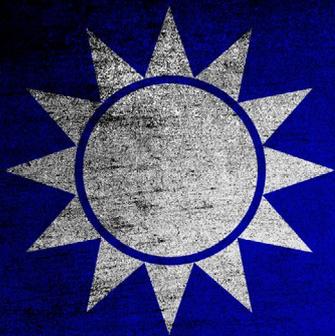


CHINA'S HUNT FOR TAIWANESE OVERSEAS

The PRC's use of extradition and deportation to
undermine Taiwanese sovereignty



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China has increasingly shown that it has no regard for the rule of law, and will violate international norms without hesitation in pursuit of its opponents around the world. Through transnational repression and formal extraditions, China has pursued economic fugitives, Uyghur refugees, human rights defenders, and fleeing Hongkongers. But there is one group that has received far less attention: Taiwanese.

The Ministry of Foreign Affairs of Taiwan has stated that “extraditing Taiwanese citizens to mainland China is a politically sensitive issue, as it can be used by the Chinese government as proof of sovereignty over the entire territory, including Taiwan.”

Czech High Court decision against extradition of Taiwanese nationals

Ahead of the release of two new reports on transnational repression and extradition, Safeguard Defenders has documented that over 600 Taiwanese nationals between 2016 and 2019 were extradited to China from around the world.

International extradition and human rights norms set out clear conditions for acceptable extradition and grounds for automatic rejection. According to the UN Office of Drugs and Crime Model Treaty on Extraditions, for example, the principle of speciality dictates that the individual sought for extradition may only be tried for the specific offense listed

in the extradition request. Another fundamental safeguard against abuse is the principle that bars extradition on grounds of political offence. Meanwhile, customary international law establishes the non-discrimination prohibition, which applies to extraditions. The United Nations Human Rights Committee elaborates that the prohibition against discrimination extends to all citizens and non-citizens, “all persons in their territory and all persons under their control,” to apply without discrimination “not to extradite, deport, expel or otherwise remove a person from their territory” where there are grounds for concern of harm, especially concerning the right to a fair trial, right to life and prohibition against torture.

Conditions in China are such that these fundamental rights are wantonly denied, and with impunity. We have reported on their widespread and systematic abuse elsewhere, in particular [arbitrary detention](#), [torture](#), [enforced disappearances](#), and [forced televised confessions](#).

The extradition of Taiwanese nationals to China should be seen explicitly as a violation of their rights to a fair trial and to be free from torture. The international community should take immediate steps to intervene in this practice, and to immediately oppose the extradition of Taiwanese nationals to China. This opposition doesn't even have to wade into the politically charged “One China” narratives, but should be based simply on international norms and State's obligations.

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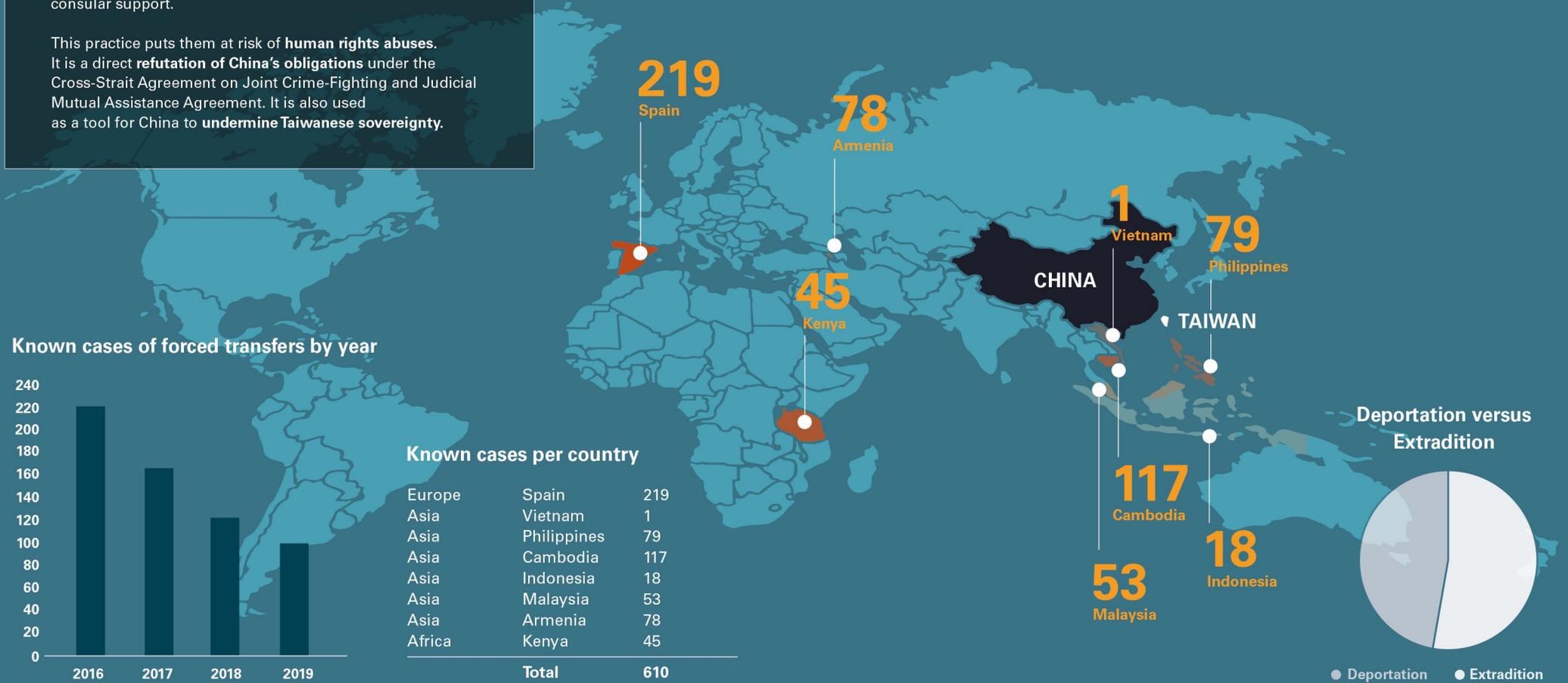
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China's Global Extradition Campaign Against Taiwan

2016 - 2019

Safeguard Defenders has documented over 600 cases (since 2016) of Taiwan nationals abroad who have been extradited or deported... but not to Taiwan. Under increasing pressure from Beijing, foreign governments are instead repatriating them to China, often after refusing them access to Taiwanese consular support.

This practice puts them at risk of **human rights abuses**. It is a direct **refutation of China's obligations** under the Cross-Strait Agreement on Joint Crime-Fighting and Judicial Mutual Assistance Agreement. It is also used as a tool for China to **undermine Taiwanese sovereignty**.



Two Case Studies: Cambodia and Kenya

Beginning in 2014, China began pressuring Kenya over a mixed group of around 76 Chinese and Taiwanese nationals wanted for suspected telecommunications fraud. Kenya's Attorney General, Githu Muigui, sought to allay concerns at the time that any agreement on their return would have to comply with Kenya's justice system but still [spoke](#) of China as a "friendly government" without acknowledging any fair trial or torture concerns upon return, not to mention other concerns related to sending Taiwanese nationals to China.

In 2016, even after the group was actually acquitted by the Kenyan courts, Nairobi agreed to extradite some of them to China, including 45 Taiwanese nationals. In a twisted ploy, the Court granted them three weeks to leave the country following acquittal but when they went to the police station to collect their passports, they were [detained and extradited](#). At least two of the Taiwanese nationals were later [shown](#) delivering televised forced confessions in China, a phenomenon widely [documented](#) by Safeguard Defenders.

Kenya's decision to extradite the Taiwanese was doubly concerning in light of [accusations](#) from Taiwan's Ministry of Foreign Affairs that Chinese diplomats had been actively seeking to subvert a court order blocking their deportation. Instead, Taiwan was [denied](#) a chance to contest Kenya's extradition decision, a flagrant disregard of Taiwan's jurisdiction over its own nationals.

Highlighting the problem of Taiwanese nationals' precarious situation within China's expanded extradition regime, a spokesperson for Kenya's Ministry of Interior, Mwenda Njoka, [told](#) CNN at the time, "We followed international law and released them back to the court in which they came from...We don't have a relationship with Taiwan as a country, but we have a relationship with China."

Cambodia has also [extradited](#) Taiwanese nationals to China on several occasions, despite objections from Taiwan. Through 2011 and 2012, Cambodia extradited several waves of Taiwanese nationals, along with Chinese citizens, involved in a telecommunications scam, twice in 2011 involving some 200 Taiwanese, and a third group of 49 in May 2012.

In June 2016, the Department of International and Cross-Strait Legal Affairs under Taiwan's Ministry of Justice [called](#) for an investigation into a separate incident of Taiwanese nationals' extradition from Cambodia to China. Earlier in June of 2016, 25 Taiwanese nationals had been arrested in a joint operation between the Chinese Ministry of Public Security and the Cambodian police over their suspected involvement in telecommunications fraud.

Again in 2017, Cambodia extradited another seven Taiwanese nationals suspected of being involved in telecommunications fraud. Taiwan had [called](#) on Cambodia to "truly guarantee our nationals' judicial rights and interests and access to assistance," and expressed "solemn concerns and deep regrets about its Taiwan nationals being sent to China."

On several occasions, Taiwan's Ministry of Justice has attempted to negotiate with the Chinese Ministry of Public Security and Cambodian officials to cancel the extradition of their nationals from Cambodia to China but to no avail. As with many countries, Taiwan does not have formal diplomatic relations with Cambodia and the Cambodia – China Extradition Agreement has been used by China to also apprehend and extradite Taiwanese nationals, often without any consultation or prior notification to Taiwanese ministries, despite expectations to do so under Sino-Taiwanese agreements.

The majority of extraditions of Taiwanese nationals have taken place in the last five years. In many ways, the case in Kenya is emblematic of this change. It marked a departure in law enforcement cooperation between Taiwan and China. Since May 2009, when China and Taiwan had concluded the [Cross-Strait Agreement on Joint Crime-Fighting and Judicial Mutual Assistance Agreement](#), police from the two nations would work together in third countries to retrieve suspects and return them to the respective nations for trial.

The good faith implementation of the Agreement changed, in part, arguably as China responded to what was seen as a more pro-independence minded rhetoric from Tsai Ing-wen's Democratic Progressive Party that was elected into power in 2016. The increasing pressure on third countries to reject Taiwanese

officials' engagement with their nationals and to instead deport or extradite Taiwanese nationals to China became part of Beijing's geopolitical strategy, as [argued](#) by Jerry Cohen and Yu-Jie Chen at the time. "The cooperation of third countries in deporting Taiwanese to the mainland reminds the world of Beijing's long-standing position that Taiwan is part of China, which is helpful to it at a time when it is building pressure on Tsai's government to adopt the same position."

With tensions between China and Taiwan escalating by the day, amid Xi Jinping's rising belligerent rhetoric of reunification, the risks Taiwanese nationals face of forced extradition abroad are likely to increase. But there are some subtle steps the international community can take now to stave off this escalation.

Two Courts, two verdicts: Spain and the Czech Republic

Between 2017 and 2019, Spain extradited around 300 Taiwanese nationals accused of involvement in telecommunications fraud to China. That such a high number of total cases documented originate from Spain, a country bound by the European Convention on Human Rights, the International Covenant on Civil and Political Rights, among others, is shocking. Arguably, it shows a clear disregard for Spain's commitments under European and international human rights obligations, and a lack of understanding of the severity of human rights abuses in China. Madrid went ahead with these extraditions despite Special Procedures of the Human Rights Council [urging them not to](#) because of the risk of torture and the death penalty. These cases set a dangerous precedent until a 2020 decision by the Czech Supreme Court reversed that.

In April 2020, the Czech Supreme Court rejected China's extradition request for eight Taiwanese nationals wanted by China. Citing the Czech Charter of Fundamental Rights and Freedoms,

the European Convention on Human Rights, and the Czech Extradition Law, the High Court found that the lower court's approval of the extradition request had not taken into account the likelihood that the Taiwanese would face the risk of torture and other inhumane treatment if they were sent to China, and determined that the diplomatic assurances provided by China were unreliable and insufficient to eliminate the real risk of torture.

The Court, citing the UN Committee against Torture's acknowledgment of a "big gap between legislation and implementation" and "the Chinese side, ... has acknowledged the existence of torture," found that "Chinese law prohibiting torture was not itself sufficient to rule that it would not be used, because of evidence presented that torture is widespread in China." It continued by noting the fact that independent monitoring of prison conditions is routinely not allowed, making any third-party assessment of the risk of torture, or investigation into allegations of torture and other inhumane treatment, nearly impossible.

On the matter of diplomatic assurances, the court found that “diplomatic guarantees provided do not effectively minimize the risk of ill-treatment after forced return and cannot be considered reliable in good faith, therefore they were not sufficient in the case of the complainants to eliminate the real risk of ill-treatment.”

In addition, the court noted its lack of confidence that the Czech consular staff in China would be given access to the group of Taiwanese once returned because such right of access is not guaranteed under Chinese law. It also did not believe that such visits, even if included in diplomatic assurances, would be carried out in a way that would ensure the Taiwanese would be free from torture and other ill-treatment. Finally, it did not believe that a promise to grant access would necessarily be honoured by the Chinese side.

The Czech High Court decision acknowledged that other European courts have taken a

different position, on both the deportation or extradition of Chinese and Taiwanese nationals, but proceeded to highlight the seriousness of such decisions and the need to re-evaluate. Specifically, the court held that: “The conclusions of the reports contained in the court files are so serious that they cannot be dealt with by reference to the practice of another European Union country which has extradited Chinese citizens to their country of origin in a similar case (Spain, other cases from Bulgaria and France, without any information on whether these were similar cases) or by arguing that the high number of bilateral agreements concluded indicates a high level of confidence in European countries in relation to China.”

The Czech High Court decision should stand as global precedent and shape subsequent decisions on the extradition of Taiwanese nationals. Beyond this, there are several steps the international community can and should take.

Where should we go from here?

China’s refusal to adhere to the Cross-Strait Agreement on Joint Crime-Fighting and Judicial Mutual Assistance Agreement is yet another example of Beijing’s bad faith implementation of its international obligations.

China must adhere to its agreement on cross-strait peace and law enforcement cooperation, but it isn’t likely to start following the rules out of nowhere. International governmental stakeholders engaged diplomatically with China on issues concerning Taiwan should pressure it to adhere to these standards.

Likewise, governmental and multilateral stakeholders, especially those participating in mutual law enforcement or international crime-prevention efforts, must emphasize to China that ongoing rejection of its mutual law enforcement agreement with Taiwan should have an impact on other mutual law enforcement agreements. These are things China cares deeply about, and this presents leverage to hold it accountable where it believes it can operate with impunity, such as its bullying of Taiwan.

Another area where the international community needs to step up is in [allowing Taiwanese representatives at international fora](#). While the international police coordination organization has admittedly been weaponized by authoritarian governments to pursue regime opponents, still, it is time for Taiwan to join Interpol. Whether in scientific, climate, peace or law enforcement cooperation, there must be space for Taiwan to participate in international bodies and at key international meetings.

At the same time, countries engaging with China on mutual law enforcement agreements to pursue Chinese suspects of criminal activity must themselves adhere to the Cross-Strait Agreement. In cases such as those noted above in Cambodia or Kenya, countries where Taiwan and Chinese fugitives have been apprehended must refuse pressure from Beijing to send Taiwanese suspects back to China without the involvement and support of Taiwan’s ministries of justice or foreign affairs.

Table of extraditions and deportations of Taiwanese to the PRC

*excluded in list is one case of 14 persons deported from the Philippines prior to 2015.

Date	Country	Number	Mechanism	Reason	Media
2016/05/01	Malaysia	32	Deportation	Telecom Fraud	https://thediplomat.com/2016/05/taiwan-slams-malaysias-kowtow-to-china-on-deportations/ https://www.cnn.com/2016/05/02/asia/taiwan-malaysia-china-deportations/index.html
2016/04/15	Kenya	23	Deportation	Telecom Fraud	https://theglobalobservatory.org/2016/04/china-taiwan-kenya-abduction/ https://www.scmp.com/comment/insight-opinion/article/2023276/beijing-and-taipei-should-end-their-tug-war-over https://www.hrw.org/node/289163/printable/print
(Unknown date)	Kenya	22	Extradition	Telecom Fraud	https://thediplomat.com/2016/04/china-abducts-taiwanese-in-kenya/
2016/06/20	Cambodia	21	Deportation	Fraud	https://www.reuters.com/article/us-china-cambodia-taiwan/cambodia-to-deport-taiwan-telecoms-fraud-suspects-to-china-idUSKCN0Z6151
2016/06/24	Cambodia	25	Deportation	Telecom Fraud	https://www.thip.moj.gov.tw/12785/12787/12809/253915/post
2016/09/07	Armenia	78	Deportation	Telecom Fraud	https://www.reuters.com/article/uk-taiwan-china-armenia-idUKKCN11E04T https://en.mofa.gov.tw/News_Content.aspx?n=1328&s=33847
2016/11/29	Malaysia	21	Deportation	Telecom Fraud	https://apnews.com/article/995f0fd6ddd04b1d8e895f0820247ef6 https://www.reuters.com/article/us-china-taiwan-malaysia/taiwan-protests-against-malaysias-deportation-of-fraud-suspects-to-china-idUSKBN13P09V
2017/07/28	Cambodia	3	Deportation	Telecom Fraud	https://www.taipeitimes.com/News/taiwan/archives/2017/07/28/2003675455
2017/08/03	Indonesia	18	Deportation	Telecom Fraud	https://focustaiwan.tw/society/201708030029 https://www.thejakartapost.com/news/2017/08/03/taiwan-protests-indonesia-deportations-of-suspects-to-china-.html
2017/08/17	Cambodia	3	Deportation	Telecom Fraud	https://www.taiwannews.com.tw/en/news/3234038
2017/10/28	Cambodia	19	Deportation	Telecom Fraud	https://www.taiwannews.com.tw/en/news/3284909
2017/12/15	Spain	121	Extradition	Telecom Fraud	https://apnews.com/article/4e2dc1eb35be4cf5ac0466498764bff4
2018/04/03	Philippines	78	Deportation	Telecom Fraud	https://thediplomat.com/2018/12/grave-concern-as-cambodia-deports-taiwanese-alleged-scammers-to-china/ https://www.taiwannews.com.tw/en/news/3397723
2018/12/15	Cambodia	46	Deportation	Telecom Fraud	https://thediplomat.com/2018/12/grave-concern-as-cambodia-deports-taiwanese-alleged-scammers-to-china/
2019/06/07	Spain	96	Extradition	Telecom Fraud	https://www.cnn.com/2019/06/07/asia/taiwan-extradition-beijing-intl/index.html
2019/06/13	Spain	2	Extradition	Telecom Fraud	https://www.taiwannews.com.tw/en/news/3724286
2019/12/29	Philippines	1	Extradition	Telecom Fraud	https://www.taiwannews.com.tw/en/news/3846456
2019/12/29	Vietnam	1	Extradition	Telecom Fraud	https://www.taiwannews.com.tw/en/news/3846456

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