

Prospects & Perspectives



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Picture source: 國台辦, June 21, 2024, 《國台辦》, <https://www.taiwan.cn/xwzx/xwfbh/gtbxwfbh/tuwen/202406/t20240621_12629613.htm>.

On China's New Guideline for 'Punishing Taiwan Independence' and Its Impact

By Fang-Yu Chen

On June 21, China's Taiwan Affairs Office, along with the Supreme Court, the Supreme Procuratorate, and the Ministries of State Security, Public



Security, and Justice, announced a new legal guideline for the “crime of secession” for Taiwanese independence advocates. The set of rules includes a maximum of death penalty for “diehard” advocates of “Taiwanese independence.” According to China’s state-owned Xinhua news agency, the purpose of the new guideline is to “severely punish Taiwan independence diehards for splitting the country and inciting secession crimes in accordance with the law, and resolutely defend national sovereignty, unity, and territorial integrity.” Trials in absentia will be used in relevant cases.

Based on the Anti-Secession Law of 2005, this guideline is not a new formal law passed by the National People’s Congress, but is one of the latest iterations of lawfare China is aiming at Taiwanese citizens. Furthermore, it continues the main mission on Taiwan affairs — opposing independence and promoting unification — while the Chinese Communist Party (CCP) in recent years has emphasized the importance of anti-foreign intervention. CCP claims jurisdiction far beyond its border, and it is intimidating not only the Taiwanese but also everyone who does not support its claim on Taiwan’s sovereignty.

A stern warning

By issuing this type of warning against Taiwan independence, China is sending a strong political message to both domestic and international audiences. Domestically, it continues the narrative of national unity and territorial integrity, which are core tenets of the CCP’s legitimacy. This is also one of the various united front measures China launched toward Taiwan. While the guidance specifically targets “Taiwan independence advocates,” it reinforces the CCP’s long-term double-handed strategy of punishing those who do not echo the CCP’s rhetoric while rewarding people who give way to the party’s principles. In short, the CCP aims to deepen the atmosphere of fear and exacerbate the chilling effect.

Internationally, the guideline signals China’s unwavering stance on Taiwan-related issues and its willingness to take action against perceived threats to what it regards as its sovereignty. In particular, since the 20th Party Congress, anti-foreign intervention on the “Taiwan issue” has become one of the top priorities of united front work — at least when it comes to party doctrine.

The United States has pushed back against the CCP’s rhetoric on Taiwan’s sovereignty. In recent years, the U.S. has officially stated on several occasions



that Taiwan is not part of China (e.g., U.S. Department of Defense, “DOD Officials Describe Conditions in Indo-Pacific,” March 15, 2021). U.S. lawmakers have also proposed resolutions to reject China’s mischaracterization of U.N. Resolution 2758, while the State Department has officially refuted China’s use of that Resolution to falsely legitimize its “One China” principle, which claims that Taiwan belongs to China. The guidelines constitute China’s negation of these statements and any efforts to reject China’s territorial ambitions.

Escalating tensions, growing risks for Taiwanese

For cross-Strait relations, the guideline undoubtedly escalates tensions and increases the risks for people who travel to China. The Taiwanese government has raised the travel alert to the orange level — the second highest on the scale — urging citizens not to visit China unless it is necessary. Furthermore, the guideline is the newest attempt by the CCP to extend its claim of jurisdiction over Taiwanese citizens. Although the CCP cannot exercise its authority within Taiwan’s — the Republic of China’s — territory, it can put more pressure on other China-friendly countries for legal assistance while using trials in absentia at the same time. It is also likely that China will utilize international organizations such as Interpol to issue arrest warrants. Overall, the guideline may further encourage different public sectors to have stricter rules over Taiwan-related policies.

Most Taiwanese have become desensitized to China’s coercion, and this time seems to be no exception. Taiwanese have lived under the shadow of CCP intimidation for a long time. However, we must understand that the CCP now has a series of measures to combat “Taiwan independence advocates” and that these measures are being pushed forward.

Previously, the CCP used methods such as publicizing and sanctioning to intimidate the Taiwanese people; it then escalated this to “disciplinary action” against these actors; now the guideline ups the ante by allowing “criminal prosecution.” The new guideline further constrains freedom of speech for people who have links to China, such as those who work, study, and do business with the Chinese. There seems to be little hope that China’s hawkish policies toward Taiwan will soften anytime soon, given the structure of China’s domestic politics, Taiwanese party politics, and international geopolitical factors.



Similar to the Anti-Secession Law and other measures, China has always claimed that these laws are only aimed at a small number of “stubborn Taiwan independence advocates” and that the majority of people will not be affected. However, the new guideline uses vague wording that broadens the definition of Taiwan independence and the scope of its pursuit. Not only the guideline, but also many other similar laws such as the anti-espionage laws and new national security laws on Hong Kong issues, are using similar terms. And China has intensified its enforcement efforts in recent years.

Violations of international law

In responding to this, the Taiwanese government must work closely with allies and international actors to respond to this intimidation. Taiwan must be able to demonstrate that China’s lawfare campaign violates international law, especially the International Covenant on Civil and Political Rights. The international community has to stand firm on and be ready to defend the universal rights of freedom of speech and belief.

China also asserts the power to issue arrest warrants and to conduct trials in absentia against individuals outside its jurisdiction. Typically, such measures are reserved for perpetrators of international crimes and are exercised by international criminal courts or special tribunals. There are only a few specific occasions where a domestic court held jurisdiction in such cases, such as war crimes or piracy. China’s use of such measures to “prosecute” individuals involved in “Taiwan independence” therefore violates the principles in international law of extraterritorial jurisdiction. In sum, the guideline not only reaffirms China’s uncompromising stance on Taiwan, but also has far-reaching implications for cross-Strait relations, regional stability, and international politics.

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Editor’s Note: The views expressed in this publication are those of the authors and do not necessarily reflect the policy or the position of the Prospect Foundation.



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