



China's Anti-Secession Law: Much Ado About Something? by Ralph A. Cossa

It is not uncommon in America to condemn movies we haven't seen or criticize books we haven't read, based solely on their titles or our worst fears regarding their presumed or rumored contents. It seems our compatriots in Taiwan have adopted this same trait.

I'm talking, of course, about the critical reaction, in Taipei (and in some circles in Washington), to Beijing's proposed new Anti-Secession Law, which will be "debated" and inevitably passed by the soon to be convened Chinese National Peoples' Congress (NPC). While the text has yet to be seen – it may, in fact, still be a work in progress – this has not prevented many in both capitals from severely condemning the legislation.

It is difficult to be too critical of this tendency, having been guilty of it myself – during a recent trip to Beijing I found myself expressing concerns over the implications of the proposed new law, regardless of its contents. The big question is "why now?" At a time when there seems to finally be some modest progress in cross-Strait relations – the unprecedented direct flights between Taiwan and the Mainland during the Chinese New Year holiday period and the sending of two senior Chinese representatives to Taiwan for the memorial service for Koo Chen-fu, who conducted breakthrough cross-Strait dialogue a decade ago under the now disputed and frequently redefined "1992 consensus" – why does Beijing feel it necessary to pursue such potentially inflammatory legislation?

The simple (and largely unsatisfactory) answer seems to be that continuing deep distrust of Taiwan President Chen Shui-bian (always referred to by Beijing as the "so-called" president or more generically as the "Taiwan authorities") lies at the root of the legislation. It had its genesis in Chen's surprise re-election in March 2004 and received added impetus last fall when Beijing's experts – like most Taiwan-watchers, not to mention President Chen himself – were predicting victory for the ruling Democratic Progressive Party (DPP) ruling "pan-green" coalition in the December 2004 Legislative Yuan (LY) elections. By the time the outcome presented a more pleasant surprise (at least from Beijing's perspective), the legislation had already gained too much momentum to be abandoned. Besides, Beijing interlocutors argued, the results of the LY election, while admittedly making it harder for Chen to carry out his "splittist" agenda, were not likely to persuade him to alter his overall independence agenda. His tactics might change, but not his objective!

The main Chinese "concession" in response to the LY election outcome was to rename the bill: the "Unification Act" – a title which might imply an aggressive, impatient outlook – became anti-secession legislation aimed merely at preserving

the status quo. Since President Bush has repeatedly made it clear that the U.S. opposed any unilateral change in the status quo, this new legislation "puts Beijing's 'One China' principle squarely in line with Washington's 'One China' policy," it was argued. It also "underscores China's respect for the rule of law" – another constant Washington admonition. While neither of these arguments will prove particularly convincing to Beijing's critics, they do represent a growing sophistication (and willingness to play the Bush administration's logic back at Washington).

The counter-arguments – that the legislation will incite and empower Beijing's critics in Washington and Taipei and could breathe new life into Chen's presumed "independence agenda" by handing him an excuse for counter legislation or even another referendum – failed to impress Chinese officials, who sent a clear signal about their ambiguous legislation: if you want to make suggestions as to how we can word this legislation more effectively (or make it less inflammatory), we are all ears; if you are trying to talk us out of introducing the new law, "save your breath!" Once we actually saw the legislation – and it would be made public immediately after it was approved by the NPC – we would see that all the furor had been "much ado about nothing."

Perhaps! But regardless of its content, the Anti-Secession Law presents a target of opportunity to President Chen that he will find hard to resist shooting at. If Chen sees his second term legacy as building a bridge across the Strait – something Beijing now talks about doing literally but seems hesitant to undertake figuratively – he might indeed see this legislation as the "opportunity for dialogue" that Beijing claims that it will represent: by laying out what is not allowed (i.e., independence), the Chinese logic goes, the legislation will open the door for serious dialogue about improving cross-Strait relations as long as this "red line" is not crossed. If President Chen is more intent on solidifying Taiwan's separation from the Mainland, as many suspect, he will approach the legislation like the trial lawyer he was, exploiting loopholes and finding ways of turning even the most passive of statements into justification in pursuit of this agenda.

Presuming that Beijing proceeds with this legislation – and, regrettably, I see no reason to presume otherwise – the ball, like it or not, will be in President Chen's court once again. He would be well-served to wait until seeing the legislation before locking himself into any course of action, as he currently seems to be doing: earlier threats to introduce counter-legislation or hold an anti-annexation referendum are now wisely being described as "options" as opposed to intended actions by the president's office, even if it certain coalition members are demanding harsher steps.

Locking Taipei into a response in advance could also create new divisions between Washington and Taipei if the

Bush administration's assessment of the legislation coincides with China's "much ado about nothing" assessment. After all, the legislation "merely codifies current PRC policy," Beijing asserts, while supporting President Bush's efforts to "preserve the status quo."

In my own discussions with senior Taiwan officials, I was reminded that Washington had described the Chinese legislation as "unnecessary" and "bad timing." While this is true, the exact same reaction was heard from Washington last year in response to President Chen's plans to hold a defensive referendum in conjunction with Taiwan's presidential election. Washington's protestations notwithstanding, political imperatives in Taipei lead Chen to conclude that a referendum was politically necessary (even if geopolitically unhelpful or unwise). Beijing has apparently reached the same conclusion this year.

Last year, the Bush administration waited to see the wording of the referendum before reacting (or overreacting), Chinese protestations notwithstanding. It appears intent, wisely in my view, on doing the same this time. One hopes that Taiwan, and its friends in the U.S. Congress, will do the same. It would be much wiser, in the long run, to examine how the legislation, once revealed, might be turned to Taipei's geopolitical advantage, rather than to merely exploit it for domestic political purposes, as tempting as that course of action might be.

Ralph A. Cossa is president of the Pacific Forum CSIS. He can be reached at pacforum@hawaii.rr.com