Explores the dynamics of central-local interaction in modern China

Local autonomy is a complex and often contentious issue in many countries, not least because the situation often involves a process of continuous (re)negotiation. Moreover, the actual power relationship is defined not only by legal permissibility but also by such other factors as varying political perceptions, economic interests and previous encounters between the centre and periphery. This volume demonstrates that Hong Kong is a good illustration of the intricacies of the dynamic relationship in a Chinese context. The territory has a long history of pursuing its own path, both in colonial times and since 1997. With essays spanning both periods, the volume offers an understanding of the mind-set and actions of both Beijing and Hong Kong in pursuing their goals.

In addition, by taking in the wider provincial situation in China and following developments since the establishment of the People’s Republic of China in 1949, the volume also provides a nuanced framework for evaluating central–local interaction in general.

Ray Yep is a Professor of Politics and Assistant Head of the Department of Public and Social Administration, City University of Hong Kong.
NEGOTIATING AUTONOMY IN GREATER CHINA
Governance in Asia
Series Editor: Tak-Wing Ngo, Professor of Political Science, University of Macau (twngo@umac.mo)

Most Asian countries have experienced radical social transformation in the past decades. Some have undergone democratization yet are still plagued by problems of political instability, official malfeasance and weak administration. Others have embraced market liberalization but are threatened by rampant rent seeking and business capture. Without exception, they all face the challenge of effective governance. This book series explores how Asian societies and markets are governed in the rapidly changing world and explores the problem of governance from an Asian perspective. It also encourages studies sensitive to the autochthony and hybridity of Asian history and development, which locate the issue of governance within specific meanings of rule and order, structures of political authority and mobilization of institutional resources distinctive to the Asian context. The series aims to publish timely and well-researched books that will have the cumulative effect of developing theories of governance pertinent to Asian realities.

Also published in this series

Politicized Society: The Long Shadow of Taiwan’s One-Party Legacy, by Mikael Mattlin
NEGOTIATING AUTONOMY IN GREATER CHINA

HONG KONG AND ITS SOVEREIGN BEFORE AND AFTER 1997

Edited by
Ray Yep
### Contents

**Preface vii**  
**Contributors ix**

**Part 1: Overview**

1. Understanding the Autonomy of Hong Kong: Looking Beyond Formal Institutions 1  
   Ray Yep

**Part 2: Colonial Legacy**

2. Loose Ties that Bound: British Empire, Colonial Autonomy and Hong Kong 29  
   Robert Bickers
3. Autonomy and the Origins of Hong Kong’s Low-cost Housing and Permanent Squatter Resettlement Programmes 55  
   Gavin Ure
4. Fiscal Freedom and the Making of Hong Kong’s Capitalist Society 81  
   Leo F. Goodstadt
5. Revisiting the Golden Era of MacLehose and the Dynamics of Social Reforms 110  
   Ray Yep and Tai-Lok Lui

**Part 3: Territorial Politics under Communist Rule**

6. Central–Provincial Relations Amid Greater Centralization in China 145  
   Lam Tao-chiu
7. “One Country, Two Systems” and Its Antagonists in Tibet and Taiwan 179  
   Ho-fung Hung and Huei-ying Kuo
   Eilo Yu Wing-yat
   Ma Ngok
10. Judicial Autonomy in Hong Kong 269  
    Benny Tai

**Index 301**
NEGOTIATING AUTONOMY IN GREATER CHINA

Figures
6.1. Provincial-level jurisdictions of the People’s Republic of China 144
6.2. The “two ratios” 1993–2001 158
6.3. Local share of budgetary revenues and expenditures 159

Tables
8.1. Composition of MSAR Legislative Assembly 213
8.2. Public attitudes toward the actualization of “One Country, Two Systems”, “Macao people ruling Macao” and “a high degree of autonomy” 224
8.3. Public confidence in the Central Government’s ability to maintain the prosperity and stability of the MSAR 225
8.4. Number of Mainland and Hong Kong travellers to Macao and their per capita spending in Macao, 1996–2006 227
Preface

Since 1997, the people of Hong Kong have had bestowed upon them a unique experience of political transition. The process is distinct as it entails not only a change of regime or political system but also an overhaul in political allegiance, identity and, most importantly, a different order of political sovereignty. The People’s Republic of China decided to “resume” its exercise of sovereignty over Hong Kong on 1 July 1997 as, from its foundation in 1949, it had never recognized the legitimacy of British colonial rule in the territory. To a certain extent, the transition has been facilitated by extensive socioeconomic linkages across the border since the early days of colonial rule. Yet adjustment to the life under a “new” sovereign remains a daunting task. Despite Beijing’s reiteration of its respect for a high degree of autonomy for the Hong Kong Special Administrative Region, the local people remain bemused with the intricacy of accommodating the concerns of the PRC’s central government after 1997. For the Hong Kong people, there is simply a fundamental change in the *modus operandi* concerning their interaction with the sovereign since the handover.

Central to China’s resumption of the exercise of sovereignty over Hong Kong is national dignity. In short, Beijing is highly motivated to prove that there is life after the British rule, even if this implies a strong presence in local affairs in Hong Kong and uneasiness by the local community. Such a presence may come in many forms. Positively, the central government is prepared to show its almost unbridled support for the territory with a generous policy package and preferential treatment aimed at boosting the local economy via accelerated economic integration. Yet its jaundiced view of the local democratic movement as part of an “international conspiracy” against China has on the other hand reinforced its inclination to meddle in local politics. In contrast, London’s involvement in local affairs appeared to be remote, indirect or even bordered on indifference. Despite the colony’s contribution to the economy and
esteem of the United Kingdom, with the exception of incidents of crisis proportions, London's involvement in the colony’s business appeared to be mostly reactive and limited in scope and remained relatively invisible in the eyes of the public over the 150 years of colonial administration. However, regardless of the interests and considerations of the old or new master, there has always been an urge to defend the interest of the local community. The strike for autonomy, either in negative or positive sense, is simply the defining feature of the relationship between Hong Kong and its sovereign.

This book is a collective effort to help make sense of the negotiation over autonomy between Hong Kong and its sovereign. It aims to shed new light on the understanding of the contentious process by offering insights from scholars from the disciplines of political science, public administration, sociology, law and history. The intention of instilling a sense of diversity in the account is also reflected in the different personal experiences of the contributors. Among these scholars are expatriates who have served and lived in the colony for decades, local academics born in the territory and well versed with western ideas and liberal thoughts, overseas Chinese who has craved for an identity distinctive from the mainland regime and scholars who choose to work in place like Macao where the autonomy of the local administration has been castigated as nothing more than an illusion. The diversity in perspective, discipline and case materials, as well as the different personal backgrounds of the authors, has certainly enhanced the richness and sophistication of this collective project.

In addition to the contributing authors, the ultimate fruition of this endeavor is also attributed to many others. I owe my greatest gratitude to Ngo Tak-Wing who first raised the possibility of turning this project into a book. The professionalism of Gerald Jackson of NIAS Press was also instrumental to the smooth production process. I acknowledge the financial support of the Department of Public and Social Administration of City University of Hong Kong and the permission of SAGE to include some chapters based on articles that first appeared in China Information. I am also grateful for the assistance of Matt Lui who has worked tirelessly for the project.

Ray Yep
Contributors

**Robert Bickers** is Professor of History at the University of Bristol, and the Director of the British Inter-university China Centre. His research encompasses the history of the modern British Empire, with a focus on British power in China, and Sino-foreign relations. He is the author most recently of *Empire Made Me: An Englishman Adrift in Shanghai* (2003) and *The Scramble for China: Foreign Devils in the Qing Empire, 1832–1914* (2011).

**Leo F. Goodstadt** is an Adjunct Professor in the School of Business at Trinity College, University of Dublin. He has held five research fellowships at the Hong Kong Institute of Monetary Research and is an Honorary Fellow of the University of Hong Kong. Author of *China’s Search for Plenty: The Economics of Mao Tse-tung*, his most recent books are *Uneasy Partners: The Conflict between Public Interest and Private Profit in Hong Kong* (2005); *Profits, Politics and Panics: Hong Kong’s Banks and the Making of a Miracle Economy, 1935-1985* (2007); and *Reluctant Regulators: How the West Created and China Survived the Global Financial Crisis* (2011). He was head of the Hong Kong Government’s Central Policy Unit 1989–97.

**Ho-fung Hung** is Associate Professor of Sociology at Johns Hopkins University. He is the author of *Protest with Chinese Characteristics* (2011), winner of the President Book Award of the Social Science History Association, and editor of *China and the Transformation of Global Capitalism* (2009). His articles have appeared in the *American Journal of Sociology, American Sociological Review, New Left Review, Review of International Political Economy* and *Asian Survey*. His journal articles won best paper awards from five different sections at the American Sociological Association and from the World Society Foundation in Zurich, Switzerland. He is currently researching the intertwined political economies of China and the US in the making of global neoliberalism.
Huei-ying Kuo is Senior Lecturer of Sociology and Director of Research, East Asian Studies Program, at Johns Hopkins University. Her research papers have appeared in the book Singapore in Global History (2011) and in journals such as Journal of Contemporary Asia, Enterprise and Society: International Journal of Business History, Review: A Journal of the Fernand Braudel Center, and China Information. She is finishing a book manuscript on the Chinese nationalist movement in inter-war Hong Kong and Singapore under the funding of a postdoctoral fellowship for trans-regional research from the Social Science Research Council.

Tao-chiu Lam is affiliated with the Hong Kong Polytechnic University, formerly in the Department of Management and Marketing, and now in the School of Professional and Executive Education.

Tai-lok Lui is Professor in and Head of the Sociology Department at the University of Hong Kong. He is the co-author of Hong Kong, China: Learning to Belong to a Nation and Hong Kong: Becoming a Chinese Global City. His research interests fall into the areas of economic sociology, urban sociology (with an emphasis on the development of global cities in Asia), and class analysis. He has also published on the middle class in contemporary Hong Kong, Beijing and Shanghai, non-governmental organizations, social movements, economic restructuring, and the formation of contemporary Hong Kong society.

Ngok Ma is currently Associate Professor in the Department of Government and Public Administration at the Chinese University of Hong Kong. His research areas include party politics and elections in Hong Kong, state and society relations in Hong Kong, comparative politics, and democratization. He is author of Political Consequences of Electoral Laws: The Hong Kong Proportional Representation System (2003), and Political Development in Hong Kong: State, Political Society and Civil Society (2007).

Benny Tai is Associate Professor of Law at the University of Hong Kong. His research interests include comparative constitutional law, administrative law, law and religion, law and politics of constitutions, rule of law, development of constitutionalism in China, law and governance.

Gavin Ure is a Teaching Fellow in the Department of Applied Social Science at the Hong Kong Polytechnic University. He lectures on social policy and supervises postgraduate students in the Social Policy and
Social Development programme. He spent a career as an Administrative Officer in the Hong Kong government. He recently completed his PhD in Politics at Murdoch University, Western Australia on the origins of the Hong Kong government’s autonomy from 1918 to 1955. This has been published as Governors, Politics and the Colonial Office (2012). His main interest is the relationship between the Hong Kong and the British governments and the unofficials in Hong Kong in the twentieth century.

Ray Yep is Professor of Politics in and Assistant Head of the Department of Public and Social Administration, City University of Hong Kong. He has published extensively on late colonial Hong Kong and the political economy of marketization in China. His articles have appeared in China Quarterly, Journal of Contemporary China, Pacific Review and Public Administration Review. He is the author/editor of Manager Empowerment in China (2003) and May Days in Hong Kong (2009).

Eilo Wing-yat Yu is Associate Professor in the Department of Government and Public Administration at Macao University. His research interests include political development and elections in Taiwan, Hong Kong and Macao. His articles have appeared in Government and Opposition, Journal of Contemporary China and Representation.
PART ONE

Overview
CHAPTER ONE

Understanding the Autonomy of Hong Kong: Looking Beyond Formal Institutions

Ray Yep

Introduction

Sixteen years after the founding of the Hong Kong Special Administrative Region (HKSAR) in 1997, few would concur with the doomsday argument regarding “the death of Hong Kong” advanced by Fortune magazine in 1995.¹ There have been ups and downs in economic conditions and the territory has experienced a succession of demonstrations and mass protests, especially under the Tung Chee Hwa administration between 1997 and 2005. Yet, it is a gross exaggeration to describe the trajectory of Hong Kong in the last 15 years as a degeneration into political purgatory. Its capacity to bounce back from adversity has confirmed the vitality of the economic fundamentals of the territory, and despite the rising volume of altercation and dissent on the political scene, which has occasionally erupted into a mass protest of colossal proportions, as in the case of the 1 July demonstration in 2003, stability has never been under serious threat. Hong Kong remains as one of the safest cities in the world, with law and order showing no sign of decay since 1997, while its public finances are embarrassed by a colossal reserve of 600 billion HKD at a time when many governments in the developed world are teetering on the edge of bankruptcy. The government is certainly subject to growing criticism and the new administration under Leung Chun Ying has been under unabated challenges since he took office in

July 2012; yet the rising pressure is ironically a testament to the vibrancy of civil society and freedom of expression in the territory. On the basis of these developments, it may be harsh to blame the optimists who need no encouragement to jump on the bandwagon of praising the success of the “one country, two systems” formula. Such optimism is, however, at best only partially substantiated. Certainly, the post-handover arrangement was designed to maintain effective governance in Hong Kong after 1997, but ultimately it is a platform for the exercise of sovereignty over the territory. An assessment without the dimension of central and local interaction after 1997 simply renders itself irrelevant in any understanding of the validity of the “one country, two systems” model.

The crux of the matter is the issue of autonomy. While most commentators agree that Beijing observed a high degree of self-restraint in not meddling in the domestic affairs of Hong Kong in the immediate aftermath of the handover, the 1 July demonstration in 2003 appears to have been the turning point. For many, the “resignation” of the hugely unpopular Tung Chee Hwa heralded a more proactive approach by the Central People’s Government of the People’s Republic of China in handling Hong Kong. Measures of economic support and further integration coincided with the establishment of a new top-level body overseeing Hong Kong affairs, with a Politburo member, Zeng Qinghong, installed as the tsar of Hong Kong policy, and the rising visibility of officials of the Central Government’s Liaison Office on the local scene. The local community is apparently ill at ease with the “encroachment” of the Central Government. Casual comments on Hong Kong affairs by Chinese officials and cross-border infrastructure development can now easily trigger a public outcry against “pressure from Beijing.” Public fury over allegations of Beijing’s intervention in the Chief Executive election in March 2012, which resulted in the victory of Leung Chun Ying, is a testament to the common concern for the erosion of Hong Kong’s autonomy among the local population.

Is the autonomy bestowed upon the HKSAR being compromised? Or, more importantly, how can we assess the state of the autonomy we

are enjoying? A formalistic or textual approach is one option, as our entitlements have already been enshrined in the constitutional document that is the Basic Law. Put in this light, any deviation from the relevant stipulations in this authoritative document is incontestable evidence of the infringement of the autonomy of the HKSAR. Yet, this formalistic approach is missing an essential point. Such a jaundiced view confines the analysis to the regulative aspect of the constitution only. Institution, according to North (1990), is a set of rules that is intended to make interaction possible by reducing ambiguity and conflict. Central to these rules is a formal component endorsed by an authoritative body that states explicitly commonly agreed standards and procedure, obligations for all concerned parties, penalties for non-compliance, and a mechanism for enforcement. Nevertheless, these formal rules are effective in guiding action and shaping behaviour only when they are seen as legitimate. This alerts us to the importance of the informal aspect in a constitution. Scott (1995 & 2008) further elaborates this aspect and highlights the relevance of the normative and cultural and cognitive aspects of the element of informality. The former refers to the expectations of stakeholders whereas the latter includes accepted beliefs and values shared among concerned parties. These tacit conventions are the result of repeated interaction among members of the community and affect the way they rationalize, justify and explain interactions among themselves. Put simply, it is probably more difficult to enforce rules that people cannot make sense of and find inconsistent with their values. In other words, these informal aspects can extend, elaborate and modify formal rules and redefine the constraints imposed by institutions.

Seen in this light, the autonomy of Hong Kong can also be conceived of as a process of continuous negotiation. While the Basic Law prescribes the parameters for engagement between the Central People’s Government and the HKSAR Government and the jurisdictional boundary of the latter, the flexibility of these limits is subject to decision by the former through its power to make, unmake and interpret the Basic Law. On paper, on the issue of autonomy, as pointed out by Miners, the Basic Law is generous in spirit as it simply formalizes in the post-1997 legal arrangements many conventions that regulated the relationship between London and the colony of Hong Kong. The constitutional document that was drafted on the basis of the Joint
Declaration signed by the British and Chinese governments promises a high degree of autonomy in social and economic aspects. The Hong Kong administration is for example allowed to maintain its own currency, custom control and budgetary autonomy after 1997. Acceptance of the Central Government’s involvement in local affairs or “resistance” by the subordinate government is, however, not solely defined by legal constraints, but also by political perceptions of the concerned parties. Subservience by the local government is hardly preordained by the formal status of subordination prescribed in the statutory document. Hong Kong has a long history of pursuing its own path, and the colonial governors were rarely deterred by the superior status of the sovereign power when they found London’s initiatives were inconvenient or unviable from their point of view. Bickers’s work reveals that the Foreign Office was greatly irritated by Hong Kong’s pursuit of local diplomacy with the Guomindang Government between 1917 and 1927, which was in direct defiance of London’s instruction that Hong Kong should communicate with China only through the Legation in Beijing or the Consulate at Canton. Miners’s case study of the abolition of the mui tsai system, a disguised form of slavery, revealed how the local administration could defuse and resist the pressures and efforts of two foreign secretaries and the British parliament. The inhumane practice was only abolished, almost three decades later, in 1941, when a new Governor, Caldecott, lent his support to London’s initiatives. In a similar vein, Grantham’s success in persuading the British cabinet to abandon the grand plan of political reforms in the colony in the 1950s is another example of Hong Kong’s insubordination. Even local governments on the Mainland show no less enthusiasm in pursuing their parochial interests despite the unitary arrangements of the People’s Republic of China. Emboldened by the decentralization process in the reform era, various studies have demonstrated the innovativeness and robustness of local administra-

7. Steve Tsang, Democracy Shelved: Great Britain, China and Attempts of Constitutional Reform in Hong Kong (Hong Kong: Oxford University Press, 1988).
tions in defending their positions against central initiatives when they find their interests at stake.\(^8\)

In short, a formalistic approach is hardly sufficient for understanding local autonomy. The exercise of autonomy is, in fact, a product of the political process of mutual learning by the sovereign and the periphery. Propriety of action and response from both sides is not judged simply on the basis of formal legal permissibility, but is also deciphered with reference to experience in previous encounters. Earlier exchanges and responses to interaction create institutional memory, protocols for action and, most important of all, limits to legitimate expectations. And it is these “soft” elements that ultimately justify the elasticity of the formal boundary, and thus define the permissibility of central intervention and local resistance. Yet, here lies the challenge for understanding the autonomy of the HKSAR. The “one country, two systems” model is an institutional innovation without precedent. For both the HKSAR and the Central People’s Government, the new framework, through mutual adjustment and adaptation, is still in the process of being made. Nevertheless, it does not mean that they have no reference points for interaction. Their parallel experiences in handling the central and local relationship, that is, the exchange between the colonial administration of Hong Kong and the British sovereign power before 1997, and the interaction between the national government and its subordinate units in China since 1949, can, however, serve as a good basis for evaluating the interaction between the HKSAR and the Central People’s Government after 1997.

These comparisons in temporal and spatial terms allow us to understand, firstly, the logic and concerns of Beijing in handling local initiatives and insubordination, and, secondly, the expectations and strategy of Hong Kong in pursuing its provincial agenda. The accounts included in this book are not simply stories of subordination or conflict. They are rather narratives of adaptation, negotiation and accommodation between the sovereign state and the local administration. The tacit knowledge about handling the interaction uncovered in these historical episodes and contemporary accounts is thus crucial to our comprehen-

---

sion of the ongoing process of defining the autonomy of Hong Kong after the reunification.

One should, of course, be fully aware of a caveat in drawing these comparisons. There are fundamental differences between the context of colonial rule before 1997 and the scenario of “one country, two systems” after the handover. Firstly, while London may have expected the colony to be self-sufficient in financial and policy terms and thus may have avoided being mixed up in the domestic affairs of the territory, Beijing’s relative enthusiasm for Hong Kong affairs is driven by her eagerness to prove there is life after British rule. Secondly, even if London had wanted to become entangled in Hong Kong matters occasionally, her involvement would have been hindered by the lack of knowledge at the local level. To start with, the telecommunications technology available before World War II rendered London’s command of the details of Hong Kong’s development a monumental task. Beijing, however, has been deluged by a plethora of information about the HKSAR since 1997. This relates to a third difference in terms of economic linkages.

As a colony, Hong Kong had served important economic interests of Britain as a trading partner, as a support for the pound sterling and later as a platform for investment in China. These linkages are, however, dwarfed by the neck-breaking pace of economic integration between Hong Kong and the Mainland since the 1980s. Thus, while Hong Kong has a significant role to play in the process of the economic modernization of China, the acceleration of the exchange of capital, personnel, goods and services has created a high degree of dependence by Hong Kong on the Mainland economy. The consequent web of interests and exchanges among the business elite, professionals and officials across the border has provided the Mainland authorities with a wide array of leverage for intervention and engagement with Hong Kong, should they see the need to do so. And lastly, in contrast to the democratic principles ingrained in the British parliamentary system, the authoritarian character of the People’s Republic of China may also imply a potential conflict with a local society that is accustomed to the traditions of liberty. Beijing is, therefore, probably more inclined to contain and restrain the spontaneity of the territory.

Notwithstanding these differences, there is one fundamental reason why we believe that these spatial and temporal comparisons are still relevant to our concern for autonomy here. The official administering
Hong Kong can only work for the sovereign power by working for Hong Kong. That is, unless he can maintain effective governance and stability in the territory, the basic interest of the metropolitan state is not served. His strategy of how to get the job done is shaped by his interpretation of the political reality of Hong Kong, and that in turn is affected by his own ideology, values, background and training. Yet, this primary duty also makes him vulnerable to the demands of local concerns and interests. As reflected in the resignation of Tung Chee Hwa, the first Chief Executive of the HKSAR, the position of the local administrator becomes untenable once he loses the support of the local population, despite the undemocratic nature of the political order. This divided loyalty to the superior and subordinated polities provides the template for understanding the behaviour of the local administrator in any political system. And it is this underpinning of central and local interaction that justifies the relevance of the comparisons included here.

Five of the ten chapters in this book were presented in a workshop organized by the Department of Public and Social Administration in the City University of Hong Kong on 15 January 2010. The workshop was generously funded by the Department and the discussion was enriched by the participation of Ian Scott, Martin Painter, Hon Chan, Lee Pui Tak, Ma Ngok, Peter Cheung and Linda Li. These five papers were also included in a Special Issue on Hong Kong Autonomy of China Information published in 2011 and the permission to reprint is gratefully acknowledged.

This book does not intend simply to demonstrate the disposition of local players to defend and assert their interests vis-à-vis the centre. Rather, the objective of this collection is to go a step further by identifying the factors shaping the manifestation of autonomy in the case of Hong Kong. And we believe that this exercise should provide a clearer direction for understanding the prospects for the autonomy of Hong Kong and other periphery administrations. In the following chapters, five relevant factors are identified: trust, reciprocity, agenda of the sovereign power, the resolution of conflict, and the capability of the local leadership.

**Trust**

Negotiation must be premised on trust, and the case of Hong Kong is no exception. Trust can help defuse local suspicions towards central initiatives as a prelude to further intervention, or make central government less
apprehensive about non-compliance by a local administration. Hung and Kuo’s chapter on Beijing’s efforts at securing the subordination of Tibet and Taiwan is illustrative of the importance of trust between elites on both sides of the equation for sustaining autonomy. In the case of Tibet, the chapter provides a critical account of Beijing’s attempt to tackle the Tibetan question through the 17-point agreement with the Dalai Lama’s government in the 1950s; the notion of “one country, two systems” was introduced for the first time. At the very beginning, Mao’s moderation had managed to establish a certain degree of rapport with the reform-minded faction of the Tibetan establishment, including the Dalai Lama himself, who opined that progressive social reforms were both inevitable and beneficial for Tibet. A short period of *entente cordiale* was maintained, during which the CCP’s program of Tibetan autonomy won the allegiance of a large segment of the Tibetan elite. Similarly, the CCP’s accommodating approach towards the autonomy of Taiwan achieved a certain degree of success in establishing bonds with elites on the island until the 1980s. Beijing’s appeal to the Taiwanese left-wing activists – including pro-independence factions and communist groups – was their common antagonism towards the KMT. During the 1950s, Beijing managed to win the hearts of a substantial portion of Taiwanese dissidents by presenting itself as a progressive force, sympathetic to the quest for democracy in Taiwan and with a strong hint that unification would bring about the end of authoritarian rule and a high-level of autonomy vis-à-vis Beijing. In the case of both Tibet and Taiwan, Beijing managed to capture the attention of elites in peripheral regions with its autonomy package, premised on its capacity to generate trust through its moderate political disposition. The most important lesson drawn from Hung and Kuo’s chapter is, however, not how trust can be sustained and pave the way for implementation of prospective autonomous arrangements, but the way it can be destroyed. In both cases, local elites’ rapport with Beijing evaporated when the CCP shifted away from its position of restraint. Respect for local autonomy appeared to be a delicate balancing act for the Party and, once the centre tilted too much to the left or right, a vicious cycle of distrust set in. Aggression from the centre bred distrust among local elites that, in turn, aroused further suspicion of the former.

Aggression from the centre can be triggered by the internal dynamics of party politics, as ideologues and bureaucrats with a disposition to-
wards centralization always feel ill at ease with freedom and diversity at the local level. However, it can also result from a deprivation of leverage in maintaining compliance and loyalty. Lam’s description of the elaborate framework of communication and control under the unitary system of the PRC helps contextualize the Central Government’s concern over Hong Kong. Unlike other provincial governments on the Mainland, the HKSAR is excluded from the hierarchy of vertical and geographical control. Its immunity from the powerful tool of nomenclatural control is particularly discomforting to the centre. Before 1997, control of personnel was a crucial form of leverage for maintaining compliance by the colonial administration. The appointment of Governors was the prerogative of London and, in fact, the rotation of officers between colonies was a tradition in the British Empire.9 The Basic Law inherits this practice and preserves the veto power of the Central Government over the appointment of the Chief Executive and principal officials of the HKSAR Government. Nevertheless, the formal power has been, to a certain extent, compromised by the political reality of Hong Kong. The existence of British rule in Hong Kong before 1997 simply deprived Beijing of the opportunity to nurture her trusted political personnel. The predicament was compounded by the marginalization of leftists in Hong Kong in the aftermath of the 1967 Riots. As a result, few patriots had managed to acquire sufficient credibility and trust in the eyes of the local community by the time Beijing had to decide the line-up of the post-1997 administration. The appointment of Anson Chan as the first Chief Secretary is illustrative of the dilemma faced by Beijing. And this is further confirmed by the appointment in 2005 of the incumbent Chief Executive, Donald Tsang, another senior official who had served in the colonial administration.

Trust, however, can be cemented by socialization. Common ideology and values, similar career paths, and previous encounters in the workplace can all contribute to a similarity in outlook and mutual understanding. The extensive network of communications and the elaborate chain of command depicted in Lam’s paper suggest a plethora of opportunities for intercourse and exchanges among officials at different levels in China. Not only do these platforms provide room for lobbying

and facilitate information flow, but they can also enhance understanding, networking and, most important of all, trust. The bonding among Mainland officials is further strengthened by a blurring of the boundary between central and local leaders. As pointed out by Lam, most of China’s top leaders have had extensive experience as provincial chiefs before assuming national leadership, and this background may have made them more sympathetic to local perspectives. A similar pattern can be found in the colonial setting as well. Most of the Governors had served in the British civil service, and in the Colonial Office in particular, before they were assigned to the top post in the Hong Kong administration. In both cases, the common language, similarity in outlook, and personal networks would have helped convince leaders at the top that officials at the local level were well aware of the centre’s concerns and its threshold for tolerance of insubordination. Loyalty seemed assured.

This is hardly the case in Hong Kong after 1997. The cardinal principle of “Hong Kong people ruling Hong Kong” prohibits the direct transfer of personnel across the border, and most HKSAR officials are still struggling to master the language, protocols and logic of engagement with their Mainland counterparts.¹⁰ The room for manoeuvre by Hong Kong officials is further hamstrung by the general scepticism of the local community towards the political establishment in the Mainland and the changing political landscape. Universal suffrage is yet to be implemented but the introduction of elections in the early 1990s changed the power configuration of the local polity. Unlike the colonial Governors who controlled the allocation of seats in the legislatures until the mid-1980s, the Chief Executive is now confronted with a vocal Legislative Council with half of its members being returned by direct election. It is thus a colossal task for him to fabricate unanimous support among the political elites when dealing with the Central Government. At the same time, his mandate from an electoral college with a very restricted franchise appears to be a magnet for criticism from a vibrant civil society. Such prospective vulnerability to public pressure may well further undermine the centre’s trust of him.

This is certainly a great contrast to the story of Macao painted by Eilo Yu in this collection. The Macao SAR has appeared to be “strong” and autonomous in face of its local population after 1999. This is however attributed primarily to the tradition of domination of Beijing in the territory since the 1960s. The strong presence of Communist influence had deterred the development of civil society in the Portuguese colony and the reunification after 1999 has reinforced the bonding between economic and political elites in the local scene and that has further strengthened the position of the new administration. Yet, the general acquiescence in the presence of Beijing in Macao is not simply a result of fear and coercion. While demands for freedom of expression and civil rights have been rising among the younger population, one cannot ignore the general enthusiasm for unification in the former colony. Whereas people in Hong Kong may have taken economic growth and prosperity for granted, the rise in living standards in Macao since the handover has been unprecedented. Some local people may even greet the formal integration with the motherland with a sense of relief given the drastic deterioration in law and order under Portuguese rule during the transition period. There is in general a mutual trust between the centre and periphery in this case and that explains the contrasting logic of negotiation over the autonomy of Macao when compared with that of Hong Kong.

**Reciprocity**

While trust is lacking, respect for local autonomy may still be possible for instrumental reasons. That is, freedom of action and non-compliance by local government are tolerated by the centre because the former can make certain important contributions to the sovereign power, and pragmatism is thus justified. It is a cliché to argue that Hong Kong can play a significant role in the economic modernization process of China and serve as a showcase for Beijing’s flexibility towards peripheral regions like Taiwan. Utility thus breeds autonomy. Put in this light, Sonny Lo’s attempt at depicting the central and local relationship after 1997 as that of clientelism is, at best, incomplete.\(^\text{11}\) While it is valid to argue that Beijing has enjoyed more leverage in inspiring loyalty among local elites

---

than the British sovereign power before 1997, patronage is, however, never an act of charity but a relationship of exchange. The patron’s generosity is premised on the client’s capacity to deliver something valuable in return. So, missing in Lo’s account is the potential contribution of Hong Kong in the eyes of the sovereign power. Reflecting on China’s toleration of colonial rule in Hong Kong, Chan Cheuk Wah contends that the PRC’s acquiescence in British rule in the territory was primarily a result of Beijing’s strategic calculation of the colony’s economic contribution to the Mainland. Hong Kong had served as a window to the outside world during the American embargo in the 1950s and as a significant source of export earnings for China. In his account explaining the lesser degree of autonomy enjoyed by Tibet under Article 4 of the Chinese Constitution compared with the HKSAR, Mike Davies has implied that the greater flexibility towards Hong Kong is a result of the international dimension of the Hong Kong problem. The case of Hong Kong concerns China’s “resumption of exercise of sovereignty” from the British, and the autonomy framework thus carries the important utility of winning the support of the international community. As stated in the 2004 Tibet White Paper, Beijing argues that “Since ancient times Tibet has been an inseparable part of Chinese territory, where the Central Government has always exercised effective sovereign jurisdiction over the region”, thus rendering the implementation of political and socio-economic systems different from the socialist model unnecessary. While such a utilitarian logic of autonomy may help explain the pragmatism of the centre, it also suggests circumstances under which such an accommodating stance may disappear. Steve Tsang rightly points out that the autonomy framework for Hong Kong can ultimately be reduced to one fundamental concern: Beijing’s effective exercise of sovereignty over Hong Kong. Seen in this light, a high degree of autonomy in Hong Kong may be reversed once Beijing believes that developments in the territory are undermining rather than enhancing its interests and authority. Tsang believes that the popular challenge to its authority in 1989 and its lack of understanding of the dynamism behind Hong

14. Ibid.
Kong’s political and economic reality can have the detrimental effect of weakening Beijing’s confidence in the utility of the “one country, two systems” model.

All these analyses of the contingency and fragility of the autonomy framework, however, focus only on the perspective of the sovereign power. As highlighted above, it takes two to tango; the interaction also concerns how the periphery views its relationship with the centre. Seen in this light, the paper by Goodstadt in this collection enables us to understand the dynamism from the other side of the equation. In his comprehensive review of the history of the fiscal freedom of the colonial administration, he attributes the autonomy of Hong Kong to the fiscal self-sufficiency of the government. According to Goodstadt, there was a policy that a colony in debt to London would not be freed from British Treasury supervision before it had proved its fiscal solvency with three years of balanced budgets after its borrowings had been paid off. However, the Hong Kong government managed, miraculously, to achieve a budget surplus in the first full year of post-war administration, and fiscal health was maintained during most of the years after that. Fiscal self-sufficiency earned Hong Kong complete budgetary independence and freed it from all obligations to consult the Colonial Office on expenditure from the 1950s onwards. Such a fiscal devolution, in turn, bred further autonomy for the colonial administration in handling domestic affairs. With success in ousting London from the budgetary process, Hong Kong managed to maintain its fiscal conservatism and the famous approach of positive non-intervention. Despite the general adoption of interventionist economic policies and an increase in welfare expenditure in British colonies in the post-war period, the laissez-faire approach remained in Hong Kong. The high degree of dependence on the political support of the local community, which came overwhelmingly from business and professional circles, induced by the absence of a representative assembly, had rendered a huge investment in social services and any increase in public expenditure a non-starter. The government had to resist the pressure from business for aid and fiscal support as this might have triggered a demand for improvement in social services from other social classes. The principle of low tax and low public expenditure was thus a compromise for maintaining a balance between class interests and setting a limit to pro-business policies.
The paper by Yep and Lui elaborates on how the local administration resisted the pressure for social reforms in the 1970s when the Labour Government in Britain intended imposing a more progressive regime of social policies on the colony.

Lam’s account in this collection of the scramble for policy favours from the centre among provincial governments in the Mainland sheds more light on the relationship between local autonomy and economic and fiscal dependence. Fiscal subsidy, designation of development zone status, and permission for expansion of the local bureaucracy are among the many resources held by the centre and courted by the local governments. The favours at stake may vary over time, but common to all these interactions is the enhancement of the position of the centre. Dependence on central patronage implies leverage for enticing compliance. Seen in this light, the accelerating process of economic integration between Hong Kong and the Mainland is a double-edged sword. Cross-border infrastructure development, inflow of capital, and preferential policy treatment in the form of the Closer Economic Partnership Agreement (CEPA) certainly provide a stimulus for the local economy. Yet, according to this logic, the growing indispensability of Mainland support for local development may undermine the basis of local autonomy.

The agenda of the sovereign power

The scope of autonomy enjoyed by local governments is also determined by the agenda of the centre. Local governments do not always command the centre’s attention. As argued by Goodstadt elsewhere, the remoteness of the Hong Kong issue from the mainstream of British politics, as the relevance of Hong Kong faded with the rapid shrinking of the British Empire in the post-war period, had contributed to some form of “informal devolution” under which the colony was left to manage its own business most of the time.\footnote{Leo Goodstadt, Uneasy Partners: The Conflict between Public Interest and Private Profit in Hong Kong (Hong Kong: Hong Kong University Press, 2005).} Denis Bray, the Hong Kong Commissioner in London in the 1970s, confirmed such a general lack of interest in Hong Kong affairs in London: “To be frank, nobody in London really cares much about what goes on at the other side of the world”, as the
colonial official bluntly put it. Bickers’s chapter further elaborates on the logic of the general regard for “the man on the spot”. He argues that there was never such a thing as “the British Empire”, if by that phrase we imagine a single entity organized under a clear chain of authority and command with London emitting specific policy directives to colonies all over the world. Instead, London avoided meddling in the domestic affairs of colonies, an approach that is attributed to several factors. The principle of “running empire on the cheap” had been long cherished by the British government, while its lack of precise local knowledge had also deterred London from getting too involved in colonial administration. Lastly, the marginalized position of the Colonial Office itself in the Whitehall bureaucracy did nothing to encourage a proactive stance in respect of the colonies.

However, the mood can easily change once the sovereign power has a different agenda in mind. As illustrated in Ure’s chapter on housing policy in the colonial era, enthusiasm of officials in London towards Hong Kong could be triggered by pressure at home. Arthur Creech-Jones, the Secretary of State for the Colonies in the 1940s, was shocked by the “non-existence of public housing policy in Hong Kong” and his concern was further reinforced by pressure from the Archbishop of Canterbury in the parliament. The Secretary’s personal attention gave new momentum to the policy debate on the colony. However, if the colony’s autonomy was partly premised on the indifference of the sovereign state before the handover, such a prerequisite for the assertiveness of the periphery may no longer exist. While the British may have lost the appetite or will to defend their interests overseas after World War II, the leaders in Beijing are determined to prove a point in Hong Kong. Prosperity after 1997 is imperative to show the world that there is life after British rule, and the cliché of the demonstration effect for enticing Taiwan back to the motherland is certainly relevant as well. The rapid acceleration of integration with the economy across the border may also imply an enthusiasm in Beijing for closely monitoring developments in Hong Kong in order to protect its own economic interests.

17. Baozhi Qu, “Mainland China–Hong Kong Economic Relations”, in *The Hong Kong SAR in its First Decade*, ed. Jospeh Cheng (Hong Kong: City University of Hong Kong Press, 2007), 383–419.
The chapter by Yep and Lui in this collection is a good illustration of how the changing political concerns of the sovereign power can lead to its intervention in Hong Kong affairs. The rising influence of the left-wing and the concern over 1997 had prompted a more proactive approach towards Hong Kong by the Labour administration in Britain in the mid-1970s. The renewed interest in the colony culminated in the Hong Kong Planning Paper, a document with an elaborated list of social reforms and a timetable for implementation. Specific programs of progressive innovations, including improvements in labour rights, prohibition of child labour, a minimum wage, statutory hours of work, and, most controversially, tax reforms, were imposed on Governor Murray MacLehose. Beholden to local political constraints, the Governor was, however, reluctant to antagonize the colonial bureaucrats and local business interests. Beneath a facade of subservience and accommodation, the Governor stubbornly defended his vision of local interests and tried to implement the reforms at his own pace. The colony appeared not to be swayed by the asymmetry of power in constitutional terms.

The concern of the sovereign power can also be provoked by the fear of losing control over the periphery. Hung and Kuo’s chapter in this collection provides a good account of how Beijing’s flexibility evaporated when it was disturbed by the changing political circumstances in Tibet and Taiwan. In the case of Tibet, the rise of an anti-China faction of social elites, and the ousting of many cadres who were former leaders of the Tibetan Communist Party as a result of the Anti-Rightist Campaign in 1957, had led to an escalation of tension between Lhasa and Beijing that eventually erupted in the showdown of 1959. Tight control over Tibet has been established since then. In Taiwan, the emergence of an opposition movement and its advocacy of self-determination had prompted Beijing to re-consider its strategy in winning over the island dissidents. Fear of a further rise of separatism had pushed the CCP towards the KMT and marked the end of the appeal of the notion of “one country, two systems” to the progressive elements on the island. Seen in this light, an evaluation of the prospects for the autonomy of the HKSAR may require an understanding of Beijing’s perception of political development in the territory. The blunder of the attempt to legislate for Article 23 of the Basic Law in 2003 reveals the uneasiness of the Central Government with regard to the liberty bestowed on Hong Kong. Although Hong Kong has not been used
as a base by local or foreign forces to launch subversive activities to sabotage the Chinese government, Beijing is concerned at the prospect of this scenario. The mass turnout at the annual Victoria Park vigil commemorating the 1989 Tiananmen Incident, the longevity of the democrat-led Hong Kong Alliance in Support of the Patriotic Democratic Movement in China, and the presence of a local chapter of the Falun Gong are all thorns in the side of Beijing. Managing the political tension with the centre over these sensitive issues seems to be imperative for the continuing flexibility of Beijing towards Hong Kong.

The resolution of conflict

The foregoing discussion has helped to identify the underpinnings of the dynamics of the interaction between the centre and the periphery, and thus has provided a basis for evaluating the autonomy of Hong Kong vis-à-vis its sovereign power. These variables, in most cases, define the boundary of permissibility for both sides, and establish some form of convention for interaction or rules of engagement that may, or may not, be fully consistent with the formal institutional setting defined by statutes or the constitution. In the colonial context, while the British Crown could in theory exercise its prerogatives with no restraints on interfering in the domestic affairs of dependent territories, yet, as elaborated in Goodstadt’s chapter, the relationship between London and Hong Kong can be summarized as the “Lugard model”, under which there was minimal intervention and supervision by British officials, but maximum scope for colonial administrations to frame their own policies to meet local needs. In the case of China, Liberthal and Oksenberg’s emphasis on the “fragmented structure of authority”, Shirk’s concept of “reciprocal accountability”, and the more recent idea of “decentralized authoritarianism” by Landry all point to the argument that, beneath

the unitary structure of the People's Republic and the extensive control mechanism inherent in the Party system, there is ample room for the pursuit of local interests.

Yet, the formal division of power still matters. It provides a basis for the stable expectation and certitude of the consequence of action. This is particularly important in the case of Hong Kong, which has a long cherished tradition of the rule of law that the community has regarded as a key pillar in the legitimacy of the political system. For a political order without fully developed democracy, the rule of law can serve as a good surrogate. And, more importantly, the Basic Law – the mini-constitution of the Hong Kong Special Administrative Region – is the basis for winning consent and support for Beijing's resumption of the exercise of sovereignty over Hong Kong. Although independence was never an option in political reality, the rights of and scope for autonomy enshrined in that document have been instrumental in commanding respect for and compliance with the sovereign power in moral terms.

However, as in any jurisdiction, understanding the exact meaning of a constitution is contentious, and conflicts can arise over differences in the reading of the legal text. Tai's chapter in this collection is thus crucial for comprehending the danger of the promise of autonomy being undermined by a different understanding by the Central Government. Reflecting on the judicial autonomy enjoyed by Hong Kong over the last 12 years, Tai provides a useful framework for its evaluation using the following five criteria: (1) Do the courts of Hong Kong enjoy judicial independence? (2) Do the courts of Hong Kong have jurisdiction over purely local matters? (3) Do the courts of Hong Kong have the power of final adjudication? (4) Do the courts of Hong Kong have the power of final interpretation of its own constitution? – and, most importantly, (5) Is there a fair mechanism to resolve disputes arising from conflicts between the exercise of powers by Hong Kong and the sovereign power? An important insight uncovered in this analysis is the differentiation between de jure autonomy and de facto autonomy. Before 1997, the colonial courts did not enjoy the power of final adjudication. That was, in fact, the prerogative of the Judicial Committee of the Privy Council, which reviewed all judicial appeals from British colonies. In contrast, the Basic Law allowed Hong Kong to set up a court of final appeal in the territory after the handover. Such an institutional change, however, must
be understood in terms of the paradigm shift in normative foundations inherent in the handover. As rightly pointed out by Tai, the autonomy of the colonial courts vis-à-vis the sovereign state was protected, not so much by the formal constitutional arrangements, but by an ideological congruence due to membership of the Common Law family. As reflected in the case concerning the “right of abode” controversy, the challenge to the judicial autonomy of the Hong Kong courts after 1997 is that largely attributed to the differences in embedded values underlying the legal system across the border, and the Central People’s Government’s perception of the role of the law.

**The capability of the local leadership**

The scope of autonomy enjoyed by a local administration is, however, in reality ultimately determined by the capability of the local leadership in converting potential space for manoeuver into actual freedom in policy implementation. Central to this issue is the ability of the political leadership to create a consensus locally. The mobilization of indigenous support or resistance by local elites was always the key to the Governor’s justification for action or inaction vis-à-vis the will of the sovereign power throughout the years of colonial rule. Despite the undemocratic nature of colonial rule and of the post-1997 political order, Hong Kong people have secured ways to convey their views, and they have never shied away from making their feelings known through demonstrations, strikes, elections, media exposure or other strategies for political expression. Thus the boundary of the constituency that the local administration appealed to may have been stretched over time. Colonial Governors operated within what Goodstadt has suggested elsewhere was a context of “complacent consensus politics”, under which the views of only a very limited circle of business and professional elites counted. But, with the rising political plurality and growing vibrancy of civil society, local government has been more exposed to popular pressure and has had to redefine its strategy of public engagement.

Ma’s chapter on constitutional reform in 2010 enlightens us on the dynamics of “consensus” building after 1997. The democratic deficit of the current political order has haunted the administration since the founding of the HKSAR. The simple fact that the Chief Executive is selected by a very narrow franchise representing no more than 5% of the
local population has severely undermined the authority of the government since that time. Donald Tsang tried in vain to introduce moderate reforms in the political system in 2005. However, he did manage to break the deadlock in 2010 by securing the support of politicians in the democratic camp. Tsang’s decision to step out of his comfort zone and reach out for the support of the political opposition, which had not been seen as politically trustworthy by Beijing, was crucial, while the democrats’ willingness to collaborate was certainly reinforced by the prospect of another failure. Nevertheless, Tsang’s enthusiasm convinced the democrats to take a gamble at this juncture. It was a risky business as endorsement of the government’s proposal, which, in the eyes of many, was nothing more than a minor reform in constitutional terms, might have incurred the strong criticism of a betrayal of democratic principles. The greater danger, however, concerned the necessity to negotiate with Beijing directly. For the critics, this was a move that would undermine the authority of the HKSAR Government. Yet, ironically, it was the success of Tsang in mobilizing the support of the opposition that eventually secured the passage of the political proposal in the Legislative Council in the summer of 2010, a package that would expand the influence of the local population in the political process and, in turn, consolidate the basis of local autonomy.

However, consensus-building also entails the ability to overcome bureaucratic inertia within the administration. Ure’s chapter is illustrative of the importance of this credential. In the aftermath of World War II, the housing policy was self-evidently inadequate in accommodating society’s needs. The lukewarm attitude of the Governor, Alexander Grantham, towards this issue and the general indifference among the local elites had resulted in a minimalist approach in handling this matter. It was the impatience of the senior officials in London that eventually triggered a more proactive response from the colonial administration. The Governor’s determination to resolve the issue was tested by a turf war among the political elite and his inability to generate a concerted effort among government departments was also in doubt. Ultimately, it was the intervention of a crisis – the fire at Shek Kip Mei on the evening of Christmas Day, 1953, leaving 60,000 people homeless – that injected a renewed sense of urgency into the issue and set the policy process in motion again. The prospect for autonomy, as shown in this case, is not
just a result of negotiation between the sovereign and the periphery, it is also a matter of the latter’s capacity for seizing the opportunity given to it.

**Concluding remarks**

When the Basic Law was officially proclaimed in 1990, Hong Kong responded with a quiet sense of relief. The generally accommodating tone inherent in the mini-constitution may have provided some grounds for cautious optimism amidst the depressing mood in the immediate aftermath of the June 4 Incident of 1989. It also instilled a sense of certitude in worried minds during the trying time of political turbulence. For many, the promise of the status quo and the framework of local autonomy appeared to be a bulwark against unwarranted intervention by the Communist government in Beijing and a buffer against institutional integration with the Mainland. The letter of the Basic Law apparently suggested that Beijing was prepared to leave things as they were, and that the space for autonomy assigned to the HKSAR would dwarf the freedom enjoyed by many sub-national administrations under the federal system. While the sincerity of the Chinese leaders might be beyond doubt, Beijing’s perception of the meaning of the promise is certainly mediated by its understanding of the dynamics of the relationship between the sovereign power and the colony before 1997. In addition, in spite of its admission of the distinctions between the two systems, the logic of exchanges between the national government and local administrations on the Mainland is probably a constituent of its psyche in handling the issue of the autonomy of Hong Kong. This is where this book aspires to contribute. By nuanced analysis of the interaction between London and Hong Kong before the handover, and the exchange between the centre and periphery regions under the framework of the People’s Republic, a more elaborated account of how autonomy can be translated into political reality is developed. The scope of autonomy is elastic and contentious. As seen from the collective scholarship here, a preoccupation with the formal asymmetry of power between levels of government and an obsession with the wording of the statutory framework may obscure, as much as enlighten, an understanding of the issue of autonomy. Sensitivity to Mainland logic and a historical perspective may suggest the right directions for deciphering the dynamics of inter-
action between the Central Government and the Hong Kong Special Administrative Region, or other cases of central and local relationship.

References


Bray, Denis. Hong Kong Metamorphosis. Hong Kong: Hong Kong University Press, 2001: 206.

Chan, Anson. ‘Beware of blurring the dividing line’, Financial Times, 1 July 2002.


Goodstadt, Leo F. Uneasy Partners: The Conflict between Public Interest and Private Profit in Hong Kong. Hong Kong: Hong Kong University Press, 2005.


Lo, Sonny. The Dynamics of Beijing–Hong Kong Relations: A Model for Taiwan? Hong Kong: Hong Kong University Press, 2008.


PART TWO

Colonial Legacy
CHAPTER TWO

*Loose Ties that Bound: British Empire, Colonial Authority and Hong Kong*

Robert Bickers

I had seen enough of life in a Colonial Administration, and I had been Political Adviser for four years, to have seen the strange relation between a colony and the metropolitan country. The metropolitan power does have power but generally it doesn’t use it. People in the territory are terribly sensitive about the extent of their own autonomy, but in certain things look for support.

– David Clive Wilson, Governor of Hong Kong, 1987–1992

**Introduction**

How seriously do we take such statements as Wilson’s, made in an interview conducted for the British Diplomatic Oral History Programme in 2003? Wilson had come to the Governorship from the diplomatic service, outside the world of the Colonial Office, although since 1968 that office had been merged within the Foreign and Commonwealth Office. He had been in Hong Kong before, as a language student, and as a Political Adviser in 1977–81, but he had mostly worked either within the diplomatic service or as a scholar. Although Hong Kong had regularly presented diplomatic conundrums since the establishment of the Crown Colony in 1842, it fell under the purview of the Colonial Office, and while British diplomats sometimes wished it would show more awareness of the impact of its actions on China, as a colony it was integrated into a wider network of cognate territories far from China and Britain’s Chinese diplomacy. Wilson was perhaps a little more

---

familiar than many diplomats with the realities and peculiarities of colonial governance. But one of the frustrations of British diplomats during the 1967 crisis in Sino-British relations at the height of the Chinese Cultural Revolution, which was inflamed by the colonial government’s crackdown on the communist-led ‘riots’ that year, was that British Hong Kong logically treated those *événements* as a colonial, and not as a diplomatic emergency.\(^2\) It took note of other post-World War II British colonial ‘emergencies’, and of how other colonial administrations dealt with insurgencies, including the Portuguese colony of Macao. Hong Kong was a colony, and it acted like one, and colonies too had an ambivalent relationship with the imperial centre, even if at root that centre wielded ultimate power.

Wilson’s comment is a simple statement of the practical reality of British colonial rule, not simply in Hong Kong alone, but more widely. For there was of course never any such thing as ‘the British Empire’, if by that phrase we imagine a single entity, tied together by chains of authority and command, that reached from the farthest shores of a global presence back to London, and to the halls of the Colonial Office. But there is often an assumption that there was efficient central command and control, and a tight knitting-together of geographically scattered and culturally diverse fragments. In this view, when London issued fiats and commands, colonies leapt to obey and implement. Governors kowtowed to their superiors, and their administrative machinery was set in motion to realise the latest objectives of the wise men in Whitehall. Backing them up were globally spread military resources, and an empire of information too, feeding intelligence to the imperial hub. But any close look at administrative procedure, resources, and policy development and implementation quickly shows how far from the realities of colonial administration such a picture actually was. Rather than by proceeding smoothly along brightly-lit clear pathways, enacting colonial governance entailed navigating a murky swamp of precedent, localism, autonomy, shortage of resource, as well as thickets of incompetence, stubbornness, and even plain disobedience (usually masked through plain inertia). Of course, as an analytical category, carefully used, and as an ideological construct with a clear history (in fact a set of histo-

---

ries), the British Empire is a clear and coherent entity. Its agents and supporters, its critics and of course its opponents worked with it as a realised idea, but as they did so all, in their own ways, and for their own purposes, routinely overstated its cohesiveness, effectiveness, and coherence. It should also always be remembered that the Colonial Office was low in status compared to other ministries in Whitehall, and also that its relations with the Foreign Office were often fractious. It was also very much a ‘political backwater’, certainly until Joseph Chamberlain became Secretary of State in 1895. It was always smaller and politically less influential than the metropolitan ministries.³

This chapter looks at the wider picture of colonial authority and autonomy, and discusses its local manifestations in the Crown Colony of Hong Kong.⁴ Colonial structures and procedures will be shown to be important, but so will be the mentalities of British colonial officials and the practical realities of colonial rule. The Hong Kong context is more overtly complicated than many such, for the taking of the colony was part of an integrated wider makeshift plan of establishing a British presence within the borders of the Qing through the 1842 Nanjing Treaty, which brought to an end three years of fitful Anglo-Chinese conflict. It was designed as a British headquarters for that new presence, its Governor serving concurrently as Superintendent of Trade, who directed the activities of the five British consular establishments which were opened up in south and east China.⁵ It provided the British, who had had to suffer the sometime political discomfort and reputational (and religious) indignity of basing themselves in Portuguese-held Macao, with their own off-shore base. As the British China presence evolved, however, expanding into north China and along the Yangzi after 1858, and as a formal diplomatic presence was established in Peking after 1860, Hong


4. For a more detailed examination in the same vein of part of this period see Norman Miners, Hong Kong Under Imperial Rule, 1912–1941 (Hong Kong: Oxford University Press, 1987). For a trenchant analysis of state and society relations in the post-war period see Leo F. Goodstadt, Uneasy partners: the conflict between public interest and private profit in Hong Kong (Hong Kong: Hong Kong University Press, 2005).

Kong’s political role within this tidy system changed, and in any case any real clear strategy became effectively redundant as soon as British officials and their charges got to work ‘on the ground’ in China. The realities of Anglo-Chinese encounter at each of the five opened ports, and at Hong Kong, were different, generating their own controversies and local compromises and modifications of arrangements, not least because of effective resistance by Qing local authorities. Shanghai became the centre of foreign commercial gravity, and interest, and Peking the political capital of the British presence. Hong Kong retained its central functional role as a base for south China operations (not least for British companies), but was also linked into Southeast Asian colonial networks. But although it was fully integrated into circuits of international trade with China, and Chinese intra-regional trade, the colony and its administrators also very much looked inwards. They had a colony to run, with local needs, problems and opportunities.

**The Colonial Office, the Colonial Service, and the British Empire**

There is a long-nurtured British conceit that hides the blunt realities of power behind amateurishness and absent-mindedness. We should by no means take this literally. Nonetheless, accounts of the realities of government administration do not in fact actually lack for either the amateur or the absent-minded. In a memoir published in 1947, former Permanent Under-secretary of State for the Colonies, Sir Cosmo Parkinson, reflected back on the old relaxed days at the Colonial Office when he joined it in 1909. There is nothing surprising in the work and activity of a British department of state increasing exponentially over the four decades covered by his reminiscences, two of them dominated by mobilisation for world war. Departments, personnel, and correspondence expanded, as indeed the territorial reach and range of responsibilities of the department also expanded. The ministry outgrew its offices, and the cosy world in which two Resident Clerks, and the Office Keeper, were housed on site, and in which there was ‘reasonable room for all’, was replaced by a regime of scarcity of space and resource, and contrasting

---

work in plenty. It was not simply that securing and running empire ‘on the cheap’ was ingrained in British practice, nor that central government more generally was by pre-World War I standards small government, but that it was also specifically assumed that ‘It was not for Whitehall to usurp functions which could, or at any rate should, be adequately performed in the colonies themselves.’ Colonial governments were governments. They were constitutionally restricted in the range of their responsibilities, but they were actually expected to function with as little reliance on Whitehall as was feasible. The machineries of administration were expected to finance themselves, run themselves, and were largely trusted to do so. Given the speed of communications, with most travelling through official mails, and the budgetary limits on the use of the far speedier, but vastly more expensive telegraph, there were clear practical reasons why Whitehall could not deal in the devilish detail of routine colonial administration. Treating them as governments, the Colonial Office also organised its administration of communications with them internally in London on regional lines, so that it could not easily develop any panoptical view of the British Empire as a single unit, or deploy policy initiatives easily across it, certainly until the 1930s, although this remained a problem thereafter and the development of its reformist ‘forward policy’ initiative required significant institutional reorganisation.  

A second fundamental reason for the absence of detailed supervision lay in what was routine up to World War II: the lack of precise detailed knowledge in London about actual conditions in the colonies. For Cosmo Parkinson,

The most serious defect in the Colonial Office was lack of local knowledge and “background” so invaluable to anyone working in Whitehall. In general, the Colonial Office officials had not served in or visited colonies, and so learnt something at first hand of the conditions of life and work in the colonies. [p.46]

Colonial Office staff were not Colonial Service staff: they were Whitehall home civil servants. There was no rotation from London out to posts in Africa, Asia or the Caribbean, and then back. Careers in the Colonial Service could be migratory, as men were rotated from colony to colony, although many were geographically static. The ‘horizontal’ migration of officials from post to post in different colonies, sometimes in very different parts of the world, provides itself meat for a different approach to understanding colonial governance. What did John Pope Hennessy, former British Governor of Labuan, the Bahamas, British West African territories, and the Windward Islands, bring as a result to Hong Kong in 1877? What might his much later successor David Trench bring from his various Pacific island postings? They will certainly have arrived with a developed sense of what a Governor did, who in fact he was responsible to (and for), and how much autonomy he had. This factor is also important in understanding how colonial governments and their staff viewed their roles. And not only did men not return from overseas for periods of work in London, the reverse despatching of permanent metropolitan staff overseas to experience how it actually was remained fairly rare until the late 1930s and after (although a scheme commenced in 1930 to rotate Colonial Office staff on to at least one colonial post during their career). Close attention was paid in London to the career progress of senior colonial service staff, and their metropolitan leaves usually included a visit to Whitehall, but they were not brought in to advise or comment in a routine way. Whitehall followed their lives and reviewed their work through words on paper, often quite retrospectively, or when necessary (because much more expensive) via speedier telegram. They were, it should be said, generally men of a similar social and educational background, at least in the administrative class, and cross-connected through kinship or locality, and so might be expected roughly to share a world-view. But colonial administration also required professionally trained men from outwith those social circles – engineers, police, scientists, and they also employed diasporic and Empire Britons.

as well as locally born ones, including mestizos. They were not always ‘simpatico’ or familiar.

Until the late nineteenth century there was in fact no real cadre of ‘colonial service’ staff. There were many employees of many different colonial administrations, but few employees of a ‘colonial service’. Hong Kong was established when most Governors came from careers in the army, the East India Company establishment, Parliament or other spheres. Sir Henry Pottinger came from the Indian army, and from political positions in the subcontinent. Sir John Davis came from the East India Company, as did his successor, Sir George Bonham, although he had governed the Straits Settlements. Sir John Bowring was a parliamentarian and victim of the 1847 financial crisis for whom a stipend and post in Canton was found by Palmerston, which helped him move to the Hong Kong Governorship in 1854. (He was not the last broke MP found a post in China: John Pope Hennessy was similarly saved through colonial service.) Thereafter appointees came with some prior colonial experience, sometimes after military service, and only slowly with what can be called a colonial career. More widely, colonial appointments were made through patronage that was often in the mid-century still in the hands of the Treasury or the Post Office, for example. The Colonial Service, as such, was barely five years old in 1842. Its most recent historian posits 1895 as the best date for the establishment of a formal, recognisable service. The Colonial Office itself did not even have its own Secretary of State for the Colonies until 1854, when it was split off from the War Office, and before that point barely had 30 staff. The first set of Colonial Regulations had been issued in 1837, as part of the portfolio of reforms instituted by permanent under-secretary James Stephen, and recruitment by patronage was abolished in 1854. However, as Anthony Kirke-Greene has shown, what developed thereafter was not a single Colonial Service but a set of separate territorial services. After 1882, for example, the Eastern Cadetships Scheme secured through competitive

11. Details from May Holdsworth and Christopher Munn (eds), Dictionary of Hong Kong Biography (Hong Kong: Hong Kong University Press, 2012).

examination a supply of recruits for Hong Kong, the Straits Settlements and Ceylon. Even though greater co-ordination and convergence had occurred by the early twentieth century, there were still by 1939 a dozen separate colonial services.\(^\text{13}\)

Executive colonial administrative staff were mostly Britons, although in practice much of the daily ground-level administration of empire eventually devolved onto lower-grade indigenous staff. While rules and practice differed about recruitment of indigenes into the executive branches, these mostly remained British. Recruits came from similar backgrounds and schools. Many came from empire families. Their peers and relatives were to be encountered in other pillars of the British establishment overseas – the armed forces or the church. They were already well networked together, and married into similar families.\(^\text{14}\) Class, race, nationality, education and kinship bound them together fairly tightly where the colonial ‘service’ as such did not. They could largely be expected to share a general political, administrative and moral mindset, however much the distinctiveness of local conditions and local cultures might inflect and shape their lives and thinking, whether in the Sudan, the West Indies or Hong Kong. (It is surely telling that, when British administrators in Hong Kong, interned during the Pacific War, reflected on their pre-war record, and designed political and social reforms that they would wish to implement when they resumed control, as they expected to, these generally coincided with those actually being designed at the Colonial Office in London in the same period.\(^\text{15}\)) They used the same mail order catalogues to order the same goods from ‘home’, structured their diasporic lives and social and sporting activities in similar ways, offered reciprocal membership for each other’s clubs, and often travelled out to posts or back on leave on the same ships traversing the marine sinews of empire. Even so, it should not be assumed that they spoke with one voice or thought with one British colonial mind. They were members of an extra-national British governing class, but they were also


always local actors, with local responsibilities as well as local ambitions and local loyalties and tics.

Viewed in the club bar, in Penang, Hong Kong or Fiji, or in the restaurant on board a P&O steamer in the Indian Ocean, commonalities of race and class could seem starkly simple, but the local could be intensely complex. Hong Kong, at its simplest constitutionally a Crown Colony like other Crown Colonies, was embedded in a complex local landscape. The interwoven networks of the principal British state agents in China grew to include those of: the Colonial Office at Hong Kong and at the leased territory of Weihaiwei (which was at least initially a sort of sub-colony of Hong Kong, staffed by Hong Kong officials); the consular system and diplomatic presence headquartered from Peking; a legal system including the British Supreme Court for China and Japan (at Shanghai); a military presence linked to the British Indian Army, as well as to the British War Office, whose Commander in Chief, China Command, was based at Hong Kong; the Royal Navy’s China Station, headquartered also at Hong Kong. Other British state agencies were also present, the Board of Trade in particular after 1917, and the intelligence services, principally the Secret Intelligence Service (M.I.6) after 1921. The Government of India maintained a consulate in Xinjiang, seconded security personnel to consulates in China or to the government of Hong Kong during periods of nationalist emergency, and liaised closely with British military attachés in Peking. Hong Kong in particular was also increasingly tied into a network of cognate Southeast Asian British colonies, which had large Chinese populations, and presented many similar issues for colonial administrators. Meetings of administrators with responsibility for Chinese populations within British Southeast Asian colonies as well as Hong Kong took place in the 1930s. Issues such as Chinese nationalist education and the overseas politics of the Guomindang, and the activities of the party’s branches within individual colonies, were high on the agenda.\(^\text{16}\) The Nanyang Chinese, political or otherwise, were highly mobile, also, using their kinship and native place ties to trade and migrate within this world, as well as beyond it. And they also made effective, and for administrators sometimes troubling, use of

their British-protected status in China. The Governor at Hong Kong, then, was but one British official voice, in a plural and overlapping world of British entities, agencies and power in China and Southeast Asia.

**Hong Kong and the British Empire**

But who did Hong Kong’s Governor speak for and why? And what was Hong Kong for? In general it might be remembered that identifying any official statement of the objectives of colonial policy more widely is no simple task, certainly before World War II, although specific new strategies and initiatives can be discerned.\(^17\) With that context in mind, we can outline where the colony came to rest within the British apparatus in China, and more widely beyond that in East Asia. There is a path-dependent logic to that mostly contingent development: Hong Kong became an important or at least an importantly functioning part of these various networks because it was part of those networks. It was certainly reckoned a geographical outlier, beyond the capacity of effective imperial defence, in 1941, when war with Japan loomed, but in the recalibration of Sino-British relations that took place during 1942 as the wartime Sino-British Friendship Treaty was negotiated, the return of Hong Kong was not an issue the British wanted to discuss, although there were those in the Foreign Office, concerned with the British presence in China, who were willing to raise the issue. But Hong Kong was not within the British presence in China, it was within the world and world-view of the Colonial Office, and its retention was vociferously argued for within that office, and at the highest levels of the British government.\(^18\) But setting questions of imperial pride aside, what precisely was the point of keeping it, and what was the point of it in the first place?

The British had first requested a ‘place of security’ in 1788, when Colonel Charles Cathcart, the first envoy despatched to China, was instructed to request a ‘Grant of a small tract of Ground, or detached

---

Island'. The British argument was that it would be more convenient to have a depot open the year round (and not, as the factories at Canton, only in the trading season), and that managing their own territory they could better manage relations between Britons and Chinese, by more effectively disciplining British behaviour. They desired autonomy; they did not desire empire. Cathcart died *en route*, so it was left to Lord Macartney to repeat the almost identical instructions as a request in his 1792–4 mission, specifying Zhoushan Island north east of Hangzhou bay. A secure depot would secure a trade of global significance, and the revenues that flowed from it to the British crown. With the Treaty of Nanjing Hong Kong was secured as that depot, within a wider network of opened ports, but its basic functions remained those of Cathcart's earliest instructions. The British do not desire territory, only security, Macartney had been told, and he was instructed to make it clear to the Qing that the Indian Empire had been an accident of successful defence against attacks or 'such other arguments as your own reflections upon this subject will suggest'.

But a site once acquired could not but become a site of new ambitions and desires. If the British 'planted our flag', recognized one supporter of the war in 1840, then perhaps 'our career of British India would be repeated in China'. There might be glory to be had there, perhaps if 'light shines upon them from abroad' – via Hong Kong – then

... how bright a page would such a consummation emblazon for us in the history of nations! To see so many millions of our fellow-creatures, now wrapt in darkness, pursuing the onward march of improvement in morality, science, and arts, but, beyond all, adopting the pure tenets of Christianity, would be a triumph indeed.

This was seductive thinking, and such language is always present: Christian light shining on China, civilization brought to barbarism. But

---


mostly it was a hard-nosed calculus of risk which had driven possession: it was less risky to plant the flag in a small way somewhere, than to tolerate the status quo, especially after an at-times vicious war. Of course, a new colony was always a new opportunity, in and of itself in practical terms. There was land to speculate in, new posts to hustle for, roads, buildings and infrastructure to be laid out, provisions to be supplied, thirsts and other desires to be quenched. Even the tiniest new possession had the elements of a wild frontier. When the wildness was calmed as authority was properly established, then a more routine set of processes was bedded in which served to incrementally develop its character. For because Hong Kong was a colony (unlike the other opened ports), it fell within a developing sphere of practice and procedure that was deployed across colonies, and by colonial administrators. It could never simply remain an autonomous zone of safety, but it was not necessarily a leaping-off point for a wider empire in China.

Possession provided its own logic far beyond Hong Kong’s original China trade functions. A territory provided opportunities (for development, trade, evangelisation, amongst others), and responsibilities (towards the colonised, towards London). It needed governing. But if the British empire of governance was heterogeneous, the same could not be argued quite so readily for the military empire, which required more co-ordination, and a more focused global, or at least pan-imperial vision. Recent scholarship argues convincingly that while ‘imperial defence’ was certainly inflected, shaped and constrained by expense and other contingencies, and by the simple sheer diversity of empire, it was no chimera, and there was an underlying substantive reality to its operation.23 Within this Hong Kong became an integrated part of the Admiralty’s and the War Office’s worlds, as it was of the Colonial Office’s. It was particularly important as the headquarters of the China Station, and became for a while a forward site for the British as relations with Japan became more fractious in the 1930s (as a key intelligence intercept post), and then it became an important base for the anti-communist West in the East Asian theatre of the Cold War in the post-World War II era. Hong Kong developed intelligence and military functions and orientations that had little to do with any core rationale underlying its retention

as a colony, but much to do with the opportunities of geography. Even here it remained at all times one hub or node amongst others within a multi-polar system, perhaps in its Cold War service acquiring the most vital set of functions it ever provided for the British.

**Governing colonies**

All colonies were ultimately insular possessions. While they (or their acquisition) might play a role in the strategic thinking and planning of politicians, civil servants and lobbyists in London, or elsewhere, their administrators were largely concerned with the business of internal administration: administrators administered, governors governed, judges judged. Hong Kong’s nineteenth and early twentieth century colonial archives did not survive the 1941–45 Japanese occupation, but we know from the gazettes and from cognate records that the routine paperwork of a colonial administration, urban and rural, will have been there: files on tenders, drains, ditches, land-sales, libraries, public health and public works, all the complex un-heroic stuff of local administration. We also know from the work of Christopher Munn and others how much the work and business of this state was characterised by a ruthless use of force to discipline and coerce its Chinese populations.

London was far away, communications were very slow, and the Colonial Office was not interested in minutiae, which was wholly within the purview of the colonial administration. While the Colonial Regulations of 1837 outlined a tight supervisory legal framework, the realities of shipping and the mails meant that practice did need grounding in the temporal realities. The authority of a Governor was exacerbated by his distance from quotidian supervision from London until the opening of the Suez canal, the clockwork despatch of the steamship, and then the laying out of a global grid of telegraph cables brought him closer to London’s reach.

---


Nonetheless, the Secretary of State controlled public appointments, approved annual estimates, and could secure a crown veto over colonial legislation. But this was not so much a mechanism for policy implementation, as for invigilation. It created a structure for ensuring that colonial administrations did not become a financial charge on the metropolitan state, and that they did not develop laws, policies or practices that might lead to controversy or conflict. In particular, British subjects living in Crown Colonies were consistently thwarted in their attempts to secure effective representative power, although some measure of representation of those financing the state was somehow desirable. But the British state was rightly suspicious of settler power and autonomy, which easily evolved into settler tyranny, large or small in scale. Hong Kong’s Britons retained privileges of race and nationality, some formal, but most informal, and they did not have a substantive formal role within the administration. Some lobbied for that role, notably in 1894 and 1916 for example, but were swiftly rebuffed. They did not lack power or confidence, however. The biggest of the China merchants, Jardine, Matheson & Co, built an elaborate headquarters in the colony to the east of the new city of Victoria, ‘somewhat an independent though allied sovereignty of Hong Kong’, thought one visitor, noting the obvious symbolism thereby broadcast by the ‘Princely Hong’. And the assumption of influence by senior managers of this and lesser companies was something Governors needed to take account of, and somehow negotiate without compromising their authority, but the Governor governed, not Jardines.

The Colony’s jubilee celebrations in 1891 provide an opportunity to assess how its progress and functions were seen at that point. Such occasions did not lack for vacuous rhetoric, but the elaborate public displays and ceremonials held, as well as the public speeches given and anniversary publications issued, are also tangible evidence of more widely accepted notions about the point and achievements of the colony. There is much by way of post-facto justification that evades the point. ‘It is

26. Some of the history of these fitful attempts by British subjects to secure more formal influence are covered in G. R. Sayer, Hong Kong 1862–1919: Years of Discretion (Hong Kong: Hong Kong University Press, 1975).


too late now even to ask whether England was right or wrong in taking possession of this island fifty years ago, suggested the Bishop of Hong Kong in his jubilee service address. ‘We have a right to claim that we have more than justified the act by returning to China something vastly more valuable than we took.’ Setting aside the point that Hong Kong was not to be returned until 1997, this was a widely used justification. The growth of the colony during five decades of British rule into the ‘third port of the Empire’, a thriving hub of commercial activity, and one that had unleashed and that sheltered the modern commercial genius of the Chinese, was its own justification. This was the routine encomium: the fruit of the British genius was its development of barren rocks like Hong Kong. But it was at the same time an insular argument, for although mention was made of the example the model colony set to the empire of China, the jubilee celebrated the colony, and its public events, aside from being a welcome series of social events, were used by different groups and communities to demonstrate their position within and loyalty to the British status quo, including the Parsi and German communities. But the actual function of the colony was also repeatedly outlined: it was taken as a ‘shelter’, and it remained a shelter. Its safety lay in its autonomy, its civil, military and commercial achievements, and also in its sheltering within the resources of the British Empire more widely. The ultimate point of Hong Kong was still remembered in 1891, even if what was discussed was the triumph of ‘progress’ and development; but mostly, as the old song went, the argument was that ‘we’re here because we’re here, because we’re here’, and then that we’ve made a very good job of it.

**British Governors and British colonies**

The top job was the Governor’s: but what were Governors for? Who did they think they were? They were appointed by the Crown, which they represented, and were issued with Letters Patent which fundamentally articulated a devolution of power to the post-holder, subject to whatever guidance and instructions might be provided by the Crown.

---

29. *Fifty years of progress*, p. 34.
30. *Fifty years of progress*, p. 47.
Governor needed advice, and Crown Colonies came by the later nineteenth century to share a standard constitutional structure: an advisory Executive Council, and a representative – although the word needs careful handling – Legislative Council. At Hong Kong both were appointed by the Governor down to 1985. Some people were appointed by virtue of their official posts within the Hong Kong government, but from 1850 onwards there was also ‘Unofficial’ representation on the Legislative Council: Jardines secured one of the first two seats. The business of government at Hong Kong was the business of developing where necessary and maintaining where possible, within budget, the public realm of the colony as it was understood in different ways over time. Land needed developing, as did roads and the harbour, while policing, justice and public health needed supervision. The different departments of the Hong Kong administration as they grew over time were ultimately the responsibility of the Governor, who also performed symbolic and social roles within Hong Kong society. ‘My role is to perpetually functionalize’, grumbled Governor Frederick Lugard shortly after arriving in Hong Kong in 1907, feeling that he had ‘suddenly been withdrawn from a life of work I understood to act a part in a stage play’, officiating, inspecting, speech and prize giving. It is clear that the inclusion of the Chinese community within that stage play, and within society and the state, was erratic in the first decades of the colony’s growth. Pope Hennessy represented one extreme, which outraged the European community, none of whom turned out to see him off when he left, as was customary; Sir Hercules Robinson represented another, and departed in 1865 with none of the customary tributes from the Chinese. The Governor’s role within British China more widely was embedded in the position down until the establishment of a British Minister in Peking in 1861, but the temptation to retain a role especially in south China long lingered thereafter. Good relations with neighbours was part of a successful Governor’s duties, so there were good reasons for Governors to cultivate relations with the authorities in Canton, and the complicated multi-centred makeup of the British establishment across China (with the military headquartered in Hong Kong), also helped spur some Governors to make interventions that crossed over into the territory of the Foreign Office. The Minister

at Peking was usually watchful, and rightly jealous of his own sphere of responsibilities. So the role of the Governor at Hong Kong and of his administration was domestic. Functionally the colony served its place in a developing British world-system, and specifically within its China network, but the responsibilities of Governors were to administer the territory in which they served.

Governors were of course men who were serving and developing their own careers. They were on the make, and nearly always on the move from somewhere else to somewhere else. In the latter part of the nineteenth century a core of about three dozen men moved from post to post, and continent to continent. Hong Kong was as much a feature of this pattern as the Gold Coast or British Guiana. Sir Matthew Nathan, Sir Hercules Robinson and Sir John Pope Hennessy ‘careered’ imperially across the globe, to use David Lambert and Alan Lester’s telling phrase. Smooth progress would naturally involve smooth and trouble-free records. ‘We love Governors who run their Colonies without having awkward questions’, wrote the Principal Clerk at the Colonial Office, George Fiddes, to Nathan in 1906, ‘you are very dear to us’ he continued, as Nathan had been such a Governor. But a successful career would involve more than simply pursuing the ordinary business of routine administration, for how might a man make enough of a mark to ensure a decent posting upwards. Not all colonies or governorships were equal; some were more desirable than others, and paid more handsomely. Nathan arrived in Hong Kong in 1904 after service in the army, Sierra Leone and the Gold Coast. The latter was also a Crown Colony, but as different in nearly all other respects as could be to Hong Kong. The colony was a site of all sorts of potentially awkward questions, but Nathan certainly avoided these and sought his ‘opportunity for glory’ (his biographer’s phrase) through railway construction. Unable to secure early agreement with the Chinese on a railway from Kowloon to Canton, Nathan decided to have construction commence in 1906 from the Kowloon end with no guarantee that it would be continued

35. Quoted in Anthony P. Haydon, *Sir Matthew Nathan: British colonial governor and civil servant* (p. 120.
36. Haydon, *Sir Matthew Nathan*, p. 120.
across the border to Canton. The governor’s quest for railway glory was thwarted by his early removal to Natal (and a £1,000 p.a. cut in salary) to make way for Lugard. His successor completed the railway, and rode the first train, but Lugard’s own ‘pet lamb’, as the Colonial Office saw it, was his initiative to establish a university in the colony.37

So Governors came and went, securing their glory or infamy – Lugard secured the former with his university – and other officials also moved laterally across British colonial territories. This was not generally true, however, of the Hong Kong cadets, the cadre of administrative staff first recruited in 1862, although even one of the first was to make his way out to become Governor of the Straits Settlements. The numbers were small – 21 men recruited this way by 1900, another 64 before 1941 – but the process delivered three Governors of the colony, and six colonial secretaries.38 Some moved out too (Fiji was governed by three of them, the Straits Settlements by two), but their paths to advancement were largely insular, for their language expertise was in Cantonese. While other British colonies developed substantial Chinese populations, competency in Cantonese generally kept a man to Hong Kong (and the Southeast Asian colonies sent their own cadets to China to learn the languages they would need to work with Chinese communities within their responsibility).39 And like Colonial Service officers across the British globe they served across departments as they rose within the colonial state, aiming to be ‘at least adequate whatever the occasion’, aiming for the local senior posts to which they were at least theoretically being prepared for after recruitment.40 They dealt with the daily business of administration, scribbling minutes, writing reports, making decisions and justifying them. Success at the job, Anthony Kirke-Greene ventured, relied on ‘collaboration, coercion, competence and confidence’. It did not rely on orders from London, received or assumed. We should certainly take seriously the commitment of these men – Governors, cadets and others and, to their jobs. They were not simple colonial

40. Kirk-Greene, Britain’s Imperial Administrators, 279.
agents, cogs in a machine, or placemen serving the colonial state and the imperial ideal, awaiting their pensions and retirement back home. They were post-holders with responsibilities, and they generally took these seriously, and performed their tasks as well as their competences, honesty, or personalities permitted.

Governors and officials were not unfettered local autocrats, or at least they were not unexposed ones. An Executive Council, initially composed of officials, acted as an advisory ‘cabinet’. From 1896 two ‘ unofficial’ members joined this body. From 1850 there had been two unofficial members on the Legislative Council, also appointed by the Governor. From 1884 onwards there were five of these, including a Chinese member. One member was chosen by the Justices of the Peace, and another by the Hong Kong General Chamber of Commerce (1884–1973). From March 1858 onwards a fuller account of the council’s proceedings was published in the Gazette and later that year the public was allowed to view the proceedings. Hong Kong’s press also watched and commented. The Legislative Council’s unofficial members were not to exceed the official members in number until 1984, but they had a voice (or voices, for slots were originally reserved for Chinese and Britons), although major business interests mostly filled the seats. This provided at least a potential rhetorical check on the administration, however effective we might think that could be, considering it was coming from those appointed by that same administration. In one 1908 Finance Committee debate about the slowly growing railway, and its steadily growing costs, Jardine’s Manager, John Keswick, made two telling statements about the interests of the establishment unofficials: ‘I think we ought to be told what we actually got for our money’ (emphasis added), and, a little later, ‘We don’t wish to embarrass the Government.’41 Business wanted government on the cheap, as London did, and aimed to secure it, and it wanted to be working with the government as closely as possible and not antagonising it and risking its informal influence. In the late colonial era, as Norman Miners has shown, much of the active engagement of the ‘unofficials’ with the legislative process occurred before bills were published (and before potential embarrassment), and was tangible, but the Council itself was able only to exercise a ‘negative’ function, and it could never initiate legislation itself. And if unofficial members did

41. Hong Kong Hansard, Hong Kong Legislative Council, 23 January 1908, p. 5.
introduce critical resolutions into the debate, they could never expect to win a vote. As Governor Henry May argued in 1916, when recommending the rejection of a petition calling for wider and more effective representation,

There is not an Ordinance on the Statute Book of the Colony of which it can be said that it was forced through the Council without carefully and patiently consulting the interests affected by the legislation.

This profoundly undemocratic, raced and racist, and limited constitutional structure provided some formal space for observation of the Hong Kong government from within the colony, and it was one of a number of mechanisms through which the government secured external perspectives locally on its plans and activities. But these were perspectives from a very limited and elite constituency, and they operated within what Leo Goodstadt has described as a ‘complacent consensus politics’. Hong Kong’s people secured other forums for expressing their views, such the Tung Wah Hospital, and the District Watch Committee, and they voiced their feelings through boycotts, strikes, withdrawal from the colony, and the other strategies of popular politics in a clearly undemocratic colonial system.

Conclusion

Up to this point this chapter has outlined how practical considerations very strongly shaped British Colonial Office practice in the nineteenth century, but also how this was also reinforced by a set of fundamental principles about where responsibility and authority should best lie. The Colonial Office, a small metropolitan establishment that lacked clout

43. Governor’s Despatch to Secretary of State, No. 209, 26 May 1916, in Correspondence relating to the Petition for Greater Representation of the Public on the Executive and Legislative Councils, Laid before the Legislative Council by Order of His Excellency the Governor, 5 October 1916, Hong Kong Sessional Papers, 1916.
44. Goodstadt, Uneasy Partners, p. 106.
45. Jung-fang Tsai, Hong Kong in Chinese History: Community and Social Unrest in the British Colony, 1842–1913 (New York: Columbia University Press, 1993); Munn, Anglo-China; Tak-Wing Ngo (ed.), Hong Kong’s History: State and Society under Colonial Rule (London: Routledge, 1999); Elizabeth Sinn, Power and Charity: A Chinese merchant elite in colonial Hong Kong (Hong Kong: Hong Kong University Press, 2003).
and status within Whitehall, co-ordinated rather than controlled a wide and disparate range of British colonial possessions, setting out basic frameworks, processing information, developing, albeit very slowly, a cadre of senior personnel and shuffling them from post to post. Those men took with them their pet projects and peeves, their individual competencies and zeal. Although it grew greatly in numbers, reach and sophistication throughout the twentieth century, and could instruct, chide, or praise its officials almost in real time by telegraph, the Colonial Office did not reshape the essentials of colonial administrative practice. Colonial governments governed, and London invigilated. Colonies submitted reports and sought instructions on issues of principle and budget. Governors could recommend, cajole and hector London, marshalling evidence to secure permission for fundamental changes, but as long as the financial fundamentals were secure, then even pet lambs might be endorsed, grudgingly, assuming that there was sufficient local support. London certainly had policies to introduce of its own, and wider international obligations, such as those to international organisations that it had to ensure colonies abided by, such as the Office International d’Hygiène Publique, the League of Nations, and the United Nations. But with all such policy directives too, colonial administrations could delay or hinder implementation if they did not agree, did not feel they had sufficient resource or energy, or felt, as they often did feel, that their knowledge of local conditions far outweighed the desk-bound experts in Whitehall. What did they in London know, who only London knew? Governors could always buy time by turning back on the Colonial Office its own anxieties about expenditure or unrest, or less overtly they could always simply be obstructively tardy in their responses. They had their local procedures to follow, and these too could slow things down. London would generally eventually notice, but there was much room for procedural manoeuvre.

Of course, London declared war, and colonies went to war as well, enacting and enforcing trading with the enemy legislation and, through paying for their own defence, aiding the war effort directly. But it was only in such extremes, and in the financial fundamentals of administration, that London delivered directions in ways which would support a view that the governance of a Crown Colony like Hong Kong was tightly held in London’s grip. To this might be added the actual appointment of
Governors, and the fundamental ability London retained to negotiate transition away from British rule, although in Hong Kong’s case this latter was actually concluded to be beyond London’s control when policy options were explored during the crisis of 1967. In most cases transition meant transfer of power to an indigenous elite within the colonial state, which had generally developed a clientelist or oppositionist relationship with British authority, and was in some measure already incorporated within the colonial structure. This is not to say that nationalist contestation of British power did not have the ability to force the British to initiate the transfer of power, for it plainly did in Ireland, India and elsewhere. But only very rarely were the British actually defeated and forced out. In Hong Kong the process of decolonisation meant bypassing that indigenous elite, and would involve the transfer of power to another state, to China, which, it was widely recognised, simply might not accept that transfer unless the terms and timing suited it. London did not control the agenda: the transfer of power might be refused.46

Wilson’s 2003 account explored more fully the functional autonomy of the Hong Kong administration by the time he took over as Governor:

For many, many years Hong Kong had virtually run itself under a British umbrella with some UK Hong Kong officials and the link to the UK Government and to Parliament. But Hong Kong ran all its own affairs. It ran its economy. It was totally autonomous economically. Interestingly, I remember trying to explain this to a Chinese official, watching his eyes and seeing that he thought that I wasn’t telling the truth … 47

But Wilson was telling the truth, and he was telling a wider colonial truth as well. He was certainly an expatriate official, who worked for the British Crown, and he did so on the basis of a set of foundational instructions as to the role of the Governor, and a vast body of practice on the role and functions of a colonial state within the British empire. Many of those expatriate officials were divorced – by language, race, power – from the wider societies that they worked within. But they had their spheres of responsibility and worked within those. Wilson worked for London, but he worked for London by working for Hong Kong, and Hong Kong’s

46. See ‘The possibility of a British withdrawal from Hong Kong’, A.N. Galsworthy minute, 31 May 1967, National Archives, FCO 40/77.
interests, as he and his officials saw them, viewed through the prism of their own ideologies, training, education and background. Hong Kong’s realities, as they understood them, shaped their relationship with British metropolitan power. Different Governors, operating within the different contingent realities of British power and British interests within China, and depending on their own proclivities, interests and character, worked for London by working effectively for Hong Kong, and in doing so they could certainly continue to upset British diplomats working on China policy, even after the services were merged in the mid-1960s. The ‘Hong Kong’ that they worked for changed over time, and this change accelerated sharply in the very late colonial period. Hong Kong’s predicament was ultimately unique within the wider landscape of British colonialism, and the wider processes of decolonisation, but Hong Kong’s British administrators had not been unique, and had operated like all British colonial officials, from Aden to Zanzibar, in that they acted locally with a high degree of recognised functional autonomy based on a set of fundamental instructions and regulatory guidelines. They were bound to London, but the ties that bound were unavoidably loose.

References


Goodstadt, Leo F. Uneasy partners: the conflict between public interest and private profit in Hong Kong. Hong Kong: Hong Kong University Press, 2005.


Hong Kong Daily Press. Fifty Years of Progress: the jubilee of Hongkong as a British crown colony, being an historical sketch, to which is added an account of the celebrations of 21st to 24th January, 1891. Hong Kong: Hong Kong Daily Press, 1891.

Hong Kong Hansard, Hong Kong Legislative Council, 23 January 1908.

Hong Kong Sessional Papers. Governor’s Despatch to Secretary of State, No.209, 26 May 1916, in Correspondence relating to the Petition for Greater Representation of the Public in the Executive and Legislative Councils, Laid before the Legislative Council by Order of His Excellency the Governor, 5 October 1916.


Lindsay, Hugh Hamilton. *Is the war with China a Just one?* London: James Ridgway, 1840.


TNA, FCO 40/77, ‘The possibility of a British withdrawal from Hong Kong’, A.N. Galsworthy minute, 31 May 1967.


CHAPTER THREE

Autonomy and the Origins of Hong Kong’s Low-cost Housing and Permanent Squatter Resettlement Programmes

Gavin Ure

Introduction

Sir Alexander Grantham, the 23rd Governor of Hong Kong, has been portrayed and remembered as one of Hong Kong’s more outstanding Governors – who was ‘progressive, dedicated to Hong Kong and willing to defend what he saw as the best interests of the colony’.¹ He enjoyed a good reputation with his contemporaries. His appointment was extended at least three times to enable him to serve as Governor for 10 years. This was on the understanding that he was ‘very much trusted, admired and respected in Hong Kong’. He was also seen as a trusted pair of hands during a time of crisis in East Asia.² When his term finally expired in 1957, four petitions representing some 1.5 million residents were presented to the Secretary of State for the Colonies requesting his further extension, an unprecedented occurrence.³

As popular in Hong Kong and trusted in London as he was, a closer examination of his record shows that he was not always the decisive and far-sighted leader that he has sometimes been portrayed. Instead, he could be a Governor who tended to err on the side of caution even when

---

3. CO 1017/483 letter from Buckingham Palace to the Colonial Office dated 30 May 1957.
a situation demanded bolder action. Although he has been described as someone who had the ‘determination to expand Hong Kong’s autonomy without too much regard for constitutional niceties’, this chapter will portray him as a Governor at times unwilling to decide his own policy preferences. It will show him instead as a careful calculator of political strengths and weaknesses who could be content to let others take the lead in policy formulation. He would then weigh up where the balance of political strength lay and give his support to that side. His skill then lay in thereafter managing the bureaucratic process, a role in which he excelled.

This chapter will examine Grantham’s unwillingness to take the lead in promoting a policy of provision of government subsidised public housing to tackle Hong Kong’s dire housing situation. It will examine how it took prompting from the Secretary of State for the Colonies before he was prepared to act. The Christmas Day Shek Kip Mei fire in 1953 which left 60,000 squatters homeless put the failure of the existing squatter resettlement policy in stark relief. Grantham was unwilling to take a decisive lead in reviewing this policy and left the initiative to a prominent unofficial member of the Urban Council. This chapter examines the factors which lay behind Grantham’s inability to formulate his own policy and which resulted in him losing the initiative in these two cases.

There is no universally accepted definition of autonomy when considered in a political context. A literal definition points to a concept of democratic self-rule. In the context of the government of the Crown Colony of Hong Kong, this has to be re-interpreted specifically as the rule of the Governor through the government of Hong Kong consisting of his civil servants who were mostly British expatriates. Autonomy in this context can mean a Governor being able to decide local policies for himself rather than have them decided by someone else. This could be the British government, usually in the person of the Secretary of State

for the Colonies (‘Secretary of State’ hereafter). It could also mean someone else with an interest in what the Colony’s government did, usually the unofficial members of the Legislative and Urban Councils, who under certain circumstances had the ability or opportunity to make policy instead of the Governor.\(^7\)

What has this to say about Hong Kong’s autonomy? Firstly, although loosely referred to as Hong Kong’s autonomy, it refers specifically to the autonomy of the Hong Kong government or, more specifically the Governor as the representative of the sovereign power. Secondly, it shows that before autonomy can be exercised, the body or person concerned must have the ability to know what it/he wants to do, the capacity to decide for itself/himself and the capability to deliver. Autonomy is forged where effective action becomes necessary and is taken. In examining autonomy this chapter will look at the factors that influenced the British and Hong Kong governments and the decisions they took. In the case of Britain, the sovereign power, such factors could include the potential influence of members of parliament asking questions in public which it would have been difficult for the government to answer convincingly. In Hong Kong it was the influence of the unofficial members of the Legislative and Urban Councils. Although largely appointed, and no way representative of the population at large, they had a clear constitutional role to play within Hong Kong’s system of government. A particularly important one was approving public expenditure, where the Finance Committee of the Legislative Council had enjoyed \textit{de facto} autonomy since 1920.\(^8\) Unofficial opinion in Hong Kong could not be blithely disregarded.

This chapter examines autonomy from the point of view of whose policy prevailed: Grantham’s, London’s or the unofficials’. It examines who had the capacity to succeed in the policy process. It is best seen to exist when the capacity for self-decision is tested. The ability to exercise autonomy depends on the capacity and will to formulate and implement policy when the situation demands. In such circumstances, if action is not taken when required, in this case by the Governor, it will, perforce,

\(^7\) For a fuller debate on the application of this concept of autonomy and its applicability to Hong Kong see Gavin Ure, \textit{Governors, Politics and the Colonial Office}, Hong Kong: Hong Kong University Press, 2012.

be taken elsewhere. Much depended on the political factors which came into play in both Hong Kong and Britain and how the principal players in both polities responded to them.

The Hong Kong government in the years after 1946 was not a modern government in the sense that it had the proven capacity to formulate new policies or to win political support for them, or had the established institutional means to implement them. There were individuals within government who had the foresight to see what was required. Government-led progress, however, depended on the leadership of the Governor and his willingness and ability to set the agenda and persuade others to support him. It will be argued that this leadership was not always exercised and that the policy-formulation process was often diffused and incoherent. Coherence was to develop but slowly and unevenly, in response to political pressures from Britain, from within Hong Kong and from experience gained from implementing the new policies. How this happened will be traced through the development of policy in two areas that were to change the form and nature of the Hong Kong government.

**Development of housing policy**

When faced with the dire housing shortage on his return to office in May 1946, the Governor, Sir Mark Young, was quite prepared to take what active steps he could to try and alleviate it. Housing was one of his priorities but he recognised that in light of prevailing conditions, there was little likelihood of any rapid progress. Hong Kong’s funds had been exhausted as a result of the Japanese occupation and it relied upon Britain for financial support. Supplies were difficult to obtain because global markets were not yet fully functioning after the War and trained professional personnel remained in short supply.

Between 1941 and 1945, Japan’s military occupation of Hong Kong had taken a severe toll upon Hong Kong’s housing stock. A survey commissioned by the British Military Administration estimated that in April 1946 some 19,000 residential units had been destroyed or damaged as

---


10. Hong Kong Hansard, address by the Governor, 16 May 1946: 19. The other two priorities were finance and supply.
a result of the War and some 167,000 people displaced. The British Military Administration had no resources with which to alleviate this shortage and the rapid post-war increase in Hong Kong’s population put further strain on Hong Kong’s housing shortage.

Young was determined to act as best he could in the face of this unpromising situation. With no funding or materiel available, he sought to encourage greater provision of new housing by the private sector through modification of the government’s land policies, even in the face of local opposition. Some Crown leases which had been granted on 75-year non-renewable terms were soon due to expire. Young obtained the Executive Council’s approval to grant concessionary terms by offering to renew them on the basis of the very much cheaper 1941 values rather than those then prevailing. Lessees who applied for renewal within the following 12 months would also have the premium payable on renewal remitted by up to half the cost of the rehabilitation or reconstruction of the building required to be erected on site. Most importantly, lessees would also be required to develop their sites to the maximum permitted under the lease.

Young had shown he was prepared to act decisively on his own authority, without seeking the usual prior approval from the Secretary of State, to encourage the provision of more new housing, even if this proved controversial. Many leaseholders saw this as a derogation of their property rights and regarded it as an ‘unfair and repressive policy’. Young saw it as a permissible and necessary way to provide much needed new accommodation. He had shown that he was prepared to pre-empt the Secretary of State’s authority and had also shown that he would stand up against local vested interests, even those with a strong voice on the Legislative Council.

Young continued to take the initiative to tackle the housing problem. This time, he did seek the Secretary of State’s prior approval for a major concession in the disposal of land for residential development.

13. Hong Kong Hansard, address by the Governor, 16 May 1946: 22; CO 129/604/1, despatch from Governor, Hong Kong to Secretary of State dated 26 June 1946; and Roger Bristow, Land Use Planning in Hong Kong: History, policies and procedures, Hong Kong: Oxford University Press, 1984, 67.
14. CO 129/604/1, minute from Mayle dated 19 August 1946.
Normally, land was sold at auction to the highest bidder. Young proposed instead to grant it by private treaty. Site investigation costs were high and uncertain in hilly Hong Kong. Developers had to undertake expensive site investigation work before asking that a site be auctioned, not knowing if they would be successful. Even if they were, financing was expensive and there was still a limited market of people who could afford to buy or rent these new properties at commercially viable rates. Young therefore wanted to provide an incentive to developers to make development proposals and build much needed new accommodation.

The Colonial Office was sympathetic but was only prepared to allow this concession to applications made over the following 12 months. Not many were. Site formation costs remained uncertain, and financing was difficult without a government guarantee to reduce financing costs, which it was felt the British Treasury would not agree to. This policy was renewed in August 1947 for a further 12 months and then allowed to lapse.  

It had, however, proved a successful initiative in that Young had persuaded the Colonial Office that Hong Kong’s particular circumstances had warranted a change in established policy.

**Unofficial pressure**

The extent of the opposition to Young’s housing policy was starkly revealed after he left Hong Kong on retirement in May 1947. A few weeks later, a major motion debate on the government’s housing policies took place in the Legislative Council. The unofficial members thought these had impeded the development of new housing. They complained at length about the requirements for the renewal of 75-year leases and they also accused the government of taking far too long to approve development applications. Government officials responded robustly and blamed the developers for taking far too long to submit what were often ill-considered proposals.

Although the motion was defeated, it did reflect a wider concern throughout Hong Kong which David MacDougall, the Officer admin-

---

15. CO 129/615/7, telegram from Governor, Hong Kong to Secretary of State dated 7 July 1946; despatches from Secretary of State to Governor Hong Kong dated 14 August 1946 and 24 September 1946; HKRS 896 1/21, telegram from Governor to Secretary of State dated 1 August 1947 and Secretary of State’s reply dated 25 September 1947; and HKRS 835 1/25, despatch from Governor, Hong Kong to Secretary of State dated 18 June 1948.
istering the Government, was keen to take advantage of. He quickly wrote in July 1974 to London to push for more concessions on policy and ask the Secretary of State for approval to invest in a proposed private residential development. Without government involvement, either as co-investor or loan guarantor, no private residential development would be commercially viable. As Hong Kong’s finances were still under British Treasury supervision, albeit of a relatively unobtrusive kind, this would have required British government approval. Lee Hysan Estate Co Ltd had proposed a residential development at Lee Gardens in Causeway Bay. It would have invested HK$1 million to pay for site formation costs but a further HK$3.6 million from government would have been required to pay for building costs. Proceeds from flat sales would have been used to repay the government and the balance outstanding would have represented the government’s investment in the project. MacDougall stressed Hong Kong’s desperate need for new housing, the public concern expressed at the government’s apparent failure to address the issue and the political need for the government to be seen to act. He stated bluntly that this scheme ... the product of long and careful thought offers Government its first real chance to redress pledges given in Legislative Council to take an active part in promoting the building of new accommodation which the community demands. Private enterprise has neither built nor in present conditions plans to build new houses. If Government is not prepared to enter into partnership as suggested, thus driving the scheme back to private enterprise alone, the overwhelming probability is that the scheme will have to be postponed. The indisputable fact is that the Colony must be provided with additional accommodation, and that private capital is and for some time will be unwilling to undertake building. The use of public funds as proposed ... enables a start to be made.

The Colonial Office understood the political implications in Hong Kong. However, it would only agree to the Hong Kong government

---

17. HKRS 163/1/335, minute from David MacDougall (Officer Administering the Government) to acting Colonial Secretary dated 17 July 1947.
19. HKRS 163/1/336, despatch from Officer Administering the Government, Hong Kong to Secretary of State for the Colonies dated 24 July 1947.
giving a financial guarantee of a bank loan. The Secretary of State made clear that the Hong Kong government could not ‘commit itself in any way to accepting any financial responsibilities for providing residential accommodation in the Colony in future’. The Hong Kong government understood this to say that the British Treasury would not countenance government taking any stake in any further private housing development. For their part, neither were the unofficials prepared to consider a public subsidy for government-built housing.

The unofficial Legislative Council members did not appear to support direct government intervention in the provision of subsidised housing. After the prolonged 1947 debate, unofficial members of the Legislative Council did not raise the issue of housing again until March 1949. M. K. Lo, an influential unofficial member, may have expressed a more widely held view in relation to subsidised housing when he said in the Legislative Council that

If ... the rent is to be fixed as to include an element of subsidy, then all I can say is I do not see why the taxpayers who include the humblest artisan who smokes a few cigarettes should be made to pay this subsidy.

Apart from this statement, the silence from unofficial members on Hong Kong’s shocking housing situation may have been indicative of their unwillingness to approve any government proposal to subsidise housing from public funds. Grantham, not a Governor to confront his unofficials, seems to have been paralysed by this stance.

**Officials and policy formulation**

Although Grantham may not have taken the lead in attempting to formulate policy, his officials were more proactive. In January 1949, the Urban Council Chairman proposed forming an interdepartmental committee to examine the complex issue of housing. MacDougall, who may have prompted the move, gave his full support and asked him to proceed on the basis that land could be made available cheaply.

---

20. HKRS 163/1/336, telegram from the Secretary of State for the Colonies to Governor, Hong Kong dated 4 October 1947.

21. HKRS 156 1/808, minute from Acting Financial Secretary to Governor dated 20 November 1947; and minute from Governor dated 22 November 1947.


23. Hong Kong Hansard, speech by the Hon M K Lo, 30 March 1949, 100.

24. HKRS 156 1/1899, minute from the Chairman of the Urban Council to the Colonial Secretary dated 26 January 1949; and minute from Colonial Secretary to Chairman of the
1949, the Acting Director of Public Works expressed the strong view that blocks of flats and not houses, as had traditionally been envisaged, were the answer to the housing problem. These would have to be built on difficult hillside sites as most flat land in good locations had been utilised. Such housing could only be built ‘under the guidance and control of Government and some form of Housing Trust’. This was not simply the dispassionate view of one professional civil servant. There was a wider spread feeling that ‘the crying need for cheap serviceable workers quarters is undeniable.’

MacDougall left Hong Kong in the middle of 1949. Grantham, who had seemed until then rather detached from the debate conducted by his officials, started to become more involved. He did not, however, display any great leadership nor show any ability to draw together the various views expressed on how this could be tackled.

Housing societies

In the absence of definite action by either the government or the private sector to provide cheap housing, philanthropic attempts were made to try and address the housing issue. In 1948, the Hong Kong Housing Society (‘the Housing Society’) was formed under the auspices of the Bishop of Hong Kong, R. O. Hall. It was funded with an initial grant of £14,000 from the Lord Mayor of London’s Air Raid Distress Fund which, on its own, was not large enough to do very much. The Hongkong and Shanghai Banking Corporation (‘the Bank’) was prepared to lend the Housing Society funds, providing the government would grant them a site in North Point at nil premium. This was approved in March 1949, but disagreement over how the project should be managed led the Bank to withhold funds. Sir Arthur Morse, the Bank’s Chief Manager and Executive Council member, had little faith in Bishop Hall’s
managerial ability and did not wish him to continue to be involved in the project’s management.\(^{28}\) It was therefore agreed in September 1949 that the site would be granted instead to another organisation, the Hong Kong Model Housing Society (‘the Model Housing Society’).\(^{29}\) Because the Model Housing Society had now lost the use of the £14,000 from the Lord Mayor’s Fund, the Bank agreed to extend its loan to cover this shortfall. The overall cost of the new development was now higher than originally anticipated which meant that it could not cater for the lowest paid as had originally been anticipated.\(^{30}\) Although the Housing Society was able to proceed with housing schemes for those who could afford only lower rents, this incident did tend to show the limitation of private philanthropic societies in tackling the housing problem, as they had the access to neither funds nor land on the scale necessary to tackle the issue on any meaningful scale.

It is likely that the spat between the Bank and Bishop Hall led indirectly to Hong Kong’s housing coming to the personal attention of the Secretary of State, Arthur Creech-Jones. He was much concerned with social issues in Britain’s colonies and reacted strongly to being given the impression by the Archbishop of Canterbury in December 1949 that Hong Kong’s housing policy seemed ‘non-existent’. He was not placated when told by one of his senior officials that Hong Kong’s policy was to leave housing development to the private sector. To Creech-Jones, this only ‘confirm(ed) what the Archbishop told me,’ although what that was remained a mystery even to his senior officials.\(^{31}\) Apart from his genuine concern, he could also have been concerned about possible parliamentary questions from the Archbishop in the House of Lords to which he would have been unable to provide convincing answers.

**Colonial Office views**

This brought Hong Kong’s housing situation firmly onto Creech-Jones’s agenda. It was not only the poor state of Hong Kong’s housing which upset him but also the Hong Kong government’s apparent inaction in

\(^{28}\) CO 129/629/8, notes of a meeting held on 30 June 1950 chaired by the Secretary of State attended by Grantham, Jeffries, Sidebotham, Chinn and Hall.

\(^{29}\) HKRS 156 3/1, Part I, Executive Council Memorandum dated 27 January 1950.

\(^{30}\) HKRS 156 3/1, Part II, minute from Assistant Secretary 1 to Deputy Colonial Secretary dated 20 June 1951.

\(^{31}\) CO 129/629/8, minute from the Secretary of State (Creech-Jones) dated December 1949; minute from H P Hall to Secretary of State’s Private Secretary dated 21 December 1949.
tackling it. It had also been brought to his attention personally by the Archbishop of Canterbury, the senior Anglican cleric and a member of the House of Lords. Not only might a potentially embarrassing issue be aired publicly in the House of Lords, it would be an issue almost impossible to defend publicly. It might also have arisen during the run up to the general election which was held the following February. Labour was returned to power but with only a slight majority and Creech-Jones lost his seat. It was in this context that Grantham attended a series of meetings about Hong Kong’s social issues in the Colonial Office in June and July 1950. Colonial Office officials were already aware of the shocking state of Hong Kong’s housing but they also understood that to tackle the issue on any meaningful scale would have involved ‘the expenditure of very large sums of public money’.

Attempting to raise additional funds would not have been easy. Hong Kong and Britain were still in dispute over who should be responsible for an outstanding contingency for possible claims for compensation for losses of property and material destroyed to deny them to the enemy. Hong Kong’s garrison had also been massively reinforced during 1949 as the Chinese Communist forces moved south, and Britain wanted Hong Kong to contribute towards this cost. Colonial Office officials were aware that Hong Kong’s unofficials were unlikely to agree to tax increases if the first call on the additional tax yield was to be used to pay for items the unofficials, and local opinion, thought were more properly the responsibility of the British government. There would have been little left over for spending on new social services.

It was perhaps an indictment of Grantham’s lack of intrinsic concern over Hong Kong’s poor housing that it took a senior Colonial Office official to suggest to him that this really was an urgent matter. Grantham had to agree to the suggestion that it would ‘strengthen his hand’ if a despatch could be sent from London suggesting that ‘provision of ad-

32. CO 129/629/8, minute from Paskin dated 3 January 1950.
34. CO 129/629/8, minute from Sidebotham dated 30 December 1949.
equate housing should be started urgently’. At a series of meetings with the Secretary of State and senior Colonial Office officials, Grantham would have had little choice but to concede. Even he likely realised the awkward political position that the Secretary State would have been in if Hong Kong housing had become a matter of public concern in Britain.

**Establishment of the Housing Authority**

On his return to Hong Kong in November 1951, Grantham wasted no time in starting to prepare his new housing policy. He was keen to give the impression that this was his initiative before the Secretary of State’s despatch on the subject arrived in January 1951. This, *inter alia*, told Grantham categorically that ‘a housing authority is required’ as the private sector would be unlikely to provide such housing. The most important short term need was ‘to provide rapidly a very considerable quantity of low-cost housing for low paid workers’. The Secretary of State also pointed out the need for multi-storey development, the need for speed and for efficient estate management. In the short term, there would also be a need to accept that initially housing quality would be low. Having already started his preparatory work, Grantham was able to reply to the Secretary of State at the end of February that matters were in hand.

Grantham did not sustain this sense of urgency. It took another four years before the Housing Authority was established with reluctant unofficial acquiescence. The delay was due partly to a lack of consensus both within government and among unofficials as to what a Housing Authority should do and who should constitute it. Eventually, it was agreed that as housing was usually a municipal responsibility, the Urban Council should be constituted as a Housing Authority. Delay was also due to the long consideration given to the scope of the Authority’s role. Eventually, it was decided that the Authority should be responsible for the provision of housing but not slum clearance. Financing was addressed by grants made available from Britain’s Colonial Development and Welfare Fund to cover the costs necessitated by site formation, and profits made from a government trading fund to provide for essential

---

36. CO 537/6070, minutes of meeting with Secretary of State, Colonial Office officials and Grantham on 21 June 1950 and of meeting with Colonial Office officials and Grantham on 30 June 1950.

37. HKRS 156 1/3500, despatch from Secretary of State to Governor, Hong Kong, dated 28 December 1950.
supplies immediately after the War were used to finance a Development Fund from which loans were to be made to the Housing Authority for the construction of new estates.\textsuperscript{38}

Unofficial reticence remained. During the debate on the Second Reading of the Housing Authority Bill on 28 April 1954, only one unofficial member spoke. This was M W Lo, M K Lo’s brother, who rather morosely commented that although it was a ‘modern trend’ for governments to take responsibility for the provision of basic necessities, including housing, he thought that ‘This ideal is hard to realise in Hong Kong.’ With apparent reluctance, he conceded that he had

\textit{... doubts and misgivings in this enterprise of Government. But I am aware Government has proceeded cautiously and has taken great pains before this Bill was brought into being. I am prepared therefore to accept the principles underlying this Bill.}\textsuperscript{39}

It is a moot point whether Grantham would have promoted a Bill to establish a Housing Authority and been able to win over at least some unofficials in support without the Secretary of State’s prompting. With this, the unofficials proved unwilling to resist the government’s move into the provision of housing as they had over proposed constitutional reform or in insisting upon a negotiated settlement over the financial dispute with Britain.\textsuperscript{40} By this time, Britain’s commitment to Hong Kong had been made manifest by the massive reinforcement of the garrison in 1949. Britain and Hong Kong had also come to agreement over the last remaining item of financial dispute.\textsuperscript{41} Uncertainty remained over relations with the newly established People’s Republic of China and the destabilising influence of the Korean War.\textsuperscript{42} It was hardly a time for the unofficials to quibble if the British government had shown itself adamant that the Hong Kong government should start to provide public housing.

\textsuperscript{38} Hong Kong Hansard, address by the Governor on 7 March 1952, 40–1.
\textsuperscript{39} Hong Kong Hansard, speech by M W Lo, 28 April 1954, 189–93.
\textsuperscript{41} Gavin Ure, \textit{Governors, Politics and the Colonial Office}, Hong Kong: Hong Kong University Press, 2012, 203–4
\textsuperscript{42} Steve Tsang, \textit{A Modern History of Hong Kong}, Hong Kong: Hong Kong University Press, 2004, 157–9.
Development of permanent squatter resettlement policy

 Threat to the government’s writ

The government’s inability to decide an effective policy for itself on squatter clearance and resettlement when the situation demanded it resulted in a temporary loss of autonomy. Policy-making shifted instead from the government to an appointed unofficial member of the Urban Council. Autonomy was later recovered, but only at the cost of a great deal of effort to wrest it back from the Urban Council. This section examines how a policy designed to restore the government’s authority became overwhelmed by sheer numbers and how a loss of competence in policy co-ordination and implementation resulted in this temporary shift in the centre of policy-making.

Squatters had long been a feature of Hong Kong but before 1949 had not posed a large-scale problem. They had proliferated when, during periods of uncertainty in China, people had fled the Mainland to Hong Kong’s relative security. When security in China improved, they returned. After 1945, many people again flooded into Hong Kong, with the result that in 1948 there were an estimated 20,000 squatters on Hong Kong Island and 10,000 in Kowloon. The government’s writ tended not to run in the congested and tight-knit squatter areas, which were known to be havens of crime and vice that the police found difficult to control. Squatter structures were generally of sub-standard construction and did not comply with any building codes. The lack of running water and sewage disposal posed a threat to public health.

Bias for action

In January 1948, a government squatter clearance in Kowloon Walled City went badly wrong. This was an area over which the Chinese government claimed jurisdiction, a claim rejected by Britain. During their occupation, the Japanese had torn down the walls to extend the Kai Tak


44. HKRS 156 3/3, Report of Interdepartmental Committee on the Squatter Problem.

45. HKRS 156/3/3, letter from General Officer Commanding to Colonial Secretary dated 20 January 1948.
runway and after the war many squatters had moved into the area. When in January 1948 government tried to remove them a riot had ensued killing one person and injuring several more. This caused anti-British riots to break out on the Mainland and the Hong Kong government thought it wiser to stay further action in the Walled City.46

MacDougall, the Colonial Secretary, did not to want it to be understood that squatter areas were outside the law. Until then, the government had had no established policy to deal with squatters. Because of this, and acting on a complaint from the General Officer Commanding the garrison that squatter areas posed a potential security threat, he had asked the Urban Council Chairman to examine the issue. In June 1948 the Chairman presented a detailed report on urban area squatters. About one third of them were local Hong Kong people but the remainder were from the Mainland and, as the report surmised, many were ‘destitutes or bad characters the Colony could well do without’. It was also found that ‘the overcrowding, the shocking sanitary conditions and the fire risks’ merited action to clear them.47

Grantham seems to have been unaware of the squatter problem until MacDougall showed him the report and persuaded him that it should go before the Executive Council. The Council accepted the report’s findings that approved sites should be established where squatters could erect their own huts. Clearances should be undertaken gradually to avoid ‘political and economic problems of a serious kind’. It was also understood that the policy was one of making a squatter family realise that “They must either find proper accommodation, go to a government site or leave the Colony.”48

In terms of seeking to ensure that the government’s writ ran in Hong Kong’s squatter areas, the policy was a success. Clearances took place and cleared squatters were moved into approved areas. Clearances took place peacefully and the policy had shown that the government was prepared to clear squatters whenever it thought it necessary, and there was no repeat of the opposition shown in the attempted Kowloon Walled

46. HKRS 156 3/3, minute to Assistant Colonial Secretary dated 21 January 1948; and memo from the Chairman of the Urban Council to Colonial Secretary dated 2 February 1948.
47. HKRS 156 3/3, Report of Interdepartmental Committee on the Squatter Problem, para 1.
City clearance. However, in practical terms the policy was not quite as successful. The approved sites were unpopular because they were far from places of employment, lacked a water supply and had site formation problems. Many squatters simply moved elsewhere, and replicated the same problems of overcrowding and sanitation. Some discussion within government had suggested that permanent cheap housing was the answer but nothing came of this.

**Policy overwhelmed and politicised**
The situation changed dramatically in late 1948 and 1949. A massive influx of refugees increased the number of squatters to an estimated 330,000. The government’s reaction was to review the 1948 policy which, it was now recognised, was unworkable: there was no point in pushing more squatters into already overcrowded squatter areas on the periphery of the urban area where they didn’t want to go. Fire was the major problem with the ever increasing size of squatter areas. Fire lanes were proposed to be cleared in squatter areas to help mitigate the fire threat but the government was unwilling to spend money on such measures. The situation was exacerbated when a serious squatter fire broke out on 11 January 1950 in the Kowloon Walled City area leaving 17,000 squatters homeless. The government, although aware of the threat, was still unwilling to spend money on amelioration measures, through fear that doing so would give squatters a legal recognition of their right to land they were illegally occupying. The policy remained to make ‘them as uncomfortable as possible’ and encourage them to return to the Mainland.

The existing policy was reviewed and further refined but was to prove unworkable on the scale required. The whole of the urban

49. HKRS 156/3/3, memo from Chairman Urban Council to Deputy Colonial Secretary dated 24 August 1949.

50. HKRS 156/3/3, report from the Senior Health Officer dated 19 December 1949.


52. Alan Smart *The Shek Kip Mei Myth*, Hong Kong: Hong Kong University Press, 2006, 59 and 67.


54. CO 1023/164, minutes of the Executive Council meeting held on 5 December 1950 contained in Annex A to Executive Council Memorandum XCS 42/51 dated 29 June 1951, para (i).
area would be gazetted under the Public Health (Sanitary Provisions) Regulations, 1948, which would provide the legal basis for clearances. Tolerated areas should be designated and administered by the Chairman of the Urban Council. However, no attention was paid to the capacity of government departments to implement this policy and it soon became evident that this was lacking. No one department had overall responsibility for implementing a policy which required input from the Urban Council, the Police, the Public Works Department, the Social Welfare Office and the Resettlement Office. The Urban Council Chairman complained that ‘To co-ordinate the work of five departments without power to give overriding orders is impossible.’ The slow pace of clearing squatters into tolerated areas continued and the departments involved started to express their concerns. The Commissioner of Police thought that squatters should only be cleared when a site was needed for development or it posed a public health threat. Others thought that the government should just ‘concentrate on tidying up existing squatter areas’ or even ‘embark upon substantial housing schemes with Government leading the way’.

The practical answer was to state that any site to be cleared should be needed for development or that it posed a serious health risk. The site should then be immediately developed to stop reoccupation by squatters. Any squatter area left un-cleared should be tidied up and declared a tolerated area. This was decided at a meeting of senior officials chaired by the Colonial Secretary in January 1953. The aim was to slow the rate at which squatters were to be cleared and ease the burden on all departments concerned and allow them to proceed with something more easily achievable.

Initially Grantham approved of this approach but quickly changed his mind when the matter became politicised. There was growing public concern about the failings of the squatter clearance and resettlement programme. The statutory powers concerning squatter resettlement had been conferred upon the Urban Council’s Select Committee on

---

55. HKRS 163/1/781, memo from the Chairman of the Urban Council to Colonial Secretary dated 20 December 1952; memo from Commissioner of Police to Colonial Secretary dated 31 December 1952; and memo from Secretary for Chinese Affairs to Colonial Secretary dated 8 January 1953.

56. HKRS 163/1/781, notes of a meeting held on 12 January 1953.

Resettlement. Despite the name, this was separate from the Urban Council to which it was not accountable. The Urban Council could neither be informed about nor discuss its Select Committee’s work! This Byzantine arrangement did not stop the Urban Council becoming the target of public criticism, so incensing its members that they insisted that they should be able to receive and debate reports from their Select Committee.  

Grantham responded immediately to this political row. He quickly reversed his agreement to the recently modified policy and insisted that the clearance and resettlement programme should continue as before. Clearance would be the responsibility of the Director of Public Works and resettlement would remain the responsibility of the Urban Council. The Chairman of the Urban Council would also become the Chairman of the Select Committee which would have four unofficial members responsible for visiting different squatter areas. This drew the Urban Council even closer into the squatter resettlement programme, which was to have further implications the following year.

Grantham’s political astuteness was not matched by his ability to ensure that the government’s various departments could improve their co-ordination. The new arrangements were not enshrined into a circular until December, making the Director of Public Works responsible for squatter clearance. In the meantime, the slow progress of the squatter clearance and resettlement programme continued at the rate of about 700 per month. This policy was about to be sorely tested.

The Shek Kip Mei Fire
Grantham was again about to lose the initiative and have to temporarily concede autonomy to an unofficial. On the evening of Christmas Day, 1953, a fire broke out in the large squatter area at Shek Kip Mei, which left 60,000 people homeless. It set in motion not only a large relief effort but also a major change to existing policy by providing permanent squatter resettlement. Grantham’s initial response to the 60,000 squat-

58. South China Morning Post dated 11 February 1953 with account of the Urban Council meeting held on 10 February 1953.
59. HKRS 163/1/781, notes of a meeting at Government House held on 19 February 1953; Hong Kong Hansard, address by the Governor dated 4 March 1953, p 25; and South China Morning Post dated 11 March 1953 with account of Urban Council meeting of 10 March 1953.
60. CO 1023/164, Report from the Chairman of the Urban Council dated 22 December 1953.
ters made homeless by the fire was prompt and commendable, but it was an emergency response only. A meeting of the Executive Council was held at 10am the next day. By 29 December, the Executive Council had agreed that the government should build temporary huts on the site ‘constructed on the cheapest basis consistent with considerations of public health and fire prevention’.\(^\text{61}\) Grantham also solicited financial help from the Colonial Office by pleading that those made homeless were not local residents and were thus an unfair burden upon Hong Kong. The Colonial Office agreed to donate the GBP200,000 he requested although officials were aware of ‘Hong Kong’s ample reserves’. The offer may have been partly a response to the Bank of China’s offer of assistance, which Grantham had managed to deflect, much to the Colonial Office’s relief.\(^\text{62}\)

This response was to prove inadequate to meet the pent-up frustrations of an unofficial Urban Council member who was also a prominent local businessman with a distinguished war record. Douglas Clague was tired of the government’s dilatoriness in dealing with the squatter issue and had been outspoken about the government’s policy. Immediately after the Shek Kip Mei fire, he had emphasised the importance of providing ‘more permanent homes for the squatters’. He also thought that the government ‘should have been prepared to devote more resources to resettlement before the drastic lesson of the Shek Kip Mei fire’.\(^\text{63}\) Clague took advantage of the Urban Council Chairman’s invitation to respond to the crisis by becoming Chairman of the Urban Council’s Emergency Resettlement Sub-Committee. He used this position to forge a workable policy by proposing the erection of permanent multi-storey resettlement blocks for squatters made homeless from the Shek Kip Mei squatter site. This was to become standard policy for squatters cleared from other sites.

His sub-committee’s report stated bluntly that the ‘present routine of huge fires every year is quite unacceptable’. It recommended that

---

61. HKRS 163 1/1578, Record of Meeting held at Government House at 10.30 am on Saturday 26 December 1953 and aide memoire for Executive Council meeting on 29 December 1953, para 23.

62. CO 1023/164, telegram from Governor, Hong Kong, to Secretary of State dated 29 December 1953, paragraph 12; telegram from Secretary of State to Governor, Hong Kong dated 30 December 1953 and minute from Harris to Sidebotham dated 29 December 1953.

63. CO 1023/164, minute from Holmes to Deputy Colonial Secretary (Burgess) dated 15 March 1954, para 4 (a).
fire lanes be driven through squatter areas to reduce the impact of fires and that this should be done before the next dry season in October. It supported the view of the Director of Public Works that eight six-storey blocks should be built to rehouse the displaced squatters at Shek Kip Mei. As a longer-term solution, it endorsed the principle of decanting, whereby squatters should be rehoused in high-density multi-storey blocks built on part of the site they had previously occupied, freeing up the remainder for other development.\textsuperscript{64}

The government undertook a parallel review, but Grantham was reticent about taking the lead and left the initiative to Clague and his Committee. The government’s review identified three reasons for reviewing existing policy. Firstly, the slow progress of the policy which had rehoused only about 40,000 squatters in three years and which had been due to the ‘lack of a sense of urgency in the general approach to the problem’ and of ‘Government’s reluctance to finance and implement resettlement schemes directly’. Secondly, existing policy could not rehouse 200,000 squatters in one-storey huts on sites with ready access to the urban area because there was not enough land. Lastly, the Director of Public Works had now drawn up plans for six-storey resettlement blocks at Shek Kip Mei and this approach could be universally adopted.\textsuperscript{65}

Despite the government’s reticence, Clague was adamant that the Urban Council should continue to be concerned with resettlement policy. He thought that ‘if Government had listened to the views of the Urban Council, stronger action would have been taken sooner’\textsuperscript{66} and that the government could not afford to lose the support of the Urban Council at this juncture. The government was forced to accept the Urban Council’s continued involvement.\textsuperscript{67}

Grantham continued to proceed cautiously. Although the government agreed that six-storey resettlement blocks should be built at Shek

\textsuperscript{64} HKRS 163 3/20, Report of Emergency Resettlement Sub-Committee.

\textsuperscript{65} HKRS 163 3/20, paper by the Deputy Colonial Secretary dated 29 January 1954 and notes of a Meeting held at Government House on Clearance and Resettlement Policy on 8 February 1954.

\textsuperscript{66} HKRS 163 3/20, minute from Holmes to Deputy Colonial Secretary (Burgess) dated 15 March 1954, para 4 (b).

\textsuperscript{67} HKRS 163 3/20, minutes between Deputy Colonial Secretary (Burgess) and Colonial Secretary dated 15 March 1954; minute from D R Holmes to Deputy Colonial Secretary (Burgess) dated 15 March 1954 and minute from Holmes to Deputy Colonial Secretary dated 18 March 1954.
Kip Mei, the Executive Council would only agree that the government should prepare a specimen plan for the resettlement of squatters in multi-storey buildings ‘in order that the long-term policy of the Emergency Sub-Committee of the Urban Council may be examined in more detail.’ During the remainder of 1954, the government developed and consolidated its new policy on the provision of permanent resettlement to displaced squatters. Further squatter area fires continued to break out. One, in Kowloon Tong in August, left 25,000 people homeless, and the government decided to rehouse them in multi-storey blocks. A further fire at Li Cheng Uk in early October convinced Ronald Holmes, the Commissioner for Resettlement, that multi-storey resettlement blocks were ‘a practical, successful and permanent solution to the squatter problem’. He also concluded that ‘The six-storey resettlement programme is making an important contribution to the prestige of the Colony as well as to the standard of public health and public order.’ On 17 November 1954, the Executive Council agreed with the government’s recommendations that this should become general policy.

Government had been very cautious. It was unsure whether it could deliver this new policy satisfactorily. At the end of 1955, Ronald Holmes, the Commissioner for Resettlement, said that ‘We now know that resettlement in multi-storey buildings . . . can be successfully carried out on a very large scale (we were far from being certain of this 18 months ago).’ The Urban Council’s involvement in the development and application of the policy continued, but seemed to abate as the government developed more expertise and confidence in the area. This was helped by Holmes becoming Chairman of the Urban Council’s Resettlement Committees. These had exercised ‘a real and effective control over every aspect of resettlement’ but it was the Resettlement Department which had exercised the control on the ground. This expertise would have helped provide them with the confidence with which to take back con-

68. HKRS 896 1/74, memo from Colonial Secretariat to the Director of Urban Services (also Chairman of the Urban Council) dated 25 March 1954.
69. CO 1030/390, Executive Council Memorandum XCC 12 dated 3 April 1954 and HKRS 163/3/20, minutes of Executive Council meeting held on 6 April 1954.
72. HKRS 163 3/20, Commissioner for Resettlement to Colonial Secretary dated 23 November 1955.
The government’s policies towards squatter clearance and resettlement were formulated with virtually no guidance or direction from the Secretary of State or his officials in the Colonial Office. Despite this, the Hong Kong government had moved with ineffable slowness. It had, at Grantham’s insistence, persisted with a resettlement policy which had taken a disaster of the magnitude of the Shek Kip Mei fire to show how totally inadequate it was. The lack of co-ordination between government departments and the sheer number of squatters involved had overwhelmed the limited resources that the government had been willing to allocate. In the case of housing, it had taken the Secretary of State’s steadying hand to push Grantham to accept that government provision of low-cost housing was necessary. In the case of permanent squatter resettlement, that steadying hand had come from an unofficial member of the Urban Council. Clague’s initiative and determination, together with Grantham’s acquiescence, had led to the government’s acceptance of a policy of building permanent multi-storey resettlement blocks.

Conclusions

*Prima facie,* it can appear that Hong Kong had been instructed by Britain to establish a Housing Authority to provide low-cost housing but had been left to formulate its own policies on squatter resettlement. This chapter has shown how much more nuanced these two situations were. If there had been any similarities it was that in both cases the government’s failure to act when the imperative demanded had created a void. This void had been filled by the Secretary of State in one case and Clague in the other. Once that lead had been given, however, the Hong Kong government had been free to recover autonomy over the implementation of these new policies. Britain showed little interest, and control over policy was recovered from the Urban Council.

---

73. HKRS 163 3/20, note from Commissioner for Resettlement dated 3 June 1955 and HKRS 310/1/2, Situation Report by Resettlement Officer (Multi-Storey Estates) as at 14 March 1955.

The history of these two cases also reflects the importance of an individual Governor’s personal style. Young, and MacDougall, had been much more proactive than Grantham in promoting policies to promote the development of new housing. MacDougall too had been proactive in developing the initial squatter resettlement policy, which had been successful in establishing the government’s writ within squatter areas, even if the application of the policy had not been so successful. In contrast, Grantham, despite his senior officials proposing innovative ideas to develop new policies to cope with the increased scale of the housing and squatter resettlement problems, had seemingly been unable on his own initiative to develop these into a coherent policy. He had been jolted out of his indecision on both occasions by other people not normally within the government’s policy-making circle.

If autonomy presupposes an ability to formulate, plan and implement policies of choice, then it could be argued that in these cases the Hong Kong government had not done so. In both cases, its policies of choice were unfit for purpose. It had failed to rise to the occasion of its own volition. However, once new policies had been adopted, the government had developed a capacity and expertise which allowed it more control over what it did and, at the same time, it became an internationally recognised authority on public housing. No mean feat.

References

British Official Sources


CO 129/606/2 Treasury Control over Hong Kong finances. January to December 1948.

CO 129/606/4 Hong Kong Loan: government grant. April 1947 to March 1948.


CO 537/6070 Visit to UK of Sir Alexander Grantham, Governor of Hong Kong in June, 1950.

CO 850/256/9 Sir A. Grantham, Hong Kong. 1951 to 1953.
Extension of term of office: Sir Alexander Grantham, Governor of Hong Kong, 1957 to 1958.

Hong Kong: squatters’ settlements. 1952 to 1953.

Resettlement of squatters after fires in squatter areas of Hong Kong. 1954 to 1955.

**Hong Kong Official Sources**


HKRS156/1/1899 Cheap Housing Schemes, Proposals for, January 1949 to November 1955.

HKRS156/1/3500 Housing ... Copies of Important Papers on ... March 1950 to April 1954.

HKRS156/1/4430 Resettlement in Hong Kong. Request for information on ... November 1954 to July 1956.

HKRS156/3/1 Grant to Hong Kong Model Housing Society, 1948 to 1951.


HKRS163/1/335 Housing in Hong Kong – Suggested appointment of a Tribunal for allocation of land to private interests for large scale construction of...July to September 1947.


AUTONOMY AND THE ORIGINS OF HONG KONG’S LOW-COST HOUSING


HKRS896/1/21 Housing scheme – departmental procedure relating to…July to November 1947.

HKRS896/1/74 Shek Kip Mei Squatters, Resettlement of …December 1953 to July 1955.

Published sources


Goodstadt, Leo F. Uneasy Partners: The Conflict between Public Interest and Private Profit in Hong Kong. Hong Kong: Hong Kong University Press, 2005.

Grantham, Alexander, Sir. ‘Housing Hong Kong’s 600,000 homeless’, Geographical Magazine (1959), pp. 573–86.

———. Via Ports, from Hong Kong to Hong Kong. Hong Kong: Hong Kong University Press, 1965.


Hong Kong Hansard, 16 May 1946, 19 and 22.


———, 2 June 1948, 164–5.

———, 30 March 1949, 100.

Hong Kong Housing Society. Hong Kong Housing Society Forty-Five Years in Housing. Hong Kong, 1994.


South China Morning Post, 11 February 1953.


CHAPTER FOUR

Fiscal Freedom and the Making of Hong Kong’s Capitalist Society

Leo F. Goodstadt

Introduction

Hong Kong has been hailed as an outstanding model of rapid transition from Third World poverty to post-industrial prosperity. Its economy has been rated regularly since the 1990s as among the most competitive in the world by organizations like the Cato Institute, the Heritage Foundation and the World Economic Forum. From 1978 and the start of China’s economic take-off, Hong Kong has been the nation’s largest source of external investment, and its role in the Mainland’s modernization has been described as “unique” and “irreplaceable” by Prime Ministers Zhu Rongji and Wen Jiabao. In dismal contrast has been Hong Kong’s record of social development. Public spending on social services as a share of GDP at the start of this century was still at the same level as the average for OECD members in 1960. Even housing, which has been the centre-piece of government social programmes since the

1950s, lags well behind other advanced economies in terms of quality. This state of affairs is the outcome of decisions on fiscal priorities and social programs taken over several decades and which continue to shape government policies in the current era.

Thus, for Hong Kong, more than for most former colonial territories, an escape from history is not possible. British rule did not end in revolution or even in public protests against colonialism but in a “Basic Law” enacted by China’s legislature to guarantee “a high degree of autonomy” but no radical rupture with the past after British rule ended in 1997. This law promises, in particular, to maintain the long-standing business-friendly policies of balanced budgets, low taxation, free trade, and free currency markets. These traditional commitments to *laissez faire* were thus recognized as the defining features of Hong Kong’s economy which had made possible its remarkable record of past industrial and financial success and its unique contribution to China’s modernization since 1978 and, therefore, were to be enshrined in China’s laws as Hong Kong’s guiding principles for another 50 years.5

As a result, Hong Kong retains taxation arrangements virtually unchanged since World War II. There is no import or sales tax. Dividends and capital gains are tax-free. The closest thing to an “income tax” is a levy on profits and salaries but only those generated within Hong Kong. The standard rates of these taxes have been kept remarkably low: 10 per cent in 1947; 15 per cent in 1966; 16.5 per cent on corporate profits by 2010 but still 15 per cent on salaries.6 In 1947, taxes on profits and salaries generated 82 per cent of total government revenue. Their share for 2012 was estimated to be only 41 per cent. This remarkable fiscal

---

4. Hong Kong’s “slum dwellers” had increased at an annual rate of 1.83 per cent from 1990 to 2001, compared with an overall average of 0.72 per cent a year for the world’s developed regions. UN-HABITAT, *The State of the World’s Cities Report 2006/2007: 30 Years of Shaping the Habitat Agenda* (London: Earthscan, 2006), Table 1: Population of slum areas at mid-year, by region and country; 1990, 2001 and slum annual growth rate, p 181–2; Table 2: Slum population projections, 1990–2020, 193.


6. There are similarly liberal property taxes and rates, and minor excise duties. For a comprehensive history of Hong Kong taxation, see Michael Littlewood, *Taxation without Representation: The History of Hong Kong’s Troublingly Successful Tax System* (Hong Kong: Hong Kong University, 2010).
arithmetic is the background to the debates over tax reform discussed below.

But *laissez faire* and fiscal conservatism were not the typical legacy of British rule in a former colony. The first stage of decolonization was very often a campaign to abandon free trade and to protect local producers against United Kingdom exports, and, historically, a colony’s fiscal autonomy began with the right to impose tariffs. Once self-government had been achieved, most former colonies rapidly expanded the state’s role in economic development in line with the economic fashions that prevailed, almost everywhere except in Hong Kong, until the 1980s. Furthermore, the United Kingdom itself actively encouraged its colonial empire to adopt interventionist and protectionist policies after World War II, as will be discussed later.

Hong Kong, however, declined to abandon its *laissez faire* traditions, principally because of its political constraints. In the absence of even indirectly elected members of the legislature until 1985, the government relied on political collaborators co-opted from the Chinese community who came overwhelmingly from the business and professional elite. Rewarding these groups created a dilemma. Generous government aid for business might provoke political unrest if social services continued to be minimal. Welfare spending could not rise, however, without alarming business interests about the tax implications. The solution was “non-interventionism”: minimal state involvement in economic and social affairs. The elite would enjoy low taxes and small government but no direct financial aid, while the official commitment to *laissez faire* but restricted social services seemed acceptable to the public because it set limits to pro-business policies. This “non-interventionism” required a degree of informal but almost complete autonomy from London’s control, this chapter will show. The history of how and why this highly unusual colonial relationship developed is of considerable relevance to

---


8. The political importance of *laissez faire* is discussed in detail in Leo F. Goodstadt, *Uneasy Partners: The Conflict between Public Interest and Private Profit in Hong Kong* (Hong Kong: Hong Kong University Press, 2009), 2nd ed., 12–13 and chapter VI.
contemporary Hong Kong and discussions of the implementation of the “high degree of autonomy” promised by the Basic Law.9

This chapter will review three aspects of Hong Kong’s fiscal autonomy: revenue, expenditure and the reserves. The analysis will assess how decentralization of fiscal authority was achieved in the colonial era. It will explore the impact of autonomy on Hong Kong’s economic development. Finally, an attempt will be made to sum up the economic and social costs and benefits of fiscal autonomy under British rule.

The China factor

From the very start of British rule, London believed that “Methods of proceeding unknown in other British colonies must be followed in Hong Kong.”10 The extent of Hong Kong’s effective freedom from United Kingdom control, especially in external affairs, was probably unique in colonial history.11 For example, Hong Kong was in direct charge of its “foreign” relations (i.e., with China), for most of the post-1949 period. Even after the start of direct Sino-British negotiations over Hong Kong’s future and the management of the transition to 1997, Hong Kong had far more control over the diplomatic process than has been generally realized.12 For example, the colonial administration was dealing directly with foreign trading partners from the 1930s, and in 1968 London made a last, abortive attempt to recover control over such negotiations. In the meantime, the colony’s manufacturers had beggared the United Kingdom textile industry. Similarly, Hong Kong consistently evaded enforcement of trade and exchange controls essential to the defence of the British pound and played a major role in bringing the old, “imperial” Sterling Area to an end. In consequence, it was free to develop its role as

10. Lord Stanley (Secretary of State for the Colonies) to Sir Henry Pottinger (Governor), 3 June 1848, cited in G. B. Endacott, Government and People in Hong Kong, 1841–1962: A Constitutional History (Hong Kong: Hong Kong University Press, 1964), v.
11. The evidence for this assertion and the examples that follow is presented in Goodstadt, Uneasy Partners, chapters III and IV.
an international financial centre able to supply China’s currency needs throughout the Cold War.

In striking contrast to other British territories, Hong Kong did not begin to comply with the United Kingdom’s commitments of 1943 and 1948 to introduce constitutional reform throughout its colonial empire until minimal, indirect elections to the legislature in 1985. To the embarrassment of successive British governments, the colonial administration delayed implementation of London’s instructions for reforms in labour and social policies until the 1970s.

The economic foundations of Hong Kong’s freedom from London’s control were crucial. Most colonial territories were integrated into the United Kingdom economy and the Sterling Area, and they were dependent on London’s financial and commodity markets. Hong Kong, however, never accounted for more than an insignificant proportion of British overseas investments, either in China or worldwide. It was an extension of the Chinese economy, and the colony’s open, multi-national financial system and its international trade prospered by serving the Mainland’s needs. The China factor made an overwhelming case for leaving the colonial administration free to decide policy, especially in economic and financial matters.

**A “mini-max” model**

The extent – and even the existence – of this freedom from London’s control has been widely disputed. There is a general belief that economic exploitation was the overwhelming aim of colonial rule, reinforced by a conviction that race and culture must have ensured that expatriate officials would put their motherland’s interests first. Autonomy also seemed constitutionally impossible. Legally, the United Kingdom had total control over the Hong Kong government, leading to the assumption that London, as a matter of course, would want to exercise its power to direct colonial officials, with Hong Kong subordinated to a larger,


15. Benny Tai Yiu-ting, “The Development of Constitutionalism in Hong Kong”, in *The New Legal Order in Hong Kong*, ed. Raymond Wacks (Hong Kong: Hong Kong University Press, 1999), 42.
British international strategy. The public record was also a misleading guide to relations with the United Kingdom. The colonial administration’s adversarial and frequently arrogant responses to London are to be found principally in official archives. These unpublished sources reveal that exchanges were often “more like diplomatic negotiations between two sovereign states than the compliant obedience by an inferior to orders from above.”

Autonomy itself was, nevertheless, a general characteristic of the way that the United Kingdom ruled its colonies. The relationship between London and a dependent territory was based on what might be termed the “Lugard model” of colonial management. The United Kingdom steered clear of the centralized administrative systems adopted by other European imperial powers, declared Lord Lugard, one of the most distinguished British colonial rulers (and a former Governor of Hong Kong). Instead, there was a minimum both of intervention by United Kingdom ministers and of supervision by officials in London, which left maximum scope for colonial administrations to frame their own policies to meet local needs.

The Lugard model defined the different roles of the three parties involved in a colony’s management under normal conditions.

- **Government ministers in London.** They alone took responsibility before the British Parliament for policy and political decisions. But very few came into office with personal experience of colonial issues, and ministers had little incentive to concern themselves with an individual territory unless some crisis aroused the interest of the British Parliament (which, in Hong Kong’s case, was rare).

---

20. The authoritative study of colonial administration and its relevance to Hong Kong’s history is by Norman Miners. Except where otherwise indicated, the analysis here relies on his *Hong Kong Under Imperial Rule, 1912–1941* (Hong Kong: Oxford University Press, 1987), 34–40, 47, 48–9, 124–5.
• *The Colonial Office in London.* Its staff were responsible for monitoring colonial territories and advising ministers. They did not make policy, nor did they act as “enforcers” or “inspectors.” Even at the height of the imperial age, the Colonial Office lacked the manpower to supervise colonial developments in any detail. In the 1960s, London’s oversight was further reduced when the Colonial Office was absorbed into the Foreign and Commonwealth Office, and professional diplomats soon replaced officials whose careers had been spent in dealing with colonial governments.\(^{22}\)

• *Colonial administrations.* Within each colony, expatriate British officials took full responsibility for making as well as implementing policies, and for their political management. Constitutionally, a Governor could be given instructions by London. But other colonial officials were not employed by the United Kingdom nor were they under the direction of its civil servants, and so felt no sense of obligation to the United Kingdom.\(^{23}\) London officials recognized that their leverage depended, almost entirely, on exploiting the infrequent political and economic crises that Hong Kong officials could not manage unaided.\(^{24}\)

This model was the basis of Hong Kong’s relationship with London throughout the 20th century, and it shaped the attitudes and behaviour of the colony’s senior officials. They were, according to Lord MacLehose, a former diplomat turned Governor, “heirs to the Colonial


\(^{23}\) This point was made by Sir David Trench, who claimed that Hong Kong officials were prepared to “question or even change British positions and practice, even go against British interests.” Tsang, *Governing Hong Kong*, 177.

\(^{24}\) For example, even after the violent anti-colonial campaign inspired by China’s Cultural Revolution in 1967, London only managed to induce the colonial administration to introduce a limited number of the labour reforms that as long ago as 1958 Hong Kong had agreed with the Colonial Office should be enacted. (For details of the broken pledges, see Hong Kong Public Records Office (HKRS hereafter) 1017-4-4 “General Conditions of Employment Legislation re …”; M. D. I (later Sir Michael) Gass, Chief Secretary, *Hong Kong Hansard (HH hereafter)*, 10 April 1968, 234, 236.) London’s original assumption that rising political expectations in Hong Kong would force the colonial administration to fall in with demands for more “modern” tax and spending policies is discussed later in this chapter.
Service attitude of muted hostility towards London.” In the first half of the century, as a leading scholar has shown, “various strategies were used to circumvent actual or anticipated Colonial Office opposition”, including successful attempts to ignore correspondence from London or to conceal from London sensitive policy decisions. This pattern of behavior continued throughout the rest of the century. On a wide range of political, social, commercial and financial issues, the colonial administration took the view that London’s policies and instructions were irrelevant or misconceived and, therefore, ought to be resisted, by deceit and direct insubordination if necessary.

After World War II, the United Kingdom directed colonial governments to adopt taxation and budgetary measures that would promote economic and social development. As a result, a substantial “ideological” gap emerged between London and Hong Kong, which was at the heart of the colonial administration’s efforts to win fiscal autonomy, as this chapter will show. The influx of refugees from the Chinese Mainland in the 1940s provoked a Malthusian response within the colonial administration and strengthened opposition to any form of “welfarism”. In addition, officials totally rejected Keynesian economics, arguing that the small, open economy had its own automatic adjustment mechanism. The result was to intensify the colonial administration’s opposition to London’s demands for fiscal policies in Hong Kong that would directly advance economic and social progress.

**Tax and welfare**

Resistance to London proposals for tax reforms was long standing. In 1922, all colonial administrations had been instructed to commence the introduction of modern tax systems, and most colonies tried to comply

with this directive. Hong Kong did not. The United Kingdom’s election of a Labour Government in 1945 was followed by instructions to colonial administrations to draw up development programs, and colonies were particularly encouraged to use fiscal measures to promote local industries. Colonial administrations would have to shoulder a substantial share of these projects’ costs, London explained, because with the United Kingdom’s war-ravaged economy, the British public was enduring severe austerity and would be reluctant to underwrite economic and social projects in colonies where the affluent classes paid virtually nothing by way of tax. Colonial administrations were not being asked to imitate the British “welfare state”, however, and London warned that spending on social services was not to crowd out funding for economic modernization. This linking of tax reforms to economic and social progress enjoyed bipartisan support in the British Parliament in the 1950s and was to command a powerful international consensus among economists and development specialists for the rest of the century.

**Local reformers**

In the immediate post-war period, Hong Kong had seemed likely to fall in with London’s demands. The colonial administration had started to introduce similar measures on its own initiative even before World War II. The foundations of a modern manufacturing economy were then being laid, and officials and business leaders had been ready to retreat from *laissez faire*. In 1935, an official commission urged the government to accept responsibility for economic development and to use fiscal measures to promote local manufacturing. It called for greater commitment to social progress, which, the commission argued, Hong Kong could afford to finance through increased taxation.

29. (1) Commissioner of Inland Revenue (E. W. Pudney) to Financial Secretary, 8 January 1947, 1. HKRS hereafter 41-1-2769(1) “INLAND REVENUE ORDINANCE 1. General question of imposing etc … .”

30. For details of London’s initiatives and Hong Kong’s response, see HKRS41-1-6032, “Colonial Industrial Development — Legislation to encourage....”


32. Report of the Commission appointed by His Excellency the Governor of Hong Kong to Enquire into the Causes and Effects of the Present Trade Recession and Make Recommendations for the Amelioration of the Existing Position and for the Improvement of the Trade of the Colony (Hong
Implementation of these measures did not begin until 1937 and the start of Japan’s open war against China, which was followed first by an influx of 650,000 refugees and then by the colony’s invasion. In 1938, Hong Kong accepted responsibility for the well-being of the new arrivals. The Governor, Sir Geoffry Northcote, declared that the “only proper way” to raise the revenue “to cure [Hong Kong’s] complexity of social ills” would be an income tax “assessed in accordance with ability to pay.” The Financial Secretary, Sydney (later Sir Sydney) Caine, pointed out that the additional revenue might also finance investment incentives. The government had no difficulty in overcoming the business community’s misgivings.

In 1944, officials in London planning the restoration of British rule recommended the introduction of a progressive tax system “to distribute the burden of taxation among the community according to its ability to pay.” In 1946, Hong Kong set up an official Taxation Committee dominated by business interests, which concluded that an income tax would achieve “the most equitable distribution of the burden of taxation and ... is inevitable here if the budget of the Colony is to be balanced and if Hong Kong is to conform to the standards properly expected in the middle of the 20th century.” In 1947, the leading representative of the Hong Kong business elite, Man-kam (later Sir Man-kam) Lo, declared that the community’s stalwart record under the Japanese justified the introduction of tax-financed, social development programs. For its part, London saw tax reform as inevitable because Hong Kong was expected to seek generous United Kingdom aid for post-war economic and social reconstruction, to which it was only fair that the colony should contribute through a modern income tax, particularly given “the large incomes

34. *HH*, 9 November 1939, pp. 182, 185–7, 189.
36. Acting Financial Secretary to Governor, 7 September 1946; Colonial Secretary to Governor, 8 September 1946. HKRS41-1-802 “TAXATION COMMITTEE 1. Setting up of a ... .”
37. His speech quoted approvingly the pre-war Governor’s justification for funding better social services through direct taxation. *HH*, 1 May 1947, 139.
enjoyed by some members of the community” and “the lavish manner” in which they were spent.\textsuperscript{38}

**Foreign finance not welcome**

But enthusiasm for reform changed abruptly with the arrival of a new Governor, Sir Alexander Grantham, in 1947. He believed that the Chinese population’s priority was making money and that it had no interest in political or social reform. Grantham’s conservatism matched the business community’s desire for reassurance as the Chinese Communist Party was advancing to victory on the Mainland. The rest of the largely immigrant population was too concerned with immediate survival to resist the retreat from past promises of reforms.\textsuperscript{39}

The colonial administration was now ready to disregard the entire Colonial Office strategy for economic and social development. Hong Kong refused to take direct responsibility for economic development, thus destroying London’s case for new tax revenues to fund industrial expansion.\textsuperscript{40} It declined to introduce progressive taxation, using the same excuse as it had done in 1922 when first instructed to modernize the tax system: opposition from the Chinese community, and it rejected specific instructions to impose an income tax at levels more comparable with the United Kingdom.

London’s assumption that Hong Kong would be dependent on British development aid and could thus be compelled to comply with Colonial Office instructions for new and higher taxes now proved misconceived. Hong Kong officials had no intention of seeking United Kingdom finance, whether on commercial terms or as development assistance. The colony “does not suffer from lack of capital”, J. J. (later Sir John) Cowperthwaite, a future financial secretary, insisted in 1947. “I am doubtful in any case of the economic wisdom of bringing in outside capital, the return on which leaves the Colony … (just as I am not sure

\textsuperscript{38} (1) Secretary of State for the Colonies to Governor 19 July 1946. HKRS41-1-1233 “TAXATION General Policy regarding … in the Colony.”


\textsuperscript{40} A development committee, set up as instructed in 1946, never drafted a 10-year plan as prescribed by London. Financial Secretary to Colonial Secretary, 27 May 1946; Deputy Colonial Secretary to Colonial Secretary, 22 May 1948. HKRS41-1-796 “COLONIAL DEVELOPMENT AND WELFARE COMMITTEE I. Appointment of … .”
of the long term wisdom of accepting [British official] assistance).”

Furthermore, Hong Kong officials were not prepared to expand the social services because they regarded the bulk of the population as transient immigrants who had no entitlement to publicly financed benefits.

Initially, however, a rise in the rates imposed under the existing but limited system of direct taxation was unavoidable. To cover the costs of Japanese hostilities and the restoration of British rule, the colonial administration had incurred a significant but controversial indebtedness to the United Kingdom Treasury. Until these liabilities were resolved, every aspect of the colony’s public expenditure was subject to British Treasury approval, which both the colonial administration and the business community found extremely inconvenient. Officials persuaded business representatives to tolerate a rise in profits and salaries taxes in order to ensure a balanced budget immediately and to bring Treasury control to an early end. The colonial administration managed to keep the increase below London’s desired benchmark but only after officials had resorted to outright deception of the Colonial Office, distortion of the historical record and withholding of information.

The Colonial Office was to return to the fray in the 1960s (as will be explained later), only to be rebuffed by Hong Kong’s ability to produce budget surpluses almost every year, which made tax increases unnecessary. Thus, the colonial administration’s defeat of the Colonial Office’s tax reforms in 1947 was to prove decisive, and James (later Lord) Callaghan, when Foreign and Commonwealth Secretary, ruefully confessed to the British Parliament in 1974 that Hong Kong’s fiscal autonomy was absolute.

41. Acting Director of Supplies, Trade and Industry to Colonial Secretary, 8 September 1947. HKRS163-5-2 “Colonial Production Colonial Development Corporation & International Bank Loans.”
42. Prevailing 1947–48 attitudes were described by Cowperthwaite when Financial Secretary, HH, 25 February 1970, 366–7.
43. London was claiming repayment of the equivalent of almost a third of total government revenue for 1947–48, a sum which Hong Kong disputed. On the financial and constitutional issues involved, see T. Megarry, Acting Colonial Secretary, HH, 16 October 1947, 291.
44. (1) 8 January 1947 p. 1; (35) Governor to Secretary of State for the Colonies 17 May 1947. HKRS41-1-2769(1).
45. London was totally deceived by a lack of candour in correspondence with Hong Kong recorded in: enclosures (30) and (35); Financial Secretary to Governor, 29 April 1947; (40) Secretary of State for the Colonies to Governor, 7 February 1948 HKRS41-1-2769(1).
... there is a good case for increasing taxation in considerable measure in Hong Kong, but that is a matter for them. The fact that I am not able to issue a directive should not lead [Members of Parliament] to assume that there are not many aspects of the taxation system which could be improved.\footnote{46}

**Declarations of independence**

London had lost the battle over tax reform but, in the immediate post-war years, it appeared likely to retain the right to interfere on the expenditure side. There was a rule that a colony in debt to London would not be freed from British Treasury supervision of its spending before it had proved its fiscal solvency with three years of balanced budgets after its borrowings had been paid off. To the astonishment of both London and Hong Kong itself, the first full year of post-war civilian administration saw a substantial budget surplus.\footnote{47} The health of the public finances seemed beyond dispute. The colonial administration demanded a prompt end to the Treasury’s role, and London agreed to a broad measure of financial devolution based on “consultation rather than control.” As with the campaign over taxation, Hong Kong was less than honest in these dealings with the Colonial Office, which was tricked into conceding more fiscal autonomy than had been envisaged.\footnote{48} For a time, Hong Kong also managed to conceal from London the full impact of the devolution which it had conceded.\footnote{49}

During the 1950s, Hong Kong became anxious to get rid of all obligation to consult the Colonial Office on expenditure and to achieve complete budgetary independence.\footnote{50} There was a serious obstacle, however. London’s established principle was to retain some control over a

47. C. G. S. (later Sir Charles) Follows, Financial Secretary, *HH*, 19 March 1948, 60–1.  
48. The Governor’s tactics included exploiting postal delays. (1) Secretary of State for the Colonies to Governor 1 June 1948; (2) Secretary of State to Governor, 25 September 1948; (3) Governor to Secretary of State, 13 October 1948; (7) Governor to Secretary of State, 30 October 1948. HKRS229-2-1 “FINANCE Financial Policy and Procedure.”  
49. The decision was taken to continue to give London the impression of retaining control by seeking its approval for such trivia as routine staff postings, for example, and allowances for evening classes. Financial Secretary to A.S.6, 15 January 1951. HKRS229-2-1.  
50. Except where otherwise indicated, the analysis of developments in the 1950s is based on I. S. Wheatley to Gibbins, 4 August 1955; J. T. A. Howard-Drake to Mackintosh, 5 October 1955; K. G. Ashton to Hulland/Johnston, 10 July 1956; R. J. Vile, 27 August 1956. UK Public Records Office CO1030/392 “Financial Devolution Hong Kong.”}
colony’s finances until it had established a democratic legislature with a majority of elected members.\textsuperscript{51} That condition seemed an insurmountable obstacle because, by 1952, Hong Kong had persuaded the Colonial Office to exempt it from the programme of democratic reforms which other colonies were introducing.\textsuperscript{52} Some London officials, however, were prepared to argue that in Hong Kong’s case, the lack of constitutional development would prove an advantage.

... certainly better ... than would be a constitution giving the vote and influence to the working classes, as distinct from the business classes, because the working classes might be expected to require more of a welfare state and hence a great increase in government expenditure.\textsuperscript{53}

By the mid-1950s, the Colonial Office had realized that Hong Kong’s finances were no longer under its control, and approval of the annual budget had become “almost a complete formality.” In 1958, the Colonial Office bowed to reality and announced that “the good standing, financial and administrative, of Hong Kong and its Government” justified a switch to “maximum use of the process of informal consultation and reducing routine formalities to a minimum.”\textsuperscript{54} In effect, the colonial administration had ousted London from the budgetary process, which was an astonishing achievement in the absence of representative government.\textsuperscript{55}

Yet, despite Hong Kong’s increasing autonomy during the decade, the Colonial Office continued to argue that the colony’s public expenditure fell short of both economic and social requirements. Grantham explained in early 1952 why he could not accept London’s assessment of Hong Kong’s budgetary needs.\textsuperscript{56} Firstly, additional investment finance was unnecessary, he argued. “Economically, I am inclined to the view

\begin{itemize}
\item \textsuperscript{51} Financial Secretary to Governor, 1 June 1949. HKRS163-1-762 “FINANCIAL DEVOLUTION Correspondence re ... ”
\item \textsuperscript{52} Steve Yui-sang Tsang, \textit{Democracy Shelved: Great Britain, China and Attempts at Constitutional Reform in Hong Kong, 1945–52} (Hong Kong: Oxford University Press, 1988), 192–4.
\item \textsuperscript{53} W. G. Hulland to K. G. Ashton, 29 May 1956. CO1030/392.
\item \textsuperscript{54} (43) Colonial Office to Governor, 4 December 1956 (44) Governor to Colonial Office, 8 May 1957; (46) Colonial Office to Financial Secretary, 22 October 1957. (48) Secretary of State to Governor, 14 January 1958. HKRS229-2-1.
\item \textsuperscript{55} London’s retreat from control between 1948 and 1958 is recorded in Grantham, \textit{HH}, 20 October 1948, 280; Sir Robert Black, Governor, \textit{HH}, 6 March, 1958, 46.
\item \textsuperscript{56} Governor to Secretary of State, 9 February 1952, Sec. 0/2306/51. HKRS229-1-49 “United Kingdom Income Tax Act ... ”
\end{itemize}
that Hong Kong is over-developed”, he insisted. Yet, behind the scenes, his own officials were desperately seeking to persuade employers not to lay off workers during the severe recession that had followed the Korean War embargoes and the loss of the Mainland markets. In addition, increased social spending was unjustified, he claimed. “The vast majority of the population must be regarded as ... temporary visitors who care nothing for the Colony or its welfare and development”, he asserted, and it would be unreasonable to tax permanent residents to provide welfare facilities for the transient majority. Yet, the colonial administration’s latest yearbook on Hong Kong was reporting that “more and more of its inhabitants were reduced to a bare subsistence level.”

Although London officials viewed Grantham’s views as “mediaeval in conception and suffused by special pleading”, they did not demand an immediate change in his expenditure policies. The Colonial Office was convinced that the immigrant majority would inevitably make increasing demands for faster economic growth and better social services. London was confident that the colonial administration would find these pressures irresistible and would then be forced to seek British aid to cover the additional public spending. At which point, London officials calculated (just as they had done in the immediate post-war years), they could insist on the introduction of a proper income tax and other modernizing initiatives.

The Colonial Office’s moment seemed to have arrived in 1960 when the colony’s Financial Secretary, Arthur Clarke, began to fear that the era of regular budget surpluses was about to end. Faced with the possibility of large tax increases, he informed the Colonial Office of his conversion to tax reforms on the eve of his retirement. Without a modern income tax, he confessed, extensive evasion and avoidance were impossible to suppress. Cowperthwaite, his successor, quickly recanted and warned London not to expect any rapid reforms. Yet, he foresaw serious ef-

57. The details are in HKRS1017-3-6 “Provision for Unemployment Relief Schemes ...” and HKRS1017-3-4 “Unemployment Relief.” A note on this latter file shows that an informal committee (including prominent businessmen) was set up in late 1951 to study schemes to relieve unemployment.
58. Hong Kong Annual Report 1951 (Hong Kong: Government of Hong Kong, 1952), 9.
59. See the exchange of minutes within the Colonial Office, 10–18 June 1952. HKRS229-1-49.
60. (1) Financial Secretary to A. N. Galsworthy (Colonial Office), 28 December 1960; (4) Financial Secretary to H. A. Harding (Colonial Office), 17 February 1961. HKRS163-9-142 “Revision of the Inland Revenue Ordinance ...”
forts by the Colonial Office to have tax rates increased to finance the improvement of Hong Kong’s public services and made contingency plans to thwart London’s reforming ambitions. In fact, he succeeded in preserving intact a revenue system that was unashamedly as light-touch as possible in taxing business and the better-off and which was based on minimal government responsibility for economic development and the community’s social well-being.

In the 1970s, mounting criticism of Hong Kong’s political and social arrangements provided ammunition for manufacturers’ lobbies and trade unions overseas demanding protection from exports which, the foreign critics insisted, were produced by sweated labour and child workers. The 1974–79 British Labour government faced considerable discontent among its own members about social and employment conditions in the colony. In 1975, Prime Minister Harold Wilson agreed with MacLehose on a public pledge that Hong Kong would “achieve broad comparability of labour legislation and social welfare with other Asian countries, excluding Japan” by 1980. Once again, Hong Kong was able to avoid complying with the substance of London’s agenda. The 1980 goal was not only vague and undemanding but had been largely met already, Hong Kong managed to claim. Once the Labour

61. (11) Financial Secretary (Cowperthwaite) to E. Melville (Colonial Office), 24 April 1961; (17) Melville to Financial Secretary, 30 May 1961. HKRS163-9-142; M. 2 Deputy Financial Secretary to Financial Secretary, 31 December 1964; (1) Financial Secretary to Commissioner of Inland Revenue 31 December 1964. HKRS163-1-3147 “DIVIDEND TAX”; Financial Secretary to Deputy Financial Secretary, 21 March 1966. HKRS163-1-3391 “PAYROLL TAX.”

62. As set out in such publications as: Association for Radical East Asian Studies, Hong Kong: Britain’s Last Colonial Stronghold (1972) vol. 2, no. 1; Hong Kong: a Case to Answer (Nottingham: Spokesman Books, 1974); Robin Porter, Child Labour in Hong Kong (Nottingham: Spokesman Pamphlet no. 50, n.d).

63. As the colonial administration was well aware. See, for example, (181) London Commissioner telex DIS, “Labour’s Programme for 1976”, 13 December 1976. HKRS1017-3-27 “Parliamentary Questions.”

64. (3) Governor to Secretary for Home Affairs, 15 November 1973; (7) “Notes of a Discussion HE/C for L...11 June 1977”; (27) “Part of HE’s ‘Brief’ in May 1978...” HKRS1017-3-22 “Discussions with Comments by H.E. on Labour Matters;” MacLehose, HH, 6 October 1976, 20.

Party had lost office in 1979, MacLehose felt free to record Hong Kong’s resentment of London’s interventions. He publicly demanded equality and mutual respect in London’s relationship with the colony. “It must be a two-way affair”, he declared, “based on a commercial as well as a political relationship which is felt to be both welcome and mutually beneficial.”

**Savings vs investment**

For the business and professional elite, fiscal autonomy brought its own frustrations. They felt handicapped by the colonial administration’s consistent refusal to provide the low-cost capital, cheap industrial sites and tax incentives available in Singapore, Malaysia and other industrializing economies in Asia. The business elite never reconciled itself to the unforeseen consequences of the refusal to obey London’s instructions to introduce a modern tax system. If low taxes meant that the government lacked the funds to provide adequate housing and social services, how could it afford to subsidize manufacturing?

Seeking development capital overseas was one business community proposal. To its chagrin, it discovered that Hong Kong was disqualified from obtaining cheap development loans from international aid agencies because of its low tax rates. An application to the World Bank, for example, would provoke the response “that Hong Kong could well afford to raise the money itself, either by local loan or by increasing taxation”, predicted Clarke. And, this Financial Secretary later declared, such a verdict would have been correct: “We do not need to borrow.”

The proper solution, business leaders believed, was to run down Hong Kong’s reserves. After World War II, the British Empire’s tradition of building up large reserves held in sterling was widely denounced as a United Kingdom strategy for extracting forced loans from emerging economies themselves desperately short of capital. London accepted

---

66. MacLehose, HH, 10 October 1979, 34.
67. A fuller discussion of this issue, together with the relevant literature, can be found in Goodstadt, “A Fragile Prosperity”: 5–7.
69. Clarke, HH, 29 March 1961, 123.
this criticism and allowed colonial territories to run down their external reserves, which most did. They abandoned balanced budgets and turned to deficit finance for their social and economic development programs, a trend which accelerated as they achieved self-government.\footnote{Albert O. Hirschman, “Economic Policy in Underdeveloped Countries”, Economic Development and Cultural Change, vol. 5, no. 4 (1957): 366; Michael Havinden and David Meredith, Colonialism and Development: Britain and Its Tropical Colonies, 1850–1960 (London: Routledge, 1993), 269–70.} Singapore, for example, financed a new Economic Development Board with foreign assets previously held as backing for the currency.\footnote{Economist Intelligence Unit, The Commonwealth and Europe (London: Economist Intelligence Unit, 1960), 390.}

Hong Kong’s business community was outraged that Clarke refused to follow suit when local industry was complaining of a shortage of finance.\footnote{Stephen W. K. Chiu et al. City States in the Global Economy: Industrial Restructuring in Hong Kong and Singapore (Boulder: Westview Press, 1997), 34, 66.} Instead, the colonial administration sought regular budget surpluses during the 1950s in order to bring the fiscal reserves up to the equivalent of a full year’s recurrent expenditure.\footnote{The controversy and its protagonists are recorded in HH: Clarke, 2 March 1955, 52; 29 February 1956, 91–2; 27 February 1957, 31; 6 March 1958, 47; Lo Man Wai, 21 March 1956, 118; Ngan Shing-kwan, 21 March 1956, pp, 118, 121; C. E. M. Terry, 20 March 1957, 61.} Worse still, the business community argued, these reserves were to be removed from the local financial system and made available to foreign borrowers on the London market. But the government would not budge. Substantial overseas reserves were essential to defend the financial system, officials argued, and currency stability was more important than cheap industrial finance.\footnote{See in particular Clarke, HH, 1 March 1961, 46.}

Bank runs in 1965 provided the colonial administration with the justification it wanted for far higher levels of reserves than comparable economies and for holding these funds overseas. As depositors panicked that year, the government injected liquidity into ailing banks to prevent a collapse of the financial system. For Cowperthwaite, this emergency highlighted the importance of ensuring that the government had ample liquid reserves immediately available to reverse a credit squeeze caused by bank runs during a financial crisis,\footnote{Catherine R. Schenk, “Banking crises and the evolution of the regulatory framework in Hong Kong 1945–1970”, Australian Economic History Review, vol. 43, no. 2 (July 2003): 149–50.} although, in practice, the reserves

75. See in particular Clarke, HH, 1 March 1961, 46.
did not have to be deployed on a substantial scale to meet such situations.\textsuperscript{77} (Nor were they in subsequent crises in later decades.)

The case for financial self-reliance was further strengthened by London’s behavior in the anti-colonial campaign of 1967 inspired by the Cultural Revolution on the Mainland. During the often violent confrontation, Hong Kong “was viewed as an inconvenience in terms of Britain’s overall imperial strategy … [and London’s] deliberations revealed equanimity to the abandonment of Hong Kong.” This unhelpful attitude was highlighted by the Bank of England’s reluctance to give the same sort of practical support against a shortage of banknotes as it had provided during the 1965 banking crisis. The colony’s official reserves financed the solution.\textsuperscript{78} Later the same year, the pound’s devaluation caused a severe crisis in Hong Kong, which the colonial administration was able to overcome through taking charge of the colony’s own exchange rate. The reserves covered the initial losses incurred by the banking system by establishing an independent currency and then underwrote the banks’ considerable exchange risks over the four years that it took to “liquidate” the Sterling Area.\textsuperscript{79}

Hong Kong had taken its autonomy to a new level. One London official, however, warned the colonial administration in 1971 that the “autonomy” and “independence” – his terms – were not cost free. If the colony were to be hit by a monetary crisis, a British rescue could not be taken for granted but would have to “be worked out ad hoc.”\textsuperscript{80} That

\textsuperscript{77} As Cowperthwaite admitted publicly about the 1965 bank runs, \textit{HH}, 24 February 1966, 57. The reserves were not needed to buttress the financial system in 1967 which was the worst political crisis since World War II, according to the data in (1) Accountant General to Financial Secretary, “Local deposits”, 24 January 1969. HKRS229-1-854 “Local Deposits in bank.” There were other severe monetary problems that year, however.

\textsuperscript{78} Catherine R. Schenk, “The banking and financial impact of the 1967 riots in Hong Kong”, in \textit{May Days in Hong Kong: Riot and Emergency In Hong Kong}, ed. Robert Bickers and Ray Yep (Hong Kong: Hong Kong University Press, 2009), 107, 113, 115.


\textsuperscript{80} Alastair Mackay (British Treasury) to Financial Secretary, 22 July 1971. HKRS163-9-217 “(A) Meeting of Senior Commonwealth Finance Officials 1970. Sterling Area Balance Of Payments – Developments and Prospects To Mid-1971 (B) Overseas Sterling Area Countries Statistics.”
warning did not deter the colonial administration from expanding its free-standing, international financial centre during the 1970s by every means except tax concessions.

In the 1970s, it seemed possible that the lobbying for cheap industrial capital might finally prevail by procuring subsidies and other state aid for manufacturers. A limited scheme to assist small industry was started but made little progress and was soon wound up, not surprisingly given the absence of any convincing evidence that industry had ever been impeded by a shortage of capital.\footnote{H. C. Y. Ho, \textit{The Fiscal System of Hong Kong} (London: Croom Helm, 1979), 62; (33) H. A. Angus, Director of Commerce and Industry, 4 June 1959. HKRS163-1-2299 “The Industrial Bank Committee – Proceedings of ….”} Paradoxically, once Hong Kong’s manufacturing capacity had been transferred to the Mainland in response to Deng Xiaoping’s 1978 reforms, the long-running refusal to employ the reserves to support economic development was reversed. Financial and related services became the leading sector in the economy, and the Financial Secretary was given sweeping statutory powers to use the reserves to ensure the stability of the financial system and the survival of its participants.\footnote{The reserves had earlier been brought under the Exchange Fund to whose ordinance (cap. 66) was added: s. (1A) “… the Financial Secretary may, with a view to maintaining Hong Kong as an international financial centre, use the Fund as he thinks fit to maintain the stability and the integrity of the monetary and financial systems of Hong Kong.”} No manufacturing industry or factory enterprise had ever been so favored in the past.

**Social costs but business benefits**

Fiscal autonomy was a crucial factor in the creation of contemporary Hong Kong. Without the freedom to manage the economy and its fiscal and financial affairs independently of British priorities and preconceptions, Hong Kong would not have been able to develop its own economic systems and financial institutions. These delivered unbroken real GDP growth annually from 1961 to 1998. But autonomy came at a price, and, on the whole, officials cooperated with the business community in shifting the cost on to the general public.

The freedom to retain low tax rates proved the most effective barrier to the adoption of the interventionist economic policies which prevailed throughout the rest of Asia until the worldwide retreat from state planning and regulation that began in the 1980s. As a result, Hong
Kong budgets were not used to boost consumption or revive investment if growth faltered, and the government never allocated sufficient resources to provide the infrastructure or public services that would meet long-term needs. London’s willingness to abandon its normal principle of retaining financial oversight until a colony had established representative government meant that there was no countervailing power within Hong Kong to ensure that such business priorities did not dominate budgetary policy.

The colonial administration was free to join forces with the business community to postpone social spending for several decades. The costs are being borne by present-day Hong Kong. For example, free and compulsory primary schooling was blocked by the colonial administration until 1971. Three years of compulsory secondary education was successfully opposed by employers until 1978 to preserve a supply of child labor for their factories. The result has been to limit employment opportunities for the ill-educated, older generation of workers as Hong Kong switched from manufacturing to service industries. In 2005, the official estimate was that 37 per cent of all welfare recipients had received no education at all, while another 42 per cent had only been to primary school.

In 1967, Cowperthwaite killed off an official proposal to introduce social insurance, including a central provident fund, by denouncing it as a plot against profits. An attempt by MacLehose to introduce a social security programme got off to a promising start when it won the support of a leading business spokesman, Dr S. Y. (later Sir Sze-yuen) Chung, in 1976. But a business opposition campaign was mounted, and in 1981 MacLehose publicly surrendered, and retirement benefits disappeared.

84. Francis Tien Yuan-hao, HH, 30 March 1978, 696; Kenneth Topley, Director of Education, HH, 12 April 1978, 737.
from the policy agenda once again. In 1993, the government proposed an old-age pension scheme but was thwarted once more by business opposition. Post-1997, officials rejected pleas to revive this plan which would have filled the gap until retirement benefits become payable under the Mandatory Provident Fund (MPF) set up in 2000. The result has been to deprive a high proportion of the current labor force of financial independence in their old age. An official 2009 survey of the over-60s reported that less than 20 per cent had managed to qualify for some form of retirement benefit; the rest would have to rely on means-tested social security.

By the end of British rule, the colonial administration had achieved surpluses in 45 budgets since 1946 through deliberate under-spending on housing and social services and, business would argue, neglect of industry’s needs. Whether the refusal to draw on the reserves to subsidize investment damaged Hong Kong’s economic growth is open to considerable doubt. The statistical evidence demonstrates that Hong Kong’s performance was not inferior to Singapore or other high-growth Asian economies whose governments have played a leading role in industrial development. If investment and working capital were in such short supply, it is fair to ask, why was manufacturing able to expand at breakneck speed from one decade to the next? How, too, were Hong Kong industrialists able to finance a new era of high-speed growth after 1978 through establishing a manufacturing base in Guangdong prov-


88. Taking the Worry out of Growing Old: A Consultation Paper on the Government’s Proposals for an Old Age Pension Scheme (Hong Kong: Education and Manpower Branch, 1994), 12–3, Appendix VII.

89. Thematic Household Survey Report no. 40 Socio-demographic Profile, Health Status and Self-care Capability of Older Persons (August 2009), Table 3.17a “Older persons by whether had retirement protection/type of retirement Protection”, p. 59.


91. In the absence of adequate GDP data for the earlier period, domestic exports are a good indicator of industrial growth because the overwhelming bulk of factory output was shipped overseas. Their annual growth rates were: 1950s, 136 per cent; 1960s, 17 per cent; 1970s, 19 per cent. Goodstadt, Profits, Politics and Panics, 68, 163.
ince, where their factories employed five million workers by the end of the century, while Hong Kong’s financial services also boomed as they provided 55 per cent of China’s total USD220 billion foreign direct investment in the same period?  

In retrospect, the overwhelming priority given to the reserves can be defended by their contribution to the growth of Hong Kong’s international financial centre which made possible its transition from dependence on manufacturing to a flourishing post-industrial Asian business centre. Recurrent financial crises and market collapses that ended only in 1986 strengthened the case for building up the reserves through annual budget surpluses. It can be argued, however, that the buoyant reserves encouraged official complacency about the quality of financial regulation. Between 1965 and 1987, all ailing financial institutions were bailed out and markets stabilized at a substantial cost to the reserves held with the Exchange Fund and which was not disclosed to the public. In this way, the government could conceal the true price paid for its monetary mismanagement. These rescue exercises, made necessary by regulatory incompetence, reduced the resources available for economic and social programs. For example, funding for bank restructuring in the last major banking crisis of 1982–86 was equivalent to more than half the annual education budget in the mid-1980s.

**Conclusions**

Reluctance to introduce tax reforms has been common throughout the Third World, where the association of political power with personal wealth creates a formidable anti-tax lobby. In Hong Kong’s case, the colonial administration bought political support from the business community by postponing crucial social investment for several decades at the expense of the community’s well-being. The United Kingdom must share much of the responsibility for this decision, this chapter has

---

indicated. The Colonial Office normally insisted on maintaining fiscal oversight in the absence of political reforms because London officials knew that, in colonial territories, autonomy without adequate representation of the public within the political system meant that the community’s well-being was unlikely to be a primary fiscal consideration.\textsuperscript{96}

In retrospect, London’s failure to limit Hong Kong’s fiscal freedom and prevent the interests of the business and professional elite from taking priority over the community’s well-being did less harm than might have been expected. For a start, experience elsewhere in the British Empire demonstrates that a lack of fiscal autonomy was a serious obstacle to economic growth.\textsuperscript{97} Furthermore, Hong Kong’s people seem to have accepted that the colonial administration kept an acceptable balance between the interests of the general public and the business community, because sustained economic growth was accompanied by much lower levels of political unrest and social discontent than in most other British territories and Asian societies.\textsuperscript{98} In terms of Hong Kong’s future, what better endorsement of the fiscal autonomy won by the colonial administration could there have been than the Chinese government’s decision to give it a new lease of life in the Basic Law, together with the distinctive brand of capitalism which fiscal autonomy had made possible?

\textbf{Author’s note}

A substantial portion of the original research and the preliminary analysis for this chapter was undertaken while I was a Research Fellow at the Hong Kong Institute for Monetary Research. The Institute has no responsibility for the analysis or the views which are presented here.

I am greatly indebted to the Government Records Service, and in particular to Mr Bernard Hui Sung-tak and his colleagues in the Hong

\textsuperscript{96} Despite the British preference for devolving power to colonial administrations, London was supposed to actively intervene to protect the interests of the individual and the general public in colonies without representative government. The Colonial Office record in discharging this responsibility in Hong Kong before World War II was unimpressive. (Miners, Hong Kong Under Imperial Rule, 282–3). This chapter has shown that London’s performance did not improve in this regard during the post-1945 period.

\textsuperscript{97} The adverse effect on economic development where colonies did not have such autonomy is illustrated in Anne Booth, “Four Colonies and a Kingdom: A Comparison of Fiscal, Trade and Exchange Rate Policies in South East Asia in the 1930s”, Modern Asian Studies, vol. 37, no. 2 (May, 2003): 436–7 in particular.

\textsuperscript{98} On the absence of unrest, see Benjamin K. P. Leung, Perspectives on Hong Kong Society (Hong Kong: Oxford University Press, 1996), 148.
Kong Public Records Office, for helping me to retrieve the unpublished government files cited in this chapter.

References


Goodstadt, Leo F. Uneasy Partners: The Conflict between Public Interest and Private Profit in Hong Kong. Hong Kong: Hong Kong University Press, 2009, 2nd ed.


Littlewood, Michael. Taxation without Representation: The History of Hong Kong’s Troublingly Successful Tax System. Hong Kong: Hong Kong University, 2010.


Government publications


Report of the Commission appointed by His Excellency the Governor of Hong Kong to Enquire into the Causes and Effects of the Present Trade Recession and Make Recommendations for the Amelioration of the Existing Position and for the Improvement of the Trade of the Colony. Hong Kong: Noronha & Co., 1935.


Unpublished government documents

Public Records Office, London

CO1030/392 “Financial Devolution Hong Kong.”

Public Records Office, Hong Kong

HKRS41-1-796 “COLONIAL DEVELOPMENT AND WELFARE COMMITTEE 1. Appointment of…”

HKRS41-1-802 “TAXATION COMMITTEE 1. Setting up of a…”

HKRS41-1-1233 “TAXATION General Policy regarding…in the Colony.”

HKRS41-1-2769(1) “INLAND REVENUE ORDINANCE 1. General question of imposing etc…”

HKRS41-1-6032 “Colonial Industrial Development — Legislation to encourage…”

HKRS146-4-18(10) “INTERNATIONAL LABOUR ORGANISATION Annual reports on Application of International Labour Conventions.”

HKRS163-1-762 “FINANCIAL DEVOLUTION Correspondence re…”

HKRS163-1-2299 “The Industrial Bank Committee – Proceedings of…”
HKRS163-1-3147  “DIVIDEND TAX.”
HKRS163-1-3391  “PAYROLL TAX.”
HKRS163-5-2   “Colonial Production Colonial Development Corporation & International Bank Loans.”
HKRS 163-9-142 “Revision of Inland Revenue Ordinance...”
HKRS163-9-486 “Social Security – Implications of Change in HK Status-Quo ...”
HKRS211-2-20  “Financial Policy.”
HKRS229-1-49  “United Kingdom Income Tax Act...”
HKRS229-1-854 “Local Deposits in bank.”
HKRS229-2-1   “FINANCE Financial Policy and Procedure.”
HKRS1017-3-4  “Unemployment Relief.”
HKRS1017-3-6  “Provision for Unemployment Relief Schemes ...”
HKRS1017-3-22 “Discussions with Comments by H.E. on Labour Matters.”
HKRS1017-3-27 “Parliamentary Questions.”
HKRS 1017-4-4 “General Conditions of Employment Legislation re.”
CHAPTER FIVE

Revisiting the Golden Era of MacLehose and the Dynamics of Social Reforms

Ray Yep and Tai-lok Lui

Introduction

Colonial governance under Governor Murray MacLehose (1971–82) was widely perceived as a period of benign colonial rule, the golden era of progressive reforms, and the decade when the local Chinese community developed a new sense of belonging and a local identity. The tenure of MacLehose’s governorship, the longest of all Governors since 1842, was extended twice, and his retirement was warmly marked by almost all concerned parties, including the New China News Agency. The so-called “MacLehose era” has been fondly remembered as a period marking a turning point in colonial rule in Hong Kong and in socio-economic development in the post-war decades. The arrival of MacLehose in November 1971 “heralded the beginning of a decade of political stability, economic prosperity and greatly expanded social policy outputs.”

Scott alerts us to the institutional basis of the launching of social reforms by the colonial bureaucrats: “The more successful the economy, the less economic elites could criticize or seek to determine the actions of the bureaucracy. Autonomy from Britain and China also increased since neither country showed much interest in the territory once the

1. Lianxing Zhang, Xianggang ershiba zongdu (Twenty-eight governors of Hong Kong) (Beijing: Chaohua chubanshe, 2007), 328.
2. For example, it was suggested that the "new policy under MacLehose, with its astute publicity campaigns, gradually earned it a caring reputation": Steve Tsang, A Modern History of Hong Kong, 1841–1997 (Hong Kong: Hong Kong University Press, 2004), 205.
3. Ian Scott, Political Change and the Crisis of Legitimacy in Hong Kong (Hong Kong: Oxford University Press, 1989), 127.
1966–7 disturbances had passed." An often-heard refrain is that the initiation of the social reforms carried out by the colonial government was due to the commitment of a significant character. But is MacLehose, his personality and his vision of social reform the only answer to the question concerning changes in colonial rule and the launching of social reforms in Hong Kong in the 1970s? We argue that his initiatives have to be understood within a broader picture of domestic concerns as well as the interactions between Hong Kong and London. In the following discussion, we contend first that, like most public administrators, MacLehose made policies on the basis of social policies that had already been started by his predecessor, David Trench. More importantly, few would recognize the discrepancy between his original ideas for reforms announced in 1972 and the actual program implemented under his governorship. There was, indeed, a sudden leap in the scope and pace of reforms after 1976. But the impetus behind this acceleration in reforms was not the Governor’s vision; rather it was initiatives of the Foreign and Commonwealth Office (FCO), as its document, *Hong Kong Planning Paper*, indicates. Contrary to popular perception, MacLehose, who was bound by local constraints, appears to be a reluctant reformer. His inclination to defend his vision of the colony’s interests brought him into heated exchanges and altercation with colleagues at the FCO, who were driven by different political calculations and strategic concerns back home. This snapshot of exchanges, interaction, and confrontation between the colony and the sovereign power thus provides us with an invaluable window for understanding the scope of autonomy and the perimeter of action available to the Governor. Space here does not permit us to review the entire range of reforms proposed in the Planning Paper; therefore, in the following discussion, we confine ourselves to the debate on the issue of social security reforms.

**Hong Kong before and after MacLehose’s appointment**

Disturbances and riots in 1966 and 1967 were critical events that facilitated the government’s response to a rapidly changing social envi-

---

4. Ibid., 129.
Yet, it is important to recognize that the first major attempt to review various state provisions for social services was carried out before 1967. For instance, the White Paper, *The Development of Medical Services in Hong Kong*, and the working party report entitled *Review of Policies for Squatter Control, Resettlement and Government Low Cost Housing* were published in 1964. This was followed by the White Papers on education policy and aims and policy for social welfare in Hong Kong in 1965. Following publication of the colonial government’s first White Paper on social welfare, Lady Williams of the University of London was invited “to visit Hong Kong ‘for the purpose of advising the Government whether a survey of social welfare services in Hong Kong would be feasible and valuable.’” A working party was set up in 1966 to look into matters concerning the idea of establishing some kind of social security system and its report was published in 1967. With hindsight, such official reviews of the changing needs of Hong Kong people and the role of government in the provision of services were rudimentary and could hardly be described as signs of a fundamental change in the colonial government’s approach to state provision. However, the fact that they were carried out in 1964–5 is indicative of the colonial administration’s growing awareness of emerging social needs and of the need to build up an institutional structure, despite an emphasis on the contribution of the voluntary sector in meeting such expectations. Policy review, planning, and systematically administered reform initiatives had begun before 1967. Long before the appointment of MacLehose to replace Governor David Trench in 1971, serious thought had been given to how the colonial government should deal with the social needs of a growing population that, unlike previous waves of migration triggered by political turmoil in mainland China, was set to stay permanently.

The point to note is that, contrary to the popular belief that most of the important social reforms in the postwar decades were responses to the disturbances in the mid-1960s, there were continuities in colonial

7. For a brief survey of changing government policies on social services, see Jones, *Promoting Prosperity*, Chapter 6.
governance before and after the riots. The same can be said about govern-
ment policy in the 1960s and the 1970s. MacLehose’s major policy achievements included consolidation of the “four pillars”, namely public housing, education, medical and health services, and social welfare, as well as the establishment of the Independent Commission Against Corruption, reorganization and reform in the civil service, and community building by launching various campaigns at the grass-roots level and the creation of mutual aid committees. His ambitious Ten-Year Housing Program (which was the driving force for the development of New Towns), the introduction of nine-year, free, universal education, the building of partnerships with the voluntary sector in providing welfare services, and the massive success in combating corruption were perceived as the foundation of a new social order for Hong Kong society. Yet, that said, there is little evidence that these policy initiatives marked a major break from earlier practices. Furthermore, not all these initiatives were completed successfully. For example, the Ten-Year Housing Program failed to meet its target. As stated in MacLehose’s policy address, the inadequacy and poor condition of housing was seen as “one of the major and constant sources of friction and unhappiness between the government and the population”, and it was the intention of his reform program to address the public’s grievances by providing them with improved accommodation. However, it was also the MacLehose era that witnessed the emergence and proliferation of community conflicts related to housing issues. The MacLehose administration was not quite what it is in popular memory.

The following analysis is primarily based on the newly released archives available at the British National Archives. The British admin-

10. For a summary of MacLehose’s policy initiatives, see Scott, Political Change and the Crisis of Legitimacy, Chapter 4.
11. As already noted, reviews of government policy on housing, education, medical and health services, and social welfare were carried out in 1964–5. Attempts to deal with corruption in the police force were also carried out prior to MacLehose’s appointment. In fact, it was the result of such efforts that brought about the arrest of Chief Superintendent Peter Godber for corruption in the early 1970s.
13. Tai-lok Lui and James Kung, Chengshi zongheng: Xianggang jumin yundong ji chengshi zhengzhi yanjiu (City unlimited: housing protests and city politics in Hong Kong) (Hong Kong: Wide Angle Press, 1985).
istration follows the 30-year rule in releasing official documents, and thus exchanges and communications between London and Hong Kong in the mid-1970s are now available for consultation. While this new documentary evidence allows us to revisit and explore the debate and process of social reforms under the governorship of MacLehose, one should beware the official nature of these records and the discretion of the British government in releasing these documents.

The MacLehose framework

As we have emphasized, there were both continuities and discontinuities in terms of the response of the colonial administration to Hong Kong society before and after the disturbances in the mid-1960s. This was most evident in the departing Governor David Trench’s second-last dispatch to the Secretary of State for Foreign and Commonwealth Affairs and the new Governor Murray MacLehose’s first to London. In his dispatch dated 23 April 1970, Trench gave an overall view of Hong Kong’s developments in 1969 and then noted, referring to an issue very likely to have been of concern to London after the 1967 disturbances, the colony’s vulnerability and how its very existence depended on the maintenance of confidence:

Nevertheless, Hong Kong socially, politically and economically is pre-eminently a community that depends on confidence. On all three points we are vulnerable and it is essential that, with the backing of Her Majesty’s Government in the United Kingdom, the Government of Hong Kong should continue, albeit with the minimum of provocation, to be firm in resisting any encroachment on the interests of the people. A loss of confidence could only too easily be generated by the successful exploitation of social and administrative problems by the Communists, or an erosion of our export markets by overseas interests.14

In a report (dated 17 February 1971) prepared by J. R. A. Bottomley, summarizing the key points of his conversation with the Governor when he visited Hong Kong in early 1971, it was suggested that “an important element in the Hong Kong situation was the confidence felt by the mass of the people there that the Hong Kong Government were willing and able to protect the interests of the inhabitants of the Colony.

... The Governor was inclined to question whether we took sufficient account of this kind of consideration when formulating our policies.” Trench was referring to both the people’s confidence in the capability of colonial governance as well as the colonial regime’s ability to convince the people that it could deliver policies to safeguard their interests. The latter was the key condition to bring about the former (as an outcome). This, in turn, relied upon London’s willingness to recognize the interests of Hong Kong society. MacLehose was equally conscious of this confidence issue. As we shall see in the following discussion, which is largely based upon his first, annual Hong Kong dispatch, dated 1 January 1973, the question of confidence was central to his work of administration, planning, and governance. He began his annual reporting by highlighting the vulnerability of Hong Kong to external forces: “Its four million inhabitants and their government are still dependent on the one hand for their livelihood and revenue on the growth of export industries, and on the other for their very existence, on the policy of the Chinese Government.” The China factor that he emphasized came to constitute an important component of his overall picture of how to govern Hong Kong. It is important to note that, from MacLehose’s perspective, the focus was less on China as a source of internal political threats or challenges to the colonial authority, but rather on China’s role in determining Hong Kong’s longer-term political future.

China was then undergoing rapid changes in its participation in international affairs and organizations, returning to social and political order and effective leadership from the stormier days of the climax of the Cultural Revolution, and rebuilding diplomatic relations with the Western world. Such changes created a new environment for working out new visions of planning for Hong Kong’s social development. Indeed, as early as late 1971, when MacLehose was preparing documents on “The Guidelines for the Governor Designate, Hong Kong”, he noted: “We

16. Andrew Christopher Stuart, who was the head of the Hong Kong and Indian Ocean Department of the FCO, recognized that MacLehose was very conscious of the confidence factor in handling diplomatic relations with China. See “BDOHP interview: Stuart, Andrew Christopher”, http://www.chu.cam.ac.uk/archives/collections/BDOHP/Stuart.pdf, accessed 12 June 2010
18. Ibid.
must work out policies in Hong Kong consciously designed to prolong confidence and so gain all possible time for conditions to emerge in China in which a favorable negotiation would be possible. Conversely we must avoid actions and administrative procedures in Hong Kong which tend to highlight the diminishing term of the Lease.”

MacLehose returned to this question in his review of his first year of governorship in the annual dispatch. Summing up his overall review of his work in 1972, MacLehose contextualized various government initiatives in a broader framework of changing state/society relations:

One feature that strikes me as salient is that though Hong Kong is the home of over 4 million who have to a greater or lesser extent rejected China, a large proportion have not fully accepted Hong Kong. A new generation is growing up—55% of our population is under 25—and is demanding more from Government, often rightly. Like any other Government this one must govern by consent and must do so without the aid of the electoral system. If that consent is to be retained, not only must legitimate demands be satisfied, but the population must be convinced that such satisfaction is genuinely the objective of Government. The need is not only for administrative action producing physical results; there is also a need to secure the active confidence of the population. We cannot aim at national loyalty, but civic pride might be a useful substitute.

This can be achieved only by corporate effort, and such a concept is new to Hong Kong where the tradition has been for people to do only more or less what they are told by Government and otherwise ... to be as little bothered with corporate affairs as possible. I think that from now policy must aim to make both the elite and the masses feel, as they felt in 1967, that Hong Kong is an entity to which they belong, and the place they wish to live in.20

So, MacLehose had reformulated the overarching perspective of how Hong Kong was to be governed. Like Trench, his starting point was popular confidence. But unlike Trench, he saw the confidence issue as not so much one of effective governance after two major disturbances but as involving a longer-term development of a new kind of state/

19. TNA, FCO 40/329, “C M MacLehose to Sir Leslie Monson, Mr Wilford, Mr Morgan and Mr Laird”, 16 October 1971.
society relationship. Taking another look at the colonial administration under MacLehose in the light of the preceding discussion, we are sceptical of the stereotypical description of MacLehose as a benevolent social reformer and his governorship as a period of fundamental transformation of colonial rule. While it is true that MacLehose was conscious of the need to build popular confidence in order to cope with an uncertain political environment, when Hong Kong was expected to be in confrontation with China in the years approaching 1997, this does not necessarily mean that he was eager to launch drastic reforms even at the risk of antagonizing the colonial bureaucrats and the established interests of the capitalist economy. The line taken by MacLehose was that Hong Kong must maintain a comparatively low tax structure and, given that the colony had an open economy, the size of the public sector should be carefully managed.

MacLehose’s contribution thus was not so much that of a social reformer or otherwise but rather that he had introduced a new framework for British colonial rule in Hong Kong. He described his government as “a Government in a hurry”, as it had to race against time in building civic pride among the local Chinese in a colonial context before the question concerning the future of Hong Kong was put on the table for diplomatic negotiation.

The changing political climate in London
Meanwhile, the economic success of Hong Kong created some ripples in the political waters of the metropolis. As early as January 1967, a question was raised in the House of Commons on workers’ conditions in Hong Kong. When the manufacturing sector of Britain was in decline and the world economy was troubled by the oil crisis in the early 1970s, more questions concerning whether or not Hong Kong was an “industrial slum” were raised. For instance, the International Committee

21. Information on attempts from London to impose changes in the taxation system and the social programs was leaked, as shown in our following discussion, Whitehall tried to probe the social and political conditions in Hong Kong. Some opposing views were found within the chamber of the legislature and within the business sector. The colonial government seemed to be quite happy with such local responses to the actions from London.
23. TNA, FCO 40/439.
24. TNA, FCO 40/124, “Workers’ Conditions in Hong Kong”.
of the Trade Unions’ Congress (TUC) had been putting pressure on the Secretary of State about the need to monitor the colony’s adherence to International Labor Organization (ILO) Conventions and to facilitate necessary social and political reforms. Largely because of growing pressure from British trade unions on a Labour government, the FCO in London had to take a critical look at Hong Kong.

The mood in London was one of scepticism. The recollection by Laurence O’Keeffe, head of the Hong Kong and Indian Ocean Department of the FCO in 1975, captured the concerns in the capital:

The people who benefited most from the existence of Hong Kong were the Japanese and the Americans and to a lesser degree I think, even the Australians. But the big Hongs, the big so-called ‘British’ companies were based in Hong Kong and did not pay British tax. They were not acting on behalf of British interests but specifically their own. The problem was that we were holding the baby and there was absolutely no way that we could drop it at that time. This came as a bit of a surprise to me. I had hitherto always assumed that the colonies were run for the benefit of the colonizers from which the colonized actually got some benefits too in terms of peace and prosperity. It had never occurred to me that we would actually be holding on to something where we were the least favored.

When more questions were raised in the Parliament – twice in April 1975 – the situation in Hong Kong, whose poor social welfare and inadequate labour protection were seen as factors contributing to Hong Kong manufacturers underselling British producers, became a matter of political concern to the British government. Political pressures were further consolidated by the publication of a Fabian pamphlet entitled Hong Kong – Britain’s Responsibility in early 1976.

Growing tensions between Hong Kong and Britain were evident in exchanges between MacLehose and the FCO. In his “Annual Review for 1975”, submitted to the Secretary of State for Foreign and common-

25. TNA, FCO 40/617, “Secretary of State’s Meeting with the International Committee of the TUC: Hong Kong”, 5 December 1975.
27. TNA, FCO 40/721, “Publication on Hong Kong affairs in UK: Fabian Society pamphlet, ‘Hong Kong – Britain’s Responsibility’ by Joe England”.
28. Denis Bray, Hong Kong Metamorphosis (Hong Kong: Hong Kong University Press, 2001), 200.
wealth Affairs, MacLehose expressed his awareness of “UK resentment of industrial competition by Hong Kong” and the role of the colonial government in furnishing “comprehensive facts” for assisting Lord Goronwy-Roberts, the Minister of State for Foreign and Commonwealth Affairs, in answering “a steady stream of Parliamentary Questions.”

And then he commented: “I have constantly to beware of attempting to meet criticism or pressures in the UK of a minor or ephemeral nature by clumsy footwork in Hong Kong.”

More importantly, he emphasized that “I believe some UK attitudes to be coloured by an unsubstantiated assumption that the UK loses money on the Colony.”

Regarding action to be taken by the colonial government, he, being aware of potential intervention from the FCO on matters concerning Hong Kong’s governance, warned that “Whatever action we take here must be seen locally as justified on its own merits in Hong Kong’s own interest. Whenever we take steps which are seen here as a sop of opinion 10,000 miles away, the Government’s credibility is reduced, with the dangers which flow from this.”

Responses from the FCO suggested that London did not see measures taken in Hong Kong as being adequate to deal with mounting political pressures in the UK. In his comments on MacLehose’s annual review, O’Keeffe remarked:

The problem is that criticism, if anything, is growing more deep-seated, better informed and more persistent. I think, too, that while the Hong Kong Government’s response to the discovery of corruption has done much to contain an explosive issue, the revelations of last year have dealt a significant blow to the Colonial Government’s prestige and sapped some of the goodwill here. The recent Fabian Society pamphlet is evidence of the trend. It contains little that is new, and some errors, but the basic thesis that conditions in the Colony, and its link with Britain, are anomalous is widely shared [emphasis added].

Also, in his acknowledgement sent to MacLehose on the same day, O’Keeffe again underlined the point:

---

30. Ibid.
31. Ibid.
32. Ibid.
We have been left rather breathless, as you may have been, by the Parliamentary interest shown in the recent Fabian Society pamphlet. This, as you may imagine, has caused almost as much work behind the scenes as on the stage itself and your Annual Review is sure of a keen and interested audience here.\(^3^4\)

The emphasis on the growing political pressures in London was highlighted by a brief note, in response to O’Keeffe’s comments, by Larmour, written on 18 February 1976, to the effect that “He [MacLehose] still underrates the increasingly critical feelings about Hong Kong that are widespread in this country.”\(^3^5\)

The British government’s rising concern over Hong Kong’s development also had another important strategic dimension: the future of Hong Kong. For London, one of the major lessons learned from the 1967 riots was that British rule in Hong Kong beyond 1997 was simply untenable. The revolutionary fervor unleashed by Maoist radicalism may have subsided by the early 1970s, but the incompatibility between humiliation inherent in the alien rule of Hong Kong and Chinese nationalism remained intact. In the report *Hong Kong: Long Term Study*, a document prepared by the Cabinet’s Ministerial Committee on Hong Kong in the aftermath of the riots, the pessimism of officials in London over the future of Hong Kong was vivid. The study stated explicitly that “It is inconceivable that any communist Chinese government would ‘negotiate’ an extension of the Hong Kong lease” and “The Chinese intention is to take over Hong Kong by 1997 at the latest.”\(^3^6\) The course that best suited British interests appeared to be a negotiated withdrawal at a suitable agreed date. Yet, the time was not ripe for any approach on negotiations for two reasons: first, London was not convinced that it could do business with the current administration on the Mainland given the prevailing atmosphere in China; and, second, as reflected in the 1967 riots, Beijing was content with the status quo of Hong Kong and was in no hurry to take over the colony.


\(^3^5\) TNA, FCO 40/707, “Hong Kong Annual Review 1975”, 18 February 1976.

\(^3^6\) TNA, CAB 134/2945, “Cabinet Ministerial Committee on Hong Kong, Hong Kong: Long Term Study, K(69)1”, 26 March 1969.
However, there had been renewed anxiety over the future of Hong Kong within the British camp since the early 1970s. For instance, in one of his communications with James Callaghan, MacLehose argued:

There is no reason why things should not continue like this for about 10 years. But by about 1985 an understanding – explicit or implicit – must be reached with China about what will happen to Hong Kong after the lease of the New Territories expires in 1997, or the Colony will start to fade as lack of assurance about the future causes investment and employment to drop. If this process is once allowed to start, the Colony could rapidly go down hill to a point at which it became valueless to either the United Kingdom or China, and probably ungovernable, and thus invited Chinese intervention.\(^{37}\)

Although London was still convinced that the best strategy to adopt for the time being was to accept the status quo and “to wait for the successor Government to that of Mao to emerge, establish itself throughout China, and define a general foreign policy against which to judge the nature and timing of any approach on Hong Kong”,\(^{38}\) a more proactive approach in preparing itself for the forthcoming negotiations was on the horizon. Britain’s strongest bargaining position came from the economic value of Hong Kong to China and thus “a maximum degree of economic progress and tranquility in the Colony, and international respect for it, must be achieved during the run-up to the proposed attempt to negotiate about its future with the Chinese in the mid-1980s.”\(^{39}\) Seen in this light, social reforms were not just gifts from benevolent colonizers with a civilizing mission, they were also instrumental to the continuous progress and stability of the colony, now deemed as imperative to meet the strategic concerns of the sovereign power. The *Hong Kong Planning Paper* of the FCO in 1976 was thus the means to accelerate the process of change in the colony.

**Acceleration of social reforms**

Whatever the blueprint for the changes that MacLehose had had in mind, his vision was evidently dwarfed by the grand scheme of reforms

---

38. TNA, FCO 40/704, “Planning Paper on Hong Kong”, 11.
39. Ibid., 12.
outlined in the *Hong Kong Planning Paper*. Rapid reforms in two areas were seen as imperative to the social well-being and stability of the colony: labour rights and social security.

Where labour rights were concerned, specific objectives were laid down for the reform programs. Firstly, Hong Kong should achieve labour conditions at least equivalent to the best Asian standard. Secondly, the reforms should ensure more rapid progress in the application of ILO Conventions in the colony. Both targets should be completed within a five-year period. A specific time frame for implementation was also set up for reforms already under consideration by the Hong Kong government. These included better provisions for rest days and statutory holidays (both to be in place by 1 January 1977), introduction of compulsory annual leave with pay (by 1 January 1978), and prohibition of the employment of minors under 14 years of age by 1979, and under 15 by 1980. The Planning Paper also required wider coverage by industrial safety measures and improved sickness benefits and redundancy payments. Nevertheless, the authors of the Planning Paper also urged consideration of more controversial issues, such as the minimum wage and statutory hours of work, which were given insufficient attention by MacLehose.  

A more critical verdict on the “gaps and weakness” in Hong Kong’s system can be found in the Planning Paper’s diagnosis of the limitations of the colony’s social security system:

> There is no direct provision for unemployment benefits; pensions are small and available only to persons of 75 and over; sickness benefits, an employer’s liability, does not extend beyond 24 days and there is no pension for widows.  

Two reforms were identified as key measures to address these problems: the extension of welfare benefits to able-bodied men as soon as possible, and the introduction of a contributory element into the schemes. It was expected that most reforms would be completed by the end of 1980.

These prescriptions for reform certainly exceeded the vision of the Governor. His original five-year plan for social welfare services only envisaged improved community services for the handicapped and youth, and it contained no room for the contributory element, with non-

---

40. Ibid., 12–13.
41. Ibid., 15.
42. Ibid.
means-tested benefits confined to vulnerable groups, such as those over 75, victims of disasters, or the disabled. In other words, a more radical and comprehensive reform plan was now bestowed upon the colonial administration and it was the duty of the Governor to find the ways and means to translate this grand scheme of reform into reality.

Apparently, London’s initiatives were fully absorbed by the colonial administration, as many of the prescriptions listed in the Planning Paper were, in fact, included in Governor MacLehose’s Policy Address in 1976. A comprehensive review of “what needs doing to complete the safety net of our society and make sure it has no holes” was announced. More importantly, the scope of the public assistance scheme was, as suggested by the Planning Paper, extended to able-bodied persons between 15 and 55 in the next financial year. More efforts at ameliorating the employment conditions of Hong Kong workers were also promised by the Governor. Legislative initiatives to improve severance pay and sickness benefits, study of further safety legislation, and workers’ compensation in cases of bankruptcy or liquidation were included in MacLehose’s long list of reform proposals. The fingerprint of London’s influence was found not only in the scope but also in the pace of reforms. The pressure for the acceleration of reforms was also fully considered by the Governor. Amendments to the Employment Ordinance would be made in 1977 and 1978 to provide one week’s holiday with pay and one rest day a week, respectively, as suggested in the timetable for implementation listed in the Planning Paper.43

The momentum for reforms appeared to show no sign of abatement in 1977, with more changes proposed in the policy address in 1977. The maximum penalty for employing child labor was raised to US$10,000. More extensions of the public assistance scheme were introduced; these included a supplement for those who had been forced to rely on welfare benefits for over 18 months, and a lowering of the qualifying age for the Old Age Allowance from 65 to 60. And for the first time, the idea of a self-contributory scheme for employees that had been advocated by authors of the Planning Paper was formally put on the agenda for policy

deliberation.\textsuperscript{44} The Governor announced that the government “might introduce a semi-voluntary contributory scheme providing insurance cover against sickness, injury and death, and perhaps also a small retirement benefit.”\textsuperscript{45} This scheme would

... cater for an area of need, which cannot be met satisfactorily through the Public Assistance Scheme because the persons concerned or their families have means above the level of eligibility for public assistance, but are not so far above it as to be insulated against the financial effects on the family of the prolonged sickness or death of a bread-winner.\textsuperscript{46}

**Planning Paper: Alien to the tradition of colonial administration**

Nevertheless, beneath such a facade of cordiality, tension between the Hong Kong government and the FCO remained. To start with, MacLehose felt very much offended by the FCO’s imposition of a policy blueprint on the colony. While he conceded that the British government was obliged to monitor the progress and administration of colonies, and that the Secretary of State was constitutionally entitled to issue guidelines, instructions, or even directives to administrators on what should be done in dependent territories, he contended that there was in fact a tradition of respecting the man on the spot as enjoying the last word on how his jurisdiction should be governed. To his knowledge, there had never been a precedent of the Colonial Office imposing a comprehensive program of reforms relating to various aspects of government activity in a colony in the form of a Planning Paper. The primary obligation of a colonial governor, in his opinion, was to serve the interests of the population of the territory. And he made no attempt to hide his displeasure with this “FCO Paper”, by reminding an official on a duty tour to Hong Kong that the Secretary of State could, as a last resort, sack a Governor if he found his service not consistent with the interests of Her Majesty’s government.\textsuperscript{47}

\textsuperscript{44} “Address by the H.E. the Governor”, The Legislative Council Debates Official Report, 5 October 1977.
\textsuperscript{45} Ibid., 34.
\textsuperscript{46} Ibid.
\textsuperscript{47} TNA, FCO 40/704, “Milton to Cortazzi/Hong Kong: Call on the Governor”, 16 July 1976.
MacLehose’s sentiment must be contextualized against the backdrop of growing strains in the relationship between London and Hong Kong since the 1960s. The local population was not entirely pleased with London’s position on recent issues such as the devaluation of the pound, Hong Kong’s contribution to expenditure relating to the British garrison in the colony, and British membership of the European Economic Community, and some may even have been aggrieved that British interests were being served at the expense of the territory. Similar sentiments were, in fact, evident even among core supporters of the government. For example, Sir S. Y. Chung, a Legislative Councillor since the early 1960s, had once written to London and asked for the right of Hong Kong to nominate a member of the House of Lords to represent the colony as a way to improve communication and understanding between the two parties. As for MacLehose, his authority would be severely undermined if local opinion believed that the thrust of government policies was driven not by concern for the interests of Hong Kong, but by a calculation of the demands of British politics.

A meticulous reading of his various policy statements uncovers the Governor’s reservations over the grand scheme of reforms bestowed upon the colony. His caution on the implications of the full implementation of the blueprint is evident. For instance, his concession to extend social security benefits to able-bodied persons between the ages of 15 and 55 was followed by a number of measures against possible abuses; for example, a residence qualification and a defined period of unemployment. His general assessment of the workers’ situation in Hong Kong also betrays his disagreement with London on the pace of reform. “Our workers’ incomes are higher than our competitors’, and ... their standard of living as a whole compares well”, MacLehose proclaimed in his 1976 speech. And his lack of enthusiasm in entertaining the FCO’s request for rapid changes became even more succinct in his 1977 speech, in which he made no attempt to hide his frustration with the situation:

49. TNA, FCO 40/81, “Brief prepared for the Visit of the Secretary of State to Hong Kong August 1966: Hong Kong and the Common Market”, 26 February 1967.
50. TNA, FCO 40/408, “Extract of a Speech made by Dr. the Hon. S Y Chung at the Hong Kong Legislative Council on October 31, 1973”.
It has become apparent that the pace of legislation has outrun the administrative and enforcement capacity of the (Labour) department. The staff of the department are of high caliber, but there are too few of them. It is therefore [necessary] that in the coming year the department should have time to consolidate and build up its resources.\(^{52}\)

The feeling of dissatisfaction was, however, mutual. Lord Goronwy-Roberts had expressed his concern over MacLehose's "qualified approach" in implementing the reforms in one of his direct communications to the Governor. In a telegram to MacLehose, he made his dissatisfaction known regarding the Governor's position:

I am rather anxious therefore lest some of the qualifications and reservations you include may endanger the precise time-scale we envisaged for the implementation of agreed measures. And here and there the emphasis on the various stages which will have to be completed before decisions are taken and action initiated do seem to me to blunt the sense of urgency which we would like to see.\(^{53}\)

The Governor was, however, no pushover. He kept the tone in his 1976 policy address in the face of pressure from his senior colleague.\(^{54}\) The FCO's perception of the Governor's lack of enthusiasm towards the Planning Paper was certainly further reinforced by an earlier exchange between the Minister and the Governor in July 1976. While Lord Goronwy-Roberts insisted that the social reforms listed in the Planning Paper represented "the minimum" which the British government could regard as acceptable, MacLehose retorted that it represented "the maximum he thought possible to attain in Hong Kong." He contended that "It would be difficult for him if additional measures were added as it would be for HMG if Hong Kong were to fall behind in implementing the program."\(^{55}\) In short, it seems that from the very beginning of the implementation of the Planning Paper, FCO officials had little faith in the commitment of the officials in the colonial administration in Hong Kong.

\(^{52}\) "Address by the H.E. the Governor", 5 October 1977.

\(^{53}\) TNA, FCO 40/705, "Lord Goronwy-Roberts to MacLehose, Telegram no. 804 (No. 30/31)”, 1 October 1976.

\(^{54}\) TNA, FCO 40/705, "MacLehose to Lord Goronwy-Roberts, Telegram no. 805 (No. 32)", 1 October 1976.

\(^{55}\) TNA, FCO 40/704, "Record of Meeting between MacLehose and Lord Goronwy-Roberts (No. 89)", 21 July 1976.
For FCO officials, all these exchanges simply justified their introduction of a more elaborate system to monitor the progress of the implementation of the reforms. As Cortazzi, a senior official in the FCO concluded, they “must monitor carefully progress on the Planning Paper”, because they have “doubts about the willingness and determination of some officials and unofficials in Hong Kong to put the program into effect in the time scale envisaged.” Thus, in addition to the regular visits of the Governor to London and reciprocal visits of officials from both administrations, a new standing committee was set up to monitor the Hong Kong Planning Paper. The Committee comprised economists, overseas labour advisors, legal advisors of the FCO, and representatives of relevant geographical units, including the Hong Kong Department and the Far East Department, and was chaired by a Superintending Under-Secretary. It would meet regularly and discuss the progress of the implementation of the Planning Paper. The option of adding a second Political Advisor to the Governor’s staff with particular responsibility for the “UK dimension” was also contemplated. Although making no explicit objection to the idea, MacLehose probably had his reservations regarding the proposal as he once remarked to Lord Goronwy-Roberts that “he thought that his own UK conscience was fairly alert and that he probably knew as much as anybody”, at one of their meetings in late 1976. And the fact that the appointment never materialized certainly confirmed the lack of enthusiasm on the part of the Governor. For MacLehose, the appointment of a second Political Advisor would have been seen as evidence of further interference from London, and this would probably have made the colonial administration even more vulnerable to local scepticism.

Dispute over financing philosophy

Nevertheless, it was London’s intervention in fiscal matters in Hong Kong that provoked the strongest response from the Governor. Where London was concerned, the reforms were to take priority over fiscal discipline and before consideration of options such as a rise in the direct

56. TNA, FCO 40/705, “Cortazzi to Stewart (No. 8)”, 13 September 1976.
57. TNA, FCO 40/712, “Record of Meeting between Governor and the Minister of State for Foreign and Commonwealth Affairs (No. 28)”, 9 December 1976.
58. TNA, FCO 40/712, “MacLehose to Stewart (No. 79)”, 29 December 1976.
taxation rate, a broadening of the tax base, and even deficit budgeting. As one FCO official put it, “Conservatism in financial policy was not as necessary as Hong Kong officials commonly stated it to be”, and public expenditure could be increased to about 25 per cent of the colony’s GDP.\(^59\) The cautionary tone enshrined in Haddon-Cave’s Budget Speech in 1976 was hardly comforting for the FCO. The colony’s Financial Secretary was certainly no stranger to the British administration, as he had been a staunch defender of Hong Kong’s interests in previous battles over the pound sterling exchange rate and export quotas. For many bureaucrats in the FCO, Haddon-Cave simply personified the spirit of fiscal conservatism that would thwart the full implementation of their reform blueprint. And the 1976 budget speech undoubtedly provided the ammunition for those who wanted to get rid of the Financial Secretary. Contrary to the fiscal audacity embraced by London, Haddon-Cave emphasized the importance of a balanced budget and laid down fiscal parameters for public expenditure in his address to the Legislative Council. In his Budget Speech, delivered in February 1976, Haddon-Cave explicitly stated his philosophy of fiscal management:

> Public expenditure tends to be determined by political and social, as well as economic considerations and so it is important that the size of the public sector does not exceed a certain limit. Otherwise, there is a risk that the public sector activities will damage the growth rate of the economy. It is a matter of opinion when this limit is reached, but it is clearly lower in an open economy such as ours, necessarily dependent on a relatively narrow range of industries manufacturing for export, than in a closed economy. But in my opinion, if one measures the size of the public sector in terms of the ratio of total expenditure to the GDP, the outside limit should be set at 20%; and when the economy is enjoying strong growth, the ratio should fall.\(^60\)

He went further to elaborate on specific parameters for public expenditures that included:

> The recurrent expenditure should absorb no more than 80 per cent of the recurrent expenditure; at least 60 per cent of capital expenditure should

---

be financed by the surplus on recurrent account; and at least 88 per cent of total expenditure should be met from recurrent revenue.\footnote{Ibid.}

These articulations were evidently at odds with the fiscal philosophy advocated by FCO officials. Even more important, they found that Haddon-Cave’s views were also at variance with those of the Governor, who, in his early exchanges with London, had conceded that public expenditure could safely rise to 22.5 per cent of GDP.\footnote{TNA, FCO 40/710, “Hong Kong: Briefing for Mr. Cortazzi’s Visit”, 28 April 1976.} There were concerns regarding the possible impediment these guidelines would create to the implementation of the reform programs, and there were some who wondered whether the only solution was to transfer the Financial Secretary out of Hong Kong. As concluded in a paper prepared by the Hong Kong and Indian Ocean Department of the FCO, some officials probably thought this might be a risk worthy of serious consideration: “Removal would, we judge, cause serious difficulties in our relations with Hong Kong; but in the last resort, Ministers may conclude that this is the only course.”\footnote{Ibid.} Galsworthy, Private Secretary to Lord Goronwy-Roberts, concurred: “It was agreed that if excessively conservative policy in Hong Kong were to be avoided in future, it might well be necessary to change some of the senior appointments there.”\footnote{TNA, FCO 40/702, “Galsworthy to Larmour”, 16 March 1976.}

In a meeting with the Governor in July 1976, Lord Goronwy-Roberts also expressed similar concerns with respect to the general tenor of the Budget Speech, and he criticized Haddon-Cave’s views as being inconsistent with the aims of the Planning Paper, and not encouraging the necessary change in the general climate of opinion. Even worse, he saw the Financial Secretary’s vision as a challenge to London’s position of using the fiscal system to pursue social justice.\footnote{TNA, FCO 40/704, “Record of Meeting between MacLehose and Lord Goronwy-Roberts”.}

The Governor’s response to these attacks on the Financial Secretary was even-handed. On the one hand, he understood that the Budget Speech did create difficulties for colleagues in London, and he gave the assurance that, if there were to be a requirement for revenue to finance the reform programs, then Hong Kong would, without hesitation, find the means to meet it. On the other hand, “He did feel that there was an
ill-conceived ‘hate’ about the Financial Secretary who is in a political position and had his Hong Kong constituency to consider.”\footnote{Ibid.} However, if there was any ambiguity in the Governor’s position on his Financial Secretary’s stance on fiscal management in Hong Kong, the next aggressive move by London undoubtedly cemented the “bonding” between the two.

At the same meeting, Lord Goronwy-Roberts reiterated that implementation of the Planning Paper should not be derailed by financial difficulties and that the proposed reforms must be introduced within the agreed timetable. And as an insurance policy, he argued that the Secretary of State would like to be informed in good time of the Hong Kong government’s annual budget proposals so that he could, if necessary, offer comments. The Governor was horrified at the prospect of negotiating a budget with London and contended that this had never been attempted by the Colonial Office. He argued that the time-scale for the final formulation of budget figures had always been tight and decisions were usually made at the very last moment, and thus the proposal could only arrive in London at a time that left little room for change. Lord Goronwy-Roberts, however, retorted that the deviation between the Governor’s earlier pledge and the 1976 Budget had demonstrated the need for London to know what exactly was envisaged in advance. As a compromise, the Governor agreed to explain the 1977 Budget in general terms during his scheduled visit to London in December 1976, to be supplemented by a written prognosis a fortnight before Budget Day.\footnote{Ibid.}

The heated exchanges in this meeting did not remove the differences in fiscal philosophy between the two sides and the Financial Secretary remained defiant. For the FCO officials, the 1977 Budget was another disappointment. Although no longer explicitly stating the ceiling of public expenditure to GDP ratio, his general tone of fiscal prudence and lack of enthusiasm towards social reforms lingered.\footnote{“The Budget for 1977–1978, 2nd March 1977”, Official Report of Proceedings, Hong Kong Legislative Council.} James Stewart, Head of the FCO’s Hong Kong Department, complained that
It is, I think, true to say that the Budget, as presented in March 1977, did not, as it should have done, correspond to and expand on the expenditure proposals and the strategy propounded in the Governor’s speech at the opening of Legislative Council in 1977.  

Haddon-Cave’s lukewarm attitude toward major tax reform also further alienated him from the London establishment. Given the current state of fiscal health and the expected opposition from the local community, he saw no fiscal grounds for a rise in the rate of direct taxation. London, however, thought otherwise. In the eyes of FCO officials, the budgeting philosophy of Hong Kong was conservative and out of date and failed to live up to the expectation required by the grand scheme of changes inherent in the Planning Paper. “The attitude of Hong Kong seems to be estimate revenue and then decide on expenditure rather than determine policies and then decide how to finance them through revenue”, Cortazzi, Chairman of the Standing Committee to Monitor the Planning Paper, complained. An FCO economic advisor went further to point out that “There is no economic cause for budgeting for a balanced budget and that there is a good social case for budgeting for a deficit.” For them, a budgetary balance was nothing but proof of Hong Kong officials’ inability to see the big picture presented to them. As pointed out by Lord Goronwy-Roberts, the “fundamental point was that higher taxation would produce better services” and a steady rise in revenue guaranteed by a rise in taxation could insure against the risk of social reform programs being cut back due to fiscal difficulties. Yet, despite all this pressure, there was no major change in the taxation system between 1976 and 1977, and the fiscal discipline advocated by Haddon-Cave appeared to have prevailed during this period.

71. TNA, FCO 40/754, “Stewart to Murray/Cortazzi-Hong Kong”.
72. TNA, FCO 40/761, “Governor’s meeting with Stewart/Cortazzi at FCO (No. 83)”, 21 November 1977.
73. TNA, FCO 40/755, “Lord Goronwy-Roberts to the Secretary of State (No. 92)”, 1 July 1977.
Conflicts over a contributory benefits scheme

Another major source of friction between Hong Kong and London focused on the introduction of a contributory scheme for social security. Unlike other reforms proposed in the Planning Paper, MacLehose appeared very reluctant to engage with London on this matter, and progress had been sluggish at best. The Governor probably felt frustrated with the persistent criticism from London of his lack of effort in improving welfare support in Hong Kong. In fact, there was a significant rise in public expenditure allotted for social welfare between 1975 and 1978, with the total expenditure increasing from HK$352m in the fiscal year of 1975/76 to a new high of HK$433m in 1977/78. And the increase in expenditure projected for social security between the fiscal years of 1978/79 and 1982/83 was no less spectacular; the allocation would increase from HK$53m to HK$177m over this five-year period (refer to Table 5.1).

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Social Security (cash payment)</th>
<th>Elderly (excl. medical cost)</th>
<th>Services for youth</th>
<th>Rehabilitation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1978/79</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recurrent</td>
<td>53.0</td>
<td>7.0</td>
<td>20.0</td>
<td>19.0</td>
<td>99.0</td>
</tr>
<tr>
<td>Capital</td>
<td>–</td>
<td>0.1</td>
<td>1.6</td>
<td>19.0</td>
<td>20.7</td>
</tr>
<tr>
<td>1979/80</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recurrent</td>
<td>102.0</td>
<td>13.0</td>
<td>25.0</td>
<td>37.0</td>
<td>177.0</td>
</tr>
<tr>
<td>Capital</td>
<td>–</td>
<td>0.3</td>
<td>–</td>
<td>25.0</td>
<td>25.3</td>
</tr>
<tr>
<td>1980/81</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recurrent</td>
<td>134.0</td>
<td>19.0</td>
<td>33.0</td>
<td>51.0</td>
<td>237.0</td>
</tr>
<tr>
<td>Capital</td>
<td>–</td>
<td>0.4</td>
<td>0.2</td>
<td>18.0</td>
<td>18.6</td>
</tr>
<tr>
<td>1981/82</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recurrent</td>
<td>158.0</td>
<td>28.0</td>
<td>34.0</td>
<td>63.0</td>
<td>283.0</td>
</tr>
<tr>
<td>Capital</td>
<td>–</td>
<td>0.8</td>
<td>0.2</td>
<td>14.0</td>
<td>15.0</td>
</tr>
<tr>
<td>1982/83</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recurrent</td>
<td>177.0</td>
<td>34.0</td>
<td>36.0</td>
<td>76.0</td>
<td>323.0</td>
</tr>
<tr>
<td>Capital</td>
<td>–</td>
<td>0.5</td>
<td>0.2</td>
<td>11.0</td>
<td>11.7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>624.0</strong></td>
<td><strong>103.1</strong></td>
<td><strong>150.2</strong></td>
<td><strong>333.0</strong></td>
<td><strong>1210.3</strong></td>
</tr>
</tbody>
</table>

Source: TNA, FCO 40/756, “MacLehose to FCO, Tel No. 820”, 12 August 1977.

75. TNA, FCO 40/756, “MacLehose to FCO, Telegram no. 820”, 12 August 1977.
London, however, remained unconvinced of the Governor’s commitment. Central to the FCO’s concerns was not merely the rise in resources allocated for social welfare, but also reforms in terms of an extension of social welfare coverage and innovation in an institutional setting. High on their wish list was the introduction of some form of contributory scheme providing protection for a wide range of contingencies. As pointed out earlier, the Governor did in fact commit himself to “a semi-voluntary contributory scheme providing insurance cover against sickness, injury and death, and perhaps also a small retirement benefit”, in his 1977 Policy Address. This public pledge would hardly satisfy his impatient colleagues back home. In order to speed up the process of change, J. Heppell, Assistant Secretary in the Department of Health and Social Services of the British government, who had been seconded to the Hong Kong government between 1972 and 1974, was again sent to the colony. Before his departure, Heppell was reminded of the Governor’s pledge on social reforms and the deadline for implementation set out in the Planning Paper. More importantly, he was urged to ensure that any development in the colony’s social security system had to be capable of presentation in a good light in the UK.

Heppell achieved mixed results on his mission. On the one hand, he managed to secure a proposal for a voluntary contributory scheme from the Hong Kong government. The new scheme would operate on a self-financing basis with a contribution rate of 2 per cent from the employer, and could be implemented by 1982. However, the proposed scheme would only provide benefits for sickness, injury, and death; there was no extension of benefits to unemployment under this scheme.

Heppell appeared to be fully in sympathy with the Hong Kong government, believed that the colonial administration had “gone as far as feasible”, and viewed the proposed scheme as “a first step from which progress could be made.” The Governor also appeared to be less compromising than usual on this matter. He argued that

The sickness, injury and death benefit scheme, assuming it receives general support, will represent a very considerable innovation in Hong Kong, the significance of which you will of course appreciate. It makes

---

76. “Address by the H.E. the Governor”, 5 October 1977.
78. TNA, FCO 40/756, “Record of Meeting held in Mr. Stewart’s Office”, 24 November 1977.
no attempt to emulate social insurance schemes as they have developed in western countries. But we must start off our scheme in a way that is manageable administratively and acceptable socially. ...If we were to go for a fully compulsory scheme, or for a more expensive scheme with higher contributions, we should be unable to carry the Hong Kong people with us.”

Bordering on self-congratulation, MacLehose probably believed that he had already done enough to demonstrate his commitment to reforms when he claimed in the same communication that

When the parallel new schemes for services to the handicapped, elderly and youth are added, the scale of social security development proposed is pretty ambitious. When it is all put together in a White Paper we will have a clearly defined and comprehensive scheme of payments and services across the whole field.

The FCO officials were, however, not impressed. Central to their complaints was the Governor’s failure to meet the agreed timetable for reforms. From their standpoint, there was a consensus between Hong Kong and London that an extended social security system, including unemployment benefits based on entitlement, would be introduced by the end of 1980, as this was explicitly stipulated in the Planning Paper and had been reconfirmed in the various exchanges between FCO officials and the Governor. And as summed up by an FCO official, the fundamental difference between the two sides was that the Governor believed in a step-by-step approach to the problem, whereas the FCO was convinced that “The process must be speeded up, even if this involves more radical or far-reaching proposals, in order to push on towards the goal of an extended social security program by the end of 1980.” In short, the general consensus among FCO officials was that the proposed voluntary contributory scheme was defective in many ways and was not what London had been pressing for.

79. TNA, FCO 40/756, “MacLehose to John Stewart (No. 29/30)”, 30 July 1977.
80. Ibid.
82. TNA, FCO 40/756, “A Note prepared by Murray (No. 37)”, 2 September 1977.
83. TNA, FCO 40/755, “Minutes of the 4th Meeting of the Planning Committee to Monitor the Hong Kong Planning Paper on 11 November 1977.”
The Governor’s irritation with these discouraging remarks from London was apparent. While he assured his FCO colleagues that if the new scheme, which he thought had already broken new ground in Hong Kong, proved to be successful and managed to command public support, there would be no administrative reason not to extend it to cover unemployment in the future.\(^84\)

He also made his feelings known with words of sarcasm when he wrote to Lord Goronwy-Roberts: “I am grateful for your forbearance in not attempting to push me further at this stage.”\(^85\)

And tempers flared during a meeting with FCO officials in London in late 1977. When H. Hirst, the Labour Advisor, criticized the scheme by saying that the contribution rate of 2 per cent was too low and an implementation period of three and a half years was too long, the Governor pulled no punches and retorted that under the present social security scheme nobody was in serious want and nobody was put in humiliating circumstances in Hong Kong, and there had been a major improvement over the last five years. And he went on to confront the FCO officials present at the meeting by asking them “to examine their consciences” as to whether accelerated reform “would be desirable as a means of improving the welfare for 4½ million people in Hong Kong or to make the scheme look better in the UK.”\(^86\)

The tension between the two sides could hardly have been more strained.

Yet, it is also interesting to observe that, despite such heated exchanges between the Governor and the FCO officials, local senior civil servants did not seem to be aware of what was going on behind the scenes. Eric Ho became Secretary for Social Services in April 1977 and he had a rather innocent interpretation of the introduction of the new social welfare initiatives:

A review of our social security provisions was being undertaken by Strachan Heppel of the UK Department of Health and Social Security, who had helped set up our existing Public Assistance and Special Needs payment schemes in the first place. After about five years’ operation, it was felt that a review was timely, and sensible improvements intro-

\(^84\) TNA, FCO 40/756, “MacLehose to FCO, Telegram no. 820”, 12 August 1977.

\(^85\) TNA, FCO 40/756, “MacLehose to FCO, Telegram no. 819”, 12 August 1977.

\(^86\) TNA, FCO 40/761, “Notes taken at the Governor’s meeting with Mr. Stewart and Mr. Cortazzi at the FCO on 21 November 1977.”
duced. This was an excellent example of technical assistance provided by UK experts to help Hong Kong develop its own schemes.\(^\text{87}\)

Apparently, even senior local officials were out of the loop in those heated exchanges between Hong Kong and London. Reform initiatives imposed by London were perceived as gradual improvements of existing policies.

**Conclusion**

By the end of 1977, despite the fact that numerous changes in social services and labor legislation had been introduced in the colony, MacLehose was not endearing himself to his FCO colleagues who were overseeing the implementation of the Planning Paper. Contrary to local perceptions in Hong Kong, the Governor’s commitment to reforms would probably be rated as tentative in their eyes. For colleagues back home, the Governor was not delivering what they wanted most: a rapid and comprehensive overhaul of the colony’s social security system that could meet London’s strategic and political concerns. In their view, what the colonial administration was offering was too little, too slow, and perhaps it was even deemed to be hopelessly preoccupied with the parochial concerns of Hong Kong. The verdict was unequivocal when David Owen, the Foreign Secretary, lectured the Governor at a meeting in late 1977 on his views on progress so far:

> The principal complaint was that many of the expatriate civil servants there (in Hong Kong) seemed completely out of touch with British ideas and that the public service perhaps needed an injection of new blood. As far as social development was concerned, Hong Kong was proceeding in the right directions. Our only concern was that perhaps the pace was too slow.\(^\text{88}\)

Those archives presently available do not allow us to further explore the dynamics of interaction between Hong Kong and London after 1977, but it would be interesting to see how Hong Kong maintained its position in the face of mounting pressure from London. As shown in the preceding discussion, the initiative of imposing social reform on

\(^{87}\) Eric Peter Ho, *Times of Change: A Memoir of Hong Kong’s Governance 1950–1991* (Hong Kong: Hong Kong University Press, 2004), 120.

\(^{88}\) TNA, FCO 40/755, “Minutes of the Meeting between Governor and David Owen, Secretary of State for Foreign and Commonwealth Affairs on 30 November 1977 (No. 85)”. 136
Hong Kong was largely the British government’s response to growing pressures from Britain’s trading partners and domestic labor unions. Hong Kong became a source of political embarrassment, and the British government attempted to find a way to deal with such hot issues from its own political perspective. It was eventually the British voters who came to the “rescue.” The Labour Party was voted out of power in the 1979 election and, consequently, the momentum for reforms subsided. By the late 1970s, the Hong Kong government had its hands full with the arrival of refugees from Vietnam and the influx of illegal migrants from the Mainland. Drastic changes in political development in Mainland China posed new questions and challenges to Hong Kong. The consolidation of the moderate leadership and the reopening of China’s economy had given Hong Kong new opportunities for reconsidering its relationship with China. With such changes in the broader social, economic, and political environment, attention to labour conditions in Hong Kong reduced significantly. Deceleration in reform was apparent in various fields and the contributory scheme proposed in 1977 was, in fact, never implemented until the very end of colonial rule under Chris Patten.

This chapter has no intention of tarnishing the reformist legacy of MacLehose. The social reforms that materialized under his governorship dwarf any previous program of public services in the history of colonial rule in Hong Kong, and the local community should hold no reservations in expressing its gratitude for his role in restoring public faith in the integrity of the colonial administration via the establishment of the Independent Commission Against Corruption (ICAC). Nevertheless, one should not overlook the momentum for reforms garnered before his arrival. Soul-searching reflection had already commenced in various policy areas as a result of population growth, rising expectations, and the inspiration of reform-minded bureaucrats under the governorship of David Trench. MacLehose’s personal vision for a better society and his political concern for local confidence helped crystallize these voices into concrete policy initiatives.

Central to our concerns here is the issue of autonomy. The alterations uncovered in this chapter reveal that the perimeter for action by
the colony was certainly defined by the position of the sovereign power. Driven by domestic pressure from the Left and strategic calculation over the future of Hong Kong, the FCO showed no mercy in imposing a grand scheme of social reforms on the colonial administration. In the process, FCO officials seemed undeterred by or were simply indifferent to local concerns and the reservations on the pace and scope of changes and their possible repercussion on the local economy, as articulated by the colony’s Governor. Yet the outcome of the process was hardly preordained. As shown in the case of MacLehose and Haddon-Cave, beneath the facade of subservience and accommodation, they had stubbornly defended their vision of local interests (though whether this would serve the best interests of the local Chinese community was another issue) and tried to implement the reforms at their own pace. They appeared not to be swayed by the asymmetry of power in constitutional terms. During the two years under observation, MacLehose and Haddon-Cave revealed a wide array of leverage at the disposal of colonial officials in engaging with their superiors back home. By persuasion (carefully crafted communications with London), reference to convention (the Colonial Office never did this), threats (London could ultimately sack the Governor), alluding to local opinion (anti-British feeling had been mounting in Hong Kong), occasional outbursts or even direct confrontation (FCO officials should examine their consciences), the Governor managed to a certain extent to steer the reform trajectory in the direction that he found more comfortable. Although it is counterfactual to argue that Hong Kong could have benefited more from the full implementation of social reforms enshrined in the Planning Paper, this account shows that an agent with political acumen and skills would at least guarantee articulation of local concerns even in the face of highly motivated intervention from the sovereign power.

References


TNA, CAB 134/2945. ‘Cabinet Ministerial Committee on Hong Kong, Hong Kong: Long Term Study, K(69)1,’ 26 March 1969.

TNA, FCO 40/81. ‘Brief prepared for the Visit of the Secretary of State to Hong Kong August 1966: Hong Kong and the Common Market,’ 26 February 1967.

TNA, FCO 40/124. ‘Workers’ Conditions in Hong Kong.’

NEGOTIATING AUTONOMY IN GREATER CHINA

TNA, FCO 40/323. 'J R A Bottomley to Sir L Monson,' 17 February 1971.

TNA, FCO 40/329. 'C M MacLehose to Sir Leslie Monson, Mr Wilford, Mr Morgan and Mr Laird,' 16 October 1971.

TNA, FCO 40/408. 'Extract of a Speech made by Dr. the Hon. S Y Chung at the Hong Kong Legislative Council on October 31, 1973.'


TNA, FCO 40/617. 'Secretary of State's Meeting with the International Committee of the TUC: Hong Kong,' 5 December 1975.

TNA, FCO/701. 'Hong Kong—Domestic Policies Up to the ’80s,' 6 March 1976.

TNA, FCO 40/702. 'Galsworthy to Larmour,' 16 March 1976.

TNA, FCO 40/702. 'Note by Galsworthy,' 16 March 1976.

TNA, FCO 40/704. 'Planning Paper on Hong Kong,' 1976.

TNA, FCO 40/704. 'Milton to Cortazzi/Hong Kong: Call on the Governor,' 16 July 1976.

TNA, FCO 40/704. 'Record of Meeting between MacLehose and Lord Goronwy-Roberts (No. 89),' 21 July 1976.

TNA, FCO 40/705. 'Cortazzi to Stewart (No. 8),' 13 September 1976.

TNA, FCO 40/705, 'Lord Goronwy-Roberts to MacLehose, Telegram no. 804 (No. 30/31),' 1 October 1976.

TNA, FCO 40/705. 'MacLehose to Lord Goronwy-Roberts, Telegram no. 805 (No. 32),' 1 October 1976.


TNA, FCO 40/707. 'Hong Kong Annual Review 1975,' 16 February 1976.

TNA, FCO 40/707. 'Letter to HE Sir Murray MacLehose KCMG KCVO MBE,' 16 February 1976.

TNA, FCO 40/707. 'Hong Kong Annual Review 1975,' 18 February 1976.

TNA, FCO 40/710. 'Hong Kong: Briefing for Mr. Cortazzi’s Visit,' 28 April 1976.

TNA, FCO 40/712. 'Record of Meeting between Governor and the Minister of State for Foreign and Commonwealth Affairs (No. 28),' 9 December 1976.

TNA, FCO 40/712. 'MacLehose to Stewart (No. 79),' 29 December 1976.

TNA, FCO 40/713. 'MacLehose to Callaghan: The Future of Hong Kong,' 12 February 1976.
TNA, FCO 40/721. ‘Publication on Hong Kong affairs in UK: Fabian Society pamphlet, “Hong Kong—Britain’s Responsibility” by Joe England.’


TNA, FCO 40/755. ‘Lord Goronwy-Roberts to the Secretary of State (No. 92),’ 1 July 1977.

TNA, FCO 40/755. ‘Minutes of the 4th Meeting of the Planning Committee to Monitor the Hong Kong Planning Paper on 11 November 1977.’

TNA, FCO 40/755. ‘Minutes of the Meeting between Governor and David Owen, Secretary of State for Foreign and Commonwealth Affairs on 30 November 1977 (No. 85).’

TNA, FCO 40/755. ‘Cortazzi’s Summary for Lord Goronwy-Roberts (No. 119),’ 14 November 1977.


TNA, FCO 40/756. ‘MacLehose to John Stewart (No. 29/30),’ 30 July 1977.

TNA, FCO 40/756. ‘MacLehose to FCO, Telegram no. 820,’ 12 August 1977.

TNA, FCO 40/756. ‘MacLehose to FCO, Telegram no. 819,’ 12 August 1977.


TNA, FCO 40/756. ‘Record of Meeting held in Mr. Stewart’s Office,’ 24 November 1977.


TNA, FCO 40/761. ‘Notes taken at the Governor’s meeting with Mr. Stewart and Mr. Cortazzi at the FCO on 21 November 1977.’

TNA, FCO 40/761. ‘Governor’s meeting with Stewart/Cortazzi at FCO (No. 83),’ 21 November 1977.


PART THREE

Territorial Politics under Communist Rule
Figure 6.1: Provincial-level jurisdictions of the People’s Republic of China
CHAPTER SIX

Central–Provincial Relations amid Greater Centralization in China

Lam Tao-chiu

Introduction

The ordinary provincial-level jurisdictions in China, such as Beijing, Shanghai, and Guangdong, have a different relationship with the central government from that of Hong Kong, which is constitutionally a special administrative region and lies outside the main administrative structure. Compared to Hong Kong, these provincial-level jurisdictions are subjected to not just greater but also a qualitatively different kind of central control. Under the formula of “one country, two systems” the relationship between central government and Hong Kong has centred on political issues such as the central government’s roles in the design of political institutions, the pace and modes of democracy and universal suffrage, electoral systems, and judicial independence. The Basic Law and the developments since 1997 have given the central government ultimate say over the basic shape of political institutions and the pace of democratization, but administratively Hong Kong has remained a separate entity. In comparison, the ordinary provincial-level units are fully integrated into an administrative hierarchy with a dense network of formal and informal institutions and mechanisms governing central–provincial interactions. As examined later on, the main issues that characterize these interactions are of a different type than those issues governing Hong Kong’s relationship with the central government. In that sense it is difficult to directly compare the central–provincial interactions with those between the central government and Hong Kong.

1. The provincial-level jurisdictions include provinces, autonomous regions, directly administered cities, and two special administrative regions (Hong Kong and Macau).
With this caveat in mind, an understanding of the basic structure and evolution of the central–provincial relationship in the body politic would help contextualize the evolving relationship between Hong Kong and Beijing, not least because it helps illuminate their different characters and trajectories. It goes without saying that political developments in China would greatly impact Hong Kong. The developments in the central–provincial relationship in the main body politic examined in this chapter are not directly relevant to Hong Kong, but they help place the “two systems” into the context of “one country”. Several trends discussed may have implications for understanding the development of Hong Kong’s relationship with Beijing in the long term: increased emphasis on central control, the coexistence of central control and decentralization, the normality and ubiquity of bargaining in central–provincial interactions, and finally a central leadership with a rich provincial background. We cannot make inferences from these developments in the main body politic about Hong Kong, but they nonetheless form the background and context for Hong Kong’s evolving relationship with the central government.

Despite China’s authoritarian political structure, provincial jurisdictions and local governments below them have enjoyed considerable discretionary powers, and they have bargained with central government to protect and advance their interests.² While provincial discretion and bargaining pertain to China’s size and the population, scale and complexity of provincial administration (hence the inevitable need for decentralization) – the structural imperatives so to speak – their scope and influence have been constrained by systemic institutions and mechanisms created to ensure central authority. Provincial autonomy and bargaining have surged during the era of economic reform, but they have been shaped by a number of centralizing measures. Two measures are directly relevant to central–provincial interaction and the nature and character of provincial deviations and bargaining. One concerns the fiscal system, and the other is about the leadership management system and the background of provincial leaders. China’s provinces may

well enjoy considerable (and greater) autonomy and exhibit an array of bargaining behaviors, but they should be understood within an overall framework of central control.

This chapter first examines the characteristics of provincial leaders and discusses whether they are predominantly insiders or outsiders. It argues that although the majority of provincial leaders can be labelled as insiders, top provincial positions (Party secretary and governor) have increasingly been taken by outsiders or the so-called centrists. The implementation and refinement of the tax-sharing system since the early 1990s have centralized most fiscal revenue. The new fiscal system has not only reversed the decline of direct central control over revenue, but has also moved the arena of central–local bargaining and altered the relative bargaining positions of the central and provincial levels. Provincial bargaining and lobbying have continued to characterize central–provincial interactions, but the arena has shifted to bargaining for more central support, in terms of both more preferential central policies and central investment support. This has not changed the particularistic character of central–provincial bargaining, but as we will discuss below, provincial bargaining now occurs in a context in which the central government is in control of much greater resources and in a position to set the rules of the game.

Just as fiscal centralization has not grounded economic reform, nor has it reversed economic and administrative decentralizations, which to a large extent, have been decoupled from fiscal decentralization. Centralization and decentralization have coexisted, and within certain limits, provincial governments have enjoyed even greater autonomy in governing their economy and society. Provincial autonomy is also reflected in the fact that after the implementation of the tax-sharing system, expenditure responsibilities have continued to be extremely decentralized (more decentralized than most federal systems according to Landry). The comprehensive and integrated reform zone scheme (综合配套改革区) discussed in this chapter suggests that further decentralizations have emerged. As the discussion about government reorganization suggests, even in the area regarding the structure of local government, the provincial level has been given greater latitude, although such latitude still seems extremely limited.

The basic institutional structure governing central–provincial relations

It is useful to start by highlighting the fundamental institutional mechanisms governing the relationship of the provinces with the centre in China. The foundation of these institutional mechanisms is a particular conception of the unitary state, which emphasizes that the centre is the ultimate source of political authority and power and that all local governments are accountable to the central authority in Beijing.

Local governments set up to govern a part of the country in China are organized into a hierarchy. Although constitutionally a local government is to be “elected” by the people’s congress at that level, it is accountable primarily to (and is supervised by) the administrative superior in the hierarchically structured governance system. Hence, provinces are subordinate, and accountable, to the central government. In addition to this, an institutional mechanism has been in place since the inception of the People’s Republic of China (PRC) to govern central–local relations: the vertically organized systems or xitong (系统). The functional offices of local governments are organized into a set of centrally organized xitong run from Beijing. Hence, these offices are placed under a dual leadership structure: horizontally to the local Party committee and government (块块) and vertically to the functional authority in Beijing (条条). The tension between the horizontal authority and vertical authority in China is legendary, with significant implications for policymaking and implementation. Whether the vertical authority or the horizontal authority is more emphasized is an important measure of the degree of centralization and decentralization in China. At the same time, even though horizontal authority has gained in importance, vertical authority has continued to be an important force in central–local interactions, and policymaking and implementation.

The PRC is not just a unitary state, but also one ruled by a communist party, which has insisted on controlling the leading officials of local governments by the Party through an elaborated nomenclatura system. Despite the vacillation of centralization and decentralization over the years, the Party’s control over the cadre force has never been seriously

questioned within the Party. Two major changes relevant to central–provincial relations have been made to the nomenclatura system in recent decades. The first took place in 1984 in which the Party centre decided to manage only the officials one level down (下管一级). This move cut the number of officials directly controlled by the Party centre dramatically, from 13,000 to 5,000. While this represents a significant decentralization of arguably the most important power in the Chinese political system, it does not challenge the Party’s control over the cadre force. This change does suggest that the provincial level has gained more powers in managing their cadres. The prefecture-level officials formerly under direct central control have since 1984 been placed under provincial Party committees. Another change to the nomenclatura system took place in 1990 in which the central level withdrew some of the powers over cadre control decentralized to the provincial level in 1984. Under the present nomenclatura system, all provincial officials – Party secretary and governor, their deputies, and the other cadres of provincial/deputy provincial ranks – are directly controlled by the Party centre.

In the Chinese political system, by design provincial leaders are both agents of central government and representatives of provincial interests. As Shirk has argued, by institutional design provincial officials (and other bureaucrats) are required to stand, and rewarded for standing for the interests of the jurisdictions under their governance. In that sense, and when the central level embraces provincial flexibility and decentralization, these two roles do not necessarily run against each other, and central–provincial

---

5. A notable exception to this is during the political system reform around the 13th Party Congress in the late 1980s in which a proposal was made to significantly curtail the Party’s direct control over many leading cadres. This was to be done through classifying many leading positions in provincial and other local governments as civil servants. However, this proposal did not have the time to fully develop and was dropped following the Tiananmen crackdown.


interactions are indeed not zero-sum. In the extreme case, when provincial officials have to choose one or the other role, or when the centre does not accept the slightest degree of deviation in policy implementation, these two roles can of course come into conflict. This situation is not common in China (except in Tibet and Xinjiang where religious and ethnic issues have crystallized the regional interests and pitted them against central policies), because under this authoritarian political system local people and communities rarely have the freedom or opportunity to articulate or develop, let alone express, provincial interests. Hence in most cases provincial officials have considerable latitude to define what provincial interests are according to their own preferences and calculations.

To appreciate whether these two roles actually come into conflict and how provincial officials in China have managed (or not managed) these two potentially conflicting roles, it is also important to understand the main thrusts of the reform era: administrative and economic decentralizations. Scholars have long noted that even during the Maoist period, China emphasized decentralization a lot more than the Soviet Union, allowing for local discretion. The reform era has substantially pushed the principle of taking actions that suit local conditions (因地制宜) to an unprecedented level of importance. As Landry and others have noted, on some measures China is even more decentralized than most federal systems.

Top provincial leaders in China are also a part of the national political system. In China today, almost without exception the provincial Party secretaries and governors of all the provinces are members of the Party’s Central Committee. Some provincial leaders serve as alternate


11. Goodman argues that in Shanxi Province provincial identity and a provincial discourse of development have risen in importance, and such provincial identity “was neither conceived nor received as an exclusive identity separate from or opposed to other identities, local or national” and the provincial identity and discourse in Shanxi “reinforce the province’s integration with the rest of China”. David Goodman, “Structuring Local Identity: Nation, Province and County in Shanxi during the 1990s”, *The China Quarterly*, no. 172 (2002): 839.


members of the Central Committee too. A small number of provincial secretaries are members of the powerful Politburo. However, the meaning of provincial representation on these central institutions is far from clear. Different assumptions lead to different interpretations about the representation of provincial leaders on national institutions such as the Central Committee or the Politburo, and how these provincial-cum-national leaders manage the potential conflicts between the role of central agents and that of provincial representatives. 

Provincial representation can either be a measure of provincial clout or one of national integration. This issue aside, representation on the Central Committee nevertheless allows provincial leaders to participate in national policymaking. In the first three decades of the PRC and in particular during the Cultural Revolution some provinces had more Central Committee members than others, but since the 1990s almost all provinces (except Xinjiang and Tibet) are guaranteed equal representation.

Shirk has coined the concept of reciprocal accountability to capture the logic of provincial representation on the Central Committee and its implications for central–provincial interactions. Recognizing the institutional significance of the Central Committee in the selection of Party leaders, Shirk argues that members of the Central Committee wield considerable influence over the central leaders, who in turn appoint the officials that constitute the Central Committee. Hence, the leaders choose the officials, and the officials also choose the leaders. Shirk argues that during the 1980s when central leaders competed for political succession, Central Committee representation allowed provinces to exercise some influence over central policymaking. For example, according to Shirk, in the belief that it would increase his support among the Central Committee “selectorate”, Zhao Ziyang followed the strategy


of playing to the provinces to distribute benefits to provincial actors to counter the resistance of the conservative central ministries. ¹⁷

A similar but less controversial conception about the central–provincial relationship is mutual dependence, particularly in an administrative sense. Mutual dependence suggests that each has something to offer to the other and therefore has different sources of leverage. One of the most important leverages of the provincial government is its intermediate position in the administrative hierarchy. ¹⁸ China's provinces are massive. As Donaldson has shown, many of China's provinces are comparable to some of the world's largest countries in terms of population, GDP (total or per capita), and area. In 2006, nine provinces had a population of more than 50 million each, and 19 had a population of more than 30 million each. ¹⁹ China's provinces on average govern 73 counties, and thousands of towns and townships. ²⁰ The size and complexity of provincial administration alone are important sources of provincial leverage. In the words of Lieberthal and Oksenberg, “The provincial level is a gatekeeper guarding and providing access to the local levels.” ²¹

**Provincial leaders: Centrists or localists?**

As already noted, by design provincial leaders in China play the dual roles of serving as the agents of central government and representatives of local interests. Within the broad institutional parameters governing central–provincial relations, it is widely believed that the background of provincial leaders has an important impact on their perception, preference, and behaviour and hence is an important factor in determining whether a provincial leader would be more oriented to central or provincial interests. As Huang has put it, “Bureaucratic integration tends to bring about compliance in local conduct in general and to reduce

---


18. Goodman, *Center and Province*.


shirking in local investment conduct in particular.”22 This is why the background of provincial leaders has persistently been an acute concern in Chinese politics for both the central government and local political community. A case in point here is the appointment of Li Changchun (an outsider from Henan Province and a native of Liaoning Province) to replace Xie Fei, a native of Guangdong Province, as Guangdong’s provincial Party secretary in 1998. Another case is the appointment of Xi Jinping (who took up the top position of General Secretary in late 2012) in 2007 to the position of Shanghai municipal Party secretary, replacing Chen Liangyu, an insider. Xi’s outsider background marks a noticeable departure from the pattern developed since Jiang Zemin’s tenure as Shanghai’s Party secretary. The Party secretaries succeeding Jiang Zemin (Zhu Rongji, Wu Bangguo, Huang Ju, and Chen Liangyu) all rose from within the ranks of Shanghai.23 This is widely viewed as an attempt by the central level to rein in Shanghai.

Many scholars have noted that political localism has become a prominent feature of almost every level of local government in post-Mao China: political leaders were predominantly either born locally or spent the most part of their career in the regions they led.24 The high ratio of native cadres in local leadership represents a sharp contrast to the period following the Cultural Revolution, during which only about 20 per cent of the provincial leaders were born locally.25 While on the surface the trend of political localism is unmistakable, the broad picture may lead to an incorrect observation and conclusion about the degree as well as the impact of localism. The broad picture of leadership localism does not differentiate provincial leaders at different levels. This is a problem because in the provincial leadership structure the provincial governor and particularly the Party secretary are undoubtedly more important than their deputies. Hence, are these positions also taken by native cadres or cadres with a strong connection to the province in question?

22. Huang, Inflation and Investment Controls in China, 196.
23. It can be argued that Zhu Rongji is an exception because he spent most of his career in the central government, although his immediate position prior to the appointment to municipal Party secretary was in Shanghai, as Mayor.
An analysis of the background of these provincial chiefs (in contrast to deputy Party secretary and deputy governor) suggests a different picture from leadership localism. Measuring the degree of bureaucratic integration of provincials for the period between 1976 and 1992, Huang argues that there has been an unmistakable trend of an increasing number of centrists (those working at the central level before assuming the provincial leadership position) and outsiders (those working in other provinces) being appointed to provincial leadership positions. In comparison, the number of insiders (those spending their entire career within the province) dropped consistently during this period. Huang’s empirical analysis is important because the period of his study covers a period widely believed to have witnessed a strong surge of regionalism and a decline of central control.

Recent developments have provided more support to Huang’s argument. An analysis of the background of the provincial leaders in 2002 by Li Cheng showed that while half of the second-tier provincial leaders were native cadres, only 18 per cent of the provincial chiefs were. This shows that the emphasis in the leadership management practice of appointing outsiders and centrists to the top provincial leadership positions has not only continued but been strengthened.

Moreover, it can be reasonably assumed that leadership behaviour is also influenced by the length of tenure of provincial leaders. The institutionalized leadership management system has provided clear provisions for the maximum tenure of leading Party and government officials, and the mandatory transfer of officials who have reached the maximum tenure. Specifically the regulation states that Party and government officials could serve a maximum of 10 years in a particular position, after which they should be moved to a different position. Formally speaking, the effect of the rule of cadre transfer may be limited because it does not require a leading cadre to be transferred to a position in another place. 

27. Li Cheng, "Political Localism versus Institutional Restraints", 64.
28. A provisional regulation was passed in May 1995 to govern a wide range of areas concerning elite management. The provisional regulation was replaced in 2002 by a permanent regulation. “Dangzheng lingdao ganbu xuanba renyong gongzuo tiaoli” (Regulation on the selection and appointment of leading cadres of Party and government), in *Dangzheng lingdao ganbu xuanba renyong gongzuo shiwu* (Works of the selection and appointment of the leading cadres of Party and government) (Beijing: Zhonggong zhongyang dangxiao chubanshe, 2002) , 147–63. Chapter 10 covers cadre transfer and avoidance.
locality. It is entirely within the requirement of the regulation that, for example, a deputy governor who has served the maximum tenure may be appointed to another position within the same province. This provision, however, practically sets the maximum tenure of Party secretary in the same locality as it is very unlikely that a Party secretary would be transferred to a different position in the same locality.

The effect of the provision concerning maximum tenure is likely to be limited also because most provincial leaders actually have a far shorter tenure. There seems to be an informal rule requiring more frequent transfers of provincial leaders, particularly provincial chiefs, and transferring them to another province or to a central organization. The empirical analysis by Li Cheng shows that there have indeed been more frequent transfers of provincial leaders and more transfers of these leaders to another province and between provinces and central organizations. For example, the period between 1998 and 2001 witnessed three large-scale reshufflings of top provincial leaders involving 43 provincial Party secretaries and governors. Li Cheng’s analysis shows that provincial leaders, both provincial chiefs and deputy leaders, served a much shorter term than 10 years, and provincial chiefs had a shorter tenure than deputy leaders. More frequent reshuffling and transfer of provincial leadership have resulted in shorter tenure and less leadership stability. For example, in 2000 the average tenure of the provincial Party secretaries and governors was 3.3 and 2.3 years, as compared with 4.8 and 3.5 years in 1995. 29

This pattern of leadership appointment is evident in those provinces believed to have manifested the highest degree of localism. Since 1997, all three Party secretaries appointed to head Guangdong – Li Changchun, Zhang Dejiang, and Wang Yang – have been outsiders. According to Huang’s definition they are centralists as well – and very bureaucratically integrated – because they all serve concurrently as members of the Politburo. An analysis of Guangdong provincial leadership shows that outsiders hold some of the most crucial positions in the power structure. In addition to Wang Yang, Zhu Mingguo, an outsider, is in charge of the strategically important position of Party disciplinary committee

secretary, and Hu Zejun, another outsider transferred to Guangdong from Beijing, heads the important organization department.\(^{30}\)

A similar picture has emerged in Shanghai. Li Cheng notes that Shanghai was an exception to the rule in provincial leadership composition in the sense that all but one of the municipal leaders since Jiang Zemin assumed national Party leadership in 1989 were insiders.\(^{31}\) This however has changed recently. As noted earlier, Xi Jinping, who was sent to Shanghai following the fall of Chen Liangyu, is an outsider to Shanghai. When Xi was promoted to the national arena after his brief tenure in Shanghai, another outsider, Yu Zhengsheng, was transferred from Hubei Province to head Shanghai. This surely marks a sharp departure from the pattern that all municipal leaders (including the Party secretary) in the city rose to the top from inside the city administrative echelons during the period from the late 1980s to 2007.

To be sure, as in other provinces most municipal leaders in Shanghai are still mostly insiders. Yet another important initiative from the central government has started to change this. In 2007, a central Party disciplinary figure, Shen Deyong, was sent to Shanghai to head its Party disciplinary committee. When he was transferred back to Beijing about a year later, another outsider, Dong Junshu, was appointed to head this strategically important Party organization. Dong, like Shen, was completely new to Shanghai. Before his appointment, Dong had headed Jiangxi Province’s Party disciplinary committee, but had spent most of his career before that in Zhejiang.

In fact, the appointment of a central official to head Shanghai’s Party disciplinary committee is just a part of a larger effort to enhance central control over the provincial Party disciplinary committees. Shen Deyong’s appointment to Shanghai was made together with the appointments of


\(^{31}\) Li Cheng misses an important figure in his analysis of the background of Shanghai officials at this point of time. Because he focuses only on the Party secretary, deputy secretaries, mayor, and deputy mayors, he does not identify Wang Anshun, standing committee member and head of the organization department, who later became deputy Party secretary from 2003 to 2007, and then transferred to Beijing to be deputy Party secretary while serving currently as secretary of the political and legal affairs commission. Wang was a native of Henan and worked in the petroleum industrial sector and the central government before his promotion to Gansu, where he was a standing committee member and head of the organization department from 1999–2001. Li Cheng does not include Wang as a member of the Shanghai Gang either.
three central officials to head the Party disciplinary committees of the other three “directly administered cities”. Moreover, this pattern has not been confined to the “directly administered cities”. Ten of the 15 newly appointed provincial disciplinary committee secretaries in 2006 were transferred from outside the provinces. Among these 10 outsiders, five of them had served originally in the central disciplinary commission.  

While this stops short of altering the relationship of the Party disciplinary committee to the municipal leadership (the Party constitution requires the disciplinary committee to work under the Party committee at the same level), the appointment of officials directly from the central disciplinary commission strengthens central control and helps reduce local influences on the disciplinary committee.

**Fiscal centralization**

The literature on the decline of the centre and the challenge of the provinces to central political authority has focused mostly on the fiscal relationship that emerged during the early stage of reform, and the steep and fast drop to the ratio of budgetary revenue to total GDP and the ratio of central revenue to total budgetary revenue (the so-called two ratios, 两个比重). The decline of these two ratios was mostly a result of the fiscal contract system that first started in Guangdong and Fujian, and was later introduced to other provincial units. Fiscal contracts led to a decline in the two ratios for two reasons. First, a typical fiscal contract between central and provincial governments committed provinces to hand over a fixed sum to the central level, and allowed them to have a residual claim over the surpluses. Since provinces such as Guangdong or Jiangsu, which were not industrially strong under the command economy, grew the fastest, the fiscal contracts, which fixed the amount of revenue submitted by the provinces, worked to the severe disadvantage of the central level. The second reason is because local governments in

32. *Diyi caijing ribao* (First finance and economic daily), 6 December 2006.
rich regions had strong incentives to “shield local enterprises from taxation to avoid sharing revenues with the central government”.

While the linkage between fiscal resources and provincial clout vis-à-vis central government is difficult to establish, fiscal decentralization did produce important consequences for local government behaviour. By allowing local governments to claim the residual revenue over and above the fiscal contract, fiscal decentralization made local governments a separate economic identity (经济利益主体) from the central government. The fiscal contract system, according to Huang, “obligates provinces to turn over a fixed amount of tax and divide the residue by an ante formula” and is the most important manifestation of local governments becoming separate economic entities. Similarly, Naughton identifies “incentivization” as one of the defining elements of the early stage of reform.

35. Huang, Inflation and Investment Controls in China, 308.
The implementation of the tax-sharing system in 1993 has arrested and reversed the decline of the two ratios, as shown in Figure 6.2. While budgetary revenue as a percentage of total GDP rose only slowly after 1996, the ratio of the central share of budgetary revenue to total budgetary revenue climbed from 22 per cent in 1993 to more than 50 per cent. Because the expenditure responsibilities of different levels of government had not changed, the central level has collected a lot more revenue than it spent since 1993, as shown in Figure 6.3.

Figure 6.3 shows that collectively there has been a huge gap between what the local governments have collected and spent since the introduction of the tax-sharing system. According to Wong and Bird, in the period between 1996 and 2003 transfers from central government accounted for nearly 50 per cent of local government expenditure. A closer look at the self-sufficiency ratios of different levels of local government suggests that although the provincial level has not been the hardest hit, the self-sufficiency ratio of the provincial level nevertheless dropped from 0.73 per cent in 1987 to 0.54 per cent in 1997, while the self-sufficiency ratio

Source: Zhongguo tongji nianjian 2009: 263.

for the central level increased from 0.87 per cent to 1.67 per cent during the same period.\textsuperscript{39}

Since the introduction of the tax-sharing system in 1993, the central level has adopted additional measures to strengthen the central government’s fiscal position. It has adjusted the central share of some shared taxes, such as security transaction tax. In 2002, it made enterprise income tax and personal income tax shared taxes and classified the newly reinstated interest tax as a central tax.

The introduction of the tax-sharing system suggests that the central government possesses enormous political and ideological resources to redesign the rules of the game when fiscal problems, as Dali Yang has put it, “were perceived to have assumed crisis proportions, especially in the context of the collapse of the Soviet Union and China’s own problem of political legitimacy.”\textsuperscript{40} To get the provincial leaders to accept the tax-sharing system, the central level initially made considerable concessions. Besides these concessions, several factors helped the centre to get the provincial actors on board. First the Party’s norm against factionalism prevented the provincial actors from undertaking a collective and organized opposition. Second, not all provincial leaders had the same views on fiscal recentralization. Those from the interior provinces might actually support the tax-sharing system, which would allow the central level to transfer more resources to the less developed parts of the country.\textsuperscript{41}

However, initially the tax-sharing system did not benefit the interior provinces much because a major concession to the rich provinces was that central transfers were geared to taxes collected and would be made in the form of tax rebates. In 1997, for example, tax rebates accounted for 72 per cent of total central transfers.\textsuperscript{42} The result is that initially central transfers mainly benefited the regions that collected more taxes. It is therefore not surprising that the three directly administered cities Beijing, Shanghai and Tianjin and provinces such as Zhejiang and

\textsuperscript{39} Wang Yongjun, \textit{Zhongguo gonggong zhichu shizheng fenxi}, 220.
\textsuperscript{40} Dali Yang, “Governing China’s Transition to the Market”, 430.
Guangdong received the highest amount of per capita transfers from the central government.\(^{43}\) Central transfers were disequalizing.

Even so, the central government started to change this from 1998. In a series of measures implemented since the late 1990s, the central level has had some success in reducing the importance of tax rebates in central transfers and designing a more equalizing transfer system. A major instrument has been to de-link central transfers from the disequalizing tax rebates and to link them to a need-based assessment of the financial situations of provinces. The result is that the ratio of tax rebates to total central transfers was reduced from more than 70 per cent to about 40 per cent in 2004.\(^{44}\)

**Fiscal centralization, economic decentralization and provincial bargaining**

The provincial actors, especially those from coastal China, did not welcome the tax-sharing system with open arms, but they accepted it with reluctance because they were assured of the resources they already possessed prior to the implementation of the system. Fiscal centralization has also not resulted in centralization in other areas of economic management. According to Naughton, when the central government introduced the tax-sharing system, it also made a deal with the local leaders to gain their support:

In return for the revenues and authority the center reclaimed, local officials were given much greater freedom to manage their local economies as they saw fit. Central leaders set up a new relationship with local officials, essentially decentralizing to the local government ability to manage the process of selective opening. Local governments were allowed vastly greater sway over their own economic development, their own publicly-owned enterprises, and their relations with private and foreign businesses.\(^{45}\)

The *de facto* separation of ownership of enterprises, together with the enhanced freedom of the provincial level, led to a wave of privatization

---


\(^{44}\) Wong and Bird, “China’s Fiscal System”, 458.

\(^{45}\) Naughton, “A Political Economy of China’s Economic Transition”, 124.
that provided a windfall to local officials. In this sense, the logic of political patronage behind central–local interaction is not much different from that of the earlier stage.

The introduction of the tax-sharing system has nonetheless changed the game of central–provincial bargaining in significant ways. First, with regard to fiscal contracting, the system has diminished the importance of particularistic contracting inherent in the preceding fiscal management system. In principle at least, the tax-sharing system means that a set of rules is applied equally to all agents. However, this by no means suggests the total disappearance of particularistic bargaining. It has not. Provincial leaders have continued to lobby central leaders for particularistic support and preferential treatment. Fiscal centralization has concentrated a vast amount of revenue at the central level, and it has redrawn the game of central–provincial interaction in two ways. First, it has shifted the arena of bargaining. While previously, provinces in China bargained with the central government for keeping a higher ratio of the revenue they collected, now they lobbied the central government to spend more on their regions. “Beneficiary regions”, Naughton notes, “received roads, bridges, and productive investments”. Second and more importantly, it has altered the terms of central–provincial interaction. As noted earlier, since 1993 the central government has collected a lot more revenue than it has directly spent, which has placed it in the enviable position of allocating revenue and investment projects. Since the mid-1990s approximately 50 per cent of local expenditure has been supported by transfer payments from the central level.

Here we also see the old-style politics of particularistic bargaining in action. As in the 1980s, the central actors could launch programs that, to use Shirk’s term, “play to the provinces”. However, there has been a critical difference. In the 1980s, particularistic bargaining mainly benefited the coastal and rich provinces, but now the major programs buttressed by massive central spending and investments have shifted to focus on the inland and western regions. The Western Development Program (西部大开发) that started in 1999 was followed by the program to revitalize

46. Ibid.
48. Ibid., 122.
the Northeast (振兴东北) in 2003, and more recently by the endeavor to boost the development of central China (中部崛起).49

These old and arguably new features of provincial bargaining and lobbying, and continuing decentralizations in the context of centralization, will be examined in the case of the comprehensive and integrated reform experiment zone scheme. The analysis of central–provincial interaction in matters concerning government structure and establishment in the section that follows suggests that although the central level retains tight control, there are substantial local deviations. The provincial level has been granted greater autonomy since the latest round of government restructuring in 2008.

A case of decentralization and provincial bargaining: The comprehensive and integrated reform experiment zone scheme

The nationwide drive to set up comprehensive and integrated reform experiment zones – as opposed to the reform focusing on economic management in the special economic zones in the 1980s – started in Shanghai’s Pudong new district. It was the first in the country approved by the central government to experiment with comprehensive and integrated reforms, focusing especially on creating a new system of administrative institutions to cope with the problems arising from fast population growth and economic development. A year later, Tianjin’s Binhai new district was named the second zone under the scheme. These, and the example of the spectacular rise of Shenzhen as a special economic zone since the 1980s, have set off a nationwide fever among the provinces to lobby the central government for the privileged status. (Since this type of experiment zone is dubbed as a new special zone [新特区], the national fever is called “new special zone application fever” [申新热].) From 2005 to 2007, 16 provincial units formally applied to the State Council for the status, and many more indicated their intention to do so. During the National People’s Congress (NPC) and the Chinese People’s Political Consultative Conference (CPPCC) annual meetings in Spring 2007, the representatives of several provinces (including Hubei, Hunan,

Liaoning, and Hainan) submitted formal motions to the national meetings to lobby for the privileged status for their localities.  

By 2007, in addition to the two experiment zones approved in 2005, the central level had approved three more: one in Chengdu in Sichuan Province and Chongqing; another in Wuhan in Hubei Province; and the third in Changsha, Zhuzhou, and Xiangtan in Hunan Province. While it is not clear why Chengdu and Chongqing are treated as one experiment zone, it is nevertheless strange. Chongqing was formally a part of Sichuan Province but has become a separate provincial unit – a directly administered city – since 1997. The central government probably granted both Chengdu and Chongqing the experiment zone status to avoid damaging their relationship if either one lost. Meanwhile this is probably because the central level found it necessary to limit the total number of experiment zones. The experiment zone of Chongqing and Chengdu has been charged with experimenting with a more balanced urban and rural development, while Wuhan and the three interlinking cities of Changsha, Zhuzhou, and Xiangtan in Hunan Province will focus on experiments in building a resource-saving and environmentally friendly society.

These reform experiment zones are still in the early stage of development, which makes a full analysis and assessment difficult. Suffice it to say that these experiments seek to go beyond the economic realms to areas of social management and even political and administrative institutions. The reforms to be carried out are supposed to be both comprehensive (covering a wide range of areas, not just the economy) and integrated (different reform measures should support and reinforce one another). What comprehensive and integrated reforms exactly entail, however, is far from clear and specific. This term has referred to markedly different things in different places. For example, Chengdu and Chongqing will focus on simultaneous and more balanced urban and rural developments, and Pudong seeks to develop a government structure to cope with the needs and challenges of a rapidly urbanizing society.

Central-level and provincial officials obviously have different expectations from these reform experiments. The central level views this as an opportunity to motivate the local government to experiment with inno-

50. “Guojia shiyan xinqu zhizheng” (Competing for the national new experiment zone), Liaowang xinwen zhakan (Outlook), no. 13, 26 March 2007, 14–15.
vation and to accumulate experiences for nationwide implementation. Although the central level realizes that most reform measures inevitably require preferential central policies and particularistic support, it does not want local officials to focus on gaining preferential central support. Local officials, however, have viewed this as an opportunity to obtain more preferential policies and more resources from the central government. Local officials, it is said, think that if they have this “hat” (帽子), they will eat from a separate small stove (吃小灶), meaning they will be treated differently from the others and given special powers. Hence, the most attractive aspects of the experiment zone status are greater autonomy and more resources from the central government. Therefore Bo Xilai, Party secretary of Chongqing (now under investigation for corruption and the murder of a British businessman), urged Chongqing officials to be mindful of central policies and use them fully. A Liaowang report states that in essence the competition among the provinces for the experiment zone status is a competition for privileges. The benefits are expected to fall into one or all of the following areas: more powers in introducing financial reforms; more flexibility in land use; more subsidies from the central government; and greater freedom in tax and related measures.

The development of the experiment zone scheme in the past several years is interesting and illuminating from the perspective of central–provincial interaction and bargaining. First, in many ways this is similar to the selective withdrawal (or “disarticulation” in Naughton’s terminology) that prevailed in the 1980s, but with a different twist. While the first two zones were located in Shanghai and Tianjin along the coast, the three zones designated later are all located in inland (and less developed) regions. Before the decision to add more zones after Shanghai and Tianjin, officials from the State Development and Reform Commission made it clear that regional balance was the most important of all the considerations for the central government. This decision reflected the theme announced in Wen Jiabao’s government work report presented to the NPC in Spring 2007 about the priority of the balanced development of the four

51. Ibid.
52. Ibid.
macroeconomic regions: Eastern, Central, Western and the Northeast. Hence, the locations of the last three zones were widely expected before the final announcement.54

Second, the scrambling for the experiment zone status also reflects the strong position of the central level in its interaction with the provinces. Just as the powers to grant fiscal concessions or preferential policies to the provinces were important patronage resources in the 1980s, the power to grant the experiment zone status is in the hands of the central government. Selective decentralizations can therefore be used to support the new policy lines and the philosophy of balanced regional development. The central level also set the priorities and principles when deciding the provinces (cities) to be included in the experiment scheme. When the central level set balanced regional development as the most important priority, the choice of Chongqing and Wuhan was almost a foregone conclusion.

Third, there had been intensive provincial lobbying and bargaining throughout the process. Provincial actors lobbied the central government in two stages. They first lobbied for a privileged status. After gaining the status, the selected regions bargained with the central level over the specific terms of the preferential policies and central supports.

From the perspective of understanding central–provincial interaction, the strategies that provincial actors pursued and the behaviors shown are probably more important than the balance of central control and provincial autonomy. Hence it is instructive to see how Wuhan and Chongqing, for example, won the national experiment zone status. Provincial and city officials in these two places demonstrated considerable policy and political entrepreneurship. Both regions tried to package their proposals according to the priorities and principles set by the central government. Wuhan emphasized its strategic role in the development of central China. The Mayor of Wuhan cited four reasons to support Wuhan’s appeal to the central government: choosing Wuhan would be a logical choice in terms of the national strategy to boost the rise of central China; the experiments in Wuhan would be of a substantive value for the rest of the country (because Wuhan was more representative of China); choosing Wuhan as an experiment zone would strengthen its institutional advantages to support the rise

of central China; and lastly Wuhan possessed favorable conditions for conducting the experiments.\(^5\)

Similarly Chongqing was favorably positioned in the context of the emphasis on balanced regional development and urban and rural growth. To increase its chance of success, and taking into consideration the central government’s priority of achieving balanced urban and rural developments, Chongqing strategically expanded the coverage of the zone to include the entire city (which covers a vast rural area). In this way, Chongqing proposed to address two pressing central concerns that had persisted since Chongqing became a directly administered city in 1997: dualistic development of the urban and rural areas, and resettlement of the dislocated population from the construction of the Three Gorges Dam. In the words of a Chongqing academic, including the vast rural area and the reservoir region made Chongqing’s proposal more convincing and attractive to the central government. In return, Chongqing asked for central policy support in such areas as the administrative system, land use, fiscal revenue, and asked for more autonomy in financial management. Specifically, Chongqing requested the central government to allow it to issue local government bonds and to allow the state-owned enterprises under its supervision to issue enterprise bonds, and requested the central government’s support in developing a Western property-rights exchange centre. Recognizing the value of land in a fast-urbanizing society and the constraints imposed by the national policy regarding land use, Chongqing requested the central government to allow it more flexibility in land use. Another concession that Chongqing requested from the central government was to allow it to claim a share of the revenue from natural resources under the monopolistic control of central enterprises such as Sinopec and Petro China. It also wanted a compensation fund to be set up from the revenue generated by the Three Gorges Dam power station to compensate for the loss sustained by people in the upper reaches of the Yangtze River (i.e., Chongqing, Yunnan and Sichuan).\(^6\)

Chongqing followed the same strategy as Wuhan in pressing its case and argued that, as a city with a vast rural area and governing a vast rural

---


population, it was more representative of China, and that the experiences gained from the experiments in Chongqing would be valuable for the whole country. To support this argument, Chongqing highlighted that the ratio of per capita GDP of the urban area and the reservoir area in Chongqing was three to one, greater than the difference between the average per capita GDP of the coastal and Western regions, and the ratio of the per capita GDP of the richest district and the poorest county in Chongqing was 10.5, larger than the ratio of Shanghai and Guizhou Province.57

What is most remarkable about this provincial lobbying behavior is that many provinces went beyond the normal and opaque bureaucratic channels to appeal for greater public support in both local and national arenas. In the case of Wuhan, the municipal Party secretary and mayor jointly appealed to the central government to award Wuhan the privileged status during the NPC annual meeting in Spring 2007. At the same time, 42 NPC deputies and 38 CPPCC representatives submitted a motion to the NPC and CPPCC respectively. In Chongqing, coordination and mutual support between top officials and NPC deputies were also visible. On the one hand, municipal Party secretary Wang Yang (a Politburo member and a close protégé of the then General Secretary Hu Jintao) and the city mayor jointly wrote to the central government to appeal for support. At the annual NPC meeting in early 2007, the entire delegation of Chongqing submitted a formal motion to the NPC meeting to call for the support of central government. This was the only motion submitted in the name of the entire delegation at this meeting.

Provincial actors also bargained with central actors over the detailed reform plans. When granting the experiment zone status, the central government only set the overall direction and broad outlines, and asked the provincial authority to prepare an implementation plan and to submit it to the central level for approval. Given the different expectations of the central and provincial actors, it was not surprising that the selected experiment zones sought central support in terms of preferential policies and more resources, and that the central government was not ready and able to concede all those demands. Hence, the negotiation was a lengthy process. For example, Tianjin submitted a detailed reform plan to the State Council for approval a few months after it was designated as

57. Ibid.
a reform site, only to find that the functional departments of the State Council had different views in as many as 138 areas. The municipal government was then asked to revise or drop some of the original requests and resubmit the revised plan to the State Council for consideration.

Government structure and establishment (bianzhi) management

Given the emphasis of the Communist Party on ultimate political control, one does not expect the provincial and local leaders to have a great deal of discretion in matters related to political and administrative institutions. In reality, however, local governments have been given considerable autonomy to experiment with different types of political reforms and institutional innovations. Most of these institutional innovations are carried out at the grass-roots level and do not directly involve central–provincial interactions. An area that does involve central-provincial interactions and provincial discretions is government structure and establishment (bianzhi编制) management. The basic issue here is whether a provincial government has any discretionary powers and autonomy in determining the structure and size of the government institutions in the province.

Government structure and establishment management used to be highly centralized in China. A powerful central commission on public sector reform has been set up to oversee such issues as the agencies to be set up at different levels of government and the overall size of different levels of government. These tasks have been carried out both in a routine fashion as well as through regular government restructurings (机构改革). Since 1983 there have been five major restructurings involving both central and local government. In the past, provincial governments were given little latitude in determining government structures. Normally the central level mandates the majority of the government departments to be established at the provincial, prefecture, county, and even the township levels, as well as the maximum number of agencies to be established


in a local government. For example, in the 1993 round of government restructuring, the central level required that the provincial level should only have about 55 departments (including Party departments), and it mandated 32 party and government departments at the provincial level.\(^6^0\) In addition to this, the central level set the maximum personnel establishment, and specified the personnel establishment figures for each level of government. In line with the obsession with streamlining, during each round of government restructuring the central level also set specific downsizing targets for provincial and other local governments to follow, although these targets were rarely fully met at the local level.\(^6^1\)

As noted by Burns, central control was relaxed a bit in 1998 because the list of required departments was abolished. However, this seemed to have little effect because local governments were still under great pressure to copy the structure established at the central level.\(^6^2\) Even the latest round of government restructuring, which is said to have allowed the greatest degree of discretion, still maintains that both uniformity and flexibility should be emphasized.\(^6^3\) Furthermore, even if provincial governments are given any flexibility, such flexibility is still under tight central control. The Organic Law of local governments requires all changes to the structure of provincial government to obtain State Council approval. Since its establishment, the public sector reform commission has issued a number of regulations governing the principles and procedures regarding the rank and size of local government offices, set the overall guidelines for government restructuring, and asked the provincial level to prepare a restructuring plan for submission to the central level for approval.\(^6^4\) In this sense, local governments have had limited autonomy in designing their organizational structures.

The formal institutions, however, may understate the extent of local discretion in matters concerning government offices. While the central control on the size of administrative personnel establishment and

\(^{60}\) Zhongguo difang zhengfu jigou gaige (Local government reform in China) (Beijing: Xinhua chubanshe, 1995), 72–4; Burns, “Downsizing the Chinese State”, 785.


\(^{62}\) Burns, “Downsizing the Chinese State”, 784.

\(^{63}\) Renmin ribao (People’s daily), 20 May 2009.

\(^{64}\) Article 64, “Zhonghua renmin gongheguo difang geji renmin daibiao dahui he difang geji renmin zhengfu zuzhi fa” (Organization law of the PRC for local people’s congresses at all levels and local governments at all levels), in Zhongguo difang zhengfu jigou gaige, 12–33.
organization structure seems quite rigid, local governments can, and do, place some organizations and cadres outside the lists that require central scrutiny and approval. A common practice is to classify some offices as second-tier offices while keeping everything else unchanged. Another widely used practice is to classify some offices or cadres as service organization (事业单位) establishments which, compared with the administrative establishment, face less central scrutiny.

Within the overall framework emphasizing central control, the government restructuring in 2008 has given more emphasis to local discretion and flexibility, and some of the changes are worth noting from the perspective of provincial and local autonomy. As with the previous government restructuring, the latest restructuring still maintained that under a unitary state there should be some elements of uniformity across all levels of government, and the central level still sets the maximum number of departments and the maximum size of the personnel establishment for each province. A National School of Public Administration professor has suggested that this time the central government only sought to control the number of departments and personnel establishment, and left the power to determine government structure to the local governments.\footnote{See http://www.gov.cn/jrzg/2009-05/20/content_1319566.htm, accessed 28 Dec. 2009.} This comment has exaggerated the extent of provincial autonomy in matters concerning government structure, but provincial governments have actually been given more room to design and create government structure to address local problems. For example, Shanghai established a super commission to oversee urban and rural development and transport, and Beijing established a separate office to supervise work on community development. Both these two offices do not have counterparts in the central apparatus. Hainan Province upgraded its tourism bureau into a high-power tourism commission in an attempt to boost the tourism industry on this tropical island. The central level is said to have adopted a very tolerant attitude in its scrutiny of restructuring plans submitted by the provincial level, and has approved most local initiatives.\footnote{See http://www.gov.cn/jrzg/2009-07/03/content_1355832.htm, accessed 28 Dec. 2009.} As already noted, during this round of restructuring, the central level continues to set the maximum establishment for each province, but unlike in the past this time it has allowed provincial governments to deploy the establishment positions flexibly among the levels.
of government within the province. Therefore, provincial governments are allowed, for example, to allocate fewer establishment positions at the county level and to move them to the township level. This is the first time in the history of the PRC that the provincial level has been given the flexibility to deploy personnel establishment among different levels of government.

The most important impact of the latest round of government restructuring has not been on the provincial level *per se*. Rather it has allowed provincial government to experiment with more radical reforms at the lower level. A case in point is Shenzhen.

There are two novelties in what has emerged in Shenzhen. One is the creation of a two-tier structure within the municipal government, commissions and bureaus. Commissions are responsible for policy-making and supervision, while bureaus are responsible for policy-implementation. If fully implemented, this will develop into a radically different administrative structure. Second, Shenzhen has maximized the freedom it has gained to design its own government structure and has configured the government structure in a very innovative way. A human habitat and environment commission, for example, has been established. The government structure in Shenzhen is sharply different from those of the provincial and central levels.

Another example is Shunde, also of Guangdong Province. The measures implemented here are far more radical than those proposed for Shenzhen. First, the original 41 Party and government departments were trimmed to 16, which appeared to have gone down well with the public because it represents significant downsizing. Second and more importantly, the normal organizational distinction between Party and government is completely eliminated. Under the new governing system, the Party disciplinary commission is charged with not only the Party’s disciplinary matters but also with the responsibility of supervising non-Party cadres and auditing. Third, the administrative system has been flattened. Each of the 16 new departments is headed by a district level official. Fourth, these 16 people and the Party and government leaders will form a cabinet and will replace the Party’s standing committee as the most important decision-making body.67

Concluding remarks

Because Hong Kong lies outside the main administrative system, these issues characterizing the central–provincial relationship in the body politic are not directly relevant to understanding Hong Kong’s relationship with Beijing. The main issues in China’s central-provincial relationship examined here – such as the background of provincial leaders, the leadership management system, fiscal centralization and decentralization, and particularistic bargaining over central preferential policies – are very remote from what have characterized the interactions between Hong Kong and the central government. Above everything else, this article underlines how the central–provincial relationship in the main body politic is sharply different from Hong Kong’s relationship with Beijing.

On the other hand, much as the overall political development and leadership changes in China will have an impact on Hong Kong, it is reasonable to think that the broad character of these central–provincial interactions will have implications for understanding Hong Kong’s still evolving relationship with Beijing in the long run. For example, if China develops along the route toward political federalism, Hong Kong’s autonomy (a deviance in the dominant system) would find a more favorable environment.68 By contrast, a strong emphasis on central authority and political centralization would potentially create more problems for the “one country, two systems” framework.

This chapter has outlined in broad fashion the changing dynamics of central–provincial interactions in China. The analysis has focused on the changing institutional contexts and their impact on central–provincial relations, rather than on central–provincial interactions themselves. The chapter has shown that significant centralizations have occurred since the 1990s, but they have coexisted with decentralizations. The centralizations in recent years have not completely changed the character of central–provincial interactions. Naughton observes that “One system of authoritarian politics was dismantled, but another was erected in its place.”69 Though increased central control and provincial autonomy seem a contradiction in terms, they have in fact coexisted

in China. It can also be argued that both the need for central control and the demand for (and the value of) local autonomy are taken care of in the leadership management system through a two-tier leadership structure consisting of both outsiders and insiders at the same time.\textsuperscript{70}

Landry coined the term “decentralized authoritarianism” to characterize the authoritarian management of decentralization in China.\textsuperscript{71} While his study focuses mostly on the lower levels of the administrative hierarchy, and on personnel policies, the argument concerning the relationship between decentralization and authoritarianism is relevant to the analysis of central–provincial relations. Huang has shown that with its firm grip on political resources the central government has been able to obtain compliance when it demands such compliance.\textsuperscript{72} It can even be argued that under China’s authoritarian regime and the obsession with central authority and Party control, effective centralizations have provided the required conditions for provincial autonomy and bargaining to exist. In this sense, central power and provincial autonomy are indeed not zero-sum.

Moreover, on many issues the central and provincial actors have different perspectives and preferences, not least because they are located in different positions in the bureaucratic hierarchy; but we should not always expect a clash or even a direct confrontation between different positions. The regular transfers of the provincial chiefs among provinces and between provincial and central levels may have helped to soften (or suppress) the provincial perspectives. Provincial identity and perspectives, as Goodman has pointed out, are not necessarily conceived as anti-nation or separate from or opposed to other identities.\textsuperscript{73} In the long run, the central–provincial relationship in China will also be shaped by another aspect of leadership background: most of China’s top central leaders have had extensive experience as provincial chiefs before assuming national leadership.\textsuperscript{74} These people are national leaders, but

\begin{itemize}
\item \textsuperscript{70} Li Cheng, “Political Localism versus Institutional Restraints”.
\item \textsuperscript{71} Landry, \textit{Decentralized Authoritarianism}.
\item \textsuperscript{72} Huang, \textit{Inflation and Investment Controls in China}, 312–15.
\item \textsuperscript{73} Goodman, “Structuring Local Identity”, 839.
\end{itemize}
their background may have made them more sympathetic to provincial perspectives and interests. It is important to see whether and how this background of the emerging national leadership will shape central–provincial relations in China in the years to come.

Author’s note

I would like to thank Ray Yep, the editor of this volume, and the participants of the workshop on Hong Kong’s autonomy held in January 2010 for their comments on the first draft of this chapter. Funding support from the Department of Management and Marketing, The Hong Kong Polytechnic University (grant no. 4-ZZ70) is gratefully acknowledged.

References


CENTRAL–PROVINCIAL RELATIONS AMID GREATER CENTRALIZATION


Zhongguo difang zhengfu jigou gaige bianji weiyuanhui (Administrative reform of Chinese local government editorial board) (ed.). Zhongguo difang

‘Zhonghua renmin gongheguo difang geji renmin daibiao dahui he difang geji renmin zhengfu zuzhi fa’ (Organization law of the PRC for local people’s congresses at all levels and local governments at all levels). In Zhongguo difang zhengfu jigou gaige (Local government reform in China) (ed.). Zhongguo difang zhengfu jigou gaige bianji weiyuanhui (Administrative reform of Chinese local government editorial board), pp. 12–33. Beijing: Xinhua chubanshe, 1995.


CHAPTER SEVEN

“One Country, Two Systems” and its Antagonists in Tibet and Taiwan

Ho-fung Hung and Huei-ying Kuo

Introduction

The path along which the Qing Empire transformed into the People’s Republic of China as a modern nation-state is perhaps the most peculiar in the world history of nation formation. While most other multinational world-empires, such as the Ottoman and Austro-Hungarian empires, disintegrated into multiple culturally homogeneous nation-states in their transition to modernity, China managed to transform nearly all of its imperial territory into a singular nation-state despite the cultural and ethnic heterogeneity of this geographical space.

China’s transition from empire to nation is far from complete and uncontested, as the allegiance of the nation’s periphery to the centre is not always warranted. Since 1949, Beijing has attempted to solve the Tibet and Taiwan questions with the institutional design of “one country, two systems”. This design, which is widely thought of as a 1980s invention, can in fact be dated back to the 1950s. In the early 1980s, Deng Xiaoping even elaborated explicitly that his “one country, two systems” proposal was in fact based on the arrangement between Beijing and the Dalai Lama’s government in 1950s Tibet:

[To understand the idea of “one-country, two-systems” that I proposed for Hong Kong,] we can study the experience of our solution to the Tibet question. In solving the Tibet question, we reached an agreement with the Dalai Lama that we would not reform Tibet for a prolonged period.¹

A legal scholar in Hong Kong even noted the striking similarity of the phraseology used in Hong Kong’s Basic Law, the mini-constitution that Beijing crafted to govern Hong Kong after its return to China, and the 17-point Agreement, the document that Beijing relied on in governing Tibet in 1951–59:

In 1951 China and representatives of the Dalai Lama signed the “17 point agreement for the Peaceful Liberation of Tibet”. The drafting phraseology of this document shows that some-one was looking at it when drafting Hong Kong’s Basic Law. It provides that “the Tibetan people have the right of exercising national regional autonomy under the unified leadership of the Central People’s Government’ (Article 3); that “the Central People’s Government will not alter the existing political system in Tibet” (Article 4), and “will not alter the established status, functions and powers of the Dalai Lama” (Article 4).

This “one country, two systems” design has been far from successful in Tibet and Taiwan. While the “one country, two systems” experiment in Tibet failed with the Lhasa uprising and the flight of the Dalai Lama in 1959, the proposal of “one country, two systems” lost its appeal and had become a taboo among politicians of all stripes in Taiwan by the 2000s. In this chapter, we argue that the success of “one country, two systems” requires a very delicate balance and a virtuous interaction between the political centre in Beijing and the elite as well as the popular classes in the periphery concerned. Examining how “one country, two systems” failed in Tibet as an experiment and in Taiwan as a proposal is crucial to our search for a remedy to prevent the ongoing precarious experiment in Hong Kong from becoming another failure.

Governing the Periphery: From Federalism to “One-Country, Two-systems”

In the multi-ethnic Qing Empire (1644–1911), the unity of the empire, the size of which doubled over the eighteenth century through the incorporation of Taiwan and the empire’s expansion into Central Asia, was grounded on its universalistic convictions of Confucianist moral values, together with a multiculturalist disposition toward local customs and socio-political orders in the non-Han regions. The Qing govern-

2. Paul Harris, “Is Tibet Entitled to Self Determination?” Center for Comparative and Public Law, Hong Kong University, Occasional Paper No. 18, 2008
ment relied on a system of autonomous and indirect rule to govern the non-Han peripheral regions, committing itself to protecting indigenous socio-political order and religion there in exchange for the local ruling elite’s allegiance to the imperial centre.3

This imperial notion and practice of universal empire dissipated with the collapse of the Qing Empire in 1911. The succeeding Kuomintang (KMT) regime grounded its territorial claims on the geographical coverage of the Qing Empire at its largest extent in the late eighteenth century. But it never managed to establish direct control of the peripheral regions including Tibet and Taiwan, which were under British domination and Japanese colonial rule respectively throughout the Republican period of 1911–49. In this period, the Chinese Communist Party (CCP), as a contender for national power with the KMT, proposed to build a new China based on a more flexible system of federal republics resembling the Soviet system. For example, the 1931 constitution of the Chinese Soviet Republic that the CCP founded in Jiangxi postulated that:

The Soviet Government of China recognizes the right of self-determination of the national minorities in China, their right to complete separation from China, and the formation of an independent state of each national minority. All Mongolians, Tibetans, Miao, Yao, Koreans and others living on the territory of China shall enjoy the full right to self-determination.4

Regarding Taiwan, the CCP even appeared to recognize its right to independence, as Mao Zedong’s well-known conversation with Edgar Snow in 1936 indicated:

It is the immediate task of China to regain all our lost territories, not merely to defend our sovereignty below the Great Wall. This means that Manchuria must be regained. We do not, however, include Korea, for—


merly a Chinese colony, but when we have re-established the independ-
ence of the lost territories of China, and if the Koreans wish to break
away from the chains of Japanese imperialism we will extend them our
enthusiastic help in their struggle for independence. The same thing
applies for Taiwan [Formosa].

But by the time the CCP won national power over the KMT, it had
given up the idea of federalism and had shifted to espouse a centralized
system, under which all regions inhabited by non-Han minorities were
designated as “national autonomous regions”, which enjoyed nominal
autonomy but were in fact governed directly by Beijing through the
CCP’s chain of command. According to the Common Program of the
CCP in 1949:

Each national autonomous area is an inseparable part of the People’s
Republic of China. ...The People’s Republic of China will become a
big fraternal and cooperative family composed of all its nationalities
[minzu].

Though the CCP managed to establish direct control of most of China
after 1949, it still was not capable of doing so in Tibet and Taiwan. In
Tibet, the theocratic government of the Dalai Lama was still intact and
the geographical barriers of the Tibetan Plateau deterred the CCP from
advancing there in any massive and expeditious manner. As for Taiwan,
the defeated KMT government succeeded in relocating there and main-
tained a tight grip on the island as a protectorate of the US.

With this difficulty in establishing direct governance, Beijing then
devised the proposal of “one country, two systems” to seek the coopera-
tion of the ruling elites in Tibet and Taiwan in the incorporation of the
two territories into the nascent People’s Republic of China. In what fol-
lows, we reconstruct how the “one country, two systems” arrangement
was proposed, was implemented, and failed in 1950s Tibet, as well as
how it was proposed to Taiwan in the 1950s, proposed once again in
the 1980s, and then rejected in the 1990s. Besides tracing the trajectory
of its failure, we also examine a brief period in the two places when the
arrangement seems to be working or to be promising. In the conclusion,
we draw lessons from the Tibet and Taiwan experiences to identify the

1949. Cited in Louisa Schein, Minority Rules, 58
conditions that could make “one-country, two-systems” work or fail, and discuss what Hong Kong can learn from such experiences.

**Tibet: From Honeymoon to Bloodbath**

Under Tibet’s premodern social formation, which had been stable since its consolidation in the seventeenth century until the 1950s, Buddhist monks and aristocracy living on their hereditary estates constituted the ruling class, and they were represented by the Tibetan theocratic state under the supreme authority of the recurrently reincarnated Dalai Lama. They lived on the surplus appropriated from the class of serf-like peasants.\(^7\) In the Qing Empire, the Dalai Lama’s government was patronized by the Manchu court, which kept the political and religious institutions in Tibet intact, but also actively intervened in the selection of each reincarnated Dalai Lama and served as the source of legitimacy of the theocratic state.\(^8\)

This order began to loosen in the early twentieth century, when the Qing Empire collapsed and British influence began to reach the Tibetan Plateau via India. Under the British strategy of keeping China’s influence out of Tibet and the incapacity of the Republican Chinese government to exercise effective control there, Tibet became a de facto independent nation. In the 1920s some Westernized Tibetan elite members began to advocate turning Tibet into a modern nation-state by constructing a rational bureaucracy, a professional army, and a universal education system. But they were repressed by the conservative ruling elite that adamantly resisted any secularization of the Tibetan state and feared that such modernization efforts would increase their tax burden.\(^9\)

---


An aspiration for modernization survived despite the theocratic reaction. In the 1930s, a group of Tibetan intellectuals educated in mainland China formed the Tibetan Communist Party (TCP). The program of the Party was to establish a socialist and independent Tibet. The TCP was no more than a small group of underground activists who attempted to realize their program by influencing potential sympathizers among the governing elite, to which some of their members were connected via familial or alumni networks.10

In the late 1940s, the CCP, while emerging triumphant in the civil war, started working to incorporate Tibet into the prospective socialist state. The CCP’s Tibet strategy, advised as well as executed by Deng Xiaoping, who was the leader of CCP’s Southwestern Bureau at the time, was based on the promise that modernizing reform in Tibet would be gradual, existing religious institutions would be maintained, and the theocratic state could continue to govern Tibet’s internal affairs. More radical socio-political changes would never been imposed from Beijing and these changes, if any, could only be initiated voluntarily by the Dalai Lama government.11

This proposal of the CCP was supported by the TCP, which saw Tibet’s integration into socialist China as a golden opportunity for Tibet’s modernization. Consequently, the TCP dropped the idea of Tibet’s independence and merged with the CCP. The Tibetan communists then reached out to the ruling elite in Lhasa to promote the CCP’s proposal of union. By late 1950, the People’s Liberation Army (PLA) already controlled Tibet’s eastern city of Chamdo, and the British had left South Asia. Under these circumstances, the theocratic state saw no other choice than to accept Beijing’s offer. It resulted in the peaceful “liberation” of Tibet and the signing of the “Seventeen Point Agreement” between Beijing and Lhasa in 1951.12

“ONE COUNTRY, TWO SYSTEMS” AND ITS ANTAGONISTS

The Seventeen-Point Agreement framed Tibet’s unification with China as an important step to drive out imperialist domination and to bring social progress and economic development to Tibet. The Agreement also promised the sustaining of Tibet’s pre-existing political and religious institutions. The ultimate reform of Tibet’s socio-political system was predicated, but it was supposed to happen only with the agreement and initiative of the Dalai Lama’s government. The CCP was also trying to find a place for Buddhism in the newly founded Communist nation. Mao postulated during his dialogue with the Dalai Lama that:

Tibet’s religion … is and will be respected and protected. As far as the people still believe in religion, it would be unadvisable and impossible to deliberately eradicate or damage religion. … Siddhartha, the founder of Buddhism, spoke for the oppressed people of his time. … Therefore, you Buddhists and we Communists can cooperate. We share the goal of extricating the mass from suffering, though we still have a lot of differences.13

These kind words of Mao can well be regarded as propaganda, but the CCP did largely keep its promise on Tibet during most of the 1950s.

Despite the Seventeen-Point Agreement and the general amicability between Lhasa and Beijing, the Dalai Lama government’s and the CCP’s stance toward each other was far from settled and uniform. Within the CCP, there were constant voices urging to disregard the Agreement and initiate class struggle and land reform to establish the CCP’s absolute control of the region. But in the early 1950s, this radical voice was overshadowed by the moderate, pragmatic strategy of relying on the “united front” with Tibet’s ruling elite to ensure Tibet’s stability. This pragmatic approach, upheld by the cadres from the CCP’s Southwestern Bureau, prevailed, given the CCP’s great logistic difficulty in supplying its cadres and army on the remote and thin-aired Tibetan Plateau.14

The radicals’ opposition to the pragmatic line was adamant, and the radical and moderate split became particularly acute in 1956, when China proper started on the craze for rapid rural collectivization. Influenced

by the heated political atmosphere of the time, Chinese cadres in Tibet could not wait to initiate land reform, or “democratic reform” according to official terminology. In July 1956, the CCP Working Committee in Tibet started to publicize a putatively upcoming land revolution. But Mao and the Central Committee of the CCP intervened to stop this radical approach and reinstated the line that “Democratic reform in Tibet ... will not be implemented within the first five-year plan, second five-year plan, and even third five-year plan.” Following this crisis, top leaders including Premier Zhou Enlai reassured the Dalai Lama that land reform would not start for at least another six years and would never start without the Dalai Lama’s consent. Zhou even promised that the reform could be postponed for another 50 years if the Dalai saw fit.

In Lhasa, the ruling elite were equally divided. Alongside secular modernizers like the Tibetan cadres of the CCP who used to be members of the TCP, a segment of the theocratic establishment, including the Dalai Lama himself, opined that a reform of Tibet’s socio-political order was inevitable and beneficial to Tibet. They deliberated that if progressive social reform was inevitable anyway, it was better to be carried out sooner under themselves than being imposed by Beijing later. The Dalai Lama, who was impressed by the progress that he witnessed during his visits to China in 1954–55, went as far as to remark that:

I began to get very enthusiastic about the possibilities of association with the People’s Republic of China. The more I looked at Marxism the more I liked it. Here was a system based on equality and justice for everyone, which claimed to be a panacea for all the world’s ills. ... Its only drawback as far as I could see was its insistence on a purely materialistic view of human existence. This I could not agree with. ... But I

expressed a wish to become a Party member all the same. I felt sure, as I still do, that it would be possible to work out a synthesis of Buddhist and pure Marxist doctrines that really would prove to be an effective way of conducting politics.\textsuperscript{19}

Though the CCP’s Tibet strategy had won the allegiance of a large segment of the modernizing as well as some of the conservative elite, anti-Chinese forces were brewing in 1950s Tibet. After Tibet’s incorporation into the PRC, a People’s Association emerged in the form of a quasi-political mass party. The leaders of the Association were constituted by Tibet’s “middle strata”, composed mainly of private administrators and managers of aristocratic and monastery estates, and they were not without sympathizers within the government. They were not only against the CCP, but also against the Dalai Lama’s leadership, which was accused of selling out Tibetans’ interest to Beijing. They demanded the departure of the PLA from Tibet through signature campaigns and public meetings.\textsuperscript{20}

Up to the mid-1950s, the Dalai Lama and other moderate Tibetan elite members managed to keep the anti-Chinese hardliners at bay, just as Mao Zedong was able to contain the influence of the hard-liners on Tibetan affairs. But the tensions between the two sides escalated rapidly when anti-Chinese guerrilla warfare broke out in ethnic Tibetan regions in the Sichuan, Gansu and Qinghai provinces of China. Beneath this tension lay Lhasa’s and Beijing’s diverging conceptions of what “Tibet” meant in the Seventeen-Point Agreement. To Beijing, what Tibet meant was no more than the region effectively controlled by the Dalai Lama government as of 1950, and ethnic Tibetan regions in Chinese provinces were not spared from agrarian collectivization, which reached a height in 1955–56. But to Lhasa, the concept of Tibet was tantamount to the cultural, ethnic, and historic Tibet including those Tibetan regions in Chinese provinces. Having their land confiscated, manorial lords and monks from the monasteries in those regions, who were allegiant to the Dalai Lama government, took up arms to defend their communities and monasteries against the Chinese authorities. This conflict empowered

\textsuperscript{19} Dalai Lama, \textit{Freedom in Exile}, 90
the hardliners in Lhasa, who saw what happened in these regions as a prelude to what was going to happen in Tibet proper.21

Relations between Lhasa and Beijing deteriorated sharply as the armed rebellion grew. Overwhelmed by the PLA, the rebels fled to Tibet proper to recoup. They strengthened the anti-Chinese movement led by the People’s Association. Lhasa’s offering of shelter to the rebels made Beijing believe that the Dalai Lama government, or at least part of it, was behind the insurgency. Despite Mao’s reassurance in 1957 that socialist transformation in Tibet proper was out of question in the foreseeable future, the voices for a once-and-for-all showdown with the Dalai Lama government grew within the CCP, in which a theory that “the essence of all nationalities questions is the question of class” gained ground after 1958. This theory replaced the earlier multicultural imagining of the Chinese nation with the imagining of an absolutely homogeneous proletarian nation, and stipulated that any quest for local autonomy and cultural diversity in minority regions, Tibet in particular, was nothing but the disguised attempt of the feudal ruling class to revive their exploitation of the working classes. Worse still, many Tibetan cadres of the CCP who were former leaders of the TCP were arrested or rotated out of Tibet in the anti-Rightist campaign of 1957. The demise of this group of mediators, who were trusted by both Beijing and the Dalai Lama’s ruling circle, simply broke the most important link of communication between Beijing and Lhasa.22

Tension rose further when the military conflicts between the PLA and the insurgents spread to the vicinity of Lhasa. The showdown between Beijing and Lhasa finally came in March 1959, when a rumoured kidnap of the Dalai Lama by the PLA led to a full-scale anti-Chinese uprising. The PLA crushed the unrest relentlessly, and the current and fourteenth Dalai Lama, together with key officials in his government, fled to India amid the chaos. Within a few months, the resistance all over Tibet was quelled.23

“ONE COUNTRY, TWO SYSTEMS” AND ITS ANTAGONISTS

Following the failed uprising and the flight of the Dalai Lama, Beijing established direct and full control over Tibet via a batch of Han-Chinese cadres, who were sent there to replace the Tibetan cadres purged under the charge of “local nationalism”. After 1959, Tibet was assimilated into a homogeneous proletarian nation. It was bound to other Han-Chinese regions under the monolithic principle of class struggle through land reform and the destruction of religious institutions. Beijing’s rule over Tibet was not challenged in the 1960s and the 1970s, but the radical eradication of monasticism, the suppression of religious life, and the beginning of the covert policy of encouraging the large-scale migration of Han-Chinese to Tibet sowed the seeds of more mistrust and even hatred of Beijing, preparing the ground for the successive waves of unrest that erupted in the 1980s and have continued till today. 24

To be sure, the deterioration of Lhasa and Beijing relations needs to be considered in the context of the general leftward shift of the CCP after the mid-1950s. But the inevitability of the failure of “one country, two systems” in Tibet should not be exaggerated, and one should not simply see Beijing’s promise of autonomy and respect for the Dalai Lama government in the early 1950s as plain lies that enabled the CCP to buy time to tighten its grip on the Tibetan Plateaus. Taking into consideration that the year 1959 was an acutely difficult year for the CCP, with a large-scale famine, an economic collapse, and an intensifying intra-party struggle, and that the problem of Han cadres’ unwillingness to serve in Tibet by reason of its inhospitable climate and its backward traffic connections persisted, wiping out the Dalai Lama government and establishing direct control of Tibet should be seen as a very risky move from the vantage point of the CCP at the historical conjuncture of 1959. Though it is not certain whether Beijing’s leaders mentioned the case of Tibet when they presented the “one country, two systems” proposal to the KMT government in the late 1950s, a successful and lasting experiment of “one country, two systems” in Tibet would surely have

---

been a big boost to the appeal of such proposal. Practical and strategic reasons could have checked the CCP’s urge to destroy the Dalai Lama government at the time, despite the general radicalization of the Party, just as the practical geopolitical calculation regarding British Hong Kong did keep Beijing from “liberating” the city and ending colonialism there throughout the Cold War period, despite the military feasibility and ideological appeal of doing so.

In any event, “one country, two systems” did fail in Tibet in the bloodbath of 1959, and it was followed by two decades of radical assimilationism built on the principles of class struggle and collectivization. The CCP also seemed to stop mentioning the “one country, two systems” proposal to Taiwan throughout the 1960s and the 1970s. In the early 1980s, nonetheless, the idea revived under the new CCP new leadership headed by Deng Xiaoping, who had been a key figure in formulating the liberal solution to the Tibet question in the late 1940s. He tried to use the “one-country, two systems” idea to solve the Taiwan (and Hong Kong) question. By casting the experiment of “one-country, two systems” in 1950s Tibet in a positive light, as seen in his remarks cited in the beginning of this chapter, Deng gave the proposal a second chance in the 1980s.

**Taiwan: From Supporting the Opposition to Courting KMT Conservatives**

After Taiwan was incorporated into the Qing Empire in the late seventeenth century, it became an immigrant society in which Han migrants from China’s southeastern coast occupied the most fertile lands and pushed the non-Han aborigines up to the infertile mountains. Aboriginal cultures were increasingly marginalized on the island. Thanks to the inaccessibility of the island to the power centre of the empire, the Han society there gradually became a haven for fugitives and heterodox sectarians, and the islanders developed their own culture and recurrently defied imperial rule through armed uprisings in the eighteenth and nineteenth centuries.²⁵ Japanese colonization of the island in 1895 set Taiwan further off the orbit

---

of Chinese history. Throughout the half century of Japanese rule, anti-colonial movements sprang up among local Han elites, some of whom started to organize the mass into grassroots social movements. Some of these elites were allegiant to the communist movement in mainland China, while the others developed a “Taiwan consciousness” and began advocating the establishment of an independent Taiwanese nation.\textsuperscript{26}

Since the KMT government from the mainland took over Taiwan after Japan's defeat in the Second World War in 1945, it had been facing stiff resistance from local Taiwanese, and had constantly to resort to brutal state violence to maintain its rule. In the early days of KMT rule, both Taiwanese communists (many of them were associated to the CCP) and Taiwanese independentists stood side by side to resist the KMT regime. The open confrontation between the KMT and local Taiwanese culminated in the February 28 uprising in 1947, and it ended with a bloody crackdown on the uprising and the large-scale persecution that followed.

After the crackdown, and particularly after 1949 when the KMT was defeated by the communists on the mainland and retreated to Taiwan, the island was put in the straitjacket of a quarter century of white terror and inculcated Chinese nationalism. Memoirs and oral histories published following the fall of the authoritarian regime revealed that, despite the tranquillity on the surface, opposition networks ramified clandestinely among intellectuals, even among those jailed in high security prisons designated for political prisoners. Instead of regarding each other as foes, most pro-Beijing leftists and independentists regarded each other as comrades in the resistance against the KMT. The conflict between pro-unification and pro-independence positions remained secondary to the common goal of overthrowing KMT rule.\textsuperscript{27}

The collusion between the left-wing unificationists and the Taiwan separatists continued into the open opposition movement that surfaced in the late 1970s, when the legitimacy of the KMT regime was struck by a series of diplomatic setbacks amid the passing away of President


\textsuperscript{27} for example, see Ka Qihua, \textit{Taiwan jianyu dao: Ka Qihua huiyi lu} (Taiwan as a prison island: a memoir of Ka Qihua) Gaoxiong: diyi chubanshe, 2002.
Chiang Kai-shek. Dissident intellectuals made use of the temporarily loosening grip of the authoritarian state to publicize their ideas through the publication of a number of political magazines, with *Formosa* as the most well-known one. Some of these dissidents even participated in local elections, striving for public office, with some success. Shelving the difference between their views on unification, both the unificationists and the separatists focused their efforts on calling for the democratization of Taiwan. Even the sternest separatists today evinced a moderate and ambiguous view on the identity and sovereignty question about Taiwan back then. They argued that the democratization of Taiwan was the continuation of the Sun Yat-sen Republican revolution in 1911 and the harbinger of democratization in mainland China. For example, the vice-president of Taiwan under the Chen Shui-bian administration, Annette Lu, when making her case about the urgency of building a Taiwan consciousness among the island’s native residents in the late 1970s, did not hesitate to emphasize the caveats that “To love Taiwan is to love China”, and “The love for Taiwan should not undermine our recognition of Taiwan as part of the Chinese nation”. She also called for recognition of “one China in the future tense” in her article *The Past and Present of Taiwan*. Lin Cho-shui, now dubbed the theoretical master of Taiwan independence, when calling for a construction of Taiwan subjectivity in the 1970s, also remarked that the reform of Taiwan would finally contribute to the Chinese nation at large in his *Taiwan is Formosa*. Today, both Lu and Lin are among the most prominent leaders of the hard-line pro-independence faction within the Democratic Progressive Party (DPP).

The moderate position regarding local identity and the sovereignty question among the native dissident elites is not so surprising if we take into account the fact that many of them, originating from grassroots or modest backgrounds, climbed up the ladder of success to become “new middle class” professionals through excelling in the meritocratic official


education system, as well as adapting to the China-centred cultural imperialism (Mandarinization) introduced by the KMT.\textsuperscript{31} Cheng Sui-bian, who grew up as a son of a poor peasant and advanced to become a lawyer-turned-political activist upon his graduation from the National Taiwan University is a case in point. Though the democracy movement was equally grounded on the traditional middle class (such as small and medium entrepreneurs), in large part because of their financial support, the movement’s intellectual and propaganda mouthpieces, which articulated its discourses and programs, were mainly dominated by the new middle class.\textsuperscript{32}

By 1979, the KMT government was resolved to end the liberal atmosphere by crushing the opposition movement brutally. Leaders of the movement and their associates were arrested or even assassinated. Dissident magazines were banned. In the years that followed, the KMT ideologues mobilized its propaganda machine to bash the dissidents with the rhetoric of Chinese nationalism, and labelled all of them as Taiwan independentist or underground communists indiscriminately. The upshot of the persecution was that the KMT’s brutal approach to the opposition movement did not root out the latter’s activity. Despite the continuous crackdown and hysterical nationalist rhetoric of the KMT regime, the dissident movement survived. The high-handed oppression of the KMT strengthened the separatist tendency within the movement. However, the movement began to split into competitive, if not antagonistic factions. The most prominent of these factions included a moderately nativist faction, which later evolved into the Formosa faction within the DPP. This faction advocated the continuation of the modest line of the opposition movement in the late 1970s, and it called for a gradual changing of the regime from within through redoubling efforts to seize public offices through local elections. It did not support Taiwanese independence, and expected that the economic reform in Mainland China would eventually open the window there for political reform, and that Taiwanese investment in the Mainland would facilitate the rise of a civil society and hence a democratic transition. It therefore


\textsuperscript{32} Murray Rubinstein, Taiwan: A New History, 386–89
advocated an increase in cultural, economic and social exchange across the Taiwan Strait, and attacked the KMT’s isolationist policy toward communist China. This faction was more or less collegial to the less influential group of pro-Beijing leftists in Taiwan, who later formed the Taiwan Labor Party but were soon marginalized.

Another prominent faction was a radically nativist faction, which later became the *New Trend* faction within the DPP. This faction rejected any wishful thinking about the KMT regime, refused to participate in elections, and contended that intellectuals could only bring about change by allying with the confrontational grassroots social movements. At the same time, it regarded Mainland China as a threat to the freedom and livelihood of the Taiwanese people as much as the KMT government. It therefore espoused the ideology of populist Taiwanese nationalism and supported Taiwanese independence. The balance of power between the two factions shifted from time to time. The shifts were not just functions of the changing terrain of internal struggle within the opposition movement. They were also the result of the changes in Beijing’s strategic approach to the Taiwan question.

In the 1950s, Beijing attempted to tempt the KMT back to the negotiation table by suggesting a “one-country, two-systems” solution to the Taiwan question, as documented in Mao’s conversation with a “middleman” between Beijing and Taipei in 1958:

[After Taiwan’s reunification with the Mainland], he [Chiang Kai-shek] can keep his army. I won’t pressure him to downsize his army and his government. I will let him practice *The Three Principles of the People*. He can continue to fight communism there [in Taiwan], as long as he does not send fighter planes and spies to subvert the Mainland. If he doesn’t send white spies to the Mainland, I won’t send red spies to Taiwan ... and the Taiwanese people can maintain their original way of life.


Such an attempt at solving the Taiwan question subsided in the 1960s and the 1970s when Cold War tension increased. From the late 1970s, when the Cold War in East Asia started to unravel, Beijing re-prioritized its agenda of unification across the Taiwan Strait, and it kept a close watch on the socio-political development of the island. On 1 January 1979, China’s National People’s Congress issued “A Letter to Taiwanese Compatriots”, expressing the will of the CCP to cooperate with the KMT government to achieve re-unification, as well as Beijing’s respect of the political, cultural and economic systems as they existed in Taiwan.

Besides the reinstatement of the “one country, two systems” proposal to the KMT elite, the CCP also attempted to take advantage of the rising opposition movement by establishing itself as a progressive force sympathetic to the quest for democracy in Taiwan. Later in the year of 1979, when the KMT started to crack down on the opposition movement, Beijing swiftly stood on the side of the dissidents, and the CCP mouthpieces openly encouraged Taiwan residents to support the intellectuals surrounding the Formosa magazine and jointly bring down KMT rule. Su Xin, a Taiwanese Communist who had fled to Mainland China after the February 28 Incident in 1947 and had become a senior advisor to the CCP over Taiwanese issues, published “On Taiwanese independence” in 1980, advocating that Beijing’s key to achieving unification was to support Taiwan’s democratic movement and to promise autonomous self-governance to Taiwan after unification. He reasoned that democratic activists in the Dangwai movement who were inclined to Taiwanese self-determination and Taiwanese independence were primarily resentful of KMT rule, and they could be won over if the CCP stood on their side. Remarkably, Su’s daughter, Su Qingli, was a core leader of the pro-unification faction within the opposition movement and a leader among the Formosa magazine’s supporters. She kept contact with her father on the Mainland, while working closely with pro-independence activists in Taiwan.

In other words, Beijing tried to win the hearts of the Taiwanese by hinting that unification would bring about social progress and the end of authoritarian rule on the one hand and promising high-level autonomy.

vis-à-vis Beijing under “one country, two systems” after unification on the other. This position of Beijing toward Taiwan, resembled what was manifested in the honeymoon period of Tibet and China relations in the 1950s. Under Beijing’s projection, re-unifying with China would entail social progress, but the vested interests of the ruling elite would not be greatly jeopardized. The sympathetic disposition of Beijing toward the opposition movement made many opposition leaders see Beijing as a powerful or at least potential ally. Over most of the 1980s, the position of the moderately nativist faction toward Mainland China remained the mainstream.38

But in the late 1980s, with the CCP continuing to turn to the right and with socio-political conflicts growing in Taiwan, Beijing came to worry that Taiwan’s opposition movement would bring grave instability to the island, and that foreign power might make use of the instability to “take Taiwan away”. Under this consideration, Beijing gradually shifted its stake toward the KMT and openly supported the continuation of the authoritarian status quo of the island. The Central Committee of CCP, in its condolence message sent to the KMT upon the passing of Chiang Ching-kuo in 1987, expressed its wish that Taiwan would attain “social tranquillity, continuous economic development, and people’s happiness”, as well as the CCP’s eagerness to work with the KMT to promote unification.39 Beijing’s conservative turn, as well as its explicit alliance with the KMT at a time when Taiwan’s democratic movement was growing, animated many anti-KMT activists.

In 1986, the opposition movement crystallized into the Democratic Progressive Party. To avoid their different stance on the Mainland from hindering the internal solidarity of the nascent party, the moderate Formosa faction and the radical New Trend, as well as their respective allies, reached a compromise by not mentioning unification or independence in the party program. As a middle ground, the program postulated that the future status of Taiwan vis-à-vis the Mainland should only be determined by the residents of Taiwan themselves through referendum. Rather than seeing this “self-determination” program as a compromise between independentists and unificationists, the Beijing government in-

39. Taiwan zhuqun lunxu ziliao xuanbian bianji xiaojie ed. Taiwan zhuqun lunxu ziliao xuanbian (Selected materials on the discourse of Taiwan sovereignty) Taipei: Guoshiguan. p. 537
interpreted it as a suggestion that the DPP was a homogeneously separatist party. Beijing thereafter classified it as an enemy to the quest of re-unification and further threw all of its eggs into the basket of the conservative power of the KMT. Beijing’s redoubled efforts to court the KMT, which reciprocally courted Beijing to shore up its legitimacy as the sole political force capable of maintaining stability and peace across the Taiwan Strait, further animated the opposition movement. Lee Teng-hui, the KMT leader who succeeded Chiang Ching-kuo and who had a native Taiwanese background, carefully worked with the pro-unification mainlanders still commanding political supremacy with the KMT to interact with Beijing in good faith, resulting in the formulation of the KMT’s “Guidelines for National Unification” (guotong gangling) in 1991 and “1992 Consensus” between Taipei and Beijing. They laid the framework for ultimately achieving Mainland and Taiwan unification in the distant future, while maintaining cross-Strait peace and stability through normalizing Beijing and Taipei relations in the short and medium runs.40

The consolidating alliance between the CCP and the KMT preempted the space for a unificationist position available to the DPP and impelled the latter to distinguish itself from the ruling KMT by moving further to a separatist position. One consequence was the growing empowerment of the DPP’s independentist faction. This in turn triggered more suspicion on the part of Beijing of the DPP. A vicious circle comparable to the one in Tibet in the late 1950s ensued. The bloody crackdown of the democratic movement in 1989 in China gave separatists even more ammunition to demonize the Beijing regime, to equate it with the unpopular KMT regime, and to portray it as the ultimate threat to the freedom of Taiwan people. The Formosa faction lost power within the party. The shifting of the DPP’s stance toward separatism resulted in a revision of the party’s program and the insertion of a new clause in 1991, explicitly stating that building an independent Republic of Taiwan through referendum was a major goal of the DPP.41

While the DPP completed its separatist turn in the early 1990s, Beijing’s strategy of promoting re-unification through a collaboration with the conservative powers within the KMT turned out to be bankrupt when the reformist nativist faction led by Lee Teng-hui and the unificationist conservative mainlanders within the KMT split openly. The former moved closer toward an independentist position and opened up the political system to the participation of the opposition movement, thus garnering popular support in its struggle against the conservatives, who lost out and were ousted from the KMT’s corridors of power. With its allies within the KMT marginalized, Beijing lost all political leverage in Taiwan.

As the unificationist position was being squeezed out of the mainstream of Taiwan’s public opinion, Beijing became agitated and kept attacking nativist leaders like Lee Teng-hui as “traitors who forgot their ancestors” to intimidate Taiwan back onto the track toward unification. These verbal attacks were backed by threats of military action. But this threat backfired. On the eve of the first free presidential election in Taiwan in 1996 (when Lee Teng-hui sealed his control of the KMT and the Taiwanese state by winning the election), Beijing test-fired long-range missiles across the Taiwan Strait as an expression of anger at the allegedly independentist connotation of universal suffrage in Taiwan. The missile testing only strengthened Lee Teng-hui’s independentist stance and his popular support.

In 2000 and once again in 2004 the independentist DPP, with the support of Lee Teng-hui, came to power through election, and initiated a project of “de-Sinicization”, which was meant to cleanse Taiwan of all remnants of Chinese nationalism left by KMT rule. In response, the KMT accelerated its nativist turn by trying to attract the majority of Taiwanese voters with an increasingly pro-independence orientation. “One country, two systems” has become a taboo all across the political spectrum in Taiwan since then. Even though the KMT regained power in the 2008 election, it was no longer the KMT of Chinese nationalists who wished to seek cross-strait unification, at least not openly. Supporting unification now amounts to electoral suicide, since 47.2 per cent of Taiwanese voters favoured ultimate independence while only

15.7 per cent favoured ultimate unification, according to a 2009 survey conducted by a major media group seen by many as pro-unification. Confronting this radical separatist turn, Beijing adopted a more pragmatic stance and prioritized the prevention of Taiwan’s declaration of formal independence over the promotion of unification, while accelerating economic and cultural exchanges across the Taiwan Strait. It has become relatively muted on any “one country, two systems” proposal in recent years, in comparison with its frequent mentions in the 1980s.

While the “one country, two systems” experiment in 1950s Tibet failed amidst the general leftward shift of Beijing’s policy and the rise of the CCP faction that preferred destroying the pre-existing ruling elite of Tibet, the failure of the “one country, two systems” proposal in Taiwan was in part a result of Beijing’s rightward shift in the 1980s and its alliance with the ruling elite in Taiwan at the expense of the popular opposition movements. Just as we should not exaggerate the inevitability of the failure in Tibet, we should not see Beijing’s alliance with the authoritarian KMT and its distrust of Taiwan’s democratic movement as a natural result of the authoritarian turn in Chinese politics after the Tiananmen incident in 1989, as some would argue. For one thing, Beijing started to distance itself from Taiwan’s democratic movement well before 1989 and when political reform and liberalization were still well on the agenda in the Mainland. For another thing, the KMT’s attack on the Tiananmen crackdown in 1989 was in fact far more vociferous than the DPP’s. Beijing’s disposition toward Taiwan that led to the failure of the proposal of “one country, two systems”, therefore, is at least partly a result of the voluntary strategic choice of CCP toward Taiwan. That particular choice of siding with the KMT and distancing from the opposition movement is far from unavoidable.

**Conclusion**

Beijing’s strategies of approaching the Tibet and Taiwan questions at different stages manifested initial flexibility. The promise of “one country, two systems” arrangements in combination with the support of gradual

---

and progressive social reforms that Beijing offered to the peoples in Tibet in the early 1950s and Taiwan in the late 1970s and early 1980s enabled the CCP to deal with these peripheral areas in a way that did not antagonize the ruling elite there, yet provoked optimism for socio-political reform among the progressives and underprivileged. It is not an accident that Beijing's relation with these regions was most harmonious and the Tibet and Taiwan questions least thorny at the times when the CCP were adopting this strategy for reasons of national unification.

But in the late 1950s for Tibet and the late 1980s for Taiwan Beijing's strategy for unification shifted drastically, partly as a result of the fractious interaction among different socio-political forces in the peripheral regions and at the political centre and partly as a result of the general change in the political environment in Mainland China at large. For Tibet, Beijing moved to a policy that neglected the particular social and cultural conditions of the region and transplanted a radical socialist revolution there from above. It led to the flight of the Dalai Lama and a large portion of the ruling elite. The subsequent destruction of religious institutions in the crackdown on the remains of the theocratic system also aroused resentment among ordinary Tibetans toward Beijing, given the centrality of religion to the Tibetan identity. These resentments remained dormant in the Mao era, only to erupt in the form of ethnic riots under the liberal atmosphere in the 1980s. For Taiwan, Beijing abandoned the social reform agenda and the increasingly popular social and opposition movements that were struggling for it and leaned one-sidedly toward the KMT ruling elites in the late 1980s. After this strategic shift, "one country, two systems" became just another phrase for the perpetuation of the authoritarian status quo of the island, as well as the continuous dominance of KMT mainlanders. Confronting the subsequent hostility and increasingly pro-independence proclivity of the abandoned social movements and opposition forces, Beijing further distanced itself from them, who came to be portrayed as malicious traitors of the Chinese nations, manipulated by evil imperialist forces.

This chapter shows that, though "one country, two systems" can be a feasible institution maintaining the unity of China as a diverse nation, its viability requires a delicate balancing act to the political centre, and it can easily be jeopardized if the centre tilts too much to the left (as in late-1950s Tibet) or to the right (as in late-1980s Taiwan). In the present conjuncture, it is unimaginable that "one country, two systems"
could revive in either Tibet or Taiwan in the foreseeable future. This institution, however, is still alive in Hong Kong. The failures in Tibet and Taiwan entail important lessons that Beijing should learn if it is still serious about protecting and improving the “one country, two systems” in Hong Kong as a way to promote national unity and foster social and political stability in Hong Kong.

In the 1980s and 1990s, “one country, two systems” as the foundation of Hong Kong’s return to Chinese rule had popular appeal in Hong Kong, as Beijing at the time promised both the protection of business interests and the adoption of democratic reforms at the same time. Over the last ten years or so under Chinese rule, however, the quest for full democratic reform in Hong Kong grew loud when Beijing seemed to be too cautious in instituting democratic reforms as promised. In response, Beijing became increasingly distrustful of the opposition movement. It became more active in interfering in, even micromanaging, Hong Kong’s internal affairs on the one hand, and further consolidated its alliance with the politically conservative local business elite on the other. The greatest threat to “one country, two systems” in Hong Kong henceforth includes a radical top-down homogenization campaign that would repeat the conflictual path of Tibet after 1959, as well as the failure in Taiwan, where the CCP put all its eggs into the conservative ruling elite’s basket, who were in the end toppled by the opposition movement that felt abandoned or even betrayed by Beijing. As of now, “one Country, two Systems” in Hong Kong seems to be heading toward a failure marked by Hong Kong’s loss of its autonomy and its further assimilation into the Mainland, as Beijing again commits its Tibet and Taiwan mistakes. But it is still too early to tell Hong Kong’s fate for sure. It is not too late for the significant social and political forces in the territory – including Beijing, the business elite, and the opposition movements – to learn from history and shift course to strengthen Hong Kong’s autonomy and productively revive the “one Country, two Systems” idea there.

References


Harris, Paul. ‘Is Tibet Entitled to Self-Determination?’, Hong Kong University Center for Comparative and Public Law Occasional Paper no. 18/08. Hong Kong: Center for Comparative and Public Law, Hong Kong University, 2008.

Ka Qihua. *Taiwan jianyu dao: Ka Qihua huiyi lu* (Taiwan as a prison island: a memoir of Ka Qihua) Gaoxiong: diyi chubanshe, 2002.


Su, Xin. ‘Youguan “taidu” wenti’ (On the question of ‘Taiwan independence’). In *Weiguide taigong douyun: Su Xin zizhuan yu wenji (The fighting soul of the Taiwan Communist Party that has not yet returned: an autobiography and collected works of Su Xin).* Taipei: China Times, 1993 [1980].

Taiwan zhuqujun lunxu ziliao xuanbian bianji xiaojiu (Selected materials on the discourse of Taiwan sovereignty editorial committee) (ed.). *Taiwan zhuqujun lunxu ziliao xuanbian (Selected materials on the discourse of Taiwan sovereignty).* Taipei: Guoshiguan, 2001.


———. ‘Shidai rentong yu lishi xushi: Taiwan yijiu qiling niandai ‘huigui xianshi’ shidai de xincheng’ (Generational identity and historical narrative: the emergence of the “back-to-reality” generation in 1970s Taiwan), Taiwan shehui xue (Taiwan sociology), 9 (2005), pp. 1–58.


 Zhonggong zhongyang wenxian yanjiu shi (Chinese Communist Party central committee historical materials research office), Zhonggong Xizang zizhiqu
weiyuanhui (Chinese Communist Party Tibet Autonomous Region committee), and Zhongguo zangxue yanjiu zhongxin (Tibet research centre of China) (ed.). Mao Zedong xizang gongzuo wenxuan (Selected works of Mao Zedong on Tibet). Beijing: Zhongyang wenxian chubanshe, 2001.
CHAPTER EIGHT

Macao’s “One Country, Two Systems”: High Autonomy or Intervention?

Eilo Yu Wing-yat

Introduction

The “One Country, Two Systems” model was introduced by the People’s Republic of China (PRC) for the resumption of its sovereignty over Hong Kong, which embraces the principles of “a high degree of autonomy” and “Hong Kong people ruling Hong Kong”. However, the Hong Kong experience has not yet proved the success of “One Country, Two Systems” for unification for the past sixteen years since the handover. Clashes and conflicts between the central government and the Hong Kong Special Administrative Region (HKSAR) have marked the painful transition from British colony to China’s SAR. Various events, such as the National People’s Congress’s (NPC) interpretation of Hong Kong’s Basic Law on the right-of-abode issue, Beijing’s role in the HKSAR’s political development and its involvement in elections, as well as legislation for national security, show the intervention, to varying extents, of the central government in HKSAR governance, hence bringing a scepticism about local autonomy as promised in the Sino-British Joint Declaration and Basic Law.


In contrast to Hong Kong, Macao – another SAR of China – has developed and maintained a relatively good relationship with the central government. Its NPC has not interpreted Macao Basic Law in any court case in the MSAR, and there is no central and local dispute on the political reform of Macao. Different than its Hong Kong counterpart, the MSAR is deemed to be cooperative regarding the legislation of national security law to protect national interests in the locality. Bill Chou argues that the MSAR does enjoy a high degree autonomy from the central government. Hence, local autonomy is not an issue at all in the central and MSAR relationship.

What has led to Macao enjoying “high autonomy”, as Chou states, while Hong Kong’s local autonomy seems to be suffering under the “One Country, Two Systems” model? This chapter investigates the central government and MSAR relationship and explains the relatively autonomous MSAR regime. Four factors contribute to this phenomenon: a dominant pro-Beijing ruling coalition, the cooperation of the executive, legislative and judicial branches, a weak opposition and civil society, and the public’s attitude toward Beijing. Macao society does not challenge the intervention of the Mainland authorities in the MSAR in regard to local autonomy; rather, local people consider Beijing’s involvement to be for the betterment of the MSAR. The chapter further argues that Macao has better integrated into Mainland Chinese politics, that Mainland authorities have successfully infiltrated MSAR authorities, and that working relationships have been established with various political forces in the locality, as per Lo’s mainlandization process concerning the HKSAR. However, in truth, a central and MSAR tension is in place and the relationship may not be described by the words “harmony” and

3. The official English name of Macao is “Macao”. However, some organizations and institutions use the alternative spelling ‘Macau’. I follow their practice where appropriate in this chapter.
6. According to Lo, the mainlandization of the HKSAR regime refers to the dependence of Hong Kong on mainland China politically, economically and socially. See Sonny Lo, *The Dynamics of Beijing-Hong Kong Relations: A Model for Taiwan?* 42–43.
“smooth”, as Alex Choi has argued. The MSAR government officials collude with Mainland authorities in the MSAR so that they may disregard central policy and defence for their local interests, hence leading to a central and local conflict.

Beijing’s conception of a “high degree of autonomy”

To resume its sovereignty over Hong Kong and Macao, the Chinese government suggested the “One Country, Two Systems” model, which emphasizes local autonomy and the rule of SARs by local people. The SARs can have a socio-political-economic regime different than the Mainland, in accordance with their Basic Laws. However, a “high degree of autonomy” does not imply the independence of SARs from Beijing. Zhang Xiao-ming, the Deputy Director of the Hong Kong and Macao Office, State Council, has indicated that the political regime of an SAR must be determined by the central government and be accountable to it. Although the MSAR has executive, legislative and judicial branches, their source of authority is the central government. The Chief Executives, chief officials of the executive branch, chief judges of the Court of Final Appeal, and the Prosecutor General of the MSAR are appointed by Beijing. In addition, all local legislation must be endorsed by the central government.

Constitutionally, the central government has the ultimate decision in the SARs’ affairs. To ensure the accountability of the SARs’ governments to the central government, Beijing aims to appoint a strong local government so that it can oversee and thus influence the locality. Hence, the “executive-led government” advocated in the SARs, means

9. See Articles 45, 50, 87 and 90, Macao Basic Law.
that the legislative and judicial branches have to cooperate and support the executive in order to ensure the efficiency of the SAR government, instead of merely checking it. In addition, strong pro-Beijing social forces are expected to co-opt the SARs’ people and mass media for their support of the sovereign power of the central government over the territory. Beijing’s conception of a “high degree of autonomy” does not imply local governance; rather, the SAR’s autonomy is limited and defined by the center to participation in local affairs.

In the following, I argue that Beijing has successfully established a strong pro-Beijing ruling alliance in the MSAR while the Legislative Assembly—the legislature of Macao—and the judicial branch tend to cooperate with the executive. The political opposition and civil society are relatively weak as a check to the ruling coalition. At the same time, Beijing can win the support of Macao’s people for its involvement in the MSAR by means of policies favorable to Macao. Therefore, the MSAR regime is dominated by political trustees of Beijing so that the central government does not need openly to intervene in the locality.

The pro-Beijing ruling coalition

The MSAR regime is ruled by a dominant pro-Beijing coalition which includes pro-Beijing political elites and social groups, as well as Mainland authorities in the locality. When the Portuguese authorities established their colonial rule in Macao in the 16th and 17th centuries, they aimed to fulfil Portuguese interests at the expense of the local Chinese, against whom they discriminated socially and economically. In response, the Chinese elite established self-sustaining social groups to provide social services and aid to the local Chinese. Despite being active before 1966, the Chinese Communist Party (CCP) and the Kuomintang (KMT) did not press the Portuguese authorities for reform. The situation changed in 1966, when the so-called 123 incident, a confrontation between pro-Beijing forces and Portuguese authorities that arose when the government rejected the construction project of the pro-Beijing Taipa Kaifong group’s school. At the same time, several communist activists took advantage of the favorable climate for reform presented by the Cultural Revolution in mainland China to mobilize the masses in Macao against the Portuguese colonial authorities. After failing to suppress this mobi-

lization, the Governor of Macao signed a declaration that recognized the sovereignty of the People’s Republic of China (PRC) over Macao, and agreed that the Portuguese authorities would continue administrating the territory on behalf of the PRC and would expel pro-KMT forces from Macao. As a result, pro-Beijing forces became the sole power among the local Chinese community and the means of communication between the colonial government and the local Chinese, and the Chinese communist forces shared political power with the Portuguese authorities in Macao. They established many social groups to extend their political network in the Chinese community, such as the Macau Federation of Trade Unions, the Kaifong Association, the Macau Women Association, the Macau Chamber of Commerce, the Chinese Educators Association of Macau, and the Macau General Association of Chinese Students. Lou notes that these are all corporatist organizations supported by Beijing for its united-front work in Macao.\(^\text{13}\) The political domination of pro-Beijing forces continued over local Chinese participation in politics in the 1980s and 1990s, the transition period until Macao’s handover on 20 December 1999.

After the handover, the pro-Beijing forces displaced the Portuguese in the Macao government. The selection of the Chief Executive and the legislators is dominated by pro-Beijing forces. The Chief Executive of the MSAR is elected by a 300-member election committee, the members of which are selected by social groups. However, there was always no competition for the selection of election committee members.\(^\text{14}\) Most social groups’ participation in the selection of election committee members is coordinated, if not manipulated, by the pro-Beijing forces. Informal negotiations in the black box for the nomination avoid competition and guarantee the selection of pro-Beijing members. Therefore, pro-Beijing forces dominate the selection of election committee members as well as


\(^\text{14}\) Like the HKSAR, the election committee for the Chief Executive election is divided into four sectors: 1) industrial, commercial and financial; 2) culture, education, sports and professional; 3) labor, social services and religion; 4) political sectors including Macao deputies of the NPC, representatives from the MSAR legislature and Macao members of the National Committee of the Chinese People’s Political Consultative Conference. Pro-Beijing elites would coordinate the nomination of representatives in each sectors, avoiding competition in the pro-Beijing camp as well as the selection of members outside the camp. Eilo Yu Wing-yat, Formal and Informal Politics in Macao Special Administrative Region Elections 2004–2005, *Journal of Contemporary China*, 16(52), 2007: 417–442.
the Chief Executive. Since the handover, the two Chief Executives of the MSAR, Edmund Ho Hau-wah and Fernando Chui Sai-on, have been from the pro-Beijing camp. Edmund Ho served as a vice-president of the pro-Beijing Macao Chamber of Commerce,\(^\text{15}\) while Fernando Chui was an Executive Committee member of the Chinese Youth Federation and the honorary vice-president of the Chinese Preventative Medicine Association in Mainland China.\(^\text{16}\)

In the MSAR legislature, the pro-Beijing and pro-government forces have gained an absolute majority. The MSAR Legislative Assembly is composed of directly- and indirectly-elected seats as well as members appointed by the Chief Executive. When the MSAR legislature was first established in 1999, there was only one opposition member, Antonio Ng Kuok-cheong of the New Macau Association.\(^\text{17}\) Au Kam-san and Chan Wai-chi, colleagues of Ng, were elected onto the legislature in 2001 and 2009 respectively. José Maria Pereira Coutinho, a Macanese elected to the legislature in 2005, has been very critical of the government, exerting much pressure on the authorities. After the 2009 election, there were only four legislators who were critical of the administration: Antonio Ng, An Kam-san, Chan Wai-chi, and José Coutinho.

The electoral system is not favourable to the opposition for gaining seats in the legislature. First, the indirect election is dominated by the pro-Beijing forces. There are four constituencies: (1) Business Interests; (2) Employee Interests; (3) Professional Interests; and (4) Charity, Culture, Education, and Sports Interests. Each registered social group can have 11 representatives voting for legislators in the correspondent constituency. As is the case in the selection of the election committee for the Chief Executive, the pro-Beijing and pro-government forces dominate the legislative indirect elections, as most social groups are from their camps. They coordinate and negotiate among themselves to nominate and elect pro-government candidates. In the direct election, a proportional representation system with the new d’Hondt formula has

\(^{15}\) For a biography of Edmund Ho, please visit Hudong Wiki, [http://www.hudong.com/wiki/%E4%BD%95%E5%8E%9A%E9%93%A7](http://www.hudong.com/wiki/%E4%BD%95%E5%8E%9A%E9%93%A7), accessed 14 April 2012, and Xinhua Net [http://news.xinhuanet.com/ziliao/2002-03/07/content_305597.htm](http://news.xinhuanet.com/ziliao/2002-03/07/content_305597.htm), accessed 14 April 2012.


\(^{17}\) There is a “through-train” of the Macao legislature for the handover that all colonial legislators selected in 1996 served in the first legislature of the MSAR, 1999–2001.
MACAO’S “ONE COUNTRY, TWO SYSTEMS”

The entire Macao territory is treated as one constituency and electorates cast their ballots for one candidate list. Seats are distributed by candidate lists in accordance with the new d’Hondt formula. The opposition received about 30 per cent of the vote and gained 4 of the 12 directly elected seats in 2009. Therefore, the opposition forces’ influence in the legislature is limited and has only exerted minimum pressure in checking the administration.

The strong pro-Beijing ruling alliance not only includes the local elite but also involves support from the Mainland’s MSAR authorities. According to Cao Er-bao, an official of the Liaison Office of the Central People’s Government in Hong Kong, there should be a second governing team in the Hong Kong and Macao SARs to support the rule of the local governments. The Liaison Office could serve as the second governing team coordinating the various forces in society and mobilizing political support for the rule of the SAR government. The Macao Liaison Office is very active in connecting with social groups and mobilizing their support for the MSAR government. Officials from the Liaison Office attend many public forums and consultative meetings and work closely with Macao government officials.

Despite the role of the Liaison Office, the MSAR government recruits Mainland personnel and receives assistance from Mainland authorities for its rule. For instance, the MSAR government recruits Mainland elite personnel and receives assistance from Mainland authorities for its rule. For instance, the MSAR government recruits Mainland personnel and receives assistance from Mainland authorities for its rule.

Table 8.1: Composition of MSAR Legislative Assembly

<table>
<thead>
<tr>
<th></th>
<th>Directly elected seats</th>
<th>Indirectly elected seats</th>
<th>Appointed members</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999–2001</td>
<td>8 (1)</td>
<td>8</td>
<td>7</td>
<td>23 (1)</td>
</tr>
<tr>
<td>2001–05</td>
<td>10 (2)</td>
<td>10</td>
<td>7</td>
<td>27 (2)</td>
</tr>
<tr>
<td>2005–09</td>
<td>12 (3)</td>
<td>10</td>
<td>7</td>
<td>29 (3)</td>
</tr>
<tr>
<td>2009–13</td>
<td>12 (4)</td>
<td>10</td>
<td>7</td>
<td>29 (4)</td>
</tr>
</tbody>
</table>

Note: The numbers in parentheses are the number of legislators from the opposition.

20. For example, the author attended a forum on 2011 Chief Executive Policy Address and observed that Lao Pun Lap, Director of the MSAR Policy Research Office, attended the meeting together with a Liaison Office member who worked closely with Lao in the meeting and took notes.
members to work in different departments. Although Macao civil servants must be Macao permanent residents, the government can employ non-permanent residents through non-civil servant contracts. Many of them are from the Mainland and are recruited as consultants in departments. For instance, Mi Jian has been appointed as the chief consultant of the MSAR Policy Research Office. Mi is a law professor and former president of the Chinese University of Political Science and Law. He was appointed as a consultant in the legal department of the colonial Macao government, 1991–1995, and organized the localization and translation of legal documents.\(^{21}\) He returned and taught on the Mainland in 1995, but became the Law Faculty Dean of the Macau University of Science and Technology years after the handover. At the beginning, there was rumour that the MSAR government were considering appointing Mi to be the director of the Policy Research Office. Due to his non-permanent residency, he was employed by the Office as a Chief Consultant through a non-civil servant contract. Nevertheless, he is regarded as the chief of the Office, who manages it and directs research activities, and will be the director once he becomes a permanent resident of the MSAR, according to the China Political Science and Law Innovation Net, which is sponsored by the Law Information Research Centre of the China Law Society and Tsinghua University.\(^{22}\)

The MSAR government has also recruited some Mainland elite members as consultants in various departments, especially in the legal branches.\(^{23}\) It is noted that there is no open recruitment exercise for non-civil servants, such as the position of consultant. An individual department can do so if it has the resources for it; in other words, there is no mechanism checking the MSAR authorities in their recruitment of Mainland elite members into the government. Although the government should publish the appointment, such an announcement does not mention the residency of appointees, so the public cannot know this. It is noteworthy that these Mainland consultants can apply for local residency through a residency scheme for professionals. Once they participate in the immigration policy


\(^{22}\) Ibid.

\(^{23}\) Personal interview with a senior Macao civil servant, 7 April 2012.
and have served in the government for seven years, they will become permanent Macao residents and are then qualified to be department heads. In the Macao government, the director of a bureau and the head of a department may not necessarily be positions occupied by civil servants, and the authorities can appoint non-civil servants to leadership positions in the government administration. Therefore, Mainland elite member can easily enter the MSAR government and take part in ruling the territory through the formal institutions.

In addition, the Macao government has been receiving support from the Mainland authorities in its rule. For instance, the Macao police forces are advised by the Guangdong security branch for policing protests and demonstrations in the MSAR. The Macao security branch has been relatively weak in handling mass demonstrations, as exemplified in the 2007 May Day demonstrations, during which a Macao police officer opened fire to disperse the masses, but the shooting was regarded as unnecessary and harmed public confidence in the police forces’ ability to handle demonstrations. According to Macao legislator Antonio Ng Kuok-cheong, the Guangdong security branch deployed professionals to advise the Macao authorities’ policing of demonstrations after the 2007 May Day demonstration. Also, the MSAR may invite Mainland academics and professionals to research projects. For example, the MSAR government think-tank, the Sustainable Development Research Centre, has invited scholars and professionals from the Mainland and Hong Kong to draft a consultative document, the “City Concept Plan of Macao”. The Policy Research Office has invited scholars of the Chinese Academy of Social Sciences to conduct a research project developing a strategy to turn Macao into a city for leisure and recreation.

The infiltration of Mainland forces into the MSAR government is partly because of the relative incompetence of the local administration.

During the transition period to the handover, the Portuguese colonial government delayed the localization of the civil service, so that many senior positions were still occupied by a Portuguese elite, but accelerated the pace by promoting local Chinese officials in the last few years before the handover.\footnote{Herbert Yee, *Macau in Transition: From Colony to Autonomous Region*, New York: Palgrave, 2001, 41–56; also see Yu, *Macao Civil Service*, 537–560.} Therefore, many MSAR officials were relatively inexperienced in administration although they had taken the “through-train”, migrating from the colonial to the MSAR government, and so external aid was inevitable. This justified the involvement of Mainland authorities in the MSAR administration, and hence strengthened the ruling capacity of the MSAR government.

The involvement of Mainland elite members in the MSAR government is certainly conducive to the health of the central and local relationship, but the principles of “a high degree of autonomy” and “Macao people ruling Macao” are in doubt. However, the Macao public do not object to this phenomenon. Perhaps they have a higher tolerance if not acceptance threshold, as compared to their Hong Kong counterparts.

**Cooperation between the executive, legislative and judicial branches**

Rather than a checks-and-balances system, the cooperation between the executive, legislative and judicial branches is emphasized by the Chinese officials in the SAR. The legislative and judicial branches of the MSAR seem to follow the advocacy of the central government and try to help the executive instead of providing checks to it. In this way, Beijing can influence the MSAR government in the executive, without resistance from the legislative and judicial branches.

As mentioned above, the pro-Beijing and government forces dominate the legislature. Most legislators avoid creating trouble for the executive, thus affecting the efficiency of the government administration and emphasizing executive and legislative harmony. The legislature does not insist on its constitutional power of checking the executive; rather, it self-emasculates its constitutional role for legislation. In particular, the MSAR government has adopted the colonial “bi-rail” system of legislation, which allows both the executive and legislative branches to make laws. During the colonial era, the Governor could issue a decree in any area in which the
Legislative Assembly did not pass legislation. Decree law by the Governor shared the same constitutional status with law passed by the legislature. As a result, the Governor made most of the law, while the legislature was marginalized in the legislative process. After the handover, the MSAR government continued the practice by issuing decree law instead of legislation through the legislature. In the first decade of the MSAR regime, the Chief Executive issued decree law for three-fourths but the legislature only made one-fourth of the law.\textsuperscript{30} Significantly, the legislature did not dispute this practice. The government changed the policy only when an expatriate challenged the constitutional status of decree law.

Besides, the legislature does not keep a close eye on government expenditures and does not try to influence government policy through the allocation of resources to public projects. The MSAR legislature is not able to challenge the government over the budget. The government has adopted the procedure of requesting the legislature to approve the total amount of expenditures for the fiscal year in a block vote and the legislature simply approves the budget blanket instead of embarking on a line-by-line budget-item scrutiny. In addition, the MSAR government does not have a financial reserve mechanism and it simply carries forward the financial surplus of previous years to the budget of next fiscal year. Any surplus in the budget will then be allocated to the special reserve account so that the government can spend all of its revenue during the fiscal year. The former president of the Legislative Assembly Susanna Chao ruled that, once the legislature approved the budget, the government could freely change the use of money to other projects without seeking the endorsement of the legislature, unless extra funding was needed.\textsuperscript{31}

Furthermore, most legislators did not question the performance of the administration, especially at the beginning of the establishment of the MSAR. In the first (1999–2001) and second (2001–05) MSAR legislatures, two pro-democracy legislators, Antonio Ng Kuok-cheong and Au Kam-san, submitted over 60 per cent of written questions to the administration.\textsuperscript{32} Moreover, the legislature rejected a call for a hearing

\textsuperscript{30} Eilo Yu Wing-yat, Executive-Legislative Relationships and the Development of Public Policy, in Newman Lam and Ian Scott (eds) \textit{Gaming, Governance and Public Policy in Macao}, Hong Kong: Hong Kong University Press, 2011, 57–74.

\textsuperscript{31} Zhengbao (Journal Cheng Pou), 31 May, 2008, 4.

\textsuperscript{32} Yu, Executive-Legislative Relationships and the Development of Public Policy.
session for the investigation of potential mal-administration and irregularities by the administration. In addition, three pro-democracy legislators, Antonio Ng, Au Kam-san and Chan Wai-chi, motioned for three hearings to examine the government’s land policy and to investigate possible corruption and irregularities in the administration. All three motions were rejected in the Assembly. Some pro-government legislators argued that the Commission Against Corruption and the Audit Commission were already investigating this matter and it was not worthwhile for the legislature to do a similar job. However, the administration did not identify any officials investigating the irregularities. Perhaps the pro-government legislators preferred to protect the executive branch and, by avoiding hearings, also to avoid embarrassing the government.

Nevertheless, due to a rising public discontent with the administration, the pro-government legislators tended to become more critical of the government. They became active questioners of the administration’s performance in responding to public expectations. The legislature set up three ad hoc committees to study the land policy, public finance, and administration as well as to suggest improvements. Overall, the legislature tends now to exert more pressure on the government, but the pro-government forces still cooperate with and support the executive on critical issues. As for the legislation of Safeguarding National Security Law (for the fulfilment of Article 23 of Macao Basic Law) and the 2012 political reform package, the pro-government majority disregarded the pro-democracy opposition, and passed the bills with using their overwhelming numbers.

33. In 2009, the three pro-democracy legislators proposed a hearing to investigate the change of use land by the Galaxy Group, a casino concessionaire. They motioned for a hearing session for the possible corruption of some senior officials (including the Secretary for Administration and Justice Florinda da Rosa Silva Chan) in the grant of a graveyard in 2011. In the same year, they proposed a hearing to investigate and understand the expenses for an overseas trip of government officials because the Audit Commission reported that some officials over-spent for overseas trips with deluxe packages. See Haoqiaobao (Journal Va Kio), 13 November 2009, 13; Xinhua Aobao (Journal San Va Ou), 22 November 2011, 2; Xinhua Aobao (Journal San Va Ou), 30 June 2011, 1.

34. In 2012, the MSAR government proposed a reform for the election of the Chief Executive and Legislative Assembly. The size of the election committee for the Chief Executive will be increased 100 to 400 members. The directly- and indirectly-elected seats will be increased by 2 each. However, the pro-democracy group opposed the government plan and proposed that citizens in the correspondent sectors could select representatives to the election committee for the Chief Executive, and that 3 directly-elected seats would be added, while the number of political appointees would be decreased by 3 in the legislature.
The judicial branch seems to be independent of the executive, but its rules are deemed to be favourable to the government. Jorge Neto Valente, President of the Macao Lawyers Association, states that the courts tend to support the government in cases involving administrative acts possibly violating existing laws.\(^{35}\) The dispute over the legal status of decree law issued by the Chief Executive may be a good example.

As mentioned above, Macao adopted a ‘bi-rail’ system of legislation in which the executive and legislative branches can make law. However, an expatriate challenged the constitutional status of decree law in court in 2005. He was charged by the immigration office for working at Macao illegally as he did not have a valid work visa in Macao in accordance with the Decree Law 17/2004, and the Macao government tried to deport him. He argued that the decree law by the Chief Executive was illegal and thus that the Macao government could not deport him because of the Decree Law 17/2004.\(^{36}\) First, according to the Macao Basic Law, the executive branch did not have legislation authority as the Legislative Assembly was the only law-making body. Second, although Article 5, Basic Law, stated that the Chief Executive could issue administrative regulations, this was not equivalent to the decree laws issued by the Governor in the colonial era. The lower courts (including the Courts of First Instance and Second Instance) ruled that decree law was not equivalent to law made in the legislature, but the Court of Final Appeal (CFA) overrode the decisions of lower courts. The CFA concluded that the Chief Executive could share legislative power with the Legislative Assembly, and explained that the Basic Law did not restrict the use of administrative regulation by the Chief Executive, and that the Chief Executive could veto bills passed by the Legislative Assembly.\(^{37}\) It remarked in addition that in some countries, such as Portugal and France, the head of government has constitutional rights to issue administrative regulations in areas for which the legislature is not specifically responsible, and that in Mainland China the State Council can issue administrative regulations and can also legally restrain individual behaviour.

\(^{35}\) Zhengbao (Journal Cheng Pou), 17 May 2012, 1.
\(^{36}\) Haoqiaobao (Journal of Va Kio), 13 May 2006, 11.
\(^{37}\) Aomen Ribao (Macao Daily News), 19 July 2007, A06; also see Cheang Kam-in, Guanyu Zhongji Fayuan Caipan Zhide Shangque Zhi Chu De Ruogan Sikao (Thoughts on the Controversial Judgment by the Court of Second Instance), Aomen Yanjiu (Journal of Macau Studies), 36, 2006: 9–11.
However, this ruling by the CFA was questionable and the dispute did not end. Wang Yu, a law professor in Macao, argued against the CFA that the Basic Law clearly defined the Legislative Assembly as a unique body for legislation and that administrative regulation did not enjoy the legal status of decree law in the colonial period. In addition, he argued that administrative regulation by the State Council was a supplement to law in Mainland China. Xu Chong-de, a member of the Macao Basic Law Drafting Committee, recognized the legal issue generated by administrative regulation and stated that Beijing had overlooked the possible problem of administrative regulation when drafting the Basic Law.

The ruling by the CFA on decree law was controversial and political. If it had ruled against the legal status of decree law, there would have immediately been a legal vacuum in Macao, as most laws had been passed by decree by the Chief Executive. Arguably, it could have sought the NPC’s interpretation, but this would not have solved the problem; rather, it would have brought the issue to the central government, which might not have had a resolution satisfying the demands of the legal and executive branches of the MSAR. As Xu Chong-de remarked, Beijing had overlooked the issue when drafting the Macao Basic Law. Thus, the CFA made a difficult decision favourable to the government, whereas the executive did not take advantage of the situation and agree to narrow the scope of administrative regulation through legislation, as suggested by Xu Chong-de. This is a good example demonstrating executive and judicial cooperation.

Another instance of executive and judicial cooperation is hinted at by Jorge Neto Valente’s remark that the favouritism of the court towards the administration might be due to the personal background and experience of the judges. Since the transition period, the Macao as well as the Mainland authorities have aimed to promote local Macao Chinese in the legal sector, which had been dominated by Portuguese elite members, for the MSRA. Cooperating with the Portuguese government, the Mainland

40. The MSAR government submitted a proposal to the legislature to restrict the Chief Executive issuing decree law for the implementation of government policy and the management of government administration. The Law 13/2009, ‘Legal Framework for Legislation’ was passed by the legislature in November 2008; also see Ibid.
authorities provided legal training programs to the Macao Chinese. Thus, the heads of the MSAR judicial branches are trained by the Chinese government. Sam Hou-fai, President of the CFA, was born in Mainland China and graduated from the Law Faculty of Peking University. He practiced law on the Mainland before migrating to Macao in the 1980s. He took the training programs offered by the first “Core and Advanced Training Courses for Judges and Public Prosecutors at the Legal and Judicial Training Centre”, and studied Portuguese language and law at the University of Coimbra in Portugal. These programs were supported by the Chinese government for the leadership of the MSAR judicial branch. Sam was among the first cohort of Macao legal professionals trained by the Chinese authorities for the MSAR government. The MSAR Prosecutor General of the Public Prosecutions Office, Ho Chio-meng, had a similar experience. He was born in Macao and studied in Mainland China. He received his bachelor degree in law at Southwest University of Political Science and Law in China and earned a doctorate in law from Peking University. He took the Training Course for Senior Public Servants of Macao in the National Administration Institute of China, supported by the Chinese government, and also studied Portuguese language and law at the University of Coimbra in Portugal (in the 1990s). Ideologically, the leaders of the MSAR judicial branch are close to the Chinese authorities due to their educational background and shared ideas in ruling the MSAR. The executive and legislative and judicial cooperation in the MSAR is due to the fact that the three branches are dominated by elite member who have close ties with the Mainland authorities and are trusted by the central government. The MSAR can enjoy a high autonomy, as per Bill Chou’s remark, because patriotic forces dominate the MSAR government, and they are sympathetic to the central government’s interests, while Beijing need not openly intervene in the MSAR; rather, it can work back-stage.

A weak political opposition and civil society

The political opposition and civil society are weak in checking the MSAR government and defending local autonomy. The New Macau Association, led by the three pro-democracy legislators, Antonio Ng, Au Kam-sun and Chan Wai-chi, can be regarded as the flagship organization of the opposition in Macao. However, due to suppression by the authorities and a lack of resources, they only occupy 3 out of 29 seats in the legislature. Their capacity for mass mobilization and for checking the government is weak. Rather, they aim to educate the public in political participation and to disclose mal-administration in hopes of the improvement of the MSAR government. The defence of the MSAR’s autonomy is not the focal point of the pro-democracy legislators. And in the eyes of Beijing, the pro-democracy opposition is not necessarily harmful to the MSAR, for they strive to keep a check on the MSAR government, and hence improve the local administration.

Civil society is weak, although there are more than five thousand social groups and organizations in Macao. Most social groups are not conducive to civic engagement. Most were founded for electoral mobilization by political elites for their participation in the Chief Executive and LA elections, and are financially supported by business elites to further their interests rather than to increase civic engagement. Although some labor unions have emerged since the handover and may strike for labour interests with a confrontational approach, some of them still receive support from business elites. They are tools of businessmen for political influence in the territory.

46. According to Au Kam-san, some Mainland officials showed their appreciation that their check on the MSAR government can improve the local administration. Personal interview with Au, 26 March 2008.
47. The members of the election committee responsible for the selection of the Chief Executive of the MSAR are selected by social groups. In the same vein, indirectly elected legislators are selected by the representatives of social groups. Therefore, by gaining the support of social groups, individuals can easily become legislators through indirect elections or be appointed members of the Chief Executive election committee. For the social politics of Macao elections, please see Yu, Formal and Informal Politics in Macao Special Administrative Region Elections 2004–2005, 417–442.
Furthermore, Macao’s mass media cannot serve as watchdogs checking the authorities. Most media outlets do not conduct independent investigations and mainly rely on the “facts” provided by the authorities in their reports. Moreover, the phenomenon of self-censorship is obvious in the Macao mass media. In an open forum, several news reporters from Television of Macao and Radio of Macao (TDM), a public-funded radio and television broadcasting company, complained that censorship was prevalent in the organization. For the 2012 political reform consultation, a group of reporters and journalists came out and complained of self-censorship in media organizations, in that editors only accepted articles supporting government proposals and removed comments critical of the reform package. They set up a group on Facebook for the defence of press freedom in Macao. One senior journalist noted that the owners and chief editors of most media outlets had been co-opted by the authorities. Such censorship naturally results from the government’s subsidization of all Chinese and Portuguese newspapers every quarter and its ownership stake in the TDM. Therefore, most media outlets in Macao remain uncritical of the authorities and exert pressure on their journalists to engage in self-censorship.

With a weak opposition and civil society, Macao society is relatively stable, despite some protests and demonstrations. The civic forces do not aim to defend local autonomy; rather they put more effort into pressuring the MSAR government for better performance. Nevertheless, a stronger civil society is emerging hand in hand with economic growth. Different groups of people have been mobilizing and demonstrating their interests. For example, in 2010 a group of Macao youth mobilized young people in frustration against the MSAR government’s rule in a May Day demonstration, while, at the same time, a group of secondary school teachers protested for their interests. Professionals have come out

49. The MSAR government set up a committee to study the development of TDM and invited staff to public forums for their opinions on the company. Haojiang Ribao (Hou Kong Daily), 2 June 2010, A02.

50. Hanwei Xinwen, Ziyou, Zhichi Jinbu Jezhe (Defend for Press Freedom, Support Macao Reporters), Facebook, https://www.facebook.com/profile.php?id=806527136&sk=favorites! /pages/%E6%8D%8D%E8%A1%9B%E6%96%B0%E8%81%9E%E8%87%AA%E7%94%B1%E6%94%AF%E6%8C%81%E9%80%B2%E6%AD%A5%E8%A8%98%E8%80% 85-%E6%BE%B3%E9%96%80/228779647190155, accessed 29 April 2012.

51. Personal chat with a senior journalist who has been working in the media for more than 20 years, 18 April 2012.
for their sectional interests as exemplified in the campaigns of reporters for press freedom and of social workers for professional registration in 2012. Moreover, the democrats are adjusting their strategy by agitating for a more radical approach in their campaigns as shown in the 2012 political reform consultation. Although these social forces are still weak, their continuing mobilization will entrench a public space for civil society that will have implications for the defence of local autonomy.

The public’s attitude toward Beijing

Many Macao people seem to be accepting of and adaptive to Beijing’s involvement in the MSAR’s affairs. Beijing’s MSAR policy has successfully convinced the Macao public of the “One Country, Two Systems” policy, in that most of them are satisfied with the actualization of “a high degree of autonomy” and “Macao people ruling Macao”, albeit with the involvement in MSAR affairs of Mainland officials. According to a survey by the Public Opinion Programme of Hong Kong University in 2009, 79.5 per cent of Macao respondents indicated that they were confident in the policies of “One Country, Two Systems” and “Macao people ruling Macao”.52 Another survey by the “One Country, Two Systems” Research Center in 2011 indicated over half of respondents considered that the actualization of “One Country, Two Systems”, “Macao people ruling

---

Table 8.2: Public attitudes toward the actualization of “One Country, Two Systems”, “Macao people ruling Macao” and “a high degree of autonomy”

<table>
<thead>
<tr>
<th>Number of Respondents</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Successful</td>
<td>130</td>
</tr>
<tr>
<td>Successful</td>
<td>487</td>
</tr>
<tr>
<td>So-So</td>
<td>471</td>
</tr>
<tr>
<td>Unsuccessful</td>
<td>43</td>
</tr>
<tr>
<td>Very Unsuccessful</td>
<td>14</td>
</tr>
<tr>
<td>Don’t Know/Refuse to Answer</td>
<td>48</td>
</tr>
<tr>
<td>Total</td>
<td>1,193</td>
</tr>
</tbody>
</table>


---

MACAO’S “ONE COUNTRY, TWO SYSTEMS”

Table 8.3: Public confidence in the Central Government’s ability to maintain the prosperity and stability of the MSAR

<table>
<thead>
<tr>
<th>Number of Respondents</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Confident</td>
<td>236</td>
</tr>
<tr>
<td>Confident</td>
<td>624</td>
</tr>
<tr>
<td>So-So</td>
<td>265</td>
</tr>
<tr>
<td>Unconfident</td>
<td>41</td>
</tr>
<tr>
<td>Very Unconfident</td>
<td>4</td>
</tr>
<tr>
<td>Don’t Know/Refuse to Answer</td>
<td>236</td>
</tr>
<tr>
<td>Total</td>
<td>1,193</td>
</tr>
</tbody>
</table>


Macao” and “a high degree of autonomy” was successful or very successful, while about 40 per cent were “so-so” (see Table 8.2). In addition, over 70 per cent of respondents were confident or very confident that Beijing could maintain the prosperity and stability of the MSAR (see Table 8.3). This reflects the fact that, for a Macao majority, Beijing’s participation in local affairs is for the betterment of the MSAR. In other words, they consider that the involvement of Beijing in the MSAR does not undermine local interests or the principle of “Macao people ruling Macao”.

The Macao public’s positive evaluation of Beijing’s involvement may probably be due to Beijing’s favourable policies regarding the MSAR in boosting domestic economic growth, in contrast to the colonial era. In the final years of Portuguese rule, Macao suffered an economic recession. For example, the GDP showed negative growth in 1998 and 1999, -7.8 per cent and -4.2 per cent, respectively. Due to the Asian Financial Crisis, the number of tourists to Macao dropped dramatically. The

54. Ibid, p.93.
gaming industry, which is the major sector of Macao’s economy, encountered difficulties in the casino business. Gangster fights and violence were triggered because of the vested interests in lucrative casinos and VIP rooms. Consequently, stability was under fire as bombs and assassinations were taken into the streets. The poor economy was perceived as the source of Macao’s instability before the handover. After the handover, the Chinese government introduced various measures that contributed to the prosperity of the MSAR. The People’s Liberation Army (PLA) was deployed to Macao to help maintain public security and keep order when necessary. Antonio Ng Kuok-cheong, a legislator of the MSAR, stated that the gangsters had been pressured and had stopped their fights on the street because of the PLA’s threatened manoeuvres. Indeed, the gangster war disappeared after the handover, and public order recovered in Macao society.

In addition, the central government introduced policies that were favourable for the revitalization of the MSAR’s economy. For instance, it allowed an increasing number of Mainland tourists to visit the territory. Before the handover, fewer than a million mainlanders travelled to Macao annually, Hong Kong being the major source of travellers to Macao. The number of travellers from the Mainland rose drastically after the handover. When the Chinese government introduced a scheme for individual travellers and allowed mainlanders to visit Hong Kong and Macao without joining organized tours in 2003, the Mainland became the dominant source of visitors to Macao (see Table 8.4). Importantly, Mainland visitors outspent travellers from other regions.

In addition, Beijing supported the MSAR in the extension of casino franchises in 2001 in order to attract foreign capital investment in Macao. For example, the American Venetian and Wynn groups received concessions for casino operation and invested in the gaming and tourism sectors in the territory. The gaming industry became the dominant

57. For a discussion on gangster fights and violence due to casino interests in Macao before the handover, please see Sonny Lo Shiu-hing, Gambling and Organized Crime: Towards the End of the Stanley Ho Connection? *China Perspectives*, 26, 1999: 56–65.

58. According to Ng, local gangsters worried about their vested interests in Macao and the Mainland that might be affected by the possible manoeuvres of the PLA and Beijing. Therefore, they halted their fights in the street. Personal interview with Ng, 6 November 2004.
economic sector, contributing half of Macao’s GDP. And 87.3 per cent of government revenue came from the gaming tax in 2011. The gaming industry has become the backbone of Macao’s economy, the means for stimulating rapid economic growth, and the main sector that contributes financially to the MSAR government.

59. In 2010, Macao’s GDP was MOP 224 billion and the gaming income was MOP 190 billion or 84.5 percent of the GDP. See 2010 Macao Statistics Yearbook, Macao: Macao Government, 2011, 261 and 461.

Macao’s overall economy has enjoyed remarkable growth along with the boom in the gaming industry. The employment situation has also improved significantly, as the unemployment rate dropped from 6.8 per cent in 2000 to 2.6 per cent in 2011.\(^{61}\) At the same time, employees enjoyed better wages. The median monthly income of Macao residents increased from MOP$4,920 in 1999 to MOP$10,000 in 2011, a 103.3 per cent growth.\(^{62}\) Thus, Beijing’s favourable policies forged Macao’s post-handover economic miracle that, to many Macao residents, is credited to Beijing’s participation in the MSAR.

A weak local identity is attributed to the Macao public’s acceptance of Beijing’s involvement in the locality. Alex Choi argues that a strong national sentiment has been cultivated in Macao by the pro-Beijing forces since the colonial era.\(^{63}\) In particular, the Macao people’s national identity is rather stronger than their local identity. According to Herbert Yee’s survey in 1999, 74 per cent of Macao Chinese were proud to be Chinese, but only 38.8 per cent were proud to be Macao citizens.\(^{64}\) The survey by the One Country Two Systems Research Center of the Macao Polytechnic Institute in 2011 found that 58.73 per cent of Macao people were proud to be Chinese, and 48.9 per cent were proud to be Macao citizens.\(^{65}\) These facts may reflect that many Macao people were not satisfied with Portuguese colonial rule and believed they would benefit from being Chinese in the MSAR era under the PRC. As a result, the post-handover identity of the Macao people incorporated a national element that was favourable to Macao’s political integration into the PRC regime.\(^{66}\)

On the other hand, new immigrants have diluted local identity. It is noteworthy that half of the Macao population is not locally born. According to the 2011 Population Census, only 40.9 per cent of Macao residents were locally born while 46.2 per cent of Macao residents were born in Mainland China.\(^{67}\) Interestingly, 23.9 per cent of the population

\(^{62}\) Ibid., 89.
\(^{63}\) Choi, Intergovernmental Relations Between Mainland China and the Macao SAR, 487–791.
\(^{64}\) Yee, Macau in Transition: From Colony to Autonomous Region, 71.
\(^{65}\) Yiguo Liangzhi Zonghe Zhibiao Minyi Diaocha Baogao, 94–95.
immigrated to Macao in and after 2000. Thereby, many Macao residents have a strong tie to the Mainland, which contributes to the strong sense of belonging to the nation. A weak local identity cannot drive a civil society to the defence of local autonomy.

**Unfolding central and MSAR dynamics**

For Beijing, Macao’s post-handover development has not created many troubles, as happened with Hong Kong. However, this does not mean that it is satisfied with the performance of the MSAR authorities. In particular, the rapid growth of the casino industry has generated and intensified such social tensions as poverty, and housing and transportation problems. The MSAR government has not taken effective initiatives to alleviate rising social tensions. After the 2007 May Day demonstration, which resulted in a police and populace confrontation and a gunshot by a policeman, the central government took unilateral action by reducing the number of Mainland travellers in order to cool down Macao’s economy, which was regarded as over-heated. Besides, Beijing forced the MSAR government to limit the growth of the gaming industry. In April 2008, Chief Executive Edmund Ho announced that he would not approve extra gaming concessions, an increase in gaming table numbers and land grants for casino construction during his term (until 19 December 2009). Interestingly, Ho remarked that this was an order from the central government, implying that it was not the decision of the MSAR government and that he was forced to follow Beijing’s decree. His remark seemed to shift the political burden to the central government so that he and his government would not have to bear the responsibility for the policy—illuminating the conflict in central and local authority.

---

68. Ibid., 137.
70. In June 2007, there was a new policy for mainlanders applying for travelling documents to Hong Kong and Macao. When the Individual Visit Scheme was first introduced in 2003, individual mainlanders can apply for a travel document for their visit to both Hong Kong and Macao at one time. Under the new policy, the Mainland authorities would only accept applications for visits to either Hong Kong or Macao. Moreover, for travel documents to Macao, travelers have to wait for a month while the processing time for a Hong Kong visit is only a week. Thus, the Mainland authorities use administrative measures to discourage mainlanders from traveling to Macao. *Aomen Ribao* (Macao Daily News), 7 June 2007, A10.
Another example of central and local conflict is land reclamation. The MSAR government reclaimed two pieces of land in 2006 without the approval of the central government. According to Macao Basic Law, the MSAR does not have water territorial rights, and a reclamation project must be approved by the central government as it would occupy part of a water territory managed by the central government. In a Macao Basic Law conference hosted in Beijing in 2009, Wu Bang-guo, the President of the NPC, openly reminded the MSAR that it had to submit to the Basic Law, and that both Macao society and government officials had to learn the principles and concepts of the Basic Law. Wu’s reprimand was interpreted as the central government’s anger at the MSAR government for reclamation without Beijing’s approval.\(^2\) It seems that the central government was not informed of the reclamation project when it was started, and the local Mainland officials did not halt the project and report it. Although Beijing approved the project retroactively in 2009,\(^3\) the event shows that local Mainland officials do not necessarily protect the central government’s interests; rather, they may undermine them by colluding with the MSAR authorities. There was a rumour that the Macao government had informally agreed to grant pieces of land from the reclamation project to developers, and there was suspicion of corruption between the local authorities and businessmen.\(^4\) Perhaps the local authorities began the reclamation first and reported to the central government after the project was finished, thus achieving the central government’s approval.

The Guia Lighthouse incident is another example demonstrating that the local authorities do not always stand for national interests. In August 2006, Chief Executive Edmund Ho announced the cancellation of two decree laws (Decree Law No. 68/91/M of 18 April 1991 and Decree Law No. 69/91/M of 18 April 1991) that regulated the height of buildings in the business and commercial centre of Macao, so as not to block the view of the Guia Lighthouse. In other words, the cancellation implied that land developers could construct skyscrapers that

---

72. One Macao journalist reported on the conference in Beijing and was informed that Beijing would like to show its anger to the Macao ruling elite by Wu’s remark because of the unapproved reclamation. Telephone chat with the journalist, 8 December 2009.
73. In 2009, the central government approved the finished reclamation project and a new proposal for reclamation. Xunbao (Journal Informacao), 4 December 2009, 1.
74. Ibid.
MACAO’S “ONE COUNTRY, TWO SYSTEMS”

could block the Guia Lighthouse, which is part of the “Historic Centre of Macao” and listed on the World Heritage List of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 2005. Indeed, the government allowed a land developer and the Liaison Office to build two skyscrapers in the region, one of which was the building for the Liaison Office. This decision provoked local heritage concern groups. They mobilized demonstrations to protect the view of the Guia Lighthouse and set up a campaign by successfully asking over 6,500 individual Macao citizens to write complaints to UNESCO concerning the failure of the MSAR government to protect heritage sites on the World Heritage List. Consequently, UNESCO wrote to the Chinese government expressing its concern about heritage protection in Macao, implying that the “Historic Centre of Macao” might be removed from the World Heritage List. The event created tension between Beijing and UNESCO. Subsequently, Beijing demanded the MSAR government review its policy and protect the view of the Guia Lighthouse. At the same time, it appointed professionals in heritage protection to advise the Macao government on the advancement of heritage conservation. Finally, the Macao government agreed to restrict the height of buildings in the business and commercial centre, while the Liaison Office agreed to limit the height of its building so as not to block the view of Guia Lighthouse. In this case, the Liaison Office was to benefit from a new building and might have ignored the national necessity to protect the World Heritage site in Macao. Interestingly, there was a report that some officials of the Liaison Office, including its Deputy Director, He Xiao-wei, were suspected of corruption by approving the construction of the Liaison Office’s new building, and Beijing initiated an investigation into this charge. He Xiao-wei was transferred back to the Mainland sooner after the report was published. This implies that local Mainland officials can benefit from their cooperation with the MSAR government.

Despite the political domination of a pro-Beijing ruling coalition in the MSAR, conflicts occur between the centre and the MSAR, conflicts that are not mainly at the bottom of Macao society but at the elite level. Although the Liaison Office, as well as some Mainland elite members, take part in MSAR rulings, this does not imply that the local officials are compliant with the central government’s policy all the time. Inwardly, they are not submissive to some of them.

**The central and local relations of China’s SARs**

The good centre and Macao relationship is attributed to a strong MSAR government, dominated by pro-Beijing elite members in the executive, legislative and judicial branches. Instead of putting an emphasis on checks and balances, the three branches have been cooperating in governing Macao. Besides, the opposition and civil society are too weak to check the MSAR and the Mainland authorities to the benefit of local governance. In addition to a weak local identity, there has been no great demand for more local autonomy and governance in Macao. Thus, Beijing has been enjoying an active participation in MSAR affairs with little resistance from the locality.

In contrast, Hong Kong society does not have the conditions for a stable central and local relationship, as in Macao. Although Beijing can appoint its political trustees to the HKSAR executive, the HKSAR legislative and judicial branches do not necessarily cooperate with the executive. Instead, they stress the separation of powers and a system of checks and balances. In particular, the democratic opposition has been trying very hard to check, criticize and challenge the HKSAR government in the legislature, albeit only with their third of the total seats in the assembly. Abnormalities have been deployed by radical democrats to check the power of the executive. For instance, the filibuster was used by some pro-democracy legislators to force the government to withdraw its proposal restricting resigned legislators from running for by-elections in 2012. Radical democrats demonstrated their discontent with executive tyranny by ignoring their political demands and using antics such as hurling bananas at the chief executive and senior officials in the legislature, intending to discredit the executive instead of assisting it in its rule.

Furthermore, the Hong Kong courts come to their verdicts independently, sometimes contradicting the HKSAR government. The right of
abode of Mainland-born children of Hong Kong residents is a prominent case. The Court of Final Appeal (CFA) ruled that children of Hong Kong residents born in Mainland China have the right of abode in Hong Kong, even though they did not have it under pre-1997 Hong Kong law. This disregarded the possible effect on Hong Kong society of a huge number of new migrants from the mainland.\textsuperscript{82} The CFA stated that “Hong Kong courts have the jurisdiction to examine whether any legislative acts of the National People’s Congress or its Standing Committee are consistent with the Basic Law and to declare them to be invalid if found to be inconsistent.”\textsuperscript{83} In other words, the Hong Kong courts can rule an act of the central government invalid in Hong Kong. The CFA’s statement would surely have antagonized Beijing, but it clarified that the NPC’s interpretation of Basic Law would be binding in Hong Kong; the CFA did not question the authority of the NPC and its standing committees in that regard. The Hong Kong courts have been trying to gain autonomy from the Mainland in ruling local cases and will not prioritize the interests of HKSAR government. Beijing seems to be dissatisfied with the Hong Kong judicial branch for its uncooperative approach. For instance, Elsie Leung Oi-sie, the First Secretary for Justice of the HKSAR and the Deputy Chair of the Hong Kong Basic Law Committee of the National People’s Congress, has criticized the legal profession in Hong Kong, including judges, for their lack of knowledge of the Basic Law.\textsuperscript{84} Retiring CFA judge Kemal Bokhary regarded Leung’s remark as suggestive of turmoil in Hong Kong’s legal sector, of a battle for judicial independence.\textsuperscript{85}

Hong Kong society has a strong sense of local identity and an anxiety that the mainlandization of the territory will undermine core Hong Kong values in terms of the rule of law and open and clean government

\textsuperscript{82} According to the Hong Kong government’s estimation, more than 1.6 million mainlanders with Hong Kong permanent-resident parents would have the right of abode in Hong Kong, more than 20 per cent of Hong Kong’s current population. Johannes Chan and Bart Rwerera (eds), \textit{Immigration Law in Hong Kong: An Interdisciplinary Study}, Hong Kong: Sweet & Maxwell Asia, 2004.


\textsuperscript{84} Pinguo Ribao (Apple Daily), 7 October 2012, A01.

Moreover, Hong Kong people tend to maintain a more “westernized environment” to keep its comparative advantage in competition with Mainland cities. Although Beijing has introduced many policies favourable to Hong Kong’s economy, more and more Hong Kong people believe that various schemes such as the Closer Economic Partnership Agreement and the Individual Visit Scheme are causing Hong Kong to suffer. For instance, the inflow of Mainland capital into Hong Kong has caused real estate prices to rise to a level that inhabitants cannot afford. Many mainlanders travel to Hong Kong. They occupy a lot of public space, and their consumption leads to high inflation and a shortage of goods. People in Hong Kong feel that their city is being occupied by mainlanders while they themselves cannot manage their territory under Beijing’s shadow. Therefore, civil society has mobilized and struck for local autonomy, resisting the intervention of Beijing. For instance, one group called for a Hong Kong Independence Movement against the further integration of Hong Kong into Mainland China.

The problems facing integration seem obvious, as demonstrated in various social disputes, such as babies born of non-citizen Mainland mothers, national education, social problems caused by Mainland itinerant traders in Hong Kong’s northern district, and the cooperation between Guangdong and Hong Kong for the development of northern Hong Kong. Hong Kong citizens have been worried that the continuation of Mainland–Hong Kong interaction will sooner or later result in the demolition of Hong Kong identity. Wang Gungwu has concluded that the British government gave false hope to the Hong Kong people concerning a high degree of local autonomy after the handover, which


87. Xianggang Duli Huodong (Hong Kong Independence Movement), Facebook, https://www.facebook.com/pages/%E9%A6%99%E6%B8%AF%E7%8D%A8%E7%AB%8B%E9 %81%8B%E5%8B%95-Hong-Kong-Independence-Movement/165847057006, accessed 21 September 2012.

88. For the identity clash between Hong Kong and the Mainland, please see Lam Wai-man, Political Identity, Culture and Participation, in Lam Wai-man, Percy Luen-tim Lui and Wilson Wong (eds) Contemporary Hong Kong Government and Politics, Hong Kong: Hong Kong University Press, 2012, 199–222.
MACAO’S “ONE COUNTRY, TWO SYSTEMS”

has led them to resist Beijing’s involvement in the HKSAR.89 Thus they do not accept the new political order imposed by Beijing.90

On the other hand, the Portuguese authorities did not generate expectations in the Macao people during the transition, and left a relatively inefficient and corrupt administration. Macao suffered from economic recession and public disorder because of gangster wars in the final years of Portuguese rule. Beijing’s favourable policies rescued Macao’s public order and economy after the handover, winning the hearts and minds of the Macao people and their acceptance of integration and Beijing’s involvement in local affairs.

Nevertheless, Macao’s socio-political circumstances are changing gradually, following rapid economic development. Residents of Macao seem to pay more attention to sustainable development in light of rapid economic growth; they aim to protect the city rather than overdevelop it. As a result, there is a rising sense of local identity.91 Civil society is emerging and mobilizing the masses to check the government’s power, as well as challenge the pro-Beijing forces that dominate channels of participation in Macao politics. They want a more open, transparent and fair government, which may lead to challenging the executive and legislative and judicial coalition. Furthermore, this rise in local identity may resist Macao’s further integration into mainland China. There are social forces resisting the use of simplified Chinese characters in the city. They report that companies and stores are using simplified Chinese writing characters on the Internet, and criticize them for failing to use traditional Chinese characters, which is the custom in Macao. Moreover, some young people, echoing the Cantonese movement in Guangdong and Hong Kong, have mobilized a campaign in Macao that supports the use of Cantonese instead of Putonghua for daily dialogue, as well as in schools and government offices. Such movements show the strengthening of local identity in opposition to the nationalism imposed by the

90. Lau, In Search of a New Political Order, 139–160.
Mainland authorities, which may shake the central government–MSAR relationship in the long run.

**Conclusion**

To Beijing, “One Country, Two Systems” has to be actualized by pro-Beijing forces in an SAR. A strong executive appointed by the central government, cooperation by the legislative and judicial branches, and a weak civil society and political opposition are favourable conditions for the central government overseeing the SAR. The case of Macao possesses these elements so that the MSAR regime can maintain a stable relationship with Beijing. In addition, Beijing’s favourable measures have successfully won the acceptance of the Macao people for its participation in local affairs. These both resist and avoid local pressures for the defence of autonomy, and Mainland authorities and elites have infiltrated the MSAR authorities. Central government and MSAR conflicts do exist, but they do not appear as local autonomy interests but rather as elite interests. This reflects the suggestion that Macao has been better integrated into the Mainland political system than Hong Kong. Instead of drawing a line differentiating central and local authorities, the centre and MSAR dynamics are characterized by the interplay of Beijing and local elites.

Can the experience of Macao convince Hong Kong as well as the people of Taiwan of the efficacy of “One Country, Two Systems” with “a high degree of autonomy”? The answer may be negative. To many Hong Kong people, the HKSAR should have the autonomy to manage domestic issues without the involvement of Beijing. There is a strong civil society and a strong political opposition defending local autonomy. Taiwan has not yet accepted and tolerated Beijing’s influence in the island’s affairs. The Macao case demonstrates that Beijing’s involvement in the MSAR is inevitable for the actualization of “One Country, Two Systems”—a different interpretation of “a high degree of autonomy”—while local governance is not truly established. Beijing’s conception of “a high degree of autonomy”, as exemplified by the MSAR case, is a far cry from what outsiders expect.

There is little doubt that the lack of local autonomy in Macao is, to a great extent, due to a weak civil society and political opposition, as well as a weak local identity. It is noteworthy, though, that in the wave of a
booming economy a local identity and a civil society are emerging and being consolidated. Macao’s society is mobilizing for local interests while the pro-democracy legislators are agitating for a more radical approach in their campaigns. Such movements show the rise of local identity opposing the nationalism imposed by the Mainland authorities. Although a stable centre and MSAR relationship could be maintained in the first decade after the handover, it remains to be seen if the continuation of Macao’s socio-political transformation will aim at local governance and thus rock the centre and MSAR relationship.

References


Hanwei Xinwen, Ziyou, Zhichi Jinbu Jezhe (Defend for Press Freedom, Support Macao Reporters) Facebook, 2012 [https://www.facebook.com/profile.php?id=806527136&sk=favorites!/pages/%E6%8D%8D%E8%A1%9B%E6%96%B0%E8%81%9E%E8%87%AA%E7%94%B1%E6%94%AF%E6%8C%81%E9%80%B2%E6%AD%A5%E8%A8%98%E8%80%85-%E6%BE%B3%E9%96%80/228779647190155, accessed 29 April 2012].

Haojiang Ribao (Hou Kong Daily), 2 June 2010, A02.


Hudong Wiki [http://www.hudong.com/wiki/%E4%BD%95%E5%8E%9A%E9%93%A7, accessed 14 April 2012].


———. ‘Political Identity, Culture and Participation.’ In Contemporary Hong Kong Government and Politics, edited by Lam, Wai-man, Percy Luen-tim
MACAO'S “ONE COUNTRY, TWO SYSTEMS”


Lau, Siu-Kai. 'In Search of a New Political Order.' In The First Decade: The Hong Kong SAR in Retrospective and Introspective Perspectives, edited by Yeung, Yue-man, pp. 139–159. Hong Kong: Chinese University Press, 2007.


——. The Dynamics of Beijing-Hong Kong Relations: A Model for Taiwan? Hong Kong: Hong Kong University Press, 2008.


Macao Basic Law


Shimin Ribao (Journal of Citizens), 1 February 2007, 1.


Xianggang Duli Huodong (Hong Kong Independence Movement) Facebook, 2012 [https://www.facebook.com/pages/%E9%A6%99%E6%B8%AF%E7%8D%A8%E7%AB%8B%E9%81%8B%E5%8B%95-Hong-Kong-Independence-Movement/165847057006, accessed 21 September 2012].

Xinhua Aobao (Journal San Va Ou), 5 February 2008, 1; 30 June 2011, 1; 22 November 2011, 2


Xunbao (Journal Informacao), 4 December 2009, 1.


Introduction

The negotiations between Beijing officials and Hong Kong democrats in 2010 over political reform, which brought about the passage of a limited compromise reform proposal, had profound implications for the autonomy of Hong Kong. The negotiations were ground-breaking in the sense that they marked the first time for the Beijing authorities and the Hong Kong democrats negotiating face-to-face over the political reform of Hong Kong. From the positive side, the 2010 compromise deal can be seen as the beginning of a thaw and the twilight of Hong Kong’s political impasse, as it set a precedent for direct negotiations between the Beijing authorities and Hong Kong democrats.¹ From the negative side, Beijing threw away all pretence of Hong Kong’s autonomy in constitutional matters, and took matters into its own hands, with little regard for the image of autonomy for Hong Kong. Events in 2010 showed that the Hong Kong government played only a weak role in deciding the future political reform of Hong Kong. From 2010 on, the Hong Kong public can reasonably expect that Beijing will take over all the major negotiations regarding constitutional reform in the future.

This chapter discusses the implications of the 2010 negotiations for the political autonomy of Hong Kong. It starts by discussing the nature of Hong Kong’s autonomy, as constitutionally guaranteed in the Basic Law and politically defined by subsequent negotiations and resolutions after 1997. It then recounts the 2010 negotiation experience, and examines its implications for the political autonomy of Hong Kong. It shows

that the 2010 negotiations opened a new page of direct negotiations between Beijing and Hong Kong democrats over future constitutional development. The Hong Kong government can at best play a mediating or brokering role, but is no authoritative representative of Hong Kong’s people or a decision-maker in its own right. The 2010 experience will set the precedent for future political negotiations over democracy.

**The nature of Hong Kong’s “high autonomy”**

Since the signing of the Sino-British Joint Declaration in 1984, the nature of the “high autonomy” of Hong Kong after 1997 has been a key issue of contention. Analysts had long doubted the extent and nature of Hong Kong’s “high autonomy”, as outlined in the Joint Declaration. Hong Kong’s post–1997 autonomy, however, is a special blend of local autonomy that is different from member states in federal systems or autonomous regions elsewhere. Ghai has succinctly pointed out that the essence of the “One Country, Two systems” political formula is the “separation of systems”.

The key goal of the Chinese government is to separate the Mainland socialist economic system from the Hong Kong capitalist system, so as to maintain the vibrant, free-wheeling capitalism in Hong Kong, which they see as most beneficial to the continual economic development and open-door policy of China. The essence of the “high autonomy” policy for Hong Kong is to prevent the economic logic or political forces of Mainland “socialism” from interfering in the operation of Hong Kong’s economic system.

Because the Chinese government sees the “Two Systems” of “One Country, Two Systems” in economic terms, constitutionally Hong Kong is accorded high autonomy in economic affairs, in some areas rivalling the powers of independent sovereign states. Specifically, in the realm of economic autonomy, Hong Kong can issue its own currency and stamps, has its own tax system and is financially independent from the Central Government. The Hong Kong Government and the Hong Kong residents do not have to pay any tax to the Central Government. Hong Kong can handle its shipping and aviation independently and can conduct its own trade and other economic negotiations with foreign governments under

---

NEGOTIATING AUTONOMY IN GREATER CHINA

the name of “China, Hong Kong”:\textsuperscript{3} The “One Country, Two System” formula tries to make Hong Kong as independent as possible in dealing with economic affairs in the international arena.

The political autonomy of Hong Kong, however, is lower than member states in common federalist systems. Constitutionally, the People’s Republic of China is a unitary state, and Hong Kong’s autonomy, albeit partly defined by the Sino-British Joint Declaration and the Basic Law, is all delegated from the Central Government.\textsuperscript{4} Hong Kong cannot decide its own constitutional structure, or change its constitutional features without Beijing’s approval. The National People’s Congress (NPC) holds the power of interpretation and amendment of the Basic Law. The elected Chief Executive (CE) of Hong Kong and the selection of major officials need a formal appointment by the Central Government. All changes to the electoral method of the government or the legislature, and any amendment of the Basic Law, need the approval of the NPC or its Standing Committee (NPCSC). Compared to member states in federal systems, Hong Kong has a relatively low political autonomy.

The prime objective of “One Country, Two Systems” or “high autonomy”, in this light, is to preserve the intactness of the pre-1997 capitalist system of Hong Kong, and not to build a highly autonomous local political entity. It follows that the preservation of the pre-1997 judicial system and the original laws, the protection of civil liberties, and the high degree of post-1997 autonomy of Hong Kong in social and economic policy-making, are all part and parcel of a political formula that aims at protecting the Hong Kong blend of capitalism beyond 1997. The partial democratic system, instituted in the Basic Law after repeated years of movements and demands from the Hong Kong public, was part of a formula to enhance the confidence and soothe the worries of the Hong Kong people during the political transition. In a similar vein, the guarantee of ultimate full democracy in the Basic Law was but a tactic to pacify the Hong Kong people, at least for a certain period of time, in response to their political demands during the transition. The goal of the overall political formula was to maintain the stability and confidence of Hong Kong society, and to preserve its capitalist system for it to make a strong contribution to China’s development.

\footnotesize{\textsuperscript{3} See Chapter Five of the Basic Law.  
\textsuperscript{4} Ghai, Hong Kong’s New Constitutional Order.}
NEGOTIATING DEMOCRACY AND “HIGH AUTONOMY”

How much autonomy does Hong Kong actually enjoy after 1997? Different authors have different views on the subject. Many writers have pointed to various events that have violated the “high autonomy” of Hong Kong, when Central Government officials have intervened into Hong Kong affairs. In particular, on issues related to Taiwan’s independence, politically sensitive issues such as the Falun Gong or Mainland dissidents, and constitutional matters, the Central Government officials have stepped in more often and more actively, and the Hong Kong Government were more restrictive in their decisions and actions.5 Hong Kong has less autonomy when it comes to political issues that are deemed sensitive to Beijing. Lo has gone as far as claiming that Hong Kong after 1997 was on the way to “mainlandization” or “Sinification”, when a central goal of the Hong Kong Government was to make Hong Kong converge with Mainland China politically, economically and ideologically.6

Holliday, Ma and Yep have distinguished between formal and informal forces that have affected Hong Kong’s autonomy after 1997. While in terms of formal powers we can see more infringement against Hong Kong’s autonomy after 1997, including the reinterpretation of the Basic Law in 1999, the Basic Law legal framework which guaranteed various civil and political rights is still largely intact. Any ostensible intervention from Beijing on local political or social decisions would constitute a violation of (at least) the provisions of the Basic Law. This has enabled the pro-democracy opposition and civil society to resist Beijing’s encroachment on Hong Kong’s autonomy, as any intervention is likely to bring about criticisms from Hong Kong, and reflect badly on China’s promises made in the Joint Declaration. These informal controls, such as resistance from civil society and international public opinion, under the protection of the formally free and autonomous constitution, have


thus helped to protect Hong Kong’s autonomy.\textsuperscript{7} However, increased social and economic integration between Hong Kong and the Mainland after 1997 has enabled the Central Government to wield more influence on the business and professional elites of Hong Kong, thus hurting the autonomy of Hong Kong.\textsuperscript{8} With respect to democratic development, few business and professional elites are willing to openly oppose Beijing by supporting democracy or criticizing China’s intervention. Thus China can easily control and influence political and social affairs by exercising their economic and political influence on Hong Kong’s business elites.

Carroll provides an important perspective on understanding the role of Hong Kong in relation to China. Hong Kong has been sandwiched between Britain and China throughout its modern history, and the use of this vague space defined the historical role of Hong Kong, politically and economically.\textsuperscript{9} Similarly, Pepper’s account shows that in the late Ching era and the early 20\textsuperscript{th} century many Chinese in Hong Kong were political reformers who used the special free and protected status of Hong Kong to try to effect political changes in Mainland China.\textsuperscript{10} Both of these accounts provide a more complex view of the autonomy of Hong Kong. Its autonomy vis-à-vis China has always been negotiated, during which time Hong Kong has used this vaguely defined space of autonomy and its own special value and status to maneuver and exercise political influence over the whole of China, in the process re-creating its own autonomy and value. The past 25 years of democratic development in Hong Kong have been shaped by negotiations among China, Britain and Hong Kong, with Hong Kong making use of its special political value to bargain for some degree of democracy and a high degree of autonomy, both of which are not seen in Mainland China. Hong Kong has managed to use this limited elbow room to maintain and maximize its political autonomy, constituting an iterated bargaining game over democracy and autonomy. The 2010 episode was but just another case

\begin{itemize}
\item \textsuperscript{8} Ian Holliday, Ma Ngok and Ray Yep, “After 1997: The Dialectics of Hong Kong Dependence”, \textit{Journal of Contemporary Asia} 34 (2), 2004: 254–270.
\item \textsuperscript{9} John Carroll, \textit{Edge of Empires: Chinese Elites and British Colonials in Hong Kong}, Hong Kong: Hong Kong University Press, 2005.
\item \textsuperscript{10} Suzanne Pepper, \textit{Keeping Democracy at Bay: Hong Kong and the Challenge of Chinese Political Reform}, Lanham, Rowman and Littlefield, 2008.
\end{itemize}
of Hong Kong using its limited bargaining power to push for democratic progress.

**Political autonomy as constitutionally and politically defined**

Constitutionally the Basic Law does not accord Hong Kong a lot of political autonomy. The political system laid down by the Basic Law after 1997 was a partial democracy that guaranteed business dominance. The Chief Executive is elected by an Election Committee,\(^\text{11}\) which in turn is, in 2012, elected by a limited franchise of about 230,000 voters, weighted heavily in favour of business and professional groups. The elected Chief Executive needs the formal appointment of the Central Government before s/he can take office. The Legislative Council from 2004 to 2012 consisted of 50% of popularly elected members and 50% of functional constituencies (FC) members. The FCs were designed in the 1980s as a form of election, the franchise of which was limited to the most influential business, professional and social groups, to guarantee the continual representation of these elites. By 2008, only about 230,000 voters were eligible to vote in 28 FCs, which elected half of the legislature, with 3.2 million voters electing the other half.

Autonomy in constitutional matters has been actually further constrained since 1997, after repeated interventions in the form of resolutions handed down by the NPCSC. The Central Government has repeatedly emphasized since 1997 that China is a unitary state, and that the concept of “residual power” is not applicable to Hong Kong. Simply put, in Beijing’s view, all autonomous powers enjoyed by Hong Kong are delegated from the Central Government through the Basic Law; those that have not specifically been delegated by law belong to the Central Government. As far as the constitutional structure is concerned, any amendment of the Basic Law can only be made by the National People’s Congress (NPC). While the Basic Law states that the Chief Executive (CE) (Article 45) and the whole Legislative Council (Legco) (Article 68) will ultimately all be popularly elected, no timetable is specified. Annexes I and II of the Basic Law specify the electoral methods of the CE and Legco in the first ten years after the handover. Any amendment of these Annexes, which means

---

\(^{11}\) The size of the Election Committee changed from 400 in 1997, to 800 in 2002 and 2007, and 1,200 in 2012, but the electoral base of the Election Committee members remained unchanged.
a move towards more democratic or fully democratic elections, requires the endorsement of a two-thirds majority of all the members of the Legco, the consent of the CE, and the final approval of the NPCSC.\textsuperscript{12} This means that Beijing holds the final key of approval of full democracy or any democratic progress in Hong Kong.

On the face of it, the wordings of Annexes I and II suggest that it is up to Hong Kong to engineer enough political consensus among different political forces to move towards full democracy, and that the NPCSC will only control the final door in the approving of any Hong Kong political reform resolution. However, events after 2003 drove Beijing to redefine the rules of the game. The 500,000-people march on 1 July 2003 fanned the flames of support for full democracy, and the local democrats lost no time in pushing for election by universal suffrage in 2007 (CE) and 2008 (Legco). The universal suffrage issue became top of the political agenda in the years 2003–04, which caused a backlash from the central authorities. Beijing officials, Mainland legal experts and the pro-Beijing media started a propaganda campaign in early 2004. The main thrust of the campaign was to insist that “One Country” was more important than “Two Systems”, that is, that Chinese sovereignty was paramount, and that Beijing held the ultimate decision power of constitutional reform of Hong Kong. The Hong Kong democrats were accused of being unpatriotic, of siding with foreign powers in criticizing China’s human rights records and pushing democracy in Hong Kong, and of adopting a confrontational attitude against the Central Government over the years. Beijing officials and legal experts claimed that Hong Kong should be governed only by those who “love China and love Hong Kong”, and if popular elections should lead to unpatriotic leaders, it would be detrimental to Hong Kong’s interests. Beijing in these ways expressed strong reservations, as they had always done, over a fast transition to full democracy for Hong Kong.

The 2004 propaganda campaign on “patriotism” revealed the contradictions in the Hong Kong “high autonomy” framework.\textsuperscript{13} While the Basic Law promises ultimate full democracy, Beijing is worried that full

\textsuperscript{12} For the change of the Legco electoral method, Annex II says the proposal passed by the SAR only needs to be given to NPC “for the record”.

\textsuperscript{13} For the politics around the 2004 debate on patriotism, see Ming Pao ed., \textit{The Patriotic Struggle (Aiguo lunzheng)} (愛國論爭) (Hong Kong: Ming Pao, 2004).
democratic elections could bring into power political leaders who were not supportive of the Central Government. This would create a central and local conflict that Beijing does not want to see. Beijing was also deeply concerned about the position of some Hong Kong democrats (e.g. Martin Lee) in 2003–04 that Hong Kong should be allowed to decide its own constitutional future, and that Beijing should only rubber-stamp any reform proposal once it was passed in Hong Kong. Beijing felt they needed to make it very clear that the progress to full democracy, or any constitutional reforms in that direction, needed Beijing’s approval, and that Beijing held the ultimate decision-making power. The paradox is: if Hong Kong is really democratic, there is no guarantee that popular elections will result in a CE who is in line with Beijing’s political positions. One major problem since the political transition, of course, has been that there is a major gap between mainstream political attitudes of Hong Kong, and the political preferences of Beijing. While a majority of Hong Kong people are usually supportive of progressive democracy, the rule of law, human rights, and a high degree of autonomy, Beijing considers the political loyalty of the Hong Kong government leaders to be vital and maybe paramount. It would also like to see Hong Kong’s economic policy and development plans being commensurate and compatible with the overall central and national directions of development. If Hong Kong were granted full democracy, or full autonomy in selecting its leaders, it could very easily lead to a government that held very different political values and policy priorities from Beijing’s. When Beijing considers that true democratic autonomy could bring about anti-Beijing leaders, or could severely weaken their control over Hong Kong, causing Hong Kong’s development to deviate from the “national interest” that they define, they prefer not to grant democracy to Hong Kong.

After the propaganda campaign, the NPCSC abruptly declared in April 2004 that they would hand down an interpretation of the Basic Law. On 6 April 2004, the NPCSC claimed that the electoral methods for the 2007 CE election and the 2008 Legco elections could be amended. However, it added new procedures to the process of amendment. To “initiate” the process of amendment of the CE and Legco electoral methods, the SAR government should first write a report to NPCSC (Step 1), stating the need to change the electoral methods.
After the NPCSC had agreed (Step 2) that the electoral methods could be changed, the SAR government could proceed to propose a reform proposal to the Legco, which required a two-thirds majority to pass (Step 3). The passed reform proposal should get the CE's signature (Step 4) before tabling to the NPCSC for its final approval (Step 5). This new procedure was then named “the five steps” (五步曲) by Beijing and Hong Kong government officials. The NPCSC later handed down another resolution on April 26 for the 2007 CE election and the 2008 Legco elections. The verdict stipulated that while the electoral methods for the 2007 CE and the 2008 Legco could be amended, the 2007 CE could not be elected by universal suffrage, and the proportion of popularly elected seats in the 2008 Legco should remain unchanged at 50%, with the other half to be elected by functional constituencies (FCs).

Procedurally, the 2004 NPCSC interpretation of the Basic Law and the April 2004 resolutions imposed a new framework for the political reform process of Hong Kong, procedures that could not be inferred from the contents or annexes of the Basic Law. Steps 1 and 2 are nowhere to be found in the Basic Law. The newly introduced procedures meant that the Legco, or the pro-democracy councillors, could not initiate reform by proposing an amendment to the electoral methods in Basic Law Annexes I and II. The power of initiating the electoral reform (steps 1 and 2) was firmly in the hands of the Central and SAR Governments. This redefined the constitutional autonomy of Hong Kong: the Central Government controlled the power of both initiation and final approval of the constitutional reform of Hong Kong.

The political meaning of the 2004 NPCSC verdict was obvious and profound. By instituting Steps 1 and 2, Beijing made it clear that any reform process could not be initiated without their approval, before the proposal could be put to a decision by Hong Kong’s elected representatives (i.e. the Legco). From Beijing’s perspective, this served to avoid possible central and local confrontation caused by the SAR raising a reform proposal which the Central Government would not support. It is generally believed that, with the CE being elected from a very limited franchise and politically dependent on the Central Government, it is unlikely that s/he would suggest a reform proposal that was not acceptable to Beijing. The 2004 NPCSC resolutions also imposed limits on the 2007/08 reforms, the provisions of which again were nowhere to
be found in the Basic Law Annexes. The latter never specify that the Central Government can set the possible range of reform before the SAR ever deliberates on it. This sets the precedent that Beijing can state in advance, before a reform proposal is raised and voted on by Hong Kong’s representatives, the possible range of reform. The message from Beijing is clear: “Your proposal needs my approval anyway, I’d better tell you beforehand what is actually not allowed”.

After failing to move the system forward in 2004–05, the democrats in Hong Kong continued to fight for universal suffrage for both the CE and the Legco in 2012. In December 2007, the NPCSC handed down a resolution concerning the 2012 CE and Legco elections. It ruled that the CE in 2012 would not be popularly elected, and that the proportion of popularly elected seats and FC seats in the Legco should remain unchanged in 2012. The resolution did allow that the 2017 CE “could be delivered by popular elections”, and that the Legco “could be fully popularly elected” after that popular election of the CE had been implemented. Chief Executive Donald Tsang interpreted this to mean that full popular elections for the Legco could be delivered in 2020 at the earliest. The 2007 resolution was a major disappointment for the democrats, as it ruled out universal suffrage in 2012. However, it did give a glimmer of hope that popular elections for the CE could finally be delivered by 2017. From the perspective of autonomy, the December 2007 NPCSC resolution did not impose new rules on the decision-making process of constitutional reform, but it again laid down the most important constraints on democratic reform for 2012 and beyond. For the first time, it set a time frame for the possible implementation of full democracy in the subsequent ten years and beyond. The democrats still doubt the vague wordings of the resolution, as it was not set in stone that the 2017 CE would be popularly elected. They were also afraid that Beijing would in the end control nomination by the Nomination Committee as specified in the Basic Law,14 and only allow Beijing-friendly candidates to run in the CE popular elections. They continued to push for a pledge of genuine democracy from Beijing. This set the political context for the negotiations in 2009–10.

14. See Article 45 of the Basic Law.
Negotiating for democracy – the historical trajectory

From a historical perspective, Hong Kong’s current limited democratic system and “high autonomy” is the result of repeated bargaining since the 1980s, overt or covert, between Hong Kong and Beijing, and Beijing and London. The Sino-British Joint Declaration, which set the baselines of the autonomy of Hong Kong and offered vague promises of future democracy for Hong Kong, was a result of negotiations between China and Britain. The Joint Declaration stipulates that “the Chief Executive will be appointed by the Central People’s Government on the basis of the results of elections or consultations to be held locally” and “the legislature shall be constituted by elections”.

The precise form of these “elections”, however, was left to be defined by the Basic Law and subsequent endless negotiations. But the Joint Declaration did briefly give Hong Kong people hope that Hong Kong would be governed by a democratic government after 1997.

The more detailed terms of the post-1997 autonomy, the constitutional structure, and the terms and process of democratization were laid down in the Basic Law. Mainland drafters held a 60% majority in the Basic Law Drafting Committee (BLDC) that was responsible for the drafting of the mini-constitution, which meant that Beijing could impose its will on the BLDC. During the five-year drafting process (1985–1990), democrats in Hong Kong, under the leadership of the only two democrats in the BLDC, Martin Lee and Szeto Wah, lobbied for more autonomy for Hong Kong and a more rapid progress to full democracy before and after 1997. Beijing naturally was not ready to grant full democracy to Hong Kong, and preferred to keep more power in the hands of the Central Government as far as the autonomy provisions were concerned. However, in the context of the political transition, she found it necessary to respond (at least partly) to the wishes of the Hong Kong people by granting a considerable degree of post-1997 autonomy and introducing some elements of democratic elections. Before the Tiananmen crackdown in 1989, Beijing still treated the democrats in Hong Kong as part of a loyal opposition, who basically were “patriotic” in the sense that they had supported the repatriation of Hong Kong to

NEGOTIATING DEMOCRACY AND “HIGH AUTONOMY”

China during the Sino-British negotiations in 1982–84, but were politically too liberal to be entrusted with power after 1997. The autonomy provisions in Chapter Two of the Basic Law, the partial elections in Annexes I and II, the very gradual democratization process, and the vague promise of ultimate full democracy as outlined in the Basic Law Chapter Four, can all be seen as pragmatic responses to set at ease the hearts of Hong Kong people during the transition. These limited concessions, in this light, were all made with the grand design of “One Country, Two Systems” and the national interest of China’s economic development in mind. The Beijing authorities did not mind relaxing some political control over Hong Kong, as long as it served the overall political goal of national reunification and development, and as long as they maintained ultimate control or at least the veto power.

Other than the BLDC experience, there had been few chances where Hong Kong democrats could directly bargain with Central officials over autonomy and democracy in Hong Kong. Before 1997, on more than one occasion the British government bargained on behalf of the Hong Kong people to extend democratic elections in Hong Kong. For example, in the immediate aftermath of the 1989 Tiananmen crackdown, when the city of Hong Kong was in a confidence crisis, London undertook secret talks with Beijing to urge more democratic room in both the 1991 Legco elections and the political structure in the Basic Law. In 1992, when the last Governor Chris Patten pushed a last-ditch democratization attempt by his reform proposal, it led to a year-long negotiation between Chinese and British government officials over the electoral arrangements for the 1995 Legco elections. In both of these instances, the mobilization by the democrats and the public opinion of the Hong Kong people must be a major factor that affected the negotiations, but the Hong Kong democrats could not bargain directly with Beijing on behalf of the Hong Kong people. The public support for democracy was but a makeweight for the British in the bargaining process. There were no formal bargaining channels between Hong Kong democrats and the Central Government. After the Tiananmen crackdown in 1989, because of their support for the Beijing democracy movement, major

pro-democracy leaders in Hong Kong were condemned as “subversives” and “anti-China” by the Beijing authorities, and all formal contact was broken off between Central officials and the pro-democracy leaders. This partly explains the plight of the Hong Kong democracy movement after 1997. In 1997–2002, there were relatively few public discussions on the further democratization of Hong Kong. The Basic Law defined the electoral methods for both the CE and the Legco in the first ten years after the handover, and there was little chance for change. Some democrats yearned to speed up democratization by amending the Basic Law, but most people knew this was next to impossible and did not give it serious attention. But the July 2003 rally, with 500,000 people marching on the street against Tung’s bad governance and the impending enactment of the National Security Ordinance, promptly put the issue of universal suffrage on the political agenda. However, in the months between July 2003 and the April 2004 NPCSC resolutions, when the issue of universal suffrage was under heated debate in Hong Kong, there was no formal dialogue or discussion between the Hong Kong democrats and Beijing. After its vehement propaganda campaign in early 2004, Beijing unilaterally imposed its constraints on the procedure and content of constitutional reform through its April 2004 resolutions. There was simply no formal institutional channel between China and Hong Kong to discuss or negotiate constitutional matters after 1997. Even when the democrats vowed that they would continue to fight for universal suffrage for 2007/08 after the 2004 NPCSC verdict, it was obvious that they did not have the institutional channel or power to change the decisions.

After the 2004 NPCSC resolutions, the Hong Kong government put forward a minimally progressive formula in 2005. The proposal did not broaden the franchise for either the CE or the Legco elections. By adding five popularly elected seats and five FC seats elected by District Councillors, it did not change the proportion of popularly elected seats. The proposal only served to reduce minimally the proportion of seats held by the conservative business groups represented in the FCs. It also proposed to introduce the 400 District Council members into the

17. According to the Basic Law, to propose an amendment to the Basic Law, the amendment needs the consent of the CE, two-thirds of Legco members, and two-thirds of the Hong Kong NPC delegates. The amendment, if successfully proposed, will be voted on by the NPC.
Election Committee that elects the CE, which would serve to reduce the relative political influence of the business elites. The democrats were caught on the horns of a dilemma. The proposal was too minimal to the extent that it was not making meaningful democratic progress, but vetoing it would mean that the democrats would be voting for the even more conservative status quo. The democrats bargained hard with the SAR government for amendments, trying to exact maximum democratic progress within the constrained framework laid down by the NPCSC verdict, but made little headway. In the end, the democrats felt it was not worthwhile to support the minimum proposal, and preferred to vote en bloc against the government proposal.

These previous bargaining experiences set the stage for the political debate in 2010. For most of the democrats, they had been longing to push the system forward for many years, but they had no institutional channels to deal directly with the Central Government. The SAR government could have served as a middleman in between Beijing and the Hong Kong democrats. However, politically the Chief Executive was power-dependent on Beijing and had little popular legitimacy, which put him it in a weak position to represent the Hong Kong people and to bargain on Hong Kong’s behalf. For the Hong Kong democrats, the Hong Kong government’s political dependence on Beijing meant that it could not be trusted to bargain with Beijing to maximize the degree of democracy for Hong Kong. Those Hong Kong people who had strong connections with Beijing were usually political conservatives or tycoons who did not hold a high regard for the democrats, and would not be able to accurately represent their preferences. The democrats preferred to deal directly with Beijing themselves if possible.

Negotiating democracy under constrained autonomy

The NPCSC resolution in December 2007 set the constrained framework for the change of electoral methods of the CE and Legco in 2012. The basic electoral methods for both the CE and Legco in 2012 are unchanged: the 2012 CE will be elected by an Election Committee, and the 2012 Legco will still have half of the seats elected by FC, and half popularly-elected. By 2009 it was obvious that the Hong Kong government was going to propose a reform proposal for 2012 which was similar to the one in 2005, meaning it would again allow only minimal
democratic progress. It was a repeat game of the 2005 situation. Vetoing it once more would mean that the system would remain stagnant for more than ten years, from 2004 to 2016 (for Legco), and from 2002 to 2017 (for CE). Supporting a minimal proposal would accord the government legitimacy and allow the government to claim that the system had moved forward with the support of the democrats. But there was little guarantee that passing the 2012 proposal would enhance the chance of the delivery of true democracy in 2017 and/or 2020.

The democrats were split over how to force the system forward. The basic constraint remained that Beijing held the major keys to further reform, and that there was no official channel of dialogue or negotiation for the democrats to change Beijing’s mind. Some democrats thought that the traditional means of repeated rallies, petitions and expression of public opinion had been useless in forcing Beijing into concessions, and suggested trying something new and more dramatic. Some democrats thought that while it was necessary to keep up public opinion pressure, the reason for the political impasse was the lack of mutual trust between the Beijing authorities and the Hong Kong democrats, and that direct dialogue between Beijing and Hong Kong would help to narrow the political difference.

In mid-2009, a new radical pro-democracy party, the League of Social Democrats (LSD), which enjoyed strong support from youngsters, proposed a “de facto referendum” initiative to step up the pressure on Beijing. The idea was to find five directly elected legislators, one from each of the five Legco constituencies in Hong Kong, who would resign simultaneously, to trigger five by-elections. These five by-elections, which would require all voters in Hong Kong to cast a vote, could then serve as a “de facto referendum” on democracy, to show the support of the Hong Kong people for democracy. If the democrats managed to win all the by-elections with a good margin, it would mean resounding support for universal suffrage, which could put pressure on Beijing. This proposal quickly got the support of another pro-democracy party, the Civic Party (CP), a party that had strong support from the middle-class and professionals. Most of the other pro-democracy parties, including the largest party, the Democratic Party (DP), were sceptical about the idea. They believed that it was unlikely that Beijing would succumb to such pressure and agree to full democracy in Hong Kong. The move
was deemed too confrontational, risked losing seats and the support of moderate voters, and would serve to enlarge the political divide between Hong Kong democrats and Beijing, making subsequent negotiations more difficult.

In November 2009, the government proposal was released, as minimal as it was expected. Five directly elected seats and five FC seats were to be introduced in 2012, with the FC seats to be elected by elected District Councillors. The LSD and CP promptly announced that they would initiate the “de facto referendum” by handing in five resignations. Unsurprisingly, this brought strong denunciations from Beijing. The Hong Kong and Macau Office under the State Council denounced the move as a violation of the Basic Law, since there were no referendum provisions in the Basic Law. In reality, Beijing treated the referendum initiative as a highly serious issue in central and local relations. In official communist ideology, the Chinese Communist Party represents the 1.3 billion Chinese people under the “people’s democratic dictatorship”, including the seven million in Hong Kong. Any locality that claims it can decide its own affairs by a referendum is challenging China’s exclusive sovereignty over this territory, thus smacking separatism. Years ago, when the Taiwan government decided to put the decision about the building of a nuclear plant to a referendum, Beijing criticized that strongly as a move of separatism. Under the influence of the Central Government, the pro-Beijing parties and politicians in Hong Kong all boycotted the by-elections, severely weakening the election atmosphere. The five pro-democracy legislators resigned and ran against in their respective constituencies, but they only faced the “competition” of little-known independents.

The referendum initiative split the pro-democracy camp from top to bottom. The DP and five other pro-democracy legislators disagreed with the initiative, and formed an Alliance for Universal Suffrage (AUS) with scholars and other traditional pro-democracy groups, trying to lure Beijing into negotiations over democratic reform. The pro-democracy civil society groups were also deeply split over the referendum issue, with the pro-referendum faction accusing the AUS and DP of betrayal and dragging the leg of the movement. The AUS put together a reform proposal, which suggested moving Hong Kong to full democracy by 2020 in three major steps. The DP took the proposal as the basis for
bargaining with Beijing and other conservative elements in Hong Kong. The initial position of the negotiating democrats was that if the Central Government could authoritatively guarantee that there would be genuinely democratic elections in 2017 (CE) and 2020 (Legco), then they could support a minimally progressive reform proposal for the 2012 elections.

**Pragmatism prevails**

The general political context dictated that both the moderate democrats in Hong Kong and the Beijing authorities needed some kind of compromise deal in 2010. With unsatisfactory government performance since 2008, by early 2010 the Hong Kong government was in the middle of a governing crisis, and wanted badly to pass the minimal proposal to accord itself some legitimacy. Beijing knew full well that another veto of the reform proposal would aggravate the governance problems of Hong Kong, yet it was only willing to make minimal democratic concessions which would not sacrifice or significantly weaken their control over Hong Kong. By drawing the moderate democrats into negotiations, it could drive a wedge between the two factions of the democrats, damaging their solidarity. Negotiating with the moderate democrats would also serve to marginalize the “referendum faction”, which had then become the biggest political enemy in the eyes of Beijing. In Hong Kong, the DP and the AUS were keen to strike some kind of deal with Beijing, to show that their more moderate and accommodating approach, instead of confrontation, could bring progress in democratization. They were also tired of the lack of democratic progress over the years, and thought that another veto would get them nowhere. They were willing to take a more compromising position, as they believed a compromise deal was better than none. They were worried that if this more accommodating position failed to exact concessions from Beijing, it would add to the momentum of the radical faction, who would claim that only more confrontational or radical actions could force Beijing into concessions. For the DP, this would weaken their leading position in the democracy movement of Hong Kong.  

It was a two-level negotiation game marked by factional politics in both China and Hong Kong. Chief Executive Donald Tsang was keen

18. See Ma, “Hong Kong Democrats Divide”.
on striking a deal with the democrats, since this might help to rescue his rapidly declining popularity. Many pro-Beijing conservatives, however, were not on his side. Some of them preferred no deal so that the status quo would be kept and there would be no imminent democratization. They also did not want to see an improvement in the relationship between Beijing and the Hong Kong democrats. Moderates in both camps were in favour of a compromise deal to move the system forward, which would help to alleviate both confrontation and the tide of radicalization in local politics.

Within the Chinese government, hard-line conservatives had little trust in the Hong Kong democrats. They had long feared that the democrats had support from Western governments and that political reform was nothing but a Trojan horse, meant to induce instability and a challenge to their power in China. They were worried that political reform in Hong Kong would have spill-over effects in Mainland cities and provinces. By contrast, reform-minded intellectuals, think tanks and advisors in China that were involved in Hong Kong policy knew that Hong Kong needed to move forward to alleviate the legitimacy crisis. They also believed that should China want to push political reform in the near future, Hong Kong was the best experimenting ground for Beijing-controlled local elections.¹⁹

Negotiations started secretly. In February 2010, President Hu Jintao sent an envoy to visit DP Chairman Albert Ho to demand, as a precondition of official talks, that the DP should separate from the Alliance in Support of the Patriotic Democratic Movement in China (the Alliance), the Hong Kong organization that had been supporting the Mainland democracy movement and organizing the annual candlelight vigil in commemoration of the Tiananmen crackdown since 1989.²⁰ Many DP leaders were part of the Alliance leadership, with Albert Ho himself serving as the Secretary of the Alliance. Ho refused to part with the Alliance, and the DP sent a written reply to Hu demanding official talks without preconditions, with the aim of laying out a clear roadmap to democracy in Hong Kong. In early April, the envoy notified the DP

19. Ma, “Hong Kong Democrats Divide”.
that the Central Government’s Liaison Office (CGLO) would represent the Central Government in negotiations with the DP and the AUS over democratic development in Hong Kong.

On April 14, the Hong Kong government tabled the original proposal, without amendment, to the Legco. From this point on, Beijing officials largely took over the negotiations with the DP and the AUS. The DP wrote another letter to President Hu, stating that if there were no amendments to the published proposal, or no promise for ultimate full democracy, the DP would vote against the proposal and veto it.

The by-elections on May 16, as a “de facto referendum”, produced a dismal 17% voter turnout. With the five incumbents legislators running against only little-known independents, there was not much of a competition. The CP and LSD had relatively weak mobilization capacity, and some democrats adopted a lukewarm attitude towards the by-elections. The five resigned incumbent legislators were duly re-elected, but this failed to produce any effect on Beijing or the Hong Kong government.

Direct talks between CGLO officials and DP/AUS commenced on May 24, when three DP legislators met CGLO officials to discuss democratic reform. The CGLO officials met AUS representatives two days later. In both discussions the CGLO officials insisted that the discussions should be confined to the 2012 reform, while the DP and AUS delegates restated their stand on the guarantee of ultimate genuine democracy. The three major demands of the negotiating democrats at this stage included: (a) the 2017 CE election should have a low nomination threshold; (b) the Legco should be totally directly elected, meaning all FCs should be abolished, by no later than 2020; (c) for the 2012 elections, the five new FC seats should be nominated by elected District Councillors, and the franchise extended to cover the 3.2 million voters who currently could not vote for the FCs. The negotiating democrats insisted that the promise of ultimate full democracy was paramount.

For weeks both sides stood firm. The CGLO and the Hong Kong government reiterated the official position that the current government could not make rules for the 2017 and 2020 elections. Responding to the proposals of the DP and the AUS on the 2012 reform, Central officials and pro-Beijing politicians in Hong Kong claimed that the DP

21. This was of course a problematic argument: the 2007 NPCSC verdict did make rules regarding the 2017 and 2020 elections.
NEGOTIATING DEMOCRACY AND “HIGH AUTONOMY”

The proposal actually made the new FCs *de facto* popular elections, since they were now voted on by almost all voters. They considered this a violation of the Basic Law and of the December 2007 NPCSC resolution. The DP and the AUS insisted that since the new FCs had the nomination rights restricted to the District Councillors, it failed the test of “popular elections” and should be considered a kind of functional elections.

On June 7, Qiao Xiaoyang, Deputy Secretary General of the NPCSC, said that future elections for CE and Legco would be “universal and equal” in terms of voting rights. He did not mention if there would be a fair and open nomination process for the future CE, which was precisely what the democrats had feared: that Beijing would control the nomination before candidates were put to popular vote. The speech was meant to be a response to the negotiating democrats’ appeal for an authoritative guarantee from Central officials about ultimate universal suffrage, but it had adverse results on the negotiating democrats’ confidence. The latter did not see the speech as enough of a guarantee that genuine democratic elections would be delivered by 2017/2020. The speech was seen as too vague and not authoritative enough as a guarantee for genuine democracy.

The DP made a final concession. Two weeks before the government proposal was due to be put to vote in the Legco, DP Chairman Albert Ho offered that if the government accepted the DP’s reform formula for the 2012 FCs, that is, expanding the franchise for the five FC seats to 3.2 million voters, the DP was ready to support the government bill, without holding out for a pledge for genuine democracy in 2017/2020. In the following days, CE Donald Tsang and moderate pro-Beijing figures lobbied hard to get Beijing to accept the DP’s counter-proposal to alleviate the political pressure on the Hong Kong government. In the end, Beijing agreed to the compromise deal. Pro-Beijing figures such as Elsie Leung, former Secretary for Justice, now claimed that the DP proposal fitted the FC definition and did not violate the Basic Law. On June 21, the Hong Kong government announced its amended proposal, with the five new FCs to be elected by 3.2 million of voters who were not previously included in the FC register. The revised proposal got the support of the DP and some other moderate democrats. The DP’s abandonment of its previous campaign platform and negotiating position led to vehement criticisms from some other pro-democracy
groups, leading to a further split in the pro-democracy camp. The LSD and other civil society groups saw the DP’s compromise as a “betrayal” of the democracy movement, and blasted the DP’s secret dealings with Beijing. The government proposal in the end obtained 45 support votes and was passed on June 23, 2011.

Analysis
The 2010 negotiations over political reform marked the first time that Beijing officials negotiated face-to-face with the Hong Kong democrats over the constitutional reform of Hong Kong. It was also the first time that they struck a deal after years of hostilities, with both sides making concessions. This should have profound implications for the autonomy of Hong Kong and the future implementation of “One Country, Two Systems”. During the Sino-British negotiations in 1982–84, China had always refused the representation of the Hong Kong people on the grounds of the ‘three-legged stool’, that Hong Kong was only a locality of China which could not negotiate on an equal basis with sovereign states. Hong Kong representatives were refused in all negotiations during the transition, which partly explains why the British government was always responsible for bargaining with Beijing. The 2010 deal set a precedent by which the Central government, represented by their local officials in the CGLO, could negotiate directly with the Hong Kong democrats over the constitutional future of Hong Kong. Although Beijing was still in a dominant position in these negotiations, the breakthrough in 2010 represented a departure from the past policy of the Chinese government.

The 2010 compromise deal was more symbolic than substantial. The negotiating democrats, justifying their change of position to support the government deal, emphasized the importance and progressive nature of the formula. They claimed that the five new FCs, with the voting franchise extended to 3.2 million voters, was tantamount to popular elections. This would make the 2012 Legco election similar to having 40 popularly elected seats, and 30 traditional FC seats, which would dilute the political influence of the business-dominated FCs. In reality, the change has done little to disrupt the balance of power in the Legco, which is precisely the reason why Beijing accepted the revision to the original proposal. Yet the 2010 negotiations opened the door for direct negotiations between Beijing and the Hong Kong over constitutional reform.
Over the years, the lack of formal communication had heightened mutual suspicions and hostilities between the Beijing authorities and Hong Kong democrats. The pro-Beijing conservatives and businessmen, who had much better contact and connections with Mainland officials, did not favour democracy and disliked the democrats, and could not serve as a bridge between Beijing and Hong Kong to further democracy. To Beijing, the 2010 episode provided an important experience in dealing with Hong Kong democrats, achieving desirable results in the end. This should help to encourage them to deal with the negotiating democrats in the future.

The eventual compromise deal in 2010 was a case when pragmatism prevailed on both sides. Beijing’s compromise showed that they could make pragmatic concessions when they thought that it was beneficial to the governance of Hong Kong, even if it meant giving up some of its past principles in dealing with Hong Kong (e.g., non-contact with Alliance leaders). It was also a sign that the moderates temporarily got the upper hand in the 2010 decision. The democrats who had negotiated with CGLO officials and Beijing envoys included leaders of the Alliance, who had long been deemed “subversives” and “untouchables” by the Beijing authorities. However, all this was done in the context that Beijing was sure that the range of concessions would not severely weaken its control over Hong Kong. As for the Hong Kong democrats, the negotiating democrats were tired of years of confrontation. They now preferred to settle for piecemeal gains, even if this meant alienating part of their supporters. Opinion polls in mid-2010 and 2011 showed that more than half of the respondents supported the passage of the reform bill, despite a strong support for full democracy. This again showed the overall pragmatism of the Hong Kong people: to settle for piecemeal gains when it was possible.22

The 2010 negotiations and their implications for high autonomy

There were several things distinctive about the 2010 political negotiations, as far as the implications for the autonomy of Hong Kong are concerned. First of all, the negotiating democrats have given up all hopes of negotiating through the SAR government, although CE Donald Tsang will still have played an important brokering role in the last stages of the negotiations. The senior officials of Hong Kong, including Tsang, will not be seen as the Hong Kong people’s representatives to bargain for universal suffrage, nor are they qualified to be seen as the central government’s delegates to negotiate with the Hong Kong democrats. In the eyes of the negotiating democrats, these Hong Kong officials are neither trustworthy messengers of the Hong Kong people nor authoritative representatives of the central government. They also did not show enough independence or autonomy to bargain for maximum political gain on behalf of the Hong Kong people. From the very beginning of the 2010 reform debate, the negotiating democrats had made it clear that they preferred to deal directly with the Beijing officials, to avoid any mis-representation in the process.

Secondly, the role played by the pro-Beijing conservatives of Hong Kong was ambivalent to say the least. Most of the pro-Beijing political figures seemed to follow whatever decisions Beijing handed down, and played little or no role in enhancing Hong Kong’s autonomy and/or democracy. If the official word was that the DP proposal was in violation of the Basic Law, they would oppose the proposal on the grounds that it was unconstitutional. If Beijing changed its position to accept the proposal, they could immediately switch and claim that DP’s proposal was in fact constitutional. The same held true for senior Hong Kong officials. The 2010 events dealt a heavy blow to the credibility of the Hong Kong government and the pro-Beijing politicians in helping Hong Kong to bargain for more autonomy or democracy on Hong Kong’s behalf. To most Hong Kong people, though the Hong Kong democrats had been on bad terms with Beijing since 1989, only they could be relied upon to bargain independently with the Mainland officials.

Thirdly, most people in Hong Kong seem to have accepted the fact that Beijing’s approval needs to be sought for Hong Kong to move towards full democracy, and negotiating directly with Beijing is the only
way. At the beginning of the 2009–10 political debate, the DP and other
democrats had set their sight on getting the Beijing authorities around
the negotiating table, bypassing the Hong Kong government in the pro-
cess. They saw this as the only possibility to solve the political impasse
in the democratization of Hong Kong. A few civil society groups criti-
cized the DP and the AUS for bypassing the Hong Kong government
and dealing directly with Beijing in 2010, thus sacrificing Hong Kong’s
high autonomy in that regard, but most Hong Kong people did not seem
to mind. Most came to accept the fact that it was ultimately Beijing who
determined the constitutional reform, and the democrats had to deal
with the central authorities directly. In a survey in July 2011, 59.4% of
respondents agreed to the approach of “using more moderate methods
to strive for negotiations with the central government” as a better tactic
to fight for democracy.23

Fourthly, the bargaining in 2010 showed the huge imbalance in
bargaining power between the two sides. The rules of the game were
set up such that the democrats in Hong Kong could only choose be-
tween accepting a minimally progressive model which was acceptable
to Beijing, and vetoing it which meant supporting zero progress and the
continuation of the status quo. Beijing can freely determine what mini-
mal concessions are acceptable to them, the only consideration being
that they need to be (barely) substantial enough to entice the negotiat-
ing democrats into a compromise deal. (The counter-example would
be the 2005 saga, when the proposal was not meaningful enough for
the Hong Kong democrats to cast a supportive vote.) The Hong Kong
democrats need to convince Beijing that its intransigence is costly, that
failure to move the system forward will aggravate the legitimacy crisis
of Hong Kong. But all these arguments pale in terms of significance
when compared to the power considerations of Beijing. In the end the
negotiating democrats could only take what was given, in the process
creating major rifts within their own camp.

**Whither the high autonomy of Hong Kong?**
The 2010 negotiations proved an important ordeal in the political auton-
omy of Hong Kong. For years after the handover, repeated interventions
and interpretations of the Basic Law by Beijing had made most Hong

Kong people understand the political limits to Hong Kong’s autonomy. The 2010 events made this even clearer. The Hong Kong government or the pro-Beijing figures could not play a very significant role in narrowing the political differences between Beijing and the Hong Kong democrats. By 2010, the democrats in Hong Kong and most of the Hong Kong public had come to accept that to move towards full democracy, Hong Kong had to deal directly with the central government, bypassing the influence of the Hong Kong conservatives and officials, who would only weaken the democratic desires of Hong Kong. The events in 2010 further weakened the political authority of the Hong Kong government, as most Hong Kong people came to understand that it really had little say over political matters in or the constitutional development of Hong Kong.

The goodwill created during the 2010 negotiations between the Hong Kong democrats and the Beijing representatives was paper-thin and seemed unable to be sustained after 2010. The Arab Spring in 2011 much alarmed the Beijing authorities, who feared that a rising civil society could challenge their monopoly of power, and they responded by turning the screw on Mainland and Hong Kong democracy movement activists. There was no sustained dialogue between the Beijing representatives and the Hong Kong democrats after the 2010 struggle, and the political climate turned more oppressive and regressive in both China and Hong Kong after 2011. It remains a moot point how much the precedent and ice-breaking of the 2010 negotiations will lead to healthy central and Hong Kong negotiations in the future.

In theory, the negotiations of 2010 were violations of the autonomy provisions of the Basic Law, although the pragmatic Hong Kong people were not much bothered by this. Legitimacy problems remained for the 2010 secret negotiations. These secret negotiations did not produce much trust among the Hong Kong people, and carried no formal authority from the constitutional perspective. The AUS had suggested that a formal committee should be set up, authorized by the central government, and entrusted with the task of hammering out the roadmap and timetable to full democracy. This committee could include all the major stakeholders, more or less resembling the BLDC of the 1980s. With the change of the political climate after 2011, it will take another political breakthrough for Beijing to agree to set up such a formal mechanism of
NEGOTIATING DEMOCRACY AND “HIGH AUTONOMY”

contact between Beijing and Hong Kong. The future of Hong Kong’s autonomy and democracy will continue to be a protracted process of negotiation, with Hong Kong trying to extract more autonomy and democracy by taking advantage of the special circumstances of the times.

References

Chan, Johannes. “Civil Liberties, Rule of Law and Human Rights: the Hong Kong Special Administrative Region in the First Four Years”. In *The First Tung Chee Hwa Administration: The First Five Years of the Hong Kong Special Administrative Region*, edited by Lau Siu-kai, pp. 89–122. Hong Kong: Chinese University Press.


Kong: Hong Kong Institute of Asia-Pacific Studies, Chinese University of Hong Kong, 2012.

CHAPTER TEN

Judicial Autonomy in Hong Kong

Benny Tai

Introduction

In the literature on autonomy, an autonomous entity is understood to be a “[region] of a state which [has] been granted separate powers of internal administration, to whatever degree, without being detached from the state of which [it is] part”. It is also considered to be “a device to allow ethnic or other groups that claim a distinct identity to exercise direct control over affairs of special concern to them while allowing the larger entity to exercise those powers that cover common interest”. To qualify as autonomous, a political entity has to enjoy a minimum degree of actual as well as formal independence in its political decision-making processes, including its exercise of executive, legislative and judicial powers.

An autonomous arrangement is the framework that allows the autonomous entity to exercise the powers to govern itself but at the same time maintain its link with the sovereign state. Judicial autonomy is a major aspect of political or territorial autonomy. It plays an important part in the successful implementation of an autonomous arrangement. To maximize the chance for it to achieve its goal, an autonomous arrangement must have a sound constitutional and legal basis so as to generate sufficient mutual trust between the autonomous entity and

the sovereign state for them to start with. A sound constitutional and legal basis of the autonomous arrangement can also generate political legitimacy to bind both parties so that they will voluntarily comply with the terms of the autonomous arrangement in its actual implementation. The sovereign state will respect the freedom of the autonomous entity in deciding its own affairs independently and the autonomous entity will respect the sovereign status of the central government. Therefore, a precondition for a successful autonomous arrangement is that both sides must honor the rule of law. That explains why judicial autonomy plays a key role in an autonomous arrangement, as the judiciary is an integral part of any system that aims to honour the rule of law.

From a comparative perspective, a political entity enjoys judiciary autonomy if it has “an independent local judiciary, some members of which may ... be subject to approval or confirmation by the central government, with jurisdiction over purely local matters”. Under the principle of judicial independence, the judiciary is independent from the executive authorities, legislature, and all external bodies in adjudication so that it can make decisions impartially. To ensure judicial independence, the procedure to appoint, promote, and dismiss judges must also be protected from external influence. The terms of service of judges must be secure and attractive enough to discourage corruption. The judiciary also needs to have financial autonomy to maintain its integrity.

The jurisdiction of most legal systems is based on the territorial principle. In the application of that principle to an autonomous arrangement, all acts committed within the territory of the autonomous entity should be governed by the laws of the autonomous entity and disputes arising out of these acts should be adjudicated by the courts of the autonomous entity.

In addition to the territorial principle, courts may also enjoy certain extraterritorial jurisdiction. In those cases, the factors that may trigger the exercise of the courts’ extra-territorial jurisdiction are the nationality

---

of the offender, the nationality of the victim, the nature of the act, and the consequence of the act. If the courts of the sovereign state exercise extraterritorial jurisdiction over acts committed within the territory of the autonomous entity, it may conflict with the territorial jurisdiction of the courts of the autonomous entity over acts committed in the territory.

To achieve the rule of law, the jurisdiction of the courts of the autonomous entity must also include the power to review the legality (and rationality) of acts or decisions of the executive authorities of the autonomous entity, but the court’s jurisdiction might not extend to the power to review the acts of the sovereign committed in the autonomous entity.

Comparative study suggests that an autonomous arrangement has to ensure that “Questions which raise the scope of local power or the relationship between the autonomous and [central] governments may be considered by either local or national courts in the first instance, and generally may be appealed to a non-local court or a joint commission of some kind for final resolution.” In other words, there needs to be a fair mechanism to resolve the conflict between the exercise of powers by the autonomous entity and the sovereign state.

What comparative study fails to ascertain is whether the autonomous powers of the courts of the autonomous entity must also include the power of final adjudication on the cases within its jurisdiction, and the power of final interpretation of its constitution, if a constitutional provision is relevant in adjudicating cases. These issues may not arise in most autonomous arrangements. “It is common for appeals from local courts to

---

6. According to the “active nationality” principle, a state has jurisdiction over its nationals for their acts committed abroad.

7. The “passive nationality” principle confers jurisdiction over offenses committed by aliens outside a state’s territory if the victim of the crime is a national of the state assuming jurisdiction.

8. Under the “universal principle”, some crimes fall under the jurisdiction of every state. These include the crimes of piracy, genocide, and hijacking.

9. According to the “protective principle”, a state has jurisdiction with respect to crimes committed outside its territory by an alien against the security, territorial integrity, or political independence of the state.


be heard in courts or forums responsible to the central government”12 because the legal systems of the autonomous entity and the sovereign state usually belong to the same legal tradition. Since judicial independence can also be maintained in the courts of the sovereign state, the autonomous entity need not worry very much that the central courts will be biased in favor of the sovereign state in appeals from the local courts to the central courts concerning conflict of jurisdictions between the autonomous entity and the central government.

However, if the autonomous entity and the sovereign state have different legal systems and judicial independence is not given sufficient respect in the court systems of the sovereign state, then the power of final adjudication and the power of final interpretation will be critical not only to the judicial autonomy of the autonomous entity but also to the successful implementation of the whole autonomous arrangement. This is the most essential issue for the judicial autonomy of Hong Kong in the light of the People’s Republic of China (PRC) assuming the exercise of sovereignty over the territory in 1997.

On that basis, five criteria will be used to assess the judicial autonomy of Hong Kong: (1) whether the courts of Hong Kong enjoy judicial independence; (2) whether the courts of Hong Kong have jurisdiction on purely local matters; (3) whether the courts of Hong Kong have the power of final adjudication; (4) whether the courts of Hong Kong have the power of final interpretation of its own constitution; and (5) whether there is a fair mechanism to resolve disputes arising from conflicts between the exercise of powers by Hong Kong and China.

Before we do so, we will first examine the judicial autonomy of pre-1997 Hong Kong, that is, while Hong Kong was still under British colonial rule. The nature of Hong Kong’s new constitutional order under Chinese rule will then be discussed in order to provide the background information for understanding the judicial autonomy of Hong Kong under Chinese rule.

After examining the situations of judicial autonomy of Hong Kong according to the five criteria, we can then give some conclusive observations on the prospect of Hong Kong’s judicial autonomy.

---

Judicial autonomy under British colonial rule

When the British government established a colony in Hong Kong, a common law legal system was transplanted to Hong Kong to facilitate colonial rule. The legal systems of the colony and the sovereign state were both of the common law family. The legal system of the colony was basically not separated from the British legal system, although it could operate within the space authorized by laws and conventions under the auspices of its mother legal system.

There was no express constitutional guarantee in the constitutional instruments of the Hong Kong colony protecting judicial independence. Judicial independence was mainly protected by constitutional conventions during the colonial era. In general, it was agreed that judicial independence would be protected.

Applying the territorial principle and other common law principles in determining the jurisdiction of the colonial courts, Hong Kong did have jurisdiction over purely local cases or cases taking place within its territory, but colonial courts did not have jurisdiction over acts committed by the sovereign in the territory.

Before the transfer of sovereignty, the Judicial Committee of the Privy Council was the final appellate court of Hong Kong. The Judicial Committee is not a local court but a standing committee of the Privy Council, a British institution advising the monarch. Under British constitutional law and constitutional convention, the Judicial Committee sits as a court and hears judicial appeals from British colonies.

13. Peter Wesley-Smith, Constitutional and Administrative Law in Hong Kong, 2nd ed. (Hong Kong: Longman Asia, 1994), 30–49. Ibid., 143.
14. Ibid., 143.
15. Ibid., 142–8.
17. The nationality of the offender can trigger the exercise of the courts’ jurisdiction. According to Section 23B(3) of the Crimes Ordinance, the Hong Kong courts have jurisdiction over offenses committed by a British national on board a foreign ship to which he does not belong. The nationality of the victim, the nature of the act, and the consequence of the act are other triggering factors.
19. Ibid.
In another words, colonial Hong Kong did not enjoy the power of final adjudication. There were not many appeals to the Judicial Committee as there were strict conditions for making an appeal. The decisions by the colonial courts were in fact final in most of the cases, but decisions of English courts were binding on the colonial courts according to the common law principle of *stare decisis*. The colonial courts had the power to interpret the constitutional instruments of the colony, but as appeals might reach the Judicial Committee, the power of final interpretation did not belong to colonial courts. Following this arrangement, any dispute between the colony and the sovereign state, if any, would then be considered by the colonial courts in the first instance. However, these decisions would in the end be reviewed by the Judicial Committee.

Considering the five criteria of judicial autonomy, the *de jure* autonomy enjoyed by the colonial courts might not be impressive. However, the degree of *de facto* autonomy enjoyed by the colonial courts should be higher. The legal systems of the colony and its sovereign state belong to the same common law family, sharing not only the laws but also the normative foundation, with embedded values underlying the laws. It is also well recognized that the Judicial Committee could maintain its independence. Therefore, even if the decisions of colonial courts were overruled by the Judicial Committee, it would not be understood as interference from the sovereign state through its courts.

In addition, as legal education in Hong Kong started only in the early 1970s, most judges serving the colonial courts were not local Chinese and received their legal training from British law schools or law schools in other English-speaking common law countries. The Judicial Committee is at the apex of all English common law courts and is respected by all students of English common law. Therefore, the decisions of the Judicial Committee were considered by the colonial courts to be superior, or they were seen as a sophisticated understanding of the same set of legal principles applicable in the colony rather than as an intrusion into the judicial autonomy of the colonial courts.

As a result, even though the colonial courts did not enjoy the power of final adjudication or the power of final interpretation and played no significant role in resolving mutual disputes between colonial Hong

Kong and the British government, this had not seriously weakened the actual degree of judicial autonomy enjoyed by colonial Hong Kong.

The nature of Hong Kong’s new constitutional order

When the PRC assumed the exercise of sovereignty over Hong Kong on 1 July 1997, a new constitutional order came into force in Hong Kong. This order is based on the policy of “one country, two systems” and its essence is to allow a territory separated from the motherland of China to practice a different system from that of the motherland at the time of unification with China. The policy of “one country, two systems” is accorded a constitutional status by Article 31 of the Constitution of the PRC.

The Hong Kong Special Administrative Region (HKSAR) which was then established enjoys a high degree of autonomy according to the Basic Law of the HKSAR (hereafter Basic Law), the constitutional instrument of Hong Kong under the new constitutional order. The HKSAR is vested with executive, legislative, and independent judicial power, including that of final adjudication. The laws in force during the colonial rule are basically maintained. Hong Kong continues to practice its common law legal system and the HKSAR has also inherited many features from the colonial political system, including an executive-led form of government.

However, as compared with the pre-1997 situation, the degree of difference between Hong Kong’s economic, social, political, and legal systems and its sovereign’s systems is much more substantial. China practices socialist legal and political systems and the Chinese Communist Party has total control over all governance matters in China, a one-party state. Even though Hong Kong is granted a high degree of autonomy and it may enjoy even more autonomous powers than a state government

22. Article 31 provides that “the state may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People’s Congress in light of specific conditions.”
23. Articles 8, 18, and 160 of the Basic Law.
under a federal system, this does not mean that Hong Kong can escape from the dominance of the Party under China’s unitary state structure. Hong Kong is not recognized by the Chinese authorities as having any inherent right to self-government. The HKSAR can only exercise its high degree of autonomy because of the self-restraint of the Chinese authorities.

The differences between the legal systems of Hong Kong and China are especially significant where the judicial autonomy of Hong Kong is concerned. Not only are the applicable legal rules and legal methods such as principles of legal interpretation not the same, the underlying values and normative foundation of the legal systems are also substantially different. The HKSAR judiciary continues to uphold a sense of constitutional justice inherited from its common law tradition, which is different from the Chinese understanding of constitution and justice.

Different people may also have a very different understanding of the policy of “one country, two systems”. There are at least two interpretations. The first understanding is called the “one country perspective”, which lays a greater emphasis on the “one country” side of the basic policy, namely, the powers of the Chinese authorities as the sovereign of the territory. The ultimate aim of “one country, two systems” is the unification of China, and allowing the special administrative region to practice its own system is only a means to achieve this aim.

The emphasis of the other view, the “two systems perspective”, is exactly the opposite. More consideration is given to the “two systems”, namely, the preservation of the characteristics of the system that has been practiced in Hong Kong. Here, the ultimate aim of “one country, two systems” is the maintenance of the autonomous status of the special administrative region and unifying through “one country” is just the means to achieve this aim.

There is no doubt that the “one country perspective” is the official version. What we will observe in the following analysis is that the HKSAR courts, especially the Court of Final Appeal (CFA), are more inclined to adopt the “two systems perspective” and give more weight to values such as limitation on governmental powers and protection of

26. Hu Jintao, the President of the PRC, in his speech marking the swearing in of the third-term HKSAR government on 1 July 2007 confirmed that “‘One country’ is the prerequisite of ‘two systems’. Without ‘one country’ there will be no ‘two systems.’”
human rights in exercising their judicial powers. These differences have caused conflicts with the Chinese authorities and its representative in the HKSAR, namely the Chief Executive of the HKSAR.

The history of judicial autonomy in the HKSAR is actually a story about how the HKSAR judiciary – in maintaining the judicial authority to adjudicate cases in Hong Kong in accordance with the legal principles and values that it considers to be embedded in the “two systems” of policy – has struggled with interference in various forms from the Chinese authorities and the Chief Executive, who hold a different understanding of the proper role of the judiciary in Hong Kong and the scope of judicial autonomy to be exercised by the HKSAR courts on behalf of the HKSAR.

**JUDICIAL AUTONOMY IN HONG KONG**

**Judicial independence**

The principle of judicial independence is officially recognized in Hong Kong’s new constitutional order. The principle is repeatedly stated in the Basic Law.\(^{27}\) Specific institutional requirements safeguarding judicial independence are also expressly provided in the Basic Law. They include the appointment,\(^{28}\) dismissal,\(^{29}\) terms of services,\(^{30}\) and legal immunity\(^{31}\) of the judiciary.

---

27. Articles 2, 19, and 85 of the Basic Law.
28. Articles 48(6), 88, 90, and 92 of the Basic Law. The Chief Executive has the power to appoint or remove judges of the courts at all levels in accordance with legal procedures. The Chief Executive appoints judges of the courts of the HKSAR on the recommendation of an independent commission composed of local judges, persons from the legal profession, and eminent persons from other sectors. In the case of the appointment of the judges of the CFA and the Chief Judge of the High Court of the HKSAR, the Chief Executive has to obtain the endorsement of the Legislative Council and report such appointment to the Standing Committee of the National People’s Congress for the record. See also the Judicial Officers Recommendation Commission Ordinance, Cap. 92.
29. Articles 89 and 90 of the Basic Law. Judges of the HKSAR courts may be removed by the Chief Executive for their inability to discharge their duties, or for misbehavior, on the recommendation of a tribunal appointed by the Chief Justice of the CFA and consisting of not fewer than three local judges. If it is the Chief Justice of the CFA to be investigated for inability to discharge his duties, or for misbehavior, the tribunal will be appointed by the Chief Executive and consist of not fewer than five local judges. The Chief Executive may remove the Chief Justice of the CFA on the recommendation of the tribunal. To remove judges of the CFA and the Chief Judge of the High Court of the HKSAR, the Chief Executive must obtain the endorsement of the Legislative Council and report such removal to the Standing Committee of the National People’s Congress for the record.
30. Article 93 of the Basic Law.
31. Article 85 of the Basic Law.
It is generally accepted that the HKSAR courts basically maintain their independence as during colonial rule. The HKSAR judiciary has not been subjected to direct interference from the Chief Executive or the Chinese authorities. However, more subtle forms of interference have been found and will be illustrated in the following.

**Jurisdiction**

Article 19 of the Basic Law provides that “the courts of the HKSAR shall have jurisdiction over all cases in the HKSAR, except that the restrictions on their jurisdiction imposed by the legal system and principles previously in force in Hong Kong shall be maintained.”

The HKSAR judiciary continues to exercise its common law power to review administrative decisions and acts including those made by the Chief Executive. The HKSAR courts can invalidate any administration decision that is not made in accordance with law. There is however no express provision in the Basic Law that authorizes the HKSAR courts to review administrative actions. Article 35 of the Basic Law states that Hong Kong residents “shall have the right to institute legal proceedings in the courts against the acts of the Executive Authorities and their personnel.” The power of the HKSAR courts to review administrative actions can be implied from this provision.

It is recognized that there has been a growth in judicial review proceedings to challenge legislative and administrative acts since the establishment of the HKSAR. More and more conflicts arising from

---


33. See Association of Expatriate Civil Servants of Hong Kong v. The Chief Executive of the HKSAR (1997 A.L. No. 90); Society for Protection of the Harbour Limited v. Chief Executive in Council and Others (HCAL 102/2003); Wong Chung Ki and Chan Shu Ying v. The Chief Executive (CACV No. 1 of 2000); and Koo Sze Yiu and Another v. Chief Executive of the HKSAR (FACV No. 12 of 2006).

34. There are only some general provisions in the Basic Law that maintain the common law, the judicial system, and legal systems of Hong Kong. Article 8 of the Basic Law provides that the laws previously in force in Hong Kong, including common law, rules of equity, ordinances, subordinate legislation, and customary law shall be maintained. Article 19 of the Basic Law provides that the courts of the HKSAR shall have jurisdiction over all cases in the HKSAR, except that the restrictions on their jurisdiction imposed by the legal system and principles previously in force in Hong Kong shall be maintained. Article 81 of the Basic Law states that the judicial system previously practiced in Hong Kong shall be maintained.

political, social, or economic disputes in the society are being converted into legal or constitutional questions and the HKSAR judiciary has been forced to make a ruling in these difficult cases. Andrew Li, the Chief Justice of the CFA, has repeatedly warned that these disputes should be resolved through political processes as these problems are “usually complex, involving many dimensions, and there are no easy or ready solutions to them. It is only through the political process that a suitable compromise may be found, reconciling the conflicting interests and considerations in question and balancing short term needs and long term goals.” 36 However, the HKSAR cannot prevent individuals and interest groups in Hong Kong from using the judicial review proceedings to address their grievances and advance their social causes, especially because it still does not have a Chief Executive and a legislature fully elected by universal and equal suffrage, and the judiciary enjoys a comparatively higher level of political legitimacy. On some occasions the HKSAR judiciary has been put in a very difficult position. No matter how it decided, its decision invited attack from one of the sides or even both. Some of these cases will be examined, but we will first look at situations where the HKSAR judiciary was not even given the chance to exercise its jurisdiction over some cases.

The first challenge to Hong Kong’s judicial autonomy over jurisdiction on purely local matters arose from several conflicts between the jurisdiction of the HKSAR and the Mainland courts. The first case involved an HKSAR resident, Cheung Tze-keung, nicknamed the Big Spender. He and his gangsters were suspected of being involved in a series of criminal acts in Hong Kong and the Mainland. Cheung and some of his gangsters were Hong Kong residents. They were arrested in China and were prosecuted for various offenses and some of the charges were concerned with acts committed purely in Hong Kong. The lawyer representing Cheung wrote a letter to Hong Kong’s Secretary for Justice requesting her to take action to have Cheung’s trial transferred to Hong Kong as some of the offenses were allegedly committed in Hong Kong. The Secretary for Justice rejected such a request on the grounds that the Mainland courts had the jurisdiction to adjudicate Cheung’s case as he and his gangsters had committed offenses that occurred purely on the Mainland. Later, during the trial, it transpired that the Mainland court were not just considering the

36. Ibid.

279
acts committed on the Mainland by Cheung and his gangsters but also the acts they had committed in Hong Kong. Nonetheless, the Secretary for Justice still refused to assert the jurisdiction of the HKSAR over Cheung’s case as against the Mainland courts.

In another case, referred to as the Telford Murders, a Mainland resident was suspected to have murdered five Hong Kong residents in Hong Kong. He escaped back to China and was arrested there. The Secretary for Justice again refused to make a request to the Chinese authorities to have the suspect transferred to the HKSAR for trial. Similar reasons were given to explain the inaction. In a more recent case of this nature, the Luk Yu Teahouse Killing, the suspects were Mainland residents and they were apprehended on the Mainland. The Mainland courts asserted jurisdiction over the suspects in accordance with the same principles.

In these cases, the offenders committed serious crimes in Hong Kong but escaped back to China and were apprehended by the Chinese authorities. They were then prosecuted, convicted, and executed in China. As the criminal acts were committed in Hong Kong, according to the territorial principle and the provision of the Basic Law, the HKSAR courts should have had jurisdiction over these cases. However, the HKSAR government failed to assert the jurisdiction of the HKSAR courts by making arrangements with the Chinese authorities to have the offenders transferred back to Hong Kong. According to the Basic Law, the Department of Justice of the HKSAR is responsible for criminal prosecution and is free from any interference. If the Secretary for Justice as the head of the Department of Justice decides not to assert jurisdiction over cases on behalf of the HKSAR, there is nothing that the HKSAR courts can do.

Even though the jurisdiction of the HKSAR courts is basically maintained, the HKSAR courts do not have jurisdiction over acts of the state such as defence and foreign affairs. There was a more direct conflict of jurisdiction between the HKSAR courts and the Chinese

37. Article 19 of the Basic Law.
38. Article 63 of the Basic Law.
39. Article 19 of the Basic Law. The courts of the HKSAR need to obtain a certificate from the Chief Executive on questions of fact concerning acts of state such as defence and foreign affairs whenever such questions arise in the adjudication of cases. This certificate is binding on the courts. Before issuing such a certificate, the Chief Executive has to obtain a certifying document from the central people’s government.
authorities when the HKSAR courts asserted its jurisdiction to examine the constitutionality of the legislative acts of the National People’s Congress and its standing body, the Standing Committee of the National People’s Congress.\(^{40}\) The clash was caused by the establishment of the Provisional Legislative Council. Because the Chinese and the British governments could not come to an agreement on the composition of the last Legislative Council (LegCo) under colonial rule, the Standing Committee proclaimed that the LegCo elected in 1995 had to be terminated on 30 June 1997 and that it could not become the first LegCo of the HKSAR as originally provided under the Basic Law.\(^{41}\) Various decisions made by the National People’s Congress and the Standing Committee led to the setting up of the Provisional Legislative Council to fill the constitutional vacuum.\(^{42}\)

The constitutionality of the Provisional Legislative Council was challenged in a case before the CFA concerning the right of abode of the Mainland children of HKSAR permanent residents born in Mainland China.\(^{43}\) The CFA had to consider the constitutionality of the amendments to the Immigration Ordinance enacted by the Provisional Legislative Council, which deprived many Mainland children of the right of abode. This was the first case before the CFA concerning the Basic Law and this was also the first batch of cases concerning Mainland children. These children, born in Mainland China of HKSAR residents who are Chinese nationals, did not enjoy the right of abode in colonial Hong Kong. However, Article 24 of the Basic Law provides that they could have the right of abode in the HKSAR. Immediately after the establishment of the HKSAR, many Mainland children came to Hong Kong to claim their right of abode. The Provisional Legislative Council made several amendments to the

\(\text{\textsuperscript{40}}\) The National People’s Congress is the highest law-making body in the constitutional system of the PRC and the Standing Committee also has legislative powers.

\(\text{\textsuperscript{41}}\) Decision of the National People’s Congress on the Method for the Formation of the First Government and the First Legislative Council of the HKSAR adopted by the Seventh National People’s Congress at its Third Session on 4 April 1990.

\(\text{\textsuperscript{42}}\) Decision of the Standing Committee of the National People’s Congress on the Motion Proposed by Mr Zheng Yaotang and 31 Other Deputies to the National People’s Congress adopted by the Ninth Session of the Standing Committee of the Eighth National People’s Congress on 31 August 1994.

Immigration Ordinance imposing procedural and substantial limitations on their claims. If the Provisional Legislative Council were unconstitutional, the constitutionality of all the laws enacted by it would also be in question.

Even though the CFA confirmed the constitutionality of the Provisional Legislative Council, reflecting that it had not ignored the concern from the “one country perspective”, it still asserted that the HKSAR courts had the power to review whether or not the legislative acts of the National People’s Congress and the Standing Committee were consistent with the Basic Law. If they were found to be inconsistent, the HKSAR courts could declare them invalid. The CFA based its principle concerning the jurisdiction of the HKSAR courts in relation to the National People’s Congress and the Standing Committee on its understanding of the nature of the Basic Law. The Basic Law as the constitution of the HKSAR, like other constitutions, distributes and delimits powers while providing for fundamental rights and freedoms. Laws that are inconsistent with the constitution are of no effect and are invalid. The HKSAR courts, granted independent judicial power within the “high degree of autonomy”, must have the power to determine questions of inconsistency and invalidity when they arise, even if the ruling contradicts the National People’s Congress and the Standing Committee. The HKSAR courts’ jurisdiction to review the legislative acts of the National People’s Congress and the Standing Committee was considered to be essential to the maintenance of the “high degree of autonomy” of the HKSAR. This is a clear indication that the CFA saw “one country, two systems” more from the “two systems perspective”.

This decision was seriously criticized by several Mainland legal experts who were involved in the drafting of the Basic Law. Their views were clearly endorsed by the Chinese authorities. They criticized the CFA for putting itself above the National People’s Congress and the Standing Committee and contended that the Basic Law had not granted such authority to the Court: such power of review asserted by the CFA was sovereign in nature and it was ridiculous that it could have such power. The most serious criticism was that such power would transform Hong Kong into an independent political entity.

After the Chinese authorities had expressed their reservation over the decision of the CFA through legal experts, the Secretary for Justice representing the HKSAR government made an application to the
same Court requesting a clarification concerning the constitutional jurisdiction of the HKSAR courts. Again, rather than defending the judicial autonomy of the HKSAR, the HKSAR government assisted the Chinese authorities and put the HKSAR courts in a difficult position. The CFA accepted the application in an unusual manner and exercised what it considered to be the inherent jurisdiction of the Court to make a clarification. In the clarification, the CFA restated its original principle but from another side of the same coin: that the HKSAR courts had no power to question the authority of the National People’s Congress and the Standing Committee in respect of any act, which was in accordance with the Basic Law and the procedure therein. It seemed that the Chinese authorities were satisfied with the CFA’s clarification and the constitutional crisis was settled. However, some worried that the Court’s act of responding to the request was an indication that judicial independence had been weakened. 44

In this encounter, the CFA suffered a serious blow to its judicial authority. Faced with the challenge from the Mainland legal experts, the Court had not compromised very much, but it became clear to the Court that it could not be too idealistic, and the weight it had given to “one country” and political expediency might still not be enough. Also, the HKSAR government might not be a reliable partner in defending Hong Kong’s rule of law and judicial autonomy at critical moments.

**Power of final adjudication**

There was no substantial change to the structure of the HKSAR courts before and after the handover, except that there was a new court of final appeal in Hong Kong after 1997. Since the handover, HKSAR has enjoyed the power of final adjudication. 45 It is exceptional for a regional court to enjoy the power of final adjudication. Since the HKSAR enjoys this power, HKSAR’s legal system is separated from the Mainland’s.

In the right of abode litigation mentioned earlier, the amendments to the Immigration Ordinance enacted by the Provisional Legislative Council limited the rights of the Mainland children by setting up proce-

44. Johannes M. M. Chan, “What the Court of Final Appeal Has Not Clarified in Its Clarification: Jurisdiction and Amicus Intervention”, in *Hong Kong’s Constitutional Debate: Conflict over Interpretation*, ed. Johannes M. M. Chan, Hualing Fu and Yash Ghai (Hong Kong: Hong Kong University Press, 2000), 171–82.

45. Articles 2, 19, and 82 of the Basic Law.
dural and substantial barriers. The procedural barrier aimed to prevent the influx of Mainland children by requiring all Mainland children to be in possession of a one-way exit permit issued by Chinese authorities before they could come to Hong Kong to exercise their right of abode. As there was already a quota system regulating entry into the HKSAR from the Mainland, the intention of this amendment was to ensure that these children would come to the HKSAR in an orderly manner.

The substantial barrier aimed to limit the number of eligible persons by excluding those who were born before their parents became permanent residents of Hong Kong. The CFA invalidated the procedural barrier on the grounds that the HKSAR in enjoying a high degree of autonomy must have the power to admit people who are its permanent residents under its constitution. The amendment had devolved this power from the HKSAR and allowed the Chinese authorities to make the relevant decisions. The CFA also invalidated the substantial barrier by relying on the importance to protect the right to family union as provided for under Article 23 of the International Covenant on Civil and Political Rights. Protection of human rights was considered by the CFA to be one of the purposes of the Basic Law.

The HKSAR government considered these decisions of the CFA as not reflecting the true intent of the Basic Law. Justified by the claim that the Court’s decisions might allow 1.7 million newly eligible persons to become permanent residents of the HKSAR, the Chief Executive, with the endorsement of the LegCo, asked the Standing Committee for an interpretation of the relevant provisions of the Basic Law. The decisions of the CFA were in effect overruled by the Standing Committee’s interpretation (the first interpretation).

This was the first time that the Standing Committee had exercised the power to interpret the Basic Law. The CFA, though named as the “final” court of Hong Kong, now realized that it might not be really “final”. Even if a final decision had been made, the decision could still be overruled by the Standing Committee, a non-judicial organ, through a reinterpretation of the relevant provision of the Basic Law. This might

46. According to Article 39 of the Basic Law, the International Covenant on Civil and Political Rights as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR.

47. For the implication for the other aspect of judicial autonomy, the power of final interpretation, see the discussion in the following part.
be unthinkable under a common law system in which the power of interpretation is an integral part of the power of adjudication and cannot be separated. Having the power of final adjudication must mean having also the power of final interpretation. Under the new constitutional order of the HKSAR where a common law legal system meets a socialist and civil law legal system, the power of final adjudication must be understood in a different manner. The CFA must face this legal reality.

After this case, the HKSAR courts were put into a difficult position. The CFA had to adjudicate under the potential threat that its decisions might trigger another interpretation by the Standing Committee and would be overruled again. Some decisions were clearly made with such self-restraint by the Court. The CFA must try its best to avoid direct conflict with the Standing Committee but at the same time it must continue to decide cases in accordance with its own version of constitutional justice. Throughout the years, the CFA has managed to strike a fair balance and has demonstrated that it has acquired mature skills to deal with controversial constitutional disputes without causing further conflict with the Standing Committee by wisely exercising its power to interpret the Basic Law, and to grant appropriate constitutional remedies.


53. See decisions of the CFA in HKSAR v. Hung Chan Wa and the Other, FACC No. 1 of 2006; Koo Sze Yiu and Leung Kwok Hung v. Chief Executive of the HKSAR, FACV Nos. 12 &
Power of final interpretation

According to the Basic Law, if the CFA in adjudicating cases needs to interpret a provision of the Basic Law concerning affairs which are the responsibility of the central people’s government, or concerning the relationship between the central authorities and the HKSAR, and if such an interpretation will affect the judgment on the case, the CFA is required to seek an interpretation of the relevant provisions from the Standing Committee. The Standing Committee is not a judicial organ but a political institution. It is alien to the common law system for a political institution to enjoy the power to interpret law, but this is an integral part of the Chinese constitutional system. The Standing Committee’s power to interpret the Basic Law also establishes an institutional link between the Hong Kong legal system and the Mainland Chinese legal system.

During the drafting of the Basic Law, many people had the belief that the Standing Committee would only interpret the Basic Law upon a referral from the CFA and would not exercise the power directly. The first interpretation makes it clear that this belief is misguided. Even though the Standing Committee had not exercised this constitutional power to interpret laws very often in the past, the Standing Committee is prepared to use this power to advance what it considers to be proper for Hong Kong.

The first interpretation has more long-term implications for Hong Kong’s judicial autonomy. First, the CFA in considering the substantial issues in the right of abode cases needed to interpret two provisions of the Basic Law. One provision was within the limits of the HKSAR’s autonomy, but the other was a provision concerning the relationship between the Central Authorities and the HKSAR. The CFA developed a “predominant provision test” to guide the determination on the conditions under which it would need to seek an interpretation from the

---

54. Article 158 of the Basic Law.
55. Article 67(4) of the Constitution of the PRC.
Standing Committee. The test would in effect keep the need to make a referral to the Standing Committee for interpretation to a minimum. Based on this test, the CFA decided that the predominant provision in the cases was not such a provision and therefore there was no need to seek interpretation.

However, the Standing Committee in the first interpretation stated that the CFA was wrong in not seeking interpretation although it had not provided an alternative legal test. Subsequently, in another right of abode case the CFA accepted that it would have to revisit the test in the future. Article 158 is the article on the interpretation of the Basic Law, but this article is also subject to the power of interpretation by the Standing Committee. The Court does not have any final power to determine the legal principles of interpreting the Basic Law. Now the Standing Committee still tolerates the principles developed by the CFA, but in the event that it wants to lay down the detailed rules of interpretation in the future the Court cannot resist but has to follow.

Second, the CFA developed the “predominant provision test” on the basis of its principle of interpretation of the Basic Law, the purposive approach. In ascertaining the true meaning of the instrument, the courts must consider the purpose of the instrument and its relevant provisions as well as the language of its text in light of the context. Context is of particular importance in the interpretation of a constitutional instrument. The purpose of a particular provision may be ascertainable from its nature or other provisions of the Basic Law or relevant extrinsic materials including the Joint Declaration. The context of a particular provision is to be found in the Basic Law itself as well as in relevant extrinsic materials. Assistance can also be gained from any traditions and usages that may have given meaning to the language used. The purposive approach is basically still a literal approach and it entails courts looking at the broader literal context of the constitutional instrument before giving any concrete meaning to specific terms or provisions. By emphasizing the literal meaning of the constitutional text, the CFA can ensure that interpretation of the Basic Law will be made by the HKSAR courts and the original intent of the drafters of the constitutional instrument can be sensibly avoided.

What is controversial is not just the approach itself but also the specific “purposes” of the Basic Law arrived at by the CFA. To the Court, drawing on the literal context of the Basic Law, the constitutional instrument has three main purposes. The first is to distribute and delimit governmental powers. The second is to establish the HKSAR as an inalienable part of the PRC under the principle of “one country, two systems with a high degree of autonomy”. The third purpose is to give Hong Kong residents the full measure of fundamental rights and freedoms constitutionally guaranteed by the Basic Law. These considerations appear to be more inclined toward “two systems”.

On the basis of these purposes of the Basic Law, the CFA reached decisions in the right of abode cases. The Standing Committee in the first interpretation did not expressly state that the purposes of the Basic Law were not what the CFA had concluded them to be. However, by reinterpreting the relevant provisions of the Basic Law, it is clear that the genuine purposes of the Basic Law must be otherwise. It is not that the three purposes adopted by the CFA are not purposes of the Basic Law, but from the Standing Committee’s perspective, the Basic Law has three other overriding purposes. They were overlooked or at least underemphasized by the CFA. The first purpose is to provide the legal basis for the PRC to resume the exercise of sovereignty over Hong Kong in accordance with the Chinese legal and constitutional systems. The second purpose is already included in the first one, which is to allow the PRC to exercise sovereignty over Hong Kong. The third purpose is to maintain stability and prosperity in Hong Kong. These considerations tend toward “one country”. In case of conflict between the purposes adopted by the CFA and those emphasized by the Standing Committee, the latter must prevail as the Standing Committee can uphold its understanding through its power of final interpretation.

Third, the first interpretation was not actually initiated by the Standing Committee but was made upon a request from the Chief Executive, who is not expressly authorized to do so. The Standing Committee in the first interpretation recognized that the Chief Executive does have this power under Articles 43 and 48(2) of the Basic Law, which are

58. Interpretation of the Standing Committee on Article 22(4), paragraph 3 of Article 24(2) and Article 53(2) of the Basic Law.
only general provisions concerning the powers of the Chief Executive. The Standing Committee’s interpretations did not explain the basis on which the power to make a request to the Standing Committee for interpreting the Basic Law by the Chief Executive could be derived from these general provisions.

The Chief Executive as the head of the HKSAR and the Executive Authorities of the HKSAR could not interfere with the adjudication and judicial deliberation in the HKSAR courts because that would be a direct affront to judicial independence. However, with this power to make a referral to the Standing Committee to interpret the Basic Law, what is not allowed at the front door could be done via the back door. The HKSAR government should have guarded the back door for the HKSAR courts and but then it was the HKSAR government that had opened the back door and invited an interpretation from the Standing Committee. The HKSAR courts could no longer rely on the HKSAR government as a trustworthy partner in protecting Hong Kong’s judicial autonomy.

Unfortunately, this was not the only occasion that the Standing Committee had used its power of interpretation to interfere with affairs in the HKSAR. The second occasion of interpreting the Basic Law by the Standing Committee was again not initiated by the HKSAR courts but by the Standing Committee itself. In light of the growing demand for democratic reform in Hong Kong, the Standing Committee in the second interpretation made it clear that the procedure for making any change to the electoral systems in the HKSAR can take effect only if the Chief Executive makes a report to the Standing Committee about whether or not there is a need to make an amendment; and the Standing Committee shall, in accordance with the provisions of Articles 45 and 68 of the Basic Law, make a determination in light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The bills shall be introduced by the HKSAR government into the LegCo.

---

59. Article 43 is a general article which provides that the Chief Executive is the head of the HKSAR and represents the HKSAR and is accountable to the central people’s government and the HKSAR in accordance with the provisions of the Basic Law. Article 48(2) provides that the Chief Executive is to be responsible for the implementation of the Basic Law and other laws that apply in the HKSAR.

60. Interpretation by the Standing Committee on Clause 7 of Annex I and Clause 3 of Annex II of the Basic Law.
To most of those who are trained under a common law legal system, the second interpretation, like the first, can hardly be called an interpretation. They resemble an enactment or decision. If one is satisfied that they are really interpretations, then the approach of interpretation must be more like an originalist approach. The Standing Committee’s approach of interpretation places more emphasis on the original intent of the drafters of the constitutional instrument rather than the literal meaning. This differs from the purposive approach of interpretation adopted by the CFA, which attributes more importance to the literal meaning of the constitutional text. By using such an approach of interpretation, the Standing Committee can justify its interpretation by referring to its own thoughts on the constitutional instrument and would not be bound too much by the language of the constitutional instrument. On the basis of the second interpretation, a decision was further made by the Standing Committee on 26 April 2004 that the Chief Executive and all members of the LegCo would not be directly elected by Hong Kong citizens in 2007/8.

Further, in December 2007, the Standing Committee made another decision on the basis again of the second interpretation that the election of the fourth Chief Executive and all members of the fifth-term LegCo in the year 2012 would not be implemented by universal suffrage. The Standing Committee promised that the fifth Chief Executive in the year 2017 might be implemented by the method of universal suffrage. Once the Chief Executive was selected by universal suffrage, the election of all LegCo members would take place according to universal suffrage.

The third occasion of interpreting the Basic Law by the Standing Committee was again initiated by the Chief Executive. After the resignation of the second Chief Executive, Tung Chee-hua, there was
uncertainty about the length of the term of office of the re-elected Chief Executive. To avoid any legal action that might challenge the constitutionality of the re-election, the acting Chief Executive sought an interpretation by the Standing Committee on the relevant provisions of the Basic Law. The Standing Committee clarified that the term of office of the newly re-elected Chief Executive would be the remainder of the predecessor.⁶⁴

Even though the Standing Committee in arriving at this conclusion had adopted interpretation methodologies similar to the purposive approach of interpretation endorsed by the CFA as well as the original intent of the provisions,⁶⁵ there is still concern that the interpretation was overly tainted by political consideration. With the power to interpret the Basic Law, the Mainland Chinese authorities are quite at liberty to act as they deem fit, and no one including the HKSAR courts will be able to put up any effective resistance.

For some time, the CFA managed to avoid making a reference to the NPCSC in accordance with Article 158 of the Basic Law, but the reference procedure is still a kind of nightmare to the CFA. Initiating the reference procedure will inevitably hurt the judicial autonomy and judicial authority of the courts of the HKSAR. On the one hand, the CFA will not be making the final ruling on all legal issues in a case. That will hurt the CFA’s judicial authority. On the other hand, the final interpretation of the relevant provisions of the Basic Law will be given by the NPCSC, which is not a judicial body. That will also hurt the CFA’s judicial autonomy.

If in the future the CFA is found to be in a case where there is no longer any room to avoid the issue, it will then be forced to initiate the reference procedure. The damage to the judicial autonomy of the HKSAR will be devastating. However, courts in the HKSAR are passive actors in the constitutional processes; they can only act when there is a case before them for adjudication. Courts of the HKSAR cannot make a ruling on constitutional issues outside the context of adjudication and the courts have no control over what cases will come before them.

---

⁶⁴ Interpretation by the Standing Committee on paragraph 2, Article 53 of the Basic Law adopted at the 15th Session of the Standing Committee of the 10th National People’s Congress on 27 April 2005.

⁶⁵ The Explanatory Note on the Interpretation by the Standing Committee of Article 53(2) of the Basic Law (Draft).
Therefore, the best way or the less damaging way to resolve the dilemma is for the CFA to initiate the reference procedure itself in a case that is not politically sensitive and use methods that will create the least damage to its judicial authority and judicial autonomy. A recent legal dispute before the CFA may provide the best opportunity for the CFA to make a reference to the NPCSC for the first time and to defuse this legal bomb. This generated the fourth occasion of interpreting the Basic Law by the Standing Committee.

In *Democratic Republic of the Congo and Others v FG Hemisphere Associates LLC*, the plaintiff, a company based in the United States, launched proceedings in the courts of the HKSAR against the Democratic Republic of the Congo (DRC) to enforce its rights in two arbitration awards over a certain amount of money payable by a Chinese enterprise to the DRC representing an asset of the DRC in Hong Kong.

The DRC asserted that the HKSAR courts had no jurisdiction over it in respect of the subject matter of the claim according to the legal principle of state immunity. As one of the major legal issues in this case, the DRC alleged that the courts of the HKSAR should follow the practice of the PRC, Hong Kong’s mother state, that “a state and its property shall, in foreign courts, enjoy absolute immunity, including absolute immunity from jurisdiction and from execution”. On that basis, the courts of the HKSAR would still have no jurisdiction over the acts of the DRC in this case even if those acts were ruled to be commercial in nature. However, the plaintiff argued that the courts of the HKSAR should continue to apply the doctrine of restrictive immunity, which was the common law principle applicable in Hong Kong before the transfer of sovereignty in 1997. According to the doctrine of restrictive immunity, only sovereign acts are immune but not commercial acts.

On the question of whether the courts of the HKSAR should apply the doctrine of absolute immunity or restrictive immunity, the CFA by a majority of three-to-two decided that it involved the interpretation of Article 13 and Article 19 of the Basic Law and resolved to seek an interpretation of the provisions from the NPCSC in accordance with Article 158 of the Basic Law before making the final rulings in the case.

There are several reasons to explain why this case may be a good case for the CFA to choose as the first case to initiate the reference proce-

---

66. FACV Nos. 5, 6 & 7 of 2010 (Civil).
JUDICIAL AUTONOMY IN HONG KONG

dure. The first reason is that the legal dispute in this case only involves a foreign enterprise and a foreign sovereign state, even though the dispute is over a sum of money payable by a Chinese enterprise to the DRC. The Central People’s Government and the HKSAR government are not parties to the dispute, although the Secretary for Justice intervened to address the courts of the HKSAR on the position of the HKSAR government on the constitutional issues in the case, and the Office of the Commissioner of the Ministry of Foreign Affairs has written three letters to the courts of the HKSAR on the position of the CPG on state immunity. As the CPG and the HKSAR government are not directly affected by the legal dispute in this case, to initiate the reference procedure in this case will not give an impression that the CFA is appeasing, or submitting to the pressure of, the CPG or the HKSAR government.

The second reason is that the articles of the Basic Law involved in this case are related to foreign affairs. The two articles sought in interpretation are Article 13 and Article 19. Article 13(1) of the Basic Law provides that the CPG shall be responsible for foreign affairs relating to the HKSAR. The interpretive question sought by the CFA is whether on the true interpretation of Article 13(1), the CPG has the power to determine the rule or policy of the PRC on state immunity. Article 19(3) of the Basic Law provides that the courts of the HKSAR shall have no jurisdiction over acts of state such as defence and foreign affairs. The interpretive question sought is whether the determination by the CPG as to the rule or policy on state immunity falls within “acts of state such as defence and foreign affairs”. As these questions are related to foreign affairs, and most people will not dispute that this is a matter within the responsibility of the CPG, the decision to make a reference may be subject to less challenge.

The third reason is that the newly appointed chief justice of the CFA, Justice Geoffrey Ma, was not one of the five judges adjudicating this case. Even if the decision to make a reference to the NPCSC was to be seriously criticized by the legal community and the general public, Justice Geoffrey Ma would not be implicated and therefore it would not affect his personal authority. This can limit the range of damage done to the CFA.

Moreover, the Office of the Commissioner of the Ministry of Foreign Affairs has already written three letters to the courts of the HKSAR informing them about the position of the CPG on state immunity. If the
CFA were to apply the common law doctrine of restrictive immunity and decide not to make a reference, one cannot preclude the possibility that the NPCSC will issue an interpretation on its own on the relevant provisions of the Basic Law after the CFA delivers the judgment. The damage to the judicial authority and judicial autonomy of the CFA will then be great. What is important is not whether the NPCSC will actually issue an interpretation on its own. If the CFA considers that such an interpretation by the NPCSC is probable and the damage which will result is higher than initiating the reference procedure itself, seeking an interpretation from the NPCSC is a rational decision by the CFA under the constitutional game’s analytical framework.

In the fourth interpretation on the Basic Law issued by the NPCSC, the NPCSC responded to the questions raised by the CFA in the case and it basically limited its interpretation to the issues raised in the questions carefully set by the CFA. The impact of this interpretation should be limited as the CFA planned. However, after a door is opened, will there be more reference to the NPCSC by the CFA in the future? This is a question that many who care about Hong Kong’s judicial autonomy are keen to continue to ask.

**The mechanism to resolve conflicts between Hong Kong and the central government**

The Basic Law foresees four possible areas of contention and provides a mechanism to resolve them: (1) the power of the Standing Committee to review local legislation; 67 (2) the application of national laws (relating to defence and foreign affairs or other matters outside the limits of the HKSAR’s autonomy) to Hong Kong by amending Annex III of the Basic Law by the Standing Committee; 68 (3) the interpretation of the Basic Law; 69 and (4) the amendment of the Basic Law. 70

According to the mechanism provided by the Basic Law, these matters will be referred to the Committee for the Basic Law for consultation prior to any decision by the Chinese authorities. The Committee for the Basic Law is a working group under the Standing Committee and

---

67. Article 17 of the Basic Law.
68. Article 18 of the Basic Law.
69. Article 158 of the Basic Law.
70. Article 159 of the Basic Law.
JUDICIAL AUTONOMY IN HONG KONG

is composed of 12 persons appointed by the Standing Committee.\(^71\) Six members reside on the Mainland and six in the HKSAR. The Chief Executive, the President of LegCo, and the Chief Justice of the CFA of the HKSAR nominate the six HKSAR members. It is assumed that if there is any conflict between the interests of the HKSAR and the Chinese authorities, this mechanism can provide sufficient protection to the HKSAR's interests.

However, people who care about the judicial autonomy of Hong Kong doubt whether this mechanism can fairly balance the interests of “one country” and “two systems”\(^72\). For the HKSAR to continue to enjoy a high degree of autonomy, in particular judicial autonomy, it is important that the mechanism to resolve disputes between the HKSAR and the Chinese authorities is independent, legal, rational, and formal. A balanced stance with full consideration given to the HKSAR's autonomy should also be adopted by the Committee for the Basic Law. However, as the Committee is just a consultative body under the Standing Committee, it can hardly satisfy such requirements. The HKSAR judiciary is not given any role in dealing with these matters. There is also no external and independent body to mediate or adjudicate any conflict between the HKSAR and the Chinese authorities over the implementation of the policy of “one country, two systems”.

It is suggested that the Committee for the Basic Law should be reformed in the following ways so as to satisfy the requirements of judicial autonomy. First, all members should be legally trained. Second, appointments should be made on the basis of professional qualifications regardless of political stance. Third, the proceedings of the Committee should allow sufficient opportunity to all interested parties to represent their views before it. Fourth, as the number of members is even, a method should be established to force a decision in the event of a deadlock. One suggestion is to allow the chairperson a casting vote, and for that chairperson to be a Hong Kong member. Fifth, the Standing Committee by convention will always adopt the recommendations of the Committee for the Basic Law. These changes will transform the Committee for

\(^{71}\) Decision of the National People's Congress Approving the Proposal by the Drafting Committee for the Basic Law on the Establishment of the Committee for the Basic Law under the Standing Committee adopted at the Third Session of the Seventh National People's Congress on 4 April 1990.

\(^{72}\) Ghai, "Resolution of Disputes".
the Basic Law into a body somewhat similar to a constitutional court, without the need to amend the Basic Law. Whether these proposals will actually be adopted is yet to be seen, and it primarily depends on the Chinese authorities’ will to formalize and institutionalize a policy of self-restraint.

Concluding observations on the prospect of Hong Kong’s judicial autonomy

Judicial autonomy with its different aspects cannot be separated from the other spheres of autonomy. If there is insufficient protection given to executive autonomy and legislative autonomy under an autonomous arrangement, judicial autonomy can hardly fare well. In the past 15 years, the greatest challenge to Hong Kong’s judicial autonomy has not come from the sovereign state directly. Through its influence over the Chief Executive and the LegCo of the HKSAR, the Chinese authorities can indirectly exert pressure on the HKSAR’s judiciary. Armed further with the power of interpreting the Basic Law, the HKSAR courts can only exercise their autonomous powers under the shadow of an all-powerful sovereign.

The HKSAR judiciary can only enjoy the degree of judicial autonomy tolerated by the Chinese authorities, although the sovereign is also aware of the need to exercise its sovereign powers with a certain degree of self-restraint. At the beginning, the judiciary believed that it could uphold its understanding of constitutional justice inherited from its common law tradition in the new constitutional order, as it wished. However, it quickly suffered a serious blow to its judicial authority in a series of conflicts with the Chinese authorities and the HKSAR government.

The reality is that the judicial autonomy of the HKSAR relies upon the self-restraint of the Chinese authorities. If there is any conflict between the HKSAR and the Chinese authorities, the HKSAR courts cannot play a significant role in defending the interests of the HKSAR or resolving conflicts. Through the experiences gained in the past 13 years, the judiciary has learned the lesson that it must tactfully and strategically use its constitutional powers by avoiding direct conflict with the Chinese authorities and the HKSAR government, so that its sense of constitutional justice can be advanced to the highest degree that can be tolerated by the other political actors within Hong Kong’s unique
constitutional order, in which a fine balance between “one country” and “two systems” has to be maintained.

Different commentators on the judicial autonomy of Hong Kong will draw a different conclusion about this situation. Those who are more pragmatic may see it as a practical way for the judiciary of Hong Kong to achieve the highest degree of judicial autonomy attainable within political constraints. However, those who insist more on principle may consider this to be evidence that the judicial autonomy of Hong Kong has been weakened.

In a meeting with principal executive, legislative and judiciary officials during his visit to Hong Kong in early July 2008, Xi Jinping (then Vice-President of the PRC) made a statement that might have implications for Hong Kong’s judicial autonomy. He urged that “There should be solidarity and sincere co-operation within the governance team of the HKSAR and there should be mutual understanding and support amongst the executive, the legislature and the judiciary of the HKSAR.” Many people who care about the judicial autonomy of Hong Kong worry this the statement indicates that the Chinese authorities are still not satisfied with the performance of the HKSAR judiciary, as the HKSAR courts are still considered to be too “two systems”.

We will have to wait and see whether more steps will be taken by the Chinese authorities and whether the Hong Kong judiciary will react correspondingly to satisfy the demands of the Chinese authorities. The reality is that the prospect of the judicial autonomy of the HKSAR ultimately depends on whether constitutionalism develops in Mainland China, and especially on whether a federal form of constitutional government develops. Until such developments, the judicial autonomy of the HKSAR can only continue to be built on sand.  

References


Chan, Johannes M. M. “What the Court of Final Appeal Has Not Clarified in Its Clarification: Jurisdiction and Amicus Intervention”. In Hong Kong’s...


JUDICIAL AUTONOMY IN HONG KONG


Index

administrative system, Chinese. See governance (of PRC)
Alliance for Universal Suffrage (AUS) 257–8, 260, 261, 263, 265, 266. See also democratic movement; democratization
Arab Spring. See central government: fear of lost control
AUS. See Alliance for Universal Suffrage autonomy (of HK)
Beijing’s attitude to. See central government
and centralization moves in PRC 147, 173. See also central government in colonial period 6–8, 19, 29–51 passim, 56–8, 68, 76, 77, 83, 85, 94, 99, 104, 110, 111, 137. See also British colonial rule; Governors compared to many federal systems 23, 147, 243, 244, 275–6
contention over 243, 294. See also judicial autonomy: legal disputes delegated from central government 244, 247, 276
economic. See economy erosion of 4, 5, 245; perceived ~ 4, 207; resistance to ~ 4, 245
factors shaping 9, 145, 173. See also conflict: resolution; governance (of PRC); local leadership; reciprocity; sovereign power; trust failures of 77. See also “One Country, Two Systems”
fiscal. See fiscal autonomy flexibility of Beijing on. See central government formalized as HKSAR. See HKSAR “high degree of” 14, 82, 207, 243–6, 276, 282, 284, 288, 295; Beijing’s conception of vii, 209–10; contradictions in ~ 248; popular support for 249; ~ promised by Basic Law 82, 84, 275. See also Basic Law; political reforms
judicial. See judiciary as “One Country, Two Systems”. See “One Country, Two Systems” political 244, 247; limits to ~ 266; judicial autonomy as major aspect of ~ 269. See also constitution; elections; governance retention after 1997 6, 82, 243, 244, 253. See also Basic Law; Joint Declaration
social aspects of 6 threat posed by PRC economic support/integration 16, 17, 234, 246. See also economy under continuous negotiation 5, 246, 267. See also negotiation understanding 1–24 passim urge for, as defining feature of relationship with sovereign viii see also central government; elections; governance; local affairs; provinces; sovereign power
autonomy, provincial. See provinces

banks
Bank of China 73
Bank of England 99
crises 98–99, 103; use of reserves during ~ 98–9, 103. See also economy Hongkong and Shanghai Banking Corporation 63–4. See also housing
runs on 98
bargaining. See governance (of PRC); negotiation
Basic Law
based on colonial arrangements 5. See also British colonial rule
changes/interpretation 244, 247, 265–6; ~ only by NPC 247, 264–5. See also NPC; NPCSC
conflict resolution mechanisms 294–6 defines Beijing–HKSAR relationship 5; ~ and scope of autonomy 244, 248
drafting committee 252–3, 266; ~ democrat members 252
fiscal autonomy enshrined in 104. See also fiscal autonomy
and jurisdiction of HKSAR 5. See also judicial autonomy
legal framework intact 245, 247
limited political autonomy 247, 266. See also autonomy
as HK’s mini-constitution 20, 23, 180, 252
(re)interpretations of 5, 245, 249–51 violated by 2010 agreement 266
weight more on “one country” than on “two systems” 288
see also constitution; judicial autonomy; law

Beijing
British imperial presence 32 as central actor. See central government
municipality 171: ~ relationship with central government 145. See also governance: central–provincial/local relations
Bo Xilai 165. See also Chongqing

Britain
Colonial Office. See Colonial Office
EEC membership: HK displeasure with 125
Foreign and Commonwealth Office. See FCO
Foreign Office 6, 31, 38, 44; ~ conflicts with Colonial Office 31, 44. See also FCO
government ministers 86, 120, 126, 129; ~ involvement in colonial affairs 86
House of Lords 65, 125
members of parliament 57, 117
manufacturers undercut by HK 84, 96, 118–9
negotiations with PRC on handover. See negotiation
political pressure 58, 65, 96, 117–20 passim, 136–8; ~ from Archbishop of Canterbury 17, 64, 65
postwar aid from 95; ~ not required by HK 91
relations with China. See Sino-British relations
relations with HK before handover. See British colonial rule
Secretary of State for the Colonies 17, 31, 32, 35, 42, 55–67 passim, 76, 84, 114, 118, 124, 130. See also Creech-Jones, Arthur
Whitehall 17, 30, 34, 49, 117; ~ low involvement in colonial matters 31, 34; ~ staffing of Colonial Office 34. See also Colonial Office
see also British colonial rule; British Empire; Sino-British relations; sovereign power

British colonial rule (in HK)
attitude of London vii, 31, 34, 76, 99, 101, 118, 126, 129, 136. See also Britain: Whitehall; Colonial Office
colonial–metropolitan relations 6–7, 19, 23, 29–30, 46–51 passim, 85–8, 111, 118–20, 124–38 passim; ~ as ‘Lugard model’ 19, 86–7; ~ and economic disputes 84, 96, 118–9. See also Basic Law; Britain: Secretary of State; Governors

crackdown against Communist-led ‘riots’ 30
Crown Colony 31, 37, 49, 56; ~ established 29
fiscal independence of HK 15, 88, 92, 93, 94, 104, 130
legal system. See Common Law; legal system
life after vii, 8, 17. See also handover
local government 6, 29–51 passim; incapacity of ~ 59, 71, 72, 126; no local representation in ~ 42, 104.
See also electoral system; Executive Council; governance; Governors; Legislative Council merchants and 42, 47, 118; ~ influence but no authority 42, 44. See also business elite; Jardine, Matheson PRC attitude to vii, 14, 120. See also Sino-British relations public expenditure. See public expenditure purpose 31, 32, 38–41; ~ as forward base 40; ~ as trade depot 39 relations of HK with China 6, 137; ~ controlled by HK 84; ~ in lead-up to 1997 117 settlers 42; ~ denied representative power 42 untenability of ~ after 1997 120 use of force to control Chinese population 41 see also Britain; British Empire; Colonial Office; Colonial Service; Governors British Empire early embassies to China; Cathcart ~ 38–9; Macartney 39 economic importance of HK 8, 43, 47 expansion in China 31–2 interwoven networks of 37; ~ HK integral part of 32, 37, 38, 39 loose organization of 30, 36 and Nanyang Chinese 37–8 overseas Chinese communities within 37 role of HK 31, 32, 38–41; ~ diminished after more treaty ports 32; relevance of ~ faded after Empire 16. See also economy treaty ports in China 32 see also Britain; British colonial rule; Sino-British relations budget, HK balanced 82, 93, 98, 131 deficits 98; use of ~ to finance development 98 push for measures promoting economic and social development 88; ~ resisted 101 surplus 93, 98, 102 see also economic policies; economy; public expenditure business community. See business community elite. See business elite interests 18, 47, 83, 90; protection of ~ offered by Beijing 201 limited regulation of. See economy: laissez-faire approach lobby 100 pro-~ policies. See economic policies support to 100; financial ~ limited in tax trade-off 15, 97. See also taxation: trade-off see also business community; business elite; economy business community, HK 118 ambivalence about tax increases 83, 90, 92, 97. See also taxation: trade-off concerns about lack of low-cost capital 97, 98, 100. See also economy: capital demand for greater government support desire for reassurance after CCP victory 91 opposition to social reforms 101 support for economic reforms 98 see also business; business elite; Chinese community business elite, HK 83, 90, 97, 201 allied with Beijing 201, 259, 263, 264 business concerns. See business community connections with Beijing 8, 255, 263; ~ potential for mediation 255, 263 electoral power via FCs 247, 254, 255. See also elections: functional constituencies mistrust of democratic opposition 255, 263 and negotiations on political reform 258, 259, 263, 264, 266 politically conservative 201, 254, 263 used by Beijing to influence/control HK 8, 246
see also business community; elections; society

Canton 6, 35, 39, 44, 45, 46. See also Cantonese; Guangdong
Cantonese (dialect) 46; ~ movement supporting 235

CCP (Chinese Communist Party)
Central Committee 150–1, 186, 196; influence within ~ 151; ~ provincial representation 150–1
central role 148–9, 174, 190. See also governance (of PRC)
federalist ideas 181; ~ abandoned 182. See also China: as federal vs unitary state
General Secretary 153, 168
leftward shift 189, 200; ~ and move to right 196, 200
and Macao 210
organization and controls 20, 148–9, 182. See also governance: controls
Party secretaries 147, 149, 150, 153–6 passim, 165, 168. See also governance: localism vs centrism
Politburo 4, 151, 155, 168; ~ provincial representation 151
splits and purges 18, 185–9 passim; ~ Anti-Rightist Campaign 18, 188. See also Tibetan Communist Party
and Taiwanese autonomy 10, 18, 181, 182, 191, 195–197, 199–201. See also Taiwan
and Tibetan autonomy 10, 182–90 passim, 199–201. See also Tibet
rule of 148–9, 174. See also governance (of PRC)
central government
and HK autonomy: conception 243–4; support for vii; ~ and later unease 18, 248. See also autonomy; “One Country, Two Systems”
building/losing trust with local elites 10, 13. See also trust
control of top appointments 11, 153–7, 209, 244, 247
fear of lost control 18, 248–9, 266. See also ~ relations (below)
flexibility on local autonomy 5, 10, 13, 14, 19, 149, 170–2, 181, 199; loss of ~ 18, 19
initial self-restraint in HK. See local affairs
leadership 12, 146, 150–1, 173–175, 190; rich provincial background of ~ 146, 174–5. See also governance; provincial leaders
patronage, favouritism and preferential treatment by. See governance relations with HKSAR 145, 146, 173; ~ expectation of loyalty 249. See also governance; HKSAR relations with provinces. See governance resources of 16, 147, 158, 160, 166, 168, 174
responsible for foreign affairs 293
as ultimate source of political authority and power 148, 248–9. See also NPC
see also centralization; decentralization; governance

centralization 11, 146
appointment of outsiders/centrists 147. See also provincial leadership vs autonomy 147, 173. See also autonomy
coexistence with decentralization 146, 147, 149–50, 173
correlation with vertical power. See governance: authority
fiscal. See governance: fiscal system increase in 10, 173; ~ threatens “One Country, Two Systems” 173
use of fiscal system. See governance: fiscal system
see also central government; decentralization; provinces
CEPA (Closer Economic Partnership Agreement). See economy: PRC support for
CFA (Court of Final Appeal) 219–20, 279
asserts right of judicial review 281–3
Chinese criticism of 277, 282
confirms authority of NPC and NPCSC 233, 283
INDEX

conflict with Chief Executive 277, 296; ~ and Chinese authorities 282, 296; avoidance of ~ 291, 296 established 283 and foreign legal disputes 292–4. See also judicial autonomy: jurisdiction greater weight to Common Law values 276–7. See also Common Law judicial authority weakened 283 power of final adjudication 283–5; ~ overruled by NPCSC 284–5; ~ undermined 285. See also courts; judiciary: “right of abode” controversy; NPCSC power of final interpretation 286–94 passim. See also ~ referral to NPCSC (below) referral to NPCSC 289, 291–4; ~ required 220, 286–92 passim “two systems perspective” of 276, 288 see also constitution; courts; judiciary; judicial autonomy; law; legal systems Chan, Anson 11. See also governance: colonial legacy Chengdu Municipality 164. See also Chinese economy: economic zones; Sichuan Chiang Kai-shek 191–2, 194. See also China: Republican period; Chinese civil war; KMT; Taiwan Chief Executives (of HKSAR) 232, 289, 295 appointment 11, 209; ~ confirming election result 244, 247 colonial legacy 11. See also governance: colonial legacy; Governors elections and franchise. See elections; electoral system intervention in legal decisions 277, 278, 288–9 legitimacy issue 22, 255, 279. See also governance: legitimacy crisis Leung Chun Ying (2012–) 3–4 political dependence on Beijing 250, 255, 296 position 9, 289; difficult ~ 12 powers 219, 277, 288 Tsang, Donald (2005–12). See Tsang, Donald Tung Chee Hwa (1997–2005). See Tung Chee Hwa see also governance; HKSAR government China administrative system. See governance (of PRC) anti-British demonstrations and riots 69 communist era. See PRC democracy movement 253, 259, 262. See also Tiananmen Incident economy. See Chinese economy fear of HK as subversive base 18–9, 246 as federal vs unitary state 6, 150, 173, 180–3, 297. See also federalism; PRC: as unitary state increased centralization. See governance modernization 179; role of HK in ~ 8, 13, 81, 82 Nationalist government. See KMT Qing period. See Qing Empire reform era 6, 150. See also Deng Xiaoping Republican period 181, 183. See also Chiang Kai-shek; KMT resurgent nationalism 120 territorial claims 181; Qing basis of ~ 181. See also Hong Kong; Taiwan; Tibet see also central government; sovereign power Chinese civil war CCP victory 91, 182, 184, 191; ~ and KMT retreat to Taiwan 191 Communist move towards HK 65 refugees from. See population; refugees; squatters see also CCP; Chiang Kai-shek; defence; KMT Chinese Communist Party. See CCP Chinese community, HK 83, 91, 138 civic pride among 116, 117; ~ as substitute for national loyalty 116 control of by British 41. See also governance elite groups. See business elite; society
identity and sense of belonging 110, 116. See also identity
links with diaspora in Southeast Asia 37. See also Southeast Asia
perceived lack of interest in political or social reform 91
seen as transient migrants 92, 95 see also business community; society
Chinese economy
decentralization 147, 150, 163–169.
See also decentralization
development of 163, 243, 253; importance of HK to ~ 243, 244, 253
economic growth 157
economic zones 147, 163–8 passim
external investment 8; ~ HK as largest source 81, 103
land policy 167
privatization 161–2
reform of 100, 147
relocation of HK industry to 100, 102–3. See also economy: manufacturing; Guangdong; Shenzhen
state-owned enterprises 167
Chongqing Municipality 164–8. See also Chinese economy: economic zones; provinces: scramble for policy favours; Sichuan
Civic Party (CP) 256, 257, 260. See also democratic movement
civil society 4, 12, 13, 21, 193, 245, 257, 262, 265, 266. See also human rights; Macao
Clague, Douglas 73–4, 76
Closer Economic Partnership Agreement (CEPA). See economy: PRC support for
Cold War 40, 41, 85, 190, 195
Colonial Office 12, 35, 94, 104, 124
conflicts with Foreign Office 31, 34
circumvented by colonies 6, 88, 91. See also British colonial rule: colonial–metropolitan relations; Governors
distinct from Colonial Service 34. See also Colonial Service
fiscal independence of HK from 15, 88, 92, 93, 94, 104, 130
and housing issue 60–76 passim. See also housing
and labour reforms 87, 96. See also labour reforms
lack of local knowledge 33, 34, 49
low status of 31, 48–9
merged with FCO 29, 87
operation of 29–37 passim, 48–9, 87
as political backwater 17, 31
staff 34, 87; ~ from Whitehall 34; no rotation of ~ between London and colonies 34
tax reforms. See tax reforms
see also Britain; British colonial rule; British Empire; Colonial Service; Governors
Colonial Service
careers in 34, 35, 45
distinct from Colonial Service 34. See also Colonial Service
governors. See Governors
organization 35, 36
personnel rotation 11; ~ among colonies 11, 36; no ~ between London and colonies 34
staff 34–8, 46; administrative ~ 34; ~ background 34–7, 50–1; ~ cadets 46; executive ~ mainly British 36;
use of indigenous ~ 36
see also Britain; British colonial rule; British Empire; Colonial Office; governance; Governors
Common Law
authoritarian threat to 8
basis of HK law 21; ~ continued use 275, 276, 278, 296
family (countries) 21, 273, 274
legal system. See legal systems
principles 273, 274, 292, 294
status of Privy Council’s Judicial Committee 274
values and traditions 21, 244, 273, 276–7, 285, 286, 290. See also CFA; human rights
see also courts; judiciary; law
communism 194. See also CCP
Communist Party. See CCP
INDEX

conflict resolution 19–21, 271, 272, 294–6; ~ as factor shaping HK autonomy 9
constitution S, 19, 20, 44, 94, 145, 245, 247, 272, 282
~al autonomy 245, 247, 269
constitutionalism 297. See also federalism; judiciary
intervention by Beijing 245, 247, 265–6
new ~al order in 1997 5, 252, 275, 277, 296–7. See also Basic Law
power of final interpretation 271–2, 274; critical importance of ~ 272. See also CFA
reform/changes to 21–2, 67, 85, 242–50 passim, 254, 262, 265, 266; ~ avoidance in postwar period 85, 94; ~ in future 242, 262; ~ perceived problems with 94. See also negotiation
role of NPC. See NPC
see also Basic Law; governance; judiciary; law; PRC: constitutional system
corruption 119, 270; ~ drive against 113; ~ Independent Commission Against Corruption 113, 137; ~ in China 165; ~ in Macao 218, 230, 231, 235
courts (of law)
Court of Final Appeal. See CFA
decisions against HK government 232 independence of. See judiciary
decisions of judges 41, 209, 233, 293; ~ appointment 270, 277; ~ background 274; ~ removal 270, 277; ~ training 274
jurisdiction 20; local ~ 272, 278
power of final adjudication 20, 271, 272, 274; critical importance of ~ 272. See also CFA
power of final interpretation. See CFA; constitution
of sovereign state 271. See also judicial autonomy: jurisdiction
see also CFA; judiciary; judicial autonomy; legal systems
Creech-Jones, Arthur 17, 64, 65. See also Britain: Secretary of State; housing

CP. See Civic Party
Cultural Revolution 30, 87, 99, 115, 151, 153, 210; return to order and effective leadership after ~ 115
currency 98
exchange controls 84, 128; evasion of British ~ by HK 84
exchange rate 82, 128
independent HK ~ 6, 243; ~ established 99
markets, free 82
stability 98
Sterling Area 85; ~ breaking of 84, 99
supply of PRC’s ~ needs in Cold War 85
see also economy; fiscal autonomy

Dalai Lama 10
accused of: being behind insurgency 188; ~ selling out to Chinese 187
flight to India 18, 188, 200
government of. See Tibet: theocratic rule
interest in social reform 10, 186–7
Qing involvement in selection process 183
struggle to contain anti-Chinese hardliners 187
supreme authority of 183
see also Tibet; trust
decentralization
administrative 6, 147, 150; ~ due to size/complexity of provinces 146; ~ more than most federal systems 150
and authoritarianism 174
of central organs of CCP 149
coeexistence with centralization 146, 147, 149–50, 173
correlation with horizontal power. See governance: authority
economic. See Chinese economy fiscal. See governance: fiscal system
selective ~ by central government 166
see also centralization; federalism
defence
British demands for HK funding 65, 67; local discontent with ~ 125
garrison in HK 65, 67, 69, 125

307
NEGOTIATING AUTONOMY IN GREATER CHINA

democratic deficit. See governance (of HK): legitimacy of
democratic movement 22, 201
accused of siding with foreign powers
against China vii, 248
Chinese attitude to vii, 18, 22, 201,
252–3, 256, 258. See also PRC; trust
mass protests. See demonstrations and unrest
mistrust of Beijing 256
negotiation of political reforms. See
electoral system; negotiation; po-
plight of after 1997 254–5
popular support 264
reaction to Tiananmen Incident 19,
253. See also Tiananmen Incident
splits within 256, 257, 261–2, 265; ~
as Beijing’s aim 258
support for greater democracy in
PRC 19, 253, 259, 263; Chinese
response to ~ 19, 254. See also
Tiananmen Incident
see also Alliance for Universal Suffrage;
Civic Party; Democratic Party;
governance; League of Social
Democrats; political reforms
Democratic Party (DP)
engagement with Tsang administra-
tion 22, 258–9
leading position in democratic move-
ment 258
negotiates 2010 political reforms 257–
66 passim. See also negotiation
support for Chinese democracy move-
ment. See democratic movement
Democratic Progressive Party (DPP).
See Taiwan
democratic reforms. See political reforms
democratization. See governance
demonstrations and unrest 3
against “pressure from Beijing” 4
Communist-led ‘riots’ in 1967 11, 30,
87, 99, 111, 112, 114, 120
general absence of social discontent
and unrest 104
mass protest of 1 July 2003 3, 248, 254

Deng Xiaoping
economic reforms 100. See also China:
reform era; Chinese economy
liberal Tibet strategy 179, 184, 190
domestic affairs. See local affairs
DP. See Democratic Party
DPP (Democratic Progressive Party).
See Taiwan

East India Company 35
economic development
calls by London for ~ programmes 88,
89; ~ opposed by HK 91
funding 100; ~ via fiscal reform 89, 90,
94; ~ from reserves 97, 100; short-
age of ~ 97, 98, 100, 103
government responsibility for 89, 91,
96, 100
HK as outstanding model 81
impact of fiscal autonomy on 84. See
also fiscal autonomy
question of future of HK 115, 117,
120, 121. See also handover
unavailability of international loans
97. See also economy: capital
economic policies (of HK)
balanced budget. See budget
fiscal conservatism 83
free currency markets 82. See also cur-
rency
free trade 82, 83, 84
interventionism: push for 83, 100; ~
rejected by HK 100
laissez-faire approach 15, 82, 83; re-
fusal to abandon ~ 83
low taxation 82. See also taxation
pro-business 15, 83, 100
protectionism: push for 83; ~ rejected
by HK 98
rejection of Keynesian economics 88
economy, HK
autonomy of: after 1997 243–4; ~ in
colonial period 15, 50–1, 93, 94,
104, 130. See also fiscal autonomy
capital 91; availability of ~ 91, 97, 98,
100, 102. See also ~ external invest-
ment (below); business commu-
nity: concerns
INDEX

cross-border infrastructure/linkages vii, 16, 100
economic crises and recessions 35, 87, 95, 98, 225; banking ~ 98–9, 103. See also banks
effect of poor education on employment 101
as extension of Chinese (not UK) economy 85
external investment 91, 97. See also ~ capital (above)
fiscal freedom 15, 88, 93, 94, 104, 130
foreign trade. See international trade
government revenue 82. See also taxation
integration with Mainland 16, 17, 246
as international financial centre 85, 99, 100, 103
laissez-faire approach. See economic policies
making of HK’s capitalist society. See society
manufacturing 89; lack of cheap ~ sites 97; promotion of ~ 89; ~ relocation across border 100; state aid for ~ 100; textile ~ 84. See also Guangdong; Shenzhen
as open economy 85, 88, 117, 128
PRC support for vii, 234; ~ via preferential policies vii, 16; ~ negative effects 16, 17, 234. See also central government: use of central patronage
public debt, in postwar period 92, 93
public finances 3, 82, 93. See also public expenditure; taxation
reserves 99; ~ building up ~ 97, 98;
running down ~ 97–8; use of ~ for economic development 97, 100, 102, 103; ~ to defend financial system 98–9, 100, 103
strength and vitality of: after 1997 3; ~ in colonial period 8, 43, 47, 100, 110
sweated labour. See labour reforms
taxation/expenditure trade-off. See social reforms; tax reforms; taxation
see also autonomy; business; Chinese economy; economic development; economic policies
education 101, 103, 112, 113; ~ reforms 113; ~ and opposition to 101. See also social reforms
elections
1991 (Legco) 253
1995 (Legco) 253, 281
2004 (CE) 4
2007 (CE) 248, 249–50, 290
2008 (Legco) 248, 249–50, 290
2012 (CE) 4, 251, 255, 262
2012 (Legco) 251, 255, 290
2016 (Legco) 256, 260–1
2017 (CE) 251, 260–1, 290
2020 (Legco) 251, 260–1
of Chief Executives 21, 247–8, 279, 290–1. See also electoral system
for Legco 247–8; no ~ until 1985 42, 83, 85, 116; ~ limited franchise. See electoral system
influence/intervention by Beijing 4, 207, 248; public fury about 4. See also demonstrations and unrest
see also autonomy; democratic movement; electoral system
electoral system 145, 247–248
“de facto referendum” on 256–7, 260;
~ splits democratic movement 257
Election Committee (CE) 247, 254–5;
~ limited franchise 21, 247, 250, 254
extension of franchise 244, 247–8, 255–7, 260–2, 290; ~ controlled by Beijing 248. See also NPCSC
functional constituencies (Legco) 247, 250, 251, 254, 255, 257, 261; ~ limited franchise of 12, 247, 250, 251, 254; ~ proposed abolition 260; ~ wider franchise 260–2
geographical constituencies (Legco) 247; ~ election by universal suffrage 247
no voting rights until late colonial period 42, 83, 85, 116
number and proportion of Legco seats 254
procedure for changing 244, 247–50, 254, 289; ~ initiation controlled by Beijing 250–1. See also NPCSC
universal suffrage 12, 145, 250–262
passim; demands for ~ 145, 248;
promised in future 247, 248, 290
see also elections; governance: legitimacy crisis; political reforms
Executive Council 44, 59, 63, 69, 73, 75
after 1997 232
in colonial period 44, 47
membership of 47, 232; ~ by appointment 44; ~ “unofficials” 47
see also governance
Falun Gong 245; ~ presence in HK 19;
Chinese response to ~ 19, 245
FCO (Foreign and Commonwealth Office)
absorbs Colonial Office 29, 87. See also Colonial Office
attitude to HK 118, 124, 126, 129, 130. See also British colonial rule
closer involvement in HK affairs 127
own calculations and concerns 111, 118, 121
push for social and economic reform
88–104 passim, 111–3, 114, 121, 125, 127, 133–5, 138
resumes struggle for tax reform. See tax reforms
see also Britain: Foreign Office
federalism 173, 297
and continued HK autonomy 173
ideas of CCP 181; ~ abandoned 182
and “one country, two systems” 180–3.
See also “one country, two systems” vs unitary state. See China: as federal vs unitary state; PRC: as unitary state
see also autonomy; centralization;
decentralization; governance (of PRC)
Financial Secretary, HK 130
Cowperthwaite, Sir John 91, 95, 98, 99, 101
Haddon-Cave, Sir (Charles) Philip 128–31, 138
powers 100
fire(s) 73, 75
Kowloon Walled City 70
prevention 73, 74
risk of 69
~ safety
Shek Kip Mei 22, 56, 72–3, 76
fiscal autonomy, HK 92, 100
conceded by London 95; ~ more than envisaged 93
costs and benefits 84, 99, 100, 101, 103–104
enshrined in Basic law 104. see also Basic Law
on expenditure 84. See also public expenditure
necessary for China trade 85
opposition to FCO interference 88, 127
on revenue 84. See also economy: government revenue
on reserves 84. See also economy: reserves
right to impose tariffs 83. See also taxation
see also autonomy; economy: autonomy of; governance (of PRC)
Foreign and Commonwealth Office. See FCO
franchise. See electoral system
free trade. See economic policies
Fujian Province 157. See also provinces
“full democracy”. See electoral system; political reforms
Gansu Province 156, 187. See also provinces; Tibet
governance (of HK)
administration 36, 84–104 passim,
128, 137, 233–4; ~ staff 11, 12, 34,
36, 46, 49
bureaucratic inertia 22
Chief Secretary 11
colonial legacy 11, 94, 273–7; ~ checks and balances 232–3; ~ separation of powers 232. See also Colonial Service
co-option of Chinese business and professional elite 21, 83, 103: See also business elite
democratic reforms. See political reforms effectiveness 4, 9
INDEX
excluded from PRC’s hierarchical control 11. See also PRC: controls
executive branch 36, 232. See also
Chief Executive; Colonial Service; Executive Council
intervention by Beijing in 4, 207, 245, 247, 248, 265–6. See also NPC
leadership 21, 22. See also Chief Executives; Governors; HKSAR government; local leadership
gle system and judiciary. See
Common Law; courts; judiciary; law; legal system
legislature. See Legislative Council
legitimacy of 20, 256, 279; ~ crisis 255, 258, 259, 265; ~ and democratic deficit 21. See also electoral system
police. See police
political staff 11
power of NPC Standing Committee. See NPC
rule of law. See judiciary
Secretary for Justice 233, 261, 279, 280, 282. See also judicial autonomy
small government 33, 83, 117, 128. See also economic policies: laissez-faire approach; taxation: trade-off
sovereign power and. See British colonial rule; central government; sovereign power
and stability 3, 9, 110, 244, 288
unofficials. See unofficials
see also autonomy; British colonial rule; elections; HKSAR
governance (of PRC) 8, 19–20, 145–175 passim
accountability 148. See also ~ hierarchical nature (below); ~ structure (below)
administration 152, 163–74 passim
authoritarian nature 8, 19, 146, 148, 150, 173, 174, 199
authority and power 148; vertical and horizontal ~ 148. See also centralization; decentralization; ~ structure (below); provincial leadership
bargaining 146–7, 160, 162–8, 174. See also ~ patronage (below); reciprocity
cadres and officials 148; ~ staff cuts 149; transfer of 154–7. See also
CCP: organization and controls; provincial leaders
CCP, central role of. See CCP
central government. See central government
central–provincial/local relations 7, 9, 15, 17, 19, 23, 24, 145–75 passim,
179, 180. See also central government; periphery; provinces
centralizing vs decentralizing trends.
See centralization; decentralization
Chinese People’s Political Consultative Conference 163
coercion and force 13. See also PLA; police
as context for evolving PRC–HKSAR relationship 146, 173. See also central government
controls 11, 20, 148–9, 163
democratization 192; pace of ~ 145
fiscal system 146–147; centralization of ~ 157, 159–62; decentralization of ~ 157–9, 161. See also ~ tax sharing (below)
hierarchical nature 145, 148
insiders vs outsiders. See ~ localism vs centrism (below)
leadership. See ~ authority (above); provincial leadership
legitimacy of 160, 197
local autonomy 7, 10, 14, 16, 171, 174. See also “One Country, Two Systems”
local government 6, 13, 16, 146–50, 153, 157–9, 161, 164, 167, 169–71. See also ~ authority (above)
localism vs centrism 153–7. See also provincial leadership
as network of institutions, actors and mechanisms 145
National People’s Congress. See NPC
patronage 16, 162, 166; use of central ~ 16. See also reciprocity
preferential policies 147, 162, 165–6, 168, 173. See also ~ patronage (above); provinces: scramble for policy favours
provinces and. See periphery; provinces; provincial leadership
State Council 163, 168–9, 170, 209, 219, 220, 257
structure and establishment 146–52, 163; authoritarian nature of ~ 146; ~ unitary nature. See PRC
taxes 158, 160; ~ tax sharing 147, 159–61. See also ~ fiscal system (above)
trust, role of. See trust
Governors (of colony of HK) 38, 51, 46
appointment 11, 35, 42, 43, 49–50, 129
autonomy of 15, 56–8, 86–88, 111, 130. See also autonomy: in colonial period; British colonial rule
Bonham, Sir George 35
Bowring, Sir John 35
Caldecott, Sir Andrew 6
dealings with Colonial Office 6, 88, 91, 92, 138. See also Britain: Secretary of State; British colonial rule: colonial–metropolitan relations; Colonial Office
Davis, Sir John 35
ever experience 34–5; ~ in Colonial Office 12; ~ via transfers within Colonial Service 45, 46. See also Colonial Service: staff
Grantham. See Grantham, Sir Alexander
Hennessy, Sir John Pope 34, 35, 44, 45
importance of individual 77
Lugard, Lord Frederick 44, 46; ~ and ‘Lugard model’ 86. See also ~ autonomy (above)
MacLehose. See MacLehose, Lord Murray
Nathan, Sir Matthew 47
Northcote, Sir Geoffrey 90
Patten, Chris 137, 253
Pottinger, Sir Henry 35
powers and authority, 41, 42, 47, 124, 130; constraints on ~ 44, 47, 138. See also British colonial rule; Executive Council; Legislative Council
Robinson, Sir Hercules 44, 45
role and duties 34, 38, 43, 44–5, 124
Trench, Sir David 34, 87, 111–6 passim, 137
Wilson. See Wilson, David Clive
Young, Sir Mark 58–60, 77. See also housing
see also Britain; British colonial rule; British Empire; Chief Executives; Colonial Office; Colonial Service; governance
Grantham, Sir Alexander
conservatism 91, 95
expenditure policies 94–5
good reputation 55
and housing situation 55–77 passim;
unconcerned about 22, 65
lack of leadership 55–6, 63, 71, 74, 77
opposition to taxation, social and political reforms 6, 91
political astuteness 56, 72
see also Governors; housing
Guangdong Province
cooperation with HKSAR 235
economic growth 157; ~ and taxes 160–1. See also provinces: coastal vs interior
fiscal contract system 157. See also decentralization; governance: fiscal system
government restructuring 172. See also Shenzhen
leadership 153, 155–6
and Macao 215
move of HK manufacturing to 100, 102–103. See also economy: manufacturing; Shenzhen
relationship with central government 145. See also governance: central–provincial/local relations
see also Canton; Cantonese
Guizhou Province 168. See also provinces
Hall, Bishop R. O. 63–4. See also housing handover
building public confidence before 115–7, 121, 244, 253. See also MacLehose
life after vii, 8, 17
negotiations. See negotiation: of hand-over

Hainan Province 164, 171. See also provinces

heath services. See public health

Henan Province 153, 156. See also provinces

“High Autonomy”. See autonomy: “high degree of”; political reforms

HKSAR (Hong Kong Special Autonomous Region)
established 3, 275
government. See HKSAR government relations with PRC. See central government

as special autonomous region 145; ~ outside PRC administrative structure 5, 11, 145, 275. See also Basic Law; governance; HKSAR
terms 50, 252, 287; generous nature of ~ vii. See also Basic Law
see also autonomy; “One Country, Two Systems”

HKSAR government
dependence on Beijing 8, 208, 255
mediating/brokering role 243, 255
more restrictive on sensitive issues 245
not decision-maker in own right 243
not trustworthy protector of judicial autonomy 289
political authority weakened 266
weak/marginal role in 2010 negotiations 242. See negotiation: of political reforms
see also Chief Executive; Executive Council; governance; Legislative Council

Hong Kong

autonomy. See autonomy; HKSAR
as base: forward ~ 40; subversive ~ 18–19; ~ for political change in China 246
as British colony. See British colonial rule

Chinese presence in. See local affairs; elections
cross-border linkages vii, 4, 12, 16
economy. See economy
government. See governance
identity. See identity
Mainlanders in. See Mainlanders
media 248

politics and elections. See democratic movement; elections; political reforms

relations with China. See British colonial rule; relations; central government: relations with HKSAR
‘resumption’ of Chinese sovereignty vii, 14, 20, 207. See also takeover
right of abode. See judiciary: “right of abode” controversy
as special autonomous region. See HKSAR

society. See social reforms; society

squatter resettlement. See housing
see also China; civil society; democratic movement

Hong Kong Alliance in Support of the
Patriotic Democratic Movement in China. See China: democracy movement; democracy movement: support for greater democracy in China

housing 55–77 passim, 81

cheap or subsidized 62, 63, 70, 76
and community conflicts 113, 229
domestic fires and fire safety. See fires
government policy on 55–77 passim;
~ marked by caution and inaction
61, 62, 66, 67, 70, 73–5, 76; review of ~ 113
growing government expertise 75; international recognition of ~ 76, 77

incapacity of government 59, 71, 72

homesless and displaced residents 22, 56, 59, 70, 72, 73, 75

Housing Authority 66–67, 76. See also Urban Council

housing societies 63–64
land policies 59–60, 218
multi-story apartment blocks 73, 74, 75, 76; need for 63; ~ not houses 63
New Towns, development of 113
opposition to public solutions 60, 62;
~ from vested interests 59
overcrowding and shortages 58, 59,
69, 70; obstacles to resolving ~ 59–60
philanthropic initiatives 63–4
poor quality of 97, 113
provision by private sector 59, 61, 62,
63, 64, 66
public funding of 61, 66–7, 113, 137;
need for ~ 61; government reluctance 74; deliberate underfunding 102
Ten-Year Housing Program 113
wartime destruction 58–59
HSBC. See Hongkong and Shanghai
Banking Corporation
Hu Jintao 168, 259, 276. See also CCP:
General Secretary; "One Country,
Two Systems"
Hubei Province 156, 163, 164. See also
provinces
human rights
authoritarian threat to 8
freedom of expression 4
in China 248
popular support for 249
protection of 276–7, 284. See also
CFA; legal system: legal traditions
and values
Hunan Province 163–164. See also prov-
inces
identity 269
Chinese national 150, 228
Hong Kong vii, 233, 234; ~ Chinese
community 110, 116
local 110, 228; ~ in Macao. See Macao
provincial 150, 174
Tibetan 192
Tibetan 200
international trade
foreign trading partners 84
loss of China market after CCP vic-
tory 95
serving China’s needs 85; HK prosper-
ing from ~ 85
Japan 37, 40, 118
colonial rule in Korea 182; ~ Taiwan
181, 190–1. See also Taiwan
occupation of HK 41, 58, 68, 90;
destruction of housing during ~ 58–9, 60
Sino-Japanese War 90
World War II 38
Jardine, Matheson & Co 42, 44, 47. See
also business elite; British colonial
rule: merchants
Jiang Zeming 153, 156. See also CCP:
General Secretary; Shanghai
Jiangsu Province 157. See also provinces
Jiangxi Province 156, 181. See also prov-
inces
Joint Declaration 287
defines scope of autonomy 5–6, 207,
243, 244, 245, 252
signed 6, 243
see also Basic Law; handover; negotia-
tion: of handover
judicial autonomy 269–97 passim
in colonial period 273–5; ~ final adju-
dication with Privy Council 273–5
critical issue 272
greatest challenge to 296
judicial independence of courts. See
judiciary
jurisdiction 5, 278–283; ~ based on
territorial principle 270–1, 273,
279; extra-territorial ~ 270–1
legal disputes 271, 274, 278–9; resolu-
tion of ~ 271, 272, 279, 294–6
power of final interpretation. See CFA;
constitution
power of final adjudication. See courts
relies on Chinese self-restraint 296
right of judicial review 278–9, 281–3.
See also CFA
and sovereign state 269, 271, 273,
274–5. See also ~ jurisdiction
(above)
weakened 297; ~ by referrals to
NPCSC 291–2
see also CFA; constitution; courts;
judiciary; law; legal systems
judiciary (HK)
Beijing’s dissatisfaction with 233, 297 in colonial period 41. See also legal systems
Common Law liberties and traditions. See Common Law
few structural changes after handover 283
independence of 20–1, 145, 233–4, 270, 272, 277–8, 283, 289
interference by Beijing and HKSAR government 277, 278, 296
law courts. See courts
(non)cooperation with executive branch 232
“right of abode” controversy 21, 207, 232–3, 281–8 passim. See also HK: Mainlanders
rule of law. See law
see also CFA; constitution; courts; judicial autonomy; law; legal systems
June 4 Incident. See Tiananmen Incident

KMT (Kuomintang/Guomindang) activities in Southeast Asia 37
HK relations with 6
in Macao 210, 211
retreat/rule in Taiwan. See Taiwan struggle with CCP 181. See also Chinese civil war
Kowloon
railway to Canton 45–56
squatters in 68
Walled City 68–9, 70

labour reforms, in colonial period
British push for 18, 85, 96, 118
child labour 96, 101; prohibition of 18, 122, 123
criticism of sweated labour 96
demands for 96
introduction after 1967 riots 87
labour rights 18
minimum wage 18
objectives 122
paid leave 122, 123
redundancy payments 122

sickness and unemployment benefits. See social security
statutory hours of work 18, 122
work safety 122, 123
see also economy; social reforms

law
Basic. See Basic Law
Beijing’s perception of role 21 common. See Common Law
constitutional. See constitution
courts. See courts
customary 278
rule of 20, 233, 249, 270, 271, 283

leadership
in HK. See local leadership
in PRC. See governance: dual authority; provincial leadership
League of Social Democrats (LSD) 256, 257, 260, 262. See also democratic movement

legal system
Chinese 220, 275–6; differences between HK and ~ 21, 275–7; ~ interpretative power of NPCSC as institutional link 286
Common Law liberties and tradition. See Common Law
continuation of HK’s old ~ after 1997 275, 278. See also Basic Law
legal traditions and values 272; shared vs different 272, 275, 276
separation of ~s 283; ~ and intersection between 285
shared ~ between HK and British 273–5

Legco. See Legislative Council

Legislative Council
after 1997 12, 247, 277
Chinese influence on 296
in colonial period 44, 47–8, 59–62 passim
elections and franchise. See elections; electoral system
Finance Committee 47, 57. See also public expenditure
membership of 44, 281; ~ “unofficials” 44, 47–8, 60
(non)cooperation with executive branch 232
temporary replacement by Provisional Legislative Council 281–3; ~ constitutionality challenged 281–2. See also judiciary: “right of abode” controversy
see also governance
Leung Chun Ying. See Chief Executives
Liaoning Province 153, 164. See also provinces
local affairs (in HK)
Beijing’s initial self-restraint 4, 296; ~ change after 2003 4
British involvement vii–viii, 138. See also British colonial rule
strong PRC presence in vii, 4, 207, 210, 245, 247, 248
see also elections; electoral system; governance
local elections. See elections
local government. See governance
local leadership (in HK)
capability of 21; ~ as factor shaping HK autonomy 9
as consensus-builders 21, 56
need for 58
of present-day HK. See Chief Executive; HKSAR government
vs bureaucratic inertia 22
see also Chief Executives; governance; Governors
LSD. See League of Social Democrats
Macao
autonomy of 208; “high degree” of ~ 208–10; limited ~ 208, 210; ~ not independence 209
central government 209, 232; relations with ~ 208, 236; ~ as elite interplay/conflicts 232, 236
Chief Executive 212, 229, 230; election of ~ 209, 211, 212, 218, 222; law-making and ~ 217, 219–0
civil society 223, 235, 237; ~ heritage protests 231–2; weak ~ 208, 222, 223, 232, 236, 237
economic growth 228; favourable PRC policies for ~ 225, 226; ~ land issues 230
executive 211, 232; cooperative ~ 208, 221; strong ~ 209, 232, 236
gaming industry 226–9; ~ and gangsters 226, 235
handover 211; ~ Portuguese displaced 211
judiciary 209; cooperative ~ 208, 219–21, 232, 236
legislature 213; cooperative ~ 208, 216–8, 220, 232, 236; elections/membership of ~ 212–3, 222; ~ pro-Beijing majority 212
local administration: competence/Portuguese legacy 215; Mainlanders in ~ 215–6
local identity 228–229; ~ diluted by Mainlanders 228–9; strengthening ~ 235, 237; weak ~ 229, 232, 236
Mainlander officials 232; ~ part of ruling coalition 210, 213; ~ recruitment 213–215
mass media, uncritical 223
“One Country, Two Systems” 209–237 passim
opposition 212, 237; electoral system works against ~ 212–3; weak ~ 208, 222, 223, 232, 236, 237
police and public order 215, 226, 235;
~ Mainland support 208, 215
Portuguese rule 210, 211, 235; ~ discrimination against Chinese 210; local dissatisfaction with ~ 228; ~ sovereignty conceded to PRC 211
pro-Beijing forces 210–1; ~ alliance of local elite and Mainlander officials 210, 213; challenges to ~ 235; ~ dominance 208, 211–2, 232
public: attitude to autonomy/integration with PRC 208, 213, 224–9, 236; ~ discontent 218, 223, 229, 231; ~ limited challenge to authority 208, 223
tourism 225; ~ visitors from HK and Mainland 226, 227
MacDougall, David 60–3, 69, 77. See also housing
INDEX

MacLehose, Lord Murray
concern with public confidence 115–7. See also handover
defence of fiscal autonomy 127–30. See also fiscal autonomy
defends laissez-faire order in HK 117
governorship seen as golden age 110, 113, 137
policy achievements 113, 137. See also corruption; education; housing; public health; ~ social reforms (below)
preparing for 1997 115–117, 121. See also handover; negotiation
relations with London 18, 97, 111, 118–20, 124–38 passim
social reforms 101, 110–138 passim; reluctance to implement 18, 111, 122, 125–6, 132–6. See also social reforms
see also Governors; labour reforms; tax reforms
Mainlanders
capital inflows 234
and HK real estate prices 234
in Macao: migrants 228–9; ~ officials 213, 215–6, 232; ~ in ruling elite 210, 213; ~ visitors 226, 227, 229
resident in HK 112, 137, 233, 281–4; ~ children of ~ in HK 233–4, 281–4; ~ and right of abode. See judiciary: “right of abode” controversy in Taiwan 197, 198; ~ part of ruling elite 197, 200
as threat to identity: in HK 234; ~ in Macao 228, 235
visitors to HK 226, 229, 234; local hostility to 234
see also population; society
Malaysia 97. See also Chinese community: links with diaspora
Mao Zedong 181
initial moderation on Tibet 10, 185, 186, 188
overtures to KMT 194
struggle to contain leftists 187
see also CCP; PRC
mass protests. See demonstrations and unrest

National People’s Congress. See NPC negotiation
of autonomy viii, 23. See also autonomy bargaining 246, 252, 253, 255; imbalance in ~ power 246–7, 265
between democrats and HKSAR government 255, 264
direct ~ between Beijing and democrats 22, 242, 255, 257, 264–5; no formal channels for ~ 253, 255, 263, 266. See also ~ political reforms (below)
future ~ 266, 267; ~ likely Beijing has main role 242
of handover 50, 84, 116, 117, 120–121, 253; HK (non)involvement ~ 84, 262; preparing for ~ 117, 121; start of ~ 84. See also handover; Joint Declaration
importance of trust 9. See also trust of political reforms in 2010 242–3, 251–266 passim; legitimacy of ~ 266; popular response to ~ 263, 265, 266; secret nature ~ 262, 266; weak/marginal role of HK government in ~ 242
trade/economic 84, 243
nomenclature system. See CCP: organization and controls; governance: controls
NPC (National People’s Congress) 163, 165, 168, 211, 230, 233, 283
legislative acts 281; ~ subject to judicial review 233, 282–3
constitutional powers of 244, 247, 281; ~ confirmed by CFA 283. See also Basic Law
standing committee. See NPCSC see also central government; NPCSC; political reforms
NPCSC (NPC Standing Committee) 261
legislative acts 281; ~ subject to judicial review 233, 282–3
interpretations by 207, 208, 249–50, 290, 291, 294; ~ override CFA decisions 284–5; requirement to seek ~ 220, 286–92 passim
and judicial conflict resolution 294–6

317
“one country” considerations of 288 political, not judicial organ 286, 291 powers and authority of 233, 244, 281, 286–92; ~ to interpret Basic Law 284–9 passim; ~ not questioned by CFA 233, 283; prepared to exercise ~ 286 referrals to 289, 291–94; damaging to judicial autonomy 291–2; ~ required 220, 286–92 passim. See also CFA: power of final interpretation resolutions by 247, 249–51, 254, 255, 260–1 ultimate say on democratic changes in HK 244, 248, 249–50, 264–5 see also central government; CFA; NPC; judicial autonomy; political reforms

“One Country, Two Systems” 4, 7, 253, 275, 288 balance needed between 180, 297 danger of weakened PRC confidence in 15 failure in Taiwan and Tibet 180, 182–3, 189, 198, 199, 201; lessons for HK from ~ 201. See also Taiwan; Tibet future and viability of 200, 201, 262 as “high autonomy” 244; ~ high economic autonomy 243–4; ~ but low political autonomy 244. See also autonomy; economy: autonomy; fiscal autonomy; political reforms initial success and popularity in HK 4, 201; ~ but later problems 207 in Macao. See Macao necessity of unitary state 248, 276, 288. See also PRC: as unitary state no conflict resolution mechanism 295 origin of doctrine 10, 179–80, 182, 189 practice of. See autonomy; HKSAR as separation of systems 243, 275, 276, 282 similarities with colonial experience 7; ~ but fundamental differences 8 in Taiwan. See Taiwan threat to posed by centralization 173; ~ and homogenization 201. See also centralization in Tibet. See Tibet see also Basic Law; Joint Declaration patronage. See governance (of PRC) Peking. See Beijing People’s Liberation Army. See PLA People’s Republic of China. See PRC periphery allegiance to centre 179 interaction with centre 7, 9, 15, 17, 19, 23, 24, 180 loss of control over 18 trust between ~ and centre 13. See also trust see also autonomy; central government; governance; provinces PLA (People’s Liberation Army) 184, 187, 188, 226. See also Macao; Tibet police 34, 68, 71, 113. See also corruption; governance political allegiance vii attitudes 249 campaigning. See elections dissent 3. See also demonstrations and unrest localism 153–7. See also governance; provincial leaders reforms. See political reforms sovereignty. vii, 248, 257. See also “One Country, Two Systems”; sovereign power stability 110, 244, 288 system. See governance political reforms in colonial period: proposed by London 90, 118; ~ opposed by Grantham 6, 91; postwar exemption from ~ 94 growing demands for 289 initial support by Beijing 201 negotiations for ~ in 2010. See negotiation NPCSC has ultimate say on 248, 264–265. See also Basic Law; NPCSC
pace of 254; reservations of Beijing on 248
promises during handover 201, 247
splits over. See democratic movement
time frame for 251
see also democratic movement; elections;
estor system; governance
population
housing of. See housing
immigrants 92, 95; ~ from Mainland 112, 137, 233, 281–4, ~ illegal 137; ~ from other countries 137. See also Mainlanders
mainly migrant background 91, 95; seen as transients 92, 95. See also Chinese community; society
post-war increase 59, 137
refugees. See refugees
squatters. See squatters
youthfulness 116
PRC (People’s Republic of China)
adминистiative system. See governance
(of PRC)
attitude to British colonial rule vii, 14, 120, 190. See also China: territorial claims; Sino-British relations
authoritarian character 8, 19, 146, 148, 150, 173, 174, 199; ~ potential conflict with HK liberties 8
collectivization of land 185–7; ~ and famine 189; ~ in Tibet 186, 189, 190, 200
concern with national dignity/humiliation vii, 120
constitutional system 14, 148, 209, 244, 281, 286, 288. See also legal system: Chinese
established 67, 148
legal system. See legal system: Chinese
national security measures 207, 208, 218, 254
negotiations with Britain on handover. See negotiation
relations with Britain. See Sino-British relations
respect for HK autonomy vii
‘resumption’ of sovereignty over HK vii, 14, 20, 207. See also takeover
as unitary state 6, 11, 20, 148, 171, 179, 244, 247, 276; ~ despite ethnocultural heterogeneity 179
see also CCP; China; central government; Cultural Revolution; governance (of PRC); governance (of PRC)
protests. See demonstrations and unrest
provinces
autonomy 146, 147, 163, 166, 171, 173, 174; ~ within central control 147, 163. See also autonomy;
decentralization; Macao, Taiwan; Tibet; Xinjiang
coastal vs interior 160, 161, 162, 165–166
fiscal independence. See governance: fiscal system
pursuit of own interests 6–7, 9, 20
representation on CCP Central Committee 151; less ~ for Tibet and Xinjiang 151
leadership. See provincial leadership place in political/administrative system 11, 145–75 passim. See also governance (of PRC)
relations with centre. See governance
rich vs poor 160, 162
size and complexity 146, 152; decentralization due to ~ 146. See also decentralization
scramble for policy favours from centre 16, 162, 165–6, 168, 173
see also centralization; Macao; periphery; Guangdong; Shanghai; Taiwan; Tibet; Xinjiang
provincial leadership 160
as agents of central government 9, 149–50. See also ~ dual role (below)
background 146, 152–7, 174–5; ~ as insiders or outsiders 147
capability of 21
as consensus-builders 21
defence of local interests 6–7
dual role 148–57 passim; ~ conflicts between 150, 151; ~ divided loyalties 9
elites 10, 154. See also Tibet
governors 153. See also governance: localism vs centrism
insiders vs outsiders. See governance: localism vs centrism; Jiang Zeming; Xi Jinping
in national roles 12, 150–1, 174–5. See also CCP
Party secretaries 147, 149, 150, 153–6 passim, 165, 168. See also governance: localism vs centrism
representing provincial interests 9, 149–50. See also ~ dual role (above)
tenure 154–155
transfers and promotion 146, 154–7, 174
see also provinces
public expenditure
after 1997 3, 159
in colonial period 15, 44, 57, 81, 92, 94, 95, 128–9, 130, 132
kept low. See taxation: trade-off
role of Finance Committee 57. See also Legislative Council
see also economy; governance
public health 41, 44, 113
costs 73
risks and threats 68; squatters as ~ 69, 71
squatters and 69, 71, 73
Qing Empire
British and 31, 32, 39, 183
expansion 180, 190; ~ basis of Chinese territorial claims 181. See also Taiwan; Tibet; Xinjiang
fall 181, 192
multi-ethnic/cultural 179, 180
indirect rule of periphery. See also Taiwan; Tibet; Xinjiang
transformation into PRC 179
Qinghai Province 187. See also provinces; Tibet
reciprocity 13–6, 19, 151, 152; ~ as factor shaping HK autonomy 9. See also governance (of PRC): bargaining; provinces: scramble for policy favours
refugees
Chinese: from civil war 70, 88; ~ from Sino-Japanese war 90; ~ should return to Mainland 69, 70
from Vietnam 137
rule of law. See judiciary
Shanghai 160, 168, 171
in colonial period 32, 37. See also British Empire: treaty ports
economic zones 163, 165
municipal government 145, 153; localism in ~ 153–6
relationship with central government 145. See also governance: central–provincial/local relations
see also central government; centralization; decentralization; governance (of PRC); provinces
Shanxi Province 150. See also identity; provinces
Shenzhen 163, 172. See also Chinese economy: economic zones; economy: manufacturing; Guangdong
Sichuan Province 164, 167, 187. See also Chengdu; Chongqing; provinces; Tibet
Singapore 97, 98, 102. See also Chinese community: links with diaspora
Sino-British relations
1842 Nanjing Treaty 31, 39. See also British colonial rule: Crown Colony
1967 crisis 11, 30, 50. See also British colonial rule; Cultural Revolution
Anglo-Chinese conflict (First Opium War) 31
Chinese attitude to British colonial rule vii, 14, 120, 190
direct relations between HK and China. See British colonial rule
issue of return of HK 115–7, 121; ~ not discussed in wartime 38; ~ PRC in no hurry 120
negotiations on handover. See handover; negotiation
Sino-British Friendship Treaty 38 see also Britain; British Empire; China; PRC
social reforms, in colonial period
British push for 16, 85, 96, 111–38
*passim*; ~ close involvement of
FCO 127. *See also* FCO
creation of new social order in HK 113
debate on scope 126
influence of 1966–67 riots 111; ~
other factors 112–3
opposition to: by HK government 88,
91, 96, 122–3; ~ by business com-
munity 101
pace of 121–3, 125–6, 130–6 *passim*
postponed for decades 101, 103
purpose 121. *See also* FCO: own cal-
culations and concerns
*see also* economy; MacLehose; social
security; social services; society
social security
eligibility 125
limited due to low-tax trade-off. *See*
taxation: trade-off
moves to increase: by FCO 16; ~ by
MacLehose 101; opposition to ~
101; ~ to “welfarism” 88
old-age pensions 123
public assistance scheme 123, 124, 135
retirement benefits 102, 122, 123–4;
opposition to introduction of ~
101–2
sickness benefits 122, 123, 133
social insurance 101, 102, 132–7; oppo-
sition to ~ 101, 130, 132–6
unemployment benefits 122, 123, 133
welfare payments 102, 122, 123, 133. *See*
also society: welfare recipients
*see also* social reforms; social services;
society
social services
expansion 110; ~ opposed by HK 92
review of 112, 123
size restricted 83, 117, 128. *See also*
taxation: trade-off
spending on 94, 103; deliberate under-
~ 102; ~ vs funding for moderniza-
tion 89
society, HK
Chinese community 83, 91. *See also*
Chinese community
elite groups 116; business ~ 83, 90, 97,
201; professional ~ 83, 97; PRC
alliance with ~ 201; representation
of ~ on Legislative Council 247.
*See also* business community; busi-
ness elite; electoral system
impact of fiscal autonomy on 84. *See*
also fiscal autonomy
making of HK’s capitalist ~ 81–104
*passim*; importance of fiscal au-
tonomy in ~ 100. *See also* eco-
omy: laissez-faire approach; fiscal
autonomy
migrant background. *See* population
poverty in 95
rapid change in 1960s 111–2
reforms. *See* social reforms
social discontent and unrest 104. *See*
also demonstrations and unrest
welfare recipients 101
*see also* population; social reforms;
social security; social services;
society
Southeast Asia
activities of KMT in 37. *See also* KMT
Chinese communities in 34, 37, 46
economic development in 97; incen-
tives for ~ 97, 98
links with: official 32, 37, 38; ~ by HK
Chinese 34
*see also* Malaysia; Singapore; Vietnam
sovereign power
agenda/strategic concerns of 121; ~
as factor shaping HK autonomy
9, 138
defining feature of relationship with
viii. *See also* autonomy
deals on 9. *See also* governance
*see also* Britain; China; PRC
Special Autonomous Region, HK. *See*
HKSAR
squatters 56
clearances 68, 69, 73; ~ followed by
rebuilding 73
creation approved and tolerated areas
69, 70, 71
as health threat 69, 71
no policy to deal with 69
refugees. See refugees resettlement policy 68–72; ~ initial failure and revision 22, 56, 70, 73, 76; permanent ~ 72, 73, 75
as security threat 69
stability. See governance suffrage. See elections; electoral system
Taiwan
Beijing’s efforts for reunification 10; ~ initial reformist, anti-KMT strategy 195–6, 200; ~ replaced by anti-separatist alliance with KMT 196–8, 200; ~ present-day emphasis on economic/cultural links 199; ~ and preventing independence declaration 199
democratic elections 198; ~ DPP victories 198; ~ KMT return to power 198
democratic movement 10, 191;
Beijing’s courting then distrust of ~ 18, 195–7, 199; ~ collusion with separatists 191; ~ opposition to KMT 191–4; ~ focus on democratization not Taiwan’s status 192; early support for PRC ~ 10, 196; end of support ~ 18, 198; ~ factional split 193, 194. See also ~ DPP (below)
DPP 192; ~ formation 196; factions within ~ 194, 196–7; ~ initial emphasis on democracy not Taiwan’s status 196; electoral victory 198; ~ and defeat 198
elite 180, 181, 191; ruling KMT/ Mainlander ~ 182, 195, 196, 199, 200; nativist ~ 192
independence 191–199 passim;
Chinese fears of ~ 18; popular support for ~ 198–9. See also separatist movement (below)
Japanese colonial rule 181, 190–1; opposition to ~ 191
KMT regime 181, 191, 194, 197; authoritarian rule 191, 192, 195, 196, 199, 200; Chinese nationalism of ~ 191, 193, 198; suppression of dissent 191, 193; ~ and strengthening of separatist opposition 193. See also KMT
nativist Chinese 190, 192, 197; migration to Taiwan 190; ~ own culture 190; ~ resentment of KMT/Mainlander rule 191; separatism among ~ 193; ~ reformers take over KMT 198
Qing conquest 180, 190; ~ indirect rule 181, 190. See also Qing Empire
return of Chinese sovereignty under KMT 191
separatist movement 10, 18, 194; ~ nativist roots 194; early struggle against KMT 191; initial moderation of ~ 192–3; later hard-line position 192, 197; ~ as New Trend faction in DPP 194, 196; rise to dominance in DPP 197
unificationist movement 193–4, 195; ~ nativist roots 193; ~ as Formosa faction in DPP 196, 197
see also central government; “One Country, Two Systems”
tax reforms
business attitude. See business community
to fund social reforms 89, 90, 129
linked to economic and social progress 89
opposition to by HK 91–3, 96, 103, 131
push for by London 18, 88–93, 95, 96, 131; ~ failure of 91–3, 96, 128
seen as inevitable 90
use to support economic development 89, 90
taxation 82, 243
contribution to government revenues 82
incentives, lack of ~ 97
income tax 82, 90, 95
increases 92; ~ necessary if more welfare 83
rate 82, 131; low ~ 82; increases in ~ 131. See also economic policies reform. See tax reforms sales taxes, no 82
tariffs and duties 82, 83. See also fiscal autonomy trade-off with public expenditure 15–6, 83, 97, 100, 104; impact of ~ on modern HK 101. See also public expenditure; social reforms see also economy: public finances TCP. See Tibetan Communist Party Tiananmen Incident 149, 199, 253; ~ reaction to in HK 19, 253, 259; ~ and Chinese response 19, 252, 254. See also China: democracy movement; democratic movement Tianjin Municipality 160, 163, 165, 168. See also provinces Tibet 17-Point Agreement 10, 180, 184–5, 187; ~ and 1951 ‘liberation’ 184; ~ diverging conceptions of “Tibet” in 187; similarity of ~ to Basic Law 180 anti-Chinese forces 187–188; ~ armed rebellion 187–8; ~ crushed by PLA 18, 188 autonomy of 10, 14; lesser degree of ~ than HK 14 Beijing’s efforts for reunification 10; ~ initial reformist strategy 10, 184–6; ~ replaced by radical homogenization 10, 185, 187–90 elite 181, 183, 188, 200; ~ support for CCP strategy 10, 186–7; splits in ~ 186, 187. See also trust Han-Chinese control 189; ~ migration to 189 incorporation in Qing Empire 180; ~ indirect rule 181, 183. See also Qing Empire as inseparable part of Chinese territory 14 land reforms. See PRC: collectivization of land modernization and social reform 183–187 passim. See also Dalai Lama; Tibetan Communist Party “One Country, Two Systems” policy in 179–80, 182–3, 189–90, 196, 199–201; failure of ~ 180, 182–3, 189, 199, 201 religious institutions and life 183, 185; Qing support for ~ 183; destruction of ~ by PRC 189, 200; ~ local response 150, 200 representation on CCP Central Committee 151 Republican period: British domination 181, 184; de facto independence in ~ 183 theocratic rule 179, 182, 183, 188 social reforms 10, 184, 186–7. See also Tibetan Communist Party see also central government; Dalai Lama; Mao Zedong; “One Country, Two Systems” Tibetan Communist Party 18, 184, 186, 188. See also Tibet trade. See international trade trust 9–13 basis of negotiation 9, 10. See also negotiation between elites 10. See also Taiwan; Tibet breaking of 10, 188 as factor shaping HK autonomy 9; ~ legal basis needed 269 in local leadership by Beijing 13; lack of ~ 13; ~ undermined 12 lack of ~ between Beijing and HK democrats 22, 201, 256, 258; need for ~ 256. See also central government; democratic movement strengthened by socialization/net-working 11–12 Tsang, Donald 250 and 2010 negotiations over political reform 258–9, 261, 264. See also negotiation; political reforms appointed Chief Executive 11 earlier colonial service 11 engagement with democratic opposition 22, 258–9 failed reform of political system 22
Tung Chee Hwa
administration 3; bad governance of 
~ 254
protests during period of 3, 4, 254. See 
also demonstrations and unrest 
resignation 9, 290

universal suffrage. See electoral system; 
political reforms 
unofficials 47, 57
appointed and unrepresentative 57
constitutional role 57. See also consti-
tution
members of Legislative and Urban 
Councils 57, 73
policy-making by 57
power and influence of 57, 73–4
see also Clague, Douglas
Urban Council
constitution as Housing Authority 66
Emergency Resettlement Sub-
Committee 73
involvement in squatter resettlement 
72, 75
takes leadership on housing reform 
73–5. See also Clague, Douglas
Select Committee on Resettlement 
71–2; ~ not accountable to 
Council 72

Vietnam 137. See also refugees
voting rights. See electoral system

welfare payments. See social welfare 
welfare state 89, 94. See also social wel-
fare

Wen Jiabao 81, 165, 169
Whitehall. See Britain
Wilson, David Clive
governorship 29, 50
view of HK–London relationship 
29–30, 50–1
see also Governors
Wilson, Harold 96. See also Britain
Wuhan 164, 166–8. See also Chinese econ-
omy: economic zones; provinces:
scramble for policy favours; Hubei

Xi Jinping 153, 156, 297. See also CCP: 
General Secretary

Xinjiang
British Indian consulate in 37
incorporation in Qing Empire 180;
~ indirect rule 181. See also Qing 
Empire
representation on CCP Central Com-
mittee 151
religious and ethnic issues 150
see also central government; centraliza-
tion; China; “One Country, Two 
Systems”

Yunnan Province 167. See also provinces

Zhao Ziyang 151–2. See also CCP: Gen-
eral Secretary

Zhejiang Province 156, 160–1. See also 
provinces

Zhou Enlai 186. See also governance: 
Premiership; Tibet

Zhu Rongji 81, 153. See also Shanghai