

The Republic of China (Taiwan) and International Refugee Law: 1911–2024

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1 Introduction

The Republic of China (ROC), also nowadays known as Taiwan, has dealt with refugees and asylum seekers since its establishment in 1911. It received around 60,000 White Russian refugees after the 1917 Russian Revolution¹ and around 20,000 Jewish refugees during the Second World War.² After it retreated from mainland China to the islands of Taiwan in 1949, the ROC has from time to time provided asylum to “defectors” from the People’s Republic of China (PRC) and also accepted around 10,000 Indochinese refugees for resettlement between 1975 and 1990.³ More recently, more than 1,000 Hong Kong activists have sought refuge in the ROC since 2019,⁴ and several Ukrainians protested outside the Russian representative office in Taipei in 2022, calling on the ROC to enact a refugee law and assist Ukrainian asylum seekers.⁵ The ROC has also received small numbers of refugees

1 Michael Marrus, *The Unwanted: European Refugees in the Twentieth Century* (OUP 1985) 60; Jishun Wang, ‘Research on China’s Participation in the League of Nations’ Assistance of White Russian Refugees: 1921–1925’ (Master’s dissertation, Taiwan National Chengchi University 2011) 69, table 4.1.

2 Guang Pan, *A Study of Jewish Refugees in China (1933–1945): History, Theories and the Chinese Pattern* (Springer 2019) 29.

3 See Hao-Ming Lee, ‘A Study of Taiwan’s Asylum Policy’ (Master’s thesis, National Taiwan University 2017) 117 and 120 <<https://doi.org/10.6342/NTU201700146>> accessed October 11, 2024.

4 See Min-Yen Chiang and Candia Tong, ‘From Non-Existence to Unrecognised Existence: The Evolution and Limitations of Taiwan’s Hong Kong Asylum Mechanism After 2019’ in Lara Momesso and Polina Ivanova (eds), *Refugees and Asylum Seekers in East Asia: Perspectives from Japan and Taiwan* (Palgrave Macmillan 2024).

5 Liam Gibson, ‘Ukrainians in Taiwan Call for Asylum Law Outside Russian Representative Office: Protesters’ Call Echoed by Taiwanese Civic Groups’ *Taiwan News* (Taipei, March 1, 2022) <www.taiwannews.com.tw/news/4458701> accessed October 11, 2024.

and asylum seekers from other countries such as The Gambia, Colombia, and Uganda.⁶

The ROC is a somewhat peculiar case of a non-signatory to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (together and individually the Refugee Convention).⁷ Following the adoption of the United Nations (UN) General Assembly Resolution 2758 on October 25, 1971,⁸ the ROC lost its seat at the UN to the PRC and has not been recognized as a sovereign state by the UN. As a result, it has been generally excluded from the UN treaty system and could not become a signatory to the Refugee Convention even if it wanted to. Notably, the ROC is one of the few non-signatories that participated in the drafting process of the 1951 Convention.

The UN High Commissioner for Refugees (UNHCR) has not established any presence in the ROC and appears to have had limited interaction with ROC authorities since October 1971.⁹ For example, UNHCR hardly engaged with ROC authorities during the Indochinese refugee crisis, has reportedly declined to be involved in the resettlement of PRC asylum seekers from the ROC to third countries, and appears to have had a very limited role in channelling ROC authorities' international aid to refugees outside the ROC.¹⁰ In the absence of UNHCR's substantial involvement with and presence in

6 Ei-Leen Chiu, 'As a Human Being, Anywhere: Refugee Cases and Relevant Mechanisms in Taiwan' (2018) 4(4) *Taiwan Human Rights Journal* 155, 159.

7 Convention relating to the Status of Refugees 189 UNTS 137 (adopted July 28, 1951, entered into force April 22, 1954); Protocol relating to the Status of Refugees 606 UNTS 267 (adopted January 31, 1967, entered into force October 4, 1967).

8 *Restoration of the Lawful Rights of the People's Republic of China in the United Nations* GA Res 2758 (1971) <<https://digitallibrary.un.org/record/192054>> accessed October 11, 2024.

9 Lee (n 3) 139–49; Christine Lin, 'Examining Refugee Protection in Non-Signatories to the Refugee Convention and Protocol: Lessons Learned for the Taiwan Context' in Momo and Ivanova (n 4) 63.

10 Lee (n 3) 141; Enben Lin, 'Taiwan's Experience and Current Situation Relating to Refugees and Asylum' (2022) <www.taiwansig.tw/index.php/政策報告/兩岸國際/8860-台灣處理難民及庇護經驗及現況>; Luan Sangguan, 'Mainland Political Refugees in Taiwan: Having 'Defected' to Democracy and Freedom And Still Without a Place to Settle' (2024) <www.wainao.me/wainao-reads/Mainland-Chinese-political-refugees-in-Taiwan-04222024> accessed October 15, 2024; Yi-Chen Wu, Shih-Shen Chien, 'Northernization for Breaking-through International Isolation: Taiwan's Trilateral Aid Cooperation in the Middle East Refugee Crisis and Beyond' (2021) 40(1) *Development Policy Review* e12556.

the ROC, civil society organizations such as the Taiwan Association for Human Rights and the ROC chapter of Amnesty International have long been a remarkable force in supporting refugees and advocating for a ROC refugee law consistent with the Refugee Convention.¹¹

Indeed, the exclusion of the ROC from the UN treaty system does not mean that it cannot enact national laws consistent with the provisions of the Refugee Convention or voluntarily comply with those provisions in practice, if it wants to. For example, since 2002, the ROC has made notable efforts to draft a standalone refugee law with a view to incorporating provisions of the Refugee Convention into its domestic law (see Part 3 below).

This chapter examines the ROC's interaction with international refugee law (IRL), especially the Refugee Convention. It aims, primarily, to demonstrate that, despite the ROC's exclusion from the UN system since October 25, 1971, the Refugee Convention is nevertheless relevant and valued in the ROC. It also aims to show that the ROC vocally disagreed with Western-centered approaches during the drafting process of the 1951 Convention. A comprehensive examination of the ROC's current refugee law and policy and the underlying national political and social considerations, or a detailed historical analysis of the ROC's roles in the development of IRL, is beyond the ambition of this chapter.

The rest of this chapter proceeds in four parts. Part 2 offers observations about the ROC's participation in IRL making before 1971. Part 3 provides an overview of existing ROC law that incorporates or reflects IRL and the history and recent progress of the draft ROC Refugee Act. Part 4 considers ROC court cases in which arguments based on IRL were made. Part 5 concludes by situating the ROC experience within a wider context of the experience of other non-signatories to the Refugee Convention.

11 See chapter 4; Won Geun Choi, 'Advancing Refugee Protection from Bottom-Up: Case of the Asia Pacific Refugee Rights Network (APRRN)' (PhD dissertation, University of Hawai'i 2020) 12 and 137; Bonny Ling and Mariko Hayashi, 'Refugee Protection in Japan and Taiwan: Common Challenges and Ways Forward for Human Security' in Momesso and Ivanova (n 4) 38. See also Radio Free Asia, 'World Refugee Day: Taiwan Human Rights Groups Call for Refugee Legislation' (June 20, 2024) <www.rfa.org/man_darin/yataibaodao/gangtai/hx1-06202024105642.html> accessed October 11, 2024; Ann Maxon, 'Lawmakers, Groups Call for Passage of Refugee Act' *Taipei Times* (June 21, 2019) <www.taipeitimes.com/News/taiwan/archives/2019/06/21/2003717320> accessed October 11, 2024.

2 Participation in International Refugee Law Making before 1971

As a founding member of both the League of Nations (LN) and the UN, and a permanent member of the UN Security Council,¹² the ROC was involved in the drafting process of the Refugee Convention, the UNHCR Statute, the 1948 Universal Declaration of Human Rights (UDHR),¹³ the 1967 Declaration on Territorial Asylum,¹⁴ as well as the international refugee treaties concluded under the auspices of the LN.¹⁵ It was represented on the 13-member Ad Hoc Committee tasked with drafting the 1951 Convention (Ad Hoc Committee)¹⁶ and the UNHCR's Executive Committee (1958–October 1971).¹⁷ ROC diplomat PC Chang, who was highly regarded for his work as Vice Chair of

12 When the Nationalist government was defeated by the Communist government in 1949, the ROC retreated to Taiwan but continued to hold the China seat at the UN.

13 Universal Declaration of Human Rights GA Res 217A (1948) (UDHR) <www.un.org/en/about-us/universal-declaration-of-human-rights> accessed October 11, 2024.

14 Declaration on Territorial Asylum GA Res 2312 (1967) <<https://digitallibrary.un.org/record/203069>> accessed October 11, 2024.

15 These treaties include: the Convention relating to the International Status of Refugees 159 LNTS 199 (signed October 28, 1933, entered into force June 13, 1935); the Arrangement Concerning the Extension to Other Categories of Refugees of Certain Measures Taken in Favour of Russian and Armenian Refugees 89 LNTS 63 (signed June 30, 1928, registered May 2, 1929); the Arrangement Relating to the Issue of Identity Certificates to Russian and Armenian Refugees 89 LNTS 47 (signed May 12, 1926, registered May 2, 1929); the Arrangement with Regard to the Issue of Certificates of Identity to Russian Refugees 13 LNTS 237 (signed July 5, 1922, registered November 16, 1922). See also *Plan for the Issue of a Certificate of Identity to Armenian Refugees* LN Doc CL 72(a) (May 31, 1924) <<https://archives.ungeneva.org/plan-for-the-issue-of-a-certificate-of-identity-to-armenian-refugees-2>> accessed October 11, 2024.

16 Ad Hoc Committee on Statelessness and Related Problems, later named Ad Hoc Committee on Refugees and Stateless Persons.

17 UNHCR, 'Executive Committee's Membership by Year of Admission of Members' <www.unhcr.org/media/excom-membership-date-admission-members> accessed October 11, 2024; *Increase in the Membership of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees* ESC Res 682 (1958) <www.unhcr.org/publications/increase-membership-executive-committee-programme-united-nations-high-commissioner> accessed October 11, 2024; Sadruddin Aga Khan, 'Oral Statement of Prince Sadruddin Aga Khan, United Nations High Commissioner for Refugees, to UNHCR Headquarters Staff on 1 February 1972' (Geneva, February 1, 1972) <www.unhcr.org/3ae68fb314.html> accessed October 11, 2024; 'When the People's Republic became a member, it automatically had the right to avail itself of their seat on our governing body.' For background on the nomination of the ROC to the Executive Committee, see *Economic and Social Council Official Records, 26th Session: 1041st Meeting, Monday, 21 July 1958, Palais des Nations, Geneva* UN doc E/SR1041 (1958), paras 6, 23, and 27 <<https://digitallibrary.un.org/record/817455>> accessed October 11, 2024.

the drafting committee of the UDHR,¹⁸ was influential in the drawing up of UDHR's article 14 (the right to seek and enjoy asylum).¹⁹

Janmyr rightly called for more scholarly attention to be paid to the stance and approaches taken by non-signatories that participated in the 1951 Convention's drafting.²⁰ This part responds to that call by offering three observations about the ROC's role, while also drawing upon its earlier involvement in the international refugee regime.

First, while it was absent from the Conference of Plenipotentiaries, the ROC actively participated in the drafting process of the 1951 Convention at all other stages. For example, 29 of the 43 meetings of the Ad Hoc Committee recorded remarks from the ROC representative.²¹ At meetings of the Ad Hoc Committee, the UN Economic and Social Council, and the UN General Assembly, ROC representatives commented on the draft preamble, and draft articles 1 (refugee definition), 9 (provisional measures), 12 (personal status), 13 (movable and immovable property), 17 (wage-earning employment), 21 (housing), 29 (fiscal charges), 32 (expulsion), and 34 (naturalization).²² The ROC was also one of the 58 states that provided a response regarding the proposed 1967 Protocol.²³

18 See Eleanor Roosevelt, *On My Own* (Harper & Brothers 1958) 77; John Humphrey, *Human Rights and the United Nations: A Great Adventure* (Transnational Publishing 1984) 29.

19 See, for example, *Commission on Human Rights, Summary Record of the Fifty-Sixth Meeting* UN doc E/CN4/SR56 (June 2, 1948) 12 <<https://documents.un.org/doc/undoc/gen/gl9/g02/88/pdf/gl9g0288.pdf>> accessed October 11, 2024; *Commission on Human Rights, Summary Record of the Fifty-Seventh Meeting* UN doc E/CN4/SR57 (June 3, 1948) 5 <<https://documents.un.org/doc/undoc/gen/gl9/g02/89/pdf/gl9g0289.pdf>> accessed October 11, 2024.

20 Maja Janmyr, 'The 1951 Refugee Convention and Non-Signatory States: Charting a Research Agenda' (2021) 33(2) *International Journal of Refugee Law* 188, 193.

21 Summary records of those meetings are available at: <www.refworld.org>. See Ad Hoc Committee on Statelessness and Related Problems, First Session, January 16–February 16, 1950, New York; Second Session, August 14–25, 1950, Geneva.

22 See the summary records: *ibid*; Paul Weis (ed), *The Refugee Convention, 1951: The Travaux Préparatoires Analysed, with a Commentary by the Late Dr Paul Weis* (CUP 1995).

23 The ROC response was summarized in UNHCR, Proposed Measures to Extend the Personal Scope of the Convention relating to the Status of Refugees of 28 July 1951 UN doc A/AC96/346 (October 12, 1966) annex 1, 2 <<https://digitallibrary.un.org/record/3974488>> accessed October 11, 2024. The discussion leading to the adoption of the 1967 Protocol (n 7) was relatively brief: Terje Einarsen, 'Background, Drafting History of the 1951 Convention and the 1967 Protocol' in Andreas Zimmermann, Felix Machts, and Jonas Dörschner (eds), *The 1951 Convention relating to the Status of Refugees and Its 1967 Protocol: A Commentary* (OUP 2011) paras 70–78.

Second, the ROC vocally objected to distinguishing between European and non-European refugees. For example, in 1950, it argued that:

The definition proposed by the Economic and Social Council was too limited, both in space and time. It related mainly to certain categories of persons in Europe or regions bordering on Europe, other categories of IRO beneficiaries and victims of persecution which took place before 1 January 1951. Those restrictions were entirely arbitrary.²⁴

Similarly, during deliberations of the International Refugee Organization's responsibilities in 1946, when some countries suggested postponing any detailed examination of non-European refugee situations because they considered European refugee situations to be more complicated and urgent, the ROC representative voiced his misgivings about any distinction being drawn between European and non-European refugees, arguing that the relevant UN resolution clearly obliged examination of non-European refugees' situations at the same stage.²⁵

Third, from the 1920s to at least the early 1950s, the ROC's approach to IRL was significantly influenced by its experience of hosting White Russian and Jewish refugees and its familiarity with Western powers' extraterritorial consular jurisdiction, which existed in China from the 1840s to 1945.²⁶ For example, in 1921, the ROC representative emphasized that his government – while generally in agreement with other countries on assisting Russian refugees – strongly opposed the proposal of subjecting Russian refugees in China to another country's extraterritorial consular jurisdiction rather than to Chinese jurisdiction.²⁷ Similarly, in 1950, a ROC representative, agreeing that refugees should be treated in accordance with the laws of the host

24 *General Assembly, 5th Session, 3rd Committee, 329th Meeting, 29 November 1950* UN doc A/C3/SR329 (December 1950) para 16 <<https://digitallibrary.un.org/record/819320>> accessed October 11, 2024.

25 *Special Committee on Refugees and Displaced Persons: Summary Record of 3rd Meeting, Held at Church House, Dean's Yard, London, on 9 April 1946* UN doc E/REF/11 (April 10, 1946) 2 <<https://digitallibrary.un.org/record/843740>> accessed October 11, 2024.

26 On extraterritorial consular jurisdiction in China, see Vi Kyuin Wellington Koo, *The Status of Aliens in China* (Columbia University 1912); Par Kristoffer Cassel, *Grounds of Judgment: Extraterritoriality and Imperial Power in Nineteenth-Century China and Japan* (OUP 2012).

27 Lee (n 3) 64–65.

country, stated that “[h]is own country would never agree to return to the practice of extraterritoriality, with which it had had bitter experience.”²⁸

The ROC did not become a party to the Refugee Convention before it lost representation at the UN.²⁹ The complicated legal and political issues surrounding the large numbers of PRC nationals seeking refuge in Hong Kong from the late 1940s to the early 1980s could have affected its readiness to ratify the Refugee Convention.³⁰ Incidentally, in 1949, the ROC lost effective control of mainland China and retreated to Taiwan, an island of about 36,000 square kilometers, bringing with it about one million mainlanders. The ROC’s capacity to help refugees was thus significantly reduced after 1949, and the ROC representative made it clear in 1950 that his government was not in a position to accept refugees.³¹

28 UN Ad Hoc Committee on Statelessness and Related Problems, *First Session: Summary Record of the Eighth Meeting, 23 January 1950* UN doc E/AC32/SR8 (January 30, 1950) www.refworld.org/legal/leghist/ahcrsp/1950/en/43322 accessed October 11, 2024.

29 See Ministry of Foreign Affairs, Republic of China (Taiwan), ‘List of International Human Rights and Humanitarian Treaties or Declarations Ratified by the ROC’ (last updated October 11, 2024) <www.mofa.gov.tw/News.aspx?n=1159> accessed October 11, 2024. Some publications assert that the ROC signed the 1951 Convention (n 7) and the 1967 Protocol (n 7) in 1951 and 1967 respectively, but had not completed the UN procedure for depositing the instruments of ratification by October 1979: Meeting Minutes of the Committees of Internal Affairs and Foreign Relations and Defense, the Legislative Yuan, 9th Appointment, 1st session, 1st sitting, June 1, 2016; Guard of the Legislative Yuan, 105(45) 1 per Meinu You (member of the Legislative Yuan) <https://ppg.ly.gov.tw/ppg/download/communique1/work/105/45/LCIDC01_1054501_00005.doc> accessed October 11, 2024; Zhu-Han Lin, ‘Why Does Taiwan Need a Refugee Act: Breaking Myths and Resolving Problems’ (2013) 6(1) *Taiwan Human Rights Journal* 105, 107 <www.taiwanhrj.org/contents/399> accessed October 11, 2024; Taiwan Association for Human Rights, ‘Joint Statement Calls the Legislative Yuan to Pass Refugee Act and NGO’s Opinion on the Draft of Refugee Act in Taiwan’ (August 28, 2012) 1 <www.tahr.org.tw/content/1112> accessed October 11, 2024.

30 The ROC’s ‘disinterest’ in including the PRC refugees in Hong Kong in the proposed refugee definition under the 1951 Convention was noted: statement of Mr Robinson (Israel) in *Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Summary Record of the 22nd Meeting, Held at the Palais des Nations, Geneva, on Monday, 16 July 1951* UN doc A/CONF2/SR22 (November 26, 1951) 7 <<https://digitallibrary.un.org/record/696436>> accessed October 11, 2024; Kazimierz Bem, ‘The Coming of a “Blank Cheque”: Europe, the 1951 Convention, and the 1967 Protocol’ (2004) 16(4) *International Journal of Refugee Law* 609, 621. For discussion about relevant legal and political issues, see Edvard Hambro, *The Problem of Chinese Refugees in Hong Kong: Report Submitted to the United Nations High Commissioner for Refugees*, Leyden 1955; Glen Peterson, ‘To Be or Not to Be a Refugee: The International Politics of the Hong Kong Refugee Crisis, 1949–55’ (2008) 36(2) *Journal of Imperial and Commonwealth History* 171.

31 Weis (n 22) 18.

After the ROC's exclusion from the UN in 1971, it became impossible for it to accede to the Refugee Convention. Meanwhile, the ROC achieved rapid economic development in the 1970s and 1980s, lifted its martial law, and began its democratization process in 1987.³² The ROC has faced shrinking diplomatic space and has devoted significant effort to gaining international recognition over the past few decades.³³ It is against this background that the discussion in Parts 3 and 4 should be understood.

3 Legislation Reflecting/Incorporating International Refugee Law

This section provides an overview of current ROC legal provisions relevant to refugee protection and the history of the draft Refugee Act. It demonstrates that the ROC has made notable efforts to incorporate the provisions of the Refugee Convention in its domestic law.

Currently, few ROC laws contain provisions specifically and explicitly mentioning refugees and asylum seekers. The Organization Act of the National Immigration Agency empowers the Agency to “determin[e] the status of potential refugees, and handl[e] matters relating to refugee asylum and sheltering.”³⁴ According to the Employment Service Act,³⁵ refugees permitted to stay in the ROC “may, without their employers' initiation, apply on their own initiatives to the Central Competent Authority for permits to

32 See Hung-Mao Tien and Chyuan-Jeng Shiau, ‘Taiwan's Democratization: A Summary’ (1992–1993) 155(4) *World Affairs* 58.

33 See Cassandra Veney and Richard Payne, ‘Taiwan and Africa: Taipei's Continuing Search for International Recognition’ (2001) 36(4) *Journal of Asian and African Studies* 437; Anthony Van Fossen, ‘The Struggle for Recognition: Diplomatic Competition Between China and Taiwan in Oceania’ (2007) 12 *Journal of Chinese Political Science* 125; Theodor Tudoroiu, ‘Taiwan in the Caribbean: A Case Study in State De-Recognition’ (2017) 25(2) *Asian Journal of Political Science* 194.

34 Organization Act of the National Immigration Agency, Ministry of the Interior (adopted November 30, 2005, amended August 21, 2013) art 2(9), official English translation available at: <<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0000135>> accessed October 11, 2024. This Act is very short, containing only eight concise articles.

35 Employment Service Act, Ministry of Labor (adopted May 8, 1992, last amended May 10, 2023) art 51, official English translation available at: <<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=N0090001>> accessed October 11, 2024.

engage in work”;³⁶ they are also exempt from a number of other restrictions that are normally applicable to foreign workers.³⁷ In practice, however, refugees are unable to fully enjoy the benefit of such Employment Service Act provisions because, in the absence of specific legal provisions on refugee status determination and refugee rights, they are issued the same identity document and receive the same treatment as stateless persons.³⁸

Also worth mentioning are the 2009 Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (Implementation Act)³⁹ and article 16.4 of the Immigration Act.⁴⁰ The Implementation Act gives domestic legal status to human rights provisions in the ICCPR and the ICESCR.⁴¹ As a result, the principle of *non-refoulement* under article 7 of the ICCPR has domestic legal status in the ROC.⁴² Article 16.4 of the Immigration Act does not use the term “refugee;”⁴³ however, members of the Legislative Yuan (the ROC’s highest executive organ) explicitly referred to the principle of *non-refoulement* in the Refugee Convention in their proposal to amend the

36 *ibid* art 51(2).

37 *ibid* art 51(1).

38 Lee (n 3) 115–16. No evidence suggests that things have changed since 2017.

39 Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, Ministry of Justice (adopted April 22, 2009) (Implementation Act), official English translation available at: <<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=10020028>> accessed October 11, 2024. For more discussion about the Implementation Act, see: Yu-Jie Chen, ‘Isolated but Not Oblivious: Taiwan’s Acceptance of the Two Major Human Rights Covenants’ in Jerome A Cohen, William P Alford, and Chang-Fa Lo (eds), *Taiwan and International Human Rights: A Story of Transformation* (Springer 2019).

40 Immigration Act, Ministry of the Interior (adopted June 28, 2023), official English translation available at: <<https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0080132>> accessed October 11, 2024.

41 International Covenant on Civil and Political Rights 999 UNTS 171 (adopted December 19, 1966, entered into force March 23, 1976); International Covenant on Economic, Social and Cultural Rights 993 UNTS 3 (adopted December 19, 1966, entered into force January 3, 1976).

42 This was affirmed in the Taipei High Administrative Court, September 8, 2020, Minguo 109 (Quan) No 25 at 8.

43 Article 16.4 of the Immigration Act (n 40) states that a stateless person from India or Nepal who has entered the Taiwan Area before 29st June 2016 [sic] and cannot be repatriated shall be permitted to reside in the Taiwan Area by the National Immigration Agency if his/her status has been identified by the review committee meeting which convened by the central authorities for the Mongolian and Tibetan affairs.

article in 2009.⁴⁴ Courts⁴⁵ have also noted that article 16.4 of the Immigration Act was amended for the purpose of protecting refugees' basic human rights in accordance with the UDHR, the Refugee Convention, and the Declaration on Territorial Asylum.

In 2002, the Executive Yuan decided that a Refugee Act should be drafted, with a view of giving domestic legal effect to the Refugee Convention.⁴⁶ During the drafting process, consideration was also given to both the UDHR and the Declaration on Territorial Asylum⁴⁷ and comparative studies of refugee laws in eight countries – namely the United States, Canada, France, New Zealand, Australia, Japan, South Korea, and Brazil – were carried out.⁴⁸ For context, in 2000 the ROC government under the administration of the then newly elected Democratic Progressive Party declared human rights as an integral foundation of Taiwan's nationhood and began to seek to pass a series of human rights-related laws incorporating core international human rights treaties.⁴⁹

Several drafts have since been submitted to the Legislative Yuan for deliberation.⁵⁰ The latest draft,⁵¹ submitted in 2016, was accompanied by notes

44 Meeting Minutes of the Legislative Yuan, vol 98, issue 5, para 1 <<https://judgment.judicial.gov.tw/FJUD/data.aspx?ty=JD&id=TPBA%2c109%2c%e5%85%a8%2c25%2c20200908%2c1>> accessed October 11, 2024; Meeting Minutes of the Legislative Yuan, vol 98, issue 3 <<https://tpa.judicial.gov.tw/dl-108872-d7b2c88bfc34f85a1fa5e24e433a3ce.html>> accessed October 11, 2024.

45 Taipei High Administrative Court, March 10, 2020, Minguo 109 (Ting) No 12 at 10, 14, and 6; Supreme Administrative Court, May 21, 2020, Minguo 109 (Cai) No 789 at 8; Supreme Administrative Court, May 21, 2020, Minguo 109 (Cai) No 788 at 6; Supreme Administrative Court, May 21, 2020, Minguo 109 (Cai) No 787 at 7; Supreme Administrative Court, May 21, 2020, Minguo 109 (Cai) No 786 at 8.

46 Ministry of Interior, 'Research Project Report: The Progress of Establishing the Refugee Rules in Taiwan' (2010) app 5, 8 <www.immigration.gov.tw/media/6020/我國難民法制訂現況自行研究報告.pdf> accessed October 11, 2024.

47 *ibid* 6.

48 *ibid* app 5.

49 Fort Fu-Te Liao, 'Partly Virtual, Partly Real: Taiwan's Unique Interaction with International Human Rights Instruments' (2010) 16 *Asian Yearbook of International Law* 25, 29; Taiwan National Human Rights Commission, 'International Conventions' (2024) <<https://nhrc.cy.gov.tw/en-US/cp.aspx?n=8693>> accessed December 3, 2024.

50 For chronologies of the drafts, see Ministry of Interior (n 46); Kristina Kironka, 'Taiwan's Road to an Asylum Law: Who, When, How, and Why Not Yet?' (2022) 23(2) *Human Rights Review* 241; Kai-Xuan Lin, 'A Study on the Legislation of Refugee Law in Taiwan' (Master's thesis, National Taiwan University 2018), ch 3 <www.airitilibrary.com/Common/Click_DOI?DOI=10.6342%2fNTU201804316> accessed October 11, 2024.

51 <www.ly.gov.tw/Pages/ashx/File.ashx?FilePath=~/File/Attach/701/File_2644.pdf> accessed October 11, 2024.

expressly referring to the Refugee Convention, the UDHR, and the Declaration on Territorial Asylum. The notes specifically refer to articles 33, 28, and 1 of the 1951 Convention in relation to draft articles 8, 13, and 14. The draft defines a refugee as someone who satisfies the Refugee Convention definition or who flees wars or natural disasters (article 3).⁵² It recognizes refugee status claimants' right to legal consultation, medical care, and adequate standards of living while their claims are being assessed (article 7); prohibits the deportation of refugee status claimants (article 8); excludes the application of relevant statutory provisions on penalization of unauthorized entry to refugees (article 11); requires relevant local authorities to issue identity documents to recognized refugees; and allows refugees to apply for permanent residence and naturalization (article 13). These draft provisions are generally in line with the Refugee Convention.⁵³

However, the 2016 draft – only 17 articles long – contains no provision on remedies and appeal procedures and is silent on many refugee rights mentioned in the 1951 Convention, such as freedom of movement, the right to work, and access to public education. Draft article 10 allows exclusion from refugee protection under certain circumstances, including when the claimant passed through or traveled from a third country that could have processed their refugee status application (article 10.3). This exception has attracted criticism.⁵⁴ Draft article 12 also allows relevant authorities to impose a quota for how many people may receive refugee recognition. Thus, there is arguably room for improvement.

None of the drafts submitted to the Legislative Yuan were able to proceed beyond their second reading.⁵⁵ Lack of consensus on multiple crucial issues, including whether a standalone asylum law was necessary at all, made it

52 This does not include those from the PRC and Hong Kong. On the difficult and complex issue of the status of PRC, Hong Kong, and Macau asylum seekers in ROC law, see Lee (n 3) chs 4.2 and 5.2.2.

53 Some issues remain, eg draft art 8 does not mirror exactly art 33 of the 1951 Convention (n 7). For further discussion about issues with the draft provisions, see Taiwan Association for Human Rights (n 29). The statement critiques the 2012 draft Refugee Act, but many issues identified in it remain in the 2016 draft.

54 Longkuan Wang, 'A Few Issues About the Draft Refugee Act' (2017) 216 *Wangguo Falu* 24, 27; Ei-Leen Qiu, 'Refugee Asylum in Taiwan: Can the Administrative Mechanism Replace a Refugee Act?' (Initium Media, September 23, 2020) <<https://theinitium.com/zh-hans/opinion/20200923-opinion-taiwan-refugee-protection>> accessed October 11, 2024.

55 Ministry of Interior (n 46) 3; Kironka (n 50) 246. For information about ROC legislative procedure, see Legislative Yuan, 'Legislative Procedure' <www.ly.gov.tw/EngPages/Detail.aspx?nodeid=335&pid=43232> accessed October 21, 2024.

difficult for the drafts to move further in the legislative process.⁵⁶ Nevertheless, there has been some notable recent progress. In 2022, the ROC government identified refugee rights as one of eight prioritized human rights issues, and pledged to “[c]odify legal mechanisms for refugees to seek asylum and clarify related application procedures.”⁵⁷ The National Immigration Agency conducted a further comparative study of refugee cases from several countries, such as South Korea, Japan, the United States, Canada, and the United Kingdom in 2023, and is expected to submit a new draft Refugee Act to the Legislative Yuan in the second half of 2024.⁵⁸

Although the 2016 draft Refugee Act has not been enacted, it appears to have some persuasive value to ROC courts. In a 2020 decision, the Taipei High Administrative Court stated that the draft Act could serve as a point of reference for the relevant legal principles.⁵⁹ On appeal, the Supreme Administrative Court endorsed that statement⁶⁰ and further referred to article 10 of the draft Refugee Act when it discussed the notion of safe third country (see Part 4 below).⁶¹

4 International Refugee Law in ROC Domestic Courts

Since 2004, ROC lawyers have advanced arguments based on the Refugee Convention and the UDHR in nearly a dozen cases before ROC domestic courts,⁶² including the Supreme Administrative Court, the final court for all administrative litigation matters in the ROC.⁶³ As the ROC has a civil law

56 Kironka (n 50) 257.

57 Executive Yuan, ‘National Human Rights Action Plan’ (May 18, 2022) <<https://english.ey.gov.tw/News/9E5540D592A5FECD/db879e12-f6bb-46d8-ba80-851185c963dd>> accessed October 11, 2024.

58 Radio Taiwan International, ‘2nd Day of ICERD International Review: Committee Chairman Urged Taiwan to Pass Refugee Act as Soon as Possible’ (April 23, 2024) <www.rti.org.tw/news/view/id/2203614> accessed October 11, 2024. As of December 3, 2024, no public information suggests that the new draft has been submitted.

59 Taipei High Administrative Court, August 19, 2020, Minguo 109 (Su) No 87 at 16.

60 Supreme Administrative Court, May 16, 2023, Minguo 110 (Shang) No 655 at 4.

61 *ibid* 18. Presumably, the Court was referring to the 2016 draft.

62 These cases may be found in the Judicial Yuan Judgment Online Database <<https://judgment.judicial.gov.tw/FJUD/default.aspx>> using the search phrase ‘難民地位公約’ [Refugee Convention]. In all cases, IRL-based arguments were made supplementary to arguments based on domestic law.

63 For discussion about the ROC court system, see: Judicial Yuan, ‘Understanding the Courts’ (6 November 6, 2019, last updated 18 October 18, 2023) <www.judicial.gov.tw/

system, judicial decisions are generally not binding as precedent.⁶⁴ Nevertheless, as demonstrated below, these cases illustrate that IRL is valued by ROC human rights and immigration lawyers and, gradually and increasingly, by the ROC judiciary.

4.1 *Early Attempts in District Courts: 2004–2009*

The earlier cases happened to be criminal cases before district courts concerning PRC asylum seekers who were arrested and prosecuted for unauthorized entry into the ROC.⁶⁵ In a 2004 case before the Yilan District Court, counsel for the applicant provided copies of the UDHR and the 1951 Convention for the Court's consideration and submitted, inter alia, that the applicant had the right to seek asylum according to article 14 of the UDHR,⁶⁶ met the criteria for refugee status under the Refugee Convention, and therefore should not be deported or subjected to unnecessary restrictions of his freedom of movement.⁶⁷ Acknowledging that Taiwan had not, and could not, become a party to the Refugee Convention,⁶⁸ counsel for the applicant argued the following:

1. As a member of the international community, Taiwan should voluntarily abide by the human rights principles enshrined in the UDHR, in whose drafting Taiwan had participated.
2. Refugee protection is a matter of universal value where people's lives and freedom are at stake, and refugee rights should be regarded as fundamental human rights protected by the ROC constitution.
3. Given that President Chen Shui-bian had announced his government's determination to implement the human right ideals embodied in international treaties, in accordance with the principle of good faith, the

en/cp-1613-80062-a7043-2.html> accessed 11 October 11, 2024; Wen-Chen Chang, 'Courts and Judicial Reform in Taiwan: Gradual Transformations Towards the Guardian of Constitutionalism and Rule of Law' in Jiunn-Rong Yeh and Wen-Chen Chang (eds), *Asian Courts in Context* (CUP 2014).

64 A few decisions of the Supreme Court and the Supreme Administrative Court regarding the interpretation or application of certain laws or regulations have been given the status of binding precedents: see Chang (n 63) 164.

65 Taiwan Yilan District Court, November 19, 2004, *Minguo* 93 (Ti) No 2 Criminal Law Ruling; Fujian Jinmen District Court, June 30, 2009, *Minguo* 98 (Shang) No 8 Criminal Law Ruling.

66 Art 14.1 of the UDHR provides: "Everyone has the right to seek and to enjoy in other countries asylum from persecution."

67 Taiwan Yilan District Court (n 65).

68 "Taiwan" is the term used in the judgment's summary of counsel's arguments.

Taiwanese government should be seen as having undertaken an obligation to abide by relevant international human rights treaties.

The Court, in its relatively brief reasoning, made no reference to the UDHR or to the Refugee Convention, dismissing the application entirely based on ROC domestic law.

In a 2009 case before the Jinmen District Court, the applicant, citing article 14 of the UDHR and noting the ROC's longing for international recognition of its statehood, submitted that the ROC government had a "moral obligation" to provide him with asylum, claiming that only if the ROC did so would it earn respect from other countries.⁶⁹ He argued that as he was in danger for political reasons, he had a right to enter the ROC to seek asylum and should not be penalized for doing so. The Court stated, with little explanation, that regardless of whether the applicant could rely on the UDHR and the Refugee Convention to apply for asylum, his unauthorized entry was not legally justifiable.

It is possible that the Legislative Yuan's 2002 decision to draft a refugee law inspired the aforementioned cases, given the time proximity. While the IRL-based arguments did not succeed in any of the cases, the courts' reaction to those arguments differed. The Yilan District Court did not address the IRL-based arguments at all. In contrast, although the Jinmen District Court summarily dismissed the IRL-based arguments, it referred to the UDHR (which the applicant mentioned) as well as the Refugee Convention (which the applicant did not seem to mention), indicating that the Court probably saw some relevance of IRL.

4.2 *Two Cases in the Taipei High Administrative Court: 2010–2019*

The two cases discussed in this section were decided after the enactment of the Implementation Act in December 2009. In a 2010 case before the Taipei High Administrative Court,⁷⁰ the applicant was a PRC asylum seeker who entered the ROC using a false identity and who was seeking long-term residence in the ROC.⁷¹ Counsel for the applicant advanced the following arguments. First, the applicant had a right to seek and enjoy asylum according

69 Fujian Jinmen District Court (n 65). This case was decided before the enactment of the Implementation Act in December 2009.

70 Taipei High Administrative Court, October 28, 2010, *Minguo* 99 (Su) No 1395.

71 In this particular case, he had been given permission to stay temporarily.

to article 14 of the UDHR. Counsel asserted that the UDHR had become part of customary international law and that the Overall Explanatory Notes for the Implementation Act recognized the UDHR as part of the International Bill of Human Rights.⁷²

Second, the applicant was a refugee under the 1951 Convention as he was threatened and harassed by PRC authorities because of his pursuit for democracy and human rights. It was impossible for him to apply in the PRC for ROC entry permission. Those who are persecuted by their own government often struggle to obtain a passport, making it impossible for them to apply for pre-authorization to enter another country legally. That is why article 31 of the 1951 Convention requires states not to penalize refugees for their illegal entry or presence “provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.” The applicant immediately handed himself in to ROC officials upon entry and explained his situation. He should not have been penalized for his initial unauthorized entry.⁷³

Thirdly, and more importantly, the ROC had drafted a Refugee Act in accordance with the principles enshrined in the UDHR and the Refugee Convention. The draft Act provides that article 6 (on unauthorized entry) of the National Security Law should not apply to refugees from Mainland China, Hong Kong, or Macau and that rules governing naturalization and long-term residence of foreigners should apply to such refugees.⁷⁴ Thus, the applicant should not have been penalized for unauthorized entry and should have been eligible for long-term residence in the ROC.

The Taipei High Administrative Court did not comment on whether the applicant was a refugee. Noting that the applicant relied on the UDHR and the Refugee Convention to challenge the Ministry of Interior’s decision to deny him long-term residence, the Court said that “what those instruments required was that regarding refugee determination and protection, states should have legislative and policy provisions favorable to refugees.”⁷⁵ It fur-

72 Taipei High Administrative Court No 1395 (n 70) 5–6. The Explanatory Notes are available at: <<https://law.kcg.gov.tw/human/human2.pdf>> accessed October 11, 2024.

73 Counsel also argued that the illegality of his initial entry had been “cured” when the ROC authorities granted him permission to stay temporarily.

74 The applicant was penalized for illegal entry in accordance with art 6 of the ROC National Section Law.

75 Taipei High Administrative Court No 1395 (n 70) 13.

ther stated that the draft Refugee Act had not been passed and therefore could not be applied in the current case.⁷⁶ The Court declined to consider whether the applicant should be eligible for long-term residence had the draft Refugee Act been in force.⁷⁷

In a 2015 case concerning the deportation of two PRC asylum seekers before the Taipei High Administrative Court,⁷⁸ the applicants' primary argument was that they would be subjected to torture or cruel, inhuman, or degrading treatment upon return and that their deportation would therefore violate of the principle of *non-refoulement* under article 7 of the ICCPR (which has been given domestic legal effect by way of the Implementation Act). They also argued that they were refugees as they were persecuted or feared being persecuted because of their political opinion, citing the Refugee Convention, the UDHR, the Declaration on Territorial Asylum, and article 3 of the draft Refugee Act.⁷⁹

The Court did not explicitly address the refugee claim and made no express reference to the Refugee Convention (or to the UDHR or the Declaration on Territorial Asylum). However, in rejecting the torture argument, it gave two reasons in the following sequence:

1. Evidence before the Court showed no connection between the applicants' political opinion and the alleged persecutory measures taken by the PRC authorities.
 2. There was no credible evidence showing that the applicants would be at risk of torture or cruel, inhuman, or degrading treatment in the PRC.
- That the Court discussed the nexus issue first possibly suggests that it attached considerable weight to the issue. A nexus between persecution feared and one's political opinion is a key element of the Convention's refugee definition, whereas it is not a requirement for invoking the obligation of *non-refoulement* under the Convention against Torture⁸⁰ or the ICCPR. The

76 *ibid* 13.

77 *ibid* 13. On appeal, the Supreme Administrative Court allowed the appeal based on ROC domestic law and did not address the Refugee Convention: see Supreme Administrative Court, October 13, 2011, Minguo 100 (Pan) No 1813.

78 Taipei High Administrative Court, December 31, 2015, Minguo 104 (Ting) No 114.

79 *ibid* [2].

80 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1465 UNTS 85 (adopted December 10, 1984, entered into force June 26, 1987).

fact that the nexus issue came up probably indicates that the judges saw the relevance of the refugee claim and had the Convention refugee definition on their mind even though they refrained from saying so.⁸¹

The IRL-based arguments advanced in the 2010 and 2015 cases involved more substantial legal articulation, compared to those advanced in the 2004 and 2009 cases mentioned above. The Taipei High Administrative Court appears to be more willing to engage with IRL than the Yilan and Kinmen district courts. In the 2010 case, the Taipei High Administrative Court gave an opinion – albeit a very brief one – on what the 1951 Convention generally required states to do; in the 2010 case, it effectively applied the nexus requirement in the refugee definition in the 1951 Convention.

4.3 *Tibetan Cases in the Supreme Administrative Court and the Taipei High Administrative Court: 2020–2024*

More recently, IRL-based arguments have also been advanced in a series of cases⁸² concerning Tibetans facing deportation to India or Nepal (where they lived in exile for many years) who were found ineligible for ROC residency under article 16.4 of the Immigration Act.⁸³ In a 2020 case before the Taipei High Administrative Court,⁸⁴ the applicant, inter alia, submitted the following:

1. Certain principles enshrined in the Refugee Convention, most notably the principle of *non-refoulement*, had become part of customary international law, implying that the ROC was bound by such principles; if the deportation of the applicant would be inconsistent with the Refugee Convention, the deportation process should be terminated.⁸⁵

81 Chiu, who attended the hearing virtually, opined that the Court dismissed the application based on the Refugee Convention and failed to sufficiently consider the risk of torture or cruel, inhuman, or degrading treatment: Chiu (n 6) 160–61.

82 Supreme Administrative Court No 655 (n 60); Supreme Administrative Court Nos 786–89 (n 45); Taipei High Administrative Court No 12 (n 45); Taipei High Administrative Court No 87 (n 59); Taipei High Administrative Court No 25 (n 42); Supreme Administrative Court, June 30, 2020, Minguo 109 (Cai) No 1082; Taipei High Administrative Court, March 6, 2020, Minguo 109 (Ting) No 13; Taipei High Administrative Court, July 13, 2023, Minguo 109 (Su) No 88.

83 For discussion about Tibetan asylum seekers in the ROC, see Mei-Lin Pan and Dolma Tsering, 'The Lived Experience of Tibetan Refugees in Taiwan: Contesting Rights to Work, Residence, and Citizenship' in Momesso and Ivanova (n 4).

84 Taipei High Administrative Court No 13 (n 82) 6.

85 *ibid* 7–8. The applicant did not seem to explain whether the deportation was inconsistent with those instruments.

2. The Overall Explanatory Notes to the draft Refugee Act prepared by the Executive Yuan acknowledged that everyone had the right to seek and enjoy asylum according to the UDHR, the Refugee Convention, and the Declaration on Territorial Asylum.⁸⁶

In its judgment, the Court found that “the applicant ha[d] not explained whether she indeed qualifie[d] for refugee status; therefore, there [was] no issue of applying the relevant customary international law (eg the principle of *non-refoulement*),”⁸⁷ seemingly accepting that the principle of *non-refoulement* under the 1951 Convention was part of customary international law and that if the applicant proved to be a refugee, the principle of *non-refoulement* would apply.

In several decisions delivered in 2020,⁸⁸ the Supreme Administrative Court explicitly stated that deportation orders relating to the applicants should be considered in light of the amendment history of article 16.4 of the Immigration Act and the principle of *non-refoulement* in international law.⁸⁹ The Court noted that article 16.4 was amended in 2009 in accordance with the *non-refoulement* principle in the Refugee Convention and then in 2016 in accordance with the Implementation Act.⁹⁰ Referring to article 7 of the ICCPR and the UN Human Rights Committee’s 1992 General Comment No 20,⁹¹ it further noted that the *non-refoulement* principle had domestic legal effect in the ROC following the enactment of the 2010 Implementation Act.⁹² In light of the above, the fact that article 16.4 specifically allows stateless Tibetans who were formerly in exile in India or Nepal to obtain ROC residency indicates that the Tibetans deserve protection against *refoulement*.⁹³ Thus, deportation of the applicants without verification of their nationality status may have violated the principle of *non-refoulement*.⁹⁴

86 *ibid* 6.

87 *ibid* 11. No issues of torture or arbitrary deprivation of life were raised in this case.

88 Supreme Administrative Court Nos 786–89 (n 45).

89 Supreme Administrative Court No 789 (n 45) 7.

90 *ibid* 8.

91 Human Rights Committee, CCRPR General Comment No 20: Art 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment) 44 (March 10, 1992) <www.refworld.org/legal/general/hrc/1992/en/11086> accessed October 11, 2024.

92 Supreme Administrative Court No 789 (n 45) 9.

93 *ibid* 10.

94 *ibid* 10.

In a decision delivered in 2023,⁹⁵ the Supreme Administrative Court provided more guidance on the principle of *non-refoulement* under article 33 of the 1951 Convention:

1. The principle of *non-refoulement* applies not only to refugees but also to asylum seekers.⁹⁶
2. However, the principle of *non-refoulement* does not impose on states a duty to provide asylum, only a duty to guarantee the right to seek asylum and access to asylum procedures.⁹⁷

The court noted the notion of safe third countries, referring, with approval, to article 10 of the draft Refugee Act, which authorizes the ROC to deny asylum to those entitled to protection elsewhere.⁹⁸ The Court found that, as the applicants' Nepalese citizenship had been verified and they enjoyed protection there,⁹⁹ deportation of the applicants would not amount to *refoulement*.¹⁰⁰

In these most recent decisions, the Taipei High Administrative Court and the Supreme Administrative Court discussed the *non-refoulement* principle and the notion of a safe third country a lot more substantially – and seemingly in a more favorable light – than in any previous case. Such unprecedented extent of discussion, as well as the courts' readiness to acknowledge that article 16.4 of the Immigration Act reflected the *non-refoulement* principle in the Refugee Convention, may well be seen as the courts' increased receptiveness to IRL.

5 Conclusion

As this chapter has shown, the ROC's interaction with the Refugee Convention has occurred in two ways. On the one hand, it actively participated in the drafting process of the 1951 Convention. While the original text of the 1951 Convention may reflect Western dominance,¹⁰¹ the ROC – as

95 Supreme Administrative Court No 655 (n 60).

96 *ibid* 13.

97 *ibid* 13.

98 *ibid* 18.

99 *ibid* 17–18.

100 *ibid* 19.

101 James Hathaway, 'A Reconsideration of the Underlying Premise of Refugee Law' (1990) 31(1) *Harvard International Law Journal* 129; Ulrike Krause, 'Colonial Roots of the 1951 Refugee Convention and Its Effects on the Global Refugee Regime' (2021) 24 *Journal of International Relations and Development* 627.

demonstrated in Part 2 above – was vocal in its disagreement to a Western-centered approach in the drafting process. This, when viewed together with the experience of other non-Western countries that participated in the drafting process such as Saudi Arabia, Pakistan, India, and Türkiye,¹⁰² illustrates that non-Western participants – including those that remain non-signatories – did not passively accept, and were not complacent to, the views of their Western counterparts.

On the other hand, this chapter has also demonstrated how the Refugee Convention has influenced both domestic legislation and judicial decisions in the ROC over the past 25 years or so. As shown in Parts 3 and 4, the Refugee Convention is clearly relevant and valued. While the ROC's exclusion from the UN may be unique as a reason for non-accession to the Refugee Convention, the legislature's willingness to incorporate its key principles in domestic law, as well as the judiciary's recent endorsement of the principle of *non-refoulement*, are not exceptional among non-signatories. As shown in other chapters in this volume,¹⁰³ many non-signatories have been influenced by the Refugee Convention in various ways. The ROC case, however, illustrates in particular that the influence of the Refugee Convention is able to reach jurisdictions lacking substantial UNHCR presence and even UN membership.

The ROC's former president Tsai Ing-Wen once stated that “although the ROC is not a member of the UN, its people's desire to contribute to the international community is no less than that of the people from any [UN] member states.”¹⁰⁴ Looking forward, in view of the recent progress in the draft Refugee Act and recent court cases mentioned above, there are reasons to believe that the Refugee Convention will continue to be relevant and valued in the ROC.

102 See Maja Janmyr and Charlotte Lysa, 'Saudi Arabia and the International Refugee Regime' (2023) 35(3) *International Journal of Refugee Law* 251–71; Jay Ramasubramanyam and Ulrike Krause, 'Need for Critical Reimagination: Colonial Legacy of the 1951 Refugee Convention' in Jane Freedman and Glenda Santana de Andrade (eds) *Research Handbook on Asylum and Refugee Policy* (Edward Elgar 2024) 39–51; Özlem Gürakarak Skribeland, 'The Turkish Council of State's Engagement with International Refugee Law in Cases Involving “Non-European” Refugees' (2025) *International Journal of Refugee Law* <<https://doi.org/10.1093/ijrl/eeae041>> accessed February 2, 2025.

103 See chapters 4, 5, 8, and 3.

104 Office of the President, Republic of China (Taiwan), 'President: On Refugee Issues, Taiwan Should Not Isolate Itself from Other Countries' (2016) <www.president.gov.tw/NEWS/20485> accessed October 15, 2024.