

# Lawfare in the Disinformation Age: Chinese Interference in Taiwan's 2020 Elections

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Sean Quirk\*

*Despite an aggressive disinformation campaign from the People's Republic of China ("PRC"), Taiwan effectively countered false information coming from the PRC and maintained the integrity of its January 2020 elections. Political warfare between the PRC and Taiwan (the Republic of China) stretches back decades. However, the digital age has catalyzed the range and effectiveness of "disinformation"—the dissemination of false information with the intention to deceive public opinion. During Taiwan's 2020 elections, PRC disinformation centered on the political unrest in Hong Kong and sought to sway Taiwanese public opinion toward candidates that were sympathetic to Beijing. Taiwan mounted a robust self-defense against this disinformation through a whole-of-society approach: factchecking by civil society organizations, government-sponsored education for media literacy, and a technology sector that actively curbed inauthentic behavior online. Taiwan's legal responses to PRC disinformation also demonstrate how specific legislation can counter the spread of rumors domestically and discourage interference from abroad. These lawfare mechanisms included Taiwan's libel laws, "fake news" regulations, and the Anti-Infiltration Act.*

*Taiwan's 2020 elections offer a glimpse into the frontlines of disinformation and the novel social media strategies that authoritarian regimes like the PRC use to influence public opinion in democracies. The story of Taiwan's elections also shows the potential resiliency of democracy in the face of authoritarian disinformation and the possible legal recourse to counter foreign interference. Amid rising election interference and a U.S.-PRC propaganda war surrounding the COVID-19 pandemic, the world urgently needs these lessons.*

## INTRODUCTION

*"All warfare is based on deception . . .  
(W)hen we are near, we must make the enemy believe we are far away;  
when far away, we must make him believe we are near."<sup>1</sup>*

This Note analyzes Beijing's influence operations during Taiwan's January 2020 national elections and the Taiwanese government's response. Despite an aggressive disinformation campaign from the People's Republic of China ("PRC"), Taiwan effectively countered false information coming from the PRC and maintained the integrity of its 2020 elections. Part I of this Note provides background on political warfare between the PRC and Taiwan, the Republic of China ("ROC"). Next, Part II looks at specific in-

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\* J.D./M.P.P. Candidate (2021), Harvard Law School and Harvard Kennedy School. I wish to thank Professor William Alford of Harvard Law School for his guidance and invaluable comments. I am also indebted to the editors of the *Harvard International Law Journal* for their substantive feedback. Finally, I am grateful to Chao-tien Chang, Julia Famularo, Aaron Huang, Yen-tu Su, and Audrey Tang for their time and insight during my research in Taiwan.

1. SUN TZU, *THE ART OF WAR*, ¶¶ 18–19, (James Clavell ed., 2016).

stances of PRC disinformation during Taiwan's 2020 elections, with a focus on PRC messaging about the unrest in Hong Kong. Part III analyzes Taiwan's self-defense against disinformation in both public and private spheres. Part IV then narrows in on Taiwan's legal self-defense mechanisms, i.e., the legal warfare ("lawfare") of Taiwan's libel laws, "fake news" regulations, and the Anti-Infiltration Act.

The story of Taiwan's 2020 national elections provides multiple lessons for democracies seeking to counter "disinformation"—best defined as the dissemination of "false information with the intention to deceive public opinion."<sup>2</sup> A May 2019 report by the Swedish institute Varieties of Democracy ("V-Dem") found Taiwan to be the number one target country in the world for foreign government disinformation.<sup>3</sup> Taiwan's experience illustrates PRC disinformation tactics, as well as the efficacy of Taiwan's whole-of-society approach to counter disinformation: factchecking by civil society organizations, government-sponsored education for media literacy, and a technology sector actively curbing inauthentic behavior online. Taiwan's legal responses to foreign political warfare also demonstrate how specific legislation can counter the spread of rumors domestically and discourage interference from abroad.

Overall, Taiwan's experience shows the potential resiliency of democracy in the face of authoritarian disinformation and the possible legal recourse to counter foreign interference. There is also a distinct danger of democracies responding to authoritarian disinformation like authoritarians. Although much of lawfare may be "bloodless," the fight against disinformation can impose significant costs on democracy—costs that can threaten free speech and democratic rule itself. This line between countering disinformation and suppressing free speech is contested. As Taiwan's experience manifests, legislative solutions to disinformation can devolve into partisan accusations about stifling one side of the debate.

The world urgently needs these lessons from Taiwan. The United States and the PRC are engaged in a great propaganda war, desperately fighting to define the story of the COVID-19 pandemic.<sup>4</sup> Disinformation operations from Russia and the PRC have also become a perennial concern for U.S. election officials.<sup>5</sup> Taiwan offers a glimpse into the frontlines of disinformation and the novel social media strategies—beyond Russia's tactics in the

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2. Aristedes Mahairas & Mikhail Dvilyanski, *Disinformation – Дезинформация (Dezinformatsiya)*, 3 CYBER DEF. REV. 21, 21 (2018) (quoting LADISLAV BITTMAN, THE KGB AND SOVIET DISINFORMATION: AN INSIDER'S VIEW 49 (1985)).

3. See V-DEM INST., DEMOCRACY FACING GLOBAL CHALLENGES: V-DEM ANNUAL DEMOCRACY REPORT 2019 36 (2019).

4. See Suzanne Nossel, *China Is Fighting the Coronavirus Propaganda War to Win*, FOR. POL'Y (Mar. 20, 2020, 10:07AM), [www.foreignpolicy.com/2020/03/20/china-coronavirus-propaganda-war-journalists-press-freedom](http://www.foreignpolicy.com/2020/03/20/china-coronavirus-propaganda-war-journalists-press-freedom) [https://perma.cc/2WW2-CR2M].

5. See, e.g., "We're in This Together. Disinformation Stops with You," U.S. CYBERSECURITY & INFRASTRUCTURE SECURITY AGENCY (2020).

2016 U.S. election<sup>6</sup>—that authoritarian regimes like the PRC use to influence public opinion in democracies. Moreover, Taiwan’s decisions in the run-up to its 2020 election are emblematic of the choices democratic societies around the world will have to make about controlling the free flow of information to their people.

### I. POLITICAL WARFARE AND TAIWAN: CHINA’S “THREE WARFARES” CONCEPT

Political warfare between the PRC and Taiwan is longstanding, dating back to the Chinese Civil War between the Chinese Communist Party (“CCP”) and the Nationalist Party, or Kuomintang (“KMT”). Both sides battled for the hearts and minds of the Chinese people in their effort to unite China. Immediately after General Chiang Kai-shek and the KMT forces retreated to Taiwan, the frontline of the armed conflict became a political conflict. In the early 1950s, both the PRC and ROC began radio broadcasts to sway listeners on the opposite side of the Taiwan Strait.<sup>7</sup> What began as party-line propaganda and diatribes against the opposing side later softened to pop music and cultural programming. One Taiwanese show even presented itself as a mainland broadcast and subtly undercut CCP ideology, tricking mainland listeners into thinking they were listening to an authentic CCP program.<sup>8</sup> Such programming was an early example of government-manufactured “fake news,” exported for foreign consumption. From the other side of the Taiwan Strait, mainland Communist Party broadcasts “encouraged Taiwanese to go on strike, rise up against their ‘American toady’ government and renounce capitalism before a worker’s revolution swept Taiwan.”<sup>9</sup> This informational battleground persists to this day, albeit in new domains.

#### A. PRC Twenty-First Century Political Warfare

The modern iteration of PRC political warfare comes from the People’s Liberation Army (“PLA”) “Three Warfares” framework.<sup>10</sup> In 2003, China’s “Political Work Guidelines of the People’s Liberation Army” codified the concepts of (1) public opinion warfare; (2) psychological warfare; and (3)

6. See, e.g., Jacob W. Justice & Brett J. Bricker, *Hacked: Defining the 2016 Presidential Election in the Liberal Media*, 22 RHETORIC & PUB. AFF. 389, 389–420 (2019); Media Ajir & Bethany Vaillant, *Russian Information Warfare: Implications for Deterrence Theory*, 12 STRATEGIC STUD. Q. 70–89 (2018).

7. Mark Magnier, *50-Year War of Words*, L.A. TIMES (Jan. 5, 2005), [www.latimes.com/archives/la-xpm-2005-jan-05-fg-propaganda5-story.html](http://www.latimes.com/archives/la-xpm-2005-jan-05-fg-propaganda5-story.html) [<https://perma.cc/4SPA-3PZH>].

8. *Id.*

9. *Id.*

10. Peter Mattis, *China’s “Three Warfares” in Perspective*, WAR ON THE ROCKS (Jan. 30, 2018), [www.warontherocks.com/2018/01/chinas-three-warfares-perspective](http://www.warontherocks.com/2018/01/chinas-three-warfares-perspective) [<https://perma.cc/LV2J-JAG8>].

legal warfare.<sup>11</sup> This architecture for political warfare became known as the “Three Warfares,”<sup>12</sup> defining the non-kinetic operations that influence adversary behavior short of armed conflict.<sup>13</sup> The PLA continues to update its guidance and tactics for political warfare in the digital age, for example, for using social media.<sup>14</sup> First, public opinion warfare is the covert and overt media manipulation to sway adversarial public opinion by disseminating messaging “to public audiences through established news services, informal internet sites, and other social media.”<sup>15</sup> Second, psychological warfare is the use of military-paramilitary forces or diplomatic, economic, and cultural capabilities to intimidate adversaries.<sup>16</sup> Third, legal warfare is the use of national and international legal regimes to “constrain adversary behavior, contest disadvantageous circumstances, confuse legal precedent, and maximize advantage” in PRC conflicts.<sup>17</sup> This Note, like the PLA, will not attempt to categorize certain activities into one of the three warfare buckets. Instead, the Three Warfares scheme helps understand what levers the PLA can employ and objectives it may seek as it engages in non-kinetic, “bloodless” operations that span all three categories of political warfare. Relative to public opinion and psychological warfare, the PRC is by far weakest in the domain of legal warfare. As this Note will demonstrate in Part IV, Taiwan is much more adept than the PRC at using national and international legal regimes for political advantage. Indeed, Taiwan’s legal mechanisms provide the country’s best defense against PRC interference in Taiwan’s internal affairs, including its elections.

Nevertheless, the Political Work Department of the Central Military Commission (“PWD”; 中央军委政治工作部) has operational responsibility for PRC activities in the Three Warfares.<sup>18</sup> Following 2015 reforms of the PLA, the PWD replaced the PLA’s General Political Department

11. See Zhongguo Renmin Jiefangjun Zhengzhi Gongzuo Tiaoli (中国人民解放军政治工作条例) [Regulations of the Chinese People’s Liberation Army on Political Work] (promulgated by Centr. Mil. Comm’n, Dec. 5, 2003) *People’s Daily*, Dec. 5, 2003, [https://baike.baidu.com/reference/7480317/fb81wZutv3Gd2zDL1zMG4R5IciRsSzJnSFqjpGaN8lgZOkEBSxncubf8RoBOHbgTh7gHVx4ViSMHmSZYhf0EW\\_14\\_HXj8VbjFrXYFPpX--EkRrBc-8pgnvuE1ZfYLlWO](https://baike.baidu.com/reference/7480317/fb81wZutv3Gd2zDL1zMG4R5IciRsSzJnSFqjpGaN8lgZOkEBSxncubf8RoBOHbgTh7gHVx4ViSMHmSZYhf0EW_14_HXj8VbjFrXYFPpX--EkRrBc-8pgnvuE1ZfYLlWO) [https://perma.cc/7WGS-89KA] (军事训练中政治工作。。。。会同有关机关组织开展舆论战，心理战，法律战教育训练。” [“Political work is part of military training . . . Organize public opinion warfare, psychological warfare, and legal warfare education and training in conjunction with relevant agencies.”]).

12. Mattis, *supra* note 10.

13. Doug Livermore, *China’s “Three Warfares” in Theory and Practice in the South China Sea*, GEO. SEC. STUD. REV. (Mar. 25, 2018), [www.georgetownsecuritystudiesreview.org/2018/03/25/chinas-three-warfares-in-theory-and-practice-in-the-south-china-sea/#\\_edn3](http://www.georgetownsecuritystudiesreview.org/2018/03/25/chinas-three-warfares-in-theory-and-practice-in-the-south-china-sea/#_edn3) [https://perma.cc/8AWD-FQEE].

14. See Michael Raska, *Hybrid Warfare with Chinese Characteristics*, S. RAJARATNAM SCHOOL OF INTERNATIONAL STUDIES (Dec. 2, 2015), <https://www.rsis.edu.sg/wp-content/uploads/2015/12/CO15262.pdf> [https://perma.cc/488N-EC4A].

15. Livermore, *supra* note 13; see also Raska, *supra* note 14.

16. See Livermore, *supra* note 13; Timothy L. Thomas, *New Developments in Chinese Strategic Psychological Warfare*, SPECIAL WARFARE 4 (April 2003).

17. See Livermore, *supra* note 13; see generally ORDE F. KITTRIE, *LAWFARE: LAW AS A WEAPON OF WAR* (2016).

18. Raska, *supra* note 14.

(“GPD”; 中国人民解放军总政治部) that had previously overseen the Three Warfares.<sup>19</sup> The Political Work Department’s Liaison Division (“PWD/LD”) now oversees a diverse array of military, political, financial, and intelligence operations.<sup>20</sup> One of the four bureaus under the PWD/LD is responsible for clandestine “Taiwan-focused operations,” while another develops external propaganda and conducts psychological operations.<sup>21</sup> The PWD/LD thus serves as the operational and military arm in the CCP’s political warfare abroad.

The United Front Work Department (“UFWD”; 中共中央统一战线工作部) of the Central Committee of the CCP serves as a larger umbrella organization to coordinate political warfare amongst the various Party apparatuses, including the PLA. Although mostly managing potential opposition groups inside the PRC, the UFWD also directs major foreign influence operations.<sup>22</sup> According to the U.S.-China Economic and Security Review Commission, the overseas mission of the UFWD and its affiliated organizations is “to co-opt ethnic Chinese individuals and communities living outside China” and influence foreign-state behavior in favor of the PRC.<sup>23</sup> The UFWD also aims to recruit closeted CCP members within foreign political organizations. Additionally, the UFWD uses person-to-person relationships to recruit sympathetic foreign dignitaries and thought leaders who might influence foreign audiences, a strategy Peter Mattis calls “playing the man.”<sup>24</sup> The Commission’s report states that “Beijing seeks to outsource its messaging in part because it believes foreigners are more likely to accept propaganda if it appears to come from non-Chinese sources.”<sup>25</sup> The UFWD thus plays a critical component in controlling and disseminating pro-CCP messages in the PRC’s political warfare strategy.

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19. See Tetsuro Kosaka, *China’s Military Reorganization Could Be a Force for Destabilization*, NIKKEI ASIAN REV. (Jan. 28, 2016, 12:00 PM), [asia.nikkei.com/Politics/China-s-military-reorganization-could-be-a-force-for-destabilization](https://asia.nikkei.com/Politics/China-s-military-reorganization-could-be-a-force-for-destabilization) [https://perma.cc/7WJ5-H9SK]; Russell Hsiao, *A Preliminary Survey of CCP Influence Operations in Japan*, JAMESTOWN FOUND. (June 26, 2019, 07:41 PM), [www.jamestown.org/program/a-preliminary-survey-of-ccp-influence-operations-in-japan/](http://www.jamestown.org/program/a-preliminary-survey-of-ccp-influence-operations-in-japan/) [https://perma.cc/KLN7-ZG84].

20. Raska, *supra* note 14.

21. Raska, *supra* note 14.

22. ALEXANDER BOWE, U.S.-CHINA ECON. & SEC. REV. COMM’N, CHINA’S OVERSEAS UNITED FRONT WORK: BACKGROUND AND IMPLICATIONS FOR THE UNITED STATES, 2018, at 3.

23. *Id.*

24. Peter Mattis, *Contrasting China’s and Russia’s Influence Operations*, WAR ON THE ROCKS (Jan. 16, 2018), [www.warontherocks.com/2018/01/contrasting-chinas-russias-influence-operations/](http://www.warontherocks.com/2018/01/contrasting-chinas-russias-influence-operations/) [https://perma.cc/5CX4-Q7TD].

25. BOWE, *supra* note 22, at 16 (citing JUAN-PABLO CARDENAL ET AL., NAT’L ENDOWMENT FOR DEMOCRACY, SHARP POWER: RISING AUTHORITARIAN INFLUENCE 31 (Dec. 2017); also citing ANNE-MARIE BRADY, MAKING THE FOREIGN SERVE CHINA: MANAGING FOREIGNERS IN THE PEOPLE’S REPUBLIC, 19–20 (2003)).

### B. PRC Political Warfare Against Taiwan

PRC influence operations against Taiwan are the “leading edge” of China’s Three Warfares operations.<sup>26</sup> Recent PRC efforts against Taiwan have included “military posturing, poaching [Taiwan’s] diplomatic allies, pushing airlines and hotels to refer to Taiwan as part of China, drastically cutting tour groups to the island and reducing agricultural imports from Democratic Progressive Party (“DPP”) strongholds.”<sup>27</sup> The National Endowment for Democracy has labeled these efforts a form of “sharp power”—authoritarian power wielded through state media, culture, think tanks, and academia to influence adversarial positions.<sup>28</sup> Sharp power is distinct from “soft power,” in which a nation projects strength through cultural and social exports without direct government involvement.<sup>29</sup> One Taiwan national security official says, “You may call it sharp power, or you could just call it political warfare, or United Front work.”<sup>30</sup> Regardless of the name, Taiwan is the foremost target for the CCP’s influence operations.<sup>31</sup> Within Taiwan, the DPP—as the ruling party of Taiwan and outspoken defender of Taiwanese sovereignty—bears the brunt of the influence operations.<sup>32</sup> These operations persist while Beijing has cut off official channels with the DPP due to accusations that the DPP has not accepted the “One China Principle,” defining Taiwan as part of territorial China.<sup>33</sup>

The CCP’s perennial goal of PRC unification with Taiwan is not as straightforward as convincing a majority of Taiwanese people to unify. J. Michael Cole, a former Canadian intelligence officer and Taipei-based editor in chief of *Taiwan Sentinel*, argues that UFDW operations in Taiwan are instead aimed to “create unrest [in Taiwan] that the CCP can then claim as justification for military intervention to protect the people there.”<sup>34</sup> Cole points to the criminal triad Bamboo Union’s close connections with a Taiwanese political party, the China Unification Promotion Party (“CUPP”; 中華統一促進黨), which has allegedly coordinated with UFDW to assault

26. Mattis, *supra* note 24.

27. Kathrin Hille, *China’s “Sharp Power” Play in Taiwan*, FIN. TIMES (Nov. 21, 2018), [www.ft.com/content/5c272b90-ec12-11e8-89c8-d36339d835c0](http://www.ft.com/content/5c272b90-ec12-11e8-89c8-d36339d835c0) [https://perma.cc/4Q25-RMRJ].

28. *See id.*; CARDENAL ET AL., *supra* note 25, at 35.

29. *See* Joseph S. Nye, Jr., *Soft Power*, FOR. POL’Y, Autumn 1990, at 153.

30. Hille, *supra* note 27.

31. *See* REPORTERS WITHOUT BORDERS, CHINA’S PURSUIT OF A NEW WORLD MEDIA ORDER 18 (2019) (stating that “Taiwan has always been the primary focus of these disinformation campaigns” from Beijing).

32. *See, e.g.*, Steven L. Myers & Chris Horton, *In Blow to Beijing, Taiwan Re-Elects Tsai Ing-Wen as President*, N.Y. TIMES (Jan. 11, 2020), [www.nytimes.com/2020/01/11/world/asia/taiwan-election-china.html](http://www.nytimes.com/2020/01/11/world/asia/taiwan-election-china.html) [https://perma.cc/ZAA3-2WJ2].

33. *See* Jeremy H. Chiang, *Beijing’s Animosity Toward Taiwan’s DPP Is Bad for Everyone*, DIPLOMAT (Dec. 13, 2019), [www.thediplomat.com/2019/12/beijings-animosity-toward-taiwans-dpp-is-bad-for-everyone/](http://www.thediplomat.com/2019/12/beijings-animosity-toward-taiwans-dpp-is-bad-for-everyone/) [https://perma.cc/TES2-RC3R].

34. BOWE, *supra* note 22, at 18 (citing J. Michael Cole, *China Seeks Vicious Circle of Violence through United Front Activities in Taiwan*, TAIWAN SENTINEL (Sept. 26, 2017), <https://sentinel.tw/china-violence-ufw-tw/> [https://perma.cc/7NKV-UNCJ]).

Hong Kong activists in Taiwan<sup>35</sup> and violently confront unification opponents.<sup>36</sup> The Bamboo Union triad and CUPP share senior leadership, and the Bamboo Union physically attacked the CUPP's political adversaries during Taiwan's 2014 "Sunflower Movement" that opposed greater economic ties with the PRC.<sup>37</sup> The UFWD's intent is more than just co-opting Taiwan's smaller opposition parties; such parties like the CUPP appear to consist of undisclosed CCP members.<sup>38</sup> Instead, these operations are meant to polarize the Taiwanese public, and Beijing faces an increasingly uphill battle in its goal of "peaceful reunification" with a welcoming Taiwanese populace.<sup>39</sup>

Winning the "hearts and minds" of Taiwanese citizens for unification has grown increasingly unlikely in the last several years. Before the January 2020 election, Taiwan's Mainland Affairs Council ("MAC") released polling data in October 2019 that showed only 1.4% of Taiwanese respondents wanted to unify with mainland China "as soon as possible," 21.7% wanted to maintain the status quo with eventual independence, and thirty-one percent wanted to maintain the status quo with an indefinite future on unification.<sup>40</sup> MAC stated that a combined twenty-seven percent of Taiwanese who wanted independence immediately or in the future was the highest ever recorded since polling began in 2010.<sup>41</sup> Amicable unification prospects for the PRC were thus bleak going into Taiwan's 2020 elections.

## II. DISINFORMATION FRONTLINE: HONG KONG AND "ONE COUNTRY, TWO SYSTEMS"

Taiwan President Tsai Ing-wen and her party—the DPP—have governed the nation while unrest in Hong Kong and generational divisions have seemed to widen the distance between Taiwan and mainland China. The DPP takes a stronger stance than its main opposition party—the KMT—in countering PRC affronts to Taiwan's sovereignty.<sup>42</sup> In the 2020 elections,

35. J. Michael Cole, *Pro-Unification Groups, Triad Members Threaten Hong Kong Activist Joshua Wong, Legislators in Taiwan*, *TAIWAN SENTINEL* (Jan. 7, 2017), <https://sentinel.tw/pro-unification-hk-tw/> [<https://perma.cc/PU8S-SHTY>].

36. Cole, *supra* note 35.

37. Alice Su, *Can Fact-Checkers Save Taiwan from a Flood of Chinese Fake News?*, *L.A. TIMES* (Dec. 16, 2019, 3:00AM), [www.latimes.com/world-nation/story/2019-12-16/taiwan-the-new-frontier-of-disinformation-battles-chinese-fake-news-as-elections-approach](http://www.latimes.com/world-nation/story/2019-12-16/taiwan-the-new-frontier-of-disinformation-battles-chinese-fake-news-as-elections-approach) [<https://perma.cc/8WB5-9A55>].

38. See J. Michael Cole, *Nice Democracy You've Got There. Be a Shame If Something Happened to It*, *FOR. POL'Y* (June 18, 2018, 09:00 AM), [www.foreignpolicy.com/2018/06/18/nice-democracy-youve-got-there-be-a-shame-if-something-happened-to-it/](http://www.foreignpolicy.com/2018/06/18/nice-democracy-youve-got-there-be-a-shame-if-something-happened-to-it/) [<https://perma.cc/B2ZR-9M9H>].

39. *China Says It Will "Fully Respect" Taiwan's Way of Life after "Peaceful Reunification."*, *JAPAN TIMES* (Nov. 5, 2019), [www.japantimes.co.jp/news/2019/11/05/asia-pacific/politics-diplomacy-asia-pacific/china-says-will-fully-respect-taiwans-way-life-peaceful-reunification/](http://www.japantimes.co.jp/news/2019/11/05/asia-pacific/politics-diplomacy-asia-pacific/china-says-will-fully-respect-taiwans-way-life-peaceful-reunification/) [<https://perma.cc/8R26-BDC3>].

40. Tsung-han Miu & Frances Huang, *Over 27% of Taiwan People Support Independence: MAC Poll*, *FOCUS TAIWAN* (Oct. 26, 2019, 04:10 PM), [focustaiwan.tw/cross-strait/201910260005](http://focustaiwan.tw/cross-strait/201910260005) [<https://perma.cc/V5S4-PAUC>].

41. *Id.*

42. See, e.g., Myers & Horton, *supra* note 32.

President Tsai's reelection by a 57-to-38 margin and the DPP's sustained legislative majority<sup>43</sup> were only the latest in a chain of "stinging rebuke[s]" against PRC encroachment on Taiwan's self-governance.<sup>44</sup> In a late 2019 poll, about fifty-six percent of Taiwanese citizens over fifty years old viewed themselves as only Taiwanese and not Chinese.<sup>45</sup> In the 20–29 year-old group, however, over eighty-two percent viewed themselves as only Taiwanese.<sup>46</sup> This generational identity gap highly correlated with Tsai's 2020 support; final election polling had Tsai holding a slim majority of support with elderly Taiwanese but a hefty 39-percentage-point lead among 20–29 year olds.<sup>47</sup> Moreover, these figures show the growing influence of youth opinions on the Taiwanese political landscape—and the higher cost of Beijing's refusal to engage the DPP as its legitimate counterpart.<sup>48</sup> A significant factor in the changing attitudes of the Taiwanese people was one glaring CCP debacle: Hong Kong. This Part will describe: (a) PRC autonomous regions and Hong Kong's unique legal status; (b) the DPP's rejection of "one country, two systems"; and (c) PRC disinformation about Hong Kong during Taiwan's 2020 elections.

#### A. PRC Autonomous Regions and Hong Kong

PRC "autonomous regions" are nominally autonomous but remain under absolute control of the central government in Beijing. The origin of PRC "autonomous regions" predates even the PRC's founding in 1949. Chinese communists established the Inner Mongolia Autonomous Region in 1947, eventually creating five PRC Minority Autonomous Regions (Inner Mongolia, Xinjiang, Guangxi, Ningxia, and Tibet). The PRC 1984 Regional Ethnic Autonomy Law ("REAL")<sup>49</sup> "implements the system of regional autonomy for ethnic minorities as provided in the current Chinese Constitution."<sup>50</sup> However, the legal ratification process for regional auton-

43. Cedric Sam, *Taiwan 2020 Election Results*, BLOOMBERG (Jan. 11, 2020, 10:15 PM), [www.bloomberg.com/graphics/2020-taiwan-election-results/](http://www.bloomberg.com/graphics/2020-taiwan-election-results/) [https://perma.cc/73AU-9M5D].

44. Myers & Horton, *supra* note 32.

45. Xingfei Lin, *World's Exclusive 2020 National Survey: Taiwan vs. Republic of China Generation Conflicts, Better Than North and South*

(天下2020獨家國情調查: 台灣vs. 中華民國 世代衝突, 更勝南北 | 天下雜誌), WORLD MAG. (天下雜誌) (Dec. 30, 2019), [www.cw.com.tw/article/article.action?id=5098353](http://www.cw.com.tw/article/article.action?id=5098353) [https://perma.cc/SN98-88JY].

46. *Id.*

47. Jeremy H. Chiang, *Election Aside, Taiwan's Generation Gap Will Shape Relations with China*, DIPLOMAT (Jan. 9, 2020), [www.thediplomat.com/2020/01/election-aside-taiwans-generation-gap-will-shape-relations-with-china/](http://www.thediplomat.com/2020/01/election-aside-taiwans-generation-gap-will-shape-relations-with-china/) [https://perma.cc/8DVB-HWGF].

48. *Id.*

49. Zhonghua Renmin Gongheguo Minzu Quyü Zizhi Fa (中华人民共和国民族区域自治法) [Law of the People's Republic of China on Regional National Autonomy] (promulgated by the Nat'l People's Cong., May 31, 1984), Gov. of China, [http://www.gov.cn/test/2005-07/29/content\\_18338.htm](http://www.gov.cn/test/2005-07/29/content_18338.htm) [https://perma.cc/4FSL-KR58].

50. Haiting Zhang, *The Laws on the Ethnic Minority Autonomous Regions in China: Legal Norms and Practices*, 9 LOY. U. CHI. INT'L L. REV. 249, 250 (2012).



omy regulations under the REAL and PRC Constitution requires that the regulations be submitted to “the Standing Committee of the National People’s Congress [NPC] for approval before they go into effect.”<sup>51</sup> The result is a Potemkin system of regional autonomy in which the chairman of each Ethnic Minority Autonomous Region is of the same ethnic heritage as his respective constituents, but he reports to a Han Chinese Party Secretary who holds absolute political superiority.<sup>52</sup> Indeed, not one of the five autonomous regions has ever successfully promulgated a regulation at the regional (provincial) level or ever promulgated an autonomy regulation.<sup>53</sup>

In contrast, “one country, two systems” (“OCTS”; 一國兩制) is a distinctive means of regional autonomy not based on ethnic grounds and has served as the constitutional principle for PRC governance of Hong Kong and Macau since 1997 and 1999, respectively. In 1978, Chinese leader Deng Xiaoping introduced OCTS to govern the unification of Taiwan into the PRC.<sup>54</sup> The PRC formally codified the principle through Article 31 of its Constitution, adopted in December 1982.<sup>55</sup> Article 31 empowers the state to create special administrative regions (“SAR”) within the PRC, purportedly to accommodate Taiwan’s “peaceful reunification” to the PRC.<sup>56</sup> As the PRC and the United Kingdom negotiated Hong Kong’s return to China in the 1980s, however, Chinese negotiators drew from Article 31 as a model for Hong Kong as well. Taiwan’s relevance to OCTS persisted throughout the Hong Kong negotiations. In 1984, Deng Xiaoping continued to refer to Taiwan when discussing OCTS for Hong Kong, defining OCTS as meaning “the mainland with its one billion people will maintain the socialist system, while Hong Kong *and* Taiwan continue under the capitalist system.”<sup>57</sup> The 1984 Sino-British Joint Declaration later expressed the OCTS principle by agreeing that the economic system and laws of Hong Kong would remain “basically unchanged” for fifty years.<sup>58</sup> Hong Kong’s Basic Law—a national PRC law that serves as Hong Kong’s de facto constitution—codified OCTS into Hong Kong law in 1997. It contrasts sharply with the hollow REAL for Ethnic Minority Autonomous Regions.<sup>59</sup> Chapter 1, Article 5 of the Basic

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51. *Id.* at 255 (quoting XIANFA, art. 116 (1982) (China)).

52. *Id.* at 258.

53. *See id.* at 255–57.

54. Shelley Rigger, *Why Taiwan Is Watching Hong Kong Very Closely*, WASH. POST (Sept. 4, 2019, 02:45 PM), [www.washingtonpost.com/politics/2019/09/04/why-taiwan-is-watching-hong-kong-very-closely/](http://www.washingtonpost.com/politics/2019/09/04/why-taiwan-is-watching-hong-kong-very-closely/) [<https://perma.cc/V8LL-H6KC>].

55. XIANFA, art. 31 (1982) (China).

56. HONG KONG SPECIAL ADMIN. REGION, THE BASIC LAW AND HONG KONG 18 (Tam Wai-Chu Maria ed., 2012).

57. *Deng Xiaoping on “One Country, Two Systems,”* CHINA DAILY (Feb. 19, 2004, 05:22 PM), [www.chinadaily.com.cn/english/doc/2004-02/19/content\\_307590.htm](http://www.chinadaily.com.cn/english/doc/2004-02/19/content_307590.htm) [<https://perma.cc/8528-7JCQ>] (emphasis added).

58. Joint Declaration, China-U.K., Sept. 26, 1984, 23 I.L.M. 1366.

59. *See* Zhang, *supra* note 50, at 255 (“Unlike the Hong Kong Basic Law, the REAL is not an entrenched legislation. The NPC can freely and unilaterally amend or abolish it by a simple majority vote.”)

Law states, “The socialist system and policies shall not be practiced in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for fifty years.”<sup>60</sup> Thus, despite its origins as a principle to govern the unification with Taiwan, OCTS came into effect as the PRC’s governing principle for Hong Kong and later Macau.<sup>61</sup>

Although the PRC has held a relatively consistent policy of pursuing Taiwan’s “peaceful reunification” under the OCTS principle, OCTS has never held significant currency in Taiwan. Many Taiwanese associated OCTS with a PRC takeover of Taiwan, something a majority of Taiwan’s population has consistently opposed for decades.<sup>62</sup> As the PRC began its administration of Hong Kong and Macau in the late 1990s, Taiwan watched closely. Hong Kong, in particular, became a longstanding bellwether for how the Taiwanese electorate would view Beijing and any possible unification. In 1994, Hong Kong’s last Governor Chris Patten said, “‘One country, Two systems’ is a policy with Taiwan in mind. Hong Kong was an issue in the latest Taiwanese election. The Taiwanese view PRC behavior with Hong Kong as a model.”<sup>63</sup> In line with Deng Xiaoping’s articulation of OCTS in 1978, Hong Kong was thus a means for the PRC to show Taiwan how the island could unify with the PRC while maintaining “a high level of autonomy and democracy.”<sup>64</sup> As one bookseller in Hong Kong put it, “We Hong Kong people look to Taiwan for lessons. And people in Taiwan look to see how the Chinese mainland controls Hong Kong.”<sup>65</sup>

### B. DPP Rejection of “One Country, Two Systems”

Before the 2019–20 Hong Kong unrest, the viability of OCTS for Taiwan was already on life support. A 2017 Taiwan MAC report on the Hong Kong handover found 218 “incidents” of tightening PRC control over the Hong

60. HONG KONG SPECIAL ADMIN. REGION, *supra* note 56.

61. Although outside the scope of this Note, Beijing’s respect for Hong Kong’s Basic Law is increasingly absent, and the integrity of the Basic Law is in extreme danger. See Natalie Wong, *Hong Kong Government’s Flip-Flopping in Beijing Power Row Labelled “Betrayal,”* S. CHINA MORNING POST (Apr. 19, 2020, 12:27 PM), [www.scmp.com/news/hong-kong/politics/article/3080577/controversy-over-beijings-liaison-office-role-deepens-after](http://www.scmp.com/news/hong-kong/politics/article/3080577/controversy-over-beijings-liaison-office-role-deepens-after) [https://perma.cc/V3EV-WFUN] (detailing Beijing’s novel interpretation that the PRC Hong Kong and Macau Affairs Office falls beyond the purview of Article 22 of the Basic Law, which restricts the PRC government from interfering in Hong Kong’s internal affairs).

62. Christopher R. Hughes, *Regional Perspectives and Domestic Imperatives: Living with “One Country, Two Systems”?* *The Future of Beijing’s Taiwan Policy*, 14 CAMBRIDGE REV. INT’L AFF., 124, 128 (2001).

63. See Jesse Alan Gordon & Charles Wong, *Hong Kong Beyond 1997: An Interview with Governor Chris Patten and Three Legco Members*, 3 HARV. J. WORLD AFF. 117, 126 (1994).

64. Jeanette Ka-ye Yuen, *The Myth of Greater China? Hong Kong as a Prototype of Taiwan for Unification*, 5 TAIWAN COMPAR. PERSP. 13, 138 (2014) (citing Y.S. Cheng & K.I. Ngok, *The Interactions Between Hong Kong, Mainland China and Taiwan and Their Impacts – May 1998–May 1999*, TAIPEI: CROSS-STRAIT INTERFLOW PROSPECT FOUND. (1999); also citing Y.W. Sung, *THE EMERGENCE OF GREATER CHINA: THE ECONOMIC INTEGRATION OF MAINLAND CHINA, TAIWAN AND HONG KONG* (2005)).

65. Chris Horton & Austin Ramzy, *Asia’s Bastion of Free Speech? Move Aside, Hong Kong, It’s Taiwan Now*, N.Y. TIMES (Apr. 14, 2018), [www.nytimes.com/2018/04/14/world/asia/china-taiwan-hong-kong-free-speech.html](http://www.nytimes.com/2018/04/14/world/asia/china-taiwan-hong-kong-free-speech.html) [https://perma.cc/SXR8-2ZKC].

Kong people from 1997 to 2017.<sup>66</sup> Cited incidents include mainland Chinese police crossing the border and arresting Hong Kong protestors in 2009, the PRC Ministry of Foreign Affairs sending letters to Hong Kong courts in 2011 demanding they align their positions with the PRC in a case involving a mainland state-owned enterprise, the 2015 disappearances of Hong Kong booksellers selling books banned in the PRC, and hundreds more similar events.<sup>67</sup> The report emphasized the ROC government's growing concern over the erosion of "democracy, freedom, human rights, and the rule of law" in Hong Kong.<sup>68</sup> But Beijing continued to cite Hong Kong as an example of the effectiveness of OCTS in practice, particularly in the realm of economic integration.<sup>69</sup> In his 2019 New Year's address, President Xi Jinping explicitly reiterated that OCTS was the model for unification with Taiwan, urging the Taiwanese people to accept that it "must and will be" unified with the PRC.<sup>70</sup> Xi also called for adherence to the 1992 Consensus, which uses the "One China principle" as the basis for engagement between the KMT and CCP.<sup>71</sup> Shortly thereafter, President Tsai rebuffed OCTS as something Taiwan would "never accept."<sup>72</sup> This firm stance proved popular with Taiwan's electorate and sparked Tsai's upswing in the polls.<sup>73</sup> By March 2019, before the widespread Hong Kong protests, nearly eighty percent of Taiwanese people opposed the OCTS model for Taiwan.<sup>74</sup>

A crucial component of the 2020 elections dynamic was Beijing's longstanding animosity towards President Tsai. Soon after her 2016 election victory, the PRC state-run *Global Times* said that Tsai must not "cross the red line of cross-Straits relations" and should instead "lead the DPP out of the hallucinations of Taiwan independence."<sup>75</sup> Similarly, China's Xinhua News Agency warned that any move towards independence under Tsai would be a "poison" causing Taiwan to perish.<sup>76</sup> This aggressive reaction to Tsai's 2016 victory only helped bolster anti-Beijing hardliners within the DPP and

66. MAINLAND AFF. COUNCIL, REPUBLIC OF CHINA, ANALYSIS REPORT: 20 YEARS AFTER HONG KONG'S HANDOVER 11 (2017).

67. *Id.* at 17–26.

68. *Id.* at 1.

69. See generally Sonny Shiu-Hing Lo, THE DYNAMICS OF BEIJING-HONG KONG RELATIONS: A MODEL FOR TAIWAN? (2008); Brian Wong, *Can Beijing and Hong Kong Rejuvenate "One Country, Two Systems"?*, DIPLOMAT (Oct. 18, 2019), [www.thediplomat.com/2019/10/can-beijing-and-hong-kong-rejuvenate-one-country-two-systems/](http://www.thediplomat.com/2019/10/can-beijing-and-hong-kong-rejuvenate-one-country-two-systems/) [https://perma.cc/RPH6-8K48]; Yuen, *supra* note 64.

70. Xi Jinping Says Taiwan "Must and Will Be" Reunited with China, BBC NEWS (Jan. 2, 2019), [www.bbc.com/news/world-asia-china-46733174](http://www.bbc.com/news/world-asia-china-46733174) [https://perma.cc/MX9B-AXRU].

71. *Id.*

72. *Id.*

73. Rigger, *supra* note 54.

74. "One Country, Two Systems" Rejected by Majority: Survey, TAIPEI TIMES (Mar. 23, 2019), [www.taipetimes.com/News/taiwan/archives/2019/03/23/2003712018](http://www.taipetimes.com/News/taiwan/archives/2019/03/23/2003712018) [https://perma.cc/LDU5-YVJF].

75. *Taiwanese Choose Tsai, Not Independence*, GLOB. TIMES (Jan. 17, 2016), [www.globaltimes.cn/content/963985.shtml](http://www.globaltimes.cn/content/963985.shtml) [https://perma.cc/Q5XB-9YVF].

76. James Pomfret et al., *After Vote, China Tells Taiwan to Abandon Independence "Hallucination,"* REUTERS (Jan. 16, 2016, 10:59PM), [www.reuters.com/article/taiwan-election/after-vote-china-tells-taiwan-to-abandon-independence-hallucination-idUSKCN0UV021](http://www.reuters.com/article/taiwan-election/after-vote-china-tells-taiwan-to-abandon-independence-hallucination-idUSKCN0UV021) [https://perma.cc/T9S3-YYA9].

broader Taiwanese society.<sup>77</sup> One of those hardliners was William Lai—the future 2020 running mate for Tsai—who pledged in April 2019 that Taiwan would never become “a second Hong Kong.”<sup>78</sup> The overall effect of PRC rhetoric was a tumultuous Beijing-Tsai relationship taking center stage in Taiwan’s 2020 presidential election.

Beginning in earnest in April 2019, Hong Kong protests against the extradition bill<sup>79</sup> and in support of the “Five Demands”<sup>80</sup> further undercut OCTS as a model for Taiwan and played a “pivotal role” in Taiwan’s 2020 election.<sup>81</sup> The 2019 amendment to Hong Kong’s Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation sought to allow for the extradition of “fugitives” to countries with which Hong Kong lacked an extradition treaty—namely, the PRC.<sup>82</sup> Backlash against the bill and the threat of extradition to the PRC spawned massive protests throughout Hong Kong and the protestors’ “Five Demands”: (1) withdrawal of the extradition bill; (2) a commission of inquiry into police brutality; (3) retraction of the classification of protestors as rioters; (4) amnesty for arrested protestors; and (5) universal suffrage for both Hong Kong Legislative Council and Chief Executive positions.<sup>83</sup> In Taiwan, Tsai experienced a boost in support from Hong Kong’s unrest, as her early-2019 pre-protest rejection of OCTS seemed increasingly astute.<sup>84</sup> By August 2019, an estimated fifty-seven percent of Taiwan’s population supported the Hong Kong protestors, with support jumping to seventy-five percent among Taiwanese people aged 20–29.<sup>85</sup> Even the KMT 2020 presidential candidate Han Kuo-yu changed his rhetoric toward the PRC as the Hong Kong protests escalated. Han had originally said that he “strongly support[ed]” the 1992 Consensus on a visit

77. See Kensaku Ihara, *Taiwan’s Presidential Primary Pits Tsai against China Hardliner*, NIKKEI ASIAN REV. (June 12, 2019), [asia.nikkei.com/Politics/Taiwan-s-presidential-primary-pits-Tsai-against-China-hardliner](https://asia.nikkei.com/Politics/Taiwan-s-presidential-primary-pits-Tsai-against-China-hardliner) [https://perma.cc/S8DE-KZUT].

78. Ryan Drillsma, *Taiwan Cannot Become the Second Hong Kong: William Lai*, TAIWAN NEWS (Apr. 22, 2019), [www.taiwannews.com.tw/en/news/3685711](http://www.taiwannews.com.tw/en/news/3685711) [https://perma.cc/JP8V-A5MP].

79. LEGAL SERVICE DIVISION REPORT ON FUGITIVE OFFENDERS AND MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS LEGISLATION (AMENDMENT) BILL 2019, PAPER FOR THE HOUSE COMMITTEE MEETING, HONG KONG LEGIS. COUNCIL (Apr. 12, 2019), <https://www.legco.gov.hk/yr18-19/english/hc/papers/hc20190412ls-65-e.pdf> [https://perma.cc/U6M3-ET6Y].

80. See Holmes Chan, *Explainer: Hong Kong’s Five Demands – Universal Suffrage*, HONG KONG FREE PRESS (Dec. 26, 2019), [www.hongkongfp.com/2019/12/26/explainer-hong-kongs-five-demands-universal-suffrage/](http://www.hongkongfp.com/2019/12/26/explainer-hong-kongs-five-demands-universal-suffrage/) [https://perma.cc/8XPC-N4XQ].

81. Kathrin Hille, *Hong Kong Protests Loom Large over Taiwan Election*, FIN. TIMES (Dec. 23, 2019), [www.ft.com/content/d1044236-21f4-11ea-92da-f0c92e957a96](http://www.ft.com/content/d1044236-21f4-11ea-92da-f0c92e957a96) [https://perma.cc/VQD9-95TA].

82. See LEGAL SERVICE DIVISION REPORT, *supra* note 79.

83. See Wong Tsui-kai, *Hong Kong Protests: What Are the “Five Demands”? What Do Protesters Want?*, S. CHINA MORNING POST (Aug. 20, 2019, 1:08:AM), <https://www.scmp.com/yp/discover/news/hong-kong/article/3065950/hong-kong-protests-what-are-five-demands-what-do> [https://perma.cc/9BHP-BPHQ].

84. Rigger, *supra* note 54.

85. Nathan Batto, *Attitudes Toward Hong Kong Protests*, FROZEN GARLIC (Aug. 24, 2019), <http://frozen-garlic.wordpress.com/2019/08/24/attitudes-toward-hong-kong-protests/> [https://perma.cc/26MK-3HG9].

to the mainland in March 2019.<sup>86</sup> By June 2019, however, Han told supporters at a campaign rally that OCTS would come to Taiwan “over my dead body.”<sup>87</sup> He then led attendees to chant “reject ‘one country, two systems’” and said, “It is impossible for the Taiwanese people to accept the ‘one country, two systems’ model used in Hong Kong and Macau. Absolutely impossible.”<sup>88</sup>

Despite bipartisan rejection of OCTS, Taiwanese voters viewed Tsai and the DPP as leading Taiwan’s resistance against the CCP. The Tsai campaign aggressively tied itself to the Hong Kong protestors, depicting her campaign as the party “protecting Taiwan’s democracy” and releasing a viral video advertisement comparing Taiwanese and Hong Kong youth (see Appendix A).<sup>89</sup> Ten days before the January 11, 2020 election, President Tsai gave her New Year’s Day speech bluntly rejecting the 1992 Consensus and OCTS. Adding to her 2019 comments rebuffing Xi’s 2019 New Year’s overture, Tsai made the explicit connection to events in Hong Kong, arguing that months of unrest in the PRC SAR demonstrated why OCTS was not feasible for Taiwan.<sup>90</sup> She said that Hong Kong proved democracy and authoritarianism cannot coexist in the same country.<sup>91</sup> At a campaign rally on the eve of Taiwan’s election, President Tsai told supporters, “Young people in Hong Kong have used their lives and blood and tears to show us that ‘one country, two systems’ is not possible. Tomorrow it’s the turn of our young people in Taiwan to show them that the values of democracy and freedom will overcome all difficulties.”<sup>92</sup> Hong Kongers visiting Taiwan to observe the election and Taiwanese citizens sympathetic to Hong Kong’s plight attended the rally in large numbers (see photos in Appendix B). Tsai’s Digital Minister Audrey Tang deemed Hong Kong to be “the single factor in the Taiwan [2020] presidential election.”<sup>93</sup> On Election Day, Tsai

86. Stanley Cheung & Emerson Lim, “1992 Consensus” Key to Stabilizing Cross-Strait Ties: Han Kuo-Yu, FOCUS TAIWAN (Mar. 25, 2019), <http://focustaiwan.tw/politics/201903250024> [https://perma.cc/XTS3-L6T5].

87. Tzu-kang Yeh & Christie Chen, “One Country, Two Systems” in Taiwan “Over My Dead Body”: Han Kuo-Yu, FOCUS TAIWAN (June 15, 2019), <http://focustaiwan.tw/politics/201906150017> [https://perma.cc/HL3M-GTUQ].

88. *Id.*

89. The ad’s narrator says, 就在几百公里外, 數不清的青年每天被逮捕, 被關押, 被凌虐, 被失蹤。原來「九二共識」就是「一國兩制」, 原來一國兩制就是獨裁專制。 (“Just a few hundred kilometers away, countless young people are arrested, detained, abused and made to disappear every day. It turns out that the ‘1992 Consensus’ is ‘one country, two systems,’ and one country, two systems is dictatorship.”) Tsai Ing-wen, “*Da Sheng Shuobua*” — 2020 Xiao Ying Zongtong Jingxuan CF (《大聲說話》— 2020 小英總統競選CF) (“*Speak Loudly*” — Ing-wen’s 2020 Presidential Campaign CF), YOUTUBE (Jan. 6, 2020), <https://youtu.be/jqtpKLSukwk>.

90. Yimou Lee, *Taiwan Leader Rejects China’s Offer to Unify under Hong Kong Model*, REUTERS (Dec. 31, 2019), [www.reuters.com/article/us-taiwan-china/taiwan-leader-rejects-chinas-offer-to-unify-under-hong-kong-model-idUSKBN1Z01IA](http://www.reuters.com/article/us-taiwan-china/taiwan-leader-rejects-chinas-offer-to-unify-under-hong-kong-model-idUSKBN1Z01IA) [https://perma.cc/K5AV-X6TX].

91. Yung-yao Su & William Hetherington, *Anti-Infiltration Act: Tsai Defends New Law, Lists 4 Points*, TAIPEI TIMES (Jan. 2, 2020), [www.taipetimes.com/News/front/archives/2020/01/02/2003728578/1](http://www.taipetimes.com/News/front/archives/2020/01/02/2003728578/1) [https://perma.cc/UDG5-AN8L].

92. Myers & Horton, *supra* note 32.

93. Interview with Audrey Tang, Digit. Minister, Republic of China (Jan. 17, 2020).

and the DPP's electoral victories—especially among the Taiwanese youth vote—highlighted her campaign's success in tapping into the momentum of the Hong Kong protests to reject Beijing's encroachment.<sup>94</sup>

### C. PRC Disinformation on Hong Kong Around Taiwan's 2020 Election

With the prominence of Hong Kong in Taiwan's election, Beijing had tremendous incentive to influence public opinion about the Hong Kong protests on multiple fronts—in Hong Kong, the mainland, and Taiwan. Shaping public discourse on Hong Kong was first and foremost critical for PRC efforts to defuse the situation in its Hong Kong SAR and to contain the protests from spreading to the mainland. Yet, Hong Kong unrest was also undercutting Taiwan's view of OCTS. The deteriorating political situation in Hong Kong made Tsai and the DPP increasingly popular to the Taiwanese electorate, as noted above.<sup>95</sup> Thus, CCP officials may have perceived influence operations directed at Hong Kong to satisfy multiple objectives: (1) quelling dissent in Hong Kong; (2) preventing the spread of protests into the mainland;<sup>96</sup> and (3) undercutting DPP rhetoric in Taiwan's 2020 elections.

The ROC government paid close attention to PRC propaganda and influence operations regarding Hong Kong.<sup>97</sup> In one instance, a Weibo account disseminated a fake notice from the ROC Ministry of Justice that said Taiwan was deporting Hong Kong protestors who had fled to Taiwan.<sup>98</sup> The actual Ministry of Justice put out a statement saying the fake notice spread from mainland Weibo accounts to a Facebook group spreading Chinese nationalist political content; the Ministry urged the Taiwanese people not to spread it further.<sup>99</sup> Asked about Beijing's propaganda regarding the Hong Kong protests, ROC Digital Minister Tang stated:

94. See Myers & Horton, *supra* note 32.

95. Steven L. Myers & Chris Horton, *China Looms Over Taiwan's Election, Giving a Boost to the Incumbent*, N.Y. TIMES (Jan. 8, 2020), [www.nytimes.com/2020/01/08/world/asia/china-taiwan-hong-kong-protests.html](http://www.nytimes.com/2020/01/08/world/asia/china-taiwan-hong-kong-protests.html) [https://perma.cc/M4RN-R8CD].

96. CCP fears of contagion into the mainland were well founded. As COVID-19 spread in Wuhan, audacious Chinese netizens began calling for Wuhan's own "Five Demands, not one less," in a nod to Hong Kong protestors. See *{Wuhan Pneumonia} Mainland Netizens Shouted Five Major Appeals to Wuhan Women's Family of Three, Shandong New Year Reported*

(【武漢肺炎】內地網民喊五大訴求 武漢女一家三口山東過年被舉報) (Jan. 23, 2020), <http://hk.appledaily.com/china/20200123/RPE73EMCGQHWCTZY21QXV4EMBM/> [https://perma.cc/2ZNE-KBAX]; Zuolai Wu, *Just Saw the Below, Admire Those Who Are Bold!* (刚刚看到, 转一下谁人胆大, 佩服!), TWITTER (Feb. 6, 2020, 9:33PM), [www.twitter.com/wuzuo-lai/status/1225608497502375937](http://www.twitter.com/wuzuo-lai/status/1225608497502375937) [https://perma.cc/R6W3-TGB6].

97. See Interview with Audrey Tang, *supra* note 93.

98. Raymond Zhong, *Awash in Disinformation Before Vote, Taiwan Points Finger at China*, N.Y. TIMES (Jan. 6, 2020), [www.nytimes.com/2020/01/06/technology/taiwan-election-china-disinformation.html](http://www.nytimes.com/2020/01/06/technology/taiwan-election-china-disinformation.html) [https://perma.cc/RZ59-HAT7].

99. See Xia Xiaohua, *Provoking Opposition Between Hong Kong And Taiwan People, Fake Messages from Taiwan's Ministry of Justice Appear on Weibo* (挑拨港台民众对立 微博出现冒名台湾法务部假讯息), RADIO FREE ASIA (Dec. 13, 2019), <https://www.rfa.org/mandarin/yataibaodao/gangtai/hx1-12132019100106.html> [https://perma.cc/ZY3Q-8QVL]; see also *Mainland Social Media Weibo Distributes False Infor-*

The thing is that [United Front officials] really have a cognitive-space incentive to paint the Hong Kong situation as a “domestic riot,” in which case the Taiwanese population will not identify with them as much. As everybody knows, the Hong Kong factor is the single factor in the Taiwan presidential election this time.<sup>100</sup>

These PRC influence operations during Taiwan’s 2020 election went beyond covert government operations like organized campaigns of deception through social-media accounts with fake personas—“coordinated inauthentic behavior”—and cooptation of Taiwanese media conglomerates—the pro-China “Red Media” (紅色媒體).<sup>101</sup> Rather, the PRC government also conducted *overt* operations with official government accounts that sought to alter Taiwanese public sentiment, or—in United Front parlance—conduct “cognitive space-shaping.”<sup>102</sup> In one instance, a poster supposedly from Hong Kong “rioters” put a bounty of HKD \$20 million for the murder of Hong Kong police officers.<sup>103</sup> The nonprofit group Taiwan FactCheck Center (“TFCC”) debunked the rumor as part of their ongoing efforts to counter disinformation.<sup>104</sup> TFCC found the first distribution of the poster to be from the PRC Central Political and Law Unit’s (中央政法委) Weibo account, which is named “Chang’an Sword” (長安劍).<sup>105</sup> TFCC’s determination was not only that the poster contained false information but that it was directly attributable to the PRC government as part of a disinformation campaign.<sup>106</sup>

The effect of such propaganda is to shape the narrative around OCTS and demonize Hong Kong “rioters” in Hong Kong, Taiwan, and the mainland itself. Taiwan’s digital minister believes disinformation such as the police murder poster shape public opinion less in Hong Kong than in Taiwan; Hong Kongers “can very easily see through” the poster and all of its falsities, which was not the case when countless Taiwanese people both believed and spread the poster on social media.<sup>107</sup> In addition to Taiwanese people, PRC audiences often consume the same false information: “CCP disinforma-

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*mation in the Name of Ministry of Justice* (大陸社群媒體微博以法務部名義散布假訊息案), MINISTRY OF JUST. OF THE REPUBLIC OF CHINA (中華民國法務部) (Dec. 12, 2019), [www.mjib.gov.tw/news/Details?Module=1&id=542](http://www.mjib.gov.tw/news/Details?Module=1&id=542) [https://perma.cc/37EU-TEFM].

100. Interview with Audrey Tang, *supra* note 93.

101. See, e.g., *Protesters Gather in Taipei, Asking “Red Media” to Leave Taiwan*, FOCUS TAIWAN (June 23, 2019), <https://focustaiwan.tw/cross-strait/201906230011> [https://perma.cc/4KTC-LBGS].

102. Interview with Audrey Tang, *supra* note 93.

103. See Appendix C; see also {False} *The Website Article Alleges: “Hong Kong Thugs Compensation Exposure: Kill the Police up to 20 Million!”?*

【錯誤】網站文章指稱：「香港暴徒的酬勞曝光：『殺警』最高給2000萬！」？ TAIWAN FACT CHECK CTR. (台灣事實查核中心) (Nov. 15, 2019), <http://tfc-taiwan.org.tw/articles/1248> [https://perma.cc/L5TL-PA2N] [hereinafter *Hong Kong Bounty Article*].

104. *Id.*

105. See Interview with Audrey Tang, *supra* note 93; *Hong Kong Bounty Article*, *supra* note 103.

106. See *Hong Kong Bounty Article*, *supra* note 103.

107. See Interview with Audrey Tang, *supra* note 93.

tion is not only aimed at Taiwan but also at the Chinese people, who cannot be told that the CCP's policy on Taiwan has been, for the most part, a complete failure."<sup>108</sup> Fearing domestic dissent against its regime, the CCP cannot concede that its efforts to entice Taiwan to unify with the PRC through the PLA's military strength, the PRC's economic power, or shared Chinese culture have all failed.<sup>109</sup> Instead, the CCP seeks to shape the discourse on Taiwan and Hong Kong through disinformation campaigns that demonize those opposed to the regime, for example, President Tsai and Hong Kong protestors.

Vilifying anti-Beijing activists in Hong Kong has the direct effect of countering DPP messages of solidarity with Hong Kong but may also contribute to the broader, long-term strategy of dividing the Taiwanese population. Sowing discord in Taiwan can help the PRC create conditions that are more "suitable for unification or annexation."<sup>110</sup> J. Michael Cole writes:

Cognizant that it cannot win the hearts and minds of a sufficiently large number of Taiwanese, Beijing's political warfare efforts, therefore, now aim to undermine the coherence of Taiwan as a functioning state; to balkanize or Lebanonize it by breaking the bond between the center and the peripheries; to exploit existing divisions and polarization and contradictions in Taiwanese society; and, where possible, to co-opt individuals who are more amenable to Beijing's ambitions.<sup>111</sup>

Several months after Tsai's 2016 election, the CCP-mouthpiece *Global Times* ran an editorial saying China was ready to "Lebanonise Taiwan if necessary," suggesting it could pit Taiwan's ethnic, political, and social groups against each other.<sup>112</sup> Taiwan's democratic society has particular vulnerabilities to this PRC disinformation, but it is also building a bulwark to protect its free and open way of life.

### III. TAIWANESE SOCIETY'S RESPONSE TO DISINFORMATION

In the face of this information onslaught from Beijing, Taiwan is fighting back. Taiwan's self-defense against disinformation occurs in both public and private spheres. First, civil society organizations crowdsource research to investigate and dispel false content posted online, often sending their findings to Taiwanese government officials. Second, the ROC government has instituted an education program to teach both the young and the old how to spot

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108. J. Michael Cole, *Chinese Disinformation in Taiwan*, TAIWAN SENTINEL (Dec. 30, 2019), <http://sentinel.tw/chinese-disinformation-in-taiwan/> [<https://perma.cc/K9ZP-LTMW>].

109. *See id.*

110. *Id.*

111. *Id.*

112. Hille, *supra* note 27.



false information. Third, major technology companies like Facebook, Twitter, and LINE cooperate with the ROC government through an “industry code” that calls for company-level policing of online deceptive conduct. These measures have proved successful in mitigating the harmful effects of the PRC’s concerted disinformation campaign against Taiwan.

### A. *Civil Society*

A robust array of non-profit organizations is leading the effort to protect Taiwan from false information. Taiwan civil-society organizations like the TFCC, DoubleThink Labs, and Cofacts proactively seek and counter disinformation spreading on social media. Digital Minister Tang says that Taiwan’s “fact-checking ecosystem is much more mature” now than it was in the 2018 election cycle.<sup>113</sup> Moreover, the ROC government partners with organizations like g0v—a “decentralized civic tech community” in Taiwan<sup>114</sup>— in a “Presidential Hackathon” to envision new governance tools and share data between the public and private sectors.<sup>115</sup> Many of the counter-disinformation platforms have open-source coding with volunteer fact-checkers, outsourcing due diligence to good Samaritans beyond direct government supervision.<sup>116</sup> TFCC debunking the Hong Kong police bounty poster and disseminating the analysis is one example of the organic response to disinformation from Taiwanese civil society. Although independent, these nonprofits still coordinate with both the ROC government and private sector, as detailed below.

### B. *Government Education*

One major ROC government initiative aims to bolster “media literacy” so that users can independently determine if information is false. The Tsai administration has begun teaching children in their K-to-12 school curriculum how to detect false information,<sup>117</sup> with the intent of giving children “media competency before they are of legal age to vote.”<sup>118</sup> There are also

113. Interview with Audrey Tang, *supra* note 93.

114. *Homepage*, G0V, <https://g0v.asia/> [<https://perma.cc/4ZK7-G8FA>].

115. See Interview with Audrey Tang, *supra* note 93.

116. See Su, *supra* note 37; Charlie Campbell, *President Tsai Ing-Wen Seeks to Preserve Taiwan’s Democracy*, TIME (Jan. 10, 2020), <http://time.com/5762023/tsai-ing-wen-preserve-taiwan-democracy/> [<https://perma.cc/TRW8-RM85>]; Bruce Schneier, *8 Ways to Stay Ahead of Influence Operations*, FOR. POL’Y (Aug. 12, 2019, 1:41PM), [www.foreignpolicy.com/2019/08/12/8-ways-to-stay-ahead-of-influence-operations/](http://www.foreignpolicy.com/2019/08/12/8-ways-to-stay-ahead-of-influence-operations/) [<https://perma.cc/5M7K-87TN>].

117. *Media Literacy Education Resources Network* (媒體素養教育資源網), MINISTRY OF EDUC. (中華民國教育部), <http://mlearn.moe.gov.tw/> [<https://perma.cc/2NDA-C3PL>] (last visited Apr. 23, 2020).

118. Interview with Audrey Tang, *supra* note 93; Dieter Baacke, *Medienkompetenz. Begrifflichkeit und sozialer Wandel (Media Literacy, Concept and Social Change)*, in *MEDIENKOMPETENZ ALS SCHLÜSELBEGRIFF [MEDIA COMPETENCE AS A KEY TERM]* 118 (Antje von Rein ed., 1996) (defining “media competence” as “the ability to actively acquire all kinds of media in the world for a person’s communication and action repertoire.”).

“life-long learning” programs that train adults and the elderly on media literacy.<sup>119</sup> If false information is a “virus” that spreads through society, media literacy is the inoculation: each citizen who bolsters her ability to analyze media critically can build up an immunity to believing a false message and then not spread the falsity to her social network. Furthermore, the media-literate citizen can “cure” others if given the tools to debunk false information for her peers.

Disinformation on the messaging app LINE is instructive of this process. LINE is one of the most popular social-media applications in Taiwan—second only to Facebook—and primarily serves as a private messaging platform.<sup>120</sup> Because messages are not public, false information can fester and spread through private messaging. Therefore, having media-literate individuals within a closed LINE group or message-forwarding chain counters the spread of false information in these private networks, as those who can debunk the falsehood directly challenge its veracity within the group and decrease the chances someone else will forward the message.<sup>121</sup> LINE has also automated factchecking. In July 2019, the ROC government partnered with LINE and third-party factchecking organizations such as TFCC to launch the Digital Accountability Project in order to improve media literacy and “reduce the spread of false messages.”<sup>122</sup> LINE created an official LINE Fact Checker automated account that can receive and analyze suspicious messages forwarded from LINE users.<sup>123</sup> Moreover, users can add “chatbots” to private group chats that automatically respond when someone shares false information.<sup>124</sup>

### C. Tech Industry

In addition to LINE, the broader tech sector in Taiwan is responding to disinformation as well. Facebook is working with Taiwan’s Hondao Elderly Care Foundation to implement media literacy training into elderly care group exercises.<sup>125</sup> Facebook also set up a “war room” in Taipei in 2019–20

119. Interview with Audrey Tang, *supra* note 93.

120. See Ralph Jennings, *How China, and the Law, Jumped in as Taiwan’s Presidential Campaign Shifted to Social Media*, VOICE OF AM. (Jan. 10, 2020, 5:03AM), [www.voanews.com/east-asia-pacific/how-china-and-law-jumped-taiwans-presidential-campaign-shifted-social-media](http://www.voanews.com/east-asia-pacific/how-china-and-law-jumped-taiwans-presidential-campaign-shifted-social-media) [<https://perma.cc/HXJ9-Y75R>] (“About 97% of internet users in Taiwan use Facebook. The island also has Asia’s second highest smartphone penetration after South Korea.”).

121. See Interview with Audrey Tang, *supra* note 93.

122. *The “LINE Fact Checker” Platform Is Launched, Inviting All People to Fight Against Falsehoods and Simultaneously Conduct Media Literacy Education from the Inside Out to Inspire New Thinking* (「LINE訊息查證」平台上線 邀全民齊力抗假 同步舉辦媒體識讀教育 由內而外啟發新思維), LINE (July 22, 2019), <https://linecorp.com/zh-hant/pr/news/zh-hant/2019/2791> [<https://perma.cc/67ZZ-JQS5>].

123. See *id.*

124. See Elizabeth Lange and Doowan Lee, *How One Social Media App Is Beating Disinformation*, FOR. POL’Y (Nov. 23, 2020, 1:21PM), <https://foreignpolicy.com/2020/11/23/line-taiwan-disinformation-social-media-public-private-united-states/> [<https://perma.cc/7K6L-JR5P>].

125. See Interview with Audrey Tang, *supra* note 93.

to counter disinformation in the run-up and immediate aftermath of Taiwan's 2020 elections.<sup>126</sup> Facebook is not alone. In mid-2019, Twitter shut-down 936 mainland accounts targeting Hong Kong protests with disinformation.<sup>127</sup> Twitter found that mainland Internet Protocol ("IP") addresses with unfettered access to a virtual private network ("VPN") managed the accounts, strongly suggesting the accounts were government-run.<sup>128</sup>

Major tech companies like LINE, Google, and Facebook have also signed onto Taiwan's "Industry Code of Practice on Countering Disinformation."<sup>129</sup> Digital Minister Tang believes that social-media companies have a significant responsibility in stemming the spread of disinformation on their platforms.<sup>130</sup> She calls the Industry Code a "social-sector demand" based on Taiwanese election norms and not a "law" in itself.<sup>131</sup> However, the Industry Code is written much like a legal agreement, defining key terms and acceptable behavior. The Industry Code aims to stop the spread of "false information" and its harms to democratic processes without compromising freedom of speech. The Industry Code defines false information as consisting of three prongs: (1) malicious intent; (2) deceiving actions; and (3) harmful effect.<sup>132</sup> First, "malicious intent" is when an actor creates and spreads information to deceive the public or to generate improper economic benefits. Second, "deceiving actions" are those that disseminate factually incorrect or misleading information. Third, "harmful effect" is a consequence that carries the possibility of damaging democracy or public safety.

Tech companies that signed onto the Industry Code in Taiwan commit to self-regulate and counter disinformation through four different pledges: (1) technology investments; (2) advertisement transparency; (3) third-party oversight; and (4) media literacy.<sup>133</sup> First, technology investments include a pledge to flag or close fake accounts and to rank misinformation lower in data feeds.<sup>134</sup> Second, advertisement transparency includes preventing platforms that spread misinformation from gaining advertisement revenue and

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126. Jeffery Wu & Joseph Yeh, *Facebook to Establish "War Room" in Taipei Ahead of Elections*, FOCUS TAIWAN (Dec. 30, 2019), <http://focustaiwan.tw/sci-tech/201912300015> [<https://perma.cc/WAF8-DEDM>].

127. Su, *supra* note 37.

128. *Id.*

129. *Industry Code of Practice on Countering Disinformation* (不實訊息防制業者自律實踐準則) (2019), TAIWAN ASS'N FOR HUM. RTS. (台灣人權促進會), [http://www.tahr.org.tw/sites/default/files/u87/190621\\_disinformation\\_code\\_of\\_practice\\_taiwan.pdf](http://www.tahr.org.tw/sites/default/files/u87/190621_disinformation_code_of_practice_taiwan.pdf) [<https://perma.cc/S7B5-LNDF>]. See also Wu Jiahao, *To Prevent False Information, Facebook, LINE, and Other Five Major Players Take the Lead in Self-Discipline* (防制不實訊息 臉書LINE等5大業者帶頭自律), CENT. NEWS AGENCY (June 6, 2019), <https://www.cna.com.tw/news/firstnews/201906210183.aspx> [<https://perma.cc/A56A-ALAJ>]; Public Digital Innovation Space, *2019-06-17 Finding Facts in a World of Disinformation*, YOUTUBE (June 17, 2019), <https://www.youtube.com/watch?v=49jMOap1qeo>.

130. See Interview with Audrey Tang, *supra* note 93.

131. See *id.*

132. See *Industry Code of Practice on Countering Disinformation*, *supra* note 129, at 1.

133. See *id.*

134. See *id.*

ensuring that political advertising funders are public; Minister Tang cites Facebook's "Ad Library," which catalogs and provides information on all political advertisements as one positive example of Facebook's compliance with the Industry Code.<sup>135</sup> Third, collaboration with third-party oversight mechanisms includes industry training for government and other stakeholders on how the platform operates. Companies also pledge to work with third-party factcheckers who identify misinformation and provide government entities and other leaders with "official" accounts to convey legitimacy to the public.<sup>136</sup> Fourth, digital and media literacy provide the public with both misinformation identification tools and enable users to find different sources of opposing information. Facebook's media trainings at Taiwan's elderly homes illustrate this fourth pledge in action.<sup>137</sup>

The Industry Code is not binding on tech companies, and the document even allows for only partial compliance with the four pledges, based on parties' technical abilities and market forces.<sup>138</sup> Yet, Digital Minister Tang says that the Industry Code endorses what is already in the industry's self-interest: conforming with Taiwan's social norms and thus remaining popular with users.<sup>139</sup> Perhaps most importantly, the Code establishes a common framework for dialogue between the government and industry, as well as a means of resolving disputes as situations develop. The same month that companies announced the Industry Code, Taiwan's Criminal Investigation Bureau worked with Facebook to flag a post that falsely claimed Tsai's DPP government had spent TWD \$1 billion (USD \$33 million) to fund the anti-extradition bill protests in Hong Kong; the man who originally posted the story had used fake identification to register an account in Singapore.<sup>140</sup> Minister Tang additionally cites the ROC government's invocation of the Code to compel behavior for political advertising, in which the government told tech companies to either abide by the Code's requirements for donor transparency on political ads or not run political ads at all.<sup>141</sup> Such requirements help inhibit actors, such as foreign governments, from anonymously purchasing political ads to influence Taiwan's elections. The Code's self-regulation is one more tool in the toolbox as Taiwanese society counters disinformation.

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135. Interview with Audrey Tang, *supra* note 93.

136. See *Industry Code of Practice on Countering Disinformation*, *supra* note 129, at 1–2.

137. See Interview with Audrey Tang, *supra* note 93.

138. See *Industry Code of Practice on Countering Disinformation*, *supra* note 129, at 2.

139. Interview with Audrey Tang, *supra* note 93.

140. See Lawrence Chung, *Taiwan Gets Tough over 'Red Media' Threat to Democracy*, S. CHINA MORNING POST (July 27, 2019, 9:15 AM), <https://www.scmp.com/news/china/politics/article/3020261/taiwan-gets-tough-over-fake-news-blamed-beijing-disrupting-its> [<https://perma.cc/9WRC-TUX6>].

141. See Interview with Audrey Tang, *supra* note 93.

## IV. TAIWAN'S LAWFARE SELF-DEFENSE

Both the PRC and Taiwan are employing legal tools in the fight over disinformation. Although “legal warfare” is the third prong in the PLA’s Three Warfares doctrine, Taiwan’s 2020 elections illustrate that the ROC has more effectively employed legal warfare in response to PRC public opinion and psychological warfare. Taiwan, similar to other jurisdictions, is using the law to counter the cooptation of Taiwanese traditional media and viral vectoring on social media. This legal self-defense of Taiwan’s sovereignty has three categories: (a) libel laws; (b) “fake news” regulations; and (c) the Anti-Infiltration Act.

A. *Taiwan Libel Laws*

One lawfare battleground in Taiwan is its libel laws. Both pro-Taiwan and pro-Beijing plaintiffs can wield Taiwan’s libel laws in information warfare, although the pro-Beijing parties have more actively exploited Taiwan’s laws. When an exposé in *Financial Times* called the pro-Beijing Want Want China Times Group (旺旺中時集團) “a media company influenced by the Chinese government,”<sup>142</sup> the company responded with a defamation lawsuit.<sup>143</sup> The company also sued Taiwan’s state-run Central News Agency (“CNA”) for running “one-sided reports” and threatened in a press conference to sue any subsequent publication that cited the *Financial Times* article.<sup>144</sup> At issue were accusations that two Want Want-owned media outlets, the *China Times* (中國時報) and CTiTV (中天電視), followed daily orders from the PRC Taiwan Affairs Office.<sup>145</sup> Want Want lawyers stated at the same press conference that they would also file a defamation claim against DPP Secretary-General Luo Wen-jia for saying in a radio interview that the CCP funds Want Want.<sup>146</sup> Nearly six months after the defamation claim, self-declared former PRC spy Wang “William” Liqiang also asserted that Taiwan-based PRC investment companies secretly funneled money to Want Want outlets China Television Company (中國電視公司) and CTiTV on behalf of the PRC government, accusations still under investigation in Taiwan and Australia.<sup>147</sup> Wang claims that his Hong Kong-based employer was

142. Kathrin Hille, *Taiwan Primaries Highlight Fears over China's Political Influence*, FIN. TIMES (July 16, 2019), [www.ft.com/content/036b609a-a768-11e9-984c-fac8325aaa04](http://www.ft.com/content/036b609a-a768-11e9-984c-fac8325aaa04) [https://perma.cc/S9X7-X34A].

143. Chen Yun & Jake Chung, *Want Want China Times to Sue 'Financial Times'*, TAIPEI TIMES (July 20, 2019), [www.taipeitimes.com/News/front/archives/2019/07/20/2003718982](http://www.taipeitimes.com/News/front/archives/2019/07/20/2003718982) [https://perma.cc/VHK4-JZEP].

144. *Id.*

145. Hille, *supra* note 142.

146. Yun & Chung, *supra* note 143.

147. See Steven L. Myers & Chris Horton, *Claims of China's Meddling Roil Taiwan Ahead of Elections*, N.Y. TIMES (Dec. 6, 2019), [www.nytimes.com/2019/12/06/world/asia/china-taiwan-election-defector.html](http://www.nytimes.com/2019/12/06/world/asia/china-taiwan-election-defector.html) [https://perma.cc/3V43-TKGZ].

a shell company “whose founding mission was to infiltrate Hong Kong, but was later tasked with influencing elections in Taiwan.”<sup>148</sup>

The DPP and President Tsai Ing-wen also employ Taiwan’s libel laws to counter disinformation. During the presidential election in 2015, the DPP filed multiple libel lawsuits against KMT legislators for “false accusations” against then-candidate Tsai regarding a real estate scheme.<sup>149</sup> The DPP filed both suits under Article 90 of Taiwan’s Presidential and Vice Presidential Election and Recall Act.<sup>150</sup> During her presidential re-election campaign in 2019, Tsai also filed a defamation lawsuit against two professors who accused her of forging her doctorate diploma from the London School of Economics.<sup>151</sup> A Taiwanese talking head, Peng Wen-zheng, frequently discussed the diploma accusations, and Want Want’s so-called “Red Media” outlet, the *China Times*, continued to amplify the story days before the January 2020 elections.<sup>152</sup> Members of Taiwanese civil-society organization Cofacts decried the *China Times* articles as misleading and fake news.<sup>153</sup> Tsai’s use of libel lawsuits illustrates a mechanism to push back against rumors during campaign season, whether the rumors are coming from domestic political opponents or “Red Media.” In explaining her 2019 defamation lawsuit, Tsai wrote on her Facebook page, “As President, I accept the supervision of the people. That is democracy. However, democracy and freedom don’t mean that we tolerate the spread of fake news.”<sup>154</sup>

This weaponization of libel lawsuits, particularly with Want Want’s explicit threat to sue anyone citing the *Financial Times* report, demonstrates the chilling effect libel laws can have on free speech. Reporters Without Borders called Want Want’s lawsuit “an abusive libel lawsuit.”<sup>155</sup> Rush

148. See Jason Pan, *Taipei Court Rejects Appeals to Removal Travel Restrictions in Chinese Spy Case*, *TAIPEI TIMES* (Mar. 7, 2020), <https://www.taipetimes.com/News/taiwan/archives/2020/03/07/2003732236> [<https://perma.cc/7WF9-TCPA>].

149. See Ko Lin, *DPP to Sue KMT Legislators for Libel: Spokesperson*, *TAIWAN NEWS* (Dec. 14, 2015, 12:00 AM), <https://www.taiwannews.com.tw/en/news/2851923> [<https://perma.cc/R288-3NC3>]; Ko Lin, *DPP to File Another Libel Lawsuit Against KMT Legislators*, *TAIWAN NEWS* (Dec. 21, 2015, 12:00 AM), <https://www.taiwannews.com.tw/en/news/2855814> [<https://perma.cc/QK82-AF6U>].

150. See *id.*

151. See Su Yung-yao & Jake Chung, *President Sues over Fake Diploma Claim*, *TAIPEI TIMES* (Sep. 5, 2019), <http://www.taipetimes.com/News/taiwan/archives/2019/09/05/2003721751> [<https://perma.cc/G8TD-38RB>].

152. See Li Junyi, *Is It an International Scandal? “New York Times” Interviews Peng Wenzheng!* (論文門變國際醜聞?《紐約時報》訪問彭文正), *CHINA TIMES* (中國時報) (Jan. 8, 2020, 8:08 AM), <https://www.chinatimes.com/realtimenews/20200108001138-260407> [<https://perma.cc/6LUU-WDRS>].

153. See *Is It an International Scandal? “New York Times” Interviews Peng Wenzheng!* (論文門變國際醜聞?《紐約時報》訪問彭文正), *COFACTS* (Jan. 8, 2020), <https://cofacts.gov.tw/article/258bx6gkl6h7r> [<https://perma.cc/UV8P-FR6R>].

154. Hwang Chun-mei, *Taiwan President to Sue Purveyors of Fake News Over Degree Claims*, *RADIO FREE ASIA* (Aug. 29, 2019), <https://www.rfa.org/english/news/china/taiwan-tsai-08292019161609.html> [<https://perma.cc/HL5F-Q4DU>].

155. Matthew Strong, *Reporters Without Borders Group Slams Taiwan Media Company Action Against Financial Times*, *TAIWAN NEWS* (July 24, 2019, 8:40 PM), [www.taiwannews.com.tw/en/news/3751284](http://www.taiwannews.com.tw/en/news/3751284) [<https://perma.cc/WA3A-H44L>].

Doshi, then Director of the Brookings Institution's China Strategy Initiative, wrote soon before Taiwan's 2020 elections, "Exploiting Taiwan's low legal threshold for libel, entities with close ties to the mainland have filed a number of lawsuits against critical journalists . . . [T]hese heavy handed tactics are chilling more detailed coverage of China's meddling in the current election campaign."<sup>156</sup> J. Michael Cole agreed, writing, "Much higher thresholds for lawsuits should apply when the targeted intellectual is a well-regarded expert with a track record of responsible work and the plaintiff is part of efforts by an authoritarian regime to silence its critics and encourage self-censorship."<sup>157</sup>

Whether Taiwan's libel laws require reform is subject to debate, however. Su Yen-tu, a constitutional law professor at Academia Sinica, argues that Taiwan's libel laws are similar to those in other liberal societies.<sup>158</sup> He notes that the libel laws can engender some harassment of television "talking heads" (名嘴), but are not a major concern in efforts to counter disinformation.<sup>159</sup> One significant difference between libel laws in Taiwan and other liberal societies is that defamation is a criminal offense under Taiwan's Criminal Code, rather than only a civil matter.<sup>160</sup> Defamation in Taiwan falls under "Offenses Against Reputation and Credit" (妨害名譽及信用罪), with the statute reading:

A person who points out or disseminates a fact which will injure the reputation of another for purpose that it be communicated to the public commits the offense of slander and shall be sentenced to imprisonment for not more than one year, short-term imprisonment, or a fine of not more than five hundred yuan . . . [But a] person who can prove the truth of the defamatory fact shall not be punished for the offense of defamation unless the fact concerns private life and is of no public concern.<sup>161</sup>

The criminal classification of defamation and libel in Taiwan contradicts norms of most liberal legal regimes. The 1966 International Covenant on Civil and Political Rights states that punishing defamation and libel as criminal offenses is a violation of individual rights, a position the United

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156. Rush Doshi, *China Steps Up Its Information War in Taiwan*, FOR. AFF. (Jan. 9, 2020), [www.foreignaffairs.com/articles/china/2020-01-09/china-steps-its-information-war-taiwan](https://www.foreignaffairs.com/articles/china/2020-01-09/china-steps-its-information-war-taiwan) [https://perma.cc/ZV65-EPE9].

157. Cole, *supra* note 108.

158. Interview with Su Yen-tu, Associate Research Professor, Academia Sinica, in Taipei, Taiwan (Jan. 6, 2020).

159. *Id.*

160. See EDITORIAL: *Libel Should be a Civil Matter*, TAIPEI TIMES (Jan. 14, 2018), [www.taipeitimes.com/News/editorials/archives/2018/01/14/2003685725](https://www.taipeitimes.com/News/editorials/archives/2018/01/14/2003685725) [https://perma.cc/XUM2-38TH].

161. CRIMINAL CODE [CRIM. CODE] ch. 27, art. 310 OFFENSES AGAINST REPUTATION AND CREDIT (Republic of China).

Nations reaffirmed in 2012.<sup>162</sup> Taiwanese constitutional law scholars Lin Tzu-yi and Lin Chih-chieh think defamation in Taiwan's criminal code contravenes both freedom of speech and freedom of the press.<sup>163</sup> Moreover, there are fewer cognizable defenses to defamation in Taiwan than in Western jurisdictions.<sup>164</sup> For example, defamation lawsuits in Massachusetts and most U.S. states will fail against statements of non-falsifiable opinion, rather than statements of fact.<sup>165</sup> Taiwan does not recognize such a defense, nor does it recognize a defense that the harmful statements were mere "vulgar abuse" short of defamation.<sup>166</sup>

In practice, companies and individuals seeking to silence critics do appear to abuse Taiwan's libel and defamation laws. A Council of Grand Justices decision in 2000 upheld the criminality of defamation as appropriate for the "circumstances of the country" to avoid a situation where the rich defame others and simply pay off the civil fines, thus giving the rich a "license" to defame.<sup>167</sup> Professor Lin Tzu-yi, specializing in freedom of expression at National Taiwan University, called the 2000 Council of Grand Justices decision upholding the criminality of libel a "backward" conclusion.<sup>168</sup> Taiwan's criminal enforcement of libel and defamation laws "depends too much on legal action by alleged victims"—usually of substantial means in cases that can last over a year—before prosecutors step in to press the case.<sup>169</sup> Indeed, the criminal nature of the charges allows "businesses, politicians, and individuals to offset criticism and sue other individuals, businesses, and journalists for openly discussing factual information."<sup>170</sup>

Incidents such as the Want Want defamation complaint against the *Financial Times* show that entities can use Taiwan's libel laws to hinder speech and neuter legitimate investigations into PRC interference. The low legal threshold for libel and defamation means that those who hire attorneys to represent their complaints are not seeking money in civil lawsuits but instead seeking retribution or deterrence of further criticism. Thus, wealthy companies and individuals will be more likely to press charges because they can bear the time and legal expense.<sup>171</sup> Such a result is the opposite of the

162. See EDITORIAL: *Libel Should be a Civil Matter*, *supra* note 160.

163. See *id.*

164. See *id.*

165. See, e.g., *Scholz v. Delp*, 41 N.E.3d 38, 41 (Mass. 2015); *Immuno AG v. Moor-Jankowski*, 549 N.E.2d 129, 133 (N.Y. 1989); *New York Times Co. v. Sullivan*, 376 U.S. 254, 267 (1964).

166. See EDITORIAL: *Libel Should be a Civil Matter*, *supra* note 160.

167. *Id.*

168. *Id.*

169. Ralph Jennings, *Taiwan Seeks to Rein in Freewheeling Media with Tougher Anti-Fake News Laws*, VOICE OF AM. (Apr. 22, 2019, 4:29 AM), [www.voanews.com/east-asia/taiwan-seeks-rein-freewheeling-media-tougher-anti-fake-news-laws](http://www.voanews.com/east-asia/taiwan-seeks-rein-freewheeling-media-tougher-anti-fake-news-laws) [<https://perma.cc/DN2Q-L634>].

170. Tomás Swinburne, *The Problem of Taiwan's Libel Laws – How to Avoid Being Sued*, NIHAO'S IT GOING? (Aug. 8, 2018), <http://nihaositgoing.com/2018/08/08/the-problem-of-taiwans-libel-laws-how-to-avoid-being-sued/> [<https://perma.cc/TX96-53YH>].

171. See *id.*



2000 Council decision, substantiating Professor Lin Tzu-yi's claim that the law has "backward" effect.<sup>172</sup>

Taiwan's unique position vis-à-vis the PRC raises a delicate balance in the formation of its libel laws. Like all rule-of-law democracies, Taiwan has a strong interest in protecting individuals' reputations from defamation, but it must also avoid stifling free speech. This balance in the law is more precarious due to the onslaught of disinformation coming from the PRC. Outsiders cast Taiwan as on the "frontlines" of defending democracy from authoritarianism,<sup>173</sup> while simultaneously serving as "Asia's bastion of free speech."<sup>174</sup> Protections of free speech in Taiwan may not be as substantial as in the United States.<sup>175</sup> Yet, Taiwan's libel laws are also significantly more liberal than advanced Asian countries like Singapore, where defamation is both a criminal and civil matter and even truthful statements may be defamatory.<sup>176</sup> Taiwan is ranked 43rd on the Reporters Without Borders "2020 World Press Freedom Index"—behind only South Korea (42) in Asia and more than 100 spots above Singapore (158).<sup>177</sup> Taiwan's overall press freedoms rank even above the United States (45).<sup>178</sup> Much of the abuse of Taiwan's libel laws seems to stem from "business libel": defamation that harms economic interests and not personal reputations.<sup>179</sup> Thus, even if Taiwan's criminal libel laws are more susceptible to lawfare abuse by pro-Beijing or pro-Taiwan factions than the laws of other liberal countries, Taiwan still boasts some of the best protections of individual free speech in Asia.

### B. *Taiwan Fake News Laws*

A related legal battleground for disinformation in Taiwan is the reporting of false information in the media, that is, "fake news."<sup>180</sup> DPP legislator Karen Yu cites "content farms" in the PRC for the recent prominence of fake news in Taiwan.<sup>181</sup> These "content farms" and "troll factories" consist of PRC government-agent accounts on Weibo, Facebook, YouTube, Twit-

172. EDITORIAL: *Libel Should be a Civil Matter*, *supra* note 160.

173. See Interview with Audrey Tang, *supra* note 93.

174. Horton & Ramzy, *supra* note 65.

175. See, e.g., *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964) (holding that a newspaper cannot be held liable for defamatory statements about a public official's official conduct without proving "actual malice.")

176. See PENAL CODE § 499 DEFAMATION (Singapore).

177. *2020 World Press Freedom Index*, REPORTERS WITHOUT BORDERS (2020), <https://rsf.org/fr/classement> [<https://perma.cc/9GX5-6TSX>].

178. *Id.*

179. See generally David Howarth, *Libel: Its Purpose and Reform*, 74 MODERN L. REV. 845, 872 (2011) (distinguishing business libel from other forms of libel).

180. Minister Tang objects to the term "fake news" as linguistically demeaning the journalistic value of "news"; instead, she uses "disinformation" as the "intentional untruth to harm the public." See Interview with Audrey Tang, *supra* note 93.

181. Jane Rickards, *The Battle Against Disinformation*, TAIWAN BUS. TOPICS, AM. CHAMBER OF COM. IN TAIPEI (Aug. 21, 2019), <http://topics.amcham.com.tw/2019/08/battle-against-disinformation> [<https://perma.cc/7HFM-6F2Q>].

ter, and the popular Taiwanese social media platform Professional Technology Temple (“PTT”批踢踢實業坊).<sup>182</sup> In response, Taiwan has bolstered its counter-disinformation statutes. Yu says that recent Taiwan legislation includes a “strict” legal definition of “disinformation” incorporating three requisite elements: (1) false information; (2) motivated by malice; and (3) harmful to individuals, organizations, or social order.<sup>183</sup> One of the ROC government’s most commonly used statutes for enforcement is the Social Order Maintenance Act (社會秩序維護法), which allows for detention up to three days and fines up to TWD \$30,000 (USD \$1,000) for “spreading rumors” that “undermine public order and peace.”<sup>184</sup>

Over the last few years, Taiwan’s legislature has passed several amendments to increase fines for spreading disinformation.<sup>185</sup> For example, amendments to the Communicable Disease Control Act call for penalties of up to TWD \$3 million (USD \$100,000) “for false media reports having a serious impact on disease prevention.”<sup>186</sup> Amended June 2019,<sup>187</sup> the Act has immediate relevance due to the COVID-19 pandemic.<sup>188</sup>

Other amendments have been to the “Act Governing Food Safety and Sanitation” and the “Food Administration Act.” Amended June and July 2019,<sup>189</sup> respectively, these acts specify imprisonment up to three years for “spreading rumors about food safety that harm the public interest or cause damage to other persons.”<sup>190</sup> Taiwan’s Executive Yuan (the “Cabinet”) said these laws were aimed at deterring disinformation efforts.<sup>191</sup> Such statutory amendments—like many of the others—are largely preventive measures and not directed at specific acts of disinformation surrounding food safety.

One area of amendments that *was* in response to active PRC disinformation was the agricultural sector. Taiwan’s June 2019 amendments to the Agricultural Products Market Transaction Act call for “fines up to NT [TWD] \$300,000 [USD \$10,000] for deliberately spreading disinformation that affect market prices and hurt the public or consumers.”<sup>192</sup> Agricultural

182. Keoni Everington, *China’s ‘Troll Factor’ Targeting Taiwan with Disinformation Prior to Election*, TAIWAN NEWS (Nov. 5, 2018, 11:05 AM), [www.taiwannews.com.tw/en/news/3568146](http://www.taiwannews.com.tw/en/news/3568146) [https://perma.cc/RDT2-GG54].

183. Rickards, *supra* note 181.

184. ADMINISTRATIVE LAW [ADMIN. LAW], SOCIAL ORDER MAINTENANCE ACT (Republic of China), art. 63.

185. Rickards, *supra* note 181.

186. *Id.*

187. ADMIN. LAW, COMMUNICABLE DISEASE CONTROL ACT, art. 63 (Republic of China).

188. Ming-hsuan Chang & Evelyn Kao, *Taiwan Lists Mysterious Wuban Virus as Emerging Communicable Disease*, FOCUS TAIWAN (Jan. 15, 2020, 9:14 PM), <http://focus taiwan.tw/society/202001150023> [https://perma.cc/E2P9-QRCE].

189. *See* ADMIN. LAW, ACT GOVERNING FOOD SAFETY AND SANITATION (Republic of China); ADMIN. LAW, FOOD ADMINISTRATION ACT (Republic of China).

190. Rickards, *supra* note 181.

191. Hsiu-chuan Shih, *Cabinet Proposes Law Amendments to Counter Disinformation*, FOCUS TAIWAN (Dec. 13, 2018, 7:47 PM), <http://focus taiwan.tw/politics/201812130018> [https://perma.cc/PEL9-5DZ8].

192. Rickards, *supra* note 181; *see also* ADMIN. LAW, AGRICULTURAL PRODUCTS MARKET TRANSACTION ACT (Republic of China).

disinformation is particularly salient in PRC disinformation campaigns, given alleged attempts to drive farmer voters away from the DPP.<sup>193</sup> In July 2018, a story blaming the DPP's China policy for the drop in agricultural commodity prices circulated widely in Taiwanese media.<sup>194</sup> The story included a photo of thousands of pineapples dumped near a river dam with the message, "After the DPP became the ruling party, our government became impotent. Now China refuses to buy fruits from 'independent' Taiwan. The farmers work hard for nothing. It is so sad."<sup>195</sup> However, Taiwan's Council of Agriculture noted that the photos were actually taken in the PRC, not Taiwan.<sup>196</sup> Nevertheless, pineapple farmers protested in front of the Executive Yuan in Taipei to show their anger about the drop in pineapple prices.<sup>197</sup> When a similar disinformation campaign occurred in 2019 about carcinogens in Taiwanese banana peels, Taiwan's Council of Agriculture took aggressive action: it publicly refuted the accusation and stated it intended to apprehend the user who spread the rumor under the Social Order Maintenance Act.<sup>198</sup> The anti-DPP Facebook fan page *Kaobei DPP* (靠北民進黨) and other Taiwanese fan pages deleted posts about the story, but PRC content farms continued to share similar narratives online about DPP mismanagement of Taiwanese agriculture.<sup>199</sup>

In a separate agricultural case of mis- or disinformation in April 2019, Taiwan's National Communications Commission fined Want Want's allegedly pro-Beijing station CTiTV TWD \$1 million (USD \$33,000) under the Satellite Broadcasting Act "for failing to verify information" on agricultural goods before airing it during a political talk show.<sup>200</sup> The show aired a pomelo farmer who said pomelo prices had dropped so low that farmers dumped two million tons of pomelos into the Zengwen Reservoir in southern Taiwan.<sup>201</sup> The report had aired in March 2019, days before an important by-

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193. See William Kung et al., *Uncovering the Money and China Factor Behind "Mission" – Taiwan's Most Controversial Content Farm*, TAIWAN GAZETTE (July 24, 2020), <https://www.taiwangazette.org/news/2020/7/22/uncovering-the-money-and-china-factor-behind-mission-taiwans-biggest-content-farm> [https://perma.cc/W5B2-57P9].

194. See Appendix D.

195. I-fan Lin, *Made-in-China Fake News Overwhelms Taiwan*, STOPFAKE (Dec. 14, 2018, 11:39AM), [www.stopfake.org/en/made-in-china-fake-news-overwhelms-taiwan](http://www.stopfake.org/en/made-in-china-fake-news-overwhelms-taiwan) [https://perma.cc/JTC9-ZRV3]; see also CASEY CORCORAN ET AL., *DISINFORMATION THREAT WATCH: THE DISINFORMATION LANDSCAPE IN EAST ASIA AND IMPLICATIONS FOR US POLICY* 20 (2019).

196. See Lin, *supra* note 195; see also Xu Wen, *the King of Fruits as Pineapple. Again One Cent Without Buyers, Dumped Into River Dam in Large Quantity* (徐聞, 水果之王菠蘿, 又是便宜1毛錢無人問津, 大量倒入水庫中), DAILY HEADLINES (May 18, 2018), <http://kknews.cc/zh-tw/agriculture/61abpkkm.html> [https://perma.cc/RJ7B-FB8N].

197. Lin Weifeng, *Farmers Go to the House of Representatives to Protest the Collapse of Pineapple Prices* (農民赴政院抗議鳳梨價格崩盤 民進黨: 越喊價格越低, 應適可而止-風傳媒), STORM MEDIA (July 4, 2018, 02:09PM), [www.storm.mg/article/458087](http://www.storm.mg/article/458087) [https://perma.cc/DA56-8WT9].

198. See Kung et al., *supra* note 193.

199. See *id.*

200. Rickards, *supra* note 181.

201. Keoni Everington, *CTi News Fined NT\$1 Million for Fake News about Farmers Dumping Pomelos*, TAIWAN NEWS (Apr. 10, 2019, 4:27PM), [www.taiwannews.com.tw/en/news/3677324](http://www.taiwannews.com.tw/en/news/3677324) [https://perma.cc/85XE-BCQY].

election challenging the DPP incumbent.<sup>202</sup> Reporters Without Borders noted that the chairman of Want Want China Times Media Group, which owns CTiTV, “has never hidden his sympathies with Beijing or his desire to change the editorial line of the media outlets he bought.”<sup>203</sup>

Another recent amendment to counter disinformation is to the Disaster Prevention and Protection Act,<sup>204</sup> which stipulates that “disseminating false news about a disaster that causes grievous harm to others is punishable by up to 10 years’ imprisonment.”<sup>205</sup> The impetus for this amendment was a tragedy surrounding the 2018 Typhoon Jebi in Osaka. Rush Doshi in *Foreign Affairs* describes how “Chinese state media and social media accounts spread a false story that Taiwan had failed to evacuate citizens trapped in Japan following a typhoon while China mounted a robust effort.”<sup>206</sup> According to the narrative, the PRC Consulate-General sent a shuttle bus to the Osaka airport to evacuate “Chinese,” including some Taiwanese citizens, stranded by the typhoon. Users on the Taiwanese social media platform PTT first posted the story, which then spread to Facebook, then to mainland PRC outlets Xinhua and Guancha Syndicate, and finally to traditional Taiwanese media.<sup>207</sup> As scornful Taiwanese citizens lambasted the Taipei Economic and Cultural Office—Taiwan’s consulate—in Osaka for malfeasance in the “failed” rescue operations, the shamed Taiwanese official in charge, Su Chii-Cheng, killed himself.<sup>208</sup> Su’s suicide note said he was troubled by the “news” surrounding the typhoon response; after Su’s death, Japanese airport authorities proved the PRC shuttle bus fable never actually happened.<sup>209</sup>

Telltale signs indicate that the disinformation around Typhoon Jebi came from the PRC. Japanese reporters confirmed that PRC state-run media first reported the false information about the typhoon.<sup>210</sup> Chinese media amplified the story online with doctored and misleading images,<sup>211</sup> before internet

202. Nick Aspinwall, *Taiwan’s War on Fake News is Hitting the Wrong Targets*, FOR. POL’Y (Jan. 10, 2020, 11:08AM), <http://foreignpolicy.com/2020/01/10/taiwan-election-tsai-disinformation-china-war-fake-news-hitting-wrong-targets/> [https://perma.cc/H4ZE-CAZ7].

203. Everington, *supra* note 201.

204. See ADMIN. LAW, DISASTER PREVENTION AND PROTECTION ACT art. 41 (Republic of China).

205. Rickards, *supra* note 181.

206. Doshi, *supra* note 156.

207. *Id.*; Sean Lin, *Lawmakers Weigh in on Fake News, Diplomat’s Suicide*, TAIPEI TIMES (Sept. 19, 2018), <http://www.taipeitimes.com/News/taiwan/archives/2018/09/19/2003700718> [https://perma.cc/4ZWW-HCY6].

208. Emily Feng, *Taiwan Gets Tough on Disinformation Suspected from China Ahead of Elections*, NPR (Dec. 6, 2019), [www.npr.org/2019/12/06/784191852/taiwan-gets-tough-on-disinformation-suspected-from-china-ahead-of-elections](http://www.npr.org/2019/12/06/784191852/taiwan-gets-tough-on-disinformation-suspected-from-china-ahead-of-elections) [https://perma.cc/MKY8-EUTC].

209. Lin, *supra* note 207.

210. Liu Yenfu, *Why Taiwanese Diplomats in Osaka Chose Death* (大阪駐在の台湾外交官はなぜ死を選んだのか), TOYO KEIZAI (Sept. 19, 2018).

211. Wang Kerong, *Drowning Like This, I Did Not Expect That the Chinese Consulate Came to Pick up People! Taiwan Compatriots Ask . . .* (淹成这样, 没想到, 中国领事馆来接人了! 台湾同胞问。), GUANCHA (Sept. 5, 2018), [www.guancha.cn/international/2018\\_09\\_05\\_470949.shtml](http://www.guancha.cn/international/2018_09_05_470949.shtml) [https://perma.cc/WJ29-HR66].

celebrities in Taiwan further spread the news.<sup>212</sup> A follow-up story in the Chinese press featured a photo of the ROC Ambassador to Japan, Frank Hsieh, with a doctored news banner reading, “Even if all staff members in the Osaka office die, I will not resign.”<sup>213</sup> The fake chyron was written with a font found only in the Simplified Chinese version of Microsoft Word, strongly suggesting a mainland origin.<sup>214</sup> The Taipei District Prosecutor’s Office indicted two individuals in Taiwan—one with alleged links to the DPP—for spreading the false information on PTT that led to Su’s suicide.<sup>215</sup>

Taiwan’s response to fake news requires balancing social and state interests, as routine government sanctions against “fake news” can cause a chilling effect for journalists. “While fake news represents a threat to democracy, so would excessive controls on freedom of expression and freedom of the press in an effort to crack down on disinformation,” writes Jane Rickards for the American Chamber of Commerce in Taipei.<sup>216</sup> Moreover, the above statutory amendments and fight to counter disinformation have opened the DPP up to criticism for suppressing free speech. After the ROC government decided in December 2018 to take aggressive enforcement action against disinformation, authorities prosecuted more than 110 people—largely under the Social Order Maintenance Act—for spreading false information by July 2019 alone.<sup>217</sup> The government fined one 70-year-old woman in New Taipei City TWD \$30,000 (USD \$1,000) for spreading a false story on the LINE app about President Tsai giving TWD \$4.5 billion (USD \$150 million) to Haiti but refusing to give then-mayor Han Kuo-yu (KMT) adequate funds to combat dengue fever.<sup>218</sup> ROC government initiatives (largely DPP-led) for a “disinformation-free media” risk stifling the legitimate speech of domestic political opponents, that is, the KMT.<sup>219</sup> The next section further explores this partisan fight.

### C. *Taiwan’s Anti-Infiltration Act*

On December 31, 2019, Taiwan’s legislature passed the Anti-Infiltration Act (反滲透法) during its last legislative session of the year.<sup>220</sup> The bill

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212. Guo Kuangchao, *Rude and Discriminatory Treatment in the Representative Office in Japan* (駐日代表處粗魯無差別待遇 朱學恒讚謝長廷: 放心勿), CHINA TIMES (Sept. 7, 2018, 11:08AM), [www.chinatimes.com/realtimenews/20180907001922-260407?chdtv](http://www.chinatimes.com/realtimenews/20180907001922-260407?chdtv) [https://perma.cc/M278-AVTE].

213. Lin, *supra* note 195; see also CORCORAN ET AL., *supra* note 195, at 8–9.

214. See *id.*

215. Keoni Everington, *Slow Yang Charged with Spurring Suicide of Taiwanese Diplomat in Japan with Fake News*, TAIWAN NEWS (Dec. 2, 2019), <https://www.taiwannews.com.tw/en/news/3828724> [https://perma.cc/7HFT-KB8N].

216. Rickards, *supra* note 181.

217. See Chung, *supra* note 140.

218. See *id.*

219. See Aspinwall, *supra* note 202.

220. Lawrence Chung, *Taiwan’s Anti-Infiltration Bill Is Passed as Opposition Lawmakers Protest*, S. CHINA MORNING POST (Dec. 31, 2019, 10:19PM), <https://www.scmp.com/news/china/politics/article/3044145/taiwans-anti-infiltration-bill-passed-opposition-lawmakers> [https://perma.cc/XP54-3XHX].

passed along party lines with unanimous DPP support and no votes against; KMT and PRC-friendly People's First Party lawmakers protested the bill as "witch-hunt legislation" and walked out before the vote.<sup>221</sup> The legislation criminalizes political activities that are funded or otherwise supported by "hostile external forces"—language directed at PRC influence operations.<sup>222</sup> The law forbids the receipt of funding, instructions, or donations from these "external forces" to mobilize public rallies for election campaign activities, lobby government officials, or disrupt social order; maximum penalties include five years in prison and a fine of TWD \$10 million (USD \$333,000).<sup>223</sup> In response to PRC criticism of the legislation, President Tsai used a Chinese idiom to tell the CCP that only the CCP could undo the legislation by no longer interfering in Taiwan.<sup>224</sup>

The Anti-Infiltration Act demonstrates the domestic tension when a democracy seeks to counter foreign influence. With Taiwan's election on the near horizon, the Tsai administration plausibly had to act quickly to safeguard its democratic processes, even if the bill would only have a chilling effect on the election less than two weeks later. The final session of 2019 could have been the last opportunity for the DPP to hold a legislative majority able to pass the bill. If the PRC had indeed corrupted other political entities, the legislation would help protect Taiwan's democracy before corrupted parties increased their own legislative power. Original proposals to counter PRC interference included a Taiwanese version of the U.S. Foreign Agents Registration Act ("FARA"); the thought was disclosure of foreign ties—rather than prohibition—could circumvent hidden PRC influence agents.<sup>225</sup> However, the sweeping provisions in FARA were cause for concern in Taiwan,<sup>226</sup> flaws noted by American academics as susceptible to political abuse.<sup>227</sup> The Anti-Infiltration Act was supposed to be the less extreme version of FARA by curtailing PRC interference, while not outing all Beijing-funded individuals in Taiwan as CCP "foreign agents." However, the Act still became extremely contentious.<sup>228</sup> KMT lawmakers por-

221. *Id.*

222. *Id.*

223. *Id.*

224. President Tsai said, "解鈴還須繫鈴人," an idiom that translates to "untying the bell requires the person who tied it," that is, whoever started the trouble should end it. Su & Hetherington, *supra* note 91.

225. See Kitty Wang, *Mass Protest in Taiwan Against Beijing Interference*, NTD NEWS (June 24, 2019), [www.ntd.com/mass-protest-in-taiwan-against-beijing-interference\\_348139.html](http://www.ntd.com/mass-protest-in-taiwan-against-beijing-interference_348139.html) [https://perma.cc/4QQG-KP3J]; interview with Su Yen-tu, *supra* note 158 (noting that Taiwan drew from both the U.S. FARA and Australian Foreign Influence Transparency Scheme during legislative drafting).

226. Interview with Su Yen-tu, *supra* note 158.

227. See, e.g., Nick Robinson, "Foreign Agents" in an Interconnected World: FARA and the Weaponization of Transparency, 69 DUKE L.J. 1075 (2020) (arguing "that using FARA to target disinformation is unlikely to be effective and presents a high risk of politicized abuse"); Bruce D. Brown, *Alien Donors: The Participation of Non-Citizens in the U.S. Campaign Finance System*, 15 YALE L. & POL'Y REV. 503, 510 (1996) (asserting that FARA represents a protective impulse "to limit or otherwise control participation by noncitizens in our own marketplace of ideas").

228. Interview with Su Yen-tu, *supra* note 158.

trayed the bill as an effort by the Tsai administration to stifle dissent and tarnish her political rivals right before the 2020 election.<sup>229</sup> “What should have been a non-partisan issue was very partisan for us in Taiwan,” says Professor Su Yen-tu.<sup>230</sup> Since passing, the law’s full effect remains uncertain.

The Anti-Infiltration Act was highly controversial outside the legislature and in Taiwan’s academic circles for its potential to encroach on democratic freedoms. The Act—as well as Taiwan’s libel laws and “fake news” amendments—highlights the danger of democracies responding to authoritarian disinformation in a draconian manner. Professor Su says that Taipei bureaucrats largely wrote the Anti-Infiltration Act in haste, with little-to-no input from legal academics.<sup>231</sup> The DPP pushed the Act through the legislature in 34 days without committee reviews or a public comment period.<sup>232</sup> As a result, the law might infringe freedom of speech, and its constitutionality is open to question.<sup>233</sup> Professor Su adds that the law is more of a “gesture” and not even a “Band-Aid solution” in preventing PRC interference.<sup>234</sup> Worse, he argues that the law could impede Taiwan from what the country “really wants to achieve—to protect democracy.”<sup>235</sup>

The Act itself sparked further PRC disinformation and a response by the Taiwanese government to educate the public on the law’s purpose. The *Global Times* published an article purportedly quoting Taiwanese students studying in the PRC who were concerned about the impact of the Act on their scholarship funding.<sup>236</sup> The spokesman for the PRC Taiwan Affairs Office asserted that the Act was to protect the DPP, rather than Taiwan.<sup>237</sup> *Global Times* cited the Taiwan Affairs Office spokesman as saying, “Those targeted by the new law include [ ] any political party, organization or individual that holds a position contradictory to the DPP, media that criticizes the DPP, [and] Taiwan people who come to the Chinese mainland for education or work.”<sup>238</sup> In response, as the law was going into effect and rumors spread about the impact on cross-strait ties, Taiwanese Premier Su Tseng-cheng posted a meme on his Facebook page about the law’s purpose.<sup>239</sup> The

229. Chung, *supra* note 220.

230. Interview with Su Yen-tu, *supra* note 158.

231. *Id.*

232. See Chiu-Ti Jansen, *Taiwan’s New Anti-Infiltration Law Seeks to Curb Chinese Communist Influence, but It May End up Hurting Democracy*, S. CHINA MORNING POST (Jan. 3, 2020, 9:00AM), <https://www.scmp.com/comment/opinion/article/3044317/taiwans-new-anti-infiltration-law-seeks-curb-chinese-communist> [<https://perma.cc/38TT-WSFL>].

233. Interview with Su Yen-tu, *supra* note 158.

234. *Id.*

235. *Id.*

236. Yang Sheng, *Mainland Should Counter “Anti-Infiltration Bill”*: *Taiwan Entrepreneur*, GLOB. TIMES (Dec. 31, 2019, 6:45PM), [www.globaltimes.cn/content/1175319.shtml](http://www.globaltimes.cn/content/1175319.shtml) [<https://perma.cc/8FVD-KYC3>].

237. *See id.*

238. *Id.*

239. See Appendix E; Tseng-chang Su, *Normal Exchanges Will Not Stop (正常交流不會停)*, FACEBOOK (Jan. 15, 2020), [www.facebook.com/gogogoeball/photos/a.186955736269/10157048755026270](https://www.facebook.com/gogogoeball/photos/a.186955736269/10157048755026270) [<https://perma.cc/DM5N-WDQR>]; see also AARON HUANG, *COMBATTING AND DEFEATING CHINESE PROPAGANDA AND DISINFORMATION* 31–32 (2020).

image depicts Premier Su in a jovial manner with his hand gesturing “stop” and lists three actions the law bans: inciting riots, influencing elections, and illegal donations.<sup>240</sup> The text included in his post reads, “Whether it is to visit relatives in China, attend a performance, do business, study, buy incense, or sell fruit, these normal exchanges [with the PRC] will not be affected. If you see these rumors on the Internet, please also pass this picture to them.”<sup>241</sup>

Although the legal parameters remain ambiguous for how the ROC government will determine intent for adversarial “interference,” Premier Su’s use of a meme encapsulates the government’s public relations approach to countering PRC disinformation. Digital Minister Tang strongly advocates for the power of humor to dispel falsehoods. Minister Tang states, “The more humorous or fun [the] meme [ ] is, the more room for real discussion around [the issue].”<sup>242</sup> Minister Tang has become famous for the tactic she calls “humor over rumor.”<sup>243</sup> An amusing meme allows the government both to neuter fear-producing disinformation and increase the dissemination of the truthful message, as social-media users will be more inclined to share accurate information if it is in a meme form and not a standard press release. These strategies and Taiwan’s success during the 2020 elections present a powerful model for debunking foreign disinformation in an open and digitally connected society, such as the United States.

## CONCLUSION

The research underlying this Note exhibits the monumental challenge Taiwan faces from PRC disinformation. However, the research also demonstrates strong reasons to believe Taiwan can weather the onslaught. Through a multitude of mechanisms—nonprofit factcheckers, media literacy campaigns, tech company compliance, and aggressive legal measures—Taiwan offers a robust response to disinformation. Taiwan also serves as a valuable case study for democracies around that world that are experiencing foreign interference and disinformation campaigns from authoritarian regimes.

The propaganda war between the United States and China over the COVID-19 narrative is only one recent example highlighting the dangers of disinformation. In early January 2020, rumors circulated on Chinese social media that the U.S. Army bioengineered COVID-19 and intentionally planted the coronavirus in Wuhan during the Military World Games in

240. See Appendix E (“煽動暴動, 影響選舉, 違法獻金”).

241. See Su, *supra* note 239.

(“無論是去中國探親、表演、經商、求學、進香、賣水果, 這些正常的交流, 都不會受到影響, 若您在網路上看到這些謠言, 也請轉傳這張圖給他們看。”)

242. Interview with Audrey Tang, *supra* note 93.

243. See, e.g., Anne Quito, *Taiwan Is Using Humor as a Tool Against Coronavirus Hoaxes*, QUARTZ (June 5, 2020), <https://qz.com/1863931/taiwan-is-using-humor-to-quash-coronavirus-fake-news/> [https://perma.cc/E7P8-TL63].



October 2019; a D.C.-based conspiracy theorist first concocted the story without any evidence.<sup>244</sup> Another theory circulated from the United States in February, after U.S. Senator Tom Cotton surmised that the virus came from a PRC infectious disease research lab in Wuhan.<sup>245</sup> PRC state-run media dismissed the lab theory as a “viral myth.”<sup>246</sup> Yet, despite expansive censorship of COVID-19 discussions on Chinese social media platforms,<sup>247</sup> the PRC government not only allowed the U.S. Army conspiracy rumor to spread but actively promoted it on WeChat, Weibo, and state-run television.<sup>248</sup> Chinese Foreign Ministry spokesman Zhao Lijian then endorsed the U.S. Army conspiracy on Twitter—at odds with the Chinese Ambassador Cui Tiankai<sup>249</sup>—in an apparently coordinated CCP campaign to muddy the waters in the United States while supporting the conspiracy as truth within the PRC.<sup>250</sup> In a vindictive response to Zhao’s conspiratorial tweet,<sup>251</sup> President Donald Trump called COVID-19 the “Chinese Virus” on Twitter.<sup>252</sup> The conspiracy of the U.S. Army bioengineering COVID-19 and intentionally spreading it in Wuhan is now a leading theory of the virus’ origins in mainland China.<sup>253</sup>

The success of COVID-19 disinformation within the PRC serves as a vivid illustration of information control inside an authoritarian regime, in sharp contrast with disinformation in an open society like Taiwan. As put by Yaqui Wang, a China researcher at Human Rights Watch, “When the government spreads disinformation about other countries and blocks

244. David Gilbert, *The Chinese Government Has Convinced its Citizens that the U.S. Army Brought Coronavirus to Wuhan*, VICE NEWS (Apr. 6, 2020, 12:41PM), [www.vice.com/en\\_us/article/wxe9yq/the-chinese-government-has-convinced-its-citizens-that-the-us-army-brought-coronavirus-to-wuhan](http://www.vice.com/en_us/article/wxe9yq/the-chinese-government-has-convinced-its-citizens-that-the-us-army-brought-coronavirus-to-wuhan) [https://perma.cc/U7QK-8CFH].

245. See Tara Subramaniam, *Fact-Checking Claims about the Coronavirus*, CNN (Feb. 18, 2020, 12:41PM), <http://edition.cnn.com/2020/02/18/politics/coronavirus-cotton-fact-check/index.html> [https://perma.cc/5U6B-JLS8]; Benjamin Fearnow, *As U.S. Investigates Wuhan Lab Leak Theory, Senior China Researcher Says Allegations Are “Malicious, Impossible,”* NEWSWEEK (Apr. 18, 2020, 9:10AM), [www.newsweek.com/us-investigates-wuhan-lab-leak-senior-china-researcher-says-allegations-are-malicious-1498772](http://www.newsweek.com/us-investigates-wuhan-lab-leak-senior-china-researcher-says-allegations-are-malicious-1498772) [https://perma.cc/K9EW-KRVF].

246. See Vanessa Molter & Graham Webster, *Coronavirus Conspiracy Claims: What’s Behind a Chinese Diplomat’s COVID-19 Misdirection*, STAN. U. FREEMAN SPOGLI INST. FOR INT’L STUD. (Mar. 31, 2020), <http://cyber.fsi.stanford.edu/io/news/china-covid19-origin-narrative> [https://perma.cc/MKY5-WF2H].

247. See Lotus Ruan et al., *Censored Contagion: How Information on the Coronavirus Is Managed on Chinese Social Media*, CITIZEN LAB (Mar. 3, 2020), <http://citizenlab.ca/2020/03/censored-contagion-how-information-on-the-coronavirus-is-managed-on-chinese-social-media/> [https://perma.cc/6JPU-8EV5] (documenting censored COVID-19 terms and citing 254 cases of PRC citizens sanctioned for “spreading rumours” between January 22 and 28, 2020).

248. See, e.g., Gilbert, *supra* note 244; Molter & Webster, *supra* note 246.

249. Jonathan Swan & Bethany Allen-Ebrahimian, *Top Chinese Official Disowns U.S. Military Lab Coronavirus Conspiracy*, AXIOS (Mar. 22, 2020), [www.axios.com/china-coronavirus-ambassador-cui-tiankai-1b0404e8-026d-4b7d-8290-98076f95d14.html](http://www.axios.com/china-coronavirus-ambassador-cui-tiankai-1b0404e8-026d-4b7d-8290-98076f95d14.html) [https://perma.cc/8698-34CB].

250. Molter & Webster, *supra* note 246.

251. *Id.*

252. See Donald J. Trump (@realDonaldTrump), TWITTER (Mar. 16, 2020, 6:51 PM) (“The United States Will Be Powerfully Supporting Those Industries, like Airlines and Others, That Are Particularly Affected by the Chinese Virus. We Will Be Stronger than Ever before!”).

253. Gilbert, *supra* note 244.

counter-narratives, it is much easier for people to buy into government's narratives because you just don't have access to alternative sources of information."<sup>254</sup> As it did during its 2020 elections, the ROC government and civil society have been using facts and counter-narratives to stop disinformation about COVID-19. The ROC government—predominantly under Digital Minister Tang—has partnered with citizen developers to track confirmed COVID-19 cases and ration face masks.<sup>255</sup> Despite its proximity to the PRC and population of 23.8 million, Taiwan has been able to prevent panic over COVID-19 and remarkably kept its total COVID-19 cases below 10,000 people.<sup>256</sup> Meanwhile, in addition to the U.S. Army conspiracy, the PRC successfully increased panic about COVID-19 in the United States. U.S. intelligence agencies have assessed that Chinese operatives sent false information to Americans via text messages and social media in March 2020 about an impending “national lockdown” and National Guard deployments, urging people to “stock up” on supplies.<sup>257</sup> The U.S. National Security Council announced on Twitter that the text messages were “FAKE,”<sup>258</sup> but did little else publicly to debunk the disinformation or inform the American people about its origins<sup>259</sup>—a meager response compared to the ROC government's counter-disinformation efforts.

For all its successes, Taiwan's 2020 election does illustrate that there is an acute danger of responding to authoritarianism like an authoritarian. Democratic societies must avoid this trap. In defining the scope of intervention by courts, constitutional law scholar John Hart Ely offered the solution of “representation reinforcement” for judicial review: he argued courts should maintain political accountability in their review of laws by only striking down laws that (a) impair “discrete and insular minorities” who lack the ability to form a political majority or (b) create such systemic defects in the electoral process that only the courts can resolve them.<sup>260</sup> Is such an approach feasible in the face of massive disinformation meant to deceive the majority and the need for aggressive legislation to protect democratic discourse? On the other hand, what is the cost to free speech if laws such as the Anti-Infiltration Act cause Taiwanese citizens—even through misconcep-

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254. *Id.*

255. See Antonia Timmerman, *Meet the Trans Woman Behind Taiwan's Successful Grassroots Coronavirus Initiatives*, VICE NEWS (Mar. 30, 2020, 5:35AM), [www.vice.com/en\\_asia/article/jge9jx/taiwan-trans-woman-minister-audrey-tang-coronavirus-tech](http://www.vice.com/en_asia/article/jge9jx/taiwan-trans-woman-minister-audrey-tang-coronavirus-tech) [https://perma.cc/RZC3-2J3W].

256. See *Homepage*, TAIWAN CTRS. FOR DISEASE CONTROL (衛生福利部 疾病管制署), <https://www.cdc.gov.tw/> [https://perma.cc/RS44-FYZZ].

257. See Edward Wong et al., *Chinese Agents Spread Messages That Sowed Virus Panic in U.S.*, *Officials Say*, N.Y. TIMES (Apr. 22, 2020), [www.nytimes.com/2020/04/22/us/politics/coronavirus-china-disinformation.html](http://www.nytimes.com/2020/04/22/us/politics/coronavirus-china-disinformation.html) [https://perma.cc/P6L9-BP3V].

258. See NSC 45 Archived (@WHNSC45), TWITTER (Mar. 15, 2020, 11:48 PM) (“Text message rumors of a national #quarantine are FAKE. There is no national lockdown. @CDCgov has and will continue to post the latest guidance on #COVID19. #coronavirus”).

259. See Wong, *supra* note 257.

260. See John H. Ely, *Toward a Representation-reinforcing Mode of Judicial Review*, 37 MD. L. REV. 451 (1978).

tions—to be afraid to criticize their own government or to commend the PRC? Taiwan’s 2020 elections offer many solutions through its successful fight against foreign influence operations, primarily: a whole-of-society approach with factchecking by civil society organizations, government-sponsored education for media literacy, and a technology sector actively stopping “coordinated inauthentic behavior” on social media. Libel laws, “fake news” regulations, and legislation criminalizing foreign election interference present further means to counter disinformation through lawfare. But questions about the most appropriate balance in each country will persist as democracies counter disinformation for the foreseeable future.

APPENDIX A. ROC PRESIDENT TSAI ING-WEN'S 2020 CAMPAIGN MATERIALS



Stickers from Tsai Ing-wen's DPP Headquarters in Taipei, Taiwan. Source: Photo by author.



*Screensbot from Tsai Ing-wen campaign advertisement.*

Source: “*Speak Loudly*” – *Ing-Wen’s 2020 Presidential Campaign CF* (《大聲說話》——2020小英總統競選CF), YOUTUBE (Jan. 5, 2020), <https://youtube/jqtpKLSukwk>.

APPENDIX B. TSAI-DPP RALLY ON EVE OF TAIWAN'S 2020 ELECTION





*Supporters of the Hong Kong protestors display flags at Tsai Ing-wen Pre-Election Rally in Taipei, Taiwan (January 10, 2020).*

Source: *Photos by author.*

APPENDIX C. FACT-CHECKING OF FAKE HONG KONG POSTER

### 網傳【死士招募令】破解

TG頻道內文章、色情圖

緊

sishizhaomuzu為漢字拼音，非粵語拼音

台灣事實查核中心  
Taiwan FactCheck Center

圖4：「死亡招募令」圖片破解／台灣事實查核中心製圖

Taiwan FactCheck Center debunks fake “bounty” poster about killing Hong Kong police officers and highlights its mainland China origins.

Source: {False} The Online Article Alleges: “Hong Kong Thugs Compensation Exposed: Kill the Police up to 20 Million!”?

【錯誤】網站文章指稱：「香港暴徒的酬勞曝光：『殺警』最高給），TAIWAN FACTCHECK CENTER (2000萬！) ? (Nov. 15, 2019), tfc-taiwan.org.tw/articles/1248.



APPENDIX D. TAIWAN FAKE NEWS EXAMPLES FROM 2018



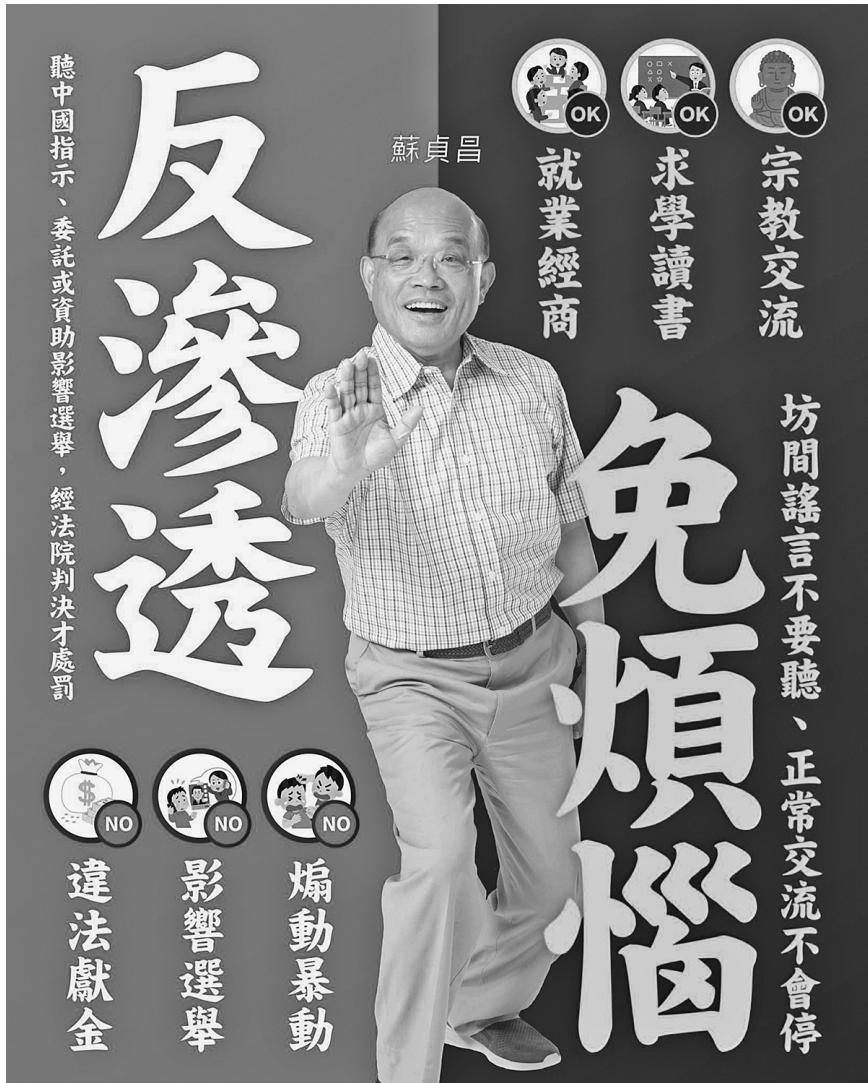
*Image that accompanied a message blaming the DPP for dropping pineapple sales. The photos were later proven to be taken in the PRC, not Taiwan.*



*Image of ROC Ambassador to Japan Frank Hsieh, September 2018, with doctored chyron reading, “Even if all staff members in the Osaka office die, I will not resign.”*

Source: I-fan Lin, *Made-in-China Fake News Overwhelms Taiwan*, STOPFAKE (Dec. 14, 2018), [www.stopfake.org/en/made-in-china-fake-news-overwhelms-taiwan/](http://www.stopfake.org/en/made-in-china-fake-news-overwhelms-taiwan/).

APPENDIX E. MEME FROM ROC PREMIER SU TSENG-CHANG'S FACEBOOK



ROC government meme seeks to educate the public about the scope of coverage under the 2019 Anti-Infiltration Act. The graphic reads that the law permits Chinese “religious exchanges, studying, and employment and business,” but bans “inciting riots, influencing election, and illegal donations.”

Source: Su Tseng-chang, *Normal Exchanges Will Not Stop* (正常交流不會停), FACEBOOK (Jan. 15, 2020), [www.facebook.com/gogo.goeball/photos/a.186955736269/10157048755026270](https://www.facebook.com/gogo.goeball/photos/a.186955736269/10157048755026270).

