

Media Freedom and Censorship under Post-Orwellian Authoritarianism

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Introduction

In the weeks following the imposition of the National Security Law (NSL) on Hong Kong, there were conflicting prognoses about how the legislation would affect press freedom. Some commentators opined that the media would have nothing to fear if they behaved responsibly—an international euphemism for toeing the line, wherever authorities choose to draw it. But setting aside apologists for illiberal media control, even those with a vested interest in maintaining the territory's freedoms offered contrasting verdicts. "[T]his is not the rule of law. This is not even rule by law. This is rule by decree," said pro-democracy lawmaker and former journalist Claudia Mo. "Free press could just be announced dead in Hong Kong," she added.¹ The director of a leading journalism school in the city obliged: "Press is dead as far as I'm concerned." On the other hand, editors at *Apple Daily* and *South China Morning Post* summarised their newspapers' responses in the same three words: "business as usual".²

Both sides, whether expressing fatalist or hopeful views, were probably sloganeering: one side to sound the alarm, the other to express fortitude. In *Apple Daily's* case, the bravado lasted less than a year. Under intense pressure from the authorities, the territory's most popular newspaper closed down in June 2021. Its founder, Jimmy Lai, and senior *Apple Daily* staff were charged under the NSL for calling for international sanctions against the Beijing and Hong Kong governments, a crime

1. Rachel Wong, "A calculated weapon of repression: Democrats, activists, NGOs raise alarm over Hong Kong security law as gov't hails enactment", *Hong Kong Free Press*, 1 July 2020, available at <https://hongkongfp.com/2020/07/01/a-calculated-weapon-of-repression-democrats-activists-ngos-raise-alarm-over-hong-kong-security-law-as-govt-hails-enactment/>.
2. Greg Torode and James Pomfret, "HK Tycoon Jimmy Lai Arrested under Security Law, Bearing Out 'Worst Fears'", *Reuters*, 10 August 2020, available at <https://cn.reuters.com/article/hongkong-security-idCNL4N2FC027>.

under Article 29, which prohibits collusion with foreign individuals or groups. The new law has several other features that alarm media. The ban on secessionist activity, for example, is drafted broadly. Article 20 criminalises “organising, planning, committing or participating” in either separating Hong Kong or any other part of the country from China, or “altering by unlawful means” their “legal status”. Inciting or assisting in such actions is also punishable under Article 21. Journalists hope that merely reporting such activity would not be an offence, but they cannot be sure. Article 10 requires the Hong Kong government to carry out national security education through the media—this could mean something as innocent as advertising campaigns, or as intrusive as Mainland-style propaganda directives.

The crackdown on *Apple Daily* certainly removed all doubts about China’s determination to rid Hong Kong of the anti-Beijing elements it held responsible for the traitorous and tumultuous protests of 2019. It signalled that Beijing does not feel bound by the principles of necessity or proportionality when restricting free speech, as required by the International Covenant on Civil and Political Rights (ICCPR). What remained unclear, at the time of writing, was how far upstream it would go to reform Hong Kong’s political culture, including its tradition of press freedom. The Hong Kong government stated repeatedly that its actions against Jimmy Lai and *Apple Daily* should not be construed as part of a broader attack on media freedom.³ Many media professionals were understandably sceptical. “Journalists who witnessed the final days of *Apple Daily* will be frightened by the turn of events,” the Hong Kong Journalists Association said.⁴

Hong Kong is in uncharted territory. Its legal and political precedents are of limited predictive value. To make out what may lie ahead, there is an obvious need to decipher the NSL—an exercise to which this volume is dedicated. This chapter, however, proceeds from the premise that deep dives into the text of the NSL can only reveal so much about Hong Kong’s shrinking media freedom. This is partly because authorities intent on taming Hong Kong’s media can use other legal and non-legal weapons, several of which have already been deployed with decisive effect. For example, the government has been able to rely on pre-existing administrative levers to rein in the public service broadcaster, RTHK (Radio Television Hong Kong). One of the last remaining independent news sites, Stand News, closed down after authorities arrested seven individuals linked to the outlet under a colonial-era anti-sedition law.⁵ Therefore, the NSL may be just the tip of the iceberg.

3. “S for S Speaks on Arrest Operation by Hong Kong Police’s National Security Department”, Hong Kong SAR Government Press Release, 17 June 2021, available at <https://www.info.gov.hk/gia/general/202106/17/P2021061700449.htm>.

4. “HKJA Response of *Apple Daily* Closure”, Hong Kong Journalists Association, 23 June 2021, available at <https://www.hkja.org.hk/en/statements/hkja-response-of-apple-daily-closure/>.

5. Christy Leung, Emily Tsang and William Yiu, “Hong Kong’s Stand News shuts down after national security police arrest 7, freeze HK\$61 million in assets”, *South China Morning Post*, 29 December 2021, available at <https://www.scmp.com/news/hong-kong/law-and-crime/article/3161360/hong-kong-national-security-police-arrest-6-ties-stand>.

Furthermore, although the NSL is a law of frightening reach, it is not necessarily the case that it will be applied to its full extent. Here is where legal studies alone can be misleading. Legal scholars, like media organisations' counsel, have an occupational tendency—indeed, a professional responsibility—to spell out worst case scenarios based on a maximal reading of legislation. But that is not necessarily how states use their repressive laws. Experienced editors and publishers understand this and tend to treat their legal counsel's advice as just one point of reference. They surveil the environment, weigh contextual factors, and take calculated risks. Especially in jurisdictions with weak rule of law (or strong "rule by law"), justice is not blind: law is applied inconsistently, such that political judgment becomes an essential survival skill for journalists.

Hong Kong's media professionals generally lack such experience, handicapping them as the city enters unfamiliar terrain. But in a world where most journalists work in environments that are at best semi-free, there is no shortage of relevant precedents to learn from. This chapter argues that while the NSL is a formidable weapon, comparative censorship studies suggest that the authorities will eventually refrain from using it routinely. They may gradually shift toward means of media manipulation that are less coercive but more insidious—including economic carrots and sticks. At their most effective, strategies of calibrated and selective censorship contribute to authoritarian rule that is resilient and hegemonic. Singapore offers one case study, which this chapter analyses in some detail. The comparison with Singapore is especially compelling to Hong Kong. The two cities have a shared legal tradition and are both wealthy cosmopolitan hub cities with ethnic Chinese majorities. The Southeast Asian republic is often mentioned as a potential model for a reformed Hong Kong. Compared with Hong Kong, Singapore is more prosperous and stable, despite—or, as political conservatives argue, due to—its tightly constrained civil liberties, including a more controlled press. Like Singapore's ruling party, Hong Kong's political masters may indeed succeed in having their cake and eating it too, presiding over a flourishing but illiberal society. However, the kind of hegemonic domination that the Singapore regime achieved over mainstream media—where resistance is conspicuous in its absence—may be harder to replicate. This chapter explains why a Singapore-style equilibrium will elude Hong Kong's grasp.

I. Global Trends in Censorship

The scholarship on how China and other authoritarian states restrict media freedom is fairly substantial but quite recent, which explains why lay perceptions lag behind, tending to underestimate the sophistication with which such regimes operate. The long delay in close study of these societies is partly because, during the Cold War and beyond, there was little demand for nuance in analysing freedom of expression on either side of the ideological divide. Western commentators assumed

that non-democracies were totalitarian regimes in the mould of George Orwell's 1984—where censorship was like an all-consuming black hole, and where even “thoughtcrime” was banned. Such caricatures were ideologically useful in the Cold War battle against communism.⁶ Then, in the decade after the collapse of the Soviet Union, it was widely assumed that remaining authoritarian states did not deserve close empirical study since they would inevitably converge towards liberal democracy.⁷ Modernisation theory—the idea that capitalist development, education levels, and a rising middle class would democratise societies⁸—continued to be influential, adding to the expectation that emerging economies would free up their politics along with their markets. The arrival of the world wide web in the mid-1990s heightened hopes that despots would have to bow to new “liberation technologies”.⁹

In the 2000s, though, it became clear that authoritarian states were more resilient than previously believed. Strong states such as Singapore and China could generate impressive economic growth and performance-based legitimacy without conceding much to liberal democratic values. Such regimes, it transpired, could even coexist with a vibrant internet.¹⁰ Since then, in-depth research on the media and politics of such societies has burgeoned. Social scientists today have a much clearer idea of, for example, how authoritarian regimes maintain their grip on political discourse while at the same time satiating their publics' desire for more media choice and avoiding the backfire effects that often accompany censorship. The overwhelming evidence from a number of disciplines is that these states know better than to try to replicate the absolutist ideology or totalitarian methods of the likes of Adolf Hitler and Josef Stalin, or Mao Zedong's Cultural Revolution—the kind of worldview that Orwell crystallised in the 1940s. The evidence also tells us that censorship practices cannot be straightforwardly predicted from their written laws and regulations. University of Chicago law professor Eric Posner has observed that almost all legal scholarship on human rights analyses the law without studying its effects on the ground.¹¹ If so, this underlines the importance of drawing from social science and historical research on media and politics, not just the field of law.

While censorship studies have made a decisively post-Orwellian turn, popular discourse continues to be gripped by totalitarian nightmares. Much of the discussion

6. John C. Nerone (ed), *Last Rights: Revisiting Four Theories of the Press* (Urbana: University of Illinois Press, 1995).

7. Francis Fukuyama, *The End of History and the Last Man* (New York: Simon and Schuster, 1992).

8. Seymour M. Lipset, “Some Social Requisites of Democracy” (1959) 53(1) *American Political Science Review* 69.

9. Larry Diamond and Marc F. Plattner, *Liberation Technology: Social Media and the Struggle for Democracy* (Baltimore: Johns Hopkins University Press, 2012).

10. Gary King, Jennifer Pan, and Margaret E. Roberts, “How Censorship in China Allows Government Criticism but Silences Collective Expression” (2013) 107(2) *American Political Science Review* 326; Cherian George, “Neoliberal ‘Good Governance’ in Lieu of Rights: Lee Kuan Yew's Singapore Experiment”, in Monroe Price and Nicole Stremlau (eds), *Speech and Society: Comparative Perspectives* (Cambridge: Cambridge University Press, 2018), p 114.

11. Eric Posner, *The Twilight of Human Rights Law* (Oxford; New York: Oxford University Press, 2014).

about the NSL has taken place within the old paradigm. This is a problem not only because it may exaggerate the sharp threats contained in the NSL (which could indeed materialise), but because it underestimates subtler dangers (which are not only more likely but may also be more impactful in the long run). This chapter tries to bridge the knowledge gap by taking a step back from Hong Kong and the NSL to survey the global landscape of media freedom and censorship. Conveniently for those interested in Hong Kong's future, many recent studies focus on China. In addition to this secondary literature, I draw on my own research on Singapore, which is of special relevance given how regularly Singapore's model is invoked as a possible end point for post-NSL Hong Kong.

II. Strategic Self-Restraint in the Use of Law

Regimes that are termed authoritarian, autocratic, or despotic form a diverse group. They include one-party communist states, military juntas, absolute monarchies, and electoral authoritarian systems (the latter forms the largest category, comprising countries with periodic elections that are monopolised by a ruling elite, aided by weak rule of law). In such societies, states are more or less able to suppress media freedom with impunity. They usually have at their disposal sweeping security and other laws that they are able to apply with wide discretion and little or no pushback from independent courts. Many are also able to muster extralegal violence against media, using paramilitaries, security agencies, and hired goons. For individual journalists and other media workers, the price of challenging authority can amount to assassinations, forced disappearances, long jail terms, and torture. Media outlets may be banned or suspended.

Such incidents are all too common. The most extreme cases—such as Saudi agents' murder and dismemberment of journalist Jamal Khashoggi in 2018—make global headlines. These marquee events, though, tend to overshadow a separate trend in media repression: while autocratic states hoard coercive powers just in case, they usually choose not to use them to the full extent possible. This self-restraint is not driven by any guilt arising from some closeted respect for human rights. It is strategic and self-interested, based on their recognition that maximal coercion is rarely optimal. Authoritarian states that take a long view know that it is not smart to overplay their hands.

By the 2010s, this pattern had registered on media freedom watchdogs' radars. In 2015, a cover story in the *Columbia Journalism Review* on "21st Century Censorship" documented how governments around the world were using "stealthy strategies" to manipulate the media.¹² The same year, Joel Simon of the Committee to Protect Journalists released his book *The New Censorship*, the thrust of which was

12. Philip Bennett and Moises Naim, "21st-Century Censorship", *Columbia Journalism Review*, February 2015, available at https://www.cjr.org/cover_story/21st_century_censorship.php.

to warn that enemies of press freedom were not solely relying on “brute force and direct control” but also using “stealth, manipulations, and subterfuge”.¹³ Freedom House, in a 2017 report on “modern authoritarians”, including China, observed that force was being “used more selectively, so that most of the population rarely experienced state brutality”.¹⁴

Miklós Haraszti in Hungary had noted this trend as far back as the 1980s. His book *The Velvet Prison* distinguished the prevailing system of state socialism from the “primitive totalitarianism” of the Stalinist period. “Partnership displaces dictatorship,” he wrote. “Sticks are exchanged for carrots.”¹⁵ A similar shift was evident by the 1990s in Singapore—where the ruling People’s Action Party (PAP) government has always tended to be ahead of the curve, not only in its economic development policies but also in the finer points of resilient authoritarian rule. The PAP mastered the art of “calibrated coercion”, which I define as the technique of using just enough force to secure the regime’s political objectives, but not so much as to backfire.¹⁶

The idea that regimes consolidate power by dialling down violence is at least a century old. It is central to Antonio Gramsci’s theory of hegemony in which coercion underwrites domination without routinely manifesting itself.¹⁷ There are several practical reasons why states confronted with speech they do not like may refrain from the most repressive responses available to them, or indeed not act at all. None of the following factors is embraced by authoritarian regimes as clinching arguments against censorship. The point, rather, is that it is simplistic to expect states to react automatically with maximum force. Smart authoritarian regimes know that censorship entails trade-offs. While there may be situations where they come down on the side of a shock-and-awe show of force to scare the public into submission, they may also find good reasons to moderate their response, even if it means looking the other way.

First, flagrant censorship can play into opponents’ hands. It can heighten the appeal and impact of the very ideas that the censors find objectionable. This has come to be known as the Streisand Effect named after the singer Barbra Streisand’s ill-advised legal bid to suppress aerial photographs of the California coastline that happened to show her seaside mansion.¹⁸ Her lawsuit increased the audience of those photos from dozens to millions. A disproportionately severe response can

13. Joel Simon, *New Censorship: Inside the Global Battle for Media Freedom* (Wheaton: Columbia University Press, 2014), p 32.

14. Arch Puddington, *Breaking down Democracy: Goals, Strategies, and Methods of Modern Authoritarians* (Washington: Freedom House, 2017).

15. Miklós Haraszti, *The Velvet Prison: Artists under State Socialism* (London: Tauris, 1988), p 74.

16. Cherian George, “Consolidating Authoritarian Rule: Calibrated Coercion in Singapore” (2007) 20(2) *The Pacific Review* 127.

17. Thomas R. Bates, “Gramsci and the Theory of Hegemony” (1975) 36(2) *Journal of the History of Ideas* 351.

18. T. C., “What Is the Streisand Effect?”, *The Economist*, 15 April 2013, available at <https://www.economist.com/the-economist-explains/2013/04/15/what-is-the-streisand-effect>.

also backfire by generating public outrage around which opponents can mobilise. The Soviet Union's treatment of Alexandr Solzenitzyn, for example, made him a celebrity. He became a potent symbol of not only the tyranny of the censorship bureaucracy but also the repressiveness of the entire Soviet system.¹⁹

Second, violent reprisals can isolate rulers by undermining their own power base. Hannah Arendt, contemplating fascist regimes, noted that rulers cannot govern single-handedly. They require the co-operation of lieutenants and fellow elites. Dictators, therefore, face a dilemma: they can seize control through violence, but violence alone cannot sustain their hold on power.²⁰ The dictator's dilemma applies to media and communication. Rulers of any large nation state require reliable information from the ground. They cannot afford to be the last to know that a harvest has failed, that workers are restive, or that their lieutenants' corruption is getting out of hand. A political system in which officials and media are afraid to be bearers of bad news will leave rulers in the dark, along with their subjects, and thus vulnerable to revolutionary tendencies.²¹

Third, individuals and firms in market economies require a reasonably free flow of information to guide their decisions. As even communist countries such as China and Vietnam transitioned away from their centrally planned economies and placed greater faith in market mechanisms from the 1980s, they felt compelled to cede some control over news and information as well. While certainly not surrendering to the liberal model of press freedom, neither have they wished to maintain the kind of absolute control over news media that they exercised prior to their pro-market reforms. The dilemma of balancing open commerce with closed politics was accentuated by the arrival of the internet, a platform that became indispensable for business but could also double up as a medium for political dissent.

Fourth, most citizens in most countries desire choice in media. Authoritarian regimes seeking mass support hope that their lack of procedural legitimacy (the kind that emerges from free and fair elections and the rule of law) can be compensated for through performance legitimacy (by delivering socio-economic progress). The problem for control-minded governments, though, is that access to abundant media—particularly in entertainment and, more recently, social networking platforms—is widely regarded as part and parcel of social mobility and a desirable lifestyle. Even where states have successfully pushed back against the import of Western-style democratic values, they have found it difficult to resist demands for media choice, especially on television and online. In a middle-income country, a

19. Sue Curry Jansen and Brian Martin, "Making Censorship Backfire" (2003) 7(3) *Counterpoise* 5, available at <http://ro.uow.edu.au/artspapers/54>.

20. Hannah Arendt, *On Violence* (Orlando: Harcourt Brace Jovanovich, 1970), p 54.

21. Greg Chih-Hsin Sheen, Hans H. Tung, and Wenchin Wu, "Tell Me the Truth: (Un)committable Media Freedom in Dictatorships" (2018) In Annual American Political Science Conference, Chicago, IL.; Peter Lorentzen, "China's Strategic Censorship" (2014) 58(2) *American Journal of Political Science* 402, available at <https://doi.org/10.1111/ajps.12065>.

government that denies high-speed internet, multi-channel television and online social networks to its people risks undermining its performance legitimacy.

Fifth, the goals of 21st-century authoritarians are much more modest than the utopian visions of Stalin, Mao, or Pol Pot in the mid-20th century. The old-style totalitarians were ideologues who demanded complete consensus and conspicuous loyalty. Depoliticising one's work and refraining from challenging authority was not an option for journalists, artists, and intellectuals. "Neutrality is treason; ambiguity is betrayal," Haraszti said of the Stalinist period. Compared with Stalin, or the ideologues behind China's Cultural Revolution or Cambodia's Year Zero, modern autocrats are "not animated by an overarching ideology or the messianic notion of an ideal future society"; nor do they demand total control over "people's everyday lives, movements, or thoughts", a Freedom House report notes.²² Even if their legal weapons allow such control, their political missions do not demand it.

Rather than issue a stream of detailed orders, today's authoritarians are more likely to provide general guidelines and allow editors and publishers to use their own judgment most of the time. They rely on self-censorship, which can be defined as a set of practices that speakers engage in without being explicitly told to, to preempt punishment or in anticipation of reward from external actors that have power over them.²³ A government's reluctance to micro-manage every eventuality should not be mistaken for an act of charity. There are self-interested reasons why it would prefer to delegate authority to editors and publishers. Most obviously, in a large and complex country, it is simply not possible to anticipate every situation. Nor is it necessarily smart for leaders to demand that underlings inform and consult them about everything that is out of the ordinary. The caricature of the Big Brother state is contradicted by studies of organisational behaviour showing that it is not always in leaders' interests to know and control everything. To avoid informational overload, leaders may be better off defining their core business narrowly and delegating authority for non-core decisions to their agents.²⁴ The advantages of a self-censorship regime are so considerable that some theorists argue that it should not be regarded as a category secondary to direct censorship. Instead, it is better to think of censorship as failed self-censorship—a second-best option.²⁵

When authoritarian states deal with media, then, their practical challenge is how to balance their desire, on the one hand, to restrict expression that may weaken their grip on power and, on the other, to minimise the risk of backfire and serve

22. Puddington, n 14 above, p 1.

23. Chinchuan Lee, "Press Self-Censorship and Political Transition in Hong Kong" (1998) 3(2) *The Harvard International Journal of Press/Politics* 55; Francis L. F. Lee, "Self-Censorship", in Tim P. Vos and Folker Hanusch (eds), *The International Encyclopedia of Journalism Studies* (Hoboken: John Wiley & Sons, 2019), available at <https://doi.org/10.1002/9781118841570.iej0096>.

24. Philippe Aghion and Jean Tirole, "Formal and Real Authority in Organizations" (1997) 105(1) *Journal of Political Economy* 1, available at <https://www.jstor.org/stable/2138869>.

25. Matthew Bunn, "Reimagining Repression: New Censorship Theory and After" (2015) 54(1) *History and Theory* 25, available at <https://doi.org/10.1111/hith.10739>.

various interests—consumers, businesses, and the state itself—that demand a reasonably well-functioning media system. Although there is no guarantee that they can easily reconcile these competing interests, they try to do so through two broad strategies: calibrated coercion and selective censorship.²⁶

(a) Calibrated Coercion

States have a wide range of means to control media. They vary in the level of violence, from extreme (murder) to none (bribes and other inducements for co-operation). They also vary in visibility, from the spectacular (police raids and arrests in daylight) to stealthy (algorithmic interventions to make problematic online content harder to find). Violent and highly visible censorship is prone to backfire. In contrast, there is negligible political cost to interventions that are harder to detect and even seem victimless. This is precisely the broad direction in which many authoritarian regimes have preferred to go.

The media policies of Singapore's PAP government epitomise calibrated coercion. In the decade following the city state's attainment of independence in 1965, the government used sweeping security laws to ban publications and detain journalists. Then, despite the absence of any parliamentary opposition to question those powers (which remain in the statute books), the government switched to new legislation that enabled it to exercise behind-the-scenes supervision. It thus managed to institutionalise a robust system of self-censorship that worked with, rather than against, the prevailing market orientation of media. The republic is currently the only country that ranks among the very top in economic competitiveness,²⁷ transparency perception,²⁸ and human development,²⁹ while maintaining a "not free" media system that is consistently ranked among the bottom 20 per cent.³⁰ Singapore is thus the glaring exception to the general rule associating advanced economies with press freedom. This section takes a closer look at how Singapore's approach to media regulation evolved.

Post-colonial Singapore, like Malaysia, inherited a suite of sweeping security laws from the British. Originally intended to counter communist insurgency and communal violence, these powers were retained by Lee Kuan Yew's PAP government

26. Cherian George, "Journalism and Authoritarian Resilience", in Karin Wahl-Jorgensen and Thomas Hanitzsch (eds), *The Handbook of Journalism Studies* (New York: Routledge, 2nd edn, 2020), p 538.

27. "IMD World Competitiveness Ranking 2020: Showing Strength of Small Economies", *IMD*, June 2020, available at <https://www.imd.org/news/updates/IMD-2020-World-Competitiveness-Ranking-revealed/>.

28. "Corruption Perceptions Index 2019", *Transparency International*, 2020, available at https://images.transparencycdn.org/images/2019_CPI_Report_EN_200331_141425.pdf.

29. United Nations Development Programme, "Human Development Reports 2020: Singapore", 2020, available at <http://hdr.undp.org/en/countries/profiles/SGP>.

30. Michael J. Abramovitz, "Freedom of the Press 2017", *Freedom House*, 2017, available at <https://freedomhouse.org/report/freedom-press/freedom-press-2017>; "2020 World Press Freedom Index", *Reporters Without Borders*, available at <https://rsf.org/en/ranking>.

to cripple opposition and clear the way for its pro-business economic policies and its pragmatic promotion of English-language education. Up to the 1970s, it detained journalists without trial under the Internal Security Act (ISA), which, as Michael Hor points out in Chapter 16, is a piece of legislation that in some respects is more fearsome than the NSL. Singapore authorities also deployed the Printing Presses Ordinance—under which periodicals had to obtain annual publishing permits that could be granted or revoked at any time, entirely at ministers' discretion—to suppress newspapers that challenged the government's authority. In May 1971, six years after independence, Lee was uninhibited in his use of these powers. His government revoked the licence of one English-language newspaper, *Singapore Herald*, and accused another, *Eastern Sun*, of being a vehicle for black operations, upon which its staff exited, precipitating its collapse before any government action was needed. The biggest scalp, though, was the leading Chinese-language newspaper, *Nanyang Siang Pau*, four of whose top executives, including one of its family owners, was detained without trial under the ISA. Its publisher was arrested two years later, spending five years in detention.³¹

Just as events in 2021 in Hong Kong established that the authorities would brook no dissent from the media, the crackdown in Singapore 50 years earlier dispelled all doubts about the PAP's political will to strip the press of any Fourth Estate pretensions. Having demonstrated his resolve, though, Lee changed tack. He did not wish to repeat the cycle of arrests and bans. Nor did he choose to take over ownership of the press, either by law (communist governments' final solution) or through businesses owned by the ruling party or its cronies (like in neighbouring Malaysia). Instead, he devised a system to ensure that newsrooms would be controlled by pro-establishment editors, while keeping ownership in the hands of the private sector.

His custom-built mechanism was the Newspaper and Printing Presses Act (NPPA) of 1974. The NPPA retained the 50-year-old system of annual permits. But it contained a novel feature: it required newspaper owners to be publicly listed companies. This was remarkably counter-intuitive at a time when conventional wisdom held that capitalism was a gateway drug to democracy. The new law also prohibited any investor from controlling a majority of shares (the cap is currently 12 per cent). The legislation thus spread newspaper ownership thinly across the stock market. Lee understood that commercial media as such were not a threat to a pro-business government. More problematic were individual and family owners—like *Nanyang Siang Pau's*—willing to use their newspapers to champion non-pecuniary causes. By spreading ownership, newspapers' orientation would be reduced to shareholders' lowest common denominator: their profit motive.

31. Francis T. Seow, *The Media Enthralled: Singapore Revisited* (Boulder: Lynne Rienner Publishers, 1998).

To allow the government to guide newspapers' editorial direction, the NPPA also gave it a say in appointments of company directors and top editors. Lee again sought inspiration from the commercial world, borrowing the concept of super-voting shares. Newspaper companies such as the *New York Times* and the *Wall Street Journal* used this mechanism to keep key decisions in the hands of families that saw themselves as custodians of the papers' values, even when they held minority stakes. Under the NPPA, newspaper companies must designate certain shares as "management shares". Management shares have 200 times the voting power as ordinary shares on resolutions relating to the appointment or dismissal of a director or any member of the staff. The government decides whose shares count as management shares. In practice, management shareholders of the national newspapers are mostly financial institutions deeply invested in Singapore's political stability. Some of these corporations, such as Singapore Telecom, are government-linked.³²

As the annual permit system remained in place, the government was even able to direct industry restructuring. Its interventions culminated in the consolidation of all Singapore dailies under a single corporation, Singapore Press Holdings (SPH). Although journalists were not happy, SPH's monopoly served both shareholders as well as the government's agenda: having a solitary newspaper company made political co-ordination easier and diminished the competitive pressures that often drive news outlets to take political risks.

With the domestic media dealt with, Lee turned his attention to influential foreign newsweeklies and dailies, such as the Hongkong-based *Far Eastern Economic Review* and *Asiaweek*, and global brands *Time*, *Asian Wall Street Journal*, and the *Economist*. Two Singaporean correspondents for the *Far Eastern Economic Review* were detained under the Internal Security Act for around two months each in 1977. The government also had the power to ban these publications under existing laws. But Lee wanted to deny foreign media the moral high horse he knew they would mount were the Singapore government to react in such an extreme fashion. Again, he sought more calibrated tools. In 1986, NPPA amendments allowed the government to set circulation caps on foreign publications that it deemed were trying to interfere in Singapore's domestic politics. The test, not written into the legislation but clarified in its application, was whether these publications would give the government the unedited right of reply. Those that refused would have their access to one of Asia's most lucrative markets limited, though not completely blocked. Lee's goal was to make the publications' corporate owners feel the financial pain when their editors took on his government in the name of press freedom. Lee's battle with major western media titles was hardly low profile, but it was more calibrated than banning them. Furthermore, his use of the NPPA—together with defamation suits and contempt of court prosecutions—did have some success in

32. Cherian George, *Freedom from the Press: Journalism and State Power in Singapore* (Singapore: National University of Singapore Press, 2012).

getting publishers and their lawyers to advise editors to exercise more care in their Singapore coverage.³³

With the NPPA and other measures in place, the government had no need to activate its more draconian laws. The last time the ISA was used against working journalists was 1977; the last time a daily newspaper was banned was 1971. In the day-to-day work of media organisations, Singapore's security laws have a mostly symbolic function, reminding journalists that the government will always prevail in any contest with the press. Extreme measures do not need to be used because the media would never challenge either Singapore's national security or the PAP's rule, thanks to the NPPA's institutionalisation of self-censorship in privately owned news organisations.

The openness of the internet has complicated the PAP's media management system. The government has not attempted to reproduce online its system of discretionary licensing of news organisations: individuals and firms do not need prior permission to set up a news outlet on the internet. Furthermore, individuals can use the internet to address a mass audience directly, bypassing the editors running newspapers and broadcast media. Ironically, the freedom to bypass censorship has resulted in a greater incidence of post-publication punishment. The government, unwilling to give up its illiberal philosophy, has had to roll out its older, more punitive laws to discipline online speech. For example, the sweeping Sedition Act—a colonial power that had fallen into disuse soon after independence—was applied periodically against online expression post-2000.³⁴

Just like in the 1970s, though, the government was keen to develop more calibrated legislation tailor-made for the internet. These efforts resulted in the Protection from Online Falsehoods and Manipulation Act 2019 (POFMA). In keeping with the government's drift-net approach to speech regulation, POFMA allowed government ministers wide discretion to initiate action against online content that they believed contained false statements contrary to the public interest, without needing to go through an independent regulator or the courts.³⁵ What was novel about the law, though, was that aside from providing for jail terms and large fines, it gave the government the less coercive option of issuing correction or take-down orders. Defending POFMA against critics, the government pointed out that it already had sweeping powers under existing legislation, such as the Broadcasting Act and the

33. Garry Rodan, "Asian Crisis, Transparency and the International Media in Singapore" (2000) 13(2) *The Pacific Review* 217.

34. Jaclyn Lingchien Neo, "Seditious in Singapore! Free Speech and the Offence of Promoting Ill-Will and Hostility between Different Racial Groups" (2011) *Singapore Journal of Legal Studies* 351.

35. International Commission of Jurists, "Legal Briefing: Protection from Online Falsehoods and Manipulation Bill No. 10/2019", 12 April 2019, available at <https://www.icj.org/wp-content/uploads/2019/04/Singapore-online-regulation-bill-briefing-advocacy-open-letter-2019-ENG.pdf>.

Telecommunications Act. POFMA would provide a narrower set of powers “with remedies that are calibrated”, it said.³⁶

As the eventual targets of the correction orders included opposition politicians and activists who complained loudly about the measures, POFMA did not succeed in rendering censorship invisible, the way NPPA did. Whether POFMA is less coercive than earlier laws is also arguable. The earlier take-down powers were so manifestly disproportionate that the government did not try to use them against the opposition. In contrast, the fit-for-purpose POFMA was applied immediately and frequently. Ironically, therefore, the more calibrated tool resulted in more censorship. As theory would predict, the backfire effects of these highly visible interventions were considerable: each correction order generated controversy, multiplying the audience of the offending post, as well as scorn for the government. Even for the PAP, calibrated coercion does not always hit the sweet spot of cost-free censorship.

The trend in the PAP’s methods of speech regulation away from bans and arrests towards less coercive, less visible interventions—which is consistent with how its management of trade unions, civil society, professions, and religious groups has evolved over the past 50 years³⁷—has helped it consolidate its hegemonic authoritarian rule. Whether other governments can use these strategies as successfully as Singapore’s PAP is doubtful. (I will return to the question of replicability later, when discussing what these trends mean for Hong Kong.) But global evidence from media freedom monitors, cited earlier, does suggest that many other authoritarian regimes appreciate the need to diversify their repertoires of control and moderate their repression, in order to consolidate their power.

Even when governments decide to use law, they need not reach for their most extreme measures. They can instead selectively enforce tax or labour regulations, for example, to wear down independent news organisations. The *Philippine Daily Inquirer*, the country’s largest newspaper, succumbed to tax probes against its family owners in 2017. Under intense pressure, the owners sold the newspaper group to Ramon Ang, a tycoon friendly to President Rodrigo Duterte. In Turkey, a similar tactic tamed the newspapers *Milliyet* and *Hürriyet* in 2018. The government of Recep Tayyip Erdoğan levelled criminal charges on the newspapers’ owner, media magnate Aydın Doğan, for evading taxes associated with another of his businesses,

36. Singapore Ministry of Law, “Second Reading Speech by Minister for Law, K Shanmugam on The Protection from Online Falsehoods and Manipulation Bill”, 7 May 2019, available at <https://www.mlaw.gov.sg/news/parliamentary-speeches/Second-Reading-Speech-by-Minister-for-Law-K-Shanmugam-on-The-Protection-from-Online-Falsehoods-and-Manipulation-Bill>.

37. Cherian George, “The Art of Calibrated Coercion”, in Cherian George, *Air-Conditioned Nation Revisited: Essays on Singapore Politics* (Singapore: Ethos Books, 2020), p 37.

fuel distributor Petrol Ofisi. Doğan got the message and sold his media business to a corporation friendlier to the president.³⁸

Aside from legal strategies, governments can flex their economic muscle. In many countries, the state is the single biggest advertiser. When a government chooses to withhold its advertising and publicity budget from a troublesome news outlet, this can amount to a crippling attack on media independence. Although an abuse of the government's fiscal powers, an advertising boycott tends not to excite public indignation the way arrests or bans do.³⁹ Economic weapons work by exploiting the news industry's internal contradictions. Mass media have risen over the past two centuries on the back of capitalism and consumerism.⁴⁰ Revenues from advertisers as well as audiences turned news into big business, attracting investments in technology and manpower. From the early 20th century, many large news organisations possessed the economic power and political influence to defend themselves against governments. But the high-cost, commercial model of news production also accentuated a conflict of interest within media organisations, between journalists' professional norms of public service and their employers' often more self-serving orientations.⁴¹ Compared with regulated professions such as law and medicine, journalism is relatively defenceless when employers place corporate interests ahead of professional norms and ethics.

Authoritarian leaders who understand the tensions within news media's business models have—like Duterte and Erdoğan—been able to complement their visible and violent interventions with more calibrated, but highly effective, economic strikes against news organisations. They have been greatly aided by the news industry's chronic financial crisis. In better times, publishers were more able to afford respecting corporate firewalls between their newsrooms and other departments: they protected their editors from financial blackmail by governments and businesses. Operating with much thinner—or negative—margins, the internal balance of power within most news organisations has shifted away from their news operations (seen as a cost centre) and towards departments dealing with advertising sales, business development, and other revenue-generating activities. This near-universal shift has made journalism much more vulnerable to economic carrots and sticks. In China, the erosion of investigative journalism since 2012, usually attributed solely

38. "IPI Troubled by Tax Case Targeting Turkey Media Owner", *International Press Institute*, 8 July 2016, available at <https://ipi.media/ipi-troubled-by-tax-case-targeting-turkey-media-owner/>; "Turkish Media Group Bought by Pro-Government Conglomerate", *New York Times*, 21 March 2018, available at <https://www.nytimes.com/2018/03/21/world/europe/turkey-media-erdogan-dogan.html>.

39. Don Podesta, *Soft Censorship: How Governments around the Globe Use Money to Manipulate the Media* (Washington: Center for International Media Assistance, National Endowment for Democracy, 2009), available at https://www.cima.ned.org/wp-content/uploads/2015/01/CIMA-Soft_Censorship-Report.pdf.

40. Victor Pickard, "The Violence of the Market" (2019) 20(1) *Journalism* 154.

41. Wolfgang Donsbach, "Journalists and Their Professional Identities", in Stuart Allan (ed), *The Routledge Companion to News and Journalism* (London and New York: Routledge, 2009), p 38.

to Xi Jinping's crackdown on dissent, is partly due to the waning financial fortunes of commercially oriented news media.⁴²

(b) Satiating Public Demand through Selective Pluralisation

If calibrated coercion has to do with the *intensity* of repression, selective pluralisation—or the other side of the coin, targeted censorship—is about its *breadth*. One of the dilemmas facing dictators is that the ambition of total information control turns out to be unachievable and unwise: it drives individuals and firms to resist or exit, and deprives the state itself of the intelligence it needs for planning and co-ordination. Therefore, resilient authoritarian regimes do not attempt to saturate the media environment with their own propaganda and outlaw everything else. Instead, they pick their battles. They allow most media sectors to become “pluralistic, with high production values and entertaining content” while maintaining “state or oligarchic control over information on certain political subjects and key sectors of the media.”⁴³ Much of what we know about this strategy comes from research on China.

States place media content on a continuum from harmless to intolerable. In a small set of circumstances, the authorities can practise case-by-case prior censorship. This is often the approach taken with films slated for cinematic release. The number of movies to vet is relatively small, and lead times are long enough for censors to scrutinise every scene and to order cuts before clearing a film for exhibition. Serials produced for free-to-air broadcast can also be manageably subject to prior censorship by an external body. However, this is not practical for the vast majority of media content, including most news. Instead, governments usually group media into different categories, subjecting each to different levels of censorship based on how likely they are to pose problems.

Thus, even if news remains tightly supervised, entertainment media have been allowed to proliferate as a concession to consumers demanding more choice, as well as to corporations eager to profit from this market. The neoliberal wave of the 1990s saw many states give up their monopolies over broadcasting, resulting in a boom in commercial free-to-air and cable and satellite channels. In many cases, including Malaysia and Singapore, the resulting pluralisation was largely limited to entertainment programming, with domestic television news continuing to be monopolised by the government and its allies. Similarly, after the Arab Spring of 2010–2011, regimes tended to protect their state television outlets.⁴⁴ In China, CCTV's evening news bulletin out of Beijing is sacrosanct, carried throughout the country including on channels owned by provincial governments. But provincial channels have been

42. Haiyan Wang and Colin Sparks, “Chinese Newspaper Groups in the Digital Era: The Resurgence of the Party Press” (2019) 69(1) *Journal of Communication* 94.

43. Puddington, n 14 above, p 6.

44. Marc Lynch, “After the Arab Spring: How the Media Trashed the Transitions” (2015) 26(4) *Journal of Democracy* 90.

allowed to innovate in entertainment and often succeed in producing massively popular shows. Entertainment values have also been permitted to seep into news organisations, just as they have in the democratic world. Concerned about losing the attention of younger Chinese, the staid party mouthpiece *People's Daily* fills its social media platforms with apolitical posts designed for mass appeal, more than party dogma.

Another common strategy is to segment the news and information audience, granting more choice to urban elites while closely supervising what the masses consume. Such differentiation is not difficult to implement, since different segments of the public have their own media consumption habits. In most countries, free-to-air radio and television in the local language are the most widely accessed news sources and are therefore the most tightly controlled. At the other extreme, the upmarket business press and alternative websites—particularly if they are in English—are consumed only by a small minority of local elites and the expatriate community. Governments can often afford to give these media more latitude, in order to satisfy their more highly educated and cosmopolitan publics as well as the business community. China's *Caixin* is a prominent example. It has built a reputation for investigative journalism and analysis that is relatively hard-hitting.

When regulating news and information about the state, authoritarian governments do not operate with the binary categories of banned versus approved. Between these extremes lies a continuum, from the grudgingly excused and barely tolerated, to the quietly welcomed. This range of responses reflects the ambivalence referred to earlier. Competent authoritarian states recognise that some reliable feedback mechanism is needed to keep the system running smoothly. They have also had to acknowledge that they do not have unlimited power to suppress people's demand for news and information about major events that impact them directly.

Therefore, although the Chinese authorities treat a vast range of topics as sensitive—from ghost stories to Tibet—they are not all treated the same. Some are seen as meriting total bans, while others are subject to managed coverage. One study of more than 1,400 secret directives issued by the Chinese propaganda apparatus found that officials were banning fewer reports and moving to a strategy of "conditional public opinion guidance".⁴⁵ Stories about religion, protest, and human rights abuses were the most likely to be banned outright. However, news about disasters and accidents was harder to suppress due to the affected publics' irrepressible demand for information in a fast-moving context. Propaganda directives required media to report these events according to narrative supplied by *Xinhua* and other official sources, instead of pretending they never happened.

45. Tai Qiuqing, "China's Media Censorship: A Dynamic and Diversified Regime" (2014) 14(2) *Journal of East Asian Studies* 186.

China also practises hierarchical differentiation in its censorship: there is more room to report lower-level misdeeds than to investigate top leaders.⁴⁶ Although even that space has shrunk in the Xi Jinping era, the authorities continue to apply significantly different censorship standards depending how high up the hierarchy watchdog journalists are trying to bite. Exposing misconduct or incompetence among local subordinates need not threaten regime stability. It could even help the regime sustain itself, including by neutralising opponents within the establishment.⁴⁷ The state also needs media to educate workers about their rights under labour and employment laws so that they are not too easily abused by local officials. Emotive human-interest content about ordinary citizens mistreated by their employers and local officials (and eventually being saved by the legal system) are not just good for commercial media but also “promotes the state’s goals of enhanced legitimacy through rule of law”.⁴⁸ The strategic value of hierarchically differentiated media control has been corroborated by game theory models showing that a central authority can benefit from allowing the media to report protests against local officials, as this can release revolutionary pressure against the regime and force local governments to be less corrupt.⁴⁹

Even behind its Great Firewall, there are limits to the Chinese Communist Party’s ability to manage the sheer volume of internet activity. In her study of China’s internet censorship, Margaret Roberts shows that the authorities are not attempting the futile exercise of total control, nor do they need to. As long as they add enough friction to the experience—by requiring virtual private networks or VPNs, for example—most people will be deterred from trying to access the discouraged material. Only highly motivated users, such as journalists and activists, would bother to invest the necessary time and money. Segmenting the public in this way makes it hard for better-informed elites to influence the masses. But the strategy only works if the approved internet services can satisfy most people’s informational, entertainment, and social needs most of the time. Otherwise, frustration with censorship would result in mass disobedience. Censors therefore try to strike a balance between central control and consumer choice. One trivial but highly illustrative example is social media users’ freedom to change their profile photos. Some users have exploited this feature to replace their headshots with political symbols, such as a lighted candle to commemorate the 1989 Tiananmen Square crackdown. To

46. Peter Lorentzen, “China’s Strategic Censorship” (2014) 58(2) *American Journal of Political Science* 402.

47. Georgy Egorov, Sergei M. Guriev, and Konstantin Sonin, “Why Resource-Poor Dictators Allow Freer Media: A Theory and Evidence from Panel Data” (2009) 103(4) *American Political Science Review* 645, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=898888; Tai Qiuqing, “China’s Media Censorship: A Dynamic and Diversified Regime” (2014) 14(2) *Journal of East Asian Studies* 185.

48. Daniela Stockmann and Mary E. Gallagher, “Remote Control: How the Media Sustain Authoritarian Rule in China” (2011) 44(4) *Comparative Political Studies* 436.

49. Haifeng Huang, Serra Boranbay-Akan, and Huang Ling, “Media, Protest Diffusion, and Authoritarian Resilience”, *Political Science Research and Methods* (forthcoming), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2770149.

remove this functionality entirely would probably anger millions of users who enjoy changing their profile photos for totally apolitical reasons. So, social media companies have taken to disabling profile photo changes only during sensitive periods, such as in the days before and after major events.

The consistent picture that emerges from censorship research in China and other authoritarian regimes is of governments with no moral compunctions about trampling on human rights or liberal democratic values, but that are also cognisant that attempts to control too much would strain their capacities and exact a political cost. Political scientists have tried constructing elaborate models to specify the relationship between the likelihood of repression and various other factors such as the levels of dissent, regime stability, foreign scrutiny, and so on. War and civil unrest, not surprisingly, tend to lower states' inhibitions. Overall, though, it is easier for historians to look back and explain why an authoritarian regime acted or didn't act in the way it did than for political scientists to predict their behaviour. What comparative research does make clear is that control-minded regimes have a wide array of methods to choose from. For reasons articulated earlier, states try to shift as soon as possible to less coercive and more targeted tools to discipline media.

III. What This Means for Hong Kong

As pointed out in the introduction, regardless of legal opinion, it is political judgment that holds sway on the ground. At the time of writing, professional media in Hong Kong appear to be operating with a rule of thumb that distinguishes among factual reporting, commentary, and campaigning. Quoting independence slogans within a news story, for example, is deemed as safe practice—unlike on the Mainland where certain topics are unmentionable and subject to total blackouts. Commentary and analysis are a grey area. The press seems to be able to describe and explain the perspectives of individuals and groups who have been accused of NSL violations but is taking care not to be perceived as allowing them a free platform or advocating on their behalf. Advocacy—actively campaigning for a cause identified as non-compliant with the NSL—is off-limits, as has become abundantly clear from the treatment meted out to Jimmy Lai and *Apple Daily*.

The Hong Kong government's assertions that its actions against the newspaper and its founder were not a press freedom issue⁵⁰ seem to be based on a limited understanding of "the press" as comprising only balanced, factual reporting; *Apple*

50. Candice Chau, "Hong Kong Leader Places National Security Law Onus on Journalists; Says Media Must Not Subvert Gov't", *Hong Kong Free Press*, 22 June 2021, available at <https://hongkongfp.com/2021/06/22/hong-kong-leader-places-national-security-law-onus-on-journalists-says-media-must-not-subvert-govt/>; Chris Law and Jaffie Lam, "Spotlight on Hong Kong's Apple Daily Columns, as Legal Experts Debate Alleged National Security Law Breach", *South China Morning Post*, 18 June 2021, available at <https://www.scmp.com/news/hong-kong/politics/article/3137967/spotlight-hong-kongs-apple-daily-columns-legal-experts>.

Daily's activist orientation thus disqualified it from the protections promised to the media in the Basic Law and reiterated in the preamble to the NSL. Although many news organisations around the world voluntarily subscribe to a professional ethos of detachment and reject explicit partisanship, such distinctions are not germane to the history or philosophy of press freedom as a democratic right. Indeed, the professional norm of objectivity is a relatively recent development, having been embraced by the press from the late 19th century.⁵¹ Press freedom was written into liberal constitutions long before, mainly to protect publishers who used their pamphlets and tracts to pursue their adopted causes and personal political ambitions. Across the globe today, the tradition of the journalist as interventionist change agent coexists with the objectivism of the “detached watchdog”.⁵² A diversity of approaches to journalism is, indeed, a requirement for a democratic media system.⁵³ A mismatch of expectations between officials and the media profession (and its public) over what the “press” in “press freedom” is remains one reason why Hong Kong’s media system may stay in a state of fractious disequilibrium.

In the NSL’s shadow, reporters have been finding it much harder to get sources to talk to them on sensitive topics. In many respects, though, things may indeed be business as usual. Journalists would continue to probe the finances and private lives of Hong Kong politicians. Columnists would still be free to express contempt for the Chief Executive and other officials. The space for critical coverage of Mainland affairs, including topics that are blacked out there, may still exist, even if it is reduced. Even *Epoch Times*, the newspaper of the banned Falun Gong movement, may continue to be distributed openly in busy Causeway Bay. On many matters authorities may choose to look the other way—again, not out of magnanimity, but because organisations often prefer not to know, rather than take on the capacity-sapping management burden that comes with acknowledging a problem.

To get a sense of what Hong Kong’s post-NSL era portends for media, it is important to think of the NSL not only in legalistic terms but as a political statement. On the bright side, this could mean that a maximal and literal reading of its text is uncalled for. As the preceding discussion suggests, smart authoritarian regimes—including the Chinese Communist Party—know the follies of overreach, even if they frequently err on the side of coercion. One of the unprecedented NSL-enabled acts of censorship was taken against a protest website, HKChronicles. The site had operated as a doxxing platform, revealing personal information about both

51. Michael Schudson, *Discovering the News: A Social History of American Newspapers* (New York: Basic Books, 1978).

52. Thomas Hanitzsch, “Populist Disseminators, Detached Watchdogs, Critical Change Agents and Opportunist Facilitators: Professional Milieus, the Journalistic Field and Autonomy in 18 Countries” (2011) 73(6) *The International Communication Gazette* 477–494, available at <https://doi.org/10.1177/1748048511412279>.

53. Cherian George, *Contentious Journalism and the Internet: Towards Democratic Discourse in Malaysia and Singapore* (Singapore and Seattle: National University of Singapore Press and University of Washington Press, 2006).

the police and pro-Beijing supporters. In January 2021, police instructed Hong Kong internet providers to block the website, citing Article 43 of NSL and its implementation rule 4, which allows for blocking access to electronic content deemed likely to constitute or cause an offence endangering national security.⁵⁴ While the move raised the spectre of Hong Kong being moved behind the Great Firewall, there has been no indication so far that mass internet censorship is on the way.

On the flip side, there are several threats to media freedom beyond the legal provisions contained in the NSL. As a symbolic declaration of Beijing's indomitable will, the NSL seems to be emboldening local authorities and non-state actors to sweep aside Hong Kong's liberal norms and obstruct what used to be considered standard journalistic practices. One prominent example was the use of the Road Traffic Ordinance to punish an RTHK producer. She was fined HK\$6,000 for violating the ordinance when she accessed vehicle information from a public database, as many investigative reporters before her had. The new online interface did not allow her to pick "other" as a reason for needing the information, so she selected "traffic and transport-related matters", which the court deemed to be a false statement. As the producer had used the information for a segment critical of police conduct in the notorious 2019 Yuen Long mob attack, most journalists regarded her prosecution as vindictive and intended to discourage investigative reporting on the police.⁵⁵

The government has not needed to invoke the NSL to restrain RTHK, which runs three TV stations and seven radio channels. RTHK is a very Hong Kong institution in that its freedom is as much a product of habit and culture as of legal guarantees. It has, by convention, acted like an independent public service broadcaster. Formally, though, it is a government department. Officials have therefore been able, by administrative fiat, to modify RTHK's internal governance structures and reallocate funding away from hard-hitting political coverage and towards national education. In February 2021, the government released an 85-page report criticising RTHK of weak editorial accountability and failing to fulfil its charter as a government department. It announced veteran journalist Leung Ka-wing would end his term as Director of Broadcasting earlier than planned.⁵⁶ Patrick Li Pak-chuen, a senior civil servant with no media experience, took over in May 2021. Li, who

54. Cannix Yau and Christy Leung, "Hong Kong Police Use National Security Law for First Time to Block Access to Website Recording Anti-Government Protests, Officers' Details", *South China Morning Post*, 9 January 2021, available at <https://www.scmp.com/news/hong-kong/law-and-crime/article/3117072/hong-kong-police-use-national-security-law-block>.

55. Brian Wong, "Hong Kong Protests: RTHK Freelance Producer Bao Choy Convicted and Fined HK\$6,000 over Charges Relating to Yuen Long Mob Attack Documentary", *South China Morning Post*, 22 April 2021, available at <https://www.scmp.com/news/hong-kong/law-and-crime/article/3130624/hong-kong-protests-rthk-freelance-producer-bao-choy>.

56. Denise Tsang and Nadia Lam, "Government Report Slams Hong Kong Public Broadcaster RTHK, Accuses It of Lack of Editorial Accountability; Director to Step Down Early", *South China Morning Post*, 19 February 2021, available at <https://www.scmp.com/news/hong-kong/society/article/3122292/embattled-director-hong-kong-public-broadcaster-rthk-step>.

promised to lead more “visibly”, blocked several episodes of shows on the grounds of failing to meet required standards of balance, objectivity, and impartiality.⁵⁷

As for non-state actors, extreme pro-Beijing elements have always been a vocal—and sometimes violent—part of Hong Kong’s plural political scene, but the difference now is that they face less pushback. The targets of their ire cannot be sure whether any particular attack is entirely entrepreneurial, or part of a loosely co-ordinated campaign, or at the direct behest of some arm of the state. Such assessments mattered less when Hongkongers could rely on the rule of law. But in a post-NSL context, they have to take seriously the possibility that any harassment—including wild charges by pro-Beijing Hong Kong media such as *Wen Wei Po* and *Ta Kung Pao* about allegedly unpatriotic activities⁵⁸—will escalate into non-state violence or unchecked state action. Journalism educators are among the groups being targeted. Thus, my own university blocked the prestigious World Press Photo Exhibition that my department was scheduled to host in March 2021.⁵⁹ Pro-Beijing propaganda outlets complained that the exhibition included a handful of images from Hong Kong’s 2019 protests. The university cancelled the event four days before it was due to open, citing “campus safety and security” concerns.⁶⁰ In its symbolic effect, the NSL can be compared to various vague and sweeping statutes around the world that punish insult of monarchical authority or religious belief, such as *lèse-majesté* in Thailand or blasphemy laws in Pakistan. Various groups treat such laws as providing moral justification for extralegal attacks on their opponents.

Comparative studies also tell us that an authoritarian regime can capture media organisations via their owners and other financial backers.⁶¹ For Hong Kong, this would not be a new development. Freedom House had downgraded Hong Kong’s press freedom status from “free” to “partly free” as far back as 2008, mainly due to growing doubts about journalists’ independence from their employers. Ten Hong Kong media owners had been appointed to a Mainland political advisory body, and there were also reports that media platforms were shutting out critics of Beijing.⁶² Surveys by the Hong Kong Journalists Association in the early 2010s also high-

57. Chris Lau and Emily Tsang, “Hong Kong Public Broadcaster RTHK Takes Current Affairs Documentary Off Air, While Popular Talk Show Has Also Been Suspended, Sources Say”, *South China Morning Post*, 29 March 2021, available at <https://www.scmp.com/news/hong-kong/politics/article/3127528/hong-kong-public-broadcaster-rthk-takes-current-affairs>.

58. Rachel Wong, “Scholar Who Said ‘Hong Kong Belongs to the World’ Refutes Pro-Beijing Press Claim She May Have Violated Security Law”, *Hong Kong Free Press*, 19 November 2020, available at <https://hongkongfp.com/2020/11/19/scholar-who-said-hong-kong-belongs-to-the-world-refutes-pro-beijing-press-claim-she-may-have-violated-security-law/>.

59. Phila Siu, “Hong Kong Baptist University Calls Off Exhibition Featuring Photos of 2019 Protests over Fears of Clashes, Source Says”, *South China Morning Post*, 26 February 2021.

60. Organisers found an alternative venue. Learning from experience, they did not publicise its opening in advance, and the exhibition ran without incident.

61. Marius Dragomir, *Media Capture in Europe* (New York: Media Development Investment Fund, 2019).

62. Freedom House, “Freedom of the Press 2009”, 2009, available at <https://freedomhouse.org/sites/default/files/FOTP%202009%20Final%20Full%20Report.pdf>.

lighted journalists' concerns about self-censorship; they considered media owners a key threat to press freedom.⁶³

The strategy of gradual co-optation of media, working in concert with market forces, has been employed with exceptional success in Singapore. The equatorial city state has shown that it is possible to marry tight control of the press with high approval ratings for the government, social stability, and economic dynamism. The lack of open resistance means coercion is rarely necessary. However, Hong Kong is unlikely to be able to hit this authoritarian sweet spot. Their contexts are very different. First, Singapore's substitution of direct and coercive censorship with self-censorship was achieved over decades. It required a scorched earth strategy to remove once and for all any oppositional media in the 1960s and 1970s. To achieve this, the PAP government could count on discretionary powers—including detention without trial and newspaper licensing—inherited from the British. Hong Kong still does not possess equivalent legislation. Having absolute control over access to the news industry through the permit system, the Singapore government could keep the number of news organisations manageably small. This made it easier to cultivate a self-censorship regime. The omnipresent Sword of Damocles turned government requests into offers that publishers and editors could not refuse.

If coercion is one side of the hegemonic coin, the other is consent. On that score, too, Hong Kong is unlikely to reach Singapore's levels. The main reason is the obvious one: Singapore's leaders are directly elected and enjoy far more legitimacy. The republic's elections, though certainly not fair, are free enough to result in the occasional ouster of cabinet ministers. Hence, the PAP's increasingly sophisticated practice of targeting only a small number of dissidents for visible coercion, while using economic and ideological means to encourage the vast majority of citizens—including most working journalists—to accept that it rules with the consent of the governed. The PAP consolidated its rule during the "tiger economy" decades of relatively easy growth and rapid social mobility in East Asia. Singaporeans were probably more easily persuaded in the 1970s and 1980s to exchange their civil liberties for economic rewards than Hongkongers would be today.

Singapore's small size means that wherever he or she is on the island, a minister would never be more than 50 kilometres away from any other part of the country. Unlike Hong Kong's distant rulers, Singapore's executives are never removed from the effects of its crisis mismanagement, making leaders less likely to respond in a clumsy and uncalibrated manner. Singapore's compact size has also enabled the PAP to operate a relatively simple top-down state structure, which allows for a cohesive and less fractured ruling elite than found in larger countries. This has enabled the state to execute interventions with fine-tuned levels of force and visibility. For all

63. The Hong Kong Journalists Association, "Public Evaluation of Hong Kong Press Freedom Drops to New Low Central Government Becomes the Major Source of Stress", 11 April 2018, available at <https://www.hkja.org.hk/en/press-freedom-index/public-evaluation-of-hong-kong-press-freedom-drops-to-new-low-central-government-becomes-the-major-source-of-stress/>.

of Xi Jinping's efforts, it is not certain that he has completely neutralised all potential sources of competition within the party. Beijing has not been able to achieve its desired law-based governance and continues to resort to coercive measures such as extralegal detentions.⁶⁴

Another key unknown is Beijing's strategic objective for Hong Kong. Does it want Hong Kong's media system to resemble the Mainland's as soon as possible? Or will the authorities be content once they exact retribution for the crimes of 2019 and extract total renunciation of Hong Kong as a pressure point for Western meddling? If it is the latter, it is conceivable that an equilibrium will be reached that is distinctly freer than other Chinese cities, even if it is a far cry from pre-2019 Hong Kong. For reasons highlighted earlier, any such equilibrium will also be different from the exceptional oasis of calm that Singapore is. Hong Kong authorities may wish for a media scene as placid as Singapore's but are likely to get something much messier—like the majority of semi-free, semi-closed societies. There will be periodic arrests and other direct and coercive attacks on media freedom. Other journalists will find their employers pressuring their newsrooms to avoid annoying the authorities. The profession will also have to protect itself from vigilante violence and harassment by pro-government, non-state actors who are incited by signals from the top that independent media are enemies of the people. Police officers may take similar cues.

Faced with this proliferation of legal, economic, and mob threats, it is no wonder some are prepared to declare the death of Hong Kong's press freedom. Media freedom is essential for upholding freedom of expression as a fundamental human right and is required for democratic and sustainable development. The ICCPR standard recognises that media freedom should only be restricted to the extent required to achieve legitimate aims specified in the treaty. Yet, the jury is out on whether meaningful journalism is only possible in a liberal democratic context that guarantees press freedom.⁶⁵ Outstanding public interest journalism is practised in a wide range of political environments. Till now, Hong Kong media's main reference points have been liberal democracies where journalists' protection from government censorship and repression is largely guaranteed by law. In the coming years, the territory's journalists will need to learn from peers in the much wider world where there is no assurance of safe passage. Hong Kong journalists may discover that a mental map of their unfree political landscape need not be a no-man's land where they will be shot on sight, but a navigable, though certainly dangerous, minefield.

64. Wang Xiangwei, "China's Extralegal Detentions Undermine Xi's Rule of Law Ambitions", *South China Morning Post*, 21 November 2020, available at <https://www.scmp.com/week-asia/opinion/article/3110710/chinas-extralegal-detentions-undermine-xis-rule-law-ambitions>.

65. Beate Josephi, "How Much Democracy Does Journalism Need?" (2013) 14(4) *Journalism* 474.