We must seriously recommend that all persons interested in talking about Taiwan’s legal status first spend some time researching military law and the laws of war of the post-Napoleonic period.

It is convenient to answer this question by saying that occupied territory **has not** reached a final political status. Therefore we may postulate that military occupation is a period of “interim status.”

We can answer this straightforwardly. By moving its central government outside of Chinese national territory in December 1949, the Republic of China was, for all intensive purposes, fleeing into exile.

 . . . technical sovereignty over Formosa and the Pescadores has never been settled. That is because the Japanese Peace Treaty merely involves a renunciation by Japan of its right and title to these islands. But the future title is not determined by the Japanese Peace Treaty nor is it determined by the Peace Treaty which was concluded between the Republic of China and Japan.

Military occupation is conducted under **military government**. Hence, if Taiwan is occupied territory, we would expect to find some specifications about “military government” in the San Francisco Peace Treaty.

Under relevant US Supreme Court precedent, Taiwan may be aptly described as “foreign territory under the dominion of the United States.” Accordingly, it falls under the “common defense” clause of the US Constitution.

Hence, the promulgation of the ROC Constitution in occupied Taiwan in 1947 is entirely illegal.

"The territory of the Republic of China within its existing national boundaries shall not be altered except by a resolution of the National Assembly."

In practice this just means that under the authority of the illegitimate ROC Constitution they are being given the right to vote and to elect their ***quote unquote*** representatives to various levels of local councils, to the legislature, presidency, etc.

Announced annexation of the territory

Mass naturalization of the local populace

Enforcement of military conscription policies over the local populace

Promulgation of a new legal structure

However, Taiwan in 1945 was quite different. The population of Taiwan at that time was over six million, and it was certainly not terra nullius.

Actions such as the mass naturalization of the local populace, the promulgation of a new constitution as the basis for an entirely new legal code, the implementation of military conscription policies, etc. are all forbidden in occupied territory.

However, none of these advertisements or announcements has ever had the slightest effect. We are forced to conclude that in relation to Taiwan, declarations of this type have no practical significance.

The vast majority of Taiwan independence advocates are unable to answer this question.

Clearly, the United States Dept. of Defense **would not** be violating the terms of the TRA if it assumed full responsibility for the “national defense” needs of Taiwan.

Based on the above, we are hard pressed to find any legal rationale to justify the existence of a military establishment on Taiwan organized under the authority of a “Republic of China” Constitution, and which requires all personnel to swear allegiance to the Republic of China.

A thorough examination of the post-war peace treaty fails to find any clauses which can be interpreted to authorize the existence of a Republic of China government structure on Taiwanese soil, or the functioning of a Ministry of National Defense under the authority of a so-called “Republic of China Constitution.”

To put this in historical perspective, it cannot be repeated often enough that at the most basic level, Taiwan is territory conquered by the United States which has not yet reached a “final political status.”