JOURNAL OF INTELLECTUAL FREEDOM AND PRIVACY _ SPRING 2021
came up. Students attending from China simply could not risk remaining in the virtual classroom if their governments were monitoring the discussion. While the subject of modern Chinese history presents an obvious hurdle, other topics are also laden with risk, including gender, LGBTQ rights, international relations, and economic theory.

Sarah McLaughlin of the Foundation for Individual Rights in Education urged professors not to adjust curriculum or shy away from sensitive topics during class discussions: “The worst thing we could do is to make Chinese laws applicable around the world.” The Chronicle of Higher Education reported that in the 2018–19 academic year, 370,000 Chinese students were enrolled in American colleges, comprising one-third of international students. An estimated 10 percent of current international students returned home during the pandemic and attended classes from abroad.

While speech critical of the Chinese government has long been restricted, in June 2020 those restrictions became vastly more encompassing, when a new national security law was passed making speech deemed critical of the Hong Kong or Chinese governments unlawful, regardless of the citizenship or location of the speaker.

The chilling effects of such a broad and ambiguous law are profound. Videoconferencing platforms like Zoom subject Chinese students to even greater risk, as they are vulnerable to government surveillance.

Zoom notoriously failed to provide end-to-end encryption across its platform until late October 2020 and was discovered in April 2020 to be routing all traffic through servers in mainland China. While Zoom has subsequently stated that users outside of China will no longer have their data routed through servers in China, Citizen Lab has warned the company remains highly susceptible to pressures from the government, as much of Zoom’s research and development takes place in China.

Allowing the recording of sessions in which students could be identified and requiring downloads of any materials that could be deemed critical of the Chinese government also put students at risk. Professors are exploring options to protect Chinese students, including offering small-group lessons and giving them the option to opt out of potentially risky discussions without penalty.

Meg Rithmire, associate professor at Harvard Business School, said “the responsibility of the instructor is to communicate risk and to, as much as possible, provide a safe environment. It’s not to not teach certain things.”


San Francisco, California

As classes moved online and universities grew reliant on private technology platforms to facilitate instruction during the pandemic, a novel vector for curtailing academic freedom emerged: terms of service violations.

On September 22 and 23, 2020, Zoom, Facebook, and YouTube shut down what would have been a live-streamed seminar on gender and resistance narratives from San Francisco State University (SFSU). The reason for the cancellation was the participation of Palestinian activist Leila Khaled, a Palestinian refugee and member of the Popular Front for the Liberation of Palestine, who became the first woman to hijack a plane in 1969.

Zoom argued that the seminar might have violated federal laws by providing “material support” for terrorism and canceled the event on September 22, the day before it was scheduled. Following Zoom’s lead, Facebook removed the livestream link and a page advertising the event and threatened to shut down the pages of the event’s sponsors. YouTube shut down the livestream twenty-three minutes after it began.

Andrew Ross, a professor at New York University (NYU), said, “It’s very dangerous for a third-party private vendor to be in the position of deciding what is legitimate academic speech and what is not—it violates all of the customs and norms of the academic culture.”

Faiza Patel, co-director of the Brennan Center’s Liberty and National Security Program explained that Zoom’s understanding of what constitutes “material support” for terrorism was flawed. “The fact that Khaled is associated with a group that is on the FTO [Foreign Terrorist Organization] list does not mean that laws prohibiting material support for terrorism kick in.” Rather, according to the Supreme Court case Holder v. Humanitarian Law Project, it is solely material support “coordinated with or under the direction of” an FTO that is prohibited. The Popular Front for the Liberation of Palestine did not have anything to do with Khaled’s planned participation in the seminar.

In other words, Zoom failed to properly distinguish between an act of terrorism and an act of speech in the justification they provided for the cancellation of the event. Brian Hauss, an attorney for the American Civil Liberties Union, stated that “any attempt by the government to restrict academic freedom in this manner would undoubtedly violate the First Amendment.” However, as Zoom Video Communications is a publicly traded company and not a governmental entity, it has leeway to regulate speech on its platform.
On October 23, faculty and students at a dozen different universities planned to hold a series of events on Zoom in solidarity with SFSU. The events were to feature pre-recorded videos of Khaled speaking as well as discussions of academic freedom and censorship on Zoom.

Zoom shut down three of them: the events at NYU, the University of Hawai‘i at Mānoa, and the University of Leeds. In protest of this fresh ban, students and faculty at the University of Hawai‘i posted a YouTube video of themselves reading Khaled’s words.

NYU President Andrew Hamilton wrote, “I am troubled whenever there is interference with academic programming organized by our faculty, and we have expressed our consternation to Zoom about their intervention in the event, which came without notice and explanation.” Without a live link to utilize, they elected to hold their event privately and post a recording of it.

Faculty expressed disappointment at the absence of substantive pushback from the university: “Surely, this was an opportunity for NYU to review its contractual relationship with Zoom, and to reassure faculty and students that their further speech censorship would not be tolerated.”


INTERNATIONAL
Tamil Nadu, India
The Manonmaniam Sundaranar University in Tamil Nadu’s Tirunelveli city withdrew Walking with the Comrades by Arundhati Roy from its syllabus following a complaint from the Akhil Bharatiya Vidyarthi Parishad (ABVP), a student organization.

“A committee comprising academic deans and board of studies members had considered the complaint and decided to withdraw the book as it may be inappropriate to teach a controversial book for students,” Vice Chancellor K. Pitchumani told the Indian Express.

Walking with the Comrades is based on Roy’s visit to Maoist camps, and it had been a part of the university’s syllabus since 2017. The ABVP accused the book of “openly supporting the killing fields and riots by the anti-national Maoists.” “It is highly regrettable that this book has been in the syllabus for the past three years. All these years Maoists thoughts and ideologies have been taught to the young students,” the ABVP wrote in the complaint letter, according to Organiser.org. The organization’s Dakshin Tamil Nadu Joint Secretary C. Vignesh threatened to launch protests and bring the matter to the central government’s notice if there was a delay in the decision.

Roy said she was “not in least bit shocked or surprised by the decision.”

“It is not my duty to fight for its place on a university curriculum,” Roy said in a statement. “That is for others to do or not do. Either way it has been widely read and as we know bans and purges do not prevent writers from being read. This narrow, shallow, insecure attitude towards literature displayed by our current regime is not just detrimental to its critics. It is detrimental to millions of its own supporters.”

The book was replaced by My Native Land: Essays on Nature by M. Krishnan.

Reported in: Scroll.in, November 12, 2020.