

The EU Two-Level Sovereignty System as Model for Taiwan and China

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The prospect of the People's Republic of China ceding any of its sovereignty to a supranational body is, it must be admitted, extremely unlikely – yet, when we consider the development of the European Union, we can see that events just as improbable have in fact come about. For example, for centuries Spain was a centralised country, and it ruled over an empire that made Spanish one of the most-spoken languages in the world. Despite this, in recent decades Spain has dissolved its unitary status and introduced widespread local autonomy, and has even accepted that the Catalonians are a different nationality. Further, at a time of booming economic development it chose to enter the EEC. If such vast changes are possible for Spain, we should not discount out of hand the possibility that the EU may provide a possible model for future relations between mainland China and Taiwan. Indeed, the idea has been floated by both KMT chairman Lien Chan and DPP president Chen Shui-bian.

Can constitutions be borrowed?

In Latin America there are many countries that used the USA as a political model, and in Cuba, Chile, and Puerto Rico the parliament buildings imitate those on Capitol Hill. Less successfully copied, however, have been the special checks and balances that characterise US political institutions.

The modern Chinese political tradition in Taiwan rests on Sun Yat-sen's five branch administration, a system that combines certain institutions from Imperial China such as the complaint and control board, with a modern Montesquieu-type of division of power. Taiwan has departed somewhat from this original model in scrapping the National Assembly, but basically all political parties in Taiwan apparently support the system of five branch administration.

The People's Republic of China, in contrast, imported the post-1936 Soviet constitution, but with some differences: as in Eastern Europe, smaller parties continued to exist, although endorsing the leading role of the Communist Party in the National People's Congress, and the China People's Political Consultative Committee included non-Communist perspectives.

¹ The author is writing in a personal capacity.

Roots of the EU institutions

European integration required taking many differences into consideration as it established treaties that mixed intergovernmental and federal principles. The Treaty of Rome, which established the EEC, attempted to solve this problem by basing cooperation on intergovernmental principles, but with the addition of a federal element. Thus a Commission, a Council, and a Parliament were created.

This, however, did not solve all the problems. Some of the member states have strong and autonomous regions, or even constituent states, which need to have a say in the final process; consequently the Committee of the Regions was created. In some countries the government has to consult with social partners, such as trade unions and employers, and so the European Economic and Social Committee was set up. Courts play an important role in examining the decisions taken by some countries, and this is reflected in the key position of the European Court of Justice, which, at the request of any affected citizen or organisation, can examine any EU decision or legislation to see if it is compatible with the treaties. As the court procedure takes two to three years and often requires expensive legal advice in order for a claimant to be successful, there is also a special institution to help citizens with their complaints; this is the Ombudsman, which is based on a two-centuries-old Swedish institution which was further developed in Denmark to suit ministerial administrations. However, in countries where the parliament looks after complaints about maladministration this is seen as inefficient, and so a Committee on Petitions was formed in the European Parliament to serve as an alternate channel.

Building up large intergovernmental organisations like these can only be achieved with a certain amount of compromise and this might be seen as ineffective, thereby weakening the popularity of the project. However, in the European context support for European integration is strong as it is based on the perceived necessity to keep good relations between countries that have long histories of wars and confrontation. Countries are able to live with being financial net contributors if they receive advantages in return, although the two countries with the highest net contributions per capita, Netherlands and Sweden, have begun to see negative results in European referenda (The Netherlands on the constitutional treaty in 2006 and Sweden on accession to the EMU in 2003).

Attractiveness of the European model of cooperation

Scholars from Asia who have studied the EU have been struck by several things that make this organisation unique. First, no pressure is put on neighbouring countries to join the Union. The message is that if a country wants to join it must introduce 100 per cent of the *acquis* (the accumulation of European law), and the only thing to be negotiated is the length of the transitional period. Second, by helping new members raise their standard of living the EU creates an excellent motivation for poorer countries to cancel anti-democratic laws and procedures, in order to qualify for membership. Third, the EU is usually successful in reaching a consensus on vital issues, although observers can see the deployment of horse-trading, peer pressure, and other methods. There appears to be a constant reform

process, often described as 'the Brussels bicycle': as long as you maintain a certain forward momentum, you will not fall off.

The size of the country problem

China is of course bigger than Taiwan, not just physically but by all measures of comparison. According to the *CIA World Factbook*, the comparisons are as tabulated here:

Land area	289:1
Population	57:1
GDP (ppp)	15:1
Foreign trade	4.2:1
GDP (off)	1.5:1

Fig. 1: Mainland China and Taiwan in Comparison

The EU has rather easily dealt with this issue of proportionality through its voting procedures, the calculation of the budgetary contribution by the various members, and the allocation of seats to the European Parliament. Currently, the ratio of Germany to Malta is nearly 20:1. However, the situation for China and Taiwan is more complex, and different quotas may upset the delicate balance of power.

The language problem

Some EU plans have faltered due to the issue of language, and disrespect for national languages has turned out to be very a sensitive and also costly issue. The EU has chosen to arrange for minority languages to be accommodated, despite the delays and costs involved. This has led to the revitalisation of languages that were looked upon more as local, such as Gaelic, Catalan, and Galician.

For China and Taiwan, problems of this sort would be the use of traditional and simplified characters; respect for differences in pagination and printing in horizontal lines or vertical columns; and respect for different systems for marking years (Republic of China Year 96 versus 2007 C.E.). There would also be a problem if Taiwanese participants at joint meetings requested the right to speak Minnanhua, which is derived from Fujian province, since China would not allow delegates from this province to use this language.

The democracy problem

How can co-operation be secured between a democracy and a dictatorship? The EU has not even broached this issue, but in Europe the problem is much discussed in UNECE (United Nations Economic Commission for Europe) and OSCE (Organisation for Security and Co-operation in Europe). In intergovernmental discussions, each government presents one position. However, this is very different from what goes on in parliaments, and in a China-Taiwan parliament there would be a danger of a split along PRC and Taiwan lines. It would therefore be difficult to give a mixed parliament a decision-making role.

A consensus-based parliament was once tried in Europe, in the form of the Polish Sejm's *liberum veto* from early in the sixteenth century to 1791. The European Parliament started off as a consultative organ with indirectly-elected members. In 1973 it was decided to increase the power of the Parliament, and to allow for direct elections from 1979. It would not seem too difficult to introduce a similar indirectly-elected consultative organ between China and Taiwan, provided that the setting is right.

The ceding of sovereignty problem

The European experience in ceding sovereignty has been generally unproblematic, although there are several well-known setbacks: the French 'empty chair', the Danish 'No' to the Maastricht treaty, and the British 'opt-out' from several policy areas. There are certain areas where one cannot opt out, and common symbols such as a motto, anthem, flag, and nation-like titles are therefore controversial. EU member states understand that a chain is only as strong as its weakest link, and at the recent European Council meeting in June 2007 it was agreed to scale down a number of federal symbols.

From a Chinese perspective cooperation between small and large, or strong and weak, countries is based on a concept other than that found in Europe. In Europe the Peace of Westphalia (1648) established the principle that all countries are equal, regardless of size or power. In contrast, in the Chinese perspective power relations determine if one country is stronger than another and the weaker ones are forced into some kind of system of tribute. If they accept, such as in the case of Hong Kong, they will be a part of China while keeping some kind of self-rule. This is obviously an elastic system which could be applied to Taiwan with a degree of self-rule that corresponds to the power relation at the time the agreement is made. Taiwanese politicians, however, find this unacceptable. Would China be ready to look at an alternative?

Cooperation between China and Taiwan has to confront the basic reality that China would be positive if Taiwan were to accept a higher union which would include 'China' as part of its name. However, whichever candidate wins the 2008 Taiwan presidential elections, this would mean agreeing to enter into a union which would reduce Taiwan's own external relations. Learning from the EU shows that this is possible, provided one avoids the traps along the way.

Possible proposals for an EU-like set-up

European integration started with the Schumann declaration on 9 May 1950 and the subsequent signing in 1951 of the Paris Treaty, which set up the European Coal and Steel Community (ECSS) and which lasted until 2002. This community consisted of four entities: the High Authority, which acted independently from member states and was guided by the treaty; the Council of Ministers, which had to approve decisions that required the consent of all member states; the Parliamentary Assembly, a consultative body from the beginning but given the right to audit; and the Court, which consisted of judges from all member states and which interpreted the treaty. No appeal could be made from the Court's rulings. In some ways all of these are necessary, but this model could also be modified.

Possible subjects of competence for the high authority

To save the most difficult question for the end – which areas could both China and Taiwan find suitable for relinquishing national sovereignty? Both countries are hyper-sensitive about maintaining a robust national sovereignty, but they are also aware of the merits of international cooperation and confidence-building measures. Let us imagine a possible internal debate that would give a window of opportunity:

- In China there is a growing worry that Taiwan will slowly slip away and not be willing to forge links with China, instead strengthening ties with the US and Japan. Some compromise should be made to bring Taiwan back to the motherland.
- In Taiwan, there is a growing pessimism over the possibility of being recognised by the international community as a sovereign state. The idea of creating a superstructure with China could be seen as a way of safeguarding national sovereignty, even for those who see sovereignty as the most important goal.

However, the area of jurisdiction for the new authority has to be carefully chosen. In the European case it was coal and steel production, which was seen as the basis for the arms industry – something that if not controlled could start a new war. In the Chinese-Taiwanese context what is needed is an area of joint concern, avoiding contentious issues with nationalistic overtones such as sports, or areas with possible military overtones such as space research. Issues such as disease control have a common aspect, but one that is too limited. Issues of history, culture and education are also best avoided, as these may inflame patriotic feeling. It could, however, be argued that this is exactly what the two sides have in common, and it would, for example, be very useful if both sides could agree on a formula for the Romanisation of the Chinese language. However, the European experience is that these areas should be avoided and the treaty explicitly forbids harmonisation in the cultural area. One should also avoid issues relevant to other areas, such as Xinjiang and Tibet, as this would make the whole exercise problematic from a Chinese perspective. The solution under discussion should not undermine Chinese authority over the mainland.

I give two examples that I deem could be feasible.

The high authority for fishing control

The only thing that today is common to China and Taiwan is the sea between them. In these waters thousands of fishing vessels are plying the waves with little care for overfishing or pollution. Considerable smuggling activity is also known, due to the different tariffs that buying countries apply. A set of quotas and rules on driftnet fishing is probably necessary to preserve the maritime environment. There will be hard bargaining over quotas and the traditional rights of fishermen. Little

damage could be done if these rulings were made by a separate authority, whose objective is to take a long-term view and apply rules in a more efficient manner

The high authority for electricity trade

In Europe underwater cables supply electricity between neighboring countries such as Sweden and Poland, Finland and Estonia, Norway and the Netherlands, and Italy and Greece, just to mention a few. The cost of an underwater cable is low in comparison to the gains in supplying electricity from the surplus side to the side that has a shortage. The pay-back for the investment in these cases has so far not taken more than three years, and so as well as being a powerful tool for confidence-building it would also be a profitable project. There could, however, be a neutral body tasked with ensuring that the managing body is professional and not subject to influences from either side. A large multi-national firm could possibly fill this role, but there could be some concern about its neutrality. Therefore the idea of a wholly independent body is an interesting alternative.

Could this be the beginning of something that could evolve and one day be an EU-like supranational body? Nobody can tell, but the experience of the Brussels bicycle is that once you have started on it, it is easier to continue than to stop and fall off.

The road forward

In the European process one can distinguish a number of significant steps that started the new process and thereby promoted new thinking. The Messina Conference of 1956 can be said to have been the midwife of the Treaty of Rome, and the 2001 Laeken Declaration which founded a Convention to study the future of the EU was particularly important; not for the result of its deliberations, but because the way it thrashed through the various issues provided many lessons and showed which options were unfeasible. One result is that there is no chance/risk of a federal Europe; that debate is over.

What China and Taiwan seem unable to do is to take the first step to open up a debate. Scholars in both countries are respectful of their governments and not prone to launch new proposals on their own. NGOs in both countries are weak and have few channels to the government. Cooperation between parliaments is next to non-existent. Who dares to let the genie out of the bottle?