

China's new Foreign Relations Law

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05 July 2023

SOAS China Institute Blog

<https://blogs.soas.ac.uk/china-institute/2023/07/05/chinas-new-foreign-relations-law/>

China passed the country's first ever Foreign Relations Law on 28 June 2023. The purpose of the law is to regulate how China—the Chinese Communist Party, the Chinese Government, the People's Liberation Army (PLA), Chinese companies, Chinese organisations, Chinese citizens, and foreigners who live in China—interacts with the rest of the world.

Analysts outside China are puzzled. They point out that there is nothing truly new in the law, which does little more than reiterate Xi Jinping's foreign policy principles and initiatives.

But the lack of novelty of the law is only to be expected.

Xi Jinping sees laws less as instruments to introduce changes than to legitimise and consolidate changes that he has been pushing, especially those that are controversial within the Party.

For example, the plethora of internal rules and regulations of the Chinese Communist Party were revised to tighten political discipline only after he first started the rectification-cum-anti-corruption drive, in 2013, to redefine the chief criterion of discipline expected of party members to be absolute loyalty to himself. This being a change that greatly undermined over two decades of collective leadership under his predecessors, Jiang Zemin and Hu Jintao.

Similarly, a slew of national security, counterespionage, and data protection laws were passed after Xi has already, in countless speeches and policy documents, set the tone that the government must strengthen protection on state (implying regime) security, and embed security considerations in all stages of policy making. This is so even if it may well compromise on China's economic development, which the Party pursued as its number one priority since it opened up the country to the world in the early 1980s, after decades of Maoist isolation.

Once laws have been passed to codify the controversial changes that Xi has been pushing, it sends a strong signal that they have now become consensus in the political establishment. They are no longer Xi's ideas, but the Party's collective decisions backed by the national will.

In view of Xi's "change first, legislate second" approach, one way to analyse the PRC Foreign Relations Law is to ask what were the changes in/related to foreign relations that Xi tried to push at the expense of vested interest?

Two things stand out. The first is bolstered party authority in foreign policy making (Articles 5 and 9). The second concerns Beijing's approach towards western sanctions and criticisms (Article 33).

Article 9 of the Foreign Relations Law states that the "decision-making", "deliberation", "coordination", "top-level design", and "supervision of implementation" for foreign policy rest with the "central leading organizations on foreign relations." The word "central" implies party

organizations, not government organizations, which are referred to as “national” organizations in the Chinese political lexicon.

A long-standing principle in China is that the Chinese Communist Party has the final say on foreign policy. However, the reality was that since the 1990s, the foreign-facing branches of the Chinese Government, especially the foreign ministry, emerged as powerful foreign policy players in their own right.

Chinese diplomats, who are staff of the foreign ministry, have always been faithful to the Party but there was tension. The most obvious one was that they saw themselves more as professional diplomats than party apparatchiks. It was not a problem before Xi when Beijing pursued a low-profile, conciliatory foreign policy to assuage the anxieties of other countries about China’s rise, to create a maximally permissive external environment to support China’s economic growth.

It became a problem under Xi, who made robust defence of regime security the priority of Chinese foreign policy. He exhorts Chinese diplomats to actively “struggle (or fight) against” any risks and challenges to China’s rights and interests, especially the legitimacy of the Chinese political system. This is an issue because the self-ingrained professional identity of Chinese diplomats is averse to “struggle.”

There is no neat way to reconcile this tension than to change the requirement for diplomats, such that being “red” becomes more important than being “expert” – i.e., placing one’s loyalty to the Party above professionalism. Article 9 of the Foreign Relations Law consolidates the authority of the Party—the custodian of redness—over the foreign ministry—the long-term torchbearer of foreign policy professionalism. This confirms that the career prospects of Chinese diplomats lie in proving themselves as faithful agents of the Party above all else.

The second thing that stands out in the Foreign Relations Law is Article 33. It states that China has the “right” to carry out “countermeasures” against actions that “violate international laws and fundamental norms of international relations” or “undermine China’s sovereignty, security, or development interests”.

Wang Yi, the second highest diplomat in China (after Xi Jinping, the “Supreme Diplomat”), was implicitly referring to Article 33 when he [suggested](#) that the Foreign Relations Law can aid China in its “external struggles” against “unilateralism, protectionism, hegemonism, bullying and foreign interference, sanctions, and sabotage.”

These are terms used by Beijing to describe the “trade war” initiated by Donald Trump against China, western restrictions on selling advanced technologies to China, western sanctions of Chinese officials deemed to have committed gross human rights violations, and criticisms of the Chinese Government’s approach to the South China Sea, Taiwan, Xinjiang, Hong Kong, and human rights more generally.

Western countries see their sanctions or criticisms against China as “countermeasures” to punish Beijing’s violations of international agreements and norms. In contrast, Beijing interprets these as unprovoked first strikes against China, which not only undermine China’s rights and interests—and now, also Article 33 of the PRC Foreign Relations Law—but international laws and norms too.

Time and again there are voices from within the establishment in China calling for moderation in Beijing’s policy towards the West, especially the US, given their critical importance to China’s security and economy. Yet, Article 33 of the new law settles on Xi’s

position: Beijing will not budge. This implies that the rebuilding of trust with western countries is not a priority for Chinese foreign policy.