

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DR. ROGER C. S. LIN
No. 19 Beiping 2nd Street, Gaoxiong City,
Taiwan,

CHIEN-MING HUANG
9th Floor, No. 15-8, Nanjing East Road,
Sec. 5, Taipei City, Taiwan,

CHOU CHANG
(address filed with the Court)
Keelung City, Taiwan,

CHING-YAO HOU
(address filed with the Court)
Taipei County, Taiwan,

CHEN-HUA LIU
(address filed with the Court)
Taipei City, Taiwan,

CHEN-NI WU
(address filed with the Court)
Taipei County, Taiwan,

YANG-LUNG YANG
(address filed with the Court)
Taipei County, Taiwan,

YAO-JHIIH YE
(address filed with the Court)
Yunlin County, Taiwan,

CHING-WEN YEN
(address filed with the Court)
Taiping City, Taiwan,

A-CHU YUCHIANG
(address filed with the Court)
Taipei City, Taiwan, and

CASE NUMBER 1:06CV01825
JUDGE: Rosemary M. Collyer
DECK TYPE: General Civil
DATE STAMP: 10/24/2006

TAIWAN NATION PARTY)
9th Floor, No. 15-8, Nanjing East Road,)
Sec. 5, Taipei, Taiwan,)
))
Plaintiffs,)
))
v.)
))
UNITED STATES OF AMERICA,)
))
Defendant.)
))

)

COMPLAINT FOR DECLARATORY RELIEF

Plaintiffs Dr. Roger C. S. Lin, Chien-Ming Huang, Chou Chang, Ching-Yao Hou, Chen-Hua Liu, Chen-Ni Wu, Yang-Lung Yang, Yao-Jih Ye, Ching-Wen Yen, A-Chu YuChiang, and the Taiwan Nation Party on behalf of its more than 1,000 of members (“Plaintiffs”) allege as follows against the United States of America (“Defendant”):

I.

PRELIMINARY STATEMENT

1. On September 2, 1945, the Japanese government unconditionally surrendered to the Allied Powers consisting of the United States, China, Great Britain, and the Soviet Union. That same day, General Douglas MacArthur, Supreme Commander for the Allied Powers, issued General Order No. 1 under which, according to United States Secretary of State John Foster Dulles, the “Republic of China was entrusted with authority over [Formosa¹ and the Pescadores]” as agent for the Allied Powers.² Such trust on behalf of the Allied Powers remains in effect today.

¹ Today, Formosa is known as Taiwan.

² Dep’t of St. Bull., Feb. 1955, at 329; *see also* Y. Frank Chiang, *One-China Policy and Taiwan*, 28 *Fordham Int’l L.J.* 1, 35, n.158 (2004); Lung-chu Chen and W. M. Reisman, *Who Owns Taiwan: A Search for International Title*, 81 *Yale L.J.* 599, 611, 639 (1972).

2. Importantly, on April 28, 1952, the Treaty of Peace with Japan signed on September 8, 1951, in San Francisco, California (the "SFPT") entered into force. In Article 2(b) of the SFPT, Japan renounced "all right, title and claim to Formosa and the Pescadores."³ Nothing in the SFPT—or in any other treaty ever executed by or between the Republic of China ("ROC") and the other Allied Powers—has altered the trusteeship granted by the Allied Powers to the ROC over Taiwan.

3. For that reason, Plaintiffs, all of whom reside in Taiwan, have filed this action to have this Court determine what fundamental rights, if any, they may have under United States laws. This determination of fundamental rights is critical to Plaintiffs because they continue to suffer as a result of the legal limbo in which they find themselves:

II.

PARTIES

4. Plaintiff Dr. Roger C. S. Lin is a spokesperson and member of the Taiwan Nation Party, whose address is No. 19 Beiping 2nd Street, Gaoxiong City, Taiwan.

5. Plaintiff Chien-Ming Huang is a chairman and member of the Taiwan Nation Party, whose address is 9th Floor, No. 15-8, Nanjing East Road, Sec. 5, Taipei City, Taiwan.

6. Plaintiff Chou Chang is a member of the New Nation Party, whose address is (address filed with the Court) Keelung City, Taiwan.

7. Plaintiff Ching-Yao Hou is a member of the Taiwan Nation Party, whose address is (address filed with the Court) Taipei County, Taiwan.

³ Treaty of Peace with Japan, art. 2(b), Sept. 8, 1951, 136 U.N.T.S. 46 (ratification advised by Senate, Mar. 20, 1952; ratified by President, Apr. 15, 1952; ratification deposited at Washington, Apr. 28, 1952; proclaimed by President Apr. 28, 1952; entered into force Apr. 28, 1952).

8. Plaintiff Chen-Hua Liu is a member of the Taiwan Nation Party, whose address is (address filed with the Court) Taipei City, Taiwan.
9. Plaintiff Chen-Ni Wu is a member of the Taiwan Nation Party, whose address is (address filed with the Court) Taipei County, Taiwan.
10. Plaintiff Yang-Lung Yang is a member of the Taiwan Nation Party, whose address is (address filed with the Court) Taipei County, Taiwan.
11. Plaintiff Yao-Jhih Ye is a member of the Taiwan Nation Party, whose address is (address filed with the Court) Yunlin County, Taiwan.
12. Plaintiff Ching-Wen Yen is a member of the New Nation Party, whose address is (address filed with the Court) Taiping City, Taiwan.
13. Plaintiff A-Chu YuChiang is a member of the New Nation Party, whose address is (address filed with the Court) Taipei City, Taiwan.
14. Plaintiff the Taiwan Nation Party, acting on behalf of approximately 1,000 of its other members, has its address at 9th Floor, No. 15-8, Nanjing East Road, Sec. 5, Taipei, Taiwan. The Declaratory Judgment sought in this action relates to the purposes for which the Taiwan Nation Party was founded. Participation of all of the unnamed individual members of the Taiwan Nation Party is not necessary for the prosecution of this lawsuit.
15. Defendant United States of America is and remains the “principal occupying Power” of Taiwan under SFPT Article 23(a).⁴

⁴ Treaty of Peace with Japan, art. 23(a), Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952).

III.

JURISDICTION AND VENUE

16. This Court has jurisdiction in this action pursuant to 28 U.S.C. Sections 1331 and 1346(a)(2).
17. Venue is proper in this district under 28 U.S.C. Section 1391.
18. This Court is authorized to award declaratory relief under the Declaratory Judgment Act, 28 U.S.C. Sections 2201-2202.

IV.

HISTORICAL BACKGROUND

19. In the late XVII century, Taiwan (Formosa) was a part of the Chinese Empire.⁵ The Chinese government exercised sovereignty over Taiwan and held title to its territory.

Treaty of Shimonoseki

20. In 1894, Japan and China engaged in the Sino-Japanese War in which Japan defeated China.
21. Following the Sino-Japanese War, the governments of China and Japan signed a peace treaty known as the Treaty of Shimonoseki on April 17, 1895. The Treaty of Shimonoseki entered into force on May 8, 1895.⁶
22. Pursuant to the Treaty of Shimonoseki, China ceded Taiwan (Formosa) to Japan. Article 2 of the Treaty of Shimonoseki provided, "China ceded to Japan in perpetuity and full

⁵ Formosa became part of the Chinese Empire in 1683 following the fall of the Ming Dynasty and the establishment of the Qing Dynasty. *See, e.g.,* Jonathan I. Charney and J. R. V. Prescott, *Resolving Cross-Straight Relations between China and Taiwan*, 94 A.J.I.L. 453, 453-456 (2000).

⁶ Treaty of Peace, Apr. 17, 1895, China-Japan, 181 Consol. TS 217 (entered into force May 8, 1895).

sovereignty . . . [t]he island of Formosa, together with all islands appertaining or belonging to the said island of Formosa.”⁷ Following the Treaty of Shimonoseki, Japan exercised sovereignty over Taiwan and held title to its territory.

Pacific War

23. On December 7, 1941, the Japanese naval and air forces attacked the United States naval base at Pearl Harbor, Hawaii.

24. On December 8, 1941, the United States Congress issued a Declaration of War against Japan. The United States President Roosevelt signed the Declaration of War against Japan the same day. The Pacific War began.

25. The Allied Powers defeated Japan, and it surrendered on September 2, 1945. The Japanese representatives signed the Instrument of Surrender aboard the battleship USS Missouri anchored with other United States and British ships in Tokyo Bay.

26. Shortly after the signing of the Instrument of Surrender, General Douglas MacArthur, Supreme Commander for the Allied Powers, issued General Order No. 1 ordering the “senior Japanese commanders and all ground, sea, air and auxiliary forces within . . . Formosa” to “surrender to Generalissimo Chiang Kai-shek.”⁸ Pursuant to the General Order No. 1, Chiang Kai-shek, a military and political leader of the ROC, was a “representative of the

⁷ Treaty of Peace, Apr. 17, 1895, China-Japan, art. 2(b), 181 Consol. TS 217 (entered into force May 8, 1895).

⁸ Supreme Commander for the Allied Powers General Order No. 1, Sept. 2, 1945, J.C.S. 1467/2.

Allied Powers empowered to accept surrender[.]” of the Japanese forces, himself or through a representative.⁹

27. On October 25, 1945, Chiang Kai-shek’s representative in Taipei, Taiwan (Formosa), accepted the surrender of the Japanese forces there.

28. The surrender and repatriation of the Japanese forces in Taiwan (Formosa) was carried out with substantial assistance of the United States armed forces.

29. Following the surrender and pending a peace settlement, Taiwan (Formosa) remained *de jure* Japanese territory. General Douglas MacArthur stated at a congressional hearing in May 1951, “legalistically Formosa is still a part of the Empire of Japan.”¹⁰

30. The Allied Powers (led by the United States), the principals, authorized Chiang Kai-shek’s ROC government, the agent, to accept the surrender of the Japanese forces in Taiwan (Formosa) and to undertake the post-surrender occupation of Taiwan (Formosa) on behalf of the Allied Powers.¹¹ The ROC government occupied Taiwan (Formosa) on behalf of the Allied Powers (led by the United States) pending a peace treaty with Japan, which would change the legal status of Taiwan (Formosa).

⁹ Supreme Commander for the Allied Powers General Order No. 1, Sept. 2, 1945, J.C.S. 1467/2.

¹⁰ See Statement by General Douglas MacArthur, N.Y. Times, May 5, 1951, at A7; see also Y. Frank Chiang, *One-China Policy and Taiwan*, 28 Fordham Int’l L.J. 1, 16, n.72 (2004).

¹¹ Lung-chu Chen and W. M. Reisman, *Who Owns Taiwan: A Search for International Title*, 81 Yale L.J. 599, 611 (1972).

San Francisco Peace Treaty (“SFPT”)

31. On September 8, 1951, the Allied Powers and Japan signed the SFPT.¹² The SFPT entered into force on April 28, 1952, and it remains in force as of the filing of this Complaint.¹³

32. Pursuant to the SFPT, Japan renounced its sovereignty over Taiwan (Formosa) and title to its territory. Article 2(b) of the SFPT provided, “Japan renounces all right, title and claim to Formosa and the Pescadores.”¹⁴

33. The SFPT did not designate the recipient of the “right, title and claim to Formosa and the Pescadores.” Thus, no state received any right, title, or claim to Taiwan (Formosa) under the SFPT according to its terms.¹⁵

34. Japan and the Allied Powers—“Australia, Canada, Ceylon, France, Indonesia, the Kingdom of the Netherlands, New Zealand, Pakistan, the Republic of the Philippines, the United Kingdom of Great Britain and Northern Ireland, and the United States of America”—were the

¹² Treaty of Peace with Japan, Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952).

¹³ Treaties in Force 2006, at 495, *available at* <http://www.state.gov/documents/organization/65540.pdf>.

¹⁴ Treaty of Peace with Japan, art. 2(b), Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952).

¹⁵ See Lung-chu Chen and W. M. Reisman, *Who Owns Taiwan: A Search for International Title*, 81 Yale L.J. 599, 642 (1972).

original parties to the SFPT as set forth in Article 23(a).¹⁶ Currently, 46 countries are parties to the SFPT, but China is not one of them.¹⁷

35. China never became a party to the SFPT. Neither the ROC government, which occupied the island of Taiwan (Formosa) as agent for the “principal occupying Power,”¹⁸ nor the government of the People’s Republic of China (“PRC”), which controlled mainland China, signed, ratified, or adhered to the SFPT.

36. Article 25 of the SFPT specifically provided that the Treaty did “not confer any rights, titles or benefits on any State which [was] not an Allied Power [as defined in Article 23(a),]” subject to certain narrow exceptions set forth in Article 21.¹⁹ Accordingly, China, a non-party, did not receive “any right, titles or benefits” under the SFPT except as specifically provided in Article 21.

37. According to Article 21, China, a non-party, was entitled only to two benefits: one under Article 10(a),²⁰ which abrogated the Peking Protocol previously signed by China and

¹⁶ Treaty of Peace with Japan, art. 23(a), Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952).

¹⁷ See *Treaties in Force 2006*, at 495, available at <http://www.state.gov/documents/organization/65540.pdf>.

¹⁸ See Treaty of Peace with Japan, art. 23(a), Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952) (“the United States” is “the principal occupying Power”).

¹⁹ Treaty of Peace with Japan, art. 25, Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952).

²⁰ Pursuant to Article 10(a) of the Treaty of San Francisco, “Japan renounce[d] all special rights and interests in China, including all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on September 7, 1901 . . . , and agrees to the abrogation in respect to Japan of the said protocol” Treaty of Peace with Japan, art. 10(a), Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952).

Japan; and another under Article 14(a)(2),²¹ which enabled China to seize the Japanese property within China's jurisdiction at the time of the SFPT's entry into force. China did not receive any other benefits under the SFPT according to its terms.

38. Specifically, China, a non-party, was not entitled to any benefits under Article 2(b) dealing with the territory of Taiwan (Formosa).²² The parties to the SFPT chose not to give any "right, title [or] claim to Formosa and the Pescadores" to China.

39. When the Allied Powers signed the SFPT on September 8, 1951, they did not intend to give any "right, title [or] claim to Formosa and the Pescadores" to China. Prior drafts of Article 2(b) show that the Allied Powers originally intended to give China sovereignty over Taiwan (Formosa), but later affirmatively changed their intention. The drafts dated August 5, 1947, and January 8, 1948, provided: "Japan hereby cedes to China in full sovereignty the island of Taiwan (Formosa) and adjacent minor islands[.]"²³ By contrast, the final draft of the SFPT did not transfer "full sovereignty" in Taiwan and the Pescadores Islands from Japan to China.

²¹ Pursuant to Articles 14(a)(2) and 21 of the Treaty of San Francisco, China had "the right to seize, retain, liquidate or otherwise dispose of all property, rights and interests of (a) Japan and Japanese nationals, (b) persons acting for or on behalf of Japan or Japanese nationals, and (c) entities owned or controlled by Japan or Japanese nationals, which on the first coming into force of the present Treaty were subject to its jurisdiction." Some limitations applied. Treaty of Peace with Japan, art. 14(a)(2), Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952).

²² Treaty of Peace with Japan, arts. 21, 25, Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952).

²³ Memorandum from Hugh Borton to Charles E. Bohlen: Draft Treaty of Peace for Japan, State Dep't Decimal File No. 740.0011 PW (PEACE)/8-647 CS/W, State Dep't Records, Record Group 59 (Aug. 6, 1947); Memorandum, Background of Draft of Japanese Peace Treaty, State Dep't Decimal File No. 740.0011 PW (PEACE)/1-3048 CS/W, State Dep't Records, Record Group 59 (Jan. 30, 1948); *see also* Seokwoo Lee, *The 1951 San Francisco Peace Treaty with Japan and the Territorial Disputes in East Asia*, 11 *Pac. Rim L. & Pol'y* 63, 124, nn.275, 14, 15 (2002).

40. While Article 2(b) of the SFPT did not designate a recipient of “all right, title and claim to Formosa and the Pescadores,” Article 23 of the SFPT designated the United States as “the principal occupying Power” with respect to the territories covered by the SFPT, including “Formosa and the Pescadores.”²⁴

41. Following the entry into force of the SFPT, the government of the ROC continued to occupy Taiwan (Formosa) as agent for the United States, “the principal occupying Power.”

42. The Treaty of Peace between the ROC and Japan, which was signed on April 28, 1952, and entered into force on August 5, 1952 (the “Treaty of Taipei”), did not transfer sovereignty over Taiwan (Formosa) from Japan to China either.²⁵ Article 2 of the Treaty of Taipei merely acknowledged Article 2(b) of the SFPT, “[it] is recognized that under Article 2” of the SFPT “Japan has renounced all right, title and claim to Taiwan (Formosa) and Penghu (the Pescadores).”²⁶ The Treaty of Taipei did not designate China as a recipient of “all right, title and claim” to Taiwan.

43. In the aftermath of the SFPT, the governments of the leading allies interpreted the SFPT to mean that no state acquired sovereignty over Taiwan (Formosa) and title to its territory. For example, United States Secretary of State John Foster Dulles told the Senate in December 1954, “[the] technical sovereignty over Formosa and the Pescadores has never been settled. That

²⁴ Treaty of Peace with Japan, art. 23, Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952). Also, Article 4(b) of the SFPT empowered the “United States Military Government” to direct the “disposition of property of Japan and Japanese nationals” in the territories covered by the SFPT, including “Formosa and the Pescadores.” Treaty of Peace with Japan, art. 4(b), Sept. 8, 1951, 136 U.N.T.S. 46 (entered into force Apr. 28, 1952).

²⁵ Treaty of Peace with Japan, Apr. 28, 1952, R.O.C.-Japan, 163 U.N.T.S. 38 (entered into force Aug. 5, 1952).

²⁶ Treaty of Peace with Japan, art. 2, Apr. 28, 1952, R.O.C.-Japan, 163 U.N.T.S. 38 (entered into force Aug. 5, 1952).

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 [ROC] and Japan.”²⁷ Likewise, British Foreign Secretary Anthony Eden told the British House of Commons, “under the Peace Treaty of April, 1952, Japan formally renounced all right, title and claim to Formosa and the Pescadores; but again this did not operate as a transfer to Chinese sovereignty, whether to the [PRC] or to the [ROC]. Formosa and the Pescadores are therefore, in the view of Her Majesty’s Government, territory the de jure sovereignty over which is uncertain or undermined.”²⁸ Similarly, in 1964, President Georges Pompidou (then Premier of France) stated that “Formosa (Taiwan) was detached from Japan, but it was not attached to anyone” under the SFPT.²⁹ Thus the leading allies were in consensus that China did not acquire sovereignty over Taiwan or title to its territory pursuant to the SFPT.

44. The SFPT did not terminate the agency relationship between the United States, the principal, and the ROC, the agent, with regard to the occupation and administration of Taiwan (Formosa). In 1955, United States Secretary of State John Foster Dulles confirmed that the basis for ROC’s presence in Taiwan was that “in 1945, the [ROC] was entrusted with authority over [Formosa and the Pescadores]” and “General Chiang [Kai-shek] was merely asked

²⁷ See Statement by Secretary John Foster Dulles, Dep’t St. Bull., Dec. 1954, at 896; see also Y. Frank Chiang, *One-China Policy and Taiwan*, 28 Fordham Int’l L.J. 1, 36, n.164 (Dec. 2004); Lung-chu Chen and W.M. Reisman, *Who Owns Taiwan: A Search for International Title*, 81 Yale L.J. 599, 644 (1972).

²⁸ See Statement by Secretary Anthony Eden, 536 Parl. Deb., H.C., 5th ser., 1955, at 159; see also Y. Frank Chiang, *One-China Policy and Taiwan*, 28 Fordham Int’l L.J. 1, 36, n.167 (2004).

²⁹ See Statement by President Georges Pompidou, N.Y. Times, Apr. 24, 1964, at 4, col. 4; see also Lung-chu Chen and W.M. Reisman, *Who Owns Taiwan: A Search for International Title*, 81 Yale L.J. 599, 645 (1972).

to administer [Formosa and the Pescadores] for the Allied . . . [P]owers pending a final decision as to their ownership.”³⁰ In the words of British Prime Minister Winston Churchill, “Chiang Kai-shek . . . took refuge upon Formosa, where he still remains [in 1954]” after he “was driven out of [mainland China] by a Communist revolution.”³¹

45. Following the entry into force of the SFPT on April 28, 1952, the ROC did not exercise sovereignty over Taiwan and did not have title to its territory.

V.

LEGAL STATUS OF TAIWAN: OCCUPIED TERRITORY OF THE UNITED STATES

46. From 1945 to the present, Taiwan has been an occupied territory of the United States, “the principal occupying Power.” Currently, Taiwan is an occupied territory of the United States, and Taiwan’s statehood status is disputed and uncertain. Neither the SFPT nor the Treaty of Taipei nor any other subsequent legal instruments changed the status of Taiwan.

47. The agency relationship between the United States, the principal, and the ROC, its agent in Taiwan, never terminated. General Douglas MacArthur’s General Order No. 1 empowering the government of ROC to accept the surrender of the Japanese troops in Taiwan and to occupy Taiwan on behalf of the Allied Powers (led by the United States) following the Pacific War is still valid. Neither the Treaty of San Francisco nor the Taiwan Relations Act³² nor

³⁰ See Statement by Secretary John Foster Dulles, Dep’t St. Bull., Feb. 1955, at 329; see also N.Y. Times, Feb. 7, 1955, at A1; Y. Frank Chiang, *One-China Policy and Taiwan*, 28 Fordham Int’l L.J. 1, 35, nn.158, 159 (2004).

³¹ See Statement by Prime Minister Winston Churchill, 530 Parl. Deb., H.C., 5th ser., 1954, at 494; see also Y. Frank Chiang, *One-China Policy and Taiwan*, 28 Fordham Int’l L.J. 1, 35, n.162 (2004).

³² Taiwan Relations Act, 22 U.S.C. §§ 3301-3316 (2006).

any other legal instrument terminated the agency relationship between the United States and the ROC for the purpose of the occupation and administration of Taiwan.

48. The United States as the principal occupying Power never issued a formal statement or declaration that the occupation of Taiwan has ended.

49. The United States as the principal occupying Power is still holding the sovereignty over Taiwan and title to its territory in trust for the benefit of the Taiwanese people. The occupying Power never transferred the sovereignty over Taiwan or title to its territory to any other government.

50. The Taiwanese people never issued a declaration of self-determination and never formed their own government.

51. The international community does not recognize Taiwan as a state.

52. The United Nations never recognized Taiwan as a state and has never granted Taiwan's (ROC's) application for membership.

53. Most importantly, the United States does not recognize Taiwan as a state. Pursuant to the Taiwan Relations Act of 1979, which embodies the United States congressional policy towards Taiwan, the United States does not maintain inter-state relations with Taiwan.³³ Instead, "the people of the United States" maintain "commercial, cultural, and other relations" with "the people of Taiwan."³⁴ Section 3301 of the Taiwan Relations Act reflects the United States' position that "the future of Taiwan" is still not "determined."³⁵

³³ Taiwan Relations Act, 22 U.S.C. §§ 3301-3316 (2006).

³⁴ Taiwan Relations Act, 22 U.S.C. § 3301 (2006).

³⁵ Taiwan Relations Act, 22 U.S.C. § 3301 (2006).

54. In July 1982, the United States gave “Six Assurances” to the Taiwan authorities, including that the “United States would not alter the terms of the Taiwan Relations Act[,]” “would not alter its position about the sovereignty of Taiwan[,]” and “would not formally recognize Chinese sovereignty over Taiwan.”³⁶

55. On October 25, 2004, United States Secretary of State Colin Powell confirmed the United States’ continuing policy towards Taiwan. He stated, “Taiwan is not independent. It does not enjoy sovereignty as a nation, and that remains our policy, our firm policy.”³⁷

VI.

RELIEF REQUESTED

Considering that the judicial branch has the authority and obligation to preserve the Constitutional rights of persons subject to the jurisdiction of the United States, whether or not such persons are United States citizens, non-citizen nationals, or aliens, Plaintiffs respectfully pray that the Court enter an Order declaring that:

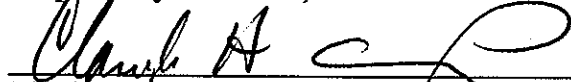
- (a) Plaintiffs, by virtue of living in a territory subject to the jurisdiction of the United States, have fundamental rights under United States laws, including the United States Constitution.
- (b) Plaintiffs, by virtue of living in a territory subject to the jurisdiction of the United States, have the First Amendment right to petition the government for a redress of grievances.

³⁶ The “Six Assurances to Taiwan,” *available at* <http://www.taiwandocuments.org/assurances.htm>.

³⁷ *See* Statement by Secretary Colin Powell, *available at* <http://usinfo.state.gov/eap/Archive/2004/Oct/26-277540.html>.

- (c) Plaintiffs, by virtue of living in a territory subject to the jurisdiction of the United States, have the Fifth Amendment right against deprivation of life, liberty, or property, without due process of law.
- (d) Plaintiffs, by virtue of living in a territory subject to the jurisdiction of the United States, have the Eighth Amendment right against cruel and unusual punishment, including deprivation of citizenship and being "stateless."
- (e) Plaintiffs, by virtue of living in a territory subject to the jurisdiction of the United States, have the Fourteenth Amendment right against deprivation of life, liberty, or property, without due process of law.
- (f) Plaintiffs, by virtue of living in a territory subject to the jurisdiction of the United States, have the Fourteenth Amendment right of equal protection of the laws.
- (g) Plaintiffs, by virtue of living in a territory subject to the jurisdiction of the United States, may not be deprived of the Fifth Amendment right to travel (including the right to apply for a passport) without due process of law, which requires notice and a hearing.

Respectfully submitted,



Charles H. Camp (D.C. Bar # 41357)
LAW OFFICES OF CHARLES H. CAMP
1725 Eye Street, N.W., Suite 300
Washington, D.C. 20006
Telephone: (202) 349-3905
Facsimile: (202) 349-3906
Email: ccamp@charlescamlaw.com

Counsel for Plaintiffs

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