

BRIEFING: China's New Counter-Terrorism Law and Its Human Rights Implications for the Uyghur People

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A. Introduction

The Uyghur Human Rights Project (UHRP) is concerned a new Counter-Terrorism Law adopted by the People's Republic of China (PRC) on December 27, 2015, and effective as of January 1, 2016, is a mandate for the Chinese government to commit human rights violations against the Uyghur people in East Turkestan.

UHRP is concerned:

- The broad and vague definitions of “terrorism” and “religious extremism” contained in the legislation are an attempt to criminalize peaceful expressions of religious belief and legitimize heavy-handed repression in East Turkestan in order to eradicate all Uyghur opposition, peaceful or otherwise, real or virtual.
- The curbs placed on reporting of alleged “terror incidents” and on disseminating information on the Internet violate the right to free expression. In addition, the Chinese state’s efforts to silence all Uyghurs, journalists or citizen journalists alike, from reporting, talking, writing, uploading genuine photos or videos of all incidents the state labels as “terrorist” by accusing them of spreading “rumors” aims to consolidate the narrative that China faces a concerted terror threat in East Turkestan.
- The lack of oversight on state security forces will not end the use of excessive force and extrajudicial killings in “counter-terror” operations. The law provides maximum authority for China’s security forces to conduct rights violations against the Uyghur population while reducing protection of the Uyghur people’s legitimate rights. In practice, China has provided immunity to its security forces to deal with Uyghur dissent and protest critical of repressive rule in East Turkestan.
- The promulgation of mass education campaigns on “counter-terror” is intended to flush out peaceful Uyghur opponents to the government’s interpretation of “religious extremism.”

“The new Counter-Terrorism Law is a pathway to a fresh round of Uyghur human rights violations. The law will not ensure the security of the people of East Turkestan and will only increase tensions through the criminalization of legitimate activities. It will serve to further alienate and marginalize the Uyghurs. I fear the region is headed toward a descent into further repression. That the Chinese government is preparing for these human rights abuses to happen in an information void is even more disturbing,” said UHRP Director, Alim Seytoff in a statement from Washington, DC.

Mr. Seytoff added: “When foreign governments express concern over human rights violations in East Turkestan, China justifies its repression as part of the global war on

terror and condemns its critics for ‘double standards on terrorism,’ even though, as is evident in the new law, the Chinese definition and standard of terrorism fall far short of international standards.”

UHRP believes the vague definition of “terrorism” and restrictions placed on reporting “terror incidents” constitute the most serious problems with the Counter-Terrorism Law. Observers should apply a high degree of skepticism in any assessment of a transparent implementation of the new legislation in East Turkestan. China prevents and punishes commentary, domestic and foreign, critical of its repressive policies and “counter-terror” measures in the region. The cases of Uyghur academic Ilham Tohti, Xinjiang Daily editor Zhao Xinwei and French reporter Ursula Gautier demonstrate Beijing’s zero tolerance for such questioning.¹

UHRP condemns terrorism and advocates for a peaceful realization of international human rights standards in East Turkestan. UHRP recognizes that some incidents occurring in East Turkestan and elsewhere appear to be premeditated attacks, but remains skeptical about overseas links and a coordinated Uyghur “terror threat.” Uyghurs are frequently the victims of political violence in China, including forms that are state-sanctioned. According to an investigation into incidents occurring between 2013-14, UHRP discovered Uyghurs were three times more likely than Han Chinese to be killed.²

B. Background

1. Pre Counter-Terrorism Law legislative framework

The 9/11 attacks on the United States marked a strategic shift in how China framed Uyghur dissent in East Turkestan. Prior to September 11, 2001, Chinese authorities treated expressions of Uyghur opposition to repressive government policies as criminal acts of “separatism” regardless of whether these were expressed peacefully or not.³ Whereas before the attacks on the Pentagon and World Trade Center, Chinese officials spoke of problems with “separatism” in the region, after 9/11 the same events were recast as “terrorism.”⁴ Nevertheless, while peaceful expressions of Uyghur identity, such as religion, were still considered acts of “separatism,” and Chinese officials spoke of a newly discovered “terror” problem, “at every opportunity the two terms are linked.”⁵

The introduction of the term “terrorism” into the Chinese government’s discourse on East Turkestan was interpreted as a move to legitimize its repression of the Uyghur people.⁶ In regard to the support Chinese authorities’ offered on the new “terror” allegations scholar James Millward concludes, “careful scrutiny reveals problems with the evidence presented in both media and official sources.”⁷

China quickly amended its legal framework to reflect this new discourse. In December 2001 six articles were revised and one article added to the Criminal Law of the People’s Republic of China.⁸ The amendments expanded the state’s definition of “acts of terror” and introduced harsher punishments for such acts. In doing so, China capitalized on patterns elsewhere “to stretch the notion beyond what has previously considered to

constitute terrorism.”⁹ Commenting on the changes to the Criminal Law, academic Michael Clarke wrote: “A further cause for concern regarding the impact of these amendments on human rights protection in China is the absence of a consistent definition of ‘terrorism’ within the Criminal Law.”¹⁰ Clarke added the amendment to Article 120 outlined not only the criminalization of “terrorism,” but of political dissent in general. Furthermore, the definition of what constituted a “terror organization” could include peaceful entities opposed to the Chinese government’s repressive policies. The addition of Article 291 concerning limits on dissemination of information and public assemblies criminalized peaceful activities at which anti-government sentiments were expressed.¹¹

In discussing the impact in East Turkestan of the 2001 changes, Clarke determined the Chinese government: “has also made use of the post-9/11 amendments to the criminal law to intensify its crackdown on Uyghur dissent and opposition. While it is clear widespread human rights violations took place in Xinjiang throughout the 1990s, especially during the regular ‘Strike Hard’ campaigns, the available evidence suggests that the authorities have applied the new provisions in a draconian manner with deleterious consequences for individual human rights.”

Concerns over the definition of “terror” incorporated into the Criminal Law were echoed elsewhere. In a report issued in 2002, Amnesty International cited the apparent “vague wording” and the absence of precise definitions of “terrorism,” “terrorist organization” and “terrorist crime.”¹² Amnesty also expressed concern “the anti-terrorist legislation may be used in the context of the government’s ongoing repression of ‘ethnic separatist activity.’”¹³

The Chinese government’s conflation of “separatism” and terrorism” remained a concern into the mid and late 2000s. In a 2006 paper, Professor of International Law at the University of Sydney, Ben Saul wrote how: “China bluntly characterises Uighur separatists in Xinjiang as terrorists.”¹⁴ Furthermore, in 2009, scholar Dana Carver Boehm concluded: “However terrorism is defined, it is clear that Xinjiang’s secessionist movement on the whole has historically not met the definition...much of what China has referred to as ‘terrorist activity’ in Xinjiang in fact erupted out of peaceful public protests.”¹⁵ As recently as 2015, in a November 20 article published by *China Media Project*, journalist Chang Ping wrote: “China’s government is itself in the habit of conflating the ‘terrorist’ with the ‘separatist,’ and there is nothing in the Party-controlled media to discourage the popular misconception that lumps these ideas together with Uyghur or Xinjiang people.”¹⁶

In the context of skepticism over its counter-terror legislation and the viability of an organized overseas terror threat in China,¹⁷ Chinese lawmakers attempted to refine the definition of terrorism through legal instruments. On October 29, 2011 the Standing Committee of the National People’s Congress passed the “Decision on Issues Related to Strengthening Anti-Terrorism Work” intending to clarify definitions of “terror acts,” “terror organizations” and “terrorists.”¹⁸ However, observers remained unconvinced. Willy Lam at the Chinese University of Hong Kong called the definition of “terrorism” put forward in the legislation “murky” and “broad.”¹⁹ Sophie Richardson of Human

Rights Watch expressed concern over the vague wording and the increased power granted to the police in the decision.²⁰

Although one of China's primary motivations in introducing counter-terror legislation was to demonstrate it faced a concerted "terror" threat in East Turkestan and to garner international support for repressive measures, "Western countries (and particularly the U.S.) are reluctant to cooperate with China on anti-terrorism because China's definition of terrorism is shockingly broad."²¹ In addition, China's search for legitimacy for its counter-terror measures within the international community was hampered by a lack of transparency and cooperation. The U.S. State Department's 2014 Country Report on Terrorism for the PRC stated:

China continued to stress the importance of counterterrorism cooperation with the United States, but Chinese law enforcement agencies generally remained reluctant to conduct joint investigations or share specific threat information with U.S. law enforcement partners. Despite several requests to Chinese law enforcement officials for more detailed background information on Chinese media-reported arrests and operations, U.S. law enforcement agencies received little new information. Overall, China's counterterrorism cooperation with the United States remained limited."

2. Development of the Counter-Terrorism law

In 2005 and 2006 scholars reported on China's work toward introducing a counter-terrorism law.²² However, since early 2014, policy announcements appeared to propel and anticipate a draft of new counter-terror specific legislation. On January 7, 2014, Chinese President, Xi Jinping announced a "major strategy shift" in East Turkestan, which would reprioritize regional policies toward "social stability" from a focus on economic development.²³ In response to an increase in violence, on May 23, 2014, Chinese authorities announced the launch of a one-year "anti-terror campaign" in East Turkestan.²⁴ The following May 28-29 2014 Xinjiang Work Forum consolidated the shift to securitization with a measure aimed at: "Fortifying Party organs and personnel at the grassroots level in order to eliminate the 'three evil forces': (splittism, extremism and terrorism) and shore up social stability."²⁵ Overseas media reports cited Xinjiang party secretary Zhang Chunxian as stating the "anti-terror crackdown" would employ "unconventional measures."²⁶ Since 2014, Chinese and overseas media have described a series of region wide mass trials, death sentences, and executions in a normalization of human rights violations and use of excessive security measures in the name of "counter-terror."²⁷

A first draft of the Counter-Terrorism Law was published on the National People's Congress website on November 3, 2014.²⁸ The law consolidated counter-terror legislation contained in various domestic laws such as the Criminal Law and National Security Law.²⁹ Advocacy groups offered sharp criticism on the draft with the subject of the state's characterization of "terrorism" a consistent problem. A joint press release released

by the International Service for Human Rights and Chinese Human Rights Defenders remarked:

Article 104 of the draft law defines ‘terrorism’ in broad terms to include ‘thought, speech or behavior’ that is ‘subversive’ or even that which seeks to ‘influence national policy making’...Additionally, the draft law prohibits ‘extremism’, defined in very broad terms to include ‘distorting or slandering national laws, policies and regulations’ or interfering with their implementation (Article 24).

Renee Xia, International Director of Chinese Human Rights Defenders stated: “This legislation has the potential to be interpreted and applied to criminalise much or all of the work of human rights defenders and their organisations, both in the Uighur and Tibetan Autonomous Regions and beyond.” A second draft issued on February 26, 2014 removed “thought” from the definition of terrorism.³⁰ However, scholar Zhou Zunyou contended the continuing inclusion of the word “advocacy” could still punish alleged “terrorist thoughts.”³¹

The second draft of the Counter-Terrorism Law also elicited strong criticism from the international human rights community. In a March 4, 2015 press release Amnesty International stated: “the draft law has virtually no safeguards to prevent those who peacefully practice their religion or simply criticize government policies from being persecuted on broad charges related to ‘terrorism’ or ‘extremism.’”³² China Researcher at Amnesty International William Nee added: “The revisions aren’t enough, Chinese authorities should rip up this vaguely-worded draft and start again.” Human Rights Watch also recommended a complete revision: “in its present form this law is little more than a license to commit human rights abuses. The draft needs to be completely overhauled and brought in line with international legal standards.”³³ Human Rights Watch condemned the broad definitions evident in the draft and the unrestricted power allowed to state authorities in counter-terror work. In addition, Human Rights Watch highlighted the lack of oversight and checks over online surveillance.³⁴

In September 2015, at the 30th session of the United Nations Human Rights Council, the German government raised its concerns over the “potential restrictions for civil society and freedom of expression” contained within the draft. EU officials voiced similar problems at the 34th European Union (EU)-China human rights dialogue held between November 30 and December 1, 2015, as did the EU Special Representative for Human Rights Stavros Lambrinidis on an official trip to China in November of the same year.³⁵ A European Parliament resolution adopted on December 16, 2015 indicated the Counter-Terrorism Law would lead to “violations of the freedoms of expression, assembly, association and religion, especially in Tibet and Xinjiang as regions with minority populations.”³⁶

The United States government and the overseas private sector were most vocal over provisions in the draft forcing companies to give the Chinese government access to their computer systems. This could entail sharing encryption codes and “backdoor” access to products. President Obama told reporters from Reuters the measures “would essentially

force all foreign companies, including U.S. companies, to turn over to the Chinese government mechanisms where they can snoop and keep track of all the users of those services.”³⁷ While China’s stated intent was to establish scrutiny over online activity, observers remarked on the threat to intellectual property.³⁸ In addition to the support offered U.S. companies, the United States, through the State Department, also highlighted the “greater restrictions on the exercise of freedoms of expression, association, peaceful assembly, and religion within China” emanating from the draft Counter-Terrorism Law.³⁹

On December 27, 2015, Chinese official media announced the passing of the Counter-Terrorism Law by the Standing Committee of the National People’s Congress.⁴⁰ The ten chapter and 97 article law was made available in Chinese by Xinhua on December 27 and translated into English on the China Law Translate website on the same day.⁴¹

A Xinhua report set the adoption of the law into the context of recent international terror incidents as explanation for its timing and consistency with counter-terror legislation enacted in other countries: “The new law comes at a delicate time for China and for the world at large - terror attacks in Paris, the bombing of a Russian passenger jet over Egypt, and the brutal killings of hostages committed by Islamic State (IS) extremist group are alerting the world about an ever-growing threat of terrorism.” When L’Obs reporter Ursula Gauthier raised questions about this sincerity of this framing, China effectively expelled Ms. Gauthier from the country through the non-renewal of her visa and conducted a smear campaign against her work in the state media.⁴² Although, Ms. Gauthier’s article attracted the most publicity, similar concerns were expressed in other reports published in the overseas media.⁴³

The major revision made to the Counter-Terrorism Law passed in December was in regard to the granting of “backdoor” access to companies’ computer systems; however, the law “still stipulates that companies must release ‘technical interfaces’ and assist with decryption should security agencies deem it necessary to avert or investigate a terrorist attack.”⁴⁴

C. Concerns of the Counter-Terrorism Law for the Uyghur

1. Broad definition of terrorism

UHRP is concerned that the Chinese government’s definition of “terrorism” in Article 3 of the Counter-Terrorism Law is too vague and will punish Uyghurs for peaceful political dissent and legitimate religious expressions. The longstanding issues over the definition of terrorism in China’s legal instruments remain unresolved in the new law.

UHRP believes the broad definition of terror is not an oversight and remains in place in order to assert state and party authority and not to safeguard the safety of its citizens. By leaving the door open to classifying all forms of opposition to Chinese government policies in East Turkestan as “terrorism,” the new Counter-Terrorism law does not meet international human rights standards. Trust in a government that has attempted to link the Dalai Lama to the Islamic State and has labeled Uyghur academic Ilham Tohti the

“brains” behind terrorists to apply the law responsibly is misplaced.⁴⁵ Although the Counter-Terrorism Law passed in December revised the link between “terrorism” and “separatism” made in the draft versions, the conflation of both terms continues in official rhetoric.⁴⁶ Furthermore, the government continues to link its interpretation of “religious extremism” with “terrorism.”⁴⁷

Article 3 of the law also sets out to define other key terms such as “terrorist activities,” and “terrorist organization.” Among the list of “terrorist activities” included is “compelling others to wear or bear clothes or symbols that advocate terrorism in a public place,” a provision that is open to abuse. Human rights organizations and the overseas media have documented the targeting of Uyghurs who express their religion through appearance. Uyghurs have been detained, charged and/or convicted for legitimate displays of the Islamic faith such as wearing a head covering or growing a beard.⁴⁸ In addition, the law defines a “terrorist organization” as a “criminal organization of three persons or more which has been formed to carry out terrorist activities.” Given the state’s broad definition of “terrorism” and the criminalization of activities deemed legitimate under international human rights standards, the provision carries serious implications on the ability of Uyghurs to peacefully assemble.

The Counter-Terrorism Law has also not dismissed concerns voiced in earlier drafts over the criminalization of “thoughts.” Article 79 retains the wording of “advocacy” that can be used to punish individuals for alleged terror “thoughts.” Under the heading “Legal Responsibility,” the article states: “Pursue criminal responsibility in accordance with law of those...who *advocate* [UHRP italics] terrorism.”⁴⁹

2. Restrictions on reporting

In the midst of China’s smear campaign against Ursula Gauthier, it also announced the new Counter-Terrorism Law would restrict media reports about domestic “terror incidents.” “The various restrictions intend to prevent copy-cat crimes, protect front-line anti-terror workers and keep society from the harm of hearsay,” Xinhua noted. “It is for the common good that foreign media outlets in China as well as domestic media organizations comply with these regulations and make their due contribution to the global fight against terror.”⁵⁰

Article 63 of the new legislation limits information that can be released to the public following a “terror attack.” It states: “No unit or person shall fabricate or transmit false terrorist incident information; nor report or transmit the details of implementation that could lead to the imitation of terrorist incidents; nor release the cruel or inhumane scenes of terrorist incidents.” Not only is false information declared illegal, true information also falls in this category should that information be deemed likely to inspire “terrorist incidents.”

China’s prosecution of Uyghurs in East Turkestan for releasing information about incidents labeled as “terrorist” preceded an anti-rumor campaign launched by authorities nationally in 2013. In June 2013, China branded a series of attacks in Lukchun as

“terrorist incidents,” then launched a strict embargo on any information from the region. Overseas journalists who tried investigating it were detained and no one was able to confirm with local residents what had occurred.⁵¹ Two weeks later, state media released a statement detailing how the government had prosecuted 802 cases and detained 72 people for spreading rumors in the two weeks after the Lukchun incident.⁵² Soon after in September 2013, the Supreme People’s Court and Supreme People’s Procuratorate jointly issued a judicial decision expanding the existing law to punish “online rumors” across the country, which Human Rights Watch condemned as a new way to crackdown on free speech online.⁵³

Another prosecution of a “rumor-monger” took place after an alleged “terrorist incident” in 2014. On July 29, 2014, Chinese state media reported that 24 hours earlier, knife-wielding Uyghur “attackers” had killed or injured dozens of bystanders before being shot by police in Yarkent County, and the state labeled it terrorism. Once again the government cracked down on reporters who attempted to investigate. In response to the incident, The New York Times wrote: “Government restrictions make independent reporting difficult, and Uyghurs who provide foreign journalists with information about such politically charged matters can face severe punishment.”⁵⁴ Days later, a Uyghur man was arrested for spreading rumors after posting online reports that thousands were actually killed in the event.⁵⁵

China’s prosecution of Ilham Tohti was its most severe use of the terrorism framework to punish free speech. Although Tohti’s crime was his work on a website that was at times critical of state policies, the prosecution in his case alleged that Tohti transmitted ethnic separatist and violent terrorist ideology.⁵⁶ Overseas observers questioned how running the website, which never advocated terrorism or even separatism, could be equated with terrorism.⁵⁷ China Law Translate notes that just prior to Tohti’s sentencing, the Supreme People’s Court, Supreme People’s Procuratorate, and Ministry of Public Security issued a joint “Opinion on Several Issues Regarding the Applicable Law in Criminal Cases of Violent Terrorism and Religious Extremism.” China Law Translate notes that the document’s emphasis on terrorist and religious extremist content seems to expand the umbrella of terror crimes to include fostering ethnic hostility and separatism, resulting in reducing protections for those defendants under China’s Criminal Procedure Law.⁵⁸

In fact, “separatism” charges were used against all 14 of the Uyghur journalists included in the Committee to Protect Journalists December 2015 census of imprisoned journalists worldwide.⁵⁹ Though the prosecution of these citizen journalists was not related to any alleged terrorist incident, China’s judicial history linking “terrorism, separatism and religious extremism” enables China to target Uyghurs who critically discuss Chinese policies and sweep them up as part of its “anti-terror crackdown.” Article 63 of the new legislation expands the legal basis by which China will prosecute Uyghurs who discuss incidents the Chinese state deems as “terrorist.” With this, the state has erected a powerful barrier against investigations into terrorist allegations.

In conjunction with the legislative curbs outlined above, China employs expulsions and threats to not renew journalist visas with the intention of intimidating overseas reporters

to avoid critical writing on the state's narrative that it faces a concerted "terror threat" in East Turkestan. By censoring discussion that repressive policies are the root cause of violence in the region, China deliberately misleads outside observers as to the real conditions in East Turkestan leaving only the government's repeated and unsubstantiated "terror" claims against the Uyghur people.

3. Indoctrination through mass education campaigns and pressure to inform

UHRP believes provisions contained in the new law regarding mass education campaigns on counter-terror measures and the establishment of a grassroots intelligence network will increase tensions in East Turkestan and not promote stability.

Articles 5 and 17 outline the government apparatus and messaging in disseminating "counter-terror" education. Article 5 places an emphasis on "combining punishment and prevention and anticipating the enemy's moves, and remaining proactive."⁶⁰ The provision appears consistent with public "loyalty pledge" ceremonies undertaken across East Turkestan throughout 2014-15. At these staged events, participants, including public sector employees and farmers, publicly demonstrate their loyalty to the PRC and renounce "religious extremism."⁶¹ UHRP is concerned that "loyalty pledge" ceremonies are intended to flush out any Uyghurs who oppose the state's version of "religious extremism" and harbor alleged "separatist" tendencies.

Article 44 of the Counter-Terrorism Law states: "Public security organs, state security organs and relevant departments shall rely on the public to increase efforts at the base level foundation, establish forces for basic level intelligence information efforts, and raise the capacity for counter-terrorism intelligence information efforts."⁶² UHRP stresses such measures exacerbate tensions and suspicion between local residents in East Turkestan. In 2014, UHRP reported on a notice posted on the Shayar County, Aksu Prefecture government website detailing how informants could receive a reward for reporting on local residents exhibiting one or more of 53 proscribed behaviors. Informants could be rewarded with payments of 50 Yuan to 50,000 Yuan (8 USD to 8,000 USD) for notifying authorities of suspicious behaviors that include: distorting the facts of the unrest of July 5, 2009, "reactionary" speech, encouraging others to petition, and encouraging others to rally. The notice also specifies for potential informants 18 religious activities, including customary religious practices.⁶³

4. Curbs on expression online

While a great deal of emphasis has been placed on the threat posed to companies over Chinese government access to digital information and systems, the Counter-Terrorism Law also raises concerns over freedom of expression online. Articles 18 and 19 focus on the responsibilities of telecommunications and Internet service providers, especially in regard to the discovery of "information with terrorist or extremist content." Furthermore, "Network communications, telecommunications, public security, state security and other such departments discovering information with terrorist or extremist content shall promptly order to the relevant units to stop their transmission and delete relevant

information, or close relevant websites, and terminate relevant services.”⁶⁴ In line with previous concerns expressed over the Chinese government’s interpretation of “terrorism,” UHRP believes the state’s interpretation of “information with terrorist or extremist content” is similarly unreliable.

In order to suppress online freedoms of expression and association, the Chinese government has often conflated peaceful dissent with “terrorism,” endangering state security or “separatism” in order to enact strict controls over information disseminated via the Internet.⁶⁵ Following the outbreak of unrest in Urumchi in July 2009, Chinese authorities implemented an unprecedented 10-month shutdown of the Internet. When online services were restored in May 2010, at least 80% of Uyghur-run websites had been closed. Not a single website that was deleted by authorities after July 5 was devoted to religion. Instead, the sites were mainly devoted to literature, entertainment, culture and computers.⁶⁶

A Radio Free Asia (RFA) report dated January 8, 2016 described how Chinese security agencies are taking a more direct approach to checking digital content deemed “terrorist.” According to a police officer in Hotan interviewed by RFA reporters, personnel “manned security checkpoints in Hotan for 24 hours when the new year began to check smartphones and other electronic devices that could connect to the Internet for Islamic extremist or religious texts and videos.”⁶⁷ The New York Times also discussed the existence of such checkpoints in the region in a January 2, 2016 report.⁶⁸

5. Scant oversight of state institutions

The Counter-Terrorism Law legislates for the establishment of a “national leading institution for counter-terrorism efforts.” Along with other human rights organizations, UHRP believes the integrity of any such an entity should be questioned given the politicized origins of the new law and the Party-State’s role in its formation.⁶⁹ There are no provisions in the Counter-Terrorism Law to oversee the activities and decisions of the new body. Article 12 sets out how the “national leading institution for counter-terrorism efforts” is responsible for determining “terrorists” and “terrorist organizations” according to the definitions outlined in Article 3. Article 15 permits a review of “terrorist” and “terror organization” designations; however, the “national leading institution for counter-terrorism efforts” will conduct the review and any decisions are final.

While Article 8 designates “the Chinese People’s Liberation Army, the Chinese People’s armed police forces and people’s militia organizations” as the leading counter-terror security forces, Article 62 permits Chinese security forces to “use their weapons against persons at the scene in possession of weapons such as guns and knives, or who are using other dangerous methods, who are committing violent acts or are *preparing to commit violent acts* [UHRP italics], where warnings prove ineffective.” Furthermore, “In emergency situations or *where giving a warning might cause a more serious harm* [UHRP italics], weapons may be used directly.”⁷⁰

UHRP is particularly concerned with the discretionary powers the Counter-Terrorism Law grants Chinese security forces. UHRP and other human rights groups have documented not only the disproportionate use of force in Chinese counter-terror operations, but also credible evidence of extrajudicial killings conducted by Chinese security forces.⁷¹

D. Activists and Academics Voice Concern

No sooner than the National People's Congress passed the Counter-Terrorism Law on December 27, 2015, criticism followed from human rights activists, academics and overseas government officials.

Chinese human rights defender, Hu Jia commented: "What it is used for is not terrorism, but rather in the name of combating terrorism, it attacks all kinds of protests, particularly group and street protests. It creates all kinds of emergency situations where it can monitor and severely restrict citizens and groups."⁷² Activist Jia Pin remarked: "It is a wolf in sheep's clothing, which will enable them [the Chinese government] to step up their controls on freedom of expression and crack down on dissent... That's one of the major goals of this legislation."⁷³

Amnesty International was also forthright in its assessment of the new law. Researcher, Patrick Poon said: "The definition of terrorism and extremism in this law is very vague, and 'extremist' behavior could include any criticism of policies, laws and regulations... This law could give the authorities even more tools in censoring unwelcome information and crafting their own narrative in how the 'war on terror' is being waged."⁷⁴ In an analysis on the new law, the International Campaign for Tibet concluded: "Terminology in the counter-terror law is both broad and vague at the same time, and introduces further extra-judicial measures, increasing the impunity of the Chinese Party state, and reinforcing the powers of local police and officials to impose restrictive measures and use violence against individuals."⁷⁵

The academic community also voiced strong concern over the new Counter-Terrorism Law. James Leibold, senior lecturer in Chinese politics at La Trobe University in Melbourne, Australia told CNN: "In my opinion they're [the Chinese government are] using the pretext of what is occurring globally as efforts to increase their control over the domestic population... the definition of terrorism is quite vague and open-ended and if we look at how Chinese officials and the media have used the terrorism tag in the past, it's chiefly applied to the Uyghurs as well as the Tibetans." Leibold added: "It's applied to people who disagree with policies of the Chinese Communist Party."

Michael Clarke, Associate Professor at Australia National University wrote in the Canberra Times about alleged double standards in the application of the term "terrorism," in particular as it applies to incidents involving Uyghurs. "The new law's definition of 'terrorism'... would appear to be broad enough to apply to events as distinct as the Kunming attack [Uyghur related] and the series of mail bomb attacks in Liucheng County in Guangxi in September last year that killed 10 people [not Uyghur related]. Yet, acts

such as those in Guangxi, in stark contrast to those in Kunming, have been labelled ‘criminal’ rather than ‘terrorist’ in nature by the authorities.”⁷⁶ The implication of such divergent classifications is that political violence or acts of terrorism committed by non-Uyghurs are labeled as criminal by the Chinese government.

Professor Xia Ming, of New York’s City University described the law as a means “to achieve certain political goals, to cripple, kill, and harm civilians so as to terrorize and subdue them...Actions taken by ethnic minority groups in China out of anger and protest over government policies should not be defined as terrorism.” Professor Xia also told RFA: “The highly oppressive policies of today are a factor in making those tensions more acute.”⁷⁷

In response to and in anticipation of official criticism from overseas, Chinese government controlled media issued a number of articles defending the new law. Headlines such as *West’s criticism of China’s anti-terror law a bluff*,⁷⁸ *Washington shows insincerity in anti-terrorism by smearing new law*⁷⁹ and *China’s anti-terrorism legislation no excuse for U.S. agitation*⁸⁰ offer a sample of Beijing’s sentiments. However, The Global Times noted the approval of the Belarus government, an administration beset with a poor human rights record.⁸¹

E. Conclusion

UHRP believes the new Counter-Terrorism Law adopted in December 2015 will only exacerbate continuing human rights abuses of the Uyghur in East Turkestan. The vague wording of the new law means the Chinese authorities can apply broad discretion in defining what constitutes “terrorism.” Given a track record of international opportunism and domestic repression in the application of counter-terror measures, faith in the Chinese government meeting international standards of human rights through the law is erroneous.

UHRP adds the Counter-Terrorism Law is more prone to intensify tensions in East Turkestan. The lack of oversight of state security forces and forced indoctrination of the local population increases the likelihood that the cycle of dissent and repression will not be broken. Given past incidents of extrajudicial killing and excessive force used against peaceful Uyghur protestors, the granting of unchecked powers to armed state forces is alarming.

Curbs placed on reporting alleged “terror incidents” and restrictions applied to the dissemination of information via the Internet should disturb independent observers of events in East Turkestan. The Chinese government insistently claims it faces an organized and overseas inspired “terror threat” among Uyghurs; in addition, accounts that counter such a narrative are aggressively suppressed. Despite its insistence and repression, skepticism over Chinese “terror claims” remains. Lack of transparency and recalcitrance over international cooperation in counter-terror measures will ensure such distrust will continue.

The adoption of the Counter-Terrorism Law is part of a legal push under the presidency of Xi Jinping to shrink the space available to civil society in China. Instruments such as the National Security Law,⁸² Cybersecurity Law,⁸³ and the Foreign NGO Management Law⁸⁴ have all concentrated power into the hands of the security apparatus and the Chinese Communist Party. Concern about these new legislative measures has been widespread, including from United Nations officials, legal scholars and human rights groups.⁸⁵

There should also be little room for doubt that one of the intended targets for the new Counter-Terrorism Law is the Uyghur population of China. As human rights activists have pointed out, East Turkestan was the laboratory for the national Counter-Terrorism Law through on-going ‘Strike Hard’ campaigns.⁸⁶ Furthermore, Chinese officials have openly stated that the region is the “main battlefield” for counter-terror efforts.⁸⁷

On January 13, 2016, Chinese state media announced new regional legislation on “counter-terror” and “religious extremism” will be drafted.⁸⁸ As a result, repressive security measures in East Turkestan will have not only provided the blueprint for a national law on counter-terror, but also for a refinement of the legislative framework to the local context. As of publication, East Turkestan is the only one of China’s administrative divisions (including 22 provinces, five autonomous regions, four municipalities and two special administrative regions) to announce a regional counter-terrorism law.

In conclusion, UHRP views the Counter-Terrorism Law as a strong indication the Chinese government is unwilling to examine its policy failures regarding the Uyghur people in East Turkestan. Economic discrimination, curbs on religious expression, the phasing out of the Uyghur language in schools, forced disappearances and a politicized criminal-justice system are products of a police state approach to governance in East Turkestan that violate the human rights of the Uyghur people and ensure continuing instability in the region.

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The Uyghur American Association (UAA) works to promote the preservation and flourishing of a rich, humanistic and diverse Uyghur culture, and to support the right of the Uyghur people to use peaceful, democratic means to determine their own political future in East Turkestan.



The UAA launched the UHRP in 2004 to promote improved human rights conditions for Uyghurs and other indigenous groups in East Turkestan, on the premise that the assurance of basic human rights will facilitate the realization of the community's democratic aspirations.

UHRP also works to raise the profile of the Uyghur people and the plight of all “minority” peoples in East Turkestan by:

Researching, writing and publishing news stories and longer reports covering a broad range human rights issues involving civil and political rights, through to social cultural and economic rights;

Preparing briefings – either written or in person – for journalists, academics, diplomats and politicians on the human rights situation faced by the Uyghur people and others in East Turkestan.

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