

**ASIA PROGRAM**

# **U.S.-CHINA COUNTER-TERRORISM CO-OPERATION AND ITS PERSPECTIVE ON HUMAN RIGHTS**

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*“The United States and our allies are working together throughout the Middle East to crush the loser terrorists and stop the reemergence of safe havens they use to launch attacks on all of our people ... From now on, our security interests will dictate the length and scope of military operation, not arbitrary benchmarks and timetables set up by politicians. I have also totally changed the rules of engagement in our fight against the Taliban and other terrorist groups.”*

Donald Trump, Speech at the UN General Assembly, September 19, 2017.

Americans have gotten used to security checks in public buildings, sports stadiums, theaters and trains. That is a big change from before September 11th happened in New York and Washington D.C. that changed the economic and political hearts of the United States accordingly. Before then, even searching airplane passengers for possible hijacking was too much of an inconvenience. After September 11th, everybody finally came to understand terrorism as a first-order problem.

Counterterrorism is an activity aimed at thwarting or limiting the damaging consequences of “a political act ordinarily committed by an organized group, which involves the intentional killing of non-combatants or the threat of the same or intentional severe damage to the property of non-combatants or the threat of the same.”<sup>1</sup> The story of U.S. efforts against international terrorism began with the radicalization of Yasser Arafat’s Fatah guerrilla movement following the Six Day War of 1967.<sup>2</sup> The Nixon administration responded with the first U.S. federal anti-terrorism measures. The Office for Combating Terrorism was created in 1972 on the recommendation of a special committee appointed by President Richard Nixon, following the terrorist attack at the Munich Olympics. The committee determined that an office was needed within the Department of State to provide day-to-day counterterrorism coordination and to develop policy initiatives and responses for the U.S. government.<sup>3</sup> The Ford administration initiated the work on preventing nuclear terrorism.<sup>4</sup>

<sup>1</sup> C.A.J. Coady, *The Morality of Terrorism*, 52, Philosophy Vol. 60, No. 231, January 1985.

<sup>2</sup> Timothy Naftali, *U.S. Counterterrorism Before Bin Laden*, 25, International Journal, Winter 2004-2005.

<sup>3</sup> U.S. Department of State, *Who We Are*, <https://www.state.gov/j/ct/about/index.htm>

<sup>4</sup> Naftali, 26.

It was not until the Reagan administration that the U.S. adopted the actual strategy of counter-terrorism. During President Ronald Reagan's second term, the U.S. government started to initiate aggressive counter-terrorism.<sup>5</sup> An eleven-year-old American girl Natasha Simpson's death from the Abu Nidal Organization (ANO)'s attack in December 1985 at the Rome airport was one of the reasons why the Reagan administration thought "it was time to go on the offensive against terrorism."<sup>6</sup> The Office for Combating Terrorism became the Office of the Coordinator for Counterterrorism, and the counter-terrorist efforts of the CIA and FBI continued until the Clinton administration primarily count acted ANO and al Qaeda.

The 1993 World Trade Center bombing triggered dwindled terrorism issue in the U.S. In 1995, the U.S. government concluded that a new form of terrorism had appeared on the horizon.<sup>7</sup> These new terrorist groups sought to inflict large numbers of casualties that could not be deterred through political action. In 1998, President Bill Clinton came to understand following the East Africa bombings, a powerful group of Sunni extremists under Osama bin Laden. During this time, Congress officially mandated the Bureau of Counterterrorism in Public Law 103-236 [H.R. 2333] in 1994, to coordinate all U.S. Government efforts to improve counter-terrorism cooperation with foreign governments. Although the U.S. worried that al Qaeda would seek to strike Americans, it did not expect such a mass casualty attack in the near future.<sup>8</sup>

## TRANSNATIONAL COUNTER-TERRORISM CO-OPERATION

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### *The U.S.-West Co-operation on Counter-Terrorism*

The U.S. began cooperating with the European countries in the post-Cold War period to counter the threat emanating from international terrorism. However, it only gathered momentum after the September 11th attacks, when the subject of international terrorism became the top of the global security agenda. The U.S. declared a 'War on Terror' and thereby ensured a central place for this conflict in the development of transatlantic security relations.<sup>9</sup> 9/11 clearly revealed the existence of transnational terrorism orchestrated by worldwide terror networks. Western nations were left with

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<sup>5</sup> Idem.

<sup>6</sup> Duane R. Clarridge with Digby Diehl, *A Spy for All Seasons: My Life in the CIA*, 319-20, Scribner, 2002.

<sup>7</sup> Naftali, 34.

<sup>8</sup> 9/11 commission report, 197, 264.

<sup>9</sup> Presidential Statement, *Address to the Nation Announcing Strikes against Al Qaeda Training Camps and Taliban Military Installations*, the White House, October 7, 2001.

no choice but to closely cooperate in matters of intelligence, know-how and procedures.<sup>10</sup>

Terrorism crosses the divide between the boundaries of security and requires action across a broad policy field. 9/11 proved to be a watershed in facilitating a multi-dimensional response. The counter-terrorism approach has been engaged in patterns of cooperation that extend from the realms of diplomacy, economic sanctions and military power to intelligence sharing, judicial and law enforcement activity, border security and passenger profiling.<sup>11</sup> A number of E.U.-U.S. counterterrorism agreements have been concluded since 9/11, including in the areas of information-sharing and terrorist-financing, two E.U.-U.S. Declarations on Combating Terrorism, and two new treaties that entered into force on the central issues of extradition and mutual legal assistance.<sup>12</sup> The U.S. continued to maintain rather bilateral relationships with the E.U. member states, especially for intelligence-sharing purposes and in conducting counter-terrorist operations.

But even though the U.S. and the E.U. needed each other to defeat terrorists' threats, the U.S.-led war on terror has exposed deep divisions between them. The European Commission, for example, objected to member states negotiating directly with Washington to secure entry into the U.S. visa waiver program, favoring instead a supra-national approach to visa policy.<sup>13</sup> Among the most prominent and long-standing challenges of the cooperation have been data privacy and data protection issues. The negotiation of several U.S.-E.U. information-sharing agreements has been complicated by E.U. concerns about whether the U.S. could guarantee a sufficient level of protection of European citizens' personal data.<sup>14</sup> Other issues that have led to periodic tensions include detainee policies, differences in the U.S. and E.U. terrorist designation lists, and balancing measures to improve border controls and border security with the need to facilitate legitimate transatlantic travel and commerce.<sup>15</sup>

<sup>10</sup> Olivier Guitta, *How to Cooperate Against Terrorism?*, Al Jazeera, April 16, 2016.

<sup>11</sup> Wyn Rees, *Transatlantic Counter-Terrorism Cooperation – The new imperative*, 10, Routledge, 2006.

<sup>12</sup> *Agreement Between the United States of America and the European Police Office*, December 6, 2001 and *Supplemental Agreement Between the Europol Police Office and the United States of America on the Exchange of Personal Data and Related Information*, December 20, 2002; Council of the EU, *E.U.-U.S. Declaration on Combating Terrorism*, June 26, 2004 and *E.U.-U.S. and Member States 2010 Declaration on Counterterrorism*, June 3, 2010; Official Journal of the EU, *Council Decision on the conclusion on behalf of the European Union of the Agreement on extradition between the European Union and the United States of America and the Agreement on mutual legal assistance between the European Union and the United States of America*, November 7, 2009.

<sup>13</sup> Sally McNamara, *The EU-US Counterterrorism Relationship: An Agenda for Cooperation*, The Heritage Foundation, March 11, 2011.

<sup>14</sup> Kristin Archick, *US-EU Cooperation Against Terrorism*, Congressional Research Service, March 2, 2016.

<sup>15</sup> Idem.

### ***The U.S.-International Organizations Relations on Counter-Terrorism Effort***

As terrorism impacts both on internal and external security policies, it has required the U.S. to find innovative ways of working together with other countries. This web of cooperation, to be effective, needed to be coordinated through multilateral organizations. Immediately after 9/11, the United Nations established the Counter-Terrorism Committee (CTC) by Security Council Resolution 1373, and also in 2004, established the Counter-Terrorism Committee Executive Directorate (CTED) to assist CTC.<sup>16</sup> But the U.S. did not view the General Assembly as a reliable counter-terrorism actor. The inability of the U.N. to make progress towards reaching a common definition of terrorism contributed to American disillusion and skepticism of the organization.

The Bush administration displayed a critical attitude towards the value of international organizations in general, and leaned towards reliance upon American power. It demonstrated its priorities by renouncing the Comprehensive Test Ban Treaty (CTBT), the Anti-Ballistic Missile (ABM) treaty, and the International Criminal Court (ICC). After 9/11, the U.S. newly established a doctrine of pre-emption, undermining the U.N. Article 51 justification of self-defense.<sup>17</sup> The Bush administration's foreign policy principles were called "Bush Doctrine", which was basically used to indicate the U.S.' willingness to unilaterally pursue U.S. military interests and preventive war. Based on the Bush Doctrine, the U.S. had the right to secure itself against countries that harbored or gave aid to terrorist groups, which was used to justify the 2001 war in Afghanistan. Moreover, the War against Iraq confirmed that America was rejecting the U.N. Security Council's role to determine issues of war and peace.

The Bush administration was hostile towards the ICC, and even more so after 9/11. The U.S. signed into law the American Servicemembers Protection Act (ASPA) of 2002, which formed part of the 2002 Supplemental Appropriations Act for Further Recovery from and Response to Terrorist Attacks on the United States.<sup>18</sup> The law was intended to intimidate countries that ratified the ICC Statute. The new law authorized the use of military force to liberate any American or citizen of a U.S.-allied country being held for trial by the ICC. This Act clearly demonstrated American Exceptionalism, where it provided for the withdrawal of U.S. military assistance from countries ratifying the ICC Statute, and restricted U.S. participation in U.N. peacekeeping unless the U.S. obtains immunity of its citizens from prosecution in the ICC.

However, the Obama administration re-engaged with the ICC in 2009, because the ICC had proven to be less threatening to the U.S. personnel and interests than Washington

<sup>16</sup> UN Security Council Counter-Terrorism Committee website.

<sup>17</sup> Geoffrey Kemp, *Iran: Can the US Do a Deal?*, 111, Washington Quarterly, winter, 2001.

<sup>18</sup> U.S.: 'Hague Invasion Act' Becomes Law, Human Rights Watch, August 3, 2002.

first feared. The ICC Prosecutor had never charged a U.S. official with war crimes, and declined to prosecute offenses allegedly committed by U.S. forces in Iraq. As a result, the Obama administration took a more positive approach to the ICC. In August 2009, the U.S. Ambassador to the U.N., Susan Rice, announced that the U.S. would no longer oppose references to the ICC in U.N. resolutions. In the same year, the U.S. participated as an observer in the November 18-26 Assembly of States Parties (ASP) meeting in The Hague, which marked the first time the U.S. had participated in the ICC meetings since 2001. President Obama stated that his administration would cooperate with the Court on Darfur and other cases and consult closely with military and legal advisers before making a decision on whether to join the Court. In return, in April 2012, the ICC appropriately refused to open an investigation into Israel's intervention in Gaza in 2008-09.<sup>19</sup>

The Obama administration also initiated the Global Counter-Terrorism Forum (GCTF) to coincide with the 10<sup>th</sup> anniversary of 9/11, and to address the gaps in the international architecture for countering terrorism.<sup>20</sup> The GCTF decided to address two problems: First, the growing need for building the counter-terrorism capabilities of governments, and achieving broad observance and acceptance of practical counter-terrorism standards and best practices, were not being met; Second, with the U.N. being too big, and viewed by many as too often focused on process and politics, the G7 too exclusive, and regional organizations too limited in geographic scope, there was no central and reliable intergovernmental platform that would allow counter-terrorism policymakers and practitioners from different regions to engage on a sustained basis on a variety of policies, strategies, and practices.<sup>21</sup>

The U.S. at its own discretion selected 30 countries, with particular attention given to ensuring front-line countries with experience in dealing with terrorism (e.g., Algeria, Colombia, Egypt, Indonesia, Morocco, and Nigeria), as well as traditional U.S. allies (e.g., Australia, Denmark, the EU, and The Netherlands), and new counter-terrorism donors, including Qatar, the United Arab Emirates. To demonstrate peaceful co-existence with the U.N., it also included all five Permanent Members of the U.N. Security Council.<sup>22</sup> Amongst some of the accomplishments, the GCTF produced the first set of tools for governments to use to deal with children involved in terrorist activity; an issue that has been of growing concern to countries trying to manage the return of often under-age foreign fighters from Iraq and Syria. Instead of the traditional responses such as arrest, prosecute, and incarcerate, the Forum suggested at least a set of common guidelines for

<sup>19</sup> *Congress should review the restrictions in the American Servicemembers Protection Act*, Washington Post, June 15, 2012.

<sup>20</sup> Global Counter Terrorism Forum website, Background and Mission.

<sup>21</sup> Alistair Millar and Eric Rosand, *The Global Counterterrorism Forum—Multilateralism that Even Trump Should Like*, Just Security, March 3, 2017.

<sup>22</sup> Id.

the states to turn to, and the training was being made available on this topic at the International Institute of Justice and the Rule of Law established in Malta.<sup>23</sup>

The U.S. declared that its intention of initiating the GCTF was to lend support, rather than replacing the U.N. in this field. For example, the Forum's work to crack down on terrorists' fundraising tactics was followed by Security Council's condemnation of the practice, demonstrating how multilateral work outside the U.N. can facilitate U.N. action.<sup>24</sup> However, starting from its formulation, the GCTF primarily served to promote the U.S. approach overseas. The U.S. Department of Justice has been using the Forum's tools on criminal justice and counter-terrorism as the basis of the bilateral counter-terrorism assistance it delivers all over the world.<sup>25</sup>

In other words, this Forum has been reinforcing and amplifying the U.S. priorities. For example, the U.S. intentionally left out Israel from the GCTF because it first judged whether including Israel would complicate the U.S.' ability to work closely with countries like Saudi Arabia and Pakistan.<sup>26</sup> This decision provoked substantial criticism, but in actuality the U.S. included Israel through the U.N., by actively engaging the U.N. Security Council's top counter-terrorism lawyer David Scharia, a former Israeli national security prosecutor. The U.S. and Israel together pushed hard at the senior levels to get him promoted to that position.<sup>27</sup>

Besides the above issues, the U.S. has clearly expressed its desire to work without the UN's approval or support, when it seemed necessary for its own purposes. On October 30, 2017, the U.S. pledged \$60 million to support a Sahel region counter-terrorism force, but rejected appeals from African leaders and France to give the U.N. a supporting role.<sup>28</sup> The U.S. proclaimed that it has "serious and well-known reservations about using U.N. resources to support non-U.N. activity."<sup>29</sup> Washington's refusal to afford the U.N. backing for the Sahel force came after the U.S. administration negotiated a \$600-million cut to the U.N. peacekeeping budget in 2017.<sup>30</sup>

In the meantime, the U.N.'s comprehensive legal and political framework, which includes 19 U.N. treaties requiring states to criminalize different terrorist acts, actually made the

<sup>23</sup> Global Counter Terrorism Forum website.

<sup>24</sup> Millar.

<sup>25</sup> Idem.

<sup>26</sup> Bruce Jones, *Still Ours to Lead: America, Rising Powers, and the Tension between Rivalry and Restraint*, 234, Brookings Institution Press, Washington D.C., 2014.

<sup>27</sup> Zvika Krieger, *The Politics of Counter-Terrorism, the U.S., and Leaving Out Israel*, The Atlantic, July 30, 2012.

<sup>28</sup> AFP, *US pledges \$60 million to Sahel force but opposes UN role*, October 30, 2017.

<sup>29</sup> US Ambassador Nikki Haley, Remarks at a UN Security Council Briefing on Peace and Security in Africa, October 30, 2017.

<sup>30</sup> Idem.

U.S.' policy on counter-terrorism more broadly legitimate.<sup>31</sup> What would otherwise be just a U.S. requirement applying to U.S. persons or institutions to freeze terrorists' bank accounts, prevent travel, and stop the flow of arms to terrorist groups, became a coordinated, worldwide effort, because the U.N. has globalized sanctions through the Security Council, and the states are much more willing to take the necessary steps if there is a U.N. requirement as opposed to just poking from the U.S.

### ***The U.S. Turns its Counter-terrorism Gear Towards the East***

The rise of transnational counter-terrorism as a set of activities and measures has long relied on bilateral relations between governments that are friendly enough to share information about terror networks and their likely targets.<sup>32</sup> Given the relations between the U.S. and the communist countries until after the Cold War, the U.S.' transnational efforts to strengthen a co-ordinated response against terrorism could not have evolved much until recently. During the Cold War, the U.S. defined its relations with other countries through the benchmark of "who was with us and who was against us" in the struggle against communism and the Soviet Union. The relationship with those countries who were "against us" had gradually declined after the Cold War ended, and it has changed dramatically after 9/11. Russian President Vladimir Putin was the first to call Bush after the 9/11 attacks, offering not only political support but also invaluable intelligence co-operation and the benefit of Russia's own difficult experience in Afghanistan. In return, Washington softened its rhetoric on Chechnya, showed new flexibility in discussing arms control and Russia's entry into the World Trade Organization, and became more forthcoming on Russia-NATO ties.<sup>33</sup>

The U.S.-China relations, too, have felt the transformative winds after 9/11. Early U.S. State Department reports on international counter-terrorism co-operation spoke highly of China's efforts. For example, in one of the State Department's first post-9/11 reports on global terrorism, U.S.-China terrorism co-operation was summed up as follows: "China, which also has been a victim of terrorism, provided valuable diplomatic support to our efforts against terrorism, both at the United Nations and in the South and Central Asian regions, including financial and material support for the Afghan Interim Authority. Beijing has agreed to all of our requests for assistance, and we have established a counter-terrorism dialogue at both senior and operational levels."<sup>34</sup>

Once a strategic competitor became a new friend, with China's support for the U.S. in the Security Council. In return, the U.S. avoided public confrontations on the familiar sources

<sup>31</sup> Eric Rosand, *Why Trump needs the United Nations*, Brookings, January 11, 2017.

<sup>32</sup> Adam Svendsen, *Professionalization of Intelligence Cooperation*, Palgrave, 2012.

<sup>33</sup> James Steinberg, *Counterterrorism: A New Organizing Principle for American National Security?*, The Brookings Review, 5, Vol. 20, No. 3, Summer, 2002.

<sup>34</sup> U.S. Department of State, *Patterns of Global Terrorism 2001*, vi, 16.



of disagreement, from Tibet to Taiwan to proliferation.<sup>35</sup> China had its own problems dealing with radicalized separatists in the Turkic-speaking regions of its far northwest province of Xinjiang, where Islamic fundamentalism was making inroads. China also shared an interest with the U.S. in assuring the stability of Central and South Asia, especially Pakistan. Beijing had assisted in Pakistan's becoming a nuclear power armed with ballistic missiles, and thus China would bear an enormous responsibility if those weapons fall into the wrong hands.<sup>36</sup>

However, China also had concerns because the U.S. revitalized and strengthened its alliances with Japan and Australia and renewed defense ties with South East Asian countries. Especially in the Philippines, the U.S. posted 600 military personnel in counter-terror efforts.<sup>37</sup> This growing U.S. military presence in overall Asia, and intervening militarily in other states such as Iraq worried China, which had put diplomatic effort to extend its influence in the regions for years. Moreover, warmed up U.S.-Russia relations after 9/11 also presented challenges to China, since it risked being left behind in the counterterror effort.<sup>38</sup>

Therefore, the U.S. felt that enlisting the full support of China in the counter-terrorism fight might be challenging, because China's support could not be obtained at the expense of other U.S. interests. To help the stabilization of bilateral co-operation, the Bush administration in August 2002 designated the China-targeted "East Turkistan Islamic Movement (ETIM)" as a terrorist organization, and in September 2002 reportedly allowed Chinese interrogators access to Uighur detainees at Guantanamo and held a summit in Texas in October 2002.<sup>39</sup> In September 2005, the U.S. acknowledged that "China and the United States can do more together in the global fight against terrorism" after "a good start," and called on China to be a "responsible stakeholder" in the world.<sup>40</sup> Since the summer of 2007, the U.S. officials have expressed more concern about arms of Chinese origin that have been found in the conflict involving U.S. forces in Afghanistan, as part of the broader threat posed by Iran and its arms transfers.<sup>41</sup>

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<sup>35</sup> Ibid., 6.

<sup>36</sup> Bates Gill, *September 11 and Northeast Asia: Change and Uncertainty in Regional Security*, 45, *The Brookings Review*, Vol. 20, No. 3, Summer, 2002.

<sup>37</sup> Idem.

<sup>38</sup> Ibid., 46.

<sup>39</sup> Shirley A. Kan, *U.S.-China Counterterrorism Cooperation: Issues for U.S. Policy, Summary, Congressional Research Service*, July 15, 2010.

<sup>40</sup> Deputy Secretary of State, Robert Zoellick, National Committee Gala Keynote Speech, New York City, September 21, 2005.

<sup>41</sup> Kan, Summary.

## THE U.S.-CHINA RELATIONS AND ISSUES ON COUNTER-TERRORISM

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### *China's Own "War on Terror"*

The People's Republic of China (PRC) is a permanent member of the United Nations Counter-Terrorism Committee and has signed, ratified, or acceded to many of the protocols and international conventions and protocols on terrorism. China's participation in international efforts to counter terrorism has been frequently commented upon in the U.S. State Department reports. Regional forums where Chinese officials have signed statements with counter-terrorism components include the Association of Southeast Asian Nations (ASEAN) Regional Forum (ARF), ASEAN Plus 3, the Asia-Pacific Economic Cooperation (APEC), and the Shanghai Cooperation Organization (SCO).<sup>42</sup>

In the world geopolitical pattern of terrorism and counter-terrorism, Chinese neighbors in the Islamic world are situated in the front of both terrorism forces and the world union of counter-terrorism. China claimed itself to be a victim of terrorist attacks in the 1990s orchestrated by ethnic Uighur separatists in the north-western Xinjiang region. This concern appeared to place China in a position to support the U.S. and share intelligence after 9/11. In the wake of 9/11, China launched its own "war on terror" against the separatists. The Chinese government considered this group to be a part of a network of international Islamic terror, with funding from the Middle East, training in Pakistan, and combat experience in Chechnya and Afghanistan.<sup>43</sup> The Chinese government alleged that members of the separatists have obtained funds and training from al Qaeda.

The Chinese government tried to equate America's fight against Osama bin Laden and al Qaeda with its own battle against the separatists of Xinjiang. The Bush administration was reluctant to equate the fight against "terrorists with global reach" with domestic crackdowns against separatists in China. However, China actively lobbied to have the separatists added to the U.N. list of al Qaeda-affiliated organizations and became successful by convincing the U.S. and other Central Asian states. In 2002, ETIM was added to the U.N. list, and in 2004, the Chinese government reported to the U.N. Counter Terrorism Committee three additional organizations as terrorist organizations.<sup>44</sup> But China's domestic counter-terrorism policy ultimately fueled resentment against the Communist Party of China (CPC)'s religious repression among Uighurs, and led to the

<sup>42</sup> U.S. Department of State, *Country Reports on Terrorism 2005*, 66; U.S. Department of State, *Country Reports on Terrorism 2006*, 32; U.S. Department of State, *Country Reports on Terrorism 2007*, 32.

<sup>43</sup> Chien-peng Chung, *China's "War on Terror": September 11 and Uighur Separatism*, Foreign Affairs, July/August 2002 Issue.

<sup>44</sup> Martha Crenshaw, *The Consequences of Counterterrorism*, 107, Russell Sage Foundation, 2010.

spread of a terrorist threat much deadlier and much more challenging than that with which the Chinese regime had to deal with during the previous decades.<sup>45</sup>

In October 2015, the PRC State Council Information Office released a white paper on Xinjiang that described Beijing's policies aimed at enhancing ethnic unity and promoting more equitable economic growth. It also credited the counter-terrorism campaign with pre-empting attacks by many terrorist groups. In addition, China passed the counter-terrorism law in December 2015, passed by the National People's Congress Standing Committee, which partially codified China's most detailed definition of terrorism and criminalized terrorist "behavior" and "advocacy."<sup>46</sup> The law broadened China's definition of terrorism beyond internationally accepted definitions, and intensified the scope of its counter-terrorism measures. Interestingly, but not surprisingly, Xinjiang Uighur Autonomous Region (XUAR) in July 2016 became the only provincial-level government to pass specific implementing measures for the counter-terrorism law.

### ***The U.S.-China Relations on Counter-Terrorism: The Background***

China has taken increasingly assertive action to defend and, arguably, to expand its exclusive economic zone and territorial water claims in the East and South China Seas.<sup>47</sup> At the same time, the Chinese People's Liberation Army (PLA) has been aggressive in its attempts to deter U.S. military presence along its international air and sea boundaries. China worried about U.S. military action near its territory, U.S.-led alliances, Japan's active role in the war on terrorism, greater U.S. influence in Central and South Asia, and U.S. support for Taiwan. The U.S. indicated that the promised co-operation with China would not cover military cooperation, and China's concerns about U.S. military action were always surmised under its promises to support the U.S.' fight against terrorism.<sup>48</sup> In that context, China favored exercising its decision-making authority at the U.N. Security Council, where it has veto power.

At the same time, the U.S. has considered China's proclamation of "war on terror" as an excuse to persecute minorities.<sup>49</sup> The Bush administration initially agreed to list ETIM as a terrorist organization. In August 2002, Deputy Secretary of State Richard Armitage announced, after months of bilateral discussions with China, that he designated ETIM as a terrorist group that committed acts of violence against unarmed civilians. At the same time, the U.S. and China asked the U.N. to designate ETIM under S.C. Resolution 1267 and

<sup>45</sup> Adrien Morin, *Is China's Counterterrorism Policy in Xinjiang Working?*, *The Diplomat*, February 23, 2017.

<sup>46</sup> Murray Scot Tanner and James Bellacqua, *China's Response to Terrorism, US-China Economic and Security Review Commission*, June 2016.

<sup>47</sup> Ben Connable, Jason H. Campbell and Dan Madden, *Stretching and Exploiting Thresholds for High-Order War*, 20, RAND Corporation, 2016.

<sup>48</sup> Secretary of State Colin Powell with Chinese Foreign Minister Tang Jiaxuan, September 21, 2001.

<sup>49</sup> White House, *US, China Stand Against Terrorism*, Shanghai, China, October 19, 2001.

1390 to freeze assets of this group. In 2004, the Secretary of State included ETIM in the “Terrorist Exclusion List,” to exclude them from entering the U.S.<sup>50</sup> Later in 2009, however, the U.S. Court of Appeals for the D.C. Circuit, ruling in a case on releasing Uighurs detained at Guantanamo, noted that “the government had not presented sufficient evidence that the ETIM was associated with Al Qaeda or Taliban, or had engaged in hostilities against the US or its coalition partners.”<sup>51</sup> Moreover, the Obama administration urged China to respect and protect ethnic and religious minorities, while China still asserted that there were terrorist ties of Muslim Uighurs in Xinjiang. Thus, China accused the U.S. of “double standards” in disputes over how to handle the Uighurs. Chinese news media accused the U.S. of regarding China’s counter-terrorism actions as repression of ethnic groups, which is caused by political prejudice.

Nonetheless, the U.S. and China had common interests in the field of non-proliferation of the weapon of mass destruction (WMD). On the U.S.’ standpoint, China had long-standing relationship with nuclear-armed Pakistan and reportedly provided Pakistan with nuclear and missile technology. At the same time, China and North Korea had been the communist brothers, while North Korean nuclear missile issue had been the U.S.’ annoying concerns for the regional security and as a part of “axis of evil.” Thus, the U.S. expected that China could provide intelligence to the U.S. about Pakistan’s nuclear weapons and any suspected technology transfers to countries like North Korea, Iran, and Libya.<sup>52</sup> For China, it wanted to use the co-operation opportunity to improve bilateral ties on weapons non-proliferation problems. In his 2002 State of the Union speech, President Bush stressed the twin threats of terrorism and weapons proliferation, indicating a strong stance on proliferation problems with China. The Bush administration emphasized China’s cooperation, rather than its transfers, at the Six-Party Talks on North Korea’s nuclear weapons and at the U.N. Security Council relating to sanctions against Iran.<sup>53</sup> China did not join Bush’s Proliferation Security Initiative (PSI), which was announced in 2003, and the U.S. continuously urged China’s participation ever since.

The U.S.’ concern relating to China-origin weapons increased, because those weapons were used in the conflicts in the Middle East and Afghanistan. The question arose was whether those weapons were transmitted after 2001, when Operation Enduring Freedom began, or were left over from before that date. Although the Bush administration decided to focus on how the weapons ended up in those countries, it also expressed concerns to China about exercising greater care in its arms sales. The Chinese

<sup>50</sup> Section 411 of the USA PATRIOT Act of 2001 (P.L. 107-56).

<sup>51</sup> *Kiyemba v. Obama*, 559 U.S. Court of Appeals, D.C. Circuit, February 18, 2009.

<sup>52</sup> Kan, 2.

<sup>53</sup> See CRS Report RL31555, *China and Proliferation of Weapons of Mass Destruction and Missiles: Policy Issues*, Shirley A. Kan.

Foreign Ministry argued that China complied with international laws and the S.C. resolutions.<sup>54</sup> In 2008, the Director of National Intelligence testified to Congress that China's arms sales in the Middle East were "destabilizing" and "a threat" to U.S. forces, while missile sales to Iran posed a "threat to U.S. forces in the Persian Gulf."<sup>55</sup> While the U.S. demanded China to stop violating U.N. sanctions, non-proliferation norms and the PRC law, China's co-operation was uneven and China needed to act responsibly.<sup>56</sup>

### ***Recent U.S.-China Counter-Terrorism Co-operation***

In spite of the two countries' initial handshake right after 9/11, the counter-terrorism co-operation between the U.S. and China has remained limited. In 2015, China appealed for the U.S. to support it in fighting Islamist militants in Xinjiang, saying they are also a threat to the U.S. However, many foreign experts questioned whether ETIM exists as the coherent group as China claims it is. U.S. Country Reports on Terrorism 2016 wrote that "Counterterrorism co-operation between China and the United States remained limited" and "Chinese law enforcement agencies generally remained reluctant to conduct joint investigations or share specific threat information with U.S. law enforcement partners. Chinese law enforcement officials also did not respond to requests for information about state media-reported arrests and operations. This lack of transparency complicated efforts to verify details of terrorism and other violent acts inside China." This sparked China's anger on the co-operation issue.

Although the U.S. hosted the third bilateral Counterterrorism Dialogue with China and the second expert-level exchange on Countering Improvised Explosive Devices in 2016, the U.S. has not been China's primary bilateral counter-terrorism partner: China's bilateral counter-terrorism partners have been primarily in Central, South, and SouthEast Asia. China's focus on bilateral counter-terrorism co-operation and multilateral efforts is in the Shanghai Co-operation Organization, the China-Arab States Co-operation Forum (CASCF), and the U.N.

The U.S. felt that it needed to tighten up its co-operating relationship with China for the globally increasing terrorist attacks. In April 2016, the U.S. and China committed themselves to increasing counter-terrorism co-operation and efforts to counter the global threat from improvised explosive devices (IEDs). Also in June 2016, the U.S. National Security Advisor Susan Rice met with Chinese President Xi Jinping and pushed for increased co-operation, that coincided with a pair of studies that found over 100

<sup>54</sup> PRC Foreign Ministry news conferences, July 10; July 26; September 4, 2007.

<sup>55</sup> Senate Select Committee on Intelligence, Hearing on the DNI's Annual Threat Assessment, testimony of J. Michael McConnell, February 5, 2008.

<sup>56</sup> Kan, 36.

Chinese nationals have joined the jihadist movement in Syria, many of them from Xinjiang, and many of whom appear to be Uighur.<sup>57</sup>

China's recent economic and military movements are in the background of this gesture of the U.S. For the U.S., China has become the biggest rival, but desperately needed collaborator in order to connect to not only the whole Asian continent, but also the Middle East and Africa. Announced in 2013, China started the "One Belt, One Road" program, recently rebranded as the "Belt Road Initiative (BRI)", which aims to connect China with Central Asia, the Middle East and Europe. BRI shows China's ambition, with plans to involve upwards of 65 countries and marshal in the neighborhood of \$1 trillion. China launched the Asian Infrastructure Investment Bank in 2015, of which in a short time membership increased to 70, including non-Asian countries like Belgium, Canada and Ireland. Also, Asian countries are careful, if not reluctant, to initiate major new security activities with the US in the fear of economic retribution from China. Asian countries realize that their economic future is directly impacted by China's political decision. Therefore, it seems that the U.S. decided not to jeopardize this important partnership, especially when it comes to its worldwide counter-terrorism efforts.

### ***The U.S. and China in Africa: Can They Co-operate?***

There is another big reason that triggered the U.S. to tighten its co-operation with China under the slogan of countering "arc of terror": China's huge interest and investment in Africa. China and the U.S. have long been rivals in competing for international influence in Africa. While China is the biggest trade partner, the U.S. remains the biggest inward investor in Africa. Today China is the world's largest net oil importer. More than 70 percent of this oil originates in the Middle East and sub-Saharan Africa. According to IMF data in 2015, China's product exports to the Middle East have risen to \$155 billion and exports to sub-Saharan Africa to \$83 billion.

China perceived the U.S.' engagement in the region in counter-terrorism as countering China's increasing influence in the region. The U.S. was also sensitive to the benefits that China might receive for the U.S.-China co-operation, and how much China will join missions associated with democratization of the African countries. Nevertheless, rapidly rising security threats in the region gave China a strong motivation to co-operate with the U.S.

China has been threatened by the increasing terrorist attacks, from Boko Haram in Nigeria to al-Shabab in Somalia, from al-Qaida in the Islamic Maghreb to the Libyan Islamic Fighting Group. More than 2,000 Chinese companies and 1 million Chinese

<sup>57</sup> Jeremy Page, *Over 100 Chinese Fighters Have Joined Islamic State in Syria*, The Wall Street Journal, July 25, 2016.

nationals are engaged in business operations in Africa, focusing primarily on the extraction industries and infrastructure development, which are located in remote areas with minimum security guarantee from local authorities.<sup>58</sup> Despite this vulnerability, China has been prioritizing its questionable domestic terrorism issue over terrorism in Africa. Still, China could not ignore the challenges in the region and committed itself to support the counter-terrorism efforts by African countries.

China has been moving cautiously with its counterterrorism support in Africa, working closely with the U.N., African Union (A.U.) and individual African governments. In May 2013, the Chinese ambassador to the U.N. called for the international community to lend its support to African countries for maintaining regional peace and security. China has also provided financial and technical assistance to the A.U., and counter-terrorism has been a regular part of China's dialogue with Africa in the Forum on China-Africa Cooperation (FOCAC). At the most recent FOCAC in Johannesburg in 2015, China and 50 African countries agreed to strengthen communication and co-operation on fighting all forms of terrorism.

Without much prior notice to the outer world, and to the U.S.' surprise, China started to construct its first overseas military base in Djibouti in 2017, just a few miles from the US' Camp Lemonnier, one of the U.S.' largest and most important foreign installations. The U.S. established Camp Lemonnier, the only permanent American military installation in Africa after 9/11, and it has been using it for highly secretive missions, including targeted drone killings in the Middle East and in the Horn of Africa. The Camp is home to 4,000 U.S. personnel and serves as a center for American counter-terrorism efforts in places such as Somalia, where the U.S. troops and airstrikes are targeting Al-Shabab. China's base construction is a milestone marking China's expanding global ambitions, with potential implications for America's longstanding military dominance. Naturally, the U.S. was concerned about its proximity and the purpose of China's new military base, while the U.S. by far has the biggest military presence in Africa in terms of the number of bases and personnel.

In the meantime, China also has been steadily strengthening its willingness to cooperate with the U.S. to counter this scourge. The U.S. at the same time saw this as a new era of co-operation between the two countries in Africa. For policy makers of the two countries, promising third-country venues to explore U.S.-China counterterrorism cooperation may include regions where a growing Chinese has recently joined an established American community expatriate community, and where the local security situation offers no obvious link to areas of disagreement on U.S.-China counterterrorism issues. The recent attacks in Somalia and Mali suggested Africa might be one such venue

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<sup>58</sup> Yun Sun, *China and the Rising Terrorist Threats in Africa: Time for US-China Cooperation?*, Brookings, September 10, 2014.

for cooperation.<sup>59</sup> After the announcement of China's Djibouti base construction, the commander of U.S. military forces in Africa said: "We both support UN peacekeeping missions and training with African defense forces. The fact that we have mutual interests in Africa means that we can and should co-operate. This fact does not obscure the reality of fundamental policy differences. However, these differences are not insurmountable."<sup>60</sup> Subsequent to assigning its first batch of soldiers, China expressed interest in conducting joint amphibious training with U.S. Marines. While there is an ongoing mistrust and animosity between the two countries, how the co-operation will play out to face common security threats remains a homework for both - not only in Djibouti, but also across the continent.

### *The U.S.-China Co-operation on Cyber Terrorism*

When considering Chinese government's strict Internet regulation, it is not strange that the Chinese government hopes to expand co-operation with the U.S. in combating the use of the Internet and social media to propagate information and promote activities that contribute to terrorism, separatism, and extremism. China wants to persuade or mandate Internet providers and technology companies to exercise "self-restraint" on content that China sees as threatening, and to keep their software and equipment accessible or "controllable."<sup>61</sup> In response to the current U.S. President's accusation on the media as "fake news," China demonstrated its ambition to even more tighten up regulation of the Internet due to the terrorism and fake news.

China's "cyber sovereignty" is seen as a direct challenge to the U.S.-led view, which encourages non-government stakeholders to take the lead in governing specific Internet industries. China has "Great Firewall," which filters out some foreign content seen as hazardous to China's information security. Also, some of the requests Chinese officials have made for assistance with removing U.S.-based Internet materials are considered improper or unconstitutional by U.S. authorities. In the past June, China adopted a controversial cyber security law that mandates strict data surveillance and storage for firms working in the country. At the same time, the U.S. Deputy Coordinator for Cyber Issues of the Office of the Secretary of State criticized the countries that "believe their states are free to act in or through cyberspace to achieve their political ends with no limits or constraints on their actions," which obviously targeted China, along with Russia and Cuba. The U.S. has the more numerous and comprehensive set of laws governing Internet safety, but mostly restrained by the rule of law and the market.

<sup>59</sup> Tanner, 113.

<sup>60</sup> Conor Gaffey, *Can the US and China Get Along in Africa?*, Newsweek, September 14, 2017.

<sup>61</sup> Tanner, 110.



However, the U.S. understood that persuading China to embrace international law would not actually advance U.S. interest. In October this year, the U.S. held the first ever U.S.-China Law Enforcement Cyber security Dialogue and promised to continue to co-operate on countering cyber terrorism. Still there is very clear difference on cyber terrorism between the two countries. While Chinese government regulates its Internet with the cyber sovereignty policy, it also has a restrictive view on cyber terrorism: a state cannot use force against an armed attack before that armed attack is imminent, and cyberattack is not an armed attack which triggers the right of self-defense. However, while U.S. has a free market and freedom of speech policy on Internet, it might justify a cyberattack on preemptive self-defense grounds. For the U.S., there is no doubt that having China agree with the U.S. on the countering cyber terrorism activities will benefit its overall counter-terrorism efforts. However, the chances of China agreeing to the U.S.' view are slim.

## **COUNTER-TERRORISM AND HUMAN RIGHTS EFFORTS**

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### ***U.S., ICC and Human Rights in War on Terror***

Even more after 9/11, the U.S. has been continuously criticized for its counter-terrorism policy and its consequences in respect of human rights issues. By denying the ICC's rule of law, the Bush administration tried to punish the ICC's biggest supporters who were fragile democracies and developing countries emerging from human rights crisis. Even after the Obama administration re-engaged with the ICC in 2009, the U.S. did not join the ICC, in large part because of human rights related reasons.

First, there was the not-so-little issue of alleged crimes committed in Afghanistan and Iraq. American officials feared that if the U.S. acceded to the Rome Statute and accepted the ICC's jurisdiction back to 2002, it would be vulnerable to an investigation by the Court for its actions in Afghanistan and Iraq. The U.S. argued that proponents of the U.S. joining the ICC should have a prospective-oriented position on U.S. accession, one that seeks to align future American behavior with international criminal law but does not punish it for past decisions and actions. Although it was confirmed that the U.S. nationals could not be prosecuted in the ICC for the crimes committed before it became a member state of the ICC, the U.S. still feared to be a member state because its nationals were and most likely would be continuously involved in a war outside of the U.S. This was also problematized by ASPA 2002, which declared that the U.S. President may authorize "all means necessary and appropriate to bring about the release of any U.S. or allied personnel being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court."<sup>62</sup>

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<sup>62</sup> Mark Kersten, *Obama and the ICC – Four Reasons Not to Hold Your Breath*, Justice in Conflict, November 7, 2012.

A second reason was its increased reliance on the use of drones and signature strikes in the 'global war on terror'. In 2010, for example, Reuters reported that of the 500 "militants" killed by drones between 2008 and 2010, only 8% were the kind "top-tier militant targets" or "mid-to-high-level organizers" whose identities could have been known prior to being killed. Similarly, in 2011, a U.S. official revealed that the U.S. had killed "twice as many 'wanted terrorists' in signature strikes than in personality strikes."<sup>63</sup> Numerous high-level U.N. officials, including the special rapporteurs on counterterrorism and on extra-judicial killings, declared that U.S. drones strikes that kill civilians constitute a war crime. In response, the U.N. has set up a Geneva-based special investigations unit, which will examine the legality of the U.S. drone strikes.<sup>64</sup> Instead of sending these targets to the ICC for law enforcement, the U.S. calculated that joining the ICC would put its practice of targeted killing under the microscope of international criminal justice.

### ***U.S., China and Human Rights in Counter-Terrorism Co-operation***

In co-operation with China for the counter-terrorism effort, the U.S.' stance on China's own "war on terror" has changed over time since 9/11, and has been criticized for its vagueness on human rights issue. The U.S. in some way, has been afraid of China's possible accusation for the U.S.' emphasis on human rights when co-operating with China, as American meddling in China's sovereignty. While both the U.S. and China are parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, China's criminal justice system and its Party disciplinary process has been opaque. China has been accused of widespread and increasingly virulent persecution of human rights lawyers, activists and scholars. In July this year, Liu Xiaobo, China's Nobel peace laureate, died in state custody, while serving an 11-year sentence for inciting subversion of state power. However, President Trump, by keeping silent on the human rights issue during his visit to China in November, has only made it clear that human rights are a burdensome detail on two countries' co-operation.

The separatists in Xinjiang have accused the Chinese regime of resorting to arbitrary arrest, torture, detention without public trial, and summary execution. Human rights groups, together with Uighur people, have warned that after the 9/11 attacks, China shifted to use the international counter-terrorism campaign to justify its long-term cultural, religious, and political repression of Uighurs both in and outside of the country.<sup>65</sup> China compelled extraditions of Uighurs for execution and other punishment

<sup>63</sup> Kevin Jon Heller, 'One Hell of a Killing Machine': Signature Strikes and International Law, *Journal of International Criminal Justice*, Vol. 11, No. 1, 2013.

<sup>64</sup> Owen Bowcott, *UN to Investigate Civilian Deaths from US Drone Strikes*, *The Guardian*, October 25, 2012.

<sup>65</sup> Amnesty International, *Uighurs Fleeing Persecution as China Wages its 'War on Terror'*, July 7 2004.

to countries such as Uzbekistan, Kyrgyzstan, Kazakhstan, Russia, Nepal, and Pakistan, raising questions about violations of the international legal principle of non-refoulment and the UN Convention Against Torture.<sup>66</sup> In July 2014, China banned religious holidays such as Ramadan, and barred the wearing of the Islamic headscarf. In November 2015, China cracked down on Muslim Uighur communities, killing 17 alleged terrorists, including women and children, and killing dozens of Uighur protesters.<sup>67</sup>

The country's newly passed first counter-terrorism law, which took effect in January 2016, has helped the local government of XUAR to legitimately suppress its own people. These measures banned "instigating, encouraging or enticing a minor to participate in religious activities," proscribed the wearing of clothing that "advocates extremism," and prohibited the "distortion of the concept of halal" or "distorting sensitive cases." They also threatened to impose fines up to \$72,700 for spreading news or information through social media or websites that could harm "stability" or "religious harmony" more broadly.<sup>68</sup> The State Department's Country Reports on Human Rights Practices for 2016 testifies that "officials subjected individuals engaged in peaceful expression of political and religious views to arbitrary arrest, harassment, and expedited judicial procedures without due process in the name of combatting terrorism." As an example, the reports mentioned that media reported that at least five persons, including two public security officers, died in May 2016 as a result of violent unrest that was sparked when an officer allegedly shot and killed a Uighur prisoner in a juvenile detention center in Urumqi. Official accounts of these events generally blamed "terrorists" or "separatists", and portrayed incidents involving violence as terrorist attacks on community members and security personnel.

Uighur and human rights groups have expressed concern that the U.S. designation of ETIM as a terrorist organization in 2002 helped China to further justify persecution and violent repression against the people in Xinjiang. They also noted distinctions between terrorism and armed resistance against military or security forces. They pointed out that Uighurs have no anti-U.S. sentiments but rather look to the U.S. as a champion of their human rights.<sup>69</sup> During the Obama administration, the U.S. expressed concerns about suspected PRC harassment of Uighurs and others in the U.S. President Obama made efforts to transfer the Uighurs detained at Guantanamo and to seek China's counter-terrorism co-operation with the U.S. assessments of mixed implications. The U.S. detained 22 Uighurs and rejected China's demand to take them while seeking a third country to accept them. On February 26, 2010, the House passed House Representatives

<sup>66</sup> Kan, 5.

<sup>67</sup> Benjamin Haas, *China Forces Shot Protesters: Xinjiang Residents*, AFP, April 28, 2015.

<sup>68</sup> Country Reports on Terrorism 2016, Bureau of Counterterrorism and Countering Violent Extremism.

<sup>69</sup> Kan, 9.

Bill (H.R. 2701 Section 351), which would require an unclassified summary of intelligence on any threats posed by the Uighurs who were detained at Guantanamo.<sup>70</sup>

In truth, whether or not they support the use of violent methods, the Xinjiang separatist groups both at home and abroad are too small, dispersed, and faceless to constitute a threat to Chinese control over the region. Beijing nevertheless fears them, because the mere possibility that they may cause disruption creates an impression of social instability in Xinjiang and dampens foreign investment. Thus, the Chinese government has alleged that “more than a thousand” Xinjiang separatists have received terrorist training in Afghanistan and claims to have arrested a hundred foreign-trained terrorists who have made their way back to Xinjiang. But only one Uighur separatist organization, the Eastern Turkestan Islamic Party of Allah, appears conclusively to have operated in Afghanistan. The Chinese authorities already executed its putative leader, Alerkan Abula, in January 2001.<sup>71</sup>

While the U.S. believes that economic development without political liberalization brings social instability, China’s economic and political vision is to continue to expand its domestic and international economy while tightly controlling its political life. The U.S., in that same regards, criticized China’s the human rights norms in African states, as well as domestic human rights issues. In 2011, Secretary of State Hillary Clinton mentioned Chinese “new colonialism in Africa,” and in 2012, implied that China is mono-focused on African resources while the U.S. “stands up for democracy and universal human rights rather than simply extract minerals” like China does. It is unlikely that China will spread international human rights norms in Africa that it does not embrace at home. However, China has previously called out the U.S. for being hypocritical on human rights issues. The main reason for the U.S. trying not to lose control of Africa is not because of the human rights and political stability either. The U.S. and several other European countries have consumed far more African oil and having less balanced trade with African states over the past decade than China.<sup>72</sup> Moreover, the U.S. model in Africa as promoting good governance and environmental responsibility has been slowly changed under the current administration. President Trump’s “America First” outlook largely promotes protectionist, isolationist policies rather than promoting its idealistic model to other countries. In fact, with “America First” policy, the Trump administration mutes U.S. voice on international human rights, and effectively avoids including human rights issues in counter-terrorism co-operation with China.

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<sup>70</sup> Kan, Summary.

<sup>71</sup> Chung.

<sup>72</sup> Lloyd Thrall, *China's Expanding African Relations*, 86, RAND Corporation, 2015.

## CONCLUSION: WHAT IS NEXT?

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The bilateral cooperation between the U.S. and China suggested problems from the starting point. While the U.S.' position on counter-terrorism has been a "police of the world" as a superpower, China's primary stance has been "non-intervention and non-interference." While the U.S. has aggressively engaged in using its military force to counterterrorism in other regions, sometimes even against S.C.'s decision, China has been wanting to avoid engaging in international counter-terrorism activities, which will increase the probability of becoming more of a target of terrorism, both domestically and internationally, than it already is.

For more than 16 years after the proclamation of "war on terror", American forces are still deployed in Afghanistan, Syria and Iraq, and in smaller contingents, training and supporting local forces combating terrorists across Africa and Asia. On the contrary, Beijing's primary response to international terrorism was to strengthen its domestic counter-terrorism capabilities by passing and implementing new national security and counter-terrorism laws, increasing policing and social control in Xinjiang. China's interests in counter-terrorism were driven by a desire to ensure domestic stability in Xinjiang and throughout China, to promote regional stability for successful BRI, and to protect Chinese citizens and businesses abroad for its expanding economy. More specifically, China was concerned that Uighurs could join the Islamic State and other terrorist groups as foreign fighters in Syria and SouthEast Asia and then return to China and encourage violence at home, and wants to secure BRI's success for its financially and politically prosperous future as a new superpower of the world that would surpass the U.S.' current status.

Increased American Exceptionalism and in response, increased anti-American sentiment across the world became constraints for the current administration in co-operating with other states for its counter-terrorism activities. The Trump administration is exploring how to dismantle or bypass the Obama administration's constraints intended to prevent civilian deaths from drone attacks, commando raids and other counterterrorism missions outside conventional war zones like Afghanistan and Iraq.<sup>73</sup> This act is already heavily criticized by other states.

In the meantime, China's primary constraints on further engagement are its focus on domestic terrorism, long-held principles of non-intervention and non-interference, a desire to prevent backlashes that could result in more targeting of Chinese citizens at home and abroad, and limited military capability. China is also concerned that external

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<sup>73</sup> Charlie Savage and Eric Schmitt, *Trump Administration is Said to be Working to Loosen Counterterrorism Rules*, New York Times, March 12, 2017.

funding will be tunneled to Islamic insurgency groups within China by sympathetic outside groups. In order to prevent this sympathetic view on its ethnic minority, China tries to make sure that the countries with higher human rights norms in the West to regard Uighur as terrorist threat.

While the U.S. has been an active leader in fighting terrorism, China has believed that it could avoid transnational extremism simply by staying out of the security affairs of other nations. However, with its rapidly expanding economy and new global agenda, China only recently realized that yesterday's scenario no longer works for today. China's BRI includes the Middle East and Africa, and is expanding China's involvement in many regions where it is already a target of international terrorism. Terrorist groups have targeted Chinese nationals outside of China, not because China did something wrong but because of China's growing international presence, both politically and economically.

Therefore, China seeks for more effective and broader partner relations with the U.S., but it is unlikely that China will expand its support for the U.S.' efforts to defeat the IS and to stabilize Syria and Iraq. Rather, U.S.-China counter-terrorism co-operation has been and is likely to remain affected by the divergences of two legal systems and their ideological values, and two countries' evolving national security interests and environments.<sup>74</sup> To that extend, the U.S. should set the refreshed, firm standard on its co-operation effort on counterterrorism with China.

### ***What U.S. Should Do: Suggestions***

#### **U.S. Should Eliminate American Exceptionalism in its Foreign Policy on Counter-Terrorism.**

The U.S.' effort to strengthen protection of its own territory by deporting its military force for "war on terror" has raised anti-U.S. sentiment, and this feeling has been increased even more because of the new administration's immigration policy and "American First" slogan. The new administration is in part looking for withdrawing from its international co-operation, including global counter-terrorism activities, and turning its attention towards rebuilding its own economy. However, terrorism is evolving in a more sophisticated way and spreading broader around the world. The U.S. cannot effectively protect its territory and people by concentrating only on inside of its boarder and its direct neighbors. In that sense, both political security and economic regrowth cannot be achieved without some type of co-operation with China. Given its status as a permanent member of the S.C. and its contribution to and influence on the U.N.

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<sup>74</sup> Tanner, 117.

Peacekeeping, China cannot be overlooked and any decision without its participation would question the authority.

To that end, American Exceptionalism would not work in this co-operation since China too has been described as a country that consider itself to be exceptional. Chinese Exceptionalism has existed even before it started to call itself the “Central Country”, and believed its civilization in the center of All-under-Heaven. And Chinese Exceptionalism is on the rise and becoming the new way China is challenging America’s global dominance, including its counter-terrorism strategy.<sup>75</sup> In order for the co-operation to turn out in a positive way, the U.S. and China should not regard themselves as “Exceptional” in the international order and rule of law. Rather, they should each promote a win-win international order and be able to find converging paths. Recognizing the diverse ideas not only of each other but also of the regional partner countries can multiply the co-operation effect.

### **U.S. Should Actively Involve China in Counter-Terrorism Effort on China’s Allies.**

President Trump in past August announced the U.S.’ decision on the strategy for resolving the 16-year-old conflict in Afghanistan. Trump said there would be no “blank check” for the American engagement in Afghanistan, but deepened American involvement in a military mission that has bedeviled his predecessors, and that he once called futile.<sup>76</sup> In taking decision of not withdrawing troops, President Trump was convinced that a hasty withdrawal would create a vacuum for terrorists, including ISIS and al Qaeda. Although the U.S. cannot ignore China, which has a stake in Afghanistan’s stability, Trump’s entire speech did not mention China. When considering that Trump has been criticizing China for not doing more to help counter the provocative actions being taken by North Korea whose leaders have threatened a nuclear attack against the U.S., he has said little about China’s comparatively minor contributions in Afghanistan. Afghan Taliban still refuses to talk directly with the U.S. and opposes the local U.S. military presence. Pakistan is even less likely to agree to a U.S.-directed policy, even if it is accompanied by threats. In addition, Afghanistan and Pakistan’s economy would not have a bright future without China’s help, since Western companies are not willing to invest in those countries. Although China do not want to get involved in direct military operations but nonetheless want to benefit from the U.S. and NATO presence there, the U.S. should include China in its counter-terrorism operation in the region rather than letting it remain as a “freeloader.”

Importantly, the U.S. can also leverage the partnership with China, since China has close political relations with the strong opponents of the U.S., such as North Korea and Pakistan. President Trump publicly tried to pressurize Pakistan to end safe havens for terrorists who are striking at Afghanistan. But this aspect of the U.S.’ Afghan strategy can only work with China’s co-operation, because of China’s increasingly close economic ties with Pakistan, which reduces American leverage. With more than \$50 billion in planned

<sup>75</sup> Te-Ping Chen and Josh Chin, *New Challenge to U.S. Power: Chinese Exceptionalism*, Wall Street Journal, July 25, 2017.

<sup>76</sup> Julie Hirschfeld Davis and Mark Landler, *Trump Outlines New Afghanistan War Strategy With Few Details*, The New York Times, August 21, 2017.

infrastructure projects and strong diplomatic support for its positions, American threats to withdraw billions in military aid are becoming less worrying for the powerful army, which dominates foreign policy. With China's role increasing, Pakistan's forces have fewer incentives to stop covertly supporting insurgent groups that strike inside Afghanistan and archrival India, while targeting outfits that threaten its own domestic security.<sup>77</sup>

### **U.S. Should Leverage China for the Global Scale Terrorist Attacks.**

The chaos in the Middle East has proven the failure of the U.S. intervention policy, whether in the form of the Iraq invasion, drone strikes, air strikes, regime change or the arming of rebels. This is because a military action can only decimate terrorists physically, not ideologically, which is really the key to success for the global campaign against extremists. If President Trump wished to entirely defeat the new generation of terrorist forces represented by the so-called Islamic State, he would need China's cooperation. This is because the Islamic State advocates a jihad ideology that is an anti-secular, anti-modern and anti-Western religion, and challenges values shared by human societies. When countering terrorism, counter-ideology is an important part of counter-radicalization, but counter-ideology aimed at jihadism is likely to be ineffective because it advances propositions that make more sense to Western states than to the Muslims at whom the counter-ideology is addressed.<sup>78</sup>

Also, as it faces greater military pressure in Syria and Iraq, the Islamic State will seek a new round of expansion on a global scale, which will require the international community, including China, to work together.<sup>79</sup> China's global expansion plan with BRI is enabling China to connect with critical countries and regions for the U.S.' counter-terrorism effort. U.S. should leverage what China has but the U.S. lacks, while also actively utilizing its own regional bilateral and multilateral partnerships.

### **U.S. Should Ensure Mutual Transparency on Information and Intelligence Sharing with China.**

Increased repression on ethnic minority and certain religions in the name of preventing transnational and domestic terrorism should not be tolerated for the sake of "co-operation." As the U.S. pointed out, China's tendency to conflate domestic political dissent and international terrorism could put American counter-terrorism personnel in a position where the information and resources they share with their Chinese counterparts are used to target dissidents actually not associated with terrorism.<sup>80</sup> By U.S.-China co-operation, China wants to access American expertise and information, but

<sup>77</sup> Lain Marlow and Ismail Dilawar, *With Chinese Support, Pakistan Can Ignore Trump on Afghanistan*, Bloomberg Politics, August 23, 2017.

<sup>78</sup> Mark Sedgwick, *Jihadist Ideology, Western Counter-Ideology, and the ABC Model*, Critical Studies on Terrorism, Issue 3, Vol. 5, 2012.

<sup>79</sup> Wang Zhen, *China-US Counter-terrorism Cooperation*, International Institute for Counter-Terrorism, February 27, 2017.

<sup>80</sup> Jeffrey Payne, *Can the US and China Cooperate on Counterterrorism?*, The Diplomat, July 23, 2014.



it has been secretive about the extent of domestic dissent and the government's response to it. The U.S. State Department's counter-terrorism reports in 2013 and 2014 stated that there have been occasions when China did not make available to the world what might be considered credible evidence of the terrorism efforts. The U.S. has to ensure that the information and intelligence sharing for co-operation has to be under mutual transparency and restricted to the terrorist threats, and not to be used for the regulation of civilians or for the domestic policies.

### **U.S. Should Make Sincere and Diligent Effort on Human Rights Protection and Promotion.**

U.S. should not sacrifice or ignore the co-operation's effect on human rights issue around the world, especially the places that are affected by terrorism and counter-terrorism activities. In other words, human rights issue should never be overlooked in the name of counter-terrorism. As a recent example, the Myanmar government's vicious military clearance operation against the Rohingya Muslim ethnic minority was at best ignored by both the U.S. and Chinese governments, under the name of Myanmar government's counter-terrorism effort. This man-made crisis is considered a "textbook example" of genocide, resulting in more than 600,000 Rohingya Muslims fleeing to Bangladesh. The crisis has sparked international condemnation over the Buddhist-majority country's treatment of its Rohingya minority, amid reports of murder and rape. However, Myanmar leader Aung San Suu Kyi blamed illegal immigration for the spread of terrorism and violent extremism.

China offered support to protect the security of Myanmar government while trying to keep the focus on economic ties. Although U.S. demanded prosecution of Myanmar officials, human rights issues were barely discussed during President Trump's first official trip to Asia. During the trip, Trump especially enjoyed a "warm rapport" with the Philippine president Rodrigo Duterte, whose war on drugs has led to thousands of extrajudicial killings. Throughout his 12-day, five-nation trip in Asia, Trump focused primarily on tough talk about terrorism, trade and North Korea's nuclear program, while saying little about chronic human-rights abuses in the region that is home to some of the world's most brutal authoritarian regimes.

In addition, the counter-terrorism co-operation should avoid double standard and stereotyping, since it should be a gathered effort for the entire humanity. Compared with their reaction to the attacks in Paris, the U.S. and many Western governments have not expressed the same condemnation of ISIS and condolences to the Russian people after the Russian jet bombing in 2016, which killed all 224 passengers and crew on board. Following the deadly terrorist attack in Paris, French Interior Minister Bernard Cazeneuve announced that he planned to close down any mosques that allow extremist clerics to preach. President Trump in addition claimed that the U.S. will have "absolutely no choice" but to close down some mosques where "some bad things are happening." As the U.S. condemned the Chinese government for its religious persecution in Xinjiang, this

kind of attitude only stimulates stereotyping and divides the world by religion and geographical region.

In the same human rights context, the U.S.-China partnership should aid the creation of stable governments in Africa. The rule of law is an effective deterrent of terrorism. It will also improve the economies of African nations, thereby mitigating poverty and the European migration crisis. Partnering with China to fight terror implicates other issues that loom large in the relationship for the U.S., especially human rights and China's increasing assertiveness. The question of how much the U.S. trusts China's intentions in general also affects whether China can be seen as a credible partner in fighting terror and protecting human rights at the same time. Also, the U.S. has to come out of its logical fallacies, such as its assumption that because all terrorists are bad guys, all bad guys must be terrorists.

**U.S. Should Find the Way to Promote Human Rights to China and Local Governments in its Counter-Terrorism Co-operation.**

By partnering with local governments, the U.S. counter-terrorism co-operation with China can be more effectively used in supporting and augmenting the human rights efforts. Effective counter-terrorism and human rights promotion are impossible without local partners. To broadly address increasing global terrorism and its impact on humanity, the U.S. can more effectively incorporate intelligence liaison with broader aid programs with China. The U.S. and China can also continue to co-operate in the developing world where the actions are taken and human rights deprivation is ongoing, and at the same time, can better understand the problems and limitations inherent to those countries and adjust its counter-terrorism strategy accordingly. Also, with co-operation with China, the U.S. has to promote legal, policy, and institutional changes in China that also contribute to the U.S. efforts on counter-terrorism and human rights. The U.S. should control links to topics where there are U.S.-China disagreements over human rights policies.

In the era of virtual terrorism, all Internet enabled nations are equal. U.S. should promote human rights through Internet, by fostering freedom to express ideas and connect and associate with others. When making cooperative effort to counter cyber terrorism, the U.S. should do so with due regard to confidentiality, respect for human rights, and in compliance with other obligations under international law.

## FINAL THOUGHTS

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Regardless of all, what happens if at each time there is an attack, governments demand tougher security measures at home and more counter-terrorism co-operation abroad? Over time, states will gain more power to observe and control their citizens' lives and movements – not just at home but internationally, as governments' security and intelligence apparatuses intertwine. And who then will watch the watchers? Who will have the power to investigate and demand answers from an increasingly consolidated international security regime, ensuring that the process is accountable and transparent to the populations affected by it? Who will have control over the vast cyber space of World Wide Web to discern who uses it for terrorism and who uses it for human rights? Answer to these questions should be an immediate homework to solve for the U.S. in starting the new era of its counter-terrorism co-operation. ■

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ASIA FOCUS #56

## U.S.-CHINA COUNTER-TERRORISM CO-OPERATION AND ITS PERSPECTIVE ON HUMAN RIGHTS

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