



香港記者協會
HONG KONG JOURNALISTS ASSOCIATION

2019
Annual Report

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二零一九香港言論自由年報

DRAGGERS
FREEDOM
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Red line
stifles
freedoms



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Hong Kong Journalists Association

HONG KONG JOURNALISTS ASSOCIATION

The Hong Kong Journalists Association (HKJA) is the only industry-wide union of journalists in Hong Kong.

The HKJA promotes the right to freedom of expression and activity focuses on a range of press freedom and ethics concerns. As a trade union, the HKJA focuses on labour rights, pay issues, health and safety, and training.

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Introduction and recommendations

Is the Hong Kong press still free, with uninhibited coverage of China and of issues on which China has strong views?

Are foreign journalists and media organisations in Hong Kong still free to operate without controls?

These are two of the 16 benchmarks on the success, or failure, of the “one country, two systems” policy set by last British governor in Hong Kong Chris Patten, now Lord Patten, in his swansong Policy Address delivered at the Legislative Council on October 2, 1996. Almost 23 years on, it is unclear whether Lord Patten has already had the answers to the questions he himself asked. That he had put the fate of local and international media as two of a list of benchmarks of “one country, two systems” shows he was doubtful then. A string of media events unfolded in the past 12 months shows his doubts are not unfounded. To many people, there are more truths in them now than it was before.

What should have been a normal lunch talk hosted by Foreign Correspondents’ Club (FCC) has whipped up a political storm when officials from the Chinese Foreign Ministry’s Hong Kong Commission found the speaker was Andy Chan Ho-tin, founder and convenor of the pro-independence Hong Kong National Party. FCC was vehemently criticised by both the Central Government and the Hong Kong Government for providing a platform for Chan to advocate pro-independence thinking. Victor Mallet, the then *Financial Times* Asia Editor and First Vice President of FCC, became the scapegoat for being

the host of the luncheon. His application for a work visa renewal later was rejected by the Government. No reason was given. His attempt to visit Hong Kong to handle family matters before leaving the city for a new post in Paris failed. The Government refused to explain on individual cases.

The plight of Mallet has sent jitters to the local and international media community. They fear the “red line” warning given by President Xi Jinping during his visit to the city in 2017 has and will bring about profound damages to freedom of expression and press freedom. It is reliably learned that some major international media have started to consider relocating their regional headquarters in Hong Kong to other places in Asia. They fear the work visa denial is no longer the exception, but the norm. The Government has moved to tightening control over foreign press, like what the communist authorities have done on the mainland.

In Chapter 1, Chris Yeung will document and analyse the impacts of Xi’s “red line” warning on freedoms and the implementation of “one country, two systems.” In a separate piece, a Hong Kong-based foreign journalist, who preferred anonymity, looks deeper into the feelings of the foreign

correspondents' community towards the "red line warning." Grace Kong will explain the row over the enactment of a law on national anthem.

At the time when this report went to press, Chief Executive Carrie Lam Cheng Yuet-ngor is under mounting pressure for her to resign for her blunders in handling an extradition bill the Government proposed in February. On June 16, more than two million people took to the streets, calling for the bill to be scrapped and, more importantly, for her to go. It followed her announcement on June 15 the bill would be "suspended" indefinitely. That has fallen short of people's calls for it to be withdrawn. People's anger towards her mishandling of the bill has escalated to a demand for her to step down. Journalists and a range of sectors in the society have expressed fears that the bill, if passed, would become a sword hanging over the heads of everyone.

Also at the centre of the political crisis precipitated by the extradition bill protests is the Hong Kong police. On June 17, the Hong Kong Journalists Association has filed a complaint to the Independent Police Complaints Council over 27 cases of alleged violence or harassment against reporters and other media personnel covering extradition bill protests on June 10 and 12. The union has also written to Mrs Lam, calling for the setting up of independent investigation committee to look at whether police were under official orders to respond in the way they did.

In the complaint, the association listed 10 cases of police shooting tear gas at reporters from short range, including three cases where reporters were hit directly in the head with the substance. There are also three incidents of officers harming journalists or damaging their equipment with batons, and one case of a reporter injured by suspected rubber bullets or beanbag rounds. Eight other cases involved police pushing or chasing reporters with

shields and batons away from the scene so they could not observe the force's clearances of protesters, injuring at least one reporter.

Two cases involved officers using a strong flashlight to prevent reporters from taking photos, and three cases involved the police searching journalists without justification.

The number and severity of those cases have raised a question of whether police officers have deliberately targeted at reporters and, if so, why. Reporters remain skeptical despite repeated assurances by Police Commissioner Stephen Lo Wai-chung that they were sincere in cooperating with the media. There are concerns that people's right to know will be jeopardised if reporters are not given easy and safe access to the places where news are unfolding.

On the domestic media, business environment is getting more difficult in view of the changing strategy of advertisers. Both traditional and new media have tightened their budget. Some media outlets have downsized their staff team in the name of restructuring. Lam Yin-pong gives a snapshot of the media scene in Chapter 3. Following years of lobbying by groups including HKJA, the government-appointed Law Reform Commission has issued two separate consultation papers on the enactment of laws on freedom of information and archives. Whether the proposals will be turned into laws and, more importantly, effective laws, however, is still unclear. Shirley Yam explains in Chapter 4. Also in Chapter 4 is a piece by Alvin Lum on the Carrie Lam administration's lack of transparency and accountability in their dissemination of information.

2019 is a year destined to have historical significance. It marks the 30th anniversary of the bloody crackdown of the 1989 Tiananmen democratic movement and the 100th anniversary of

the May Fourth Movement. The ruling Communist Party is also holding large-scale celebrations to mark the 40th anniversary of the reform and open policy and the founding of the People's Republic of China in 1949. More than anytime before, the developments of China have significantly influenced Hong Kong's developments. In Chapter 5, Ching Cheong, a veteran China-watcher, takes a penetrating look at the communist governments' "ideological indoctrination" in the past 70 years. He concludes that the ruling party's propaganda work has created a mass with "no ideological baseline," "no rationality," "no conscience." "They advocate 'struggle,' oppose civilisation of human beings and blindly oppose the US-led Western world from the perspective of extreme nationalism."

To say the past 12 months have been eventful is an understatement. In a sense, it is one of the worst years for post-1997 Hong Kong. According to a poll conducted by the University of Hong Kong's Public Opinion Programme in early May, all 10 freedom sub-indicators have dropped compared to a year ago. The freedoms of "academic research", "speech", "press", "publication" and "association" have even dropped to their record lows since the questions were first asked in August 1997. In the area of rule of law, ratings of both "impartiality of the courts" and "fairness of the judicial system" have dropped. The latter is at its record low since the question was first asked in 1997. A yearly Press Freedom Index compiled by HKJA since 2013 shows public rating of press freedom in 2018 fell to a new low. Rating by journalists who responded to the survey has stayed at a low point for consecutive years. Ratings on freedoms look set to drop further in light of the jitters over the Government proposed amendment to the fugitive law. Lord Patten told reporters in London on May 21 the extradition law proposal was "the worst thing" happened in Hong Kong after 1997.

The HKJA urges the Government to reaffirm their commitment to uphold freedom of expression and freedom of the press through concrete actions and convincing words. They should not do anything that damages those freedoms as they have done so in the past 12 months on a list of matters including the FCC saga. They should also take specific actions as below.

1. Withdraw the fugitive law amendment bill.
2. The way the Government fast-tracked the fugitive law amendment does not augur well for the enactment of a law on Basic Law Article 23, which has been put on shelves since 2003. There will be fears that the Government will bulldoze the anti-subversive law as they are doing so for the extradition bill. In light of the growing social divisiveness, the Government should not table Article 23 legislation without society consensus.
3. The Government should speed up the enactment of a freedom of information law and an archives law that are effective in enhancing public access to information and archives.
4. The Government should further improve the dissemination of information and press arrangements to facilitate the work of journalists.
5. The Government should set up an independent investigation committee to probe the Police's alleged violence or harassment against reporters and other media personnel covering extradition bill protests on June 10 and June 12. The investigation should also examine whether those violence and abuse of power involves high-level instructions.

'Red line' over Hong Kong

By Chris Yeung
Chairperson of the Hong Kong Journalists Association and
Chief Writer of CitizenNews, an online media.

Two years ago, Chinese President Xi Jinping has laid down the "red line" in the "one country, two systems" framework, under which Hong Kong is promised highly autonomous powers and an array of freedoms after 1997. Xi delivered the "red line" warning, a harsher "bottom line" reminder, when he visited Hong Kong in 2017 to mark its 20th anniversary of reversion to Chinese sovereignty. Not surprisingly, it has caused a stir in the Special Administrative Region, followed by an air of jitters engulfing the enclave since then. Questions have been raised. Does the "red line" warning matter? Will it shape the city's development? If yes, how?

Two years on, the impacts of Xi's directive have proved to be real, and worse, profoundly damaging to the city's freedom of expression and freedom of the press. The past 12 months saw a sharp deterioration of the media environment as Beijing's overly emphasis on the importance of the principle of

"one country" has upset the balance in the "one country, two systems" formula, posing a threat to the city's systems and freedoms.

Xi's warning not just words

In his speech delivered at the inauguration ceremony of the administration led by Carrie Lam Cheng Yuet-ngor, who was sworn in to become the Chief Executive at the same ceremony, Xi maintained matters relating to central-SAR relations must be correctly handled firmly under the principle of "one country." The thinking of "one country" should be firmly established, he said. Any activities that endanger national security, challenge the power of the central authorities, the authority of the Basic Law and use Hong Kong to infiltrate the Mainland are deemed to be a challenge to "Beijing's bottom-line", Xi pointed out.

Under the guiding thinking of Xi, mainland Chinese officials have shown no indication of softening their tone and words on the importance of upholding national security in Hong Kong in the past year. Speaking at a symposium marking the nation's National Security Education Day on April 15, the Director of the Central Government's Liaison Office, Wang Zhimin, reiterated the need to handle the risks caused by the delay in enacting a law on national security in the city, referring to Basic Law Article 23. He explicitly said the Hong Kong SAR "is no special" when it comes to the question of upholding national security. "It is an issue about (fulfilling the) responsibility of (being part of) one country, not one about differences between the 'two systems'," Wang said.

On its face, Wang seems to be merely stating the obvious. True, national security ostensibly falls within the ambit of "one country." It is arguably not. This is

simply because the basic thinking behind the policy of “one country, two systems” is to respect and preserve the city’s unique values, culture and systems under the post-1997 constitutional order. In line with that basic design, China’s national laws will not be directly applied to Hong Kong. Basic Law Article 23 is a case in point. Under the provision, Hong Kong is allowed to legislate on its own a list of crimes stipulated in it, including the timetable of legislation.

The legislative arrangements for Article 23 could only be interpreted as Beijing’s commitment to give autonomous powers to Hong Kong to determine the contents of the anti-subversive law in accordance with the practical conditions in the city. The key is not just upholding the principle of “one country,” but at least equally important, respecting and preserving Hong Kong’s systems and lifestyles.

Another case in point is national anthem law. Instead of a direct application of the state national law promulgated by the National People’s Congress (NPC) through an addition of it to an annex in the Basic Law, Hong Kong will implement the law through local legislation. While taking into consideration the national law, Hong Kong will formulate a local law taking note of the circumstances and needs of the city. (See separate article in this chapter)

While hardening their “red line” warning, mainland officials have also toughened their rhetoric of Article 23 legislation. In a report published in April, an online media portal, *HK01*, cited authoritative source as saying Beijing was contemplating the idea of taking the initiative to plug the loopholes in law created by the delay in enacting Article 23 law. The report, pushed on April 8, said the NPC Standing Committee would make an interpretation of the Basic Law. The aim, the report said, is for the NPC body to specify the previous cases that could be cited by the Government to handle cases that are related to

national security. The arrangement, if implemented, could mean the provisions in Article 23 would be implement before it is enacted.

It is difficult to tell whether the *HK01* report is true or not. It is clear, however, Beijing has become increasingly impatient with what they consider as delay in Article 23 legislation. Speculation is rife that Carrie Lam is under enormous pressure to finish the legislative work of Article 23 in her current term, which is due to end by June 30, 2022.

By the time this article went to press, there is no hard evidence that shows Beijing has handed down a specific order to Mrs Lam on an enactment of the law. This is despite the hardening rhetoric of mainland officials about their dismay over the delay. Judging from the various indications, it can be argued that Beijing is still hoping to give room for the SAR government to find the right time to resume legislative work on Basic Law. That is after all what they have promised in the Basic Law. But on the other hand, Beijing is anxious not to give a false hope that Article 23 can be indefinitely delayed.

Act slow on Article 23, but quick on party ban

In her election manifesto and remarks made since she took office, Mrs Lam stuck to her stance that the SAR Government is obliged to enact the law, but it must be done in a careful and prudent manner. She has promised to create an environment conducive to legislative work. In short, it is delaying tactic, representing one side of her two-thronged tactic in dealing with Beijing on matters relating to sovereignty and security. The other part of her tactic features a more aggressive approach in curbing the growth of political activism in support of independence and its kind. She was hoping to convince Beijing that she could still curb separatist activism by invoking existing laws such as the Societies Ordinance.

Also speaking at the national security education seminar in April, Mrs Lam reaffirmed that the Government would not turn a blind eye to activities that endanger national security. She cited the banning of the Hong Kong National Party (HKNP) as a case in point. Following the invoking of Societies Ordinance in regards to the dissolution of an organisation, the Government has decided to outlaw the HKNP, citing the deeds and words of HKNP convenor Andy Chan Ho-tin since he launched the party in March 2016 with a recommendation to ban it “in the interest of national security.”

The move to ban HKNP, the first of its kind since 1997, has profound impacts on the expression of political dissent and freedom of the press in the city. In their report on the ban, police has admitted the HKNP has so far not used any violence, but added that possibility cannot be reasonably ruled out. Evidence listed in the lengthy report against Chan are comments made by him and his allies in public events and press interviews including his speech at the Foreign Correspondents’ Club and his letter to US President Donald Trump asking for the abolition of the special treatment granted to Hong Kong under trade agreements.

Commenting on the ban, Benny Tai Yiu-ting, a law professor and one of the three Occupy Movement core organisers, said in an interview the case “opens the door to use national security to justify further limitation on Hong Kong people’s rights including freedom of expression indirectly.”

Mallet denied visa, entry in FCC saga

If there is one single incident that has defined the state of freedom of expression and freedom of the press in Hong Kong in the past 12 months, it is no doubt the FCC saga in August, which resulted in the de facto expulsion of Victor Mallet, a journalist from the *Financial Times* (FT), from the city. First, he has his application for a renewal of his work visa rejected

by the Immigration Department in October. On his return to the city after a trip in October, he was only given a seven-day stay. When he attempted to enter the city after another trip in November, he was refused entry. No reason was given by the immigration authorities, nor the Chief Executive and security officials, insisting they did not comment on individual case.

Mallet, who now heads FT’s office in Paris, landed on an unlikely minefield on his path of journalism when he hosted a luncheon talk by HKNP’s Andy Chan Ho-tin, in his capacity as First Vice Chairman of the FCC, in August. It came at a time when the Government had invoked the Societies Ordinance to consider outlawing the party, of which Chan is the founder and the lone public face. The Chinese Foreign Ministry’s representative office in Hong Kong was panic. They talked to the FCC to ask them to rethink, a diplomatic way of saying, “don’t do it.” Mrs Lam took a moderate line in her first comment, saying the FCC event was “regrettable and inappropriate.” FCC stuck to their decision, insisting it was just normal for journalist groups to invite speakers representing a wide spectrum of political views. That does not mean they endorse their views, or in that case, Andy Chan’s pro-independence stance, in one way or another. The event went ahead. Despite lousy protests outside the FCC building, the luncheon talk was largely uneventful. Both the Foreign Ministry’s Office and Mrs Lam reacted again. This time in much stronger and sharper words. That was not unexpected. Journalists and many people had thought the saga was over. It was not. He was not allowed to enter the city in November.

The Mallet case has caused a stir in the media circle, local and international community. Western governments spoke up and raised their concerns. In the absence of any other reasonable factors for the visa refusal, the only plausible reason is his role and involvement in the Andy Chan talk. He has emerged as the convenient target of political reprisal by the

Chinese central government with the intention of “scaring the monkey by killing a chicken”. Put plainly, it is seen as an attempt to send a no-nonsense message to journalists and the society at large for them not to cross the “red line” spelled out by President Xi in July 2017. The “red line” in the “one country, two systems” constitutional map for post-1997 Hong Kong refers to Hong Kong independence, or more broadly, matters China deems as a threat to national security and the country’s core interests.

The Mallet case has profound ramifications on freedom of expression and press freedom. This is because of the simple fact that although the Government has never said the Andy Chan talk is unlawful, Mallet has been given an de facto expulsion as a form of punishment for his role in the event. It sent shockwaves in the foreign media circle. It is too early to tell whether international media in the city will review their presence in the city, let alone scaling down their editorial team. But it is apparently clear the case has stoked fears about the shrinking room for free speech and free media. (See related article in this chapter.)

Fugitive law amendment a sword hanging over head

With jitters over the Mallet case still lingering, the Government has dropped a political bombshell in early 2019 when it announced a legislative plan to amend the extradition laws so that, for the first time, suspects could be extradited to Taiwan, Macau or, more important, mainland China on a case-by-case basis. The Government has argued there was an urgent need to install an arrangement in law for sending a Hong Kong man, Chan Tong-kai, to Taiwan for the murdering of his girlfriend there last year. Chan is serving a jail of 29 months after he was convicted of money-laundering by a Hong Kong court, but could walk free as early as October. Government officials also said an arrangement for

the transfer of fugitives with countries, which do not have formal extradition pacts with Hong Kong, is overdue. Doing so, they said, would avoid Hong Kong becoming a “haven for criminals.” Officials said that no-one is at risk of being sentenced to death, being tortured, or facing a political charge would be sent to the mainland.

But opponents, doubters and critics are unconvinced. They fear Beijing’s poor human rights record, opaque legal system and backward judicial systems, in particular the lack of fair trial safeguards would put anyone in Hong Kong, including foreigners, at risk. Lord Patten, the last British governor, said in a statement the proposal was “an assault on Hong Kong’s values, stability and security”. Sharing similar concerns are the European Commission and Western governments including Britain and United States; international media watchdogs including Reporters Without Borders. In a report published on April 8, the US-China Economic and Security Review Commission, a US congressional body, has warned that the Hong Kong government’s proposed extradition bill could create serious national security and economic risks as it will allow Beijing to pressure the city into handing over American citizens under false pretences. The bill, if passed, would increase Hong Kong’s susceptibility to Beijing’s weak legal system and political coercion, leading to further erosion of the city’s autonomy, they said. On May 8, the International Chamber of Commerce has urged the Government to abandon its controversial extradition bill, saying the amendments to the fugitive law would force businesses to reconsider if they should locate their regional offices in the city.

On April 3, HKJA issued a joint statement with 14 local and international media organisations and Professor Francis Lee Lap-fung, head of journalism school, Chinese University of Hong Kong, opposing the amendments. They warn it will not only threaten the safety of journalists but also cause chilling effect

on freedom of expression in Hong Kong. In a rare participation in public rallies, HKJA joined the public in a march against the government bill on April 28. Organisers said more than 130,000 people took part, the largest turnout since the 2014 Umbrella Movement. Police said only 22,800 people were there at its peak.

The massive, higher-than-expected, turnout has not prompted a government rethink. The opposite is true, The Government stood more firm and dismissed as “not viable”, “not preferred” all alternative options, including the idea of “Hong Kong people standing trial in Hong Kong.” Supporters including University of Hong Kong law professor Albert Chen Hung-ye, who sits on the Basic Law Committee, an advisory body under China’s National People’s Congress Standing Committee.

Emboldened, if not at the behest of, by Beijing’s support, the administration led by Carrie Lam Cheng Yuet-ngor is bent on bulldozing the bill before the current legislative year goes on summer recess in July. Their hardball tactic sparked fierce resistance by the pro-democracy legislators. It culminated in ugly clashes between the pro-democracy and pro-government factions in the Legislative Council on May 11.

At the time when this report went to press, Mrs Lam was under enormous pressure for her to withdraw the bill after she decided to suspend it indefinitely following the two million-strong protest on June 16.

Press freedom fears grow, but Government feels good

Fears over the Government’s extradition law amendment look certain to inflict more damages to confidence in the city’s press freedom. In the annual Press Freedom Index survey conducted by HKJA, 81 percent of journalists who responded said press freedom had worsened compared to the past 12 months. Of the 535 responded, 22 percent, or 112,

said they had experienced pressure from seniors not to report or to reduce reporting about Hong Kong independence.

The general public gave the city’s press freedom 45 points out of 100, down from 47.1 the year before – a record low, and the sharpest drop since the survey was launched in 2013. For the first time, the public also listed China’s central government as the top factor swaying their assessment of press freedom.

On April 18, the Reporters Without Border announced its 2019 press freedom ranking, which shows Hong Kong slipped to 73rd place from 48th in 2009. “Beijing’s baleful influence has led to a decline in press freedom in Hong Kong, which is supposed to enjoy separate status as a special administrative region until 2047,” the report read, citing the Mallet case.

Despite the growing jitters about press freedom and freedom of expression, the Government has put on a brave face, dismissing concerns that cases like the Mallet visa denial would dent confidence in freedoms. It is reliably learned that high-ranking government officials have said in private meetings journalists need not worry as long as they do “normal reporting”, and not “publicising” any independence cause. Officials’ reported remarks have not helped allay journalists’ fears that giving prominent coverage such as “big headlines” or full verbatim report of interview with independence advocates could land them into trouble.

The blurred and shifting “red line” has cast a long shadow over journalists and media executives, fueling fears that their coverage of highly-sensitive issues such as Hong Kong independence might be seen as having crossed the “red line”. To avoid confronting those unwelcome difficult situation, some journalists and media executives may practise self-censorship. If passed, the amendment of the law on transfer of fugitives will make the problem of self-censorship worse.

Mallet plight shocks foreign press and world

This article is written by a journalist, who preferred anonymity.

The Government's crackdown on individual or organisation with any link with the so-call independence advocacy went on to claim another victim—*Financial Times* Asia News Editor Victor Mallet.

On August 3, the acting president for the Hong Kong Foreign Correspondents' Club (FCC) confirmed in the local media that the Chinese Ministry of Foreign Affairs had approached the FCC asking it to cancel a luncheon talk by Andy Chan Ho-tin, convenor of the now-disbanded Hong Kong National Party (HKNP). A few days later, Leung Chun-ying, former Hong Kong Chief Executive and now a vice chairman of the Chinese People's Political Consultative Conference, urged the Hong Kong Government to reconsider the club's property lease, which is due to expire by 2013.

The club refused to budge. It said: "Members and the public at large have the right—and in the case of

journalists, the professional responsibility—to hear the views of different sides in any debate". The speech by Chan went ahead and Mallet chaired the event.

On October 2, Mallet was informed that his work visa, which expired the day after, would not be renewed. No reason was given. The journalist was subsequently allowed to return to the city on a seven-day visit; though British citizens are normally allowed to stay 180 days visit visa free for business and pleasure. On November 8, Mallet attempted to enter Hong Kong as a visitor to sort matters out before starting a new posting in France. He was turned away after four-hour of questioning at the immigration.

The Government declined to give an explanation, either to Mallet or in response to a request by the British Consul General, stating that the Immigration

Department would not disclose the individual circumstances of the case or the considerations of the decision. Chief Executive Carrie Lam Cheng Yuet-ngor said that the Immigration Department was not obliged to explain individual cases.

Instead, an editorial in state-run Chinese tabloid newspaper *Global Times* said Mallet should “reflect on what he has done in Hong Kong, which is so different from other foreign journalists”. It added that, “some extremists and extraterritorial forces are attempting to damage the city’s political, legal and media ecosystem”.

The unprecedented move against Mallet is widely seen as a retaliation of his hosting of Andy Chan’s talk. A *Financial Times* editorial said: “It sends a chilling message to everyone in Hong Kong, highlighting Beijing’s tightening grip on the territory and the steady erosion of basic rights that are guaranteed in Hong Kong’s laws and international agreements”. Democracy activist Joshua Wong Chi-fung said: “Banning Victor from the city altogether, even as a tourist, is nothing less than an authoritarian attempt to censor all opposing voices. This development is extremely worrying, especially for journalists sent to this city to report on Hong Kong and Chinese political situations.”

The rocking wave among correspondents

Mallet’s expulsion rocked the close-knit foreign correspondent community in Hong Kong. While many reporters working in mainland China are aware of the potential risks should they cover sensitive issues or otherwise displease Beijing, Hong Kong has always treasured its free speech protections, and international media organisations have typically favoured the city as a regional headquarters for this reason. They can no longer be sure.

A spokeswoman of *New York Times* said any politicisation of the territory’s visa process “would be very worrying”. A senior editor of another international publication conceded that there has been an internal discussion on the suitability of Hong Kong to continue as its Asia headquarters in Asia. “Imagine the chaos when an editor is suddenly denied entry at the airport,” he said.

T, a British correspondent working for an international news wire, said: “I don’t think the city should assume their presence and investment is open ended and guaranteed if the media landscape and media freedom changes.”

The true test, *T* said, would be whether Mallet’s case would be a singular blip, or the beginning of a pattern. “Even a second use of this, if it went from one off to something that has happened more than once, would be unprecedented,” he said. “It would completely change the landscape of how foreign media operate in Hong Kong.”

Individual correspondents have begun to concern with their personal safety in particular those who lack the foreign passports to easily move overseas should they face pressure in Hong Kong.

Among them is Chinese reporter *S* who works for an international outlet based in the city and agrees to speak on the condition of anonymity like most others interviewed. She recalled her shock upon hearing Mallet’s ban. “I thought the news was wrong,” she said. “We know some reporters based in China would be expelled from the country but we didn’t expect anyone from Hong Kong would suffer the same.”

“To many of us who originate from mainland China, we thought Hong Kong was a safe place to do journalism, that’s why I came to Hong Kong for university,” she said. “The perception is not valid right now.”

Her career plan used to be operating in Hong Kong and covering China-related news. She said: “If Hong Kong one day becomes similar to the situation in mainland China then I think my original plan wouldn’t work.”

Foreign passport holders are concerned with the self-censorship intensified by the Mallet saga. *T*, who moved to Hong Kong relatively recently, said he “thought I’d left that kind of crap behind in the previous country that I’d worked in, where there was this feeling that you had to be careful about some of the things you wrote or said because it could affect your visa situation.”

Everyone who the author spoke to working in international media agreed that the foreign journalist community was not immune to the type of self-censorship that has long plagued local media here. Indeed, they said the situation in the city may be worse than in mainland China, due to how people plan to remain in Hong Kong long term, while Chinese postings are generally rotations.

“People think of Hong Kong as a home,” Hong Kong-born journalist *W* who works in international media said. “People build and raise families in Hong Kong... they must be thinking twice about coming here and setting up lives and raising families here if there’s a possibility your visa could be taken away.”

T added that the Mallet expulsion “makes foreign reporters pause and think in a way they never had to before” about the stories they choose to cover.

Australian journalist *B* predicted it would lead to less coverage of the Hong Kong independence movement, which he described as “perhaps about as extreme a topic as you could pick to challenge the Hong Kong government on.”

"If you look at press censorship like a straight line, from free to completely suppressed, then Hong Kong is just a few steps behind China on this line," he said. "Journalists all knew that there was always the threat of Hong Kong moving closer towards China's level of suppression but there was no indication necessarily when it would come. Now I think there is a feeling that it could come at any time, without warning."

Awakening call to the international community

If government officials have thought that the Mallet saga won't stick, they could not have been more wrong. The ban of a foreign journalist has been an awakening call to the international community on the deterioration of freedom in Hong Kong. The result is a policy change that is best told by unprecedented recommendations on Hong Kong in the latest human rights review of China in the United Nations. The ripple went on from here.

Over the years, HKJA has met various diplomats in the city to draw their attention to the loss of media ownership to mainland-linked companies; the kidnapping of Causeway Bay booksellers as well as rampant self-censorship in local media.

This was, however, met with doubts. "There are loads of criticisms against the government in the newspapers. Those critics are kicking and alive. What do you mean by press freedom under siege?" "Is there any evidence that the change in editorial policy is due to pressure from Beijing and Hong Kong government?"

Mallet's loss of visa was a loud and clear answer to all these queries. Press and speech freedom has become the primary concern of diplomats in their October 2018 meeting with civil societies from Hong Kong for the five-yearly United Nations (UN) Universal Periodic Review (UPR) hearing of China. Among the civil societies represented was HKJA.

"It's hard to imagine them (officials) not knowing the damage to Hong Kong in the case of denying visa to a *Financial Times* journalist. If they dare to do this, anything can happen now," said one of the diplomats in the meetings.

In November 2018, Hong Kong - for the first time - was singled out by 12 countries through recommendations, statements and questions in advance of the UPR. Among them France recommended: "Guarantee freedom of speech, assembly and association, including in Hong Kong, and remove restrictions on freedom of information on the internet, in particular for human rights defenders." China formally accepted five out of six of the UPR recommendations on Hong Kong at the UN in Geneva.

In its most strong-worded Six-monthly Report on Hong Kong issued in March, Foreign Secretary Jeremy Hunt said he was concerned with the former British colony's high degree of autonomy "being reduced" with regard to civil and political freedoms. Describing the ban of Mallet as "seemingly politically motivated expulsion," Hunt said: "I have... been concerned by the recent pressure being applied on Hong Kong to move towards a mainland Chinese interpretation of civil and political freedoms, under which certain subjects are effectively off-limits for discussion and debate."

The US Department of State Report on Hong Kong also made several references to the Mallet incident as well as the ban of HKNP. It said: "In some particularly concerning instances, Hong Kong authorities took actions aligned with mainland priorities at the expense of human rights and fundamental freedoms. There were particular setbacks in democratic electoral processes, freedom of expression, and freedom of association." The report said this would dampen confidence of the international business community in Hong Kong but it did not suggest any change in special treatment for the city.

In a statement, the Hong Kong government warned that foreign governments should not interfere in the city's internal affairs. It also reiterated its stance that Hong Kong independence is a "blatant violation of the Basic Law" and a "direct affront" to national interests.

From national flag, emblem law to anthem law

By Grace Kong Lai-fan
Grace Kong Lai-fan has worked with *Ming Pao Daily*, *South China Morning Post*, Commercial Radio and she is now an *Hong Kong Economic Journal* staff member.

After several occasions in which Hong Kong soccer fans booed the Chinese national anthem, the Standing Committee of the 12th National People's Congress (NPCSC) passed the National Anthem Law of the People's Republic of China (National Anthem Law) in 2017. The NPCSC decided to incorporate the law into Annex III of the Basic Law. In accordance with Article 18(2) of the Basic Law, the national laws listed in Annex III shall be applied locally by way of promulgation or legislation by the Hong Kong Special Administrative Region (HKSAR). When the NPCSC declared its decree, Hong Kong public expressed concerns over the contents and details of the this upcoming legislation. The number of jeering incidents dropped in 2018¹. Still, the SAR Government decided to officially introduce the national anthem bill to the legislature last January, more than a year after the NPCSC decision. Reactions from the society have been less agitated than expected by then. Government officials say that it is because what is proposed in the Bill is lenient and a person will only be sentenced to imprisonment if he/she derogates the national anthem on purpose. However, it is more probable that the society has paid not much attention to the Bill because people's focus has shifted to the amendment of the extradition law in the last few months. As this article went to press, Legislative Council President Andrew Leung Kwan-yuen has confirmed that lawmakers will not scrutinise the national anthem law bill again before their summer break in mid-July.

Even though public apprehension over the National Anthem Bill are seemingly mitigated, we should pay heed to several aspects of the Bill. First, there is a plethora of political slogans in its preamble. They include phrases such as "to preserve the dignity of the national anthem", "to enhance citizen awareness of the People's Republic of China, and to promote patriotism", which are rarely found, if not unprecedented, in jurisdiction of Hong Kong. Secondly, the Government, claiming that it takes time to garner evidence, proposes an extended term for statute of limitations to apply for prosecutions

initiated under the proposed new law. Once someone is deemed breaking the national anthem law, authorities will have up to two years to file criminal charges—instead of the more common six months. Thirdly, it is stated in Part 4 that there is a need to “promote the national anthem” and this will be made obligatory in secondary and primary education. Secretary for Education will be required to give a directive to make sure that students learn to sing the national anthem and to learn about its history and spirit and the etiquette for playing and singing the national anthem. Fourthly, it is stipulated in Schedule III of the Bill that the national anthem be played and sung in the oath-taking ceremony of Legislative Councillors.

For several times back in 2017, Hong Kong football fans booed the national anthem when Hong Kong soccer team played against other national teams. Such mischievous behaviour is no longer prevalent in recent years. Moreover, the National Anthem Law was enacted in 2017 in the Mainland amid an ambience which emphasises the adherence of Beijing’s decorum. The Beijing ruling that the Mainland law shall be applied in Hong Kong has given rise to fear that Hong Kong’s “one country, two systems” formula will be undermined. Worries that “one country” have trumped “two systems” have created anxiety that freedom of speech in Hong Kong will be jeopardised.

It is not the first time that a national law is extended to Hong Kong. Among the legislations of the kind, the National Flag and National Emblem Ordinance is most often being cited and being compared with the National Anthem Bill. The National Flag and National Emblem Ordinance was deliberated and passed by the highly controversial Provisional Legislative Council before the handover of Hong Kong to China, so that it could come into effect immediately at the moment of the handover on July 1, 1997. However, when this Ordinance and the National Anthem Bill

were juxtaposed, it could be found that Beijing’s attitude towards Hong Kong and “one country, two systems” has somehow apparently changed over the course of time.

The preamble of the National Anthem Bill, for instance, has incorporated the essence of the first article of mainland’s National Anthem Law by declaring the objective of the legislation as “to enhance citizen’s awareness of the People’s Republic of China” and “to promote patriotism”. Such politicised and nebulous language is not usually used in the laws of Hong Kong. Professor of Law at the University of Hong Kong Johannes Chan Man-mun pointed out that “this is rare in common law legislation”.² In contrast, the HKSAR administration took quite a different approach when it came to the National Flag and National Emblem Ordinance two decades ago. The National Flag Law of the Mainland states in its first article that the objective of the law is “to enhance citizens’ consciousness of the state and to promote the spirit of patriotism”. Its Hong Kong version, however, skipped these political gibberish when it was endorsed by the Provisional Legislative Council. Wording such as “dignity”, “patriotism” and “respect” are simply not found in any part of the National Flag and National Emblem Ordinance. When the two laws are collated, it is not difficult to see that Beijing and the SAR government were previously willing to observe the differences between Hong Kong and the Mainland but that is no longer the case anymore. Ideological idioms are now being introduced into common law. It is inevitable that the public are worried that the leeway provided by “two systems” is shrinking.

Similarly, the National Flag Law of the Mainland requires that schools hold flag-hoisting ceremonies, but this was not introduced into the local legislation of Hong Kong. Today, however, it is stated in the National Anthem Bill that the Director of Education

must send out a directive requiring the national anthem be included in the secondary and primary education.

Schedule 3 of the Bill mentions a spate of occasions on which the national anthem must be played and sung. Apart from the celebrations of the handover of Hong Kong and the founding of the People’s Republic of China, it is stipulated that the national anthem be played and sung also when SAR government officials, executive councillors, judicial officers and legislative councillors are sworn in. Legislative councilors in the pro-democracy camp are worried that this will provide another excuse for the administration to disqualify them. Secretary for Constitutional and Mainland Affairs Patrick Nip Tak-kuen has said that a legislator-elect must have actual reasons for not attending the part of the ceremony when the national anthem is played and sung. Unless the intention is to insult or to express certain type of political view, it will not have any repercussion. He has also emphasised that one should not associate the legislation of the National Anthem Law with “political repression”. “This is not the case at all,” he said.³

It is true that the Bill states that a person commits an offence only if he/she does it “with intent to insult the national anthem” or when he/she “intentionally” publishes information of this nature. However, the Bill fails to state explicitly what will happen if someone does not play or sing along when the national anthem is played when he/she takes an oath. The public can only guess from the words of the government officials and pro-establishment legislators that if someone does not sing along when the national anthem is played and if there is no reasonable explanation, he/she will be in trouble. Similarly, the Bill states that schools and licensed broadcasting transmitters are obliged to promote the national anthem. But it does not stipulate what repercussions there may be if “promotion” is found

to be inadequate. Government officials only emphasised that according to the legislative intent of the law, a person can be found guilty only if he/she is “with criminal intent”, which is hardly reassuring to the public.

Government officials have reiterated that the national anthem legislation aims only to educate the citizens to ensure that they have knowledge of and respect the national anthem. They have also emphasised that the law is not intended to be harsh. The government may have proposed the Bill in goodwill, but there are too many imprecise words and vague political parlance in it. Moreover, it does not state what consequences there may be if someone is found to have violated the law. It is inevitable that the public is worried that the National Anthem Law will become the sword of Damocles that could be used any time to curtail political dissent. Such worries are not without ground. In the past when Hong Kong politicians expressed their political stand in the oath-taking ceremony when they are sworn in as legislators, they would be at most criticised publicly. Also, as long as basic requirements such as age, years of residence in Hong Kong were met, anyone is eligible for standing for election irrespective of his/her political stands. This is no longer the case now. The questions the public have raised about the National Anthem Law are, therefore, not at all wild guesses nor speculations.

1. In 2017, the national anthem was booed in various football matches in which the Hong Kong Football Team took part, including a friendly match against Laos, an AFC Asian Cup qualification game against Malaysia in the same month, an international match against Bahrain in November, 2017, and an AFC Asian Cup qualification game against Lebanon in the same month. In 2018, the national anthem was jeered only once and that happened in a friendly match against Thailand in the Mong Kok Stadium. See news reports:

“National anthem booed again in Hong Kong team friendly match”, October 12, 2018, Takungpao.com.hk
“HKFA fined US\$3,000 for fans booing the national anthem at Lebanon match”, December 20, 2017, *Hong Kong 01*

2. Johannes Chan Man-mun: “The National Anthem Law”, April 4, 2018, *Pentoy*

3. “Will someone be disqualified if he/she is absent when the national anthem is played during his/her oath-taking ceremony; Nip Tak-kuen: It’s up to the commissioner for oaths”, January 10, 2019, *Ming Pao Daily News*.

2 Chapter

The omnipresent yet imperceptible hand

By Allan Au Ka-lun

The past year has been marked by striking censorship incidents cropping up in art and culture sector, publication industry - and even the courier trade.

In November 2018, Hong Kong International Literary Festival was to be held at Tai Kwun, the former Central Police Station Compound, which underwent a heritage revitalisation and was reopened to the public in May 2018 as a centre for heritage and arts. Exiled author Ma Jian was invited to give talks on his satirical novel, *China Dream*. With everything in place, news broke out two days before the events were to be held that Tai Kwun was denying Ma the venue.¹

Tai Kwun Director Timothy Calnin said in a media statement: "We do not want the venue to become a platform to promote the political interests of any individual." One can't help questioning what "political

interests" mean. Literature and politics can hardly be segregated from each other. Provided that the talks are envisaged as serving "political interests", will the same barometer be tapped when major officials officiate at the opening ceremony of various activities, as they could earn exposures and establish their social networks? Will "political interests" be taken into account when President Xi Jinping visits Tai Kwun and speaks on his *China Dream*? Will he also be banned on grounds of "political interests"?

The Annex, a contemporary event and exhibition space at Nan Fung Place in Central, was once named by the organiser as a replacement venue, but *The Annex* dismissed any connection to the talks.² In light of widespread criticism, Tai Kwun eventually gave in, and Ma Jian's talks took place as scheduled in Tai Kwun.

The Tai Kwun incident is rare in recent years in the sense that a cultural institution tried to withhold a cultural event and that its management frankly and openly used its reluctance of politicization as the pretext. Whether or not it is due to pressure from higher authorities and/or self-censorship, the incident highlights the bewilderment of a cultural institution owing to various political taboos. The community should also pay more attention to the number of usual arts and cultural activities that have long been nipped in the bud without public notice due to various reasons of “dodging politics” or “reluctance to involve politics”. The problem is that the word “politics” is vague and subject to arbitrary interpretation. Anything involving dissidence is deemed “political”, whereas those involving high-ranking government officials are not “political” but most welcome.

Another similar incident also involves the arts and cultural sector took place at the end of last year. The exhibition, “Gongle,” featuring Chinese political cartoonist Badiucao, was abruptly cancelled the day before its opening.³ *Hong Kong Free Press*, one of the organizers, cited “safety concerns” as the reason for the cancellation, saying the Chinese authorities had made threats to the artist. “Whilst the organizers value freedom of expression, the safety of its partners remains a major concern,” it said. Three days before the exhibition was scheduled to open, the mainland authorities were said to have told his relatives in Guangzhou he must cancel the exhibition. If he refused to do so, they were told, he might be given “impolite” treatment. Co-organizers of the event included Reporters Without Borders and Amnesty International. By then, Russia protest group Pussy Riot had arrived Hong Kong to attend the event. Badiucao, who has moved to Australia, had earlier decided not to visit Hong Kong due to safety concerns. His drawings are mostly related to Chinese politics, with topics including Xi Jinping, June 4 crackdown and the Umbrella Movement.

SF Express incident

Trepidation of censorship has also been extended to the courier delivery industry. Columnist Leung Man-tao said that the Taiwan operation of delivery service SF Express refused to send three books from Taipei to Hong Kong, citing “recent content restrictions placed by China on articles and books.” The three books are: *Out of China: How the Chinese Ended the Era of Western Domination* by Robert Bickers, *The Great Debate: Edmund Burke, Thomas Paine, and the Birth of Right and Left* by Yuval Levin and an issue of *Taiwanese academic journal Intellectual History*.⁴ Leung pointed out that Chinese translation of the latter two were already on sale in the Mainland, yet he suspected that terms like “revolution”, “authoritarianism”, which are mentioned in the books, has triggered censorship. He was baffled why Mainland decrees circumscribing books are now being applied to Hong Kong.

Subsequently, many netizens shared similar experiences, including one recalled that even an order to send crucifix ornaments from Hong Kong to Macau during Christmas had been turned down by Hong Kong SF Express.

Hong Kong SF later apologised for refusing to send religious items, saying their staff had misjudged and failed to fully understand relevant legal provisions. The group “decided that the general manager took responsibility and immediately resigned” for “making frontline staff to step over the line”.⁵ As for the explanation of refusing to send “politically sensitive books”, SF Express Taiwan was evasive, saying “the presentation style of pickup and delivery staff has caused a cognitive gap.” They have promised to enhance training in future to avoid misunderstandings in communication.⁶

The SF incident well illustrates that censorship is occurring beyond the domain of media. Commercial compartment, which appertains different aspects of

our daily life, can become barricades of speech and thought. Under the “one country, two systems” notion, the Mainland’s censorship practice should not have been applied to Hong Kong. However, logistics routes can involve the Mainland, where censorship yardsticks are comprehensive and in a state of flux. Under such circumstance, logistics companies have no choice but to resort to censorship or self-censorship, whether intentional or unintentional, so as to stay out of trouble.

Book censorship incident by Joint Publishing

Publication censorship by Joint Publishing, Chung Hwa Book and Commercial Press has continued to cause concern. Beijing’s Liaison Office in Hong Kong controls the three main bookshop chains, which are fully owned subsidiaries under Sino-United Publishing. In an early 2019 article published in *Ming Pao*, Professor Wong Nim-yan of the Chinese University’s Department of Chinese Language and Literature revealed that plans to publish a book by translation scholar Uganda Kwan Sze-pui had been scrapped. Dr. Kwan had prepared to publish a new book entitled *Globalising Hong Kong Literature*. Several rounds of proofreading have completed. Typesetting done. Even the cover design was out. But the plan was aborted at the final stage.⁷ Wong’s article quoted Dr. Kwan as saying the publisher could not publish it because its contents included “June 4th” incident and the plight of publication sector in China in the 80s and 90s. The publisher asked the author to edit them out herself but she refused to oblige. Wong’s article did not name the publisher, though Joint Publishing appeared in a photo alongside the article.

Dr. Kwan is now teaching at Nanyang Technological University in Singapore. In reply to media enquiries, she said she was simply carrying out the responsibility and duty of a scholar. Kwan will now publish the book with Taiwanese company Linking Publishing.⁸

In April 2019, SUP Publishing Logistics, a major book distributor in Hong Kong under the control of the Liaison Office, told Hong Kong book suppliers that its warehouse would move to the Mainland port of Nansha and that in future, books entrusted to SUP for distribution would have to be delivered to Nansha first. This has triggered fears of intensified censorship.⁹

HK01 Editor’s Note on anti-Taiwan independence

It is not anomalous for Taiwanese politicians to be refused entry to Hong Kong. In December 2018, the Taiwanese band *Chthonic* was invited to perform in Hong Kong, but the Immigration Department refused to grant them work visas. *Chthonic* lead singer and erhu player Freddy Lim Tshiong-tso, a Legislative Yuan member, belongs to the pro-independence New Power Party. In an interview with *HK01*, Lim recounted that he had come to Hong Kong many times without a hitch before 2014. In recent years, he once applied to come to Hong Kong for a concert but was denied a visa.

HK01 published a report on an interview with Lim about his views on music and the visa incident. What is astounding is not the report itself but an editor’s note at the end of the article. The annotation reads: “*HK01* is consistently opposed to Taiwan independence.”¹⁰ In fact, Taiwan independence was not specifically mentioned in the article, nor the reporter explicitly described Lim’s political stance. Hong Kong Journalists Association (HKJA) issued a statement pointing out the practice as unusual. It stressed that the article is not a commentary and there is no need for the journalist to declare their stance regarding its content. HKJA described the editor’s note as superfluous. The act of adhering an editor’s note will only give rise to worries that the media are timid when they report sensitive issues.¹¹

HK01 later hit back. The news outlet said in an editorial that the incident has raised public concern “meant that our handling was not good enough, and we will take the suggestions from our readers seriously.” But the editorial argues that it is unacceptable for “the Hong Kong Journalists Association to overstep its bounds, making moral judgment and unnecessary accusations.”¹²

Editors’ trip sparks controversy

A controversy over remarks made at a meeting between a delegation of senior editors from Hong Kong media and head of the Chinese Communist Party’s propaganda department, Huang Kunming, in Beijing in October last year have sparked concerns about self-censorship.

Speaking to reporters after the meeting, Siu Sai-wo, chief executive officer of the Sing Tao News Corporation and delegation leader, has quoted Huang as saying that he “hoped Hong Kong media will not become a political base to interfere with the mainland.” His remarks were broadcast live by some media organizations. Later, several media companies have either edited the report or withdrawn the story from their websites. Some media quoted sources as saying the Central Government’s Liaison Office has reminded certain media organizations those remarks should not be made public because they were made at an internal meeting.¹³ The Hong Kong Journalists Association said in a statement the incident was unusual. They have urged the editors’ delegation to clarify the remarks, noting that there were concerns about whether media has practiced self-censorship or that they were under external pressure.

In a statement, Siu said his original remarks were made when asked by reporters. He had later checked again his notes and had provided a written report to his delegation members for their reference, adding the latter should prevail if there are

discrepancies with his original remarks. According to *Sing Tao Daily News*, Huang reportedly said: “... should prevent external forces from turning Hong Kong into a base to interfere and cause damage to the mainland.” Siu later sent a letter through lawyers to *Apple Daily*, claiming one of its reports was libelous. He demanded a retraction of the report and an apology.

Leung Chun-ying shames *Apple Daily*

The fact that Mainland firms are selectively placing media advertisements is hardly a new development. Yet their media manipulation strategy is coping well with the changing tide of the news industry. At the end of 2018, Mark Simon, Next Digital Chairman Jimmy Lai Chee-ying’s aide who was once in charge of group advertising, revealed on Twitter that a new frontier is advanced by the Mainland companies – the advertising department of pro-Beijing media had contacted advertisers, asking them not to place programmatic advertisements on certain emerging online news platforms. These ads, duped “behavioural ads” or “targeted advertising”, uses sophisticated methods to target the most receptive audiences with certain traits, including tracking readers’ surfing footprints.¹⁴ *Hong Kong Free Press*, *Stand News* and *Hong Kong CitizenNews*, were said to be on the blacklist. The news outlets being named, however, said they did not sense any significant impact or abnormal change as advertising revenue had all along been low.

Meanwhile, Leung Chun-ying, Vice Chairman of the Chinese People’s Political Consultative Conference and former Chief Executive of the Hong Kong SAR, has also sparked off a controversy. Leung was accused of exerting pressure at advertisers in a high-profile campaign. Beginning late March 2019, Leung counted the number of full-page advertisements in pro-democracy *Apple Daily* on a daily basis. He kept taking photos and posted them on his Facebook page. He condemned the advertisers for “providing a living” for the daily as well

its contributor Lee Yee. Leung urged people to boycott these companies in a bid to deal with his enemies by moving up the food chain. Leung chastised *Apple Daily* columnist Lee Yee as “despicable, odious and wicked” for criticizing Peter Wong, a Hong Kong delegate of the National People’s Congress, who had just passed away.¹⁵ Leung added a note in a post on his Facebook it was a “shame” to be associated with the *Apple Daily*.

The Hong Kong Journalists Association issued a statement, saying Hong Kong people have the freedom to choose their media, and advertisers can choose which outlets to advertise with - because Hong Kong has always been a free and open economic entity. “Leung Chun-ying’s public campaign against advertisers is not desirable—it does not only make people feel he is trying to sway commercial decisions, but it also sets a bad precedent, causing unnecessary trouble for advertisers,” said the statement.¹⁶ Leung rebutted, saying consumers “have the right to be concerned about the moral stance of providers of products and services on important moral issues”.

The above examples signify a structural problem which can potentially threaten freedom of expression and free flow of information in Hong Kong. For 25 years in a row, Hong Kong has been ranked the world’s freest economy by the Heritage Foundation in the United States. As a matter of fact, the concept of free market is deeply rooted in Hong Kong. Many people believe in market rules. Yet they overlooked whether or not fair competition prevails in the market, and the hidden manipulative power on newspapers’ advertising revenue, information flow and even logistics by corporations under the control of party-state capitalism. Bookstore chains, telecommunications carriers, logistics networks, as well as miscellaneous commercial organizations, are mostly supported by the state. Government policies are favouring these state sponsored firms. They enjoy scale of economy and competitors are easily edged out. Gradually the party-state have their

control network in place. Business seems to be as usual and it’s hard to discern the changes. However, when politically sensitive issues come up, party-state will appear as “boss” and gives instructions, and all these state-sponsored manoeuvres will be camouflaged under the pretext of “commercial operation”. As party-state capital and the commercial market become highly mingled, information restrictions beyond mainstream media are taking place in a more subtle way. These impediments can affect every aspects of our daily life.

1. November 8, 2018, mainland dissident author Ma Jian was denied a venue by Tai Kwun for his talk on *China Dream*: Don’t want to become a platform for anyone to promote political interests, *Ming Pao*
2. November 9, 2018, Ma Jian’s talk will transfer to The Annex? Nan Fung: Not the hosting venue, no affiliation with the author, *Ming Pao*
3. November 3, 2018, exhibition of dissident artist Badiucuo cancelled, HKJA concerned about pressure on freedom of expression, *Hong Kong Citizen News*
4. January 13, 2019, Leung Man-tao’s order to send books from Taiwan to Hong Kong was rejected by SF, Mailing succeeded two days later through local post office, *HK01*
5. January 18, 2019, SF: declining delivery of religious items to Macau is over-rectification, Hong Kong SF General Manager “resigned right away,” *Ming Pao*
6. January 16, 2019, SF Taiwan statement on its rejection of order by Hong Kong cultural worker Leung Man-tao to deliver books to Hong Kong
7. January 7, 2019 “Century/Dawn Blossoms Plucked at Dusk” Column: Rescue the Adults/Text. Wong Nim-yan
8. January 12, 2019, Refuse amendment by herself, declare to fulfill scholar duty, Singaporean scholar’s work touches on June 4th, Joint Publishing calls it quits, *Ming Pao*
9. April 20, 2019 SUP to relocate warehouse, Hong Kong books to pass through China, books could become banned anytime, the industry condemns threats to freedom of publication, *Apple Daily*
10. December 23, 2018, *HK01* adds “Anti-Taiwan Independence” Editor’s Note in Lim Tshiong-tso interview, HKJA finds it superfluous and expresses concern, *Ming Pao*
11. 「專訪林昶佐文中標註「反對台獨」 記協形容畫蛇添足表憂慮」·《明報》·2018年12月23日· 擷自明報新聞網· <https://news.mingpao.com/ins/港聞/article/20181223/s00001/1545569381597/>
12. December 28, 2018, Editor’s Note of Anti-Taiwan Independence added in Lim Tshiong-tso interview, *HK01* counters HKJA: unnecessary accusations unacceptable, *Stand News*
13. 「政情：中環出更：香港傳媒高層訪京團，團長蕭世和唔應講照講，中聯辦執手尾急澄清」·《東方日報》·2018年10月17日· 擷自東網· https://hk.on.cc/hk/bkn/cnt/news/20181016/bkn-20181016205123093-1016_00822_001.html
14. November 22, 2018, *Next Digital* Senior Executive: pro-Beijing media ask clients not to place ads in *Stand News*, *HKFP* etc., *Stand News*
15. March 20, 2018, Blasting column for vilifying Peter Wong, Leung Chun-ying hit out at *Apple Daily* advertisers again: Are you going to buy these products to provide and care for Lee Yee? *Stand News*
16. March 22, 2019, HKJA gravely concerned about Leung Chun-ying exerting pressure on *Apple Daily* advertisers, *Hong Kong Citizen News*

Chapter 3

A long winter for the media

By Lam Yin-pong

Internet has completely changed the mode of communication and media landscape. Advertisers, who provide the lifeline for media, have changed their advertising strategy. The share of advertising spending on traditional media has dwindled in general and switched to online information platforms, including personal homepages of KOL and influencers. While traditional media have tried hard to transform itself, the outcome is in general far from satisfactory. At the same time, only a few independent new media organisations can break even.

In addition to difficulties in running a viable business, the media industry faced another worrying factor last year. Attempts of political pressure on advertisers, which had been wrapped in partial secrecy in the past, is now being executed openly with no compunction.

Leung Chun-ying, former Hong Kong Chief Executive and Vice Chairman of the Chinese People's Political Consultative Conference (CPPCC), had been publishing posts with photos on his personal social media account since the middle of March, targeting

companies that bought full-page advertisements in *Apple Daily*, a pro-democracy Chinese newspaper. Such action had lasted for at least one month.¹

The Hong Kong Journalists Association (HKJA) pointed out in a statement that Leung's campaign against advertisers was undesirable. However, Leung refused to stop his act², and even claimed that customers in a free society have the right to express concern about the stance of companies on major ethical issues. He added that it is not uncommon for overseas customers to collectively boycott companies that cross the bottom line on ethics.³

However, HKJA pointed out that condemnation and boycott spontaneously initiated by customers are inherently different to those launched unilaterally by former Chief Executives or incumbent state leaders, who hold public power and have great influence on public opinion. As a vice-chairman of the CPPCC, Leung Chun-ying's call for boycott was supported by several pro-establishment media organisations. It is inevitable that people would take his move as a strategic "government-backed behaviour".

In recent years, there have been rumours of advertisers "pulling out adverts" from defiant Hong Kong media. Apart from *Apple Daily*, Shih Wing-ching, founder of free newspaper *am730*, has also revealed they had been the target of boycott.⁴ However, the action galvanised by Leung Chun-ying is totally different from those occurred under the table before.

The fact that a former Chief Executive openly and unscrupulously exerted pressure on dissenting media proves that such rumours are real. On the other hand, it causes people to wonder whether or not it is a sign of authorities suppressing and tightening control over media.

It is currently impossible to assess the impact of the action on *Apple Daily*, but HKJA concerns that the newspaper, which has always been holding a critical attitude towards the Central Government, may face more suppression in the future. The repercussion should not be overlooked as it will certainly give other media organisations the shivers.

Imminent layoffs in news departments

Apart from political pressure, the media industry is also facing budgetary pressure. There has been news about layoffs in media organisations of different sizes and kinds over the past year.

TVB and *Cable TV*, two major local television stations, laid off more than 100 staff in two rounds at the end of last year and March respectively.^{5,6} Although these two mass layoffs did not involve their news departments, it is probably difficult for the departments not to cut posts in near future in the face of difficulty in their business operation.

For example, after *Cable TV* was sold at the end of 2017, there have been rumours about poor financial situation spreading. According to sources, while the previous job cuts did not involve the news department, the management has clearly stated the need for the department to "broadening resources of income and control expenditure". As their news department has difficulties in generating more revenue, cutting expenditure is just a matter of time. As for the radio, *Metro Broadcast* also dismissed

4.5% of its staff, which included senior reporters in the news department, at the end of March.⁷

Even media organisations that don't have to fire their employees found their financial performance having deteriorated significantly last year. Sing Tao News Corporation, for example, falls into this category. According to its annual report, its newspaper *Headline Daily* has the largest circulation and readership in Hong Kong. The readership is more than HK\$1.1 million. However, the corporation's consolidated revenue last year was HK\$1.43 billion, a decrease in the past five years consecutively since 2014 (HK\$1.98 billion); the corporation's profit also dropped from HK\$41.3 million in 2017 to HK\$24.2 million in 2018.⁸

Apart from major traditional media, alarm bell is also rung for the operation of new media. In February, *HK01*, a new media organisation that has been vigorously expanding in recent years, laid off 10% of its staff, which is about 70 employees.⁹ The restructuring seems not yet over. *Factwire*, an investigative news agency, reduced its team size from seven to three at the end of last year due to insufficient fund.¹⁰ Its operation cost is now basically covered by donation. As for other online media organisations, their operations tend to rely on crowdsourcing, subscription, or sponsors. Most of them cannot come up with any self-financing business model.

The operating difficulties faced by media is a longstanding issue. The fact that experienced journalists leave the industry before passing their skills to young journalists, who are also battered by the insecure working environment, will certainly undermine the function of media as the fourth estate. In fact, the constraint in financial resource has also caused a drop in the number of investigative news reports and in-depth feature stories. Instead, these are replaced by eye-catching soft news that can

attract click rates, as well as promotional information on lifestyle that can attract sponsorship and advertisements. Eventually, the public's right to know will be compromised.

Subscription model and the Greater Bay Area

To tackle operating difficulties, all media organisations are seeking ways to boost profits. At the beginning of the year, *Apple Daily* raised the price for their print newspaper from HK\$8 to HK\$10. This was later followed by *Oriental Daily News* and *Hong Kong Economic Times*, which both raised their prices to HK\$10. In March, *Hong Kong Economic Journal* raised its price from HK\$10 to HK\$12.

Currently it is difficult to tell the effect of the newspaper price hike on their circulation and revenue. However, as readership of print media is shrinking, newspaper sales have been contributing lesser to the media organisation's total revenue. Media organisations still need to keep looking for a way out.

Apple Daily, which has been actively developing its online news platform in recent years, launched in April a membership subscription programme, which restrict all content to logged-in users only. Even though subscription is currently free, it is expected that it will eventually shift to a paid subscription model.

For the past few years, Hong Kong media organisations including *Ming Pao Daily News*, *Initium* and *Hong Kong Economic Journal* have implemented subscription programme one after another. Some articles can only be viewed by subscribers, while some only show parts of the content. *Apple Daily* is expected to switch to a full subscription model. In other words, non-subscribers cannot read the articles on *Apple Daily*'s website. They can only see the headings and pictures.

Responses were divided over the launch. Whether it can create new vibes for the operation of online media platform remains to be seen.

Nonetheless, the emergence and popularity of subscription programmes reflect that the tide has changed in the development of Hong Kong media organisations. The free model with a sheer emphasis on flow-count, which prevailed in the early stage when online platforms were developed, was replaced by the paid subscription model, which are common in European and American markets.

Another option available for the media is to ride on the wave of the Greater Bay Area development blueprint. Apart from the boost in the number of feature stories, the previous Guangzhou correspondent stations of *TVB* and *Cable TV* have also been turned into bases that feature news about the Greater Bay Area, a megalopolis consisting of 9 cities and 2 special administrative regions in south China.¹¹

The positioning of *Cable TV* is worth people's attention. Since Forever Top bought in i-CABLE, chairperson Chiu Tat-cheong repeatedly stressed that the future development goal of the company will be aiming at the nearly 70 million residents in the Greater Bay Area. In January this year, *Cable TV* announced a strategic partnership deal with Guangdong Cable Network;¹² in February, the company officially launched its Greater Bay Area News Centre in Guangzhou, in order to "bring viewers with the latest news of the Bay Area". In late March, Song Ru-an, a Deputy Commissioner of the Foreign Ministry Office in Hong Kong, visited *Cable TV* and met up with the Director of News Fung Tak-hung, "both sides also exchanged views on the news coverage on the construction of the Guangdong-Hong Kong-Macao Greater Bay Area."¹³

The China desk of i-CABLE News has always been known for its outspoken approach in reporting

controversial and even sensitive news in Mainland China. However, under the financial pressure, news on the Greater Bay Area has become the focus of the news organisation. Will they compromise their principles when covering news in China? Whether reporting news on the Greater Bay Area and cooperating with mainland institutions can eventually shore up finances for Hong Kong media organisations will be a focus for observers, as well as whether or not media will be silenced.

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13. "Deputy commissioner Song Ru-an visits Hong Kong Cable TV (宋如安副特派員走訪香港有線電視台)", March 24, 2019, The Website of the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic Of China in HKSAR

Chapter 4

Freedom defending legislations at a snail's pace

By Shirley Yam

A sharp contrast to the government's eagerness and efficiency in pushing through laws that will restrict its citizens' rights is the snailing in the introduction of two legislations in defense of freedom of information – the archive law and access to information law. Amidst public appeal for more than two decades, the Law Reform Commission (LRC) has finally issued consultation papers on the laws. The proposals are, however, weak and no timeline can be seen at the horizon.

Archives law proposal a toothless tiger

Proper recording and archiving of information owned by public bodies is the prerequisite for government accountability as well as press freedom. Hong Kong's non-statutory archives regime, which is managed by the Government Record Services (GRS), has failed in this regard. An investigation by the Ombudsman found most government bureaus and departments have missed the milestone dates for compliance with "mandatory records management requirements". Two cases have shown how public interest has been put in jeopardy.

In 2015, journalists found most video footage of the 1967 leftist riots had disappeared from the GRS, leaving only 21 seconds' filming of the seven-month riot that caused about 1,000 casualties. GRS said it may have to do with their summer interns. No effort has been made so far to investigate the disappearance, to locate the whereabouts of the archives or to sanction the relevant officials. This was only the tip of iceberg. In 2018, the government has destroyed 4,488 metres of files, which is almost four times of the record in 2011. No details on the materials trashed are available other than the departments involved. The disposal is not governed by any set of criteria under the current regime.

In 2016, government officials conceded that they have not taken any minutes of their four close-door

meetings with village representative over a major land development project in Yuen Long. The project was revamped significantly after the meetings, causing a public outcry. Again, the government has given no explanation nor made any follow-up action on the derivation from the internal regulation on record creation. This is despite the issue of a set of new guidelines cum checklist concerning record retention and disposal in 2015. The reality is the GRS has so far only conducted record management reviews of 10 bureaus/departments and is conducting review on two others, according to the report a LRC sub-committee. That's less than 15 percent of the public bodies.

HKJA has been campaigning for the introduction of an archive law in Hong Kong for years and the Ombudsman threw in its weight in 2013 following its investigation into the current regime. In response, the government has advised the LRC to set up a sub-committee to study the issue. The Hong Kong's Archives Law Sub-Committee has finally issued in December a consultation paper proposing the introduction of such a law in Hong Kong. Its recommendations, however, fell short of details on crucial areas such as the regulation on record destruction; public access to archives and statutory power of the archiving authority. On areas that are more specific, they mirrored the relevant arrangement in the current regime, which has already been proven toothless.

First, the proposed law would not impose a positive legal duty upon public bodies to create record nor any criminal sanction on negligence, breach of the duty or unauthorized destruction of records. The commission pointed to the "impact on staff morale". This is despite the Ombudsman pointing out in its 2013 investigation report that numerous cases were not reported instantly because the authorities concerned refused to admit that the records had been lost; and some cases were not even known.

Andrew Liao Cheung-sing, the Sub-Committee Chairman, said: "Whilst sanction may deter non-compliance, training and education can be more effective in fostering a stronger culture of compliance." Archives Action Group spokesman Simon Chu Fook-keung said a law without sanction would make no difference from the current regime. This would be a great relief to senior government officials who are the only one to have the motive to destroy records, he said.

Second, no independent archiving authority staffing with specialists has been proposed. That will mean government records will continue to be overseen by a body like GRS that is led by an executive-grade officer. Chu, who was the last specialist heading the GRS, said it would be impossible for such a subordinating department and officer to monitor the work of its peers; not to mention senior bureaus and officials. Neither would a non-specialist team has the knowledge to manage a professional archive institution. Chu has rescued footage of the 1967 riot from destruction in the 90s.

Third, the commission proposed to cover only the 86 government departments and institutions governed by the Ombudsman Ordinance. That would exclude 300 advisory committees and public-funded universities.

Access to information law

The condition of Hong Kong's protection of the public's rights to information held by the government and public institutions is best told in the 428-day ordeal of journalist Choi Yuk-ling, who tried to get the membership list of a government advisory committee. The Ombudsman intervened and demanded the authorities to release the information for public interest but in vain. Eventually, the identity of only five of the 12 advisory committee members were made public. Under the non-statutory access to information

code, government bodies are not obliged to listen to the Ombudsman. The ordeal suffered by Choi is no individual case. By the end of March 2018, the Ombudsman has received a record high number of complaints against the code, or 91 in total.

More than 100 countries—including many developing ones with much lower degree of economic and political sophistication—have their access to information law. HKJA has proposed such a law as early as 1990s; and the Ombudsman made a similar recommendation in 2013 following its investigation into the current regime. The LRC set up a sub-committee to study the matter. After five years' study, it has released its consultation paper in December recommending the introduction of a law on access to information. Calling the current regime "effective and cost efficient", the report is proposing a clone of the code with statutory status. It is silent on fundamental reforms proposed by the civic societies including the establishment of an independent authority to govern public access to information. Such an authority has been a key feature in a private member's bill and echoed by various civil societies such as AAG, HKJA and Hong Kong Bar Association. Instead, the sub-committee proposed the following conservative features:

(1) The introduction of 12 absolute exemptions on which the government do not have to prove a disclosure will hamper public interest. Among them are information bounded by confidentiality agreement, national security and defense as well as Executive Council proceedings. There are also 11 qualified exemptions which allow a public interest test. Alan Lai Nin, who has retired from his job as Ombudsman and Permanent Secretary for Financial Services and the Treasury, said in a public seminar that when judgement's involved, the civil servants would come up with all sorts of excuse not to disclose information. The Bar suggested that any exemption should be approved by an authority independent from the government.

(2) A 15-man-hour estimated time cap beyond which public authority can reject an application for information and a tiered-fee system that charges applicants a basic fee. The commission has justified these with cost concern. Alan Li called this cost emphasis “absolute nonsense”. He said the cost in administering an access to information regime was too insignificant to have become an issue during his days in the Treasury. To HKJA, the access to Information is a constitutional right which must not be compromised because of cost factor.

(3) The Ombudsman will be given the statutory power to review government decisions. However, a conclusive certificate system will be introduced to allow the Chief Secretary, the Financial Secretary and the Secretary of Justice to have the power to override the Ombudsman’s review decision before a judicial review. The Bar opposed to that, noting that an independent authority can already ensure the proper consideration of government interests by providing for an avenue of intervention by the Secretary for Justice in an appeal before it from a department’s refusal to disclose information.

(4) Only 86 organisations defined in the Ombudsman Ordinance will be covered. The Ombudsman said the Prevention of Bribery Ordinance, which covers more than 100 public bodies in addition to government departments, serves as an appropriate model. The Chairman of the LRC Access to Information Sub-committee Russell Coleman said he’s expecting more bodies to be generally included in the future to mitigate the legislation’s impact on them.

Delaying tactic

For years, the government would always refer to the LRC study when pressed; without promising a timetable. During these years’ of study, the government has not adopted any of the interim

measures proposed by the Ombudsman back in 2013. It is hard not to consider the above consultation exercises as another sleight of hands. This is because the commission will take months to study the consultation findings before submitting its reports on the two proposed legislations to the government. The government will then decide whether it will issue its consultation paper based on the commission’s recommendations. So far the government has been silent on the proposals. History shows the government has put many LRC recommendations on the shelf for years.

Twelve media organisations include HKJA have called for the immediate introduction of the archives and access to information laws. They are concerned with the delaying tactics the government has employed so far. The newly-appointed Ombudsman Winnie Chiu Wai-yin also called on the government for a timely implementation of the two legislations as recommended by her two predecessors. Alan Lai Nin said it was disappointing that no interim measures have been put in place to better protect citizens’ right. So far the government has been silent on the LRC’s proposal.

Time to walk the talk

By Alvin Lum

Chief executive Carrie Lam Cheng Yuet-ngor, in her capacity as a CE candidate, has pledged to uphold press freedom when she signed a press freedom charter initiated by the Hong Kong Journalists Association during the 2017 Chief Executive Election campaign. Her administration, during its early days, was seemingly keen to break new ground. They lifted restrictions on online media to attend government press events and to avoid making announcements of policies through background briefing. In several media occasions, Lam reiterated she respected the work of the press and their duty in monitoring the government.

It did not take long for the public and media to question her so-called new style of governance even before she enters her third year in office. In making important public announcements, critics have argued the Hong Kong leader and senior officials were being bureaucratic, falling short of the public expectation of openness and transparency in public administration.

Arrogance at the top echelon

On March 26, Mrs Lam chaired an unprecedented press conference, ridiculed by journalists as “three-in-one”, joined by her senior ministers. The name was given because the press conference featured decisions made by the Executive Council on three issues that have attracted much attention. They include the approval of an amendment bill on Fugitives and Offenders Ordinance, the interim report by the Commission of Inquiry on construction works at the Hung Hom Station Extension under the Shatin to Central Link and suspension of the toll adjustment plan for three major tunnels.

Hours before the press conference, the HKJA released a statement and expressed regret over the arrangement, as it will “potentially obscure the focus”. The association also made clear the government should avoid similar press conference arrangement.

During the two-hour press conference, 12 out of 13 journalists asked about two or more issues. Multiple questions were raised on one single issue by reporters at the press conference.

The topics of the three Exco decisions are not related. It is not easy for a reporter to digest and understand each of them within a short period of time. That they were lumped together in one press conference has given rise to speculation that the Government was intended to blur the focus of the press conference, thus downplaying one or two of the three issues. The arrangement will result in a lose-lose situation from the perspective of people’s right to know. It is also not good for the Government for it to explain its stance over major decisions. The Government should not repeat the same mistake again.

What equally if not more, concerns us, is how the Chief Executive has come to the idea. Grilled by reporters at the press conference, she said she would listen to the views of people and act accordingly. She explained the three decisions were made at the same Executive Council meeting. She therefore decided to hold a press conference on the three decisions in one go instead of three. Reporters were unconvinced. One angry journalist asked her not to do it again in future. She only said: “you may reflect” views. She refused to admit her mistake.

The fact officials adopted bureaucratic thinking in dealing with the media is not new. One of the occasions was in July last year when Mrs Lam spoke to the media before an Executive Council meeting. She first took questions from Chinese-language media. As she was asked on the same topic but in a different question by a reporter from English-language media, the chief executive looked visibly annoyed. She said she would ask the Director of Information Services to arrange simultaneous interpretation, so that “we don’t need to waste time”. Cathy Chu Man-ling, the Director, was standing behind her.

Head of the Chief Executive Office, Eric Chan Kwok-ki, later clarified Mrs Lam was not suggesting the media was wasting her time. He said Mrs Lam meant the time for question could be better used. On the late evening (11.51 pm), Mrs Lam issued a statement and formally apologised for the confusion. She made clear she has “no intention to change the way these pre-ExCo meeting media sessions are to be conducted”.

On another media session early this year, Mrs Lam was to comment on a review of elderly subsidies under the Comprehensive Social Security Assistance (CSSA) scheme, under which the eligible age was proposed to raise from 60 to 65. She has promised to govern with humility and shred elitist mindset.

Instead of merely paying lip service, she should better honour her words with action. Lam should take the lead in listening to journalists’ voice, rather than triggering controversies or getting on media’s nerve.

Justice Department going backward

The Department of Justice (DoJ) is given independent prosecutorial power under the Basic Law, playing the front-line role in upholding justice. However, the department refused to give a prompt and detailed explanation on its decision not to prosecute former Chief Executive Leung Chun-ying over a sum of HK\$50 million he received from an Australian company UGL, after four years of investigations.

Paragraph 23.1 of the *Prosecution Code* reads: “The Department of Justice is committed to operating in an open and accountable fashion, with as much transparency as is consistent with the interests of public justice”. Paragraph 23.3 goes on to state that: “The prosecution has an obligation to assist, where appropriate, in public education about the conduct of the prosecution process. Reasons should ordinarily be expressed in terms of the general principles applied, rather than the details of individual cases.”

The Department of Justice’s announcement that it would not press charge against Leung was made in a brief press statement in only one page, with no mentioning of case laws nor detailed legal reasoning. Former director of public prosecutions Grenville Cross has repeatedly criticised DoJ’s decision for being unfair to Leung himself. “The public was entitled to a comprehensive statement by the DOJ which clearly set everything out, including the evidence, the legal issues and the conclusions, and not a short and perfunctory statement which raises more questions than it answers,” he told the media at the time.

Since Hong Kong's handover to China in July 1997, the first two directors of public prosecutions have actively explained their decisions to prosecute or not to prosecute on some important cases. Those decisions include a decision not to prosecute the then financial secretary Antony Leung Kam-chung in 2003, over a case about purchase of a luxurious vehicle and a separate one in 2013 involved a former Exco member Franklin Lam Fan-keung. The then top prosecutors have convened press conferences, explained the considerations on evidence and the law. Members of the press have their questions responded. The decisions may remain controversial after officials answered media's questions. To say the least, the public would not question the prosecution policy.

Take former Director of Public Prosecutions Kevin Zervos as another example. He has repeatedly stressed the importance of media and public confidence in the prosecution system. He stated in his last report to the Secretary for Justice in 2012: "public confidence and trust is both a measure of and a support for the work that we do and there is a lot to be gained by forming a partnership with the public in serving the interests of justice."

Leung's case came under intense scrutiny locally and overseas over a span of four years. The Department of Justice should have been more accountable to the public and explain more, and there should be ample room for it to do so without touching on the specifics of any given case.

Fail to facilitate media work

The Government has stressed it strived to be open and transparent in announcing public policy and responding to media enquiries. Regrettably, it was the opposite in reality. Frontline journalists have cast doubts on whether the Government has been fully supportive in facilitating media's reporting.

The Task Force on Land Supply, for instance, issued over a 100-page report at the end of last year. Instead of holding a large-scale press conference, the government only arranged a brief stand-up media session by the chairman and vice-chairman of the Task Force. Reporters had to sit on the ground to study the report, then to stand for more than an hour covering the media session.

The Central-Wan Chai Bypass came into operation early this year. Instead of organising a media visit first, officials gave priority to legislators and participants of a charity walk by Community Chest.

Mrs Lam later admitted there was room for improvement in the media arrangements of the two events. She said policy bureaux should be more proactive in giving the media an account.

Meanwhile, the Government had released two public statements related to the Central Rail Link in late evening, one at 11:43 pm and the other 10:34 pm, in August and September respectively.

Frontline reporters and HKJA have repeatedly opposed to the Government practice of issuing press statements at late evening. Due to the operation of news media, it would be difficult for the media to handle news late in the evening. The result is that some important news might not have been given enough attention, making it difficult for the public to monitor the relevant issues.

Former senior official Joseph Wong Wing-ping has questioned in his newspaper column why the Government refused to wait for half a day to hold press conference on important issues so that media could invite experts and officials to give comment. He said: "By making late press release, the Government could avoid facing grilling from the media. When people woke up on the following morning, the public would get an impression that the

issue has already been resolved. The government often claimed they would like to disseminate information immediately after a decision is made. I'm afraid the public would rather view the government as dodgy instead of responsible!"

Six major media associations including HKJA have raised the issue with Chief Secretary Matthew Cheung Kin-chung earlier this year. The Government was urged to avoid making announcement late evening, which has adversely affected the media and public.

The Government only chose to release press statements and photos on at least three important occasions, without holding full press conferences. They include the handover of "Mainland Port Area" in West Kowloon Terminus of Express Rail Link by the Government to the mainland authorities; the ground-breaking ceremony for Tseung Kwan O Cross Bay Link and the 50th anniversary celebration of Wah Fu Estate. The one-way publicity by the Government has denied people's right to information and opportunity by reporters to raise legitimate questions.

Chapter 5

The making of “Strong-Nation People”*

By Ching Cheong

Ching Cheong explains the damages caused by the propaganda of the Communist Party of China (CPC) in the past 70 years.

This year marks the 70th anniversary of the founding of the People's Republic of China (PRC) by the Communist Party of China (CPC). During the past 70 years, the CPC imposed propaganda extensively, continuously and pervasively on the Chinese people, using coercive and repressive means. The CPC propaganda—dubbed “thought education”—is in fact brainwashing. What has been the impact of 70 years (wholly three generations) of “thought education” on the Chinese people? What are the characteristics of the “Chinese people” that were incubated and moded the CPC way? As the influence of the CPC grows, these questions merit attention.

The CPC propaganda, or brainwashing, is comprised of two aspects—“erasure” and “indoctrination”. These two aspects go hand in hand with each other. It is important to see what has been erased and indoctrinated in the last 70 years in order to understand the minds of the “Strong-Nation People”—a term coined by Chinese dissidents to describe those Chinese that blindly supported the regime.

What has the CPC erased?

The CPC propaganda machinery had effectively erased the moral bottom-line of the Chinese society, people’s capacity to think and wipe out the conscience of the people.

I. The bottom-line of social morality

In every civilised society, in the course of its development, a moral bottom-line will emerge that regulates each member of the community. It has a restraining effect on the behavior of every individual. Thus, human beings avoided self-destruction by not yielding to our animal instincts. Without these intangible codes as their basis, it is difficult for tangible laws to function effectively. For example, it is because homicide crosses the moral bottom-line that laws were enacted to punish killings. That is why the moral bottom-line is the foundation of all laws.

How does moral bottom-line come about? They are formed by religious belief and upholding moral standards expressed in the words and deeds of virtuous and dignified persons over time.

a. Religious belief

Every religion has a God. People restrain themselves out of their awe of gods. Religions also preach good deeds and punishment for evil ones. (For example, the idea of heaven and hell in

Christianity and the idea of karma in Buddhism.) Even though the Chinese do not have an explicit religion, but people are in awe of gods nonetheless. The Chinese sayings that “the gods are watching you close above” (舉頭三尺有神明) and that “the heaven watches everything that human beings do” (人在做·天在看) are expressions of people’s awe of gods. This awe helps shape the moral bottom-line that regulates the behavior of individuals.

b. The words of wisdom and deeds of virtue accumulated over time

In every society, there are figures who are revered by all members of the community. Their collective words and deeds established a moral standard that is respected and upheld by the community. Over time these words and deeds become the moral bottom-line of that community. For example, Confucius taught that one should “subdue one’s self and return to propriety” (克己復禮). His emphasis was that one should restrain oneself and not to go to the extremes.

If this is how a moral bottom-line evolved, how did the CPC erase it?

First, by attempts to wipe out religion. The CPC is at odds with religion for three reasons. From a philosophical point of view, the CPC advocates materialism and opposes idealism. It considered religion a typical form of idealism alien to its own. On theoretical grounds, it defined religion as the opium of the people (one of the most frequently quoted statements of Karl Marx). Thus anyone who has religious beliefs is ignorant and superstitious and has to undergo “rehabilitation”. Those who preach and conduct religious activities are “threatening national security”. On political ground the CPC considered that religion (mainly Christianity) was the stepping-stone for “Western invasion of China” and

are still the means by which the West undermined China. Because of these three factors, average Chinese shies away from religion. Without fearing God, people could go to the extreme in the pursuit of personal greed, never mind the punitive consequences on their evil-doing.

Secondly, by persistent campaigns to wipe out feudalism, capitalism and revisionism, the CPC managed to deny the Chinese people of the good aspects of all civilizations. In CPC jargons, feudalism refers to ancient Chinese culture, capitalism to advanced Western culture while revisionism to Russian culture. They are mankind’s common cultural treasury and ought to be preserved, bequeathed and carried forward. Yet the CPC condemned them all. Thus the words of wisdom from different cultures were completely trashed, along with the moral bottom-line that these words prescribed.

Not only is the moral bottom-line of the Chinese society erased by the CPC propaganda, people have also been incited to commit crimes beyond the bottom-line, thus leading to a complete moral breakdown in society. During the traumatic Cultural Revolution, incited by slogans like “Long live Red Terror”(紅色恐怖萬歲), people were encouraged to unleash the most bestial, brutal and darkest instincts of human beings. Unbounded by any moral bottom-line, people could arbitrarily deprive others of their personal rights, privacy and property under the pretext of “revolution” without punitive consequences. As a result the Chinese society degenerated into complete chaos and disorder.

The erasure of the moral bottom-line has brought about a “moral landslide” in the Chinese society. In March 2012, China’s former Premier Wen Jiabao admitted that “The lack of integrity and the decline of morals has reached a very severe stage. If a nation cannot improve the quality of its people and lacks moral power, it would never become a truly powerful nor respected nation.”

2. Stifling people’s capacity to think

70 years of CPC propaganda has impaired the Chinese people’s capacity to think. It did so by monopolising information and its interpretation.

a. monopoly of information: dulling the minds of people

As we know, access to information is the prerequisite for eliminating ignorance. Only when one has “knowledge” will one have “intellect”. When one has “intellect”, one gains the capacity to “differentiate good from bad”. Only when one is able to differentiate things will one be able to develop the capacity for independent thinking. Finally, only when people are capable of independent thinking will there be progress in society. Their causal relationship is shown below:

Knowledge ----> intellect ----> capacity to differentiate good from bad ----> capacity for independent thinking

In China, information is completely and utterly monopolised by the CPC. As a result, people have no way to “know” and are, therefore, unable to develop “independent thinking”. This resulted in the creation of a mass of ignorant people.

In *The Spirit of the Laws*, Montesquieu said: “As education in monarchies tends only to raise and ennoble the mind, so in despotic governments its only aim is to debase it.” This best summarized how ignorant people are created by the sheer lack of information.

b. monopoly of the narrative: creating an intolerant and lop-sided mind.

Apart from monopolising information, the CPC has also monopolised the narrative, i.e. the

interpretation of facts ranging from foreign/domestic affairs, issues in politics/history/economy). Views advocated by the CPC will be widely spread to reach people in even the most remote villages. On the other hand, views contrary to the official ones are banned and whoever disseminated them would be severely penalized. People gradually accept unconsciously the one-sided and unbalanced interpretation of the CPC as the truth. This indoctrination had been so successful that whenever people hear anyone voicing opinions different from the CPC, they will spontaneously defend what they have long been told by the party, and vehemently oppose other truths. They have completely lost the capacity for pluralistic thinking.

3. Obliterating human conscience

According to ancient Chinese sages, everyone has a conscience and thanks to it we are able to distinguish right from wrong.

What is conscience? Mencius said: "The ability possessed by men without having been acquired by learning is intuitive ability, and the senses possessed by them without the exercise of thought is their intuitive cognition." (*Mencius, Jin Xin, Part One*) Because of our "conscience", we have the senses of commiseration, shame, modesty and the sense of right and wrong. Anyone who lacks these senses is considered inhuman. For Mencius, the above "four senses" are the source of moral behaviour. He said: "The sense of commiseration is the principle of benevolence. The sense of shame and dislike is the principle of righteousness. The sense of modesty and complaisance is the principle of propriety. The sense of right and wrong is the principle of wisdom. Men have these four principles just as they have their four limbs." (*Mencius, Gong Sun Chou I*)

How did the CPC obliterate the conscience of the Chinese people and deprive them of their capacity to distinguish between right and wrong?

First of all, the very nature of the CPC propaganda are but lies, or at best partial truths. While maintaining strict control over information to make sure that people do not get the full picture of things, it also makes use of its propaganda machinery to disseminate one-sided, biased, inaccurate and distorted information. This amounts to systematic lying. When the people take lies for facts, they would by instinct refuse to accept the complete, objective, genuine and undistorted information even when they have access to them. Instead they would even consider it to be fake, because it is not consistent with what the CPC told them since childhood. That is how false prevailed over truth and how bad money drives out the good. Those who come under the influence of the CPC propaganda no longer have the capacity to distinguish between right and wrong.

The second feature of the CPC propaganda is to use "violence" to support its lies. People would not have easily lost their conscience if the propaganda has been conducted only by words alone. Only back up by force that the CPC is able to ensure its lies prevailed.

The tool that the CPC uses to force people to accept its lies is the so-called "political campaign". According to *On Political Campaigns after the Founding of the PRC***, written by Hu Fuchen, former head of the All-China Federation of Trade Unions, there were 52 nationwide political campaigns signed off personally by Mao Zedong between 1949 and 1976 (i.e. 52 political campaigns in 26 years, an average of two every year). This permanent machinery to "rectify people" had forced people to accept CPC lies, never mind one's conscience. In the preface to the book, Li Rui, the ex-personal secretary of Mao Zedong who recently passed away,

lamented the monstrosity of "political campaigns" in the paragraph below:

"Political campaign is a weapon of authoritarian rule. It can be described as a main invention of Mao Zedong. Given the large number of political campaigns, the disasters that they brought and the many cruel and violent means used, it should have been given a place in the Guinness Book of World Record. The main characteristic of the political campaigns launched by Mao was that ... targets are set for the number of counter-revolutionaries to be killed, or (those) to be suppressed, or the number of "big tigers" (high-ranking corrupted officials), "medium-sized tigers" (medium-ranking corrupted officials), "small tigers" (low-ranking corrupted officials) to be captured in the movements. By the same token, targets are set for the number of people blacklisted as "rightists" in the anti-rightist campaign, etc. Once a movement started, Mao, who was at the helm, would set the "goal" and tell people to come up with an execution plan. At the concluding phase of the movement, the figures were audited to make sure that it tallied with the planned ones. Why were so many people forced to lie? Why did so many people die of hunger? ... What made the students (dubbed "red guards" during the Cultural Revolution) go around to confiscate others' properties? What made students beat their teachers to death... These were all manifestations of the devastation of political campaigns!"

It was because of the unbroken chain of political campaigns that the conscience of many people was completely wiped out and the backbone of many intellectuals broken. People no longer dare to speak up nor to tell right from wrong.

What have the Chinese people been indoctrinated with?

In the last 70 years, the Chinese had been indoctrinated with Marxism-Leninism, which is a toxic ideologies, fallacies about an everlasting CPC rule, and the attacks on universal values. They are also subjected to vigorous promotion of parochial nationalism and anti-West mentality.

1. Marxism-Leninism

A core theory of Marxism-Leninism is to achieve world revolution (in Marxism jargon, it is called the emancipation of the whole Mankind) by conducting "class struggles" using violent means (called "violent revolution").

No thanks to this theory, the world witnessed mass killings in all countries ruled by Marxist regimes. According to *The Black Book of Communism*, 94 million people died under communist regimes. Stéphane Courtois, Director of research at the French National Centre for Scientific Research, who edited the book, said in the preface: "Communist regimes turned mass crime into a full-blown system of government."

The CPC disregard the fact that Marxism-Leninism has led to mass killings and that the number of deaths caused by the CPC itself had exceeded the total of all the other communist countries taken together (in the above-mentioned book it was estimated that the CPC was responsible for the unnatural deaths of 65 million Chinese), it continues to revere Marxism as the "truth of the universe". Not only is the CPC poisoning its own people but it is also a potential threat to the world if it still upholds Marxism-Leninism.

Since they venerate the Marxist ideas of “class struggle” and “violent revolution”, the Chinese people have acquired a character trait of animosity towards others and see things through the “conspiracy theory” eyeglass. After long exposure to these ideas, people inclined to politicize all issues while not to tolerate any political dissent, their way of dealing with people of different opinions is to crush them totally.

2. The supremacy of the CPC and the inevitability and longevity of its rule

In the 1980s, Deng Xiaoping expounded the “four cardinal principles”, one of which was “holding fast to the leadership of the CPC”. It was on the basis of this principle that the CPC developed the theory of its “everlasting rule”. Its propaganda wanted people to believe that:

a. The party is synonymous with the state.

The CPC equates itself with the Chinese state. Thus if one loves the nation, one must also love the party. Conversely criticising the party means opposing the nation. In other words, the CPC has hijacked people’s patriotism. Since theoretically a country is infinite, the eternal rule of the party is therefore also everlasting.

b. The state owes its founding to the party. Since 1949, the CPC has implanted deeply in the minds of the people that “without the Communist Party, there would not be a new China”. In other words, what the Chinese people enjoy now are a gift from the CPC.

c. The legitimacy of the CPC is based not only on the choice of the people but also the choice of history. In other words, the rule of the CPC is deeply rooted in history and therefore inevitable and should never be challenged.

3. Opposing Universal Values

Universal values (freedom, democracy, the rule of law, human rights, equality and fraternity) are values developed gradually by mankind since the Renaissance in the 17th century. They represent the highest level of civilization mankind achieved as of to date. These values codified in the UN’s Declaration of Human Rights are hard-won lessons after mankind suffered immensely during the two world wars. However, the CPC, operating on a one-party dictatorship, viewed them as extremely dangerous because freedom and democracy are incompatible with dictatorship. Because of this, many Chinese people earnestly and spontaneously rejected these values, thanks to the CPC propaganda. By rejecting universal values, the Chinese society is moving further and further away from modern civilisation.

4. Promotion of parochial nationalism and blind patriotism

To strengthen the regime and to enhance the legitimacy of its rule, the CPC spares no effort in vigorously promoting parochial nationalism and blind patriotism. The narrowness and blindness of the average people provide the CPC with strong spiritual and psychological support. For example, during the Sino-US trade war, the official media of the CPC published a report on November 13, 2018 under the title, “*The Awakening of Patriotism—The Boxers Uprising as an Anti-Imperialist and Patriotic Movement*”. The purpose of the article was to mobilise parochial nationalism and blind patriotism to support the CPC’s showdown against the US.

5. Distorting the “friend-foe” perception of the Chinese

For its own interest, the CPC did not hesitate in distorting the Chinese people’s perception of foe and friend. As a result, the country has taken a wrong

path in many significant historic occasions. The history of the last two centuries shows clearly that while Russia had seized vast tract of territories from China, the US had not tried to get even an inch. The correct friend-foe perception should therefore be very clear. However, over the last 70 years, except for a short period of intense anti-Russian propaganda, the CPC had been telling its people that the US is the top enemy. This distorted friend-foe perception is due to the simple fact that the CPC itself was created by the USSR to function as its paw in the Far East. This umbilical tie between the CPC and Russian overlord had completely distorted the normal friend-foe perception.

After adopting the reform and opening policy, the CPC has emphasised the importance of befriending US. Deep inside, however, in close doors, the CPC still sees the US as its enemy. Influenced by this kind of propaganda, the people become hostile to the US easily. They believe strongly that the US is the number one enemy that holds down China’s development even though this was not what happened.

Befriending the US and distancing itself from Russia was one of the key factors that contributed to China’s rapid development after 1978. When Deng Xiaoping visited the US in 1979, Li Shenzi, his interpreter and then president of Chinese Academy of Social Sciences, asked Deng why he attached so much importance to the relationship with the US Deng gave a straight-forward answer: “countries that follow the US have all become rich and strong.”

Li Shenzi recalled this incident while giving a speech entitled “On the Foreign Relations of the People’s Republic of China” in Nanjing in 2002. He said: “Deng attached so much importance to the US because he thought that the reform and open up policy depended on opening up to the US. If China did not open up to the US, it was no use opening up

to other countries (I learnt this from Zhang Wenjin, the Deputy Foreign Minister who was in charge of American affairs and who was responsible for organising the delegation to the US).”

This shows that Deng was very clear that befriending the US was in line with the national interest of China. However, since Xi Jinping came to power, the CPC has strengthened the propaganda against the US because the values of democracy and freedom do not work in favour of the CPC’s “one-party dictatorship”. Such a wrong perception of foe and friend is definitely not conducive to China’s long-term development.

Conclusion

To sum up, the propaganda work of the CPC in the last seven decades has given rise to a huge group of people that know no moral bottom-line nor conscience, that are parochial with blind adherence to the CPC. They are belligerent and are anti-civilization. Most of them harbored strong anti-West sentiments. Of course, there are exceptions. However, since China has a huge population, it would be a big threat to the international society even if only 10 percent of the Chinese population have these characteristics.

Translator’s notes:

* “Strong-Nation People” is a direct translation from “*Qiangguo Ren*”, a derogatory word coined by Chinese dissidents referring to blind supporters of the Communist Party of China.

** Translator’s note: see <https://www.bannedbook.org/forum33/topic3202.html>