

Taiwan's Security Calculus of Cross-Strait Migration⁺

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Abstract

Migration across the Taiwan Strait is relatively insignificant by its scale but it is indeed indisputably politically sensitive. Given the long-term political separation and military rivalry across the Taiwan Strait in the past six decades while both sides of the Taiwan Strait nevertheless intensively engaged each other economically, commercially and culturally, a social trend of cross-Strait migration inevitably results. There are various interpretations on such a demographic development which has raised security concerns, which are in turn creating a biased judiciary arrangement on the migration activities. What are the factors behind the security calculus of cross-Strait migration? How can the security calculus justify its arguments and subsequently maintain unequal treatments with respect to cross-Strait immigrants? Are the rationales for maintaining a tight grip on cross-Strait migration in line with the political ideal proclaimed by the political factions in Taiwan still sensible? What is the potential for the trend of cross-Strait migration affecting the security calculus in the future? On the other hand, for the

migration from Taiwan to Mainland China, how influential can it be on the security decision-making process of the Beijing leadership? Is there any impact possibly caused by cross-Strait migration – and is it essentially overstated? Or alternatively, is the overstated influence potentially caused by cross-Strait migration an intentionally staged political myth? What are the substantial impacts actually ever achieved by cross-Strait migration on the security dimension? What is the self-fulfilled conviction of cross-Strait migration? For all the inquiries noted above, the author of this paper would like to scrutinize the truth and separate it from numerous myths ever advocated by the different factions in Taiwan politics. A sound and neutral judgment to tell the exact influences likely enacted by cross-Strait migration would ensure no misunderstanding and neither the intentional tarnish will serve as a good basis for cross-Strait policy formulation.

Keywords: *security, migration, Taiwan Strait, China*

JEL classification: *F22, F52, F59, K10*

1. Introduction

This research paper will start with reviewing the definition of security as the basis for further discussions. An attempt to develop a generalized definition for the multiple-facet concept of security will be presented in this paper. Based on the definition of security, the author will subsequently propose criteria or approaches for developing factors suitably reflecting the security calculus on specific issues.

As for cross-Strait migration, the author would like to suggest that all the judiciary arrangements such as laws, regulations, rules and administrative codes to either promote or restrict cross-Strait migration

will be exactly turning to be factors within the security calculus. The reason why the judiciary arrangements can be recognized as the factors of the security calculus will be explicated. The causation relationship between the security factors and these judiciary decrees regarding cross-Strait migration will also be elucidated.

To illustrate a comprehensive picture for the security calculus of cross-Strait migration, it is essential to examine how the public concern delivered via various channels may eventually convert into these formal legal mechanisms that govern the treatment of the emigrants and immigrants across the Taiwan Strait on the Taiwan side. How these judiciary arrangements can be modified according to the substantial demands reflecting the dynamic cross-Strait relationship is the essential element to acquire better understandings of Taiwan's cross-Strait migration security calculus.

All factors of the basic legal mechanism in Taiwan associated with migration activities noted above will be examined in order to appropriately apprehend the security concerns and legal restraints on the migration tendencies Taiwan ever established on both directions. Features extended from the legal mechanisms which may indicate the security calculus will be noted in this paper. The potential for the trend of cross-Strait migration affecting security calculus in the future will be estimated as the conclusion of this paper.

2. Definition of Security

There are various approaches to define national security. Sometimes, academic debates on this matter may still occur. Nevertheless, many may only argue from specific angles but miss the comprehensive picture. The concept of national security is literally linked with many kinds of national interests. To define the national security, or even only the

concept of security itself, should inevitably adopt the multiple-facet characteristic of the national security issues as the basis so that we may appropriately propose a basic definition of security suitably which fits into various aspects.

The multiple-facet characteristic of national security essentially originates from the historical experiences. Given the solid evidences shown by the history of the struggles in the human society, many measures are always adopted in order to defeat the adversaries. These measures may include diplomacy, economic embargo, propaganda, cultural assimilation and of course the military war-fighting. It is very reasonable to expect that struggles among the modern states will certainly extend to different components of the society.

Further, after the Industrial Revolution, economic production relies entirely on the division of labor. Social organizations and ideologies turn out to be much more plural. Interactions and integration of citizens in the same society become more intensive and tight. Failure of operation ever occurs in any segment of the society may lead to an overall disorder of the whole society or an imbalance of national governance. We therefore need to assure that none of the dimensions in the society can be utilized by our adversaries to take as leverage to acquire the overall success in the struggle.

This fact has been fully recognized by strategists for a long time.¹ As advocated by Erich Friedrich Wilhelm Ludendorff in his masterpiece of *Der Totale Krieg*, “the entire physical and moral forces of the nation should be mobilized”,² the multiple-facet nature of the national security concept is justified indirectly. Likewise, the originator of the term “Total Strategy”,³ French General André Beaufre also emphasized elements other than the military in the security and strategic formulas. The scope of the strategic thinking should extend to all different aspects associated with national powers. The soft power argued by Joseph Nye and the so-

called “unrestricted warfare” initiated by two People’s Liberation Army officers may also indicate the multiple-facet nature of the national security concept from different angles.

There are various aspects contained by the scope of the national interests and all these aspects are virtually intertwined. As already noted, should failure occur in any segment, it may lead to a total breakdown. It therefore will not allow any element to be left behind by negligence. On the other hand, to guarantee the maximum leverages of national powers, it is essential to keep the best coordination among all these national powers in various dimensions. National security is fundamentally a multiple-variable equation. The best solution and the perfect result can only be acquired after calculating or assessing all the factors related and really mattered.

We also need to note here that the perception of national security is literally quite diversified. Generally speaking, the military security or defense security is the most frequently recognized item. Security in diplomacy and external politics is another item not hard to be apprehended. Security issues in economic activities, financial exchange and monetary or finance are directly linked with the welfare of the general public, and ordinary citizens may have a certain level of sensitivity toward this aspect. Nevertheless, the security awareness regarding transnational crimes, pollution and epidemics possibly affecting the environmental security, social security or the security of public sanitation may turn out to be rather diversified into various degrees in people’s perceptions.

Moreover, whether the impacts on the traditional culture or value framework caused by mass media, network, publications or cultural exchange activities can be defined as a kind of threat toward the culture security is literally a matter of judgment since this argument cannot easily forge the social consensus. It therefore needs to specify the base

tone or main theme of these events before actually label their categories. This is exactly the reason why some French people treat the speed food culture such as McDonalds as a threat to their traditional culture and certain political or religious leaders always view the value frameworks accompanied with Western commercial practices with suspicions and keep high alertness. Yet, based on the same reason, such secular mentalities may not be necessarily to gain the universal recognition successfully.

Given that the essence of security is fundamentally multiple-faceted and its contents are also primarily sophisticated, whether we may establish a general and conceptual definition for security that is suitable for various aspects but with no controversy or without missing any element in the coverage of such a definition can really be a challenge. As what we have presented above, it is quite hard to judge the real significance of a national security issue simply by the citizens' general perceptions. In many cases, these perceptions will fall into the trap of plausible speculations thus mislead the direction of efforts for managing the national security threats. Hence, we need to consider the definition from the fundamental functions of the governments that are in charge of the national security policies.

As the governments safeguarding the national security, there are two segments as the major missions and functions: policy formulation and policy implementation. As such, we therefore propose the definition of security as the following: "freedom of choice in formulating policies; freedom of action in implementing policies" or "freedom of choice in policy formulation; freedom of action in policy implementation". From this basic definition extending to specific aspects, it can be modified with more flexibility that is suitable to be the definition of "OOOOO security" as: "freedom of choice in formulating OOOOO policies; freedom of action in implementing OOOOO policies" or "freedom of

choice in policy formulation of OOOOO affairs; freedom of action in policy implementation of OOOOO affairs".⁴

With this standard formation of the security definition, OOOOO can be replaced with wordings representing various aspects existing in the scope of security concerns such as the military, diplomacy, economic, finance, social, public sanitation, environment or even culture. After filling OOOOO with different terms noted above, we may conclude that defining the security concept on specific aspect can be very comprehensive and flexible. This formation is essentially suitable to fit with various topics existing within the scope of national security.

The reason why the author would like to propose a generalized definition for security and by adding terms in the definition which may meanwhile satisfy the implications of security concerns on specific aspects is literally preparing the basis for further examining the factors reflecting security calculus in the following paragraphs. The general definition structure may retain its flexibility as it may need to cope with various dimensions of security concerns in the modern states.

3. Factors Reflecting Security Calculus

As noted above, the security concerns of any individual state may actually influence its policy formulation and policy implementation process. As deciding the national policies, states are confined by their resources available and national powers in various dimensions. They need either to adjust their aims or to acquire more resources. To match their power with their goals, states may adopt strategies to enhance their position through alliance, coalition or trade-off with other powers.

How can we identify factors actually affecting the security calculus of a state? For any state to take effective administrative measures to cope with those security concerns, the legal bases for these measures are

always needed. After all, it is the essence of the rule of law concept for all democratic states. Even for those states that might not be necessarily fully democratic and practicing the ideal of the rule of law, certain judiciary foundation for taking substantial actions will still be needed.

Indeed, many elements within the societies may reflect the security concerns. Public opinions are vital vehicle to express the security concern. Nevertheless, public opinions can also be misleading. Some widely known perspectives might not be fair statements. Some arguments may not be truthful. Most importantly, to identify the effective factors within the security formulas should be in line with the expectations of the general public. We therefore need to find a neutral and fair yardstick to verify these elements.

Based on an assumption that should these security concerns are influential enough then they ought to be the suitable driving force to establish judiciary arrangements for directing subsequent administrative measures needed. Elements representing security concerns can be various. Nevertheless, if these elements really matter, they will eventually turn into proper judiciary arrangements in order to attain as the legal basis for subsequent and substantial actions to tackle security challenges. We therefore conclude that we need to examine judiciary arrangements associated with certain aspects in order to identify whether these security concerns had ever successfully turned into legal bases for further actions. As long as the security concerns can be converted into contents noted in judiciary decrees, or even other forms of code and order, they are inevitably accepted as the factors of the security calculus.

The author would like to further emphasize that the driving force for a legislative action are either from the public pressure or the requirement submitted by the governmental agencies, or both. Comparing with these two sources, the public pressure is driven by general perception but the requests from the administrative branches will be relatively substantial.

Governments may initially manage the security threats by contingency measures, should no judiciary basis may be suitably there to cope with these newly appeared threats. Nevertheless, an initiative will be soon taken to establish appropriate legal ground, in another word, decrees or codes, to deal with these latest security issues. This is exactly the reason why the judiciary decrees can be the best reference to reflect the significance of the security concern.

It is essential to note here that some security concerns may attract public attentions but may be factually less influential. Impacts of certain high-profile features or events can be overstated. The process for establishing judiciary arrangements are actually reflecting the substantial necessities of taking proper measures to cope with specific security concerns. Regardless of the general perceptions of issues associated with the security matters, the judicial arrangements are specifically addressed on issues actually matter, not issues most popular or well known. To avoid misperceiving factors not really existed in the security calculus, adopting contents clearly noted in the judiciary arrangements may fairly identify factors in the security calculus.

On the other hand, we also need to observe whether the space of policy formulation is confined by the judiciary arrangements as noted above. All the executive decisions reflecting present policies need to follow the framework set by the relevant laws. The actual administrative practice of policy formulation, the freedom of choice is inevitably regulated by these associated laws and regulations. Likewise, the freedom of action in the process of policy implementation is also restricted by the legal decrees. It is clearly to see that the judiciary arrangements may suitably reflect the security factors since it affects the freedom of choice in policy formulation and freedom of action in policy implementation.

4. Judiciary Terms Affecting Cross-Strait Migration

The judiciary decree most significantly affecting all activities across the Taiwan Strait should be “Act Governing Relations between the People of the Taiwan Area and the Mainland Area”, which will be addressed as “the Act” in the following text of this paper. Principally, it is the basic law to regulate the interactions across the Taiwan Strait. Before analyzing the terms set by this act deciding cross-Strait migration, several features of this act itself should be noted here.

First, the basic assumption of this judiciary arrangement is setting the terms for “the security and public welfare in the Taiwan Area, regulating dealings between the peoples of the Taiwan Area and the Mainland Area, and handling legal matters arising there from before national unification”⁵ in Article 1 of the Act. It is obvious that this judiciary mechanism does not intend to establish a permanent legal structure since it has explicitly noted with the phrase of “before national unification”. It is fundamentally a provisional judiciary mechanism to regulate cross-Strait interactions before any long-term arrangement can be settled.

Second, it has been revised for many times, thus it can be proven as an indisputably dynamic judiciary mechanism matching with the realities of cross-Strait relations.

Third, this act has set certain terms which may not be consistent with the Constitution of the Republic of China. Although it is clearly addressed by Article 10 of the ROC Constitution that “The people shall have freedom of residence and of change of residence”⁶, yet this constitutional right has still been substantially negated by this act. However, the legitimacy of doing so is still justifiable. The legality of declining the constitutional right will be discussed in the following paragraph of this paper.

Fourth, in theory, the identity of “peoples of the Mainland Area” and the applicability of this judiciary mechanism will not be altered by their actual residences since it is noted by Article 3 of the Act that “The provisions of this Act pertaining to the people of the Mainland Area shall likewise apply to the people of the Mainland Area who reside outside the Mainland Area”. Last but not the least, although Hong Kong and Macao now in theory should a part of the territory under the authority of the Beijing regime, yet, the legal mechanism for managing the interactions between Taipei and these two areas are different from the judiciary arrangements mentioned above since there is another act called “Act Governing Relations with Hong Kong and Macau” to serve this function. Cross-Strait migration will naturally exclude the migration between Taiwan and these two former Western possessions.

From the features addressed here, the Act itself indicates a serious attitude on regulating the interactions across the Taiwan Strait. The content of the Act substantially defying the basic citizens’ right granted by the ROC constitution is purely a political decision but realized by the legal statute.⁷ It therefore reflects the political realities and indicates the security concerns with the contents of the Act. All the terms listed in the Act affecting the actual practices of cross-Strait migration should be the solid evidences revealing the factors in the security calculus in this aspect.

Dual citizenships can be an influential factor in the migration activities. Yet, the dual status of these identities is generally a negative factor in the security calculus since it may affect the judgment of loyalty and judiciary jurisdiction. According to Article 9-1 of the Act, “The people of the Taiwan Area may not have household registrations in the Mainland Area or hold passports issued by the Mainland Area”, the possibility of holding dual identities of both people of the Taiwan Area and Mainland Area is in principle denied. It is intentionally to define

these two identities as mutually exclusive. The consideration of national security is obvious. The likelihood of confusions caused by identity shifting originated from cross-Strait migration is primarily excluded. Nevertheless, certain pragmatic considerations for solving some already existing status as noted in the following text after the main statement of Article 9-1 may further prove that the concern of national security does exist.

Except for the situations deemed necessary by the authorities concerned out of special consideration, any person who has a household registration in the Mainland Area or holds a passport issued by the Mainland Area in violation of the provisions of the preceding paragraph shall be deprived of its status as the people of the Taiwan Area and its rights of election, recall, initiative, referendum, serving military service or public offices, and any other rights derived from its household registration in the Taiwan Area, and its household registration in the Taiwan Area shall be annulled by the household registration authorities; provided that the responsibilities and obligations resulted from its status as the people of the Taiwan Area are not excused or exempted.

Any of the people of the Taiwan Area who has a household registration in the Mainland Area or holds a passport issued by the Mainland Area before the coming into force of the amendments to this Act is not deprived of its status as the people of the Taiwan Area provided that it submits to the Ministry of Interior relevant proofs that it has had its household registration in the Mainland Area annulled or abandoned its passport issued by the Mainland Area within six months from the coming into force of the amendments to this Act.⁸

The consequence of having a household registration in the Mainland Area or holding a Mainland China passport is not only that the identity of the “people of the Taiwan Area” will be deprived but also the citizens’ privileges of “election, recall, initiative, referendum, serving military service or public offices, and any other rights derived from its household registration in the Taiwan Area” will be excluded. Ironically, as noted by the text of Article 9-1, “the responsibilities and obligations resulted from its status as the people of the Taiwan Area are not excused or exempted”. The intention of deterring peoples in the Taiwan Area to hold dual identity, which is perceived as a negative feature to the national security, is explicitly shown by the text.

It is worth of note that the deprivation of identity noted in Article 9-1 is not totally irreversible. As noted by Article 9-2 of the Act, “Any person deprived of its status as the people of the Taiwan Area in accordance with the provisions of the preceding Article may apply to the Ministry of Interior for permission to recover its status as the people of the Taiwan Area and to reside in the Taiwan Area after its return provided that it has its household registration in the Mainland Area annulled or abandons its passport issued by the Mainland Area”. It reveals that dismissal of the status as the people of the Taiwan Area for whatsoever the reason was will not be defined or interpreted as disloyalty to the ROC. Otherwise, it is less likely to grant the privilege of holding the status of people of the Taiwan Area again.

From the baseline of declining the dual identities across the Taiwan Strait, the Act further expresses a hard grip in its Article 10, “No people of the Mainland Area may enter into the Taiwan Area without permission of the competent authorities”. Frankly speaking, the content of this article is seemingly against Article 10 of the ROC Constitution that specifically guarantees the basic citizens’ right: “The people shall have freedom of residence and of change of residence”.⁹ Nevertheless,

according to Article 10 of the ROC Constitution, “All the freedoms and rights enumerated in the preceding Articles shall not be restricted by law except by such as may be necessary to prevent infringement upon the freedoms of other persons, to avert an imminent crisis, to maintain social order or to advance public welfare”. It does preserve the possibility to put certain restrictions on these privileges.

Further, it is also specifically noted in Article 11 of the Additional Articles of the Constitution of the Republic of China, “Rights and obligations between the people of the Chinese mainland area and those of the free area, and the disposition of other related affairs may be specified by law”¹⁰. The legitimacy of Article 10 of the Act therefore is unquestionable though politically controversial at the beginning. Although this basic right clearly noted in the ROC Constitution has not been clearly violated, yet, a request of constitutional interpretation did occur in 1999 to question the legality of the Act governing the relations between these two areas. It was obviously a challenge to the legitimacy of the restriction specifically on the people from the Chinese mainland area. Nonetheless, according to the interpretation given by the Justices of the Constitutional Court, Judicial Yuan, ROC, noted as the No. 497 with the title of “Is the regulation enacted by the Ministry of the Interior constitutional in specifying the qualifications, conditions, permission procedure, and length of stay for people from mainland China who apply for entry into the Taiwan area?”¹¹, the legitimacy of the legal term was further confirmed.

As text addressed by the holding of the interpretation, “...the Regulations Governing Permanent or Temporary Residence Permission for the People from Mainland China, which Regulations stipulate the qualifications, conditions, permission procedure and length of stay concerning the entry of said people into the Taiwan area, are to protect the security and welfare of the people of the Taiwan area, and are in

accordance with the legislative purpose of the Act. It is essential to maintain the social order and to advance the public welfare ...”¹²; all these rulings associated with the Act are genuinely reflecting the security concerns of cross-Strait migration.

The position was again readdressed by the text of reasoning of the interpretation, “On February 8, 1993, the Ministry of the Interior in Tai-(82)-Interior-Police-No.-8273466 promulgated the Regulations Governing the Entry Permission to Taiwan Area for the People from Mainland China and in Tai-(82)-Interior-Police-No.-8273459, the Regulations Governing Permanent or Temporary Residence Permission for the People from Mainland China, wherein the qualifications, conditions, permission procedure and length of stay concerning the entry of the people of the Mainland area into the Taiwan area are clearly set forth. Essential to maintain the social order and to advance the public welfare, these regulations are to protect the security and welfare of the people of the Taiwan area. They conform to the legislative intent of the aforesaid Act and are within the scope of the delegation. Therefore, the above regulations are not in violation of the Amendment and Article 23 of the Constitution”¹³. The intent of protecting “the security and welfare of the people of the Taiwan area” is clearly specified.

Nonetheless, a proviso is attached to the same article to emphasize that all the peoples of the Mainland Area need certain proper excuse to justify their entry to the Taiwan Area. According to the terms noted in Article 10, “Any of the people of the Mainland Area who are permitted to enter into the Taiwan Area may not engage in any activity inconsistent with the purposes of the permission”¹⁴, which indicates that the constitutional right of freedom of residence and freedom of change of residence is substantially restricted by the Act. Moreover, there is no legislative overseeing process on the process of deciding whether the permission of entry to the Taiwan Area will be granted or not since the

authority is delegated to the administrative arm of the government as noted in the text of Article 10, “Rules governing the granting of permission referred to in the preceding two paragraphs shall be drafted by the competent authorities concerned and submitted to the Executive Yuan for approval”.

The administrative power dominating the process of issuing entry permission to the Taiwan Area may suitably facilitate the substantial demands of safeguarding the national security. This part of the text listed in Article 10 of the Act may well reflect the factors associated with the security calculus of cross-Strait migration. Although the permission of entry to the Taiwan Area is mandatory, yet, it does not imply that the possibility of migration is totally denied simply because of the security concern. On the contrary, the texts in Article 10-1 of the Act are explicitly noted with the conditions needed in the process of seeking residency in the Taiwan Area as “Any of the people of the Mainland Area who apply to enter into the Taiwan Area for family reunion, residency, or permanent residency shall be interviewed, fingerprinted, and registered for record; where it fails to be interviewed or fingerprinted, no permission shall be granted to its application for family reunion, residency, or permanent residency. Governing rules thereof shall be prescribed by the competent authorities”. The possibility of seeking residency in Taiwan is therefore conditional.

The qualifications for applying for permanent residency in the Taiwan Area are first noted by Article 16 of the Act as follows:

In any of the following situations, any of the people of the Mainland Area may apply for permanent residency in the Taiwan Area:

1. Being a lineal relative by blood or the spouse of any of the people of the Taiwan Area, and of the age of no less than seventy or no more than twelve.

2. Being the surviving spouse of any of the people of the Taiwan Area who needs to provide care to any of the underage children born by the deceased spouse.
3. Being any serviceman of the Taiwan Area who was sent over to the Mainland Area for military service and has been staying there since 1945, and its spouse.
4. Being any former officer or enlisted man of the armed forces captured in battle or in the execution of special missions after the Government moved to Taiwan in 1949, and its spouse.
5. Being any person who was sent over to the Mainland Area to study on Government scholarships before the Government moved to Taiwan in 1949, and its spouse.
6. Being any fishermen or crew who, by reason of breakdown of their vessels, shipwreck, or force majeure, have stayed in the Mainland Area since any date by November 1, 1987 and had household registrations in the Taiwan Area before.¹⁵

A proviso of enacting restriction on the application that reflects security concern is immediately attached to the terms noted above as “An annual quota may be imposed on the number of permanent residency in the Taiwan Area to be granted to the people of the Mainland Area who apply in accordance with the provisions of Sub-paragraph 1 of the preceding paragraph”. It is a typical model of granting favorable terms initially but with preservation in the calculus of security.

Apart from Article 16, Article 17 of the Act has further granted other possibilities of acquiring the status of a permanent residency in the Taiwan Area. Article 17 first addresses the privilege of the spouse of any of the people of the Taiwan Area to apply for spouse residency with the term of “Any of the people of the Mainland Area being the spouse of any of the people of the Taiwan Area may apply to enter into the Taiwan

Area for family reunion in accordance with laws and regulations and may apply for spouse residency in the Taiwan Area after obtaining permission to enter into the Taiwan Area". We should not put the equal sign between the spouse residency and the permanent residency. A progressive conversion process is still needed for acquiring the eventual permanent residency from the status of spouse residency. There is a stereotype bias on cross-Strait marriage to categorize it into finite cases.¹⁶ The security concern is therefore quite implicit for the case of acquiring the permanent residency through marriages.¹⁷

Other approaches for acquiring permanent residency status in the Taiwan Area are also noted in Article 17 of the Act. People of the Mainland Area may acquire long-term residency from employments in the Taiwan Area or through business-related activities according to the following terms:

Any of the people of the Mainland Area other than those referred to in the preceding paragraph may apply to stay in the Taiwan Area in accordance with laws and regulations; in either of the following situations, he/she may apply for business or work residency in the Taiwan Area for a period of no more than three years, which may be extended upon expiration by application:

1. Being any of the people of the Mainland Area who is employed to work in the Taiwan Area in accordance with Article 11.
2. Being any of the people of the Mainland Area who enters into the Taiwan Area for business related activities in accordance with Article 10 or Paragraph 1 of Article 16.

Any person having a spouse residency in the Taiwan Area, which is permitted in accordance with the provisions of Paragraph 1, for at least four years, and during which its lawful residency in the Taiwan Area each year is no less than 183 days may apply for long-term

residency.

The Ministry of the Interior may permit specifically on a case-by-case basis any of the people of the Mainland Area to have a long-term residency in the Taiwan Area out of political, economic, social, educational, science-tech or cultural consideration and may restrict the categories and quota for residency applications; the referred categories and quota shall be drafted by the Ministry of the Interior and approved by the Executive Yuan for publication.¹⁸

It is clearly noted that the political, economic, social, science-tech or cultural consideration may affect the result of application. And the categories and quota for residency applications can also be restricted. Factors of the security calculus are obviously contained in the text of the Act. It is also worth of note that most of these governing regulations attached to the Act are totally delegated to the administrative authorities. No explicit legislative oversight had ever unambiguously been noted in the texts of the Act.

It is also worth of note that the “business related activities” in this article may not include investment. It has been explicitly excluded by the Investment Commission of the Ministry of Economic Affairs that “Mainland Chinese people are not eligible to enroll in the immigration investor program or apply for permanent residency” though the investment activity has never specified by the Act Governing Relations between the People of the Taiwan Area and the Mainland Area.¹⁹ Meanwhile, a promise of “... both scheduled and unscheduled visits to mainland Chinese companies to check if they are in any way conducting activities that may influence national security or public interest. Chinese executives, managers, supervisors and technicians will also be examined to ensure they are not engaging in any unlawful deeds ...”²⁰ which was granted by the National Immigration Agency and the Investment

Commission may also reflect the concern of national security.

Conditions for converting the long-term residency to the permanent residency in the Taiwan Area are also listed within the texts of Article 17 as follows:

For any person who has obtained permission for long-term residency in the Taiwan Area in accordance with the provisions of the preceding two paragraphs, the period of residency shall be unlimited. Any person who has obtained permission for long-term residency may apply for permanent residency in the Taiwan Area provided that the following provisions are met:

1. Having resided lawfully in the Taiwan Area for two consecutive years and the residency period is no less than 183 days annually.
2. Having integrity and no criminal record.
3. Submitting a proof of losing its original household registration.
4. Serving the national interests.

The Ministry of the Interior may impose and publish after approval by the Executive Yuan the quota and categories for spouse residency, long-term residency and permanent residency.

For any of the people of the Mainland Area permitted to have a spouse residency, long-term residency or permanent residency in accordance with Paragraph 1, if there exist sufficient evidences to establish that his/her marriage is false due to collusion, the permission for his/her spouse residency, long-term residency, permanent residency and household registration shall be revoked and, in addition, he/she shall be deported.

From the terms shown above, it is explicitly indicated that the privilege of residency in the Taiwan Area and the right of household registration still can be reversible, should any fraud existed in the

marriage relationship as the basis to acquire these privileges and rights be proven. Most importantly, for anyone who would like to apply for permanent residency, their status of residency in the Taiwan Area as they are submitting the application should not have any flaw since the terms listed in Article 17 of the Act, "For any of the people of the Mainland Area who stays or resides in the Taiwan Area beyond the authorized duration or enters into the Taiwan Area without permission, the provisions of the preceding Article and Paragraphs 1 to 4 of this Article shall not apply to such person during the period of his/her stay or residency in the Taiwan Area"²¹, has completely excluded the possibility of revising the status of residency whilst the applicants are not possessing legal status at the beginning.

Actually, those quite flexible conditions for applying for residency in the Taiwan Area are contained within Article 17 of the Act. The administrative rule defined by Article 17 governing the application for permanent residency status in Taiwan known as "The Rules Governing Permits for People from Mainland China Setting Up Permanent Residence or Residence in Taiwan"²², which will be addressed as "the Rules" in the following text of this paper, has further revealed how flexible the fourth condition of applying for permanent residency, "serving the national interests", can be. From Article 18 to Article 23 of the Rules, certain exceptional conditions for granting the status of permanent residency in the Taiwan Area that serve the national interests have been established from the aspects of politics, economics, education, science-tech, culture and society accordingly. Meanwhile, Articles 14, 15, 26, 27, 33 and 34 of the Rules also contain conditions associated with criminal records, improper behaviors, and career experiences as the public servant or employee in the party, military, administration or other political apparatuses or institutions in the Mainland Area as the basis for declining the application for long-term residency in the Taiwan Area. As

noted in Articles 14, 26 and 33, any possibility of affecting national security and social stability may justify the decision of declining the application.²³

Moreover, if there are sufficient evidences to indicate the possibility of threatening national security or social stability, the people of the Mainland Area who have entered the Taiwan Area may still be deported by the constable authorities, as noted in Article 18 of the Act listed below:

In any of the following situations, any of the people of the Mainland Area who enters into the Taiwan Area may be deported by the police authorities; provided, however, that prior approval shall be obtained from the judicial authorities where the judicial proceeding thereof is pending:

1. Entering into the Taiwan Area without permission.
2. Entering into the Taiwan Area by permission and staying or residing beyond the authorized duration.
3. Engaging in any activity or employment inconsistent with the purposes of the permission.
4. There exist sufficient evidences to establish that a crime has been committed.
5. There exist sufficient evidences to establish that there is a threat to national security or social stability.

As a matter of fact, all the subparagraphs listed above may indicate various levels of threats to the national security. Factors of security calculus have been fulfilled into executable judicial arrangements in this case. Substantial actions can be taken to eliminate the threats possibly undermining the welfare of the people in the Taiwan Area. Nonetheless, a fair treatment of the people of the Mainland Area who are accused of

violating the terms noted by subparagraphs 3 to 5 shown above exists. According to the terms listed in the following content of Article 18 of the Act, it addresses the following:

Before the National Immigration Agency of the Ministry of the Interior deports any of the people of the Mainland Area who, having obtained permission to reside in and to enter into the Taiwan Area, has any of the situations specified in Sub-paragraphs 3 to 5 in the preceding paragraph, it may convene a review meeting and provide an opportunity for the person concerned to state his/her opinions.

However, for those who have ever committed misconduct noted by subparagraphs 1, 3 and other criminal acts, treatments of them can be more decisive since there is no grey area which existed at all. Measures are specifically listed in the following content of the same Article 18:

Any of the people of the Mainland Area referred to in Paragraph 1 may be put in temporary custody before deportation or ordered in addition to perform labor services.

Any of the people of the Mainland Area referred to in Paragraph 1 who breaches the Social Order Maintenance Act but does not involve in any other criminal offense by engaging in any activity or employment inconsistent with the purposes of the permission as specified in Sub-paragraph 3 of Paragraph 1 may not be transferred to a summary court for ruling after relevant investigation.

Where any of the people of the Mainland Area entering into the Taiwan Area and involving in criminal cases is ordered for custody by judges or prosecutors to be put in the accommodation centers for

custody referred to in Paragraph 3, and found guilty by a irrevocable court judgment, any single custody day may be counted as an imprisonment or detention day, or converted into the amount of fine as prescribed by the decision referred to in Paragraphs 3 and 6 of Article 42 of the Criminal Code.

Apparently, the attitude reflected by the Act is solemn and the position is firm since there is no flexibility within the concern of the national security. As compared with “a review meeting and provide an opportunity for the person concerned to state his/her opinions” that signifies the respect of human rights, the unyielding position shown by the strong treatment of those who obviously commit certain wrongdoings may well keep a good reputation for the government in Taiwan while well safeguarding the national security and social stability at the same time.

To deter the tendency of achieving de facto migration by illegal entry or failure to leave by the expiration of the authorized duration of stay, certain measures are established by Articles 19 and 20 as listed below. The content of Article 19 regarding deportation of those who fail to leave on time is as follows:

Any of the people of the Taiwan Area who guarantee for any of the people of the Mainland Area for the latter's entry into the Taiwan Area shall assist the authorities concerned in deporting the latter in the event of the latter's failure to leave by the expiration of the authorized duration of stay, and shall bear the expenses incurred in connection therewith.

The deporting authorities may notify the guarantor to pay the expenses referred to in the preceding paragraph within a specified

time limit by providing photocopies of relevant receipts and a calculation statement, and shall forward the case in accordance with the laws for compulsory execution in the event of the guarantor's failure to pay by the expiration of the aforementioned time limit.

And the contents regarding the deportation expenses of people of illegal entry to the Taiwan Area and the illegal employments in the Taiwan Area are noted by Article 20:

In any of the following situations, any of the people of the Taiwan Area shall bear the expenses for deportation:

1. Making any of the people of the Mainland Area enter into the Taiwan Area illegally.
2. Illegally employing any of the people of the Mainland Area.
3. Employing any of the people of the Mainland Area who are subject to deportation in accordance with the provisions of Paragraph 2 or 3 of Article 14.

Where there is more than one person liable for the expenses referred to in the preceding paragraph, these persons shall be jointly and severally liable.

The deporting authorities may notify the guarantor to pay within a specified time limit the expenses referred to in Paragraph 1 by providing photocopies of relevant receipts and a calculation statement, and shall forward the case in accordance with the laws for compulsory execution in the event of the guarantor's failure to pay by the expiration of the aforementioned time limit.

Penalties of paying the expenses of deportation are not only in consideration of compensating the operational cost but also increasing the cost needed for hiring illegal work forces from the Mainland Area. Nevertheless, the untold reality behind the text of these articles is still the concern of the national security.

The most critical term established within the Act should be Article 21 regarding the exclusion of the involvement of national security-associated activities. It puts certain restrictions for the people of the Mainland Area to acquire specific qualifications relevant to the national security functions or to conduct particular activities potentially affecting the national security. Durations for restriction listed in Article 21 are categorized by the nature of the activities or qualifications associated with various degrees involved in the national security affairs. The content of Article 21 of the Act is listed as follows:

Except otherwise provided for in any other law, any of the people of the Mainland Area permitted to enter into the Taiwan Area may not register itself as candidate for any public office, serve in the government, educational institutions or state enterprises, or organize any political party unless it has had a household registration in the Taiwan Area for at least ten years; unless it has had a household registration in the Taiwan Area for at least twenty years, it may not serve in the intelligence agencies or institutions, or serve in the national defense agencies or institutions as any of following personnel:

1. Recruited military officers, sergeants and soldiers.
2. Drafted military officers and sergeants.
3. Civilian, educational and military contracted personnel.

The criterion for evaluating the suitability to be involved with the national security matters is nothing else but quarantine. The conviction of acquiring a household registration in the Taiwan Area for a certain period of time may naturally eliminate the possibility of undermining the national security. Actually, two arbitrary dividing lines, one is ten years and the other is twenty years, are set to differentiate the levels of concern.²⁴ Comparatively, registering as candidate for public office, serving in the government, educational institutions or state enterprises or even organizing political parties are relatively less sensitive than serving in the intelligence agencies or institutions, or serving in the national defense agencies or institutions as military personnel or civilian employees.

However, as already mentioned before, certain exception treatments have been noted by Articles 18 to 23 of “The Rules Governing Permits for People from Mainland China Setting Up Permanent Residence or Residence in Taiwan” as long as treating the specific subject may serve the national interests as noted in Article 17 of the Act. It is specifically noted by Article 21 of the Act that the faculty member of any university, researcher of any academic or research institution or specialist of any social education institution will not be subjected to the restriction of having a household registration in the Taiwan Area for at least ten years as long as other statute or ruling can be applicable. It is specified as listed below:

Any of the people of the Mainland Area who is permitted to enter into the Taiwan Area and has a household registrations in the Taiwan Area may serve as faculty member of any university, researcher of any academic or research institution, or specialist of any social education institution according to relevant laws and regulations without being subject to the limitation to have a household registration in the Taiwan

Area for at least ten years as referred to in the preceding paragraph.

Any person referred to in the preceding paragraph shall not assume any responsibility or perform any work involving national security or confidential science-tech research.

Although the permission for these faculty members, researchers and specialists are kindly granted, yet the restriction for excluding their involvement in research tasks containing the significances of national security or confidential science-tech research still firmly stands. Actually, another term for further excluding the possibility of the people of the Mainland Area but with the household registration in the Taiwan Area to be the public servant in Taiwan or acquiring professional and technician qualifications is noted in Article 22 of the Act as “No people of the Mainland Area having household registrations in the Taiwan Area without permission may be eligible for participating in civil servant examination or professional and technical examinations”. It is fundamentally adding another condition for those people of the Mainland to seek the possibility to be the public servant or conducting professional occupations even after they have already held the household registration for over ten years as noted in Article 21. The period of household registration is only a necessary condition. The sufficient condition for the eligibility is still a permission granted by the appropriate authorities. The national security concern reflected by this term is literally obvious.

After inspecting all the terms listed in the Act regarding the constraints put on the migration from the Mainland Area to Taiwan, we will also examine several terms specifically established for the former public servants, faculty members, state enterprise employees and military personnel who are eligible for life-long pension as they would like to settle in the Mainland Area after their retirement. It is quite hard

to identify whether the essence of these legal arrangements are based on the security concern or not. One point is for sure. Should any retired personnel from the public service would like to settle in the Mainland Area and to change their household registration or even to hold a passport issued by the Mainland Area, their original pension treatment will need to be changed according to the Act. The terms of these alternations are basically listed in Article 26 below:

Any of the retired personnel from the military, government, educational institutions, or state enterprises who receives monthly retirement benefits and intends to go to the Mainland Area to reside there for a long term shall apply to the competent authorities for a lump-sum payment of the retirement benefits, and the competent authorities shall calculate the lump-sum payment the applicant is entitled to based on the applicant's originally approved length of service and the amount of monthly payment received by any person of the same rank presently employed or in service during the month when the application is filed and pay the balance with the aggregate of the monthly retirement benefits the applicant has already received to be deducted from the referred lump-sum payment; if there is no balance or the balance is less than one half of the referred lump-sum payment, the applicant shall be paid in either case with an amount equal to one half of the referred lump-sum payment.

Where any of the personnel referred to in the preceding paragraph has any dependent in the Taiwan Area, it shall acquire the consent of its dependent(s) before its filing of the application.

Where any of the personnel referred to in Paragraph 1 has a household registration in the Mainland Area or holds a passport issued by the Mainland Area but fails to apply for a lump-sum payment of its retirement benefits in accordance with the provisions, its entitlement

to the retirement benefits shall be suspended until its status as the people of the Taiwan Area is recovered in accordance with the provisions of Article 9-2.

Where any of the personnel referred to in Paragraph 1 applies for a lump-sum payment of the retirement benefits by fraud or any other unjust means, the authorities such personnel is retired from shall reclaim the amount such personnel has received and refer the case to the judicial authorities if there is any criminal liability involved.

Rules governing the matters related to the application referred to in Paragraph 1 and the suspension and recovery of retirement benefits referred to in Paragraph 3 shall be prescribed by each competent authority.

Comparing with the status eligible for pension, regulations for veterans receiving the subsistence benefit and injury compensation are relatively flexible. Particularly, for those who already resided in the Mainland Area with approval before the amendment of the Act came into force, the Act does grant a privilege to retain the original treatment. Nonetheless, a stricter code does apply ever since as noted in Article 27 of the Act.

For those veterans formerly housed in Veterans Homes for care by the Veterans Affairs Commission, Executive Yuan and approved to enter into and reside in the Mainland Area for a long term, the subsistence benefit and injury compensation they are entitled to shall continue to be paid; the same provision shall to those permitted to enter into the Mainland Area for permanent residency prior to the coming into force of the amendment to this Article.

Where a veteran under care is not approved in accordance with the provisions of the preceding paragraph to have a household registration

in the Mainland Area or to hold a passport issued by the Mainland Area, its entitlement to the subsistence benefit and injury compensation shall be suspended until its status as the people of the Taiwan Area is recovered in accordance with the provisions of Article 9-2.

Rules governing the matters related to the payment, suspension and recovery of payment of the subsistence benefit and injury compensation referred to in the preceding two paragraphs shall be drafted by the Veterans Affairs Commission, Executive Yuan and submitted to the Executive Yuan for approval.

It is also worth of note that the retirement benefits can be recovered together with the status as the people of the Taiwan Area. More detailed terms regarding the process of recovering the status are delegated to the administrative branch of the government to establish as noted in Article 9-2 of the Act listed below.

Any person deprived of its status as the people of the Taiwan Area in accordance with the provisions of the preceding Article may apply to the Ministry of Interior for permission to recover its status as the people of the Taiwan Area and to reside in the Taiwan Area after its return provided that it has its household registration in the Mainland Area annulled or abandons its passport issued by the Mainland Area. Rules governing the permission requirements, procedures, means, restriction, revocation, or annulment of permission and any other requirements referred to in the preceding paragraph shall be drafted by the Ministry of Interior and submitted to the Executive Yuan for approval.

After examining the terms associated with the migration noted by the Act, we may only disclose the basic elements reflecting the security concern of cross-Strait migration. Actually, there are many legal arrangements already established to regulate all cross-Strait activities.²⁵ Other legal decrees such as Article 11 of the Immigration Law also indicate situations for declining the application for permanent residence in Taiwan as follows:

National Immigration Agency may deny the application for residence or registered permanent residence submitted by a national without registered permanent residence if he or she meets one of the following circumstances:

1. Has been strongly suspected, on the basis of sufficient factual evidence, to endanger national security or social stability.
2. Has been sentenced to punishment of imprisonment or greater.
3. Has entered the State without permission.
4. Has used another person's identity, or has applied with illegally acquired, counterfeited, or altered documents.
5. Has assisted other people to illegally enter and/or exit the State or has provided other people with identification documents for the same purpose.
6. Is believed, on the basis of sufficient factual evidence, to have conspired with another person to have a false marriage.
7. Is relatively connected to the adopter because he/she is adopted the adopter; and he/she does not reside with the adopter after entering the State.
8. Has failed to pass a medical check for items designated by the central competent health authority. This provision does not apply to an applicant who is younger than the age of twenty (20).
9. Has been involved in activities or employment that is different from

the purposes of his or her entry.

10. Has overstayed a visit.

11. Refuses to attend an interview without justifiable reasons after he/she was notified legally.

12. Avoid, obstruct or refuse an investigation executed under Article 70 without justifiable reasons.

13. Other circumstances recognized and promulgated by the competent authorities.

If a person has been determined to be subject to any of Subparagraphs 1 to 8 of the preceding Paragraph after the permission for his/her residence, or after the permission for his/her residence, he/she is discovered that the information provided by him/her at the time of his/her application for residence is false or untrue, National Immigration Agency shall revoke the permission for his/her residence.

If a person has been determined to be subject to any of Subparagraph 4 or Subparagraph 6, Paragraph 1 after the permission for his/her registered permanent residence, or after the permission for his/her registered permanent residence, he/she is discovered that the information provided by him/her at the time of his/her application for residence is false or untrue, the permission for his/her registered permanent residence shall be revoked or repealed. If the person has registered his/her permanent residence at a household registry, the household registry shall also revoke or repeal his/her registration.

With respect to any person whose residence permit or permanent residence permit is to be revoked or repealed pursuant to the provisions of the preceding two Paragraphs, the person's residence permit or permanent residence permit shall be revoked or repealed within five (5) years starting from the time when National Immigration Agency determines to revoke or repeal his/her said permit; otherwise, his/her said permit shall be revoked or repealed

within two (2) years starting from the time when he/she knows that the said permit is to be revoked or repealed. This provision shall not apply to the circumstances set forth in Subparagraph 4 or Subparagraph 6 of Paragraph 1.

The period of the denial pursuant to Subparagraphs 9 and 10 of Paragraph 1 shall be at least one (1) year from the day after his last exit from the State and shall not exceed three (3) years.

Subparagraph 12, Paragraph 1 shall apply *mutatis mutandis* to the circumstance that people of the Mainland Area, residents of Hong Kong or residents of Macau apply for residence or registered permanent residence in the Taiwan Area.²⁶

Three points should be addressed here. First, circumstances described in paragraph 1 suitably reflect the security concerns towards the immigration. Second, the item 13 of the paragraph 1 preserves the flexibility of administrative interpretation for any unexpected situation already noted by the previous twelve items. Third, it is explicitly noted that “Subparagraph 12, Paragraph 1 shall apply *mutatis mutandis* to the circumstance that people of the Mainland Area, residents of Hong Kong or residents of Macau apply for residence or registered permanent residence in the Taiwan Area”. It simply reminds all the readers that the “Act Governing Relations between the People of the Taiwan Area and the Mainland Area” is the initial element for examining the security concern of the migration across the Taiwan Strait. In other words, to check with the terms noted in the Act is nothing but a necessary condition to apprehend the whole issue but never good enough to be the sufficient condition.

5. Conclusion

From reviewing all the legal terms listed in this paragraph, conditions and terms for governing cross-Strait migration by the Republic of China government on the Taiwan side reflecting the security concerns are quite transparent. Factors of the security calculus can also be easily identified. Actually, there are many plausible speculations and accusations towards cross-Strait migration activities though no solid evidentiary support had ever been found to prove these allegations. This kind of speculation may also extend to question other irrelevant cross-Strait agreements that would contain implicit immigration terms.²⁷

As shown by the questions or concerns in the abstract of this paper, there are many imaginations and conjectures about cross-Strait migration but no firm indication can be available as the foundation for further discussion. One thing is for sure: there is no mainland immigrant ever involved in any espionage case to undermine the national security in Taiwan so far. This can either be a proof to justify the tight grip on cross-Strait immigration which is functioning perfectly well, or, on the other hand, be a counter-proof to show that the security concern on the Mainland immigrants was literally overstated. Likewise, it may be a question with no firm answer, either.

The logic of this paper will be readdressed in order to conclude the effort of research. Public sector needs to conduct administrative or judiciary actions according to legal establishment. If the security concerns towards any specific matter can be validated, then it should also acquire the momentum as the driving force to establish judiciary mechanism through legislative actions. The legal arrangements such as law, code, regulation, rule, and administrative order therefore may verify that the existence of the concern is serious enough to take substantial actions. Otherwise, void and plausible speculations cannot be adopted as the evidence to prove the existence of the security challenges within any

specific issue. Factors of Taiwan's security calculus of cross-Strait migration can be suitably identified by examining all the judiciary arrangement established by the Republic of China government, and hence, can be recognized.

Notes

- ⁺ An earlier version of this paper was presented at the 2014 International Conference on Asia-Pacific Studies, hosted by the National Sun Yet-sen University in Kaohsiung, Taiwan, Republic of China, on November 13-15, 2014. It was soon published by the Institute of PLA Research, FHK College, National Defense University, Taiwan, in a publication titled *2014 Essays of PLA Studies* in December 2014, after minor revision. The present text of this paper represents a new edition further revised from its progenitors noted above.
- ^{*} Dr Ching Chang (張競) is a researcher with long distinguished experiences in national security affairs. He served in the Republic of China Navy as a line officer for over a quarter of a century. Numerous lessons were acquired from various posts in his naval career. Particularly, a decade of sea duty service in which he has committed to different types of surface combatants allows him to grasp much valuable first-hand information and lessons that could never be gained from any academic arena. Further, as a graduate from the Republic of China Naval Academy (中華民國海軍軍官學校, Kaohsiung City, Taiwan, ROC), Naval Staff College of the US Naval War College and Naval Command College of the US Naval War College, Dr Chang received orthodox professional military education which serves to support his advancement in research on national security. Dr Chang has a diversified academic background comprised of a Bachelor's degree in navigation and maritime engineering granted by the Republic of China Naval Academy, a Master's degree in electrical

engineering gained from the University of Colorado at Boulder in the United States, and a Doctorate in politics and international studies conferred by the University of Hull in the United Kingdom. Apart from the posts in the naval fleet, Dr Chang also attained the position of staff officer at various levels in the defense hierarchy. With nobility granted by the defense authority of the Republic of China, Dr Chang has been selected as the teaching staff in the Chinese Naval Command and Staff College as well as the War College of the ROC National Defense University (國防大學, Taoyuan City, Taiwan, ROC). Dr Chang also owns a honor to be the speech writer for the Defense Ministers of the Republic of China and in charge of the Office of Policy Coordination for the Defense Ministers for two years. Dr Chang has concluded his military career with the rank of navy captain five years ago, thus acquired a privilege called the "Honorable Citizen of the Republic of China", and was invited by the ROC Society for Strategic Studies (中華戰略學會, Taipei, Taiwan, ROC) to be a research fellow. Further, Dr Chang is also an active columnist and Internet TV program host for commentary on strategic issues. <Email: chingchang@hotmail.com>

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4. Chen, YuJane (陳玉珍) and Ching Chang (張競) (2014). 「國家安全」定義之多面向探討 [on definition of national security suitable for multiple aspects]. 青年日報 (*Youth Daily*) (in Chinese), 18th July 2014, p. 4. Data

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 6. Constitution of the Republic of China. *Laws & regulations database of the Republic of China*. Website of the ROC Ministry of Justice: <http://law.moj.gov.tw/eng/LawClass/LawAll.aspx?PCode=A0000001> (data accessed time: 1100, August 30, 2014).
 7. It is negated by Article 11 of the Additional Articles of the Constitution of the Republic of China, "Rights and obligations between the people of the Chinese mainland area and those of the free area, and the disposition of other related affairs may be specified by law". Please see: The Additional Articles of the Constitution of the Republic of China. *Laws & regulations database of the Republic of China*. Website of the ROC Ministry of Justice: <http://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCode=A0000002> (data accessed time: 1130, August 30, 2014).
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 10. The Additional Articles of the Constitution of the Republic of China (*op. cit.*).
 11. No. 497, Interpretation of the Constitutional Court, Judicial Yuan, ROC. *Laws & regulations database of the Republic of China*. Website of the ROC Ministry of Justice: http://www.judicial.gov.tw/constitutionalcourt/EN/p03_01.asp?expno=497 (data accessed time: 1330, August 30, 2014).
 12. *Ibid.*

13. *Ibid.*
14. Act governing relations between the people of the Taiwan Area and the Mainland Area (*op. cit.*).
15. Article 16 (*ibid.*).
16. Many people believe that “These consist of two categories: female brides of businessmen who work in the mainland; and women who have married rural Taiwanese, mainly through a marriage broker”. See “Recent mainland immigration to Taiwan”, “Mainland Chinese” page, *Wikipedia*. At: http://en.wikipedia.org/wiki/Mainland_Chinese (data accessed time: 0900, May 4, 2015).
17. It was noticed by a foreign commentator with the following comment, “... the China factor will strongly influence Taiwan’s immigration policy. Current migration policy toward Chinese spouses and foreign spouses is discriminatory, and a strong pressure comes from China and domestic NGOs to have equal treatment between these two groups...”. Sullivan, Jonathan (2012). Taiwan’s immigration policy after 2012. *Ballots & Bullets*. School of Politics & International Relations, University of Nottingham. At: <http://nottspolitics.org/2011/12/20/taiwans-immigration-policy-after-2012/> (data accessed time: 0900, May 7, 2015).
18. Article 17 (*ibid.*).
19. Liu, John (2013). Immigration investor scheme not for China. *The China Post*, August 22, 2013. At: <http://www.chinapost.com.tw/taiwan/china-taiwan-relations/2013/08/22/386993/Immigration-investor.htm> (data accessed time: 1900, May 2, 2015).
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21. *Ibid.*
22. The same administrative rule is also known as the “Regulations governing permanent or temporary residence permission for the people from Mainland China”. Please see: No. 497, Interpretation of the Constitutional Court, Judicial Yuan, ROC (*op. cit.*). There is no official translation of this

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23. Regulations governing permanent or temporary residence permission for the people from Mainland China (大陸地區人民在臺灣地區依親居留長期居留或定居許可辦法) (text in Chinese). *Laws & regulations database of the Republic of China*. Website of the ROC Ministry of Justice: <http://law.moj.gov.tw/LawClass/LawAll.aspx?PCode=Q0060003> (data accessed time: 1730, August 30, 2014).
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