

Elections, Political Change and Basic Law Government: The Hong Kong System in Search of a Political Form*

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During the two decades preceding its 1997 reunification with China, imaginations in Hong Kong ran the gamut from fear to euphoria. Preparations for transfer from British to Chinese rule continued accordingly and Hong Kong's political development has been shaped by the conflicting imperatives responsible for those extremes. Most simply put, the imperatives grew from Hong Kong's fear of Chinese communism and China's fear of an anti-communist Hong Kong. Anxieties were greatest in the colony during 1982 and 1983, when Chinese leaders made known their determination to resume full sovereignty after the 1997 expiration of Britain's leasehold on 90 per cent of Hong Kong's territory. Apprehensions peaked again in 1989, following the military suppression of Beijing's student protest movement in Tiananmen Square. Yet fear also alternated with expressions of great bravado, when the dangers of latter-day Chinese communism seemed to pale before the prospect of China's inevitable "Hong Kong-ization." Between these two extremes, confidence levels waxed and waned as Chinese and British leaders responded, first by negotiating safeguards and then by writing them into law.

Reinforcing the effect of safeguards and constitutional guarantees, and helping to bolster confidence throughout, was the economic relationship which bound colonial capitalist Hong Kong to the communist Chinese mainland. Conventional ties still predominated in the early 1980s, via a two-way exchange that guaranteed food and water for Hong Kong while providing China with the bulk of its foreign exchange earnings. By 1997, those ties had been completely transformed as economic integration raced ahead of political reunification, with the bulk of Hong Kong's industrial capacity relocating inland. When it began in the early 1980s, this economic restructuring had nothing to do with 1997, being rather the natural consequence of China's own post-Mao reforms together with Hong Kong's need to reduce production costs. Subsequently, the 1997 factor created further impetus leading Hong Kong and China to become, with some qualifications, each other's largest investor and trading partner.

With Hong Kong's free-wheeling capitalist ways putting down roots in mainland Chinese soil, political integration on Hong Kong's terms did not seem totally beyond the bounds of reason. Yet Hong Kong could not be certain how a political system "on its own terms" might actually function. A general outline had emerged from the 1982–84 negotiations

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between Beijing and London. The “Sino-British Joint Declaration on the Question of Hong Kong” then became the basis for a fuller elaboration intended to serve as Hong Kong’s post-1997 constitution. The latter, or “Basic Law of the Hong Kong Special Administrative Region,” was promulgated in 1990. The promise of local autonomy for Hong Kong written into these two foundation documents was popularized by the Chinese as “one country, two systems,” and reaffirmed with a new twist when Beijing leaders added an old Chinese saying to their repertoire of trenchant phrases. “Well water and river water should not mix” (*jingshui bu fan heshui*) thus reflected not Hong Kong’s apprehensions but those of Beijing after Tiananmen confirmed everyone’s worst fears about the dangers of dictatorship and democracy. That upheaval gave added impetus to an argument championed by some Hong Kong activists throughout the 1980s, namely that real protection lay not in negotiated promises but in the political transformation of China itself. Meanwhile, Tiananmen-style popular protest movements swept across the communist world, precipitating its collapse. This new unfolding drama renewed determination, both in Hong Kong and Beijing, to keep protective lines of separation firmly drawn between them.

Inevitably, however, the new Basic Law constitution was also replete with grey areas that could only be clarified as implementation proceeded. Hence it was not until the first year under Chinese sovereignty had passed that a clear picture of Hong Kong’s new political system emerged from the dust of transitional battles into full public view. That system can best be described as an unprecedented mix of political forms – combining liberal pluralism, corporatism and democratic-centralism – designed to provide protection for all concerned. By Hong Kong’s second year under Chinese rule, of course, the strains of trying to govern with so awkward a design were already evident. That peculiar “three-in-one” combination of checks and balances nevertheless defines the parameters within which Hong Kong’s political evolution must now proceed. Accordingly, the combination also represents several themes necessary for exploring Hong Kong’s place in the larger question, “whither Chinese democracy?” Those themes concern specifically: origins, political legacies, reception within the local community, design and constraints, including those deriving from sources both local and national.

Origins: The Colonial Legacy

In terms of its chronology, Hong Kong’s political development is usually characterized as minimal to non-existent until the early 1980s. Only at that point, roughly about the time British officials learned of China’s intention to resume sovereignty, was Hong Kong allowed to take its first tentative steps toward genuine political reform. Incremental progress in laying the foundations of elected representative government then interacted with the Sino-British negotiations over Hong Kong’s post-1997 future. Ultimately, the British and Hong Kong governments did not demonstrate much energy in promoting political reform until the

very end of the colonial era. This story is also typically enlivened by two questions, namely, why London waited so long; and why it then suddenly sprang to life during the 1992–97 tenure of Hong Kong's last British governor, Christopher Patten.

Unfortunately, the documents necessary to provide definitive answers for these questions have yet to enter the public domain. A general understanding can nevertheless be gleaned from records that are available and should suffice here. As to why Britain procrastinated along the path to political reform, official statements provide an interrelated combination of reasons and excuses. Chief among them by the latter half of the 20th century were lack of pressing local demand and various manifestations of what is referred to in Hong Kong today as the "China factor." On closer inspection, however, these considerations, which all date from the decades following communism's 1949 victory in China, follow in a logical progression from arguments as old as Hong Kong itself.

The foundations. Having been acquired in 1842 to serve as a free port and commercial centre for the purpose of promoting trade with China, Hong Kong was always somewhat different from other colonies, or "more unique than any other."¹ Its political life developed as a reflection of that difference, dominated always by London's determination to preserve its sovereignty and control within a prevailing Chinese environment. Hong Kong's fast-growing population was from the start overwhelmingly Chinese and primarily transient. By the mid-1890s, this population numbered close to a quarter of a million and was 95 per cent Chinese, a proportion that would remain basically unchanged thereafter. Thus, as Britain's commercial "Gibraltar of the East," Hong Kong did not follow the typical evolution from direct colonial rule, to local appointed representative government, to partially elected self-government, fully-elected self-government, and on to eventual independence, whether within the empire and the commonwealth or outside it.

British colonies were typically led by all-powerful governors sent out from London, who appointed the members of their Executive and Legislative Councils. The latter advised the governor on the promulgation of laws and the former served at his pleasure to advise and assist generally. The local administration they provided was subject in different ways to direct control by the Colonial Office in London and that office was subject in turn to the authority of the British Parliament.² Hong Kong's governing arrangements did not remain entirely static, however, and its snail's pace progression reflected the prevailing arguments for and against reform. The ongoing incremental changes also reflected centuries of British experience in devising legislative refinements that combined

1. Sir Charles Jeffries, *The Colonial Office* (London: George Allen and Unwin, 1956), p. 87.

2. D.B. Swinfen, *Imperial Control of Colonial Legislation, 1813–1865* (Oxford: Clarendon Press, 1970); Charles Jeffries, *The Colonial Empire and Its Civil Service* (Cambridge: Cambridge University Press, 1938).

varying degrees of limited local representation with the realities of British interest and centralized decision-making in London.³

Accordingly, Hong Kong's Legislative and Executive Councils soon began to grow and differentiate from the original handful of founding members.⁴ The standard colonial practice of appointing "unofficial" members – or representatives of the local citizenry exclusive of government and military personnel – was introduced in 1850. Thirty years later, Singapore-born lawyer Ng Choy (Wu Tingfang) simultaneously broke two barriers when he became the first Chinese member of the Legislative Council and its first non-commercial unofficial representative. Thereafter, the principle of including at least one Chinese member was maintained, although the requirement that they be British subjects limited the pool of qualified contenders since most of those who established residence in Hong Kong retained their Chinese nationality. The first Chinese member of the Executive Council was not appointed until the 1920s. In 1884, an elective principle of sorts was introduced when the Chamber of Commerce and Justices of the Peace were granted formal right to nominate two unofficial legislators. By that time, the Legislative Council had a total of 11 members, not including the governor, with six officials and five unofficials. British commercial and banking interests dominated both the new constituencies (which had a combined membership of less than 100) and unofficial members were drawn overwhelmingly from these occupational categories throughout the pre-Second World War years.⁵

In fact, from the start of its existence, substantive proposals inspired by contemporary trends in colonial government reform were raised and considered by Hong Kong's governors and its British residents. All such proposals inevitably came to little or nothing, however, reflecting those same contemporary trends which inspired in Hong Kong's colonial rulers a need to maintain liberal appearances and a simultaneous fear of liberal consequences. London thus remained fearful of entrusting its strategic East Asian trading and military post either to Hong Kong's Chinese majority or to its small British mercantile elite, regarding the former alternative to be unsafe and the latter unsound. Enlightened leadership from London was always deemed preferable to any of the local alternatives.⁶

Post-First World War demands for reform were distinguished by growing Chinese interest. This evidently inspired Hong Kong's governor to advise in 1922 against introducing European-only elections since the Chinese might then demand equal rights which would give them a

3. E.g. Martin Wight, *The Development of the Legislative Council, 1606–1945* (London: Faber and Faber, 1946).

4. George Pottinger, *Sir Henry Pottinger: First Governor of Hong Kong* (New York: St Martin's Press, 1997).

5. G. B. Endacott, *Government and People in Hong Kong, 1841–1962* (Hong Kong: Hong Kong University Press, 1964), Appendix B and Appendix D.

6. For a survey of the electoral reform proposals in Hong Kong's past going back to the beginning, see Endacott, *Government and People*, *passim*.

majority and mark the end of British rule.⁷ Little therefore came of the continuing weak pressures for change as London's 19th-century excuses were gradually reinforced by more familiar 20th-century concerns. In this way, colonial conservatism survived the first upsurge of Chinese nationalism in the 1920s, economic depression during the 1930s, the 1941–45 Japanese occupation, and then the next attempt at political reform as well, adapting with relative ease to Hong Kong's changing post-war environment. This last offered a new rationale in the form of Chinese communism and an excuse to update the old 19th-century logic which had distrusted both Hong Kong's British businessmen-adventurers and its Chinese majority. In post-war Hong Kong, London finally found elite representatives of both who could be trusted to govern "responsibly" and all united against the Chinese majority or, more accurately, against certain "dangers" posed by an active minority developing in its midst.

Reaffirming the political legacy, 1945–52. The new formulation emerged during a painstaking exercise which continued between 1945 and 1952, when the arguments against political reform again emerged triumphant. As had happened several times before in Hong Kong, demands for change were initiated from above, in this case by a Hong Kong governor, Mark Young, and the Colonial Office itself. London's aim was to give Hong Kong residents a "more responsible share in the management of their own affairs" and thereby win public support for Britain's continued sovereignty over it, against the rising anti-colonial claims of China's national Kuomintang-led government. Opponents included Young's successor, Alexander Grantham, and all the Legislative Council's unofficial members representing Hong Kong's most powerful British and Chinese business interests.⁸ Although the exercise came to nothing, it was important for the precedents it set. Just as earlier reform proposals had always provided opportunities to reaffirm the logic of conservative colonial rule, so the 1945–52 experience did the same, reformulating an antiquated political philosophy that Hong Kong would carry back to China 50 years later, and on into the 21st century. That legacy is best illustrated in the arguments mustered against the reform proposals which elaborated two main themes: appropriate forms of governance and the dangers of political disruption.

Underscoring elite concerns, however, were some popular voices that took up the cause of reform with unanticipated vigour. This new constituency included British professionals and other expatriates, but members were most numerous among an intermediate "middling" group of Chinese merchants, manufacturers, professionals, trade unionists and others. Their interests were channelled through a host of local organizations, chambers

7. N. J. Miners, "Plans for constitutional reform in Hong Kong, 1946–52," *The China Quarterly*, No. 107 (September 1986), p. 464.

8. On this period, see especially, Steve Yui-Sang Tsang, *Democracy Shelved: Great Britain, China, and Attempts at Constitutional Reform in Hong Kong, 1945–1952* (Hong Kong: Oxford University Press, 1988); also Miners, "Plans for constitutional reform," pp. 463–482.

of commerce, residents associations, political reform clubs and the like. Reacting to the Legislative Council's June 1949 unanimous vote against Young's plan, representatives of 142 such organizations, with a combined membership of 141,800 people, signed a petition in July calling for that plan and much more. They not only liked Young's new city council idea but wanted Legislative Council reforms as well, proposing a majority of unofficial members, most of whom would be Chinese irrespective of nationality, with all unofficials elected under an unrestricted franchise.⁹

Hong Kong's ruling elite nevertheless won the day, albeit with arguments that evolved somewhat between 1949 and 1952, as the mainland victory of Chinese communism provided new excuses to reinforce old assumptions. The most forthright statements opposing reform, "before and after" that victory, were those of unofficial Legislative Council member Sir Man Kam Lo and Governor Grantham. In his speech preceding the 22 June 1949 vote, which vetoed Young's plan while proposing an intermediate alternative, Lo said that Hong Kong's government was responsible for the community as a whole and unofficial Legislative Council members represented its interests without racial or sectoral bias. He belaboured the difficulties of devising constituencies that would fairly reflect Hong Kong's ethnic and national diversities, but was especially emphatic in denying that elected representatives could do a better job of representing the community than appointees.¹⁰

Governor Grantham himself then devised another scheme, which he proposed as the most appropriate of all, based solely on the nomination or indirect election of unofficial legislators by corporate and occupational bodies. Eventually, in 1952, the unofficials requested that all reforms be dropped and London concurred. Only much later did Grantham spell out fully why he had agreed with the opponents of democratic reform. First, as a result of its unique historical circumstances, Hong Kong could never proceed like other colonies towards independence but must remain a colony or revert to China. Secondly, Hong Kong could not proceed towards self-government because it was a Chinese city and the Chinese were "generally speaking, politically apathetic" preferring "to leave the business of government to the professionals." Thirdly, most Hong Kong Chinese did not regard themselves as permanent citizens and so felt little loyalty to the colony. As for immediate practical concerns, Grantham and the unofficials finally understood in 1952 the potential "difficulties and dangers" of the course they instinctively opposed. They worried specifically about the ease with which Chinese politics could infiltrate an elected Hong Kong legislature and the probable disruptive effect of such an occurrence.¹¹

9. Endacott, *Government and People*, pp. 194–195; Tsang, *Democracy Shelved*, pp. 143–150.

10. *Hong Kong Hansard: Reports of the Meetings of the Legislative Council of Hong Kong*, Session 1949, 22 June 1949, pp. 188–205.

11. Alexander Grantham, *Via Ports: From Hong Kong to Hong Kong* (Hong Kong University Press, 1965), pp. 111–12, 195. Grantham was governor of Hong Kong from 1947

These reasons or variations thereof constituted the basis for all replies to questions about political change in Hong Kong for the next 30 years. Usually, official British and Hong Kong sources would assert simply that there was no local demand or at least no consensus, and as time progressed the “dangers” were elaborated by suggesting that China itself would not tolerate any alterations in Hong Kong’s form of government.¹² By 1949, in any event, it was somewhat disingenuous to suggest that Chinese were politically apathetic. Nationally, they had just spent the preceding 30 years engaged in a partisan political conflict so intense that it culminated in all-out civil war. Closer to home, an articulate Chinese minority in Hong Kong was demonstrating considerable enthusiasm for electoral reform. The reality in 1949, then, was not too little Chinese interest in politics but too much, forcing Grantham and his successors to seek refuge in conservative Chinese arguments about the 20th century’s disruptive impact on traditional forms of “professional” governance. British and Chinese Hong Kong leaders thereafter joined as one in proclaiming that all Chinese in their hearts preferred the “benevolent autocracy” of an idealized Chinese past and stable colonial present, to the dangerous uncertainties of elected government.¹³

Reunification and Democratic Reform: 1982–1997

From the perspective of those who made it, the 1952 decision to abandon democratic reform seemed to be vindicated by all that followed. The colony survived as an island of calm in the developing cold war confrontation with communism and became the refuge of choice for those fleeing the excesses of China’s revolution. Hong Kongers also prospered economically with incomes and living standards many times better than those of their mainland compatriots. In these ways, common bonds of economic interest and ideological commitment were established between Hong Kong’s elites and the general public that often mystified outsiders.

The political price of Hong Kong’s colonial idyll finally came due exactly 30 years after the 1952 bargain was struck, however, when China announced its intention to resume sovereignty as of 1997. The price was

footnote continued

to 1957. His above-cited views, published in 1965, were identical to those he articulated internally in 1950 (see Tsang, *Democracy Shelved*, esp. pp. 122–23).

12. With the most sensitive government files still closed, despite Britain’s 30-year access rule, all the arguments remain tentative for want of authoritative documentation. For an updated review of relevant documents available, see Peter Wesley-Smith, *Unequal Treaty, 1898–1997: China, Great Britain, and Hong Kong’s New Territories* (Hong Kong: Oxford University Press, rev. ed., 1998), pp. 237–270; Steve Tsang, “Strategy for survival: the Cold War and Hong Kong’s policy towards Kuomintang and Chinese Communist activities in the 1950s,” *Journal of Imperial and Commonwealth History*, Vol. 25, No. 2 (May 1997), pp. 294–317; and, David Clayton, *Imperialism Revisited: Political and Economic Relations Between Britain and China, 1950–54* (New York: St Martin’s Press, 1997), ch. five (pp. 96–122).

13. The term “benevolent autocracy” was used by Grantham and later by Patten critic Percy Cradock, to characterize Hong Kong’s form of colonial government. See Tsang, *Democracy Shelved*, p. 64; and Percy Cradock, *Experiences of China* (London: John Murray, 1994) p. 226.

substantial both in terms of political positives lost during those three decades and the negatives gained. Concerning the losses, a city of five million people had no experience with self-government either in principle or practice, whether as a subject of study in the classroom or an arena for direct participation, and concepts about political power deriving from the people governed were non-existent.¹⁴ This blank space seemed all the more anomalous in that Hong Kong advertised itself as an open society with all the basic rights and freedoms. Hong Kong did in fact enjoy all such benefits – except as applied to public participation in government and politics.

As for negative acquisitions, Hong Kong's political philosophy of "benevolent autocracy" had taken on some hard edges while defending the colony's interests, and its people were not necessarily the undifferentiated mass of happy subjects suggested by their common interests and commitments. First, the basic rationale had been allowed to calcify. Decision-makers evidently came to accept as unbending truth that democratic reform must be equated with representative government, which in turn meant self-government and independence, which China would never tolerate. Thus, there is no evidence that less drastic intermediate alternatives were ever even raised with Chinese leaders much less rejected by them. There are many indications, however, that Chinese leaders also came to accept the Grantham-ite logic which equated political reform by definition with independence.

Secondly, the ways and means of governing had also been allowed to calcify. From Grantham's day onwards, the Hong Kong government's greatest immediate fear was always said to be the disruptive potential of Chinese civil war politics. Curbs on home-grown as well as imported political activity were strictly enforced to prevent that potential for conflict between Chinese communist supporters and opponents from ever being realized. All kinds of potentially destabilizing public activism were therefore nipped in the bud. Besides the selective deportation of ringleaders and outside agitators, a range of other more and less subtle means of getting the message across became accepted modes for countering even the most innocuous expressions of dissent, and these means continued in use until the early 1980s.

Since most conventional forms of political activity were also disallowed, there remains no way of knowing what the public's preferences actually were, which points to a third negative consequence. Eventually it became apparent that an intense unarticulated polarization had taken root. In 1949, when political reform became a subject of some community interest, China's civil war politics did not loom very large.

14. A fairly extensive critical literature now exists on civic education past and present in Hong Kong. See, for example, Paul Morris, "Preparing pupils as citizens of the Special Administrative Region of Hong Kong: an analysis of curriculum change and control during the transition period," in Gerard A. Postiglione (ed.), *Education and Society in Hong Kong* (Armonk, NY: M. E. Sharpe, 1992), pp. 117–145; Thomas Kwan-choi Tse, *The Poverty of Political Education in Hong Kong Secondary Schools*, Hong Kong Institute of Asia-Pacific Studies, Chinese University of Hong Kong, Occasional Paper no. 69 (November 1997), esp. the reference list which includes both Chinese and English sources.

Representatives, both official and otherwise, of the warring Communist and Nationalist Parties had long been based in Hong Kong and both sides could claim supporters locally. But the public as a whole seems not to have been particularly partisan. Wider polarization only set in gradually, as the newly victorious communist revolution progressed through its ever more radical phases, sending repeated waves of disaffected émigrés across the border into Hong Kong.

After a mass one-million exodus during the Japanese occupation, Hong Kong's population had returned to its pre-war level of about 1.6 million by late 1946. Then in 1949, the next influx from China began. The population reached 2.25 million in 1952, 3 million in 1960 and 5 million in 1980. The 1981 census suggested that Hong Kong was beginning to acquire a more "settled" aspect since 57 per cent of its people were found to be locally born. Yet it still would not have been an exaggeration to claim that a majority of Hong Kong's residents were either themselves migrants from post-1949 China or related to someone who was.¹⁵

Whatever people's individual histories, at some point their experiences coalesced just enough to transform Hong Kong into an anti-communist town. Hence by the early 1980s, it also would not have been an exaggeration to say that a majority of Hong Kong people at both popular and elite levels, the latter including both British and Chinese, were essentially united in their negative views about Chinese communism. This basic orientation was moderated but not substantially altered by the leftward drift of student activists in the early 1970s, and the growing economic ties between Hong Kong and China in the 1980s. Indeed, so strong was the anti-communist mainstream that an equally committed "opposition" remained all but invisible. This was Hong Kong's own pro-China pro-communist minority (which preferred to be called *aiguo* or patriotic before 1997 but now sometimes distinguishes itself as *chuantong zuopai* or traditional left). Unacknowledged lines were drawn around this minority excluding its members from all the colony's social, intellectual and governing establishments. A kind of unspoken agreement thus evolved whereby Hong Kong's pro-China partisans kept to themselves, ran their own schools, read their own newspapers and worked in China-oriented organizations. Largest and most long-standing among these was the Federation of Trade Unions with an affiliated membership of nearly 200,000 in the 1980s. The multi-purpose local branch of the New China News Agency (NCNA or Xinhua) served as a news service, as well as China's *de facto* embassy in the territory, headquarters for its patriotic community and cover for Hong Kong's "underground" or unacknowledged Chinese Communist Party (CCP) branch.

15. *Hong Kong Annual Report, 1952* (Hong Kong Government Printer), p. 27; *Hong Kong: Report for the Year 1961* (Hong Kong Government Press, 1962), p. 24; *Hong Kong 1982* (Hong Kong Government Printer, 1982), pp. 227–28; John P. Burns, "Immigration from China and the future of Hong Kong," *Asian Survey*, June 1987, pp. 661–682.

Confronting the Hong Kong conundrum. The terms of engagement then changed dramatically, once reunification loomed as an inescapable reality. Unlike virtually all Britain's possessions before it, Hong Kong remained unschooled in the civilian arts of formal political self-defence, and the transition back to Chinese rule would take place in full view of a world for which colonialism had long since been discredited. Meanwhile, China itself had just embarked on a new path of national reform suggesting that the political skills Hong Kong should have learned under British tutelage might actually be put to good use. Hence as soon as Britain had to begin contemplating precedents, legacies and historical verdicts, the old conundrum was almost instantly transformed. In the past, concern about the Chinese and China had always blocked constitutional change. Suddenly the dilemma was turned on its head: fear of China made reform essential.

The precise timing of London's reversal is not yet clear in relation to China's 1982 decision on resuming sovereignty, since what the British knew and when they knew it remains undocumented. Hong Kong's governor, Murray MacLehose, visited Beijing in 1979 and asked for some word on Hong Kong's future, but Chinese leader Deng Xiaoping refused to give a definite answer except for his enigmatic advisory about telling investors to put their hearts at ease. According to one authoritative Chinese source, Deng said specifically that China might resume sovereignty but no decision had yet been made. Informal exchanges then occurred between 1979 and 1981, during which the Chinese tried in vain to win British approval for a "Macau solution." Following Portugal's 1974 revolution and consequent offer to return Macau immediately, Lisbon conceded sovereignty but agreed to maintain the status quo indefinitely under Portuguese rule, albeit at China's discretion.¹⁶

Thus from 1979, British leaders at least knew what the public did not, namely that some change in Hong Kong's status might well occur. Decisions were then evidently made in deference to the changing context, since within a year after the governor's March 1979 visit to Beijing political reform was under way in Hong Kong. The historic nature of the policy shift was obscured by its seeming insignificance, having been announced only in the form of a government green paper, or official proposal, entitled "A Pattern of District Administration in Hong Kong." Issued in June 1980, it suggested the addition of an "elected element" in the diverse local advisory boards and committees that had grown up during the 1970s. Elections would be direct, by universal suffrage, for a

16. Huang Wenfang, *Zhongguo dui Xianggang huifu xingshi zhuquan de juece licheng yu zhixing* (China's Resumption of Sovereignty Over Hong Kong: Decision-Making and Implementation) (Hong Kong: Institute for East-West Studies, Baptist University, 1997), ch. 1 (pp. 1–24). As a senior NCNA official in Hong Kong, Huang had considerable first-hand knowledge of the events described. Evidently, Britain's Labour government had actually been considering some such Macau-type solution, but the idea was dropped by its Conservative successor, which won the general election in early 1979. See Robert Cottrell, *The End of Hong Kong: The Secret Diplomacy of Imperial Retreat* (London: John Murray, 1993), pp. 49–50. After the die was cast, Britain did try in 1982–83, without success, to barter sovereignty for a continuing British administrative presence.

portion of members only, and Urban Council elections should also be conducted in the same manner. The Urban Council was responsible for recreation, public sanitation and a few other such basic chores.

The policy was formalized in a January 1981 white paper on "District Administration in Hong Kong." Reforms then unfolded swiftly, considering the century and more spent contemplating their dangers. Local bodies were rationalized territory-wide into District Boards. Boundaries were drawn, constituencies formed and the proportion of elected to appointed seats fixed. The former numbered roughly one-third of the new District Board membership or about 130 people in all. A Regional Council was also created to oversee, for suburban areas, the same tasks long performed by the Urban Council in town. The more important aim was to create a uniform territory-wide second tier of representative public offices to serve, along with the District Boards, as grassroots training grounds for both voters and budding politicians. Hong Kong's first ever direct election under universal suffrage, for the District Board seats, occurred in a phased sequence beginning in March and completed in September 1982, the same month Margaret Thatcher went to Beijing and confirmed Hong Kong's 1997 date with China.

In the hue and cry that ensued, Hong Kong's governance was initially the least of everyone's concerns. Once it became clear there could be no post-1997 British presence, however, their negotiators set about writing as many safeguards as possible into the reunification agreements. Thereafter the idea took hold, with official encouragement, that Hong Kong must provide its own last line of defence and that this was best done through institutions of local self-government. The 1984 Joint Declaration formally conceding sovereignty contained China's 12-point guarantee as well, promising autonomy and continuity of social and economic systems, but saying nothing about democratic reform. British negotiators took credit for plugging the loophole with an elaboration in the accompanying annex. The legislature, it declared, "shall be constituted by elections" and executive authorities "shall be accountable to the legislature," which would imply a substantial change over the existing colonial system.

The September 1984 Joint Declaration was also bracketed by another pair of Hong Kong government green and white papers in July and November respectively. Entitled, "The Further Development of Representative Government in Hong Kong," they extended political reform to the Legislative Council (LegCo). The aim was now forthrightly stated: to develop a system of government, "firmly rooted" in Hong Kong and "more directly accountable" to its people. Interestingly, Hong Kong now seemed to pick up where it had signed off on electoral reforms in the late 1940s, when people had in turn seemed to pick up where they left off in the 1920s. Initiatives were taken by Hong Kong's British leaders, for whatever reason, but an articulate Chinese "middling" minority soon took up the cause of political reform, while the government's erstwhile elite Chinese allies began building the case against it. The Hong Kong government, for its part, seemed to be reaching back to Grantham's 1950

counter-reform plan for indirect Legislative Council elections by corporate or professional bodies only.

Grantham's proposal actually derived from long-standing Hong Kong custom which had evolved from its earliest days and then lived on in the practice, taken up more systematically by Governor MacLehose than his predecessors, of appointing unofficial legislators from a growing cross-section of community leaders. By the 1980s, these were still being drawn primarily from business and banking, but included also representation from industry, the professions and trade unions. The 1984 changes formalized this practice by creating nine "functional constituencies" and giving them the right to elect 12 unofficial legislators. An additional 12 would be chosen by an electoral college composed of all members (including both elected and appointed) of the District Boards, plus those of the Urban and Regional Councils. A "safe" majority of appointed official and unofficial members (10 and 22 respectively) was retained in LegCo's 56-seat chamber, exclusive of the governor who served concurrently as council president. A review, scheduled for 1987, would consider the possibility of progression towards direct elections. Hong Kong's inaugural Legislative Council poll under the new functional constituency system was held in September 1985.

Relevant Chinese reactions indicated the mix of local pressures for continuity and change. Conservative views dominated among the pillars of Hong Kong's various establishments and, like their predecessors in the 1940s, these community leaders continued to be well represented in the Legislative Council. When it debated the July 1984 green paper, they were also still worrying about everything. Stability was foremost in their minds as the main prerequisite for maintaining investor confidence and prosperity. Hong Kong's colonial government was based on principles of consultation and consensus, in keeping with the conventional Chinese preference for public harmony. Electoral reform anticipated just the opposite, admonished the councillors, and would therefore be anathema within the local community. They claimed that the "avalanche" of public demands for democracy and elections represented only a "thin slice" of public opinion, while the majority in fact ranged from "total indifference to complete ignorance." Councillors therefore argued that direct elections were premature. Meanwhile, appointments, indirect election and the functional constituencies would "permit the elite of our community" to continue in service to its people.¹⁷

Advocates of political change, by contrast, were mostly young, outspoken and uninhibited in their enthusiasm for Western concepts of popular authority and accountable government. Virtually everyone nevertheless confined their activism within the boundaries defined by the government's limited initiative, albeit mindful of its promise to consider direct elections. Public consultations were held on the July 1984 green paper and "for the first time in Hong Kong's history," the proposed

17. Councillors' commentaries are from the Legislative Council debate on the 1984 green paper, in *Hong Kong Hansard*, 2 August 1984, pp. 1352–1412.

reforms brought together 89 separate interest groups for a mass rally in September. A thousand people from varied backgrounds – teachers, social workers, journalists, students and trade unionists among others – joined in demanding democratic self-administration.¹⁸

If this emerging liberal-conservative divide evoked memories of the past, however, 1997 produced the main new impetus for change. Lawyer Martin Lee's surprise victory over a favoured opponent contesting the legal constituency seat in the 1985 Legislative Council election signalled the force of the new element. His victory gave the council its most articulate advocate for a faster pace of democratization, on the grounds that popularly elected government would provide the best safeguard against the possible future excesses of Chinese rule.¹⁹ The business community disparaged this perspective as well, arguing that Hong Kong's survival depended not on antagonizing China but on contributing to its economic development. Lee and like-minded partisans were nevertheless undaunted, and Hong Kong's political spectrum emerged from the debates over this question, with China's suspicions encouraging both elite reservations and popular enthusiasm for more democratic reform rather than less.

China's Basic Law solution. Bound by the conflicting imperatives of Hong Kong's transition, Britain had to balance awkwardly between its new liberal and old conservative roles. China, for its part, inherited all the departing sovereign's fears about democracy and especially about the endemic dangers of 20th-century Chinese politics which lived on beneath Hong Kong's placid political surface. While they were contemplating the potential hazards of incorporating an anti-communist town within the confines of their communist-led Chinese state, however, Beijing's leaders learned about colonialism's various ways of producing "safe" outcomes and reliable parliamentary majorities. There were intermediate solutions short of independence after all, and these proved especially useful in designing constitutional arrangements for the "one country, two systems" experiment. Hong Kong's 1984 incremental reform plan included several such ingenious devices for introducing limited electoral representation and China borrowed freely from all of them.

The Beijing-led Basic Law Drafting Committee was formed in 1985, with 36 mainland members and 23 from Hong Kong. When the law was promulgated five years later, it revealed a system patterned on Hong Kong's 1984 reform model, albeit with an even more elaborate complex of checks and balances. Lobbying had been intense on all sides throughout the drafting process, with those advocating a faster pace of democra-

18. *South China Morning Post*, Hong Kong, and *Hong Kong Standard*, both 17 September 1984. For a useful collection of early popular views inspired by the 1997 question, see Joseph Y. S. Cheng (ed.), *Hong Kong in Search of a Future* (Hong Kong: Oxford University Press, 1984), *passim*; also, Lo Shiu-hing, *The Politics of Democratization in Hong Kong* (New York: St Martin's Press, 1997), chs 2–4 (pp. 67–176).

19. See, for example, Martin Lee's maiden speech in the Legislative Council (*Hong Kong Hansard*, 27 November 1985, pp. 146–49).

tization striving to make their influence felt on the coalition of business interests, professional conservatives and pro-China partisans that dominated the committee. Meanwhile, China had warned Britain repeatedly that it should not create before 1997, a political system incompatible with China's post-1997 plans. Britain accepted the principle of convergence and postponed further democratic reform until after the Basic Law's scheduled 1990 promulgation.²⁰

In Hong Kong, however, China's 1989 crackdown on student protesters gave a tremendous boost not just to the demand for self-government as a safeguard against Chinese interference, but also to the more "subversive" corollary that Hong Kong's only real protection was the democratization of China itself. Hong Kong's most active democrats, including Martin Lee and teachers' union leader Szeto Wah, formed a new group at this time, the Hong Kong Alliance in Support of the Patriotic Democratic Movement in China. Beijing's leaders quickly dubbed the alliance subversive in its aims which were, and remain, dedicated to that corollary. Yet even Hong Kong's conservative establishment was now tempted by its logic. So intense were the emotions generated by Tiananmen that conservative and liberal wings of the Legislative and Executive Councils' non-official members (the colonial term "unofficials" was dropped during the mid-1980s) reached an unprecedented consensus in July 1989. Implicitly acknowledging popular representation as a guarantee of autonomy, councillors called for a third of all legislators to be directly elected in 1991, at least half by 1995, and suggested also direct election of the chief executive, as the governor was to be called after 1997. By these standards, the Basic Law was indeed a disappointment, although perhaps not quite the "shameful act of surrender" proclaimed by some democrats.

As future sovereign, China's fears loomed overall. These were addressed first and foremost by the overriding powers granted to the chief executive vis-à-vis the legislature, and by the multiple constraints drawn around its directly elected members. The Basic Law typically consigned application of the Joint Declaration's most liberal principles to the far distant future or checked and balanced them against someone else's safeguards. Thus it stipulated universal suffrage to be the "ultimate aim" for electing both the chief executive and all Legislative Council members (articles 45 and 68), and the executive authorities were still accountable to the legislature (article 64). But the councillors' 1989 consensus in favour of a 50–50 division between directly and indirectly elected representation was postponed until the third SAR legislature (2003–

20. Also evoking memories of the past was the Hong Kong government's manipulation of its promised reform review in 1987. This conformed to long-standing colonial precedent whereby petitions for reform were dismissed as "unrepresentative." On the controversy surrounding the 1987 exercise, see Mark Roberti, *The Fall of Hong Kong: China's Triumph and Britain's Betrayal* (New York: John Wiley, 1996, rev. ed.), ch. 17 (pp. 197–210); Norman Miners, *The Government and Politics of Hong Kong* (Hong Kong: Oxford University Press, 1991, 5th ed.), pp. 26–27; and Jonathan Dimbleby, *The Last Governor* (London: Warner Books, 1998), pp. 129–130.

2007), with built-in constraints against the realistic possibility of progressive development thereafter (annex II).

The first SAR legislature would be allowed only 20 directly elected members in a 60-seat chamber, with a “safe” majority of 40 including 30 seats to be filled by the functional constituencies and ten by an electoral college of complex origin. The electoral college was itself to consist of 800 members, also elected mostly by the functional constituencies but with the mandatory inclusion as well of all Hong Kong’s deputies to China’s National People’s Congress plus a selection of Hong Kong representatives to the Chinese People’s Political Consultative Conference (annex I). The latter two groups were intended to guarantee places for members of Hong Kong’s pro-China community who dominated local representation on the national bodies and would also provide an otherwise unacknowledged direct link between them and Hong Kong’s local legislature. Basic Law drafters had obviously mastered the British colonial art of “safe” constitutional design.

The Patten finale. Perhaps it was because Britain’s 150-year stewardship over Hong Kong had been one of such unmitigated equivocation on the matter of electoral reform, that Prime Minister John Major decided to make one last grand gesture. With documentation still not available, however, this decision remains as obscure as the initial shift that occurred some time between March 1979 and June 1980. Presumably, considerations in 1992 were mostly strategic. Hong Kong had been traumatized by Tiananmen, which in turn hastened the new elite consensus for democratic reform, and if the wider public had ever been truly apathetic it was no more. Since the Basic Law permitted 20 directly elected seats in the first SAR legislature, Hong Kong was now free to introduce such a change and had begun with 18 Legislative Council seats in the 1991 poll. Democratic politicians ultimately won 17 of the seats, surprising only conservative pundits too slow to catch the changing public mood. They predicted among other things that the novice Chinese electorate would not demonstrate partisan preferences. Its size overall was also growing – from 342,700 votes cast in the first May/September 1982 District Board elections, to half a million in the 1985 district polls and 750,000 for the Legislative Council in 1991.

Although restrictions on overt political organizing remained, electioneering was allowed and 1980s-style pressure groups eased into the role of political parties.²¹ Several such groups sponsored candidates in 1991. Most popular was the United Democrats of Hong Kong formed in 1990, after Lee, Szeto and others from the Hong Kong Alliance decided to separate its (potentially dangerous) China-support activities from those of Hong Kong politicking. This group grew into the Democratic Party after

21. On Hong Kong’s early 1990s political evolution, see, Louie Kin-sheun, “Political parties,” in Sung Yun-wing and Lee Ming-Kwan (eds.), *The Other Hong Kong Report, 1991* (Hong Kong: Chinese University Press, 1991), pp. 55–75; Donald H. McMillen and Michael E. DeGolyer (eds.), *One Culture, Many Systems: Politics in the Reunification of China* (Hong Kong: Chinese University Press, 1993), part one, *passim*.

restrictions were finally lifted a few years later. Despite the political fragmentation, however, Hong Kong voters demonstrated a clear preference for candidates belonging to the “democratic camp.” These were easily distinguished by their platforms advocating directly elected representative government as the best guarantee for Hong Kong’s future autonomy. As a rough rule-of-thumb, the more outspoken candidates were in this respect, the more votes they won. This new maxim was epitomized in the 1991 victory and ongoing popularity of journalist-turned-politician Emily Lau.

Besides the new mood in Hong Kong, however, a second consideration for London must have been the massive shift in international power and public opinion following the collapse of communism between 1989 and 1991. Given the enormity of this new world trend, it seemed evident that China would not be able to escape its impact. Presumably for all these reasons, then, London decided to turn Hong Kong’s final five-year gubernatorial term into a crash course on democratic institution-building and citizenship.²² Whether by accident or design, the effect of that decision was enhanced by John Major’s choice for governor since all previous incumbents had had conventional colonial and foreign service backgrounds. By contrast, Conservative Party politician Chris Patten possessed an acerbic wit and had the licence to use it, which fitted perfectly with Hong Kong’s new mood of defiance. The reforms Patten introduced were as much about style as substance and he was clearly at ease in his new role. Walkabouts, radio phone-in talk shows, town hall meetings and Legislative Council question time all became regular features of his repertoire. One aim of this new gubernatorial style was to court public opinion for his cause; a second was part of that cause itself, namely, to set an example in promoting more open and responsive government. The second would eventually come to be appreciated by almost everyone, including both those who applauded his overall purpose of strengthening democratic reform and those who did not.

The nature of Patten’s assignment was not announced in advance, however, nor did London trouble to consult Beijing. Concerning substance, what came to be known as the Patten reform package was unveiled in his first policy address at the start of the 1992–93 legislative year.²³ Although advertised as a modest pre-1997 preface for the Basic Law’s post-1997 programme, Patten’s plans actually entailed a thorough overhaul of Hong Kong’s governing institutions. The aim was to make them as fully and directly elected as possible while keeping within the letter of the Basic Law by exploiting its loopholes and grey areas. For example, the Basic Law did not even deal with the District Boards and municipal councils (local shorthand for the Urban and Regional Coun-

22. Although couched in careful parliamentary prose, these reasons for London’s 1992 shift are evident, in “Relations between the United Kingdom and China in the period up to and beyond 1997,” Foreign Affairs Committee, House of Commons, 23 March 1994.

23. Patten’s address seems to be the only document outlining his programme in full. See, “Our next five years: the agenda for Hong Kong,” *Hong Kong Hansard*, 7 October 1992, pp. 14–49.

cils), referring to them as consultative bodies and not “organs of political power.” As of 1992, about one-third of their members were still appointed. Under the new plan, all these bodies were to become fully and directly elected by universal suffrage, as the basic building blocks of Hong Kong’s new democratic government.

The Legislative Council presented a greater challenge since the Basic Law specified its make-up in some detail and the principle of convergence between pre- and post-1997 arrangements had been accepted by both Britain and China. The 20 directly elected seats therefore remained unchanged, but Patten essentially ignored the cumbersome Basic Law-style electoral college (responsible for filling ten LegCo seats). Instead, he adapted Hong Kong’s 1985 body, except that now all the District Board members who would make up the electoral college were themselves to be directly elected. There remained the 30 seats which the Basic Law had allocated to the functional constituencies. By the 1991 election, Hong Kong’s functional constituency seats had been expanded to 21, but the constituencies themselves were still small and narrowly based on professional divisions of labour. The Patten plan retained these 21 old-style seats, although the complicated voting methods were reformed somewhat to replace corporate with individual balloting. Additionally, nine new large constituencies were created, designed to represent not just employers and professionals but all working people in Hong Kong. Only the unemployed and retirees did not qualify to claim a second vote through one of them. The net result of these changes was to create, in effect, nine new directly elected seats, plus ten elected by District Board members who would themselves be directly elected. Hence, with 19 seats filled from Hong Kong’s “grassroots,” in addition to the 20 directly elected seats, the Basic Law’s carefully crafted safe majority was safe no more.²⁴

In China’s eyes, therefore, Patten’s transgressions were multiple and varied.²⁵ Playing to the fears of post-Tiananmen audiences both local and international, he had produced one last grand electoral design to counter China’s own Basic Law adaptation. In 1993, after Beijing’s leaders realized the new governor could not be deflected from his purpose, they declared his plans to be in violation of the Basic Law. Any attempt to implement them would be invalidated in 1997. Instead of co-operating on the so-called “through-train” of convergence between institutional developments before and after 1997, the two principals then went their separate

24. For Patten’s perspective on the reforms, see, Dimpleby, *The Last Governor, passim*; for another view: Steve Tsang, *Hong Kong: Appointment with China* (London: I.B. Tauris, 1997), ch. 9 (pp. 181–208).

25. British Foreign Office regulars generally took exception to the Patten reform package on the grounds that China would never accept it. Hence potential risks in terms of Chinese retribution might well outweigh short-term gains. The old hands also knew more than did Patten about the effort to win China’s acceptance for directly elected LegCo seats which, due to the convergence agreement, had been the subject of considerable discussion between Britain and China during the Basic Law’s final drafting stage. In the acrimonious dispute that followed, China forced the release of relevant 1990 correspondence between the British and Chinese foreign ministers, which everyone on the British side allegedly “forgot” to share with Patten. The correspondence was published in *Renmin ribao* (*haiwaiban*) (*People’s Daily*, overseas edition) and *China Daily*, both 29 October 1992.

ways. China began laying the foundations for Hong Kong's post-1997 Basic Law government, Patten implemented his reform package, and the stage was set in Hong Kong for a clear partisan confrontation. Democrats united in support of Patten's reforms while a coalition of pro-China loyalists and business people rallied behind Beijing's strict constructionist interpretation of the Basic Law.²⁶

Yet despite China's wrath and the lack of consensus – or perhaps because of both – Hong Kong's commitment to electoral reform seemed to strengthen as the sequence of council elections proceeded under Patten's rules in 1994 and 1995. Although not an uncritical champion of those rules, Allen Lee exemplified the new norms when he decided to contest a directly elected seat in 1995. As founder of the new pro-business Liberal Party, he was mindful of its members' dependence on the functional constituencies and said he wanted the additional authority that only a popular mandate could bring. Even more significant was a similar decision by Hong Kong's patriotic community. After the Basic Law authorized directly elected seats for the SAR legislature, Beijing together with Hong Kong's pro-China leaders decided that the community's leaders must enter Hong Kong's brave new world of electoral politics or lose any chance of exercising popularly accepted authority therein. Some pro-China candidates did join the 1991 contest but could not compete with prevailing anti-China sentiments so soon after Tiananmen. They persevered nevertheless and in 1992 established a political group of their own, the Democratic Alliance for the Betterment of Hong Kong (DAB). Many of its members were concurrently active in the Federation of Trade Unions.

Pro-China candidates and sympathizers then did reasonably well in the small District Board constituencies in 1994, since residential patterns gave them an edge in several urban and suburban areas. Like everyone else, they learned fast and were soon campaigning about grassroots concerns and the need to elect local leaders not antagonistic to China. Additionally, the pro-China community was able to adapt its traditional "united front" tactics to the new situation and encouraged alliances mostly with sympathetic business people in town and "rural" conservatives in the suburbs. Such new supporters opposed the democrats' aggressive demands that, by the mid-1990s, included a wide range of long-overdue civil, social and economic legislation. Yet the new supporters did not share a complete identity of interests with the DAB, which represented primarily the traditional patriotic left and labour. Hence the New China News Agency's political staffers encouraged the formation of other pro-business pro-China groups which later merged to become the Hong Kong Progressive Alliance (HKPA).

Looking to the future, the 1995 election's partisan results thus provided a good illustration of Hong Kong's developing political spectrum, as well as the checks and balances built upon its complex mix of political and social interests. The turnout rate was still not impressive. At only 36 per

26. See, for example, *Hong Kong Hansard*, 29 June 1994, pp. 4690–5049.

cent of all registered voters, it seemed to vindicate the conclusions of conservative analysts still guided by assumptions about Hong Kong's political apathy. But in absolute terms, the number of votes cast had continued to rise: from 750,000 in 1991 to 920,500 in 1995, among 2.57 million on the final registrar's list, in a city of six million. Pro-democracy candidates again topped the poll. They included like-minded independents such as Emily Lau and members of the new Democratic Party. These candidates took something over 60 per cent of the one million votes cast for the 20 directly elected seats and won 14. Pro-China candidates and their declared allies won about 30 per cent of the popular vote, demonstrating the extent of public support for this sector in a way that had never before been possible.²⁷ But it won only two of the directly elected seats. Of the remaining four, two went to another small democratic party, the Association for Democracy and People's Livelihood (ADPL), which was more moderate than others on the question of confronting China. The other two were filled by the pro-business Liberal Party and an independent.

Pro-China forces were nevertheless successful in exploiting their support at the District Board level and won six of the ten electoral college seats, as well as an additional eight in the functional constituencies. By contrast, democrats won only a handful of additional seats in these two categories combined. Pro-business candidates did poorly in all the directly elected contests, but recouped their losses in the functional constituencies, to reach a total of ten seats (not including those who overtly declared for the pro-China side). Overall, 25 seats were solidly in the democratic camp (19 Democratic Party and six others); the pro-China coalition won 16; and pro-business candidates, ten. The balance was held by a few "true" independents and four ADPL legislators, who usually voted with the democrats.

Reconstructing Hong Kong's Post-1997 Political Order: Colonial Frame, Mainland Fixtures, Hong Kong Style

As Beijing promised, Patten's designs were all deactivated during the early hours of 1 July 1997. Formal preparations proceeded on schedule from December 1995, and by late 1998 the new system was essentially complete. Since the transition back to Chinese sovereignty overall was far smoother than anyone dared hope beforehand, with all of Hong Kong's basic rights and freedoms remaining unchanged, the impact of its new governing arrangements was minimized. Nevertheless, the imposition of Basic Law rule was carried out with a determination that belied the

27. Calculations are my own based on the official election results (*South China Morning Post*, 19 September 1995). One pro-China source estimated 34% of the popular vote in the geographic constituencies for its candidates and 61% for the democrats (*Wenhui bao*, 22 September 1995). Patten claimed that democrats received about 60% of the popular vote both in 1991 and 1995 (*South China Morning Post*, 2 October 1995); depending on candidate categorization, some calculations placed the democratic camp's share of the vote as high as 65–66%.

smiling face and political inexperience of Hong Kong's first SAR chief executive, Tung Chee-hwa.

Whereas Patten had exploited opportunities to enlarge the scope for direct elections and thereby enhance the exposure of Hong Kong's most popular politicians, now the opposite aim was pursued with every bit as much vigour. Towards that end, additional loopholes and grey areas were found in the Basic Law that had previously gone almost unnoticed. The net result is a system more checked than balanced, that will probably never grow into a workable amalgam without major revision. Hence, driven by an updated version of Hong Kong's oldest contradiction – between the need to maintain “liberal” appearances and the fear of liberal consequences – Patten's successors seemingly adapted all the devices at their disposal in deference to three overarching concerns. Those aims were to curb democratic impulses, enhance conservative corporate power and safeguard Chinese sovereignty. This last, however, had to be maintained without overt recourse to the equivalent of direct colonial rule from London, given Beijing's repeated promise of autonomy for Hong Kong's own rulers under the “one country, two systems” formula. The reconstruction of Hong Kong's post-1997 government proceeded to follow both in letter and spirit the Basic Law's prescriptions for achieving these aims.

Dismantling Patten's designs. Between 1996 and 1998, Hong Kong looked on as its sovereign-to-be introduced rules that shifted the costs of partisan confrontation dramatically, giving long-ignored patriotic neighbours a central role within the emerging political power structure. In this way, while new governing bodies were being created, Hong Kong also saw the first direct application, for local use, of what soon came to be dubbed “mainland political culture.” Along with the experience came a realization that the separation-of-systems ideal was already compromised since two political cultures were already competing for influence *within Hong Kong itself*. The contrast was thus sharply drawn in public commentary, which carried on as before, between mainland and Hong Kong styles. One relied on pre-ordained shortlists and unanimous votes in stacked committees where pro-China partisans were guaranteed not just safe but overwhelming majorities. The other was held up as the antithesis in all respects.

The sequence of bodies responsible for bringing this contrast into clear public focus was the Preparatory Committee, which created the Selection Committee, which in turn selected the chief executive, the provisional legislature and Hong Kong's new delegation to the National People's Congress. The provisional legislature then passed new election laws which coloured in the Basic Law's grey areas with China red to replace Patten's Tory blue and create, via a special mid-term election held in May 1998, a new Legislative Council more strictly in keeping with Beijing's original intentions.

The Preparatory Committee (PC) was empowered to prepare all the foundations for Hong Kong's first SAR government, including personnel

and policy recommendations. The 150 members were appointed by Beijing in December 1995, with 94 Hong Kong representatives and 56 from China. Most heavily represented among the latter contingent were the two bodies most directly responsible for transitional work, the Hong Kong and Macau Affairs Office (HKMAO) of the State Council in Beijing and the New China News Agency's Hong Kong branch. HKMAO director, Lu Ping, headed the all-important PC secretariat, while Vice-Premier and Foreign Minister Qian Qichen was named committee chairman.

Hong Kong's 94 members represented the embryo of its future leadership and about 50 were business people, typically those with cross-border economic interests. The remainder were a mix, mostly of professionals. Prevailing orientations were conservative and pro-China, the latter to varying degrees that might be roughly categorized as: traditional or "old left"; "new left," indicating recently declared associations; and more peripheral "united front" commitments. Among old and new left categories, the status of some 30 individuals was reinforced by concurrent membership in one or the other of China's two national representative bodies, the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC). These delegates henceforth became mainstays in all the transitional Hong Kong bodies.

None of Hong Kong's most popular politicians was represented, however, and the democrats were noticeable by their absence. The Democratic Party's status was especially problematic because of its overlapping membership with the "subversive" Hong Kong Alliance. Some PC members, however, blamed specifically the democrats' unequivocal support for Patten's reform package as the reason for their exclusion. Among Hong Kong democrats, only the ADPL was granted representation, with two PC seats. The pro-business Liberal Party was allocated four seats. Shipping magnate Tung Chee-hwa, already being groomed as Hong Kong's new post-1997 chief executive, was named a PC vice-chairman.²⁸

The Selection Committee (SC) was authorized to select the SAR's first chief executive only. Forming a provisional legislature was added to SC responsibilities only after Beijing's leaders decided to dissolve the Legislative Council elected in 1995 and replace it with an interim body as of 1 July 1997, to sit for about one year until fresh elections could be held. This decision was formalized in March 1996 by the PC which then proceeded to create the 400-member SC in accordance with stipulated proportions of 25 per cent each for four broad functional categories: business, industry and finance; professionals; labour and grassroots; and political figures including specifically all Hong Kong's incumbent NPC delegates and a selection of its CPPCC representatives as well.

Creating such a committee actually required far more organizational precision than any of Britain's old colonial formations. Formal criteria

28. *Wenhui bao*, *South China Morning Post* and *Hong Kong Standard*, all 29 December 1995.

were now overtly introduced to underline the political cost of supporting Patten's arrangements: all SC candidates had to acknowledge the legitimacy of the provisional legislature, which all but the ADPL among Patten's supporters refused to do. Ultimately, 5,700 people were accepted as candidates, but these were quickly reduced by the PC. Its secretariat produced a shortlist of 409 candidates, divided into the four categories, and even ranked candidates in order of preference. This left little for the 150 PC members to do at their 2 November 1996 plenary meeting but check the first 340 names on the list. The remaining 60 seats necessary to produce the 400-member SC were reserved for NPC and CPPCC delegates.²⁹

The results were thus a foregone conclusion and the SC emerged as an enlarged replica of the PC. Two-thirds of the 400 SC members had direct links with mainland bodies, including a core bloc of 92 who were members of either the NPC or CPPCC (some of the latter were elected from other SC functional categories). Additionally, about 50 members were concurrently delegates in different provincial people's congresses and consultative conferences, mostly in Guangdong and Fujian. The pro-China establishment's electoral wing was rewarded with some 60 SC seats. These went to the two organizations (the DAB and the Federation of Trade Unions) that had fielded candidates in Hong Kong's recent directly elected contests. With its 70 seats, however, the Chinese Chamber of Commerce secured the largest bloc held by a single Hong Kong organization.³⁰

Once the SC itself had been formed, the rest was relatively easy and organizers thereafter took refuge in Hong Kong's oldest political shadow play. In trying to maintain some semblance of "liberal appearances," however, they began adapting mainland rules for Hong Kong use and such rules once adapted were never quite the same again. The Basic Law stipulated that Hong Kong's first SAR chief executive must be chosen by the SC through "local consultations or through nomination and election after consultations." In fact, extensive consultation had continued informally for months. Tung Chee-hwa, who was also a member of Patten's Executive Council, had emerged by late 1995 as virtually the only choice more-or-less acceptable to everyone including China, Britain and the international business community. Nevertheless, a mini-selection campaign was organized in late 1996, rumoured to have been promoted by Chinese authorities concerned about the negative image being generated by their consultation and elite consensus methods. Ultimately, three other contenders emerged and everyone went through their paces "Hong Kong style," generating much media attention with platform presentations, press conferences and community walkabouts. In the end, of course, the SC performed as expected and Tung Chee-hwa emerged victorious in

29. A few Chinese-language newspapers printed the secretariat's ranked shortlists, e.g. *Xianggang jingji ribao* (Hong Kong Economic Daily), and *Xingdao ribao* (Sing Tao Daily), both 2 November 1996.

30. *Wenhui bao*, *South China Morning Post* and *Hong Kong Standard*, all 3 and 4 November 1996.

mid-December. His managers were nevertheless at least able to score one telling point over their critics since the new selection process was clearly more open to prior public scrutiny and comment than all past appointments of British governors had been.

Creating a substitute Legislative Council was more difficult to finesse, despite repeated assertions that it was the creation of Hong Kong's own SC and not by appointment from Beijing. The appearance of continuity was achieved by promising seats to as many incumbent legislators as were willing to cross over. Here the precision of pre-ordained committee voting was clearly demonstrated by an almost perfect score: 34 incumbents declared their candidacy and 33 were "elected" in SC balloting on 21 December. Except for ADPL members, however, no democratic councillors were willing to make the switch. Among the incumbents who were willing, almost all came from the conservative and pro-China camps including a total of only six who had been directly elected (DAB, 2; ADPL, 2; Liberal Party, 1; independent, 1). This result reinforced the existing division between popularly elected democrats and indirectly elected others, since the great majority of cross-over incumbents were also those who won their seats in 1995, via the old functional constituency or electoral college routes.

In this manner, if the SC emerged as a larger replica of its PC founder, the 60-member provisional legislature appeared as a concentrated version of both, notable primarily for its overlapping and concurrent memberships. Of the 60 provisional legislators, 54 had worked in the various Beijing-appointed transitional committees, including 51 who were SC members and had therefore simply selected themselves. More significant in terms of compromising the "one country, two systems" principle, however, were the overlapping memberships with China's own government bodies. Thus, the first direct link between Hong Kong's new legislative apparatus and China's counterpart was established in the form of nine provisional councillors who were concurrently incumbent members of either the NPC or CPPCC.³¹

Yet however complex, the edifice was still only in a preliminary stage of construction and the SC had not completed its labours. An unanticipated decision issued on the overriding authority of the NPC Standing Committee gave the SC one additional extra-Basic Law task, namely that of selecting the SAR's first NPC delegation. Members had previously been tapped by the local branch of the New China News Agency from within Hong Kong's pro-China community, and attached to the delegation of neighbouring Guangdong province. As a mark of its return to Chinese sovereignty, Hong Kong would have its own separate delegation, conveniently timed to coincide with the start of the new 1998–2003 term in March 1998. Following national practice, the delegation should have been elected indirectly by the provincial congress, but as Hong Kong's Legislative Council equivalent was still very much "in transition," the SC method was deemed an appropriate substitute. The SC itself was ex-

31. *Hong Kong Standard*, 22 December 1996.

panded slightly for the purpose, to 424 members, and rechristened an Electoral Conference.

By the time the exercise ended in December 1997, Hong Kong had hosted the most open and competitive election for China's NPC in that body's history, with NPC and local NCNA officials improvising step-by-step as they adapted Beijing conventions to Hong Kong's new political work style. By the time delegates took their places in Beijing, however, it was also clear that new boundaries were being drawn, as unyielding as those Hong Kong had formerly drawn against its own patriotic community. The lines and limits would now be enforced to curb Hong Kong's democratic impulses both within the NPC and in Hong Kong, where one of the mechanisms for doing so would be this same NPC delegation together with its CPPCC companion.

Although the clash between mainland and Hong Kong political cultures had been evolving in principle since 1982, the dynamic in practice had usually moved in other ways. Now for the first time, the clash was face-to-face on Hong Kong soil and the point of contact was a heretofore purely mainland institution. Multiple conflicts and controversies, including those both angry and humorous, unfolded during the month-long campaign to select Hong Kong's delegates. Most important was an abortive rapprochement with the Democratic Party.

Ultimately, the 36-member delegation was formed, in the image of its parent body, using the same kind of rank-ordered candidate lists to which the latter had grown accustomed. But official protestations to the contrary notwithstanding, the delegates' most important tasks seemed to be in Hong Kong not Beijing. Altogether, 19 of the delegates who formed Hong Kong's new teams for the NPC and CPPCC in March 1998 were concurrently members of Hong Kong's Provisional Legislative Council, occupying almost one-third of its 60 seats. Among the ten NPC and nine CPPCC delegates holding dual positions was Rita Fan who had been elected president of the provisional Hong Kong body.³²

Keeping up appearances: Hong Kong's Basic Law government. Hong Kong's new post-1997 government naturally carried forward much from its colonial past. Most striking, however, is the continuing anomaly created by a free and open society and unfettered economy, combined with so restrictive a form of governance. Despite everyone's apprehensions and the potential for Beijing's interference, none materialized – except in the realm of government and politics. Hong Kong's new SAR government proceeded to enforce, from its first hours in office, all the institutional checks and balances prescribed by the Basic Law, and many partisan political decisions besides. The ensuing shift would have been comparable to that in an adversarial two-party parliamentary system

32. See Suzanne Pepper, "Hong Kong joins the National People's Congress: a first test for one country with two political systems," *Journal of Contemporary China*, Vol. 8, No. 21 (July 1999), pp. 319–343.

when ins and outs trade places, had the change not also entailed new rules designed to ensure the democrats would remain indefinitely marginalized

The democratic camp is therefore free to protest, lobby, contest elections and win a majority of the direct popular vote. Even the Hong Kong Alliance continues unhindered, despite continuing charges of “subversive” intent against it in the local pro-China press. Alliance members contest elections under the Democratic Party’s banner along with everyone else. Yet the Basic Law’s prescriptions are such that democratic legislators can occupy no more than about one-third of LegCo’s 60 seats and therefore cannot win passage of any bill without conservative support. Nor indeed can any councillor introduce substantive legislation without executive consent. Additionally, Hong Kong’s most popular politicians are denied any role within the all-powerful executive branch which keeps contact between it and them to an absolute minimum.

In fact, the Tung Chee-hwa administration soon gained a reputation for overall inexperience and indecision, which has yet to be surmounted three years later. Only its complex political agenda was orchestrated with dispatch, in a process that began, under Beijing direction, with the formation of all the inter-locking mainland-style committees. The single most ambitious undertaking thereafter was the May 1998 special election to create a new post-Patten Legislative Council. Only after its results were registered was the new edifice complete, since only then did the tripartite divisions of Hong Kong’s new Basic Law political system assume their full and final shape. A few key details will suffice by way of illustration.³³

The provisional legislature’s preliminary January-to-June 1997 sittings were devoted to readying, on Preparatory Committee recommendation, a list of bills for passage beginning soon after midnight on 1 July 1997. Among these early pieces of new legislation, and certainly the most complex, was the Legislative Council Bill, prescribing in minute detail the May 1998 election rules. These seemingly left no loophole in the effort to reduce democratic margins of victory. Besides adhering to a strict constructionist interpretation of the Basic Law, the Preparatory Committee and Provisional Legislative Council added several extra touches of their own.³⁴ Most significant was proportional representation. Not content with the near 40-seat conservative and pro-China majority the Basic Law design guaranteed, new rules mandated proportional representation for all directly elected seats instead of the simple majority voting method used in 1995. The rules also stipulated that a full 100 seats

33. On the 1998 elections and related developments, see Richard Baum’s article in this issue.

34. See “Chouweihui guanyu Zhonghua renmin gongheguo Xianggang tebie xingzhengqu diyi jie lifahui de juti chansheng banfa” (“The Preparatory Committee’s concrete methods for producing the first Legislative Council of the Hong Kong SAR, of the People’s Republic of China”), passed by the PC’s ninth plenary meeting, 23 May 1997, in Yuan Qiushi (ed.), *Xianggang guodu shiqi zhongyao wenjian huibian* (*A Compilation of Important Documents on Hong Kong’s Transition Period*) (Hong Kong: Sanlian, 1997), pp. 304–307; and Legislative Council Ordinance, in, *Government of the Hong Kong Special Administrative Region Gazette*, Legal Supplement, No. 1, 3 October 1997, pp. 435–621.

on the 800-strong Election Committee be reserved for NPC/CPPCC incumbents. The NCNA then persevered in its management of this group by organizing a get-out-the-vote campaign when a preliminary functional constituencies election was held in April, to choose the 800-member Election Committee which was responsible for filling ten LegCo seats.

Once all the scores were settled and tallies finalized in May, Basic Law drafters could rest content that their complicated colonial-mainland design with Hong Kong characteristics had fulfilled its purpose. The democratic voting majority not only held but public commitment to electoral politics actually seemed to strengthen with an unprecedented 53 per cent turnout on election day, of which more than 60 per cent again went to democratic candidates. They were nevertheless limited to a proportionally correct 14 of the 20 directly elected seats, while pro-China candidates won five. The latter also won a majority of the ten Electoral Committee seats, and business candidates swept the functional constituencies losing only five of those seats to the democratic camp. Thus despite taking over 60 per cent of the popular vote, democratic candidates occupied only 19 of LegCo's 60 seats.³⁵

Of the 19 legislators in concurrent Provisional Legislative Council and NPC/CPPCC positions, ten remained after the 1998 election. Among them was council president Rita Fan who the democrats tried but failed to dislodge, given the council's overwhelming conservative and pro-China majority. Nor could democrats muster sufficient votes to prevent the Tung government from restoring a 25 per cent non-elected membership to the District Boards. Similarly, the government declared both the Urban and Regional Councils redundant and abolished them at the end of 1999, with LegCo endorsement, thereby eliminating entirely Hong Kong's middle tier of elected offices. The belated colonial effort to establish a territory-wide council system, accountable to Hong Kong's voting public, has thus been effectively negated.

Whither Hong Kong's new democracy? By the second year under Chinese rule, then, all pre-1997 hyperbole about Hong Kong serving as a democratic bridgehead across the 1997 divide was but a distant memory. As for the "one country, two systems" design, it was often difficult to determine where one system ended and the other began. The defensive lines of protection demanded by all concerned had been established, but the dynamic seemed overwhelmingly in China's favour. Thus, after Hong Kong's new Basic Law government emerged in the form China intended, two key aims stood out that did not obtrude quite so clearly before. One was the determination to check Hong Kong's democratic politicians, achieved through the three-way Legislative Council division into directly elected, corporate and mainland-style representatives. The other aim was to create in Hong Kong a system that replicated

35. Official election results in, *South China Morning Post*, *Hong Kong Standard* and *Wenhui bao*, all 26 May 1998.

China's own ponderous movement toward Communist Party-led political reform.

These consequences were not unintended but only obscured by the Basic Law's complex origins. Hence Britain's colonial legacy had actually been adapted for use within an intricate "Chinese" design. The British legacy included paramount gubernatorial leadership augmented by a partially elected and marginally empowered legislature designed to produce safe majorities for all occasions. The functional constituency option came specifically from Hong Kong's own colonial past and was essentially the same solution identified by Grantham in 1950 as the most appropriate form of representation for Hong Kong's legislature. Additionally, however, from post-1949 China came the concurrent positions and interlocking organizational memberships of democratic centralism. This feature, which provided a living link between the Chinese and Hong Kong legislatures, was not spelled out in the Basic Law but only appeared after the system took final shape.

China had therefore insisted on an all-powerful executive for Hong Kong's government, while relegating the legislature to simple supervisory and debating society functions. Such a design places Hong Kong on a parallel course with the reforms being introduced in China's own congress system – which grant it new powers to supervise, inspect and assist governments at various levels, but not actually to initiate legislation. Even LegCo's division between directly elected and functional constituency members has an important mainland counterpart, reflecting their common origins. These lie in long-forgotten pre-1949 Chinese experiments with constitutional reform, which Grantham's advisors must have been aware of in 1950. China's CPPCC is thus organized on a functional basis, while the NPC derives from geographic divisions where reforms are also moving China, like Hong Kong, at a snail's pace towards directly elected local assemblies.

Within this grand constitutional design, both Hong Kong's new executive and the Chinese sovereign are playing strictly by the Basic Law rule book, albeit interpreting its provisions with clear partisan intent so as to reduce democratic margins for manoeuvre wherever possible. Here the consequences are undoubtedly not intended, however, since the impact has been to perpetuate and strengthen the main pro-democracy/pro-China divide that shaped Hong Kong's emerging spectrum during the 1980s. Its post-1997 equivalent is the liberal/conservative division being reaffirmed daily over matters of policy and practice to create, in effect, a multi-party system governed by adversarial "two-line" politics. The challenge for Hong Kong democrats, then, is to maintain their partisan strength within a system that has relegated them to the status of a permanent powerless opposition.

In terms of political resources and possibilities, of course, the democrats are not powerless, which is why the new regime has stacked the deck so heavily against them. They know, for example, that history and "world trends" are on their side. More specifically, Hong Kong democrats know it was not just the impersonal force of 20th-century

trends and historical circumstances that finally compelled the breakthrough over British inertia and Beijing's objections. That opportunity might have passed them by again, as in 1949, but for the political movement that local activists themselves began building in the 1980s, around their demands for representative government. Thereafter the idea took hold that the power of political leaders should derive, via electoral mandates, from the people governed. The old silent majority with its alleged apathy and distaste for partisan politics has consequently given way to a self-conscious political culture, which is argumentative, demanding and alert to the full range of civil rights issues even if not necessarily effective in promoting them. That culture has also produced a new 1.5 million electorate with voters who demonstrate a continuing majority preference for candidates committed to Western-style democracy. This was promoted initially as a form of protection against mainland interference, and more recently as an alternative to autocratic rule whatever its origins. Within this culture, it is also a commonplace that Hong Kong has its own activist movement to thank, along with Britain's latter-day efforts and China's beneficence, for Hong Kong's post-1997 political tranquillity.

If they value history and their voters so highly, however, it is because Hong Kong democrats currently have few other resources with which to counter the strength of the national and local forces ranged against them. Should their loyal public begin to defect, in other words, the democrats' movement will recede accordingly. That particular aim, to counter ongoing democratic demands for stronger rather than weaker institutions of representative government, is in fact now being openly promoted by some of Hong Kong's leading businessmen. With the power balance having shifted so clearly in their favour, these tycoons are speaking out unapologetically for the first time since a local consensus formed against them in 1989, invoking the same mix of conservative elitism and economic self-interest as in pre-1989 days.

Predictions as to who will prevail in this contest between populists and political-economic elites are thus premature. Nor should the presence of so many "objective" conditions typically associated with a successful transition to representative self-government weigh too heavily in this equation. Hong Kong's open society and thriving economy were never sufficient in themselves to challenge the constraints maintained by a British-run company town, which served simultaneously as a trading centre and refugee haven at China's sufferance. Probably more important in calculating Hong Kong's political future, then, are the specific barriers that have recently been surmounted. Fear of direct elections was as old as the colony itself, reinforced after 1949 by the legacy of China's civil war living on beneath the surface of Hong Kong's émigré society. China was therefore as apprehensive as Britain had ever been about introducing electoral politics in Hong Kong, since it meant the long-suppressed confrontation there between communist friends and foes was inevitable. Yet once China had accepted Hong Kong's demands for directly elected LegCo representation and for "eventual" universal suffrage, it also had no

choice but to allow its partisans to join the competition – whereupon both barriers were quickly surmounted without incident. The legacy of Hong Kong's fearful past is, of course, now carved in Basic Law stone. Barring some Draconian crackdown, however, the current competition between democrats and conservatives should be sufficient to sustain its dynamic, perhaps even until such a time as all the principals have learned to fear each other less.