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THESIS

**HIGH DEGREE OF AUTONOMY: THE REVERSION OF
HONG KONG TO CHINESE SOVEREIGNTY**

by

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September 1998

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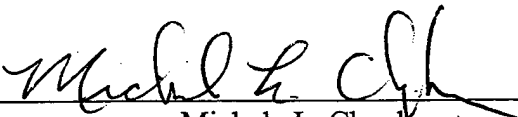
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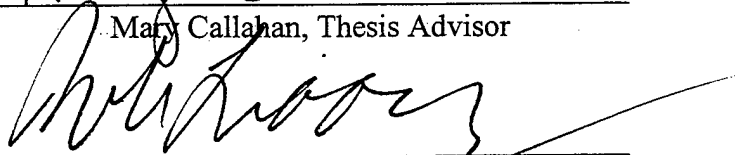
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ABSTRACT

At midnight on June 30, 1997, the British colony of Hong Kong reverted to Chinese sovereignty and it became a Special Administrative Region (SAR) of the People's Republic of China. The Sino-British Joint Declaration on the Question of Hong Kong calls for maintaining Hong Kong's lifestyle and "high degree of autonomy" for fifty years after its transition to the Hong Kong SAR. The primary research question that this thesis will attempt to answer is: How has the concept of "high degree of autonomy" been operationalized since its inception in the "Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong"? This thesis argues that during the period of time from the signing of the Joint Declaration to the actual reversion to Chinese sovereignty the negotiations over the concept of Hong Kong's "high degree of autonomy" established the framework for the post-reversion way of life in Hong Kong. This thesis looks at this issue in three areas - the political arena, the security environment, and the economy. This thesis also examines the situation in Hong Kong one year after reversion and answers the question, "Has China lived up to its promises in these three realms of autonomy?"

This period marks the start of a new political and economic experiment for China. China is attempting to regain the sovereignty of Hong Kong peacefully without disrupting its economic, social, and political systems under the framework of the Joint Declaration. The reversion of Hong Kong to Chinese sovereignty will be a test of China's "one country, two systems" concept.

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EXECUTIVE SUMMARY

At midnight on June 30, 1997, Hong Kong reverted to Chinese sovereignty. The territory's 155-year history of British colonial rule ceased and it became a Special Administrative Region (SAR) of the People's Republic of China. China refused to renew Britain's 99-year lease of the New Territories which expired in 1997. Negotiations between the British and Chinese, which began in 1982, led to Britain ceding all of the colony, not just the New Territories, to China under the condition that Hong Kong would become a Special Administrative Region of the PRC and as such would maintain its current way of life after the reversion of sovereignty. The Sino-British Joint Declaration on the Question of Hong Kong, signed in 1984, calls for maintaining Hong Kong's lifestyle and "high degree of autonomy" for fifty years after its transition to the Hong Kong Special Administrative Region.

The primary research question that this thesis will attempt to answer is: How has the concept of "high degree of autonomy" been operationalized since its inception in the "Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong"?

I hypothesize that both the British (Hong Kong) government and the Chinese government had different interpretations of the concept of Hong Kong's "high degree of autonomy." The Joint Declaration is purposefully vague in its definition of this concept. Events which have taken place over the past thirteen years show how each side interpreted and politicized the notion of autonomy in Hong Kong. Not surprisingly, each

side attempted to operationalize the concept to their own favor. The British colonial government attempted to carve out greater autonomy for Hong Kong before the reversion took place, and the government of the People's Republic of China (PRC) attempted to limit that autonomy in order to have greater control from Beijing. This thesis argues that during the period of time from the signing of the Joint Declaration to the actual reversion to Chinese sovereignty the negotiations over the concept of Hong Kong's "high degree of autonomy" established the framework for the post-reversion way of life in Hong Kong.

This thesis looks at this issue in three areas - the political arena, the security environment, and the economy. I assess the indicators of impending change in these three realms based on the study of the actions of both sides since the Joint Declaration was signed.

Through democratic reforms, which took place in the Hong Kong government from 1984 to just prior to reversion, Hong Kong in effect transferred some political power from the British colonial government to the people of Hong Kong. The government of the PRC reacted negatively to these changes and revised the entire political system after reversion. This thesis argues that it is unlikely that Hong Kong will maintain a "high degree of autonomy" in the political arena in the coming years.

This thesis then discusses the role of British troops and the Hong Kong police in security issues prior to reversion and how their roles and missions changed since 1984. This affects the role of the People's Liberation Army of the PRC in post-reversion Hong Kong. According to the Joint Declaration and the Basic Law, the PLA is not to take a role in internal security of Hong Kong. In this case, the local Hong Kong government has managed to limit Beijing's control. There is, however, a clause in the Basic Law of

the Hong Kong SAR which allows the PLA to gain control of internal affairs in the event of "turmoil" which "endangers national unity or security." This thesis argues that this clause may be used by the PRC to limit Hong Kong's autonomy in the security arena by allowing the PLA to take control of internal security.

In the realm of the economy I will suggest that the PRC will not try to infringe upon too many central controls because it is in China's best interest for Hong Kong to maintain its current economic success. China promised to preserve Hong Kong's dynamic capitalist system. As Hong Kong's largest investor China has much to lose if Beijing infringes upon this autonomy.

Finally, this thesis examines the situation in Hong Kong one year after reversion and answers the question, "Has China lived up to its promises in these three realms of autonomy?"

As we prepare to enter the 21st Century, the Asia-Pacific region occupies a prominent place in U. S. policy and strategy. The current steps toward improvement in relations between China and the United States are dependent upon stability in the region. The reversion of Hong Kong to Chinese sovereignty will be a test of China's "one country, two systems" concept.

I. INTRODUCTION

At midnight on June 30, 1997, Hong Kong reverted to Chinese sovereignty. The territory's 155-year history of British colonial rule ceased and it became a Special Administrative Region (SAR) of the People's Republic of China.

It was widely held that there would be minimal changes in the Hong Kong system after reversion. After all, the Sino-British Joint Declaration on the Question of Hong Kong, signed in 1984, called for maintaining Hong Kong's lifestyle and "high degree of autonomy" for fifty years after its transition to the Hong Kong Special Administrative Region.¹ Newspapers and magazines from all over the world reported China's promises to the people of Hong Kong regarding their future autonomy.

The primary research question that this thesis will attempt to answer is: How was the concept of "high degree of autonomy" operationalized since its inception in the "Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong?" I hypothesize that in the years leading up to reversion both the British (Hong Kong) government and the Chinese government had different interpretations of the concept of Hong Kong's "high degree of autonomy." The 1984 Joint Declaration was purposefully vague in its definition of this concept. Events which have taken place over the past thirteen years show how each side has interpreted and politicized the notion of

¹ "Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong," [<http://www.hongkong.org>], October 5, 1996. Subsequent references to this document will be abbreviated to "Joint Declaration".

autonomy in Hong Kong. Each side attempted to operationalize the concept to their own favor. The British-backed government of Hong Kong attempted to carve out greater autonomy as the reversion approached, and the government of the People's Republic of China (PRC) attempted to limit that autonomy in order to have greater control from Beijing.

This thesis argues that during the period of time from the inception of the Joint Declaration to the actual reversion to Chinese sovereignty, the negotiations and give-and-take over the concept of high degree of autonomy established the framework for the post-reversion way of life in Hong Kong. The events which took place during this period of time reveal the way that autonomy might be compromised or upheld by Mainlanders in the years after the handover and in which areas.

The Joint Declaration was signed on December 19, 1984. This document laid the foundation for the reversion of Hong Kong to Chinese sovereignty on July 1, 1997. The Joint Declaration established that the Hong Kong Special Administrative Region (SAR) of the PRC, the new name for the territory, would maintain Hong Kong's current high degree of autonomy and lifestyle for fifty years after the reversion. In accordance with the Joint Declaration, the Basic Law of the Hong Kong SAR, promulgated by the National People's Congress of the Chinese Communist Party in 1990, stipulated the basic policies of the PRC.² The Basic Law went into effect on July 1, 1997, and is to remain unchanged for fifty years. It provides the fundamental governing framework for

²"The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China Adopted by the Seventh National People's Congress at its Third Session on 4 April 1990," [<http://www.cityu.edu.hk/BasicLaw>], October 5, 1996. Subsequent references to this document will be abbreviated to "Basic Law."

implementing the "one country, two systems" principle in Hong Kong which is consistent with China's commitments in the Joint Declaration.

In the thirteen years since the signing of the Joint Declaration, both Hong Kong and China prepared for the reversion. Both the Chinese and the Hong Kong sides have changed the playing field, each attempting to carve out greater control as the transition approached. Both the local government of Hong Kong and the government of the PRC have pushed the boundaries of what "high degree of autonomy" actually means. Did Britain ever want Hong Kong to be truly autonomous? The highest ranking, most powerful figure in colonial Hong Kong, the Governor, had never been elected or even appointed in a democratic fashion. More likely the goal for Britain had been liberalism rather than democracy, independence from either Britain or China, and or full-scale "autonomy."

Over the past thirteen years, both sides have changed their stories about what they want. Suddenly it seems, since Governor Patten was appointed in July 1992, that the goal of the British was limited democracy for Hong Kong. Before his tenure, Hong Kong was treated somewhat dismissively by Britain when an opportunity existed to liberalize the political system. The excuse in the 1980's for blocking significant democratic reforms was that China would invade and/or destabilize the territory. There was little evidence for this, and Patten's reforms could easily have been promoted ten years earlier. The evidence that this could have been achieved peacefully is that the reforms in fact were promulgated in the past few years, but they may be too little, too late, and may end up being meaningless.

On the Chinese side, views on Hong Kong did not stabilize until after the 1989 Tiananmen Massacre, when it became clear to everyone that Hong Kong was very different from Beijing, and would not be easily incorporated. Since then, Britain has been a champion of limited liberalism, the people of Hong Kong have become belatedly much more interested in their own autonomy, and Beijing has grown wary of any democratic reforms. Developments in recent years suggest that China has grown more intolerant of true autonomy for Hong Kong.

This thesis will analyze the implementation of the "autonomy" promised in the Joint Declaration in three areas - the political arena, the security environment, and the economy. I will assess the indicators of impending change in these three realms based on the study of the actions of both sides since the Joint Declaration was signed. Following this introductory chapter, Chapter II will provide background information on the Joint Declaration and the Basic Law and the events which led to their promulgation.

The next three chapters will be case studies of the three areas of autonomy noted above. They will track changes since 1984 and explain where the PRC and Hong Kong stood on the issues just prior to reversion. Chapter III will discuss democratic reforms which have taken place in the Hong Kong government since 1984 and China's reaction to them. Through these democratic reforms, the British in Hong Kong in effect transferred some political power from the colonial government to the people of Hong Kong. The government of the PRC reacted negatively to these changes and planned to revise the entire political system after reversion. Some of the PRC's announced plans are stipulated in the Basic Law while others are not. Maintaining a "high degree of autonomy" in the political arena does not seem likely. Chapter IV will discuss the autonomy Hong Kong

will maintain over security issues. I will discuss the role of the British troops and the Hong Kong police in security issues prior to reversion and how their roles and missions have changed since 1984. I will then discuss the expected future role of the People's Liberation Army (PLA) in Hong Kong. According to the Joint Declaration and the Basic Law, the PLA is not to take a role in the internal security of Hong Kong. In this case, the local Hong Kong government has managed to limit Beijing's control. There is, however, a clause in the Basic Law of the Hong Kong SAR which allows the PLA to gain control of internal affairs in the event of "turmoil" which "endangers national unity or security." Chapter V will discuss the economic autonomy of Hong Kong in areas such as trade and monetary policy. I conclude that the PRC will not try to infringe upon this autonomy because it is in China's best interest for Hong Kong to maintain its current economic success.

Chapter VI will examine the implications of the events which have taken place since 1984 regarding the autonomy of Hong Kong. This thesis will conclude with a brief analysis of how this experiment of "one country, two systems" has fared one year after reversion.

As we prepare to enter the twenty-first century, the Asia-Pacific region occupies a prominent place in U. S. policy and strategy. The current steps toward improvement in relations between China and the United States are dependent upon stability in the region. The stability of Hong Kong is an extremely important issue economically for people all over the world. The reversion of Hong Kong to Chinese sovereignty is a test of China's "one country, two systems" concept. The entire world will be watching to see how China

handles controversial transition issues and if she lives up to her commitments to and promises of autonomy to the people of Hong Kong.

A. A BRIEF HISTORY OF HONG KONG³

During the Opium Wars with China in the nineteenth century, Britain used the territory as a naval base. At the end of the first Opium War in 1842, the Treaty of Nanking ceded the territory to Britain. Following additional conflicts with China in 1860, Britain gained Kowloon and Stonecutter's Island. In 1898, Britain acquired the New Territories on a 99-year lease. During the 1910s and 1920s, Hong Kong served as a refuge for exiles from China following the establishment of the Chinese Republic in 1912. After Japan seized Manchuria in 1932 and the Sino-Japanese war broke out in 1938, China turned to Britain for supplies. As a result, relations between Britain, Hong Kong, and China improved. Throughout the late 1930s, as Japan advanced into China, hundreds of thousands of Chinese took refuge in Hong Kong. To defend against Japanese attack, Britain began to further strengthen the defense of the territories. On December 8, 1941, Japanese aircraft bombed Kowloon, and Japanese troops pushed British defenders from Kowloon and the New Territories. On December 25, 1941, the British army surrendered Hong Kong to the Japanese. Japanese plans to use Hong Kong as a staging area for assaults further into East Asia were halted by the United States. Following Japan's surrender on August 14, 1945, Britain reclaimed the territory.

³ Historical information is compiled from the following sources: Solomon Karmel, Lecture, Naval Postgraduate School, Monterey, CA, September 12, 1996; "East Asia In Cyberspace, " [<http://Darkwing.uoregon.edu>], October 5, 1996; "Hong Kong Home Page, " [<http://www.hongkong.org>], October 5, 1996; "Hong Kong Information Center, " [<http://www.info.gov.hk>], October 6, 1996; and "The Association for Asian Studies, " [<http://bbanning.memorial.indiana.edu/~aas>], October 15, 1996.

Following World War II, Hong Kong was again a major trade center. The Civil War in China and subsequent Communist victory in 1949 again led hundreds of thousands to flee to Hong Kong. After the 1950 U.S.-led ban on commerce with China, Hong Kong's economic life temporarily suffered. The colony was forced to develop internal industries by taking advantage of local and regional resources in order to continue to grow. The constant influx from China of capital and manpower led to the establishment of light manufacturing throughout the territory by the 1950s and 1960s. At the same time, Hong Kong's tax policies began to attract foreign investment further adding to the territory's rapid economic growth. The colony was again thrown into turmoil in 1967 as the Communists led riots throughout the spring and summer. The flow of refugees from China continued unabated throughout the late 1960s and into the 1970s.

During the 1980s, the impending expiration of the New Territories lease forced the United Kingdom to open negotiations with the PRC on the future of Hong Kong. In 1982, Britain and China entered into talks on the future of Hong Kong with the common goal of maintaining Hong Kong's stability and prosperity. Both sides recognized it would be impossible to maintain the prosperity and stability of Hong Kong if its territorial integrity were disturbed.

Deng Xiaoping saw a golden, historic opportunity to reclaim China's legal right to Hong Kong. Beijing had made it clear that it did not recognize any of the treaties under which Britain had obtained Hong Kong in the nineteenth century. The PRC considered the agreements "unequal treaties" forced on a weakened Qing dynasty by the British through gunboat diplomacy. From China's perspective, the expiration of a treaty

it did not recognize seemed unimportant.⁴ Pressed to make a decision about renewing the treaty, Deng Xiaoping concluded that while he could turn a blind eye to continued British administration of Hong Kong, he could not formally extend British colonial rule over the territory.⁵ He therefore decided that China should reclaim Hong Kong. Prime Minister Thatcher realized that without a valid lease after 1997, the United Kingdom would be bound to return the leased lands to China without any agreement safeguarding the future of the territory.

Initially the negotiation process was hampered by British and Chinese intransigence over the basic issues of sovereignty and future administration. The Chinese insisted upon two major points: that the sovereignty of Hong Kong belonged to China and that the expiration of the lease of the New Territories would mark the end of colonial rule not only in the leased territory but the entire colony. The British maintained that sovereignty over the ceded territories of Hong Kong Island, Kowloon, and Stonecutter's Island belonged to the United Kingdom, and that there was still a need for continued British rule for the good of the people.⁶ After several phases of negotiations, the British finally agreed to recognize China's position on sovereignty while China agreed to the basic framework of an agreement which would maintain Hong Kong's way of life and be legally binding.⁷ After two years of negotiations Britain and China reached an agreement

⁴ Frank Ching, "Hong Kong: The Year Before Living Dangerously," Current History, September, 1996.

⁵ Ibid.

⁶ Derek Davies, "How Britain Fell for the Peking Gameplan," Far Eastern Economic Review, June 21, 1984, pp. 44-45.

⁷ "Howe Holds News Conference on Talks with PRC," FBIS China, August 1, 1984. Sir Geoffrey Howe was the British Secretary of State for Foreign and Commonwealth Affairs at the time of the negotiations.

on the future of Hong Kong, and the Prime Ministers of both countries signed the Sino-British Joint Declaration on December 19, 1984.⁸

Because of its economic value to China, Beijing sought to limit the impact of the change in sovereignty on Hong Kong. The Joint Declaration provided for the restoration of Hong Kong to the PRC and the establishment of the Hong Kong Special Administrative Region, the mechanism to ensure a smooth transfer of government in 1997, and the continuation of Hong Kong's capitalist system and lifestyle for fifty years following the transfer.⁹

As a result of the negotiations, Beijing announced the concept of "one country, two systems." Under this scheme, "Special Administrative Regions" could be established that would allow systems and lifestyles different from those in mainland China; with the idea of applying the formula to Taiwan. After Britain stepped up efforts to resolve the Hong Kong issue, however, China decided to apply the formula of "one country, two systems" to Hong Kong first in the hope that Hong Kong would become a model for Taiwan.

On July 1, 1997, amid much fanfare and ceremony, the territory became the Hong Kong Special Administrative Region of the People's Republic of China and thus ending more than 150 years of British colonial rule.

⁸ For more information on the history of Sino-British negotiations of the Joint Declaration see "Hong Kong Home Page," [<http://www.hongkong.org>], October 5, 1996 and Charles Weston Cunningham, "Retrocession of Hong Kong," M.A. Thesis, Naval Postgraduate School, June 1985.

⁹ "Joint Declaration," Section 3.

B. HONG KONG TODAY

By almost any standard, Hong Kong has one of the world's most successful economies. With a land area of only 420 square miles and a population of just 6.3 million, Hong Kong is the world's eighth largest trading economy and a leading international financial center. Its airport is among the world's top five in both passenger and cargo volume, and its container port is the world's busiest. It has Asia's second largest stock market. More than 700 foreign companies maintain regional headquarters in Hong Kong, including 85 of the world's top 100 banks.¹⁰

Over the past two decades, the Hong Kong economy has more than quadrupled, and its per capita GDP has tripled to about \$24,000 - higher than that of the United Kingdom, Canada, or Australia. Unemployment is only 3.2 percent, regular budget surpluses have produced a secure fiscal environment, and Hong Kong has accumulated over \$58 billion in foreign exchange reserves. Hong Kong is one of the safest cities in the world and is Asia's most popular travel destination with a record 10.2 million visitors in 1995. Hong Kong is also a center for telecommunications technology and has long been a media hub for Asia with over 700 newspapers and periodicals based there.¹¹

Numbers, however, tell only part of the story. The reasons underlying Hong Kong's extraordinary success are significant as well. Hong Kong has one of the world's most liberal trade and investment regimes. Government regulation is transparent and nonburdensome. Taxes are low and the Hong Kong dollar is freely convertible. The

¹⁰Winston Lord, Assistant U.S. Secretary of State, Bureau of East Asian and Pacific Affairs, Hearing Before the Senate Foreign Relations Committee, Subcommittee on East Asian and Pacific Affairs, 104th Congress, July 18, 1996.

¹¹ Ibid.

workforce is educated, highly motivated, and industrious, and Hong Kong's pool of enterprising entrepreneurs is legendary.

Other factors are more subtle, but they are no less compelling. Hong Kong people live and work within a trusted framework of law and justice - without economic, social, or political repression. Civil liberties and individual political, cultural, and academic freedoms are protected assiduously. The rule of law is well-established, and Hong Kong courts act as independent arbiters between the government and the governed. Freedom of expression is guaranteed, including the freedom to advocate changes of policy and practice without fear of government retribution. These factors along with the hard work of the Hong Kong people have transformed Hong Kong into the thriving international entrepôt it is today.

C. THE JOINT DECLARATION AND BASIC LAW

Hong Kong's status after reversion to Chinese sovereignty is defined in two documents: the Joint Declaration and the Basic Law. Together, these documents enshrine China's promise that, although sovereignty changed in 1997, Hong Kong's way of life will not.

The Joint Declaration provides that the post-reversion Hong Kong Special Administrative Region is directly under the authority of the PRC central government. Under the Joint Declaration, unlike other regions of China, however, Hong Kong will retain a high degree of autonomy in all matters except foreign affairs and defense. The Joint Declaration establishes the concept of "one country, two systems" for Hong Kong, and guarantees that the social and economic systems, lifestyle, and rights and freedoms currently enjoyed by the Hong Kong people will remain unchanged for at least fifty

years. The Joint Declaration is an international agreement registered with the United Nations; it is the international legal foundation upon which Hong Kong's relations with the rest of the world will be based.

On paper, the Joint Declaration establishes a framework that can, if honored and effectively implemented, assure that Hong Kong remains the vibrant and attractive place it is today. Among other things, the Joint Declaration provides that:

- Hong Kong will have independent courts with ultimate judicial authority resting in a Court of Final Appeal
- Hong Kong residents, not non-Hong Kong PRC citizens, will occupy all important government and civil service positions
- Hong Kong laws, not PRC laws, will apply
- Hong Kong's finances will be independent of China, and no tax revenues will be collected for or sent to Beijing
- Hong Kong will continue to maintain its own currency and the Hong Kong dollar will be freely convertible
- Hong Kong police, not the PLA, will maintain public order
- Hong Kong will be empowered to enter into international agreements in a wide range of areas
- Hong Kong people will elect the legislature.¹²

The Joint Declaration states that the basic policies of the PRC regarding Hong Kong are to be stipulated in a Basic Law of the Hong Kong SAR enacted by the National People's Congress (NPC) and to remain unchanged for fifty years. The drafting of the Basic Law began in 1985 when the NPC appointed the Basic Law Drafting Committee (BLDC), comprising over fifty mainland and Hong Kong members. The Basic Law

¹² "Joint Declaration."

Consultative Committee (BLCC) of exclusive Hong Kong membership was set up to canvass the views of Hong Kong people. The first draft of the Basic Law was published in April 1988 followed by a five-month public consultation in which a large variety of views were expressed. The second draft, endorsed by the Standing Committee of the NPC, reflected many of these views. The second consultation exercise ended in October 1989. In December 1989 the BLDC reconvened to propose amendments to the second draft. The final draft was endorsed by the BLDC in its ninth plenary session in February 1990 and was enacted and promulgated by the NPC on April 4, 1990. The Basic Law was put into effect on July 1, 1997.¹³

According to the BLDC the Basic Law provides the fundamental governing framework for implementing the "one country, two systems" principle in Hong Kong consistent with China's commitments in the Joint Declaration. It says that the PRC socialist system and policies will not be extended to the territory. The Basic Law reiterates the Joint Declaration promise to allow Hong Kong to exercise a high degree of autonomy and to exercise separate executive, legislative, and judicial power after 1997.

This period marks the start of a new political and economic experiment for China and the world. China is attempting to regain the sovereignty of Hong Kong peacefully without disrupting its economic, social, and political systems under the framework established in the Joint Declaration. Deng Xiaoping's concept of "one country, two systems" forms the basis by which the Chinese granted Hong Kong its guarantees in the

¹³ For more information on the process by which the Basic Law was developed see "City University of Hong Kong," [<http://www.cityu.edu.hk/BasicLaw>], October 5, 1996 and "Hong Kong Government Information Center," [<http://www.info.gov.hk>], October 6, 1996.

Joint Declaration and explains the rationale for accepting the continuation of capitalism in post-1997 Hong Kong.

The notion of autonomy as stated in the Joint Declaration is very vague. Through this document the People's Republic of China has made numerous promises to the people of Hong Kong. The Joint Declaration is not just an agreement but an international treaty which resolves three of the "Unequal Treaties" at the lowest social and political costs to China while promising to maintain Hong Kong's prosperity and stability.

The PRC and Great Britain seem to have had differing views of what "autonomy" means. Because of this, the Joint Declaration is intentionally vague on the issue. Three aspects of autonomy which will be presented here - political, security, and economic - will make this vague notion more concrete.

II. THE POLITICAL ARENA

This chapter will discuss the political system of Hong Kong and how the concept of "high degree of autonomy" affects it. What did this key phrase mean for the government of the PRC, and what did it mean to the Hong Kong people? This chapter will examine the changes in the government of Hong Kong which took place from the signing of the Joint Declaration in 1984 until just prior to reversion. Will Hong Kong maintain its current lifestyle and "high degree of autonomy" as Beijing has promised? This chapter argues that this may not be the case, at least not in a political sense. Based on recent actions by the PRC in regards to the Hong Kong political system, there is not even a guarantee of the Hong Kong people maintaining their current lifestyles as promised.

A. THE COLONIAL GOVERNMENT

The pre-reversion government in Hong Kong was actually under the British colonial system. The principal features of the constitution of Hong Kong were prescribed in Letters Patent passed by Britain and provided for a Governor, an Executive Council (Exco) and a Legislative Council (Legco). The Executive Council, which was presided over by the Governor, consisted of three ex officio and ten Governor-appointed members. The main function of the Executive Council was to advise the Governor. The Laws of Hong Kong were enacted by the Governor with the advice and consent of the Legislative Council, which also controlled public finance and monitored performance of the government through its Finance Committee and Public Accounts Committee.¹⁴

¹⁴ "Hong Kong Government Information Center," [<http://www.info.gov.hk>], October 6, 1996.

The Legislative Council elections in September 1995 provided the first time all sixty members of the Legco were elected. Twenty were directly elected by the people of Hong Kong from geographical constituencies, thirty from functional constituencies representing major occupational and professional groups, and ten by an election committee comprised of all elected members of the district boards. The previous Legco elections in September 1991 included the first time that any seats were elected directly. The 1991 Legco consisted of twenty-one seats indirectly elected by functional constituencies, eighteen directly elected, eighteen appointed by the governor, and three ex officio members.¹⁵

B. DEMOCRATIC REFORMS?

The Chinese government's recent rejection of democratic reforms in Hong Kong is forthright, but it is hardly ground-breaking. Britain has been denying its colony self-rule for ages. During the first 140 years of British control only one attempt was made to introduce representative rule. It was after WWII, and the idea was quashed by the local business elite whose successors oppose democracy today.¹⁶

Britain returned to the notion of representative government for Hong Kong only after the Joint Declaration set a date for handing Hong Kong back to China. Confidence in the territory was fragile; so fragile that the promise of greater electoral participation was seen as one way of assuring a jittery population that the declaration's vague promise of a high degree of autonomy for Hong Kong after 1997 actually meant something. The

¹⁵ "Hong Kong Home Page," [<http://www.hongkong.org>], October 5, 1996.

¹⁶ "China's Gamble," Economist, June 22, 1996.

responsible British minister, Sir Geoffrey Howe, promised the colony "a firmly based democratic administration."¹⁷

Steps towards this goal were tentative. The pace of reform seemed to lag behind the people's appetite for it. A 1988 British white paper on political development in Hong Kong postponed the first ever direct elections to Legco, which would have decided a mere eighteen seats. The postponement was justified by survey results purporting to reflect public opinion on the matter, even though every other measure of public opinion confirmed a keen desire for faster reform.¹⁸

The Governor of Hong Kong at the time, Sir David Wilson, succumbed to PRC pressure for delaying these reforms. However, the 1989 massacre of civilians in Beijing, an event which sent confidence in the colony plummeting, made it impossible to put things off forever. This incident made it much more difficult for Britain, as well as China, to ignore the increasing frustrations and growing democratic inclinations of the Hong Kong people. In 1990 the British made political parties legal for the first time. In 1991 the parties won the right to be represented in Legco, and pro-democratic candidates won a sweeping electoral victory.¹⁹

That did not necessarily mean that the Democratic Party won power over the government. The Legco was a body that could propose policy only with difficulty. Private members' bills were often thwarted by the British administration, which was also inclined to withdraw its own legislation rather than let the Legco amend it. Under the

¹⁷ Sir Geoffrey Howe, British Secretary of State for Foreign and Commonwealth Affairs in 1984, as quoted in "Mother and Father Do Not Know Best," Economist, September 23, 1995.

¹⁸ Ibid.

¹⁹ "Hong Kong's Stormy Prospects," Economist, September 23, 1995.

British reforms, the Legco's role had been that of scrutineer, playing the part of a loyal opposition with no hope of ever winning executive power.²⁰

However, Chris Patten, who had been governor since 1992 until reversion, gave the Legco more authority. During his tenure he put through a package of democratic reforms to various tiers of government, much to China's irritation. However, administrative power was still held by Governor Patten's civil servants, advised by the Executive Council. The Exco acted as the governor's cabinet, and Patten kept it apolitical. No Legco member sat on it. Business interests predominated, and members were sworn not to divulge what their debates offered.

Patten's attempt at institutional reform proved insufficient to contain the democratic aspiration of the Hong Kong people, as revealed in the 1991 election. Martin Lee, the leader of Hong Kong's Democratic Party, and his followers wanted more reforms; for all Legco seats to be chosen by direct election; for the Chief Executive, as future governors would be called, to be elected by universal suffrage.²¹

C. CHINA'S RESPONSE

Governor Patten pushed to the limit the scope of democratic changes not specifically prohibited in the Basic Law, but he did not give Hong Kong democracy, as he accepted the Chinese restriction that only one third of Hong Kong's legislators could be popularly elected from geographical constituencies. What Patten failed to realize was that the Chinese did not subscribe to the common law approach in interpreting the Basic

²⁰ "Mother and Father Do Not Know Best".

²¹ Martin Lee, "We Have To Be True to Our Principles," South China Morning Post, August 18, 1996.

Law.²² Chinese law is a complex amalgam of custom and statute and largely criminal law.²³ In the Chinese legal tradition what is not specifically permitted by law is prohibited. Thus, the Chinese believe that Patten violated the Basic Law.²⁴ China's leadership has not provided a very coherent version of what their disagreement with Patten's reforms was.

Mistakenly believing he had reached a compromise acceptable to all, Patten tried to sell his modest proposals as a major democratic reform to the people of Hong Kong. The PRC leaders, already suspicious of the British in general, and of Patten in particular, condemned the proposals.²⁵ This made the people of Hong Kong, and the international media, feel that Patten's tiny step forward amounted to a major democratic reform.

On March 24, 1996, the Preparatory Committee, which oversees the transition on behalf of China, voted to abolish Hong Kong's Legislative Council and replace it with an appointed "Provisional" Legislature. The Provisional Legislature would act as Hong Kong's legislative body until such time as a new Legco could be chosen through elections whose much reduced element of participatory democracy met China's approval.²⁶

²² "Basic Law."

²³ "The World Fact Book 1995," [<http://www.odci.gov/cia/publications/95fact/>], October 1, 1996.

²⁴ Steve Tsang, "Maximum Flexibility, Rigid Framework: China's Policy Towards Hong Kong and its Implications," Journal of International Affairs, Winter 1996, p 425.

²⁵ Ibid.

²⁶ Lord.

In a September 1996 interview with a French newspaper, Jiang Zemin discussed China's policy on Hong Kong.²⁷ He said that China's stand on the Hong Kong government issue is consistent. He said he believes that the establishment of the Legco at that time violated the Joint Declaration, the principles of convergence with the Basic Law, and the agreements and understanding reached between China and Britain. Therefore, it has become impossible to realize the Chinese government's original "through train" arrangement where all members of the last Legco of colonial Hong Kong could become members of the first Legco of the Hong Kong SAR.

Sometime after July 1, 1997, the first Legislative Council of the Hong Kong SAR was to be formed in accordance with the NPC's decisions and provisions of the Basic Law. Jiang stated,

The adoption of these measures will not harm Hong Kong's stability and prosperity, but will in fact help the stable transition of Hong Kong and the SAR's governmental operations. There will be a full guarantee for maintaining the long-term prosperity and stability of Hong Kong after 1997.²⁸

After China resumed sovereignty over Hong Kong, Jiang said that it would follow the principle of "Hong Kong people governing Hong Kong" and allow it a high degree of autonomy in accordance with the Sino-British Joint Declaration and the Basic Law.²⁹

With the "one country, two systems" principle, Hong Kong's capitalist social and

²⁷ "President Interviewed on Economy, Other Issues," Report by Xinhua News Agency of Jiang Zemin interview with Le Figaro in BBC Summary of World Broadcasts, September 9, 1996.

²⁸ Ibid.

²⁹ Ibid.

economic system and way of life, he promised, would remain unchanged and its laws would remain basically unchanged.³⁰

In political terms, Hong Kong must justify its demand for greater democracy in terms of utility to the PRC. The argument on the Hong Kong side is that democratic reforms in Hong Kong are essential for Hong Kong to sustain its economic dynamism in order to support the PRC's economy, and that without democratization Hong Kong's economy will collapse. However, the PRC leaders do not believe that Hong Kong's prosperity thus far is related to democracy. They oppose democratization in Hong Kong because of the potential demonstrative effect it could have for the rest of the country, which could pose a threat to the survival of the Communist party in mainland China in the long term.³¹ Jiang Zemin stressed, "Hong Kong's past prosperity cannot be attributed to an independent judicial and a free press system as some people have suggested, but was mainly created by the Hong Kong people. Meanwhile, it is also due to inland China's support, reform and opening up, and economic development. After Hong Kong's return to the mainland, the Hong Kong people will definitely create a more prosperous Hong Kong with a new mental outlook as masters of the country."³²

D. HONG KONG POST-REVERSION

The Joint Declaration and the Basic Law are China's promise that, although sovereignty changed in 1997, Hong Kong's way of life would not. The Joint Declaration specifically provided that Hong Kong would have independent courts and that Hong

³⁰ Ibid.

³¹ Tsang.

³² Jiang Zemin, Interview in Le Figaro.

Kong laws, not PRC laws, would apply. It states that Hong Kong residents would occupy all important government and civil service positions and that Hong Kong people would elect the legislature.

On December 28, 1995, China approved the appointment of the Hong Kong SAR Preparatory Committee, whose members prepared for the post-1997 government that would run the SAR. Tycoons made up the majority of the ninety-four Hong Kong people appointed to the committee. Mainland officials made up the remaining fifty-six seats. The committee selected 400 Hong Kong people who were responsible for choosing a Chief Executive and Provisional Legislature. The Preparatory Committee laid out the criteria for the Selection Committee. The 400 members were to be drawn equally from four sectors, including commerce and industry, the professions, labor and grassroots organizations, and politics. Candidates for the first three sectors were submitted by their respective organizations for nomination. As for the political spots, twenty-six were reserved for Hong Kong deputies to the NPC, forty spots were reserved for former indigenous political figures and the remaining spots were for Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference. The Preparatory Committee stated that all members must support the "one country, two systems" principle.³³

Under the Basic Law, the new Chief Executive of Hong Kong was meant to be selected either by election or through consultations with people broadly representative of the territory's population. The official race for the top job in Hong Kong began on

³³ "China's Preparatory Committee Lays Out Criteria for Selection Committee," Agence France Presse, August 10, 1996.

August 15, 1996. Sir Ti Liang Yang, Hong Kong's Chief Justice, stepped down from his position to run for the office of Chief Executive.³⁴ His main rival for this position was Tung Chee-hwa, a shipping magnate with strong backers in China. The consistent local favorite was Anson Chan, head of Hong Kong's civil service and deputy to Governor Chris Patten.³⁵ The 400 member Selection Committee chose Tung Chee-Hwa as the candidate for Chief Executive by the end of November. The final decision ultimately was approved in Beijing in December. The Provisional Legislature membership was also announced in December, and they held their first plenary session in January 1997. Fully 70 percent of the candidates and 85 percent of those eventually selected were themselves members of the 400-person Selection Committee appointed to choose the legislature. Thirty-three of the sixty members on the pre-reversion Legco were included in the new chamber, but none of the nineteen seats held by the popular Democratic Party in the current Legco were represented in the Provisional Legislature.³⁶ In effect, the Democratic Party's seats have been eliminated. Ten of the candidates in the new body had earlier lost on pro-China tickets in the 1995 elections.

Pro-democracy groups say the Preparatory Committee, which selected the selectors for Chief Executive, is hardly representative of all Hong Kong. Most appointees have long had a cozy relationship with China's leaders, they say. Members of the Democratic Party, which won the most votes in the election last September were conspicuously absent from the committee. It is not surprising that Beijing did not appoint

³⁴ John Ridding, "Chief Justice in Fight For Top HK Job," Financial Times, September 4, 1996.

³⁵ Kevin Murphy, "Top Hong Kong Judge Seeks Executive Post; Candidacy Widens Unusual Race," International Herald Tribune, September 4, 1996.

³⁶ Bruce Gilley, "Tung Sets the Course," Far Eastern Economic Review, January 9, 1997, p 22.

any members of the Democratic Party to the 150-member Preparatory Committee. However, it is somewhat hypocritical since it is supposed to be widely representative of the Hong Kong populations. Martin Lee, the leader of the Democratic Party, said, "The clear message is that China does not trust the people of Hong Kong."³⁷ In an act of dissent, the Democratic Party refused to submit party members' names to the Preparatory Committee for appointment to the Selection Committee. In an editorial to the South China Morning Post Lee wrote, "We cannot sign on to a blueprint for abolishing an elected legislature. That would be tantamount to sacrificing the end for the means." He added, "Taking part in the Selection Committee would confer legitimacy on an illegitimate process and would hopelessly compromise our ability to fight the Provisional Legislature."³⁸

Opposition to the mere fact that there would be a new legislature began to fade as attention focused on what the Provisional Legislature was doing in its closed-door meetings in Shenzhen in the months prior to reversion.³⁹ On its agenda was a new law on subversion to replace the one rushed through Hong Kong's sitting legislature by the British administration. London stalled for years over revising the draconian colonial subversion laws, but whipped out a liberal version at the end of 1996 as soon as Beijing said that most criticism of China would be prohibited after 1997. The British version of

³⁷ "Turning Back the Clock in 1997," Economist, January 6, 1996.

³⁸ Lee.

³⁹ The Provisional Legislature had already begun to meet on the mainland by January, 1997. The PRC wanted the new Legco and the current Legco to work at the same time so as not to start fresh on 1 July. Any legislation passed by the Provisional Legislature went into effect on July 1, 1997.

the bill required the use of force to constitute subversion.⁴⁰ It is likely to be replaced by a bill drawn up by the Provisional Legislature which will define subversion in line with China's state security regulations. These make the mere intent to overthrow the government a crime.

The provisional body also considered striking down 38 laws or parts of laws deemed "inappropriate" after 1997 by a China-appointed legal panel.⁴¹ Targeted were the colony's human-rights bill and most political reforms carried out since 1991. However, the Hong Kong Bar Association argues that all but five of the targeted laws conform with the Basic Law, and thus should be left intact.⁴² For example, commenting on the Electoral Provisions Ordinance and the Legislative Council (Electoral Provisions) Ordinance, laws which China has rejected, the Bar Association says, "We cannot see any basis on which the relevant provisions in these two ordinances...could be considered to contravene the Basic Law."⁴³

In an appearance before the Selection Committee in November 1996, Tung acknowledged the fears in Hong Kong that his administration would be beholden to a mainland overlord. He promised this would not be the case.⁴⁴ Nonetheless, many Hong Kong residents are unsure if he will stand up for Hong Kong's autonomy due to his close ties with Beijing.

⁴⁰ Gilley.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Frank Ching, "Uphold Hong Kong Rule of Law," Far Eastern Economic Review, April 3, 1997, p 30.

⁴⁴ "Hail to the Chief," Far Eastern Economic Review, December 19, 1996, p 5.

E. HONG KONG'S PROSPECTS POST-1997

Capitalist Hong Kong will be permitted to maintain the status quo for fifty years and enjoy a "high degree of autonomy"⁴⁵ provided this continues to be seen by the Chinese Communist leadership as economically beneficial and not harmful to its claim of sovereignty over the territory. The big task for China's leaders in the coming years is to adapt their political system to keep pace with economic change. China's leadership recognizes the need for a more federal system. They have promoted experiments with democratic reforms and decentralization in the mainland at the village level and might well see the value of Hong Kong as an experiment with the more liberal, decentralized politics that China needs. However, a crackdown against unpatriotic elements in Hong Kong would swing the political balance backwards.

The world is watching to see how China handles the turnover. Many believe that China will mishandle events badly. In particular, there are concerns that China will try to squash free speech.⁴⁶ Faced with dissent in Hong Kong, the Chinese may react the way it has in the past: with repression. That could well lead to serious civil disorder in Hong Kong to be played out before the eyes of the world's press. On the other hand, many businessmen take a different view. Some say that several Asian countries boomed without much political freedom, and what really matters to the people of Hong Kong is prosperity, and that need not be affected by political repression.⁴⁷

⁴⁵ "Joint Declaration."

⁴⁶ "Can Hong Kong Stay Free?" Economist, June 22, 1996.

⁴⁷ Ibid.

In June 1996, Lu Ping, the Director of the Hong Kong and Macao Affairs Office of the State Council of China and the senior Chinese official responsible for the transition, told Japanese parliamentarians that no anti-PRC protests would be allowed in Hong Kong. The Tiananmen Square protests of 1989 are classified in China as "counter-revolutionary."⁴⁸ The same would presumably apply to any commemorations of that uprising in Hong Kong.

The promises of Hong Kong maintaining its current way of life under Deng's "one country, two systems" concept apparently does not apply to all political freedoms. The formula "one country, two systems" was first devised by Deng Xiaoping not for Hong Kong, but for Taiwan. In the eyes of the Chinese leadership, if the formula works in Hong Kong, that would strengthen the attraction to the people of Taiwan. However, a corollary to this argument is that if China's conduct in Hong Kong revealed it to be a fraud, then hopes of a peaceful reunification with Taiwan would be destroyed.⁴⁹

Fears of China in the West and the rest of Asia would also intensify. That, in turn, would increase foreign hostility toward China, which is already finding that some of its international ambitions, such as membership in the World Trade Organization and playing host to the Olympic Games, have been thwarted by foreigners' suspicion of it. Suspicion would turn to outright animosity if it cracked down on Hong Kong. However, a display of tolerance would help to defuse much of the wariness and hostility from the outside world.

⁴⁸ "China's Gamble," Economist, June 22, 1996.

⁴⁹ Lord.

The key question, of course, is whether China will honor its impressive set of commitments. The world does not yet know the answer. China has repeatedly stated its intention to stand by its pledges and preserve Hong Kong's high degree of autonomy. The international community, which has a substantial stake in Hong Kong, is watching and expecting this to happen. More important, the people of Hong Kong will make their own decisions about the future by primarily assessing the degree of sensitivity to local concerns Beijing brings to the important decisions it makes. For this reason, clear, positive signals from Beijing will be increasingly important to ensure Hong Kong's stability and prosperity under the Joint Declaration principles. In spite of the PRC leaders' verbal commitments to make a success of Hong Kong, there are nevertheless good reasons to doubt that their 1984 promises can ever become a reality. It should be recognized that the real purpose of the "one country, two systems" formula is to serve the interests of the PRC.

Beijing has promised Hong Kong some autonomy as a separate political entity by approving Hong Kong's continued participation in international organizations and extension of most major multilateral agreements applied to Hong Kong through Britain. China also announced that all important Hong Kong Government positions would be filled by Hong Kong residents after 1997, thus allowing most senior civil servants to remain in place.⁵⁰ This goes a long way toward Hong Kong maintaining its current way of life.

Unfortunately, Beijing has shown less understanding of the need to provide Hong Kong with the same high degree of autonomy in the electoral arena. Its approach to the

⁵⁰ "Hong Kong Civil Servants to Keep Jobs After 1997," Deutsche Presse-Agentur, December 29, 1994.

Legco has been particularly troubling. China rejected the British-backed electoral reforms as inconsistent with the Joint Declaration assurance that the "laws currently in force" in Hong Kong would remain unchanged.⁵¹

Both British and Hong Kong Government officials have criticized China's decision as unjustified and unnecessary. They see it as a threat to Hong Kong's future autonomy and its continued democratic development. They have challenged Beijing to describe how the Provisional Legislature is consistent with the Joint Declaration requirement of an elected legislature in Hong Kong. For its part, China has announced that the Provisional Legislature would last for no more than a year and that it would, in turn, be replaced in 1998 by an elected Legco, chosen on the basis of a new electoral law passed by the provisional body. China has said that a broad spectrum of candidates and parties would be allowed to participate in the 1998 elections.⁵²

F. CONCLUSIONS

Governor Chris Patten arrived in Hong Kong in 1992 to implement a more assertive British policy which was a departure from that of previous years. In this, he had the support of the colony's liberals who wanted Britain to push China harder to see if more democracy could be given to Hong Kong to safeguard its political autonomy. Four and a half years later, this policy has failed. Patten pushed China extremely hard, but failed to get any concessions. Patten believed he could force China to accept his political reform proposals, despite Chinese assertions from day one that if he went ahead unilaterally, whatever institution he set up would not last beyond June 30, 1997.

⁵¹ "Joint Declaration."

With China's appointment of the first Chief Executive and the selection of the Provisional Legislature, Hong Kong entered the final stage of its transition to Chinese sovereignty. Hong Kong's economy remains healthy and strong. Most Hong Kong businessmen view the future positively and are less concerned with the uncertainties over political arrangements.⁵³

In the end, the answers to the questions surrounding the reversion lie primarily in Beijing. Recent Chinese actions suggest a lack of respect for, or lack of understanding of, the pillars on which the territory's success rests: the rule of law. If the rule of law is eroded, Hong Kong's future is in doubt. China set up a Provisional Legislative Council despite a virtual consensus in the Hong Kong legal community, including both the Hong Kong Bar Association and the Law Society, that this provisional body lacked a legal basis.⁵⁴ The Basic Law sets out in specific terms how the first legislature should be elected. China circumvented the Basic Law by calling the legislative body instated on July 1, 1997 a Provisional Legislature rather than the first legislature.

Even more troubling is the fact that the NPC gave this body the authority to pass laws before July 1, 1997, although the laws would not have gone into effect until that time. According to the Basic Law, bills were to be drafted and introduced by "the government of the Hong Kong Special Administrative Region."⁵⁵ Since there was no

⁵² "Chinese Foreign Minister Addresses Hong Kong Preparatory Committee," Xinhua News Agency in BBC Summary of World Broadcasts, August 12, 1996.

⁵³ "Hong Kong Businessmen Prepare for Chinese Rule," Cable News Network Transcript # 924-6, July 31, 1996.

⁵⁴ Ching.

⁵⁵ "Basic Law," Article 62.

such thing as the Hong Kong SAR until July 1, 1997, the passing of laws by the Provisional Legislature could hardly be in accordance with the Basic Law.

During an NPC session shortly before reversion, the Chinese also announced that several of Hong Kong's laws would not be adopted as laws of the Hong Kong SAR on the grounds that they were not consistent with the Basic Law. Many of these, including Patten's electoral reform laws were not obviously inconsistent with the Hong Kong SAR's constitution. The PRC has not been specific on what the inconsistencies are. The Hong Kong Bar Association questions China's decisions on many of these laws.

Unless the NPC gives reasons for its actions, the impression will grow in Hong Kong that the law is whatever Beijing says it is. This type of thinking could threaten the political stability in Hong Kong. It is critical that Beijing adhere to its commitment to preserve Hong Kong's high degree of autonomy.

III. THE SECURITY ARENA

Beijing's commitment to Hong Kong's autonomy in the political arena does not look promising. The Joint Declaration also calls for Hong Kong maintaining autonomy in the realm of internal security. The Joint Declaration and Basic Law offer few specifics on the defense and security of Hong Kong after reversion. Over the past thirteen years, however, both the Chinese and the Hong Kong sides have each attempted to carve out greater autonomy in the realm of security as the transition approached. This chapter will examine the issue of Hong Kong's autonomy in the area of security. It will give a brief background regarding the British garrison stationed there prior to the turnover. It will discuss the planned role of China's People's Liberation Army (PLA) troops in the SAR. This chapter will elaborate on the controversies regarding the turnover of duties from the British to the Chinese and attempt to explain the perceptions of the Hong Kong people on the issues surrounding security autonomy.

The Basic Law provides the fundamental governing framework for implementing the "one country, two systems" principle in Hong Kong consistent with China's commitments in the Joint Declaration. It says that the PRC socialist system and policies will not be extended to the territory.

On the issue of defense, the Joint Declaration states:

The maintenance of public order in the Hong Kong SAR shall be the responsibility of the Hong Kong SAR Government. Military forces sent by the Central People's Government to be stationed in the Hong Kong SAR for the purpose of defense shall not interfere in the internal affairs of

the Hong Kong SAR. Expenditure for these military forces shall be borne by the Central People's Government.⁵⁶

Ji Pengfei, Chairman of the Drafting Committee for the Basic Law, addressed the National People's Congress with explanations on the Hong Kong SAR's mini-constitution. He explained that the Central People's Government would be responsible for the Special Administrative Region's defense and foreign affairs. However, in the event that the National People's Congress Standing Committee decides to declare a state of war or, "by reason of turmoil within the Hong Kong Special Administrative Region which endangers national unity or security and is beyond the control of the Special Administrative Region Government, decides that the Region is in a state of emergency," the Central People's Government may issue an order applying the relevant national laws in Hong Kong.⁵⁷ Under the constitution prepared by China to govern Hong Kong after 1997, the Chinese garrison would be barred from interfering in the territory's affairs, although it could be used to maintain public order and help with disaster relief when Hong Kong asked.

A. THE BRITISH GARRISON

The UK armed forces were at their peak in Hong Kong around the time of the Korean War (1950-53) with about 30,000 troops in two brigade groups and a carrier air group. Prior to reversion there were 3,250 left. In June, 1997, by the time PLA arrived,

⁵⁶ "Joint Declaration, Annex I, Elaboration by the Government of the People's Republic of China of its Basic Policies Regarding Hong Kong," Section XII, December 19, 1984.

⁵⁷ Ji Pengfei, "Explanations on 'The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China' and its Related Documents," addressing the Third Session of the Seventh National People's Congress, March 28, 1990 from the Propaganda Department Xinhua News Agency (Hong Kong Branch). The entire text of the Basic Law, along with other official releases from the PRC government may be viewed at "City University of Hong Kong, Basic Law," [<http://www.cityu.edu.hk/BasicLaw>].

only 400 or so British military personnel were left on the island where the British Royal Navy first raised its ensign in 1841.

That the UK armed forces still had a presence in Hong Kong at all is due to two factors. First, they were a visible presence in underwriting the sovereignty of the UK until reversion to China. Second, they were there to assist the Hong Kong police, if need be. They had not filled a typical defense role for quite some time. The military had for years kept a low profile in the world's glittering, high rise capital of free enterprise where internal security is an internal matter. It had long been accepted that strategically Hong Kong meant nothing to Britain any more.⁵⁸

The British army had steadily reduced its role in the area since the mid-1980s. In the past, UK forces provided logistic support for controlling Hong Kong's population of Vietnamese boat people. They were further involved in anti-smuggling activities, search and rescue operations and disaster relief. A principal mission in recent years had been to guard the border against illegal immigrants. These functions have now devolved to the Hong Kong police, a 33,000-strong paramilitary force equipped with riot-control vehicles and specially-trained companies of riot officers.

The British troops no longer patrolled the 26-mile cordon of fences and razor-wire separating the New Territories on the mainland from China proper. That task also had been assigned to the Hong Kong police. The expansion of the police force was no accident. It seems apparent that Britain ceded responsibility to the Hong Kong government to deny the PLA the excuse of a high-profile presence in the colony after 1997. Beijing can no longer claim that its troops would be carrying on the work of the

⁵⁸ Conor O'Clery, The Irish Times, October 2, 1996, p 10.

UK armed forces as a counter to possible civil unrest. That has become a civil function, enshrined in a decade of custom and practice. Hong Kong is, as a result, the second most heavily-policed city in the world after Tokyo.⁵⁹

B. THE PLA GARRISON

On January 28, 1996, the State Council and the Central Military Commission (CMC) announced the creation of the Hong Kong Garrison of the People's Liberation Army. According to the announcement, the mission of the garrison was to safeguard "the sovereignty, unification, and the territorial integrity of the state, and maintain the prosperity and stability of the Hong Kong Special Administrative Region."⁶⁰ In accordance with the Joint Declaration, the garrison was not to be used for internal security. This ties in with PRC promises to maintain Hong Kong's way of life and to grant it a high degree of autonomy.

The Hong Kong garrison is a combined force of selected naval, ground and air force units. The garrison force includes an infantry brigade, a naval unit, and an air force corps. The total force stands at about 20,000, including troops stationed at logistic bases located on the mainland and the reserve force for relief duty.⁶¹

The Hong Kong garrison is based on an army-level establishment, thus giving it the status of a provincial military district. While administratively it is subordinate to the Guangzhou Military Region, the garrison is also under the direct command of the CMC because of Hong Kong's special status.

⁵⁹ Ian Bruce, "Farewell to the Foreign Devils," Herald (Glasgow), December 7, 1996, p 12.

⁶⁰ Ken Gause, "China Combines Forces for the Final Takeover," Jane's Intelligence Review, May 1, 1996, p 6.

⁶¹ Ibid.

The commander of the garrison is Major General Liu Zhenwu. He is supported by two deputy commanders: Colonel Zhou Borong and Colonel Yuan Shijun. The former is regarded as a very prominent officer who would play an important role as a liaison with the British and foreign military forces.⁶² The political wing of the garrison is headed by political commissar Major General Xiong Ziren. Prior to the transition, although the PLA refused to detail plans for the size and composition of its garrison after British withdrawal, Beijing had previously indicated that its garrison would be of similar size to that of Britain's before the reduction of forces began a few years ago.⁶³

The PLA Navy is provided with a deep water berth facility on Stonecutter's Island, but the Chinese have no reason to use Hong Kong as a major, strategic naval base.⁶⁴ They have adequate strategic bases on their existing coastline to cover likely trouble spots such as the Spratly islands and Taiwan. Also, the massive merchant shipping use of Hong Kong would provide complications. The Chinese will certainly deploy coastal forces to establish visible signs of sovereignty, as the British did, and major naval units may be visitors; if only for prestige purposes.

The PLA will not be able to use the former RAF base at Sek Kong for major air operations. The runway is too short for take-off or landing of fast jets, and is suitable only for helicopter operations.⁶⁵ The air force component of China's future Hong Kong garrison was to be equipped with Shenyang J-8 Finback fighters, but the aircraft were to

⁶² Ibid.

⁶³ Graham Hutchings, "Hong Kong Troop Fears Unfounded," Daily Telegraph, December 4, 1996, p 15.

⁶⁴ Peter Howard, "UK Forces Poised for Hong Kong Handover as Deadline Looms," Jane's Defense Weekly, April 10, 1996, p 20.

⁶⁵ Ian Bruce, "Cash on the Table," Herald (Glasgow), December 7, 1996, p 12.

be based in adjacent Guangdong province. The unit would be headquartered in Hong Kong, but its fighter aircraft would operate from bases outside the SAR perhaps at Huiyang or Shantou in Guangdong province. The unit could have between thirty and forty J-8 II Finback-B's. The Air Force component of the future Hong Kong garrison would probably also be equipped with a squadron of about 12 helicopters. The helicopter element would operate from within Hong Kong itself, possibly from the former base of the Royal Air Force's 28th Squadron at Sek Kong.⁶⁶

Prior to the transition, the PLA established a preparatory unit in Guangzhou that would become its garrison in Hong Kong when China resumes sovereignty, but it would be a garrison isolated by necessity from the mainstream of daily life in the city. The PLA soldiers, handpicked men from the north of the country, would be allowed out of their fourteen bases in the territory only in tightly-controlled parties under the supervision of political officers.⁶⁷

PLA chiefs said personnel would be able to speak English or Cantonese and would be familiar with the territory's political, legal, and economic systems.⁶⁸ They would also receive lessons on the Basic Law and Hong Kong life. Senior officers would have overseas experience, either through serving as defense attaches or through studies in Western military academies.

PLA soldiers to be stationed in Hong Kong were also being given lessons on "the dangers of fast women and fast money." Troops coming to the territory would undergo

⁶⁶ "Mainland Bases for PLA's Hong Kong Fighter Force," Jane's Defense Weekly, February 21, 1996, p 13.

⁶⁷ Ian Bruce, "Farewell to the Foreign Devils, p 13.

⁶⁸ Ibid.

"political indoctrination" courses and be warned against mixing with foreigners. Major General Liu was priming soldiers with a politics course called "Revolutionary Life Philosophy." He was also preparing a study program called "The Pursuit of Life Values and Revolutionary Warriors."⁶⁹ According to PRC officials, classes on political indoctrination are a normal part of training for PLA soldiers.⁷⁰ They read the works of Deng Xiaoping and learn about discipline and loyalty to the party. The classes are intended to define and ensure their political correctness.

The soldiers of the Hong Kong garrison would be barred from buying lottery tickets, betting on horse races, visiting nightclubs, or engaging in any commercial activity. They would also be banned from reading China-watching magazines which Chinese authorities view as anti-Beijing.⁷¹

The PLA garrison's manpower will be rotated back to the mainland on a regular basis to avoid "spiritual pollution." In their barracks, food, entertainment, and cultural and political enlightenment will be provided free of charge and in total isolation from the dynamic community which will surround them.⁷²

C. GARRISON LAW

Two issues which have a direct impact on the future autonomy of Hong Kong were at the forefront of the Joint Liaison Group's talks on defense and public security. The first is the creation of a Garrison Law.

⁶⁹ Emma Batha, "PLA Quick to Teach Against Fast Living," South China Morning Post, July 18, 1996, p 4.

⁷⁰ Ibid.

⁷¹ John Leicester, "International News," AP Worldstream, July 17, 1996.

⁷² Ian Bruce, "Farewell to the Foreign Devils," p 12.

Under the British government, criminal cases to be tried in military courts were confined to very limited circumstances only. For example, if the alleged offense was against another member of the garrison, or was against the property of the UK Government or other garrison members, or arose out of and in the course of his duty, the case was reviewed by military courts. Even under such circumstances, the normal practice was to hand over a case to Hong Kong courts if an offense resulted in a serious incident or injury to a civilian, or if there were a civilian accomplice.

The official British government position was that this arrangement in respect to criminal jurisdiction should continue to apply in the future garrison law. Its view was that any civil cases involving the PLA garrison should be dealt with in Hong Kong courts. All members of the British Forces were subject to the civil jurisdiction of Hong Kong courts irrespective of whether they were acting in the course of their duties.

The Garrison Law, which the PRC was drafting at the time of talks, would govern the conduct of Chinese military personnel after reversion. China's draft says that civil offenses committed by off-duty personnel should be dealt with by Hong Kong courts. Those committed by on-duty troops should fall under the jurisdiction of the Supreme People's Court in Beijing.⁷³ Speaking after a meeting of the Legislative Council Panel on Security on the Government's Position on the Garrison and the Law after 1997, a spokesman for Hong Kong Security Branch officials said that greater clarity was needed

⁷³ May Sin-Mi Hon, "Local Courts Should Rule on PLA Lapses," South China Morning Post, December 4, 1996, p 4.

in determining whether local courts or courts outside Hong Kong SAR should have jurisdiction over PLA on-duty and off-duty troops.⁷⁴

The implications of the Garrison Law for Hong Kong's autonomy were apparent. Who has real control over a territory can be answered in part by who sanctions criminals in that territory. How the conduct of the PLA was governed, and who had the authority to govern them, would be an important factor in determining the level of autonomy in Hong Kong.

D. TURNOVER OF DUTIES

Discussions on the transfer of defense responsibilities had gone smoothly. The United Kingdom's Ministry of Defense (MoD) and the British garrison enjoyed close liaison with the PLA. There had been continuous briefings, with the British encouraging the PLA to adopt the UK's practices. The MoD's objective was to ensure an orderly transfer of power and to sustain confidence and stability to the point of the handover.⁷⁵

At one time, Britain hoped to persuade China not to base any troops in the territory after 1997, and appeared to win the consent of officials in Beijing. However, they were overruled by Deng Xiaoping who said that those who suggested the PLA would not be sent to the territory were "talking rubbish."⁷⁶

⁷⁴ "Government's Position on Garrison and the Law," Statement from Spokesman for Hong Kong's Security Branch, November 11, 1996, "Hong Kong Government Information Center," [<http://www.info.gov.hk>], November 30, 1996.

⁷⁵ Ron Matthews, "Peaceful Transition Now Underway?" Jane's Intelligence Review, December 1, 1996, p. 8.

⁷⁶ Graham Hutchings, "Beijing Says it Won't Smother Hong Kong with Troops," Vancouver Sun, December 3, 1996, p. A12.

From 1984-89 the transitional arrangements passed off smoothly. The Tiananmen Square incident seriously affected confidence of the British and the Hong Kong people, however. Since then, Sino-British dialogue had been tense and, at times, acrimonious. Although the atmosphere had improved in the months just prior to reversion, there was nevertheless foreboding on the Hong Kong side.

As for physical turnover of property from the British troops, a total of twenty-five former British army, navy, and air force facilities, including barracks on Hong Kong Island and in Kowloon, the old Tamar naval base, the Gurkha complex at Sek Kong and the adjacent RAF air base in the New Territories were to be handed over to civilian control (the Hong Kong government) when the British garrison departed the territory.

After seven years of negotiations, the incoming PLA agreed to occupy fourteen sites, including a new naval base being built at Hong Kong government expense on Stonecutter's Island, a new 120-bed hospital at Tsim Sha Tsui, warehousing and officers quarters at Sek Kong, and a control center at the new airport on Lantau Island. Fourteen British army sites were handed over to China, including the luxurious home of the Commander of the British Forces, Maj. Gen. Bryan Dutton. This would become the residence of Maj. Gen. Liu Zhenwu who would command the PLA garrison in Hong Kong.⁷⁷ The facilities used by the three Royal Navy vessels specially designed for Hong Kong waters - HMS Peacock, Plover, and Starling - were handed back to the Hong Kong government to become a dockyard for their vessels which number about 300.⁷⁸

⁷⁷ Bruce, "Cash on the Table," p. 12.

⁷⁸ Howard, p 20.

In an attempt to make the transfer of personnel run smoother, China increased liaison between the PLA and the British garrison in Hong Kong. In July, 1996, Major General Liu Zhenwu paid a milestone visit to Hong Kong for talks with the Commander British Forces, Major General Bryan Dutton, to further the work of the Joint Liaison Group.⁷⁹ This was the first time a high-ranking PLA official made such a visit. Major General Dutton said he was trying to show his Chinese successors how to behave in a First World city. He explained that Hong Kong is very different from a garrison town in China. Through the course of several visits by the PLA leadership Major General Dutton attempted to show how the British troops interface with the many aspects of Hong Kong life.⁸⁰

The chief of the PLA garrison in Hong Kong was warned to be open and transparent about the activities of his troops. Major General Liu Zhenwu was advised by Major Gen. Dutton to be frank with the public because "there was plenty of scope for misunderstanding."⁸¹ It seems that the British commander anticipated that there was a great opportunity for there to be problems between the Hong Kong people and the PLA troops.

A press report in London stated that the PLA would stage a show of force by marching 6,000 troops across the border into Hong Kong on July 1, 1997.⁸² This report

⁷⁹ Paul Beaver, "China Steps up the Charm Offensive," Jane's Intelligence Review, October 1, 1996, p 9.

⁸⁰ Jonathan Manthorpe, "Chinese Coached for Hong Kong Takeover," Vancouver Sun, August 30, 1996, p A13.

⁸¹ Emma Batha, and Zorian Wong, "PLA Chief Told to be Open About Troops; General Warned of Scope For Misunderstanding," South China Morning Post, July 19, 1996, p 8.

⁸² "China Assures No Mass PLA March into Hong Kong in '97," Reuters, December 2, 1996.

caused anxiety in Hong Kong, and the Chinese were keen to dispel such fears. Field Marshal Sir Peter Inge, Britain's Chief of Defense, held talks with military chiefs in Beijing the last week of November, 1996. He said, "I was given a very clear message that it was unthinkable that the PLA would march into Hong Kong in large numbers, and that media speculation in that respect was totally unfounded. I think it showed a sensitivity felt toward this situation."⁸³ Despite the assurances, China's leaders seemed sure to mark their recovery of Hong Kong which they regard as expunging of a national humiliation with a good deal of military fanfare.

E. PERCEPTIONS OF THE HONG KONG PEOPLE

Many of Hong Kong's 6.3 million people are refugees who fled the Communist army's takeover of China in 1949. Their dislike of the PLA was deepened by its crushing of pro-democracy demonstrations on Beijing's Tiananmen Square in 1989. Most of the Hong Kong population, previously resigned to the resumption of Chinese sovereignty over the colony in 1997 saw in the events in Tiananmen Square a frightening vision of their own future under Beijing's rule.⁸⁴

The PLA's role is of particular concern. The Joint Declaration states that the PLA will not interfere in the internal affairs of the region, but the Basic Law allows the PLA's assistance to be sought in restoring public order and empowers Beijing to apply Chinese legislation to deal with a "state of emergency" in the event of "turmoil" beyond Hong Kong's control. Today, that is generally seen by the Hong Kong people as permission for another Tiananmen Square and few in Hong Kong trust the Chinese leadership.

⁸³ Hutchings, p A12.

With memories of the June 4, 1989, crackdown still lingering in the minds of many in Hong Kong, it is not surprising that a lot of people there still react with trepidation to anything to do with the PLA. Before the Hong Kong people can truly say they respect, trust, and support the PLA, they want to know that the Chinese soldiers will be acting fully in accordance with the law and will not behave in a way that puts them above the community. Over the past decade, the Hong Kong people had hardly felt the presence of the British garrison in Hong Kong; the soldiers had been almost invisible. Peace and order were maintained by the local police force and the soldiers stayed out of the lives of the Hong Kong people. However, with the change of sovereignty and the many stories that they heard about the misconduct of some PLA soldiers on the mainland, it is not surprising that people were nervous.⁸⁵ As discussed above, a draft law on the PLA garrison was in the works. Until regulations are clearly spelled out to the community, the Hong Kong people are likely to remain skeptical about the role, the privileges, and the power to be enjoyed by Chinese soldiers.

The PRC launched a public relations campaign to ease the fears of the Hong Kong people. Early in 1996 China invited a select audience to visit the training facility in adjacent Shenzhen where Hong Kong's PLA garrison was being trained. Described as "elite troops," Beijing offered assurances that they have no mandate to interfere in Hong Kong's internal affairs.⁸⁶

⁸⁴ Nick Steadman, "Tiananmen Square Carnage Ends UK's Hong Kong Honeymoon," International Defense Review, November 1, 1989, p. 1487.

⁸⁵ Fanny Wong, "We Need to Know About PLA Maneuvers," South China Morning Post, July 24, 1996, p. 18.

⁸⁶ Robert Karniol, "Fears of Chinese Aims in Macao are 'Unfounded'," Jane's Defense Weekly, February 14, 1996, p. 15.

Xiong Ziren, political commissar of the PLA garrison based in Hong Kong, told the China-backed *Wen Wei Po* daily that "no matter what changes have taken place, the People's Liberation Army will wholeheartedly serve the people, including the compatriots of Hong Kong." He said the PLA principle and practice of serving the people "was the same in the past, it is still the same now, and in the future it will forever remain the same."⁸⁷

The public relations campaign continued with Major General Liu's visits to Hong Kong to meet with his British counterpart, Major General Dutton. During his first visit to Hong Kong on July 16, Liu tried to calm public fears about the PLA forces to be stationed in the territory. He said the troops, who were then being trained in southern China, would act in a civilized fashion.⁸⁸ Gen. Dutton described members of the garrison as the elite of the Chinese army. British military sources said they hoped Gen Liu's visit would help calm fears about the future role of the PLA in Hong Kong by showing its commanders how British forces operate in the territory.⁸⁹ PLA leaders seemed to be very eager to put the Hong Kong people's minds at ease. They were cooperating with their British counterparts to ensure a smooth transition, and they were making sure that the Hong Kong people were aware of these efforts. Historically the Chinese have not cooperated with the British in this manner. In this case, however, there is an obvious,

⁸⁷ "Chinese Military Vows to Serve the People of Hong Kong After 1997," Agence Presse France, August 12, 1996.

⁸⁸ "Chinese Army Chief to Meet Hong Kong Police, Security Officials," Agence France Presse, August 14, 1996.

⁸⁹ Graham Hutchings, "Hong Kong Welcomes its General from China," Daily Telegraph, July 17, 1996, p. 13.

deliberate effort by the Chinese government to attempt to relive any fears the Hong Kong people may have regarding the placement of PLA troops in Hong Kong.

F. CONCLUSIONS: POST-REVERSION PROSPECTS

With the establishment of the Hong Kong SAR, the British garrison was withdrawn and the Central People's Government of the PRC is now responsible for the SAR's defense. Will Hong Kong maintain its "high degree of autonomy" in the security arena? The Joint Declaration promises that Hong Kong's way of life will remain unchanged for 50 years. Does that include security matters? The Joint Declaration states that the PLA will not interfere in the internal affairs of the SAR. This section of the Joint Declaration makes clear that the maintenance of public order in the SAR will be the SAR Government's responsibility. It also states that military forces sent by the Central People's Government to be stationed in the SAR for the purpose of defense will not interfere in its internal affairs, and that the expenditure for these military forces will be borne by the Central People's Government. Although the Basic Law reiterates this, it includes a clause which empowers the PRC to apply Chinese laws to deal with a "state of emergency" or "turmoil" beyond the control of the Hong Kong government. The possible implementation of this "turmoil" clause is vital to the degree of autonomy Hong Kong can maintain. Essentially, Beijing has control over Hong Kong's security, internal and external, no matter what the Joint Declaration says. Whether or not Beijing takes advantage of this opportunity to control the internal security of Hong Kong will say a lot about the autonomy of Hong Kong as a whole.

Since the signing of the Joint Declaration in 1984, both Hong Kong and China had been preparing for the transition with each side attempting to carve out its niche in

the realm of security of the Hong Kong SAR. As the British garrison downsized over the years, the Hong Kong government had assumed more and more of the functions and responsibilities previously performed by the British troops. This left fewer duties for the PLA to turn over from the British and enabled the local government a greater sense of autonomy in the security of Hong Kong. There will still be a border with China, still a need for customs and immigration controls and Hong Kong will still be responsible for internal security through its police force.

Prior to reversion, the PLA, on the other hand, was well into its training program for its future Hong Kong garrison. In fact, they began sending an advance party across the border in January, 1997. The PRC had been negotiating an increasing role of these PLA troops in the JLG meetings on security and defense. A Garrison Law which would govern the conduct of Chinese military personnel in Hong Kong was also in heated negotiations. The resolution of these issues will provide an indication of the future security autonomy in Hong Kong. Beijing's commitments to Hong Kong's autonomy in the security realm sound very promising. However, the true test of autonomy will come when and if the PRC enacts the "turmoil" clause of the Basic Law.

IV. THE ECONOMIC ARENA

While the prospect of autonomy in the political arena does not seem promising and the issue of autonomy in security is still to be tested, the future of economic autonomy in the Hong Kong Special Administrative Region is much more concrete. This chapter will discuss Hong Kong's future autonomy in the economic arena. First, it will examine Hong Kong's economic system before reversion and the reasons behind its phenomenal success. Next, it will explain the interests of the United States and China, respectively, in the future stability of that system. Then, it will discuss the promises set forth in the Joint Declaration and Basic Law which deal specifically with economic issues. Finally, it will provide an analysis of the transition process thus far followed by a discussion of the prospects of the Hong Kong economy post-reversion.

A. HONG KONG'S ECONOMY TODAY

By almost any standard, Hong Kong has one of the world's most successful economies. Hong Kong is totally integrated into the global service economy. Hong Kong is the world's fifth largest banking center for external financial transactions, fifth largest foreign exchange market, seventh largest stock market, eighth largest trading entity, and the world's busiest container port.⁹⁰ According to Donald Tsang, Hong

⁹⁰ "Hong Kong Center for International Business: The 1997 Budget," [<http://www.info.gov.hk/fb/bdgt97>], March 12, 1997.

Kong's Financial Secretary, "Hong Kong is already the best place in the world in which to do business, and the Government is totally committed to ensuring that it remains so."⁹¹

The Heritage Foundation Index of Economic Freedom consistently cites Hong Kong as the world's freest economy. There is little government interference in the marketplace; taxes are low and predictable; increases in government spending are linked closely to economic growth; foreign trade is free; and regulations, in addition to being transparent, are applied both uniformly and consistently. The top tax rate is 15 percent, and only 40 percent of the people pay it.⁹² Free enterprise has given Hong Kong the highest per capita income in the world. It has a balanced budget, and it has had that for 30 years.⁹³

The Hong Kong government makes a vital but deliberately limited contribution to Hong Kong's economic success. There has long been a clear understanding between the government and the business community that business decisions are best left to entrepreneurs and investors, and Hong Kong has enjoyed an exceptional record of sustained economic expansion.⁹⁴

Minimum interference and maximum support from the government has created the most entrepreneurial environment in Asia, if not the world. Government spending follows, and does not outpace, economic growth. Public expenditure is kept at under

⁹¹ Ibid.

⁹² Press Conference with House Speaker Newt Gingrich, Representative John Dingell, and Other Members of the Congressional Delegation Which Traveled to Asia, Federal News Service, April 9, 1997.

⁹³ Ibid.

⁹⁴ Donald Tsang, "Hong Kong 1997 Economic Outlook," [<http://www.info.gov.hk/fb/bdgt97/eng/eprelude.htm>], February 27, 1997.

twenty percent of GDP. Hong Kong has had a budget surplus year after year, and fiscal reserves stand at over \$19 billion.⁹⁵ Hong Kong has a stable currency linked to the US dollar. This link provides the monetary discipline for the government and the private sector to maintain flexibility and competitiveness.

B. U.S. INTEREST

The United States has a very significant stake in promoting economic and business relationships with Hong Kong. Hong Kong is an international city. Its future stability and continued prosperity are important not just to China but to the entire world community. The United States has a major interest in Hong Kong's successful transition. U.S. trade, investment, and business with Hong Kong have in recent years flourished in a virtually barrier-free environment. Hong Kong is an excellent market for US exports. 1996 exports to Hong Kong, many of which are re-exported to China, totaled nearly \$15 billion.⁹⁶ Hong Kong is the destination of \$14 billion in foreign direct investment from the United States.⁹⁷ Some 1,000 resident U.S. firms employ 250,000 Hong Kong workers, and about 37,000 American citizens live and work in Hong Kong.⁹⁸ Hong Kong is the home of the largest overseas American Chamber of Commerce.⁹⁹

⁹⁵ Christopher Patten, Speech at the opening of the International Monetary Fund Conference on Financial Integration in Asia and the Role of Hong Kong, "Hong Kong Government Information Center," [<http://www.info.gov.hk/isd/speech/307pttn.htm>], March 7, 1997.

⁹⁶ Lord.

⁹⁷ Donald Tsang, "Going for Win/Win: Hong Kong/U.S. Trade Relations in 1997 and Beyond," [<http://www.info.gov>], February 27, 1997

⁹⁸ Lord.

⁹⁹ Tsang, "Going for Win/Win: Hong Kong/U.S. Trade Relations in 1997 and Beyond."

Hong Kong has sent ambassadors of goodwill to the United States to foster good economic and trade relations between the two places. Hong Kong's Economic and Trade Offices in Washington, San Francisco, and New York are not embassies or consulates. Their nature and establishment are described in Article 156 of the Basic Law, and they are part and parcel of Hong Kong's commercial autonomy. Together with the overseas offices of the Tourist Association, the Trade Development Council and the Hong Kong Monetary Authority in the U.S., the mission of the three ETOs is to continue to work with a single objective of strengthening the Hong Kong and U.S. economic and trading ties in the years to come following the reversion.¹⁰⁰

The bottom line is that the United States wanted to continue to enjoy the same broad range of relations with Hong Kong after the reversion to Chinese sovereignty.

C. CHINA'S INTEREST

The concept of economic autonomy within China is not new. In 1978 the Chinese Communist Party committed the nation to gradualistic market reforms as part of the "Four Modernizations". Initial changes laid the foundation for establishing Special Economic Zones (SEZs) which opened China to outside economic influences. These selected ports have relaxed rules and foreigners are allowed to operate there. In 1979 a law establishing ground rules for joint ventures was passed, and in 1980 four cities were selected to be SEZs, all along the southeastern coast, including Shenzhen adjacent to Hong Kong. Restrictive rules on economic activities were relaxed, and foreign trade was encouraged in these areas. Since then foreign investment has poured in, exports have

¹⁰⁰ Ibid.

poured out, and these cities have boomed. The SEZs have become engines of growth and outward expansion.

China has a vested interest in the successful transition of Hong Kong partly because the territory is the dynamo for its own economy. In addition to accumulated Hong Kong investment of almost \$70 billion in China, Hong Kong provides a source of technical expertise in economic and financial management.¹⁰¹

For decades, a handful of Chinese companies have done business in Hong Kong: the Bank of China, China Resources, China Travel, China Merchants; companies that served as Beijing's pipelines to the global economy. However, in the last decade, and particularly in the last five years, Chinese companies, including many businesses tied to the Chinese government, have flooded Hong Kong, buying property, wooing foreign deal makers, and looking for capital. Richard Wong, the director of the Center for Economic Research at Hong Kong University, estimates that the vast percentage of Chinese companies in Hong Kong are busily transferring assets from China to the tune of \$65 billion annually a sum which is equal to more than half of China's total foreign reserves.¹⁰²

The Bank of China, Beijing's most formidable presence in Hong Kong, has become a principal banking institution there. According to banking analysts, it has corralled about a quarter of Hong Kong's retail banking market and is one of three banks

¹⁰¹ John Ridding, "Summers Warns China on Hong Kong," Financial Times, March 4, 1997, p. 4.

¹⁰² Edward A. Gargan, "China Already Entrenched As a Hong Kong Capitalist," New York Times, December 5, 1996, p. A1.

permitted to issue Hong Kong currency.¹⁰³ The bank also handles a major share of corporate lending, in large measure because of the bank's access and power on the mainland. Since the bank is not listed on the stock exchange and releases little information about its activities, little is known about its clients, deals, and profitability. However, it does serve as the parent institution for eleven smaller banks in Hong Kong and for investment holding companies.

Evading China's capricious bureaucracy and its lack of an effective legal and financial system is one of the core reasons Chinese companies, provinces, towns, and ministries have established a presence in Hong Kong. They also received the considerable benefit of being transformed into "foreign investors" in China. China offers very lucrative incentives to foreign investors that are not available to local companies. A lot of Chinese companies that wanted to make investments in China set up a shell company in Hong Kong and shifted money outside of China. They then used the shell company as a cover for foreign investment to send money back to China.¹⁰⁴

China's links to the Hong Kong economy have been a vital factor in China's economic success. Hong Kong's status as a Special Administrative Region will create new trade and investment opportunities as the modernization process continues to transform the Chinese economy.

D. PROMISES OF THE JOINT DECLARATION AND BASIC LAW

Where the Joint Declaration and Basic Law were vague in describing how Hong Kong would maintain its autonomy in the areas of politics and security, the two

¹⁰³ Ibid.

¹⁰⁴ Wei Li, Professor of Managerial Economics at Duke University, as quoted in Gargan.

documents are very specific when it comes to economic issues. The Joint Declaration provides for the Hong Kong SAR to have autonomy in economic, financial, and monetary fields. According to this document, there will be no exchange control and the Hong Kong dollar will continue to be freely convertible. Investors will be able to put in or withdraw their capital freely. The Hong Kong SAR government will use its own revenues exclusively for its own purposes, and the PRC will not levy taxes in the Special Administrative Region.

The Joint Declaration and Basic Law provide for continuity in that the Government of the Hong Kong SAR will determine its own fiscal policy and manage and dispose of its financial resources, to include drawing up its own budgets and final accounts, in accordance with Hong Kong's own needs. There is no requirement to remit revenue to the Central People's Government.¹⁰⁵

The Joint Declaration also addresses specifically the Hong Kong economic system and external economic relations, which are both important for Hong Kong's export-oriented economy. Hong Kong's prosperity is heavily dependent on securing continued access to its principal export markets in the developed world. The Joint Declaration provides reassurance both to the community at large in Hong Kong and to its trading partners that the basis for Hong Kong's flourishing free market economy will continue. The Joint Declaration also provides for Hong Kong's right to continue to determine its economic policies, including trade policy, in accordance with its own needs. It also provides for the continuation of the free enterprise system, the free trade policies and free port, which are the essentials of Hong Kong's consistent and successful

¹⁰⁵ "Joint Declaration," Annex I, Section V and "Basic Law," Chapter V, Section 1, Article 106.

economic policies. Further, it provides for the continuation of individual rights and freedoms in economic matters, notably the freedoms of choice of occupation, of travel, and of movement of capital, and the rights of individuals and companies to own and dispose of property.¹⁰⁶ The Basic Law echoes these promises. Article 109 of the Basic Law states that the Government of the Hong Kong SAR shall provide an "appropriate and legal environment for the maintenance of the status of Hong Kong as an international financial center."¹⁰⁷

Hong Kong's monetary system is based on a freely convertible currency and the right to manage the Hong Kong Monetary Authority, which provides the backing for the note issue, is used to regulate the exchange value of the currency. The Joint Declaration stipulates that these essential elements shall be maintained. Section VII of Annex I of the Joint Declaration states, "The Hong Kong SAR shall retain the status of an international financial center. The monetary and financial systems previously practiced in Hong Kong, including the systems of regulation and supervision of deposit taking institutions and financial markets, shall be maintained." The Hong Kong SAR Government may decide its monetary and financial policies on its own. According to the Joint Declaration, it will safeguard the free operation of financial business and the free flow of capital within, into, and out of the Hong Kong SAR. The Hong Kong dollar, as the local legal tender, will continue to circulate and remain freely convertible. The authority to issue Hong Kong

¹⁰⁶ "Joint Declaration," Annex I, Section VI.

¹⁰⁷ "Basic Law," Chapter V, Section 1, Article 109.

currency will be vested in the Hong Kong SAR Government. Again, these promises are repeated specifically in the Basic Law.¹⁰⁸

E. THE TRANSITION

Chinese authorities took many steps to smooth the transition and retain Hong Kong's capitalist status. In a speech to the American Chamber of Commerce in Hong Kong, Lawrence Summers, U.S. Deputy Secretary of the Treasury, said that China had much to gain and to learn from Hong Kong when the territory reverted to Chinese sovereignty, but he stressed that it was important that the two maintain their separate economic systems. "It is essential that China allows Hong Kong to be Hong Kong. If there is to be some convergence over time, it would be beneficial for all involved if China's system became more like Hong Kong's than the other way around."¹⁰⁹

If the Joint Declaration was carried out, Hong Kong was supposed to retain its autonomy in economic affairs, including its independent fiscal and monetary policy. Hong Kong was supposed to retain its status as an international financial center, with its own currency separate from China's renminbi. Hong Kong was to continue to be a key member of the Asia Pacific Economic Cooperation (APEC) forum, and retain membership in major international financial institutions.

In his speech, Summers warned Beijing that mishandling of Hong Kong's transition to Chinese sovereignty would deal a severe blow to its own interest as well as to the territory's economy. "If it encroaches or is perceived to encroach upon Hong

¹⁰⁸ "Basic Law," Chapter V, Section 1, Articles 110, 111, and 112.

¹⁰⁹ "USIS - China Has Much to Gain, Learn From Hong Kong," Speech by Lawrence Summers, US Deputy Secretary of the Treasury, March 3, 1997, Asia Pulse, Release by the US Information Service, March 10, 1997.

Kong's autonomy, the Hong Kong people have the ability to make such actions extremely costly - either by leaving Hong Kong or by transferring funds. Such changes could be disastrous for the Hong Kong economy, but the loss to China would be immense. "¹¹⁰

F. CONCLUSIONS

Hong Kong is an important international financial, trade, shipping, tourism, and information center in the Asia-Pacific region. A smooth handover of Hong Kong with China honoring all its commitments would have benefited not only the Chinese economy but also enhance China's stature in the international community.

According to the Joint Declaration and Basic Law, Hong Kong is to be permitted to maintain the status quo for fifty years and enjoy a high degree of autonomy provided this continues to be seen by the Chinese Communist leadership as economically beneficial and not harmful to its claim of sovereignty over the territory. The key question, of course, is whether China will honor its impressive set of commitments. It should be recognized that the real purpose of the "one country, two systems" formula is to serve the interests of the PRC. Capitalist Hong Kong will enjoy a high degree of autonomy if it enhances the interests of the system in China.

On the economic side, in general, Chinese statements and actions have been reassuring about China's commitment to Hong Kong's future prosperity and preservation of its dynamic capitalist system. Over the years Chinese businesses have set up operations in Hong Kong, and China's government has allowed this to happen. Many of these businesses, in fact, have direct ties to the government. China's government has

¹¹⁰ Ibid.

made clear its intention to maintain Hong Kong's own currency linked to the U.S. dollar and to preserve Hong Kong's substantial foreign exchange reserves. PRC companies so far seem interested in gaining a share of the lucrative contracts tendered in Hong Kong rather than undermining the process itself.

Hong Kong's economy remains healthy and strong. Most Hong Kong businessmen view the future positively and are less concerned with the uncertainties over political arrangements.¹¹¹

Beijing has ample reasons to live up to its commitments since no country has benefited more from Hong Kong's success than China itself. Hong Kong is China's largest trading partner and much of China's two-way trade uses Hong Kong as a trans-shipment point. Sixty-five percent of foreign direct investment in China now comes from or through Hong Kong. Over 50,000 enterprises in Guangdong Province alone use Hong Kong investment and employ over 4 million PRC workers.¹¹²

China has relied on Hong Kong's easy access to investment capital, sophisticated financial, technical and legal expertise, and entrepreneurial skills to fuel its own economic growth over the last two decades. Beijing knows that Hong Kong's vibrant service economy could dissipate quickly through steady or mass emigration if its signals

¹¹¹ "Hong Kong Businessmen Prepare for Chinese Rule," Cable News Network Transcript # 924-6, July 31, 1996.

¹¹² *Ibid.*

or actions erode confidence. Thus, Beijing has a real interest in making its stewardship of Hong Kong a success.

V. CONCLUSION

The Sino-British Joint Declaration on the Question of Hong Kong, signed in 1984, calls for maintaining Hong Kong's lifestyle and "high degree of autonomy" for fifty years after the establishment of the post-reversion Hong Kong Special Administrative Region. The primary research question that this thesis attempted to answer is: How has the concept of "high degree of autonomy" been operationalized since its inception in the "Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong?" Both the British (Hong Kong) government and the Chinese government had different interpretations of the concept of Hong Kong's "high degree of autonomy." Events which took place over the thirteen years since the signing of the Joint Declaration to the handover show how each side interpreted and politicized the notion of autonomy in Hong Kong. This thesis tracked changes since 1984 and explained where the PRC and Hong Kong stood on the issues just prior to reversion.

The political arena saw the most activity in the period leading up to reversion. Through democratic reforms during the final years of British rule, Hong Kong in effect, transferred some political power from the British colonial government to the people of Hong Kong. The government of the PRC reacted negatively to these changes and revised the entire political system after reversion.

Prior to reversion Governor Patten had the support of the colony's liberals who wanted Britain to push China harder to see if more democratic reform might allow Hong Kong to safeguard its political autonomy. Patten pushed China extremely hard, but failed

to get any major concessions. In providing greater political reform, Patten tried to institutionalize democratic mechanisms to protect post-reversion Hong Kong's autonomy, despite Chinese assurances that if he went ahead unilaterally, whatever institution he set up would not last beyond June 30, 1997.

Not surprisingly, China set up a Provisional Legislative Council in January, 1996 despite a virtual consensus in the Hong Kong legal community, including both the Hong Kong Bar Association and the Law Society, that this provisional body lacked a legal basis. China circumvented the Basic Law by calling the legislative body instated on July 1, 1997, a "Provisional Legislature" rather than the "First Legislature" of the Hong Kong SAR.

This represented a step backward for Hong Kong's democratic reform. This represented China's attempt to ensure that Hong Kong would not run astray. The creation of the Provisional Legislative Council, whose members were hand-picked Beijing supporters, to replace the popularly elected legislature formed in the last days of British rule, was the most serious violation of the Basic Law. Beijing defended this violation, saying that as China and Britain could not arrive at a mutually acceptable way of constituting the first post-handover legislature, it was forced to abandon the legislature constituted under British tutelage.

Beijing also devised for the SAR an extremely complicated election system to ensure that the largest party in Hong Kong, the Democratic Party, which was also the most critical of Beijing, could never enjoy majority status in the legislature. According to the Basic Law, the post-handover legislature consisted of twenty seats from geographic wards, thirty from functional constituencies, representing business and professionals, and

ten from an electoral college of 800 members known for their pro-Beijing inclinations. By introducing proportional representation and multi-member geographic constituencies, and eliminating mass-membership functional constituencies in favor of narrowly defined, limited-membership functional wards, the PRC reined in the reforms made in the last years of British rule that had made the legislature more democratic and representative of the people as a whole. As a result of these changes, the popular Democratic Party and other pro-democracy independents were restricted to a smaller proportion of legislative seats than they had won in the 1995 election.

The nomination process for the Chief Executive was structured to ensure that Beijing was not presented with a candidate it could not accept. China's 150-member Preparatory Committee was responsible for establishing the 400-member Selection Committee which, in turn, chose the Chief Executive. Of the 150 members, mainland representatives constituted over a third, while the rest were Hong Kong members who were mostly business leaders and pro-Beijing political figures. This ensured the Selection Committee was composed of like-minded pro-Beijing members.

One year after reversion the political arena has seen more change. The Provisional Legislature was to last only one year, and China has lived up to that promise. Legislative elections in May 1998, the first under Chinese rule, allowed Hong Kong democracy to move one step forward. One third of the sixty seats in the legislature were elected through universal suffrage in that election. The rest are appointed by business and other special-interest groups, a process that guarantees the legislature will stay packed with a pro-Beijing elite. The Basic Law provides for a gradual increase of directly elected seats in future elections and full democracy in 2008.

In the recent elections for those twenty seats in the Legislative Council, voter turnout was unexpectedly high. The voters, moreover, gave pro-democracy candidates a resounding victory. In the elections the Democratic Party won 60 percent of the vote even though they could only compete for one-third of the legislature's seats. The Democratic Party is calling for the entire body and the Chief Executive to face popular election much more quickly.

The world was impressed with the record turnout at Hong Kong's May elections. The results were widely considered a mandate for more democracy, not less, and faster, not slower, strides toward political freedom.

By contrast, the security arena has remained much quieter. According to the Joint Declaration and the Basic Law, the PLA is not to take a role in the internal security of Hong Kong. In this case, prior to reversion the local Hong Kong government managed to limit Beijing's control. There is, however, a clause in the Basic Law of the Hong Kong SAR which allows the PLA to gain control of internal affairs in the event of "turmoil" which "endangers national unity or security."

When TV footage of truck loads of PLA troops flooding across the border during last year's historic handover was broadcast around the world, many people worried that they were witnessing the beginning of the end for Hong Kong. In reality, the PLA have rarely been seen since in Hong Kong. They stay in their garrisons. Public order in Hong Kong is maintained not by the PLA, but by the same police and law enforcement agencies that carried out those responsibilities before the transition.

Since reversion, the PLA garrison, the ultimate symbol of Chinese authority over Hong Kong, has kept a low profile. The troops moved quietly into their barracks in Hong

Kong, and have remained out of sight since last July. It is still to be seen whether China will enact the "turmoil clause" of the Basic Law to use the PLA to take control of Hong Kong if Beijing feels things are getting out of hand.

While the prospect of autonomy in the political arena does not seem promising and the issue of security autonomy is still to be tested, the future of economic autonomy in the Hong Kong Special Administrative Region is much more concrete.

On the economic side, in general, Chinese statements and actions have been reassuring about China's commitment to Hong Kong's future prosperity and preservation of its dynamic capitalist system. Prior to reversion, PRC businesses set up operations in Hong Kong, and China's government allowed this to happen. Many of these businesses, in fact, have direct ties to the mainland government. China's government has made clear its intention to maintain Hong Kong's own currency linked to the U.S. dollar and to preserve Hong Kong's substantial foreign exchange reserves. PRC companies so far seem interested in gaining a share of the lucrative contracts tendered in Hong Kong rather than undermining the process itself. The PRC will not try to infringe upon economic autonomy because it is in China's best interest for Hong Kong to maintain its current economic success.

Beijing has ample reasons to live up to its commitments since no country has benefited more from Hong Kong's success than China itself. Hong Kong is China's largest trading partner and much of China's two-way trade uses Hong Kong as a trans-shipment point. China has relied on Hong Kong's easy access to investment capital, sophisticated financial, technical and legal expertise, and entrepreneurial skills to fuel its own economic growth over the last two decades. Beijing knows that if its signals or

actions erode confidence, Hong Kong's vibrant service economy could dissipate quickly through steady or mass emigration. Thus, Beijing has a real interest in making its stewardship of Hong Kong economy a success.

Hong Kong's position as an international financial, trading and shipping center and free port has been safeguarded. Soon after the establishment of the Hong Kong SAR, Asia experienced a financial crisis and the strong and extensive impact it had on Hong Kong was the most extraordinary in a long time. With the support of the central government, the SAR government took effective and appropriate measures to secure the system of pegging the Hong Kong dollar to the U.S. dollar and thereby maintaining an overall financial and economic stability.

When the Asian financial crisis fiercely buffeted Hong Kong, the central government's decision not to devalue the renminbi was a strong backing for Hong Kong's currency pegging system and strong economy. Most foreign companies in Hong Kong continue to show confidence in Hong Kong's investment environment. They see Hong Kong as a bridge to access the mainland market and are willing to invest in Hong Kong on a long-term basis.

The territory's first year under Chinese rule is ending less than auspiciously, with rising unemployment, shrinking economic growth and a volatile stock market amid the Asian financial crisis. However, Hong Kong's economic downturn is not the result of the handover. If anything, Britain created the overheating of the Hong Kong economy on the eve of the turnover. Real estate comprises a vast percentage of the earnings of the companies on the Hong Kong stock exchange. Prior to reversion, the British government ensured that real estate would have an inflated value due to tight restraints on

construction and development until months before the handover. At that time the market started to flood with new development sites and high rise building projects. This was a bubble that was bound to deflate, and China's policies had little effect in preventing this.

A year ago, there was much talk about Hong Kong playing a major role in buttressing China's economy. At the moment, however, it is Beijing that seems to have assumed the role of trying to protect the Hong Kong dollar. This means Hong Kong will be integrated more than ever with China economically.

One of the factors that has not changed since reversion is the involvement of the United States in Hong Kong both officially and in the private sector. The United States has a very significant stake in promoting economic and business relationships, preserving civil liberties and the rule of law, maintaining a cooperative law enforcement relationship, and preserving access to Hong Kong as a routine and frequent port of call for U.S. Navy ships. The United States wants to enjoy the same broad range of relations with Hong Kong as it did before reversion. The U.S. continues to be the SAR's second largest trading partner, while the American expatriate community, numbering close to 50,000, has doubled in the last five years and represents the largest non-Asian contingent of foreign nationals. Hong Kong is still home to the largest U.S. Chamber of Commerce outside North America, and so far there have been no signs of an exodus by the 1,000 U.S. firms operating there.

Moreover, new U.S. companies are starting up and school enrollments of American children have remained steady. Trade, travel, education and cultural exchanges, law enforcement cooperation and naval visits all retain their pre-reversion vitality. All the indicators of U.S. involvement remain stable.

The relatively smooth handover is one reason the U.S. government has felt comfortable in continuing its engagement with China's leaders. Had Beijing decided to crack the whip in the former colony, congressional opposition to President Clinton's quest for a strategic partnership with China would have been even more intense.

How China handles Hong Kong post-reversion is critical to the future of Taiwan, to China's international standing, and to China's relations with the United States. Conversely, mishandling post-reversion Hong Kong would endanger China's relationship with Taiwan, the region, and the broader international community. Preserving key elements of Hong Kong society, such as the rule of law, and independent civil service and judiciary, respect for civil liberties, a free press, is essential to Hong Kong's future. The formula "one country, two systems" was first devised by Deng Xiaoping not for Hong Kong, but for Taiwan. In the eyes of the Chinese leadership, if the formula works in Hong Kong, that would strengthen the attraction to the people of Taiwan. If China's conduct in Hong Kong is revealed to be a fraud, then hopes of a peaceful reunification with Taiwan would be destroyed.

Fears of China in the West and the rest of Asia would also intensify. That, in turn, would increase hostility toward China, which is already finding that some of its international ambitions, such as membership in the World Trade Organization and playing host to the Olympic Games, have been thwarted by foreigners' suspicion of it. Suspicion would turn to outright animosity if it cracked down on Hong Kong.

So far, the Beijing government has shown great trust in and support for the SAR government headed by Tung Chee-hwa. The Chinese government says it is firm about implementing the policy of "one country, two systems" and "Hong Kong people

governing Hong Kong" with a high degree of autonomy. The PRC regards this to be a long-term basic national policy. Hong Kong Chief Executive Tung Chee-hwa says that the central Chinese government has not interfered with the internal affairs of Hong Kong. Relations between Hong Kong and the mainland have further evolved. Bilateral exchanges in the fields of finance, science and technology, education, culture and tourism have been more frequent and extensive. The "one country, two systems" concept appears to have fared well, with China carefully refraining from jeopardizing it. Beijing has done well in resisting temptation to intervene in the territory's affairs. Many Hong Kong watchers feel that the year-long experience proves that Beijing meant what it said. The record since reversion has bolstered confidence in both the local and international community that China's leaders intend to keep their commitment to allow Hong Kong to remain autonomous and let Hong Kong people rule Hong Kong.

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