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By: Russell Hsiao

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### Political Warfare Alert: Cross-Strait Roundtable Forum

On October 29, the All China Federation of Taiwan Compatriots (ACFTC, 中華全國台灣同胞聯誼會)—a United Front affiliate of the [Chinese Communist Party](#) (CCP)—and the Taiwan Cross-Strait Roundtable Forum Association (臺灣兩岸圓桌論壇協會) co-organized the inaugural “Cross-Strait Roundtable Forum” (兩岸民間圓桌論壇) in Beijing. The self-styled civilian (民間) forum, which was held under the banner of “integrating development, mutual benefit and win-win result” (融合發展、互利共贏), was reportedly attended by more than 150 people from Taiwan’s civic associations with Chinese counterparts to discuss issues ranging from strengthening cross-Strait industry, trade, culture, film, and youth cooperation. High-level [participants](#) included Taiwan’s former economic minister, Yiin Chii-ming (尹啟銘), and deputy director of the People’s Republic of China (PRC) State Council Taiwan Affairs Office (TAO), Chen Yuanfeng (陳元豐), among others. The purpose of the Forum was ostensibly to promote the implementation of Beijing’s “[31 Measures](#)” and discuss ways to strengthen industrial cooperation between the two sides of the Taiwan Strait.

In his opening keynote, ACFTC Chairman Huang Zhixian (黃志賢) stated that the foundation for cross-Strait peaceful development and its power stem from the people. According to Huang, the Forum will become a platform for cross-Strait exchanges that promote policies on the basis of the so-called “1992 Consensus,” which is based on the “One-China Principle.” The chairman of the Taiwan Cross-Strait Roundtable Forum Association, Chang Hsien-yao (張顯耀), said that the relationship between the two sides of the Taiwan Strait cannot be stopped. The former deputy minister of Taiwan’s Mainland Affairs Council—a cabinet level agency in charge of implementing policies toward China—agreed that the

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key to cross-Strait communication and dialogue is to adhere to the “1992 Consensus.” Chang [resigned](#) as deputy minister in 2014 over allegations that he leaked confidential information and on suspicion of espionage. Formal charges were never filed.

The Forum participants reportedly committed to six joint initiatives. In addition to promoting the peaceful development of cross-Strait relations, the two sides committed to actively implement the “31 Measures,” which was announced by the TAO back in February, and realize the equal treatment of Taiwan compatriots in China. On economic exchanges and cooperation, the two sides committed to assist Taiwanese enterprises in participating in the 13th Five-Year Plan for social and economic development and the Belt and Road Initiative (BRI, formerly known as “One Belt, One Road,” —[帶一路](#)).

The six joint initiatives include commitments to deepen cross-Strait industrial cooperation and innovation, assisting Taiwanese enterprises in industrial transformation and upgrade, and actively expanding Taiwan’s agricultural and fishery products in China, and promoting Chinese culture. The initiatives include cooperation on youth exchanges and Forum participants agreed to set up more platforms for cross-Strait youth exchanges. Most notably, the two sides agreed to broaden cross-Strait [television and film exchange](#), and promote the co-production of film and television dramas. Groups attending the forum from the two sides signed the “Cross-Strait Joint Filming of Drama Cooperation Agreement” ([兩岸互拍戲劇合作協議](#)), in which they agreed to jointly produce and shoot [two dramas](#) scheduled to be completed by June 2019. The names of the two films are “Good morning, Captain” ([早安機長先生](#)) and “The Knot” ([雲水謠](#)), each with 20 and 30 episodes, respectively, and will be screened in both Taiwan and China. Taiwan is scheduled to have a general election in 2020.

Formed in 1981 following the normalization of relations between Washington and Beijing, the ACFTC is part of the CCP’s United Front system. As noted in a [declassified CIA study](#) “the Chinese began to increase the emphasis on united front operations early in 1978 and intensified them after the normalization of diplomatic relations between China and the United States.” The ACFTC promotes cross-Strait unification among

Taiwanese individuals and groups in China and abroad. United Front activities are also used to highlight the ethnic and cultural affinity between the people of the two sides of the Taiwan Strait for the purpose of narrowing the “us” versus “them” mentality resulting from decades of political indoctrination. More notably, however, is that [this campaign](#) presents China as Taiwan’s natural partner for cultural and ethnic reasons—not the United States despite the two countries’ shared values of democracy and human rights. While self-described as a civilian group, ACFTC, the People’s Liberation Army (PLA) [General Political Department](#)—which is now under the Central Military Commission—and the State Council’s Taiwan Affairs Office have cooperated on Taiwan-related propaganda efforts since 2002. As the aforementioned [CIA study](#) pointed out: “Propaganda directed to Taiwan reports extensively on the activities of persons of Taiwan origin in China.”

[Huang Zhixian](#) has been in his post as ACFTC chairman for almost a year and is also affiliated with the Taiwan Democratic Self-Government League (TDSGL, [台灣民主自治同盟](#)), which he served as deputy chairman from 2015-2017. TDSGL is a nominally independent political group that is permitted to operate by the CCP. Huang replaced [Wang Yifu](#) (汪毅夫) in December 2017, who served as head of the ACFTC from 2012-2017 and is now deputy chairman of the National Society of Taiwan Studies ([全國台灣研究會](#)) chaired by senior Chinese statesmen Dai Bingguo (戴秉國). [Huang](#) is concurrently a deputy secretary-general of the advisory body Chinese People’s Political Consultative Conference (CPPCC) and also [deputy chairman](#) of the Across the Strait Taiwanese Exchange Association ([兩岸台胞民間交流促進會](#)), an exchange platform established by the TDSGL. The CPPCC is the highest-level entity overseeing the United Front system and exercises “democratic supervision” over non-CCP parties, mass organizations, and prominent personalities. It [promotes](#) political unity and social stability through controlled representation in China’s political, economic, social, and cultural lives. Huang became president of the ACFTC at its 10<sup>th</sup> Congress held in December 2017. The [organization](#) is composed of a 100-member council and a 33-member standing committee.

At a seminar commemorating the three year anniversary of the meeting between former Presidents [Ma](#)

Ying-jeou and Xi Jinping in Singapore back in 2015, the former president of Taiwan re-emphasized the importance of the so-called “1992 Consensus,” and claimed that maintaining the “status quo” under the principle of “not against unification, no independence, and no use of force” would be in the best interest of Taiwan. In response to Ma’s comments, President Tsai Ing-wen said: “Three years after that meeting, the new “three noes” proposal represents an even greater compromise toward China. [...] It seriously hurts Taiwan’s sovereignty and sends a wrong message to the international community that Taiwan will yield to Chinese suppression at a time when China has spared no effort to bully Taiwan.”

**The main point:** A month before Taiwan’s local elections, the All China Federation of Taiwan Compatriots, a United Front organization, and the Taiwan Cross-Strait Roundtable Forum Association set up by a former senior official co-organized the inaugural “Cross-Strait Roundtable Forum” in Beijing to promote cross-Strait unification.

### **PRC Taiwan Affairs Office Chief Urges Taiwanese Businessmen to Return to Taiwan to Vote in Local Elections**

Against the backdrop of increasing evidence that China is interfering in Taiwan’s political process, a senior Chinese official is encouraging Taiwanese businessmen in China to go back to Taiwan to vote in the island’s upcoming local elections. While participating in a symposium organized by The Association of Taiwan Investment Enterprises on the Mainland (ATIEM, 大陸全國台企聯), the director of the State Council Taiwan Affairs Office (TAO), Liu Jieyi (劉結一), reportedly said that “this idea is very well said.” As another sign that Beijing is ramping up its influence operations against Taiwan, at the symposium attended by many ATIEM executives and Chinese officials held in Hunan province on October 29, the TAO director highlighted how Beijing is looking out for Taiwanese business interests amidst the US-China trade war. “Taiwanese businessmen and Taiwan compatriots must have confidence. The mainland [sic] has a very large market. Taiwan-funded enterprises can rely on the Belt and Road Initiative (BRI, formerly known as “One Belt, One Road,” 一帶一路)

policy to continue business development on the mainland [sic],” Liu reportedly said.

The TAO—which is in charge of implementing Beijing’s Taiwan policy—has kept a low profile before the upcoming local election, which will be held in less than two weeks on November 24. Yet, the annual forum, which is typically held during the lunar new year, was moved up to before the local elections ostensibly on purpose. ATIEM’s President Wang Pingsheng (王屏生), 18 executive vice presidents, 15 district presidents, and heads of 150 local Taiwan business associations attended the forum. Additionally, the directors and relevant responsible persons of the Taiwan Affairs Offices from 39 provinces (autonomous regions, municipalities) and deputy provincial cities also attended.

Founded in 2007, ATIEM is a business association consisting of around 300 Taiwanese-funded enterprises and their members in China. The organization acts as a lobby group for Taiwanese businesses both in China and in Taiwan. According to a 2012 investigative report by Reuters, ATIEM previously tried unsuccessfully to lobby the Taiwan government to overturn a rule that bars citizens of Taiwan from taking positions in state or party bodies in China.

Describing the current cross-Strait situation as very serious and highlighting the importance of Taiwan’s upcoming local election, ATIEM President Wang stated that: “Not only will I go back [to Taiwan] to vote, but I call on millions of Taiwanese businessmen to go back to vote.” Li Zhenghong (李政宏), president of the Shanghai ATIEM, pointed out that the Taiwan government should help Taiwanese businesses take advantage of the huge opportunities presented by the Chinese market. “This time, every Taiwanese businessman-friend around me has already bought a ticket and are going back [to vote],” said Ding Yuhua (丁鯤華), the honorary president of ATIEM. Ding added that Taiwanese businessmen have been awakened and will no longer be silent. Voting in the election is not only a matter of letting their voice be heard but to exert influence. “[The number of people] going back to vote will be much more than in 2016,” Ding said.

While voter turnout in Taiwan’s general election is relatively high, they are lower for local elections—so high voter turnout could have an impact. With an estimated

[one million Taiwanese](#) working and living in China, a quarter million of Taiwanese residents in China reportedly voted in the country's 2012 presidential election. In 2016, an estimated 100,000 Taiwanese businessmen [voted](#). To encourage more voters to go back to vote, 12 airlines from Taiwan and China such as Air China, China Southern Airlines, Eastern Airlines, Hainan Airlines, Chunqiu, and Jixiang are reportedly offering discounts as much as 25 percent off for people [traveling from China to Taiwan](#) during the elections. For instance, a roundtrip ticket for Shanghai-Taipei was priced only at NT \$5,000 (US \$162.40).

At [another business forum](#) held also in late October in Nanning, around 100 Taiwanese entrepreneurs attended the 14th Guangxi-Taiwan Economic and Trade Cooperation Forum to explore the investment environment in the Guangxi autonomous region. According to Wang, ATIEM's president, Taiwanese businesses see Guangxi as a springboard to access the markets of the "One Belt, One Road" initiative. One of the attendees from Taiwan, Chan Huo-sheng (詹火生), chairman of the Cross-Strait Common Market Foundation (兩岸共同市場基金會), said that strengthening industrial cooperation between Taiwan and Guangxi could help Taiwanese businessmen more fully participate in China's "One Belt, One Road" initiative.

**The main point:** As US-China trade war heats up, Beijing is ramping its influence activities by encouraging Taiwanese businessmen to vote in the upcoming local elections as some Taiwanese businesses look to Beijing's "One Belt, One Road" initiative for relief.

ple," [declared Vice President Mike Pence](#) as he stood at the podium at the Hudson Institute on October 5. Against the backdrop of broader US-China friction and concerns, the vice president not only touted Taiwan's democracy, but he chided China for how it is dealing with Taiwan's diplomatic allies and foreign companies that work with Taiwan. In essence, the vice president's comments broadcasted how Taiwan is setting a good example through its liberal constitutional democracy, rule of law, and political self-determination, even while its diplomatic partnerships and international space are shrinking.

While the response to the vice president's speech was relatively muted within US domestic politics, it was amplified in the Asia Pacific, particularly between the United States and China, and in Taiwan's cross-Strait relations. The vice president's speech that day is officially titled: "Remarks on the Administration's Policy Towards China." As such, it was inherently focused on foreign policy and international politics. However, the speech made a [relatively little splash](#) in mainstream US domestic political discussion since it happened ahead of US midterm elections and amidst the controversy surrounding Supreme Court Justice Brett Kavanaugh's confirmation hearing. Nevertheless, it made a bigger impact on the global stage. Weeks after the speech, officials in China were still [poring over it](#) and harshly reacting to it. In international media, the speech has been compared to Winston Churchill's landmark ["Iron Curtain" speech](#) in 1946, marking the start of the Cold War. During his 40-minute talk, the vice president explicitly mentioned Taiwan four times.

#### ***Re-emphasizing foundations of US-Taiwan relations***

To place Vice President Pence's quote about Taiwan's "embrace of democracy" in [context](#), he said (with italics added for emphasis), "while our administration will continue to respect our "One-China" Policy, as reflected in the three joint communiqües and the Taiwan Relations Act, America will always believe *Taiwan's embrace of democracy shows a better path for all the Chinese people.*"

In his opening points on Taiwan, the vice president explains that the foundation of US-Taiwan relations is built on existing US policies and laws. The three joint communiqüés between the United States and China

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## **Vice President Pence's China Speech Highlights Taiwan as a Model**

By: David An

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"America will always believe Taiwan's embrace of democracy shows a better path for all the Chinese peo-

are the official policies that both sides set starting in the 1970s by Nixon, Kissinger, Mao, and Zhou. They deal with various aspects of the bilateral US-China relationship, but also US-Taiwan relations. Specifically, the Shanghai Communiqué mentions the US' "[one China policy](#)," which is: "[t]he United States acknowledges that Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China." (For more information regarding the "One-China Policy" read this [Brookings'](#) paper by Richard C. Bush.)

Pence also referred to the Taiwan Relations Act of 1979, which is US law. It is specifically Public Law 96-8 of the 96th Congress, which says that the act was necessary to help "maintain peace, security, and stability in the Western Pacific," and authorize, "the continuation of commercial, cultural, and other relations between the people of the United States and the people of Taiwan."

### ***Rule of law and political self-determination***

On this foundation of policies and laws, Pence highlighted how Taiwan has blossomed into a liberal constitutional democracy with free and fair elections in the four decades since the communiqués and the Taiwan Relations Act. Taiwan held its first competitive election in 1996 leading to the election of President Lee Teng-hui, a member of the incumbent Kuomintang (KMT) party. Four years later in 2000, Taiwan held its second election and had its first political transition of power from the KMT to the opposition Democracy People's Party (DPP) when President Chen Shui-bian was elected. There was another political turnover in 2008 which saw the KMT back into power, and again another political turnover in 2016 with the election of the current President, Tsai Ing-wen of the DPP party.

Through this process of democratization and political turnover, Taiwan has become governed by the rule of law, and not ruled by law. The difference between 'rule of law' versus 'rule by law' is that government officials and the people of Taiwan must follow the law under the rule of law. In a liberal constitutional democracy, the people formulate laws through their elected legislative representatives. The Taiwan government is constrained to follow laws through checks and balances between the various "yuan"—which is what it calls its branches of government. On the contrary, rule by

law is when leaders—especially those in authoritarian and totalitarian regimes—use laws to justify their own preferences and power politics rather than reflect the collective will of the people through elected representatives in free and fair elections.

When Pence mentions Taiwan's democracy, he is also speaking about how the people of Taiwan enjoy political self-determination. Taiwan is no longer a one-party government today, due to competitive elections over the past two and a half decades. The people vote to choose their own leaders, and can vote them in or out of office. Elected leaders in the executive and legislative branches are therefore sensitive to public opinion when making decisions. In this way, the people in a liberal constitutional democracy determine their own political futures.

Pence is explaining how Taiwan's democracy is different from non-liberal, non-constitutional claims of democracy. North Korea is a totalitarian country and clearly not a democracy as Americans, Europeans, Japanese, South Koreans would know it, yet North Korea's official name is the Democratic People's Republic of Korea. Furthermore, article one of the [Constitution of the People's Republic of China](#) states (with emphasis added): "The People's Republic of China is a *socialist* state under the people's *democratic dictatorship* led by the working class and based on the alliance of workers and peasants." It juxtaposes "socialist," "democratic," "dictatorship" all in the same sentence. Despite claims of democracy, when a country does not have rule of law, and does not have political self-determination, then it is not a liberal constitutional democracy.

### ***Pence mentions Taiwan losing diplomatic allies***

Secondly, Vice President Pence chided China for poaching Taiwan's diplomatic allies by saying in his Hudson Institute speech, "since last year, the Chinese Communist Party has convinced three Latin American nations to sever ties with Taipei and recognize Beijing. These actions threaten the stability of the Taiwan Strait—and the United States of America condemns these actions."

Pence is explaining how Taiwan has been losing its diplomatic allies to China at a high rate, especially over the past year. Taiwan lost one ally—Panama—in all of 2017, but it has [already lost](#) the Dominican Republic, Burkina Faso, and El Salvador in 2018. The US govern-

ment is determined to take action to try to prevent this from happening in the future. In September, the United States [recalled its ambassadors](#) to the Dominican Republic, El Salvador, and Panama back to the United States over those countries' decisions to no longer recognize Taiwan.

### ***Reiterating “Orwellian nonsense”***

Thirdly, Vice President Pence repeated the US government's concern that China is pressuring US companies due to cross-Strait politics. He stated, "Chinese authorities have also threatened US companies that depict Taiwan as a distinct geographic entity, or that stray from Chinese policy on Tibet. Beijing compelled Delta Airlines to publicly apologize for not calling Taiwan a 'province of China' on its website."

Five months before Pence's October speech, the White House condemned exactly those same actions by China by calling them "Orwellian nonsense." At that time, the White House made a [statement](#) that President Trump "will stand up for Americans resisting efforts by the Chinese Communist Party to impose Chinese political correctness on American companies and citizens." In that same statement, the White House called China's activities "Orwellian nonsense," in reference to George Orwell's classic book *1984* about a dystopian future where [critical thought is suppressed](#) under a totalitarian regime. Essentially, the US government is saying that China forcing its form of political correctness on foreign companies hearkens to a dystopian future where critical thought is bent toward its will.

As expected, China's pundits and officials reacted vigorously to Pence's speech. Chinese scholars said that the US and China are at a "[serious tipping point](#)." The Chinese media called it "[illogical and absurd](#)." Moreover, China's foreign minister said the speech had "[damaged our mutual trust](#)." As mentioned earlier, the international media has compared Pence's speech to Winston Churchill's landmark "[Iron Curtain](#)" speech in 1946.

In his Hudson Institute speech last month, Vice President Pence said that Taiwan's embrace of democracy sets a good example for China. In addition, he said that China should refrain from poaching Taiwan's diplomatic allies, and China should not impose its form of political correctness on US and other foreign companies

when it comes to Taiwan matters. Indeed, Taiwan is not only a good model for China, but for the entire region through its vibrant democracy, impressive rule of law, and political self-determination.

**The main point:** Vice President Pence's speech on the Administration's policy towards China explicitly mentioned that, "Taiwan's embrace of democracy shows a better path for all the Chinese people." Indeed, Taiwan is setting a good example for the whole region through its liberal constitutional democracy, rule of law, and political self-determination even while its diplomatic and international space is shrinking.

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## **Disinformation in Taiwan and Cognitive Warfare**

By: Rachael Burton

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On November 24, Taiwanese citizens will cast their ballots in an election that will be viewed as a litmus test for President Tsai Ing-wen and the ruling Democratic Progressive Party (DPP). After two years of contentious legislative reforms to labor and pension laws, along with a grim outlook on the growing restrictions to Taiwan's international space, the lead up to the midterm elections offers the opposition Kuomintang (KMT) an opportunity to capitalize on political discontent and potentially make gains in some of the 22 counties, cities, and special municipality districts on the ballots. Yet, the DPP and the KMT are not the only players appealing to public opinion in Taiwan, the authorities in Beijing appear to be taking an active role as well.

The Ministry of Justice Investigation Bureau, which is Taiwan's equivalent to the US Federal Bureau of Investigation, established a big-data and public opinion task force and found "unequivocal evidence" that Beijing was responsible for spreading [fake news](#) articles in an effort to manipulate public opinion in Taiwan. Examples include the Chinese state-run media entity, *Chi-*

na Central Television (CCTV), airing old footage of the People's Liberation Army exercises to exaggerate the implications of a live-fire exercise, and online "content farms" being used to spread disinformation about the status of Taiwan's diplomatic allies. In May of this year, when Burkina Faso announced that it was severing diplomatic ties with Taiwan, a post on the PTT Bulletin Board System stirred controversy when it claimed that Honduras was also in talks with Beijing. It was reported that the post was later traced to a "[Chinese disinformation mill](#)" that was sponsored by the Chinese government.

In a display of even-keeled leadership, on [Taiwan National Day](#) President Tsai appealed to the populace to be alert in the face of widespread disinformation. The President noted that Taiwan's national security is not only under threat by military coercion, but also through diplomatic pressure, social infiltration, and predatory economic policies. President Tsai emphasized her government's steadfast determination to prevent "foreign powers from infiltrating and subverting [Taiwan] society [...] and create chaos." Notably, President Tsai did not implicate the Chinese government by name. Rather, it is widely accepted that the source of disinformation can be attributed to actors in China, but it remains unclear if the strategy is a coordinated government-sponsored effort. However, what is clear is that the confusion and distrust cultivated by [disinformation campaigns](#) could have consequential implications for Taiwan's vibrant democratic processes. While the debate within Taiwan on how to combat disinformation and mitigate its damages continues, who stands to gain from these disruptive strategies?

President Tsai's appeal for further awareness, citizenry, and cooperation with like-minded countries, like the United States, on [media literacy](#) are just a few of the tools to support a more resilient Taiwanese public amidst the onslaught on its democratic freedoms and institutions. In addition, civil society will play an important role in maintaining a clean media/cyber environment. Non-profit organizations such as The [Taiwan FactCheck Center](#), established by Media Watch, aims to provide a long-term, non-governmental [solution to fake news](#) by enhancing media literacy and fact-checking major news stories and rumors.

Presently, the Chinese Communist Party (CCP) is using

[forms of perception management](#) through co-option, corruption, censorship, and disinformation to target political and economic elites, the media, civil society, and academia to shape policies and perceptions that are in line with Beijing's domestic and foreign policy objectives. In Taiwan's case, Beijing's goal would be the subjugation of Taiwan's society, government, history, and people to unify under the CCP's leadership in a "One Country, Two Systems" arrangement.

To win the "hearts and minds" of the Taiwanese people, Beijing and the People's Liberation Army (PLA) conduct psychological, public opinion, and [legal warfare](#) against Taiwan, commonly referred to as the "[three warfares](#)," to wear down the sovereignty and will of the people. Interestingly, a year ago an article was published on *PLA Daily* highlighting a new type of warfare, "[cognitive warfare](#)" (制腦作戰), which is to "influence and lead the cognition, emotion, and consciousness of the public and national elites, and ultimately influence a country's values, national spirit, ideology, cultural traditions, and historical beliefs [...] to achieve the strategic goal of winning without war."

While a limited amount of information is available to decipher how Chinese military strategist views the use of cognitive warfare, the US military has identified the need to address the role of information and how information can change or maintain the drivers of behavior. In a public study released in July of this year, the US Joint Chiefs of Staff (JCS) published the "[Joint Concept for Operating in the Information Environment](#) (JCOIE)." The report highlighted challenges facing US joint forces in an [information environment](#) where an adversary could leverage the information domain to "paralyze the US Government with policy and legal issues" and thus gain freedom of action. The report addresses building the US Joint Forces' capability to understand the perceptions, attitudes, and other elements that drive behaviors that affect Joint Forces Commands' objectives. Ultimately, the US military is actively working to address how information, or disinformation, may adversely affect its war-fighting capabilities. When shifting this concept to a civilian, peace-time environment, the disinformation campaigns being waged on Taiwan not only targets the people's decision-making process, but also that of Taiwan's elected leaders.

The possible application of "cognitive warfare" to a

peacetime environment raises important questions. Is disinformation being used as a tactic of “cognitive warfare” that aims to influence Taiwan’s population to only consider a specific set of options favorably to the CCP’s interests? If Beijing, or Chinese actors are indeed behind Taiwan’s disruptive disinformation campaigns, what would be their goals? Proof that democracy is unstable and unviable? To paralyze Taiwan’s government and its decision-making ability? To win the war of unification on Beijing’s terms without fighting? If “cognitive warfare” is being waged on the Taiwanese people, how can they be defended?

Disinformation must have the intent to deceive. Undoubtedly, the single most effective disinformation campaign wielded against Taiwan is Beijing’s “One-China Principle,” where the People’s Republic of China (PRC) aims to dictate and lecture to sovereign countries around the world on how they should conduct their relations with the government in Taiwan. The PRC, under the leadership of the CCP, has maneuvered all sources of state power—economic, education, military, civil society, media, and politics—to influence foreign governments and populations to adopt Beijing’s successor state theory that the Republic of China (Taiwan), and the government seated in Taipei, had ceased to exist following 1949, 1972, and 1979. This of course does not accord with objective reality.

**The main point:** The PRC’s disinformation campaigns against Taiwan is a form of cognitive warfare that targets the people’s decision-making process, but also that of Taiwan’s elected leaders, and represent a national security threat for its ability to sow discontent, mistrust, and fear.

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## A Reflection on The Passage of The Act on Promoting Transitional Justice (Part 3)

By: Yi-Li Lee

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President Tsai Ing-wen and her administration have made transitional justice a touchstone of her administration’s legal and political reform efforts since the Democratic Progressive Party (DPP) won the presidency and majority seats in the Legislative Yuan in January 2016. A formal apology to indigenous peoples was made by President Tsai in August 2016 and a transitional justice commission for indigenous people was created under the Office of the President. In addition, the “Act on Governing the Handling of Illegally Seized Assets by Political Parties and Their Affiliated Organizations” (政黨及其附隨組織不當取得財產處理條例) was passed by the Legislative Yuan in August 2016 and the Ill-gotten Party Assets Settlement Committee to handle the Nationalist Party’s illegally obtained assets during its authoritarian rule was established under the Executive Yuan. Among these remarkable transitional justice measures, perhaps the most extraordinary of achievements was the passage of the Act on Promoting Transitional Justice (促進轉型正義條例) on December 5, 2017. As the one-year anniversary of this landmark Act approaches, it is worth reflecting on its significance and original purpose.

The Act created a commission for transitional justice under the Executive Yuan. This Commission has nine members nominated by the premier with the consent of the Legislative Yuan. Most importantly, the Commission has the power to investigate cases involving human rights violation that occurred from the end of Japanese colonial rule on August 15, 1945 to the lifting of the “Martial Law Decree” in Kinmen and Matsu on November 6, 1992. In addition, the Commission is given the power to recover and declassify political archives, to remove and eliminate authoritarian symbols, to correct any judicial wrongdoing, and to promote social reconciliation. To thoroughly investigate the political purges that occurred during the authoritarian period, the Commission has the power to request civil organizations, political parties, private organizations, and individuals to hand over related documents and open relevant archives. In addition, the Commission has the power to remove authoritarian symbols that commemorate dictators.. Furthermore, the power of the Commission can investigate and repurpose ill-gotten

political party assets. To avoid power conflicts, it cannot appropriate assets that have already been seized by the Ill-gotten Party Assets Settlement Committee (不當黨產處理委員會).

Perhaps the most significant breakthrough for transitional justice is the Commission's power to reverse guilty verdicts of those civilians who had been convicted by military tribunals during the White Terror (白色恐怖) Period. During the White Terror Period, Article 8 and Article 9 of the "Martial Law Decree" listed the offenses under which civilians could be tried in military tribunals during periods of emergencies. When the "Martial Law Decree" was lifted in July 1987, those who have been tried by military tribunals appealed to the Supreme Court claiming that under Article 10 of the "Martial Law Decree" (戒嚴令) they were allowed to ask for retrials. However, their appeals were denied by Article 9 of the National Security Act (國家安全法), which prohibited those civilians who had been convicted by military tribunals during the period of the "Martial Law Decree" from filing an appeal. Hence, those people brought their cases to the Constitutional Court of Taiwan. However, the Constitutional Court of Taiwan in [JY Interpretation No. 272](#) used the prohibitively high-bar of "exceptional circumstances" and "the difficulty in gathering and investigating evidence after such a long period of time has elapsed and circumstances have changed, and the need for maintaining the stability of judgments and social order" as reasons to reaffirm the constitutionality of this provision. In effect, this decision blocked victims from seeking justice through judicial remedy. From a legal perspective, those civilians who were tried by military tribunals still remain "guilty" even though most have been compensated by the "Compensation Act for those wrongfully handled rebellion and espionage cases during the Martial Law Decree." Also, this decision blocked the possibility to initiate criminal prosecutions of former officials who were involved in cases of human rights violations.

The Act created a two-track system that provides a remedy for those cases that have been tried for political reasons and executed by military tribunals during the period of the White Terror. Article 6 of the Act delegates the Commission to reverse guilty verdicts for cases that have been compensated by the "Compensation Act for those wrongfully handled rebellion and

espionage cases during the Martial Law Decree," the "Act to Provide Monetary Reparations for Victims and Their Families of February 28 Incident," and the "Act governing the Recovery of Damage of Individual Rights during the Period of Martial Law Decree." In this sense, the Commission has the power to review the legality of those cases and rectify the injustice to those victims who suffered a miscarriage of justice in previous legal proceedings during the authoritarian period. Reexamining those judicial cases can reveal how the previous regime and its leaders in some cases manipulated and abused the judicial system. The Act also requests those who made such wrong trial decisions to take responsibility by giving compensation to victims and restoring their reputation.

Although the Act has made some progress, some questions still remain. For example, Section 1 of Article 6 of the law provides that only criminal cases can be reexamined by the Commission. In other words, civil and administrative cases are excluded from reexamination leaving lands that were illegally expropriated by the former regime during the authoritarian period outside the purview of the Act's corrective measures. To resolve such oversight, the Commission could inform those who suffered land rights violations when it finds any evidence for retrials during the period of investigation. In addition, although section 2 of Article 6 provides that the Commission has discretionary power to identify the wrongdoers and the scope of their criminal responsibility, it does not list clear criteria to identify wrongdoers. It also does not clearly prescribe what kind of civil, criminal, or administrative liability the wrongdoers shall take. To address perpetrators' responsibility and protect victims' rights to know, the Commission shall open archives when it finds those wrongdoers had held official positions during the authoritarian period. Victims also have the right to bring their cases to the court for retrials if the Commission decides to conceal the identity of wrongdoers. Indeed, the passage of the Act on Promoting Transitional Justice has created a new era for those unsettled issues of transitional justice. The establishment of the Commission has two main functions. The first function is to produce a linear narrative of progress toward constitutionalism and democracy, which consolidates and legitimizes the ruling power of the current government. The second function is to shape collective memory

through state-sponsored truth investigation, which can heal historical wounds and further lead to social reconciliation. According to the Act, the Commission is expected to issue its final report within two years. As we are approaching the midpoint of this historic project, it is important to remember that the success or failure of the Commission will shape future transitional justice discourse and its relationship with constitutionalism and democracy in Taiwan.

**The main point:** As the one-year anniversary of the Act on Promoting Transitional Justice approaches, it is worth reflecting on the Act's significance and original purpose. The success or failure of the Commission will shape future transitional justice discourse and its relationship with constitutionalism and democracy in Taiwan.