



Ms. TAO Kaiyuan

Grand Justice, Vice President of the Supreme People's Court of China.

Justice Tao Kaiyuan, LL.D and Professor, is the Vice President of the Supreme People's Court of China ("SPC" for short). She also serves as the Member of the Adjudication Committee and the Director of the State Compensation Committee of SPC.

She has been elected as the Committee Member of 12th Chinese People's Political Consultative Conference. She is the Standing Member of the Central Committee to the Commission of Promotion of Democracy in China.

She serves as the second Vice President of the World Jurist Association, guest professors to several leading universities' law schools, and the Vice President of China Intellectual Property Law Society. She also chairs the Academic Committee of Judicial Protection Center for Intellectual Property in SPC.

Before her appointment as the SPC vice president, she successively took offices as the Deputy Head in the Department of Law at Jinan University, Vice President of Guangdong High People's Court, Director General of Guangdong Intellectual Property Office, as well as the Vice Chairperson of the People's Political Consultative Conference of Guangdong Province.

Justice Tao used to be the visiting scholar, study and make legal researches in many world renown academic institutions, like School of Commerce in Hong Kong Polytechnic University; School of Commerce and School of Law at the University of British Columbia, Canada; School of Commerce at the University of California, Berkeley; World Academy of WIPO; and Kennedy School of Government, Harvard University, etc.

She will deliver a speech at the China Session of this Congress on the topic of *Internet and Justice in China*.

World Jurist Association Conference 2016

Internet and Justice in China

Ms. Tao Kaiyuan

Grand Justice and Vice President of the Supreme
People's Court of the PRC

Second Vice President of the WJA

(May 21, 2016 Barcelona)



Development of the Internet in China

Development of the Internet in China

- ◆ China has witnessed the rapid development of the Internet in recent years, with the largest number of Internet users in the world, i.e. nearly 700 million.
- ◆ The trend of integrated development between the Internet and traditional industries becomes increasingly evident, with seamless online/offline integration already realized, and sectors such as retail, tourism, education and finance all integrating continuously with the Internet.
- ◆ On November 11, 2015, Alibaba's e-commerce platform alone recorded a turnover of more than RMB 90 billion.
- ◆ The mobile Internet and relevant technologies have also developed dramatically in China. By December 2015, the number of mobile Internet users had reached 620 million, accounting for over 90% of Internet users.
- ◆ The Chinese government has set “Internet Plus” a national strategy and a key area for future economic development.





Profound Changes Brought by the Development of the Internet to China's Judiciary

Profound Changes Brought by the Development of the Internet to China's Judiciary

Informatization plays a fundamental, holistic and strategically important role in Chinese courts. Some of them have already enhanced judicial efficiency and improved trial methods through information-based means, achieving positive effects.



Profound Changes Brought by the Development of the Internet to China's Judiciary

Building three major platforms for judicial transparency :



China Judicial Process Information Online
(splcgk.court.gov.cn)



China Judgments Online
(wenshu.court.gov.cn)



Enforcement Information Online
(shixin.court.gov.cn)

"China Judgments Online" has become the biggest of its kind worldwide. By May 10, 2016, courts at all levels had disclosed over 17 million effective judgment documents on wenshu.court.gov.cn.

Profound Changes Brought by the Development of the Internet to China's Judiciary

Expanding the application of new media. Courts in China have strengthened direct and extensive communication and interaction with the audience of we media via their official “Weibo” and “WeChat” accounts, meeting their needs to get informed.



Weibo



WeChat

Profound Changes Brought by the Development of the Internet to China's Judiciary

Providing convenient judicial services to the public via the Internet. By adopting Internet-based thinking, courts in China have established IT platforms including "China's Court Litigation Services Network" (<http://susong.chinacourt.org/>) and "12368" litigation service hotline, and developed an all-round and three-dimensional "Internet Plus" litigation service mechanism.



Profound Changes Brought by the Development of the Internet to China's Judiciary

Realizing the full coverage of judicial data management across all the courts nationwide. In October 2015, the Supreme People's Court realized automatic aggregation and generation of the data about 3,512 court cases nationwide in a comprehensive, accurate and timely manner, from which to gain an overall view of court trials across the country at any time.



Centralized data management platform
of the people's courts



III Challenges Brought by the Internet to Chinese Laws

Challenges Brought by the Internet to Chinese Laws

(I) The Internet has changed the state of power in terms of depth and scope.

It has created some new types of rights, transformed the operation mode of some traditional industries, and generated some new technologies with ambiguous legal status.

Rights such as virtual property right, citizens' right to network information, and right to data have not been formally defined by the laws of the PRC.

The existing laws find it difficult to regulate some Internet-based business practices, like the legitimacy of taxis booked online; and the legitimacy issue about some financial operations on the Internet has also surfaced.

The legal meaning of data is not clarified yet. For example, it is yet to be defined who owns the collected personal information of citizens and how to use and benefit from it, which remains unclear legally.



Challenges Brought by the Internet to Chinese Laws

(II) New challenges of cyber crimes to the criminal law

Traditional criminal theories and criminal justice have increasingly turned out to be systemically outdated in today's information age. So China has been adapting itself to combating the ever-changing cyber crimes by continuously revising its criminal law.

New changes have taken place to every aspect of crime with the accessibility of network information: criminal suspects become more insidious and harder to capture; means of crimes become increasingly complex and fragmented; crime evidence is even harder to obtain; and the boundary between criminal behaviors and personal freedom becomes more ambiguous.

Legal vacuum or varied legal understanding in this regard makes it difficult for judicial authorities to eke out criminal penalties to obviously dangerous cyber behaviors. Sometimes it is impossible to accurately distinguish one cyber crime from another, or even to incriminate such criminal behaviors.

Due to the difference in defining the credibility of electronic data, some judicial authorities have applied extremely light sentencing criteria.

Although the *Criminal Law* of the PRC has set forth provisions on cyber crimes, with amendments made thereto in 2009 and 2015 respectively, there are still great challenges in the context of the rapid development of the Internet.



Challenges Brought by the Internet to Chinese Laws

(III) Punishment of Internet-based terrorist activities

In China, cyber terrorist crimes chiefly have the following characteristics:

01

Disseminating terrorism ideas
through the Internet

Passing on methods
of terrorist crimes
through the Internet

02

03

The danger posed
by cyber terrorist attacks is not
prominent at the moment



Challenges Brought by the Internet to Chinese Laws

In order to prevent and punish cyber terrorist activities and crimes, the *Criminal Law, Amendment (IX) to the Criminal Law* and the *Counterterrorism Law* of the PRC have all set forth provisions on terrorist crimes, and jointly formed a relatively complete legal prevention and control system.

Stipulating the responsibilities of network service providers.

01

The *Counterterrorism Law*, which officially took effect from January 1, 2016, has stipulated the responsibilities to be assumed by telecommunication business operators and Internet service providers in cyber terrorist activities.

Cracking down on terrorist activities and behaviors carried out using the Internet.

02

Amendment (IX) to the Criminal Law, which was released and came into effect last year, has reinforced the role of the law in tackling cyber terrorism and extremism by modifying charges in indictments and adding new crimes.

Punishing terrorist activities targeting the Internet.

03

The degree of completeness of the legislation has exceeded the universally accepted international legislation standards, and is on par with the higher-standard *Convention on Cybercrime* of the European Council in many aspects.





Outlook on the Relationship between the Networks and Judiciary

Outlook on the Relationship between the Networks and Judiciary

- ◆ Network-based information technology is a critical social productivity for mankind at the moment. It determines the relations of production in our times, and is bound to change the law – part of the superstructure.
- ◆ Justice must also evolve in an informatized and Internet-enabled direction so as to keep pace with the development of the Internet; only in this way can law fulfill the mission of adjusting social relations online.
- ◆ We hope that, on the basis of mutual respect and trust, the international community can strengthen dialogue and cooperation, press ahead with the reform of the global Internet governance system, jointly build a peaceful, safe, open and collaborative cyberspace, and establish a multilateral, democratic and transparent global Internet governance system.



The image shows a large, modern building with a classical architectural style, featuring several tall, white columns supporting a wide portico. The building has a large glass facade and a prominent entrance. The entire image is overlaid with a semi-transparent blue filter. In the sky, a flock of white doves is flying, symbolizing peace. The word "Thanks" is written in a large, white, serif font in the center of the image.

Thanks