

In defence of academic research and internet freedom of expression

Josephine HO

Dear all

As a conservative response to the advancing impact of new means of communication brought on by internet technology, a constriction on freedom of speech and information regarding sex-related issues has been raging around the globe. What distinguishes this trend of constriction from the previous forms of political censorship is that it often uses the sensationalizing media to ignite irrational fears and panic, which could easily mutate into a staunch moralism benefiting none other than political profiteers, media sensationalists and, most of all, various moral crusaders and moral police agents. As someone who has just gone through the harrowing experience of a legal struggle against the onslaught of conservatives over provision of sex-related information on the internet, I am writing this letter not only to express my gratitude for all of you who had braved the stigma to show support for me and the sex rights of marginal subjects, but also to call to action a formidable line of defence against conservative efforts to silence sexual dissidence.

Allow me to recount briefly what happened in the past 18 months or so. A total of 13 Taiwanese conservative groups – including a major censorship NGO (the ROC Publication Appraisal Foundation), several religious child protection groups (including Christian Garden of Hope and Catholic Good Shepherd Sisters), and anti-sex work groups (e.g. End Child Prostitution And Trafficking Taiwan) – jointly brought charges against me in June 2003, following a sensational report by a print media concerning the two bestiality hyperlinks located on the zoophilia webpage in my sexuality studies web databank. The

groups, many of which had been entangled in fierce debates with me for the past ten years over issues such as teenage sexuality, erotic romance novels, and professional or occasional sex work, charged me with ‘propagating obscenities that corrupt traditional values and may produce bad influence on children and juveniles’ and further urged that I be dismissed from my teaching position at National Central University.

Although I was at the time doing a visiting professorship in Japan and thus able only to make limited responses to all the distorted readings and demonization of my academic work, my activist friends and colleagues felt the urgency to counter the moral hysteria that was threatening to close up whatever liberal space had been created by us through ten years of sexual activism. Braving the tremendous silencing and contagious effect of sexual stigma, activists and scholars held open discussions to reiterate the importance of respecting the integrity of research in marginal sexualities. They also recounted my long years of high-profiled involvement in sex rights movements, which not only worked to dampen the conservative groups’ efforts in instituting more social control over sexual issues, but is also believed to be the key motivation behind this legal attack on me. News about my case was spread around the world, and a massive petition drive quickly gathered over 2000 signatures from noted scholars, activists, and students from 35 countries and areas. Formal letters of support from professional groups, including the American Association of University Professors, World Congress of Sexology, and Hong Kong Association of Sex Education also arrived to consolidate the legitimacy of sex-

related research (including difficult subjects such as zoophilia) as well as my standing as a sex researcher. Human rights groups and sex rights groups likewise responded and mobilized for the petition. The Urgent Action Fund for Women's Human Rights even offered partial funds to cover the legal cost.

I had hoped to take a brief leave from my visiting professorship in Japan and return to Taiwan to take up the challenge personally, but the surprise outbreak of the SARS epidemic rigidified travel space throughout Asia from May to August 2003, leaving me with no other recourse but to stay on to fulfil my commitment. Upon completing my term in September though, I immediately returned to Taiwan to prepare myself for the legal process.

Two investigative hearings were held in which I answered questions concerning the structure and content of my sexuality studies databank. The exchanges were alarming because the legal system obviously considers all explicitly sex-related information to be obscenities and thus not worthy of academic research. I faced the formidable task of educating the court about the basics of sexuality studies. Another alarming thing was that the legal system obviously lacks proper understanding of how the web world functions even though it is now processing an increasing number of internet-related cases. I had to start by explaining what a hyperlink is so that they would not mistake the links for actual holdings. Still, the investigating prosecutor, who has been known to be an ally of the conservatives, formalized the charge in December, claiming that my sexuality studies web databank had indeed violated Criminal Code Article 235 in making graphic and obscene materials easily accessible to all. The penalty for this so-called criminal behaviour could run as high as two years imprisonment plus a huge fine. Although dismayed by the formal prosecution and the impact it may have on sex rights activism in general, my friends and colleagues joined me in turning this event into an opportunity for further social education and sexual activism.

Formal court proceedings began on 16 January 2004 with over 100 supporters gathering in front of the court to show support. Together with academics and students who were concerned about this encroachment upon academic integrity, activists from local gay and lesbian groups, sex workers groups, gender/sexuality rights groups, HIV support groups, and human rights groups, with whom I have worked for years, turned out to support the integrity of academic research as well as sexual activism. A 50-foot long list of petition signatures from academics, activists and students, both locally and globally, was presented to me to show massive concern and support. I believe these open demonstrations of support were instrumental in keeping the court from dealing with the case with the usual crudeness that often typifies Taiwan's legal system. On the last day of court, 28 May, I was even allowed to defend my own case in front of the three presiding judges. Taking advantage of the first opportunity to make a statement in court, I delivered a 90-minute speech detailing the nature and methodology of sexuality studies, the structure and content of the website, and refuted the numerous errors in the prosecutor's allegations (e.g. the prosecutor's distorted description of the nature of the website databank, the prosecutor's distorted reading of the articles presented on the webpage, and the prosecutor's exaggerated characterization of easy access to the hyperlinks embedded within the massive website databank).

Throughout this period of litigation, I often ran into ordinary folk in the streets or in the market places who recognized me from the media coverage. Surprisingly, they were by no means intimidated by the ostracizing effects of sexual and social stigma. Many of them came forward to show their support and concern for my case: some expressed impatience with this kind of witch-hunt; others encouraged me to continue my work and cause. These encounters strengthened my faith in the diversity and differences buried underneath the so-called 'majority opinion' or 'majority values'

that the conservative groups always claim to represent.

On 25 June 2004 I went to court to hear the verdict, accompanied by dozens of concerned academics, activists, and students. We were met with over a dozen riot police who had lined up in front of the courthouse. When it was rumoured that the police were there because they were expecting protests following the verdict, we began preparing for the worst. Upon entering the courtroom, the bailiff instructed all to stand to hear the verdict. Then the three judges who presided over the case appeared. As all waited in anticipation for the worst result, the presiding judge read out the verdict – ‘Not guilty’ – and quickly retired to the backroom. All stood in awe, for the result came too quickly and too unexpectedly. After a few seconds, applause was heard in the corridor where many more waited, and all felt elated about the verdict.

When I emerged from the courtroom, I was surrounded by well-wishers and the media alike. I read a prepared statement, expressing that I was gratified that the court had done what the prosecutor did not find it worthwhile to do – to carefully examine the website in question so as to understand the nature and context in which the two hyperlinks were presented. While the not-guilty verdict has restored some faith in the sanity of Taiwanese society, I was still saddened that the possible prosecution of the provision of web hyperlinks had already produced a chilling effect that threatens the freedoms of speech and expression of marginal subjects as well as researchers. I then appealed to the public to join me in taking action to amend the laws that infringe upon individual rights to information, association, and privacy. Student representatives and sex work activists also spoke to express their joy as well as to caution against further erosion of an open and tolerant society.

Conservatives were obviously disappointed with the verdict and they quickly urged the prosecutor to file for an appeal, hoping that the older and reputedly more conservative judges in the High Court might deliver a different verdict. As it turned out,

the High Court judges did prove to be more impatient than the judges in the district court, but the evidence about the nature of our website and the arguments I presented against the prosecutor’s distorted representation of my case were irrefutable. The District Court’s written explanation for the not-guilty verdict was likewise quite persuasive, making it a formidable task for the High Court to try to overturn the verdict. On 15 September 2004, the High Court of Taiwan ruled to reject the prosecutor’s request for an appeal and to uphold the *Not-Guilty* verdict delivered by the Taipei District Court. As the verdict is final, all of us in the sexual margins are greatly relieved and encouraged.

The court case may be over, but the fight for sex rights and freedoms of speech and information is far from over. I may have the advantage of social status and professional prestige in winning this case, but many more cases are pending and need our attention as well as support. Two other sex-related cases come to mind. In the first, the only gay bookstore in Taiwan was raided towards the end of 2003 and its shipment of legally imported gay graphic publications seized at the dock. The gay owner now faces the same Article 235 of the Criminal Code for dissemination of obscenities. In the second case, the safe-sex programme geared toward lesbians and broadcast on Valentine’s Day 2003 by the only woman-oriented radio station in southern Taiwan was cited by the Information Bureau and may have to pay a fine for including sexually explicit discussions over the radio wave. The convergence of these cases demonstrates a growing intolerance of the lifestyle and cultural practices of marginal subjects, which warrants our serious attention and intervention. In addition to fighting for these cases, I am working closely with human rights groups to organize amendments to existing laws regarding sexual images, sexual contact, and sexual dissidence on the internet, which have now become the hunting ground of vice police urged on by conservatives who are eager to purify this space.

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The road is long, but we are already making small progress. International solidarity has proven to be a powerful weapon against conservative onslaughts, as my own legal case attests. As sexual constriction expands its domain through various forms of new legislations, government policies, censorship measures, education concerns, humanitarian drives, and other youth-related protectionist discourses, I urge all of you to continue to stand against all such efforts by conservative groups. After all, sex rights are basic human rights.

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Author's note: To read all related documents and see pictorial records of various court appearances, please visit http://sex.ncu.edu.tw/members/Ho/english/jo_english-bestiality.htm

Author's biography

Josephine Chuen-Juei Ho 何春蕙 has been writing both extensively and provocatively to open up a

new discursive space for gender/sexuality issues. Her books, all written in Chinese as timely interventions into local gender/sexuality politics, include *The Gallant Woman – Feminism and Sexual Emancipation* 豪爽女人 (1994), *Gendered Nations – Sexuality, Capital and Culture* 不同國女人 (1994), *Sexual Moods: A Therapeutic and Liberatory Report on Female Sexuality* 性心情 (1996), *Radical Sexuality Education: Gender/Sexuality Education for the 'New Generation'* 性/別校園 (1998), and *The Admirable/Amorous Woman* 好色女人 (1998). She then turned to the editing of a number of groundbreaking anthologies of local gender/sexuality research as well as the organization of international conferences on cutting-edge gender/sexuality topics. Describing herself as a feminist sex radical, she now serves as Chair of the English Department and the Coordinator for the Center for the Study of Sexualities at National Central University 中央大學性/別研究室, Taiwan, well-known for both its activism and its intellectual stamina. Website at <http://sex.ncu.edu.tw>.

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