2008 election (Kent 2008). Because of the lack of absentee voting, Taiwanese abroad are required to physically return to Taiwan to vote. Yet, not all adult ROC citizens abroad who are willing to return to vote can vote. According to election laws amended in 2003, in order to cast vote in presidential elections, a ROC citizen residing in a foreign country will need to become eligible to vote by satisfying the age limit (of 20 years or older) and having maintained a valid household registration in Taiwan for no less than six consecutive months before election day. Citizens living abroad without a current household registration in Taiwan but who have been living or once lived in Taiwan for no less than six consecutive months can apply to become registered voters by mailing in the request to the agency of household registration at the location where the migrant last lived no less than 40 days before the election. An overseas citizen may maintain a valid household registration status by returning to Taiwan at least once in 24 months.

To make progress in the consolidation of democracy in Taiwan and to better live up to the promise of equal protection of the political participation rights of overseas citizens in Article 10 of the Additional Articles of the ROC Constitution, Taiwan’s Ministry of the Interior recently announced its intention to permit some form of absentee voting, beginning with allowing voters within the Taiwan area who cannot make it back to their hometown to cast their votes at designated polling stations nearby where they work. This announcement immediately triggered a protest organized by a coalition of several pro-independence groups (Loa 2010b). Because of concerns over the meddling by China as well as public anxiety for speedy election results, an official at Taiwan’s Central Election Commission commented that there will be no overseas absentee balloting in the foreseeable future (Loa 2010a). This announcement disappointed many Taiwanese abroad who would like to vote in elections in Taiwan but cannot make it back in person due to a variety of reasons. Because of the hypersensitivity surrounding the topic, complicated by political identity and cross-strait issues, it is very unclear whether at all and when those Taiwanese abroad qualified to vote in Taiwan will enjoy casting their ballots from abroad.

Taiwanization in qiaowu: a course of no return

Because qiaowu was considered an expedient tool for the KMT government to advance its one-China dream of unification, proposals to significantly reduce the number of overseas Chinese representatives in the parliamentary bodies and to abolish the OCAC as an institution surfaced soon after the KMT authoritarian rule ended. Corresponding to major shifts toward Taiwanization in the larger environment under the Lee and Chen administrations (1988–2008), Taiwan’s qiaowu policy and the ethnic identity of decision-makers associated with the OCAC have also been transformed. Commenting on the developments of Taiwan’s qiaowu during the 1990s, Chen
(2002) observed four broad trends: 1 the strengthening of services and assistance, particularly in economic and educational affairs, to the overseas communities; 2 the alignment of diplomacy and foreign policy interests with qiaowu interests; 3 the centering of Taiwanese emigrants as core constituents; 4 the abandoning of overseas Chinese representation. We observed the continuation of these trends into 2010. Today, overseas representation is near extinct in the national legislature and, although the OCAC still stands as an institution, its leadership organization and service scope and goal (and even its English name) have changed.

Under the White Terror era, emigrants from Taiwan were negligible among legislators from abroad. Of the 139 overseas legislators appointed between 1972 and 1989, half found their ancestral home in Guangdong, 19 had their ancestral home in Fujian, only 17 were Taiwanese emigrants and six among them were appointed in 1989 (Yang 1992). Since 1991, representatives from overseas have all been Taiwan-born emigrants who have followed Taiwan’s political scene closely. A similar trend of Taiwanization occurred among OCAC Commissioners, whose job is to serve as a bridge between the homeland government and the overseas communities and to attend the annual Overseas Chinese Affairs Convention in Taipei to provide advice on qiaowu policies. Before 1988, Commissioners were largely Cantonese-speaking huaqiao, who identified with the KMT’s political claim of ROC being the sole legitimate government of China. During the Lee era, an increasingly higher number of Commissioners were taiqiao. In 1992, 80 of the 163 Commissioners (49%) were still of Guangdong origin. By 2001, 97 of the 177 Commissioners (55%) were of Taiwan origin (Chen 2002: 183–4).

Over the years, although qiaowu has played an increasingly major role in seeking and making an international space for Taiwan through informal channels such as the mobilization of Taiwanese abroad in lobbying legislators of their adopted homeland, and despite the significant efforts by OCAC officials to provide a more efficient and focused service to its constituency abroad, the content and nature of the OCAC constituency has changed. Taiqiao have replaced Huaqiao as the core constituents. The significant increase in the number of emigrants from Taiwan in the 1980s and 1990s may explain in part this shift. A more important reason is the changing political identity among policy-makers in Taiwan, with a growing number of them being DPP supporters and Taiwan-first followers. After Dr. Chang Fu-mei became the first Taiwan-born Minister of OCAC following the election of Chen Shui-bian in 2000, she was criticized for openly making a distinction between the old migrants from Guangdong/Fujian and the new migrants from Taiwan and for favoring the latter in OCAC service. Nonetheless, the reality of competition from the very resourceful PRC qiaowu would constitute another major reason for Taiwan to change. Since, compared to the PRC, the ROC (Taiwan) is no longer a dominant or even a comparable provider of service to overseas Chinese communities, a change of focus is the only route to take for Taiwan in its wish to avert a direct and possibly futile confrontation with PRC. This spirit of pragmatism in qiaowu policy has prevailed in recent years and been carried over to the Ma Administration (2008–), when flexibility and harmony were stressed as key by the new administration in its policy on handling affairs of nationals/citizens abroad.

Notes

1 Article 3 of the ROC Constitution stipulates that “[p]ersons possessing the nationality of the Republic of China shall be citizens of the Republic of China” (ROC Yearbook 2010: 536). Although nationals and citizens do not currently enjoy the same rights in Taiwan, we use the two terms interchangeably when the context is about the ROC itself.

2 As designed in 1946, the National Assembly was to serve as a constitution convention and an electoral college to elect the president and vice president. It also had the function of amending the constitution and impeaching the president and the vice president.
3 The Legislative Yuan, one of the five branches of the national government in the Republic of China, is the highest law-making body in the State.
4 The Control Yuan, another one of the five branches of the national government in the Republic of China, is the highest watchdog body of the State to exercise the powers of impeachment, censure, and audit.

References


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