

CHINA'S NEW COUNTER-TERRORISM LAW: IMPLICATIONS AND DANGERS FOR TIBETANS AND UYGHURS

A JOINT REPORT BY
THE INTERNATIONAL CAMPAIGN FOR TIBET
AND FIDH

International Campaign for Tibet and FIDH would like to thank the Clingendael Institute for facilitating the roundtable discussion that took place on 7 June 2016.

INTRODUCTION

Cartoon by Belgian artist Fifi (Philippe Sadzot)



On 1 January 2016, China's new counter-terrorism law came into effect, despite serious concerns voiced by human rights groups regarding the potential for this law to be used to repress religious and ethnic groups. Following this, the International Campaign for Tibet (ICT) and FIDH (International Federation for Human Rights) have engaged in several activities to discuss, analyse, and bring to light the risks and impacts of China's new counter-terrorism law. On 10 March 2016, ICT and FIDH arranged a briefing in Geneva on the margins of the 31st session of the United Nations (UN) Human Rights Council, to raise awareness among UN officials and diplomats on the negative impacts of this new law on Uyghurs and Tibetans.¹

Shortly thereafter, on 7 June, ICT convened a roundtable discussion at the Clingendael Institute² in The Hague, a leading institute on international affairs, to which it invited experts from across Europe, the USA and Asia.³

The Clingendael conference brought together perspectives from the diplomatic and policy arenas as well as those of law, media, and academia. The speakers addressed the significance of China's new law on counter-terrorism and explored its impacts at the national, regional and international levels.

This report summarizes the analyses and conclusions from the 7 June round table, and reveals that concerns of the international community that the new law would strengthen an already restrictive security regime are well founded. Participants alerted the audience to the possible human rights consequences of the law due to its non-compliance with international standards and guidelines, including: the vague definition of terrorism in the legislation; the lack of independent judicial legal recourse; the reintroduction of the concept of 'reform

¹ ICT report, March 2, 2016, <http://www.tibetpolicy.eu/un-human-rights-council-side-event-chinas-new-law-on-counter-terrorism-and-its-impacts-on-human-rights/>

² <http://www.clingendael.nl>

³ ICT report, June 17, 2016, <https://www.savetibet.org/ict-holds-high-level-roundtable-on-counter-terrorism-in-china/>

through education' without the need for a criminal conviction for persons accused of posing a 'danger to society', and the increased concentration of power and attack on civil society by Chinese Communist Party (CCP) leader Xi Jinping.

Panelists expressed the view that the new legislation and its implementation are likely to be counter-productive, with fears that it may increase the risk of violence through individuals feeling they have no other recourse. By imposing a narrative that unrest in Tibet and East Turkestan are due to 'outside influences' - including Nobel Peace Prize Laureate the Dalai Lama being blamed for 'terrorist activity' - the Chinese leadership risks undermining the legitimacy of genuine international counter-terrorism efforts.

In August 2016, senior UN advisor Philip G. Alston, a special rapporteur on extreme poverty and human rights for the United Nations, referred to these dangers when he said that the Chinese Communist Party's tight grip on civil society was undermining basic rights and risking mass arrest. Mr. Alston, a New York University law professor who visited China in August, said that the Communist Party's dominance of the legal system left citizens of the People's Republic of China (PRC) with few avenues to complain about issues like pollution and inequality, dismissing the process for filing grievances as 'window dressing'.⁴

ICT and FIDH's efforts to advocate for human rights in China will continue. We will discuss the findings and will present the recommendations of this report to governments, members of Parliaments, diplomats and other policy makers and experts.

We hope this report will prove to be a useful contribution to the understanding of developments in the PRC, especially as they relate to Tibetans and Uyghurs, and that it will add clarity to policy discussions on this important matter.

⁴ *China's Crackdown on Dissent Could Lead to Unrest, U.N. Adviser Says*, New York Times, 23 August 2016, http://www.nytimes.com/2016/08/24/world/asia/china-un-human-rights-philip-alston.html?utm_source=twitterfeed&utm_medium=twitter&_r=2

TABLE OF CONTENTS

EXECUTIVE SUMMARY	9
--------------------------------	----------

CONTEXT

- Background	12
- Articles of China's new Counter-Terrorism Law and their human rights impacts ...	18
- The 7 June 2016 Round table	22

ROUND TABLE SESSION ONE

The use and impacts of the counter-terror law on human rights, civil society and ethnic and religious groups: Assessment of the situation in China	24
--	-----------

• Key legislative developments in China and impacts on Human Rights, Sharon Hom, <i>Executive Director of Human Rights in China</i>	25
• The impact of the counter-terror law on Tibetans, Kelsang Gyaltzen, <i>Special Representative of H.H. the Dalai Lama to Europe</i>	29
• The new security architecture in Tibet, Kate Saunders, <i>Communications and Research Director, International Campaign for Tibet</i>	31
• The impacts of the anti-terror law on Uyghurs, Dolkun Isa, <i>Executive Chairman of the World Uyghur Congress</i>	34
• Chinese double standards on counter-terrorism, Ursula Gauthier, <i>former Beijing Correspondent of L'Obs</i>	36

ROUND TABLE SESSION TWO

What are the political solutions to ensure that human rights are not violated in the name of counter-terrorism activities? Regional and International perspectives	39
--	-----------

• Chinese counter-terror law and its impacts on regional security: the point of view of India, Jayadeva Ranade, <i>President of the Centre for China Analysis and Strategy and former Additional Secretary in the Cabinet Secretariat, Government of India</i>	40
--	----

<ul style="list-style-type: none"> • U.S. government’s position on the counter-terror law: <i>Jessica Carl, Political Officer at the U.S. Permanent Mission to the United Nations in Geneva</i>..... 	43
<ul style="list-style-type: none"> • Security, civil society, foreign influence: What has changed in China under Xi Jinping’s leadership? Garrie van Pinxteren, Sinologist and Senior Visiting Fellow at the Clingendael Institute 	46
<ul style="list-style-type: none"> • EU position on the new counter-terrorism law: Joëlle Hivonnet, Senior Policy Officer, China Division of the European External Action Service (EEAS) 	48
<ul style="list-style-type: none"> • Will the anti-terror law be effective? Gabriel Lafitte, environmental economist and author of <i>Spoiling Tibet: China and Resource Nationalism on the Roof of the World</i> 	53
RECOMMENDATIONS	54
<ul style="list-style-type: none"> • Recommendations to the People’s Republic of China 	54
<ul style="list-style-type: none"> • Recommendations to the International Community 	55
<ul style="list-style-type: none"> • Recommendations to Civil Society 	56
COMMENTS BY CLAUDE ARPI	57
“Terrorism has become the scourge of humanity”	57
ANNEX	60
Biographies of the speakers to the 7 June 2016 Round table	60

EXECUTIVE SUMMARY

- China's new counter-terrorism law,⁵ which came into effect on 1 January 2016, is **part of a set of recently-adopted and proposed national security laws**, including the National Security Law, effective as of 1 July 2015; the Law on the Management of Overseas NGOs' Activities in Mainland China (hereafter, 'NGO law'), adopted by the National People's Congress on 28 April 2016 and due to come into effect on 1 January 2017; the draft Cybersecurity Law currently being discussed by the National People's Congress; and related amendments to pre-existing laws (e.g. Criminal Law Amendment (9)).
- These laws and other measures are **essential components of a comprehensive security architecture being established by the Chinese authorities**, encompassing military, political and Party propaganda objectives as well as heightened surveillance and media censorship. The dramatic expansion of the powers of military and police in the People's Republic of China (PRC) – backed by grass roots propaganda work and electronic surveillance – comes under the general rubric of 'stability work', which is political language for the elimination of dissent and enforcement of compliance to Chinese Communist Party policies. Under the leadership of the Chinese Party Secretary and President Xi Jinping, the Chinese government is enforcing a comprehensive legal framework which represents an attempt to legitimize through legislation existing repressive measures designed to intensify control by the CCP and suppress dissent.
- The new legislation and its implementation are **believed by many both inside the PRC and internationally to be counter-productive and provocative**, with fears that it is likely to heighten tensions and increase the risk of violence by escalating the repression and limiting the recourse mechanisms available to certain groups, thus pushing them towards violence.
- China's new counter-terrorism law allows for the **conflation of domestic protest, dissent or religious activity with international terrorism** thus reducing the pressure for governments to resolve both Tibetans' and Uyghurs' genuine grievances. This is likely to result in further alienation among those marginalized by state policies, and this risks increasing the appeal of violent action as a means to achieve change. By pressing a narrative that unrest in both Tibet and East Turkestan (also known as the Xinjiang Uyghur Autonomous Region of China) are due to outside influences, the Chinese leadership also risks undermining the legitimacy of genuine international counter-terrorism efforts.

⁵ Counter-Terrorism Law of the People's Republic of China, passed by the 18th Session of the Standing Committee of the 12th National People's Congress on December 27, 2015. An unofficial translation of the law by China Law Translate is available at <http://chinalawtranslate.com/%E5%8F%8D%E6%81%90%E6%80%96%E4%B8%BB%E4%B9%89%E6%B3%95-%EF%BC%882015%E4%BC%89/?lang=en>

- China has used the events of 11 September 2001 and the subsequent ‘war on terror’ as a cover for targeting both Uyghurs and Tibetans. By conflating the expression of distinct religious and ethnic identities with separatism and blurring distinctions between violent acts and peaceful dissent, the government of the PRC is **using counter-terrorism as a justification to crackdown on even mild expressions of religious identity and culture**. Despite the absence of any violent insurgency in Tibet, an aggressive ‘counter-terrorism’ drive in Tibet with a strongly political dimension has involved an expansion of militarization across the plateau. China’s new counter-terrorism law introduces further extra-judicial measures, reinforcing the powers of local police and Party officials to impose restrictive measures and use violence against individuals with impunity. It also involves further controls over telecommunications, internet and media.
- Contravening UN guidance on protecting human rights, **terminology in the PRC counter-terrorism law is both broad and vague** at the same time. In conflating ‘terrorism’ with an undefined ‘extremism’ linked to religion, the counter-terrorism law gives scope for the penalization of almost any peaceful expression of Tibetan or Uyghur identity, acts of non-violent dissent, or criticism of ethnic or religious policies. NGOs, journalists, lawyers, human rights defenders and others are at much higher risk of being characterized as a ‘threat’ to the Party state and to ‘security’ simply because they propose political alternatives or make even moderate criticism of the government. This now legislates a practice that has already been evident in terms of Party propaganda for some time: for example, characterization by the Party state of religious teachings by the Dalai Lama as incitement to ‘extremist action’ and ‘hatred’, and comparison of the Dalai Lama to a terrorist.⁶ The Chinese authorities demonstrated their intent to eliminate criticism of the CCP as part of their ‘counter-terror’ strategy by expelling French journalist Ursula Gauthier four days after the new law was passed, for having written an article on the government’s crackdown on Uyghurs in East Turkestan and its link to counter-terror policies. Its zero tolerance of any domestic or foreign critique of its repressive policies was also demonstrated by the life sentence imposed on moderate Uyghur scholar Ilham Tohti, an economics professor at the Central Nationalities (Minzu) University in Beijing, who also ran a forum in Mandarin Chinese to discuss economic, social and cultural issues facing the Uyghur people in China.⁷
- *Pro forma* references in the counter-terrorism law to human rights and the ‘protection of ethnic culture’ are rendered meaningless given the **broad powers assigned to the au-**

⁶ For the first time, religious teachings by the Dalai Lama in exile in India in July 2014 were described by the Chinese state as an incitement to ‘hatred’ and ‘extremist action’ (see: *Dalai Lama against solemnity, purity nature of Kalachakra*, Xinhua, 7 July 2014, http://news.xinhuanet.com/english/indepth/2014-07/07/c_133466682.htm). An important Party official, Zhu Weiqun, was also cited by the Global Times in December 2015 as saying that: “The Dalai Lama, deep down, sympathizes or approves of ISIS” [Comments reported by the Chinese media on December 9, 2015: <http://world.huangqiu.com/exclusive/2015-12/8131376.html>], which also circulated widely in the global press, for instance this Washington Post comment by Emily Rauhala: <https://www.washingtonpost.com/news/worldviews/wp/2015/12/09/a-chinese-official-said-the-dalai-lama-supports-the-islamic-state-ridiculous-and-telling>

⁷ Details from the Uyghur Human Rights Project, <http://uhrp.org/political-prisoners-2015/ilham-tohti>.

thorities by the law, the opaque terminology and the absence of independent judicial oversight over restrictive measures that can be applied. The newly established 'national leading institution for counter-terrorism' is the sole body that determines which organizations are suspected of, or defined as, terrorist. There is no appeal through a court possible and its decisions are final. This institution is also not a judicial branch, as it is formed by the Party state, and its organizational principle is top-down.

- **China appears poised to give a big push to its international counter-terrorism cooperation;** it is engaged in diplomacy to promote cooperation with other countries on counter-terrorism, in addition to existing cooperation with members of the Shanghai Cooperation Organization (Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan), the members of the China-Southeast Asian security services counter-terrorism dialogue,⁸ the members of the Quadrilateral Cooperation and Coordination Mechanism in counterterrorism (Pakistan, Afghanistan, Tajikistan),⁹ India,¹⁰ Japan and South Korea,¹¹ the United-States or the UK.¹² This is an opportunity for engagement and for governments to challenge the problematic applications of the new counter-terrorism law. In particular, the international community must challenge the articles of the law that appear to authorise the Chinese People's Liberation Army (PLA) and security personnel to carry out operations in other countries, and that allow the transfer of people back to the PRC against their will. This is consistent with the PRC's approach in broader international relations; China has made it clear that "its security interests extend far beyond the borders – to the sea, outer space, and cyberspace."¹³
- Panelists during the 7 June 2016 roundtable organised by ICT underlined the **imperative of challenging China's narrative** and for governments and UN human rights mechanisms to address specific concerns over the language of the counter-terrorism law, asserting the importance of rule of law and human rights, and to counter its negative impacts. In this context, a rare joint action by the United States, Canada, Germany, Japan and the European Union,¹⁴ and a collective statement to the UN Human Rights Council¹⁵ were highlighted as an effective means of presenting a multilateral position.

⁸ *China, Southeast Asian countries to improve anti-terror cooperation*, Xinhua, 7 April 2016, http://www.china.org.cn/china/Off_the_Wire/2016-04/07/content_38197944.htm

⁹ The inaugural high-level meeting of the Quadrilateral Cooperation and Coordination Mechanism in Counter-Terrorism by Afghanistan-China-Pakistan-Tajikistan armed forces/militaries was held in Urumqi, Xingjian Uygur autonomous region, China, on August 3, 2016. https://www.ispr.gov.pk/front/main.asp?o=t-press_release&id=3415

¹⁰ India and China held their 7th bilateral counter-terrorism consultation in November 2015.

¹¹ Japan, South Korea and China held their 3rd counter-terrorism consultation on May 15, 2015 in Beijing. http://www.mofa.go.jp/press/release/press3e_000033.html

¹² On June 13, 2016, Secretary-General of the Central Commission on Political and Legal Affairs (CCPLA) Wang Yongqing and the UK National Security Adviser Mark Lyall Grant co-chaired the first China-UK High Level Security Dialogue. <https://www.gov.uk/government/publications/china-uk-high-level-security-dialogue-official-statement/china-uk-high-level-security-dialogue-communicue>

¹³ Sharon Hom, Executive Director, Human Rights in China. See also *China's National Security Law: The Danger of an All-Encompassing National Security Framework*, Fu Hualing, 31 August 2015 (Translation by Human Rights in China), <http://www.hrichina.org/en/china-rights-forum/chinas-national-security-law-danger-all-encompassing-national-security-framework>

¹⁴ These governments wrote to China to express concern over the recently passed law on counter-terrorism, the draft cyber security law, and the draft NGO law. See ICT report, 1 March 2016, <https://www.savetibet.org/international-campaign-for-tibet-welcomes-concern-by-us-eu-germany-japan-and-canada-on-sweeping-new-security-laws-in-china/>

¹⁵ ICT report, March 16, 2016, <https://www.savetibet.org/unprecedented-diplomatic-action-in-geneva-on-chinas-human-rights-record/>

CONTEXT

“In recent years China’s anti-terrorism policy has evolved rapidly from a reactive ‘defence against terror’ approach to a proactive ‘war on terror’, along with permanent ‘crisis management’ entailing action to an unprecedented extent in affected regions and in society.”

*Debate in the European Parliament, December 2015*¹⁶

BACKGROUND

In a post-9/11 world, many governments struggle with the apparent contradictions posed by the need to protect their citizens through effective counter-terrorism measures and the potential for such measures to erode or undermine internationally recognized human rights standards. The United Nations has established a new Global Counter-Terrorism Strategy, and a Counter-Terrorism Implementation Task Force with a Working Group on Protecting Human Rights while Countering Terrorism, to guide states through these issues. This is especially relevant in the current global context where we are observing

increasing repression of free expression. In its 2016 annual index, Freedom House, an American think tank, concluded that freedom of expression “declined to its lowest point in 12 years in 2015, as political, criminal and terrorist forces sought to co-opt or silence the media in their broader struggle for power”.¹⁷

The same report notes that: “Among big countries, China scores worst” and: “In China the state is the source of nearly all censorship. Private organisations play a role, but largely at the Party’s behest or to avoid upsetting it.”

¹⁶ European Parliament resolution of 16 December 2015 on EU-China relations (2015/2003(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0458+0+DOC+XML+V0//EN&language=EN>

¹⁷ Freedom House report, April 2016. https://freedomhouse.org/sites/default/files/FH_FT0P_2016Report_Final_04232016.pdf. Freedom House also reported that the share of the world’s populace living in countries with a free press fell from 38% in 2005 to 31% in 2015; the share who had to make do with only “partly free” media rose from 28% to 36%. Reporters Without Borders’ global index of press freedom has declined by 14% since 2013.

The new counter-terrorism law of the PRC, one of a suite of new national security laws, came into effect on 1 January 2016. It has a number of significant implications, covering major issues such as terrorism designation, prevention, intelligence gathering, investigation, emergency response, international cooperation, safeguards, and legal liabilities.¹⁸ There have been mixed reactions to the new law, and a range of concerns raised both within the PRC¹⁹ and from the international community about its implications for business, trade, data privacy, civil society and media, and particularly on human rights. China's new law on counter-terrorism is part of a package of new national security legislation. This package includes a National Security Law, effective as of 1 July 2015; the Law on the Management of Overseas NGOs' Activities in Mainland China (hereafter, 'NGO law'), adopted by the National People's Congress on 28 April 2016 and due to come into effect on 1 January 2017; the draft Cybersecurity Law currently being discussed by the National People's Congress; and related amendments to pre-existing laws (e.g. Criminal Law Amendment (9)). Whilst each law taken in isolation gives cause for concern, it is most important to take into account the cumulative impact of the package of laws.

This new suite of laws is an essential component of a bigger picture of the comprehensive security architecture being established by the Chinese Communist Party, encompassing the military, political, communications and surveillance functions, from top-down to grass roots level.

It is beyond the scope of this report to give the full context of the circumstances leading to the imposition of this law and the specific nature of the situation in East Turkestan. A virtual media blackout has made it almost impossible to ascertain full details of a wave of attacks that have left countless dead, including a car crash in Tiananmen Square in October 2014,²⁰ deadly ambushes at train stations in Kunming²¹ and Urumqi in March and April 2014, and a bomb in a market in Urumqi in late May 2014.²²

As the Beijing-based press corps has reported, if and when details on the perpetrators of such incidents are released by state media, they tend to point toward a straightforward story of radicalization at the hands of overseas Islamic terrorist groups, followed by news of the government's swift and effective response.

¹⁸ The law, which consists of 97 articles in 10 chapters, covers major issues such as terrorism designation (chapter 2), prevention (chapter 3), intelligence gathering (chapter 4), investigation (chapter 5), emergency response (chapter 6), international cooperation (chapter 7), safeguards (chapter 8), and legal liabilities (chapter 9).

¹⁹ Within the PRC there is increasing concern among progressives about the counter-productive nature of these tactics. For instance, a group of Chinese civil rights lawyers mentioned during a closed meeting with UK Parliamentarians while on a visit to Europe in Spring 2016 that repressive counter-terror policies in Tibet and Xinjiang could lead to increasing violence and suggested it was a commonly held view among intellectuals in the PRC.

²⁰ An SUV carrying three people turned right on to Beijing's Chang'an Avenue, plowed through crowds gathered near the entrance to the Forbidden City and burst into flames at the northern edge of Tiananmen Square. The wreck killed five people, including three in the vehicle and two bystanders. Dozens more were injured. The Chinese state media reported that two were Uyghurs. [See *Death penalty in Xinjiang for China Tiananmen crash*, BBC News, 16 June 2014, <http://www.bbc.co.uk/news/world-asia-china-27864060>]

²¹ On 1 March 2014, in the southwestern Chinese city of Kunming, assailants armed with cleavers, daggers and other knives brutally ended the lives of at least 29 people at a railway station, a terror spree that was blamed by the Chinese state media on 'separatists' from East Turkestan. See for instance report by Hannah Beech for Time, <http://time.com/11432/china-kunming-terror-attack-uyghurs/>

²² Two vehicles collided on a street near Renmin Park, about 4km from the city's main square, sending fire and smoke shooting into the sky, according to state media reports. Witnesses told local press they heard a series of explosions and saw blazing plumes stretching one story high. Photographs from the scene show shattered market stalls, toppled piles of produce, and bodies lining the road. Police say at least 31 people were killed.



Stills captured from the video on a state-run television channel in China of special forces raiding internet cafes and Tibetan tea shops in Dzoerge (Chinese: Ruo'ergai), Ngaba, the Tibetan area of Amdo. Photo: Chinese state media.

The reality is more complex, and has been investigated by Uyghur human rights organizations, independent journalists and scholars. Some relevant sources for further information are included with this report.²³

In Tibet, there has been no violent insurgency, but ICT has monitored the authorities using the rubric of 'counter-terror' since 2013 as a justification for demonstrating their 'surge' capacity in the region, with large-scale military drills, intensified border security and training exercises for troops on with how to respond to self-immolations in monasteries, although the latter represent no danger or harm to other people.²⁴ There is considerable evidence of intensifying military and other pressures being applied in Tibetan areas, such as raids by paramilitary forces on internet cafes and teashops in Tibet,

which was shown on the official Tibetan language news.²⁵ To a great extent, the new counter-terrorism law is formalizing what is already government practice and providing a framework for the national rollout of measures such as grid management (grass-roots level surveillance led by Communism Party cadres).²⁶

The language of the counter-terrorism law has drawn criticism for being too vague and broad. Guidelines prepared by the United Nations Counter-Terrorism Implementation Task Force state that "any definition of terrorism linked to counter-terrorism measures (...) must be clear, precise and not overly broad so as to avoid human rights abuses resulting from the characterisation as terrorism of conduct that cannot be properly considered terrorist in nature."²⁷

²³ On the media blackout accompanying such incidents, see for instance Emily Rauhala for Time, <http://time.com/3172636/china-uyghur-terror-at-tacks-executions/>. Also see Angela Poh, Uyghur Terrorism: A Misnomer? in The Diplomat at <http://thediplomat.com/2015/07/uyghur-terrorism-a-misnomer/>. According to data assembled by the Uyghur Human Rights Project (UHRP) for a report in March 2015, based on research into Chinese and overseas media, a range of 656 to 715 individuals lost their lives in the violence that engulfed Uyghurs and other ethnicities between 2013-14. The number of fatalities in 2014 was approximately double that of 2013. The UHRP stated: "Although these numbers should not be considered definitive, as the Chinese government tightly controls information in East Turkestan, they are indicative of deterioration in security conditions since Xi Jinping became Chinese president in early 2013." (See Legitimizing Repression: China's "War on Terror" Under Xi Jinping and State Policy in East Turkestan, UHRP, 3 March 2015, <http://uhrp.org/press-release/legitimizing-repression-china%E2%80%99s-%E2%80%9Cwar-terror%E2%80%9D-under-xi-jinping-and-state-policy-east/>). A useful range of academic sources on the 'war against terror' in East Turkestan and other related issues can be found here: <https://jonsullivan.com/2013/10/29/20-academic-resources-on-the-uyghur-issue/>

²⁴ More than 140 Tibetans have set fire to themselves in Tibet since 2009, in one of the largest waves of self-immolation as political protest globally: <https://www.savetibet.org/resources/fact-sheets/self-immolations-by-tibetans/>

²⁵ ICT report, February 16, 2016, <https://www.savetibet.org/tightening-of-an-invisible-net-new-security-measures-in-eastern-tibet-heighten-surveillance-control/>

²⁶ A comprehensive and secret 'grid' system of surveillance in Tibet, known as 'Skynet' and involving an expansive system of cameras, police posts, high tech equipment to monitor individuals and security patrols. See details on security architecture in Kate Saunders' presentation.

²⁷ United Nations Counter-Terrorism Implementation Task Force (CTITF) Working Group on Protecting Human Rights while Countering Terrorism Basic Human Rights Reference Guide: Conformity of National Counter-Terrorism Legislation with International Human Rights Law, Paragraph 41, UNOHCHR, 2014, <http://www.ohchr.org/EN/newyork/Documents/CounterTerrorismLegislation.pdf>

With this in mind, governments and NGOs sought to influence the language of the law before it was passed. The concerns raised that draconian measures in the name of national security are being used to crack down on Tibetans, Uyghurs and Chinese civil society and to undermine religious freedom appear to have been largely ignored by the Chinese authorities. While the definition of terrorism in the law that has been passed is arguably closer than it was in the draft to international standards, and removes previous references to 'thought' and 'speech', it is sufficiently ambiguous to be interpreted in whatever manner suits state objectives. The word 'extremism' in many places in the text of the law is associated with the word 'terrorism', but 'extremism' is not defined (although Article 81 does offer a very broad indication of what might constitute 'extremist activity'). The Chinese government has often conflated peaceful dissent with 'terrorism'; and 'terrorism' is conflated with 'religious extremism' as defined by the Party state however it chooses.

The references to religion are likely to apply in particular to Tibetans and Uyghurs. Amongst a wide range of concerns expressed about the impact of the new counter-terrorism law on Uyghurs and Tibetans, a recurring theme is that the new law regards 'distorted religious teachings' as the 'ideological basis' of terrorism, and the law does not define the term 'distorted'.²⁸ It thus allows for religious activities to be subjectively

correlated with terrorism or 'extremism'. This takes into the legal sphere a technique that has already been practised in the propaganda sphere for some time: for example, the characterization by the Chinese authorities of religious teachings by the Dalai Lama as incitement to 'hatred' and 'extremist action'.²⁹



As part of a counter-terrorist military drill in Kardze on May 26, 2014, a self-immolation was staged using what is presumably a dummy model. Photo: Chinese state media.

In Tibet, the political applications of the government's counter-terrorism drive have been clear. In addition to the characterization of religious teachings by Nobel Peace Prize Laureate the Dalai Lama as incitement to 'hatred' and 'extremist action', it involves training of police in Buddhist monasteries, and the implication that Tibetan self-immolations can be characterized as terrorism.³⁰

²⁸ Article 4: "(...) The state opposes all forms of using distorted religious teachings or other means to incite hatred or discrimination, and advocate violence and other extremism; eliminating terrorism's ideological basis."

²⁹ See footnote 6 for sources.

³⁰ In 2011, the Chinese foreign ministry accused the Dalai Lama of 'terrorism in disguise' for supporting Tibetans who have set themselves on fire in protest against Beijing's rule. See *Dalai Lama's prayers for Tibetans 'terrorism in disguise', China says*, The Guardian, 19 October 2011, <https://www.theguardian.com/world/2011/oct/19/dalai-lama-prayers-tibetans-terrorism>



Monks in a Tibetan area of Qinghai, Malho, depicted receiving fire extinguishers as part of a drive connected to self-immolations that have taken place in Tibetan monasteries. Photo: Chinese state media.

The draft counter-terrorism law included references to ‘separatism’ and ‘splittism’ – the concept of ‘splitting’ Tibet from China, which is used to criminalize certain expressions of Tibetan identity, and to ensure the PRC’s ‘sovereignty’ is unchallenged. While references to ‘splittism’ are absent in the legislation that was passed, the fact that they appeared in the draft law reveals that the CCP leadership’s concerns over enforcing the narrative of its sovereignty in Tibet and East Turkestan were an important consideration and have influenced the way the law was drafted.

China has signed up to the majority of international conventions relating to terrorism,³¹ and supported most of the UN resolutions

adopted on this topic. Under these various international instruments, national counter-terrorism measures must comply with other obligations under international law, and must be compliant with the rule of law and human rights, and with the principle of legality (for example, laws must be precise and not overly broad).³² However, there is no mention in China’s new counter-terrorism law of compliance with international law. European Parliamentarians warned in December 2015 that the human rights implications of a counter-terrorism structure with vast discretionary powers as outlined in the law “may lead to further violations of the freedoms of expression, assembly, association and religion, especially in Tibet and Xinjiang as regions with minority populations”.³³

One area of particular concern is that China’s counter-terrorism law provides no independent judicial legal recourse to appeal ‘terrorism’ designations, as is found in similar legislation in other countries. For example, Article 15 of China’s counter-terrorism law requires anyone appealing against their designation as a ‘terrorist’ to apply “to the working body of the national leading institution for counter-terrorism efforts” – that is to say, part of the executive branch of government. However, this is the same body that imposes ‘terrorist’ designations in the first place. After appeal, the institution’s decision is final.³⁴

³¹ You can find a list of international legal instruments on counter-terrorism on the website of the United Nations Action to Counter Terrorism, <http://www.un.org/en/counterterrorism/legal-instruments.shtml>

³² The UN Security Council’s initial response to the 9/11 terrorist attacks, Resolution 1373 (2001), did not affirm the need to protect human rights in counter-terrorism. Subsequently, however, Resolution 1456 (2003) of the Security Council included a clause stipulating that “States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law” (UN Doc S/RES/1456, paragraph 6, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N03/216/05/PDF/N0321605.pdf?OpenElement>). This was reiterated in further international resolutions, such as the UN Security Council’s resolution 1624 (2005) (UN Doc S/RES/1624, paragraph 4, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/510/52/PDF/N0551052.pdf?OpenElement>), the UN General Assembly resolution 62/272 (2008) (UN Doc A/RES/62/272 http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/62/272) or the UN Human Rights Council’s Resolution 10/15 (2009) (http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_15.pdf).

³³ European Parliament resolution of 16 December 2015 on EU-China relations (2015/2003(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0458+0+DOC+XML+V0//EN&language=EN>

The package of new national security laws in China marks an even greater concentration of power in the hands of President Xi Jinping over the Party, government and military, and has also led to a chilling crackdown on civil society. Over the past couple of years, we have observed a growing number of arbitrary detentions and criminal charges linked to national security being imposed on human rights defenders and lawyers across China.

China appears to be poised to significantly increase its international cooperation with regards to counter-terrorism. Chinese officials have made public statements about the importance of cooperating with other countries on this subject³⁵ in addition to existing cooperation with members of the Shanghai Cooperation Organization (Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan), the members of the China-Southeast Asian security services counter-terrorism dialogue, the members of the Quadrilateral Cooperation and Coordination Mechanism in Counter Terrorism (Afghanistan, Pakistan, Tajikistan) as well as bilateral counter-terrorism agreements with India, Japan and South Korea, the United-States or the United Kingdom. The Council of the European Union is for instance about to approve an agreement on strategic cooperation (including on counter-terrorism) between the European Police

Office (Europol) and the Chinese Ministry of Public Security.³⁶ Countries participating in these fora for cooperation with China on counter-terrorism should use these opportunities to systematically insist that all counter-terrorism measures and legislation fully comply with international law and human rights standards. Of particular concern are articles of China's counter-terrorism law that appear to authorise the Chinese People's Liberation Army (PLA) and security personnel to carry out operations in other countries, and that address the transfer of people who are not involved in terrorism back to China against their will.



The inaugural high level leader meeting on Quadrilateral Cooperation and Coordination Mechanism in counter terrorism by Afghanistan-China-Pakistan-Tajikistan armed forces, Urumqi, Xinjian Uyghur autonomous region, China, 3 August 2016. Photo: Pakistan Inter-Services Public Relations.

³⁴ The newly established "national leading institution for counter-terrorism" is the sole body in the PRC that determines which organisations are suspected of, or defined as, terrorist. There is no appeal through a court possible, its decisions are final, and there is no judicial oversight. This institution is also not a judicial branch, as it is formed by the Chinese Party state, and its organizational principle is top-down. [Article 7: "The State establishes a leading institution on counter-terrorism efforts, unifying leadership and command of counter-terrorism efforts for the entire nation."]

³⁵ Statement by Mr. Li Yongsheng on Measures to eradicate international terrorism at the 70th Session of the UN General Assembly, October 15, 2015, <http://www.china-un.org/eng/chinaandun/t1306315.htm>

³⁶ Council of the European Union's implementing decision approving the conclusion by the European Police Office (Europol) of the Agreement on Strategic Cooperation between the Ministry of Public Security of the People's Republic of China and Europol, 20 May 2016. <http://data.consilium.europa.eu/doc/document/ST-8364-2016-INIT/en/pdf>. The implementing decision was approved by the European Parliament on 4 October 2016 [see *European Parliament legislative resolution of 4 October 2016 on the draft Council implementing decision approving the conclusion by the European Police Office (Europol) of the Agreement on Strategic Cooperation between the Ministry of Public Security of the People's Republic of China and Europol* (08364/2016 – C8-0217/2016 – 2016/0808(CNS))]. <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0370&language=EN&ring=A8-2016-026>

ARTICLES OF CHINA'S NEW COUNTER-TERRORISM LAW AND THEIR HUMAN RIGHTS IMPACTS³⁷

China's new counter-terrorism law has attracted particular criticism for the scope it offers for the penalization of activities protected under international human rights conventions to which China is a signatory. These include, for example, peaceful expressions of identity on the part of Tibetans and Uyghurs, as well as other 'ethnic' groups and religious practitioners.

Article 3: *"'Terrorism' in the context of this law refers to propositions and actions that create social panic, endanger public safety, violate person and property, or coerce national organs or international organizations, through methods such as violence, destruction, intimidation, so as to achieve their political, ideological, or other objectives".*

While **Article 6** states its support for "citizens' freedom of religious belief and ethnic customs", there have been several reports since the entry into force of the law of the religious and cultural freedoms of Tibetans and Uyghurs being increasingly repressed by the authorities, such as a requirement for Uyghur restaurants to remain open in daylight hours during Ramadan, and the obligation, running counter to their religion, to offer their clients cigarettes and alcohol.³⁸

Article 7 indicates that: *"The State establishes a leading institution on counter-terrorism efforts, unifying leadership and command of counter-terrorism efforts for the entire nation"* and **Article 15** states that: *"Organisations and personnel designated as terrorist that are dissatisfied with the designation, may apply for a review through the administrative body of the national leading institution for counter-terrorism efforts."*

However, the law provides no independent judicial legal recourse to appeal 'terrorism designations', unlike similar legislation in other countries. The leading groups involved in overseeing the new law are overseen by the executive branch of government. **Article 15** stipulates that individuals or organizations designated as 'terrorist' can appeal for review "to the working body of the national leading institution for counter-terrorism efforts", which shall "promptly conduct a review" and decide whether or not to revoke the designation. However, the decision reached by the institution (part of the executive branch of government) will be final and not subject to judicial review.

³⁷ Extracts from the law taken from: *Counter-Terrorism Law of the People's Republic of China*, Unofficial translation by Chinatranslate, 27 December 2015, <http://chinalawtranslate.com/%E5%8F%8D%E6%81%90%E6%80%96%E4%B8%BB%E4%B9%89%E6%B3%95-%EF%BC%882015%EF%B-C%89/?lang=en>

³⁸ *China restricts Ramadan fasting in Muslim region*, Daily Mail, 6 June 2016, <http://www.dailymail.co.uk/wires/afp/article-3627294/China-restricts-Ramadan-fasting-Muslim-region.html>

According to **Article 8**: *“Relevant departments shall establish a joint coordination mechanism that relies upon and mobilises villagers’ committees, residents’ committees, enterprises and public institutions, and societal organisations to jointly develop counter-terrorism efforts.”*

In addition to **Article 8**, several other sections of the law refer to the setting up of formal forces or volunteer groups in communities and strengthening the counter-terrorism mechanisms in China. For example, **Article 74** calls on *“relevant departments, villagers’ committees and residents’ committees to establish counter-terrorism forces and a volunteer corps, to assist and cooperate with relevant departments carrying out counter-terrorism efforts.”* **Article 75** stipulates that *“benefits are given in accordance with relevant national provisions to personnel injured or killed as a result of performing counter-terrorism efforts, or assisting and cooperating with relevant departments in carrying out counter-terrorism efforts.”* Taken in conjunction with other sections of the law which identify a list of activities related to religion as prohibited by the counter-terrorism law (such as **Article 81**), this has allowed the government to mobilise members of the public to denounce members of religious groups. ICT has documented increasing examples of the systematic expansion of the government’s control and surveillance mechanisms particularly targeting religious and ethnic communities. This involves the intrusive presence of Party cadres in villages and monasteries across Tibet, following the ambitious deployment of a major village surveillance scheme since 2011; the establishment of village police posts and placement of officials in monasteries in the Tibetan areas of Kham and Amdo; and the extension of a scheme of household security from the TAR to eastern Tibetan areas with a political agenda of ensuring Party dominance and control.³⁹

As reported widely in the international media, there are provisions in the law that compel telecommunications and internet providers to allow for and provide technical interfaces, decryption and other technical support to the authorities in case of a terrorist or ‘extremist’ investigation, or even for ‘prevention’. It is not specified in the law what constitutes lawful measures of ‘prevention.’ The law also includes provisions for disallowing and halting internet and telecommunications services with regard to ‘terrorist content’. As is already the case in Tibet, the law calls for the installation of public video surveillance at *“key positions of main roads, transportation hubs and public areas ... as needed”*. There is already a comprehensive and secret ‘grid’ system of surveillance in Tibet, known as ‘Skynet’, involving an expansive system of cameras, police posts, security patrols, and highly technical equipment used to monitor individuals and their activity. According to **Article 19** of the law, *“Network*

³⁹ ICT report, February 16, 2016, <https://www.savetibet.org/tightening-of-an-invisible-net-new-security-measures-in-eastern-tibet-heighten-surveillance-control/>

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.” Given the law’s conflation of expressions of religious identity with ‘terrorism’, Article 17 allows the government to not only prohibit religious expression, but to cut off access to any information linked to religion within its borders and to others around the world wishing to access information produced or disseminated from within China.

Article 30 allows prisons and detention centers to recommend that individuals who have completed a prison sentence be sent to an ‘education placement’ instead of being freed, if they are deemed to be a ‘danger to society’. However, the law is unclear as to what constitutes a ‘danger to society’, merely referring to a lack of ‘reform’ and ‘repentance’ on the part of the previously convicted individual. ‘Educational placements’ are carried out by provincial level governments, and ordered by the local courts, based on an application and initial assessment by the “arbitrary” detention centre concerned. The individual concerned may appeal the ‘educational placement’ recommendation before the next highest level of court. There is no time limit specified in the law for the duration of the ‘educational placement’. In effect, this has the potential to serve as another form of detention, similar to the previously existing *‘laojiao’* (administrative detention), as it gives the authorities the opportunity to detain individuals who have not actually committed a crime. However the new law considerably exceeds the administrative detention law in scope: given the vagueness of the terminology and the lack of a time limit indicated for ‘placements’, the law allows for considerable new powers of detention.

Article 71: *“Upon reaching an agreement with relevant nations and reporting to the State Council for approval, the State Council Public Security Department and national security department may assign people to leave the country on counter-terrorism missions. The Chinese People’s Liberation Army [PLA] and Chinese People’s Armed Police Force may assign people to leave the country on counter-terrorism missions as approved by the central military commission.”*

The international community has raised concerns that no specific requirement to “*reach an agreement with relevant nations*” is required for the deployment of PLA and People’s Armed Police Force personnel abroad on counter-terrorism missions. **Article 71** can thus facilitate the refoulement and persecution of individuals outside of China, which are already policies utilised by the Chinese authorities against dissidents and religious minorities outside of their jurisdiction. For example, there have been several report of the refoulement of Uyghurs (not

involved in terrorist activities) back to China from countries like Pakistan, Laos, Cambodia, Thailand⁴⁰ and Brunei, and Chinese nationals in the U.S. suspected of hacking in October 2015.” In a notable incident in 2003, 18 Tibetans were handed over to Chinese custody in Nepal and returned to Tibet.⁴¹

Article 90: *“Where news media and other units create or disseminate false information on terrorist incidents, report or transmit details on the implementation of terrorist activities that might lead to their imitation, release gruesome or inhumane scenes from terrorist incidents, or, without permission, report or transmit the identity information of on-scene response personnel or hostages and response activity, the public security organs give a fine of up to 200,000 yuan (30,000\$), detain directly responsible managers and other directly responsible personnel between 5-15 days, and may give concurrent fines of up to 50,000 yuan (7,500\$).”*

This is one of a number of articles that infringe on freedom of expression and prohibit non-state actors from expressing views or opinions or to publish information that in any way contradicts what the government claims is true and accurate. Many of these articles also authorise the authorities to assume control of the media during situations they deem to be ‘sensitive’ or any emergency. Other controls the law imposes on the media include: being obliged to *“conduct counter-terrorism publicity”* (**Article 17**); being subject to public security controls to stop *“extremist propaganda and behaviours harming social security, social order, personal safety and social governance”* (**Article 28**); and following a terrorist incident, being forced to *“cede control of internet, radio and telecommunications”* in certain areas (**Article 61**). Penalties include fines for organizations, and prison sentences of between 5 and 15 days for staff directly or indirectly responsible for a violation.



The popular Tibetan blogger Druklo (pen name: Shokjang) is an intellectual, blogger and writer, who is known for his reflective and thought-provoking articles on issues of contemporary concern such as ethnic policy and settlement of nomads.⁴² There was widespread dismay when he was detained by security police in Rebkong (Chinese: Tongren) on 19 March 2015, with numerous netizens expressing their concern. According to the exiled Tibetan newspaper Tibet Times and other Tibetan sources, Shokjang was sentenced to three years in prison in a court in Xining, the provincial capital of Qinghai, and is believed to have been charged on grounds of ‘inciting the splitting of the nation’. In a letter from prison, Shokjang stated: *“China is a vast country with 56 different nationalities, and Tibetans are one of the largest minorities. I am a Chinese citizen, and as a Tibetan intellectual, I have to be concerned for the precious lives of my own kin. If doing so is called ‘instigating separatism’, nothing is more laughable.”*⁴³

⁴⁰ Thailand’s decision in July 2015 to deport nearly 100 Uyghurs from several immigration detention centres in Bangkok was condemned by the United States and the United Nations High Commissioner for Refugees who strongly urged China to ensure proper treatment of the Uyghurs. (<https://www.theguardian.com/world/2015/jul/10/thailand-defends-uyghur-deportation-to-china-we-didnt-send-them-all-back>)

⁴¹ ICT report, ‘Dangerous Crossing’, October 11, 2012, <https://www.savetibet.org/dangerous-crossing-2011-update/>

⁴² ICT report, February 19, 2016, <https://www.savetibet.org/popular-courageous-tibetan-blogger-sentenced-to-three-years-in-prison/>

⁴³ ICT report, April 4, 2016, <https://www.savetibet.org/popular-tibetan-blogger-asserts-his-innocence-in-letter-from-prison/>

THE 7 JUNE 2016 ROUND TABLE

On 7 June 2016, International Campaign for Tibet (Europe) (ICT) organised a round table session at the Clingendael Institute in The Hague. The event, introduced by Ko Colijn, Director of the Clingendael Institute and Tsering Jampa, Executive Director of ICT Europe, brought together expert perspectives on China from diplomatic and policy arenas, and from the law, media, and academia, with participants from across Europe, the USA and Asia. In session one of the round table, expert speakers assessed the situation in China and the uses and impacts of the counter- terrorism law on human rights, civil society, Uyghurs and Tibetans. Session two focused on regional and international perspectives from India, the USA, and Europe on political action to prevent the violation of human rights in the name of counter-terrorism activities. Some of the presentations are available on the round table website at: <http://www.tibetpolicy.eu/issue/counter-terrorism/>.

The following section summarizes the presentations of the speakers during the two roundtable sessions.



*Ko Colijn, Director of the Clingendael Institute, during his welcome speech to the round table.
Photo: ICT.*



Around 80 people attended the event, among which were diplomats, representatives from NGOs, Chinese dissidents, representatives of the Tibetan and the Uyghur communities, academics and journalists.
Photo: ICT.

Participants in the round table were:

Sharon Hom, *Human Rights in China*;
Kelsang Gyaltzen, *Special Representative of H. H. the Dalai Lama to Europe*;
Kate Saunders, *International Campaign for Tibet*; **Dolkun Isa**, *World Uyghur Congress*; **Ursula Gauthier**, *journalist*;
Marie Holzman, *President of Solidarité Chine*; **Jayadeva Ranade**, *Centre for China Analysis and Strategy*; **Garrie van Pinxteren**, *academic and journalist*;
Joëlle Hivonnet, *European External Action Service*; **Gabriel Lafitte**, *author and Tibet specialist*; **Jessica Carl**, *U.S. Permanent Mission to the United Nations in Geneva*; and **Christa Meindersma**, *former UN adviser and co-founder of the Hague Centre for Strategic Studies*.⁴⁴

The round table addressed the following topics:

- How China's counter-terrorism law can be used to further repress Tibetans, Uyghurs and civil society in China;
- How the internet and new technologies might be used by China as a tool to 'fight against terrorism';
- The concerns of regional actors such as India about China's new counter-terrorism law;
- The manner in which concerned governments should respond to China's new counter-terrorism law - with a particular focus on the coordination of the 28 European Union (EU) member states;
- How the UN Action Plan on Countering Violent Extremism can protect the rights of local communities and ethnic and religious groups;
- What the Chinese government's political and security objectives might be in promoting international cooperation on terrorism; and how governments should leverage Beijing's willingness to talk about terrorism;
- The risks created by China's new counter-terrorism law for the safety of Chinese dissidents abroad and for the Uyghur and Tibetan diaspora.

⁴⁴ The biographies of the speakers are attached as an annex to this report and available at <http://www.tibetpolicy.eu/issue/counter-terrorism/>

ROUND TABLE SESSION ONE: The use and impacts of the counter-terror law on human rights, civil society and ethnic and religious groups: Assessment of the situation in China

This session examined the impact of China's counter-terrorism law on Tibetans, Uyghurs and ethnic and religious groups, in presentations by panelists drawn from diplomacy, policy, law and journalism.



The first panel of The Hague round table. From left to right: Kate Saunders, ICT's Communications and Research Director; Sharon Hom, Executive Director of Human Rights in China; Marie Holzman, Sinologist and President of Solidarité Chine (moderator); Kelsang Gyaltsen, Representative of H.H. the Dalai Lama; Dolkun Isa, Executive Chairman of the World Uyghur Congress; and Ursula Gauthier, former Beijing correspondent of the French newspaper L'Obs. Photo: ICT.

KEY LEGISLATIVE DEVELOPMENTS IN CHINA AND IMPACTS ON HUMAN RIGHTS, SHARON HOM, EXECUTIVE DIRECTOR OF HUMAN RIGHTS IN CHINA

Sharon Hom's presentation set out some of the context for the counter-terrorism law and current legislative developments, and explored the key challenges they present.

She began by examining the approach of the Chinese Communist Party (CCP), highlighting that law has always been viewed as a tool to maintain Party power, and that "information is power; people are just malleable resources to achieve shifting Party visions, now framed as the China Dream." She also illustrated the growing personality cult around the President (e.g. the celebration of "Real Man Xi" or "Uncle Xi").⁴⁵ "The CCP identifies three 'sticks' [cudgels] it wields to exercise power: the gun (military); the pen (propaganda); and the knife (political legal committee). President Xi is chair of the Central Military Commission, Chairman of the new security administration, and heads all of the key leading groups that form part of the new expanding securitisation agenda."

THE NEW COUNTER-TERRORISM LAW:

- Reinforces the government's broad discretionary powers to investigate and prevent incidents of terrorism;
- Requires citizens and companies to assist and cooperate;
- Imposes additional and specific obligations on companies in certain sectors (e.g. telecommunications, internet services,

and financial services) and places responsibility on ICT companies for failures to prevent transmission of terrorist content online;

- Permits actions by public security authorities to counter both terrorism and 'extremism';
- Non-compliance/non-cooperation incurs significant penalties, including fines and criminal charges/detention.

However, the new law is in fact "formalizing what has been practised". Sharon Hom also pointed to recent amendments to criminal law that include very problematic provisions, e.g. giving authorities additional legal standing to punish defence lawyers specifically for publicising information in 'non-public cases' and for 'disrupting order in the court' – which in practice can mean vigorously representing your client.

NATIONAL SECURITY LAW

As with the counter-terrorism law, definitions in the new national security law were seen to be "vague, broad and comprehensive"; but the scope of the law "covers every aspect of China's politics, economics and society".⁴⁶ "China makes it clear that its security interests extend far beyond the borders – to the sea, outer space, and cyberspace."

⁴⁵ *The ideal Chinese husband: Xi Dada and the cult of personality growing around China's president*, SCMP, 29 February 2016, <http://www.scmp.com/news/china/policies-politics/article/1918443/ideal-chinese-husband-xi-dada-and-cult-personality>

⁴⁶ *China's National Security Law: The Danger of an All-Encompassing National Security Framework* (Translation, Human Rights in China), Fu Hualing, 31 August 2015, <http://www.hrichina.org/en/china-rights-forum/chinas-national-security-law-danger-all-encompassing-national-security-framework>

Sharon Hom noted that international private sector analysis of the national security law relating to financial and foreign investment implications had been helpful and that the private sector is a little ahead of civil society on technical analyses of the spate of new laws. “We may be reaching convergence of private sector rule of law and transparency concerns and human rights interests. We need to explore more how we can leverage this.”

Even without a cyber security law, the Chinese government appears to be putting pressure on foreign companies in the context of national security. For example, Google tracks and analyses third party requests to remove material from the site. A recent Google Transparency report indicated that for Google.cn, requests 2010-13 peaked at 3 annually. In 2014 they spiked to 24⁴⁷ including a number of requests for removal of content for “national security”.

DRAFT CYBER SECURITY LAW

The second draft released in July 2016 contains 75 articles including “real name registration” (Draft Article 23) for people establishing websites. It also allows for “temporary shutdown of internet access”. Such shutdowns have already happened, notably for ten months in East Turkestan (to May 2010). The proposed law, however, enshrines the right of the state to do so. This legislation needs to be carefully monitored as it will likely be promulgated this year (2016).

FOREIGN NON-GOVERNMENTAL ORGANIZATIONS MANAGEMENT LAW OF THE PRC “foreign NGOs” in the law as enacted refers

to not-for-profit, non-governmental social organizations formed outside mainland China, and clearly aims at restricting foreign NGO activities and Chinese counterparts to those approved by the state. The law was adopted on 28 April 2016 and will come into effect on 1 January 2017. The law sets forth specific requirements and process for registration, monitoring, and supervision of foreign NGOs by the Ministry of Public Security. Perhaps in response to pushback by foreign institutions, the enacted law exempts research institutions or academic organizations engaging in exchanges or cooperation with mainland Chinese counterparts, but only insofar as those institutions do not “*endanger China’s national unity, security, or ethnic unity; and must not harm China’s national interests, societal public interest and the lawful rights and interests of citizens, legal persons and other organizations*” (article 5).

Some specific provisions raising concerns include

- Representative offices of foreign NGOs must get approval of a Professional Supervisory Unit (PSU) before registering with the Public Security Department (article 11). The authorities have indicated that a list of approved PSUs will be drawn up and issued;
- Foreign NGOs have no independent legal status;
- It is not yet completely clear the scope and types of activities Foreign NGOs can engage in without triggering the application of the law;
- Temporary activities can be undertaken in partnership with a local entity; such activities must not last for more

⁴⁷ Google Transparency Report – China, <https://www.google.com/transparencyreport/removals/government/CN/?hl=en>

than one year (article 16); Foreign NGOs must file for permission for temporary activities in advance and report within 30 days of completion (articles 17 and 30).

CHINA'S INTERNATIONAL POSITIONS ON COUNTER-TERRORISM MEASURES

China's representative has stated at a UN General Assembly session: *"Terrorism is the common enemy of all the people... There must be no double standards, no linking terrorism with any particular ethnicity or religion."*⁴⁸ It has also claimed that "China is a victim of terrorism." (Citing Somalia, July 2015 attack)⁴⁹

Sharon Hom observed that China however, is leveraging this we-are-victims-too position to introduce and argue for legislative and policy responses that do not comply with international law or its international obligations. Of the 19 conventions that address terrorism, China has signed all but three.

In international policy debates, China has argued for the need for more targeted measures, including:

- Focus on removing breeding grounds of terrorism, root causes (poverty, under-development);
- Strengthen pragmatic cooperation at multilateral and bilateral levels: set up a counter-terrorism intelligence databank; share intelligence; law enforcement coop; financial regulation;
- Vigilance re: 'back flow' of terrorist fighters: origin, transit and destination;

reinforce borders;

- Resolutely combat use of internet for terrorist purposes.

However, Sharon Hom highlighted the ways in which such proposals were problematic in the context of China's actual practices of forced repatriations, addressing problems in the ethnic areas with military repression instead of addressing the root causes, and stringent Internet censorship and surveillance. The proposal to setup a counter-terrorism intelligence databank also raises serious privacy and other security concerns in light of the data mining capacity.

INTERNATIONAL HUMAN RIGHTS PRINCIPLES AND GUIDELINES FOR DOMESTIC MEASURES AND LAW⁵⁰

National laws and measures to combat terrorism should comply with a number of international principles:

- Any measures taken by States to combat terrorism must comply with all obligations under international law including international human rights law.
- National counter-terrorism legislation should address conditions conducive to the spread of terrorism and must be compliant with the rule of law and human rights.
- All counter-terrorism measures must comply with principle of legality: for example, the definition of terrorism

⁴⁸ Statement by Mr. Li Yongsheng on Measures to eradicate international terrorism at the 70th Session of the UN General Assembly, <http://www.china-un.org/eng/chinaandun/t1306315.htm>

⁴⁹ China strongly condemns attack in Somalia, Xinhua, 27 July 2015, <http://www.globaltimes.cn/content/934026.shtml>

⁵⁰ Office of the United Nations High Commissioner for Human Rights, *Basic Human Rights Reference Guide: Conformity of National Counter-Terrorism Legislation with International Human Rights Law*, CTITF Publication Series (October 2014), <http://www.ohchr.org/EN/newyork/Documents/CounterTerrorismLegislation.pdf> [accessed June 2, 2016].

must be clear, precise, and not overly broad.

- States must ensure consistency between national counter-terrorism legislation and international human rights, refugee and humanitarian laws.
- States should establish independent mechanisms for regular review of national counter-terrorism law and practice.
- States should establish national systems of assistance to promote the needs of victims of terrorism and families.
- States have an obligation to conduct prompt, independent and effective investigations into credible allegations of human rights violations, including those allegedly perpetrated during counter-terrorism.
- Any person whose human rights or fundamental freedoms have been violated in the course of any action to counter terrorism must be provided with access to effective remedies and reparation.

Under international law it is possible to have restrictions on compliance (e.g. in an emergency) but these are specific and must meet a three-part test on *legality, proportionality* and *necessity*.

PLANNED IMPLEMENTING REGULATIONS AND GUIDANCE

Sharon Hom stressed that, while a lot of the critique is about the new spate

of laws, “All Chinese law tends to be general, high-level, and policy heavy”. However, between now and implementation the Chinese government has said that “there will be implementing regulations and guidance”. Such guidance is likely to be significant in determining how the new laws are to be implemented, so this is an area where the international community needs to monitor and “to be pushing back”.

WHAT SHOULD STAKEHOLDERS DO?

Sharon Hom closed by setting out four strategic points of intervention for stakeholders: ⁵¹

- Policy advocacy – working separately and together, including engagement with legislative processes and draft legislation;
- Civil society solidarity and collective strategies – noting that collective strategies have a track record of impact when diverse strengths and perspectives are brought together to send consistent and complementary messages of support for civil society and fundamental rights and freedoms;
- Rhetorical strategies – pushing back on and avoid echoing official Chinese narratives such as characterization of Party campaigns, targeted groups, and demonization of foreign groups and harmful foreign information;
- Hong Kong struggles – supporting the Hong Kong people’s struggle for democracy and preservation of core values and fundamental freedoms, the progress and outcome of that struggle will impact the mainland and the whole region. We need to share insights from this struggle and learn from the struggles of the Tibetan and Uyghur communities.

⁵¹ See Sharon Hom, *Values and Strategic Narratives in International Human Rights*, panel on Value of Values: Reconsidering the Role of Human Rights in U.S. – China Relations, Wilson Center, Kissinger Institute on China and the United States Washington, D.C., April 20, 2016, http://www.hrichina.org/sites/default/files/values_and_strategic_narratives_in_international_human_rights.pdf

“As long as our country’s internet is linked to the global internet, there will be channels and means for all sorts of harmful foreign information to appear on our domestic internet.”

Wang Chen, “Concerning the Development of Our Country’s Internet” (Report to the Standing Committee of the National People’s Congress on April 29, 2010)⁵²

THE IMPACT OF THE COUNTER-TERRORISM LAW ON TIBETANS, KELSANG GYALTSEN, SPECIAL REPRESENTATIVE OF HIS HOLINESS THE DALAI LAMA TO EUROPE

Kelsang Gyaltzen thanked the International Campaign for Tibet and the Clingendael Institute, noting: “It is getting more difficult to find hosts for such discussions in Europe. Tibetans, and I am sure our Uyghur brothers and sisters, too, have been feeling increasingly the long reach of Beijing’s strong arm even here in Europe.”

His presentation focused on the increasing pressures placed by the Chinese government on ‘ethnic minorities’ and the need for a change in approach by the international community. “Tibetan people are presently undergoing the most difficult and challenging time of their history (...) not just a struggle for human rights and basic freedoms but a struggle for their very survival as a people with its own distinct culture, language, religion and its own distinct civilisation and identity.”

“It is important at the outset to differentiate how Beijing views dissent and protests in

Tibet or in Eastern Turkestan and dissent and protests in other parts of China. Protests by Tibetans and Uyghurs are officially characterized as ‘antagonistic’ and a threat to national security. This policy effectively delegitimizes any form of dissent and protest. Moreover, the Chinese government conflates legitimate protests in these areas with separatism or terrorism. Dissent and grievances are not seen simply as expressions of discontents with local or state policies that might be redressed. They are seen rather as threats to the stability of the regime and the nation, as documented in the recent report by Human Rights Watch highlighting the diminishing tolerance by authorities for forms of expressions and assembly protected under international law.”⁵³ The report further points out an increase in state control over daily life, increasing criminalization of non-violent forms of protests, disproportionate

⁵² A translation of the full speech by Human Rights in China is available at: <http://www.hrichina.org/en/content/3241>

⁵³ *Relentless - Detention and Prosecution of Tibetans under China’s “Stability Maintenance” Campaign*, Human Rights Watch, 22 May 2016, <https://www.hrw.org/report/2016/05/22/relentless/detention-and-prosecution-tibetans-under-chinas-stability-maintenance>

responses to local protests, and the growing number of activities and issues targeted for repression in Tibetan areas.

He said that “the question how members of the international community should react to China’s apparent willingness to talk about terrorism is of great importance” and opens a general discussion about the best or most appropriate ways and means of dealing with China, noting in China’s past “an oscillating pattern of political opening and tightening, which reveals that there have long been two contending schools of thought within the CCP and its leadership: those that favour measured political liberalisation managed by the Party versus those who staunchly resist it and seek to maintain a wide variety of repressive controls over society.”

“The aim of Western governments’ policy should be to encourage reform-minded Chinese leaders and to strengthen their position. In the 1980s and ‘90s His Holiness the Dalai Lama often counselled Western politicians and parliamentarians ‘not to isolate China but to engage her’. But he warned them at the same time ‘not to spoil the Chinese leaders and government’ in the course of engagement. China wishes to join the mainstream of the world economy and you should welcome her. But as a member of the world democracy it would be your responsibility to see that China eventually joins also the mainstream world democracy (...) on international initiatives on counter-terrorism the international community should make

the observance of international human rights standard a requirement for Beijing’s collaboration. As Human Rights Watch had recommended no government should agree to increase information sharing, training, or other cooperation with China until China commits to international standards.”

Kelsang Gyaltzen then stressed the negative effects of the “dominant school of thought led by Henry Kissinger & Co. on dealing with China”, which “stipulates as a principle that no ‘loss of face’ of the Chinese leaders or government should be risked in interacting with China. Most Western governments so far have followed this doctrine. The result is that today’s China is more authoritarian than she has ever been since the times of the Cultural Revolution (maybe with the exception of the brief period between 1989–1992 after the Tiananmen Square massacre). It is, therefore, time to have a hard and critical look at the China policy of the past decades.”

“China seems to be once again at a crossroads. There are a number of respected China scholars who are of the view that the present hardline policy under Xi is just simply unsustainable. They see the 19th Congress of the Chinese Communist Party in 2017 as of crucial importance for the future course of China. In this context, I strongly believe that the attitude of the international community can impact significantly in which direction the pendulum of political shift in China will swing.”

“These China scholars also conclude that

among the most acute challenges for the Chinese government to manage over the coming decade are the increasingly unstable border regions of Tibet, Eastern Turkestan, Hong Kong and Taiwan.... all with real potential for major confrontation with Beijing. Against this background it is my belief that the Chinese government cannot continue for long to evade seeking a negotiated resolution to the issue of Tibet. The spirit of resistance in Tibet has never been stronger. In the forefront are Tibetans under the age of 30, a clear indication that this resistance is going to stay for a long time to come until and unless it is resolved peacefully through dialogue. It seems there are only two likely and possible scenarios for the future of Tibet. The positive scenario is the resumption of direct contact and dialogue between the representatives of His Holiness the Dalai Lama and the Chinese leadership and an honest and

robust effort in finding common ground in resolving the issue. The other scenario consists of yet another cycle of ruthless repression on the one hand and more radicalised resistance on the other hand."

"I have no doubt that the attitude of the international community has a bearing on which scenario eventually will play out. I continue to entertain great hopes that European governments in general and the European Union in particular will play an important role in encouraging and facilitating a process by which Tibet and China move towards dialogue and reconciliation. This will set a timely and much needed example in these times of violence that non-violent movements can succeed and be successful. This signal will go a long way in encouraging and promoting a global culture based on non-violence, dialogue and reconciliation."

THE NEW SECURITY ARCHITECTURE IN TIBET, KATE SAUNDERS, COMMUNICATIONS AND RESEARCH DIRECTOR, INTERNATIONAL CAMPAIGN FOR TIBET

Drawing on recent research and interviews, Kate Saunders explored the recent intensification of military and ideological pressures in Tibetan areas, and summarized developments in China's 'stability maintenance' policy, which has seen a shift from responding to incidents of protest and dissent, to new preemptive steps embedded at grassroots level. These new developments in what has been termed the 'hyper-securitisation' of Tibet should be seen in the context of China's 'stability maintenance' (*weiwen*) approach, bringing a huge expansion in the powers of China's policing and military apparatus. 'Stability maintenance' has also become one of the main criteria for evaluating and promoting Party cadres, which can attract significant funding if they make claims for groups or individuals who have to be 'neutralized'.

Since 2012, the Chinese authorities have characterised their approach in Tibetan areas as ‘a war against secessionist sabotage’.⁵⁴ ‘Political stability’ is conflated with ‘national security’, and President Xi Jinping has made it clear that Tibet’s security is linked to the security of the PRC as a whole. Loyalty to the Dalai Lama is characterized as a threat to ‘security’ -meaning political security. But there are significant overlaps between the state’s political and military security concerns in Tibet, given that it is a border area of great geopolitical significance.

VISIBLE MILITARY PRESENCE

In Tibet, Chinese authorities have intensified border security, organized large-scale military drills, and held training exercises for troops (for example, on responding to self-immolations, or in monasteries), in order to be ‘combat’ ready. Indicating the level of security concerns, in May 2016 the Tibet Military Command’s political rank was elevated to one level higher than its counterpart provincial-level military commands, and now comes under the leadership of the People’s Liberation Army. The Global Times cited Beijing based military expert Song Zhongping as saying: «*The promotion shows China is paying great attention to the Tibet Military Command, which will significantly improve the command’s ability to manage and control the region’s military resources, as well as provide better preparation for combat.*»

VISIBLE AND INVISIBLE SECURITY

The Chinese government has adopted a strategy of actively establishing a Party presence in rural areas as the answer to ‘instability’ and leading to a dramatic influx in work teams and Party cadres in rural areas of the Tibet Autonomous Region (TAR), as well as well-resourced initiatives in the cultural and social spheres in Lhasa and other urban areas. For example, in 2012, it was announced in the state media that more than 20,000 cadres had been selected, and 5,451 work teams established, to stay permanently in neighbourhood committees in the TAR, whilst more than 13,000 cadres in more than 1,500 work teams would permanently stay in TAR prefectures and counties.

Other measures include:

- ‘Grid management’, whereby urban areas across the PRC have been subdivided into ‘grid management units’ roughly corresponding to a block or street. In Tibet, there is a particular political dimension in that these offices focus on monitoring Tibetans’ lives, social issues, and loyalty to the Dalai Lama. Permanent cadre teams have been placed in monasteries.
- Restrictions on the movement of Tibetans across Tibet, including checkpoints in the centre of Lhasa, restrictions on travel in border areas, and prevention of pilgrimage to sensitive areas of western Tibet.
- Stepped-up surveillance measures by grassroots institutions across eastern areas of Tibet as well as the TAR. Cadres were ordered to construct “nets

⁵⁴ The state media declared on 10 February 2012 that the situation in Tibet is so grave that officials must ready themselves for “a war against secessionist sabotage.” (Tibet Daily, 10 February 2012)

in the sky and traps on the ground” – referring to complete containment and coverage of the management of villages, homes and monasteries. Human Rights Watch reports increasing numbers of politicised detentions.⁵⁵

- Encouraging Tibetans across the plateau, particularly in rural areas and younger generations, to join the CCP.

The authorities now refer to influencing people in the ‘consciousness sphere’. “It has gone beyond a simple ‘crackdown’ now, and is much more sophisticated, and terrifying,” a Tibetan source told ICT after speaking to Tibetans from different parts of Tibet. “Security is invisible and everywhere. It is no longer only armed police patrolling the streets; often we don’t know who the police are as they blend into society, and officials are in our homes, asking about every part of our lives.” This represents a long-term and much more systematic approach than has been observed before, even though the Party has passed through several stages in the imposition of tough ‘stability maintenance’ measures since unrest in Tibetan areas in 2008.

In spite of this, Tibetans continue to undertake acts of solidarity with others at great personal risk. Complete strangers will join with family members to challenge local security personnel over the disappearance of individuals; crowds of Tibetans have turned out over the past year to honour Tibetan political prisoners upon their release in a symbolic and actual statement of support.

Pictures circulated on social media among exiled Tibetans



Tibetans surrounded by police as they enter Kumbum monastery on February 10, 2014.



Troops with riot shields gathering at Kumbum for the Monlam prayer festival, which began on February 10, 2014.



Newly established security gates with scanning machines at Kumbum for the Monlam prayer festival, which began on February 10, 2014.

⁵⁵ Human Rights Watch, *ibid.*

This combination of ideological pressure and violent crackdown exists in the context of increasing numbers of Chinese visitors to Tibet as part of a boom in tourism, implementing an ambitious strategy to bring large numbers of Chinese and international tourists to state-owned sites and cultural icons of Tibet to receive a story scripted and delivered by the Chinese authorities.

“As an ethnic border region, Tibet is at the forefront of the anti-separatist struggle. (...) in particular, the hostile forces have colluded with the clique of the fourteenth Dalai Lama, and have considered Tibet as a key area for infiltration and separatist activities and as the main battlefield for sabotaging and causing disturbances. (...) Therefore, we have fully realised the extreme importance and urgency of strengthening the work of the ideological realm.”

Chen Quangguo, Party chief, Tibet Autonomous Region, in CCP ‘Seeking Truth’

THE IMPACTS OF THE ANTI-TERROR LAW ON UYGHURS, DOLKUN ISA, EXECUTIVE CHAIRMAN OF THE WORLD UYGHUR CONGRESS

Dolkun Isa spoke about the way in which the language of terrorism was adopted by the Chinese authorities immediately following the 9/11 attacks in the U.S., and subsequently used as a political tool, particularly linking terrorism and religious expression. “China’s newly passed counter-terrorism law will open the door for even more abuses, particularly the Uyghur and Tibetan communities. The law doesn’t ensure the security of the people and will only increase tension through the criminalisation of legitimate activities. But we should also remember that the law now legalises what the Chinese government has already been doing for many years in East Turkestan with impunity.”

“Much of what we speak about today deals with the aftermath of 9/11 [Al-Qaeda’s attacks on the USA] and the response of governments around the world. In East Turkestan, there was an immediate shift in the language used by the Chinese government in response to violence. Violence rarely, if ever, was addressed within the framework of terrorism before 9/11. For example, a ‘Strike Hard’ campaign⁵⁶ was launched in June 2001 [in East Turkestan] in response to rising ethnic tensions. Words like ‘crime’, ‘gangs’ and ‘the elimination of separatist and illegal

⁵⁶ Chinese government campaigns against crime and terrorism, which can also have the effect of targeting expressions of separatism and tightly controlling religious activities.

religious activities' were used, but there was no mention of terrorism at this point. Wang Lequan, the Secretary of Xinjiang's CCP committee, in a statement on 1 September 2001, said that: *'Xinjiang is not a place of terror'*."

"Things changed quickly [i.e. post-9/11]. An official statement by the Foreign Ministry on 11 October declared China a 'victim of international terrorism' and stated that *'efforts to fight against East Turkestan terrorist forces should become a part of the international efforts and should also win support and understanding'*. On 12 November 2001, China told the UN Security Council that Uyghur groups had ties to the Taliban in Afghanistan and made claims that Uyghurs were supported by radical Islamist organizations. The phrase 'East Turkestan terrorist forces' was used for the first time around this time and used repeatedly since then. By the end of January 2002, the Chinese government released a White Paper called *East Turkestan: Terrorist Forces Cannot Get Away With Impunity*. The White Paper retroactively reviews many instances of violence in the 1990s and labels them as 'terrorism', even though they were not called terrorism at the time."

"In December 2003, the Chinese government announced four Uyghur organizations in exile and eleven people as 'terrorists'. Among them, two organizations were German-based. One of them was the World Uyghur Youth Congress; I was the

president of that organization – and number three of the top terrorists on China's list."

"In July 2009, in the regional capital Urumqi, Chinese security forces brutally cracked down on a peaceful demonstration of mainly Uyghur students. We still don't know how many people were killed, and how many disappeared; some people are still missing."

"All of these examples show very clearly how the language of terrorism has been used as a political tool by the Chinese government. Many countries of the world have done the same, but China's continues with almost no transparency."

LINKING RELIGIOUS EXPRESSION TO TERRORISM

"In the last fifteen years [i.e. since 9/11], China has tried to link normal religious expression among Uyghurs to something that sounds threatening. All of the restrictions that we see today - prohibitions on fasting during Ramadan, on practicing religion outside the mosque, restrictions on the building or repairing of mosques, and on children practising religion - are now put into the category of 'religious extremism'. Religious extremism is now one of the three so-called 'Evil Forces' – the other two being terrorism and separatism. Regarding resistance, no distinction has been made by the government between peaceful political activists, peaceful separatists, and those advocating or

using violence. The result of this may unfortunately be that more people choose violence because peaceful demonstrations are being crushed in the same way.”

MEDIA AND ONLINE CURBS

“It is now very difficult to understand what is actually happening in East Turkestan. We have very limited access to the region. This has made it very difficult to independently assess the condition of the Uyghur people. Article 63 of the new counter-terrorism law limits information that can be released to the public following a ‘terror attack’. Not only is false information declared illegal, true information also falls in this category, should that information be deemed likely to inspire ‘terrorist incidents.’”

“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’. 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. Following the outbreak of unrest in Urumqi in July 2009, Chinese authorities implemented an unprecedented ten-month shutdown of the internet. When

online services were restored in May 2010, at least 80 per cent of Uyghur-run websites had been closed. Not a single website that was deleted by authorities after 5 July 2009 was devoted to religion. The sites were mainly devoted to literature, entertainment, culture and computers.”

NEW POWERS FOR SECURITY FORCES

“We are particularly concerned with the discretionary powers that the Counter-Terrorism Law grants Chinese security forces. Article 62 permits Chinese security forces “*in emergency situations or where giving a warning might cause a more serious harm, weapons may be used directly.*” The Uyghur Human Rights Project (UHRP) and other human rights groups have documented both the disproportionate use of force in Chinese counter-terror operations, and credible evidence of extrajudicial killings.”⁵⁷

“I was number three of the top terrorists on China’s list.”

Dolkun Isa, Executive Chairman of the World Uyghur Congress

⁵⁷ See for example: *At Least 2,000 Uyghurs Killed’ in Yarkand Violence: Exile Leader*, Radio Free Asia, 5 August 2014, <http://www.rfa.org/english/news/uyghur/yarkand-08052014150547.html>; *The World Uyghur Congress condemns the violence and mass killings of Uyghur civilians perpetrated by Chinese police and military forces*, World Uyghur Congress, 5 August 2014, [http://www.uyghurcongress.org/en/?p=23170%20The%20World%20Uyghur%20Congress%20\(WUC\)%20condemns%20the%20violence%20and%20mass%20killings%20of%20Uyghur%20civilians%20perpetrated%20by%20Chinese%20police%20and%20military%20forces](http://www.uyghurcongress.org/en/?p=23170%20The%20World%20Uyghur%20Congress%20(WUC)%20condemns%20the%20violence%20and%20mass%20killings%20of%20Uyghur%20civilians%20perpetrated%20by%20Chinese%20police%20and%20military%20forces); *Legitimizing Repression: China’s “War on Terror” Under Xi Jinping and State Policy in East Turkestan*, Uyghur Human Rights Project, 3 March 2015, <http://docs.uyghuramerican.org/pdf/Legitimizing-Repression.pdf>

CHINESE DOUBLE STANDARDS ON COUNTER-TERRORISM, URSULA GAUTHIER, FORMER BEIJING CORRESPONDENT OF L'OBSS

Respected journalist Ursula Gauthier was expelled from China following publication of her essay suggesting that Beijing's expression of solidarity following the November 2015 Paris terrorist attacks had 'ulterior motives,' notably to mobilise support for the Chinese government's claim that violence in East Turkestan⁵⁸ is linked to international terrorist groups.⁵⁹ China often accuses foreign governments – and foreign reporters – of having a 'double standard' on terrorism.

"I want to talk about 'double standards,'" Ursula Gauthier said in her presentation. "What we heard here [at the round table] is totally true in the field." She explained that she went to Tibetan areas more often than Uyghur areas, "but the counter-terrorism laws have already been being implemented in minority areas – for decades. As a journalist you have to have extra, extra, shrewd measures to be able to enter. It's much more difficult to go to these [minority] areas than to Han [Chinese] areas."

She described the "very nasty smear campaign" across China, positioning her as "a friend of terrorists," and maybe a terrorist herself. "I think they did that on purpose, as a 'prologue' to the new counter-terrorism law," she said. She suggested that the Chinese government

"did the same thing with Peter Dahlin, just before they adopted the NGO law."⁶⁰

"There is an interest in doing it for internal opinion to show how the West is biased against China. China does it to demonstrate to the international community and media that they won't tolerate articles like the one I published. They reacted by saying China has the same kind of terrorism threat so please [to the West] 'don't have double standards' [i.e. that the international community tends to], distinguish between different kinds of nasty situations on the ground."

"Chinese state policies intend to eradicate whatever is different. They intend to unify by which they mean an obedient, coherent society, which is thanking the Communist

⁵⁸ On this issue, ICT would like to highlight that, as mentioned by Human Rights Watch: "In recent years China has experienced a number of deadly and apparently politically motivated attacks directed against the general population. Since 2009 several hundred people have died in Xinjiang in attacks on police stations, train stations, and public markets. Some attacks have also taken place outside of Xinjiang. On 1 March 2014, in one of the most serious incidents to date, 8 knife-wielding men and women attacked a crowd at Kunming train station, in Yunnan province, killing 29 and injuring 143, according to official accounts. At the same time, the Chinese government has long manipulated the threat of terrorism to justify its crackdown on the 10 million ethnic Uyghurs in Xinjiang. Human rights violations documented by Human Rights Watch in recent years include broad denial of political, cultural and religious rights, torture and enforced disappearances, extensive censorship, and pervasive socio-economic discrimination" [see Human Rights Watch report, China: Draft Counterterrorism Law a Recipe for Abuses, 20 January 2015, <https://www.hrw.org/news/2015/01/20/china-draft-counterterrorism-law-recipe-abuses>].

⁵⁹ After the Paris Attacks, China's Solidarity is Not Without Ulterior Motives, Ursula Gauthier, 18 November 2015. Original article in French at <http://tempsreel.nouvelobs.com/attentats-terroristes-a-paris/20151117.OBS9681/apres-les-attentats-la-solidarite-de-la-chine-n-est-pas-sans-arriere-pensees.html>; English translation available at: <http://chinadigitaltimes.net/2015/12/state-media-attacks-french-journalist-for-double-standards/>

⁶⁰ Swedish rights worker Peter Dahlin was detained by the Chinese government in January 2016; see *China frees Swedish human rights activist*, The Guardian, 25 January 2016, <https://www.theguardian.com/world/2016/jan/25/china-releases-swedish-human-rights-activist-peter-dahlin>

Party every day for the very special benefits which the Party has brought to the Chinese.” “So they were intending with this law to send a message. And that’s the important thing for us today; not only to see what is happening on the ground – which is horrendous, because I have seen it on the ground – but to understand that China has a very detailed strategy of imposing their own narrative on the ‘free world’ and a strategy, with us, of imposing their own narrative - on us.” Ursula Gauthier contended that the Chinese government aimed to make the international community “accept what they pretend to be terrorism and anti-terrorism, and even to collaborate with them and help them quell every criticism or opposition that they have inside and outside the country. That’s their aim.”

Looking specifically at Article 63 and related articles of the new law curtailing reporting on terrorist incidents in Chinese media, Ursula Gauthier proposed that “they aim to silence the foreign press. The new law is not aimed at the internal press. We know the Chinese press is already dead. There were very, very good Chinese media five years ago,

but now they cannot express themselves any more... when you report on terrorist attacks and the government response is that – that is a crime. You should know that terrorist incidents are not reported in the Chinese press – maybe three or six months later the government will say this incident happened.” She stressed that reports were very brief, with no names of victims and only very rarely the names of terrorists involved. “What they want is that the same kind of censorship is applied to the foreign press, with very heavy consequences on reporting.”

“I think this law is much more important than it seems.”

“China didn’t like Ursula Gauthier’s reporting — so it is kicking her out of the country.”

Washington Post, 26 December 2015⁶¹

⁶¹ *China expels French journalist for terrorism coverage*, The Washington Post, 26 December 2015, <https://www.washingtonpost.com/news/world-views/wp/2015/12/26/china-expels-french-journalist-for-terrorism-coverage/>

ROUND TABLE SESSION TWO: What are the political solutions to ensure that human rights are not violated in the name of counter-terrorism activities? Regional and international perspectives

This session drew on the expertise of panelists from India, Europe, the United States and Australia to consider the regional and international tensions between prevention of terrorism and human rights.



The second panel of The Hague round table. From left to right: Jessica Carl, Political Officer at the U.S. Mission in Geneva; Garrie van Pinxteren, Sinologist and Senior visiting fellow at the Clingendael Institute; Christa Meindersma, former UN adviser and co-founder of the Hague Centre for Strategic Studies (moderator); Jayadeva Ranade, President of the Indian Centre for China Analysis and Strategy; and Joëlle Hivonnet from the China Division of the European External Action Service. Photo: ICT.

CHINESE COUNTER-TERRORISM LAW AND ITS IMPACTS ON REGIONAL SECURITY: THE POINT OF VIEW OF INDIA, JAYADEVA RANADE, PRESIDENT OF THE CENTRE FOR CHINA ANALYSIS AND STRATEGY AND A FORMER ADDITIONAL SECRETARY IN THE CABINET SECRETARIAT, GOVERNMENT OF INDIA

“According to Li Wei, director of the Counter-Terrorism Research Center of government think tank the China Institute of Contemporary International Relations (CICIR), discussions regarding the necessity of a law specifically addressing terrorism started soon after the 9/11 attacks in the U.S., but was not seriously considered until 2005 when China started to prepare for the 2012 Olympic Games in Beijing.”

“China’s first substantive action on terrorism was in 1979 when it voted for the New York convention against the taking of hostages. Between 1978-80, China acceded to the Tokyo, The Hague and the Montreal Conventions. It joined Interpol in 1984; and at the 14th Biennial Conference on the Law of the World (Beijing, 22-27 April 1990), it was unanimously agreed that *“international terrorism, whether it be the work of an individual, group or state or sponsored by a state, is a form of violence which has international connections and poses a serious threat to world peace and international order”*.”

The process of strengthening its security architecture accelerated after the 18th Party Congress in November 2012 and installation of Xi Jinping since when there has been “a hardening of the Chinese state”, and a noticeable steady concentration of power by Xi Jinping, who presently holds more posts than that held by any other leader of the Chinese Communist Party (CCP), and who has also ushered in a series of strict regulations

and measures to tighten discipline and control over the Party, Army and the bureaucracy. A major factor was the penetration by foreign intelligence agencies of the CCP nomenklatura uncovered during investigations relating to former Politburo Member Bo Xilai and his security chief Wang Lijun. Simultaneous is the growing concern within the CCP leadership about the designs of the U.S. and West to destabilise China... (who might) expand their activities to include fanning further violence in Xinjiang and stirring trouble in the Tibet Autonomous Region (TAR) and other Tibetan areas. This is borne out by the focus of the Chinese Intelligence agencies that are active in Afghanistan, Pakistan and Nepal. Chinese Intelligence is also monitoring the activities of Uyghurs involved with ISIS (Islamic State of Iraq and the Levant) and those using South East Asian countries as transit routes.”

“Related to this is the National Security Education campaign launched by China on 15 April 2016, intended to raise public

awareness about the activities of foreigners and co-opt the populace into reporting on the 'suspicious' activities of their countrymen and foreigners. The campaign has heightened Chinese suspicions, with reports of business people with intelligence and security backgrounds - or those mistaken for the same - being detained and questioned by the Ministry of State Security (MSS) or Chinese Customs. Often attempts are made to 'recruit' them or they are required to explain their backgrounds and describe their duties.

Provisions of the anti-terror and cyber security laws are being implemented incrementally. Just a fortnight ago tough new measures were introduced for identifying owners and users of mobile and other telephones. The environment in China for foreign companies has now become more sensitive than that for some years.

The immediate context in which China enacted the recent Counter Terrorism Law is the unceasing restiveness of Uyghurs and situation in the Xinjiang Uyghur Autonomous Region. A Chinese government report claimed that in the decade between 1990-2001, Uyghur separatists were responsible for 200 attacks causing 162 deaths and injuring more than 440 people. The acts of resistance and terror by Uyghurs seem to be spreading to other distant parts of China and where large Muslim populations reside.”

“In an article in October 2015,⁶² Xue Li, Director of the International Strategy Research Office, World Politics and Economy Research Institute

of the Chinese Academy of Social Sciences, identified 'religious extremism' as a big challenge that confronts Xinjiang and the central government. He said the Chinese government has for several years taken a multi-pronged approach to 'Xinjiang Independence', resolutely attacking 'Xinjiang Independence' forces and actions whilst investing in economic development in order to weaken the economic factors that favour the rise of the 'three forces' (religious extremism, ethnic splittism and violent terrorism) - according to him, with considerable success. However, he said that the 'three forces' are spreading outside Xinjiang to Chinese provinces (terror attacks have taken place in big cities including Beijing and Guangzhou; and medium size cities such as Wenzhou); and beyond China's borders. 'Splittist' forces have appeared in some Southeast Asian countries, and an increasing number leave China for training and then return to carry out terror attacks... Xue Li suggested that in terms of cooperation with China 'even less can be expected from the governments of other countries'. Since then controls have become more stringent with, from 5 June 2016, DNA requirements being mandated for residents of Ili Prefecture in the Xinjiang Uyghur Autonomous Region who want travel documents.

Meanwhile, there is some independent evidence of the involvement of Uyghurs with ISIS (however they came to be involved, whether this is indirectly through flight to Turkey or by other means).⁶³ An Weixing, head of the Public Security Ministry's Counter-Terrorism Division, recently said China faced

⁶² <http://www.tibet-europe.com/web/?p=1111#more-1111> (translation); <http://www.ftchinese.com/story/001064230?full=y> (Chinese original)

⁶³ On 8 August 2016, the World Uyghur Congress issued a press release condemning Uyghur participation with ISIS: <http://www.uyghurcongress.org/en/?p=28998>

a serious threat from terrorists, especially 'East Turkestan' forces."

"Viewed in the larger context, the security concerns of the Chinese Communist Party are set to grow. Current leaders of Central Asian Republics (CARS) bordering Xinjiang are hold-over apparatchiks of the Soviet era and atheists, but in time will be replaced by younger leaders and new political forces, potentially be less keen on enforcing border controls with Xinjiang.

But China is, as are some other countries, selective in applying the definition of 'terrorist' or 'terrorism'. It is engaging in the same game as many other powers and trying to draw a distinction between the 'good' terrorist and 'bad' terrorist, if there can be such a thing. In describing the terrorists who attacked India from bases in Pakistan, China currently alternates between using the term 'militants' or 'terrorists'. At a time when China's relationship has become more comprehensive with Pakistan, which Beijing describes as its 'only ally and friend', China has placed holds at the UN Sanctions Committee to deny India's request to list Syed Salahuddin of the United Jihad Council; as well as holds on a number of other Indian requests relating to Pakistan."

"Pertinent from India's point of view is that China's counter-terrorism law also permits the People's Liberation Army (PLA) and China's security personnel to get involved in anti-

terrorism operations overseas. As China develops its expeditionary military capabilities this could become a matter of concern. As work on the China Pakistan Economic Corridor (CPEC) progresses and attacks occur on Chinese work sites and Chinese workers are killed, the role of the PLA will become important. Instances have been reported of the authorities bringing Uyghurs back to China from countries like Pakistan, Laos, Cambodia, Thailand and Brunei. In Nepal, a main reason for Beijing's expansion of influence is the large Tibetan population resident there and CCP concerns that the U.S. and West will instigate these Tibetans to further fan the restiveness inside the Tibet Autonomous Region and Tibetan areas inside China, using Nepal as their base."

U.S. GOVERNMENT'S POSITION ON THE COUNTER-TERRORISM LAW: JESSICA CARL, POLITICAL OFFICER, DELEGATION TO THE HUMAN RIGHTS COUNCIL AT THE U.S. PERMANENT MISSION TO THE UNITED NATIONS IN GENEVA

Jessica Carl began by outlining the role of the United Nations Human Rights Council (UNHRC) as a global focal point for promotion and protection of human rights, which plays a crucial role addressing human rights crises around the world, and described what UNHRC has done recently in relation to China. "The Council's attention matters, and the United States is committed to employing its legitimacy on these issues to ensure that it highlights matters of urgent concern."

Human Rights Situation in China on behalf of the U.S. and eleven other states.



U.S. Ambassador to the UNHRC Keith Harper delivering a joint statement on behalf of twelve countries on the human rights situation in China. Photo: U.S. Mission to the UN in Geneva.

She described how, at the 31st Session of the Human Right Council on 10 March 2016, U.S. Ambassador to the UNHRC Keith Harper read a Joint Statement⁶⁴ on the

"Mr. President,

I have the honor to read this statement on behalf of a group including: Australia, Denmark, Finland, Germany, Iceland, Ireland, Japan, the Netherlands, Norway, Sweden, the UK, and the USA.

We share the concerns expressed by the High Commissioner for Human Rights in the OHCHR's February 16 press release highlighting China's ongoing problematic human rights record.

We are concerned about China's deteriorating human rights record, notably the arrests and ongoing detention of rights activists, civil society leaders, and lawyers. In many cases, these individuals have not been granted access to legal counsel or allowed visits

⁶⁴ Joint Statement on the Human Rights Situation in China delivered by U.S. Ambassador to the HRC Keith Harper on behalf of a group including: Australia, Denmark, Finland, Germany, Iceland, Ireland, Japan, the Netherlands, Norway, Sweden, the UK, and the USA, 10 March 2016, <https://geneva.usmission.gov/2016/03/10/item-2-joint-statement-human-rights-situation-in-china/>

by family members. These actions are in contravention of China's own laws and international commitments.

We remain concerned about the unexplained recent disappearances and apparent coerced returns of Chinese and foreign citizens from outside mainland China. These extraterritorial actions are unacceptable, out of step with the expectations of the international community, and a challenge to the rules-based international order. The actions involving individuals in Hong Kong represent a violation of the high degree of autonomy promised Hong Kong under its Basic Law.

We also note with concern the increasing number of individuals whose confession have been aired on state media prior to any indictment or judicial process. These actions run contrary to the fair trial guarantees enshrined in China's laws and counter to rights and freedoms set out in the Universal Declaration of Human Rights.

We call upon China to uphold its laws and its international commitments, and we support the United Nations High Commissioner for Human Rights' call to release all rights activists, civil society leaders, and lawyers detained for peacefully exercising their freedom of expression or for lawfully practicing their profession."

Jessica Carl explained: "This was the first time in ten years of the history of the Council that countries had taken joint action to speak out about human rights in China." She then explained how the U.S. and Canada cosponsored a side event on the margins of the Human Rights Council March 2016 session in Geneva. The event brought together Nobel Laureates to discuss human rights and religious freedoms. "The U.S. and Canada welcomed the Dalai Lama's participation in the event as a respected spiritual and religious leader and his presence drew an impressive crowd both inside the auditorium and outside on the streets of Geneva." She described how the event offered an opportunity for the Dalai Lama to "speak directly to ambassadors, diplomats, civil society leaders and the

general public who attended."

"While these actions that I've described are not directly related to China's counter-terrorism law, they do illustrate some of the types of tools that states can use in a multilateral setting that are relevant to our discussion on political solutions."

U.S. POSITION ON THE COUNTER-TERRORISM LAW

"The U.S. government shares the concerns expressed by the panelists today that the broad, vaguely phrased provisions in China's new counter-terrorism law will lead to greater restrictions on the exercise of freedoms of expression, association, peaceful assembly, and religion within

China.” Jessica Carl went on to say more about the suppression of fundamental freedoms in East Turkestan and Tibetan areas. “The U.S. State Department closely monitors developments in Xinjiang and Tibetan areas of the People’s Republic of China, as best as we can. Access to the Tibetan areas by our diplomats, as well as foreign journalists and independent observers is made difficult by government restrictions.”

“Even so we are confident in our conclusions that the Chinese government’s response to the frustration of Uyghurs and Tibetans is counter-productive. Rather than sincerely addressing grievances and honoring the promise of autonomy guaranteed in Chinese law, the government’s heavy-handed response has exacerbated tensions.”

“We discussed our concerns repeatedly with Chinese officials during the drafting of this law. We continue to follow implementation of the law, and we will continue to engage with the Chinese government on this.”

Looking forward, Jessica Carl discussed UN efforts on countering violent extremism (CVE). “The UN efforts to develop a plan of action on CVE does provide us with a framework to engage in constructive dialogue with China and others about the importance of addressing root causes of extremism.” In February 2016, Deputy Secretary of State Antony Blinken gave a speech⁶⁵ outlining the U.S. approach to CVE. “In remarks that can be applied to any country, including

hina,” said Jessica Carl, “Mr. Blinken said: *‘While there is no single cause, we do see common denominators-common factors that breed or help accelerate violent extremism, including feelings of alienation and exclusion, exposure to vile and rampant propaganda, a lack of critical thinking skills, and experiences with state-sanctioned violence and heavy-handed tactics by security services, and systematic denial of opportunity.’*”

Jessica Carl added: “At a conference in Geneva in April 2016, [U.S.] Under Secretary for Civilian Security, Democracy, and Human Rights Sarah Sewall noted that the UN Secretary General’s Plan of Action to Prevent Violent Extremism:

She noted that the U.S. government welcomes China’s support for the adoption and implementation of the UN Plan of Action to Prevent Violent Extremism, and expressed hope that the Chinese government would avail itself of the tools and strategies laid out in the Plan to address violent extremism in China.

She stressed: “We urge China to take a comprehensive approach to countering violent extremism that protects individuals’ freedoms of expression and religion; address local grievances that violent extremists can exploit to radicalize and recruit individuals to violence; and ensure educational and economic opportunities for marginalized communities. We urge them to distinguish between acts of terrorism and peaceful

⁶⁵ *New frameworks for countering terrorism and violent extremism - A conversation with Deputy Secretary of State Antony Blinken*, Brookings, 16 February 2016, <http://www.brookings.edu/events/2016/02/16-countering-violent-extremism-blinken#/full-event/>

dissent, and reform counterproductive policies.”

Under Secretary Sewall also serves as the Special Coordinator for Tibetan Issues for the U.S. Government. Last year, in Geneva, she testified on the human rights situation in Tibet, Jessica said. Under Secretary Sewall lamented Chinese government actions to denigrate His Holiness the Dalai Lama as *“unfortunate and counter-productive (...) We know that at times Chinese officials have used words ‘terror’ or ‘ter-*

rorism’ in regard to the words of the Dalai Lama or actions of Tibetans”, she said.

For example, in 2012, Chinese authorities referred to the Dalai Lama’s prayer sessions for Tibetan self-immolators as ‘terrorism in disguise’. Jessica Carl closed by saying: “We would urge China to make a clear distinction between acts of dissent and religious observance and acts of terrorism; and to reconsider counter-productive policies that have inflamed grievances in Tibetan areas.”

SECURITY, CIVIL SOCIETY, FOREIGN INFLUENCE: WHAT HAS CHANGED IN CHINA UNDER XI JINPING’S LEADERSHIP? GARRIE VAN PINXTEREN, SINOLOGIST AND SENIOR VISITING FELLOW AT THE CLINGENDAEL INSTITUTE

Garrie van Pinxteren is researching what Chinese journalists can publish in the context of closedown of media freedoms under President Xi, as described in Session One: she focuses on the period 2012-16, working with a network of some 20 to 25 Chinese journalists.

Referring to Ursula Gauthier’s earlier description of the domestic press as ‘dead’, Garrie van Pinxteren wanted “to look at how ‘dead’ the Chinese press is” – or maybe isn’t – and what influence, if any, outsiders can have. “Every time I came to China, the situation was more tense”, she said, “and more journalists were leaving the profession. Some have stopped investigative journalism, although some have revived it to get more attention (i.e. to increase their readership). For example, the Chinese anti-corruption campaign is also fed into by media that are not always critical of the Chinese government. So it’s not always clear who is an investigative journalist.”

“Journalists are not only leaving the profession in droves -and it is in droves, because of restrictions, but because of economic difficulties; advertising is hard hit.” She described that some still see opportunities for investigative journalism on the internet. “But you need a team to do it, and teams may have problems in gathering people, resources...It’s also not clear if the new restrictions on cyber security and the internet will become more strict. There is a flowering of online initiatives, so-called we-media, but only a few that are really successful.”

“The most fundamental change,” she said, “is that until 2012 you could be critical on

certain themes at certain moments; not because there were laws that would allow you to do so but because there was a sort of informal protection in place.” She explained: “Journalists had networks within the official system, and personal friendships, or a sympathy for a certain cause, would help officials to speak out for this or that journalist. Also there was protection because within the official system there was an idea that for certain topics - like the environment, or transparency in the financial sector - it was good if journalists were critical, as that would help the government in trying to address those problems in society. So you also see during those years that people flocked to work in topics like environmental journalism, financial journalism. People of influence would say, *‘Yes, he did publish that critical item, but he’s a good guy, didn’t mean any harm, let’s let it pass.’* There was also an informal system where university professors would speak out for journalists and vice versa.”

“But the system never, to my knowledge, included the freedom to speak much about minorities. Even before 2012, minorities were more or less a taboo subject. One journalist working on environmental subjects said, *‘Well, you in the West think that we are not free to report, but we have 99 per cent freedom.’* I asked what the one per cent was that *‘you do not have?’*. He said, *‘Well, the Mongolian grasslands because it involves minorities and that for us is a no-go area.’*

The isolation now of critical journalists is growing. If you want to be a journalist, work is dissolving, you have less support, and I’m

not always optimistic about the likelihood of potential pressure from people in Chinese society who will stand up for open journalism. In general I find there’s quite a lot of support for President Xi, and a strong nationalism. Many Chinese simply don’t care too much about journalism, or journalists being repressed; or anyone being repressed, or human rights. So I feel there’s sometimes a problem there, but it’s hard to judge what’s exactly on the ground.”

Garrie van Pinxteren then moved on to look at what the international community and voices inside China might do: “Although there are many voices in government that are silenced at the moment, it’s very clear that not everybody supports this new authoritarianism. We should somehow support these other voices who are within in the official Chinese system, but are not very happy about this imbalance now, not happy about the kind of new social contract which is much more authoritarian and which breaks away from the earlier model. They would rather go back to the system by which, if you are an intellectual and you have some criticism, as long as you stick to the rules you can give this criticism. They would rather choose that system than this very strong authoritarianism that you see under President Xi Jinping.”

“I agree that one of the things that won’t be the solution is to accept and use the Chinese framing of certain terms, and double-speak. We should be very critical of that and we should not follow in the footsteps of the Chinese government in that sense.”

EU POSITION ON THE NEW COUNTER-TERRORISM LAW: JOËLLE HIVONNET, SENIOR POLICY OFFICER, CHINA DIVISION OF THE EUROPEAN EXTERNAL ACTION SERVICE (EEAS)

Joëlle Hivonnet started her presentation by insisting that although focusing on the counter-terrorism law, “we need to bear in mind the bigger picture”, namely the National Security Law package, inter alia National Security Law, Foreign NGO Law, and cyber-security draft law. “We also need to look at the wider political context and a government getting a tighter grip on society and suppressing dissent”, she said, “and to look at the implementation of the law in the specific political context just mentioned.” She presented the European Union’s (EU) concerns regarding the law, before explaining what the EU is doing about it, and finally suggested some recommendations for action.

Joëlle Hivonnet explained the EU comments on the law:

- “The European External Action Service (EEAS) has a policy of contributing systematically to the public consultation processes organized by China.
- On 28 April 2015, the EU delegation in Beijing sent a list of comments to the Legislative Affairs Commission of the National People’s Congress.
- Contrary to other consultation processes, the Standing Committee of the National People’s Congress (NPCSC) took up a number of key EU suggestions. However it has maintained a number of problematic provisions and introduced other factors of uncertainty for civil society, the media and economic operators.”

She detailed the five important concerns identified by the EU:

- “The first area of concern regards the

definitions, while the definition of terrorism is arguably closer to international standards, and removes previous references to ‘thought’ and ‘speech’, it is sufficiently ambiguous to be interpreted in whatever manner suits state objectives.

- The new Article 3 more narrowly defines ‘**terrorism**’ as “*propositions or behaviours which attempt to elicit panic in society, threaten public security and violate personal properties, or coerce state organs and international organizations through violence, destruction, intimidation, or other methods to realize their political, ideological and any other purposes’ and contains a more targeted description of terrorist ‘activities’.*
- By contrast, the wording ‘**extremism**’ is now in many places associated in the text with the wording ‘terrorism’ but no definition of ‘extremism’ has been provided, though Article 81 establishes that extremist activities include all those that ‘damage the state’s execution

- of law' or 'distort or defame state policies, laws or administrative regulations.' Aside from the lack of precision that is evident, what is worrying is the likely effect that these provisions will have on the media, economic operators, civil society and freedom of expression, where the uncertainty it creates is likely to lead to an increasing amount of self-censorship.
- The second concern is that the law provides **no independent judicial legal recourse**, found in similar legislation in EU countries. Article 15 stipulates that those individuals or organizations designated as 'terrorist' can submit an application for review 'to the working body of the national leading institution for counter-terrorism efforts', which shall 'promptly conduct a review' and decide whether or not to revoke the designation. However, the decision reached by the institution (which will invariably be a part of the executive branch of government) will be final and thus will not be subject to any judicial review. This form of extra-judicial decision-making runs contrary to the very spirit of rule of law.
 - The third concern pertains to the **impact on freedom of information**. Collectively, provisions appear designed to intimidate non-state actors from expressing views or opinions that contrast with official information and allow the authorities to assume all control of the media during any emergency situation.
 - Among the restrictions the law imposes on the media is that of '*conducting counter-terrorism publicity*' (Article 17); being subject to the control of public security organs to stop '*extremist propaganda and behaviours harming social security, social order, personal safety and social governance*' (Article 28); in the aftermath of a terrorist incident, being forced to cede control of internet, radio and telecommunications in certain areas (Article 61); cede control of the decision on releasing information on the occurrence, development, response and handling of terrorist incidents to government authorities (Article 63) and are forbidden from fabricating or transmitting false information on terrorist incidents (Article 90). The penalty for violating Article 90 of the law mandates that organizations are to be fined up to RMB 200,000 (30,000\$) while staff directly or indirectly responsible for the violation to be imprisoned between 5-15 days.
 - The fourth concern lies with the **impact on the information and communications technology sector**. Extensive obligations remain concerning access to all data and systems by the security apparatus upon request in case of an investigation or to prevent actions (the latter being by nature open to interpretation). This ex post approach (rather than the ex ante approach featuring in the previous draft) could prove problematic for businesses in terms of IP (intellectual property) and business secrets protection.

- Previously, the draft included requirements for telecommunications operators and internet service providers to provide permanent backdoors to the Chinese law enforcement authorities as well as the mandatory prior approval (“filing”) of all cryptographic solutions.
- To avoid the “dissemination of information with terrorist and extremism content”, Article 19 of the law contains strong provisions (enforced through an area of sanctions and penalties) compelling telecommunications operators and internet service providers to implement information content monitoring systems, and, where such information is discovered, to immediately halt its dissemination (i.e. censor) and report back to public security organs. The same article provides that the authorities can adopt technical measures to stop the dissemination of information with terrorism and extremism content available via cross-border internet transmission, thereby legitimising the Chinese internet censorship practices.
- Contravention of the provisions, even where this does not conclusively lead to transmission of information deemed ‘terrorist’ or ‘extremist’, is subject to fines of up to RMB 500,000 for the offending company, with smaller fines for the company executives and personnel associated with the offence. These provisions will almost certainly result in costly new procedures for domestic and foreign companies in order to comply with the law and still leaves them liable to providing any and all assistance or information that are requested by the authorities.
- Although the counter-terrorism law no longer contains business restrictions on cross-border data flow or requirements that data be localised in China, the Draft Cyber-Security Law contains a very similar localisation provision requiring critical information infrastructures to store within China Chinese citizens’ personal information and other important data while carrying on their business operations.
- A fifth area of concern lies with the **provisions regarding foreign deployment of personnel on counter-terrorism missions** contained in article 71, which mandates that their deployment should be conducted ‘*upon reaching an agreement with relevant nations and subject to the approval of the State Council.*’ No specific requirement to ‘reach an agreement with relevant nations’ is contained in the section of the article that deals with the deployment of PLA and People’s Armed Police Force personnel abroad on such missions, though unless dealing with a failing or failed state it is likely that the deployment of members of the armed forces or other civilian officials will be conducted following the consent of the State within which they will be assigned.”

Before concluding her remarks, Joëlle presented what the EU is doing or has done on these issues:

- “On top of the written comments sent prior to adoption, the issue was raised extensively at different levels by Stavros Lambrinidis, EU Special Representative for Human Rights, during his last visit in November 2015⁶⁶ and during the last EU-China human rights dialogue in December 2015⁶⁷, with an invitation to further discuss with the European Union Delegation in Beijing.
- EU Military Staff are invited to pass on the same messages, also in the hope to influence implementing measures if there are any.
- The EU is exchanging views with civil society, academia, third countries and business organizations on the possible impact of the law.
- It is also exploring possible exchanges on counter-terrorism within a broader context.”
- Underlining the importance of intelligence sharing in preventing attacks, China wishes to establish a platform/dialogue with the EU.
- Counter-terrorism is indeed a top EU priority, with a focus on internal coordination and an external dimension. Externally, the EU approach is threefold: (i) support countries that need to reinforce their counter-terrorism structures and capabilities (especially in the Mediterranean and Africa), (ii) cooperate with the countries where terrorists were trained, such as Syria, Iraq, Libya – China’s role as a permanent member of the United Nations Security Council is key on this issue; (iii) work on prevention, anti-radicalisation and exchange of good practices with countries like Indonesia and Jordan, where there is dialogue with moderate Islam.
- A structured counter-terrorism dialogue between the EU and China is not on the cards but it would be possible to discuss counter-terrorism in existing channels also to continue to stress the importance of the rule of law and human rights in the counter-terrorism context.”⁶⁸

On the future of EU-China’s cooperation on counter-terrorism, she said:

- “It would appear that President Xi has tasked senior officials to seek enhanced cooperation with the EU on counter-terrorism.

⁶⁶ EU Special Representative for Human Rights visits China, EEAS, 16 November 2015, http://eeas.europa.eu/statements-eeas/2015/151116_03_en.htm

⁶⁷ 34th EU-China Dialogue on Human Rights, EEAS, 2 December 2015, http://eeas.europa.eu/statements-eeas/2015/151202_03_en.htm

⁶⁸ A few days after the round table discussion, on June 18, 2016, the Council of the European Union adopted the “EU Strategy on China”: <http://data.consilium.europa.eu/doc/document/ST-11252-2016-INIT/en/pdf> On the issue of EU-China cooperation on counter terrorism, paragraph 17 stipulates: “The Council supports the establishment of regular and substantial EU dialogue with China to seek, in conjunction with Member States, greater common ground on disarmament, non-proliferation, counter-terrorism, migration, and, cyber-security. The EU’s position on the arms embargo remains unchanged”. The EU had adopted on 22 June 2016 a Joint Communication to the European Parliament and the Council entitled “Elements for a new EU strategy on China”: http://eeas.europa.eu/china/docs/joint_communication_to_the_european_parliament_and_the_council_-_elements_for_a_new_eu_strategy_on_china.pdf. The communication mentions that the EU “support(s) the establishment of regular and substantial EU dialogue with China to seek, in conjunction with Member States, greater common ground on disarmament, non-proliferation, counter-terrorism, migration, and, cyber-security” and that it is “open to cooperation with China on counter-terrorism subject to mutually agreed terms including a robust rule of law and human rights component.”

Joëlle Hivonnet concluded her presentation with the following points:

- “We are witnessing a ‘legalisation’ of some existing repression practices with the counter-terrorism law and other elements of the national security package designed to increase control on society and suppress dissent.
- Undoubtedly, the national security package will have a serious negative impact on a deteriorating human rights situation.
- However, the EU remains open to more exchanges on counter-terrorism with a view to influence processes and trends – rather than cooperation, also because of the recent counter-terrorism law and measures.”

“We welcome in China’s interest in having more cooperation on counter-terrorism at international level and the European Union is open to intensify cooperation with China through our existing political and security dialogue. We also discussed our relations in the areas of trade, investment and connectivity and I also stressed that the rule of law and human rights are at the very centre of our bilateral relations.”

Federica Mogherini, High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President of the European Commission.⁶⁹

⁶⁹ Remarks by High Representative/Vice-President Federica Mogherini at the press event on the occasion of High Level Strategic Dialogue between the EU and China, with State Councillor Yang Jiechi, EEAS, 10 June 2016, http://eeas.europa.eu/statements-eeas/2016/160610_01_en.htm

WILL THE ANTI-TERROR LAW BE EFFECTIVE? GABRIEL LAFITTE, ENVIRONMENTAL ECONOMIST AND AUTHOR OF SPOILING TIBET: CHINA AND RESOURCE NATIONALISM ON THE ROOF OF THE WORLD .

According to Gabriel Lafitte, “China has for a long time said that development is the long-term solution to all the problems of Tibet and Xinjiang, and that security is the short term solution.” He posed the question: “What is the relationship between development and security?”

“Several speakers have said that China’s policies are counter-productive. So it seems from this that the emphasis on security ‘trumping’ -or triumphing, over development is actually producing exactly the wrong result. Where does this obsession with security come from? We could say that in the modern world we all live in a security state. But China’s security state is different. It’s more advanced, it’s more total, it’s more comprehensive.

Kate Saunders mentioned ‘grid management’, a technique of maintaining both human intelligence and electronic surveillance on a scale of the local community, where people doing the surveillance literally personally know every one of the six hundred people they are responsible for monitoring. That is a model that is now being extended right across China, not only in Tibet and Xinjiang. So Tibet has been the laboratory, the experimental test bed and the showcase for the spread of grid management and of security.

Really, what motivates China’s Communist Party is an obsession – an absolute fixation - with the fall of the Soviet Union. More than anything else, that is what is driving

their ethnic policies and their security policies. The fear is that by giving the Tibetans nominal legal autonomy, and equally to the Uyghurs in Xinjiang, you are only creating a stronger sense of national identity and national separateness. This ‘turn’ in Chinese policy – and it was quite an explicit turn, even though it didn’t get much publicity – happened in 2002. There was a deliberate decision to downplay ethnicity and to invent a new category of ethnicity. This was the ‘*zhonghua minzu*’ – the Chinese term that embraces all the 56 different ethnicities in China. It’s simply come too late.

I think the resistance of the Tibetans is proof that it is simply too late for the Chinese to turn their policy towards assimilation, absorption, integration and over-development by investing in massive infrastructure projects as they are now doing. China’s government policy has been counter-productive. It has created a much stronger sense of Tibetan identity and there is no turning back. And no amount of counter-terrorism, anti-terror law, repression, or grid management is going to change that fact. It’s only actually exacerbating Tibetans’ sense that, “*We’re so glad that we are not Chinese*”.

RECOMMENDATIONS

Counter-terrorism is a difficult and complex issue, and since China's counter-terrorism law became effective only in January 2016, a definitive analysis of its impacts is yet to be conducted.

This list of recommendations hereafter should therefore not be considered as exhaustive. They seek to remedy the current violations of international standards found in China's counter-terrorism regime, and to mitigate the risks of violations of human rights that the new counter-terrorism law presents.

RECOMMENDATIONS TO THE PEOPLE'S REPUBLIC OF CHINA

- **Definition:** Critical terms used in the law, such as 'terrorism', 'extremism', and 'distorted religious practice', must be clearly and specifically defined in line with international standards.
- **Statistics:** Make statistics publicly available on: cases of 'preventive' measures taken against individuals under the law; cases of 'educational placements' under the law; and statistics about appeal cases and the respective decisions by the courts. The Chinese government and the judiciary should provide such data in annual work reports, for example the report of the Supreme People's Court, and before international fora such as the United Nations Treaty Body review.
- **Freedom of religion:** Ensure that peaceful religious observance and practice is never equated with terrorism. With this in mind, immediately cease to accuse the Dalai Lama of advocating or supporting terrorism and, on the contrary, engage in a substantial and genuine dialogue process with his representatives to find a long-term and mutually acceptable solution to the Tibetan issue.
- **Security architecture:** Not use the pretext of the fight against terrorism to further oppress religious and ethnic groups including Tibetans and Uyghurs, and immediately decrease the level of militarization and the deployment of security troops in Tibet and East Turkestan.
- **Countering violent extremism (CVE):** Implement the call by the United States, made during the U.S.-China dialogue on counter terrorism on 6 August 2015 to "*take a comprehensive approach to countering violent extremism that protects individuals' freedoms of expression and religion; addresses local grievances that violent extremists can exploit to radicalize and recruit individuals; and ensures educational and economic opportunities for marginalized communities*"⁷⁰.

RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY

- **Dialogues on counter-terrorism:** The EU, its member states and other countries should be very vigilant in the definition (and the implementation) of the terms of reference of dialogues and cooperation with China on counter-terrorism, which should place rule of law and human rights at their centre. The impacts of the Chinese counter-terrorism law on Tibetans and Uyghurs should also be addressed more concretely in the EU-China Dialogue on Human Rights as well as in the newly established EU-China Legal Affairs Dialogue, which first took place in June 2016⁷¹ and in any new dialogue related to human rights or counter-terrorism. As noted in the « Elements for a new Strategy on China », the EU should “*work to find linkages across different policy areas and sectors in order to exert more leverage in pursuit of its objectives*”.⁷²
- **EU coordination:** Special measures should be adopted to counter China’s ‘divide and conquer’ approach in Europe, given the importance many analysts

have given to the EU having a united approach to engagement with China. Today, the platform of cooperation between China and Central and Eastern European Countries (also known as the 16+1 format),⁷³ which has obvious connections to the development of the One Belt One Road initiative (OBOR), is clearly undermining the EU’s unity.⁷⁴ We call upon the EU Counter-terrorism Coordinator, Mr. Gilles de Kerchove, to actively coordinate the EU and its member states’ polices on counter terrorism vis-à-vis China and to ensure that the rule of law and human rights, including in Tibet and East Turkestan, are prominently discussed during any dialogue or consultation on counter-terrorism with China.

- **International cooperation:** The international community should insist on respect for human rights obligations in all of its engagements with China, notably in the context of any cooperation on counter-terrorism. In addition, a united approach among members of the international community also strengthens the message that China must respect human rights in its counter- terrorism strategy

⁷⁰ U.S.-China Counterterrorism Dialogue, Media Note from the Office of the Spokesperson of the U.S. Department of State, 6 August 2015, <http://www.state.gov/r/pa/prs/ps/2015/08/245782.htm>

⁷¹ Launch of the EU-China Legal Affairs Dialogue, EEAS, 21 June 2016, http://eeas.europa.eu/delegations/china/press_corner/all_news/news/2016/20160621_en.htm

⁷² Joint communication to the European Parliament and the Council “Elements for a new EU strategy on China”, adopted on 22 June 2016. http://eeas.europa.eu/china/docs/joint_communication_to_the_european_parliament_and_the_council_-_elements_for_a_new_eu_strategy_on_china.pdf

⁷³ The 16+1 format is an initiative by the People’s Republic of China aimed at intensifying and expanding cooperation with 11 EU member states and 5 Balkans countries (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Montenegro, Poland, Romania, Serbia, Slovakia, Slovenia, the former Yugoslav Republic of Macedonia) in the fields of investments, transport, finance, science, education, and culture. The first 16+1 Summit was held in Warsaw, Poland, in 2012. The earlier Summits have taken place in Warsaw, Poland (2012); Bucharest, Romania (2013); Belgrade, Serbia (2014); and Suzhou, China (2015).

⁷⁴ We welcome the language contained in the Joint communication to the European Parliament and the Council «*Elements for a new EU strategy on China* » adopted on 22 June 2016, which mentions that “*the EU must project a strong, clear and unified voice in its approach to China. When Member States conduct their bilateral relations with China – whether one-on-one or as groups of countries such as the 16+1 format – they should cooperate with the Commission, the EEAS and other Member States to help ensure that aspects relevant to the EU are in line with EU law, rules and policies, and that the overall outcome is beneficial for the EU as a whole*” and that “*the EU must therefore project a strong, clear and unified voice. EU coherence and cohesiveness is vital on the big policy choices and on the maintenance of the rules-based international order*” http://eeas.europa.eu/china/docs/joint_communication_to_the_european_parliament_and_the_council_-_elements_for_a_new_eu_strategy_on_china.pdf

and legislation. The United States, Japan and some EU members states have recently been working together to express their concerns about the human rights situation in China. A number of them, for example, presented a joint statement to the UN Human Rights Council⁷⁵ on this issue. This type of joint activity, enhanced by increasing the number of countries participating, could be directed at addressing the abuses and dangers related to China's counter-terrorism measures notably as they affect the human rights of Tibetans and Uyghurs.

- **Non-refoulement:** All countries, notably Thailand, Malaysia and Cambodia, should respect the non-refoulement principle and ensure that individuals wrongly accused of terrorism in violation of international law are not forcibly returned to China. Nepal should similarly not return Tibetans to the PRC against their will.

RECOMMENDATIONS TO CIVIL SOCIETY

- **NGO monitoring:** It is important to monitor the implementation of the new counter-terrorism law and its impacts. An NGO consortium could be set up to provide credible information to governments and international organizations about abuses related to the new counter-terrorism regime in the PRC, including statistics about decisions of 'preventive' measures against individuals, about cases of 'educational placements' and about appeal cases and the respective cases by the courts. Donors should allocate funding for such initiatives.
- **Think tanks:** Think tanks should further assess the Chinese counter-terrorism law and provide indepth analyses and recommendations for how the PRC can amend its counter-terrorism law and strategy to be more effective and in line with international law and human rights standards, with special attention to the situation of Tibetans and Uyghurs.

⁷⁵ Joint Statement on the Human Rights Situation in China delivered by U.S. Ambassador to the HRC Keith Harper on behalf of a group including: Australia, Denmark, Finland, Germany, Iceland, Ireland, Japan, the Netherlands, Norway, Sweden, the UK, and the USA, 10 March 2016. <https://geneva.usmission.gov/2016/03/10/item-2-joint-statement-human-rights-situation-in-china/>

COMMENTS BY CLAUDE ARPI

“Terrorism has become the scourge of humanity”

Whether it is in Paris, Dacca, Munich, Aden, Nice or Kabul, one witnesses the same thing, innocent victims being killed in the name of a ‘cause’.

Nation states are trying individually to find an answer to this phenomenon which become more and more unpredictable; however no general panacea has yet been found, simply perhaps because each incident is different, depending not only on the global environment, but also on each nation’s particular context.

While each state experiences a different symptom for the same planetary disease, international collaboration remains in its infancy.

China, the world’s second economic power,⁷⁶ feared by many, also tries to evolve its own responses ...with Chinese characteristics.

On 1 January 2016, a new counter-terrorism law has come into effect; incidentally on the same day, Beijing announced reforms in the People’s Liberation Army (PLA), the deepest since 1949. It may not be a coincidence, as the People’s Armed Police forces dealing with counter-terrorism, also comes under the Central Military Commission.⁷⁷

The new counter-terrorism law consists of 97 articles in 10 chapters, covering issues such as terrorism designation, prevention, intelligence gathering, investigation, emergency response, international cooperation or legal liabilities.

While one can rejoice that China has decided to become a ‘normal’ state, ruled by law, one is forced to notice that general repression against individual freedom of speech and thought has dramatically increased since the 18th Congress in November 2012.

Though ‘rule of law’ is one of *The Four Comprehensives*, President Xi Jinping’s new mantra namely build a moderately prosperous society; deepen the reform; govern according to law; govern strictly under the direction of the Party), it is feared that the last ‘comprehensive’ will not be in accord with the third one. Can a state be governed by a single party unique and at the same time follow the ‘rule of law’?

It is a difficult question to answer.

Moreover, the new federal ‘Anti-Terrorism Law’ will probably be part of a ‘package’ which will include a National Security Law, a Non-Governmental Organizations Management Law and a Cyber-Security Law, amongst others.

⁷⁶ China’s socialist market economy is the world’s second largest economy by nominal GDP (*GDP Ranking*, The World Bank, 2015, <http://databank.worldbank.org/data/download/GDP.pdf>), and the world’s largest economy by purchasing power parity according to the IMF (*Report for Selected Countries and Subjects*, IMF, April 2014).

⁷⁷ *The Reform of China’s Armed Forces Command and Control System*, V. Kashin in *The Far Eastern Affairs* n°2, 2016, http://www.eastviewpress.com/Files/FEA_FROM%20THE%20CURRENT%20ISSUE_No.%202_2016.pdf

To this should be added regulations specific to 'minority areas', such as the Management Measures for the Reincarnation of Living Buddhas in Tibetan Buddhism adopted in 2007 which proclaim that "*the reincarnation of Living Buddhas shall not be interfered or dominated by any organisation or individual abroad*" (read 'the Dalai Lama').

An atheist state interfering in religious and spiritual affairs makes it suspicious to say the least. In this context, the initiative of the International Campaign for Tibet - Europe (ICT) to organize a round table on the above issues, is most timely.

On 7 June 2016, internationally acclaimed experts in the field of diplomacy, law, media and academia, coming from Europe, the USA and Asia assembled in The Hague to deliberate about the positive aspects, as well as the dangers of the new Chinese legislation and its implications for the people of China, but also for the minorities of the People's Republic of China, primarily the Tibetans and Uyghurs.

How far can the new law become a tool to further contain the resentment of the minorities? Will the Internet and social media networks be an instrument of information or a tool of repression? What are the concerns of China's neighbours? What can the 28 EU member states do to strengthen the positive aspects of the legislation? Can the international community have leverage on China and openly discuss the global issue of terrorism with Beijing?

These are some of the issues the experts debated on.

A few months ago, David Shambaugh, a respected Chinese watcher, who is director of the China Policy Program at George Washington University, wrote a *Saturday Essay* entitled The 'Coming Chinese Crackup'. It was published in *The Wall Street Journal*, but circulated widely on social media. Later Shambaugh, elaborated his theory in a 203-page new book, *China's Future*, where he argues that "*China is in a state of 'atrophy' and 'decline', which will continue if no major political reform takes place in the near future.*"

The problem is that since the 18th Congress and the advent of Xi Jinping as the new 'core leader', the political reforms seems to have passed into reverse gear; this makes the anti-terror law very suspicious.

In recent years, repression has dramatically increased in the Middle Kingdom, as well as at China's periphery, i.e. Hong Kong and the case of the kidnapped publishers.

During the round table, one of the participants stated: "*Concerns have been raised by the international community about the implications for business, trade, data privacy, constraints on civil society and media, and about the worrying implications for human rights, particularly those of ethnic minorities*"; but the real apprehension is for China's 'ethnic minorities': the past has shown that there were often 'two laws' in China: one for the mainland, one for with the minority areas.

The case of 'grid management' in Tibet explained by one of the participants shows that Tibet is under a special dispensation, much more repressive than in the Mainland; the

'law of the land' is often implemented in a far more authoritarian way in 'ethnic areas'; it could amount to racial discrimination.

It is certain that the new law will engender more fear among the minorities and though, like everywhere on the planet, religious extremism may exist in China, 'regionalism' is often assimilated to separatism and terrorism.

One of the conclusions of the round table is that the new counter-terrorism law make an important – and potentially worrying – contribution to China's new security architecture. This new security architecture does not represent a policy shift, but strengthens military, political and social controls that are already in operation, particularly in ethnic minority areas. Such controls include heightened military presence, increased visibility of local Party cadres, and community surveillance.

One of the answers to this issue: China should become a 'normal' state, not only 'ruled by law', but 'ruled by global international law'.

For this, international cooperation on counter-terrorism should be enhanced.

The question remains, can a nation ruled under a one-Party system become a normal state?

The EU representative at the round table affirmed that President Xi has tasked senior officials to seek enhanced cooperation with the EU on counter-terrorism. That would be a positive way.

However, a month after the gathering in The Hague, Xinhua reported: *"The regional government of Xinjiang unveiled China's first local counterterrorism law. Based on China's Counterterrorism Law, passed in December 2015, the regional law details and supplements the national law in defining terror activities and terrorists, security precautions, intelligence, investigations, countermeasures and punishment."*

The Party's mouthpiece added: *"The legislative commission of the regional people's congress said the new measures stress that religious extremism is the ideological basis of terrorism and must be prevented and punished."*

The fact that a local 'counter-terrorist law' was immediately enacted in Xinjiang⁷⁸ (it will probably happen in Tibet soon) makes the future of human rights in China quite disquieting. Once again, it is too easy to associate regional resentment and separatism.

Claude Arpi

*Tibetologist*⁷⁹

⁷⁸ On 5 August 2016, authorities in China's northwestern Xinjiang region unveiled a new local counterterrorism law meant to counter 'religious extremism'. The law supplements the national counterterrorism law approved in December, by setting forth measures to define terrorist activities, implement security precautions, conduct investigations, and punish religious extremists. (See *Xinjiang Regional Government Passes New Counterterrorism Law*, RFA, 5 August 2016, <http://www.rfa.org/english/news/uyghur/xinjiang-regional-government-passes-new-counterterrorism-law-08052016160441.html>)

⁷⁹ Claude Arpi is a French author, journalist, historian and Tibetologist. Born in 1949 in An-goulême, he now lives in Auroville, India. He is the author of *The Fate of Tibet: When Big In-sects Eat Small Insects* (Har-Anand Publications, New Delhi, 1999), and several articles on Tibet, China, India and Indo-French relations. You can visit his website at <http://www.claudearpi.net> and his blog at <http://claudearpi.blogspot.be/>

ANNEX

BIOGRAPHIES OF THE SPEAKERS TO THE 7 JUNE ROUND TABLE

Ms. Marie HOLZMAN

Sinologist and President of the French association "Solidarité Chine"

Marie Holzman is a contemporary China specialist, who has spent most of her life studying and following the evolution of Chinese social and political evolution. She lived in Beijing at the end of the Cultural Revolution (1975 to 1980) and was a witness of the transition from an extremely totalitarian regime to a more open system. She got acquainted with those who were to become the most well known Chinese dissidents of the time: Wei Jingsheng, Xu Wenli, and many others, and has written extensively on the subject: "Wei Jingsheng, un Chinois inflexible" (Bleu de Chine 2002), "Lin Xiling L'indomptable" (Bayard, 1997), etc. After the Tian'anmen massacre, she became the President of the NGO Solidarité Chine, whose aim is to keep the memory of the Chinese democratic movement alive, and assist those who suffer from repression within China and abroad. She also taught at Paris 7 University for twenty years, and is an active contributor to various monthly and quarterlies such as Politique Internationale.

Ms. Sharon HOM

Executive Director of Human Rights in China (HRIC)

Sharon K. Hom, Executive Director of Human Rights in China (HRIC), leads its human rights and media advocacy and strategic policy engagement with NGOs, governments, and multi-stakeholder initiatives. She also directs the China and International Human Rights Research Program of the Robert Bernstein Human Rights Institute at NYU School of Law. Hom has presented extensively on a variety of human rights issues before key European, U.S. and international policymakers. Hom also regularly appears as guest and commentator in broadcast programs worldwide, and is frequently interviewed by and quoted in major print media. In 2007, she was named by the Wall Street Journal as one of the "50 Women to Watch". Hom taught law for 18 years, including training judges, lawyers, and law teachers at eight law schools in China. She served as a faculty member and director of the China Center for American

Law Study in China (1988-2000), and on the U.S.-China Committee on Legal Education Exchange with China (1990-2000). Her publications include chapters in The Unfinished Revolution: Voices from the Global Fight for Women's Rights (2012), Gender Equality, Citizenship and Human Rights: Controversies and Challenges in China and the Nordic Countries (2010), and China's Great Leap: The Beijing Games and Olympian Human Rights Challenges (2008). She is the co-editor of Challenging China: Struggle and Hope in an Era of Change (2007), and English-Chinese Lexicon of Women and Law (Yinghan Funu Yu Falu Cihuishiyi) (1995).

Mr. Kelsang GYALTSEN
Special Representative
of His Holiness the
Dalai Lama

Kelsang Gyaltzen was born 1951 in Kham, Tibet. In 1963, he was sent for education to Switzerland. He was trained in business and administration and worked as a cadre of a major Swiss bank until 1983. In 1983, he volunteered for one year at the Department of Information and International Relations of the Central Tibetan Administration in Dharamsala, India. In 1985, he was appointed as the Representative of His Holiness the Dalai Lama at the Office of Tibet in Switzerland. He was transferred in 1992 to the Office of His Holiness the Dalai Lama in Dharamsala as a secretary to His Holiness for international relations. In 1999, he returned to Switzerland and continued to serve as the Envoy of His Holiness the Dalai Lama to Europe heading the Office of Tibet, Brussels (2001 – 2005) and the Office of Tibet in Geneva (2005 – 2008). From 2002 to 2010, as one of the two Envoys of His Holiness the Dalai Lama entrusted with the responsibility of conducting the dialogue with the Chinese leadership, he engaged in nine rounds of formal discussions and one informal meeting with representatives of the Chinese leadership. In June 2012, he resigned from the task of conducting the dialogue. Presently, he is continuing to serve as the Special Representative of His Holiness to Europe and as the acting head of the Office of Tibet in Brussels.

Ms. Kate SAUNDERS

Communications and
Re-search Director of the
Inter-national Campaign
for Tibet (ICT)

Kate Saunders heads monitoring and communications for the International Campaign for Tibet, managing a field operation of Tibetan researchers, interviewing Tibetan sources and writing analyses on the situation in Tibet. Kate is a writer and journalist who has specialized on Tibet for around 15 years, advising journalists, academics, Parliamentarians and government ministries. Kate has written numerous reports for both Tibet Information Network and the International Campaign for Tibet and her book, 'Eighteen Layers of Hell: Stories from the Chinese Gulag' was published by Cassell in 1996. Her articles have been published in newspapers and magazines worldwide including The Guardian, The Times, Washington Post and Times of India.

Mr. Dolkun ISA

Executive Chairman
of the World Uyghur
Congress (WUC)

Dolkun Isa is a former student-leader of the pro-democracy demonstrations at Xinjiang University in 1988 in East Turkestan. He studied physics at Xinjiang University. He founded the Union of Students – Science and Cultural (USSC) on December 1987 in Xinjiang University. On June 1988, he organized the democratic students demonstration in Urumqi. Because of this, he was arrested and dismissed from the university in September 1988. After enduring persecution from the Chinese government, Isa fled from China to Turkey and studied Political Science (Master degree). He sought asylum in Germany in 1996 and a degree in computer science in Munich. He is one of the founders of the World Uyghur Youth Congress in November 1996 and World Uyghur Congress 2004 in Germany. The Chinese government declared him a terrorist and this organization as a terrorist organization in December 2003. Through his continued activism for the rights of Uyghurs worldwide, Mr. Isa has remained under observation and persecution by the Chinese government, and faces constant pressure by the government to curtail his travel and work.

Ms. Ursula GAUTHIER

French Journalist; Former Beijing correspondent of the French magazine L'Obs

Ursula Gauthier is a French journalist, author and documentary maker. She lived for 16 years in China, including six years as Beijing correspondent of the French magazine L'Obs (formerly Le Nouvel Observateur) from 2009. On December 31, 2015, she was expelled from China following a violent smear campaign from the authorities for an article she wrote about the turmoil in Chinese north-west province of Xinjiang.

Ms. Christa MEINDERSMA

Former UN adviser and co-founder of the Hague Centre for Strategic Studies

Christa Meindersma has extensive experience in international diplomacy, peace negotiations and philanthropy. She has served with the United Nations, the Dutch government, NGOs and private foundations. Christa was Director of the Prince Claus Fund for Culture and Development and preceding that, she was cofounder and deputy director of the Hague Centre for Strategic Studies. She has also served for twelve years as a negotiator and political advisor of the United Nations in the Balkans, Asia, Africa and New York. She also worked as deputy coordinator of the Taskforce Sudan of the Dutch Ministry of Foreign Affairs. Christa spent two years working in Tibet between 1986 and 1988. After leaving Tibet, she testified before the European and national Parliaments and in the media about the situation in Tibet. She then studied at Utrecht university, from which she graduated in 1994 with a Master's Degree in International Law. She also obtained a bachelor in Biochemistry at the University of Leiden in 1985.

Mr. Jayadeva RANADE

President of the 'Centre for China Analysis and Strategy'; Member of the Core Group on China of the Indian Council of World Affairs (ICWA)

Jayadeva Ranade is the President of the Centre for China Analysis and Strategy based in New Delhi, a former Additional Secretary in the Cabinet Secretariat and a former Member of the National Security Advisory Board in the Prime Minister's office. Listed as an Expert by the Mumbai-based think-tank 'Gateway House', he has specialized for over 35 years in the analysis of developments in, and relating to China and East Asia, and strategic analysis of issues relating to defense, national security and the

economy. He has prepared and finalized reports and briefs, including political and risk analyses, on sensitive issues for the highest echelons in government. He earned a Diploma of Advanced Proficiency in Chinese after a 2-year study programme in Jawaharlal Nehru University, New Delhi and completed an Intensive Introductory Course in Mandarin and a Diploma in Mandarin from the University of Hong Kong, Hong Kong. In the course of his 35-year career, Mr. Ranade has been posted in Indian Diplomatic Missions located in areas strategically important for India including Hong Kong, Beijing, and Washington. He is also the author of the book 'China Unveiled: Insights into Chinese Strategic Thinking', released in January 2013. He regularly contributes articles relating to China and East Asia in mainstream national newspapers like the Hindustan Times, New Indian Express, Sunday Guardian and Rediff in addition to writing on defense and strategic issues for other publications. He has been invited to speak at international conferences on China and given talks at institutions in India, and is often requested by national Television channels to comment on issues relating mainly to China and Tibet.

**Ms. Garrie van
PINXTEREN**

Sinologist and Senior
visiting fellow at the
Clingendael Institute

Garrie van Pinxteren is a Dutch sinologist. From 2001 to 2008, she was a correspondent for NRC Handelsblad and NOS news in China. She is a senior visiting fellow at the Clingendael Institute and at the Leiden Asia Centre, where she leads a research group that looks at the image of the Netherlands and Europe in the Chinese media. In addition, she is working on a PhD research on how critical Chinese journalists get their work published. She also teaches journalism skills to the Master of Journalism at the Groningen University.

Dr. Joëlle HIVONNET

Senior Policy Officer in the China Division, European External Action Service (EEAS)

Dr. Joëlle Hivonnet holds an MA in International Politics from the Université catholique de Louvain (UCL). She is the author of a Ph.D thesis on "The Effects of the ratification by the United Kingdom of the European Convention on Human Rights", that she received from Paris X University. She has been a European Official since 1992. In the course of her EU career, she has contributed inter alia to the adoption of the European anti-discrimination directives, to the implementation of the EU education and culture policies and to the representation of the EU at the UN and other multilateral fora in New York and Geneva. Dr. Hivonnet is currently working in the China Division of the European External Action Service (EEAS), where she is contributing to the implementation of the EU-China strategic partnership.

Ms. Jessica CARL

Political Officer, Delegation to the Human Rights Council, U.S. Permanent Mission to the United Nations in Geneva

Jessica Carl serves as a Political Officer and supports the U.S. delegation to the UN Human Rights Council in Geneva. She is responsible for Asia Human rights issues, civil society engagement, and special procedures. Jessica supported the U.S. delegation's efforts to lead the first-ever joint statement on China at the HRC, and organized an HRC side event with Nobel Laureates including the Dalai Lama. She has been with the U.S. State Department since 2009. Jessica holds a Master of Arts in International Relations and Master of Public Administration from Syracuse University, and a Bachelor of Science In Environmental Policy from the University of California at Davis.

Mr. Gabriel LAFITTE

Environmental Economist and Author

Gabriel Lafitte is an environmental economist. He is currently a researcher in the Department of Management, Faculty of Business and Economics, of Monash University, in Australia, and editor of a specialist website www.ru-kor.org which focuses on Tibetan encounters with global modernity. He has long specialised in the impacts of China's modernisation policies on the Tibetan Plateau and the livelihoods of the traditional land managers, especially the pastoral nomads. Having authored a book on the

Dalai Lama in 2006, called Happiness in a Material World, his latest book, Spoiling Tibet: China and Resource Nationalism on the Roof of the World, was launched in October 2013, in London. The book is part of Zed Book's Asian Arguments series. Gabriel's argument is that intensive mining in Tibet is now beginning to transform Tibet, from a cost centre for China's leaders, to a profit centre, but at great expense to the environment.

“Crushing human freedoms will not protect us from terrorism. It creates dangerous divisions and grievances that will lead to more violence...”

*UN High Commissioner for Human Rights Zeid Ra'ad Al-Hussein,
February 29, 2016 ⁸⁰*

“The definition of terrorism in the law is vague and could be used to persecute groups or individuals, including from ethnic and religious minorities, who refuse to adhere to state political and socio-economic policies. This could constitute a threat to human rights in China, not only for the Tibetan minority but also for the ethnic and religious minorities in the Xinjiang province”

EU High Representative/Vice-President Federica Mogherini, October 18, 2016 ⁸¹

⁸⁰ Statement of the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, at the 31st session of the Human Rights Council in Geneva on February 29, 2016. <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=17102&LangID=E>

⁸¹ Answer to a written question by the European Parliament- [http://www.europarl.europa.eu/RegData/questions/reponses_qe/2016/004913/P8_RE\[2016\]004913_EN.pdf](http://www.europarl.europa.eu/RegData/questions/reponses_qe/2016/004913/P8_RE[2016]004913_EN.pdf)



INTERNATIONAL
CAMPAIGN
FOR TIBET

**FIDH is an international
human rights NGO federating
184 organizations
from 120 countries.**

fidh

**WORLDWIDE MOVEMENT
FOR HUMAN RIGHTS**

www.fidh.org

Facebook:
www.facebook.com/Human.Rights.Movement

Twitter:
[@fidh_en](https://twitter.com/fidh_en) / [fidh_fr](https://twitter.com/fidh_fr) / [fidh_es](https://twitter.com/fidh_es)



INTERNATIONAL
CAMPAIGN
FOR TIBET

ICT Europe
Funenpark 1D 1018 AK
Amsterdam
The Netherlands
T +31 (0)20 3308265
F +31 (0)20 3308266
E icteurope@savetibet.nl

ICT Brussels
15, rue de la linière
1060 Brussels
Belgium
T +32 (0)2 609 44 10
F +32 (0)2 609 44 32
E info@savetibet.eu

ICT Germany
Schonhauser Allee 163
10435 Berlin
Germany
T +49 (0)30 27879086 Fax:
+49 **F** (0)30 27879087
E info@savetibet.de

ICT United States
1825 Jefferson Place, NW
Washington, DC 20036
United States of America
T +(1) 202-785-1515
F (202) 785-434
E info@savetibet.org