

The Problems of Statehood of the Republic of China (Taiwan)

Abstract

This thesis deals with the question of the Republic of China on Taiwan, which has been one of the long-term key questions of international politics. This thesis is divided into three parts.

The first, historical part narrates the genesis of the question of Taiwan.

The second part is focused on analysis of relevant aspects of international public law. It deals with the concept of state. It evaluates the criteria of statehood, both the classic ones, enshrined in the Montevideo Convention, and those suggested later. It reaches a controversial conclusion that a declaration of independence is not a criterion of statehood. The part analyses the modes of recognition and its significance for the creation of statehood. It also deals with categories of entities whose statehood is problematic in one sense or another. Finally, it deals with the topics of self-determination and secession.

The third part is devoted to the statehood of recent Republic of China. It analyses that the Republic of China at Taiwan fulfils the criteria of statehood and that its existence is not a consequence of a violation of *ius cogens*. It argues that the Taiwanese can be considered a separate people. It assumes that a secession of the island would not violate the international law. It reminds of the fact that identity and continuity in the view of constitutional law are different from these concepts in the view of international law. Thus, it comes to a conclusion that the People's Republic of China is a continuator of the Chinese state of the late imperial period and then of the original Republic of China before 1949. The dispute between the governments in Beijing and Taipei was originally a question of the recognition of government, and the recognition of Mao Zedong's regime as the legitimate government of China was in accordance with the logic of international law. However, the long-term continued recognition of Chiang Kai-shek's regime in Taiwan, together with its effective rule over a not-insignificant territory, consolidated its separate statehood. Thus, China became a divided state, much like Korea. The later loss of international recognition of an already consolidated state at Taiwan did not mean its extinction. The attitude of some countries which do recognize the People's Republic of China is not always consistent in praxis with its "one China policy", and conversely, the states which do recognize the Republic of China have it already treated as a Taiwanese state. The thesis also deals with the topics of diplomatic and quasi-diplomatic

representation of the Republic of China, and finally it introduces some practical problems connected with separate existence of the recent Republic of China.

Key words:

Statehood; China; Taiwan.