

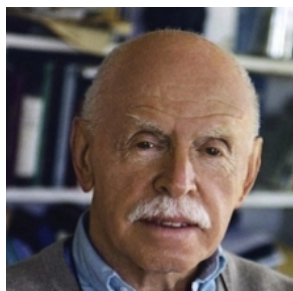
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## Comments

<http://www.chinafile.com/reporting-opinion/viewpoint/taiwanese-mans-detention-guangdong-threatens-key-pillar-of-cross-straits>

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By [Jerome A. Cohen](#)



The sad news that the People's Republic of China (P.R.C.) has now “[arrested](#)” Taiwanese human rights activist Lee Ming-che on charges of “subverting state power” calls for reflection and further comment.

The first point to note is that it took Beijing 68 days to decide on “arrest” while holding Lee incommunicado. This is another demonstration of the now frequent use by the police—both State Security and Public Security—of the “residential surveillance” technique to avoid the time limits of the ordinary detention/arrest procedure prescribed by China's Criminal Procedure Law. Even the police's distorted interpretation of the Criminal Procedure Law only allows them to hold a suspect a maximum of 37 days—an unusually long time by international standards—before a decision on “arrest” must be made. Yet, by alleging a mere suspicion of a national security violation, they are permitted to detain a suspect under residential surveillance for up to six months before applying for approval of “arrest.” Moreover, as they have done in the cases of some human rights lawyers, the police can even renew residential surveillance detention for one or more six-month terms. This makes a mockery of the Criminal Procedure Law, of course.

Second, as Taiwan's Mainland Affairs Commission [briefly pointed out](#), the circumstances surrounding Lee's “arrest” further confirm Beijing's continuing refusal to implement the important Cross-Strait Joint Crime-Fighting and Judicial Mutual Assistance Agreement since Taiwan's new president, Tsai Ying-wen, assumed office a year ago. The P.R.C. not only failed to give the Taiwan authorities the prompt notice of Lee's detention required but it has also failed to arrange for a family visit after almost ten weeks of detention. Taiwan's ostensibly semi-official Straits Exchange Foundation, charged with responsibility for implementing the supposedly unofficial cross-strait agreements but now ignored by Beijing, demanded that the Chinese Government protect Lee's rights and release evidence to back up its claims. And Taiwan's Ministry of Justice, which enjoyed smooth cooperation with Chinese

law enforcement agencies under the administration of Taiwan's previous president, Ma Ying-jeou, was reduced to emailing China's Procuracy, its prosecuting agency, with at least nominal authority to supervise the all-powerful secret police, to request that Lee's health, personal security, and judicial rights be protected during the investigation.

Third, as is often the case if the suspect has not yet been coerced into giving a public "confession" on television, the "arrest" announcement is worded very carefully to suggest that the suspect has indeed confessed to the crime alleged even though he or she may only have "confessed" to taking part in democratic activities that would surely not be deemed "criminal" under a civilized government. Thus, Lee may have merely said that he did meet with human rights activists, but that in turn is twisted into confessing the "crime of subverting state power."

Fourth, one might ask why Lee has been detained in Hunan rather than the obvious places, Guangdong or Beijing. Is it because his human rights activities extended to that province or simply because the police feel greater confidence in controlling the judicial system there? That is why Tianjin and certain other places are often selected for criminal trials in cases that have not occurred in their area.

Fifth, note that Lee is alleged to have worked with a group. Who are they? Have their detentions been announced? What are they alleged to have done? I have seen no reference.

Sixth, as the [Mainland Affairs Commission statement](#) mentions, thus far in appearing to state the reasons for "arrest," the announcement merely engages in abstract allegations rather than facts. What behavior constitutes "subversion of state power" in this case? Only when facts are characterized in relation to the Criminal Law can meaningful knowledge be communicated.

Seventh, no mention is made of China's newly enacted [Law on the Management of Foreign NGOs](#). So Beijing has decided, at least at this delicate moment of widespread concern over that new Law's enforcement, not to further aggravate foreign anxieties about possible resort to criminal punishment for perceived infractions.

Eighth, this may well be the first time a Taiwanese has been charged with "subverting state power," as has been widely reported. In any event, this prosecution is another signal of Beijing increasing the pressure on the Taiwan regime.

Ninth, the "arrest" makes clear that, whatever the responsibility of Guangdong police for its initiation, the case is clearly now the responsibility of the central government, which has converted it into a blatant challenge to President Tsai's government and policy. This incident can no longer be minimized as a central-local bureaucratic foul-up.

Tenth, coming shortly after the visit of Lee Ming-cheh's courageous spouse to Washington in an attempt to heighten foreign pressure against China's arbitrary actions, the "arrest" is plainly meant to discourage similar public protests and future rejections of secret efforts by the P.R.C. to negotiate the release of Taiwan victims of China's repression.

Eleventh, as Radio Free Asia (RFA) has [pointed out](#), "Lee's case highlights the stark and growing gap in civil liberties between China and Taiwan . . ." Beijing has badly

miscalculated the consequences of proceeding in this manner for its hopes in Taiwan and for its “soft power” in the world.

I like very much the statement of Sen Hong Yang, chairman of the Taiwan Association for China Human Rights, about the “arrest.” With some pardonable exaggeration, he told RFA:

“Declaring to the world that the universal values of democracy, freedom, human rights and rule of law represent subversion of state power is tantamount to making the Communists the enemy of the entire world.”

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