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## Proposed Law Could Spark a U.S.-China War on Visas for Journalists

Posted on [July 21, 2012](#) by [Gary Chodorow](#)



Congress is considering a bill that would revoke the visas of nearly all the 800 or so Chinese journalists in the U.S.

It would require that Chinese journalists' U.S. visas be revoked so that there are no more than the number of Chinese visas issued U.S. government-employed journalists, which is currently exactly **two**.

The Chinese Media Reciprocity Act (H.R. 2899) is sponsored by Congressman Dana Rohrabacher, a Republican from southern California.

At a June 20 [hearing](#), Congressman Rohrabacher testified before the House Subcommittee on Immigration Policy and Enforcement that the Act seeks to dissuade the Chinese Communist Party (CCP) from restricting and obstructing foreign journalists and news in China.

The watchdog group Reporters without Borders ranks China 174 out of 179 countries in its 2011-2012 worldwide [index of press freedom](#).

But some American journalists have voiced concerns that the proposed law would cast doubt on America's commitment to freedom of the press and risk sparking a visa war with China, which could result in the expulsion of Americans working for commercial media in China and impair American press coverage of China.

中文版

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My own take is that the proposed law is unnecessary because current law already gives the State Department the power to refuse to issue visas to journalists whose countries are unwilling to reciprocate.

## Restrictions on Foreign Journalists in China

The proposed law focuses on China's restrictions on U.S. journalists working for the U.S. Broadcasting Board of Governors. BBG is an independent federal agency with the mission of broadcasting news about the U.S. and the world to audiences overseas. BBG supervises Voice of America (VOA), Radio Free Asia (RFA), and other broadcasting organizations. China jams VOA and RFA's short-wave radio broadcasts, satellite TV signals, and websites. Only two VOA reporters have been issued visas to work from China. Their reporting activities have been restricted, and they've been roughed up. The Chinese government has also consistently rejected visa applications for RFA staff since 1998, according to testimony by Nick Zahn of the Heritage Foundation.

There are also about 200 Americans employed by commercial media in China, Robert Daly of the University of Maryland told the Subcommittee. The State Department's [2011 human rights report](#) on China discusses violence and harassment of foreign journalists:

*Restrictions on foreign journalists by central and local CCP propaganda departments remained strict, especially during sensitive times and anniversaries. Foreign press outlets reported that local employees of foreign news agencies were also subject to official harassment and intimidation.*

*On February 27, at least six foreign journalists were beaten by plainclothes security officers in Beijing while covering anticipated gatherings and a related security crackdown in the busy commercial district of Wangfujing in downtown Beijing. Plainclothes officers dragged other reporters and photographers into alleys or shops and erased images from their cameras. Later, security officials made nighttime visits to a few Western journalists in their apartments, warning them to behave cooperatively or risk losing their work permits.*

*According to the Foreign Correspondents Club (FCCC), one of five foreign respondents surveyed experienced visa threats or visa delays. Some reporters were explicitly told that issuance of their visa was related to the content of their reporting. Among the correspondents surveyed, 70 percent experienced interference or harassment during the year; 40 percent said their sources were harassed, detained, or called in for questioning for interacting with foreign journalists; and 33 percent said their Chinese assistants encountered pressure from officials or experienced harassment.*

Elizabeth M. Lynch at the [China Law & Policy](#) website has an excellent series of articles on the proposed law that details problems experienced by FCCC member journalists in obtaining and renewing their visas. For instance, Andrew Higgins of the Washington Post has been [waiting for a visa](#) since 2009. And an American reporter, [Melissa Chan](#), was expelled in May 2012 for violating unspecified rules and regulations. The FCCC has catalogued numerous incidences of foreign journalists being obstructed and abused by Chinese authorities. But recently the FCCC's website has [stopped](#) reporting on such incidents out of fear their operations would be shuttered.

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## Chinese State-Controlled Media in the U.S.

In the U.S., the 800 or so Chinese journalist visa holders work for 13 government-run press agencies. Among them, Xinhua Press Agency has a 24-hour TV broadcast service headquartered in New York City's Times Square. Xinhua also broadcasts on an AM radio station based in Texas. China Central Television (CCTV) has a studio in Washington, DC. And China Daily, the government's English paper, has a U.S. circulation peaking at 170,000 copies per day.

But John Lenczowski, a former State Department cold warrior, sounded of hyperbole to me when he testified that "most" Chinese holding U.S. journalist visas "are not real journalists" but instead "political counter-intelligence officers ... engaged in influence operations here in this country." He went on to say that "the number of Chinese media representatives in this country who are actually writing and editing stories is miniscule.... They're engaging in activities that exceed the proper bounds of media representation." They "attempt to penetrate" groups of Chinese dissidents in the U.S. to "harass" them and "counter their messages."

## The Law Could Spark a Visa War

At the June 20th hearing, Representative Zoe Lofgren (D., Silicon Valley) pointed out that the BBG has no interest in placing more than 20 or so journalists in China. So even if China were to throw open its doors completely to BBG, the bill's requirement that Chinese journalists from state-controlled media "not exceed" BBG journalists would mean that all but 20 of China's 800 or so journalists would have their visas revoked.

The [Committee to Protect Journalists](#) warns that passage of the bill could lead to an all out visa war, resulting in China denying a greater number of visas and exacerbating an already tense situation for foreign journalists in China.

This would also impair the ability of the American press to cover China.

## Picture the Headlines, "U.S. Expels Chinese Journalists"

Robert Daly of the University of Maryland testified that the bill would cast doubt on America's commitment to the free flow of ideas. Picture, he says, headlines around the world that read, "U.S. Expels China's Journalists."

Similarly, Lynch at the [China Law & Policy](#) website asks, "is this who we want to be? A free and vibrant press has been a central tenet of the United States.... By essentially eradicating the Chinese press from U.S. shores, the Chinese Media Reciprocity Act undermines our goals." Lynch also quotes Peter Ford, president of the Foreign Correspondents Club of China, as saying they "do not support efforts to restrict press freedom in one country in an effort to improve press freedom in another." The [Committee to Protect Journalists](#) takes a similar stance.

Supreme Court Justice Potter Stewart wrote, "Censorship reflects a society's lack of confidence in itself." *Ginzberg v. United States*, 383 U.S. 463 (1966). A wholesale expulsion of Chinese journalists is censorship, and this isn't the message the U.S. should be sending to China.

In addition, although press freedoms are curtailed in China, as detailed in the State Department's [2011 human rights report](#), even according to the [CIA](#) the media there are

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“becoming more autonomous and diverse.” This is in part because media organizations are becoming more market oriented and need to appeal to audiences with growing sophistication. And perhaps in part because some Chinese journalists who travel to the U.S. like the press freedoms they witness.

## Current Law Already Requires Reciprocity

The proposed law is really an implicit attack on the State Department’s handling of foreign relations with China.

At no time during the Congressional hearing was it mentioned that current law already requires that visas be issued to journalists on the “basis of reciprocity.” [INA § 101\(a\)\(15\)\(I\)](#). The “I” visa for information media representatives is available only if the applicant’s government “grants reciprocity for similar privileges to representatives of such a medium having home offices in the United States.” [22 C.F.R. § 41.52\(a\)](#). The State Department asks its consular officers to “report promptly to the Department any limitations imposed by the foreign government concerned on the employment of representatives of U.S. information media ... so that the Department may ensure ... reciprocity.” [9 FAM 41.52 N10](#).

Currently, reciprocity exists between the U.S. and “all foreign countries.” [USCIS AFM Ch. 34.4\(a\)](#). In other words, the State Department has not exercised its power to refuse visas to journalists on the grounds that their country does not reciprocate. No State Department official testified at the hearing to explain. (Were they invited?)

In any case, current law giving the State Department the power to apply a surgical scalpel to the issue of reciprocity seems to me preferable to the proposed Act’s flailing axe.

It’s also worth mentioning that if the testimony of former State Department official John Lenczowski is right that there are Chinese journalist visa holders who are not engaged in journalistic activities or are harassing Chinese dissident groups then their visas can and should be revoked under current law, which allows them to engage “solely” in legitimate journalistic activities.

The House bill doesn’t seem likely to be on the verge of passage. It’s got only seven co-sponsors—all Republicans—and no related bill has been introduced in the Senate.

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