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3 Controversial Aspects Of China's New Anti-Terrorism Law

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In the closing moments of 2015, at a time when the world is reeling from increasing threats from militant groups, [China enacted its anti-terrorism law](#), passed by the National People's Congress on 27 December and effective from 1 January 2016. Prior to this, in July 2015, China passed another important legislation, the National Law on National Security.

The new Chinese anti-terrorism law represents the dawn of a new era, and is the country's most comprehensive legislation to counter terrorism, terrorist acts, strategies, processes, procedures and methodologies.

When one analyses the complete terms of the said legislation, three significant aspects stand out.

1. Its breadth of scope

The first important aspect of the Chinese anti-terror legislation is that it is drafted in extremely broad, generic and comprehensive terms and the definition of "terrorist acts" encompasses a vast variety of circumstances and situations.

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The legislation recognises the various manifestations of terrorism through violence, destruction, intimidation and other means to create social panic, endanger the public, violate personal property, or coerce state organs and international organizations to achieve political or ideological ends.

The new law targets the organisation, planning, preparation and implementation of terrorist acts, which have caused or are intended to cause casualties and significant damage to property or public facilities. It also recognises the principle that counter-terrorism efforts should be carried out according to the law, with due respect and protection for human rights - in other words, it takes into account the importance of safeguarding the legitimate rights and interests of citizens and organisations.

However, critics are worrying that definition is so broad that it is susceptible to misuse, and that the law could theoretically be invoked for even legitimate criticism of the policies of the Chinese establishment. It might, thus, be used as a means to muzzle free speech.

2. Legal accountability of telecommunications operators and ISPs

The second most important feature of the new legislation is that it has provided for various rights, duties and obligations for distinct stakeholders in the Chinese ecosystem. Stakeholders have been mandated to report instances of suspected terrorist acts or activities. Telecommunications operators and Internet Service Providers (ISPs) have been saddled with the responsibility of ensuring that content generated by terrorists are not made available on their network; if they do detect that this has happened, they are duty-bound to

immediately remove or disable access to the same. If telecommunications operators and ISPs do not comply with the requirements of law, they may face legal action. Commentators are concerned that the law's cyber provisions may be used against service providers for the purposes of forcing them to comply with Chinese law and to give access to information.

3. Decryption and access to sensitive data

The Chinese legislation mandates telecommunications operators and ISPs to provide support and assistance to public/state security organs in accordance with law to prevent terrorist activities. Further, the said service providers have been mandated to provide technical interface and decryption technical support and assistance.

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This is one provision which has caused immense concern amongst various stakeholders. Various companies believe that this proposition could be misused for the purposes of arm-twisting them into disclosing sensitive data, corporate data and corporate trade secrets to Chinese authorities under the garb of providing assistance for decryption. Further, companies worry that the provision could be used for the purposes of installing backdoors by the Chinese government. The fact that companies need to do business in China means that they must comply with the law. It has also been pointed out that a majority of companies are clueless about how this law will be effectively enforced.

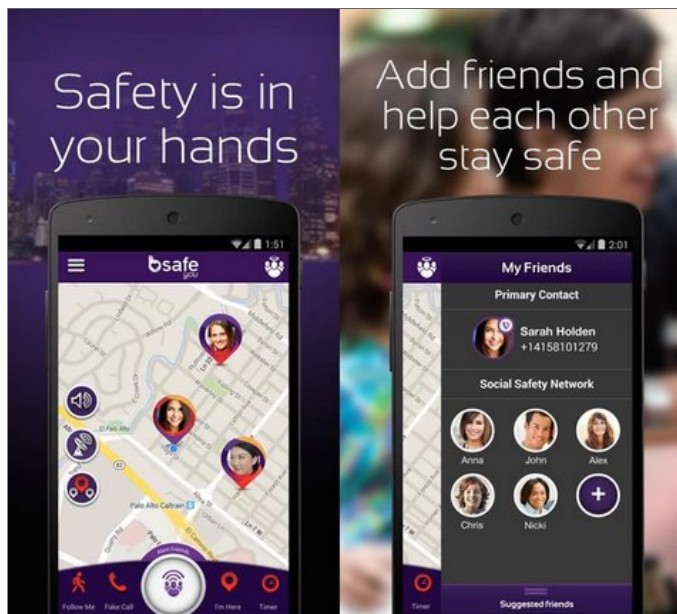
The new anti-terrorism law is a reiteration of Chinese sovereignty and represents a new approach that drives home the point that China will not hesitate to pass extremely broad, comprehensive and wide-ranging (indeed, generic) laws to protect its national interests.

It will be interesting to watch how the new Chinese legislation will effectively be implemented. It is expected that the directional trend provided by China in passing broad legislation on countering terrorism is likely to be emulated by other nations in their fight against terrorism and cyber-terrorism.

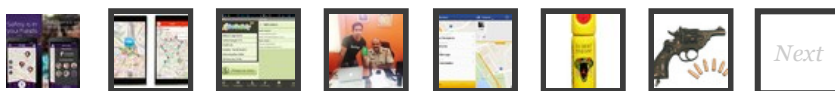
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