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Taiwan as the Westphalian Society's Foucaldian Heterotopia

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During this lecture, I wish to submit some new avenues for tackling the Taiwan issue. By Taiwan issue, I mean the *de facto*, non *de jure*, independence of the state in Taiwan. More precisely, one can consider that not only politicians but also academics are constantly confronted with a kind of Gordian knot intermingling *de facto* independence, Chinese irredentism, third countries' *Realpolitik*, Taiwan's democratization, and last but not least the resuming of cross-straits relations and the relocation tide of the island's industry on the mainland. In this paper, I suggest to resort to Michel Foucault's concept of "heterotopia" as an "other space" in order to better grasp Taiwan's uniqueness in the international society, on the one hand, the processes at work in the latter, on the other hand.

I shall only present some outlines: many examples, references, and demonstrations should be added. Similarly, as I am presenting it in front of an audience that is well informed both of Taiwan's history and of contemporary political developments, I have not recalled many processes, which should otherwise be essential. For the same reason, I shall often use in an interchangeable way Taiwan, Republic of China (ROC), Republic of China on Taiwan, the

island, on the one hand, the People's Republic of China (PRC), China, the mainland, on the other hand, though nuances should of course be introduced.

Finally, by way of introducing this lecture, I need to say that it is based on two underlying hypothesis, that I shall not discuss here. The first one is that the Westphalian system – that is a juxtaposition of sovereign states – is still operational, though it should not be forgotten that it is a fiction. The second one is that globalization is not leading to a borderless world, but quite the contrary, that nation-states are a product of globalization[1]

Taiwan as "an other space"

As a geopolitical entity, Taiwan is all the more difficult to conceptualize as the exceptional does not lie where one would expect to find it. For this very reason, I suggest to resort to Michel Foucault's concept of "heterotopia" as an "other space"[2]: Taiwan would be the heterotopia of the interstate society, of the Westphalian society, which more than any other is indeed characterized by the site. Though I am not opposing works which resort to this concept for problematizing entities that are not territorial units[3], I precisely wish in this paper to apply it to a geopolitical entity that is "territorialized"[4].

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[1] Among many works, see Jean-François Bayart, *Le gouvernement du monde: Une critique politique de la globalisation*, Paris, Fayard, 2004, in particular chapter 2, "L'Etat, produit de la globalisation", pp. 53-132 ; English translation : *Global Subjects: A Political Critique of Globalization*, Cambridge, Polity Press, 2007, chapter 2, "The State : A Product of Globalization", pp. 30-82.

[2] "Hétérotopie" in French: Michel Foucault, "Des espaces autres", *Architecture, Mouvement, Continuité*, n° 5, October 1984, pp. 46-49 (now available in *Dits et écrits, 1954-1988* (volume II, 1976-1988), Paris, Gallimard, 2001, pp. 1571-1581) ; translated into English by Jay Miskowiec : "Of Other Spaces", *Diacritics*, volume 16, n° 1, Spring 1986, pp. 22-27. Written in Tunisia in 1967, this text was the basis of a lecture given by Michel Foucault at the "Cercle d'études architecturales" on 14 March 1967. Foucault granted his permission to publish this text in the spring of 1984 only. This paper refers to the English translation published by *Diacritics* with reference to the French original in *Dits et écrits* given in brackets.

[3] William A. Callahan has resorted to this concept in his book: *Contingent States: Greater China and Transnational Relations,* Minneapolis and London, University of Minnesota Press (Borderlines Series, volume 22), 2004. For Callahan "Foucault's notion of 'heterotopia' is usefull (…) for problematizing the unified notions of civilization and power that mainstream Greater China discourse asserts." (p. 21). And he adds: "Greater China, then, is better understood as a heterotopia than as a geopolitical entity. Rather than territorial units, it is composed of highly mobile populations, involved in contradictions and contestations about identity, community, and civilization." (p. 22); and farther: "I have appealed to Foucault's concept of heterotopia, which describes a decentered space/time. Rather than follow many who seek to define Chinese nationalism as either utopic or dystopic, I have addressed the contingency of Greater China and East Asian international relations through an analysis of the discursive economies of four overlapping narratives of civilization/barbarism – nativism, conquest, conversion, diaspora – to say something, but not to claim to say everything. As the book has shown, the point is not to find one *true answer*, but to examine how politics is produced in the interplay between narrative modes. Greater China is not a place; it is a bundle of concepts." (p. 221, emphasis in the original).

Foucault has thus shown how the hierarchic ensemble of places of the Middle Ages had been replaced by an infinite, and infinitely open space with Galileo, which, in turn, has been replaced in our epoch by a space that takes the form of relations among sites[5].

> "Today the site has been substituted for extension which itself had replaced emplacement. (…) we live inside a set of relations that delineates sites which are irreducible to one another and absolutely not superimposable on one another."[6]

And, among all sites, Foucault is taking interest in particular ones:

> "(...) I am interested in certain ones that have the curious property of being in relation with all the other sites, but in such a way as to *suspect*, *neutralize*, or *invert* the set of relations that they happen to *designate*, *mirror*, or *reflect*. These spaces, as it were, which are linked with all the others, which however contradict all the other sites, are of two main types."[7]

As a matter of fact, Taiwan can be considered as a textbook case as regard to Foucault's demonstration, as these two main types – utopias and heterotopias – have succeeded one another since 1949.

The post-1949 nationalist project was doubly utopian: it was wholly centred around an overweening project – that of the recovery of the mainland -, and, for this very purpose, it was banking on the transformation of Taiwan into a "conservatoire", an academy of "China", China being itself reified as the "Eternal China" in order to better oppose the "New Communist China". In concrete terms, it led not only to the suppression of any form of local characteristics – in religious or dialectal forms for instance -, but also to a toponymy

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[4] For other works related to political science resorting to Foucault's "heterotopia": Heriberto Cairo, "The Field of Mars: heterotopias of territory and war", *Political Geography*, n° 23, 2004, pp. 1009-1036; Charles Burdett, "Journeys to the *other* spaces of Facist Italy", *Modern Italy*, vol. 5, n° 1, May 2000, pp. 7-23; Georgi Fotev, "Heterotopias of the Transition: The Bulgarian Case", *Polish Sociological Review,* n° 133, 2001, pp. 29-32; David A. Martin, "Building Heterotopia: Realism, Sovereignty, and Development in the Ecuadoran Amazon", *Alternatives*, vol. 24, n°1, January-March, 1999, pp. 59-81.

[5] Foucault, "Of Other Spaces", art. cit., pp. 22 and 23 (1572).

[6] *Ibid.*, p. 23 (1572 and 1574).

[7] *Ibid.*, p. 24 (1574). Emphasis added.

overwhelmingly and for the very purpose of preserving "Eternal China" dedicated to an "elsewhere". "Beiping Lu" (Beiping Road) for instance being an apposite example of this elsewhere contradicting the reality, as the city once named Beiping (the peace of the north)[8] had already been renamed Beijing (the capital of the north) by the regime controlling the site of the city and was referred as such by its inhabitants. In so doing, the nationalist regime was asking Taipei dwellers to indefinitely move about in a fictitious China. A counter example of the naming of a street that sticks to political changes is given in Paris where the "Rue de Leningrad" (Leningrad Street) was renamed "Rue de Saint-Petersbourg" (Saint Petersburg Street) after the name of the Russian Baltic city was changed in 1991 to its original one.[9]

But most interestingly, the democratic transition in the late 1980s and in the 1990s has transformed Taiwan's site from a utopia into a heterotopia in Foucault's sense.

> "There are also, probably in every culture, in every civilization, real places – places that do exist and that are formed in the very founding of society – which are something like counter-sites, a kind of effectively enacted utopia in which the real sites, all the other real sites that can be found within the culture, are simultaneously *represented*, *contested*, and *inverted*. Places of this kind are outside of all places, even though it may be possible to indicate their location in reality. Because these places are absolutely different from all the sites that they reflect and speak about, I shall call them, by way of contrast to utopias, heterotopias."[10]

Because of the entanglement of a claimed sovereignty limited to the territory the régime is in control of, and the fact that the official – though not internationally recognized – borders are still those of the 1947 constitution, Taiwan meets the principles of the heterotopology outlined in "Of other spaces".

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[8] In 1928 when the nationalist régime moved the capital to Nanjing.

[9] In fact the changes of the Parisian street's name have been the following : "rue de Saint-Petersbourg" up until 1914, than, according to the change in 1914 of Saint Petersburg into Petrograd, "rue de Petrograd", but it was not until 1945 that it became "rue de Leningrad" though it was in 1924 that the Soviets had renamed Petrograd into Leningrad.

[10] *Ibid*. (1574 and 1575). Emphasis added.

First principle

> "Its *first principle* is that there is probably not a single culture in the world that fails to constitute heterotopias."[11]

Taiwan would be the Westphalian society's heterotopia. And in the distinction made by Foucault at this point of his reasoning between crisis heterotopias and heterotopias of deviation[12], Taiwan should be placed in the first category. Though, Foucault notes that crisis heterotopias are disappearing today, by no means does Taiwan meets the criteria of the second category: "(…) those in which individuals whose behavior is deviant in relation to the required mean or norm (…)"[13]. Thus, Taiwan is not a "deviant" state within the interstate community: it is a sovereign state as defined by international law (i.e. bringing together its three constituent elements that are a population, a territory, and a political authority), it conforms to the rules of international law, it is a rich country spending a substantial part of its budget to humanitarian, food and development aid, and, last but not least, it is a democracy. But we are facing a crisis heterotopia, the crisis resulting both from a civil war that is uncompleted but that is no longer claimed as such by the ruling party, and from the discrepancy between *de facto* and *de jure* independence.

Second principle

> "The *second principle* (…) is that a society, as its history unfolds, can make an existing heterotopia function in a very different fashion; for each heterotopia has a precise and determined function within a society and the same heterotopia can, according to the synchrony of the culture in which it occurs, have one function or another."[14]

Would there not have been the extension of the cold war to Asia, the ROC on Taiwan would not have survived, and Taiwan as a separate political entity from China would not have existed. But with the end of the cold war, Taiwan still has a precise and determined function within the new world order dominated by the United States. Thus, Washington's China policy,

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[11] *Ibid*. (1575).

[12] *Ibid*., pp. 24 and 25 (1575 and 1576).

[13] *Ibid*., p. 25 (1576).

[14] *Ibid*.

and to some extent Tokyo's one, rests on the so-called Taiwan card which, as such, means maintaining the status quo in the Formosa Straits: preventing Taiwan to become a *de jure* independent state, but preventing China to put an end to Taiwan's *de facto* independence by helping Taiwan to defend itself against the PRC's military threat. Within the line of reasoning I try to develop here, the United States policy boils down to maintaining Taiwan as an "other space", a heterotopia, of the Westphalian society.

Third principle

> "The heterotopia is capable of juxtaposing in a single real place
> several spaces, several sites that are in themselves incompatible."[15]

One apposite example is certainly the issue at stake surrounding the National Palace Museum in terms of Taiwan's national identity, in terms of Taipei's diplomacy, as well as in terms of Beijing's Taiwan policy[16]. The museum was opened in Beijing in 1925 within the Forbidden City Wall, and the further the nationalists lost ground to the communists, Chiang Kai-shek ordered the moving of the main part of the collections. This moving was organized both as a matter of priority as early as 1948 and in secret. The new National Palace Museum built in northern Taipei was opened in 1965. As a matter of fact, the island of Taiwan holds none of the Chinese culture's stereotypes, be they monuments (the Great Wall or the Forbidden City), historic sites (the Emperors' tombs), or natural sites (the Yangtze River or the Yellow River Basin) as Horng-luen Wang aptly remarks[17]. Quite the contrary, Taiwan in 1949 held either temples indicating that the island's folk religion was more than less a "decentralized religion"[18] mostly stemming from Fujian, either foreign monuments inherited from former colonizers. The National Palace Museum was thus a powerful legitimizing tool for the utopian nationalist project.

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[15] *Ibid*. (1577).

[16] The story of the National Palace Museum and its legitimizing role in the post-1949 nationalist project are well known. See, among others, Françoise Mengin, *Trajectoires chinoises: Taipei, Hong Kong et Pékin*, Paris, Karthala (coll. Recherches internationales), 1998, pp. 25 and 26. But this issue has never been better set out than by Horng-luen Wang in his article "National Culture and Its Discontents: The Politics of Heritage and Language in Taiwan, 1949-2003", *Comparative Studies in Society and History*, vol. 46, n° 4, October 2004, pp. 793-797.

[17] *Ibid*., pp. 795 and 796.

[18] Robert P. Weller, "Identity and Social Change in Taiwanese Religion", in Murray A. Rubinstein (ed.), *Taiwan: A New History*, Armonk and London, M. E. Sharpe, 1999, p. 340.

But with the so-called indigenization (*bentuhua*) of the Republic of China in the late 1980s and the 1990s, and even more so with the election of the Democratic Progressive Party (DPP) presidential candidate, Chen Shui-bian, in 2000, the National Palace Museum's collections and the debates they arouse both in terms of property rights, as well as in terms of diplomacy tool, turn them into this object of contestation proper to a heterotopia and that inverts the set of relations that it happens to designate, mirror, or reflect. Taiwan independence activists' stance – these collections have been stolen by Chiang Kai-shek and should be returned to the PRC[19] – is closely akin, but up to a certain point only, to both that of the nationalists (Guomindang) and that of the communists. Taiwan independence activists meet communists and nationalists in as much as for all three parties this museum represents, symbolizes "China", but they depart from each other when designating China as well as its borders: the Republic of China limited to Taiwan and its offshore islands for the nationalists, the People's Republic of China of which Taiwan is part of for the communists, the People's Republic of China of which Taiwan is not part of for the Taiwan independence activists. In addition, and still when focusing on the ownership debate, the PRC's stance being far more ambivalent than it seems at first glance confirms that the National Palace Museum is indeed this object of contestation proper to a heterotopia. Though the PRC government considers that the museum's collections have been stolen by Chiang Kai-shek, it does not claim their return in order not to meet the Taiwan independence activists' stance, and in so doing legitimize Taiwan independence.

The same conclusion can be reached as to the debates aroused by the use of the museum's collections as a diplomatic tool[20]. In spite of the cultural policy promoted under Chen Shui-bian that seeks to a "de-sinisation" (*qu zhongguo hua*) of Taiwan, the President has not neglected, as his predecessor, Lee Teng-hui, to break Taiwan's international isolation by using the collections as a "showcase" abroad. In the context of the pan-blue/pan-green (*fanlan/fanlü*) partisan divide[21], it is this time on the very domestic arena that the National Palace Museum as a "national" symbol is not only emblematic of a contested or inverted

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[19] See, Wang, "National Culture and Its Discontents …", art. cit., p. 793 and p. 795.

[20] For these debates see *ibid*., pp. 794 and 795.

[21] Blue is the colour of the Guomindang allied to small parties openly advocating reunification with mainland China; green is the colour of the DPP allied with Taiwan Solidarity Union openly advocating independence.

relationship but of an object which meaning is "neutralised" in Foucault's own words. Indeed, such exhibitions are sharply criticized both by Taiwan independence activists who consider that they are not representative of Taiwan's culture and by those in the pan-blue camp opposing independence and, as such, criticizing a DPP government for using "Chinese" symbols to promote Taiwan as an independent state on the international arena.

Fourth principle

> "Heterotopias are most often linked to slices in time – which is to say that they open onto what might be termed, for the sake of symmetry, heterochronies."[22]

At this point, Foucault distinguishes "heterotopias that are linked to the accumulation of time" from temporal heterotopia "those linked, on the contrary, to time in its most fleeting, transitory, precarious aspect, to time in the mode of the festival."[23] Within this distinction, Taiwan certainly meets the criteria of the first category, even though the examples given by Foucault – museums and libraries – seem far from a state. But if one looks closely at the way aboriginal peoples as well as aboriginal cultures have been put to the forefront of Taiwan's cultural policy during democratization, and more generally the rediscovery process associated to the development of each sub-ethnic community's culture and of each layer of Taiwan's history, the new cultural policy and the national identity formation process boil down to the examples given by Foucault. "Museums and libraries have become heterotopias in which time never stops building up and topping its own summit, whereas in the seventeenth century, even at the end of the century, museums and libraries were the expression of an individual choice."[24] If one spins out the metaphor of the museums and libraries, the sinisation (*hanhua*) of the island population under the authoritarian years of the nationalist regime, and, in particular, the legitimizing role played by the National Palace Museum can be ascribed to the "expression of an individual choice" that of Chiang Kai-shek's (Jiang Jieshi) plan to recover the mainland. On the contrary, the de-sinisation (*qu zhongguo hua*) process underlying the cultural policy of the DPP partakes in transforming Taiwan into a laboratory – hence a showcase or a museum – of hybridity: a multicultural society that, moreover, asserts its

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[22] Foucault, "Of Other Spaces", art. cit., p. 26 (1578).

[23] *Ibid.* (1578 and 1579).

[24] *Ibid.* (1578).

multiple colonial past (Dutch, Spanish, and Japanese). Taiwan's nation-state building is not making a clean sweep of its past[25], but quite the contrary, a process of recollecting and displaying all the "slices" of its history.

More generally, the building of Taiwan's new national culture carries out an inversion of the hierarchy between "national culture" and "local cultures" in as much as Chinese culture is considered as one of the many elements partaking of the hybrid Taiwanese culture. As far as languages are concerned, the decision made by the Cabinet in 2007 to promote a National languages development bill (*guojia yuyan fazhan fa*) recognizing all local languages as national languages[26] is but one more example of such a process of inversion. In Foucault's view:

> "(…) the idea of accumulating everything, of establishing a sort of general archive, the will to enclose in one place all times, all epochs, all forms, all tastes, the idea of constituting a place of all times that is itself outside of time and inaccessible to its ravages, the project of organizing in this way a sort of perpetual and indefinite accumulation of time in an immobile place, this whole idea belongs to our modernity."[27]

Certainly, globalization produces all over the world a twofold process of compression of time and space, on the one hand, and of "reinvention of the difference"[28], on the other hand, and in this process Taiwan can be considered as very commonplace. In addition, that the nation-state is a product of globalization has been thoroughly demonstrated[29]. However, this process carries a strong political significance in Taiwan which is to resist the PRC's irredentism, or, to put it in another way, to secure the building of a nation-state in which the "Chinese" component is just but one. As very well put by Horng-luen Wang:

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[25] I am referring here to the third line of the first stanza of the French socialist song *L'Internationale* (The Internationale) which says "Du passé faisons table rase" which means "Lets put the past behind us". The English version is: "Away with all our superstitions,"; and the Chinese one "Jiu shijie da ge luohualiushui" (The old world shall be destroyed like fallen petals and splashed water).

[26] *Taipei Times*, 26 March 2007, p. 8.

[27] Foucault, "Of Other Spaces", art. cit., p. 26 (1578).

[28] James Clifford, *The Predicament of Culture: Twenteith Century Ethnograpy, Literature and Art*, Cambridge (Mass.), Havard University Press, p. 15.

[29] See above in this paper footnote n° 1.

> "(…) 'cultural heterogeneity and hybridity', rather than 'cultural homogeneity and authenticity', are currently recognized as another defining characteristic of Taiwanese culture. The penetration of global cultural flows has given such an argument a stronger hold, and it is through the deliberate articulation (of the global and the national) that TI nationalists intend to construct a new identity that can be distinguished from China not only politically but also culturally."[30]

Fifth principle

> "Heterotopias always presuppose a system of opening and closing that both isolates them and makes them penetrable." [31]

It is now well known that Taiwan's population is highly mobile. From the early 1970s on, the majority of the elite has been trained in foreign universities, mostly in North-America. Above all, the relocation tide of the Taiwanese industry on the mainland that begun in the 1980s and has since then been steadily growing forces many businessmen or women, if not to commute, at least to often travel in and out the island. But, whether it is a matter of procedures or a matter of route, these flows must take a detour, indeed go through an airlock.

As to procedures, visas are granted through a substitute border, that is a foreign consulate. Likewise, the various bureaucratic harassment travelers holding a passport from the Republic of China (ROC) are confronted with leads those of them who are frequently traveling to adopt a substitute nationality, that is to obtain – purchase – another passport. But, above all, the logic which governs bureaucratic harassment leads to an inversion of the hierarchy, proper to a heterotopia, between the recognized state (the PRC) and the non-recognized one (the ROC). Either the Taiwanese holding the "Republic of China" passport is suspected to carry a faked Chinese passport[32]; either, and most often, the Taiwanese is suspected of being a Chinese carrying a faked "Republic of China" passport as Taiwanese travelers are less involved in trafficking and have a stronger purchasing power[33].

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[30] Horng-luen Wang, "Rethinking the Global and the National: Reflections on National Imaginations in Taiwan", *Theory, Culture & Society*, vol. 17, n° 4, 2000, p. 103. TI refers to Taiwan Independence.

[31] Foucault, "Of Other Spaces", art. cit., p. 26 (1579).

[32] Horng-luen Wang, " Regulating Transnational Flows of People : An Institutional Analysis of Passports and Visas as a Regime of Mobility", *Identities: Global Studies in Culture and Power*, n° 11, p. 362.

[33] *Ibid.*, p. 363.

As to routes, the crucial issue is the lack of direct links (*san tong*), in particular direct regular flights, between Taiwan and the mainland[34]. The Sino-Taiwanese border is both an open border as testified by the relocation tide of the island's industry on the mainland, and a closed border as testified by the necessity for people and goods to follow indirect routes and go through an airlock, generally Hong Kong or Macao. As for passengers, such a detour amounts to a waste of time and, of course, to higher costs.

As well known, Taipei refuses the opening of direct regular flights as long as Beijing insists on describing them as "Chinese domestic flights", at the very least as "cross-straits flights", but in any case "international flights". But, beyond the legal issue, what is at stake is the very reunification of the Taiwanese population as part of it spends more time on the mainland than on the island. More, it is the re-foundation of the basic social institution, the family, which is at stake as not only are many families separated on a long-term basis, but it is well documented now that many Taiwanese businessmen (or women) are having affairs or even are starting a new family on the mainland.

Sixth principle

> "The last trait of heterotopias is that they have a function in relation to all the space that remains. This function unfolds between two extreme poles. Either their role is to create a space of illusion that exposes every real space, all the sites inside of which human life is partitioned, as still more illusory (…). Or else, on the contrary, their role is to create a space that is other, another real space, as perfect, as meticulous, as well arranged as ours is messy, ill constructed, and jumbled."[35]

And Foucault calls this latter type the heterotopia, not of illusion, but of compensation[36]. Considering Taiwan's history since it has been separated from China, that is since the 1895 Shimonoseki Treaty, it can be argued that Taiwan has always been asked to perform a kind of

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[34] The opening, on 4 July 2008, of week-end cross-strait charter flights has not put an end to this issue. These flights are not regular flights: they are limited charter flights and, if they skip the usual stopovers in Hong Kong or other transit points, they still have to fly over one of them.

[35] Foucault, "Of Other Spaces", art. cit., p. 27 (1580).

[36] *Ibid*.

showcase role: first a showcase of Japan's colonialism during fifty years, then a showcase of the so-called Free world during the Cold war. *A contrario*, the four years (1945-1949) during which Taiwan was under Mainland China direct administration have been marked by the so-called 28 February (*er erba*) massacre in 1947. Today, the fully-fledge democracy implemented on Taiwan is one rhetorical argument put forward by Western diplomats in order to maintain their strategic ambiguity vis-à-vis China.

Specific Practices Reflected by Taiwan's International Integration

Following Foucault's reasoning should lead us to consider Taiwan as a "mirror" to scrutinize contemporary international practices, logics, and processes. Non-recognition does not mean autarchy, and, indeed, Taiwan is fully integrated into the international society. First, the substitutes to diplomatic and consular relations which have been devised between Taiwan and states recognizing the PRC's sovereignty over Taiwan indicate that the rule of the game is still the Westphalian fiction, though through a logic of pretence. Second, the relocation tide of Taiwan's industry on the mainland - a case in point of globalization processes - produces inverted logics.

Resorting to Legal Fictions to Deal with Fictitious Borders

Since 1949, the borders of the state in Taiwan are fictitious. After 1949, that is after the nationalist régime had moved to Taiwan, the borders of the Republic of China were still those designated in the 1947 constitution (thus including the mainland), which, as said by the constitution, can only be modified by a resolution of the National Assembly. As a matter of fact, no such resolution has been adopted since 1949. These fictitious borders have still been recognized by the majority of the members of the interstate community up until the 1970s. Because of the cold war, determination to oppose communism led the majority of governments not only to back a widely discredited régime, but also to recognize it as the sole legal government of the whole of China, of which in fact it controlled only a territory two hundred times smaller than the one controlled by the communist government. However, coming to some arrangements proved to be necessary from the outset. Among several examples: in 1952, article 4 of the Sino-Japanese peace treaty (signed between the Republic of China and Japan) limited the "national territory" to Taiwan, Penghu, Kinmen (Jinmen), and

Matsu (Mazu), while in 1954, the Sino-American defense treaty restricted the "national territory" to Taiwan and Penghu.

But, when during the 1970s, the interstate community adopted, with a few exceptions, the principle of effective rule – i.e. recognizing the government that controls the vast majority of the country's territory -, one fiction was substituted for another, since it promised to recognize the unity of the nation and the sovereignty of the newly recognized government over an island which was still outside its control. Therefore, the original fiction turned out to be reversible.

As a technique for resolving antinomies, legal fictions are not absent from international law. As recognition is a discretionary act left to the appraisal of each sovereign state, each state is able "to refuse to recognise reality, considering it to be impossible to oppose, or to recognise the unreal, considering it to exist"[37]. But, beyond the question of state recognition, development of relations with Taiwan, initially confined to the private sphere, brought about new legal paradoxes which were, in turn, resolved by recourse to fictions. The same device was applied to acts that went against the fiction of the Beijing government being the government of the whole of China. Secondary fictions were grafted onto the main one. In their case it is the objective reality, not the legal consequences of that reality, which is denied. Para-diplomatic representative offices are considered as mere private associations; visas are issued under the seal of another consulate; serving ministers do not travel in that capacity; arms supplies (in the case of the French deals) are presented as simple contracts between two civil enterprises although the procedure for sale of military material involving government boddies – even a decision of the then head of state, François Mitterrand – has in fact been applied; bilateral negotiations are conducted by senior officials, presented as mere experts, with aim of signing an agreement concerning two governments but in fact linking two private enterprises[38]. A logic of pretence has been established.

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[37] Jean J. A. Salmon, "Le procédé de la fiction en droit international public" in C. Perelman and P. Foriers (eds), *Les présomptions et les fictions en droit*, Brussels, Emile Bruylant, 1974, p. 126.

[38] For a more in-depth analysis of this process, see Françoise Mengin, "A Functional Relationship: Political Extensions to Europe-Taiwan Economic Ties", *The China Quarterly*, n° 169, March 2002, pp. 136-153, and "A pretence of privatisation: Taiwan's external relations", in Béatrice Hibou (ed.), *Privatising the State*, London, Hurst, 2004, pp. 147-167.

In contrast, the relations – embryonic ones, certainly – that some chancelleries have maintained with so-called national liberation movements suggest a process of state recognition that may or may not come about[39]. But relations with Taiwan have led to unofficial or substitutive normalization, establishing inter-state relations without state recognition. This case is *sui generis*, but, in fact, relations have followed an entirely classical pattern, though in fictional space. To deal with an exceptional situation there was, in this case, no change in the machinery for regulation of inter-state society; no original arrangements were devised, except for recourse to a dilatory system making it possible to hide the state dimension while preserving its dynamics. While this new arrangement is based on a process of fiction, and its motives are exclusively economic – governments not recognizing the Republic of China are eager to promote their firms' interests in Taiwan -, it all relates to the national interest as most realistically understood[40].

Far from leading to effective normalization, systematic recourse to legal fictions has had the aim of hiding the existence of a state, not abolishing it or changing it – which could, over time, have raised the question of its recognition. So the development of Taiwan's foreign relations has occurred tangentially, since each additional "arrangement" has aimed to keep Taiwan out of the community of nations. So, instead of coining Taiwan as a "quasi-state", I suggest the wording "non-state", as the state in Taiwan (i.e. the Republic of China on Taiwan) is a state as testified, in particular, by the classical pattern of its external relations relying on pseudo-diplomatic and consular institutions but aiming at keeping Taiwan out of the interstate community. Rather than a non recognized state, Taiwan is a recognized non-state. Therefore, the rule of game, and Taiwan - though unique - is no exception at this level, is still the Westphalian fiction, that is a juxtaposition of sovereign states (even if Taiwan *de jure* sovereignty is not recognized).

The Inverted Logics Produced by Sino-Taiwanese Exchanges

In order to better understand the relationship between Taiwan and China, I shall resort to the patterns of political spaces Etienne Balibar has indicated to represent European

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[39] One thinks particularly of Western states' relations with the PLO.

[40] As understood in the so-called classical or realist theory of international relations, the idea of the national interest refers not only to the security of a state or its rank, but also to the economic or social well-being of its population considered as a whole.

borders[41]. Among the four conflicting patterns which are "opposite ways of 'constituting' Europe (or, possibly, resisting its constitution)"[42] he distinguishes the Center-Periphery pattern - relying on both Immanuel Wallerstein's and Fernand Braudel's works -[43], and the Cross-over pattern, that is "overlapping folds"[44], or *nappes superposées*[45].

Though Balibar suggests that one should wonder whether the center-periphery pattern has not always been profoundly "Eurocentric"[46], and points to the fact that one privileged field where it is continuously applied in today's scientific and political debate is precisely the field of "European construction", he also hints that other concentric structures are forming though not equally advanced as Europe, that in other parts of the world one can detect hierarchical economic-political combinations, and that the reproduction at the regional level of dependency relationships between the core and the periphery may suggest that a new episode of "struggle in the core" is now beginning, where Europe rivals other "central" powers, the U. S. but also the Far East[47]. I suggest to keep in mind these patterns when analyzing Taiwan's border with China in the context of the relocation tide of Taiwan's industry on the mainland and, in so doing, I would like to show how "inverted logics" are at work, logics that run counter to the general trend. In other words, and to go back to Foucault's approach of "other spaces", the interdependent Sino-Taiwanese borderland "mirrors" and "reflects" the globalizing world as center-periphery and overlapping folds patterns, but produces inverted effects.

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[41] Etienne Balibar, "Europe, pays des frontières", chapter V in *Europe Constitution Frontière*, Bègles, Editions du Passant (coll. Poches de résistance), 2005, pp. 94-164. This chapter is the edited version of The Alexander von Humboldt lecture in Human Geography Etienne Balibar gave, in English, on November 10, 2004, at the University of Nijmegen and which was titled "Europe as Borderland". This paper refers to the paper of the conference with reference to the book published in French given in brackets.

[42] *Ibid.*, p. 10 (105).

[43] *Ibid.*, pp. 17 and 18 (116 and 117).

[44] *Ibid.*, pp. 21 and 22 (123-125).

[45] The two others being the Clash-of-Civilizations pattern, and the Global Network pattern.

[46] "(...) even when it was meant to reverse the traditional European (colonialist) view of history, where Europe was the *only* site of decisive historical processes, and even if the historic center of the World System has progressively moved from Europe itself to 'New Europe', i.e. the 'White' colonies of Northern America and Australia." *Ibid.*, p. 18 (118). Emphasis in the original.

[47] *Ibid.*, p. 18 (117 and 118).

Certainly, since the resuming of Sino-Taiwanese links in the mid 1980s and the relocation tide of Taiwan's industry on the mainland, one witnesses not so much the rise of what as been coined either a "natural economic territory"[48], or a "region-state"[49] testifying to the primacy of economic interests over national identification, but at least a new division of labor, and the formation of an interdependent borderland. Such a process does not forecast the fading of borders, but quite the contrary bears witness to a differential constitutive of the border. In other words, the mere existence of borders – be it between countries, systems, or administrative entities – bring about differences that in turn produce wealth through trade, investment, migration, smuggling, social differentiation, and thus new power relations[50].

At this stage of the reasoning, what is important to keep in mind is that the differential concealed in the Sino-Taiwanese border and which has given impetus to the relocation tide implied a hierarchy with Taiwan being the most advanced economy compared to that of the mainland. Such a hierarchy, such a new concentric division, implies compensatory migration as well as a new gradation in the setting of who is the "étranger", this French word encompassing the twofold sense of "foreigner" and "stranger". It just so happens that if one considers the logic of governmentality in Taiwan, that in Foucaldian terms closely relates managing of the population with security considerations[51], the issue at stake is not so much that of "illegal immigrants" in Taiwan – even though the question has arisen – but that of "illegal migrants" or, not to play with words, that of a "deserting population". Indeed, as well known, this relocation tide on the mainland was a "society-led" investment flow, while the government in Taipei has striven to slow it down both by maintaining restrictive regulations and by offering incentives to encourage other destinations to the relocation tide in particular in South-East Asia with the so-called "southward policy" (*nanxiang zhengce*). Yet,

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[48] Robert A. Scalapino, in Jane Khana (ed.), *Southern China, Hong Kong, and Taiwan : Evolution of a Subregional Economy*, Washington, The Center for Strategic and International Studies, *Significant Issues Series*, vol. XVII, n° 7, 1995, p. viii.

[49] Kenechi Omae, "The Rise of the Region State", *Foreign Affairs*, vol. 72, n° 2, Spring 1993, pp. 78-87; *The Borderless World: Power and Strategy in the Global Marketplace*, London, Harper Collins, 1994 (2nd edition); and *The End of the Nation-State: The Rise of Regional Economies*, London, Harper Collins, 1996.

[50] See Françoise Mengin and Jean-Louis Rocca, "Analyzing Changes through Overlapping Sheres", in Françoise Mengin and Jean-Louis Rocca (eds), *Politics in China: Moving Frontiers*, New York and Houndmills (Basingstoke), Palgrave Macamillan, 2002, pp. x-xxv, and Françoise Mengin, "Taiwanese Politics and the Chinese Market: Business's Part in the Formation of a State, of the Border as a Stake of Negotiations", *ibid.*, pp. 232-257.

[51] See Graham Burchell, Colin Gordon, and Peter Miller, *The Foucault Effect: Studies in Governmentality: With two lectures by and and interview with Michel Foucault*, London, Harvester Wheatsheaf, 1991, p. 25.

Taiwanese investments on the mainland have kept on rising, while many firms do not declare their investments to Taiwan's administration in order to escape the regulations (in particular, many listed companies make investment through their overseas subsidiaries in order to keep away from the whole approval process [52]). Therefore the relocation tide derives from autonomous actions from the business community, and the Taipei government regulating action remains very marginal, leading Leng Tse-kang to write that cross-Straits economic relations are characterized by "civilian governance"[53]. In addition, in order to avoid restrictive regulations limiting Chinese talent flows in Taiwan, many Taiwanese firms prefer to establish their own research and development teams on the mainland[54]. Above all, because of the refusal by Taipei authorities to open up direct regular links, Taiwanese people (especially businessmen – *Taishang* - but also families) are more and more settling down in China, particularly in Shanghai or in the Shanghai region (*Da Shanghai*). Available figures are an indicator of this trend all the more so as it is acknowledged that actual figures can reach twice the formers. For instance, it is reported that, in 2002, between 500,000 and 1,000,000 Taiwanese elites were living in China at any time[55], and that, in early 2007, Taiwanese that had settled in the Shanghai metropolitan area alone amounted to 500,000[56].

When examining the relationship between this emigrated population and Taiwanese authorities a few general features are salient, notwithstanding all the individual counterexamples. Both by force and by choice, the Taipei government can hardly support *Taishang*'s activities on the mainland. By force, the Taiwanese state has no institutions in China, and even Taiwan banks cannot support financially Taiwanese investments. But, above

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[52] See, among others, Yun-han Chu, "The Political Economy of Taiwan's Mainland Policy", *Journal of Contemporary* China, vol. 6, n° 15, 1997, p. 242, and footnote n° 31.

[53] Tse-Kang Leng, "Sovereignty at Bay? Business Networking and Domestic Politics of Informal Integration between Taiwan and Mainland China", in Philippe Régnier and Fu-kuo Liu (eds), *Regionalism in East Asia: Paradigm Shifting?*, London, Curzon and Routledge, 2004, p. 177; and "Securing Cross-Straits Economic Relations: New Challenges and Opportunities", *Journal of Contemporary China*, vol. 11, n°31, April 2002, p. 267.

[54] Tse-Kang Leng, "Economic Globalization and IT Talent Flows across the Taiwan Straits: the Taipei/Shanghai/Silicon Valley Triangle", *Asian Survey*, vol. 42, n° 2, 2002, p. 21; and "Global Networking and the New Division of Labor Across the Taiwan Straits", in Françoise Mengin (ed.), *Cyber China: Reshaping National Identities in the Age of Information*, New York, Palgrave Macmillan, 2004, pp. 192-197.

[55] Chen-min Chao, "National Securitys. Economic Interests: reassessing Taiwan's mainland policy under Chen Shui-bian", *Journal of Contemporary China*, vol. 13, n° 41, November 2004, p. 697.

[56] Chang, Chiung-fang, (Zhang Qiong-fang), "Taiwan nüren de xin shangai meng" (Taiwan women and their new Shanghai dream), *Taiwan Guanghua* (Taiwan Panorama), vol. 32, n° 3, March 2007, p. 85.

all, as the *Taishang* are constantly escaping (Taiwanese) governmental regulations, the Taipei authorities cannot but be put on the defensive: on the long run, Taipei's mainland policy appears as an *ex post* legalization of the breaches opened by firms, and government regulations are always lagging far behind the current situation. Therefore, in terms of Taiwan's governmentality, the *Taishang* cannot but be considered as "illegal migrants". At the very best, their move on the mainland is treated in a condescending way by the authorities as testified, among others, by the book published in November 2006 by the Mainland Affairs Council *Know Thyself, Know Others: The Neglected Risks of China*, and the foreword by its then chairman, Jaushieh Joseph Wu:

> "A priority task of the government is to estimate and warn the public of potential risks. The government must be in a position to counter changes through advance collection of information and planning of preventive measures and, thereby, help its people take precaution against risks and avoid damage."
> "The media has painted a picture of bright prospects and infinite potential for China. News reports have created widespread impression among Taiwanese people that China is a rapidly developing economy whose cheap labor and use of a common language make it an ideal place for investment, travel, tourism and immigration. Over 3.5 million people from Taiwan visit China each year for trade, travel or residence purposes. However, many risks exist in the business environment. Medical treatment is unreliable, pollution is severe, accidents frequently occur, tourists' safety is generally overlooked, and social stability remains uncertain. These factors pose threats to the safety of Taiwanese people in China."
> (…) Psychologically, [the contributors to this book] also make people aware of the hardships involved, thereby preventing unnecessary loss of life and property that may result from misjudgment and misunderstanding of the social and economic situations in China."

But, as many highly industrialized countries, Taiwan has also become a land of foreign labor immigration. Taiwan became one of the major labor-receiving countries in Asia in the mid-1980s, and in May 1992 the government ratified the Employment Service Law which stipulates that foreigners can be employed in nine categories of work, the first six being white-collar occupations, the last three being unskilled (such as domestics, caregivers, and laborers working in the construction and manufacturing industries) for which only laborers from the Philippines, Thailand, Indonesia, Malaysia, and more recently Vietnam are eligible

for employment[57]. It can be said that foreigners working in Taiwan in the first six categories is not a new phenomena (coming from Japan, North America, or Europe), while it is only since the mid-1980s that foreigners have compensated a shortage of unskilled workers in Taiwan. And it so happens that the expansion of foreign laborers from Southeast Asia was concomitant with the emerging or the term "foreign labor" (*wailao*), with foreign labor gradually being constructed, within a process of othering, as a social problem[58]. Here, we have, I would say, a classical pattern (that is already at work elsewhere, particularly in Europe). In Cheng's words:

> "Foreign workers of these nationalities are considered rationally are considered racially and culturally different, and this produces an implicit association of skill, nationality, and race.
> "Taiwan's foreign labor policy reflects the state's anxiety over a changing ethnoscape within its national boundaries and reveals its deep-seated concern over the development of national identity (…) They are supposed to be deported if they become pregnant and/or five birth to a child. In other words, the exclusion of foreign labor from permanent settlement has been crucial to state control.
> "The treatment of wailao, as opposed to other categories of foreigners, is particularly intrusive. The monitoring and surveillance of both their bodies and their emotions are integral to the state's attempt to police national borders and ultimately to control the racial/ethnic composition of its citizenry."[59]

While Balibar, for his part, states:

> "Since the establishment of a notion of 'European citizenship", individuals from the member states are no longer 'full foreigners' or 'fully strange' to one another in the sense in which individuals from 'third' states (in particular 'extra-communitarian residents') are *strange* to them. But of course, the category of the 'thirds' is also split, because all the places of the world are not equivalent from a European (or an American…) point of view, in terms of security, economic partnership, cultural difference, etc. We could push to the extreme this idea that the status of borders determines the condition of the

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[57] See Jorge V. Tigno and Maria Ela L. Atienza, *International Labor Migration and the Prospects for Regional Cooperation in the Asia-Pacific: Southeast Asian Migrants in Taiwan*, Manila, Institute for Strategic and Development Studies, 1998, and Shu-ju Ada Cheng, "Rethinking the Globalization of Domestic Service: Foreign Domestics, State Control, and the Politics of Identity in Taiwan", *Gender and Society*, vol. 17, n° 2, April 2003, pp. 166-186.

[58] Cheng, "Rethinking the Globalization of Domestic Service…", art. cit.

[59] *Ibid.*, pp. 173 and 174.

> stranger/foreigner and the very meaning of 'being foreign', rather than the reverse: virtually, this category is *dissolved*, there are no longer any 'foreigners' in a simple legal sense, because some are 'assimilated' – they are *less than foreign*, no longer really 'strange', instead they become 'neighbors' – while others are 'dissimilated' – they are *more than foreign*, as it were, they become 'absolutely strange' or 'aliens'. As a consequence, inevitably, the category of the 'national' (or the *self*, of what it requires to be the *same*) also becomes split and subject to the dissolving action of 'internal borders' which mirror the global inequalities."[60]

Yet, if one brings into the picture the (mainland) Chinese laborers in Taiwan, the process at work is being, once more, inverted. Thus, though Chinese are still not considered as eligible for employment, it is secret to nobody that many Chinese women are employed in Taiwan, especially as caregivers for elderly men. But as workers they are illegal, so their "importation" is made through roundabout means such as marriage. Marriage bureaus are thus more or less manpower agencies. In short, the less *strange* foreign laborer is not the one taken into account by the law.

In other words, and to go back to the over-lapping folds pattern, the process at work in Taiwan's nation-state building process in a context of globalization is the reverse of that taking place in other regions of the world, precisely because of the Sino-Taiwanese dispute and the non recognition of the Sino-Taiwanese border as an international border. While the "de-sinisation" process at work in the building of Taiwan's national identity implies the promotion of a hybrid Taiwanese culture made of over-lapping folds – Chineseness is not the "middle", rather it is one of the "assembled peripheries" -, growing cross-straits exchanges brings back Chinese as the less *strange* other in Taiwan, though, for security reasons, still left aside by immigration rules.

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There certainly are other ways of assessing Taiwan's non-recognized borders. One main question that has not been tackled here is of course the impediment such a predicament causes to Taiwan's polity. It then occurs that the latter is over-determined by the status issue, that no political debate is free from the "national" issue, that is Taiwan's ultimate national

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[60] Balibar, "Europe as Borderland", paper cited, p. 29 (135 and 136). Emphasis in the original.

identity and Taiwan's future ties with China. In other words, it leads to tackle the Sino-Taiwanese relationship in terms of a hegemonic relationship[61]. Yet, grasped as an "other space" that mirrors the world society, Taiwan and its non-recognized borders also gives us precious indications on contemporary international practices: even if a detour by a logic of pretence is necessary, the rule of the game is still the Westphalian fiction; globalization processes do not lead to uniformity and equality but to highly hierachized relationships.

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[61] See Françoise Mengin, "De la concurrence des régimes de domination hégémonique sur l'île de Taiwan, à la reconduction des modes d'accommodement à la sujétion impériale", in Jean-François Bayart (ed.), *Legs colonial et gouvernance contemporaine*, vol. II, Paris, FASOPO, multigr., pp. 67-117, available at : http://www.fasopo.org/publications/legscolonial2_fm_1206.pdf