

Internet Privacy: A Chinese View

Author : Herbert Burkert

Date : July 14, 2015

Jinghong Xu, [Evolving Legal Frameworks for Protecting the Right to Internet Privacy in China](#), in [China and Cybersecurity : Espionage, Strategy, and Politics in the Digital Domain](#), 242 (edited by Jon R. Lindsay, Tai Ming Cheung, and Derek S. Reveron, 2015).

The overall issue addressed in this book has received renewed attention recently. On April 1, 2015 President Obama issued the Executive Order "[Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities](#)," which allows the Treasury Department to freeze assets of individuals and entities that are directly or indirectly involved in such activities. Furthermore in the beginning of April, in a series of meetings in China, US Homeland Security officials met with their Chinese counterparts to discuss cybersecurity issues. And in late April the US Department of Defense issued its [latest document on cyber strategy](#) that mentions – among other countries – China among the "key cyber threats."

However, the chosen article focuses on an issue that is easily forgotten in these grand debates: citizens' privacy, since threats to privacy come from the inside as well as from the outside. The author is Professor of Communication at the School of Digital Media and Design Arts, Beijing's renowned University of Posts and Telecommunications (BUPT). He starts with an overview on the present legal framework for protecting the Right to Internet Privacy in China. (P. 247) I still vividly remember a presentation I gave in October 1996 at the China Youth College for Political Science (now the China Youth University for Political Sciences) in Beijing on "The Function of Law in an Information Society" addressing privacy issues. At the end of my talk one of the Chinese students stood up and boldly asked me what my talk had to do with current situation in China.

But I digress. The situation has changed profoundly: Professor Xu's overview is condensed, yet sufficiently detailed to gain an insight into the development of concepts of privacy in China from an understanding of privacy as "shameful or embarrassing private [family] affairs" to privacy as a more comprehensive, however, still defensive notion and how it is moving from there to a broader understanding of affected "personal information."

The current "Deepening Reform Campaign" in China has been emphasizing the Rule of Law. The Chinese concept of law is primarily an instrumental one. Rule of Law in this context means to ensure that the judiciary subsystem works efficiently, free from cross-interference—for example with regard to corruption cases—with optimal resources as regards the educational standard of its personnel, and meets its aim of ensuring fairness across local and provincial levels. All these principles have been reconfirmed this last month by a set of specific regulations from the General Office of the Communist Party's Central Committee and the General Office of the State Council. At the same time the judiciary should be seen to be embedded in the guiding authority of these two law-making systems: the government as the administrative body and the checking political power of the Chinese Communist Party.

In Xu's view the current system of legal privacy protection still needs to be fundamentally improved. There is no stringent overall legal concept of privacy. "Hundreds of laws and regulations have been enacted to protect the right to online privacy, but they are quite unsystematic and hard to put into

practice.” (P. 252) (Sounds familiar). Responsibilities and liabilities in civil law should be established clearly and criminal law violations need to be more precise. He points to Hong Kong experiences as a learning resource for the further development of Chinese privacy protection, just as this note seeks to point to the necessity to enlarge our view on privacy beyond our European and American concerns.

Xu thus provides a useful insight into the ongoing development of the concept of privacy in the Chinese environment. As with such developments in the US and Europe they need to be put into the context of the respective legal system.

Cite as: Herbert Burkert, *Internet Privacy: A Chinese View*, JOTWELL (July 14, 2015) (reviewing Jinghong Xu, *Evolving Legal Frameworks for Protecting the Right to Internet Privacy in China*, in **China and Cybersecurity : Espionage, Strategy, and Politics in the Digital Domain**, 242 (edited by Jon R. Lindsay, Tai Ming Cheung, and Derek S. Reveron, 2015)), <https://cyber.jotwell.com/internet-privacy-a-chinese-view/>.