

# China's Legal Framework and Measures For Counterterrorism

## 中国的反恐怖主义法律制度体系与实践

The State Council Information Office of the People's Republic of China

中华人民共和国国务院新闻办公室

January 2024

2024年1月

### Preface

Terrorism is the common enemy of humanity, posing a grave threat to international peace and security, and representing a challenge to all countries and all of humanity. All members of the international community share the responsibility to fight it.

Over the decades, the United Nations has led the creation of relevant conventions and other instruments, coordinating member states in their joint efforts to combat terrorism, and bringing such efforts under the rule of law. In response to its call, many countries have actively fulfilled their international obligations by making and enforcing domestic counterterrorism laws and strengthening international cooperation against terrorism. Through unremitting efforts, the international community has gradually established a multitiered framework of legal instruments against terrorism, including international and regional conventions, multilateral and bilateral treaties and agreements, and domestic laws.

As a victim of terrorism, China has long faced its real threat, and has always attached great importance to law-based counterterrorism efforts. It has accumulated experience by concluding or joining international conventions and treaties and amending and improving criminal laws. In the face of new developments in international and domestic terrorism, China has first endeavored to gain a deeper understanding of law-based counterterrorism, summarize its underlying dynamics, and identify appropriate countermeasures. Drawing on foreign experience, China has formulated counterterrorism laws, improved the legal framework, and made consistent application of these laws. These have provided legal safeguards for China's ramped up efforts in combating terrorism.

China has found a path of law-based counterterrorism that conforms to its realities by establishing a sound legal framework, promoting strict, impartial, procedure-based law enforcement, and ensuring impartial administration of justice

### 前言

恐怖主义是人类社会的公敌，是对所有国家和全人类的挑战，严重威胁国际和平与安全。反恐怖主义是国际社会的共同责任。

长期以来，联合国主导制定一系列公约等文件，领导和协调成员国共同打击恐怖主义，推动将反恐怖主义工作纳入法治轨道。世界各国纷纷响应联合国号召，积极履行国际义务，制定和实施国内反恐怖主义法律，不断加强国际反恐怖主义合作。经过不懈努力，国际社会逐步建立起包括国际性、区域性公约，多边、双边条约和协定，以及国内法在内的多层次反恐怖主义法律制度体系。

中国作为恐怖主义受害国，长期面临着恐怖主义的现实威胁。中国历来高度重视反恐怖主义法治建设，通过缔结或参加一系列国际公约条约、修改完善刑事法律，不断积累反恐怖主义法治经验。面对国际国内恐怖活动的新情况、新形势，中国持续深化对反恐怖主义法治工作的认识，全面总结本国反恐怖主义工作的规律特点和实践做法，借鉴吸收他国有益经验，制定反恐怖主义专门法律，完善反恐怖主义法律制度体系，规范和统一法律适用，为加强反恐怖主义工作提供了法治保障。

and effective protection of human rights. It has safeguarded national and public security, protected people's lives and property, and contributed to global and regional security and stability.

## I. An Improving Legal Framework for Counterterrorism

Headed by the UN, its specialized agencies, and some other international organizations, the international community has formulated 13 global counterterrorism conventions since the 1960s, demonstrating its position and attitude on counterterrorism.

To strengthen international cooperation and effectively prevent and combat terrorist activities, China has joined or ratified a number of conventions since the late 1970s, including the Convention on Offences and Certain Other Acts Committed on Board Aircraft, Convention for the Suppression of Unlawful Seizure of Aircraft, and Convention for the Unification of Certain Rules for International Carriage by Air. In light of its national conditions, and following constitutional principles, China has drawn on useful experience from the international community and accelerated its efforts to build a domestic counterterrorism legal framework since the 1990s.

—Amending and improving the criminal laws.

Terrorism is viewed by the international community as a serious criminal offense, and is therefore a highlighted target of criminal laws in all countries.

In March 1997, China's National People's Congress (NPC) amended the Criminal Law, adding the crimes of forming, leading, or participating in a terrorist organization, and tightening sanctions for crimes of terrorism.

After the September 11 attacks in the United States in 2001, many countries took prompt and effective measures to combat terrorism. In December the same year, China's NPC Standing Committee adopted Amendment III to the Criminal Law, which consists of eight revisions and additions for improving and clarifying provisions on terrorist activities. One of the additions relates to the crime of financing terrorism. This was part of China's effort to implement UN Security Council Resolution 1373.

At the same time, to sanction money laundering for terrorist activities, China prescribed terrorism as a predicate crime of money laundering. In June 2006, the NPC Standing Committee adopted Amendment VI to the Criminal Law, which further clarifies penalties on money laundering for terrorist activities. In response to new developments and issues in the crime of terrorism, in August 2015 the NPC Standing Committee adopted Amendment IX to the Criminal Law, adding to it the crimes of preparing for terrorist activities, advocating terrorism and extremism, inciting terrorism, and using ex-

多年来，通过建立健全法律制度、严格规范公正文明执法、全面落实公正司法、切实加强人权保障等法治实践，中国逐步探索出符合本国实际的反恐怖主义法治道路，有力维护了国家安全、公共安全和人民生命财产安全，为全球和地区安全稳定作出贡献。

### 一、反恐怖主义法律制度体系日臻完善

自20世纪60年代以来，在联合国及其专门机构和关联组织主持下，国际社会陆续制定了13项全球性反恐怖主义公约，表明全球对打击恐怖主义的基本立场和态度。从20世纪70年代末开始，为加强国际合作，有效防范和惩治恐怖活动，中国相继加入或批准了《关于在航空器内的犯罪和犯有某些其他行为的公约》《关于制止非法劫持航空器的公约》《统一国际航空运输某些规则的公约》等。20世纪90年代以来，中国立足本国国情，坚持宪法原则，借鉴学习国际社会有益经验，加快了国内反恐怖主义法律制度体系建设进程。

——修改完善刑事法律。恐怖活动犯罪是国际公认的严重刑事犯罪，是各国刑法打击的重点。1997年3月，全国人民代表大会修改《中华人民共和国刑法》，新增组织、领导、参加恐怖组织罪，并加大了对相关恐怖活动犯罪的处罚力度。2001年美国“9·11”事件后，世界各国迅速采取有效措施打击恐怖主义。同年12月，全国人大常委会通过《中华人民共和国刑法修正案（三）》，专门完善恐怖活动犯罪刑法条款，明确刑法适用，对刑法作出八条补充修改。其中，为落实联合国安理会第1373号决议，增设资助恐怖活动犯罪。同时，为惩治涉及恐怖活动洗钱的犯罪活动，将恐怖活动犯罪纳入洗钱罪的上游犯罪。2006年6月，全国人大常委会通过《中华人民共和国刑法修正案（六）》，在相关条款中进一步完善了为恐怖活动犯罪洗钱的罪刑规定。2015年8月，针对暴力

tremism to undermine law enforcement, while also clarifying relevant charges and penalties.

In 2012 and 2018, the NPC and its Standing Committee amended the Criminal Procedure Law to add provisions on the investigation, prosecution, and trial procedures for crimes of terrorism. The Supreme People's Court and the Supreme People's Procuratorate have independently or jointly formulated and issued a series of judicial interpretations to further standardize the application of law and prosecution procedures for combating crimes of terrorism.

#### — Making a counterterrorism law.

Since the beginning of the 21st century, a series of horrendous terrorist attacks have occurred around the world. In response, many countries have made their own counterterrorism law, or amended existing laws. In October 2011, to strengthen counterterrorism, safeguard national security, maintain social stability, and protect people's lives and property, the NPC Standing Committee adopted the Decision on Issues Related to Strengthening Counterterrorism Work, which defines the concept of terrorism, the leading state counterterrorism body and its duties, the determination of terrorist organizations and individuals, the publication of lists of these organizations and individuals, and the principles for international cooperation. This laid a solid foundation for subsequent legislation.

Between 2011 and 2014, terrorist attacks hit multiple countries, signaling a resurgence of terrorism worldwide. Forces of terrorism, separatism and extremism, both within and outside China, carried out violent terrorist acts in Xinjiang, Beijing, Yunnan, and other places.

From April 2014, to summarize the experience against crimes of terrorism, improve the counterterrorism mechanism, and curb frequent and widespread acts of violence and terrorism, the leading state counterterrorism body led several other departments in conducting field investigations, research and argumentation, soliciting opinions and suggestions from all parties, and drafting a counterterrorism law. In October 2014, the NPC Standing Committee held the first deliberations on the draft law, published it in full to the public for suggestions, and made revisions. In February and December 2015, it deliberated on the draft law for the second and third rounds to improve it. On December 27, 2015, the NPC Standing Committee adopted the Counterterrorism Law. It is a comprehensive counterterrorism law that defines China's basic principles and stance on counterterrorism. By specifying provisions on the determination of terrorist organizations and individuals, security protection, intelligence information, investigation, response and handling, international cooperation, safeguard measures, and legal liability, it provides a strong legal guarantee for preventing

恐怖犯罪出现的新情况、新问题，全国人大常委会通过《中华人民共和国刑法修正案（九）》，增设准备实施恐怖活动罪，宣扬恐怖主义、极端主义、煽动实施恐怖活动罪以及利用极端主义破坏法律实施罪等罪名，并明确相关罪状，细化刑罚适用。

此外，2012年、2018年全国人大及其常委会先后两次修改《中华人民共和国刑事诉讼法》。其中，为适应惩治恐怖活动犯罪的需要，对恐怖活动犯罪侦查、起诉、审判程序等方面作出特别规定。最高人民法院、最高人民检察院单独或者联合制定发布一系列司法解释，进一步规范打击恐怖活动犯罪的法律适用和诉讼程序。

——开展反恐专门立法。进入21世纪以来，世界范围内接连发生一系列重大恐怖袭击事件，各国纷纷制定反恐恐怖主义法，或者修订完善原有法律。2011年10月，为加强反恐恐怖主义工作，保障国家安全、维护社会稳定、保护人民生命财产安全，全国人大常委会通过关于加强反恐恐怖工作有关问题的决定，对恐怖活动的定义、反恐恐怖工作领导机构及其职责、恐怖活动组织和人员认定及名单公布、开展反恐恐怖国际合作等作出规定，为后续立法工作打下坚实基础。

2011年至2014年间，国际恐怖主义愈演愈烈，多国接连发生一系列重大恐怖袭击事件，境内外民族分裂势力、宗教极端势力、暴力恐怖势力连续在新疆、北京、云南等多地制造一系列暴力恐怖案（事）件，严重践踏人类尊严。2014年4月，为总结治理恐怖活动犯罪经验，完善反恐恐怖主义工作机制，坚决遏制暴恐活动多发、频发、蔓延态势，国家反恐恐怖主义工作领导机构牵头多部门，在实地调查、研究论证、广泛听取征求各方意见建议基础上，起草反恐恐怖主义法。2014年10月，全国人大常委会对《中华人民共和国反恐恐怖主义法（草案）》进行初次审议，会将草案全文面向社会公开征