China’s Anti-Espionage Law, Chinese Migrants at US Southern Border, and President Yoon in Washington

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TRANSCRIPT

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Wilson Shirley:

Hello and welcome back to the China Insider, a podcast from the China Center at Hudson Institute.

It's Tuesday, May 2nd, and we have three topics to discuss today. The first is an update on the overhaul to the PRC's counterespionage law last week. We'll talk about what that overhaul was and what it means for foreign businesses operating in China as well as Chinese nationals. Then we'll continue with a conversation on the rapid rise of Chinese nationals making unauthorized crossings across the US-Mexico border. We'll talk about why that's happening and what it means in China. Then we'll finish with a conversation on US-South Korea relations after President Yoon's blockbuster visit to Washington DC last week. Miles, how are you doing?

Miles Yu:

Very good, Wilson.

Wilson Shirley:

Great. It's good to see you again. The first topic today is a recent update to the PRC's counterespionage law. So, last week China's National People's Congress updated this law. It's the first time it's been updated since 2014, and the new updates are going to go into effect on July 1st. And I'm just going to read you what the official state publication said the updates are in brief and then we'll go to your analysis. So, the updates are “documents, data, materials, and items related to national security and interests are under the same protection as state secrets following these revisions.” So, Miles, what does this mean for businesses, especially foreign businesses operating in China?

Miles Yu:

Well, this counterespionage law was first published in 2014, was passed, and then on April 26th, as you mentioned, it was amended this year. It has 6 articles and 71 clauses. It gives unlimited power to counterintelligence organizations in China. If implemented, virtually every foreigner in China will be by default a suspect of a spy and all Chinese citizens will be impacted by the pervasive powers given to the counterintelligence organizations in China. Punishment will be severe if not cooperating with the authorities. Right now, they're going to basically have a much bigger scrutiny of foreign economic sectors, NGOs, because I just read you one very important article published there in the Global Times, which is official Chinese government mouthpiece. It says, “Under the guise of foreign NGOs, investigation and consulting companies, high-tech companies” and so on, “foreign espionage organizations no longer simply rely on traditional methods to spy on China. They have gone beyond this and used new methods to comprehensively infiltrate our country focusing on critical fields such as economy, biology, and technology, trying to make a fuss in the areas of human rights, industrial chains, and supply chains in our country to achieve the goal of endangering our national security.” This was April 15th.

Wilson Shirley:

So, just before the new updates to the law.
Miles Yu:

That's right. The main purpose of this enhanced scrutiny of foreign assets in China is to do 2 things. One is to control narratives about China and it's about China's economic reality is a level of corruption and the Chinese model of governance. And also, now this reflects the reality that much of China's economic miracle, so to speak, is just based upon some really big lies and fantasies, and the Chinese government really, really strike hard foreign companies, particularly those consulting firms and due diligence agencies to find out the reality of China. The second purpose of this is really reflective of China's traditional methods of hostage diplomacy and they would enhance the sort of counterespionage efforts to arrest a lot of innocent foreigners in China as some kind of hostage to solve some kind of a similarly unsolvable problems. For example, they have arrested over nearly like 20-some Japanese citizens in the last several years, and we saw several years ago to solve this problem of Huawei when they arrested two innocent Canadians, the two Michaels.

And up to today, we still have Mr. Swidan, who's an American citizen, who has been in the Chinese big house for over 10 years and you have countless Chinese-Americans who were detained in China as we speak today. So, this is basically to enhance that kind of, expand that scope of hostage diplomacy. And this really came at the time when a Chinese economic reality is revealed to the world and the US Chamber of Commerce made a statement after the passage of that amended counterespionage law last week. He says I quote, “We are closely monitoring heightened official scrutiny of US professional services and due diligence firms in China. The services these firms provide are fundamental to establishing investors' confidence in any market including China.” So, that's why the US government is reacting very strongly to the detention and the raiding of American companies like Bain Capital and several other American companies inside China and it's very alarming.

Wilson Shirley:

So, I think that follows up on a lot of themes that people have been discussing since this story came out. You talked about the dangers for foreigners traveling throughout a lot of China. Last month, the US State Department issued a travel advisory warning Americans to reconsider traveling to China. They cited risks that you just talked about, wrongful detentions, things known as exit bans, other legal risks. So, a question that I have about this new counterespionage law, which it seems like, and please correct me if I'm wrong, a lot of the fear around it and a lot of the uncertainty is the Chinese government is saying that it can go after documents, data, and other materials on national security grounds, but it doesn't really define what national security grounds are. Is that right?

Miles Yu:

That's the main feature of most Chinese laws. They're very arbitrary. It's totally up to the state to decide what it actually means. There's no clear definition. On top of that, there's no sort of, you know, institution inside China that can actually serve as an independent interpreter of laws. In the United States, the ultimate interpretation of the US Constitution or most of the laws were done by the Court. The Supreme Court has ultimate say. In China, you don't have that. Their Party decides what the law means. So, it's totally arbitrary. They also expand this whole thing, not just to the confines of China. It goes beyond. There is a Hong Kong citizen, for example, just a few weeks ago, and this person published some opinions about China's violation of the rule of
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law in Hong Kong in Japan, and then when this person goes back to Hong Kong and this person was busted, was arrested for publications of the opinions this person published in Japan. So, this is actually a very, very serious issue. So, anybody, Americans, you have to censor yourself what you say in your own country, in the United States, if he really wants to have new business dealings inside China.

**Wilson Shirley:**

One thing that is curious to me is this is coming right after the end of zero-COVID and a lot of talk about China sort of reopening to the world. Some of the rhetoric that was coming out of Beijing about this so-called reopening was that it was kind of on par with the 1972 opening of China to the world. And so, what they’re looking for, it seemed to me at the time was more foreign direct investment to boost the economy at the time where it was really, really suffering and continues to suffer a lot. So, what is Xi Jinping thinking and what is the government thinking putting into place these kinds of laws targeting, as you said, Bain, their offices in Shanghai, Japanese companies, many other foreign companies as well? What are they thinking going after these companies at a time when they desperately need foreign direct investment to boost the economy after zero-COVID destroyed so much?

**Miles Yu:**

Wilson, it makes perfect sense for them to do this, otherwise, it would not be the Chinese government because much of China’s economic reality as presented to the outside world by the Chinese government is a sham. It’s not real. China controls access to key data of Chinese economy, of Chinese society. And so, it’s very, very important for Americans and the rest of the world. If you want to invest China, in China, you want to do business in China, put a lot of money inside China, you must know China’s reality. And that’s what this law is all about. They try to prevent the outside world from understanding the true reality of China. The true reality of China right now is that the economy is in shambles. The Chinese communist government is unable to provide a secure, institutionalized, sound investment environment. That’s why they have to continue to cheat and that’s why they strengthen the crackdown, foreign professional services and the due diligence firms, particularly the American firms because they provide very valuable reality check on China and that’s why the Chinese government cannot tolerate.

**Wilson Shirley:**

So, we’re likely going to see more of this in the future as well. Our next topic for today is something much closer to home in the United States and that’s what we’re seeing along the southern border. This is a story that has occasionally popped up, but I haven’t really seen a good explanation of it, so I’ll just give you a couple of numbers here. According to US Customs and Border Protection, 4,366 migrants from China have encountered US Border Patrol officials along the American southern border without any authorization in the last year, and that is up from 421 migrants in the previous 12-month span. So, Miles, why are almost 10 times as many Chinese migrants crossing the southern border of the United States today compared to a year ago?

**Miles Yu:**
Well, this is related to the topic we just discussed because the Chinese economic reality and the political reality were so dire, a lot of people tried to get out of China. Most of the people we saw at the southern border from China were young able-bodied youths, I mean they were supposed to be the most productive labor force in China. No, they want to get out. The official statistics of China's youth unemployment is close to 20%.

**Wilson Shirley:**

Yeah, it has not recovered after COVID.

**Miles Yu:**

No, it has not, actually it has deteriorated because the foreign companies not going back, a lot of Chinese businesses were closed down because of China's intensification or political control of economic operations. And just to let you know, there's something really, really disturbing that's going on in China become, which has become some kind of a fad that is young people, they are committing group suicides. I mean just a couple weeks ago we have a video showing 5 young people on the Beijing subway station. They are collectively drinking poison and they die right on the spot.

**Wilson Shirley:**

That's terrible.

**Miles Yu:**

And it's a really, really alarming there. You see this not only in Beijing, in some other places too, in some of the high visibility places like tourist spots. So, just shows you how desperate many of the people in China are, and plus, you have some very enterprising Chinese middlemen, and they basically serve as some kind of conduit to do forced advertisement and lure a lot of people paying them dollar money.

So, there is a push factor. Of course, United States is the most attractive place for anybody from the outside world who wants to leave. So, they want to come to the United States. And of course, there is, that's the pull factor. There is political freedom, there is the economic opportunities, and unfortunately, this is also to them, this is also the country rule by law, even though we have unfortunate situation right now that will give those risk-takers great opportunities. The opportunities come in 2 forms. Number 1, that is you have some of the visa-free countries. In other words, you have some countries in Latin America and Central America who give Chinese citizens visa-free rights, so they don't have to apply for visa to come over there. The most obvious country, most attractive place is Ecuador. Ecuador will give Chinese citizens 90-day visa-free stay. So many of those guys, most of the people actually that you saw the statistic you cited earlier, Wilson, they landed in Ecuador and they make the long trek from Ecuador all the way past Central America and they pass Mexico and enter the American southern border illegally.

Another opportunity which is very unfortunate is our own fault. Our border security is very porous. We're not enforcing our border security and our also asylum rules are kind of antiquated and very, very unrealistic that provide opportunities for those illegal immigrants from China to pass through the border. And I really think we should do some really sort of a positive PR campaign inside China through our embassies or consulates to tell them how dangerous, how
illegal this might be. And also, it's very, very bad for them. If you're caught and to enter United States illegally and your future in this country may not be that bright to you after all.

Wilson Shirley:

But might they think that it's better than what they're facing in China? You've highlighted a really dire situation facing Chinese citizens, especially young people at home. So, it seems like this is, this, even that might be a preferred alternative.

Miles Yu:

So, that's why the China challenge is so formidable and we have to really, really think big and we have to do it systematically, comprehensively, not just to respond to one action or one piece of reality of China. We have to take the China challenge very seriously to come up with a kind of collective and multilateral approach.

Wilson Shirley:

What is it like for these people, especially young people leaving China? Are there controls that the government has put in place to make it more difficult for Chinese citizens to leave the country? What is, you talked a little bit about the journey from places like Ecuador to the US southern border, what is the journey from China to Ecuador like?

Miles Yu:

Well, Chinese people are very enterprising despite this really, really serious border control. Since the Ming dynasty, since the middle of the 14th century, actually since the middle of the 1400s. In the 1430s, China imposed a very severe ban on all maritime activities including immigration. So, for the next 500 years, China has been implemented that kind of stuff very severely. But you can see the Chinese diaspora is all over the world. Right now, the Chinese diaspora accounts for about 60 million people, six zero million people, or in all the countries people just want to get out. The entire population of Hong Kong, for example, about 7 million, they all have some kind of a story about escape from China. So, you can say Hong Kong is quintessentially an asylum island. That's why freedom and autonomy in Hong Kong from China is so crucial. I think in some other places like some of the coastal area like Guangdong and Fujian, particularly Fujian, they have this very effective immigration smuggling networks, provincial village connections, family connections, and once one gets out and the whole family will get out or whole village will get out. So, you can see many of the immigrant communities in some key metropolitan in the United States. They're all from several provinces in the coastal area and they're well connected. I think, you know, this Chinese group trying to get into the United States, they're very well organized and well-financed as well.

Wilson Shirley:

Yeah. All right, so let's finish up with our third topic for this week, which is a follow-up on something that we discussed last week, which is South Korea. So, people probably saw images of South Korean President Yoon coming to Washington last week marking the 70th anniversary of the United States alliance with South Korea. President Yoon visited the White House. He
spoke before a joint session of Congress. Miles, what happened last week in US-South Korea relations?

Miles Yu:

What happened last week? The extremely positive hobnobbing between President Biden and President Yoon in Washington DC not only create sort of a new sensation, but also create some kind of really geopolitical minor quake, earthquake in Asia in a very good way because the old consensus that somehow China and South Korea could form some kind of united front against Japan, in particular, and they're trying to hedge between China and United States, that is gone. President Yoon is a visionary. He is such a big contrast from the, his predecessor President Moon Jae In in the sense that President Yoon views all the issues in Northeast Asia and East Asia, particularly Taiwan, not just as a regional issue, isolated incident, he views Taiwan as a global issue. This is very much aligned with the US strategic thinking. And President Yoon also is a realist. He's a truth-teller. For example, one of the most important statements he made during his speech to the joint session of US Congress was his reference to the famous Battle of Chosin Reservoir.

And in Chinese parlance, it’s called the Camp, Battle of Lake Changjiin. The Chinese government has put enormous effort into the propaganda and the forced narrative about the real Battle of Chosin Reservoir. And so, and President Yoon in his speech to the US Congress actually mentioned the reality that the Americans' bravery and they actually imposed heavy casualty to the Chinese troops in that particular battle. And this really, really made the Chinese government really, really upset and they tried to push back to President Yoon's true narrative and also is of significance, is President Yoon's willingness to reach some kind of joint nuclear protection in the Korean Peninsula. This is actually very crucial. This deals with not only North Korea but also China. And most importantly, I think to the chagrin of Chinese government, President Yoon actually reach out to the Japanese, and Japanese and South Koreans right now have a very good rapprochement, and this is complete defeat to the Chinese government’s decades-long to sort of play South Korea against Japan and the Prime Minister Kishida of Japan, obviously very, very receptive to the South Korean’s new approach. And for example, Prime Minister Kishida make sure that he's going to visit South Korea just before the G7 Summit in a few weeks. And this is a very good gesture. Strategically though, there is a dramatic change of big thinking in Seoul and in Tokyo, that is both Japan and South Korea now view the Chinese Communist Party as the number 1 threat, and they are very clear on that. That is very different from the previous ambiguous treatment of North Korea, China with North Korea is number 1, or South China is number 1. Japan and Korea now are very clear on that. And President Yoon is a great guy and he's not only, he's not an ideologue but a visionary, as I say. On top of that, the Americans actually see President Yoon as a suave diplomat and deeply, deeply familiar with American popular culture.

Wilson Shirley:

And I think to that vision point, President Yoon keeps on describing South Korea as a “global pivotal state” talking about its global role. He talks about democratic values, freedom, democracy, but there are also really tangible outputs that came out of this meeting. I'm looking at the fact sheet right now and there are, I don't know, 20+ outputs in everything from economic cooperation to technology cooperation, nuclear issues as you mentioned.
Miles Yu:
Excuse me, I was also going to make another point that is..

Wilson Shirley:
Yeah.

Miles Yu:
...South Korea, North Korea, there were actually two countries at war still, in theory. The contrast between North Korea and South Korea is so visible, so telling about the nature of this epic struggle between freedom and tyranny. That's why politicians, when they think about Korean Peninsula, then think about China and Taiwan. This is all about the larger struggle between freedom and tyranny. I remember for those of us, you certainly remember, for those of us who serve in the Trump administration, the most eloquent speech President Trump ever made, in my view, was the speech he gave to the South Korean Parliament. In that speech, he invoked very, very strong sentiments to highlight the fundamental difference between North Korea and South Korea. And he did again in his inaugural speech in, actually the State of the Union speech a couple of times at least. And his main point about America’s role in the world is highlighted in his remarks about North and South Korea. So, I think this is actually a very, very important development in America’s overall understanding of global geopolitics.

Wilson Shirley:
And the contrast between free and democratic South Korea on one side and tyrannical North Korea on the other is obviously very stark. Miles, I want to play us out with a little bit of a tribute to President Yoon's visit to DC last week. People who were following it saw a pretty remarkable video of President Biden and President Yoon at a state dinner at the White House where President Yoon sang American Pie in English to the state dinner crowd, which went wild. So, I think that would be a great note to go out on.

Yoon Suk Yeol:
"A long, long time ago, I can still remember how that music used to make me smile. And I knew if I had my chance, I could make those people dance and maybe they’d be happy for a while. February made me shiver, with every paper I’d deliver, bad news on the doorstep, I couldn’t take one more step. I can’t remember if I cried when I read about his widowed bride, but something touched me deep inside, the day the music died."

Miles Yu:
President Yoon definitely drove a Chevy to the White House and the White House was not dry because they, as I understand, there was a lot of alcohol involved too.

Wilson Shirley:
That was definitely true.

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