LAW OF ASSEMBLY IN CHINA: THE CASE OF TAIWAN

Kam C. Wong

1. Introduction

On 11 January 1988, the Legislative Yuan of the Republic of China (ROC or Taiwan) promulgated the Law of Assembly and Procession during Mobilization to Suppress Disorder (hereinafter the ROC Assembly Law or Law of Assembly) to pave the way for the eventual democratization of Taiwan. For the first time in Taiwan’s history, the police were given detailed administrative regulations to guide their discretion in managing public demonstrations, and citizens were provided with concrete legal provisions to protect their assembly rights.

* Associate Professor, Department of Public Affairs, University of Wisconsin (Oshkosh). B.A. (Hons.), J.D. (Indiana); Diploma (N.I.T.A. – Northwestern); M.A., Ph.D. (SUNY – Albany – Criminal Justice); Vice-Chair, Hong Kong Society of Criminology; Associate Fellow, Center of Criminology, University of Hong Kong, Managing Editor, Police Practice and Research: An International Journal.


3 For police administrative regulations in the ROC, see “Jingcha Jiguan Banli Renmin Shenqing Jihua Youxing Zuoye Tao Dian” (Important Points in Handling Petition for Public Assembly and Procession by Police Agencies,” ROC Police Research I, pp. 419-420.
The promulgation of the ROC Assembly Law was a landmark event in legal as well as political terms for Taiwan. Legally, it moved Taiwan towards a stronger rule of law regime and away from whimsical party dictatorship and unaccountable police discretion. Politically, the law helped transformed the relationship between the state and the people, in limiting the state’s authority and protecting the rights of citizens in the process.

A cursory review of legal\(^4\) and Asia studies\(^5\) literature in English shows that there was not a large amount of reported research done on the subject of the ROC Assembly Law. This is rather disappointing, since notwithstanding the importance of this legislation to Taiwan’s political development, Western scholars appear to know very little about the genesis, context, content and application of the law. This is a first modest attempt to fill this literature gap.

2. Research Focus

This article examines the content of the ROC Law of Assembly as drafted and what it involves in practice. It considers in particular the constitutional mandate and legal limitations on the exercise of the right of assembly: e.g. the role and function of the police, as well as the rights and obligations of protesters. This article will finally seek to understand the ROC Law of Assembly in its broader historical and political contexts,\(^6\) concluding with an investigation into how ROC, a closed society and authoritarian state,

---

\(^4\) A key word search on Lexis-Nexis (Taiwan demonstration, Taiwan Constitution, Chinese Law, Chinese Constitution, Law of Assembly) uncovered no law journal articles on the ROC Assembly Law.

\(^5\) A key word search political science and political science electronic data based (JSTOR Political Science Journals) with the key word of Taiwan uncovered no article on the Assembly Law. A few articles mentioned the legislation in passing, mostly in the context of ROC political developments, such as the movement towards democratization under President Chiang Ching-kuo.

\(^6\) Author (Edited), “Presidential address.” In Policing in the 21st Century (Proceedings) (Hong Kong: AAPS, 2002). (Asian police studies have been dominated by Western perspectives and literature. Improvement can be achieved by promoting research with local content and in local context). Linda Hantrais, “Comparative Research Methods,” Social Research Update, Issue 13, Summer 1995, Department of Sociology, University of Surrey, (Comparative study is about contextualization of social phenomenon to promote deeper understanding of society, their structure, process and institutions. It moves away from universal description and “culture free” approaches in social science research to seek to “to identify the specificity of social forms and institutional structures in different societies and to look for explanations”). http://www.soc.surrey.ac.uk/sru/SRU13.html