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# TESTIMONY

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## Hong Kong at the Crossroads

WILLIAM H. OVERHOLT

CT-228

June 2004

Testimony presented to the House Committee on International Relations,  
Subcommittee on Asia and the Pacific on June 23, 2004

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**Statement of William H. Overholt\***

**Before the Committee on International Relations  
Subcommittee on Asia and the Pacific  
United States Senate**

**June 23, 2004**

**Summary**

Hong Kong's freedoms promised under "one country two systems" are intact: freedom of speech, press, demonstration, and movement, and retention of British law and the capitalist economic system. As anywhere, controversies have arisen at the margin. Settlement of the freedom issues has been satisfactory, albeit sometimes messy. Hong Kong is a free society.

Two issues have not been resolved. First, "one country two systems" means mutual non-subversion and Basic Law Article 23 requires anti-subversion legislation. The Hong Kong government's proposed stringent legislation provoked overwhelming and successful opposition. Disingenuous Hong Kong government handling of this issue, following failures to revive the economy, politicized a previously apolitical society.

Second, democracy. Hong Kong is now more democratic than when China demanded Hong Kong back from Britain, but 30 of 60 legislators are elected through narrow functional constituencies and the Chief Executive by a narrow committee that allows Beijing to handpick him. The Basic Law sets universal suffrage in electing the Chief Executive and Legislature as an ultimate goal after 2007 but calls for gradual and orderly change, does not set a timetable, and makes Beijing the arbiter of appropriate conditions.

A gridlocked Hong Kong government has had difficulty undertaking vital economic reform. To end gridlock, it could theoretically go back to the more dictatorial British system or forward to a more democratic system that would develop the political skills, political coalitions and policy mandates to move policy forward. But Hong Kong people will resist retrograde change and Beijing will block democratization if it feels threatened.

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Arguably Beijing should feel comfortable with democratization because Hong Kong has no independence movement and democratic leaders have strongly supported China's view on Taiwan. Anti-Chinese leaders and movements have weakened since 1997. Demonstrations for democracy have been orderly and lawful. Public opinion polls reveal strong respect for the central government and its leaders.

However, Beijing has reacted defensively and has issued a preemptive law barring direct elections of the Chief Executive in 2007 and of the 30 functional-constituency legislators in 2008. New central government leaders, largely unfamiliar with Hong Kong, have misinterpreted large demonstrations as instability. They have made decisions in the context of a Taiwan crisis that makes them vulnerable to charges of failing to protect national unity. They believed that economic recovery and insistence that Hong Kong business leaders support the Chief Executive would calm discontent, and have felt betrayed when their successful engineering of Hong Kong economic growth failed to achieve political quiescence. They erroneously equate the broad democracy movement with a few leaders who have a history of mobilizing antagonism to China. Chinese experts with a more sophisticated view of Hong Kong were silenced when a strong U.S. show of support for Martin Lee gave credence to fallacious arguments that the democracy movement is a product of British-U.S. efforts to weaken China.

In effect, central government leaders have confused Hong Kong with Taiwan, the democracy movement with a few provocative pro-democracy leaders, and orderly, lawful, brief demonstrations in Hong Kong with anti-regime demonstrations in China proper. A series of repressive measures and announcements in January-May 2004 have created an atmosphere of tension and anxiety in Hong Kong.

Constructive discussions have revived in June. Democratic leaders have reaffirmed loyalty to China and suggested turning the coming July 1 demonstration into a celebration of civic society. Hong Kong government leaders have pledged their commitment to core values of freedom, human rights, rule of law and democracy. Central government spokesmen have pledged somewhat ambiguously to resume dialogue with all sectors in Hong Kong. While there is absolutely no assurance that Beijing will now move from consultations to concrete proposals, an optimist could build hope around efforts at constructive dialogue, repeated high level re-commitment to eventual universal suffrage, and the reformist intelligence of many of the key personalities in Hong Kong and China proper.

What principles should U.S. policy follow? We of course support democratic progress. Amid concern about today's problems, we should remember the value of the Hong Kong's existing freedoms. Thus, when we respond to central government actions that might damage Hong Kong, we must take care not to do damage ourselves.

U.S. positive leverage is frustratingly limited. Our negative leverage is large. Regardless of the intensity of our good intentions, the central reality is that Hong Kong will only get democracy when Beijing is comfortable with it. Anti-democratic forces will triumph if they can define the Hong Kong problem as a Chinese-American confrontation rather than a dialogue with the Hong Kong people. If we play our hand properly, we have absolutely

no assurance of success. If we overplay our hand, we will surely fail. Hong Kong's democratic forces are organizing to increase Beijing's comfort with democratization; we should not inadvertently undermine them.

If this seems a counsel of impotence, there is some comfort: if Chinese leaders create a major confrontation with Hong Kong, the economic damage to China will be greater than any sanctions we can imagine. Reversion to threats and flotillas will be self-sanctioning.

Anyone who offers confident predictions about the immediate future probably doesn't understand the situation. But I will close this summary with two positive thoughts. First, China's reformist leaders have so far displayed considerable acumen for calculating their country's self-interest, and any knowledgeable calculation of their self-interest must conclude that a revival of Deng Xiaoping's past political generosity toward Hong Kong will pay huge dividends. Second, Hong Kong today is considerably more democratic and a smidgen freer than when China demanded it back from Britain in 1982. Anyone who is totally pessimistic about the future joins thousands of commentators who said that was impossible.

### **Hong Kong At the Crossroads**

Mr. Chairman, I am honored to be invited to testify before this committee.

As background, I lived in Hong Kong from 1985 to 2001, leading research units for investment banks. I am by training and inclination a scholar. While in Hong Kong, I wrote a book, *The Rise of China*, about China and Hong Kong and served for six years each on the boards of the American Chamber of Commerce in Hong Kong and of a local counterpart, the Business and Professionals Federation of Hong Kong. In connection with the latter, I helped lead a study of Hong Kong's economic future and served as spokesman for a delegation that persuaded Premier Li Peng to abandon the policy of withholding decisions about the Court of Final Appeal until after 1997 handover of sovereignty. My published work has emphasized the value of democratization for Hong Kong.<sup>1</sup>

I am testifying today at the Committee's invitation and not on behalf of any interest group.

### **A Period of Anxiety**

Hong Kong today is in a period of stress and uncertainty. Recent Chinese central government policies have raised anxiety in Hong Kong and created a threatening atmosphere. The risks to the future are considerable. The problems that have emerged

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<sup>1</sup> See "Hong Kong: The Perils of Semi-Democracy," *Journal of Democracy*, October 2001

could conceivably escalate and cause great difficulty for Hong Kong, serious economic and political setbacks for Beijing, and significant strains in US-China relations. All of this is somewhat surprising because only last fall there was an atmosphere in Hong Kong of remarkable good feeling toward the central government. Amicable resolution remains possible, and there have been preliminary hopeful signs in June 2004.

### **The Record, 1997-2003**

In situations like this, it is useful to step back and understand the broad context before drilling down into current events.

The backdrop of Hong Kong's current situation is one of the modern era's great triumphs of diplomacy, moderation, mutual understanding, and leadership. When Britain and China began in 1982 to negotiate Hong Kong's return to Chinese sovereignty, the mistrust, fear, and ideological division between China and the West were so much greater than today that it is difficult to overstate the obstacles to agreement. Only leaders as determined and as confident as Margaret Thatcher and Deng Xiaoping could have forged the agreement. Prime Minister Thatcher realized that she could preserve the freedoms of the Hong Kong people by cutting a deal that relied on Chinese economic interests in a vibrant Hong Kong. Most remarkably for the leader of a country that had been profoundly ideological, profoundly isolated, and at times profoundly hostile to the West, Deng Xiaoping realized that China had much to gain economically from preserving British institutions after the British leaders had departed.

The "one country two systems" formula that they agreed upon promised to preserve Hong Kong's separate judicial system, capitalist economic system, separate currency, and social freedoms. It did not promise full democracy, and indeed the British as well as the Chinese negotiators were somewhat skeptical of the appropriateness of full democracy for Hong Kong, but their agreement provided for gradual moves in the general direction of democratization.<sup>2</sup>

In terms of what was promised, the "one country two systems" agreement has through the end of 2003 been about as complete a success as anyone could have imagined. The legal system has the same laws, interpreted the same way, by the same judges or by judges chosen in the same fashion, as before. The ultimate appeal has no longer been to the Privy Council in London but rather to the Standing Committee of the National Peoples Congress, but the SCNPC was extremely cautious through last year in exercising its authority. (I will speak below about what has happened this year.) No commercial dispute, divorce, or freedom of any kind other than immigration into Hong Kong was affected by the handover. Hong Kong has remained a remarkably cosmopolitan

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<sup>2</sup> "The chief executive will be appointed by the Central People's Government on the basis of the results of elections or consultations to be held locally," [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](#), December 19, 1984, Article 3(3).

international city; English is an official language and foreigners are permitted to occupy up to 20% of the seats in the legislature, to hold relatively senior government positions, and, after seven years' residence, to vote.

Likewise the press has been utterly free from any kind of government restraint. So-called self-censorship did occur for commercial reasons. For example, one newspaper forced out Hong Kong's two favorite humorists and its best-known China reporter, in order to pursue its desire to build a major market in China. But all three are employed, and are free to skewer China as they like, at other prestigious publications in Hong Kong. The *Asian Wall Street Journal*, whose editorial page is no apologist for China, continues to base itself in Hong Kong, and the Hong Kong Chinese press commentary runs the whole gamut from acknowledged mouthpieces of the Chinese Communist Party to vitriolic sarcasm toward it. Skewering Hong Kong's Chief Executive is Hong Kong's leading media sport.

Demonstrations have become much more common in post-1997 Hong Kong than they were under the British. Although some NGOs still have complaints, the laws are looser than before and they often are loosely enforced. Indeed, Hong Kong has become a culture of demonstrations. One of the commonplaces in the media prior to 1997 was that, after the 1997 handover, there would be no more Hong Kong demonstrations protesting the June 4 slaughter near Tiananmen Square. But in fact the 1998 vigil was bigger than its predecessors and this year's was variously estimated from 50,000 to 82,000 demonstrators.

Freedom of religion has been sacrosanct; notwithstanding Tung Chee-hwa's reference to Falun Gong as an "evil cult," the sect at one time rented out City Hall for a major meeting and practitioners who would be jailed or worse on the other side of the border practice freely and openly. They exercise every morning near the main government buildings, and collect money in Hong Kong's most prominent locations such as the entrance to the Star Ferry.

What Prime Ministers Thatcher and Deng, together with their successors and the Hong Kong people, have achieved is remarkable and, notwithstanding concern about a succession of issues, we should remember this.

Just as we have had to spend two centuries defining the legal balances and boundaries among the parts of our constitution, Hong Kong and China have had to define the balances and boundaries of "one country two systems." The method for defining such boundaries is legal skirmishes, for instance over immigration and over the division of labor between the Final Court of Appeal and the Standing Committee of the National Peoples Congress.<sup>3</sup>

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<sup>3</sup> The skirmish over immigration was the most severe test. The British had warned the Chinese to give Hong Kong residence rights only to those in China with two Hong Kong parents. China, failing to recognize that every macho Hong Kong truck driver had sought out a mistress on the other side of the border, chose to grant it to those with only one Hong Kong parent. Subsequently many in Hong Kong came to fear a flood of immigrants. China and the Hong Kong government, seeking an "orderly" process,

What has been most noteworthy about this process of defining boundaries and balances and limits has been the absence of significant legal or public policy controversies over freedom of speech, freedom of the press, freedom of demonstrations, independent judicial proceedings, and in general the range of “freedom issues” that were of greatest concern to skeptics about the viability of freedom in a territory seeking to maintain autonomy under the sovereignty of a communist state. While the ultimate appeal is now to the Standing Committee of the National Peoples Congress rather than London’s Privy Council, the Standing Committee has used its right of interpretation only twice. I will comment later on the problems created by the most recent interpretation, but I want to underline that the basic body of law, judicial structures, and freedoms has been preserved.

Mr. Chairman, all segments of Hong Kong society agree that Hong Kong’s basic freedoms have been maintained. Martin Lee testified before the Senate counterpart of this committee on March 4 that Hong Kong enjoys “a free press, an independent judiciary and a lively civil society.”<sup>4</sup>

What the skeptics failed to comprehend was that Deng Xiaoping and his immediate successors understood the connection between Hong Kong’s prosperity and its freedoms and its rule of law. Those who believed these were tactical concessions that the British wrung from reluctant autocrats, and that therefore there must be a secret plan for taking back those promises two or three years after 1997, misread the situation. Deng’s view was the opposite. Reflecting on the deal well after the agreements had been signed, he commented that China had made a mistake. China should, he said, have made Hong Kong’s grant of autonomy run for 100 years rather than 50.

Hong Kong is in fact both freer and more democratic than it was before China demanded the return of Hong Kong. Repressive British laws were repealed, and some repressive practices have disappeared. Hong Kong has evolved from a consultative colonial dictatorship to a semi-democracy. For instance, before Britain acquiesced in Hong

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insisted that every potential emigrant to China join a slow-moving queue to get an exit permit and the Hong Kong government moved to expel those who had sneaked across the border. Immigrants and their Hong Kong friends said, no, they had a constitutional right to immediate residence in Hong Kong. The Hong Kong government sought to panic the population and the court with exceptionally misleading statistics about the prospective flood. The Court rejected the government’s arguments and in the process staked out breathtakingly wide claims to jurisdiction over interpretations of the Basic Law. Calls arose for the Standing Committee of the National Peoples Congress to amend Hong Kong’s Basic Law, but the latter refused to do so on the sensible ground that it was bad to set a precedent of amending Hong Kong’s constitutional document for convenience. The Hong Kong government then called on the Standing Committee of the National People’s Congress to interpret the law; it did so, approving the government-favored process with a somewhat hamhanded ruling. It took the opportunity to assert its own role, defined in the Basic Law, as ultimate interpreter of the Basic Law. The process was messy, as such boundary skirmishes often are anywhere, but the ultimate result both on immigration and on jurisdiction was a legally and morally defensible one.

<sup>4</sup> Testimony By Martin Lee Chu-ming, Member of Legislative Council in Hong Kong To the Senate East Asian and Pacific Affairs Subcommittee of the Foreign Relations Committee (**updated version**), 4March 2004

Kong's return to China, all members of the legislature were appointed by a British Governor. Now half are elected through full suffrage and half through narrower functional constituencies.

Hong Kong has also been successful through 2003 in two other respects. Notwithstanding some economic difficulties in a few recent years, it has maintained a high standard of living for its own people and made an enormous contribution to China's modernization. Hong Kong still accounts for a major share of China's trade and is the largest "foreign" investor in China. Second, by example and by institutional outreach, it has contributed to:

- spreading the concept of rule of law in China;
- development of specific areas of Chinese law;
- spreading acceptance of the concept of mutually profitable long-term partnership with foreigners, in business and elsewhere;
- the spread of higher accounting standards and transparency in China;
- the broad Chinese public consciousness of the idea of rights;
- the advance of academic freedom in China;
- Chinese acceptance that an inquisitive and moderately aggressive press can be valuable to society;
- And many others.

When you travel into China proper from Hong Kong, you find that adjacent areas feel, look and function more like Hong Kong than like the old China. The lives of tens of millions of people in nearby areas have been uplifted, not just in terms of consumer goods but also in terms of attitudes toward foreigners, personal outspokenness, respect for the private sector, attitudes toward law and contracts, and consciousness of rights.

Many of China's most prominent companies want to do business under Hong Kong law. This is part of a spreading appreciation in China for the rule of law.

Mr. Chairman, when I was in Beijing last week I picked up a copy of the June 10 Beijing Review, a weekly English-language information/propaganda publication of the Chinese government. One of the lead articles was titled "Calling for an independent judiciary" and subtitled "China needs to untangle government from its judicial system." A key passage was "Government intervention produces arbitrary judgments, which may not correspond to law. Not only does bureaucratic tampering unnecessarily bring about corruption, [but also] consistent malpractice damages the professional integrity of judges, rendering them puppets of others." The article highlights the terrible problems of corruption in the judiciary, partly as a result of government intervention. While there are several causes of China's radical shift from the view that the judiciary should simply be a tool of the Party, and from the view that the press should be wholly uncritical, no cause has been more important than the example of Hong Kong and the lesson of the enthusiasm of both Chinese and foreign companies for Hong Kong's legal guarantees.

We can lecture to exhaustion about the advantages of the rule of law and of meddling media. To a traditional Chinese Communist Party official, those arguments would have seemed to be the implausible excrescences of an alien ideology. What makes rapid change in old attitudes palatable and what makes the issues concrete is direct experience in a non-threatening situation. That is why Hong Kong's influence has been transformative—transformative, even though implementation of an independent judiciary has barely begun and acceptance of meddling reporters has a long way to go.

From that base of successes, how have we come to today's troublesome situation?

### **Weakness of the pure business model of Hong Kong**

Prior to the handover of sovereignty on July 1, 1997, there was widespread belief (not including this writer) that the handover would imperil Hong Kong's freedoms but that the world's freest economy would continue to thrive because it would continue to be administered by a highly competent civil service. The principal threat to the economy was almost universally assumed to be mass emigration of the civil service along with other talented executives.<sup>5</sup>

What happened, as is so often the case with China, was exactly the opposite. Hong Kong's freedoms were admirably maintained. Not democracy, but freedoms. Hong Kong's civil service, which enjoys pay and perquisites that are almost unimaginable in the United States, stayed put and all the senior officials were kept on. The brain drain was always a myth: there was net immigration every year, and as the handover neared the number of people moving in rose dramatically while the number moving out declined substantially—exactly the opposite of the impression conveyed by most of our media. But the economy proved to have substantial problems and the new Hong Kong government proved unable to resolve them.

The Asian Crisis began with the collapse of the Thai currency on July 2, 1997, the day after the Hong Kong handover. That crisis revealed that most of the Asian miracle economies, including Hong Kong, had serious structural problems. In particular, Hong Kong's property system is prone to bubbles and financial crisis, Hong Kong's education system now lags behind Shanghai's, Hong Kong's system of cartels threatens to make it less competitive as competing cities reform, the tax system has too narrow a base with revenues dependent on government action to maintain extremely high property prices, and the civil service needs major reform. Unlike a number of other Asian economies, including both democratic South Korea and authoritarian China, Hong Kong has so far been unable to respond effectively to the new era by instituting needed reforms. The one major reform, which was the key to the current economic revival, was the closer integration of the Hong Kong economy with neighboring parts of China, a tremendously successful, long overdue effort that was masterminded by the Chinese authorities. This

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<sup>5</sup> Current political stresses have recently led some members of the senior civil service to request transfers or early retirement.

problem derives from the inadequacies of what might be called the business model of Hong Kong.

There has long been a Western myth that Hong Kong is a laissez faire economy merely administered by an apolitical civil service. The Chinese version of the myth is that Hong Kong is an economic city, not a political city. That is why the city's leader is called Chief Executive, not Governor or Mayor.<sup>6</sup>

The reality, once again, is close to the opposite. Hong Kong's economy is highly regulated, far more so than for instance our own economy. Trade and investment are indeed free, but half the population lives in government housing, the currency is pegged to the U.S. dollar, and the economy is managed through a set of cartels, mostly created directly or indirectly by government regulations, that control housing, airlines, taxis, conventions, interest rates, electricity, gas, ports, moving companies, water, buses, food distribution, gambling, car distribution, gasoline, pharmaceuticals, education, performance theaters, cruise terminals, and the principal services such as lawyers, doctors, nurses, and dentists.

Moreover, and this is crucial, maintaining Hong Kong's edge in sophisticated services like capital markets, banking, and accounting requires visionary leadership, not just administration.

Thus the economic reality is that the Hong Kong economy is a highly administered economy, and the political reality is that Hong Kong requires real leadership. The traditional myth of an economic city administered by a politically neutral civil service required one to ignore the presence of a British Governor with near-dictatorial powers, the visionary leadership exercised by several of those Governors as conditions changed, the rallying of social leaders and public opinion by the Governors in times of crisis, the addition of a new layers of advisory bodies after each major crisis in order to maintain political order, the use of the British political leadership and the British civil service to make the key plans and resolve crises<sup>7</sup>, and the pervasive use of British consulting firms to do everything from cleaning up the stock exchange to choosing acceptable cement for the new airport.

Even those like myself who always rejected the myths of the laissez-faire economy and the society that was administered rather than led did not understand how the structure of the post-handover government hobbled the city's leadership. Hong Kong is supposed to have executive-led government, with a strong Chief Executive (CE) modeled on the

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<sup>6</sup> Underlying the myth of a pure economic city is a policy truth, namely that China's acceptance of Hong Kong's freedoms and British laws derived from Chinese interest in maintaining Hong Kong's economic vitality. Deng Xiaoping's realization that Hong Kong's economic vitality depended on its rule of law was the seed from which the current Chinese acceptance of the idea of rule of law grew. Actual practice is still more a seedling than a tree, but the seedling shows real growth.

<sup>7</sup> To take one example, the Hong Kong economy got into very serious trouble in September, 1983, with a currency collapse, a banking crisis, and runs on grocery stores. Under the guidance of Prime Minister Thatcher's principal economic advisor, the government instituted a currency peg to the U.S. dollar and thereby resolved the crisis.

British Governor overseeing a compliant civil service and a relatively tame legislature. The reality is close to the opposite. The CE has a personal staff of only half a dozen. Unlike the old British Governors, the CE has no counterpart of Margaret Thatcher and her economic advisors to back him up. The theory of an Economic City and the method of selection by a small group of business executives and conservative notables virtually guarantee that the Chief Executive will be an executive without political experience--without for instance experience in going on television to rally the public or in convening disparate interest group leaders to forge compromises and consensus.

That leaves Hong Kong's Chief Executive highly dependent on the legislature and the civil service. But the tame legislature and the compliant civil service have not materialized. The typical legislator is a highly successful executive with a mind of his or her own, who gains confidence from an electoral mandate that conveys greater legitimacy than the Chief Executive's. The legislators resent the Chief Executive's assumption that he is the boss and they are the subordinates and, although his major bills get through, find numerous ways to frustrate him. Moreover, since they have limited opportunity to push legislative initiatives, and very little likelihood of ever being chosen for top government jobs, legislators have few incentives to rise above constituency concerns and push a long-term development agenda.

If there is any view common to most civil services, anywhere in the world including Hong Kong, it is that the way things have been done is just fine so why cause trouble by trying to change them. Hong Kong's civil service leadership has opposed education reform, competition policy, housing reform, tax reform, and of course civil service reform. Beyond the normal inertia of civil services, much of Hong Kong's civil service leadership at the transition and afterward found a mobilizing principle in the idea that it was protecting Hong Kong from China and that the Chief Executive personified China. Until recently, civil servants continued to treat contacts with their counterparts across the border as a security risk and senior officials from neighboring provinces as country bumpkins. This was both wrong and damaging to the economy. As a consequence of such inertia in other areas, Hong Kong's education system has fallen far behind Shanghai's and, to take just one example, its housing system is far more socialist than Shanghai's.

The civil service also reacted with only partly suppressed outrage to the process of legislative accountability. Being called by legislative committees to explain and defend policies in front of sometimes querulous legislators was a largely unfamiliar and hated task.

These problems add up to a gridlocked government—primarily for structural reasons. Each part of the triangle—Chief Executive, civil service, and legislature—has serious difficulties in working with the other two, and there is no mobilized political force to push them in a common direction. In principle, the dictatorial powers of the old British Governor could push them in common direction, and so could a democratically elected political coalition, but today Hong Kong has neither.

However, just as we personalize our political problems, so the media and public opinion have personalized Hong Kong's problem by blaming the Chief Executive. This is only partly fair. Chief Executive Tung Chee Hwa is an honest and well-meaning business executive. He was chosen to "preserve" Hong Kong's system. In the run up to the handover, neither British nor Chinese officials could get through more than a few sentences without emphasizing that central goal: to "preserve" Hong Kong's system. The emphasis was neither on political reform nor on economic reform. It was on preservation. By and large Mr. Tung has done that. Under him, Hong Kong has preserved the economic system. It has preserved the legal system. It has preserved the fundamental freedoms. It has preserved the political system. He presides over a culture of demonstrations and outspoken opinions while reassuring Beijing. That is a significant achievement. Had he wished to do so, Mr. Tung could have done considerable damage to the free press, the right of free speech, the right to demonstrate, and others. He has instead preserved the system as he was hired to do. But it is the fate of political leaders to be faced with challenges different from those for which they prepared.

Mr. Tung was chosen by Beijing to be an apolitical administrator of an apolitical economic city. Nothing prepared him for either the tasks of economic reform or the task of leading a polity where, inevitably, the disappearance of the colonial power elicited a flowering of civil society. His reformist vision was confined to housing and education, areas that brought him popularity when he first ran for office, but he has been unable to make substantial progress in either area. He has no experience at rallying public opinion or forging coalitions. The reality is that any large and sophisticated economy and any substantial population require experienced political leadership, not just administration. Hong Kong is not a business to be administered. It is a society to be led.

Although Mr. Tung has borne the brunt of popular and media frustration, ultimately the response of Hong Kong people to a structural problem has been migration toward a structural solution: support for democratic political reform has broadened and deepened. For the most part, this is not based on a sophisticated analysis of structural gridlock. It is personalized. Many people say: We let Beijing choose our leader. We gave them a fair chance. They blew it. Now they have a responsibility to let us try. Today that sentiment is absolutely pervasive in Hong Kong and some of Hong Kong's tycoons now share it.

Polls have always shown majority support for democracy in Hong Kong. Now they show quite strong support.<sup>8</sup>

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<sup>8</sup> According to a mid-May 2004 survey by the Hong Kong University Public Opinion Program, the single most strongly supported political organization in Hong Kong was the Article 45 Concern Group, set up to call for universal suffrage as provided for in Article 45 of Hong Kong's Basic Law. See <http://hkupop.hku.hk/>. The Democratic Party was ranked third and its pro-Beijing competitor, the DAB, was ranked next to last.

## Obstacles to democracy inside Hong Kong

Mr. Chairman, democratization has faced significant obstacles within Hong Kong as well as in Beijing's relationship with Hong Kong. Much of the business leadership, which Beijing views as the natural voice of the "economic city," opposes democratization, and the democratic forces, although broad, have been weak and divided.

The central government has traditionally communicated with Hong Kong primarily through the business elite. The business elite in turn has traditionally taken the view that Hong Kong people are not ready for democracy, that prospective leaders are too immature, and that democracy could damage Hong Kong's economy.

The view that the population is not ready for democracy is insupportable. Education levels are high, income levels are higher than Britain, and there is a substantial middle class. Moreover, the population is highly concentrated, with extraordinary communications, so there is more shared consciousness of issues and leaders than in most modern democracies.

Hong Kong society is deeply divided, with both a wealthy elite and a large population that is squeezed into tiny, government-provided apartments. A large portion of the lower half of the income distribution just doesn't buy into the prevailing economic system. Moreover, the majority of people don't pay significant taxes, so they have an incentive to demand services without much regard for cost. The economic elite is concerned about what policies these people would support if their votes dominated the political system. They point to bills supported by both major parties that pander to damaging populist views.<sup>9</sup> Effectively, the message of the elite has been, no representation without taxation, no universal suffrage until fully responsible leaders emerge.

There is, however, a neglected option of both taxation and representation. Moreover, the seeming lack of responsible leaders is arguably a product of the current political system, which gives politicians of all parties an incentive to advocate populist positions and no potential career benefit from trying to moderate those positions. The results of a system constructed with no career benefits from being responsible probably do not provide a valid indicator of how they would behave if they possessed, or could aspire to, serious responsibilities. "Support" for bills that pander to constituents but have no chance of becoming law does not mean that such bills would become law if legislators had to live with the consequences. The personal sophistication of Hong Kong's legislators, the electorate's exquisite sensitivity to economic performance, an awareness of economic principles substantially superior to what we have in the U.S., the immediate feedback that occurs in this tightly-knit city, and the range of buffers against fundamental change lead

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<sup>9</sup> Popular views of politicians aren't necessarily that different. In a recent poll, 16.2% felt the DP, Hong Kong's most popular party, was doing a good or somewhat good job on economic issues, while 44.8% felt it was not doing a good job. See "Second Multi-Party Opinion Survey on Political Development in Hong Kong" at the Hong Kong University Public Opinion Program site cited above.

me to confidence that elections under universal suffrage would lead to responsible government.

Having said that, the social divide nonetheless creates a substantial constituency for legislation that would be well to the left of contemporary European socialism. Hong Kong's leaders would have been wiser to ameliorate the social divide earlier. They are going to pay some price in some of their traditional businesses for having held onto the full range of their privileges a bit too long. Hong Kong's cartel and tax system were originally designed to channel wealth into the hands of a British expatriate elite and now do so for a post-colonial elite; the resulting social divide is inappropriate for the post-colonial period and Hong Kong's high cartelized prices will likely prove unsustainable as other cities become more competitive. But it would be a mistake to exaggerate the price they will pay or the speed at which they will pay a price. Hong Kong people are instinctively cautious and moderate. Moreover, the dismantling of Hong Kong's cartels, a likely consequence of democratization, and the emergence of powerful consumer advocates would be good for Hong Kong's economy—as shown by the enormous benefits the city has experienced from increasing telecommunications competition. Any price the business elite pays will be more than compensated by new opportunities.

Hong Kong's party system is quite immature. The Democratic Party (DP) has 568 members, according to its website in mid-June 2004, and its supporters are deeply divided between a social elite that is committed to Hong Kong's current economic system and a mass base that includes powerful forces with populist and even socialist views. The party has consistently failed to raise significant funds from the citizenry. In a recent poll, a quarter of the population felt that the DP "represents its interests," with only 5.4% feeling that the DP "very much represents its interests." Half the population (49.7%) had a negative or strongly negative view of whether the DP represented its interests.<sup>10</sup>

The other principal party, the DAB, commonly characterized as pro-Beijing, has an organizational structure that was consciously copied from the U.S. Its better-organized relationships between leaders and constituents has on occasion brought it close to victory, but it has repeatedly lost ground through scandals and support of unpopular positions. For instance, it initially supported the Article 23 legislation, and paid the price with voters, although it subsequently changed its mind. It depends financially on local subsidiaries of big Chinese state enterprises to fund many activities.

The Democratic Party has heretofore had difficulty charting a credible path to democracy under Hong Kong's peculiar circumstances. The Party includes a group of leaders from the Hong Kong Alliance in Support of Patriotic Democratic Movements of China. While the idea of promoting democracy in China is a noble one, having part of the leadership of a major political party promoting political transformation on the other side of the border is manifestly inconsistent with the concept of "One Country Two Systems." One prominent leader of the Democratic Party, Martin Lee, wisely resigned from the Hong

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<sup>10</sup> See "Second Multi-Party Opinion Survey on Political Development in Hong Kong" at the Hong Kong University Public Opinion Program site cited above.

Kong Alliance in Support of Patriotic Democratic Movements of China, but he founded his image, particularly overseas, on the intimation that after July 1, 1997 he was likely to be jailed or killed. His favorite line in the year before the handover was to close his speeches by saying that he was eating less in order to prepare himself for jail. Time after time he gave speeches asserting that someone arrested by Chinese soldier in Hong Kong could not get a fair trial—but always failed to mention that the Basic Law specifically prohibited Chinese soldiers from doing any such thing. Such lines often brought tears to the eyes of normally tough-minded American politicians and executives, but they damaged his credibility in Hong Kong and left both himself and the democratic movement a jumbo mortgage of political ill-will to amortize in both Hong Kong and Beijing. He and others are now repositioning themselves more in line with the center of gravity of Hong Kong opinion, and this may eventually enhance the chances of democratization.

Aside from the central government's reaction to the legacy of anti-Chinese postures, these have created a fundamental ambivalence in the Hong Kong electorate toward some of the leaders of the democracy movement. Hong Kong people want strong voices for democracy and therefore they elect, inter alia, Martin Lee to speak out as part of the opposition. On the other hand, they do not wish to be actually governed by people who make a career out of sparking gratuitous conflict with the central government. That is why, in the runup to the handover, only 11% of people polled said they would trust Martin Lee to be Chief Executive while five times and six times that number said they would Tung Chee-hwa and Anson Chan respectively. (Anson Chan was highest because she spoke out strongly for Hong Kong's freedoms, demonstrated exceptional administrative talent, and never asserted that Beijing would jail her after the handover.)

Thus the democracy movement has a fairly broad base, but the principal institutions and key leaders advocating democracy have limited public support.

On balance:

The Hong Kong elite is increasingly left with Churchill's dictum: "...democracy is the worst form of government except all those other forms that have been tried from time to time."

The democratic movement remains in search of leaders and institutions that can organize the broad support that exists for democracy.

Beijing finds itself uncomfortably relying on the advice of a limited number of traditional business leaders who are increasingly at odds with popular sentiment. Moreover, the business leadership is increasingly divided regarding democracy, and repression of democratic sentiment just makes it stronger.

Hong Kong people are just getting fed up. Polls show a decline in respect for both Beijing and provocative democratic leaders.

As each group wrestles with this dilemma, there have been both very ominous developments and more recently some very hopeful signs.

## **Hong Kong's options**

Structurally, Hong Kong has three basic options. One is to continue trying to make the gridlocked business model work. The consequence of that option would be like trying to accelerate a powerful car against a concrete wall; there will be a lot of overheating and smoke and sparks and possibly even danger.

Second, in principle Hong Kong could revert to the more authoritarian mode of the British era, with Beijing backing up Hong Kong leaders the way London once did. That is what has happened with Beijing's successful measures to rejuvenate the Hong Kong economy. The problem with that option is that over any significant period of time the majority of Hong Kong's people won't accept it. In the short run they will demonstrate, probably in a very disciplined and civilized way; in the long run, they'll leave. That's exactly the outcome Deng Xiaoping was trying to avoid.

The third option is greater democratization. Direct election of the chief executive and the legislature would choose a leader with political skills, create a class of skilled politicians, force the formation of a coalition with certain policy mandates, give the Chief Executive a mandate as good as and broader than any legislator's, and stimulate an informed debate about issues like education reform. It would force the development of more mature political parties, and it would give at least some politicians the incentive to advocate responsible policies in the hope of being elected or selected for top government positions. It would force the civil service to abandon the rationale that they have a mandate to protect Hong Kong from China by frustrating reform. But the central government will not accept the third option if it feels threatened.

## **The highs of 2003 and the lows of 2004**

In 2003, the Hong Kong government decided to address the last major boundary issue. The essence of the "one country, two systems" idea is that China will not subvert Hong Kong's major institutions and conversely Hong Kong will not subvert China's major institutions. The deal obviously has to work both ways. If they get into the business of subverting each other, it is obvious from looking at the map, or at population numbers, that China will win. So this deal primarily benefits Hong Kong.

In a system based on the rule of law, such a deal must have concrete legal expression. Hence Article 23 of Hong Kong's Basic Law requires the passage of specific legislation to prohibit subversion.<sup>11</sup> It is important to recognize from the beginning that the principle is not a terrible idea, but rather a good and essential one. The devil is in the details.

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<sup>11</sup> The specific wording of Article 23 is: "The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting

After Hong Kong returned to China on July 1, 1997, the government deferred passage of controversial anti-subversion legislation. Six years later, in July 2003, the Hong Kong government proposed to pass stringent Article 23 legislation with elements that attracted widespread opposition. In particular, the law would have allowed an Assistant Police Commissioner (rather than the courts) to authorize searches of private homes, allowed the government to proscribe organizations proscribed on the mainland (Falun Gong and the Roman Catholic Church are proscribed there), allowed the Secretary for Security rather than the courts to set the rules for appealing such decisions, and precluded a public interest defense against a conviction for publishing state secrets. (On the mainland, almost anything can be a state secret.)

Proponents of the law argued that the proposed legislation was milder than British-era legislation and that one can find similar or even stronger provisions to some of these in the laws of certain Western democracies. They argued, and most people acknowledged, that the Hong Kong government clearly did not intend to target, for instance, the Catholic Church. However, the public saw the laws as unnecessarily stringent. They wanted to be able to rely on the law, not on the individuals running the government. They did not want the government to be able to circumvent the courts.

Such sentiments led to a demonstration by 500,000 people, one of the largest in Hong Kong history, on July 1, 2003; to withdrawal from the Executive Council of the leader (James Tien) of the principal big-business party (Liberal Party); to demands by the pro-Beijing DAB party to delay the legislation; and ultimately to withdrawal of the legislation because it lacked the votes to pass without Liberal Party support.

The demonstration and its aftermath were the lowest hour for the Hong Kong government and in some ways the finest hour of the broader Hong Kong political process. The government refused strong public demands for a White Paper that would allow detailed public scrutiny. It distorted the results of a required public consultation and thereby ensured maximum public distrust of its intentions.<sup>12</sup> Under pressure it made concessions, including three huge concessions after the July 1 demonstration, and its flexibility on substance would likely have been adequate to ensure passage, but it attempted to stampede passage of the bill in two days and in the process created so much distrust that no bill passed.

Culminating a series of lesser missteps, government mishandling of the Article 23 issue politicized a hitherto apolitical populace. This has become a fundamental turning point in Hong Kong's history.

Demonstrators against the bill, comprising a wide spectrum of Hong Kong society, behaved with fortitude and total discipline in the face of terrible heat and very long hours

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political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies."

<sup>12</sup> For instance, as noted in Christine Loh's newsletter of January 29, 2003, the government categorized the responses of the some of the organizations most emphatically opposed to the legislation as "unclear."

of marching. Notwithstanding the huge importance of the bill to Beijing and the fear in China of large demonstrations, the government refrained from invoking laws that could have been used to prohibit a demonstration far larger than the organizers requested and the government approved. Premier Wen Jiabao, who was in Hong Kong and neighboring Shenzhen, conducted himself with total professionalism and in particular eschewed threats. Hong Kong's Democrats kept their focus on the Article 23 issue and deferred (until New Year's Day) attempts to press a larger political agenda in ways that could have given hardliners in Beijing a pretext for some kind of repression. Subsequently the central government sent teams to Hong Kong for broad consultations, including with the Democrat Party. In short, each participant conducted itself in a way most likely to result in respectful dialogue and to minimize the risks of unnecessary confrontation.

Subsequently the central government followed through on forms of closer economic integration with Hong Kong that triggered a revival of the Hong Kong economy.

Hong Kong people reacted very positively to this situation. Polls in the autumn showed public trust in the central government to be substantially greater than trust in any of Hong Kong's own leaders. The situation appeared to be headed for a clear win-win between Hong Kong and China's central government.

Unfortunately that era of good feeling proved short-lived.

At the end of November, pro-democracy candidates won overwhelming in local Hong Kong elections. On January 1, 2004, a large demonstration (37,000 people according to the government, 100,000 according to the organizers) demanded direct elections of the chief executive and the legislature in 2007, as permitted but not required by the Basic Law. The demonstration was again orderly, peaceful, brief, and not antagonistic toward the central government.

The central government could have confidently expanded its consultation and regarded the demonstration as a disciplined way of requesting something that was, after all, an option opened by the central government itself when it wrote the Basic Law. Instead, lacking confidence, it responded to the series of demonstrations as a threat to stability.

### **Beijing turns repressive**

The ominous aspects of the current situation began with a central government campaign, one that originated around October 2003 but became vigorous only later, to emphasize that the leaders of Hong Kong must be patriots, with the implication that supporters of democracy were not patriots. This was an inversion of Deng Xiaoping's insistence at the time of the agreement with Britain that, regardless of ideology, anyone who respected China, believed Hong Kong to be part of China, and would not damage Hong Kong's stability or prosperity was a patriot. Deng's formulation was generous; he welcomed capitalists and feudalists, in other words even anti-communists, as long as they met these

criteria. The dicta of 2004, on the other hand, interpreted the requirement of patriotism in a seemingly narrow and ideological way—the opposite of Deng.

On April 6, 2004, the Standing Committee of the National Peoples Congress issued an “interpretation” of Hong Kong’s Basic Law provisions on elections emphasizing the central government’s right to approve changes. This provoked a pro-democracy demonstration of about 15,000 people on April 11. On April 26, the Standing Committee specifically banned direct elections of the CE in 2007 and for the Legislative Council in 2008.

The Standing Committee had the legal right to take the action it did. Under the Basic Law the Standing Committee has the right to interpret the Basic Law (Article 158), the right to rule on anything that affects relations between Hong Kong and the central government (Article 17 paragraph 3, invoked in the explanation of the decision), and the right to interpret the clauses that open the door to direct elections after 2007 subject to gradualism and appropriate conditions.<sup>13</sup> The important issue is not whether its decision was legal but whether it was wise.

On May 5, a Chinese naval flotilla sailed through Hong Kong harbor in a way that seemed clearly designed to intimidate. That period also saw suggestions of further restrictive interpretations of the Basic Law.

Three pro-democracy radio hosts have complained of seeming intimidation, and earlier the head of a campaign to stop reclamation of Hong Kong harbor resigned with similar complaints. If such incidents become a pattern, or if evidence emerges of central or local government involvement, or if the government does not vigorously pursue anyone who made threats, then the threat to Hong Kong’s freedoms would be serious indeed. On these, we need more time and information before reaching judgments. On the other steps, the record is perfectly clear.

### **Why Beijing has reacted this way**

Mr. Chairman, I believe it is important for us to understand why China’s central government has taken this turn. To explain, however, is not to explain away, and I have absolutely no intention to explain away. The central government’s new policies have created an atmosphere of anxiety and distress in Hong Kong.

In my view the policies were unwise, even if one considers only the central government’s interests. The fear of instability was entirely misplaced. These orderly, brief

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<sup>13</sup> From Article 45: “The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee...” Article 158 begins by giving the Standing Committee a general power of interpretation of the Basic Law.

demonstrations demonstrated extreme discipline and respect for the law. Although large, they were entirely consistent with Hong Kong's political culture and therefore not disruptive of the established system. They did not advocate political change in China proper or disorderly change in the Hong Kong government. They were not in any general way hostile to the central government. They advocated something that the Basic Law, which was written solely by the central government, explicitly allows as a possibility.

Moreover, even as general support for democracy has risen, the post-1997 period has seen the gradual fading rather than the rise of those democratic leaders whose goal was to organize change across the border in China or whose political strategy depended on provoking China. All the pro-democracy leaders have from the beginning supported the view that Hong Kong is part of China, and they have (with one notable exception outside the Democratic Party) generally supported the view that Taiwan is part of China. Hong Kong polls have shown high levels of admiration for central government leaders. In short, China's central government has had every reason to take satisfaction from the success of its policies in Hong Kong and every justification to act with confident generosity rather than fearful repression.

Why, then, the fearful, negative policies from Beijing?

Chinese leaders believed, and may continue to believe, that Hong Kong's discontents were economic and that amelioration of the deflation, high unemployment, and sluggish growth that plagued Hong Kong for several years would resolve tensions over things like Article 23 and the pace of democratization. Hence their primary policy response was to stimulate, quite successfully, economic recovery in Hong Kong. While it is certainly true that economic problems greatly exacerbated political discontents, the belief that political sentiments only reflected economic conditions was always as fallacious as the economic city theory. In China proper, privation was long so severe that drastic economic improvement could for several decades overwhelm the political agenda, but Hong Kong long ago left that era behind. Because central government leaders misread the discontents as purely economic, they were shocked and perceived bad faith when, following their successful economic measures, they got a big pro-democracy demonstration.

Chinese leaders also believe deeply in the power of good leadership and in their own ability to choose good leaders. They have considerable basis for that belief. Macau's economy took off as soon as China replaced the lackluster Portuguese leadership, suppressed crime, encouraged investment in infrastructure, enhanced competition, and instilled a long-term economic vision. Edmund Ho has simply been outstanding. In China's principal cities, leaders like Zhu Rongji, installed from outside by the central government, have repeatedly created economic miracles and quelled much political dissatisfaction. But the political structures of these other cities bear more resemblance to the structural conditions of old British colonial Hong Kong than to Hong Kong's prosperous, pluralistic, gridlocked situation. Greater complexity, greater prosperity, and a Westernized political culture made Hong Kong different, and disillusionment with the current local leadership magnified these differences. Not understanding this, China's

leaders have reacted with dismay and fear to demands for more sophisticated politics in Hong Kong.

When Tung Chee-hwa was chosen for his first term, polls showed that he inspired considerable popular trust. Anson Chan, then head of the civil service, scored highest, just under 70%, Tung Chee-hwa second, in the mid-50s, and Martin Lee was trusted as a potential leader by 11% of Hong Kong people. Hence the choice of Tung reflected a balance of acceptability to Hong Kong people and acceptability to the central government. When the Chief Executive's first term was ending, a substantial proportion of the city's leading conservative business leaders warned the central government that reappointment could bring serious trouble. Beijing's response was to admonish business leaders to rally the city around Mr. Tung, repeatedly citing an analogy to the way Americans rallied around George W. Bush despite his narrow election. The idea that they could do so reflected the economic city fallacy, by now an increasingly dangerous misreading of Hong Kong. The central government was surprised and shaken by its inability to get Hong Kong to accept the chosen leader.

Repeated demonstrations in Hong Kong raised consensus fears in Beijing of disorder and chaos in Hong Kong. While Deng Xiaoping might have been able to analyze the demonstrations in their Hong Kong context and understand that they were not threatening in the way similar demonstrations in China might be, the circumstances of the new leadership in Beijing made such a possibility far less likely.

Perhaps most importantly, the Hong Kong demonstrations occurred in the context of the efforts of Taiwan's President Chen to move toward independence.<sup>14</sup> As the Taiwan elections approached, Chen's constantly reiterated statements that Taiwan was already sovereign and independent, his plan to revise the constitution, and his wedge-issue referendum had led to a widespread conviction in China, even among apolitical businesspeople and many liberal intellectuals, that war might be inevitable. President Bush's wise amelioration of that situation helped avoid conflict, but the tension and anxiety that accompany a war scare inevitably narrow leaders' perspectives on other issues.

In this context, China had new leaders whose hold on power would take years to consolidate. The greatest vulnerability of any Chinese leader is the potential accusation that he is permitting threats to the unity or stability of the nation, and new, untested leaders are exceptionally vulnerable to such charges from hardliners. The fate of predecessors like Zhao Ziyang ensures that no leader ever underestimates that vulnerability.

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<sup>14</sup> The link between Taiwan and Hong Kong developments is quite direct. The "one country two systems" concept was originally offered to Taiwan in September 1981 and only later applied to Hong Kong. Since then, Beijing has repeatedly said that the successful implementation of the concept in Hong Kong will eventually give credibility to the concept in Taiwan. In response, under Presidents Lee and Chen, Taipei has made an enormous effort to discredit the concept. Moreover, when the issue of national unity becomes sensitive in one place, it immediately becomes sensitive elsewhere.

The new leaders had little direct knowledge of Hong Kong. They are not known in China as hardliners or advocates of greater repression. Quite the opposite. They have surrounded themselves with bright, young, reformists, many of whom are advocates of modestly democratizing reforms in China itself and avid, admiring students of democratization in other successful Asian countries. They have taken both symbolic and substantive steps to identify with the needs of common people and to, for instance, improve the lot of rural migrants. But their experience is in places like Gansu, not in Hong Kong, and this creates at least transitional risks.

At the risk of offending almost everybody in this room, I might recall that President Carter from Georgia initially thought that he might improve the lot of Koreans by withdrawing our troops from that threatened country, President Clinton from Arkansas initially thought it a good idea to curtail our most important trade ties with China, and the aides of President George W. Bush from Texas initially thought it useful to allow aides to characterize China publicly as a strategic competitor upon which we should re-focus much of our global military planning. In this context, one might empathize somewhat with new Chinese leaders when they apparently thought of demonstrations in Hong Kong the way they might think about demonstrations at home. However, our system has repeatedly demonstrated the ability to bring leaders up to speed very rapidly, because of the institutionalized weight of expertise in our system. It remains to be seen whether China's system works equally well. Moreover, even if central government leaders get properly briefed, they have handcuffed their own wrists through the Standing Committee's ban on direct elections in 2007, which is now a law.

One reason often cited by observers for Beijing's conservative stance is concern that democratization in Hong Kong might prove infectious on the mainland. Perhaps this is a concern, but I have not heard any emphasis on that point. If that is the primary concern, it is strange that Premier Wen re-committed at the end of April to eventual universal Hong Kong suffrage.

There are two central confusions in current Chinese policy toward Hong Kong. The first is a confusion of Hong Kong with Taiwan. In Taiwan there is a large independence movement. In Hong Kong there is no such movement.

The second is a confusion of the democracy movement with a few prominent democracy advocates. The sentiment for democracy is wide and deep, encompassing a majority of Hong Kong people, many of whom identify to some substantial degree with China. The distrust of leaders who gratuitously provoke Beijing is equally strong. The current heads of the Democratic Party are not particularly anti-Beijing.

In short, Hong Kong is not Taiwan, and the democracy movement is not anti-Chinese. If China's central government were to act with confidence rather than fear, with detailed knowledge rather than vague analogies, and with generosity rather than threats, there would be no risk whatsoever of a separatist winning and negligible risk that victory would go to a China-baiter. Having lived in Hong Kong, my instinct is strongly that a

central government decision to allow early universal suffrage would cement Hong Kong public loyalties to a degree that no other decision could match.

On the other hand, if the central government allows itself to be drawn into a vicious cycle of Beijing threats, Hong Kong demonstrations, bigger Beijing threats, bigger Hong Kong demonstrations, it just might create a separatist movement where none existed and it just might empower anti-Chinese leaders in Hong Kong. Beijing risks creating its own headache.

There is a further source of support for Beijing's threatening, repressive attitude and that is the allegation that the democracy movement is a creature of foreigners. On one level this is simply tiresome. All government leaders anywhere who get into difficulty are tempted to shift blame to foreigners. Anyone who experienced the ordinary housewives and students pouring into the streets to oppose the Article 23 legislation and later to support democracy would realize that no foreigner could stimulate such a thing. Anyone who knows Hong Kong people knows that they are highly educated and canny and can't be stampeded by some conspiracy.

Nonetheless, some important officials believe that foreigners are organizing the Hong Kong democracy movement. "Foreigners" or course means primarily ourselves. The evidence cited in China for this fallacious belief relates to our enthusiasm for Martin Lee, who although no longer the leader of the Democrat Party continues to be a frequent spokesman with foreigners because his English fluency is so much greater than his colleagues'. The fact that Martin Lee's global campaign was managed for such a long period by the American protégé of a prominent American political figure, the vitriolic campaign mounted in this country against the Hong Kong law prohibiting political contributions by foreign political parties, and the extraordinary reception during his recent visit, gave maximum leverage to hardline Chinese opponents of Hong Kong democracy. I was in Beijing at the time of Mr. Lee's visit here, and experts who were expressing concerns about the negative thrust of Chinese policy toward Hong Kong reacted with anguish and despair to what was seen as a major U.S. intervention in favor of an anti-China figure. They had no choice other than to go quiet for a while.

A principal argument being mounted by opponents of democratization inside Hong Kong also concerns ourselves. The Basic Law gives the central government a veto over any proposed Chief Executive and over the top level of Hong Kong officials. Democratic Party leaders say they will accept the veto if given the right of direct election. However, key opponents of direct elections are arguing that, if a candidate were directly elected and then vetoed, the U.S. would confront China over it. That, they argue, would be a great crisis that China cannot afford and therefore China should not run the risk of allowing direct elections. However, if the central government is generous toward Hong Kong's political aspirations, there would be little chance of Hong Kong electing a provocative figure. On our side, if we really care about democratization of Hong Kong, then acceptance of the veto, which the Democratic Party accepts and which has been there all along without our protest, would seem to be a minor price.

## **June 2004 turn toward rapprochement**

Last summer all parties to the Hong Kong situation seemed moderate and constructive. This spring all parties seemed destructively confrontational—except the Hong Kong public. In June, there has been a pullback from confrontation. Democratic Party leaders, democratic activists like Lau Chin-shek, and civic leaders like Christine Loh led this shift, emphasizing loyal and orderly intentions. Chief Executive Tung Chee Hwa proclaimed his support of a group emphasizing Hong Kong's "core values" of human rights, freedom, rule of law and democracy, and the Secretary for Constitutional Affairs wrote an op-ed article underlining that point. The central government indicated its intention to resume consultations with all parties. Hong Kong's Chief Secretary Donald Tsang, the government's most important official after the Chief Executive, said that eventual democracy was "inevitable." Public opinion polls show disillusionment with confrontational attitudes on both sides.

These are auspicious developments. To retrieve the situation, however, much more will be needed. The demonstration on July 1 will have to be orderly. Democratic activists are talking about turning the demonstration into a "celebration" in order to show the central government their sincerity.

That puts the ball in Beijing's court. The keys will be Beijing's reactions to the upcoming July 1 demonstration/celebration and to what now seems likely to be a near-sweep by pro-democracy candidates of the September legislative Council elections. If Beijing reacts with threats and further restrictions on future democracy, the situation will polarize quickly. Even to stabilize the situation, Beijing will have to move from consultations to concrete compromises.

If Beijing wants real consultation and compromise, there is plenty of room. The committee that chooses the Chief Executive could be greatly broadened. The 30 functional constituencies could be greatly broadened. Beijing could proclaim a schedule for additional direct elections to replace some of the functional constituencies. A simple statement by a top leader that affirms appreciation for Hong Kong's contributions to China and promises progress toward universal suffrage would markedly alter the tone of discussions.

## **Some principles for U.S. policy**

When we react to actions by the Chinese central government that potentially damage Hong Kong, it is not in our interest to take measures that do additional damage.

Nothing will serve the enemies of Hong Kong democracy better than a situation where they can credibly paint the controversy as a Chinese-American confrontation rather than a negotiation with the citizens of Hong Kong.

Speaking out clearly and constructively may do some good. Chinese leaders need to focus on this before the central government paints itself a corner.

This is one of those frustrating situations where our positive leverage is limited and the risk of unintended collateral damage is high. I can offer you no assurances that if we play our hand well the outcome will be good. I can offer you considerable assurances that if we overplay our hand the outcome will be poor.

Perhaps the most frustrating thing for those here who would like to support democracy in Hong Kong is this: Democracy will come to Hong Kong only when the central government is comfortable with it. Fortunately such comfort is not a far-fetched scenario. Contrary to a widely held view in the West, Chinese leaders are not ideologically opposed to democracy in Hong Kong. The Basic Law, which explicitly sets the eventual goal of full suffrage, was written exclusively by the Chinese government. It was not a negotiated compromise with foreigners. President Jiang Zemin promised democracy at the 1997 handover. Premier Wen stated on April 28, 2004, three days after the disappointing Standing Committee ruling, that the goal is still universal suffrage for Hong Kong.<sup>15</sup> Chinese leaders are nervous about change, and they scare easily when they see demonstrations, but they are not ideologically opposed to free elections in Hong Kong. They will go for whatever works, but they want to be shown step by step that it works.

What I have written about our options is no counsel of impotence or despair. On the one hand, if the central government messes up its relationship with Hong Kong, then, without any actions whatsoever on our part, the economic and political costs to China will be so great as to dwarf any imaginable sanctions by us. A return to dealing with Hong Kong through threats and flotillas would be the ultimate self-sanctioning policy.

On the other hand, an optimist can hope for progress because both Hong Kong and China have enormously intelligent people who want to avoid making a mess. At the moment, each party is again taking constructive steps and averting confrontation. Again, Mr. Chairman, I can offer no assurances that Beijing will proceed from proffered consultations to wise compromises, but so far June has been a good month and we would be wise to smile upon the constructive steps of all parties.

As Hong Kong confronts these controversies, it is worth remembering that the freedoms that have so far been preserved are precious. This small part of China remains a place of freedom of speech, freedom of the press, freedom of religion, freedom of movement, freedom of demonstration, British law, capitalism, and one of the world's largest trading powers. It is not a democracy, but it is a free society with gradually increasing elements

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<sup>15</sup> Cited in Zheng Yongnian and Tok Sow Keat, "Hong Kong Democratisation: A Crisis Brewing for Beijing?" Background Brief, East Asian Institute, National University of Singapore, May 7, 2004, pp. 3, 13

of democracy that never existed until China demanded Hong Kong back. Who could have imagined in October of 1982 that this would be the outcome of China's demand for return of Hong Kong?