

**INQUIRY INTO FUTURE DEVELOPMENT OF THE NSW
TERTIARY EDUCATION SECTOR**

Organisation: Mark Tarrant Lawyers

Date Received: 10 August 2020

Partially
Confidential

BY EMAIL: portfoliocommittee3@parliament.nsw.gov.au

9 August 2020

Our reference: 190078

NSW Parliament House
6 Macquarie Street
SYDNEY NSW 2000
Attn: Hon Mark Latham MLC
Chair of Inquiry into the future development
of the NSW tertiary education sector

Dear Chair

INQUIRY INTO THE FUTURE DEVELOPMENT OF THE NSW TERTIARY EDUCATION SECTOR

The writer's submission to the Committee is in relation to Terms of Reference (f) 'The quality of campus life and student freedom of expression' and (g) 'Foreign political interference within the NSW tertiary education sector'.

The focus of the submission are the attempts by the Chinese Communist Party of the People's Republic of China to excise the rule of law from Australian university campuses [the rule of law being essential for free speech].

The writer is providing pro bono legal assistance to high-profile University of Queensland free speech student activist Mr Drew Pavlou.

Although Mr Pavlou's experiences relate to his free speech activities at the University of Queensland campus in St Lucia, Brisbane they are relevant to the NSW university campuses.

This is because wherever there are large numbers of international students from Mainland China there will be attempts, to aggressively and at times violently prevent any criticism of the CCP's authoritarian rule over China, Xinjiang [East Turkistan], Tibet and Hong Kong.

Mr Pavlou wishes to provide evidence to the Committee at next month's Hearing via video, if invited.

The writer also wishes to provide evidence to the Committee at next month's Hearing in person, if invited.

1. Australia – a test case

Emeritus Professor Geremie R Barmé [who taught Mandarin to former Prime Minister Kevin Rudd] explains in his **enclosed** expert opinion (filed as evidence for Mr Pavlou’s Court matter - see below) dated 16 December 2019 ‘Rhetoric and Incitement in the People’s Republic: Drew Pavlou & Jack Yiu Chak as Targets of China’s ‘Wolf Warrior Diplomacy’,

‘It is of even greater concern that the GT [*Global Times*] report echoed and increased the volume of the pointed and highly charged official language of official statement of the Chinese Consulate-General, language which in turn is reflected consistent PRC policy to incite knowingly ‘Chinese patriots’ (be they students or other unidentifiable actors) in potentially extremist behaviour’.

‘Australia is regarded as a being a test case by Beijing, one in which its international behaviour is used to measure how far increasingly aggressive state policy can advance in the ‘Western world’. That PRC students and other actors are taking the lead from the inflammatory rhetoric of Official China and propaganda-news outlets like *The Global Times* **to intimidate and threaten violence against Australian citizens and other students in Australia should rightly cause alarm.** If the Australian government and authorities fail to express deep concern about or openly oppose such developments, then our independent legal institutions and free media certainly should.’ [Emphasis added]

Professor Barmé; who lives in New Zealand wishes to provide evidence to the Committee at next month’s Hearing via video link, if invited.

We **enclose** an email message to the writer dated 23.10.19 from
explains:

‘I can’t give details here but i have it at first hand that at least one vc in aust has direct evidence of a CG directing attacks on pro-democracy hkg protests in oz. (not UQ)’

vc = Vice-Chancellor, CG = Consul-General [PRC].

On 14 October 2019 the writer filed Mr Pavlou’s Peace and Good Behaviour Order application under Section 4 of the Peace and Good Behaviour Act 1982 at the Brisbane Magistrates Court.

The Defendant in Mr Pavlou’s application (described as a ‘Complaint’ under the Act) is Xu Jie, whom the Protocol Branch of the Department of Foreign Affairs and Trade has advised us ‘is accredited as a Consular Officer (Consul-General) of the Consulate-General of the People’s Republic of China in Queensland’.

On 26 July 2019 the South China Morning Post revealed that Xu Jie was named by the University of Queensland on 15 July 2019 as a ‘visiting professor of language and culture’ and his appointment of ‘adjunct professor’ was until December 2021.

<https://www.scmp.com/week-asia/geopolitics/article/3020168/university-queensland-faces-heat-naming-chinese-diplomat>

The University of Queensland Australia website includes Xu Jie's profile describing him as an 'Adjunct Professor, School of Languages and Cultures' and includes his email address 'jiexu@uq.edu.au

<https://languages-cultures.uq.edu.au/profile/4580/jie-xu>

Xu Jie's CV, available on baidu.com records that he was trained at a PRC police school and spent 7 years as a Public Security Cadre i.e. an enforcer of CCP ideology. See **enclosed**.

<https://baike.baidu.com/item/%E5%BE%90%E6%9D%B0/12806010>

PRC PSB cadres do not respect human rights.

Human Rights Watch reports:

'I sat on an iron chair all day, morning and night, my hands and legs were buckled. During the day I could nap on the chair, **but when the cadres came, they scolded the police for letting me doze off...** I sat until my buttocks bled.' [Emphasis added]

'Our superiors know about it, they all tolerate torture. The many years I have been a police officer, there has not been one police officer who has been punished for extracting confessions through torture. **The cadres do not care or ask about the use of torture**; if someone complains those lower down can plead with the superiors' [Emphasis added]

<https://www.hrw.org/report/2015/05/13/tiger-chairs-and-cell-bosses/police-torture-criminal-suspects-china>

Mr Pavlou's Complaint is listed for an adjourned Hearing at the Brisbane Magistrates Court on 10 August 2020.

A copy of Mr Pavlou's Complaint, Affidavit and annexures are **enclosed** for your information.

The grounds for Mr Pavlou's Complaint are listed in Mr Pavlou's Affidavit attached to his Complaint form and includes the following:

'I organised the 24 July 2019 Market Day Protests for Hong Kong and also the protests criticising the University of Queensland's ties to the Chinese Communist Party and the Confucius Institute which is located on campus'

'On 24 July 2019 I was assaulted twice on Market Day. At around 12.20 I was sitting on the ground leading chants against PRC President Xi Jinping with a megaphone when a man in sweatshirt and sunglasses ripped the megaphone & protest sign from my hands and when I stood up to confront him he and his friend assaulted me, punching me in the ribs and the side of the head.'

'I believe Xu Jie, both in his capacity as Consul-General and UQ Adjunct Professor is a threat to my safety the assaults upon me on 24 July 2019 as well as subsequent attacks and harassment.'

‘Later in the day, another masked man struck me in the back of the head when my back was turned and ripped a poster criticizing the Confucius Institute from my hands and tore it apart.’

‘The next day on 25 July 2019 the defendant published a statement in Chinese on the Consulate-General of the PRC in Brisbane website praising the actions of my assailants and threatening those who expressed anti-China separatist activities’

‘The defendant described my actions as being anti-China separatist. Persons found to be ‘separatists’ in China face severe penalties including the death sentence according Article 113 of the Criminal Law of the People’s Republic of China’

‘On 25 July 2019 the Global Times, which is owned by the Chinese Communist Party reported the statement of the defendant in an article at Annexure F. The article published my name and Australian nationality as one of the two organisers of the Market Day protests and included Facebook details for the protests.’

‘I believe the defendant’s threatening statement has sufficiently identified me and is directed at me as I am included in his description of a ‘...a small number of people with ulterior motives carried out anti-China separatist activities at the University of Queensland...’ and I have been named by the Chinese Communist Party owned Global Times.’

‘The Minister of Foreign Affairs, Senator Marise Payne described the statement of the defendant as ‘encouraging disruptive or potentially violent behaviour’

‘The SBS also reported ‘Senator Payne said the right to free speech and to peaceful and lawful protest is protected in Australia, even on contentious and sensitive issues. "The Australian Government expects all foreign diplomatic representatives to respect these rights," she said in comments obtained by AAP."The Government would be particularly concerned if any foreign diplomatic mission were to act in ways that could undermine such rights, including by encouraging disruptive or potentially violent behaviour.'"

‘As a result of the threats of the defendant on 25 July 2019 and the publication of my name the following occurred: My social media profiles were flooded with hundreds of abusive messages from pro-Chinese Communist Party individuals, and I received multiple death threats towards my person and towards my family. A sample of these is included at Annexure I On Wednesday 9th October while campaigning for student elections a pro-Chinese Communist Party individual grabbed me and said the words " You" in my face’

‘I fear for my safety and that of my parents including on campus and feel afraid to conduct further pro-Hong Kong democracy and other pro- human rights demonstrations.’

‘I believe that the assaults and threats against me were and encouraged by the defendant.’

‘I fear I will be the victim of further violence attacks and threats as a result of the actions of the defendant.’

On 23 May 2020, 10 months after Xu Jie’s statement praising and inciting violence against peaceful UQ student protestors UQ Chancellor Peter Varghese AO was reported in the Guardian Australia as follows:

‘He said he supported the view of the Australian foreign minister, Marise Payne, who responded to Xu’s comments by warning diplomats not to interfere in the exercise of free speech.

“The university fully supports the right of students to demonstrate against what’s happening in Hong Kong,” Varghese said.

“I share the foreign minister’s view that the comments by the consul-general were unacceptable. And having spent a long time in Australian diplomacy I don’t think diplomatic representatives ought to interfere in domestic issues in the way that statement did. **I thought the foreign minister’s statements were quite appropriate.**

“We have no interest in endorsing violent protest, quite the contrary. It’s something that would be contrary to our code of conduct.” [Emphasis added]

<https://www.theguardian.com/australia-news/2020/may/23/university-of-queensland-to-ban-foreign-diplomats-from-gaining-honorary-positions>

[Copy of Guardian Australia article **enclosed**]

On 25 May 2020 the writer submitted a complaint to the UQ Chancellor providing reasons why Xu Jie should be dismissed as UQ Adjunct Professor – School of Languages and Cultures.

Xu Jie remains as an Adjunct Professor at UQ.

During his interview on the ABC News Breakfast TV programme 11 December 2019, US Ambassador to Australia Arthur B Culvahouse IV stated:

‘I would say that Foreign Minister Payne has expressed her deep concern about too, about the Consul General, the **Chinese Consul-General in Brisbane who was encouraging Chinese students at the University of Queensland to harass pro-Hong Kong students who were demonstrating in favour of democracy in Hong Kong**’ (transcript **enclosed**) [Emphasis added]

See also writer’s Google Drive link to video of interview.

2. PRC Ministry of State Security agents attack Australian Student

On 24 July 2019 at UQ’s St Lucia campus a mob of 500-600 pro-Beijing supporters (according to QPS estimates) surrounded 30-60 peaceful pro-Hong Kong democracy and pro-Uyghur and pro-Tibet independence protestors including Mr Pavlou, who the CCP operatives and pro-Beijing supporters then attacked multiple times (see below).

QPS has confirmed that the violence on 24 July 2019 was started by the pro-Beijing thugs, not the peaceful pro-democracy protestors.

On 24 July 2019 at the UQ campus Mr Pavlou was attacked by, we believe were three agents of the PRC Ministry of State Security.

Professor Clive Hamilton in his **enclosed** expert witness report states:

Para 11 ‘Close examination of videos from the Market day protest suggests that some of those leading the protest were not UQ students. The Chinese government has a track record of deploying Consulate staff and MSS officers at “anti-China” rallies and protests in Western nations, where they make threats to activists’.

Para 13 ‘There is a small but growing body of evidence that MSS agents or other persons acting on behalf of Chinese consulates are now engaged in surveillance and intimidation of non-Chinese experts, academics and activists outside China.’

[See videos & photos described below available on the writer’s Google Drive link]

It is clear from the **enclosed** stills of the videos that a team of three targeted and attacked Mr Pavlou as he was sitting on the ground using a megaphone chanting ‘Hey hey ho ho Xi Jinping has to go’ and holding a placard ‘Close Confucius Institute’.

The leader of the MSS attack team is the man in the white sweatshirt speaking into his earpiece as he organizes the attack. The target is Australian citizen Mr Pavlou.

Apart from the red backpack man who attacks Mr Pavlou whilst he was using his megaphone there is a man wearing a cap & sunglasses and holding a red bag standing next to the column.

As the red backpack man gets ready to attack Mr Pavlou the cap man looks towards the leader in the white sweatshirt and begins to smirk as he knows what is coming next. This is clear evidence of a pre-planned attack.

Just before he attacks, the red backpack man looks up for final approval from the leader - the white sweatshirt man.

Once Australian citizen Mr Pavlou’s right of free speech has been excised from the UQ campus by the Ministry of State Security team the boom box playing the PRC national anthem is held aloft and there is a victory salute.

This is the action that Consul-General Xu Jie praised in his statement of 25.07.19 and based on his baidu CV he was well trained to do.

If our video analysis is correct this is the first time since Emperor Hirohito’s declaration of the surrender of Imperial Japan on 15 August 1945 that an Australian citizen has been attacked on Mainland Australia by a hostile foreign country.

As a result of these assaults Mr Pavlou is a victim of serious violent offences suffering bodily harm. (Penalties and Sentences Act 1992 Schedule 1 ‘Serious violent offences’ Sect 339 Criminal Code ‘Assaults occasioning bodily harm’).

Following the 24 July 2019 ‘Market Day’ protests, pro-Hong Kong democracy students installed a ‘Lennon Wall’ next to the UQ student union lolly shop.

Enraged by this, 4 pro-Beijing thugs tore down the Lennon Wall.

Pro-Beijing thugs consequently harassed a female shop assistant working at the lolly shop, simply because she was in the vicinity of the Lennon Wall and was an easy target, to such an extent that she had to be hospitalised.

Late at night on 9 August 2019 pro-Beijing thugs vandalised a pro-HK democracy Lennon Wall next to the UQ student union.

One of the pro-Beijing thugs caught red-handed destroying the Lennon Wall is arrogantly saying to UQ security 'you call the police I will call the Ambassador' - he means Consul-General Xu Jie and UQ Adjunct Professor of Languages and Cultures. [See videos provided]

On 13 August 2019 a slightly built pro-Hong Kong democracy protestor was protecting a mobile Lennon Wall at the UQ student union when he was thrown to the ground by a large pro-Beijing thug and the Lennon Wall destroyed. UQ security then arrived. [See videos provided]

We have been informed that following the 24.07.19 Market Day protests UQ has told its security staff to never call QPS over pro-Beijing thugs attacking pro-Hong Kong democracy protestors on campus.

Similar attempts by the CCP to excise Australian law from NSW campuses has been reported by the media:

'The University of New South Wales says it deleted social media posts promoting the comments of a prominent academic – calling for international pressure on China to temper human rights infringements in Hong Kong – because the comments were “being misconstrued as representing the university”.'

<https://www.theguardian.com/australia-news/2020/aug/03/unsw-faces-backlash-after-deleting-twitter-post-critical-of-chinas-crackdown-in-hong-kong>

'The University of Sydney has criticised protesters who tore down a 'Lennon wall' erected by pro-Hong Kong students.'

https://www.sbs.com.au/news/lennon-wall-vandalism-spreads-to-university-of-sydney_1

[Copies enclosed]

3. The Chinese Communist Party sees 'Western constitutional democracy', which includes the rule of law as a threat to its authority and must be 'eradicated'

Chris Buckley of the New York Times explains:

'Communist Party cadres have filled meeting halls around China to hear a somber, secretive warning issued by senior leaders. Power could escape their grip, they have been told, unless the party eradicates seven subversive currents coursing through Chinese society.'

‘These seven perils were enumerated in a memo, referred to as Document No. 9, that bears the unmistakable imprimatur of Xi Jinping, China’s new top leader. The first was “Western constitutional democracy”; others included promoting “universal values” of human rights, Western-inspired notions of media independence and civic participation, ardently pro-market “neo-liberalism,” and “nihilist” criticisms of the party’s traumatic past.

“Promotion of Western constitutional democracy is an attempt to negate the party’s leadership,” Cheng Xinping, a deputy head of propaganda for Hengyang, a city in Hunan, told a gathering of mining industry officials. Human rights advocates, he continued, want “ultimately to form a force for political confrontation.”

<https://www.nytimes.com/2013/08/20/world/asia/chinas-new-leadership-takes-hard-line-in-secret-memo.html>

ChinaFile includes a translation of Document 9 [copy **enclosed**]

‘1. Promoting Western Constitutional Democracy: An attempt to **undermine the current leadership** and the socialism with Chinese characteristics system of governance.’ [emphasis added]

‘The point of publicly proclaiming Western constitutional democracy’s key points is to oppose the party’s leadership and implementation of its constitution and laws. Their goal is to use Western constitutional democracy to undermine the Party’s leadership, abolish the People’s Democracy, negate our country’s constitution as well as our established system and principles, and bring about a change of allegiance by bringing Western political systems to China.’

‘2. Promoting “universal values” in an attempt to weaken the theoretical foundations of the Party’s leadership.’

‘The goal of espousing “universal values” is to claim that the West’s value system defies time and space, transcends nation and class, and applies to all humanity.

This is mainly expressed in the following ways: [The people who espouse universal values] believe **Western freedom, democracy, and human rights are universal and eternal.**’ [Emphasis added]

<https://www.chinafile.com/document-9-chinafile-translation>

In his statement of 25 July 2019 Xu Jie described the activities of pro-democracy student protestors as ‘anti-China separatist activities (and the CCP-propaganda organ *The Global Times* named Mr Pavlou as one of the student leaders).

Persons found to be ‘separatists’ in China face severe penalties including the death sentence according to Article 113 of the Criminal Law of the People’s Republic of China’

<https://www.cecc.gov/resources/legal-provisions/criminal-law-of-the-peoples-republic-of-china>

Alexander Bowe, Policy Analyst at the USCC explains that the CCP designates democracy activists as one of the ‘Five Poisons’ that threaten its rule (the other 4 ‘poisons’ are Uyghur, Tibetan, Taiwan independence proponents and the Falun Gong spiritual group).

<https://www.uscc.gov/research/chinas-overseas-united-front-work-background-and-implications-united-states>

Mr Pavlou and other student protestors were promoting the ‘Poisons’ of democracy for Hong Kong as well as Uyghur and Tibetan independence

It is clear the attacks on Mr Pavlou and other protestors on UQ campus on 24 July 2019 and subsequent attacks were *politically* and *ideologically* motivated.

What other motives could there possibly be?

The attacks on the student protestors on 24 July 2019 and his statement of 25 July 2019 had the intention of intimidating both the Queensland Government and the Australian Federal Government.

The Queensland Government has provided no protection for Mr Pavlou and has made no statement criticising Xu Jie for his actions.

The only reason why, on 27 July 2019 Foreign Minister Marise Payne criticised Xu Jie’s statement of 25 July 2019 praising and inciting violence was because the Australian Associated Press questioned the Minister about Xu Jie’s actions i.e. it was not a front-footed statement from the Minister.

As Mr Pavlou received no protection or support from the Queensland Government or the Australian Federal Government, Mr Pavlou and the writer travelled to Washington DC last December seeking support for his lawful human rights activities in Australia.

Our trip to Washington DC was reported by the Sydney Morning Herald:

<https://www.smh.com.au/politics/federal/us-ambassador-claims-chinese-agents-at-work-on-australian-streets-20191212-p53jie.html> [copy **enclosed**]

After he made his statements (inciting violence is a crime in Australia) Consul-General Xu Jie should have been declared ‘persona non grata’ by the Australian Government.

A fundamental duty of a government is to protect its citizens from hostile forces.

Mr Pavlou is one of a handful of persons in Australia who is not intimidated by Xu Jie and the CCP’s ideology of hatred.

It is clear that Xu Jie’s act was carried out with the intention to intimidate peaceful pro-democracy and pro-independence protestors and well as the Australian public at large.

For example, when the writer told a Medical Surgeon in his building that he was travelling up to Queensland to assist Mr Pavlou with his Court matter against Xu Jie the Surgeon replied, ‘Are you safe?’.

Australians no longer feel safe in their own country.

Immediately following the attacks, Mr Pavlou went to Indooroopilly Police Station to file a complaint.

QPS declined to accept his complaint.

On 30 October 2019 the writer accompanied Mr Pavlou to Indooroopilly Police Station to file a complaint against Xu Jie and the CCP operatives who attacked him.

On 24 July 2019 QPS attended UQ campus shortly after the attacks and conducted a cursory investigation.

There is a high level of anxiety amongst the Australian public that Consul-General Xu Jie's praise/incitement to violence as well as the attacks on Mr Pavlou have not been properly addressed by the relevant authorities.

Xu Jie, driven by the hatred inherent in the CCP ideology and skilled by his PSB cadre training has in effect established a version of extraterritoriality on the UQ campus.

UQ students are now too fearful to carry out any further pro-Hong Kong democracy, pro-Uyghur and pro-Tibet independence protests.

4. Xu Jie is not immune to prosecution

Professor Don Rothwell, International Law Expert at ANU has provided us with the **enclosed** expert witness report dated 31 January 2020 which we have filed at Court as evidence for Mr Pavlou's PGBO Hearing listed for 24 July 2020.

In his report Professor Rothwell provides the following conclusion as to the question of Xu Jie's immunity from prosecution:

'Conclusion

22. The immunities under Australian law of the Chinese Consul-General in Brisbane are governed by the VCCR, the 1999 Agreement on Consular Relations between Australia and the People's Republic of China, and the Consular Privileges and Immunities Act 1972 (Cth).

23. Statements made by Consulate-General of the People's Republic of China in Brisbane, Xu Jie, on the website of the Consulate-General were made in an official capacity as a consular official.

24. However those statements were the subject of protest by Australia, and Australian Foreign Minister, Senator Marise Payne, sought to make clear Australia's objections to that statement.

25. The statements made by Consulate-General of the People's Republic of China in Brisbane, Xu Jie, on the website of the Consulate-General are not consistent with the freedom of speech, freedom of thought, and freedom of protest as recognised in multiple sources in international human rights law 8 and Australian law.

26. Consular immunity should not apply to the statements made by Xu Jie.'

As explained above as Mr Pavlou received no protection within Australia for attempts to re-establish the rule of law on UQ campus we travelled to the US and met with two US Government Commissions: the Congressional-Executive Commission on China <https://www.cecc.gov/> and the US China Economic and Security Review Commission <https://www.uscc.gov/>

When the writer asked the US Commissions what would have happened to Xu Jie if he had made his statement in the US praising/inciting violence against US students both Commissions said he would have been declared ‘persona non grata’.

The Australian Government has been intimidated by Xu Jie’s ‘politically motivated violence’ and has not declared Xu Jie ‘persona non grata’, has not called for Xu Jie to be dismissed as UQ Adjunct Professor and has not provided any protection for Mr Pavlou or any other university student exercising their right of free speech on an Australian campus.

This has resulted in a ‘turkey shoot’ against Mr Pavlou by UQ (which suspended him as a student for his pro-democracy activities) and by former PSB Cadre Xu Jie and hundreds of pro-CCP Mainland Chinese international students.

5. Hong Kong National Security Law

The Hong Kong National Security Law was enacted on 30 June 2020.

The Congressional-Executive Commission on China explains ‘Hong Kong National Security Law: Highlighting Provisions Inconsistent with the Basic Law and International Human Rights Standards’:

‘The National Security Law employs vague terms and is subject to abuse. Specific provisions warranting concerns for human rights violations include the following:

‘The definition of “subversion of state power” includes a catch-all category of “any unlawful method” intending to subvert the state’s power by “seriously interfering with, hindering, and damaging” the performance of duties by the PRC central government or the Hong Kong SAR government.^[17] The PRC government has a long track record of punishing individuals for advocating human rights and democracy under “subversion” charges.’

‘The law is applicable to people who are not Hong Kong residents, as well as to any conduct having an impact in Hong Kong even if it took place outside of Hong Kong.[21]’ [Emphasis added]

<https://www.cecc.gov/publications/commission-analysis/hong-kong-national-security-law-highlighting-provisions>

Wang Chen, vice chairman of the Standing Committee of the National People’s Congress (NPC), states:

“Necessary measures must be taken – in accordance with the law – to prevent, stop and **punish foreign and overseas forces using Hong Kong to conduct separatist, subversion**, infiltration and damaging behaviour,” [Emphasis added]

"The 'crimes' have vague definitions and could potentially include **any attempts to voice out dissent against the Government.**" [Emphasis added] Jeremy Tam, a member of Hong Kong's Legislative Council.

<https://www.abc.net.au/news/2020-05-28/china-parliament-approves-hongkong-national-security-bill/12297654>

<https://hongkongfp.com/2020/05/22/defenceless-hong-kong-needs-state-level-law-to-prevent-stop-and-punish-threats-to-chinese-sovereignty-says-beijing/>

In Xu Jie's statement of 25.07.19 he praised & incited violence against UQ pro-democracy protestors describing them as anti-China separatists.

Under PRC Criminal Law the crime of separatism is a capital offence:

<https://www.cecc.gov/resources/legal-provisions/criminal-law-of-the-peoples-republic-of-china>

The passing of the Hong Kong National Security Law and the reluctance by the Australian Government to confront the CCP's so far successful attempts to impose PRC law on Australian campuses will only encourage further attacks on pro-democracy activists in Australia.

The PRC propaganda organ 'The Global Times' has described Mr Pavlou as an anti-China separatist in the following 3 articles:

'The statement said the consulate attaches great importance to the safety of overseas Chinese students and **firmly opposes any words and deeds intended to split China.**' [Emphasis added]

'Two Facebook events "Stand with Hong Kong on UQ Market Day" and "Action for Hong Kong and Xinjiang! Public Event" were organized by **Australian national Pavlou** and Jack Yiu Chak whose nationality has yet to be confirmed, both students at the university, to coincide with the university's crowded market day.' [Emphasis added]

<https://www.globaltimes.cn/content/1159212.shtml>

'Drew Pavlou, a 20-year-old Australian, organized anti-China and **secessionist protests connected to China's Hong Kong Special Administrative Region, Xinjiang Uygur Autonomous Region, and the Tibet Autonomous Region.**' [Emphasis added]

'In July 2019, Pavlou organized two protests intended **to split China** on the university's bustling market day that eventually turned violent.' [Emphasis added]

<https://www.globaltimes.cn/content/1190099.shtml>

'Drew Pavlou, a 20-year-old Australian, also a student member of the UQ Senate, **organized anti-China and secessionist rallies connected to China's Hong Kong Special Administrative Region (HKSAR), Xinjiang Uygur Autonomous Region and the Tibet Autonomous Region.**' [Emphasis added]

Pavlou organized anti-China and secessionist protests on July 24, 2019, which eventually turned violent. Chinese students, including those from the HKSAR staged a voluntary patriotic rally at that time in response to the protests. [Emphasis added]

<https://www.globaltimes.cn/content/1190099.shtml>

There is now a grave risk to Mr Pavlou's safety should he enter Hong Kong as he is a high-profile 'foreign' 'separatist' - a capital offence under PRC Criminal Law.

As Professor Geremie Barmé explains in his expert opinion in the People's Republic words mean action:

'...official Communist words are regarded and treated as being equivalent to real-world deeds'

Xu Jie's incitement to violence against Mr Pavlou, an Australian citizen living in Australia and other pro-democracy activists continues via the PRC propaganda organ 'The Global Times'.

6. The Australian values statement should become a Visa Condition

The Minister for Home Affairs should make all visas subject to an Australian values Condition – that is if the visa holder breaches the Australian values Condition their visa will be cancelled.

It is deeply disturbing to see neo-Red Guards menacing and assaulting pro-democracy Hong Kong students, Tibetans and Uyghurs on campuses across Australia.

The Minister for Home Affairs must take action to protect these vulnerable members of our community.

Student visas are granted to overseas nationals to study in Australia, not to undermine our cherished democratic principles.

Visa holders must comply with the Department of Home Affairs Australian values statement promising to respect the Australian way of life and obey the laws of Australia.

The Australian values statement includes support for parliamentary democracy and the rule of law, freedom of speech, peacefulness and a spirit of egalitarianism that embraces tolerance, mutual respect and compassion for those in need. See the DHA 'Life in Australia' booklet:

https://immi.homeaffairs.gov.au/support-subsite/files/life-in-australia/lia_english_full.pdf

Is also available in simplified Chinese: <https://immi.homeaffairs.gov.au/support-subsite/files/life-in-australia/chinese-simplified.pdf>

In sum Australian values represent everything the Chinese Communist Party is not.

DHA's Procedures Advice Manual includes the following:

THE AUSTRALIAN VALUES STATEMENT

Mark A Tarrant – Principal Lawyer

Mark Tarrant Lawyers Pty Ltd • ABN 66 122 800 079

Liability limited by a scheme approved under Professional Standards Legislation

1 Background - Australian values

The Australian government believes that new residents should be encouraged to learn as much as they can about their new country, its heritage, language, customs, values and way of life and to apply for Australian citizenship when they become eligible.

On 11 December 2006, the Prime Minister announced the intention to introduce an “Australian values statement” for permanent, provisional and selected temporary visa applicants.

The Australian values statement is a requirement whereby most adult visa applicants are asked to sign, before being granted a visa, a statement that they will respect the Australian way of life and will abide by Australian laws.

The requirement, codified in the Migration Regulations as public interest criterion (PIC) 4019 (the values statement - see The values statement & PIC 4019), applies to specific visa applications made on or after 15 October 2007.

To support the express intention of the government, officers are expected to:

- make every effort to encourage applicants to sign the statement and
- provide an explanation of the values statement.

2 The values statement & visa applications

2.1 Included in visa application forms

For the visas to which it applies - see section 3 The values statement in migration law - the values statement is simply part of the visa application form - either as a specific section in the application form or, for certain temporary visas, in the general declaration section of the application form.

There are two versions of the values statement - see section 3 The values statement in migration law. The version that the applicant signs depends on the visa they are applying for.

2.2 Requirements

Provisional and permanent visas

Briefly, before signing the values statement, provisional or permanent visa applicants (and a few categories of temporary visa applicants) are required to have:

- read or
- had explained (or read) to them

information from the “Life in Australia” book (this book and related information are on the departmental website). These applicants are also asked to understand what may be required of them if they apply for Australian citizenship.

Offshore Humanitarian program visa applicants are required to sign the values statement at interview. These applicants are not expected to have read the Life in Australia book; rather, the contents of the book are explained to them at departmental interview.

Temporary visas

For those other temporary visa applicants to whom the values statement applies, the statement is part of the general declaration section of the visa application form. These applicants are not be required to have read the Life in Australia book.

Internet applications

For internet applications, the Regulations state that a values statement is taken to have been signed by a person who makes an internet application if the instructions for signing the values statement are followed - see Schedule 4 Part 3 item 3.1(4).

For those temporary visa applicants to whom PIC 4019 applies, the values statement is included in the general declaration section of the visa application, so signing the application form means that the values statement has also been signed

2.3 Not a valid application requirement

The values statement is not a requirement for making a valid visa application. A visa application is not invalid simply because the applicant failed to sign the values statement in the application form, provided there is otherwise substantial compliance with the application form. See section 5.2 If the values statement has not been signed.

2.4 Certain visas do not require signing of a values statement

A few visa categories, including Visitor and special category, do not require applicants to sign a values statement. For those visas that are in the Regulations, PIC 4019 does not apply

3 The values statement in migration law

The values statement requirement has been codified in migration law as follows.

The values statement requirement is PIC 4019 (for which see The values statement & PIC 4019) as a Regulations Schedule 2 criterion for visa grant.

As well under the Regulations (namely Schedule 4 Part 3):

- the content of the values statement is specified (by subclass) by legislative instrument and

- at the very least, the statement must include provisions relating to
- values that are important to Australian society
- matters concerning Australian citizenship (if relevant) and
- compliance with the laws of Australia.

Regulations Schedule 4 Part 3 item 3.1(2) enables a values statement to include other provisions, as specified in the instrument.’

The pro-CCP international students who have been attacking pro-democracy students (and most recently UNSW Adjunct Professor Elaine Pearson) have breached most if not all of our Australian values including not obeying the laws of Australia, freedom of speech, freedom of association, support for parliamentary democracy and the rule of law, peacefulness and a spirit of egalitarianism that embraces tolerance, mutual respect and compassion for those in need.

7. Minister of Home Affairs: Cancellation of visa for failing character test.

Under the Migration Act 1958 these pro-CCP thugs can have their student visas or permanent residence visas cancelled under Section 501(6)(d) of the Act.

Neo-Red Guards who advocate for CCP one-party dictatorship, harassment and intimidation should not be in Australia.

Ministers Dutton and Coleman cannot evade their responsibility to protect the Australian community by claiming that visa cancellation requires a conviction – it does not.

Milo Yiannopoulos’ visitor visa was cancelled in March 2019 without Mr Yiannopoulos being convicted of any crime.

Pro-CCP thugs should also be barred from being granted Australian citizenship.

A person cannot be granted Australian citizenship unless they satisfy the character provisions of the Australian Citizenship Act 2007.

In *Zheng v Minister for Immigration and Citizenship* ((2011) AATA 304), Forgie DP states:

‘In the context of the Act, loyalty to Australia, a belief in a democratic form of government, a respect for the rights and liberties of all Australians and obedience to and observance of the law are values that are regarded as significant. An assessment of a person’s character will need to have regard to them. They are not values that can be assessed in the abstract. Instead, they are measured in part by what a person says, in part by what a person does and in part by what a person is heard to say and seen to do.’

<http://classic.austlii.edu.au/au/cases/cth/AATA/2011/304.html>

8. NSW Tertiary Institutions Freedom of Speech Legislation

Legislation protecting freedom of speech at NSW tertiary institutions should be introduced to protect pro-democracy protestors on NSW campuses.

Advocating for the CCP is not freedom of speech but a form of terrorism.

The Australian values statement should be incorporated into the NSW tertiary institutions freedom of speech legislation.

9. Compel NSW Chancellors & Vice-Chancellors to appear as witnesses

As explained above

_____ has advised the writer that he has it at first hand that a Vice-Chancellor (not UQ) has direct evidence of a Consul-General (which given the context of his email he must be referring to a PRC Consul-General) directing attacks on pro-Hong Kong democracy students.

Despite repeated invitations my the writer _____ s has declined to offer any assistance with our efforts to re-establish the rule of law on Australian university campuses.

It is concerning that a Vice-Chancellor of an Australian university has ‘direct evidence’ of a PRC Consul-General directing attacks on pro-Hong Kong democracy protestors at an Australian university campus without apparently reporting this to the relevant authorities.

University Chancellors and Vice-Chancellors have a duty of care to protect their university’s students from being threatened, intimidated and attacked by pro-CCP thugs (international students or otherwise).

SBS reporter Eden Gillespie writes in his article dated 5 August 2020 ‘Cowardice’: Australian Universities Accused of Bowing to Chinese Pressure’:

‘UNSW tweeted an article on Friday with the headline: ‘China needs international pressure to end Hong Kong wrongs’.

The piece included a quote from the Australian Director of Human Rights Watch, Elaine Pearson, who claimed: “now is a pivotal moment to bring attention to the rapidly deteriorating situation in Hong Kong”.

But shortly after the piece was posted onto social media, a barrage of Twitter users who self-identified as Chinese students at the university, threatened they’d withdraw from UNSW unless it was removed.’

‘Fergus Ryan is a researcher at the Australian Strategic Policy Institute.

He told The Feed that a carefully coordinated campaign was executed on the Chinese messaging application We Chat, where organisers advised supporters to use the hashtag ‘stop the wrong political view in our university’.

The two main aims of the online protest were allegedly to pressure the university to delete the social media posts and to persuade the university to remove the piece from its website.

Ryan said the campaign was largely successful and that “UNSW should not have acceded, and by doing so, it was an act of cowardice.” [Copy **enclosed**]

<https://www.sbs.com.au/news/the-feed/cowardice-australian-universities-accused-of-bowing-to-chinese-pressure>

We suggest that the Committee, using its powers under the Parliamentary Evidence Act 1901 should:

- i. ask _____ to provide the name of the Vice-Chancellor who has direct evidence of a PRC Consul-General directing attacks on pro-Hong Kong democracy protestors;
- ii. If a NSW Vice-Chancellor invite him/her to provide the ‘direct evidence’ of the PRC Consul-General directing attacks on pro-Hong Kong democracy students and what if anything the Vice-Chancellor has done to prevent further attacks;
- iii. Invite the UNSW Chancellor and Vice-Chancellor to explain their reasons why they apparently capitulated to pro-CCP thugs by removing Adjunct Professor Elaine Pearson’s human rights post on Hong Kong;
- iv. Ask the UNSW Chancellor and Vice-Chancellor if they are aware that their censorship of Adjunct Professor Elaine Pearson exposes UNSW to sanction under US President Donald Trump’s Executive Order on Hong Kong Normalization [see below].

10. Censorship of Adjunct Professor Elaine Pearson exposes UNSW to USA Sanctions

On 14 July 2020 US President Donald Trump signed ‘The President’s Executive Order on Hong Kong Normalization’ [13936].

The Executive Order includes the following:

‘I therefore determine that the situation with respect to Hong Kong, including recent actions taken by the PRC to fundamentally undermine Hong Kong’s autonomy, constitutes an unusual and extraordinary threat, which has its source in substantial part outside the United States, to the national security, foreign policy, and economy of the United States. I hereby declare a national emergency with respect to that threat.’

(a) Any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, or the Secretary of the Treasury, in consultation with the Secretary of State:

(ii) to be responsible for or complicit in, or to have engaged in, directly or indirectly, any of the following:

(A) actions or policies that undermine democratic processes or institutions in Hong Kong;

(C) censorship or other activities with respect to Hong Kong that prohibit, limit, or penalize the exercise of freedom of expression or assembly by citizens of Hong Kong, or that limit access to free and independent print, online or broadcast media;

<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20200720.aspx>

The decision by UNSW to censor Adjunct Professor Elaine Pearson for her support for human rights in Hong Kong can be determined as coming under Section (ii) (A) & (C) of the Executive Order that is the UNSW Chancellor and Vice-Chancellor are ‘...responsible for or complicit in, or to have engaged in directly or indirectly in the ‘censorship or other activities with respect to Hong Kong that prohibit, limit, or penalize the exercise of freedom of expression or assembly by citizens of Hong Kong, or that limit access to free and independent print, online or broadcast media’

The decision by UNSW to censor Adjunct Professor Elaine Pearson has exposed UNSW to sanction by the USA and justifiably so.

11. Mainland Chinese international students – a security risk

As explained above QPS estimated 500-600 pro-Beijing supporters were surrounding a group of 30-60 pro-democracy UQ students including.

The majority of the 500-600 pro-Beijing supporters would have been international students from Mainland China.

All Mainland Chinese students studying in Australia are by default members of the Chinese Students and Scholars Association, which is controlled by the Chinese Communist Party via the PRC Embassy in Canberra.

A risk assessment must be conducted to protect Australians, who believe in Parliamentary democracy and the rule of law from the many tens of thousands of pro-Beijing Mainland Chinese international students who are breaching Australian laws including our criminal law and immigration laws as they attack pro-democracy protestors across Australian campuses with impunity.

Yours faithfully

**Mark A Tarrant
Principal Lawyer**