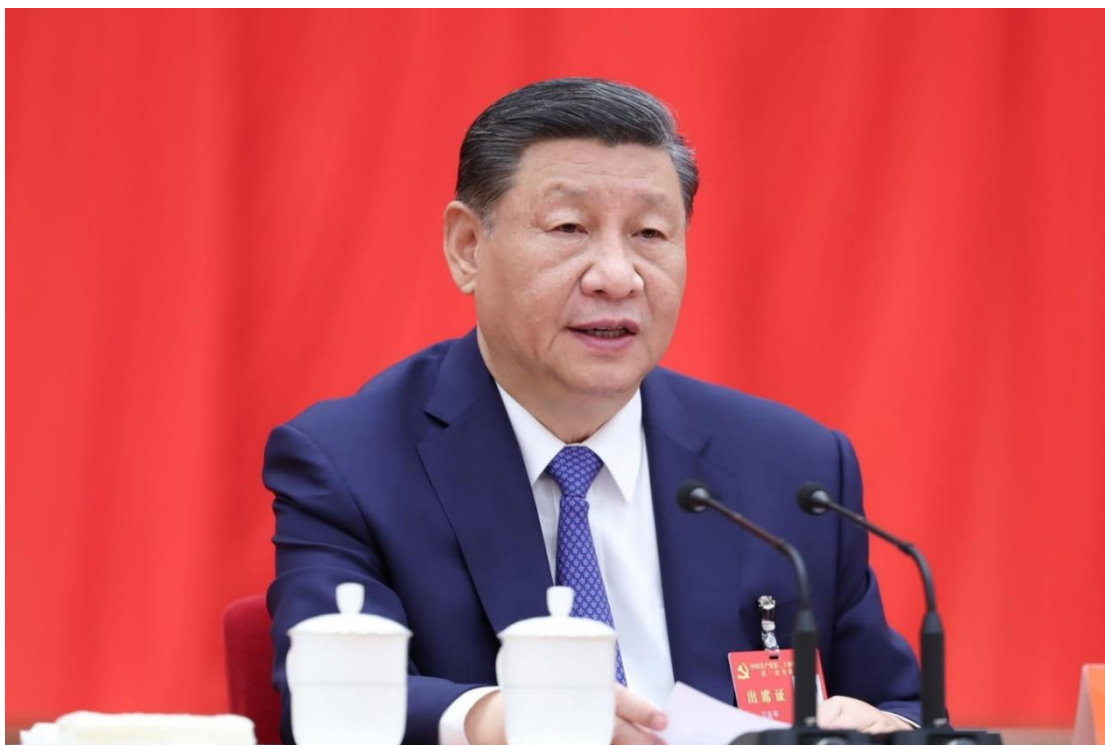


Prospects & Perspectives



On May 26, the PRC's Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, Ministry of National Security, and Ministry of Justice issued joint Opinions on punishing "Taiwan independence die-hards." The primary goal is to create a global chilling effect around Taiwan: Silence. Divide. Isolate. Picture source: Hooray_news, July 18, 2024, X, <https://twitter.com/hooray_news/status/1814512038171058679>.

China's Anti-Taiwan Independence Opinions: Implications for the Safety of Taiwanese and Potential Responses

By Laura Harth

On May 26, the People's Republic of China's Supreme People's Court,



Supreme People's Procuratorate, Ministry of Public Security, Ministry of National Security, and Ministry of Justice issued joint Opinions on punishing "Taiwan independence die-hards."

While the notice rightfully provoked global headlines, highlighting the PRC's threat to impose the death penalty on those deemed most culpable, let's be clear: the Opinions bring nothing truly new. In essence, they are but a condensed regurgitation of long-existing provisions under its anti-secession law, criminal procedure law and, in particular, the Special Provisions on Crimes of Endangering National Security in its criminal law.

More than anything, the novelty of the Opinions is its signaled intent: resolute vigor in the pursuit of those deemed responsible or complicit in a range of alleged "crimes" so loosely defined they could apply to almost anyone.

Mimicking its domestic repressive techniques, it both tells PRC authorities this pursuit is a priority and grants them the legal leeway to cast a wide net as they seek to outcompete each other.

Transnational Repression

This combination of competitiveness and legal uncertainty is a key component of the PRC's overarching transnational repression tactics. A set of tools by which it seeks to instill fear in the heart and minds of society at large.

The primary goal is to create a global chilling effect around Taiwan: Silence. Divide. Isolate.

This tried and tested strategy cracks down on individual actors not out of a misguided illusion it can alter their behavior, but for the sake of conditioning those around them. In the case of Taiwan, the intended target of this psychological intimidation exercise are both Taiwan's society and the world at large: the proverbial stick to the traditional carrot of buying countries into the PRC's One China *Principle* fold.

In that sense, the issuance of the Opinions is a testament to Taiwan's diplomatic resilience. Beijing could not show its hand more clearly when it identifies the promotion of Taiwan to join international organizations limited to



sovereign countries or carrying out official exchanges and military contacts with the outside world as a crime.

Hard not to read this as a sore response to the G7 Foreign Ministers' Meeting Communiqué issued one month before and reiterated in the June 2024 G7 Leaders' Statement: "We support Taiwan's meaningful participation in international organizations, [...], as a member where statehood is not a prerequisite and as an observer or guest where it is."

Undermining Taiwan's diplomatic autonomy is and remains a prime objective of Beijing's actions. The criminal equivalent to its economic coercion toolkit, the Opinions are no different in that respect. But the nature of cost they seek to impose will test the resilience of Taiwan's society at large.

There are important lessons to be learned from how similar provisions have played out in the PRC or in Hong Kong, and what minimal provisions authorities and individual Taiwanese alike may want to adopt to guard against both direct and — intended — indirect risks.

Direct risks

The direct risks for so-called ringleaders are relatively minor. Similar to what happened to some of the biggest names in the Hong Kong exiled community, they may face public arrest warrants and even bounties. However, paradoxically, such open hostile acts provide a safety net as the prohibited political nature of the persecution could not be any clearer.

Mere hours after the announcement of bounties on the head of eight Hong Kong pro-democracy activists in July 2023, Interpol publicly stated it would not issue any notices for their arrest if Hong Kong or PRC authorities were to request them.

Such may not be the case for non- or less renowned Taiwanese citizens. Cognizant of the fact that its decade-long abuse of multi- and bilateral police cooperation mechanisms has undermined its ability to effectively target high-profile figures, Beijing may — and likely will — seek to set examples through them.



This poses an immediate and acute risk for Taiwanese citizens traveling to the PRC, where the legal uncertainty of the Opinions meets the political arbitrariness of its judicial system. Party cadres will be incentivized to outperform their peers in zeal, and Beijing knows it can work with near impunity to set an intimidating example for Taiwan's society at large.

Such risks, however, are not limited to the PRC's territory. Beijing has long used trumped up charges of financial and other crimes to restrict individuals' freedom of movement around the globe, seek their arrest internationally and return them to the mainland through judicial or extrajudicial means.

While democratic awareness of these abusive practices is gradually building up, these risks remain very real. Between 2016 and 2019, Spain alone extradited no less than 219 Taiwanese citizens to China. The PRC has a documented policy of pressuring third countries to extradite or deport Taiwanese citizens to China, counter to the 2009 Cross-Strait Agreement on Joint Crime-Fighting and Judicial Mutual Assistance Agreement.

Moreover, as Safeguard Defenders' recent report *Chasing Fox Hunt* shows, the use of extrajudicial mechanisms and cooperation with immigration authorities is prevalent in many parts of the world, including in Taiwan's South-East Asian neighborhood.

Following the Opinions, arbitrary detentions, extraditions and deportations to the PRC are very concrete risks. Regularly updated risk assessment and travel advisories are a must. Taiwanese authorities should also press democratic counterparts to step up their game in upholding international non-refoulement principles and the relevant Cross-Strait agreement.

This is as much a protective duty as it is imperative to ensure Taiwan's political resilience. Beijing's hostage diplomacy is notorious, and it will not refrain from using it to the best of its ability as it seeks to silence Taiwan's legitimate claims, divide society and isolate the leadership.

Indirect risks

Fear is a most potent weapon and nowhere can its devastating impact be better measured than in Hong Kong, where public dissent has been all but



eradicated in the span of mere years following national security provisions not too dissimilar from the Opinions.

While Taipei's governance autonomy obviously insulates it from a similar hostile takeover of its institutions, Hong Kong's example should not be underestimated in its representation of the indirect risks the Opinions pose.

Similar to the so-called National Security Law imposed on HKSAR, the Opinions seemingly target any act, anywhere, by anyone. This includes both Taiwanese citizens living overseas and, presumably, foreign citizens.

Facing the same risks as their compatriots, Taiwanese citizens overseas may be inclined to hedge their bets, opting for silence rather than running the risk of Beijing's relentless wrath.

Foreign allies may face individual sanctions and accusations of collusion or co-conspiracy such as in Hong Kong's ongoing Jimmy Lai trial. While this is again unlikely to dissuade the most outspoken of allies from openly interacting with and supporting Taiwan's autonomy, past lessons show these can be effective in isolating them from their less-outspoken peers by painting them as extremist diehards.

Politicians and other professionals may wish to hedge their bets against such ostracization that could potentially affect their future career. Some may even frame it as an effort to "protect" their Taiwanese counterparts from the risks posed by the Opinions.

Such are the multiple effects of Beijing's transnational repression. But knowing your enemy is half the battle won. To guard against this combination of direct and indirect risks, the best response Taiwan's society and allies alike can give is to be cognizant of Beijing's chilling aims and, while stepping up to guard against direct risks, remain outspoken on Taiwan's legitimate claims, be united in its democracy and increase its engagement with the outside world.

(Laura Harth is Campaign Director, Safeguard Defenders – External Relations Liaison, Inter-Parliamentary Alliance on China.)



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Prospect Foundation

*No.1, Lane 60, Sec. 3, Tingzhou Rd., Zhongzheng District
Taipei City, 10087, Republic of China (Taiwan)*

Tel: 886-2-23654366 Fax: 886-2-23679193

<http://www.pf.org.tw>

