Submission to the Special Rapporteur on the right to education

ACADEMIC FREEDOM AND FREEDOM OF EXPRESSION
IN EDUCATIONAL INSTITUTIONS: CHINA

Scholars at Risk (SAR) is an international network of higher education institutions dedicated to protecting threatened scholars, preventing attacks on higher education communities and promoting academic freedom worldwide. SAR has Special Consultative Status with ECOSOC (2013), and welcomes the Special Rapporteur’s ongoing efforts to advance academic freedom, including through her recent call for submissions.

This submission is focused on the significant, recent deterioration of academic freedom in China, as well as recent developments in Hong Kong to the extent they relate to the issues raised in the SR’s questionnaire. The analysis below is drawn in significant part from SAR’s 2023 Submission to the UN Universal Periodic Review for China, and SAR’s 2019 Report Obstacles to Excellence: Academic Freedom and China’s Quest for World Class Universities. We welcome further inquiry and would be happy to share additional resources with the SR’s office, should they be helpful.

1. How is academic freedom defined and protected in the constitution or laws of your country, and what are possible limitations or restrictions? Please provide the original citation and source, as well as a summary of relevant judicial practice, if any.

Mainland China

Article 47 of China’s Constitution provides for the freedom to engage in scientific research, literary and artistic creation, and other cultural pursuits. Article 35 recognizes the right of its citizens to enjoy freedom of speech, the press, assembly, association, procession and demonstration. Article 46 provides citizens’ “duty as well as the right to receive education,” and recognizes that the “State promotes the all-round development of children and young people, morally, intellectually and physically.”

The Higher Education Law likewise contains provisions that should support academic freedom and institutional autonomy. Article 9 provides that “Citizens shall, in accordance with law, enjoy the right to receive higher education.” Article 10 provides, “The State, in accordance with law, ensures the freedoms of scientific research, literary and artistic creation and other cultural activities conducted in higher education institutions.” Several other articles support higher education institutions’ independence in organizing academic offerings, managing curriculum and course materials, and conducting research.

However, these provisions are in tension with others in the same law that require higher education institutions’ adherence to Chinese Communist Party (“CCP”) ideology and that give sweeping control over universities to the CCP.

Hong Kong

Article 137 of the Basic Law of the Hong Kong Special Administrative Region stipulates that educational institutions of all kinds may retain their autonomy and enjoy academic
freedom. Article 27 states that Hong Kong residents have the right to freedom of speech, press and publication, association, assembly, procession and demonstration.

In practice, however, serious recent encroachment on university governance and institutional autonomy, direct violations of the rights of student protesters, and other pressures on academic freedom consistent with the political agenda of the CCP significantly undermine these standards.

2. Are academic staff, teachers, students all entitled to academic freedom? Does this differ by level of education? Please explain.

See above.

3. What do you consider to be (a) the main challenges to academic freedom, and (b) gaps in the legal framework for protecting academic freedom?

Despite significant investments in its universities over the past three decades, China has worked against the healthy functioning of its universities by engaging in significant violations of academic freedom, imposing party ideology on academics and students and, more broadly, controlling and suppressing the exchange of critical thought and ideas.9

In Mainland China and Hong Kong, scholars face direct pressures, including arrest and prosecution in retaliation for academic expression; student protesters have suffered violence and imprisonment at the hands of government authorities; authorities have restricted international academic travel and exchange; and universities and other authorities have retaliated against academic and political expression by scholars and students. And in the Xinjiang Uyghur Autonomous Region, minority members of the academic community have faced disappearances and detentions in so-called “re-education camps.”

SAR’s Academic Freedom Monitoring Project10 (“AFMP”) has identified and tracked 128 attacks on higher education in Mainland China, and 44 attacks in Hong Kong in recent years. This accounting is not exhaustive: limitations on press freedom, challenges in accessing sources, and self-censorship among scholars and students who have suffered violations of academic freedom and other human rights ensures that many incidents go unreported.

According to the most recent update of the Academic Freedom index (AFi), which assesses the level of respect for academic freedom in 179 countries and territories based on a survey of over 2,000 country experts around the globe, China has seen sharp declines in academic freedom in recent years. While weak for decades, the CCP’s tightening of control over higher education, beginning around 2010, has marked an acceleration of pressures.11 China now ranks in the bottom 10% of countries worldwide, according to the AFi.12 The following chart shows the deterioration of academic freedom indicators:13
The attacks described above have occurred against the backdrop of a government imposing increasingly rigid ideological controls over educational spaces. In December 2016, President Xi announced his intention to make universities “strongholds of the Party’s leadership”, and that teachers should be propagators of “advanced ideology” and “staunch supporters” of the CCP. As described in detail below, what has followed is a series of broad-scale developments in which institutions and individuals supportive of party ideology are rewarded, and those questioning it are denied resources or punished.

Autonomy of educational institutions

4. Please explain the autonomy and self-governance enjoyed by educational institutions at the different tiers of education. Please explain what autonomy and self-governance entail. Are there restrictions on police or military personnel entering educational institutions? If so, please share the rules.

While university governance has seen some decentralization in mainland China in recent decades, the CCP maintains considerable influence over key university decision-making through governance structures and policies (e.g. presidents serving under the direction of the Party Committee, CCP membership as a leadership appointment criterion) and reportedly informal pressures applied by Party officials within universities (e.g. Party “loyalty checks”, leadership holding back from reforms out of fear of career retaliation).

Moreover, as detailed below, the Xi government has instituted a series of policy directives which exert a profound influence over curricula, research, teaching, and other substantive aspects of academic life.

In Hong Kong, following the 1997 transition, and especially since 2014’s Occupy Central with Love and Peace protests, the territory’s chief executive (the equivalent of a colonial-era governor) has adopted an increasingly active role in university affairs, including exercising varying degrees of power to appoint council members at Hong Kong’s universities. Experts have alleged that Hong Kong’s chief executive has taken advantage of his authority to appoint pro-Beijing individuals as chair and members of the university
councils. This is apparently similar to practices in mainland China, where state authorities appoint top university officials and where CCP secretaries assigned to each university directly control staffing and financial resources.\textsuperscript{16}

5. Please provide examples of institutional guidelines/codes of conduct developed to ensure respect for academic freedom, including from external public or private actors.

N/A

Funding

6. How is funding, including for research, regulated? Is the process transparent, and are there any guarantees put in place to ensure respect for academic freedom?

In mainland China, it has been widely reported that funding is regularly allocated to institutions and individuals who advance the government’s ideological agenda. Following President Xi’s 2016 announcement of his intention to turn universities into strongholds of party leadership, and an October 2017 congressional resolution to incorporate so-called “Xi Jinping Thought” – the collected sayings of Xi Jinping – into China’s constitution, numerous universities established research centers dedicated to Xi Jinping Thought, thus securing significant new funding.\textsuperscript{17} Individual scholars likewise have reported that funding for research relating to Xi Jinping Thought is easy to secure, while funding for other areas of research – especially on topics deemed taboo – has become increasingly difficult to obtain.\textsuperscript{18}

The government’s clear ideological preferences, and apparent willingness to allocate funding to institutions and individuals willing to advance its agenda, raise obvious, grave concerns for research independence by both institutions and individuals.

7. Which rules and regulations protect academic freedom from interferences by commercial actors and financial sponsors, at different tiers of education? Please explain how conflicts of interest that may arise are addressed.

N/A

Surveillance

8. Please explain whether and the extent to which academic staff and students, at all levels of education, are subject to surveillance by public authorities, for example through on-site cameras or online scrutiny. Has this led to undue restrictions to academic freedom and freedom of expression in educational institutions?

Students and scholars face both high- and low-tech methods of surveillance and monitoring. These include, but are not limited to, closed-circuit television (CCTV), facial recognition technology, internet surveillance, and student informants. Scholars and students have raised concerns about the chilling effect these methods may have on academic expression.

CCTV can be found on university campuses, including lecture halls and other facilities. Some universities have described CCTV as a tool to improve teaching, learning, and student behavior.\textsuperscript{19} However, numerous scholars and students have expressed concerns that the technology is being used to monitor and restrict their lectures and classroom discussions.\textsuperscript{20}
In addition, authorities monitor and heavily restrict internet activity. Authorities have employed both people – including staff at Chinese social media and internet companies – and smart technologies to systematically monitor popular social media platforms and blogging sites and review content across China’s webspace. This would extend to online spaces where scholars and students share and discuss their academic work. Content considered sensitive or controversial by authorities may result in legal action. In January 2019, China’s Cyberspace Administration announced a six-month “clean-up” campaign to review and remove online content considered vulgar or “not in line with the laws and regulations,” leading to the deletion of millions of pieces of online content, shutting down over seven hundred websites, and closing more than nine thousand mobile phone applications.

CCP officials on university campuses as well as state security bureaus also use student informants to monitor and report scholars and students who cross the line. These include both official “student information officers,” whose identity and function are sometimes known to classmates, as well as apparently overzealous students who voluntarily report classmates’ and professors’ comments and activities.

At Shandong Normal University (SNU), for example, officials announced that each major should have one student serve as a student information officer, who would regularly “report students’ opinions on the school’s teaching plans, content of teaching, teaching methods and infrastructure, as well as teachers’ attitude and quality.” SNU’s website reportedly indicated that successful information officers would be given “material and spiritual encouragement.” Officials at the Wuhan University of Science and Technology reportedly recruit student informants based on their academic performance and ideology. Student informants are reportedly responsible for “Collecting and collating a wide variety of information on teaching and teaching management activities, promptly reflecting students’ opinions and suggestions on teachers’ attitudes, as well as class content, teaching methods, marking ... and extracurricular tutoring.” And at Dezhou University, officials worked with the Domestic Security Department to recruit and train student informants. According to a directive issued by the university, officials sought to establish a “Student Security Informants Corps” intended to “destroy the seeds of discord that may affect security and stability before they sprout.”

Freedom of expression in teaching and access to books

Do teachers and professors, at all levels of education, enjoy freedom of expression in their own teaching? Are there any limitations imposed, such as remaining “neutral” or forwarding a particular perspective, e.g. on religious and political matters?

Particularly since the beginning of the Xi Jinping era, the CCP has exerted considerable ideological control upon the entire Chinese education sector, including through public statements insisting that educational institutions adhere to and advance specific Party ideology, and punishing violations in a variety of ways.

In 2013, an anonymous source leaked “Document Number Nine,” an alleged internal directive issued by the General Office of the CCP’s Central Committee and confidentially circulated to CCP cadres throughout China, including at universities. Document Number Nine warns of seven topics that the CCP has allegedly banned within universities, among other sectors, including the promotion of Western constitutional democracy, universal values, civil society, neoliberalism, a free press, “historical nihilism,” and questioning China’s reforms and approach to socialism. There is little public information indicating how exactly the CCP has implemented the directive at
higher education institutions, but reports indicate that many lecturers were briefed on the directive and that there is a common understanding that the “seven taboos” cross a line. In addition to these seven taboos, the government has long held the autonomy of Tibet, Taiwan’s status, and the Tiananmen Square protests – “the three Ts” – as off-limits.

Xi has proposed and enacted significant controls to increase the Party’s ideological influence within China’s higher education system. In 2014, Xi called for better “ideological guidance” in Chinese higher education institutes, and said that universities should “shoulder the burden of learning and researching the dissemination of Marxism.”

The following year, education minister Yuan Guiren promised to ban textbooks that contained “Western values,” and ordered universities to add classes on Marxism and socialism. “Never let textbooks promoting western values appear in our classes,” the minister said. As described above, President Xi announced in a December 2016 speech that universities should become strongholds of the Party, and that teachers should be propagators of “advanced ideology” and “staunch supporters” of the CCP.

In June 2017, following an inspection of elite universities, a CCP corruption watchdog accused fourteen of them of “ideological weakness for not making enough effort to teach and defend Communist Party rule.” In response, seven of the eight top universities reviewed reportedly set up a “teachers’ affairs department” under their Party committees, with the aim of improving “ideological and political work among teaching staff.”

In December 2017, the Ministry of Education published a guide for universities which laid out in detail the degree to which they were required to focus on party ideology, stating that “ideological and political performance” would be the most important criterion for evaluating university teachers, and that ideological performance would be the most important determinant of the career prospects for university faculty. Government supervision of universities, including campus visits to evaluate teachers’ performance, would likewise increase.

Efforts to impose ideological controls on educational spaces go beyond higher education. In 2021, the Ministry of Education announced that Xi Jinping Thought would be incorporated into the national academic curriculum from primary school through university. In June 2023, it was reported that the gaokao, the two-day exam that Chinese students take at the end of high school to determine their university placement, has increasingly included testing to ensure that students are well-versed in Xi Jinping Thought. Testing on Xi Jinping Thought was particularly common, according to reports, in outlying areas such as the Xinjiang Uyghur Autonomous Region (XUAR). The following October, authorities introduced a new “Patriotic Education Law,” purportedly “aimed at ‘enhancing national unity,’” [which] mandates that love of the country and the ruling Chinese Communist Party be incorporated into work and study for everyone, at all levels of education and throughout the workforce.

Finally, it bears noting that, in the XUAR, authorities have taken a range of actions under the guise of anti-terrorism and national unity policies that have resulted in the deprivation of the rights and liberties of the Uyghur, Kazakh, and Kyrgyz minorities, among others, impacting higher education in the region substantially. Minority scholars, like prominent economics professor and Uyghur-rights activist Ilham Tohti, and students in the region have suffered severe repression. Since 2017, Uyghur scholars and students in the XUAR have been reported missing or detained, including at so-called “re-education camps.” Frequently, these detentions are imposed without any public legal basis, later giving way to charges of separatism, extremism and terrorism.
10. Please explain the extent to which teachers and professors at different education levels can choose school manuals and other books/resources for teaching, and the reasons for any restriction in this regard. Have any specific books/materials been banned, including from school libraries, and alternatively is some material mandatory? If so, why?

Given the above, reports of censorship – particularly against professors who violate or challenge party ideology – are widespread.

Scholars have reported requirements including that lecture plans, along with presentations for international conferences, be submitted to the Party committee’s propaganda office at the university for approval.46 Social Sciences professors have reported that they are required to refrain from criticizing the ruling party and mainstream ideology, both in the classroom and in publications.47

Multiple outspoken scholars have reported publication censorship: a law professor and proponent of constitutionalism at Peking University was the apparent target of state censors when a textbook he authored suddenly disappeared from Chinese bookstores in January 2019.48 Its disappearance from shelves shortly followed an order by the Ministry of Education to review teaching materials.49 Another professor reported that he was banned from publishing his books in China, and, after 2009, his name could not even appear in the domestic Chinese media. As a result, he was only able to publish in foreign academic journals, websites, and overseas media.50 A journalism scholar described having to cut over twenty thousand Chinese characters of text, relating to the Cultural Revolution, in order to get his book approved for publication.51 He also commented that, for Chinese scholars, publishing books and papers on sensitive topics in the mainland is not possible, and that he and others are publishing their “most serious works” in English in order to skirt the censors.52 Publication censorship has extended to international academic journals imported to China: starting in 2017, several leading academic publishers reportedly blocked access to certain articles within China, apparently at the behest of Chinese authorities.53

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1 Available at https://www.scholarsatrisk.org/2023/07/china-sar-files-submission-to-the-un-universal-periodic-review/
2 “Obstacles to Excellence”, available at https://www.scholarsatrisk.org/resources/obstacles-to-excellence-academic-freedom-chinas-quest-for-world-class-universities/
4 Ibid. Article 33.
5 Ibid. Article 34.
6 Ibid. Article 35.
7 Ibid. Article 3.
8 Ibid. Article 39.
9 SAR, Obstacles to Excellence: Academic Freedom and China’s Quest for World Class Universities, September 24, 2019 (“Obstacles to Excellence”) https://www.scholarsatrisk.org/resources/obstacles-to-excellence-academic-freedom-chinas-quest-for-world-class-universities/
10 https://www.scholarsatrisk.org/academic-freedom-monitoring-project-index/
12 https://www.v-dem.net/data_analysis/VariableGraph/
13 Academic Freedom Index, Update 2023, https://academic-freedom-index.net/research/Academic_Freedom_Index_Update.pdf
17 Obstacles to Excellence, at p. 16.
18 Ibid.
26 Ibid.
28 Ibid.
30 Ibid.


41 Financial Times, “China’s university entrance exam promotes Xi Jinping’s cult of personality, June 18, 2023, https://www.ft.com/content/4570ab74-f5d8-4d00-9732-b91f29962155


43 Obstacles to Excellence, at 54.


47 Ibid.


49 Ibid.

50 Obstacles to Excellence, at 27.

51 Ibid.

52 Ibid.

53 Ibid.