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Aggregated comments to the Countering Foreign Influence and Information Interference report

Solicitor-Client Privilege

Heritage Canada

1. First exchange:

- **The study suggests that there is significant work to do in Canada, but it also might miss some of Canada's public safety concerns.** The study's cross-jurisdictional analysis suggests that Canada is behind in developing policy interventions tools to counter foreign influence and interference. Our concern in this space, according to the study, is limited to 'cohesion and heritage' and 'democratic processes and/or elections'. It indicates that *Canada does not have* measures concerning 'terrorist and/or extremist usage', 'national security', 'integrity of research', 'public opinion', 'social order', or 'political decision-making'. The exclusion of these concerns may be a result of a narrower scope on 'foreign influence', but Canada's concerns and measures in these spaces more than likely have *some* intersection with foreign interference, but

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may not be explicit or front-and-center. This points to a further need for a shared conceptualization and understanding broader contexts (see more below on these points).

MB: Would it be possible for you to indicate few existing legal/regulatory instruments that in your view better reflect the Canadian situation? We could share these with experts for their review and ask to consider whether new information would change their perspective.

Generally speaking, the study's focus has indeed been on foreign-derived influence given our mandate. We'd be interested in discussing possible next steps with you (and other RRM Can table stakeholders).

- **Couching 'informational influence' within a broader context of *non-influence* mis- and disinformation.** The study identifies informational influence (disinformation campaigns, etc.) as part of a broader array of foreign influence activity. The study would benefit from mentioning how foreign influence is only one vector of addressing disinformation. Governments seek to address disinformation stemming from a variety of sources and motives other than foreign influence. While the paper's subject is foreign interference *per se*, a brief contextualization of how disinformation is being addressed for reasons *in addition to* foreign influence could narrow the focus of the paper and potentially identify strategic linkages among various activities.

MB: While this will be conveyed to experts, the scope of the mapping was foreign-derived influence/info ops. The original intent behind commissioning it was to identify possible points of convergence between states (ie possible international principles/norms).

- **Among the pathways laid out in the conclusion of the study, Canada has the most opportunity to advance *Pathway I: Developing Comprehensive Conceptual-Theoretical Understanding*.** Work is underway in Canada to set out domestic law in this area, and has worked towards developing norms. Where Canada has the most work to do is to develop a shared conceptual-theoretical understanding of influence and interference. Multiple departments are involved in different aspects of this policy problem, and developing a shared understanding could guide the disparate yet related activities. For PCH's part, it works closely with Public Safety and GAC on disinformation, but sometimes struggles with divergent conceptualizations of influence, interference, and the interplay with disinformation. Agreed-upon definitions and conceptualizations of these notions would promote administrative efficiency and clarity.

MB: Absolutely. We'd be delighted to discuss "strategic linkages among various activities" further...perhaps a GOC-only seminar after MCs are done? There is a lot to consider given the Covid, truckers, Ukr etc and countering disinfo across themes/mandates.

- **The pathways laid forward in the study could be expanded to take into account non-legislative or regulatory policy intervention.** The pathways seem to focus heavily on law and legislation at the domestic and international levels (even the pathway on norms posits using regulation as a

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way to develop norms). Chapter 1 of the paper accounts for several non-legislative measures including National Capacity, Awareness, and Guidance. There could be more room to account for and explore these interventions in the Pathways Forward section at the conclusion of the study.

MB: Noted. The focus/scope of the study indeed was on legal/regulatory instruments. In my conversations with experts we touched on these non-legislative measures, as well. In their opinion, and without diminishing the importance of these other measures *per se*, the individual and/or collective role/place/pace/etc and indeed effectiveness of all of these measures comes second to a holistic articulation of norms/principles enshrined through national legal frameworks.

2. Second exchange:

We recognize that the scope of the paper is focused on foreign-derived influence *per se*. The larger point we were trying to convey is that initiatives focused on influence likely include *some* elements of foreign influence. A program like Public Safety's *Canada Centre*, which focuses on counter radicalization and terrorist activity online, does not have a specific mandate regarding foreign-borne content and influence but would likely tackle some foreign-derived influence naturally through its work. That being said, given the tight scope, such activities may not apply.

I imagine you have or will receive comments from PS on their own initiatives and legal/regulatory mechanisms as well. Keeping in mind this is out of our range of expertise, a few things come to mind:

- the *CSIS Act* which allows CSIS to address interference activities
- CSIS' role in advising private companies, universities, and research institutions to help them better understand how to protect their work, including the ["Safeguarding Your Research"](#) portal
- CSE which provides intelligence and assessments on intentions, activities and capabilities of foreign threat actors,
- the work of the CBSA to prevent and detect espionage
- Somewhat separately, I'd also point out the *Investment Canada Act*, which includes national security provisions related to foreign investment and economic security

This is all separate but related to PS' ongoing work on HASA, which I'm sure you're aware of. Our concern was that these sorts of activities weren't being captured, especially earlier in the study looking at the graphs.

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GAC/Digital Inclusion Lab

Thank you for sharing your report which garnered lots of interest at the Digital Inclusion Lab – especially the mappings, the charts and the frames proposed to think about the problem of foreign influence.

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Unfortunately, not all of us had the time to read it, since it was very long. Our first recommendation (which will probably sound as no surprise for you) is therefore to write an executive summary of the report highlighting key takeaways.

Below are two other comments stemming from our work on disinformation and human rights abroad.

- *Difficulty of rigorously conceptualizing foreign influence*

We agree with the following conclusion of the report:

“‘Hybrid Warfare/Threats’ and ‘Gray Zone’ are good examples of poorly constructed strategic frameworks that lack conceptual rigor. The main conceptual flaw of these frameworks is their attempt to offer an objective definition to a practice in international relations. However, conceptualized as a set of activities that only adversaries do, these frameworks fail to recognize their inherent subjectivity that ultimately undermines their rigor.” (p. 31)

This difficulty is very similar to disinformation. Because disinformation’s definition hinges on the fine line between true and false (or even accurate and misleading) information, which is often extremely difficult to determine in given circumstances, banning it without rigorous definition may empower authoritarian states to censor otherwise protected speech and backfire Western countries who could also be easily accused of engaging in disinformation.

Hence we agree with Pathway I “Developing Comprehensive Conceptual-Theoretical Understanding” and offer to work on this pathway with a view to helping refine disinformation’s definition, especially in the context of drafting a declaration on disinformation.

- *International law and foreign influence*

The report notes several difficulties in framing foreign influence as prohibited under international law’s prohibition of non-interference, notably the fact that it does not meet the “coerciveness” threshold (pp. 25 & 26), hence its rejection of the prohibition of non-intervention as the leading framework for countering foreign influence and information interference. Moreover, it does not discuss other “hard” law instruments applicable to foreign interference.

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[MB: pls see the pdf attached]

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GAC / Policy Coordination Unit

Really enjoyed the piece and found it helpful in thinking some issues through. It may also have raised as many questions as it answered (sometimes on the same points). In terms of Canada, I don't find any distinction between these themes and HASA and can imagine benefits to harnessing this work to look at future resourcing and action areas. I am curious what is the specific use envisioned for the paper?

Practical ways forward could include looking at national security carve outs in international trade and investment agreements and specific linkages to 5g/space. In reading I made a number of notes and comments, generally conceptual, and only a couple of very minor specific text suggestions. Attaching for your consideration.

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Public Safety

Apologies for the delay in my response. While we didn't have as much time as we would have liked to substantively review, please see a few comments below we've pulled together for the authors. In particular, we emphasize the final bullet – PS would prefer that reference to a proposed foreign agent registry for Canada be removed from the report as we are in the midst of contemplating an approach to this topic which. I suspect the authors are likely referencing the private members bill that was tabled in parliament here, but we think since it has not been implemented that it is better to remove the reference from this research report.

With respect to comments on definitions, perhaps, as you indicated in your original email, this may present an opportunity to design future research around gaining a better understanding of how different countries define/frame the issue. In other words, should it be too late to make significant changes to this report, PS would welcome future research to be centered around this topic.

- The report presents interesting findings and we appreciate the international policy/legislative analysis as it gives a broad snapshot view of where other countries are focusing their efforts in the fight against foreign interference.
- In general there is an inconsistent use of terms e.g. "foreign interference", "foreign information interference", "foreign information influence", and "foreign influence". While the paper does correctly state that there is little consistency in how terms have been used in national legislation and international policy, I think the paper could potentially benefit from exploring these gaps a little more. For example, it may be beneficial to understand what certain countries define as "foreign interference" vs what other countries define "foreign information influence" as. We recommend the paragraph at the end of page 13 may be a good place to expand on this, if

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possible, and that some of the content contained in Chapter IV's literature review be moved up, if possible.

- Consider discussing in the literature review section the difference between foreign information interference and foreign interference / influence, if there is a difference.
- There are a few sentences where we recommend reviewing for syntax / copy edit that are highlighted in the attached document.
- Although it would not materially change the paper, based on the themes and objects of regulations set out in annex 3 there are other relevant legislative pieces that comprise Canada's efforts to counter/address foreign interference that do not appear to be considered. For example, *Security of Information Act*, *CSIS Act*, *Canada Elections Act* (in the context of elections).
- Chapter V / Conclusion is quite helpful in identifying pathways towards addressing FI, but perhaps it may be beneficial to include some tangible examples of international best practices or policies in each of these spaces. For example, Pathway 1 recommends that the international community coalesce around a conceptual framework for threats. There are various forums / initiatives where such work is taking place, including the European Union External Action Service which led a Terminology Working Group with a view to fostering a common conceptual understanding of FI, and G7 working group formed to develop a working definition to allow for more accurate and flexible descriptions of certain threats. The statement of work does include that the report should provide recommendations for next steps to advance international frameworks to address the challenge of non-military malign interference, so an explanation of how the conclusions could work in the context of current initiatives would be helpful.
- On Page 65, there is a reference to an "*Act to Establish the Foreign Influence Registry*". PS recommends this be removed from the report, as this private members bill has not passed parliament and is therefore not a part of Canada's legislative toolkit.