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Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
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Submission by Human Rights Watch to the Parliamentary Joint Committee on Intelligence and Security (the Committee) Inquiry into National Security Risks Affecting the Australian Higher Education and Research Sector

Human Rights Watch welcomes the Committee's focus on Australia's higher education sector. The Committee is examining the prevalence, characteristics, and significance of foreign interference, the university sector's awareness of foreign interference, and the adequacy and effectiveness of Australian government policies and programs in identifying and responding to foreign interference and undisclosed foreign influence in the sector. As part of any review into national security risks, the Committee should closely examine how the Chinese government and its proxies are undermining academic freedom in Australia. We will draw on examples from our research internationally and in Australia.

International

Since 2015, Human Rights Watch has tracked how Chinese government authorities have grown bolder in trying to shape global perceptions of China on university campuses and in academic institutions outside China. These authorities have sought to influence academic discussions, monitor overseas students from China, censor scholarly inquiry, or otherwise interfere with academic freedom.

In March 2019, Human Rights Watch published a 12-point Code of Conduct¹ for colleges and universities to adopt to respond to Chinese government threats to the academic freedom of students, scholars, and educational institutions, (the Code of Conduct is attached as Annex 1).

The Code of Conduct is based on more than 100 interviews between 2015 and 2018 in Australia, Canada, France, the United Kingdom, and the United States with academics, graduate and undergraduate students, and administrators, some of them from China. The people interviewed came from a range of institutions, including globally known universities, large public institutions, and small, private colleges. Almost all were from China or study China, or have operated academic programs on behalf of their institutions in China.

Human Rights Watch found that many colleges and universities around the world with ties to the Chinese government, or with large student populations from China, are unprepared to address

¹ "Resisting Chinese Government Efforts to Undermine Academic Freedom Abroad: A Code of Conduct for Colleges, Universities, and Academic Institutions Worldwide," Human Rights Watch, March 21, 2019, https://www.hrw.org/sites/default/files/media_2020/09/190321_china_academic_freedom_coc.pdf.

threats to academic freedom in a systematic way. Few have moved to protect academic freedom against longstanding problems, such as the Chinese government's visa bans on academics working on China, or surveillance and self-censorship on their campuses.

Human Rights Watch found various threats to academic freedom resulting from Chinese government pressure. Chinese authorities have long monitored and conducted surveillance on students and academics from China and those studying China on campuses around the world. Chinese diplomats regularly complain to university officials about hosting speakers – such as the Dalai Lama – whom the Chinese government considers “sensitive.”

Academics told Human Rights Watch that students from China described threats to their families in China in response to what those students had said in the classroom. Academics from China detailed being directly threatened outside the country by Chinese officials to refrain from criticizing the Chinese government in classroom lectures or other talks. Others described students from China remaining silent in their classrooms, fearful that their speech was being monitored and reported to Chinese authorities by other students from China. One student from China at a university in the United States summed up his concerns about classroom surveillance, noting: “This isn't a free space.”

Many of the academics interviewed identified censorship and self-censorship as serious concerns. One said a senior administrator has asked them “as a personal favor” to decline media requests during a visit by Chinese President Xi Jinping, fearing that it could have ramifications for their university.

At two US universities, senior administrators cancelled appearances by speakers they believed the Chinese government would deem “sensitive,” and in one of those cases, the dean explained to a faculty member that the school did not want to lose its growing number of students from China. In another case at an Australian university, colleagues discouraged an academic at a university with a large population of students from China from assigning his classes potentially “sensitive” titles. Two described academics participating in hiring panels in which the candidates were questioned during job interviews about their views on Confucius Institutes, which are effectively international outposts of China's Ministry of Education that offer classes in Chinese language and culture.

Many of those interviewed said they modified their remarks inside and outside classrooms because of fears of being denied access to China or to funding sources, of causing problems for students or scholars from China or their family members, or of offending or irking students or scholars from China.

Many expressed discomfort with the presence of Confucius Institutes on their campuses. They said the presence of such institutions fundamentally compromised their institution's commitment to academic freedom, especially when Confucius Institutes had been invited to their campuses without broad faculty consultation. In 2019, Victoria University in Melbourne cancelled the screening of a documentary critical of Confucius Institutes after the university's Confucius Institute complained.²

Over the past six years, at least 29 of more than 100 American universities that had Confucius Institutes have closed them, because of concerns about academic freedom and to comply with the

² Richard Ferguson, “Victoria University Stops Anti-China Communist Party Film After Query,” *The Australian*, December 1, 2018, (accessed December 22, 2020), <https://www.theaustralian.com.au/higher-education/victoria-university-stops-antichina-communist-party-film-after-query/news-story/2cd94f68c4b6b32725ca576b271dde3e>.

2019 National Defense Authorization Act, which forces schools to choose between keeping their Confucius Institutes or receiving language program funding from the US Defense Department.³

In the wake of the passing of Hong Kong's national security law, US and British universities are taking some positive steps to counter Chinese interference and protect their students. Oxford University is allowing some students specialising in the study of China to submit some papers anonymously, replacing some group tutorials by one-to-ones and warning students it will be viewed as a disciplinary offence if they tape classes or share them with outside groups.⁴

A working group of academics from across the United Kingdom⁵ have also come up with a draft "Model Code of Conduct for the Protection of Academic Freedom" and is now conducting consultation on the code with stakeholders across the higher education sector.⁶ In the United States, Princeton University will use codes instead of names on the work of students in Chinese politics classed to protect their identities.⁷ In the Covid-19 environment, many foreign students are studying remotely from their home country where certain discussions and materials are censored or discussion of them entails certain risks. The breadth of Hong Kong's national security law also entails some risks. American scholars have recommended specific strategies for academics teaching courses on China to avoid censoring discussions whilst protecting student safety such as such as disclosing risks to students, avoiding recording of classes, choosing what material is shared online, and taking steps to protect student participation with consideration to safety and free expression.⁸

As awareness of the Chinese government's undermining human rights around the world has grown, students and scholars of and from China told Human Rights Watch they increasingly feel they are regarded with suspicion within their educational institutions. A recent Wilson Center study of Chinese political influence in higher education in the US found it important that "countermeasures neither vilify PRC [mainland] students as a group, nor lose sight of the fact that these students, along with faculty members of Chinese descent, are often the victims of influence and interference activities perpetrated by PRC diplomats and nationalistic peers." Academic institutions should ensure that students and scholars from China feel welcomed, integrated, and protected.

In Australia

Human Rights Watch is aware of several cases of students from mainland China and Hong Kong in Australia who were monitored or "reported on" by fellow classmates for comments that were critical of the Chinese Communist Party (CCP) in class or online whilst studying in Australia. Knowledge about these incidents then quickly circulated through the community spreading fear and self-censorship. "If you protest against the CCP abroad they will find people you love and hurt them

³ Racqueal Legerwood, "As US Universities Close Confucius Institutes, What's Next?" Human Rights Watch dispatch, January 27, 2020, <https://www.hrw.org/news/2020/01/27/us-universities-close-confucius-institutes-whats-next>.

⁴ Patrick Wintour, "Oxford Moves to Protect Students From China's Hong Kong Security Law," *The Guardian*, September 28, 2020, (accessed December 22, 2020), <https://www.theguardian.com/education/2020/sep/28/oxford-moves-to-protect-students-from-chinas-hong-kong-security-law>.

⁵ University of London, School of Advanced Study, "Model Code of Conduct," undated, (accessed December 22, 2020), <https://hrc.sas.ac.uk/networks/academic-freedom-and-internationalisation-working-group/model-code-conduct>.

⁶ University of Exeter, "New Code of Conduct Calls for Universities to do More to Protect Academic Freedom in Their International Partnerships," October 12, 2020, (accessed December 22, 2020), https://www.exeter.ac.uk/news/homepage/title_821319_en.html.

⁷ Lucy Craymer, "China's National-Security Law Reaches Into Harvard, Princeton Classrooms," *The Wall Street Journal*, April 10, 2020, (accessed December 22, 2020), <https://www.wsj.com/articles/chinas-national-security-law-reaches-into-harvard-princeton-classrooms-11597829402>.

⁸ Carleton College, "New Challenges in Teaching China," August 13, 2020, (accessed December 22, 2020), https://d31kydh6n6r5i5.cloudfront.net/uploads/sites/572/2020/10/New_Challenges_in_Teaching_China_for_circulation_.pdf.

to make you pay,” a University of New South Wales law student from China recently told Human Rights Watch. Pressure from pro-CCP forces comes in numerous ways, including monitoring discussion topics on the popular communication app WeChat, putting students from China under surveillance, and threatening those who participate in protests or events Chinese authorities deems sensitive. Pro-CCP students have launched complaints about academics and students that have taken actions to “offend” China, which has a chilling effect about classroom discussions on topics deemed sensitive like Xinjiang or Hong Kong.

Students from China have also identified their concerns to Human Rights Watch over the Chinese Students and Scholars Association and the group’s alleged close ties to the Chinese embassy and consulates.⁹ Chinese Australians have also spoken out about perceived surveillance by Chinese diplomats in Australia, with community members in Perth reporting that Chinese consular officials were spotted monitoring and filming a Tiananmen Square commemoration event from the sidelines in June 2020.¹⁰

Human Rights Watch has received reports from several Hong Kong people in Australia who described how their fellow students or unknown persons threatened to report them to CCP authorities after they participated in pro-democracy demonstrations in Australia.

In August, the University of New South Wales (UNSW) published an article on its website quoting Human Rights Watch’s Australia Director and UNSW adjunct lecturer in law Elaine Pearson talking about the human rights implications of Hong Kong’s new national security law. UNSW posted a tweet quoting Pearson and linking to the article from the UNSW account. Some students and others from China were so enraged by criticism of the Chinese government that they quickly organized an aggressive campaign targeting UNSW’s social media channels, calling the article hurtful and saying it should be removed from the UNSW website. UNSW briefly removed the article from its website twice, and then reinstated it, shifting it from the university’s main news page to the UNSW Law page. UNSW also deleted the tweet, saying it decided “to remove the posts on our social channels as they were not in line with our policies – and the views of an academic were being misconstrued as representing the university.” But other tweets quoting UNSW academics that could “also be misconstrued as representing the university” were not removed, suggesting at best an arbitrarily enforced policy.

If pro-CCP supporters can react so aggressively to the human rights arguments put forward by an academic, then one should be worried about the chilling effect especially for other academics writing or speaking about China, and also for Chinese, Hong Kong, or any other students who don’t share pro-CCP views. Universities like UNSW need to make it clear to all observers that they will not tolerate one view silencing others, and specifically state that anyone with any view about human rights in China, Tibet, Hong Kong, Taiwan, and beyond is not only entitled to articulate those views peacefully but also that the university will take very seriously any steps to harass or intimidate others holding different views. Human Rights Watch also urged UNSW to conduct a thorough investigation of the online campaign targeting the university to determine who organized it, whether any are UNSW students, and whether any UNSW students were involved in intimidation,

⁹ Mario Christodoulou, Sean Rubinsztein-Dunlop, Sashka Koloff, Lauren Day, and Meghna Bali, “Chinese Students and Scholars Association’s Deep Links to the Embassy Revealed,” *ABC News Four Corners*, October 13, 2019, (accessed December 2, 2020), <https://www.abc.net.au/news/2019-10-13/cssa-influence-australian-universities-documents-revealed/11587454>.

¹⁰ Marta Pascual Juanola, “‘This is What They Do’: Chinese Consulate Officials Accused of Monitoring, Filming Perth Anti-China Protest,” *WA Today*, June 17, 2020, (accessed December 2, 2020), <https://www.watoday.com.au/national/western-australia/this-is-what-they-do-chinese-consulate-officials-accused-of-monitoring-filming-perth-anti-china-protest-20200604-p54zgi.html>.

harassment, or threats to inappropriately report discussions to off-campus authorities. But to date, the university has not publicly released the results of any such investigation.

In Australia, both government officials and university administrators of eminent institutions have expressed to Human Rights Watch that they have robust policies to protect free speech and academic freedom. One example mentioned is the Model Code proposed by former High Court chief justice Robert French in a government review in 2019.¹¹ However, that code largely deals with protection of free expression in democracies and was drafted with students and academics from democratic countries in mind. It does not deal with the situation of students and academics from (or working on) authoritarian countries like China, and for whom academic freedom is curtailed in slightly different ways. The Model Code assumes all members of a given academic community are aware of, comfortable with, and confident in university bodies for reporting Chinese government-related threats to academic freedom, and that universities will respond to those reports with informed and appropriate considerations.

Human Rights Watch believes that institutions of higher learning around the world should resist the Chinese government's efforts to undermine academic freedom abroad. Yet, many Australian universities remain unprepared to address these threats in any systematic way. Therefore, this submission and our recent research concentrates on failures by Australian universities to uphold academic freedom for Chinese speaking students and China focused scholars.

We will release a more detailed report into this issue in Australia in 2021, and we have attached a confidential annex (see Annex 2) of what our research has shown.

Sophie McNeill, Human Rights Watch's Australia researcher, Elaine Pearson, Human Rights Watch's Australia Director, and Sophie Richardson, Human Rights Watch's China Director (based in Washington DC) are available to give evidence to the Committee.

¹¹ The Hon Robert S French AC, "Report of the Independent Review of Freedom of Speech in Australian Higher Education Providers," March 2019, (accessed December 22, 2020), file:///C:/Users/toobyn/Downloads/report_of_the_independent_review_of_freedom_of_speech_in_australian_higher_education_providers_march_2019.pdf.

ANNEX 1 – Human Rights Watch Code of Conduct

Resisting Chinese Government Efforts to Undermine Academic Freedom Abroad

A Code of Conduct for Colleges, Universities, and Academic Institutions Worldwide

Large numbers of students, scholars, scientists, and professors from China now study or work at colleges and universities abroad. In recent years, Chinese government authorities have grown bolder in trying to shape global perceptions of China on campuses and in academic institutions outside China. These authorities have sought to influence academic discussions, monitor overseas students from China, censor scholarly inquiry, or otherwise interfere with academic freedom.

Human Rights Watch investigations found that the Chinese government attempts to restrict academic freedom beyond its borders. To counter such pressures, ensure the integrity of academic institutions, and protect the academic freedom and free expression rights of students, scholars, and administrators, particularly those who work on China or are from China, Human Rights Watch proposes the following Code of Conduct. While the impetus for and focus of the provisions that follow is pressure emanating from China, academic institutions should apply the same principles to interactions with all governments that threaten academic freedom on their campuses.

All institutions of higher education should:

1. **Speak out for academic freedom.** Publicly commit to supporting academic freedom and freedom of expression through public statements at the highest institutional levels, institutional policies, and internal guidelines. Explicitly recognize threats posed to academic freedom and freedom of expression by the Chinese government seeking to shape discussions, teaching, and scholarship on campus. Reaffirm a commitment to freedom of inquiry, enabling scholars and students to freely conduct research, and make clear that opposing direct and indirect censorship pressures or retaliation by third parties, including national and foreign governments, is integral to academic freedom.
2. **Strengthen academic freedom on campus.** Emphasize the commitments and policies in support of academic freedom in student orientation, faculty hiring, handbooks and honor codes, and public gatherings. To avoid self-censorship or retaliation for stating opinions, academic institutions should publicize a policy that classroom discussions are meant to stay on campus, and never to be reported to foreign missions.
3. **Counter threats to academic freedom.** Encourage students and faculty members to recognize that direct and indirect censorship pressures, threats, or acts of retaliation by Chinese government authorities or their agents against students or scholars for what they write or say threaten academic freedom. Develop and implement effective mechanisms, such as an ombudsperson, to whom such pressures, threats, or acts of retaliation can be privately or anonymously reported.
4. **Record incidents of Chinese government infringement of academic freedom.** Actively track instances of direct or indirect Chinese government harassment, surveillance, or threats on campuses. Where warranted, they should be reported to law enforcement. Report annually the number and nature of these kinds of incidents.
5. **Join with other academic institutions to promote research in China.** Academic institutions should work in concert, including by making public statements and complaints where appropriate, in the event of unwarranted visa denials or prolonged delays for research in China. Academic institutions should consider joint actions against Chinese government entities in response to visa denials or other obstacles to academic research.

6. **Offer flexibility for scholars and students working on China.** Ensure that a scholar's career advancement or a student's progress will not be compromised if their research has to change direction due to Chinese government restrictions on research or access to source material in China. Institutions should consider steps, such as granting the scholar or student extra time to finish their research, supporting alternative research strategies, or publishing using pseudonyms, in the face of Chinese government obstacles, harassment, or reprisals. Academic institutions should be open to alternative research strategies when funding or receiving funds for academic work that has been rejected by a Chinese entity. Funders and review boards should provide comparable flexibility.
7. **Reject Confucius Institutes.** Refrain from having Confucius Institutes on campuses, as they are fundamentally incompatible with a robust commitment to academic freedom. Confucius Institutes are extensions of the Chinese government that censor certain topics and perspectives in course materials on political grounds, and use hiring practices that take political loyalty into consideration.
8. **Monitor Chinese government-linked organizations.** Require that all campus organizations, including the Chinese Students and Scholars Association (CSSA), that receive funding or support from Chinese diplomatic missions and other Chinese government-linked entities, report such information.
9. **Promote academic freedom of students and scholars from China.** Inform students and scholars from China that they are not required to join any organizations, and help mentor and support them to ensure they can enjoy full academic freedom.
10. **Disclose all Chinese government funding.** Publicly disclose, on an annual basis, all sources and amounts of funding that come directly or indirectly from the Chinese government. Publish lists of all projects and exchanges with Chinese government counterparts.
11. **Ensure academic freedom in exchange programs and on satellite campuses.** Exchange programs and satellite campuses in China should only be undertaken after the completion of a memorandum of understanding with the Chinese counterpart that has been transparently discussed by relevant faculty members and ensures the protection of academic freedom, including control over hiring and firing, and the curriculum.
12. **Monitor impact of Chinese government interference in academic freedom.** Work with academic institutions, professional associations, and funders to systematically study and regularly publicly report on: a) areas of research that have received less attention because of fears about access; b) decline of on campus discussions of topics deemed sensitive by the Chinese government, such as the 1989 Tiananmen Square Massacre; c) efforts by academic institutions to curtail Chinese government threats to academic freedom; and d) strategies collectively pursued by institutions to defend and promote academic freedom.