Sino-U.S. Decoupling: The Roles of U.S. Congress

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Accepted: 14 July 2021 / Published online: 9 August 2021
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Abstract
The Sino-U.S. relations tumbled during the Trump Administration. The talk of decoupling permeated the decision-making circle in Washington D.C. Many factors have contributed to the free fall. The roles Congress has played are undoubtedly one of them. Based on the new institutionalist approach, this study provides three analyses of recent China-related legislative activities. First, the historical analysis of legislative data illustrates a surge in congressional activism on China-related legislative activities. Second, the content analysis reveals some of the triggers in the deterioration of bilateral relations in recent years. Third, the political analysis of the critical congressional players and the structures and procedures Congress created provides some insight into the domestic and political logic of the congressional crusade against China. Finally, the paper ends with assessing the impact of the surge in Congressional activism on the new Biden Administration.

Keywords U.S.-China relations · International relations · U.S. Congress · Congressional activism · New institutionalism

Introduction
The U.S. Congress is usually not in the driver’s seat when making American foreign policy. Foreign policy is the purview of the President. Legislation adopted by Congress on foreign policy may give additional powers to the executive branch. As a place for the representations of a myriad of political interests, Congress is most likely inward-looking instead of paying closer attention to foreign affairs. Politics typically drive the congressional decisions on foreign affairs rather than prudent statesmanship or long-term policy stewardship [29, 54, 55]. Historically, there have been times when Congress tried to reassert itself to check on some “out of control” presidents. There has been a resurgence of congressional activism in recent decades

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[6, 27], especially on U.S.’s China policy [41, 49]. By creating a set of new structures, procedures, and legislative mandates, Congress communicates its sentiments and exercise its influence in the foreign policy-making process [26, 28].

This study provides three primary analyses of the emerging congressional activism on China-related legislation based on the new institutionalist approach. The new institutionalists believe that the structure and procedures Congress creates will shape individual policy-makers’ choices, and individual legislators promoting their self-interests can change the structures and processes to suit their interests and needs [32, 50]. This study will examine the roles and impact of structural and procedural changes initiated by Congress on the rapid deterioration of Sino-U.S. relations during the Trump Administration. In addition, we will also scrutinize the roles of individual legislators in reshaping the established rules and procedures to steer the direction of the U.S.’s China policy. This paper conducts three empirical analyses. First, the historical analysis of legislative data illustrates a surge in congressional activism on China-related legislative activities. Second, the content analysis reveals some of the triggers in the deterioration of bilateral relations in recent years. Third, the political analysis of the key congressional players, and the structures and procedures Congress created provides some insight into the domestic and political logic of the congressional crusade against China. The paper ends with assessing the impact of the surge in congressional activism on the new Biden administration.

A Historical Analysis of Congressional Involvement in China Policy

Since the normalization of the diplomatic relations between the two countries in 1979, the U.S. Congress has slowly intensified its involvement with China policy. When Congress and its members challenge the policy leadership of a president or compel the executive branch to move in a direction dictated by Congress, this is commonly referred to as congressional activism [7]. To measure congressional activism on China, this study uses three indicators: the number of proposed bills, the number of House or Senate resolutions introduced, and the reference to China in the Congressional Record. All data used in this analysis are from the searchable database maintained by the Library of Congress.¹

From the 93rd Congress (1973–1974) to the 116th Congress (2019–2020), the number of China-related bills introduced increased steadily, reflecting growing interactions between the two countries. Figure 1 is the number of legislative bills that deal with China directly or indirectly. It is evident from Fig. 1 that there was a considerable spike in the number of China-related bills introduced in the 116th Congress. Members of the House of Representatives introduced 367 China-related bills, and Senators introduced 258. The total number of bills introduced was two times

¹ The result of the data query from Congress.gov is not always consistent. A key word search sometimes can produce a slightly different result in terms of the number of legislative items associate with that search string. But the variance is not too big and does not have significant impact of the accuracy on the trendlines presented in all charts presented in this research.
more than the 115th Congress (2017–2018) and three times more than the 114th Congress (2015–2016). Only 100 of these bills received committee considerations. The House and Senate Foreign Affairs Committees handled most of these bills. On the House side, Mike Gallagher [R-WI], Michael T. McCaul [R-TX], Ted S. Yoho [R-FL], and Christopher H. Smith [R-NJ] sponsored many of these anti-China bills. In the Senate, Senator Marco Rubio [R-FL], Tom Cotton [R-AR], Robert Menendez [D-NJ], Edward Markey [D-MA], and Ted Cruz [R-TX] were behind many of these bills introduced in the Senate (see Table 1). Congress only passed twenty of them. President Trump signed seventeen of them into law (see Fig. 4) [11].

The second measurement of congressional activism used is resolutions adopted by Congress. The House and the Senate can each adopt their resolutions or pass concurrent resolutions. These resolutions mainly express House or Senate sentiments and do not become a public law (except House and Senate Joint Resolutions). Therefore, they are not legally binding for executive actions. Nevertheless, these resolution proposals are essential indicators of Congress’s main concerns (see Fig. 2). Figure 2 shows a steady increase in the number of House and Senate resolution proposals about China. However, in many cases, these proposals only relate to China indirectly.

Further analyses of the sentiments expressed by these proposed resolutions indicates that the number of negative resolutions consistently outweigh the positive ones, especially in the 115th and 116th Congress. Of course, most of these

\[2\] In coding the data set, we put the relevant resolutions that call for noncooperation, condemnation, or accusation in the negative category, and put resolutions that calls for cooperation, constructive dialogs, and recognition into the positive category. A call for supporting Hong Kong’s autonomy in 2020 will be classified as negative since it is a direct confrontation with PRC over its controversial HKNSL.
resolutions will go unnoticed, and each chamber will agree on only a tiny percentage of these proposed resolutions. Thus, these resolutions only represent individual members’ sentiments or concerns, not the whole Congress. For instance, in the 116th Congress, 149 proposed House and Senate Resolutions related to China. The pieces that had negative tones were about thirty, and the positive ones were about twelve. The rest \((N=107)\) did not deal with China directly and therefore had no sentimental value assigned in Fig. 2.

Referencing China in the Congressional Record, a daily publication of legislative documents and proceedings, can also give us an inside look at congressional interests. Figure 3 indicates that China-related discussions increased dramatically after 1994 due to the increased tensions across the Taiwan Strait and the U.S. bombing of the Chinese Embassy in Belgrade in 1999. This wave of congressional activism peaked in the 106th Congress (1999–2000). The most recent Congressional sessions also show a higher-level frequency in the texts (speeches and reports) referencing China.

Although the legislative debates and discussions about China increased, the actual pieces of legislation enacted rose only at a moderate rate. The total number was about 219 pieces in the previous thirty-seven years, or six pieces per year on average (see Fig. 4). The 116th Congress witnessed one of the most active periods of China-related legislative actions. The number of enacted laws was only the second highest. Nevertheless, the harm these laws had done to the bilateral relations far exceeded other periods of bilateral history.

Still, most of the laws listed in Fig. 4 are only indirectly or partially dealt with China. Before the 115th Congress, it was rare that Congress made a law explicitly
targeting China. One exception was after the 1989 Tiananmen crackdown in Beijing. Congress passed the Chinese Student Protection Act of 1992. In the same year, Congress adopted the United States-Hong Kong Policy Act of 1992 after the British agreed to return Hong Kong to the People’s Republic of China (PRC). In other years, there were laws passed which dealt with issues such as rewarding Dalai Lama a gold medal (PL 109–287) and defective drywall products imported from China (PL 112–266). However, the bilateral relations started deteriorating when Donald Trump became the 45th President of the United States. As a result,
Congress passed the Reciprocal Access to Tibet Act in 2018, which prohibited the Chinese officials in the policy-making circle related to Tibet to enter the United States. Since the Trump Administration was busy with its other legislative priority, China was not on the Administration’s and Congress’s radar screen. Consequently, the number of laws passed was limited during the 115th Congress.

The 116th Congress was a significant turning point. A series of events, including the outbreak of the COVID-19 pandemic, the passage of China’s Hong Kong National Security Law (HKNSL), and the revelation of the so-called “internment camps” in Xinjiang changed the nature of the Sino-U.S. relations. As a reaction to these events, both houses introduced 618 pieces of legislation on China, and 17 of them were passed and signed into law by President Trump. These laws specifically punished China over her handling of Hong Kong protests, increased diplomatic isolation of Taiwan, the detention of Uyghur people in Xinjiang, and mounting bilateral trade deficits.

Congress was extremely sensitive to China’s handling of Tibet, Taiwan, and Xinjiang, the three peripheral areas the PRC struggled to extend its formal control. Figure 5 is the historical data on Tibet, Taiwan, and Xinjiang-related legislative proposals. Between the 94th and the 116th Congress, there were 971 pieces of legislative proposals that were Taiwan-related, 495 were Tibet-related, and 90 were Xinjiang-related. The total number of bills proposed for the three regions exceeds 1,556 pieces, about half of all legislative bills proposed relating to China.

This latest wave of congressional activism on China coincided with the Trump Administration’s decision to redefine China as an “existential threat” to U.S. national security and to re-orient U.S. policy towards China to one of decoupling and confrontation. The policy goal shifted towards seeking a regime change in China at the end of the Trump presidency, a significant departure from
the traditional U.S. goal of pursuing a peaceful power transition in China [42]. Decoupling is at the core of this new China policy.

A Content Analysis of Recent China-related Legislation

Several significant political developments in China and the U.S. have contributed to the recent congressional activism, including the creation of the so-called “internment camps” in Xinjiang by the Chinese authority, the Trump Administration’s trade war against China, the protest in Hong Kong over the extradition law, and the outbreak of the COVID-19 pandemic. Several leading “China hawks” in Congress used tactics such as the Unanimous Consent procedure to push through many of the harsh bills aimed at punishing China. Unanimous Consent is a decision-making procedure to expedite the passage of a bill by eliminating the need for a formal vote if consent is anticipated. It does not mean the passage of these bills is unanimous. Instead, it simply limits the time for debate, restricts amendments, and does not require a quorum for the floor vote [1, 39]. It suppresses any rational voices, even though they are merely a minority at the time. However, the resort to using fast-track legislation does indicate a firm consensus between congressional Democrats and Republicans on being tougher on China. Significant partisan differences on how to deal with China continue to exist. The overwhelming bipartisan support merely reflect the mounting apprehensions about the rise of China among American lawmakers.

Legislation Targeting Hong Kong

Hong Kong’s protests over the controversial extradition law and the Chinese government’s reaction to it were one of the primary triggers of the latest anti-China legislation. In February 2019, Hong Kong’s Security Bureau proposed amendments to existing Hong Kong extradition laws requiring the extradition of suspects to the Chinese mainland and other countries or regions. Mass street protests began in March. Despite Hong Kong Executive Chief Carrie Liam’s decision to withdraw the bill in October, the protests continued. Clashes between the demonstrators and anti-riot police captured the headlines of global media for months. By May 2020, the Chinese central government decided to bypass the Hong Kong legislative body and drafted the HKNSL. On June 30, 2020, the National People’s Congress (NPC) approved the new law and made it effective the next day.

For years, U.S. relations with Hong Kong were governed by the United States-Hong Kong Policy Act of 1992. It allowed the U.S. to treat Hong Kong separately from the Chinese mainland in foreign trade, investment, and finance, after Hong Kong’s handover to China in 1997. In reaction to the HKNSL, seven pieces of legislation were enacted by Congress.

The Hong Kong Human Rights and Democracy Act passed the Senate using Unanimous Consent on November 19, 2020 and passed the House with a 417-1 vote. President Trump signed it into law on November 27, 2020. The law requires the U.S. government to impose sanctions against Chinese and Hong Kong officials
responsible for human rights abuses in Hong Kong. Before enacting this law, President Trump already signed Executive Order 13936 to hold “China accountable for its aggressive actions against Hong Kong people.” Trump subsequently suspended Hong Kong’s unique economic status [16].

The Hong Kong Autonomy Act (PL 116–149) was sponsored by Representative Brad Sherman [D-CA] on July 1, 2020. The bill passed the House with Unanimous Consent on the same day and passed the Senate the next day with the Unanimous Consent procedure. President Trump signed it on July 14, 2020. The law authorizes the President to use sanctions to target Chinese officials and financial institutions that have ties with these individuals.

However, Congress did not take any action on the Hong Kong Freedom Act (H.R. 6947 and S. 3798) which intends to recognize Hong Kong as a separate and independent country from China. In addition, the proposed Hong Kong Safe Harbor Act (H.R. 7415 and S. 4110) wants to extend refugee protection for these Hong Kong activists who escaped from China to avoid potential prosecutions. But the bill was blocked by Senator Ted Cruz [4].

The Effort to Hold Chinese Government Accountable for the COVID-19 Pandemic

The COVID-19 pandemic is a watershed event that has changed the world forever. The slow response of the Trump Administration led the U.S. to become an epicenter of the pandemic quickly. The country’s economy has seen the most significant recession since the Great Depression. In addition, more than 600,000 Americans have lost their lives so far. President Trump deliberately shifted the blame to China to secure his reelection bid. He called the virus a “China virus” repeatedly in public and triggered a wave of anti-Asian hate crimes in the U.S.

On April 17, 2020, the National Republican Senatorial Committee distributed a 57-page memo to the GOP’s political candidates to address the coronavirus crisis by aggressively attacking China. “The Corona Big Book,” as it was called, asserted that “China caused this pandemic by covering it up, lying, and hoarding the world’s supply of medical equipment” and “China is not an ally, and they’re not just a rival—they are an adversary, and the Chinese Communist Party is our enemy” [22]. This memo was produced by Brett O’Donnell, a Republican strategist and advisor of the Secretary of State Mike Pompeo and Arkansas Senator Tom Cotton. It subsequently became the talking point for most Republican politicians’ public statements in the 2020 election.

Several bills were soon introduced in Congress. Some legislators proposed establishing a bipartisan joint select committee to investigate China’s handling of the pandemic (H. Con. Res. 97). Two similar Senate bills (S. 3673 and S. 3588) intended to establish various structures, including a presidential task force and interagency working group to investigate and seek damages from China relating to its response to the COVID-19 outbreak. Finally, H.R. 6524, “Compensation for the Victims of State Misrepresentations to the World Health Organization Act of 2020,” a bill introduced by Representative Christopher Smith [R-NJ], accused China of “deliberately” mishandling the COVID-19 and wants to waive the Foreign Immunities Act
to legally empower U.S. citizens to sue the government of China for monetary damages. Although none of these bills were acted upon by the 116th Congress, many were reintroduced in the 117th Congress.

The only positive sentiment expressed by Congress was H. Res. 908, which was introduced by Representative Grace Meng [D-NY] and co-sponsored by 157 House members. It was partially a reaction to the wave of anti-Asian hate crimes, resulting in over 2583 reported incidents in the U.S. between March and August of 2020 [5]. The resolution passed the House with a vote of 243–164. It called on all public officials to condemn and denounce anti-Asian sentiment in any form and manifested racism and xenophobia against Asian Americans. In addition, the resolution stated that “the use of anti-Asian terminology and rhetoric related to the COVID-19, such as the ‘Chinese Virus,’ ‘Wuhan Virus,’ and ‘Kung-flu’ have perpetuated anti-Asian stigma” [21].

**Legislation Aimed at Educational Decoupling.**

As the rhetoric to start a new Cold War and an ideological confrontation with China intensified, several legislators introduced bills promoting Sino-U.S. educational decoupling. Some targeted Confucius Institutes (C.I.s) in the U.S. One bill not only asks for greater transparency for the C.I.s, think tanks, academic programs, and non-governmental organizations funded primarily by the Government of China and the Chinese Communist Party (CCP), but also requires the C.I.s to register through the Foreign Agents Registration Act of 1938 or a similar mechanism (S. 480 and H. R. 7937).

The Confucius Act (S. 939), sponsored by Senator John Kennedy [R-LA], requires postsecondary educational institutions that receive federal funding to include in their contracts or agreements with the C.I.s stipulations that protect academic freedom, prohibit the application of Chinese law on campuses; and grant full managerial authority of the institutes to the institutions. The bill passed the Senate without amendment by Unanimous Consent but failed to get through the House.

In the same spirit, Congress and the Trump Administration increasingly targeted Chinese students in the U.S., especially those majoring in science and technology. Senator Tom Cotton and Representative Mike Gallagher introduced bills to deny a visa to some Chinese students who are affiliated with the Chinese military or Chinese institutions which are affiliated or funded by the Chinese army. The bills also want to conduct a special background check on all Chinese nationals who apply for an F or J visa for an academic field related to the commerce control list (S. 1451 and H.R. 2713). Senator Tom Cotton also introduced S. 3920, the “Secure Campus Act,” which prohibits certain Chinese citizens from receiving visas as graduate or post-graduate students in science, technology, engineering, or math (STEM) fields. The same bill was introduced to the House by Representative David Kustoff [R-TN]. Senator Rick Scott [R-FL] introduced a bill to deny a visa to Chinese students who may be interested in obtaining US COVID-19 vaccine research results (S. 3837). Their logic for such a move was based on Chinese students’ alleged “espionage” activities [32].
The National Defense Authorization Act passed in 2019 (H.R. 5515), which prohibits universities hosting the C.I.s from receiving funding for Chinese language studies from the Department of Defense, was a decisive blow to the C.I.s in the U.S. Many colleges and universities were forced to close these institutes due to pressures from individual Senators or Congresspersons and for fear of losing federal funding. Furthermore, on August 13, 2020, the U.S. Department of State designated the CI US Center as a foreign mission of the PRC [35]. These legislative and executive actions led to the closure or in the process of closing of more than 85 C.I.s in the U.S. as of July 2021 [30].

Legislation Promoting Economic Decoupling

For years, the U.S. government has complained about China’s huge trade surplus with the U.S., the alleged infringement of U.S. intellectual properties, forced technology transfer, and unfair trade practices. Congress and the Trump Administration began to impose more restrictions on China’s access to the U.S. market and launched the largest trade war against China. President Trump and Congress redefined the bilateral economic ties to be more adversarial and competitive rather than complementary. Concerned by China’s “Made in China 2025” strategic plan, members in Congress were determined to pursue an economic decoupling with China.

S. 945, introduced by Senator John Kennedy, prohibits any Chinese companies that are owned or controlled by the Chinese government, or have a charter of the CCP, from issuing stocks in the U.S. Since Chinese regulations require all companies to have a charter of the CCP, this bill can lead to the delisting of all Chinese companies which issue stocks or securities in U.S. stock exchanges. This bill passed Congress and President Trump signed it into law (PL 116–222) on December 18, 2020. Trump also signed an executive order a month earlier, which prohibited all U.S. investors from purchasing or investing in “Communist Chinese military companies” [17]. So far, 44 large Chinese companies have been identified [46]. The New York Stock Exchange delisted China Mobile, China Unicom, China Telecom, and CNOOC by February 2021 [35].

S. 1634, introduced by Senator Marco Rubio, demands sanctions against individuals or entities responsible for China’s activities in the South China Sea and the East China Sea. S. 3537, introduced by Senator Tom Cotton, wants to ban federal funds to purchase drugs manufactured in China.

Increasingly worrying about China’s technological advancement, especially in the 5G communication technology, the Trump Administration began to target several leading Chinese telecommunication firms, including ZTE, Huawei, and Tencent. President Trump signed executive orders 13942 and 13943 on August 6, 2020, which targeted two Chinese companies, TikTok and WeChat, based on the national security threat [14, 15]. The Secure and Trusted Communications Networks Act (H.R. 4998) asks to establish a mechanism to prevent communication equipment or services that pose a national security risk from entering U.S. networks, and remove such equipment or services already in use. This bill targeted Huawei and its 5G
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network equipment and services. It passed Congress, and President Trump signed it into law on March 12, 2020 (PL 116–124).

There were several similar legislative bills proposed to promote a decoupling with Chinese business and economy. The proposed Fair Trade with China Enforcement Act (S. 2) prohibits the export to the PRC of national security-sensitive technology and intellectual property. It imposes a shareholder cap on Chinese investors in United States corporations; prohibits using certain telecommunications services or equipment. S. 4609, introduced by Tom Cotton, asks to withdraw normal trade relations treatment from China and expands the bases of ineligibility for this treatment to include specified breaches of human rights by China. H.R. 7594, Reshoring American Manufacturing Act of 2020, offers up to $25 million tax credit for companies to move their factories back to the U.S. [10]. None of these bills were enacted.

Elevating Relations with Taiwan

As a sign of noncooperation, multiple bills were proposed to establish closer ties with Taiwan to challenge the legitimacy of the CCP. In recent decades, the average number of bills related to Taiwan is about forty per session. Congress passed the Taiwan Travel Act (PL 115–135) in July 2018, which authorizes two-way official visits between the U.S. and Taiwan. In the 116th Congress, there were 91 pieces of legislative proposals related to Taiwan. Nineteen of them received committee considerations, and eight were signed into law by President Trump. However, only one directly dealt with Taiwan. Taiwan Allies International Protection and Enhancement Initiative Act of 2019 (PL 116–135) requires the Department of State to report to Congress on steps the State Department takes to strengthen Taiwan’s diplomatic relationships and partnerships worldwide annually. However, this law indicates that the U.S. will only support Taiwan’s observer status in international organizations in which statehood is a requirement.

Other legislative proposals that did not get passed include the Taiwan Defense Act (H.R. 7423) and the Taiwan Invasion Prevention Act (H.R. 7855). Both bills want to commit the U.S. to defend Taiwan militarily against a direct attack by the Chinese military. The essence of these bills is to ask the U.S. government to abandon its long-held policy of “strategic ambiguity” on the military defense of Taiwan [33]. In addition, some legislators pushed for Taiwan’s independence and wanted to elevate Taiwan’s international legal status as a semi-sovereign nation. The Taiwan Symbols of Sovereignty Act (H.R. 6287 and S. 3310) allows diplomats and service members in the Taiwanese military to display their flag and wear their uniforms while in the U.S. on official businesses. This was intended to reverse the Obama Administration’s decision made in 2015.

Again, none of these controversial bills became law. However, the reluctance of Congress to grant full diplomatic recognition of Taiwan’s sovereign and independent status suggests that the U.S. legislators were fully aware of the sensitivity and implication of the Taiwan issue to Sino-U.S. relations. By initiating these minor and symbolic changes, Congress hopes to upset Beijing to some extent, but not enough to lead to a significant tipping point in the bilateral ties.
The U.S. Congress has a long history of expressing concerns about the human rights of minorities in the Xinjiang autonomous region. The government in Xinjiang, in the aftermath of a series of terrorist, extremist, and separatist attacks in 2009, started to put some Uyghur people who “participated, incited, coerced or induced into participating in terrorist or extremist activities, or people who participated in terrorist or extremist activities that posed a real danger but did not cause actual harm,” into the so-called “Vocational and Training Centers” established in multiple places in Xinjiang [43].

As a response, Senator Marco Rubio introduced the Uyghur Human Rights Policy Act of 2020 on May 14, 2020, and the Senate passed it using the Unanimous Consent procedure. The House passed the same bill without amendment with a 413-1 roll call vote. President Trump signed it into law on June 17, 2020 (PL 116–145). The law imposes sanctions against Chinese officials and entities responsible for human rights abuses in China’s Xinjiang Uyghur Autonomous Region. Later the Trump Administration singled out four government officials as the sanction targets, including Chen Quanguo, a Politburo member and party secretary of the Xinjiang Autonomous Region.

After the publication of a report on the use of forced labor in Xinjiang by the Australian Strategic Policy Institute [53], Congress responded with several bills on this issue. First, H.R. 6210 and S. 3471 want to ban imports of Xinjiang products on suspicion of using forced labor. Second, although the bill did not go through, the Trump Administration announced an import ban on all cotton and tomato products from Xinjiang on January 13, 2021 [44].

During the 117th Congress, China hawks have continued to push for the crusade against China. A quick glimpse of the new legislative proposals submitted to the 117th Congress shows the continued negative tone of legislators’ sentiment. Among the 220-plus pieces of legislative proposals already submitted as of June 2021, we see many previously introduced anti-PRC legislation pieces being reintroduced. Senator Marco Rubio sponsored fourteen new bills or resolutions targeting China, including the Uyghur Forced Labor Prevention Act (S. 65) and the Hong Kong Safe Harbor Act (H.R. 461). Senator Tom Cotton reintroduced his bill to withdraw normal trade relations with China (S. 785). Representative Christopher Smith introduced a bill to seek compensation from China for misrepresenting COVID-19 to the World Health Organization (H.R. 1775). Some other potentially damaging bills include a new bill that asks the International Olympic Committee to reconsider hosting the 2022 Beijing Winter Olympic Games and demands that the U.S. government lead an international boycott of the Games if it is held in Beijing as planned (H. Con. Res 16 and S. Res. 13). Some legislators continue to push for an international investigation of China’s handling of the COVID-19 pandemic (H. Res. 90). Tom Cotton introduced a bill to end China’s access to multi-year visas in the U.S. (S. 417) and impose sanctions against the CCP’s United Front Work Department (S. 429). Senate majority leader Charles Schumer (D-NY) introduced the Endless Frontier Act (S. 1260), and the Senate passed the bill after renaming it as the U.S. Innovation and Competition Act. The bill will allocate potentially 250 billion dollars in critical
science and technology research and development projects to counter China’s technological challenges and threats to the U.S.

Human rights, trade, export control, Taiwan, Tibet, and Xinjiang are traditional hotspots in U.S.-China relations. Coronavirus and Hong Kong are the latest additions to the list. What is unique is that all of these hot issues exploded all at the same time in just one year. In response to President Trump’s call for action, the congressional China hawks led the way to turn the tide. President Trump did nothing to stop the congressional crusade against China and signed every piece of China-related bills passed by Congress. The executive and legislative branches acted in full concert over China. Despite the peak in the amount of anti-China legislation, there is only limited leverage available to Congress to use, including travel or visa restrictions, assets freeze, export bans on advanced technologies and equipment, higher tariffs, demands for reciprocity, etc. China’s responses so far have been low-key, measured, and less provocative. It tries its best to control damage and to avoid an escalation of the decoupling.

A Political Analysis of the Main Players in the Crusade against China

As a place for a myriad of political interests, legislators having different agendas or motives find Congress an ideal place to register their criticism or protest against China. However, the 116th Congress seems to be different. According to the co-chair of the bipartisan U.S.-China Working Group (USCWG), Congressmen Rick Larsen [D-WA],

In Congress, there are national security hawks on China, trade hawks on China, and human rights hawks on China. So long as they didn’t talk to each other, they didn’t realize they all hated China . . . In the last few years, those three groups have found each other and have created a different consensus in Congress and where that center of gravity sits [19].

Among China’s staunchest critics (see Table 1), three Senators and one House member stand out as the new “gang of four.” They are Marco Rubio, Ted Cruz, Christopher Smith, and Tom Cotton. Three days after the U.S. announcement of sanctions on four Chinese officials for China’s handling of the Uyghur affairs in Xinjiang, China responded on July 13, 2020, with retaliatory sanction against two U.S. Senators, Marco Rubio and Ted Cruz, and one House member, Christopher Smith, in addition to two other American individuals. These individuals are all outspoken critics of China in recent years. Unlike some of the leading China “punishers” or “decouplers” who were mere “opportunists,” the “gang of four” are foreign policy “entrepreneurs” whose actions are consequential [7]. Moreover, they have developed some level of expertise on China and are persistent in their crusade against what they consider to be the biggest threat to American values.

Senator Marco Rubio and Senator Ted Cruz are both of Cuban descent. Rubio was strongly influenced by Cuban immigrants’ strong anti-Castro and anti-communist sentiment. He had a lifetime rating of 89 by the American Conservative Union in 2020. Ted Cruz had a rating of 97 by the same group [3]. Rubio became a Florida
| Legislators                  | No. of China-related bills introduced | Notable bills introduced                                                                 |
|-----------------------------|--------------------------------------|------------------------------------------------------------------------------------------|
| **House Members**           |                                      |                                                                                          |
| Christopher H. Smith [R-NJ] | 23                                   | Hong Kong Human Rights and Democracy Act of 2019; Uyghur Human Rights Policy Act of 2019 |
| Michael T. McCaul [R-TX]    | 18                                   | Taiwan Assurance Act of 2019; Taiwan Security Act of 2017; Countering Chinese Communist Party Malign Influence Act |
| Mike Gallagher [R-WI]       | 17                                   | Taiwan Defense Act: The South China Sea and East China Sea Sanctions Act of 2019; Chinese Communist Party Influence Transparency Act; Protecting Our Pharmaceutical Supply Chain from China Act of 2020; Visa Security Act |
| Ted S. Yoho [R-FL]          | 17                                   | Taiwan Invasion Prevention Act; Taiwan Fellowship Act                                      |
| **Senators**                |                                      |                                                                                          |
| Marco Rubio [R-FL]          | 34                                   | Uyghur Human Rights Policy Act of 2020; Hong Kong Human Rights and Democracy Act of 2019; the South China Sea and East China Sea Sanctions Act of 2019; Uyghur Forced Labor Prevention Act; Tibetan Policy and Support Act of 2019; Hong Kong Safe Harbor Act |
| Tom Cotton [R-AR]           | 22                                   | China Trade Relations Act of 2020; Secure Camp Act of 2020; Visa Security Act; Taiwan Assurance Act of 2019; Taiwan Security Act of 2017 |
| Ted Cruz [R-TX]             | 22                                   | Taiwan Symbols of Sovereignty (SOS.) Act of 2020; Ending Medical Censorship and Cover-Ups in China Act of 2020; Sanction Entities in China for Undermining Rules, Exploiting Intellectual Property Act of 2019 |
| Cory Gardner [R-CO]         | 20                                   | Taiwan Allies International Protection and Enhancement Initiative (TAIPEI) Act of 2019; Asia Reassurance Initiative Act of 2018 |

*Source: congress.gov*
Senator in 2010. He never visited China and was not interested in China until 2016, when he ran for the President. Being a Catholic also contributed to his conservative view. According to one Chinese commentary, “his binary sense of morality seems to explain his crusade against the rising economic powerhouse partially” [51]. Since China-bashing is considered a valuable tool to gain popularity and name recognition, he began to take very hawkish positions on China. Rubio helped Congress-led efforts to restrict the operation of China’s telecom giants, ZTE Corp. and Huawei Technologies Co, in the U.S. He also supported slashing American financial ties to the world’s second-largest economy. One comment carried by Bloomberg Business-Week stated that “Rubio has carved out political space for himself as a China hawk, but his aggressive stance may not win over the U.S. business community” [24]. The most significant anti-China bill Rubio sponsored in the 116th Congress included the Uyghur Human Rights Policy Act, the Hong Kong Human Rights and Democracy Act, which President Donald Trump signed into law in November 2019, and the Tibetan Policy and Support Act in the Senate.

Senator Cruz is known as a social conservative and supported a U.S. decoupling from China. He vowed to “press on every front, to use every tool, every lever we have, to win the global strategic competition with the Chinese communist government” [52]. In May 2019, Ted Cruz introduced three separate bills, including one that called for sanctions on Chinese officials who allegedly helped to censor coronavirus-related information coming out of China. Cruz called China “the single most dangerous geopolitical threat America faces now and through the next century” [12]. As a political stunt, he visited Hong Kong on October 12, 2019, to express his support of the demonstrators in the middle of the prolonged street demonstrations and riots in Hong Kong.

Both Rubio and Cruz were 2016 candidates for the president. They both exchanged harsh words with then Presidential candidate Donald Trump during the presidential campaigns. But this did not prevent them from forming a political alliance with President Trump to fight against China. In June 2018, Rubio and Cruz joined several other Senators to send a letter to the Trump Administration, and raised concerns about China’s attempt to “exert undue influence over media outlets and academic institutions in the U.S. and abroad” [33].

Christopher Smith is a ranking member of the bipartisan Congressional-Executive Commission on China (CECC) and served as its chairperson twice. Smith co-sponsored a bill introduced at the end of June 2019 that would give Hong Kong residents a refugee status “of special humanitarian concern.” Smith also co-sponsored the Tibet Act and Uyghur Human Rights Policy Act of 2019. He asked the State Department to devise a long-term strategy to counter the Chinese government’s increasing political influence operation in the U.S. (H.R. 1811). As a co-chair of the House Tom Lantos Human Rights Commission, he chaired over 60 congressional hearings on Chinese human rights issues. As a result, the Chinese government denied him a visa for seven years [37]. He was a ranking member of the CECC, and a senior member of the House Committee on Foreign Affairs.

Senator Tom Cotton is from Arkansas and is a former U.S. Army captain. He is a member of the Senate Select Committee on Intelligence, of which Marco Rubio is the Chair. Since his election as a Senator in 2015, he always takes an extreme
hardline stance against China in Congress and has served unofficially as a longtime advisor to President Trump. He is known to be a staunch Trump loyalist, and for this reason, President Trump even considered nominating him for Supreme Court associate justice. \textit{Politico}, a liberal journal in the U.S., calls him the GOP’s No. 1 coronavirus China hawk [13]. As a first-term Senator, Cotton is eager to establish himself as a future leader of the Republican Party in the Senate. In the 116th Congress, he introduced multiple anti-China bills, but none of them became law. Like Rubio, Cruz, and Smith, Cotton is one of the China “punishers” and “decouplers” [48] and is determined to carry on Trumpism even without Trump in the White House.

Several vital institutions play a leading role in congressional activism in China. This includes the CECC, the US-China Economic and Security Review Commission (USCC), and the House Republicans’ “China Task Force” (CTF). Many of the key players are members of these entities. The CECC was created in 2000 (PL 106–286) as a condition for congressional approval of permanent normal trade relations with China. It is designed to continue the debate on human rights issues in China. It comprises nine Senators, nine House members, and five senior Administration officials appointed by the President. The Commission submits its annual report to congressional leadership and the President. Rubio was the Chair of the CECC in the 115th Congress and its co-chair in the 116th Congress.

The CECC publishes an annual report, commission analyses, issue papers, and newsletters. Much of the negative sentiments can be found in the CECC’s 2018 and 2019 reports. These reports are often based on one-sided testimonies, biased opinions, and falsified information. The Commission made little effort to verify many of the information it collects. The 2018 CECC Report, signed by Marco Rubio and Christopher Smith, focused on China’s suppression of minorities in Xinjiang, tightening the CCP control of the government, social and economic institutions of high-tech surveillance of people. Some notable recommendations contained in the reports such as the emphasis on reciprocity in foreign relations, trade, investment, media and cultural and academic exchanges, more screening of Chinese investment in the U.S., the punishment of officials who were responsible for human rights abuses, especially in Xinjiang, tightening of export control, require Chinese state media or state-sponsored tanks and non-profit organizations to register as a foreign agent under Mandate of the Foreign Agents Registration (FARA). It recommended the passage of the following bills introduced in 115th Congress: the Fair Trade with China Enforcement Act (S. 2826/H.R. 6001), the Countering the Chinese Government and Communist Party’s Political Influence Operations Act (H.R. 6010/S3171, introduced by Christopher Smith and Marco Rubio), the Hong Kong Human Rights and Democracy Act of 2017 (S. 417/H.R. 3856, Marco Rubio and Christopher Smith), the Reciprocal Access to Tibet Act of 2017 (S. 821/H.R. 1872, Marco Rubio and James McGovern), and the Stop Higher Education Espionage and Theft Act of 2018 (S. 2903, Ted Cruz) [9].

The CECC 2019 Report, signed by James McGovern and Marco Rubio, continued to focus on these issues; its recommendations include: develop a whole-of-government approach to Human Rights in China; using Global Magnitsky Human Rights Accountability Act (PL 114–328) to impose on Chinese business entities and officials complicit in the “mass internment and surveillance of Uyghurs and other
Turkic Muslim minorities;” levy financial sanctions against or deny U.S.-entry visas to Chinese officials complicit in human rights violations including severe religious freedom restrictions and human trafficking; and develop an action plan to counter the Chinese government’s “sharp power” efforts globally, monitoring and controlling foreign influence operations and providing information about the Chinese ministries, entities, and individuals engaged in foreign influence operations and their connections with entities of the CCP or government [8]. In addition, the report recommends the passage of the following bills introduced in the 116th Congress: Uyghur Human Rights Policy Act of 2019, Hong Kong Human Rights and Democracy Act of 2019, Countering the Chinese government, and Communist Party’s Political Influence Operations Act. Marco Rubio and Christopher Smith were sponsors of all these bills. The CECC and its reports and recommendations have played a pivotal role in shaping recent congressional activism on China. Many of its leaders and members stand in the frontline in the battle against China.

The National Defense Authorization Act of 2001 (PL 106–398) established the USCC. The Commission’s purpose is to monitor, investigate, and report to Congress on the national security implications of the bilateral trade and economic relationship between the U.S. and China. It must report to Congress annually. The Commission has twelve commissioners. They are all from the private sector and are appointed by congressional leaders. In 2019, the Commission held eight public hearings. Its publication includes an annual report to Congress and Issue Briefings. In its 2020 annual report, the USCC made 19 recommendations to Congress, which include adopting the principle of reciprocity in all legislation bearing on U.S. China relations; expanding the authority of the Federal Trade Commission to monitor Chinese government subsidies; directing the State Department to report annually on China’s actions in United Nations (UN) and its subordinate agencies that subvert the principles and purposes of the UN; establishing a China Economic Data Coordination Center; and enacting legislation to make the Director of the American Institute in Taiwan a presidential nomination [45].

For more than a year, top leaders from both parties in the House of Representatives worked to form a bipartisan committee to oversee China’s congressional strategy. But in February 2020, the Democrats walked away from the project. The House Republicans created their “China Task Force” in May 2020. It is a committee of fifteen Republican lawmakers representing eleven committees to coordinate legislative strategy on all aspects of the China challenge. The members were assigned to six pillars to address the China Challenge’s multiple aspects: Ideological Competition, Supply Chain Security, National Security, Technology, Economics and Energy, and Competitiveness. The CTF drafted its first report in September 2020, which contained 82 key findings and more than 400 recommendations, most of which had already been implemented by the Trump Administration. Some of the recommendations included supporting forming a new D-10 group of leading democracies to develop and deploy 5G technology and strengthening trade relationships with U.S. allies to establish U.S. standards and counter the PRC’s influence [47].

Together, the CECC, the USCC, and the CTF have created a hostile atmosphere full of suspicion, mistrust, and misinformation about China. It engineered a congressional crusade against an “evil” empire and “existential threat.” There are some
exceptions. One group in the U.S. House of Representatives that intends to lay the US-China relations on a rational and practice basis is the bipartisan US-China Working Group, chaired by Congressmen Rick Larsen [D-WA] and Darin LaHood [R-IL]. It currently has thirty-nine members. Founded in 2005, the USCWG seeks to build diplomatic relations with China and educate members of Congress through meetings and briefings with business, academic and political leaders from the U.S. and China. The legislators involved try to serve the role of “salvagers” and to promote bilateral cooperation. It sent nine congressional delegations to Beijing to facilitate dialogs between the two countries. The U.S. legislators’ issue with Chinese leaders includes global economy and trade relations, consumer product safety, intellectual property rights, military-to-military operations, counternarcotic, Olympics security, energy cooperation, and environmental stewardship [40]. The group has been silent since the 116th Congress. This inactivity may have something to do with the Covid-19 pandemic and the overall political atmosphere created by the Trump administration.

Conclusions

The preceding analyses have produced several significant findings. First, the historical research shows that Congress has danced with President Trump in obliterating U.S. relations with China and pushed the bilateral ties into a free fall. Second, the recent congressional activism has produced many damaging legislative activities that will make the tide-turning effort by the future executive and congressional leaders extremely unlikely. The structural, procedural, and legal requirements that have been put in place will have a long-lasting negative impact on bilateral relations, which cannot be easily undone without significant legislative efforts and executive leadership. Third, in recent years, the set of policy coordination and advisory institutions created by Congress have played crucial roles in the sudden change in Sino-U.S. relations’ tone and direction. These institutions have created policy consensus among congressional leaders and rank-and-file legislators, and they provided the Trump Administration and Congress with many substantial policy recommendations. Many of them have been quickly adopted and implemented. These congressional leaders and members of these institutions all become key sponsors of the anti-China legislation. With their leadership, a much higher percentage of these bills have become law. The congressional activism on China, and the Trump Administration’s strategic new thinking on China, has steered the two superpowers into a collision course.

The content analysis shows that the efforts to decouple the two economies have created momentum, resulting in many adverse consequences in educational exchanges, business activities, and trade relations. Although the U.S. has intensified the scrutiny of China’s human rights practices, the cornerstones of the bilateral ties (i.e., the one-China policy, Taiwan status, and trade and business transactions) remain essentially in place—albeit on shaky ground. Thus, there is no immediate danger of total decoupling in bilateral relations. The bilateral ties are too intertwined, and there is no easy out of this multifaceted relationship. This leaves some hope for future improvement under the new Biden Administration.
The political analysis suggests that the emergence of a new generation of China hawks was responsible for the most damaging legislation introduced or passed in Congress. They fought like the Cold War warriors. They used similar techniques and approaches used during the McCarthy era in the 1950s, such as the Red hunting (targeting the CCP and its members), the fearmongering (targeting Chinese nationals in the U.S. for spying activities), and the falsification (characterizing China’s Xinjiang policy as “genocide”). Although other legislators and community leaders did not necessarily share their highly contentious views, the political atmosphere they have cultivated had a chilling effect on people who dare to disagree with them and cause them not to say anything positive about China publicly. These China “punishers” and “decouplers” will continue to play a dominant role in the crucial policy deliberation process and the advisory institutions Congress created in recent years, such as the CECC or the CTF. Fortunately, there are still many legislative “salvagers,” China specialists, and researchers, who strongly object to the attempt to make China the new enemy. They continue to work on building positive bilateral relationships with China. On July 3, 2019, *Washington Post* published an “Open Letter to the President and Congress on China Policy.” The letter, signed by 130 China specialists, openly challenged the notion that “Beijing is an economic enemy or an existential national security threat that must be confronted in every sphere; nor is China a monolith, or the views of its leaders set in stone.” They wanted the U.S. to return to a realistic and non-adversarial stance towards China [18].

After turbulent presidential and congressional elections in 2020, Democrats controlled both House and Senate. Joe Biden defeated Donald Trump and became the 46th President. During the campaign, the Biden team tried to outbid the Trump team on China toughness. As the new President, Biden must prove he is more willing to take tougher actions against China. Although he has expressed a desire to steer the bilateral ties away from a collision course, Biden shared many similar bipartisan concerns about China’s “existential threat.” He is formulating a strategy to establish a new global alliance of Western democracies to deal with the challenges posed by China.

The bipartisan consensus in Congress for a stricter China policy will continue to influence President Biden’s China policy. The same group of China hawks has kept their seats in the House and Senate in the 117th Congress. The Republicans not only have joined the Democrats to express their strong condemnation of China’s human rights violation, but they continue to take a firm stand on trade and economic issues related to China. Since the Democrats are in the majority in both chambers of Congress, they will also try to outbid their Republican counterparts to propose more tough legislation on China. Any sign of softness on China from the Biden Administration or the Congressional Democrats will face some serious resistance and challenges from the Republican minority in both chambers of Congress. The new policy elite circle President Biden has assembled continues to take a harsh tone on China. The structures and procedures Congress laid out on China policy formulation in previous decades will remain in place. They will continue to play essential roles in shaping the future of America’s China policy.

President Biden is one of the few American leaders who have dealt with all prominent Chinese political leaders since 1979. He has refused to define China as
American’s number one enemy and would like to build mixed relations encompassing both cooperation and competition [23, 56]. He supports neither the goal of regime changes nor direct military confrontation with China. Instead, he has expressed his desire to formulate a new China policy that is based on ideological confrontation, economic competition, and environmental collaboration. Since the new administration’s priority is to fight the pandemic and restart the economy at the moment, one may have to wait for a bit longer to have a full picture of the Biden Administration’s three-proned approach towards China.

Acknowledgements The author wishes to thank Ken Ellinger, He Li, Melissa Guo, and Nele Noesselt for their valuable comments and suggestions made on earlier drafts of this paper.

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