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Mr. Chairman, Mr. Ranking Member, and distinguished Members of this Committee, thank you for the opportunity to submit this testimony on the People’s Republic of China’s (“PRC”) use of lawfare against Taiwan.

I am a scholar of constitutional and international law, with a particular focus on the interaction of U.S. law, foreign law, and international legal institutions. In recent years, I have written and researched about how the Chinese party-state uses law as an instrument of political and strategic power.¹ This testimony builds on that work, including my earlier testimony before the House Judiciary Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet and the Congressional-Executive Commission on China, and applies a similar analytical framework to the PRC’s lawfare campaign against Taiwan.²

I. Lawfare and Asymmetric Legal Coercion

Lawfare is the systematic use of legal rules, legal institutions, and legal processes to achieve strategic or political objectives.³ While the term originally emerged in the U.S. with debates over the use of litigation against U.S. counterterrorism operations,⁴ it has

¹ Julian G. Ku, *China’s Successful Foray Into Asymmetric Lawfare*, LAWFARE (Sept. 29, 2021), <https://www.lawfaremedia.org/article/chinas-successful-foray-asymmetric-lawfare>

² Julian G. Ku, *Why the U.S. Should Harden Its Defenses Against China’s Asymmetric Lawfare*: Written Statement of Julian G. Ku, Maurice A. Deane Distinguished Professor of Constitutional Law, Hofstra University, before the H. Comm. on the Judiciary, Subcomm. on Courts, Intellectual Property, Artificial Intelligence, and the Internet (July 22, 2025), available at <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/ku-testimony.pdf>; Julian G. Ku, *The Chinese Party-State’s Use of Asymmetric Lawfare to Suppress History*: Testimony Before the Cong.–Exec. Comm’n on China (Dec. 5, 2024) (statement of Julian G. Ku), in *The Preservation of Memory: Combating the CCP’s Historical Revisionism and Erasure of Culture*, Joint Hearing Before the Cong.–Exec. Comm’n on China, 118th Cong. (Dec. 5, 2024), available at <https://www.cecc.gov/sites/evo-subsites/www.cecc.gov/files/evo-media-document/The%20Preservation%20of%20Memory%20Combating%20the%20CCPs%20Historical%20Revisionism%20and%20Erasure%20of%20Culture%20-%20Ku%20Testimony.pdf>.

³ See Jill I. Goldenziel, *Law as a Battlefield: The U.S., China, and the Global Escalation of Lawfare*, 106 CORNELL L. REV. 1085, 1097 (2021).

⁴ See Charles J. Dunlap, Jr., *Law and Military Interventions: Preserving Humanitarian Values in 21ST CENTURY CONFLICTS* 4 (2001).

also long been incorporated into Chinese military doctrine. For instance, the People's Liberation Army has identified legal warfare (法律战), alongside public opinion warfare and psychological warfare, as a core element of its "Three Warfares" framework.⁵

One key feature of the PRC's lawfare approach is asymmetry. The Chinese party-state can exploit the openness, procedural fairness, and institutional independence of foreign legal systems, as well as the manipulability of the international legal system, while remaining largely insulated from reciprocal legal pressure within its own system. PRC courts are not meaningfully independent in politically sensitive cases, and many of the legal tactics the party-state's proxies employ abroad—such as expansive discovery and third-party litigation funding—are unavailable or tightly constrained within China.⁶ This asymmetry allows the PRC to impose legal, financial, and reputational costs on its targets at relatively low risk to itself.

II. Why Lawfare and Other Non-Military Pressure Against Taiwan Matters

Public debate in the U.S. over Taiwan naturally focuses on the risk of a military invasion. That risk is serious and must be deterred. But a single-minded focus on a possible military invasion can obscure how the PRC seeks to achieve its objectives through sustained non-military coercion through tactics like lawfare.

PRC military doctrine has not historically treated war and peace as binary conditions. Instead, it emphasizes continuous struggle across legal, political, economic, and psychological domains.⁷ Within this framework, lawfare is not merely preparatory to military action. It can also function as a substitute for it. If the PRC can constrain Taiwan's international participation, delegitimize its democratic institutions, intimidate its leadership and supporters, and deter foreign engagement through legal and quasi-legal means, it may be able to alter the status quo without crossing the threshold of armed conflict.

Ignoring these forms of pressure because they are not overtly military concedes to the PRC a domain of competition it can exploit, unopposed, to gain political and strategic dominance over Taiwan. For this reason, the U.S. government's policy of deterring PRC

⁵ Han Yanrong, "Legal Warfare: Military Legal Work's High Ground: An Interview with Chinese Politics and Law University Military Legal Research Center Special Researcher Xun Dandong," *LEGAL DAILY (PRC)*, February 12, 2006, cited in Dean Cheng, "Winning Without Fighting: Chinese Legal Warfare", *THE HERITAGE FOUNDATION* (May 21, 2012), <https://www.heritage.org/asia/report/winning-without-fighting-chinese-legal-warfare>.

⁶ Congressional-Executive Commission on China, *Judicial Independence in the PRC*, CECC, <https://www.cecc.gov/judicial-independence-in-the-prc>.

⁷ Edmund J. Burke, Kristen Guinness, Cortez A. Cooper III & Mark Cozad, *People's Liberation Army Operational Concepts*, (RAND Corp. Sept. 29, 2020), https://www.rand.org/content/dam/rand/pubs/research_reports/RRA300/RRA394-1/RAND_RRA394-1.pdf

coercion against Taiwan must include devoting meaningful diplomatic and political resources to combatting the PRC's lawfare activities against Taiwan.

III. International Law as a Tool of Coercion

A central component of PRC lawfare against Taiwan is the manipulation of international law and international institutions.

Most prominently, the PRC persistently mischaracterizes United Nations General Assembly Resolution 2758 as having resolved the question of Taiwan's sovereignty.⁸ In fact, as both houses of the U.S. Congress has recognized, Resolution 2758 addressed only the question of which government would represent "China" at the United Nations; it did not determine Taiwan's formal legal status.⁹ Nonetheless, over the past several decades, the PRC has successfully pressured UN bodies and affiliated organizations to adopt terminology and practices that treat Taiwan as a province of China, transforming a contested legal claim into an administrative norm.¹⁰

The PRC similarly asserts that its "One China Principle" constitutes a binding rule of international law, conflating diplomatic recognition practices with legal obligation. These claims are reinforced through repetition in international fora and through pressure on states and organizations that deviate from Beijing's preferred formulations.¹¹

The PRC also categorically rejects the applicability of self-determination to Taiwan, asserting that the people of Taiwan are not a "people" eligible to assert the right of self-determination under international law.¹² This position is advanced to foreclose debate rather than to reflect the complex and contested assessment of this doctrine of international law as applied to the residents of Taiwan.¹³

⁸ G.A. Res. 2758 (XXVI), U.N. Doc. A/RES/2758(XXVI) (Oct. 25, 1971).

⁹ See, e.g., S. Res. 86, 119th Cong. (2025); H. Res. 148, 119th Cong. (2025).

¹⁰ Jacques deLisle & Bonnie S. Glaser, *Why U.N. General Assembly Resolution 2758 Does Not Establish Beijing's "One China" Principle: A Legal Perspective* 6 (Apr. 2024) (describing UN actions to adopt China's interpretation), https://www.gmfus.org/sites/default/files/2024-04/GMF_UNGA%20Res.%202758_April%202024%20Report.pdf.

¹¹ CRS, *The U.S. One-China Policy and Taiwan* (updated Aug. 18, 2025) (noting the PRC's claim that its One China principle forms the basis of all diplomatic relations with Beijing and is a universal consensus), <https://www.congress.gov/crs-product/IF12503>.

¹² Xinhua News Agency, *台湾属于中国的史实和法理不容置疑* (Dec. 9, 2025) (reporting PRC government assertions that Taiwan has never been a separate sovereign and is not entitled to international law rights of self-determination), https://www.gov.cn/yaowen/liebiao/202512/content_7050786.htm

¹³ See, e.g., Lung-chu Chen, *Let the People of Taiwan Decide Taiwan's Future*, in *THE U.S.-TAIWAN-CHINA RELATIONSHIP IN INTERNATIONAL LAW AND POLICY* (2016); Steve Allen, *Statehood, Self-Determination and the 'Taiwan Question'*, in *9 ASIAN YEARBOOK OF INTERNATIONAL LAW* 191 (2000).

IV. Domestic PRC Law and Extraterritorial Claims

The Chinese party-state's often discretionary control over the domestic PRC judiciary plays an important role in Beijing's lawfare strategy. The 2005 Anti-Secession Law provides a standing statutory justification for the use of "non-peaceful means" against Taiwan under vague and discretionary conditions.¹⁶ Rather than constraining state action, the law functions as a legal narrative that normalizes coercion and the use of force against Taiwan.¹⁴

More recently, PRC authorities have issued judicial interpretations and policy documents expanding criminal liability for so-called "Taiwan independence" activities.¹⁵ These measures criminalize political advocacy, including speech and conduct occurring entirely outside the PRC, and explicitly assert extraterritorial jurisdiction.

PRC authorities have backed up these policy declaration with arrest warrants, wanted notices, and public sanctions against Taiwanese officials and individuals accused of supporting Taiwan independence, even though those individuals' conduct occurred wholly outside of PRC territory.¹⁶ The warrants not only target Taiwan government officials, such its Vice President, Minister of National Defense, and National Security Adviser, but they also target online influencers. These measures serve important lawfare functions by delegitimizing Taiwan's democratic leadership, intimidating civil society, and strengthening the preferred CCP narrative of the inevitability of PRC jurisdiction over Taiwan.

V. Implications for U.S. Citizens and Third States

¹⁴ See Bonny Lin & I-Chung Lai, *Employing "Non-Peaceful" Means Against Taiwan: The Implications of China's Anti-Secession Law* (CSIS China Power Project Report, Oct. 2024), https://csis-website-prod.s3.amazonaws.com/s3fs-public/2024-10/241015_Lin_Means_Taiwan.pdf

¹⁵ See Xinhua News Agency, "最高人民法院 最高人民检察院 公安部 国家安全部 司法部印发《关于依法惩治“台独”顽固分子分裂国家、煽动分裂国家犯罪的意见》的通知" [The Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security and the Ministry of Justice issued the "Opinions on Punishing Crimes of Separatism and Inciting Separatism by 'Taiwan Independence' Diehards in Accordance with Law"], PEOPLE'S DAILY ONLINE, (June 21, 2024), <https://politics.people.com.cn/n1/2024/0621/c1001-40261576.html>. For a detailed analysis of the provisions, see Raymond C-E Sung, *The Weaponization of Criminal Jurisdiction: The PRC's 22 Articles Criminalizing Advocacy for "Taiwan Independence"* at 64, in *Employing "Non-Peaceful" Means Against Taiwan: The Implications of China's Anti-Secession Law* (CSIS China Power Project eds., Oct. 2024).

¹⁶ See *China-Taiwan Weekly Update: PRC lists Taiwanese "independence diehards" on official pressure platforms*, Inst. for the Study of War (Aug. 9, 2024), <https://www.understandingwar.org/research/china-taiwan/china-taiwan-weekly-update-august-9-2024>; *Chinese Political Crackdown Expands: Reward and arrest notices issued for Taiwanese influencers accused of "separatism"*, *The Asia Review* (Nov. 2025), <https://theasiareview.com/china-taiwan-influencers-wanted-notices/>.

The logic of asymmetric lawfare means that these tactics need not stop at Taiwan. PRC legal pronouncements routinely target those who “collude with foreign forces,” language broad enough to encompass foreign nationals.

The PRC has already sanctioned U.S. citizens for speech and advocacy related to Hong Kong and Xinjiang.¹⁷ There is no legal barrier, under PRC law, to extending similar sanctions or criminal designations to U.S. individuals who advocate for Taiwan independence or enhanced U.S.–Taiwan relations. As leading Chinese law scholar Professor Donald Clarke has observed, “[I]t is hard to avoid the conclusion that anything the PRC authorities deem to be advocacy of Taiwan independence, undertaken by anyone anywhere on the planet, constitutes a criminal offense.”¹⁸

Even though these warrants are unenforceable in the U.S., such measures can impose reputational, professional, and economic costs that chill lawful activity. To give a simple example, my testimony here today objecting to the PRC’s interpretation of Taiwan’s international legal status could very well be treated as a violation of PRC criminal law subjecting me, a U.S. citizen, to sanctions or even criminal punishment by the PRC. Though unlikely, the mere threat of PRC legal action against foreign supporters of Taiwan will have a chilling effect across the U.S. academic, policy, and political information landscape.

VI. Policy Implications and Countermeasures

Effective deterrence must deny not only a military invasion, but coercive success below the threshold of armed conflict. This requires legal clarity and institutional resilience by both Taiwan and the United States.

The United States government should publicly affirm its longstanding position that Taiwan’s international legal status remains unsettled as a matter of international law, that UN Res. 2758 does not resolve questions of sovereignty, and that the U.N. and other international institutions should not refer to Taiwan as a “Province of China” for administrative or any other purpose. These statements reinforce the longstanding U.S. position against any use of force or coercion to resolve Taiwan’s legal status. Additionally, U.S. policy should reject cooperation with PRC law-enforcement or judicial actions that target Taiwan’s democratic governance, and, even more importantly, it

¹⁷ See, e.g., *How China Imposes Sanctions*, MERICS (2023) (noting that the majority of Chinese sanctions target U.S. individuals, groups, and companies in response to actions Beijing views as interference in its core interests), <https://merics.org/en/report/how-china-imposes-sanctions><https://apnews.com/article/89a7c78f16cadbc8ab43717a6f316b76>

¹⁸ See Donald C. Clarke, *China’s Anti-Secession Law: Background, Legal Significance, and Recent Developments*, in *Employing “Non-Peaceful” Means Against Taiwan: The Implications of China’s Anti-Secession Law* (Bonny Lin & I-Chung Lai eds., CSIS China Power Project 2024).

should actively pressure allies and partners around the world to reject cooperation with PRC law-enforcement. Finally, consistent with concerns raised in my prior testimony on asymmetric lawfare, Congress should enact legislation to ensure that PRC court judgments or legal actions forming part of a coercive political strategy are not recognized or enforced in any way by U.S. federal or state courts.¹⁹

VII. Conclusion

The PRC's lawfare campaign against Taiwan demonstrates how non-military pressure can be used to pursue strategic objectives that might otherwise require armed force. Because these tactics operate by appealing to the formal authority of law and legal institutions, they are easy to underestimate.

A strategy that focuses exclusively on deterring invasion while neglecting lawfare risks allowing coercive success through other means. Recognizing and countering asymmetric lawfare is therefore essential to preserving stability in the Taiwan Strait and the integrity of the international legal order.

¹⁹ See Julian G. Ku, *Why the U.S. Should Harden Its Defenses Against China's Asymmetric Lawfare*: Written Statement of Julian G. Ku, Maurice A. Deane Distinguished Professor of Constitutional Law, Hofstra University, before the H. Comm. on the Judiciary, Subcomm. on Courts, Intellectual Property, Artificial Intelligence, and the Internet (July 22, 2025), available at <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/ku-testimony.pdf>;