

The Next Steps of Underwater Cultural Heritage Preservation in Taiwan: A Legal Aspect

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ABSTRACT

In order to preserve, protect and manage underwater cultural heritage (UCH) and to value the spirit of the *UNESCO Convention on the Protection of the Underwater Cultural Heritage*, in 2015 Taiwan passed its *Underwater Cultural Heritage Act (UCHA)*. Although the law has been in force for seven years, there are still many important elements that have not yet been fully implemented. The main reasons are the insufficient capacity of the competent authorities, the lack of underwater archaeology talents, and Taiwan's special environmental conditions. For example, the implementation of in-situ preservation, the designation of UCH protected areas, shallow water survey technology, the establishment of a national research center of UCH, and the raising of public awareness and school education all need to be further studied and implemented. Therefore, this article will illustrate the intention of important parts of *UCHA*, as well as the challenges promoted by practice, and finally put forward some suggestions for future protection of UCH in Taiwan. It is believed that the experience of Taiwan may serve as a reference to other countries concerned.

Key words: underwater cultural heritage (UCH), *Underwater Cultural Heritage Act (UCHA)*, Taiwan.

1. INTRODUCTION

In order to preserve, protect and manage underwater cultural heritage (UCH) and to value the spirit of the *UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage* (2001 Convention), Taiwan passed its *Underwater Cultural Heritage Act (UCHA)* in 2015. Although the law has been in force for several years, there are still many important elements that have not yet been fully implemented. The main reasons are the insufficient capacity of the competent authorities, the lack of underwater archaeology talents, and Taiwan's special environmental conditions. For example, the implementation of in-situ preservation, the designation of UCH protected areas, shallow water survey technology, the establishment of a national research center of UCH, and raising of public awareness and school education all need to be further studied and implemented. Therefore, this article will introduce the recent activities at UCH, illustrate the intention of important parts of *UCHA*, as well as the challenges promoted by practice, and finally put forward some suggestions for future protection of UCH in Taiwan.

2. RECENT ACTIVITIES IN UCH

Since 2006, the Bureau of Cultural Heritage (BOCH) of the Ministry of Culture has promoted the "Project for the General Survey of Underwater Cultural Heritage in the Seas of Taiwan". This has included the investigation of waters surrounding the Penghu Archipelago (Pescadores), Green Island, Matsu Islands, Dongsha (Pratas) Atoll, and Taiwan Island. The project has already progressed through four stages of assessing the overall value of UCH in the waters of Taiwan. As of the end of December 2019, a total of 90 specific targets had been found through underwater verification by the underwater archaeology team led by Dr. Cheng-Huan Tsang. Of these, 20 objects have been identified as shipwrecks and other specific target objects. Six of these have complete underwater cultural inventories (Shy 2016; Underwater Cultural Heritage Network 2022).

3. ISSUES IN THE IMPLEMENTATION OF UCHA

Taiwan's UCHA consists of seven chapters and 44 articles. The chapters cover general provisions, rights attribution and international cooperation, activities directed at UCH, in situ preservation of UCH, excavating out of the water, penalty provisions, and supplementary provisions (Kuo et al 2017). The Act was adopted in 2015 and amended in 2022 with minor revisions. Although the law has been in force for several years, it has not yet been fully implemented. The key issues are summarized as follows.

3.1 Enforcement capacity of competent authority

Article 2 of the *UCHA* clearly stipulates that “the competent authority of this Act is the Ministry of Culture (MOC).” Operationally, its subordinate agency – BOCH – is the responsible authority for day-to-day management. Under the BOCH, there are four divisions and a research institute. Of these, the “Underwater Cultural Heritage Section” of the “Division of Antiquities and Archaeological Sites” is the body that is responsible for all relevant UCH affairs (BOCH 2021). However, the BOCH is essentially a land-based authority that is located in downtown Taichung in the City of Taiwan, and it is without any vessel or port facilities for enforcement of the *UCHA*. In addition, the BOCH is also in lack of underwater archaeology professionals due to the limitation of budget and manning quotas.

3.2 Establishment of the national UCH research institute

Taiwan has long anticipated the establishment of a research institute dedicated to UCH. Referring to similar foreign cases (e.g., the National Research Institute of Maritime Culture Heritage (NRIMCH) in Mokpo, Korea (UNESCO 2023); the Department of Underwater and Marine Archaeological Research (DRASSM) in Marseille, France (Ministère de la Culture 2023), Article 7 of the *UCHA* stipulates that the BOCH may “designate” a dedicated organization for the preservation of and research on UCH. However, UCH is a new concern for Taiwan and as yet there is no such research institute. In this regard, the former legislators Wen-Yan Chiau and Yi-Hua Lin proposed an amendment bill to amend Article 7 of the *UCHA* to say: “The competent authority may ‘establish’ or designate a dedicated organization for the preservation of and research on underwater cultural heritage, to perform any necessary investigation, research, excavation, restoration, education, promulgation, international cooperation, and other activities with respect to UCH.” This amendment bill was passed on 15 November 2022 (Liberty Times 2022). Even with the legal support, the establishment of national UCH research institute still needs more supports from the central government.

3.3 In situ preservation and UCH protection zones

Echoing the spirit of the 2001 Convention, Article 27 of the *UCHA* expressly stipulates that “the preservation of UCH in situ shall be the first option considered, before any activities directed at this heritage are allowed or commenced.” Further, the proper means for in situ preservation may include record management, protection zones, or other proper preservation measures. When the review committees decide that it is necessary to designate a specific UCH protection zone, according to Article 28 of the *UCHA*, the BOCH should consult with the relevant authorities to designate and publicize it within the relevant area to preserve the UCH in situ. To allow for public engagement, Article 28 also stipulates that the authority should hold a public hearing or explanation session inviting civilians or groups with an interest in the area to attend. Since Taiwan still does not have a UCH protected area, it is necessary to learn from countries that ratified the 2001 Convention some time ago, in planning and management matters in the future.

3.4 Conditions for UCH excavation

In principle, the UCH should not be removed from the water. Pursuant to Article 34 of the *UCHA*, exceptions are limited to the following situations: (1) the UCH is related to the historical status or recognition of the nation; (2) if the UCH were absent, it could preclude a full understanding of human history; (3) the UCH is of substantial commercial value that could not be protected without removing it from the water; (4) excavation is necessary for investigating and conducting research on the UCH; (5) the UCH could not be sufficiently preserved, protected, or managed without being removed from the water because of an emergency or changes in the existing environment; (6) other situations in which the competent authority deems it necessary to remove the UCH from the water. When excavation is to be undertaken, pursuant to Article 35 of the *UCHA*, a preservation and maintenance plan for the UCH should be proposed at the same time. In this plan, “nondestructive technology and survey methods should be used preferentially.” In addition, people with expertise in underwater archaeology, underwater operations, and preservation science should collaborate to design the measures for the excavation or emergency response. For more than a decade, nevertheless, the UCH affairs in Taiwan have focused on general surveys, and there are still no plans to excavate UCH from its waters. Many opportunities for UCH research and presentation were missed due to the overly conservative mentality of officials, lack of large-scale funding, and the expansion of in-situ conservation to a no-excavation concept, which made it difficult to excavate.

3.5 Public education on UCH

Article 12 of *UCHA* stipulates that “the competent authority shall promote the underwater cultural heritage education at each level of school. After consulting the Ministry of Education, the competent authority shall stipulate regulations related to the implementation and encouragement of the aforesaid education.” Although the authorities have organized many popular science exhibitions, special lectures and training of underwater archaeologists in recent years, the promotion of UCH at all levels of schools has not yet been launched.

4. STRATEGIES FOR BETTER PRESERVATION OF UCH

In response to the above issues and challenges, a number of strategies are proposed to strengthen the protection of UCH in Taiwan.

4.1 Raising the public awareness on the importance of UCH

In addition to the aforementioned education about UCH at all levels of school, it is necessary to raise awareness of the importance of UCH among the general public. The BOCH has held many underwater archaeology exhibitions in recent years, and has also used new technologies such as Augmented Reality and Virtual Reality, which have attracted many people (Tung 2020). However, the popularity of these exhibitions is still insufficient; In particular, in order to properly protect UCH, it is necessary the public understand that underwater archaeology is not treasure hunting, but protection of the common heritage of mankind.

4.2 Involving the stakeholders and designating UCH protected areas

The *Regulations on Delineation and Management of Underwater Cultural Heritage Protection Zones* are derived from Articles 28, 30, and 31 of the *UCHA*. Multiple stakeholders (e.g., diving associations and tourism companies) will be highly interested in the nominated UCH waters. Therefore, before designating UCH protection zones, negotiation among stakeholders, nongovernmental organizations, and relevant agencies is essential to

promoting UCH preservation and management. The BOCH already held a first-ever workshop on March 28, 2023 in Green Island, Taitung County on the delineation and management of “Green Island Wreck No. 1”. To win support from the local stakeholders it is recommended that the BOCH organise more workshops, explanation sessions and public hearings.

4.3 Conducting a pilot excavation project of important shipwreck

In regards to the multiple purposes of research, restoration, training, education and exhibition, Taiwan needs to go further to identify a valuable shipwreck for excavation. Surely, this activity shall meet the requirements of excavation regulated in Articles 34 and 35 of *UCHA*. UCH professionals from other countries could initially provide guidance on the excavation projects.

4.4 Facilitating the international cooperation on preserving stone tidal weirs

Based on recent investigations, there are approximately 600 stone weirs in the waters of Taiwan, nearly 350 of which are in the Penghu Archipelago (Penghu National Scenic Area Administration 2022; Stoneweir.info 2023). This example of UCH is important because these are included in the project “Indigenous People, Traditional Ecological Knowledge, and Climate Change: The Iconic Underwater Cultural Heritage of Stone Tidal Weirs, ID 180”. This project forms part of the UN Decade of Ocean Science for Sustainable Development 2021–2030 (IOC 2021). In this regard, Taiwan is urged to actively participate in this international cooperation project to preserve its abundant stone tidal weirs.

4.5 Establishing the national research institute of cultural heritage

Pursuant to Article 7 of the *UCHA*, the Ministry of Culture may establish or designate an institute responsible for UCH preservation, protection and management. It is believed that this national-level institute can best integrate various research resources, including technologies, professions and budgets. As mentioned earlier, the French DRASSM is a national-level research institute of 50+ years. Equipped with research vessels and many professionals, the DRASSM has participated in various international UCH projects and achieved fruitful results with stable budgets and operations. In 2009, the NRMCH was established in Korea to promote the country’s maritime culture and exchange research results with other international research institutions or museums. These institutes are all worth referring to as Taiwan establishes its own. In 2022, Penghu County Government entrusted Dr. Cheng-Hua Tsang of the National Tsing Hua University to conduct a project to establish the National Underwater Cultural Museum. The first step is to establish a research institute for the museum.

4.6 Integrating the planning and management of all marine protected areas

The marine protected areas (MPAs) is an umbrella name which may include national parks, fishery resource protected areas, national scenic areas, national monuments and marine sanctuaries. However, the administrative jurisdiction of MPAs is scattered among Taiwan’s numerous agencies. As the Government is drafting a bill on the Marine Protection Act, there is an opportunity to integrate planning and management of marine protected areas, including natural and cultural heritage.

4.7 Actively participating the international organizations and related meetings

Although Taiwan is not currently a member of the United Nations, many laws and policies still follow international treaties and initiatives. UCH is an emerging matter, and Taiwan does not have enough experience in this regard, and needs to absorb the experience of other countries. Therefore, Taiwan should actively participate in international organizations and

relevant meetings and cooperate with other countries or regions to jointly protect the UCH.

5. CONCLUSION

In 2015, Taiwan adopted *UCHA* in accordance with the spirit and intent of the 2001 Convention. The passage and enforcement of *UCHA* represents Taiwanese determination to preserve, protect and manage this common heritage of mankind. As UCH is a new affair in this country, Taiwan still lacks experience in law enforcement, professional manpower, related technology, protected area designation and underwater archaeology excavation. In particular, better planning and stable funding support are needed for school education at all levels and the establishment of specialized research institutions. Eight years after the enactment of the law, therefore, it is necessary for Taiwan to review its UCH protection performance, learn from countries that ratified the 2001 Convention some time ago, and formulate the steps and projects to promote UCH protection.

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