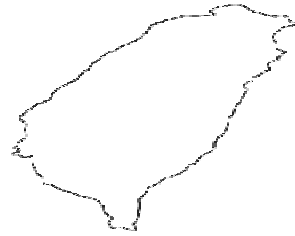
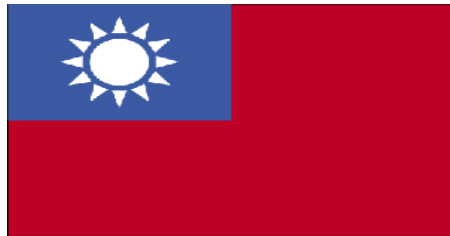


# **Taiwan**

(ZHONG YING MIN GUO)



## **BACKGROUND AND LEGAL SYSTEM**

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LEGAL SYSTEM	Civil law system.
POLITICAL SYSTEM	Multiparty democratic regime headed by popularly-elected president and unicameral legislature.
HEAD OF STATE	President - president and vice president elected on the same ticket by popular vote for four-year terms (eligible for a second term).
HEAD OF GOVERNMENT	Premier (President of the Executive <i>Yuan</i> ) - premier appointed by the president; vice premiers appointed by the president on the recommendation of the premier.
SUBNATIONAL ENTITIES	Taiwan is divided into 18 counties ( <i>hsien</i> ), 5 municipalities ( <i>shih</i> ), and 2 special municipalities ( <i>chuan-shih</i> ).
TRANSLITERATION SYSTEM	Wade-Giles.
LANGUAGES	Mandarin Chinese (official), Taiwanese ( <i>Min</i> ), Hakka dialects.

## Taiwan

### CONSTITUTION

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OFFICIAL NAME	<i>Zhonghua Minguo Xianfa</i> (Constitution of the Republic of China).
ENACTMENT	The Supreme law of Taiwan is the ROC constitution. It was enacted on December 25, 1947, amended in 1992, 1994, 1997, 1999, 2000 and June 10, 2005.
CITATION FORMAT	TAIWAN CONST. art. <article>, § <section(s)>.
<i>Example</i>	TAIWAN CONST. art. 10, § 11-12.

### STATUTES

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GOVERNMENT STRUCTURE	The legislature is the unicameral Legislative Yuan, and the unicameral National Assembly.
LEGISLATIVE PROCESS	<p>The first step in passing or amending legislation is to propose a bill. A bill may originate with the Executive Yuan, the Judicial Yuan, the Examination Yuan, the Control Yuan, political party caucuses established under the organization regulations of the Legislative Yuan, or with legislators themselves. However, the budget bill can be purposed only by the Executive Yuan. In the past most bills were initiated by the executive branch, but in recent years there has been a trend toward individual legislators proposing bills themselves.</p> <p>After the bill gets to the Procedure Committee, the Secretary-general sets the agenda, which is printed up after approval by the Procedure Committee.</p> <p>The title of bills proposed by other Yuans or legislation bills proposed by legislator are first read out loud in the Yuan Meeting (the "first reading"), then passed along to appropriate committees for examination, or perhaps sent directly for a "second reading". Other bills proposed by legislators must be discussed at a full meeting of the Yuan. The bill is then voted upon to be sent to committee for examination, passed on to the second reading, or tabled (no longer considered), depending on</p>

the decision of the *Yuan*.

The second reading meetings discuss the bills which have been deliberated by various committees, or bills which have been sent on for the second reading by the decision of a full meeting. The discussion at the “second reading” first is general and then article-by-article. The “second reading” is quite important in that thorough discussion, amendment, reexamination, revocation, and withdrawal are all decided upon here. The “third meeting”, except in cases where parts of the law are found to be in conflict with the Constitution or other statutes, is only for final corrections of wording, not substance. According to the agenda rules of the Yuan, legislation and budget bills require three readings, while other types of proposed bills require only two readings.

Legislation or budget bills that pass the third reading are then checked over by the Legislative Yuan President and printed. The President is then asked to formally promulgate the bill, and the Executive Yuan is notified in writing. The President is required to promulgate the law within ten days after receiving it. Alternatively, according to Article 3, the bill can be returned to the Legislative Yuan for reconsideration.

If the Executive Yuan feels it would be difficult to implement or follow any law, budget, treaty or resolution calling for a change in a major policy issued by the Legislative Yuan, it may -- after receiving the approval of the state President -- return the item to the Legislative Yuan for reconsideration. If the original item passes with a one-half majority, the Premier must accept the item or resign.

REPORTER                      Fagui Huibian.

CITATION FORMAT        <code name>, <reporter>, art. <article>.

*Example*                      *Fagui, Huibian*, art. 16.

## Taiwan

### ADMINISTRATIVE REGULATIONS

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ADMINISTRATIVE SOURCES	The Executive Yuan may pass regulations, and they are codified and cited in the same manner as the statutes. Cite the source, and then the specific location of the regulation.
CITATION FORMAT	Executive Yuan (Cabinet), Order <order>, (<subject matter>) No. <number>, (<date>).
<i>Example</i>	Executive Yuan (Cabinet), Order 74 (Sanitation) No. 19,080, (Oct. 17, 1985).  Executive Yuan (Cabinet), Order 80, (Environment) No. 11,754, (April 17, 1991).

### CASE LAW

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JUDICIAL OVERVIEW	<p>The judicial hierarchy in Taiwan consists of three levels: District Courts and their branches, High Courts and their branches, and the Supreme Court. Issues of fact are decided at the first and second level, while issues of law are considered at the third level.</p> <p>There are 21 District Courts, each of which has an appointed president. Each court is divided into civil, criminal, and summary divisions. Cases that are tried and decided by a district court are heard before a single judge, although more important cases may be heard before three judges sitting in council.</p> <p>The High Court is divided into civil, criminal, and specialized divisions, and cases to be tried and decided by the high court are heard before three judges sitting in council.</p> <p>An appeal may be made to the Supreme Court only on grounds that the decision made violates a law or ordinance. Cases before the Supreme Court are tried and decided by five judges sitting in council.</p>
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REPORTER	There are no comprehensive indexes or digests of Taiwan case law, and there are no traditional reporters. There are many partial collections as well as collections of the interpretations of the Judicial Yüan and of the Council of Grand Justices. The decisions of the Supreme Court are regularly published in the Gazette of the Judicial Yüan.
CITATION FORMAT CONSTITUTIONAL COURT	Cases in Taiwan are cited by following the standard method for citing cases in the People's Republic of China. The following format should be used:  <case name>, <year of publication> <source> <page> (<court> date of decision>).
<i>Examples</i>	China National Technical Import/Export Corp. v. Industrial Resources Co., Inc., China L. & Prac., Aug. 22, 1988 at 26 (Shanghai Intermediate People's Court, May 11, 1988).  Taiwan v. Chun-I Huang, 1996 Yi Tzi No. 7348, (Taipei District Court, July 26, 1996).

## SOURCES

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IV LEGAL SYSTEMS OF THE WORLD: A POLITICAL, SOCIAL AND CULTURAL ENCYCLOPEDIA (Herbert M. Kritzer ed., 2002)

THE BLUEBOOK: Taiwan

THE BLUEBOOK: People's Republic of China

The CIA Factbook:

<https://www.cia.gov/cia/publications/factbook/geos/tw.html>

Laws and Regulations Database of the Republic of China

<http://law.moj.gov.tw/eng/>

The Legislative Yuan

<http://www.taiwan.com.au/Polieco/Government/Legislative/>

Guide for New Students / Chinese Language

<http://www.georgetown.edu/faculty/spendelh/china/newguide.htm#Transliteration>

## Taiwan

The Legislative Yuan Republic of China

[http://www.ly.gov.tw/ly/en/01\\_introduce/01\\_introduce\\_10.jsp?ItemNO=EN080000](http://www.ly.gov.tw/ly/en/01_introduce/01_introduce_10.jsp?ItemNO=EN080000)

The Judicial Yuan of the Republic of China

<http://www.judicial.gov.tw/en/>

Taiwan Legal Research at the University of Washington

<http://lib.law.washington.edu/eald/tlr/tres.html>

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