

On Different Categories of Cybercrime in China*

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Abstract. Cybercrimes have become an eye-catching social problem in not only China but also other countries of the world. Cybercrimes can be divided into two categories and different kinds of cybercrimes shall be treated differently. In this article, some typical cybercrimes are introduced in detail in order to set forth the characteristics of those cybercrimes. However, to defeat cybercrimes, joint efforts from countries all over the world shall be made.

Keywords: cybercrime, computer virus, gambling, fraud, pornography.

1 Introduction

Cybercrimes emerge with the development of the information networks. They are different from other crimes since they are hard to investigate in the information networks nowadays. Thus, special laws and regulations relevant to the investigation and conviction of cybercrimes should be made.

Cybercrimes are categorized according to different standards. French scholars, based on French legislation against cybercrimes, divide them into two large categories: crimes directly targeting computer systems and information networks, also called "pure computer crimes", and crimes committed through the use of computers and their related networks, in other words the use of computers in the commission of "conventional" crimes, which are also called "computer-related conventional crimes".¹ On the other hand, in the Convention on Cybercrime, the first international treaty seeking to address computer crime and Internet crime by harmonizing national laws, cybercrimes are classified into four categories: offences against the confidentiality, integrity and availability; computer-related offences; content-related offences; and offences related to infringements of copyright and related rights of computer data and systems.²

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¹ Yong Pi, *Research on Cyber-Security Law*, Chinese People's Public Security University Press, 2008, at 21-22.

² Council of Europe, *Convention on Cybercrime*, available at: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=185&CM=8&DF=02/06/2010&CL=ENG>

In China, however, there is no statute against cybercrimes specially. That is to say, there is no authoritative classification of cybercrimes. Despite all this, some scholars, based on the current situation of cybercrimes in China, classify them into four categories: offences against the order of network management; offences against the computer information system; offences against computer assets; and misuse of network.³ They will be discussed in detail hereinafter.

2 Offences against the Order of Network Management

A network is setup and maintained for a normal order of network management. Offences in this category mean situations, in specific, when one uses or setups illegal channel(s) to get into international networking without authorization, when one manages international networking without the permission of the accessing unit, and when one infringes other's domain name. In common, those offences are related to network management. They influence the operation of network and usage of network resources.

In China, those offences violate regulations of the administration of international networking and measures on internet domain names. Up till now, they mainly include the 2001 *Measures for Managing Business Operations in Providing Internet Services*,⁴ the 1997 *Provisional Administrative Measures on Registration of China Internet Domain Names*,⁵ the 1997 *Implementing Measures on Registration of China Internet Domain Names*,⁶ the 2002 *Proclamation of the Ministry of Information Industry of the People's Republic of China on China Internet Domain Name System*,⁷ and the 2004 *Measures for the Administration of Internet Domain Names of China*.⁸

3 Offences against the Computer Information System

The computer information system is the heart of the computer network. Keeping the safety of it is the primary goal when fighting against cybercrimes. Those offences can be divided into two forms.

³ Bingzhi Zhao, Current Situation of Cybercrime in China, available at: <http://www.lawtime.cn/info/xingfa/wangluofanzui/2007020231301.html>

⁴ Man Qi, Yongquan Wang, Rongsheng Xu. "Fighting cybercrime: legislation in China", *International Journal of Electronic Security and Digital Forensics (IJESDF)*, Inderscience Publication, Vol.2, No.2(2009), at 224.

⁵ Available in Chinese at: <http://www.cnnic.net.cn/html/Dir/1997/05/30/0647.htm>

⁶ Available in Chinese at: <http://www.cnnic.net.cn/html/Dir/1997/06/15/0648.htm>

⁷ Man Qi, Yongquan Wang, Rongsheng Xu. "Fighting cybercrime: legislation in China", *International Journal of Electronic Security and Digital Forensics (IJESDF)*, Inderscience Publication, Vol.2, No.2(2009), at 225.

⁸ Available in Chinese at: <http://www.cnnic.net.cn/html/Dir/2004/11/25/2592.htm>, and in English at: <http://www.lawinfochina.com/law/display.asp?ID=3823&DB=1>

Unauthorized access to administrative controls over others' computers, which is commonly referred to as hacking, is one form. In China hacking is not an accusation that can be made under the Criminal Law of PRC., but it may constitute other accusations, such as the crime of destruction of the function of a computer information system, or the crime of illegal instruction of a computer information system.

Interrupting the normal operation of computer systems is the other form. Using computer virus is a way to commit the offence, and it is commonly happened not only in China but also all around the world. Computer viruses are defined in the *Regulations on the Protection of Computer Software*⁹ as a set of computer instructions or program codes compiled or inserted in computer programs which damage computer functions or destroy data to impair the operation of computers. Computer viruses have become a problem since Internet access was available to most Chinese people. Most commonly, computer viruses can occupy the system resources, and slow down the operations, cause the computer to crash, damage and delete data. Furthermore they have the capacity to reproduce themselves. According to the *24th Statistical Report on Internet Development in China*, during the first six months of 2009, 57.6% of all the Internet users were attacked by viruses or Trojan horses while surfing the Internet.¹⁰ Though people always feel headache on computer viruses, the *Criminal Law of the People's Republic of China* do define such activity as a crime from 1997. Article 286 punishes whoever in violation of State regulations, cancels, alters, increases or jams the functions of the computer information system, thereby making it impossible for the system to operate normally, and whoever in violation of State regulations, cancels, alters or increases the data stored in or handled or transmitted by the computer information system or its application program. The activities described in the article is what viruses do. Thus, whoever in violation of State regulations, creates and spreads computer viruses is punishable.

4 Offences against Computer Assets

Computer assets refer to the hardware configuration of the computer, the data saved in the computer and any other quantifiable information relating to the computer or the network. In practice, examples of those offences are activities damaging computer networking hardware and data, illegal usage of networking service, and illegal obtaining and using other's data information including infringing other's intellectual property.

⁹ The Chinese version of the "Regulations" is available at: http://www.sipo.gov.cn/sipo2008/zcfg/flfg/bq/fljxzfg/200804/t20080403_369365.html. The English version is available at: <http://www.lawinfochina.com/law/displayModeTwo.asp?ID=2161&DB=1&keyword=>

¹⁰ China Internet Network Information Centre, 24th Statistical Report on Internet Development, available at: <http://www.cnnic.cn/uploadfiles/pdf/2009/10/13/94556.pdf>

Laws and regulations against those offences mainly include the 2002 *Regulations on the Protection of Computer Software*,¹¹ the 2006 *Regulation on the Protection of the Right to Network Dissemination of Information*,¹² the 2009 *Administrative Measures for Software Products*,¹³ etc.

5 Misuse of Network

Misuse of network means using computer network to commit conventional crimes. In this way network is just a tool. Most of the offences regulated in the Criminal Law of the People's Republic of China can be committed through network and, in fact, crimes in China are tending to be "webified". Within them, online fraud, online gambling and online pornography are crimes that are furiously expanded these days.

Like conventional fraud, online fraud is closely related to economic activity, but on the Internet. Online fraud occurs in different forms, such as Internet auction fraud, Internet credit card fraud, etc. Among them, Internet credit card fraud is the most common, and the most serious one in China. Internet credit card fraud is closely linked to the online payment business involving credit cards, a main method of online payment. It involves counterfeit and using of fake credit cards after cracking the keys of the real ones, counterfeit and masquerading as others by using their credit card numbers, and misusing others' credit cards by collaborating with specially-engaged commercial units.

Online gambling literally means gambling on the Internet. With the popularization and internationalization of the Internet, traditional forms of gambling, such as poker, casino gaming, sports betting and bingo are now available on the Internet. Gambling is prohibited on the mainland of China. So is online gambling, which is much harder to clamp down on considering the fact that those gambling websites may be legally established in countries where gambling is allowed. In online gambling, gamblers upload funds to the online gambling company, making bets or playing the games it offers, and then cash out any winnings. Usually, gamblers use credit cards to paying for their bets. Compared to traditional gambling, online gambling is more concealable, easier to be disguised and deceptive.

Conventional pornography is usually in the forms of words, paintings, photos and videos. Beginning in the 1990s, computer, Internet and multimedia technology have been widely used in the process of production and distribution of pornography. The visualization, informationization, and transnationality of the crime have aroused worldwide attention, making it one of the most serious cybercrimes in the world.

¹¹ Available in Chinese at: http://www.sipo.gov.cn/sipo2008/zcfg/flfg/bq/fljxzfg/200804/t20080403_369365.html, and in English at:

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¹² Available in Chinese at: http://www.gov.cn/zwgk/2006-05/29/content_294000.htm, and in English at:

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¹³ Available in Chinese at: http://www.gov.cn/flfg/2009-03/10/content_1255724.htm, and in English at:

<http://www.lawinfochina.com/law/display.asp?ID=7348&DB=1>

6 Conclusion

Varieties of cybercrimes demand different methods to concur them. Cybercrimes are hard to defeat not only because of the changing cyber space, but also due to the globalization of the network. The one who commits a cybercrime in one country may live in another country. Thus joint efforts shall be made globally, and alliance shall be established to against cybercrimes in a more effective way.

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