Taiwan Perspectives (1): Lessons about Sovereignty

What is sovereignty? Many scholars would say that --

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| In essence, sovereignty is self determination or self government. Sovereignty is primary power or independent right without accountability to any other. It is autonomy or freedom from external control. When a nation talks about "sovereignty", it means its right to determine what goes on inside its borders. In other words, sovereignty involves the nation’s right to exist as a self-determining, self-governing geographic area. That includes the exercise of educational policy, tax policy, health & medical policy, energy policy, agricultural and fishery cultivation policy, water resource control, police powers, the imposition of criminal and civil penalties on all persons within its geographic boundaries, the granting of monopolies to conduct certain types of economic activity, as well as the enforcement, non-enforcement, or selective enforcement of all laws passed by its legislative body. *A “nation” which exercises the above types of authority, power, and control is generally spoken of as having sovereignty.* |

Is this a good overview and explanation of the concept of sovereignty? Many people would say so.

As a result of this type of conceptualization of sovereignty, many people then quickly agree to the reasoning that --

“Jurisdiction over territory” is directly equal to “Possession of sovereignty”.

Let’s examine this relationship in more detail. We will need to collect some evidence, and see what we can find out.

We can start with North America. With reference to a World Almanac, we quickly discover that Canada exercises jurisdiction over the province of Ontario. It is also true that Canada possesses the sovereignty of Ontario.

SCREEN: Ontario, Canada

The northernmost of the four main islands of Japan is Hokkaido, over which Japan exercises jurisdiction. After doing a thorough search of all available records in the library, there seems to be no dispute regarding the fact that Japan possesses the sovereignty of Hokkaido too.

SCREEN: Hokkaido, Japan

We can look at more countries. Let’s look at a world map and pick three representative examples: How about Tanzania in East Africa, Panama in Central America, and Vietnam in Southeast Asia.

In terms of the areas that are actually inhabited, and regardless of whether any one of these three countries divides its administrative divisions into provinces, states, territories, regions, districts, cities, autonomous zones or any combination of these, we still see the same pattern that having jurisdiction over territory directly correlates with being in possession of sovereignty over that territory.

SCREEN: “Jurisdiction over territory” AND “Possession of sovereignty” . . . . . . ?

So, . . . . . . given that we can find abundant evidence to support this reasoning, it must be true. Is that correct?

But, what about the situation of Taiwan?

SCREEN: What about Taiwan?

There is little doubt that the Republic of China exercises jurisdiction over the areas of Formosa and the Pescadores. Yet, on August 30, 2007, the Senior Director for Asian Affairs, US National Security Council, Dennis Wilder said:

"Taiwan, or the Republic of China, is not at this point a state in the international community. The position of the United States government is that the ROC -- Republic of China -- is an issue undecided, and it has been left undecided, as you know, for many, many years."

This seems to present a major contradiction.

Let’s consider another example. As of the early summer of 1990, Iraq exercised jurisdiction over its 18 provinces, and bordering countries recognized Iraq as having sovereignty over these areas.

SCREEN: As of the early summer of 1990, Iraq had 18 provinces.

However, in early August, Iraqi military troops invaded Kuwait, and the UN Security Council imposed an economic embargo on Iraq prohibiting nearly all international trade with the regime.

SCREEN: On Aug. 8, 1990, Iraq announced the annexation of Kuwait as its 19th province.

Iraq responded to the sanctions by announcing the annexation of Kuwait as the "19th Province" of Iraq on August 8. The UN Security Council passed a series of resolutions that condemned the Iraqi occupation of Kuwait and implemented total mandatory economic sanctions against Iraq.

In the view of the international community, Iraq now exercised jurisdiction over Kuwait, but not sovereignty.

SCREEN: Iraq’s jurisdiction over Kuwait is not recognized as sovereignty.

On Nov. 29, 1990, the UN Security Council adopted Resolution 678, permitting member states to use all necessary means to repel the Iraqi invasion, authorizing military action against the Iraqi forces occupying Kuwait, and demanding a complete Iraqi withdrawal by Jan. 15, 1991.

SCREEN: Nov. 29, 1990

SCREEN: Jan. 15, 1991

SCREEN: Operation Desert Storm Jan. 17, 1991

When President Saddam Hussein failed to comply with this demand, the Gulf War, commonly referred to as Operation "Desert Storm" ensued on January 17, with allied troops of 28 countries, led by the United States launching an aerial bombardment on Baghdad. The war, which proved disastrous for Iraq, lasted only six weeks.

Preliminary Summary

Returning to our original subject matter for this video, we must now clarify the following. To say that “jurisdiction over territory” is directly equal to “possession of sovereignty” is something that is true from one viewpoint. That viewpoint is the peacetime affairs of nations.

SCREEN: “Jurisdiction over territory” AND “Possession of sovereignty” . . . . . . ?

As soon as we move into situations involving war, we must understand the application of the “laws of war,” and its subset “the laws of occupation.” Unfortunately, most civilians have little knowledge of such legal topics.

SCREEN: The laws of war, and their subset – the laws of occupation

Let’s go back to WWII in the European theatre, and consider the Battle of Belgium. As of May 28, 1940, all military troops in Belgium have surrendered, and Germany has taken over the jurisdiction of the country. Our question is: Does the sovereignty of Belgium belong to Germany?

 SCREEN: Battle of Belgium

Surrender: May 28, 1940

The answer is No. The explanation is that Belgium is under military occupation by Germany.

Military occupation is a condition in which territory is under the effective control of foreign armed forces. The Hague Regulations of 1907 specify that territory is considered occupied when it is actually placed under the authority of a foreign military power.

SCREEN: Hague Regulations of 1907

We can also look at the Battle of Singapore. As of Feb. 15, 1942, all military troops in Singapore have surrendered, and Japan has taken over the jurisdiction of the island. In other words, as of this date, Singapore is under military occupation by Japan. International law specifies that “military occupation does not transfer sovereignty.”

 SCREEN: Battle of Singapore

Surrender: Feb. 15, 1942

The above situations of Kuwait, Belgium, and Singapore all illustrate situations where “exercising jurisdiction is not equal to having sovereignty.”

Going back to our original statement regarding the meaning of “sovereignty,” we now find that we need to add further clarifications.

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| In essence, sovereignty is self determination or self government. Sovereignty is primary power or independent right without accountability to any other. It is autonomy or freedom from external control. When a nation talks about "sovereignty", it means its right to determine what goes on inside its borders. In other words, sovereignty involves the nation’s right to exist as a self-determining, self-governing geographic area. That includes the exercise of educational policy, tax policy, health & medical policy, energy policy, agricultural and fishery cultivation policy, water resource control, police powers, the imposition of criminal and civil penalties on all persons within its geographic boundaries, the granting of monopolies to conduct certain types of economic activity, as well as the enforcement, non-enforcement, or selective enforcement of all laws passed by its legislative body. *A “nation” which exercises the above types of authority, power, and control is generally spoken of as having sovereignty.****Clarifications:*** (A) Sovereignty over territory belonging to one nation may be ceded (transferred) to a second nation via the terms a formal treaty. (B) International law requires that the specifications of the cession be clear and unambiguous in order for the second nation’s claims of sovereignty to be recognized as valid. .  |

This clarification also seems to require that we define, more specifically, the verb *cede*, or the noun *cession*.

At any rate, we can learn more about situations involving territorial cession and sovereignty by overviewing the Spanish American War of 1898.

Please watch Part 2 of this series.