



**CIVIL SOCIETY CONTRIBUTION:  
Input for report on disinformation**

**To the Special Rapporteur on the promotion and protection of the  
right to freedom of opinion and expression**

**Submitted by Human Rights in China  
February 15, 2021**

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*HRIC was founded in March 1989 by  
overseas Chinese students and scientists with  
a mission to support Chinese citizens by  
promoting international human rights and  
advancing the institutional protection of these  
rights in the People's Republic of China.*

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## I. INTRODUCTION: *Disinformation together with propaganda is deadly*

1. Human Rights in China (HRIC) welcomes this opportunity to provide input to the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression for her report on disinformation to be presented in June 2021 at the 47th session of the Human Rights Council. Building upon the work of the Special Rapporteur's predecessor, this thematic focus is important and timely in light of the alarming proliferation of "fake news," disinformation, and propaganda in legacy and social media.<sup>1</sup> Censorship by an authoritarian regime *and* creation and dissemination by the regime present heightened challenges to rights protection. The ongoing global COVID-19 pandemic also highlights the critical importance of the role of diverse stakeholders and timely disclosure of and access to accurate and relevant information to address the public health dangers posed by the now mutating coronavirus. More than a year later since its outbreak in Wuhan, China, and after the pandemic has now killed more than 2.3 million people worldwide, the Chinese government has consistently promoted an official narrative of its successful handling of the initial COVID-19 outbreak.
2. The tragic case of Dr. Li Wenliang, an ophthalmologist, highlights the domestic and global dangers posed by an authoritarian regime's censorship and control of critical information. In late December 2019, Dr Li started seeing patients with symptoms that resembled Severe Acute Respiratory Syndrome (SARS) at Wuhan Central Hospital. Concerned about a possible disease outbreak, he began to warn colleagues and former classmates in a closed group on WeChat, a Chinese social media platform, suggesting that protective measures be taken. Days later, Dr. Li was censured by hospital leaders and summoned to the Public Security Bureau in Wuhan, where he was forced to sign a statement in which he was accused of spreading false rumors and disturbing the public order.<sup>2</sup> Then, Chinese state television news also reported that eight people in Wuhan had been punished for spreading "rumors" about the virus without mentioning his name.<sup>3</sup>
3. After Dr. Li passed away on February 7, 2020 from COVID-19, there was an outpouring of grief and anger online. On the anniversary of his death this year, Wuhan residents continued to express admiration and gratitude for the courage of the "whistleblower doctor."<sup>4</sup> However, the authorities continue to aggressively use Chinese state media and management of social media to control online information dissemination and discussion about the coronavirus.<sup>5</sup> And as underscored by the recent mission of the World Health Organization team to investigate the origin of the virus, any investigation into the outbreak remains politically sensitive.<sup>6</sup>
4. Within this system of pervasive censorship and information control in China, HRIC's submission focuses on the human rights challenges posed when misinformation is created and disseminated by the state itself or by state supported actors. We provide specific examples of misinformation created and disseminated by the Central People's Government (CPG) of the People's Republic of China (PRC) and the Hong Kong Special Administrative Region (HKSAR) government, as well as by state-controlled or supported actors; and identify concerns regarding the impact of misinformation and propaganda to restrict the legitimate exercise of human rights, in particular on the right to freedom of

opinion and expression and access to information. We conclude with constructive recommendations for monitoring and promoting compliance of state actors with their international human rights obligations, including standards regarding the obligation to “disseminate reliable and trustworthy information, including about matters of public interest, such as the economy, public health, security and the environment.”<sup>7</sup>

## II. OFFICIAL CREATION, DISSEMINATION, AND USE OF MISINFORMATION AND PROPAGANDA

5. As stated in the call for input into the report, “[w]hile disinformation has a corrosive effect on democracy, development and human rights, measures to address it raise important challenges for the protection and promotion of the right to freedom of opinion and expression.”<sup>8</sup> However, in Hong Kong, instead of measures to address misinformation and the impacts on fundamental rights and freedoms, the CPG and the Hong Kong SAR government have actively created and promoted misinformation in tandem with official propaganda to undermine diverse civil society voices advocating for democracy and accountability and to justify the criminalization of the peaceful exercise of rights protected by international human rights law and in violation of the CPG’s international obligations to the Hong Kong people.
6. In accordance with *The Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong* of 1984 (Sino-British Joint Declaration),<sup>9</sup> China resumed the exercise of sovereignty over the Hong Kong Special Administrative Region from July 1, 1997. The 1984 Joint Sino-British Declaration guarantees the preservation of Hong Kong’s autonomy and way of life for 50 years following return of sovereignty of Hong Kong to the PRC in 1997.<sup>10</sup> While the principle of “one country, two systems” is not explicitly mentioned in the Joint Declaration, it underpins the framework for the return of sovereignty to China and is enshrined in Hong Kong’s governing constitution, *The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* (Basic Law).<sup>11</sup>
7. However, actions by the CPG government authorities, with the cooperation or support of the Hong Kong SAR government, highlight official efforts to exert greater control over Hong Kong people’s fundamental rights and freedoms, in particular freedom of opinion, expression, the right to participate, and an independent media. Actions and policies by the Hong Kong SAR government and the CPG authorities include: past attempts to introduce “patriotic education” in Hong Kong schools; the current introduction of “national security education”<sup>12</sup>; the passage of the sweeping *Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region*

(*National Security Law* or NSL)<sup>13</sup>; mass arrests of pro-democracy activists; censorship; and targeted attacks on academics,<sup>14</sup> journalists,<sup>15</sup> democracy proponents, and lawyers.

8. Authorized by the Decision of the National People's Congress (NPC) of the People's Republic of China (PRC) on May 28, 2020,<sup>16</sup> the Standing Committee of the National People's Congress (NPCSC) drafted and then, on June 30, 2020, unanimously passed the sweeping *Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (National Security Law* or NSL).<sup>17</sup> Passed with an "unprecedented level of secrecy and haste"<sup>18</sup> without any transparency and public consultation, the NSL prohibits acts of secession, subversion, terrorism, and collusion with foreign forces<sup>19</sup> and creates a set of new implementing entities, all effectively under the control of the CPG.
9. The *National Security Law* and its implementation drew and continue to generate wide international concern, including statements issued by the UN High Commissioner for Human Rights<sup>20</sup> and UN special procedures<sup>21</sup> regarding the impact on Hong Kong's autonomy, rule of law, and the protection of fundamental rights and freedoms.<sup>22</sup> In the joint communication of September 1, 2020 by seven UN Special Procedures mandates holders,<sup>23</sup> independent human rights experts highlighted how in the name of national security, the right to freedom of opinion and expression and the independence of lawyers and the judiciary has been undermined by the *National Security Law*.<sup>24</sup>
10. In the early morning of Wednesday, January 6, 2021, in a move intended to decimate political opposition and extinguish political activism and participation, Hong Kong authorities deployed some 1,000 police officers to arrest 53 individuals in connection with unofficial election primaries held in July 2020. All 53 were arrested on suspicion of "subversion of state power" under Article 22 of the [\*National Security Law\*](#), for organizing, planning, implementing, or participating in the unofficial primaries. A day later, on January 7, police arrested an additional two individuals for their participation in the unofficial primaries: activist Joshua Wong, who is serving a 13-and-a-half-month prison sentence for organizing and inciting a June 2020 "unauthorized assembly," and Tam Tak-chi, who has been in custody since September 2020 on suspicion of sedition. In one fell swoop, the Hong Kong authorities more than doubled the number of individuals arrested under the *National Security Law* since July 2020, with threats of more arrests to come as their investigations continued.<sup>25</sup>
11. Despite the risks of criminal and political prosecution, civil society voices have raised concerns about the increasing encroachment on their peaceful exercise of rights and Hong Kong's core values.<sup>26</sup> HRIC has also highlighted the importance of the specific human rights and rule of law provisions in the NSL and international human rights standards as

tools available to the people and the legal community for rights protection under the NSL.<sup>27</sup>

12. While there is no agreed-upon universal definition of disinformation, “it is commonly understood to be false information that is created and spread, deliberately or otherwise, to harm people, institutions and interests.” Variouslly labelled as disinformation, misinformation, or “fake news,” it has “a corrosive effect on democracy, development and human rights.”<sup>28</sup> (Emphasis added.)
13. The 2019-2020 protest movement in Hong Kong was initially started as protest against a proposed bill to amend Hong Kong’s extradition law that would have allowed persons in Hong Kong to be extradited to the mainland, exposing them to a legal system lacking in judicial independence and procedural protections. In addition to the withdrawal of the proposed extradition bill—the demands expanded to include demands for accountability and democratic reforms. Even in the face of the COVID-19 pandemic, protests in Hong Kong continued, including against the government’s mishandling of COVID-19 response measures. By the end of February 2020, there were at least 973 protests involving 14,507,591 protesters.<sup>29</sup>
14. Misinformation and propaganda targeting the 2019 protest movement included assertions that:
  - a. Foreign forces and funding from the Central Intelligence Agency (CIA) and the U.S. government orchestrated the protests as “part of boarder effort to undermine the Communist Party.”

The Hong Kong Government and pro-Beijing media (e.g., *Global Times*) alleged the 2019 Anti-ELAB protest movement as being orchestrated by foreign nations as “part of a broader effort to undermine the Communist Party.” Hong Kong’s top officials, including Chief Executive Carrie Lam, openly made the accusation in media interviews without providing evidence; the accusation was then extensively reported to the public by different media outlets. The unsubstantiated claim also spread through the use of photographic images showing foreigners’ presence during demonstrations and of undated and/or unrelated photographs as evidence for foreign governments’ involvement.<sup>30</sup> Further exacerbated through pro-government social media platforms (e.g., “Speak Out Hong Kong”) and content farms based in China (e.g., kknews.cc), disinformation as such was circulated around the world, and was especially influential in Chinese-speaking region like Taiwan to undermine sympathy for the Hong Kong protesters’ demands.

However, the accusation of foreign influence is not new or unique to the 2019-2020 protest movement, but dates back to 1989 and continues to be raised by China at international fora, including the Human Rights Council.

b. Protesters were demanding independence or regime change.

While not every participant or supporter of the 2019-2020 protest movement had the same goals, five key demands emerged in slogans, banners, and protest signs, and as clearly articulated by the millions who marched in June 2019. The demands were: full withdrawal of the extradition bill; a commission of inquiry into alleged police brutality; retracting the government classification of protesters as “rioters”; amnesty for arrested protesters; and universal suffrage in then elections of the Legislative Council (LegCo) and the Chief Executive.<sup>31</sup>

c. Protesters were motivated by dissatisfaction with their lack of social mobility.

Instead of material demands, the five demands of the decentralized social protest movement unified demonstrators from diverse backgrounds— students, educators, parents, airline personnel, civil servants, social workers, union organizers, and pro-democracy legislators. In fact, after the HKSAR government’s baseless claim, protesters directly rejected this disinformation on social media, with posts like: We demand democracy and accountability, not an apartment!

d. The majority of Hong Kong’s people supported the government and its response to the protests.

Many pro-government research centers and organizers have increasingly employed similar survey-conducting tactics, but questions about their research and sampling methods have been raised.<sup>32</sup> During the run-up to a local election in late-November 2019, results from an online poll created by a pro-government organizer were used to show the support of the “silent majority” for the Hong Kong SAR government. However, popular support for the protest movement has been well documented in various public opinion polls and the 2019 district council elections, which was often viewed as a “de facto referendum” on the protest movement. Notwithstanding intimidation and physical violence by men wielding hammers and bats attacking protest leader Jimmy Sham and two district council candidates, voter turnout of more than 2.9 million people, or 71% of eligible voters, was the highest in Hong Kong since it first held district council elections in 1999. Pro-democracy candidates won a landslide victory, with 17 of

the 18 district councils won by opposition candidates.<sup>33</sup> In a December 2019 survey conducted for Reuters by the Hong Kong Public Opinion Research Institute (HKPORI), 59% of Hong Kong residents polled supported the protest movement, with more than a third of respondents saying that they had attended an anti-government demonstration.<sup>34</sup> In March 2020, according to another HKPORI survey conducted for Reuters, support for the demands of pro-democracy protesters in Hong Kong had grown even as rallies had paused due to the COVID-19 pandemic. The demand for the resignation of Hong Kong's leader, Carrie Lam, was supported by 63% of respondents, versus 57% in the December 2019 poll.<sup>35</sup>

e. The protesters were “terrorists.”

The CPG condemned the protest movement as “close to terrorism.” China linked the movement, which was characterized by the largely peaceful mass protests, to terrorism to justify its crackdown and the urgent enactment of the *National Security Law*. China also utilized social media platforms that were banned in its own country but broadly used worldwide, including Twitter and Facebook, to attack Hong Kong protesters with fake posts by fake accounts, to influence perception of the protests overseas.<sup>36</sup> The CPG and Hong Kong SAR authorities also highlighted incidents of bombings, attempted bombings, and confiscation of bomb-making materials,<sup>37</sup> and invoked the specter of “homegrown terrorism,” to justify police actions and arrests as well as counter-terror exercises.<sup>38</sup>

15. The creation, dissemination, and weaponization of misinformation and propaganda by the CPG and HKSAR government and state-supported actors played a key role in providing the justification and necessity for the urgent passage of the *National Security Law* and for the implementation of its broad and vague provisions. Disinformation about who the protesters were and their demands was aggressively disseminated by the CPG and the HKSAR government officials, the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG), State-controlled media, and public groups backed by pro-Beijing forces (e.g., “Speak out Hong Kong” ), amplified by vast “water armies” of mainland Internet trolls and bots, and echoed by non-state-controlled media, including international media outlets. These false and misleading assertions were also disseminated internationally via China's extensive network of Chinese-language and foreign language media outlets, and through the Communist Party of China's (CPC) United Front system.<sup>39</sup>

### III. ONGOING ISSUES AND CONCERNS

16. Disinformation and propaganda directly restrict the legitimate exercise of fundamental rights and freedoms as well as create the rationale for the measures taken in the name of



addressing disinformation and “fake news”—similar to the prosecution of individuals engaged in the legitimate airing of grievances as “making trouble.” *The Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda* (Joint Declaration) sets forth specific standards, including those applicable to state actors:<sup>40</sup>

- State actors should not make, sponsor, encourage or further disseminate statements which they know or reasonably should know to be false (disinformation) or which demonstrate a reckless disregard for verifiable information (propaganda). (Emphasis added.)
- State actors should, in accordance with their domestic and international legal obligations and their public duties, take care to ensure that they disseminate reliable and trustworthy information, including about matters of public interest, such as the economy, public health, security and the environment. (Emphasis added.)
- States have a positive obligation to promote a free, independent and diverse communications environment, including media diversity, which is a key means of addressing disinformation and propaganda. (Emphasis added.)

17. The spread of Communist Party rhetoric to Hong Kong: In a research project, the online news outlet Quartz collected and analyzed 165,000 Hong Kong SAR government press statements and transcripts of press conferences from January to October of each year from 2010 to 2020. The authors conclude: “[b]roadly, the newly strident rhetoric appears to be aimed at several goals: reinforcing China’s absolute national sovereignty; refuting criticisms and justifying the government’s own actions; exerting control over civil society; and redefining concepts like human rights to align them with CCP ideology.”<sup>41</sup> They also warn that “[s]ubtle changes in official rhetoric often go hand in hand with attempts to reshape people’s thoughts, using sleights of language to manipulate the space of public discourse.” Phrases and terms that almost never appeared in the rhetoric of the Hong Kong SAR government prior to 2019 such as “One China,” “national sovereignty,” and “state power” spiked in their usage.

18. While the adoption of CPC rhetoric serves the ideological agenda of projecting state power, the creation and dissemination of misinformation serve related purposes that also support CPC control: justification of the suppression of peaceful protesters and democracy proponents; deflection from serious governance problems and the actual source of ongoing protests—excessive police brutality and demands for universal suffrage; and undermining public and international support. The censorship and control of information about the protests and detentions or arrests of mainlanders who spread images or information about the protests also aim at deterring similar protests on the mainland China.

19. Legislation on doxing, hate speech and fake news: At a recent LegCo session, Chief Executive Carrie Lam vowed to introduce a bill to combat doxing, hate speech, and fake news. The Hong Kong Journalists Association said it feared that any moves to restrict access to public records would hinder reporters' work under the pretext of combating doxing. Such a bill is also problematic in light of the active creation and dissemination of misinformation by the government itself. In addition to questions of who determines whether and how a piece of information is fake,<sup>42</sup> there are also questions of criteria, especially as the Special Rapporteur's call notes: there is no universal agreed-upon definition of misinformation.
  
20. Targeting of independent media: Hong Kong police chief Chris Tang blamed "fake news and fake information" for public distrust of the force, as journalism associations accused officers of targeting reporters at protests. Public broadcaster Radio Television Hong Kong (RTHK) came under fire and was accused by the government of "biased reporting," disseminating "fake news," making editorial mistakes, and smearing the police force. The journalist, Choy Yuk-ling, who produced a prizewinning episode for RTHK that examined the slow response by police officers to a mob attack on a group of protesters and commuters in 2019, was arrested for making a false statement about why she was obtaining license information from a publicly accessible government database. Besides the attempt to define which media and journalists are trustworthy and "partners," the government also tries to tighten the access to public information and records, which have been utilized by journalists to scrutinize the government and conduct independent fact-checking. These moves will be seriously harming freedom of the press and freedom of information in Hong Kong, creating a kind of official "Ministry of Truth."<sup>43</sup>
  
21. UN experts have expressed concerns regarding the restriction of fundamental rights, especially that of freedom of opinion and expression, that has led to a "rapidly shrinking civic and democratic space in Hong Kong, especially since passage of the National Security Law."<sup>44</sup> They have noted that overly broad definitions of what constitutes threats to national security results in a chilling effect on civic space and such legislation criminalizes legitimate thoughts and expressions of all civil society actors. Civil society plays a key role in advancing the totality of rights contained in both the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) as well as in advancing the 2030 Agenda for Sustainable Development, in particular Sustainable Development Goal No. 16, with particular emphasis on freedom of expression and opinion, association and peaceful assembly, and the right to participate in public affairs.

#### **IV. SUGGESTIONS AND RECOMMENDATIONS**

22. The Special Rapporteur has identified the focus of her report to be the balance between state and private actors' responses to misinformation and the impact on freedom of expression. HRIC's submission highlights the challenges to rights and freedom of expression that flow from misinformation coupled with propaganda by state actors, especially authoritarian states.
23. We respectfully urge the Special Rapporteur to consider the following suggestions and recommendations.
- Specific attention should be given to the related but different challenges when state actors create, disseminate, and deploy misinformation, or mischaracterize information. Some issues to explore to effectively address these heightened risks to the peaceful exercise of fundamental right and freedoms, in particular the important enabling right to freedom of opinion and expression should include:
    - What additional guidance might the Special rapporteur develop for state actors to promote and assess compliance with international human rights standards, including the standards set forth in the Joint Declaration regarding the obligation of state actors to “not make, sponsor, encourage or further disseminate statements which they know or reasonably should know to be false (disinformation) or which demonstrate a reckless disregard for verifiable information (propaganda),” or to ensure that they “disseminate reliable and trustworthy information”?
    - Additional guidelines are needed to counter the assertion of alternate and false “facts” that demonstrate a “reckless disregard for verifiable information”, including verified documented mass human rights violations , such as the internment and violations of the rights of millions of Uyghur and other ethnic Muslims.<sup>45</sup>
    - How do these standards regarding state obligations to ensure reliable and trustworthy information and refrain from disseminating false information impact on the state actors' obligation to ensure a safe and enabling environment for civil society?
    - In the context of the ongoing health challenges posed by the mutating coronavirus, additional or revised guidance and specific measures should be explored to ensure that current COVID 19-related rights resources are effective, current and relevant to protect against the censorship of critical information and the dissemination of misinformation.
  - The Joint Declaration states: “All stakeholders – including intermediaries, media outlets, civil society and academia – should be supported in developing participatory and transparent initiatives for creating a better understanding of the

impact of disinformation and propaganda on democracy, freedom of expression, journalism and civic space, as well as appropriate responses to these phenomena.” In addition to the role of the state and private company actors, the role of state-owned enterprises, or state regulation or political control of “private” companies, particular in the technology or telecommunications, needs to be examined to develop a better understanding of a more complete ecosystem of information control *and* disinformation.<sup>46</sup>

24. As the Special rapporteur notes clearly in her call for inputs into her forthcoming report on disinformation, measures taken by state and private actors to address misinformation such as vague laws prohibiting “fake news,” internet shutdowns, blocking of websites or social media accounts and the indiscriminate content management of social media, also have impacts on freedom of expression. To develop a more comprehensive picture of the challenges posed by misinformation, the examination of legislative, policy, discursive and other measures take by state actors to create and disseminate misinformation is critical to promote effective and meaningful responses to promote the right to freedom of opinion and expression and access to information.

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<sup>1</sup> “Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda (FOM.GAL/3/17),” The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, and the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, March 3, 2017, <https://www.osce.org/files/f/documents/6/8/302796.pdf>.

<sup>2</sup> Jing-Bao Nie, and Carl Elliott, “Humiliating Whistle-Blowers: Li Wenliang, the Response to Covid-19, and the Call for a Decent Society,” *Nature Public Health Emergency Collection*, August 25, 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7445730/>.

<sup>3</sup> Anushka Patil, Ron DePasquale, and Chris Buckley, “They died within hours of each other early in the pandemic. Their countries then went down two very different roads,” *The New York Times*, February 6, 2021, <https://www.nytimes.com/live/2021/02/06/world/covid-19-coronavirus/coronavirus-covid-19-first-us-death-anniversary>; see also excerpts from Chinese state television news on Youtube, February 7, 2020, <https://www.youtube.com/watch?v=jm70opb9NRU>.

<sup>4</sup> “Wuhan residents remember coronavirus ‘whistleblower’ doctor a year after his death,” *The Straits Times*, February 6, 2021, <https://www.straitstimes.com/asia/east-asia/wuhan-residents-remember-coronavirus-whistleblower-doctor-a-year-after-his-death>.

<sup>5</sup> See e.g. Vanessa Molter, “Pandemics & Propaganda: How Chinese State Media Shapes Conversations on The Coronavirus,” *Stanford Cyber Policy Center*, March 19, 2020, <https://cyber.fsi.stanford.edu/news/chinese-state-media-shapes-coronavirus-convo>; Lotus Ruan, Jeffrey Knockel, and Masashi Crete-Nishihata, “Censored Contagion: How Information on the Coronavirus is Managed on Chinese Social Media,” *The Citizen Lab*, March 3, 2020, <https://citizenlab.ca/2020/03/censored-contagion-how-information-on-the-coronavirus-is-managed-on-chinese-social-media/>; Masashi Crete-Nishihata, Jakub Dalek, Jeffrey Knockel, Nicola Lawford, Caroline Wesley, and Mari Zhou, “Censored Contagion II: A Timeline of Information Control on Chinese Social Media During COVID-19,” *The Citizen Lab*, August 25, 2020, <https://citizenlab.ca/2020/08/censored-contagion-ii-a-timeline-of-information-control-on-chinese-social-media-during-covid-19/>.

<sup>6</sup> After concluding its February 2021 mission to Wuhan to investigate the outbreak and origins of the COVID virus, the WHO team of experts concluded that it was unlikely the origin of the virus was a leak from a virology laboratory, a theory vigorously rejected by the Chinese authorities. Emily Wang Fujiyama, “WHO team concludes coronavirus unlikely to have leaked from China lab,” *PBS*, February 9, 2021, <https://www.pbs.org/newshour/world/who-team-concludes-coronavirus-unlikely-to-have-leaked-from-china-lab>.

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<sup>7</sup> “Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda (FOM.GAL/3/17),” op. cit.

<sup>8</sup> Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression call for input on Report on disinformation, United Nations Human Rights Office of the High Commissioner, undated, <https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Report-on-disinformation.aspx>.

<sup>9</sup> *Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong*, 1984, <https://www.cmab.gov.hk/en/issues/jd2.htm>.

<sup>10</sup> The Joint Declaration provided that the “previous capitalist system and way of life shall remain unchanged for 50 years” and that “the socialist system and policies” of China would not be practiced in Hong Kong. Administered “directly under the authority” of the Central People's Government of the People's Republic of China, the Joint Declaration states that the Hong Kong SAR shall enjoy a “high degree of autonomy.” *Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong*, op. cit. Article 3 (2).

<sup>11</sup> *The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, adopted at the Third Session of the Seventh National People's Congress, 1990, [https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclaw\\_full\\_text\\_en.pdf](https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclaw_full_text_en.pdf).

<sup>12</sup> “EDB announces guidelines and curriculum arrangements for safeguarding national security and national security education,” The Government of the Hong Kong Special Administrative Region Press Releases, February 4, 2021, <https://www.info.gov.hk/gia/general/202102/04/P2021020400806.htm>; “EDB Circular No. 3/2021 National Security: Maintaining a Safe Learning Environment Nurturing Good Citizens,” The Government of the HKSAR Education Bureau, February 4, 2021, <https://applications.edb.gov.hk/circular/upload/EDBC/EDBC21003E.pdf>; “EDB Circular No. 2/2021 National Security Education in School Curriculum - Implementation Mode and Learning and Teaching Resources,” The Government of the HKSAR Education Bureau, February 4, 2021, <https://applications.edb.gov.hk/circular/upload/EDBC/EDBC21002E.pdf>; Nicolle Liu, and Primrose Riordan, “Hong Kong to impose ‘national security’ schools curriculum,” *Financial Times*, February 4, 2021, <https://www.ft.com/content/7a8e473d-86c1-4875-811b-575df79a502a>; and James Griffiths, “‘No room for debate or compromise’ as Hong Kong introduces sweeping national security rules for schools,” *CNN*, February 5, 2021, <https://edition.cnn.com/2021/02/05/asia/hong-kong-national-security-education-intl-hnk/index.html>.

<sup>13</sup> *The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region*, 2020, EN: <https://www.gld.gov.hk/egazette/pdf/20202448e/egn2020244872.pdf>; CH: <https://www.elegislation.gov.hk/hk/A406>; in an [annotated bilingual chart](#) of the law, HRIC also addresses serious translation issues in the official, but not legally authoritative, English translation of the law. “Too Soon to Concede the Future: The Implementation of The National Security Law for Hong Kong--An HRIC White Paper,” *Human Rights in China*, October 16, 2020, [https://www.hrichina.org/sites/default/files/hric\\_white\\_paper\\_on\\_nsl\\_annex\\_a\\_updated\\_hric\\_annotation\\_nsl.pdf](https://www.hrichina.org/sites/default/files/hric_white_paper_on_nsl_annex_a_updated_hric_annotation_nsl.pdf).

<sup>14</sup> “Hong Kong Arrests of 55: Time to Test Article 4 of National Security Law,” *Human Rights in China*, January 8, 2021, <https://www.hrichina.org/en/press-work/hric-law-bulletin/hong-kong-arrests-55-time-test-article-4-national-security-law>; and “HRIC’s submission to the United Nations Committee on Economic, Social and Cultural Rights regarding academic freedom in Hong Kong,” *Human Rights in China*, December 18, 2020, <https://www.hrichina.org/en/hric-report/hrics-submission-united-nations-committee-economic-social-and-cultural-rights-regarding>.

<sup>15</sup> “HKJA Annual Report on Freedom of Expression: Freedom in Danger,” *Hong Kong Journalists Association*, 2020, [https://drive.google.com/file/d/1JBoaxj-J9TfLaLVfxLkq\\_9-JkwZZewmF/view](https://drive.google.com/file/d/1JBoaxj-J9TfLaLVfxLkq_9-JkwZZewmF/view); “HKJA Annual Report on Freedom of Expression: Red line stifles freedoms,” *Hong Kong Journalists Association*, 2019, [https://www.hkja.org.hk/PDF/HKJA\\_Annual\\_Report\\_2019\\_eng\\_s.pdf](https://www.hkja.org.hk/PDF/HKJA_Annual_Report_2019_eng_s.pdf).

<sup>16</sup> The Decision authorizes the NPC Standing Committee (NPCSC) to draft the legislation, to be added directly into Annex III of the Basic Law—which contains a list of national laws relating to defense and foreign affairs that are applicable to Hong Kong. In effect, the Decision prescribes a legislative process that will bypass the HKSAR’s own legislative process. 全国人民代表大会关于建立健全香港特别行政区维护国家安全的法律制度和执行机制的决定 (*Quanguo renmindai biao dahui guanyu jianli jianquan xianggang tebie xingzhengqu weihu guojia anquan de falv zhidu he zhixing jizhi de jueding*, Decision of the National People’s Congress on establishing and completing the Hong Kong Special Administrative Region’s legal system and implementing mechanisms for protecting national security), 13th National People’s Congress of the People’s Republic of China, 3<sup>rd</sup> Session (May 28, 2020). Available at: [http://www.xinhuanet.com/politics/2020-05/28/c\\_1126046490.htm](http://www.xinhuanet.com/politics/2020-05/28/c_1126046490.htm).

<sup>17</sup> *The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region*, op. cit.

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<sup>18</sup> Hualing Fu, “National Security Law: Challenges and Prospects,” in Johannes Chan and C.L. Lim, eds., *Law of the Hong Kong Constitution*, 3rd edition, Sweet & Maxwell Asia Ltd, forthcoming in 2021.

<sup>19</sup> For the key offences, there is no requirement of violence or use of force, which distinguishes the NSL from both Macau’s National Security Law and Hong Kong’s 2003 Draft National Security Bill, which required use of force and major unlawful means. Hualing Fu, “National Security Law: Challenges and Prospects,” in Johannes Chan and C.L. Lim, eds., *Law of the Hong Kong Constitution*, 3rd edition, Sweet & Maxwell Asia Ltd, forthcoming in 2021.

<sup>20</sup> On July 3, 2020, the spokesperson for the High Commissioner for Human Rights stated: “[w]e are alarmed that arrests are already made under the [NSL] . . . when there is not full information and understanding of the scope of the offences.” Among the concerns expressed are the vague and overly broad definition of the offenses which “may lead to discriminatory or arbitrary interpretation and enforcement”; and the “collusion” offense which “may lead to a restriction of civic space and of the possibility for civil society actors to exercise their right to participate in public affairs.” “Press briefing note on China / Hong Kong SAR by Spokesperson for the UN High Commissioner for Human Rights on the National Security Law, Rupert Colville,” [United Nations Human Rights Office of the High Commissioner](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=E), July 3, 2020, [EN](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=E): <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=E>, [CH](https://www.ohchr.org/CH/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=C): <https://www.ohchr.org/CH/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=C>.

<sup>21</sup> “Seven UN experts’ communication to China urging review and reconsideration of National Security Law to comply with international law,” September 1, 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25487>.

<sup>22</sup> The 1984 *Joint Sino-British Declaration* guaranteed Hong Kong’s autonomy and way of life for 50 years, post return of sovereignty of Hong Kong to the PRC in 1997. *Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the Question of Hong Kong*, op. cit.

<sup>23</sup> “Seven UN experts’ communication to China urging review and reconsideration of National Security Law to comply with international law,” op. cit.

<sup>24</sup> *ibid.*

<sup>25</sup> “Hong Kong Arrests of 55: Time to Test Article 4 of National Security Law,” op. cit.

<sup>26</sup> See e.g., interview with Amnesty researcher: “[c]ivil society has reacted strongly against the law because the process to enact it violated the principle of the rule of law and procedural justice in Hong Kong, and the vague and broad definitions of various provisions of the law exceed the normal understanding of law in the city.” “HONG KONG: ‘The National Security Law infringes on freedom of expression and is intensifying self-censorship,’” *CIVICUS*, August 27, 2020, <https://www.civicus.org/index.php/media-resources/news/interviews/4588-hong-kong-the-national-security-law-infringes-on-freedom-of-expression-and-is-intensifying-self-censorship>.

<sup>27</sup> NSL provisions require the HKSAR to “respect and guarantee human rights,” including “freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration, which the residents of the Region enjoy under the Basic Law . . . and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong” (Art. 4), and to adhere to the rule of law (Art. 5). “Too Soon to Concede the Future: The Implementation of The National Security Law for Hong Kong--An HRIC White Paper,” op. cit.

<sup>28</sup> Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression call for input on Report on disinformation, op. cit.

<sup>29</sup> See a timeline of selected key protests and events in the Hong Kong protest movement from February 2018 to February 2020 compiled by writer, educator, and activist Kong Tsung-gan, *Medium*, March 11, 2020, <https://medium.com/@KongTsungGan/a-timeline-of-the-hong-kong-protests-1d13422ce006>. See also two excellent books by Kong Tsung-gan, *Umbrella: A Political Tale from Hong Kong* (Pema Press: September 12, 2017) and *As long as there is resistance there is hope: Essays on the Hong Kong freedom struggle on the post-Umbrella Movement era, 2014–2018* (Pema Press: March 18, 2019).

<sup>30</sup> Matt Clinch, “Carrie Lam suggests foreign influence in Hong Kong protests: ‘Perhaps there is something at work,’” *CNBC*, Jan 21, 2020, [www.cnbc.com/2020/01/21/carrie-lam-suggests-foreign-influence-in-hong-kong-protests.html](https://www.cnbc.com/2020/01/21/carrie-lam-suggests-foreign-influence-in-hong-kong-protests.html); Steven Lee Myers, “In Hong Kong Protests, China Angrily Connects Dots Back to U.S.” *The New York Times*, September 5, 2019, <https://www.nytimes.com/2019/09/05/world/asia/china-hong-kong-protests.html>; Rachel Yan, “‘Foreign commander’ at Hong Kong protests?,” *AFP Fact Check*, July 30, 2019, <https://factcheck.afp.com/man-photo-works-new-york-times-and-messaging-journalists-not-protesters>; and William Zheng, “Hong Kong activist deny that Global Times photos show protests had foreign



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funding,” *South China Morning Post*, May 26, 2020, <https://www.scmp.com/news/china/politics/article/3086130/hong-kong-activists-deny-global-times-photos-show-protests-had>.

<sup>31</sup> Tara John, “Why Hong Kong is protesting: Their five demands listed,” *CNN*, August 30, 2019, <https://edition.cnn.com/2019/08/13/asia/hong-kong-airport-protest-explained-hnk-intl/index.html>; and Tsui-kai, Wong, “Hong Kong protests: What are the ‘five demands’? What do protesters want?,” *South China Morning Post*, August 20, 2019, <https://www.scmp.com/yp/discover/news/hong-kong/article/3065950/hong-kong-protests-what-are-five-demands-what-do>.

<sup>32</sup> “1000000 人！香港 聯署支持政府及警隊止暴制亂 [One million people! Signatures in Hong Kong showing support for the government and the police to stop the violence and contain the turmoil],” *Wen Wei Po*, November 8, 2019, <http://news.wenweipo.com/2019/11/08/IN1911080014.htm>;

刘欢, 朱宇轩, 丁梓懿, “特写：香港大多数不再沉默 [Special: The majority of Hong Kong is not longer silent],” *xinhuanet.com*, August 18, 2019, [http://www.xinhuanet.com/2019-08/18/c\\_1124888388.htm](http://www.xinhuanet.com/2019-08/18/c_1124888388.htm); Kris Cheng, “Hong Kong leader Carrie Lam’s popularity rating drops by over 2% to another historic low - poll,” *Hong Kong Free Press*, October 30, 2019, <https://hongkongfp.com/2019/10/30/hong-kong-leader-carrie-lams-rating-drops-2-another-historic-low-poll/>; “HK survey shows increasing majority back pro-democracy goals, smaller support for protest movement,” *Reuters*, August 30, 2020, <https://uk.reuters.com/article/uk-hongkong-security-poll-exclusive-idUKKBN25Q00Y>; and “民意可「製造」? [Public opinion can be ‘produced’?],” *Cable News*, Jan 31, 2021, <http://cablenews.i-cable.com/ci/videopage/program/122571843/%E6%96%B0%E8%81%9E%E5%88%BA%E9%87%9D/%E6%B0%91%E6%84%8F%E5%8F%AF%E3%80%8C%E8%A3%BD%E9%80%A0%E3%80%8D%EF%BC%9F>.

<sup>33</sup> James Griffith, “Landslide victory for Hong Kong pro-democracy parties in de facto protest referendum,” *CNN*, November 25, 2019, <https://edition.cnn.com/2019/11/24/asia/hong-kong-district-council-elections-intl/index.html>; and Jeffie Lam, Lok-kei, Sum, Kang-chung, Ng, “Hong Kong elections: pro-democracy camp wins 17 out of 18 districts while city leader says she will reflect on the result,” *South China Morning Post*, November 25, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3039151/hong-kong-elections-tsunami-disaffection-washes-over-city>.

<sup>34</sup> James Pomfret, and Clare Jim, “Exclusive: Hong Kongers support protester demands; minority wants independence from China – Reuters poll,” *Reuters*, December 31, 2019, <https://www.reuters.com/article/us-hongkong-protests-poll-exclusive-idUSKBN1YZ0VK>.

<sup>35</sup> Felix Tam, and Clare Jim, “Exclusive: Support for Hong Kong protestors’ demands rises even as coronavirus halt rallies: poll,” *Reuters*, March 27, 2020, <https://www.reuters.com/article/us-hongkong-protests-poll-exclusive-idUSKBN21E11L>.

<sup>36</sup> “China describes Hong Kong protests as ‘near terrorism,’” *BBC News*, August 14, 2019, [www.bbc.com/news/world-asia-china-49348462](http://www.bbc.com/news/world-asia-china-49348462); Chun Han, Wong, “China Says Hong Kong Protests Show ‘First Signs of Terrorism,’” *The Wall Street Journal*, August 12, 2019, <https://www.wsj.com/articles/china-says-hong-kong-protests-show-first-signs-of-terrorism-11565604635>; “Hong Kong protests: Huge crowds rally peacefully,” *BBC News*, August 19, 2019, <https://www.bbc.com/news/world-asia-china-49386298>; and Louis Matsakis, “China Attacks Hong Kong Protesters With Fake Social Posts,” *WIRED*, August 19, 2019, <https://www.wired.com/story/china-twitter-facebook-hong-kong-protests-disinformation/>.

<sup>37</sup> Clifford Lo, “Hong Kong student carrying two petrol bombs arrested outside police station,” *South China Morning Post*, April 14, 2020, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3079812/hong-kong-student-carrying-two-petrol-bombs-arrested>.

<sup>38</sup> A journalist described an exercise that took place in March 2020: “[t]he Inter-departmental Counter Terrorism Unit (ICTU), composed of officers from six disciplined services and headed by the Security Bureau, conducted an exercise code-named ‘Catchmount’ at Lok Ma Chau Spur Line Control Point at noon on Friday to boost its readiness amid what it called an ‘emergent threat of local terrorism.’ About 250 officers from different departments participated in the drill. Police had earlier warned about the specter of home-grown terrorism, with the force confiscating at least five guns and cracking 15 significant bomb cases in the city since anti-government protests began.” Christy Leung, “After foiled bomb plots, Hong Kong anti-terror squad runs drill at mainland border,” *South China Morning Post*, March 20, 2020, <https://www.scmp.com/print/news/hong-kong/law-and-crime/article/3076092/after-foiled-bomb-plots-hong-kong-anti-terror-squad>.

<sup>39</sup> Reinvigorated by General Secretary Xi Jinping, it is a network of party and state agencies responsible for influencing groups outside the party, particularly those claiming to represent civil society. “The united front system’s reach beyond the borders of the People’s Republic of China (PRC)—such as into foreign political parties, diaspora communities and multinational corporations—is an exportation of the CCP’s political system.” Alex Joske, “The party speaks for you: Foreign interference and the Chinese Communist Party’s united front system,” *Australian Strategic Policy Institute International Cyber Policy Centre*, June 9, 2020. [https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2020-06/The%20party%20speaks%20for%20you\\_0.pdf?gFHuXyYMR0XuDQOs.6JSmrdyk7MralcN](https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2020-06/The%20party%20speaks%20for%20you_0.pdf?gFHuXyYMR0XuDQOs.6JSmrdyk7MralcN).

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<sup>40</sup> “Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda (FOM.GAL/3/17),” op. cit.

<sup>41</sup> Mary Hui and Dan Kopf, “China's authoritarian language is taking over Hong Kong,” *Quartz*, December 16, 2020, <https://qz.com/1942410/chinas-authoritarian-language-is-taking-over-hong-kong/>.

<sup>42</sup> Kelly Ho, “Hong Kong’s Carrie Lam says ‘normal’ legislature lets gov’t make ‘bold’ proposals, vows action on ‘fake news’ and doxing,” *Hong Kong Free Press*, February 4, 2021, <https://hongkongfp.com/2021/02/04/hong-kongs-carrie-lam-says-normal-legislature-lets-govt-make-bold-proposals-vows-action-on-fake-news-and-doxing/>; and Natalie Wong and Chris Lau, “Hong Kong leader Carrie Lam vows to introduce amendments combating doxing, fake news and hate speech at Legco meeting,” *South China Morning Post*, February 4, 2021, <https://www.scmp.com/news/hong-kong/politics/article/3120459/hong-kong-leader-carrie-lam-lays-legco-path-new-district>.

<sup>43</sup> Rachel Wong, “Hong Kong police chief blames distrust of force on ‘fake news’ and ‘misunderstandings,’” *Hong Kong Free Press*, March 4, 2020, <https://hongkongfp.com/2020/03/04/hong-kong-police-chief-blames-distrust-force-fake-news-misunderstandings/>; “Hong Kong: Police amend definition of journalist to restrict access,” *International Federation of Journalists*, September 23, 2020, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/hong-kong-police-amend-definition-of-journalist-to-restrict-access.html>; and Austin Ramzy and Elaine Yu, “Hong Kong Journalist Arrested After Investigating Police Misconduct,” *The New York Times*, November 3, 2020, <https://www.nytimes.com/2020/11/03/world/asia/hong-kong-rthk-arrest.html>.

<sup>44</sup> Remarks on Hong Kong by UN High Commissioner for Human Rights Michelle Bachelet, December 9, 2020, see 47:15-47:52; [Video: http://webtv.un.org/watch/michelle-bachelet-ohchr-press-conference-reflections-on-2020-and-looking-ahead-to-2021-geneva-9-december-2020/6215129313001/](http://webtv.un.org/watch/michelle-bachelet-ohchr-press-conference-reflections-on-2020-and-looking-ahead-to-2021-geneva-9-december-2020/6215129313001/); [Transcript: https://www.hrichina.org/en/press-work/hric-bulletin/transcripts-remarks-xinjiang-and-hong-kong-michelle-bachelet-un-high](https://www.hrichina.org/en/press-work/hric-bulletin/transcripts-remarks-xinjiang-and-hong-kong-michelle-bachelet-un-high).

<sup>45</sup> In August 2018, during the periodic review of China, the CERD Committee Co-Rapporteur for China, asked the China delegation to explain the grounds on which Uyghurs were sent to re-education camps, which laws they had violated and were there police reports of those violations and what were the current circumstances of Uyghurs who, following the issuing of the 2017 directive, returned to China, voluntarily or not, from their studies abroad, including in Egypt, Turkey and Thailand? In reply, the delegation stated: “The Xinjiang Uyghur Autonomous Region always respected and guaranteed the human rights of people of all ethnic groups in accordance with the law. There was no arbitrary detention or lack of freedom of religious belief, while the view that Xinjiang was a “no rights zone” was completely “against the fact”. There were no such things as “re-education centres”, or “counter-terrorism training centres” in Xinjiang.” <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23452&LangID=E>

<sup>46</sup> An expanding national security and regulatory framework creates legal, political, and operational tensions for domestic companies in the telecommunications and Internet sectors, including both state-owned enterprises (SOEs) and private sector companies. These companies must aim to achieve their own corporate goals for global leadership and success and comply with their responsibilities under emerging international guidelines and best practices for human rights obligations of business entities, and at the same time must act as enforcers of restrictive laws, regulations, and policies that undermine rights. In addition, political oversight within SOEs and private sector companies in the PRC, such as through the establishment of Communist Party of China (CPC) organizations inside these companies, exerts additional political and ideological demands and priorities that also give rise to concerning impacts on the exercise of online rights by citizens. See HRIC Submission to U.N. Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, David Kaye titled “Regarding the Telecommunications and Internet Services Sectors in China” November 16, 2016, <https://www.ohchr.org/Documents/Issues/Expression/Telecommunications/HRIC.pdf>.