

China's counterterrorism law: War against 'Western ideas?'

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TOKYO —

The Chinese Communist Party (CCP) recently adopted the country's first counterterrorism law in its history. Its core aim, though broadly articulated, refers to addressing terrorism at home and maintaining global security. The controversial law captured the attention of the Obama administration because of its potential for forcing technology firms to support CCP counterterrorism activities, including spying.

Beijing has granted itself the right to operate outside of its own borders in the interest of national security, particularly in the broad and ambiguous context of terrorism – something the United States has been practicing for years as part of the ongoing Global War on Terror (GWOt). Washington has permitted itself to conduct counterterrorism and counterinsurgency operations long before the administration of George W Bush initiated the GWOt in response to the attacks of 9/11.

China remains intricately connected to today's security environment that, "has become more threatening to U.S. interests due to global access, communications, and finance" (JP 3-26, Oct 24, 2014: p. vii). In many ways, China and the U.S. share interests, making China a potential targeted for terrorist operatives, organizations, and networks.

Chinese officials stated that their country is now at greater risk to terrorist attacks with analysts suggesting that some of the recent instances of political violence observed in the country are not mere incidents, but rather harbingers of terrorist violence Beijing will have to contend with in the future. Although the U.S. has received a great deal of terrorist attention in recent history, China, which has received relatively little, could be likely to increasingly find itself in the spotlight given its rise as a world power and involvement in security operations in parts of the globe.

Costs associated with the Afghanistan and Iraq, as well as other overseas missions have taken a serious toll on the reputation of the U.S., but China has maintained a comparatively "good" standing in terms of terrorist activity including drug trafficking that has taken place in and around its borders.

Militants, extremists, and insurgents are located around the borders of China, especially in the area of its Western borders of Xinjiang but also in other areas to the south. There is reason to expect that China will have to face increased terrorist threats on the international level as well as on the domestic level. One such domestic incident took place on October 27, 2013, when a car full of people from Xinjiang drove into a crowd at Tiananmen Square, resulting in two deaths and 38 injuries. On another occasion that occurred shortly after, one person was killed and another eight injured when a series of explosions took place near the provincial Communist Party headquarters in Shanxi.

China is under attack by numerous governments, especially Western ones, stating that China's new counterterrorism law provides the basis for human rights violations as well as a violation of rights to privacy. President Barack Obama spoke directly to President Xi Jinping about the law, underscoring U.S. disapproval. The statements represent a distinct double standard given the long record of the U.S. violating international law and the principles inherent in the United Nations Charter that it claims to

uphold and defend. China's counterterrorism law also shines the light on Washington's ongoing tune: "now exempt, now not exempt."

U.S. standards in the fields of privacy and protection were substantially altered in 2001 with the U.S. Patriot Act of which Section 215 (including the Protect America Act [PAA] of 2007 and the FISA Amendments Act of 2008) modified the statutory provision that gave the Foreign Intelligence Surveillance Court the right to confer secret orders requiring the making of "any tangible thing (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities" (Congressional Record, 147-14, Oct. 15, 2011: p. 19796).

A number of amendments followed, and controversial provisions of the Patriot Act expired, but the Obama administration nonetheless is a defender of the U.S. current position as a surveillance superpower hostile to the arrival of other states attempting to afford themselves the same type of privilege if even to a much lesser extent. Li Shouwei, deputy head of the criminal law division under the Commission for Legislative Affairs of the NPC Standing Committee said, "[t]his rule accords with the actual work need of fighting terrorism and is basically the same as what other major countries in the world do" (Reuters, Dec 27, 2015).

China's new counterterrorism law was discussed at length in July 2015 when the CCP adopted a national security measure allowing the CCP to exact even more control over major network infrastructure and information systems. The measure laid the groundwork for making both more "secure and controllable." In response, Obama stated that the law "would essentially force all foreign companies, including US companies, to turn over to the Chinese government mechanisms where they could snoop and keep track of all the users of those services" (International Business Times Nov 27, 2015).

China is not the country bidding for a role as a counterterrorism and global security actor. Over the past several months, Moscow has demonstrated its desire to be involved in the multifaceted conflict in Syria, carrying out airstrikes against ISIS and Kurdish positions. Although Russia's initial intention was to act "preventatively, to fight and destroy militants and terrorists on the territories that they already occupy, not wait for them to come to our house" (Global Research, Oct 4, 2015), the U.S., Turkey, and Kurdish groups, among many other states and organizations, are divided over Russian presence in Syria.

In November 2015, former U.S. Secretary of State Hillary Clinton delivered a speech at the Council on Foreign Relations (CFR) calling attention to three main elements in the U.S. strategy to defeat ISIS. "No other country," stated Clinton, "can rally the world to defeat ISIS and win the generational struggle against radical jihadism. Only the United States can mobilize common action on a global scale, and that's exactly what we need. The entire world must be part of this fight, but we must lead it." (TIME, Nov 17, 2015).

Washington's position has repeatedly implied that terrorism is both a global challenge and is at the same time somehow the special task of the U.S. to defeat it. However, Russia's involvement in Syria, and now China's creation and implementation of a new counterterrorism law means the U.S. will not be the only counterterrorism actor operating in the global arena. It has also implied the need of all states' cooperation and initiative, but demonstrated at the same time that only certain forms of action can be approved. Washington has also rejected certain measures, calling them violations of laws and other codes of conduct that are violated by its own measures and policies.

The U.S. government has continued to blur the lines between appropriate action against terrorist organizations and networks, at times referring to international law and the importance of adhering to U.N. principles and the U.N. Charter though freely flouting it when it wants to. China's response to the same problem could provide the basis for establishing new norms in world politics or the erosion of existing

ones in the face of what many states frequently refer to as existential threats requiring exceptional measures to deal with them.

Prior to this law, China only had related provisions within NPC Standing Committee decisions and relied on China's criminal law, criminal procedural law, and emergency response law. If the roles were reversed there is little doubt that the Obama administration would find these measures inadequate for dealing with a growing threat in and around Central Asia and within China proper.

Despite the claims in both China and the U.S. about the growing threat of terrorism and need to organize global cooperation to combat it, less attention has been put toward the effects of China's new laws in terms of increased pressure that is surely to mount against civil activism, social movements, and the use of media for speaking against the CCP.

China's new law could have implications for its immediate neighbors. China's new law could be used as a basis for further encroachment upon territory belonging to Japan, South Korea, Taiwan, Vietnam, or the Philippines. Following 9/11, politicians in the Philippines enjoy regarding 9/11 as the moment the U.S. joined the Philippines and other countries in Asia in the war on terrorism. This can hardly be said of China with its new law and growing role in combating international terrorism.

What exactly are the purposes of the new law is not entirely clear but one might interpret the law as a free hand in stepping-up CCP security measures at home with the intention of securing Chinese communist regime in light of a weakening economy. In a way, the new law symbolizes the start of China's own (perpetual) war against what it terms "Western ideas."

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