

Beyond Extraterritorial Repression

Reading the PRC National Ethnic Unity and Progress Promotion Law as a claim on the diaspora — and on the sovereignty of host states

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Key findings

- The Promotion Law (民族团结进步促进法), in force since 1 July 2026, is widely read as a transnational-repression tool centered on Article 63, its extraterritorial penalty clause. This reading is too narrow and misjudges both the mechanism and the target.
- The law is **constitutive, not prohibitive**. Its threshold is not an act of separatism but non-compliance with an affirmative duty to promote national unity. It points inward at China's own bureaucracy and society as much as outward at dissidents.
- Because membership in the "Chinese national community" (中华民族共同体) is defined by **descent**, the law treats the diaspora not as foreign nationals reached across a border but as **unfinished interior** — members who have not yet been brought into alignment, and who cannot, by the doctrine's logic, opt out.
- The affirmative-duty architecture attempts to convert diaspora members from **targets into instruments** — from people who might be punished into nodes obligated to monitor, report, pressure, and mobilize co-ethnics. The arc is surveillance → construction → conscription.
- The law alone does not achieve this; it **legalizes and obligates** a mobilization the united-front apparatus was already attempting. It supplies the warrant; the apparatus supplies the mechanism.
- The deepest implication is not for the diaspora alone but for **host states**: a doctrine that conscripts residents of Japan, the United States, Canada, the UK, or Germany as a distributed organ of a foreign state is a challenge to those states' sovereign authority over people on their own soil — and it contradicts the non-interference principle China itself champions.

What the law is — and what it is not

To read the Promotion Law primarily as a prosecution tool is to underestimate the ambition and the temporal depth of the project it completes. China was never short of instruments to imprison a Uyghur, a Tibetan, or a Hong Kong activist; the Criminal Law, the Counter-Terrorism Law, the National Security Law, and the 2024 guidelines on "Taiwan independence" already oversupply that capacity. A statute that merely added another penalty would be redundant. The Promotion Law is not redundant because it operates in the space the existing tools do not reach.

It is a **positive-duty instrument**. Where the existing toolkit is prohibitive — it criminalizes acts — this statute is constitutive: it imposes affirmative obligations to promote the forging of a shared national consciousness (铸牢中华民族共同体意识) on schools, enterprises, religious bodies, media, network operators, neighborhood committees, the military, and families. Its enforcement provisions are correspondingly administrative and disciplinary rather than criminal; the threshold that triggers them is not separatism but insufficient compliance.

The law therefore disciplines the enforcer who fails to promote as much as the dissident who resists. It points inward.

It is also **definitional rather than punitive**. Without repealing the constitutional framework of regional ethnic autonomy, the law subordinates that framework to the "community" frame: it redefines minority cultures as constituent parts of a single Chinese culture (Article 13), mandates the priority of the common language (Article 15), and resets the interpretive terrain on which the older autonomy guarantees operate. It changes the ground beneath the existing law rather than adding to it. In the process it deliberately blurs three boundaries — between ethnicity and nation, between Party and nation, and between identity and loyalty.

The essence is stated plainly in Article 1: to forge a firm sense of national community, to advance the building of that community, and to drive the realization of "the great rejuvenation of the Chinese nation." This is the legislative crystallization of a decade-old doctrine — articulated in 2014, elevated to the master line of ethnic work in 2021, and now made permanent, budgeted, and enforceable. Its intellectual lineage runs through Fei Xiaotong's account of the Chinese nation's transition from existing in itself (自在, as an objective historical community) to existing for itself (自觉, as a self-aware national subject). For present purposes only one feature of that lineage matters: the doctrine openly concedes that national consciousness is a modern construction, even as it insists the underlying community is ancient — and it assigns to the Party the role of the agent that brings that consciousness about. National belonging and Party loyalty are thereby fused at the level of the nation's very self-awareness.

From criminalization to conscription

The clause that has drawn international attention, Article 63, provides that organizations and individuals outside China who undermine ethnic unity or create ethnic division will be pursued under law. Read in isolation, it looks like an assertion of extraterritorial criminal jurisdiction — a long arm reaching across a border to punish a foreign national. That reading mistakes the penalty for the architecture.

Begin with the membership claim. The national community is constituted by descent, and the law makes its cross-border reach explicit, addressing Hong Kong, Macau, and Taiwan compatriots and overseas Chinese within one framework of belonging (Article 21). If membership is by blood, the territorial border was never the boundary of the polity. Article 63 is therefore not, by the doctrine's own logic, reaching across a line into foreign territory; it is reaching down into what the doctrine regards as its own unfinished interior. The harm this describes is not a boundary crossed but a boundary refused: one cannot exit a community to which one belongs by descent. Denied exit, not extraterritorial punishment, is the prior wrong.

The graver move follows from the law's architecture. A purely prohibitive extraterritorial law — do not commit secession abroad — can only ever produce objects: people who might be punished. It cannot produce instruments, because a prohibition asks only for abstention. The Promotion Law is built differently. Its operative verbs are participation verbs — to safeguard (维护) sovereignty, security, and development interests; to consciously uphold (自觉维护); to promote (促进) rather than merely refrain. An affirmative-duty law of this kind does not merely target; it attempts to enlist. Under a duty to safeguard and a corresponding duty not to undermine, each member is addressed as a node owing obligations toward the center: to monitor, to report, to apply pressure, to represent the state's position, to refrain from dissent, to mobilize co-ethnics. In aspiration, the diaspora is reconstituted as a distributed organ of the state.

The full arc is therefore not surveillance alone, nor even surveillance plus the forging of consciousness, but a third term: surveillance → construction → conscription. And the textual weight of the conscription claim rests not on Article 63 but on the duty clauses — Articles 10, 20, and 21 — with the penalty clause standing behind them only as the consequence of refusal. An analysis fixated on the criminalization clause is reading the wrong article.

The law's explicit duties bind citizens: Article 10 addresses citizens, Article 20 addresses parents and guardians. Its reach to non-citizen overseas Chinese in Article 21 is framed more softly, as the state supporting the

diaspora rather than commanding it. The conscription of foreign nationals of Chinese descent therefore runs not through black-letter duty imposed on foreigners — which the law is careful not to assert — but through the descent-based membership claim and the apparatus that operationalizes it. The law supplies the warrant and the duty content; it does not, on its face, command a Canadian or Japanese citizen. That gap is precisely where the next two sections live.

The transmission belt

A duty asserted on paper does not, by itself, make an instrument in fact. Beijing's claim that an overseas resident owes safeguarding obligations does not give that claim purchase. What converts declared duty into operative pressure is not in the statute. It lies in the united-front apparatus the law feeds and legitimizes: the overseas-Chinese federations, the United Front Work Department, hometown and native-place associations, student and business networks, the overseas "service stations" that have drawn law-enforcement scrutiny across several democracies, and the standing leverage of relatives who remain inside China.

The accurate formulation is a division of labor. The law supplies the normative warrant and the content of the duty; the united-front system supplies the mechanism by which the duty is made to bind. The outcome is a product of law plus apparatus, never the law alone. This matters for credibility: one cannot infer the capture of a community from a text. But one can observe that the legislation does not create the transnational apparatus — it legalizes and obligates a mobilization the apparatus was already attempting by other means. In a phrase, it converts united-front work into united-front duty.

Aspiration, not achievement

It would overstate the case to say the law turns diaspora members into instruments of the state. It is more precise, and more useful, to say that the law addresses them as such — that it hails them into the role, treating them as members already obligated, in the manner of a summons that presumes the answer it seeks. Whether they answer is a separate question, and contested. The same descent claim Beijing advances, the diaspora can refuse — and much of actual diaspora politics consists in that refusal.

This gap between the claim and its uptake is not a flaw in the analysis; it is where the harm actually lives. The danger is not, in the main, that diaspora activists will be prosecuted under Article 63 — such prosecutions remain rare and difficult. The danger is the management of the gap: the pressure, the leverage, and above all the sorting of communities into the compliant and the disloyal, along exactly the fault line the law draws between those who promote unity and those who "undermine" it. The law's primary effect on the diaspora is not punishment but the attempted conversion of co-ethnic community into an extension of the state — and the manufacture of a loyal/hostile binary that fractures diaspora civil society from within.

This relocates the victim. The criminalization reading locates the harm in the individual dissident facing a charge. The reading offered here locates it in the diaspora as a civil society: what is damaged is the possibility of an autonomous, self-governing associational life among overseas Hong Kongers and overseas Chinese, because the law claims that associational space for the state in advance. The result is a transnational-repression dynamic one level above the familiar one — not a state reaching across borders to punish exiles, but a state claiming the diaspora's associational sphere as sovereign territory and addressing its members as agents within it. The wrong is not primarily the cruelty visited on individuals; it is the attempted annexation of a civil society.

The deeper stakes: a claim on host-state sovereignty

The Promotion Law relocates the nation from territory to people-by-descent, and a people-defined nation needs no external recognition the way a border does — there is no counterparty to a bloodline. This is the doctrine's most ambitious move: a bid for a self-grounding sovereignty that owes nothing to the international order for its validity. It should be read as aspiration rather than achievement. The state advancing the claim remains

thoroughly enmeshed in the order it rhetorically transcends — in trade, in the dollar system, in its UN seat, and in the plain fact that its own borders are secure only because other states recognize them. The analytically exact object is the gap between the bid and the condition.

But the bid itself inverts the familiar authoritarian appeal to non-interference, and the inversion is the point. The Westphalian shield says: do not cross our border inward — Xinjiang is an internal affair, stay out. That posture still respects the border; it polices a bounded interior against entry. The Promotion Law says something different: our nation has no border to cross. The first defends a bounded interior; the second abolishes the boundary by declaring the interior unbounded — and the diaspora is the first territory it claims. The doctrine is thus able to invoke non-interference and boundless nationhood in the same breath, deploying whichever serves the interlocutor: sovereignty as a shield when China is criticized, and sovereignty as a sword when it reaches into Tokyo or Toronto.

Three consequences follow for receiving states.

1. First, this is a challenge to their sovereignty, not only a cruelty to émigrés. Japan, Canada, the United Kingdom, and Germany each retain, as a first premise of statehood, jurisdiction over those who live within their borders. A doctrine that addresses those residents as a distributed organ of a foreign state contests that premise directly. The appropriate frame for host governments is therefore foreign interference in domestic sovereignty, not merely harassment of a minority community.
2. Second, the claim contradicts the principle China itself canonized. The Five Principles of Peaceful Coexistence, with their core commitment to non-interference, are foundational to Beijing's self-presentation and its appeal across the Global South. To assert standing over persons resident on another state's territory is to interfere in that state's authority over its own residents. The non-interference China invokes to deflect scrutiny of its internal affairs is the non-interference it violates when it reaches across borders to claim the diaspora. That contradiction is both an analytical tell and a usable point of diplomatic leverage.
3. Third, there is a concrete legal seam. China's own Nationality Law does not recognize dual nationality and provides for renunciation — its formal position is that nationality is singular and alienable. Yet the community claim behaves as an inalienable membership: one cannot cease to belong to a nation defined by blood. The regime thus holds simultaneously that a person can cease to be a national of the PRC and that a person can never cease to be of the Chinese nation it claims authority over. For a naturalized citizen of a host state who is of Hong Kong or Chinese origin, that contradiction is not abstract. It is the exact point at which the host state's recognition of a person's naturalization collides with Beijing's refusal of it — and it is where host states should plant their flag: naturalization and renunciation are dispositive, and the descent claim has no standing against them.

A cautionary analogue underscores the trajectory. Russia's "compatriots" and *Russkiy mir* doctrine rested on the same deterritorialized premise — a people owed protection wherever they lived — and functioned for years as soft transnational influence before it supplied the justification for war over the territory those people occupied. A claim that begins as portable, personal, and cultural has a known path toward the territorial, because once a population is treated as sovereign interior, the ground beneath it becomes contestable. For Taiwan, the Promotion Law already runs in the territorial register; for the diaspora it runs in the personal one. The Russian precedent is the evidence that the two registers are not firewalled.

Recommendations

For host-state governments (and for Japan in particular, where the foreign-interference framework remains underdeveloped):

- Classify united-front-facilitated pressure on diaspora communities as foreign interference in domestic sovereignty, and address it through that lens rather than treating it solely as a community-relations or hate-incident matter.

- Treat naturalization and renunciation of PRC nationality as dispositive in law and policy, and reject — explicitly, where necessary — any foreign claim of standing over citizens and residents grounded in descent.
- Resource diaspora civil society as a resilience asset. Autonomous, well-supported associational life is the most effective barrier to the compliant/hostile sorting the law seeks to impose.
- Decline the "internal ethnic affairs" framing when it is offered to deflect concern, and name the contradiction with China's own non-interference commitments.

For international partners and the transnational-repression research and advocacy community:

- Document the law's affirmative-duty architecture — the duty clauses, not only the penalty clause — as the textual basis of the conscription dynamic.
- Develop the constitutive-collective frame of transnational repression (a state claiming a diaspora's associational sphere) alongside the established coercive-individual frame (a state punishing exiles), so that monitoring captures community-level capture and not only individual cases.
- Support legal clarification of the nationality contradiction across jurisdictions, where it offers a concrete and defensible line of resistance.

For diaspora organizations:

- Name the sorting mechanism openly. The law's leverage depends on an unspoken division of communities into the loyal and the "undermining"; making that mechanism visible blunts it.
- Invest in associational autonomy and transparent governance, which are both the target of the law and the strongest answer to it.
- Refuse the membership claim publicly and on principle — the descent-based summons has force only to the extent it goes unanswered.

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