

# Comparative Counter-Terrorism Law



EDITED BY KENT ROACH

# Contents

Notes on Contributors

page ix

Acknowledgments

xvii

- 1 **COMPARATIVE COUNTER-TERRORISM LAW COMES OF AGE** 1  
Kent Roach
- PART ONE: NORTH AMERICA**
- 2 **The United States** 49  
Sudha N. Setty
- 3 **Canada** 78  
Robert Diab
- PART TWO: SOUTH AMERICA**
- 4 **Colombia** 115  
Luz E. Nagle
- 5 **Brazil** 146  
Rodrigo de Souza Costa
- PART THREE: EUROPE**
- 6 **The United Kingdom** 167  
Keith Syrett
- 7 **Switzerland** 203  
Bertrand Perrin and Julien Gafner

21	<b>China</b> Li Zhe	580
22	<b>Singapore</b> Eugene K. B. Tan	610
23	<b>Australia</b> Fergal Davis, Nicola McGarrity and George Williams	650
24	<b>THEMATIC CONCLUSIONS AND FUTURE CHALLENGES</b> Kent Roach	683
	<i>Appendix</i>	779
	<i>Index</i>	789

## China

Li Zhe

## I. INTRODUCTION

Terrorism has long been a key issue influencing world peace and development. Terrorist attacks have become more and more frequent and serious in China in the past few years. From April 2013 to July 2014, twelve influential and large-scale terrorist attacks have occurred in China, including several cities of Xinjiang Uygur Autonomous Region, where the terrorists are based,<sup>1</sup> as well as some big cities in China, such as Beijing<sup>2</sup> and Kunming.<sup>3</sup> During the aforementioned terrorist attacks, altogether 181 persons were killed and 397 seriously injured, and costly property damage was inflicted, including at the Goldwater Bridge of Tian'an Men Square.

The Chinese government had made great efforts to combat terrorist crimes nationally and internationally. It has joined twelve international anti-terrorism conventions under the framework of the United Nations; promoted the establishment of the Shanghai Cooperation Organization, of which it is a member; and carefully enforced the resolutions of the Security Council in policy, legislation and administration. Although there is no special anti-terrorism law, several laws, regulations and amendments to current laws have been added to implement Security Council resolutions, in particular Resolutions 1373 and 1624, in an attempt to better combat terrorist-related crimes.

The anti-terrorism law in China includes criminal law, military law, administrative law as well as administrative regulations and judicial explanations. The most important laws include the Criminal Law, the Criminal Procedure Law,

<sup>1</sup> Cities had suffered terrorist attacks in China in recent years: [http://news.163.com/special/attacked\\_cities/](http://news.163.com/special/attacked_cities/)

<sup>2</sup> Police cracked the "10-28" violent terrorist attack: <http://news.xinhuanet.com/legal/2015-03-02/117938784.htm>.

<sup>3</sup> Kunming violent terrorist attack caused 29 people killed: <http://www.chinanews.com/gn/2015/03-02/5899255.shtml>.

<sup>4</sup> The data were calculated by the author based on the news reports covering such terrorism.

the Anti-money Laundering Law. The issuing of the Martial Law. The issuing of the Law of the People's Republic of China on the Security, the Ministry of Justice, the Ministry of Security, the Ministry of Foreign Affairs, the Ministry of Education, the Ministry of Health, the Ministry of Science and Technology, the Ministry of Industry and Information Technology, the Ministry of Agriculture, the Ministry of Civil Aviation Administration, the Ministry of Railway, the Ministry of Transport, the Ministry of Water Resources, the Ministry of Land and Resources, the Ministry of Environmental Protection, the Ministry of Meteorology, the Ministry of Oceanography, the Ministry of Fishery, the Ministry of Forestry, the Ministry of Culture, the Ministry of Tourism, the Ministry of Sports, the Ministry of Nationalities, the Ministry of Religious Affairs, the Ministry of Ethnic Affairs, the Ministry of Overseas Chinese Affairs, the Ministry of International Trade and Economic Cooperation, the Ministry of International Law, the Ministry of International Education, the Ministry of International Health, the Ministry of International Labor, the Ministry of International Science and Technology, the Ministry of International Culture, the Ministry of International Sports, the Ministry of International Nationalities, the Ministry of International Religious Affairs, the Ministry of International Ethnic Affairs, the Ministry of International Overseas Chinese Affairs, the Ministry of International Trade and Economic Cooperation, the Ministry of International Law, the Ministry of International Education, the Ministry of International Health, the Ministry of International Labor, the Ministry of International Science and Technology, the Ministry of International Culture, the Ministry of International Sports, the Ministry of International Nationalities, the Ministry of International Religious Affairs, the Ministry of International Ethnic Affairs, the Ministry of International Overseas Chinese Affairs.

Another important document is the Anti-Terrorism Work, published by the State Congress (DISAW) on October 2014, since it is not a document of the People's Republic of China (PRC). However, some issues urgently need to be addressed. Several terrorist-related laws and regulations were issued before the end of 2015. The Standing Committee of the National People's Congress, 2014 released the Anti-Terrorism Law (ATL)<sup>6</sup> and the Ninth Amendment to the Criminal Law (Draft Amendment)<sup>7</sup> for the first reading and the second reading of the National People's Congress. It is estimated that these two laws will be passed before the end of 2015. The National People's Congress and working mechanisms will be improved. The Draft Amendment adds to the Anti-Terrorism Law 106 articles. According to the previous DISAW article, the Anti-Terrorism Law will prevent and combat terrorism, protect the lives and properties of citizens, and counter-terrorism in an unprejudiced manner. Work will be included in cultural, educational, and

<sup>5</sup> According to Article 129 of the Constitution of the People's Republic of China, the state organs are the National People's Congress, the State Council, the State Court, and the State Procuratorates. The Chinese version of the Draft is <http://www.npc.gov.cn/npc/xinwen/2015/03/15/20150315150155.shtml>.

<sup>6</sup> Chinese version of the Draft is <http://www.npc.gov.cn/npc/xinwen/2015/03/15/20150315150155.shtml>.

<sup>7</sup> Chinese version of the Draft is <http://www.npc.gov.cn/npc/xinwen/2015/03/15/20150315150155.shtml>.

the Anti-money Laundering Law, the Exit and Entry Administration Law and the Martial Law. The issuing organs concerning the administrative regulations with respect to anti-terrorism are the Ministry of Public Security, the Ministry of National Security, the Ministry of Justice, the People's Bank of China, and so on. The judicial explanations concerning terrorism include the guidelines and ordinances issued by the Supreme People's Court and the Supreme People's Procuratorate.<sup>5</sup>

Another important document is the Decision on Issues Concerning Strengthening Anti-Terrorism Work, published by the Standing Committee of the National People's Congress (DISAW) on October 29, 2011. This decision is not of a legislative nature since it is not a document issued under the order of the President of the People's Republic of China (PRC). But the DISAW has provided important guidance on some issues urgently needed in the anti-terrorism area, such as the definition of several terrorist-related norms, the listing of terrorist groups and individuals and the freezing of assets used to finance terrorist activities. Moreover, several administrative regulations were issued based on the DISAW.

The Standing Committee of the National People's Congress of PRC on November 3, 2014 released the Anti-Terrorism Law (Draft) (hereinafter referred to as Draft AT)<sup>6</sup> and the Ninth Amendment to Criminal Law (Draft) (hereinafter referred to as Draft Amendment)<sup>7</sup> for public comment. The inquiry ended on December 3, 2014, and the second reading of the Draft AT was conducted on February 25, 2015. It is estimated that these two legal documents will be promulgated and come into force before the end of 2015. The main focus of the Draft AT is the preventive measures and working mechanisms of the anti-terrorism organizations in China, while the Draft Amendment adds to the criminal law on terrorism.

The Anti-Terrorism Law (Draft) is a comprehensive law, containing 10 chapters and 106 articles. According to Article 106, once the new law is effective it will abolish the previous DISAW articulated in October 2011. The aim of the draft law is to prevent and combat terrorism and protect state safety, public security and the safety of the lives and properties of the public (Article 1 of the Draft AT). The law will place counter-terrorism in an unprecedented important position in China. Anti-terrorism work will be included in the state security strategy. Political, economic, legal, cultural, educational, advocacy, technological, diplomatic and military measures

<sup>5</sup> According to Article 129 of the Constitution of the PRC, the people's procuratorates of the People's Republic of China are state organs for legal supervision. The guidelines and ordinances issued by the People's Procuratorates are deemed as providing judicial explanation.

<sup>6</sup> Chinese version of the Draft is available at the official website of the National People's Congress, [http://www.npc.gov.cn/npc/xinwen/lfgz/flca/2014-11/03/content\\_1885027.htm](http://www.npc.gov.cn/npc/xinwen/lfgz/flca/2014-11/03/content_1885027.htm), last visit on February 15, 2015.

<sup>7</sup> Chinese version of the Draft is available at the official website of the National People's Congress, [http://www.npc.gov.cn/npc/xinwen/lfgz/flca/2014-11/03/content\\_1885029.htm](http://www.npc.gov.cn/npc/xinwen/lfgz/flca/2014-11/03/content_1885029.htm), last visited on February 15, 2015.

Terrorism law is as international as it is regionally distinct and as difficult to define as it is essential to address. Given recent pressures to harmonize terrorism laws from international organizations such as the United Nations Security Council, the Financial Action Task Force, and the Council of Europe, this book presents readers with an up-to-date assessment of terrorism law across the globe. Covering twenty-two jurisdictions across six continents, the common framework used for each chapter facilitates national comparisons of a range of laws, including relevant criminal, administrative, financial, secrecy, and military laws. Recognizing that similar laws may yield different outcomes when transplanted into new contexts, priority of place is given to examples of real-world application.

Including an extensive introduction to the field as well as a detailed final chapter on common themes and future challenges, this book will help establish comparative counter-terrorism law as an emerging discipline crossing traditional boundaries in legal scholarship.

KENT ROACH is a professor of law at the University of Toronto. He served as General Reporter on counter-terrorism law at the XIX Congress on Comparative Law as well as Director of Research for the Air India bombing inquiry. His most recent book, *The 9/11 Effect: Comparative Counter-Terrorism* (2011), was co-recipient of the Mundell Medal for contributions to legal scholarship.

Cover: A fighter of the Islamic State of Iraq and the Levant (ISIL) holds an ISIL flag and a weapon on a street in the city of Mosul, June 23, 2014. Courtesy of Reuters.

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