

**Dr. Roger C.S. Lin, et al.,**  
**Petitioners,**  
**v.**  
**United States of America,**  
**Respondent.**

**AFFIDAVIT OF FORMER PRESIDENT OF REPUBLIC OF CHINA  
CHEN SHUI-BIAN IN SUPPORT OF PETITION FOR A  
WRIT OF CERTIORARI**

Chen Shui-bian under penalty of perjury pursuant to 28 United States Code Section 1746, declares that the following is true and correct:

1. I am not a party to this action and am over 18 years of age.
2. I make this affidavit based upon my personal knowledge and understanding of the matters set forth below in this affidavit.
3. I served as President of the Republic of China on Taiwan from May 20, 2000, to May 20, 2008. According to my understanding of the historical and legal record, after the tumultuous events of 1949, and the founding of the People's Republic of China (PRC) on Oct. 1, 1949, in Beijing, many government officials, military officers, etc. of the Republic of China (ROC) fled into exile on occupied Taiwan. The first President of the government in exile ROC on Taiwan was Chiang Kai-shek.
4. Background to the Nationality Issues discussed herein: The ROC Nationality Law was originally promulgated in February 1929, when Taiwan was a part of Japan. Neither this law nor any other ROC law has ever been updated or promulgated to provide a legal basis for the mass naturalization of native Taiwanese persons as ROC citizens in the months following Japanese surrender ceremonies in Taipei, held Oct. 25, 1945, on which date the ROC government officials announced "Taiwan Retrocession Day" in violation of the customary laws of warfare.
5. Article 26 of the San Francisco Peace Treaty (SFPT) serves to authorize the drafting of a peace treaty between the ROC and Japan. Article 10 of the Sino-Japanese Peace Treaty (Treaty of Taipei) of August 5, 1952 specifies: "For the purposes of the

  
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present Treaty, nationals of the Republic of China shall be deemed to include all the inhabitants and former inhabitants of Taiwan (Formosa) and Penghu (the Pescadores) and their descendents who are of the Chinese nationality in accordance with the laws and regulations which have been or may hereafter be enforced by the Republic of China in Taiwan (Formosa) and Penghu (the Pescadores)...."

6. According to my knowledge, based on the facts outlined above, the conditions of Article 10 of the Sino-Japanese Peace Treaty in regard to "in accordance with the laws and regulations which have been or may hereafter be enforced by the Republic of China in Taiwan...." have yet to be fulfilled.

7. Furthermore, there is no basis under the SFPT, the Taiwan Relations Act (TRA), or any Executive Orders issued by the US Commander in Chief consider native Taiwanese persons as "ROC citizens," or for the ROC Ministry of Foreign Affairs to issue ROC passports to native Taiwanese persons. The false claims of "citizenship of the Republic of China" for native Taiwanese persons holding ROC passports should render those passports illegal under US law.

8. During the period of my Presidency, and according to the TRA, it was my understanding that the United States government only considered me as the head of the "Taiwan governing authorities," and did not recognize Taiwan or the ROC as sovereign states. According to the SFPT of 1952, the United States is the principal occupying power of Taiwan, and to my knowledge there has been no change in this status to date. Based on this rationale, during my term of office, I accepted the instructions of the Chairmen of the American Institute in Taiwan on many occasions, even when their instructions interfered with my Presidential decision making.

9. The District Court affirmed that native Taiwanese people have been essentially stateless for over sixty years. The Court of Appeals agreed with this analysis. The present case seeks to clarify and safeguard the civil rights of the native Taiwanese people, with particular reference to the specifications of the SFPT, which under US law is part of the "supreme law of the land." According to my own personal knowledge and the opinions of my advisors, no US Court has ever held that determination of nationality for a natural person is a political question for which the US Supreme Court is constitutionally incompetent to engage in a judicial examination.

10. International law states that "The dignity of man inviolable. To respect and


protect it is the duty of all state authority.” The current policies which coerce native Taiwanese persons to hold ROC passports are serious violations of their dignity.

11. A nationality determination for native Taiwanese persons is a legal issue, and not a political issue. According to the customary laws of warfare, the SFPT, and the historical record, etc. the United States Military Government (USMG) administrative authority over Taiwan still active in the present day, hence it follows that native Taiwanese persons are being denied their rights under the US Constitution.

12. In regard to the present case of Dr. Roger C.S. Lin, et al., v. United States of America, I would be happy to appear in person before the assembled Justices of the US Supreme Court to make further clarifications on the true relationship between the people of Taiwan (not the “exiled Chinese” on Taiwan) and the United States, and the rights of the native Taiwanese people to hold some form of US-issued travel documents.

For the above reasons, I support the Petition for a Writ of Certiorari.

FURTHER AFFIANT SAYETH NOT.



Chen Shui-bian

Former President of the ROC government in exile

Date: August , 2009