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Taiwan's Civic Space Threatened by Chinese Misinformation and the Government's Worrisome Legislative Responses

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In Taiwan, external and internal threats to its civil societies are all closely associated with China. The first is the Chinese government's campaign to sway public opinion and restrict freedom of expression in Taiwan. The second comes from the measures adopted by the Taiwanese government to counter these threats posed by China, which also run the risk of restricting its civic space.

External Threats to Civil Society Space

The external threats to Taiwan's liberal democracy come directly from China. Over the past few years, the authoritarian Chinese government has tightened its control over the civil society both within China and in Hong Kong. It also attempts to use its political and economic leverage to influence public opinion and the policies of political parties in Taiwan. The dissemination of fake news is only one of the numerous measures that China employs to influence Taiwan.

Many Taiwanese companies and mass media outlets have business interests in China. For example, several TV companies sell Taiwan-produced dramas to Chinese TV stations. This situation gives rise to a fundamental security dilemma for Taiwan, as the island's economy is inextricably intertwined with that of China's. Taiwan depends on China for its export market and trade surplus. This exposes Taiwanese companies to Chinese government's influence, forcing firms and individuals to self-censor. In some circumstances, they avoid criticizing the Chinese government and, in the case of media, they are reluctant to report on the darker sides of Chinese society. Indeed, the Chinese government has adopted a policy of differentiating between China-friendly Taiwanese and those who advocate independence. The latter group is threatened to be excluded from doing business with China and has travel restrictions to mainland China, likely further encouraging self-censorship. In another attempt to influence public opinion, a China-based Taiwanese company purchased a mass media conglomerate in Taiwan. The news coverage of this conglomerate's outlet is generally closely aligned with the Beijing government's stance.

The Purpose of China's Misinformation Activities

Some fake news in Taiwan is domestically produced by political parties, their affiliated organizations, and ordinary citizens. A significant amount of its fake news, however, is generated abroad and

subsequently disseminated by local people online. According to research conducted by the Varieties of Democracy (V-Dem) project, Taiwan suffers more than any other countries from disinformation operations run by foreign forces. Social media platforms and websites that are most frequently used to spread disinformation in Taiwan include LINE, Facebook, and PTT (one of Taiwan's most popular bulletin board systems), as well as content farms and political propaganda websites. Many posts produced by content farms were found to have been copied and pasted from Chinese sources. Netizens have tracked and listed at least fifty content farms producing large-scale fake news about Taiwan. China has three goals in its fake news campaigns.

The first goal is to “tell China’s story well.” Its aim is to manufacture a positive image of the Chinese Communist Party’s performance and a negative image of Western governments. This could potentially enhance the legitimacy of the Chinese government and increase the appeal of China as a distinct model for developing countries and Taiwan. One such example of its misinformation efforts is promoting a story about how Asian Americans, especially those of Chinese descent, and African Americans are discriminated in the United States.¹ The goal here is to induce Taiwanese to favor the Chinese model and to eventually endorse unification with the mainland.

The second goal is to intimidate the Taiwanese people and create social panic and internal division, especially during a period of heightened military tension across the Taiwan Strait, in the hope that Taiwan will yield to Chinese political and military pressure. An example of this type of fake news is a report that the Chinese government had decided to evacuate all Chinese citizens from Taiwan before August 8, 2022. This was issued just after the visit of U.S. House speaker Nancy Pelosi to Taiwan on August 3, when the Chinese were conducting military exercises in the waters off Taiwan.²

The third goal is to influence competition between political parties in Taiwan. Stories of this kind tend to talk down the performance of the Democratic Progressive Party (DPP) government and accuse it of not doing a good job of maintaining peace in the Taiwan Strait. An example of this type of fake news is a report that the DPP government had spent NT\$300 million on lobbyists to arrange the Pelosi visit.³ The goal of reports of this kind is to lower the approval rating of the ruling party and boost support for the opposition parties which are more closely aligned with Beijing on cross-Strait issues. This tends to distort the competition between parties.

DPP Legislation against Misinformation

Civil society in Taiwan, including academics, NGOs, the civic tech community, grassroots advocates, and the news media, has been working hard to come up with effective solutions to the fake news problem. These solutions include establishing fact-checking technology and organizations, enhancing media literacy, and promoting responsible and quality journalism. All those engaged in fact-checking work believe they need more help, such as the construction of a disinformation database and enhanced fact-checking tools that can verify images and videos. The Taiwanese government has also joined the fight against fake news.

The DPP attributed its overwhelming defeat in the 2018 local elections to rampant fake news, and it discovered that a big chunk of that disinformation came from overseas. The ruling party holds that the disinformation war distorted the truth, demonized political leaders, and planted a misleading view of the government in Taiwanese people’s minds, putting the DPP at a distinct disadvantage. The

¹ “#StopAsianHate: Chinese diaspora targeted by CCP disinformation campaign.”

<https://www.aspistrategist.org.au/stopasianhate-chinese-diaspora-targeted-by-ccp-disinformation-campaign/>

² “Rumors China evacuating citizens from Taiwan deemed fake news.”

<https://www.taiwannews.com.tw/en/news/4616144>

³ “Taiwan shoots down Pelosi ‘paid visit’ claim. Rumors swirling online suggest Pelosi received money to visit Taiwan fake news.” <https://www.taiwannews.com.tw/en/>

government and DPP legislators proposed several items of legislation designed to curb disinformation. The first of these was a national public security law which would have allowed the authorities to set up security units in various public and private organizations to investigate and question individuals suspected of engaging in activities that might threaten national security. Ruling party legislators subsequently proposed the introduction of an espionage law aimed at strengthening the powers of the National Security Bureau to engage in telephone tapping and the monitoring of suspects. Civil society organizations and opposition parties, concerned about restrictions on freedom of expression, opposed these bills, leading to DPP legislators eventually backing down.

However, the government did introduce legislation to regulate misinformation in specific policy areas, including the Disaster Prevention and Protection Act, the Communicable Disease Control Act, and the Agricultural Products Market Transaction Act. These acts contained clauses aimed at curbing misinformation in those particular areas. The government also proposed two general bills that tackled misinformation, the Social Order Maintenance Bill and the Digital Intermediary Services Bill. We will discuss these in detail below.

The Social Order Maintenance Act and “Fake News”

Under the amended Social Order Maintenance Act, the police are obliged to bring before the courts any individuals suspected of spreading rumors that might disturb social stability. In some cases, the police do this based on evidence provided by pro-government informants, while in other cases, the police proactively surf politically-oriented internet platforms such as specific Facebook pages. Public criticism and expressions of discontent long predated the election of President Tsai Ing-wen in 2016. However, since 2019, the number of cases brought before the court by the police each year has increased severalfold (Pan 2020). The Social Order Maintenance Act explicitly demands that, after questioning suspects, the police must bring them before the court or risk being accused of malfeasance.

One example of an accusation of spreading misinformation concerns a report that former U.S. Secretary of State Mike Pompeo visited Taiwan specifically to get Taiwanese pension funds to invest in his company. The Taiwan government denied this claim and argued that Pompeo was not accompanied by any personnel from his investment company, and that the Taiwanese government did not have such investment plan.⁴ A fact-checking organization cited this official announcement as a sufficient evidence to label this story as fake news. However, one Taiwan newspaper reported evidence of Pompeo bringing this issue up the year before his visit and Taiwan government declining the invitation to invest. With these circumstances, it is difficult to simply say that this was entirely a fabricated story.⁵

Another example is a report that the government was planning to move the entire collection of the National Palace Museum from its main campus in Taipei to the campus in southern Taiwan, and that as a result, the museum would be closed for three years.⁶ It seems that neither of these reports were accurate, but it would be far-fetched to argue that they could cause social instability, nor easy to accept that people should be punished simply for spreading stories of this kind.⁷

Eighty percent of the cases that are brought before the courts under this law are dismissed

⁴ “媒體稱龐皮歐訪台要「政治保護費」外交部：醜化台灣堅定友人”
<https://news.ltn.com.tw/news/politics/breakingnews/3848166>

⁵ “獨 / 龐培歐訪台非為保台？駐美代表處電報指向商業考量” <https://udn.com/news/story/6656/6139201>

⁶ “謠言終結站》封館3年，文物南遷？故宮：整修期間照常開放”
<https://news.ltn.com.tw/news/politics/paper/1304823>

⁷ During the Covid-19 pandemic, most misinformation was related to the origin, spread, and prevention of the disease, treatments, and vaccines.

(Pan 2020), as Taiwan's courts tend to uphold the right to freedom of expression. They hold that defaming government leaders or criticizing the government do not threaten social stability, so these cases are beyond the jurisdiction of the Social Order Maintenance Act. But despite the low conviction rate, local police still face pressure from officials to continue to bring cases to court, as they risk accusations by informants of failing to fulfill their duties. Overall, enforcement of the Social Order Maintenance Act is having a chilling effect on public expressions of political opinion online.

The Digital Intermediary Services Bill

The Digital Intermediary Services Bill, proposed by the National Communications Council in 2022, would have given government agencies the power to initiate legal action against online news stories that were deemed to violate the law or damage the public interest. A court would have had 48 hours to decide whether the story had to be removed from internet platforms. Before the court made its decision, the government agency could require the platform provider to add a warning to the post for 30 days. So far, internet platform providers in Western democracies are expected to self-regulate their content rather than being forced to do so by their governments. Even the European Union only requires internet providers to remove content related to terrorism and racist hate speech.

The terms “violate the law” and “damage the public interest” are quite vague, and it is questionable whether the courts would have the capacity to make these decisions so quickly. It would be particularly controversial if government agencies were to make extensive use of this legislation during an election campaign, as it could have a chilling effect on freedom of expression and influence the outcome of the election. Faced with opposition from many Taiwanese civil society organizations and internet providers, the government decided to withdraw the bill. The discussion above demonstrates the difficulty a country faces to strike a balance between national security and freedom of expression.

Conclusion

Most fake news stories, whether domestically generated or originating from overseas, are so bizarre or far-fetched that they are hard to believe. Others look suspicious and can be easily checked by reference to mainstream media websites. Taiwan has a highly educated society and a well-functioning democracy. The public is generally quite well informed, and people with different political views tend to live side-by-side in the same neighborhoods, working and socializing together. Given the existence of social networks of this kind, social media users are likely to be exposed to cross-cutting political views to some degree at least, thus hindering the formation of social media echo chambers and the potential negative effects of fake news. In these circumstances, fake news and propaganda are not likely to significantly influence how people perceive the performance of the incumbent government and general functioning of their democracy. Political parties in Taiwan tend to exaggerate the adverse effects of “cyber armies” and fake news. Fake news does result in more political polarization but it is unlikely to significantly influence social stability.

As China has tightened its domestic political and social controls have become more assertive, it is important for the Taiwanese government to work closely with its civil society to safeguard the island's democracy by regulating misinformation emanating from outside the country. However, in its attempt to roll out measures to regulate fake news, the government remain conscious about the possible damage such legislation could inflict on press freedom and human rights. Illiberal laws may do as much harm to Taiwan's civil society as spreading fake news manufactured in China does.

The experience of fighting misinformation in Taiwan shows that a vibrant civil society plays an important role both in countering fake news from abroad and in resisting moves by the government

that shrink the civic space to which it intends to protect. Moreover, we can see that an independent judicial system is also critical in preventing the government from encroaching on civil rights in the name of protecting national security.

Finally, one often neglected issue is why a certain segment of Taiwan's society—consisting of “deep Blue” voters—is more susceptible to fake news generated in China. Are deep Blues more prone to embracing authoritarian values, or do they simply feel that their national identity is not being respected? If the government were to be more respectful toward their identity, perhaps they would be less susceptible to fake news disseminated by the Chinese government and its agents. ■

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