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Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Attn: Senator the Hon Eric Abetz – the Legislation Committee Chair

Dear Chair

INQUIRY INTO THE AUSTRALIA'S FOREIGN RELATIONS (STATE AND TERRITORY ARRANGEMENTS) BILL 2020 AND AUSTRALIA'S FOREIGN RELATIONS (STATE AND TERRITORY ARRANGEMENTS) (CONSEQUENTIAL AMENDMENTS) BILL 2020.

Whilst giving evidence to the Legislation Committee at the Public Hearing on Monday 12 October 2020 [via videoconference] the writer took three questions on notice [the descriptions of the questions are the writer's]:

1.0 Violence and threats by pro-Beijing supporters against pro-Hong Kong democracy and pro-Tibet, East Turkistan, Southern Mongolia and Taiwan voices on campus

The People's Republic of China is a brutal one-party dictatorship.

Aggressive and at times violent support for the Chinese Communist Party on campus is not free speech but the actions of a criminal organisation.

The Australian public must be protected from the criminal activities of the Chinese Communist Party and its agents and supporters by Australia's current criminal legislation.

Any attempt to include the criminal actions of the Chinese Communist Party within the FRB will simply sweep the crimes of this criminal organisation further under the carpet.

1.1 Mr Pavlou has been a victim of organised crime

'The ability of organised crime groups to infiltrate legitimate businesses, such as lawyers and accountants, and the sophisticated nature of the schemes (including the formation of complex corporate structures and the use of intricate measures to disguise the identity of owners, operators and locations) is but one

demonstration of this. It is vivid and compelling that organised crime groups in Queensland have grown and developed in ways far beyond their once more basic, thug-like reputation.'
'Violence is a key facilitator of organised crime in Australia, and more locally, in Queensland. Across various crime markets, organised crime groups use violence and extortion to enforce their presence – to secure territory, collect debts, and to warn and retaliate.

It is this use of violence, which is often played out in public spaces, that informs and explains community perceptions of organised crime.' page 18 Queensland Dept of Justice and Attorney-General 'Taskforce on Organised Crime Legislation' [Emphasis added]

https://www.publications.qld.gov.au/dataset/taskforce-organised-crime-report/resource/a5f31d2c-eded-48fa-89a6-ac377ec10b73

The definition of a 'criminal organisation' is included in the **Penalties and Sentences Act 1992 Part 9D Serious and organised crime Section 161O Meaning of criminal organisation**

(1) A ***criminal organisation*** is a group of 3 or more persons,
whether arranged formally or informally—
(a) who engage in, or have as their purpose (or 1 of their
purposes) engaging in, serious criminal activity; and
(b) who, by their association, represent an unacceptable risk
to the safety, welfare or order of the community.

As a result of Mr Pavlou's high-profile involvement in the 24 July 2019 UQ 'Market Day' pro-democracy protests he was assaulted several times and received a large number of death threats.

There were also assaults against other pro-democracy students on the UQ campus.

There is ongoing vandalism to the pro-Hong Kong democracy 'Lennon Wall' located on the UQ campus, which is in itself an act of intimidation and threatening behaviour.

Criminal Organisation

There is a group of 3 or more persons who are engaging in serious criminal activity and who by their association represent an unacceptable risk to the safety, welfare or order of the community.

The *criminal organisation* includes the following:

Xu Jie, the Consul-General of the People's Republic of China in Brisbane. Xu Jie is also an Adjunct Professor at the School of Languages and Culture, UQ.

Xu Jie's support staff are located at the Consulate-General PRC, 79 Adelaide St, Brisbane 4000.

Cheng Jingye, People's Republic of China Ambassador to Australia located at the PRC Embassy, 15 Coronation Drive, Yarralumla, ACT 2600 [the Ambassador having endorsed Xu Jie statement of 25.07.19].

That is pro-Beijing supporters in Australia including overseas students were encouraged by Consul-General Xu Jie and Ambassador Cheng Jingye to threaten, intimidate and assault pro-democracy activists such as Mr Pavlou.

These attacks are also encouraged by the Chinese Communist Party's propaganda mouthpiece the 'Global Times' newspaper.

As a result of the attacks by pro-Beijing supporters upon Mr Pavlou on 24 July 2019 he suffered bruising (**Penalties and Sentences Act 1992 Schedule 1 'Serious violent offences' Sect 339 Criminal Code 'Assaults occasioning bodily harm'**)

As a result of this *serious criminal activity* Mr Pavlou fears for his safety and that of his parents.

Mr Pavlou and other pro-democracy protestors also fear for their peaceful enjoyment of the UQ campus.

1.2 Riot – 24 July 2019 UQ Market Day Protests

'Riot' is a 'serious violent offence' under Schedule 1 of the Penalties and Sentences Act 1992

Section 61 of the Criminal Code states: (1) If -

(a) 12 or more persons who are present together (***assembled persons***) use or threaten to use unlawful violence to a person or property **for a common purpose**; and
(b) the conduct of them taken together would cause a person in the vicinity to reasonably fear for the person's personal safety;
each of the assembled persons commits the crime of taking part in a riot.
[Emphasis added]

We believe the violent attacks against the pro-democracy protestors on 24 July 2019 during the UQ Market Day protests were as coordinated by agents of the Chinese Communist Party.

The common purpose of the 12 or more assembled persons was to assault and threaten the pro-democracy protestors at the UQ campus.

1.3 Threatening violence

'Threatening violence' is a 'serious violent offence' under Schedule 1 of the Penalties and Sentences Act 1992

75 Threatening violence
(1) Any person who—
(a) with intent to intimidate or annoy any person, by words or conduct threatens to enter or damage a dwelling or

other premises; or
(b) with intent to alarm any person, discharges loaded firearms or does any other act that is likely to cause any person in the vicinity to fear bodily harm to any person or damage to property;
commits a crime.

1.4 Section 22A Terrorist Act

Mr Pavlou is a victim of a *terrorist act* as defined by Section 22A of the Queensland Crime and Misconduct Act 2001 ('the Act').

The person who committed this crime is PRC Brisbane Consul-General Xu Jie who is also UQ Adjunct Professor Xu Jie.

We believe the crime as detailed below meets the definition of 'terrorist act' in the Act.

Sec 22A(1) An action is a *terrorist act* if (a) it does any of the following:

(i) causes serious harm that is physical harm to a person;

On 24 July 2019 at the UQ campus Mr Pavlou was attacked by Chinese Communist Party operatives.

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

(iv) endangers the life of someone other than the person taking the action;

As a result of Xu Jie's statement of 25 July 2019 Mr Pavlou received hundreds of death threats from pro-Beijing supporters. These death threats were reported to Indooroopilly Police Station on 30 October 2019.

(v) creates a serious risk to the health or safety of the public or a section of the public;

On 24 July 2019 Xu Jie, with the assistance of the UQ Confucius Institute and the Queensland Chinese Students & Scholars Association, a mob of 500-600 pro-Beijing supporters (according to QPS estimates) surrounded 30-60 peaceful pro-democracy protestors, who the CCP operatives and pro-Beijing supporters then attacked multiple times.

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

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

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

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

Specifically Xu Jie's incitement to violence has resulted in a serious risk to the health and safety of activists advocating for democracy and/or independence for Hong Kong, Tibet, East Turkestan (Xinjiang) and Taiwan (such activists being *a section of the public*)

(b) it is done with the intention of advancing a ***political****,*
religious or ***ideological*** *cause*

A pillar of all Western democracies including Australia is the rule of law.

According to his resume on baidu.com Xu Jie has been a member of the Chinese Communist Party since April 1991: https://baike.baidu.com/item/%E5%BE%90%E6%9D%B0/12806010

Xu Jie attended a police training school in China.

Xu Jie was a Public Security Bureau cadre from July 1982 to September 1989.

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

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

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

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

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

What other motives could there possibly be?

(c) it is done with the intention of—

(i) coercing, or influencing by intimidation, the government of the Commonwealth, a State or a foreign country, or of part of a State or a foreign

The 'terrorist act' by Xu Jie, including his coordination of the attacks on the student protestors on 24 July 2019 and his statement of 25 July 2019 had the intention of intimidating both the Queensland Government and the Australian Federal Government.

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

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

(ii) intimidating the public or a section of the public.

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

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

Australians no longer feel safe in their own country.

There is a high level of anxiety amongst residents of Queensland and elsewhere in Australia that Xu Jie's praise/incitement to violence as well as the attacks on Mr Pavlou have not been properly addressed by relevant authorities.

UQ students are now too fearful to carry out any further pro-democracy and pro-independence protests on campus.

<u>Section 22A(2) – terrorist act: threat</u>

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

We submit this is a threat of action that also satisfies the definition of 'terrorist act' in Section 22A(2) of the Act:

(2) A threat of action is a ***terrorist act*** if—
(a) the threatened action is likely to do anything mentioned
in subsection (1)(a)(i) to (vi); and
(b) the threat is made with the intentions mentioned in
subsection (1)(b) and (c).

Being described as an 'anti-China separatist' is an open invitation to pro-Beijing thugs to attack Mr Pavlou.

There has been no official recognition or acknowledgment of the crimes committed against Mr Pavlou by Xu Jie and his co-terrorists of hundreds of international students from Mainland China.

This has left Mr Pavlou unprotected – a sort of 'turkey shoot' against an Australian citizen in his home country by very aggressive, very hostile pro-Beijing supporters who are in Australia mostly holding students visas.

2. Inclusion of oral agreements within the FRB

Once the FRB becomes law written agreements with universities will be subject to the Act.

This will prevent oral i.e. unwritten agreements from occurring, to do otherwise would be a form of espionage which can be prosecuted under the National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018.

A clause may be included in the FRB to make it clear that any attempt to circumvent the Act by way of an oral agreement will make the parties liable to prosecution under the National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018.

3. Potential Sanctions against universities given the behaviour of UQ

For 'whistleblowing' the excising of Australian law from its campus the UQ Chancellor and Vice-Chancellor were determined to expel Mr Pavlou as a UQ student and as a UQ Senator.

As is evident from their collective inaction against Xu Jie following his criminal threats made against UQ students, to the Vice-Chancellor's $200,000 bonus as leaked by Senator James Paterson, the number one priority of the UQ Chancellor and UQ Vice-Chancellor is to protect their Mainland Chinese international student revenue.

Such conduct should be investigated and prosecuted under current legislation.

We provide the following example:

Queensland Crime and Corruption Act 2001.

15 Meaning of *corrupt conduct*

(1) ***Corrupt conduct*** means conduct of a person, regardless of whether the person holds or held an appointment, that—

(a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—

(i) a unit of public administration; or

(ii) a person holding an appointment;

The UQ Chancellor and UQ Vice-Chancellor decided not to dismiss Xu Jie as UQ Adjunct Professor after he made his criminal threats against Mr Pavlou and other pro-democracy UQ students on 25 July 2019 as they believed this would impact UQ's lucrative Mainland China international student.

And

(b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—

(i) is not honest or is not impartial;

The UQ Chancellor and UQ Vice-Chancellor wished to expel from UQ its 'troublesome' pro-democracy activist Mr Pavlou. They compiled a 'dossier' of trite and dishonest charges against Mr Pavlou including a charge that he was seen scribbling on a piece of paper using a shop pen.

On the one hand the UQ Chancellor and UQ Vice-Chancellor wished to expel Mr Pavlou, a highly articulate Australian citizen who simply wishes to promote human rights in China and on the other hand the UQ Chancellor and UQ Vice-Chancellor continues to bestow the honour of an Adjunct Professorship on Xu Jie, a former PRC Public Security Bureau cadre, who praised and incited/encourage violence against Mr Pavlou and other UQ students, comfortable in the knowledge that his patrons, the UQ Chancellor and UQ Vice-Chancellor would do nothing.

or

(ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly;

The UQ Chancellor and UQ Vice-Chancellor were entrusted to respect the rule of law on the UQ campus.

They have not done so. The effect of this is that Chinese Communist Party, to which the rule of law is anathema (see CCP Document No.9 https://www.chinafile.com/document-9-chinafile-translation) has the upper hand on campus.

Or

(iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and
(c) would, if proved, be—
(i) a criminal offence; or
(ii) a disciplinary breach providing reasonable grounds

for terminating the person's services, if the person is or were the holder of an appointment.

The UQ Chancellor and UQ Vice-Chancellor have used UQ resources to spy on and prosecute Mr Pavlou via a concocted disciplinary hearing as they, together with Xu Jie wish to rid themselves of Mr Pavlou.

That is the UQ Chancellor, the UQ Vice-Chancellor and Xu Jie have colluded in corrupt conduct.

The UQ Chancellor and the UQ Vice-Chancellor also engaged in corrupt conduct when they made the decision to appoint Xu Jie as an Adjunct Professor at UQ.

Xu Jie is wholly unsuitable and unqualified for the position of UQ Adjunct Professor, School of Languages and Cultures.

Yours faithfully

Mark A Tarrant
Principal Lawyer