



Australian Government
Refugee Review Tribunal

Country Advice
China

China – CHN39755 – Local church
(celebration of Easter, use of Old
Testament) – Jasmine Revolution
censorship
18 January 2012

1. Can you provide translations of information about the criminal offence of assaulting a police officer and provision for minors?

An English translation Article 277 of *Criminal Law of the People's Republic of China* (1997 revised version) is located on the Chinalaw website:

Chapter VI Crimes of Disrupting the Order of Social Administration

Section 1. Crimes of Disrupting Public Order

Article 277. Whoever uses violence or threat to obstruct state personnel from discharging their duties is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or control; or a sentence of a fine.

Whoever uses violence or threats to obstruct National People's Congress deputies, or local people's congress deputies, from discharging their lawful deputy duties is to be punished according to the preceding paragraph.

Whoever, in the event of a natural disaster or an emergency, uses violence or threats to obstruct Red Cross personnel from discharging their lawful responsibilities is to be punished according to the first paragraph.

Whoever intentionally obstructs the state's security or public security organs from carrying out their security assignments, and has caused serious consequences even though no violence or threat is used is to be punished according to the first paragraph.¹

Seven amendments since 1999 to the *Criminal Law of the People's Republic of China* are listed on the Westlaw China database. None of these amend Article 277, suggesting the above remains current.

As noted above the offence is now contained under Article 277 of the 1997 version of the *Criminal Law of the People's Republic of China*; however, the offence was previously at Article 157 of the original legislation (adopted in 1979 with effect from 1 January 1980). Article 277 of the 1997 revised act appears to be similar in nature as Article 157 of the original (1980) legislation as both articles appear under the same heading (Chapter 6).

Under the original version of the legislation, the offence appears as follows:

¹ *Criminal Law of the People's Republic of China* 1997 (China), Chapter VI Section 1 Article 277, Adopted by the Second Session of the Fifth National People's Congress on July 1, 1979 and amended by the Fifth Session of the Eighth National People's Congress on March 14, 1997

CHAPTER VI CRIMES OF OBSTRUCTING THE ADMINISTRATION OF PUBLIC ORDER

[Article 157] Whoever by means of force or threat obstructs a state functionary from carrying out his functions according to law or refuses to carry out legally effective judgments or orders of people's courts shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, a fine or deprivation of political rights.²

Article 17 of the 1997 revised version of the *Criminal Law of the People's Republic of China* relates to the treatment of minors who commit crime. This Article is general in its application and not specifically related to the Articles concerning the assault of police officers.

Article 17 If a person who has reached the age of 16 commits a crime, he shall bear criminal responsibility.

If a person who has reached the age of 14 but not the age of 16 commits intentional homicide, intentionally hurts another person so as to cause serious injury or death of the person, or commits rape, robbery, drug- trafficking, arson, explosion or poisoning, he shall bear criminal responsibility.

If a person who has reached the age of 14 but not the age of 18 commits a crime, he shall be given a lighter or mitigated punishment.

If a person is not given criminal punishment because he has not reached the age of 16, the head of his family or his guardian shall be ordered to discipline him. When necessary, he may be taken in by the government for rehabilitation.³

Article 14 of the Chinese *Criminal Procedural Law* also contains information about underage offenders. Article 14 of the *Criminal Procedure Law* appears below:

Article 14. The people' s courts, the people' s procuratorates and the public security organs shall safeguard the procedural rights that participants in proceedings enjoy according to the law.

In cases in which a minor under the age of 18 commits a crime, the legal representative of the suspect or the defendant may be notified to be present at the time of interrogation and adjudication.

Participants in proceedings have the right to bring complaints against adjudicators, procurators and investigators for acts that violate their procedural rights as citizens and that subject the persons to indignities.⁴

2. Is there any information suggesting that members of the Local Church do not celebrate Christmas or Easter?

Information on this subject, including quotes from Phillip Yee (made in October 2006), is covered in previous responses CHN30801 (2006) and CHN31015 (2006). On the subject of local church members celebrating Easter and Christmas, Yee states:

² *Criminal Law of the People's Republic of China* 1980 (China), Chapter VI Article 157, http://www.childsrights.org/html/site_fr/law_download.php?id=259

³ *Criminal Law of the People's Republic of China* 1997, Chapter II Section 1 Article 17, Adopted by the Second Session of the Fifth National People's Congress on July 1, 1979 and amended by the Fifth Session of the Eighth National People's Congress on March 14, 1997.

⁴ *Criminal Procedure Law 1996 (China)*, Part I, Article 14, Adopted 1st July 1979 Amended 17th March 1996,

In the local churches we do not practice celebrating Christmas or Easter. The reasons for this are that the origin of these festivals are pagan... Although we do not practice celebrating these festivals, this is not a legality, and some local church members individually do celebrate Christmas and Easter.⁵

No further information was located on this subject.

3. Do members of the Local Church believe in and study the Old Testament?

Yes. The Recovery Bible of the local church contains a translation of the Old Testament. The previous response [CHN34041 \(2008\)](#) provides more information on this subject, in particular, information provided on recoveryversion.org, a website maintained by Living Stream Ministries. The Recovery Bible is available in several formats. The Holy Bible Recovery version contains both the Old and New Testaments. Living Stream Ministry publishes the Recovery Bible including two formats that only refer to the New Testament in their titles.

The recoveryversion.org website comments on the translation of the Old Testament:

As with any translation of the Bible, the determination of the original text, based upon the available manuscripts, forms the basis for the text of the Recovery Version of the Holy Bible. The translation of the Old Testament is based on the current scholarly text of the Hebrew Scriptures, Biblia Hebraica Stuttgartensia (BHS; revised 1990 edition). However, in determining the original form of any verse, the translators of the Recovery Version gave careful consideration to the larger context of chapter and book and to similar portions of the Old and New Testaments.⁶

4. Are there any reports of overseas activists' computers being hacked and wiped by Chinese authorities?

Information was found accusing the Chinese Government of using cyber espionage to hack into the websites and computers of overseas based dissidents, however, sources were generally unable to offer conclusive proof of Chinese Government involvement. Reports of Chinese cyber monitoring relating to activists located outside of China mainly related to the targeting of websites of overseas based groups and the use of email monitoring programmes to access email sent from overseas based activists to Chinese-based dissidents. No reports were found of computer files being deleted or wiped in these attacks. The Chinese Government officially denies that it engages in cyber hacking.⁷

Several sources were found linking the Chinese Government with cyber-attacks on overseas dissidents. A September 2011 article in *The Diplomat* reported that:

One of the top priorities of Chinese espionage efforts—foreign and domestic—is monitoring and disrupting dissidents, according to defectors, experts, and official documents. In the crosshairs overseas are Chinese democracy activists, Tibetans, the exiled Uighur community, Falun Gong practitioners, supporters of Taiwanese

⁵ Yee, Philip 2006, 'RE: Request for information from the Refugee Review Tribunal', 31 October.

⁶ 'Introducing the Recovery Version Holy Bible' (undated), Living Stream Ministry http://www.recoveryversion.org/download/HolyBible_Broch.pdf – Accessed 19 November 2008

⁷ Newman, A 2011, 'China's Growing Spy Threat', *The Diplomat*, 19 September, <http://the-diplomat.com/2011/09/19/chinas-growing-spy-threat/> - Accessed 18 January 2012 ; Lee, M 2011, 'Chinese state TV shows military cyber hacking clip', *Reuters*, 25 August <http://www.reuters.com/article/2011/08/25/us-china-cyberattacks-idUSTRE77O1DI20110825> - Accessed 18 January 2012

independence, and countless others—essentially anybody who disagrees with the regime or paints a negative image of it abroad.⁸

The Diplomat report makes reference to the discovery by Canadian officials in 2009 of a “massive and sophisticated cyber espionage network” known as ‘GhostNet’ that had reportedly infiltrated the computers of overseas dissidents. The attack was traced back to China (though not necessarily the Chinese Government).⁹ This article also highlighted the difficulty in determining the level of involvement of the Chinese Government in these types of cyber-attacks. *The Diplomat* writes that the use of organised crime and ‘patriotic hackers’ allows Chinese authorities a degree of plausible deniability.¹⁰

Notwithstanding the above, one source was located claiming to have evidence of Chinese Government involvement in the targeting of overseas-based activists. An August 2011 report on the China Signpost website claims that Chinese official (state) TV inadvertently showed a Chinese Government ‘denial of service’ (cyber-attacks on a website designed to make it unavailable to other users) attack on a Falun Gong site. Although the footage was apparently a decade old, the article claims it was the first evidence of Chinese use of cyber tactics to disrupt dissident groups:

However modest, ambiguous—and, from China’s perspective, defensive—this is possibly the first direct piece of visual evidence from an official Chinese government source to undermine Beijing’s official claims never to engage in overseas hacking of any kind for government purposes.¹¹

Several sources note the sheer volume of the internet makes it virtually impossible for the Chinese Government to monitor any more than a small portion of interaction of Chinese internet traffic, including the monitoring of overseas based activists.¹² In mid-2008 the China Internet Network Information Center, the state network information centre of China, estimated 253 million Chinese were online and at the end of 2007, 43 million had blogs.¹³

One source was found claiming that the Chinese Government monitored and blocked the email correspondence of a Chinese individual living overseas. In April 2011, Digital Defence, a Canadian website, reported a claim from Maggie Wenzhuo Hou that “agents of the government of China are monitoring and blocking her e-mail and telephone

⁸ Newman, A 2011, ‘China’s Growing Spy Threat’, *The Diplomat*, 19 September, <http://the-diplomat.com/2011/09/19/chinas-growing-spy-threat/> - Accessed 18 January 2012

⁹ Newman, A 2011, ‘China’s Growing Spy Threat’, *The Diplomat*, 19 September, <http://the-diplomat.com/2011/09/19/chinas-growing-spy-threat/> - Accessed 18 January 2012

¹⁰ Newman, A 2011, ‘China’s Growing Spy Threat’, *The Diplomat*, 19 September, <http://the-diplomat.com/2011/09/19/chinas-growing-spy-threat/> - Accessed 18 January 2012

¹¹ Erickson A & Collins G 2011, ‘A Smoking Cursor? New Window Opens on China’s Potential Cyberwarfare Development CCTV 7 program raises new questions about Beijing’s support for hacking’, *China Sign Post*, 26 August. <http://www.chinassignpost.com/2011/08/a-smoking-cursor-new-window-opens-on-china%E2%80%99s-potential-cyberwarfare-development-cctv-7-program-raises-new-questions-about-beijing%E2%80%99s-support-for-hacking/> - Accessed 18 January 2012

¹² Chase M and Mulvernon J 2002, *You’ve Got Dissident! Chinese Dissident Use of the Internet and Beijing’s Counter-Strategies*, Rand Corporation, p.81 http://www.rand.org/content/dam/rand/pubs/monograph_reports/MR1543/MR1543.ch2.pdf - Accessed 18 January 2012 ; August, O 2007, ‘The Great Firewall: China’s Misguided - and Futile - Attempt to Control What Happens Online’ *Wired Magazine*, 23 October, http://www.wired.com/politics/security/magazine/15-11/ff_chinafirewall?currentPage=all - Accessed 18 January 2012

¹³ McKinnon, R 2009, ‘China’s Censorship 2.0: How companies censor bloggers’, *First Monday*, 2 February, Volume 14, Number 2, <http://firstmonday.org/htbin/cgiwrap/bin/ojs/index.php/fm/article/view/2378/2089> - Accessed 18 January 2012

communications.”¹⁴ Hou, a pro-democracy campaigner who had lived in Ottawa since June 2009, admitted that she could not conclusively prove her allegations, however, (unnamed) security analysts stated her claims were credible based on her “high profile” dissident status and “documented attacks by China-based hackers.”¹⁵

5. Are there any reports or information which suggests that the government undertook a campaign of checking computers of people with police records due to the threat of the China Jasmine Revolution?

No sources were found indicating that the Chinese authorities undertook a campaign of checking the computers of all people with police records due to the threat of a Chinese Jasmine Revolution. Notwithstanding this, several sources noted the arrests and questioning of civil rights/democracy campaigners who were active in posting comments or articles online during a crackdown at this time. At the same time, known activists were subjected to raids by Chinese authorities resulting in the seizure of computer equipment. These activities appeared to be targeted (aimed at known dissidents and those posting in support of protests) rather than a systematic search of the computers of every person with a police record.

A *New York Times* article from February 2011 reported on the seizure of computers belonging to “well-known” activists and lawyers during a crackdown in relation to the “Jasmine Revolution threat” reporting that:

Human rights advocates said they were especially concerned by the recent crackdown on rights defenders, which intensified Saturday after at least 15 well-known lawyers and activists were detained or placed under house arrest. Several of them reached by phone, including Pu Zhiqiang and Xu Zhiyong, said they were in the company of security agents and unable to talk, while many others were unreachable on Sunday evening. Two of the men, Tang Jitian and Jiang Tianyong, remain missing.

Mr. Jiang, one of the missing lawyers, was forced into an unmarked van on Saturday night, his second abduction in recent days, his wife, Jin Bianling, said by telephone. She said the police had also searched the couple’s home and confiscated his computer and briefcase.¹⁶

Reporters Without Borders also noted the seizure of a “computer, hard disks and USB flash drives” belonging to writer and human rights activist Chen Wei.¹⁷ Chen had been ‘requested’ to attend his local police station after posting articles online.

6. Is there any information about what information was publicly available in China in relation to the Jasmine Revolution (events in China) and when this ceased to be available?

No information was located setting out specific information that was and subsequently ceased being available in relation to the Jasmine Revolution in China; however, information was

¹⁴ ‘Dissident warns of ‘silent cyber war’ - Activist says Canadians are within China’s reach’ 2011, *Digital Defence*, 19 April, [http://digitaldefence.ca/blog/Security News/post/Dissident warns of 'silent cyber war' - Activist says Canadians are within China's reach/](http://digitaldefence.ca/blog/Security%20News/post/Dissident%20warns%20of%20'silent%20cyber%20war'%20-%20Activist%20says%20Canadians%20are%20within%20China's%20reach/) - Accessed 18 January 2012

¹⁵ ‘Dissident warns of ‘silent cyber war’ - Activist says Canadians are within China’s reach’ 2011, *Digital Defence*, 19 April, [http://digitaldefence.ca/blog/Security News/post/Dissident warns of 'silent cyber war' - Activist says Canadians are within China's reach/](http://digitaldefence.ca/blog/Security%20News/post/Dissident%20warns%20of%20'silent%20cyber%20war'%20-%20Activist%20says%20Canadians%20are%20within%20China's%20reach/) - Accessed 18 January 2012

¹⁶ Jacobs, A 2011, ‘Chinese Government Responds to Call for Protests’, *NY Times*, 20 February http://www.nytimes.com/2011/02/21/world/asia/21china.html?_r=1 - Accessed 18 January 2012

¹⁷ ‘Writer gets nine-year jail sentence for articles posted online’ 2011, *Reporters Without Borders*, 23 December, <http://en.rsf.org/chine-authorities-step-up-pressure-on-30-03-2011,39918.html> - Accessed 18 January 2012

located setting out steps taken by the Chinese Government to restrict access to websites and online discussion related to the Jasmine Revolution.

Sources were found indicating Chinese authorities took proactive steps to block public access to information relating to the Jasmine Revolution. On 28 January, the Chinese authorities blocked access to information relating to the Arab Spring (in Egypt) and at the same time began to block the use of terms such as Egypt and Jasmine by Chinese based internet users.¹⁸

Sources note an increase in censorship and restrictions on internet freedoms on 28 January 2011 in response to the 'Arab Spring'. *Reporters Without Borders* noted that:

On 28 January 2011, three days after the Egyptian uprising began, China began censoring netizens' searches by blocking results linked to the keyword "Egypt" on the micro-blogging Twitter website and its Chinese equivalents, sina.com and sohu.com. In response to this keyword, users receive the following message: "Under existing laws, the result of your search cannot be communicated."¹⁹

The article noted that this crackdown was followed up with a series of arrests on 20 February 2011 of individuals suspected of making online calls for a 'Jasmine Revolution' in China.²⁰

The Diplomat quoted a directive issued on 28 January by State Council Information Office stating:

For the disturbances in Egypt, media across the nation must use copy circulated from Xinhua [the state-run news agency]. Websites are to strengthen [monitoring] of posts, forums, blogs, and particularly posts on microblogs. Our bureaus will forcibly shut down websites that are lax in monitoring.²¹

Sources noted that blog posts and accounts that included banned words or promoted banned activities were deleted by Chinese authorities.²² The *BBC* also reported on the temporary closure of the LinkedIn website in late February 2011 after an overseas poster referred to the Jasmine Revolution in China. The site was subsequently unblocked a day later.²³

¹⁸ Tong, B 2011, 'Jasmine Revolution and censorship in China', *East Asia Gazette*, 3 March, <http://www.asia-gazette.com/news/china/59> - Accessed 18 January 2012

¹⁹ 'Censorship to ensure regime stability' 2011, *Reporters Without Borders*, 11 March, <http://en.rsf.org/china-china-11-03-2011,39741.html> - Accessed 18 January 2012

²⁰ 'Censorship to ensure regime stability' 2011, *Reporters Without Borders*, 11 March, <http://en.rsf.org/china-china-11-03-2011,39741.html> - Accessed 18 January 2012

²¹ Miks, J 2011, 'Censored, Not Silenced', *The Diplomat*, 10 February, <http://the-diplomat.com/china-power/2011/02/10/censored-not-silenced/> - Accessed 18 January 2012

²² Lee, J 2011, 'What's Happening With China's Jasmine Revolution?', 25 February, <http://motherjones.com/mojo/2011/02/whats-happening-with-china-jasmine-revolution> - Accessed 18 January 2012 ; August, O 2007, 'The Great Firewall: China's Misguided - and Futile - Attempt to Control What Happens Online' *Wired Magazine*, 23 October, http://www.wired.com/politics/security/magazine/15-11/ff_chinafirewall?currentPage=all - Accessed 18 January 2012

²³ 'LinkedIn says China has unblocked its service' 2011, *BBC News*, 26 February, <http://www.bbc.co.uk/news/technology-12586462> - Accessed 18 January 2012

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