That series of lectures about WWII in the Pacific was certainly interesting. I am glad that we had the opportunity to attend.

The professor said that to understand Taiwan, there were three key items, or three key concepts.

The first one was something about the end of the war.

So, for Taiwan, that would be the San Francisco Peace Treaty of 1952.

And I seem to recall that the other item involves the peace treaty.

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The professor said that from these simple facts, we can derive all relevant information about Taiwan’s true legal situation. But I forget how it is done.

So, October 25, 1945, was not Taiwan Retrocession Day. It was only the beginning of the military occupation.

In other words, the legal ownership of Taiwan territory stayed with Japan until the peace treaty came into force.

The professor also mentioned that her research had confirmed that 98% or more of military attacks against Taiwan in the WWII period were made by US military forces.

This means that at the most basic level, Taiwan today is still under a legal condition of military occupation by the USA.

But some of my co-workers in Taiwan told me that some recent TV reports have advanced the theory that Taiwan “belongs” to the 48 signatories of the San Francisco Peace Treaty. She sent me a film clip, here it is.

I hate it when these TV announcers report on historical issues from an incorrect perspective.

How does all of this relate to the DISPLACEMENT ANALYSIS which the professor introduced?

Sovereignty. That is a topic that confuses many people.

The professor explained this by showing the video, right?

So, let’s go back to the beginning. I remember that as a result of the First Sino-Japanese War, Taiwan was ceded to Japan in the mid-1890s.

Qing China has a sovereignty displacement OUT. Taiwan was ceded to Japan, so for Japan there is a sovereignty displacement IN.

 The professor said that the United States confirmed the validity of the 1895 treaty in 1922.

The definition of “insular” is -- (a) of or relating to an island or islands, 　(b) dwelling or situated on an island.

What is the interpretation of that?

Yes, I remember. The United States exercises such a “control” component as the legal occupier.

The professor said the sovereignty has been displaced because the original Japanese government of Taiwan is put in a position where it can no longer function.

But unfortunately, most people don’t see the United States exercising control over Taiwan. This is because the United States has delegated the military occupation of Taiwan to the Chinese nationalists under Chiang Kai-shek. The United States, as the legal occupier, has allowed the Chinese nationalists to continue exercising authority over Taiwan territory after the surrender ceremonies of Oct. 25, 1945.

However, the ensuing military occupation is conducted on behalf of the legal occupier, which is the USA.

This is the fourth displacement of sovereignty.

So, what are we left with?

And I believe that delegation of authority to administer Taiwan territory was originally specified in General Order No. 1 of Sept. 2, 1945.

So, this is the situation. For Taiwan, there have been four displacements of sovereignty from 1895 to the present. Let’s show the video now.

The professor said that this analysis corresponds exactly with all current US government pronouncements on Taiwan.

With all of this information and analysis, it should mean that Taiwan’s legal status is now already fully determined.

Oh, right. That is the conclusion we reach by examining other situations of territorial cessions over the last 200 years.

In other words, Taiwan remains under a legal condition of military occupation. According to the customary laws of warfare the United States of America is the legal occupier. A close reading of the San Francisco Peace Treaty also confirms this.

The professor also stressed another point. She said that after examination of the Taiwan Relations Act, Three Joint PRC-USA Communiques, the One China Policy, US Executive Orders on Taiwan, the San Francisco Peace Treaty, the International Declaration of Human Rights, and the rules/codifications promulgated by the International Standards Organization, it can be confirmed that –

None of these legal sources contain any clauses or content which can be interpreted to provide a legal basis for the establishment of a Republic of China government structure on Taiwanese soil, or the issuance of “Republic of China” passports to the inhabitants of Taiwan.

Well, in Taiwan every level of the education system teaches us that Taiwan is an independent sovereign country, and its current name is Republic of China.

The four factors for becoming a nation are (a) permanent population; (b) a defined territory; (c) government; and (d) the capacity to enter into relations with the other states.

This is what we are told by government officials in Taiwan. However, in recent years I have heard many legal researchers making the claim that the Republic of China does not own the title to Taiwan territory. Therefore they say that the ROC on Taiwan does not have sovereignty.

New legal research suggests that under international law such an “interpretation” of the events of October 25, 1945, is impossible.

Because from the end of the Napoleonic period up to today, there are no examples where the international community has agreed that the surrender ceremonies indicate a transfer of territorial sovereignty.

It means that there was no “Taiwan Retrocession Day.” October 25, 1945, was merely the beginning of the military occupation of Taiwan, and “Military occupation does not transfer sovereignty.”

Today, many people argue that there never was any transfer of sovereignty. Then they claim that based on this, it is perfectly reasonable that the ROC on Taiwan is not regarded as an independent sovereign nation.

This goes back to the mass naturalization of local Taiwan people as ROC citizens on January 12, 1946. But, under international law, the mass naturalization of local persons in occupied territory is a war crime.

War crimes are defined as “serious violations of the laws and customs applicable in international armed conflict.”

Yes. Those laws are commonly called the “laws of war” or the “customary laws of warfare.”

Yes, unfortunately, most legal scholars in Taiwan are also unaware of the full scope of such laws. Importantly however, these laws have been in existence for hundreds of years.

Well, there is another point which is significant. As I said, Oct. 25, 1945, was only the beginning of the military occupation of Taiwan. In fact, Taiwan was sovereign Japanese territory until the post-war peace treaty came into effect on April 28, 1952.

Yes, and this means that when the ROC moved its central government to occupied Taiwan in December 1949, it was moving outside of China’s national territory.

Yes, it is called a government in exile. But by definition, it does not have sovereignty over its current location of residence.

Yes, that is one way to put it. In summary, to people who don’t research very deeply, the ROC on Taiwan appears to meet the four necessary criteria for statehood. In fact, when we examine all of these criteria more closely, we quickly find that there are many problems.

There are many videos about Taiwan history and legal issues on the internet now. You should tell your friends to watch all these videos.

Well, I remember that we went to a series of lectures about WWII in the Pacific where that was discussed. Do you recall what the professor said?

The professor said there are three things to remember.

So, for Taiwan, that is the 1952 San Francisco Peace Treaty.

And the other item comes back to the peace treaty.

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So, from these simple facts, we can derive the facts about Taiwan’s true legal situation. Then we can easily determine if both sides of the Taiwan Strait are part of “One China”.

So, October 25, 1945, was not Taiwan Retrocession Day. It was only the beginning of the military occupation. Taiwan has certainly not become part of China on this date.

In other words, the legal ownership of Taiwan territory stayed with Japan until the peace treaty came into force. So, in 1949, Taiwan was not a part of China either.

Over 98% of military attacks against Taiwan in the WWII period were made by US military forces.

So today, at the most basic level, Taiwan is still under a legal condition of military occupation by the USA.

The often heard statement that the legal status of Taiwan is undetermined simply means that Taiwan is still occupied territory. It has not reached a “final political status.”

Well, the Chinese like to spread disinformation about the Oct. 25, 1945 surrender ceremonies, saying that there was an immediate transfer of Taiwan’s territorial sovereignty to China. However, under the laws of war, or what are called the “customary laws of warfare,” such an interpretation is impossible. But anyway, based on this disinformation about Oct. 25, 1945, they then advance the statement that the two sides split amid civil war in 1949.

That is my understanding as well.

No. The United States only “acknowledges” the Chinese view. That means that based on the Chinese disinformation regarding Oct. 25, 1945, and other disinformation about other historical events as well of course, the Chinese have made a claim that Taiwan belongs to China.

That means that “This is what you said, and we heard it. However, this is not ***our*** position.”

No. Absolutely not.

Well, on December 8, 1941, President Roosevelt declared war on Japan. The next day Chiang Kai-shek of the Republic of China declared war on Japan. From that time up until the present, we find no date where Taiwan’s territorial sovereignty has been transferred to China.

We have to recognize that the October 25, 1945, surrender ceremonies in Taiwan marked the beginning of the military occupation. The position of the Republic of China officials in Taiwan is as we have just stated.

There has been no change in these statuses up to the present day.

At the present time, Taiwan is self-governing, although it is using the Constitution of a government in exile. This is a very strange situation. On the other side of the Strait, the People’s Republic of China exercises sovereignty over Mainland China. So, if anyone wants to ask whether both sides of the Taiwan Strait belong to “One China,” the answer is No.

Again, the answer is No. The world community will never recognize a government in exile as the “legitimate government” of its current locality of residence.

Simply stated, in order to find a solution to Taiwan’s legal problems, it will be necessary to coordinate with US Executive Branch officials in Washington D.C.

Well, I think you should know the answer, but let’s leave that issue for some other time.