

Contemporary Chinese Political Economy and Strategic Relations: An International Journal

Volume 3 Number 2 July/August 2017 ISSN 2410-9681

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Contemporary Chinese Political Economy and Strategic Relations:
An International Journal

Volume 3, Number 2
July/August 2017

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Volume 3 Number 2 July/August 2017 ISSN 2410-9681

Focus Hong Kong Twenty Years after the Handover: Quo Vadis?

Focus Issue Editors

Joseph Y.S. Cheng Emile K.K. Yeoh



Contemporary Chinese Political Economy and Strategic Relations: An International Journal

Notes for Contributors

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Contemporary Chinese Political Economy and
Strategic Relations: An International Journal

Vol. 3, No. 2, July/August 2017

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Quo Vadis?*

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ISSN 2410-9681

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Publishing: Institute of China and Asia-Pacific Studies,

National Sun Yat-sen University, Taiwan, ROC

Co-Publishing: Department of Administrative Studies and Politics, Faculty of Economics and Administration, University of Malaya, Malaysia

**Contemporary Chinese Political Economy
and Strategic Relations:
An International Journal**

Vol. 3, No. 2, July/August 2017

Focus

**Hong Kong
Twenty Years after the Handover
*Quo Vadis?***

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FOREWORD

Upon the Twentieth Anniversary of the Hong Kong Handover: An Update on State-Civil Societal Relations

1st July 2017 is the twentieth anniversary of the handover of Hong Kong by Great Britain to the People's Republic of China, thus ending 156 years of British Crown rule (from 1841 to 1997, though from 1941 to 1945 it was actually under the Japanese occupation). Although the Hong Kong Island (香港島) was ceded from the Ch'ing Empire (大清帝國) to Great Britain in perpetuity after the First Opium War (1839-1842) and the colony expanded to the Kowloon Peninsula (九龍半島) in 1860, with 1997 approaching and the 99-year lease of the New Territories (新界, leased from 1898) ending the British did not find it feasible and viable to retain the rest of Hong Kong outside the leased territory. Hence the Handover was total. Then on 28th September 2014 a surprised sociopolitical event erupted that arguably marked a most important milestone in Hong Kong's post-1997 development when pro-democracy protestors occupied the Admiralty (金鐘), Causeway Bay (銅鑼灣), Mong Kok (旺角)¹ and Tsim Sha Tsui (尖沙嘴) areas of Hong Kong. This momentous campaign was initially planned out earlier by the "Occupy Central with Love and Peace" (讓愛與和平佔領中環 / 和平佔中, OCLP) movement, but launched earlier than scheduled when

overtaken by the development of events, metamorphosed into unprecedented scale of demonstrations in multiple locations and was transformed into what was dubbed by the world media as the “Umbrella Movement” (雨傘運動) when umbrellas, which protestors were using to protect themselves when the police attacked them with tear gas and pepper spray, became a symbol of the occupation campaign. The scale of the protest movement, the zeal and passion of the participants and the personal sacrifices they were willing to make in pursuing the objective of the campaign and the bravery they showed in facing the formidable machinery of repression wielded by the State and at one stage an ominous prospect of Tiananmen redux – a repeat of the 1989 Beijing massacre, as well as the broad-based support from the wider Hong Kong society, reflected a culmination of almost two decades of grievances against the central government of the People’s Republic of China (PRC)² whose one-party dictatorship not only continues to exhibit and strengthen its relentlessness in suppressing dissent in the vast Mainland but also shows an incremental, creeping infiltration of authoritarianism into the Hong Kong society.

There are three peculiar features that marked disturbingly the handover of Hong Kong to the PRC. First, the decolonisation process – the reversion negotiation – was conducted without the participation of the colonial subjects themselves, the Hong Kong people, but solely between the British and the PRC. Secondly, unlike the usual public mood that accompanied almost all decolonised territories’ return to the motherland which was marked invariably by joy and pride, the Hong Kong public and intellectuals’ feeling when the reversion was imminent and during the reversion had been one of unwillingness, sadness and trepidation. Thirdly, and probably most disturbingly, the Handover represents transferring the fate of a society that for 156 years had been enjoying the respect for human rights, freedom of thought and

expression and independent judiciary, as subjects first of a crown colony and later a dependent territory (from 1981) of a liberal democratic colonial master into the hands of regime, arguably a new colonial master, which is a self-justifying one-party dictatorship that has been maintaining and continues to maintain its grip on absolute power through enforcing public amnesia, brainwashing the young, and brutal treatment of dissidents. It has been particularly ironic that this is a territory that has provided a safe haven for refugees from the PRC after 1949, escaping the economic policy disaster and brutal political excesses of the Chinese Communist Party (CCP)³, who had by 1960 swelled the Hong Kong population to four times the population at the end of the World War II, where, as the Brookings Institution's senior fellow Richard Bush, the co-director of the institution's Center for East Asia Policy Studies (CEAP), wrote in his recent book:

... [the British colonial government] provided public health and education (free primary education became available for all by 1970). It moved refugees from unsafe and unhealthy shanty towns into basic, low-rent public housing [...] built transportation infrastructure, both to get workers to their jobs and the goods they produced onto the ships headed for global markets. The Hong Kong Police fostered a relatively safe social environment and the courts protected property rights. This social management was accomplished by a competent civil service through which talented Chinese officials rose to higher and higher positions of responsibility ...

(Bush, 2016)⁴

At last safely settled in this British colony, and gradually being able to both physically and psychologically distance themselves from the danger, hunger and persecution in the Mainland where they had risked their lives to escape from, and

... [w]ith the border with China closed, the colony's Chinese population became far less transient than it had been before the war. Hong Kong became truly their home. The refugees and their children came to acquire a separate Hong Kong identity that complemented their sense of being Chinese [...] As for the "New China" whose policies had driven them from their native places, Hong Kong's refugee population was happy to have nothing to do with it.

*(ibid.)*⁵

One can of course argue that the post-Mao China has changed so much, and that the economic success brought about by ditching Maoist central command economy for rugged capitalist market economy has legitimised the CCP's continued monopoly of political power, but how would one explain the reaction of the Hong Kong people, especially the major part of the intelligentsia and the younger generation – that fear for and that distaste towards the CCP regime? How would one explain their reaction towards the death of persecuted dissidents, be they Li Wangyang (李旺陽), Cao Shunli (曹順利) or Liu Xiaobo (劉曉波), and towards Beijing's creeping authoritarian intervention in Hong Kong's governance, be it introduction of brainwashing school curriculum extolling the CCP, time-and-again interpretation of the Basic Law, or kidnapping of Hong Kong booksellers and publishers? How would one explain the eruption of 2014's Occupy Campaign a.k.a. Umbrella Movement?

It is to answer such questions and to delve analytically into the complex State-civil societal relations twenty years after the Handover, background of determining factors, theoretical and ideological underpinnings, as well as possible future of the Hong Kong people's valiant struggle for democracy against the backdrop of the formidable

odds as evidenced by the State's handling of the Umbrella Movement and recent treatment of elected dissident legislators, that the present special focus issue of *Contemporary Chinese Political Economy and Strategic Relations: An International Journal* has put together a collection of specially selected articles under the issue title *Hong Kong twenty years after the Handover: Quo vadis?* – with the query in the subtitle on the future path of Hong Kong reflecting the existential anxiety of the freedom-loving Hong Kong people now being forced to live under the ominous shadow of an entrenched regime that has no foreseeable intention of allowing for a transition from the present repressive one-party dictatorship to liberal democracy that would respect political freedom and civil liberties, or of relaxing its intolerance for dissent.

The obstacles are daunting for the cold reality that the “many freedoms and rule of law Hong Kong people enjoyed were less appealing to a regime that preferred a population obedient to its strictures and a legal system more pliable at the service of Communist Party power” (Dirlik, 2016: 667). Further confrontation between State and civil society will be inevitable, as Joseph Yu-shek Cheng foresees in his introduction to the present issue, “The Hong Kong Special Administrative Region: 1997-2017”, since Beijing apparently has no plan to grant Hong Kong genuine democracy. Pointing out the three variables that probably have the most important impact on Hong Kong's political and social stability, viz. performance of Hong Kong's economy, Beijing's policy towards the Special Administrative Region and the development of the pro-democracy movement in the territory, Cheng's prognosis in this introductory article is gloomy. Economy-wise, as people in Mainland China are expecting further improvements in living standards in the years ahead, as Cheng points out, most Hong Kongers believe that their living standards have deteriorated since 1997 while the

gap between the rich and poor further widens, and are pessimistic about their improvements in the foreseeable future. This happens as the heavy meddling by Beijing in Hong Kong's governance and elections including through the United Front work in Hong Kong and other shadowy actions further weakened the legitimacy and effectiveness of the HKSAR government, while on the other hand, as Cheng highlights, widespread frustration among the pro-democracy groups is evident after the Occupy Campaign failed to achieve its aims and as Mainland China's economy further strengthens the "lofty" ideals of freedom and human rights had become even less attractive to voters than before.

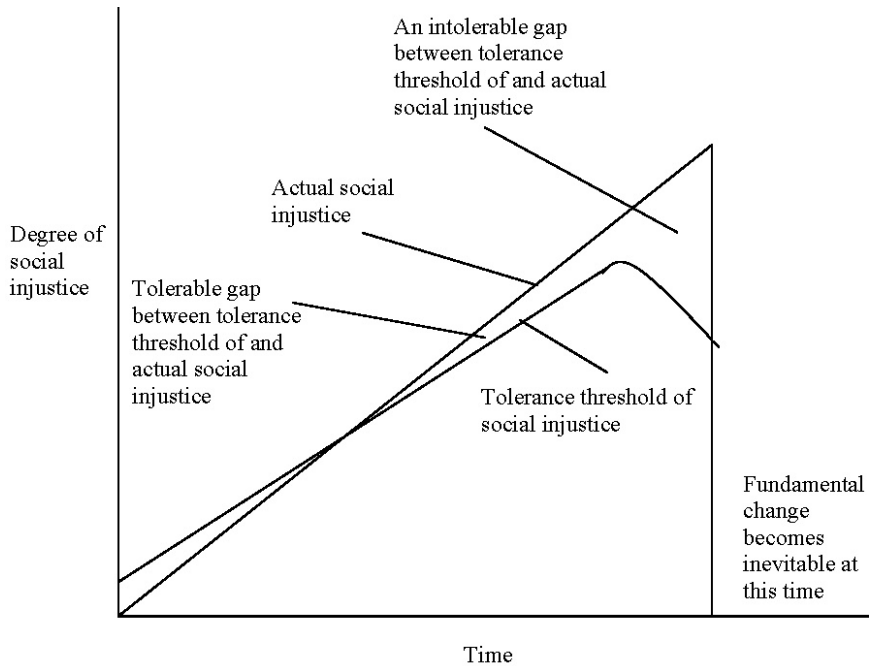
Ultimately, the basic argument between the genuine liberal democracy proponents and apologists for the Beijing central government who advocate CCP's take on "human rights" and "democracy" with a Marxist-Leninist "democratic centralist" redefinition further layered with "market socialism with Chinese characteristics" is how one sees and interpret the Hong Kong's situation of human rights and autonomy two decades after Handover. Chong Yiu Kwong in his article, "Human Rights Development in the First 20 Years of the Hong Kong Special Administrative Region", points out three main challenges facing the human rights development in the territory: that despite a high degree of autonomy promised under the Basic Law, the degree of Hong Kong's autonomy has been steadily reduced since the Handover, and tightening of control by Beijing has resulted in more confrontation and less trust between the Hong Kong people and the central government; that the gap between the poor and the rich is getting wider and social mobility has declined thus leading to heightening social discontent, increasing socioeconomic and political exclusion and polarisation and escalating hostility, violence and hatred (witness the rather atypical violence of the "Fishball Revolution / 魚蛋革命" – the Mong Kok street disturbance in early February 2016); and finally, the weakened checks and balances in

the political system with more emphasis on executive-led governance. Such gloomy outlook notwithstanding, Chong retains a note of optimism that Hong Kong's strong tradition and culture of the rule of law, her active civil society and vigorous media, her status as an international city with strong overseas connections and her people's heightened rights awareness and political participation through several large, momentous movements in 1989, 2003 and 2014 would ultimately act as the cornerstone of human rights protection.

Nevertheless, it is within the overall depressing atmosphere of discontent, frustration and helplessness as pointed out by Chong that the rise of the more radical Hong Kong "localist" advocacy could be understood, where eventually a stage is reached when suddenly a big gap is opening up between what people want to achieve and what they actually get in life – an unhinged "want:get ratio" that leads to a "revolution of rising frustrations" (Lerner, 1958, 1964: vii) with expectations having outraced actual attainments – witness the failure of the Occupy Campaign in acquiring at least certain level of compromise solution from the central government in Beijing, and the HKSAR government at only Beijing's bidding.

Yiu-chung Wong in his paper, "Localism in Hong Kong: Its Origins, Development and Prospect", traces the root cause of such frustration to the shift of the CCP central regime from non-interventionism towards Hong Kong as promised in its "fifty years unchanged" pledge under "One Country, Two Systems" to today's pervasive integration where the Basic Law is arbitrarily interpreted to suit political expediency in its "Leninist absorption of Hong Kong into Chinese authoritarianism" that has directly triggered the rise of "localism" in the younger generation. While seeing the localist-spurred "Hong Kong independence" as unrealistic and Sisyphean, Yiu-chung Wong nevertheless foresees that

Figure 1 Revolution of Rising Frustrations



Source: Based on Davies's J-Curve Theory of Revolution. See Vander Zanden (1988: 584), Figure 21.2 (adapted from Davies, 1962: 6, Figure 1).

despite the CCP regime's wish to reshape Hong Kong into a pliant economic city subservient to its political control, with liberal values already deeply embedded in the structure of the Hong Kong society, Hong Kong will always be "different from China's other cities in terms of civic sense, openness of mindset, degrees of social and economic freedom, and vibrancy of the civil society".

The rise of radical localism thus stems from the frustration felt by Hong Kong's younger generation over the failure of the Umbrella

Movement, and as a strong reaction to Mainland China's interference in Hong Kong affairs and the Hong Kong government's compliance to such an interference, leading to further polarisation of the Hong Kong society and fractionalisation among the pro-democracy forces, exemplified for example by the rising radical localist perspective of denying Hong Kong people's "Chinese" identity and of the overriding focus on distancing Hong Kong from China and escaping Beijing's political control, which has led to even the questioning of the nature of Hong Kong's annual commemoration of the 1989 Beijing massacre (Chan, 2016).

As Yiu-chung Wong comments in his article, amidst the struggles for the realization of genuine free and fair electoral democracy in Hong Kong, "the politics of democratization unavoidably become tainted with a touch of the politics of identities." Whether it be the rise of radical localism vs the pan-Chinese approach of the "Tiananmen generation" of pro-democracy activists or the political orientation of Mainland Chinese immigrants *vis-à-vis* that of native Hong Kongers, the problem at hand ultimately boils down to the issue of identity. Immigrants from Mainland China post-Handover, for example, have been found to be by self-selection, "politically more conservative, more content with the status quo, and less supportive of progressive political change (i.e. fast democratization) than the native population in Hong Kong" – being reliable supporters of the pro-Beijing coalition in the elections in Hong Kong, thus representing a barrier to democratisation in Hong Kong (Wong, Ma and Lam, 2016)⁶. In this regard, Fu-Lai Tony Yu and Diana S. Kwan's article in this issue, "Social Construction of National Reality: Chinese Consciousness versus Hong Kong Consciousness", analyses the growing confrontation between traditional Chinese consciousness and emerging Hong Kong consciousness that is undermining the peaceful coexistence among Hong Kongers and Mainlanders, having in the late 2000s and early 2010s led to a surge in anti-Mainlander sentiment in

Hong Kong and a call for Hong Kong's self-determination that have resulted in a series of political upheavals.

Probably most vividly putting such anti-PRC sentiment on public display was, as Yu and Kwan describe, the supporters of the Hong Kong soccer team jeering when the Chinese national anthem was playing in the matches between Hong Kong and Bhutan and between Hong Kong and the Maldives. In early October 2015 the Hong Kong Football Association (HKFA) was fined HK\$40,000 (US\$5,160) by the sport's governing body, Fédération Internationale de Football Association (FIFA) because of Hong Kong fans' booing the Chinese national anthem, *March of the Volunteers* (義勇軍進行曲), played at the beginning of a World Cup qualifying match with Qatar a month earlier, and fined again, this time for twice the amount, in early January 2016 because some football fans repeated the booing when the Chinese national anthem was played at the start of a crucial Hong Kong versus China World Cup qualifier in November 2015 while other fans turned their backs or held up hand-written notices with the word "boo" on them, with some fans chanting in English "We are Hong Kong" during the match (Bridges, 2016). While sport has long been a means by the State to promote nationalism and rally support for the ruling regime or for the government to advance its "patriotic" agenda, the booing at the matches has plainly put on display the distaste towards the Beijing overlord and rejection of PRC's claimed sovereignty over Hong Kong, particularly in the aftermath of the Umbrella Movement of 2014 (*ibid.*).

To explain such sentiments, Yu and Kwan also interestingly point out that as the younger generation of Hong Kong built up their local consciousness from their everyday life experiences, they identified themselves as "we" (with a distinctly Hong Kong, non-Mainland, identity) and Mainland Chinese as "they", strongly believing that mainlandization eroded the core values of Hong Kong, including

freedom of speech, freedom of assembly and the rule of law. As citizens of a truly international city, these “localists” have proudly embraced and shared common global values. As Yu and Kwan note, the civil movement of 2014 has brought forth a “new Lion Rock Spirit” (「新獅子山精神」)⁷ under whose banner the “localists” would continue to valiantly fight for democracy, liberty and human rights in Hong Kong against what they perceive as the creeping, encroaching authoritarianism of the CCP dictatorship of the PRC. Such phenomenon of the *othering* of the Mainland is observed not only in Hong Kong as well as Taiwan, as a comparison between the Umbrella Movement in Hong Kong and the Sunflower Movement in Taiwan may show, in terms of national identity patterns and formation, but also how the rise of civic nationalism is furthering the nation-building project in these two polities which have led to increasingly widening identity gap between them and Mainland China (Kwan, 2016).

Within the Hong Kong society, such worsening State-societal relations is also calling for attention if one looks at the glaringly changing Catholic Church-State relations since the Handover, which is the focus of Beatrice K.F. Leung’s article, “Catholic Church-State Relations in the Hong Kong Special Administrative Region: A Review of 20 Years”. Whereas during Hong Kong’s colonial era both the Catholic and Protestant churches had assisted the British to provide educational, medical and social services to the influx of Chinese refugees to Hong Kong after the Chinese Communists’ conquest of Mainland China and during its subsequent radical leftist policy disasters, and warm Church-State relations was maintained and reflected in the “contractor relationship” for long years with the Church providing educational, medical and social services according to the colonial government’s plan and policy apart from preventing the infiltration of Communism into Hong Kong from the 1970s until 1997, Leung

observes that the harmonious Church-State relations between the Catholic Church and Hong Kong government had turned to distrust, mutual distancing and even conflict since Hong Kong was returned to Chinese rule on 1st July 1997. Tracing the long history of ups and downs of the Hong Kong Catholics' socio-political participation, Leung provides a critical analysis of the crucial factors of timing, changes in leadership, and political environment not only in Hong Kong but also in Beijing, as well as the Vatican, in influencing the evolving role of the Catholic Church in Hong Kong society and in particular in the Hong Kong people's continued struggle for democracy, political freedom and civil liberties since the city's reversion to the rule of the one-party dictatorship of the PRC.

If religion represents both “a cultural force and a badge of ethnic identity” (Curran, 1979: 148) – one of the different markers of ethnic distinction (often more loosely termed “ethnic markers”) of racial (phenotypical), linguistic and religious characteristics⁸, as one of the most important contributors to cultural distinctions, education can be seen as *pseudoethnicity* – “a subcase of the same processes that also produce ethnicity” (Collins 1975: 86), as Randall Collins remarked:

Schools everywhere are established originally to pass on a particular form of religion or elite class culture, and are expanded in the interests of political indoctrination or ethnic hegemony. In these situations, education is nothing more than ethnic or class culture, although it can be taught to those who are not born into it.

(Collins: 87)

That can explain the contents of the Moral and National Education (MNE, 德育及國民教育) school curriculum proposed by the Education Bureau of Hong Kong in early 2010s (changing from the existing moral and civic education (MCE, 德育及公民教育)) that

evoked huge protests from parents and activists in Hong Kong who accused it as being a shameless brainwashing curriculum, especially in its applauding the one-party rule of the CCP which the curriculum's "China Model National Conditions Teaching Manual" (《中國模式國情專題教學手冊》) labels as an "advanced, selfless and united ruling group" (進步、無私與團結的執政集團)⁹. Moreover, as a later article here by Tim Nicholas Rühlig describes, citing Chan (2014), in order to enhance Hong Kong students' patriotic feelings towards the PRC, the curriculum also prescribed them to show emotions and cry when the Five-star Red Flag (五星紅旗, national flag of the PRC) is raised and also to extol the Communist and nationalistic ideology. After all, the "society of Hong Kong was so politicized that education was also politicized as well", as Steven Chung Fun Hung comments in his article, "Contextual Analysis of Hong Kong Education Policy in 20 Years: The Intention of Making Future Citizens in Political Conflicts", with patriotism and nationalism rising to prominence in making political contents in schooling.

Admittedly, the fundamental goal of education in any society is "to socialize students in prevailing regime values and to prepare for the manpower needs of the economy", but as Hung brings to our attention, Hong Kong's transition of sovereignty has "created a series of symbolic acts which targeted the shift away from a focus on the depoliticized and decontextualized education." Formal and informal education recently adopted by the HKSAR government apparently in the aftermath of the Umbrella Movement, Hung notes, basically aims to depoliticise students and instil in them the spirit of Chinese nationalism in order to minimize the youth's potential challenge to its political legitimacy and to maintain its cultural hegemony. It is understandable that the present HKSAR government would find it imperative to do that, given the tremendous impact of the Umbrella Movement of 2014 has on the socio-political

development among Hong Kong people in the succeeding years, whether through prefigurative practices having set seeds of possibility for future political processes (a new way of “doing” politics), and the emergence of “occupation as prefiguration” as a political form in Hong Kong (Lin and Liu, 2016), or the emergence of online media as an important platform for political struggles in Hong Kong and citizen mobile phone camera-witness as a mode of civic camera-mediated mass self-testimony to brutality and as a medium to indict unjust events and engage others in the civic movement (Lo, 2016).

However, this has most notably led to the birth of a new social and political consciousness amongst Hong Kong students that carries a more distinctive anti-establishment profile in favour of more assertive means, exhibiting deep distrust of the HKSAR government and the Beijing Central government, as well as rising radical localism (Chan, 2016). To provide further understanding of this background of events in 2014, Tim Nicholas Rühlig in his article “‘Expressing my attitude and doing something impossible to make it happen ...’ – Listening to the Voices of Hong Kong’s Umbrella Movement Protesters” brings us back to the streets of Hong Kong during those tumultuous months in the autumn of 2014 to listen to the voices of the protestors themselves “in all their diversity” in order to grasp his central argument that the Umbrella Movement’s call for democracy is actually part of a broader agenda for more self-determination, comprising besides democratisation also the “socio-economic, identity-political and institutional” dimensions.

Meanwhile, the failure of the Umbrella Movement to achieve its objective of securing the government’s acceptance of or compromise on its “genuine democracy” demands means that Beijing’s efforts in reshaping the territory into a politically pliant, subservient economic city will go on, and so will political indoctrination of the young through education as *pseudoethnicity* (Collins, 1975: 86). The first attempt at

MNE might have been thwarted, but with the failure of the Umbrella Movement and with the pro-democracy camp now in disarray, especially after six of its legislators were disqualified after Beijing's latest interpretation of the Basic Law,¹⁰ CCP's regime legitimization by way of indoctrination of Hong Kong's younger generation is set to be further strengthened through extoling the superiority of the "China Model" upheld under the rule of the "advanced, selfless and united ruling group" in stark contrast to Western multi-party electoral democracy which the MNE manual describes as rife with inter-party rivalry that causes suffering to the people. The relentless promotion of such a superior "Chinese-style democracy" is what Benson Wai-Kwok Wong in his article, "Chinese-style Democracy as a Political Project for Meaning-Construction: Old Wine in a New Bottle?", describes as a meaning-construction project surrounding themes of negative Western democracy versus positive Chinese-style democracy in terms of efficiency and economic performance, Western democracy as symbol of political failure involving street politics and social chaos, and perverting the language of Western democracy to construct Chinese-style democracy, such as "rule of law" and "human rights". Employing discourse analysis, Benson Wong set out to "explore and interpret the premises, features and possible impacts brought by state apparatus in creating and producing knowledge for political purposes, including the foundation of legitimacy, the maintenance of hegemony, and normalization and internalization of false consciousness" through a process of "distorting, confusing and misleading the audience" in a project of meaning reconstruction.

Joseph Stalin once said, "The most important weapon in my arsenal is the dictionary. Let me choose the words ... by which you think and I will tell you what and how to think."¹¹ As Raymond Sleeper pointed out in 1987 referring to the Soviet Union and the "nomenklatura conspiracy", we can discern the same deception, which Benson Wong

directs our attention to, that is being employed today by the CCP regime to maximise the maintenance of the capture-bonding of its citizens, being a continuation of the use of Marxist-Leninist concepts developed in Soviet/Maoist times that represent subversions of well-accepted Western liberal democratic ideas, mainly through the use of double-meaning language that serves to justify CCP's authoritarianism, e.g., admitting that human rights, freedom and democracy are universal values but giving them a different meaning in the "unique" Chinese context – in short, so-and-sos "with Chinese characteristics", inevitably because of "different national contexts" (*guoqing butong* / 國情不同). Sleeper referred to then head of the US negotiating team in Geneva on nuclear weapons Ambassador Max Kampelman's 4th January 1985 address to the Standing Committee on Law and National Security of the American Bar Association where he made a significant point on the USSR leaders' facility in using language differently:

They have the ability to use language [...] in a way which is designed to confuse people like ourselves and undermine our will. This they do professionally and effectively. They take a noble word like democracy and adopt it as their own – as you know, they frequently call their systems 'people's democracies.' This is a total corruption of the term [...] The Communists are able to use these differences [in meaning of words] to promote their own appeal, which [...] is essentially a humanitarian appeal [...] in their propaganda they identify themselves and ally themselves with efforts to achieve humanitarian goals such as 'freedom' or 'justice.'

(Quoted in Sleeper, 1987: 203)

In other words, the "different use" of words Kampelman referred to is basically "an instrument of subversion, of disinformation – an instrument of deception" (*ibid.*). These concepts that are in fact

subversions of well-accepted Western liberal ideas born out of hundreds of years of the struggle of civil society against autocratic monarchy and over the Painean revolutions French and American, and based on fundamental ideas first developed during the Renaissance, used in Marxist totalitarian states or post-Marxist authoritarian states today as “active measures”, i.e. acts of “disinformation” and “deception” intentionally rooted in double-meaning language or “doublespeak”, is closely related to George Orwell’s concept of “doublethink” in his dystopian novel *Nineteen eighty-four*; one of the book’s twin central conceptual inventions (together with “Newspeak”). The use of such “different meaning” tactic has its roots at the time when Lenin was planning to overthrow the Tsarist government at the turn of last century, as Professor Raymond Sleeper plainly lays out:

When Lenin began to organize his revolutionary conspiracy, he found that the main ideas of communism were already or could be expressed in terms of Western ideas so cleverly that the average citizen of the West [as well as that of the Russian empire, later USSR] would not see the trick – the inherent deception of communist ideas. To the contrary, the average citizen understood *genuine democracy and economic freedom* to mean what they had always meant, the right to vote, the right to own property, the right to travel, the right to work where he pleased – in short, freedom.

(Sleeper, 1987: 191)

Maintaining its Marxist-Maoist tradition, today’s CCP is redefining concepts like democracy and human rights under the warped framework of “(market) socialism with Chinese characteristics”. In this process the Party is following this early Leninist subversion of Western liberal ideas in the wide use of double-meaning concepts – one meaning being the accepted Western liberal concept (the “universal values” to which

today's CCP is paying lip service though under Document Number 9's "7 speak-nots" (*qi bujiang* / 七不講) the term has in recent years been banned from the classrooms) and "the other meaning being the opposite or subverted meaning that was the true Marxist-Leninist meaning [which] also served the very useful purpose of not immediately alarming the established government, which Lenin had to deceive, confuse, and destroy in order to capture political power in Russia" (*ibid.*). No longer talking much about Communism, Marxism or even Maoism, the CCP regime of "People's" Republic of China has remained the faithful follower of this power of double meaning – redefining such terms like "human rights", "democracy" and "freedom" in its own way, and justifying such deception by referring to "China's different context, different condition" (*guoqing butong*). After all, as Adolf Hitler once said, "The great masses of people ... will more easily fall victims to a big lie than to a small one."¹²

As this special focus issue of CCPS begins, after this foreword and the introduction, with an article on human rights development in Hong Kong since the Handover from a legal professional dealing with human rights cases, it would be appropriate to have here another article on human rights in Hong Kong from the legal perspective – Matthew Chuen Ngai Tang's "Enforcing the Right to Family Life in Hong Kong Courts: The Case of Dependant Policy" – before we move on to two thinkpieces that will bring this issue to a close. Tang's paper thus completes this collection of articles that comprehensively explore and analyse in depth a whole range of critical issues facing Hong Kong – from human rights to ethno-national identity, from Church-State relations to education policy, and from socio-political involvement in the civil society to State's political project for meaning-construction.

Finally, this special focus issue closes with two thinkpieces – an extended review article by Emile Kok-Kheng Yeoh on Richard C. Bush's

2016 book *Hong Kong in the shadow of China: Living with the Leviathan* and a research note by Chien-yuan Tseng on the concepts of human rights and universal values, “rule of law” vs “rule by law” in the context of PRC’s one-party dictatorship, and the buried history of the Republic of China’s P.C. Chang (Peng Chun Chang / 張彭春), vice-chairman of the original United Nations Commission on Human Rights, and his pivotal role in the drafting of the *Universal Declaration of Human Rights* (UDHR) of 1948.

Before ending this foreword, we would like to thank all the contributing authors of the articles in this issue and the anonymous reviewers of these articles for their invaluable efforts in making the publication of this July/August 2017 *CCPS* focus issue of *Hong Kong twenty years after the Handover: Quo vadis?* possible. We are deeply grateful to Joseph Yu-shek Cheng and Brian Bridges for their great support in the organizing of this volume; without their help the publication of this worthy issue on the twentieth anniversary of the Hong Kong Handover would not have been possible. We are also grateful to our proof-readers, Mr Goh Chun Wei (吳俊偉), Miss Janice Quan Nian En (官念恩) and Miss Amy Kwan Dict Weng (官狄雯) at University of Malaya, for their crucial assistance in checking the final galley proofs and CRCs, and to Miss Wu Chien-yi (吳千宜) for the journal’s website construction and maintenance. The responsibility for any errors and inadequacies that remain is of course fully mine.

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Notes

1. The transliteration being from the older names 望角, 芒角.
2. People's Republic of China (中華人民共和國) consists of 31 provincial-level administrative units including *sheng* (省, i.e. provinces of Anhui / 安徽, Fujian / 福建, Gansu / 甘肅, Guangdong / 廣東, Guizhou / 貴州, Hainan / 海南, Hebei / 河北, Heilongjiang / 黑龍江, Henan / 河南, Hubei / 湖北, Hunan / 湖南, Jiangsu / 江蘇, Jiangxi / 江西, Jilin / 吉林, Liaoning / 遼寧, Qinghai / 青海, Shaanxi / 陝西, Shandong / 山東, Shanxi / 山西, Sichuan / 四川, Yunnan / 雲南 and Zhejiang / 浙江), *zizhiqu* (自治區, i.e. “autonomous regions” – each a first-level administrative subdivision having its own local government, and a minority entity that has a higher population of a particular minority ethnic group – of Guangxi / 廣西 of the Zhuang / 壯 / 僮 people, *Nei Monggol*/Inner Mongolia / 內蒙古 of the Mongols, Ningxia / 寧夏 of the Hui / 回 Muslims, *Xizang*/Tibet / 西藏 of the Tibetans and Xinjiang / 新疆 of the Uyghurs) and *zhixiashi* (直轄市, i.e. municipalities directly ruled by the central government – Beijing / 北京, Chongqing / 重慶, Shanghai / 上海 and Tianjin / 天津). After their respective Handover in 1997 and 1999 (or *huigui* / 回歸 from the perspective of the PRC, i.e. “return” [to the motherland]), the British colony of Hong Kong and the Portuguese colony of Macau officially became the Hong Kong Special Administrative Region (香港特別行政區) and Macao Special Administrative Region (*Região Administrativa Especial de Macau* / 澳門特別行政區) of the People's Republic of China respectively in 1997 and 1999. The now vibrantly free and democratic island state of Taiwan – officially still “Province of Taiwan, Republic of China” (中華民國臺灣省) – remains a sovereign country of her own, since the conclusion in 1949 of the Chinese Civil War, outside the control of Mainland China's ruthlessly authoritarian Chinese Communist Party regime.
3. Or officially the “Communist Party of China” (CPC, 中國共產黨).

4. Bush, Richard C. (2016). *Hong Kong in the shadow of China: Living with the Leviathan*. Washington, D.C.: Brookings Institution Press. Chapter 1: “The Hong Kong hybrid” – § *Becoming Hong Kong*.
5. Chapter 1: “The Hong Kong hybrid” – § *Becoming Hong Kong*.
6. Wong, Ma and Lam’s empirical study was based on findings from the Asian Barometer survey data.
7. See, e.g., Orochi Ben Lam (Lam Siu Pan / 林兆彬) (2014). 雨傘運動下的「新獅子山精神」[the “new Lion Rock Spirit” under the Umbrella Movement]. *Hong Kong In-media* (香港獨立媒體), 23 October 2014 <<http://www.inmediahk.net/node/1027668>>. (Lam Siu Pan was the former vice-secretary general of the Hong Kong Federation of Students / 香港專上學生聯會.)
8. The emphasis on language and religion in empirical research of ethnic studies is due mainly to the fact that they are the relatively less vague factors in the fourfold categorization of ascriptive loyalty (Hoetink, 1975: 23-4) – ascriptive criteria of territoriality (ancestral homeland), notions of common descent (“race”), language and religion, the presence of only one of the four is necessary to create an “ethnic group” (*ibid.*: 24).
9. In contrast to democracy in the United States that the manual describes as a fierce inter-party rivalry that causes suffering to the people (政黨惡鬥, 人民當災).
10. “中國人大釋法 剝奪港獨議員資格”, 自由時報 (*The Liberty Times*) (Taiwan), 8th November 2016 <<http://news.ltn.com.tw/news/focus/paper/1049971>>; “人大釋法 – 四人遭撤銷立會議員資格 禁以議員身份行事”, 無線新聞 (*TVB News*), 電視廣播有限公司 (Television Broadcasts Limited) (Hong Kong), 14 July 2017 <<http://news.tvb.com/story/581c13aa6db28cda0c5473d8/59689d366db28c657c283e5c/>>; “「宣誓態度不莊重」 香港立法會4議員遭撤銷資格” (by 林思怡), 上報 (*UP Media*) (Taiwan), 15th July 2017 <http://www.upmedia.mg/news_info.php?SerialNo=20880>.

11. Joseph Stalin (Иосиф Сталин) (n.p., n.d.). *Words*. (Quoted in Sleeper, 1987, p. 191.)
12. Quoted in: Chip Berlet (September, 1992). Fascism: An essay. *Political Research Associates (PRA)*. <http://www.publiceye.org/fascist/berlet_fascism.html>

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INTRODUCTION

The Hong Kong Special Administrative Region: 1997-2017

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Abstract

In this survey of the two decades since Hong Kong's return to the motherland, the author chooses to focus on the performance of the economy, Beijing's policy towards the territory and the development of the pro-democracy movement. These three variables probably have the most important impact on Hong Kong's political and social stability and its challenges ahead.

Keywords: *Hong Kong, pro-democracy movement, political reforms, localism, independence, gap between the rich and poor, young people*

1. Economic Performance and Challenges

In the refugee crises in Western Europe and in the U.S. presidential election in November 2016, one perceives the frustration and anger generated by the deteriorations in the economy. The stagnation in

economic growth has spread from the Western economies to East Asia, and the common adverse impact associated with it are keenly felt by the younger generations: declines in real incomes, lack of upward social mobility opportunities, difficulties in acquiring one's own accommodation etc. Hong Kong is no exception, and the economic problems have been exacerbated by the absence of democracy which deprives the Special Administrative Region government of legitimacy and makes it much more difficult to prescribe unpopular measures to overcome the economic structural challenges.

Hu Angang, a famous economic scholar at Tsinghua University in Beijing, examined Hong Kong's economic difficulties and offered the following set of statistics. From 1970 to 1994, per capita gross domestic product (GDP) in Hong Kong rose from US\$925 to US\$21,421, maintaining double-digit growth every year with the exception of 1985. From 1997 to 2010, per capita GDP in Hong Kong increased from US\$27,170 to US\$31,758, a nominal rise of only 21.4% in fourteen years.

In 1997, GDP in Mainland China amounted to US\$265.926 billion, while that of Hong Kong reached US\$177.353 billion. Guangdong's GDP at that time was about one tenth that of the whole Mainland China, and one sixth to one seventh that of Hong Kong. Since 1998, Mainland China enjoyed a fifteen-year period of double-digit growth. In 2014, Mainland China's GDP reached US\$10.36 trillion, about 38 times that of Hong Kong which amounted to US\$273.667 billion. Guangdong's GDP in 2014 already exceeded US\$1 trillion, more than three times that of Hong Kong. Among China's provincial units, Hong Kong ranked fifteenth in terms of GDP in 2014 (Hu, 2016: 26).

Hu's views are representative of those of the think tanks in Mainland China engaging in research on Hong Kong. They consider that the Hong Kong economy has not been performing well, and they often

believe that the HKSAR government has to be more proactive in its economic policies. They also tend to hold the view that the Hong Kong economy has been more and more dependent on the Mainland China economy, and the territory's contribution to China's economic modernization has been in decline.

As Hong Kong becomes a mature economy, its economic growth rates are expected to slow down. According to government statistics, per capita GDP rose from HK\$284,919 (US\$36,528) in 2010 to HK\$316,635 (US\$40,594) in 2015 in terms of chained (2014) dollars, an increase of 11.13% in five years.¹ These figures have to be interpreted in the context that among the major cities in the world, Hong Kong has the largest gap between the rich and poor.

The stagnation in income is perhaps best illustrated by the real wage index. Using September 1992 as the base (i.e., 100), it rose slowly to 116.1 in 2005 and remained stagnant at 117.7 in 2015.² Hong Kong people often make comparisons with their counterparts in Singapore and Macao; and they are rather disappointed to discover that at current market prices, per capita GDP in Hong Kong stood at US\$42,066 in 2015, while the corresponding figure for Singapore is US\$52,889 and Macao US\$71,984.³ In fact, the comparison with Singapore emerged in the Chief Executive election campaign in early 2017.

Kenichi Ohmae's book, *The impact of rising lower-middle class population in Japan: What can we do about it?*, was a best-seller in Japan about ten years ago, and had generated much discussion in Taiwan as well.⁴ Dr Ohmae considers that a vast majority of Japanese would fall into the lower-middle class socio-economic group because globalization would lead to further widening of the gap between the rich and poor, and exacerbate social polarization.

Perhaps Hong Kong's new university graduates can most easily associate with Dr Ohmae's arguments. A sociology professor of a local

university told the author this true story in late 2003, when Hong Kong's economy had hit rock bottom. He was talking to some new graduates, and when he addressed them as the young middle class, one student said he did not feel like they belonged to the middle class. The economy today is, of course, better. But the median monthly salary of new graduates is between HK\$11,000 and HK\$12,000; many also owe the government HK\$200,000 or so in student loans. Unless they can depend on their parents for food and accommodation, they would hardly be able to maintain a middle-class lifestyle. Neither can they expect steady promotions and salary increases.

The post-war generation in Hong Kong enjoyed satisfactory salary increases on the basis of hard work. Dr Ohmae argues that this cannot be expected in today's Japan, where employee's salaries probably peak when they hit 40. Further rises would be difficult, and Hong Kong's situation is probably similar. Dr Ohmae suggests that the Japanese should adjust their lifestyles, since not everyone would join the middle class. They may have to forget about owning cars or houses in the suburbs, or paying expensive tuition fees to prepare their children for top universities.

Up till the end of the last century, university graduates expected that eventually they would get married, have two children, and possess their own cars and accommodation; that was the middle-class dream then. Today young people in Hong Kong realize that they have to make hard choices among these items, as they can hardly expect to fulfill this dream. In most cases, they have lost the incentive to save on a long-term basis; they would simply save enough to go for short holidays, spend the money and save again.

In contrast to China, social stability in the territory is more brittle in two key aspects. The vast majority of people in China experienced very substantial improvements in living standards since 1978 in the era of

economic reforms and opening to the external world, and they expect further improvements in the years ahead. In the case of Hong Kong, most people believe that their living standards have deteriorated since 1997, and they are pessimistic about their improvements in the foreseeable future.

Hong Kong, however, has frequent budgetary surpluses; and it has accumulated government reserve balances amounting to about HK\$8.40 billion (US\$109 billion) at the end of March 2016, exceeding 35% of its annual GDP, and enough to pay for 23 months of government expenditure (Chen Li Ailun, 2017: 320). This certainly means that the government enjoys a sound fiscal position, and can overcome challenges arising from unfavourable external conditions and crises. But increasingly critics raise questions as to how the government can employ its fiscal reserves in a more constructive manner.

There is a consensus that they should not be used to subsidize routine government expenditure; but there is no strong opposition to use the reserves to enhance the territory's long-term international competitiveness. The government, however, has not come up with any major policy programmes towards this end.

The government has often indicated that it has to make preparations for the territory's ageing population. People aged 65 years and above constituted 16% of the population in 2015, and this proportion will rise to 36% in 2064. But the C. Y. Leung (梁振英) administration in the consultation exercise in 2016 on a universal pension scheme adamantly refused to accept the financial responsibility for such a scheme and instead opted for various policy measures to help the elderly on a means-tested basis.⁵ The government's position was disappointing in the eyes of the social service sector and the pro-democracy movement, and reflected the fiscal conservatism on the part of the political Establishment.

Despite relative slow economic growth and stagnant incomes, the unemployment rate remains low in Hong Kong and naturally contributes to social stability. In the period of 2011-2015, the unemployment rate stayed at a level of 3.3-3.4% and underemployment 1.4-1.7%.⁶ Though Hong Kong people can no longer say that anyone who is willing to work should have no difficulty finding a job, the tertiary sector still offers many job opportunities. Job satisfaction poses a serious challenge though, as jobs in the lower-end of the tertiary sector do not offer job security, benefits and career development opportunities. Hence young people frequently change jobs.

Hong Kong will continue to function as an international financial centre and business services centre. Though the territory's unique position in the China market will decline, the China market is expected to maintain its impressive growth in the foreseeable future. Hence the absolute size of a declining share of an expanding pie (the China market) may still expand. The territory will have to work hard to improve its productivity and competitiveness so that the share of the pie will not shrink too much. This also means that Hong Kong has to remain a cosmopolitan metropolis and avoid becoming just another coastal city in China.

Hong Kong will continue to seek new niches to prosper, which has been its typical mode of operation. An increasing share of the accumulated wealth of the major business groups in the territory will go to Mainland China and overseas; this partly explains why while Hong Kong's GDP has continued to grow, the lower socio-economic strata do not experience an improvement in living standards. There must be more investment in education and human resources development; the major challenge is to ensure that the education system encourages creativity and innovation.

The development of hi-tech industries in Hong Kong has not made much progress, in contrast to the other three “little dragons of Asia”. Meanwhile, the re-allocation of manufacturing industries to the Pearl River Delta in southern China and beyond had been completed by the turn of the century. The employment situation may well tighten because the service industries will continue to adopt automation and other cost-cutting measures to maintain their competitiveness and profit margins.

In the past, there was a suggestion that hi-tech industries might be developed in the territory with Hong Kong’s capital, marketing skills and international network, as well as the scientific and technological talents from Mainland China and its advanced industrial base. Unfortunately, nothing much has been achieved so far. Hong Kong’s only connection with hi-tech industries is its financial institutions which serve to raise venture capital supporting their development.

Hong Kong is the fourth global financial centre; and according to the Lausanne International Institute for Management Development, Hong Kong was ranked the most competitive economic entity in 2016 (Chen Li Ailun, 2017: 332). Among cities in China, according to the Chinese Cities Competitiveness Research Association, Hong Kong has lost its leading position and ranked second in 2016 after Shanghai. Without doubt, Hong Kong has very advanced financial and business service sectors, but they cannot provide satisfactory employment for its entire labour force (3.9 million in 2015); and this explains the widening gap between the rich and poor in the territory.

2. Beijing’s Hong Kong Policy

In the initial years after Hong Kong’s return to the motherland in 1997, the Chinese authorities attempted to show respect for the “one country, two systems” model. It was said that when American diplomats asked

the Chinese Ministry of Foreign Affairs to help arrange their visits to Hong Kong, they were politely advised to approach the Hong Kong Special Administrative Region (HKSAR) government directly. The first test came with the Article 23 legislation.⁷

Admittedly, most people in Hong Kong did not have the time and expertise to go through the bill in detail. But they certainly became concerned and worried when the legal profession, social workers, journalists, librarians, bankers, the Catholic Church and Christian churches, etc. came out to articulate their opposition. The resentment rapidly escalated because of the arrogance of Regina Ip Lau Suk-ye (葉劉淑儀), former Secretary for Security, who was responsible for “selling” the bill to the public. In the beginning of 2003, the C. H. Tung (董建華) administration decided against the introduction of a “white bill” for further consultation of the public.

With the benefit of hindsight, this was probably the fatal decision. If the government had been willing to spend more time consulting the public in the form of a “white bill”, and had offered the three important amendments it announced later on July 5, 2003, the legislation most probably would have been able to go through the legislature. The rejection of the “white bill” approach was seen as further evidence of the lack of concern for public opinion on the part of the Tung administration, and that it was determined to complete the legislative process to fulfill its commitment to Beijing.

The severe acute respiratory syndrome (SARS) outbreak and the economic difficulties it brought further exacerbated the anger of the public. As a result, more than half a million people participated in the protest rally on July 1, 2003. The Chinese authorities have been sending many agents to the HKSAR to collect information after the massive protest rally as their confidence in the Central Liaison Office, the State Council’s Hong Kong and Macao Affairs Office and the Tung

administration was badly shaken. It was said that all the three had informed the Chinese leaders that they expected a turnout of about 30,000 to 40,000 people for the protest rally. The actual turnout of more than half a million people, therefore, showed that they did not have a good understanding of the situation, and that they probably had been sending unrealistically favourable reports on the territory to the Chinese leadership.

The victory of the pro-democracy camp in the District Council elections in November 2003 and its being perceived to have a small chance of securing half of the seats in the Legislative Council elections in September 2004 symbolized the revival of the pro-democracy movement, as well as the extent of public dissatisfaction with the Tung administration threatening Beijing's fundamental policy towards Hong Kong.

The Chinese authorities, therefore, had to be involved to ensure that the pro-Establishment candidates would be able to retain a solid majority in the Legislative Council elections in 2004. Support from Beijing included some shadowy activities too. It was reported in the media that Hong Kong people doing business and working in the Pearl River Delta were contacted by cadres advising them to vote for pro-China candidates and not to support the pro-democracy candidates. Town and township heads in China also rang up their acquaintances in Hong Kong repeating the same message. The successive resignations of three popular radio talk-show hosts before the protest rally on July 1, 2004 were widely believed to have been caused by pressure from the pro-Beijing United Front, if not from the Chinese authorities. Finally, there was a prostitution case involving a Democratic Party candidate in Dongguan in the Pearl River Delta just before the Legislative Council elections, and apparently the public security organ in Dongguan was involved in propaganda activities discrediting the pro-democracy camp. In sum, the

pro-democracy camp felt that they were fighting against a powerful state machinery in the elections.

The heavy involvement of the Chinese authorities in Hong Kong affairs further weakened the legitimacy and effectiveness of the HKSAR government. Business leaders probably felt that if they needed anything, they should lobby Beijing. Soon after July 1, 2003 protest rally, Vice-President Zeng Qinghong (曾慶紅) received delegations from the three pro-Beijing parties, namely, the Democratic Alliance for the Betterment of Hong Kong (DAB, 民主建港協進聯盟), the Hong Kong Progressive Alliance (HKPA, 香港協進聯盟) and the Liberal Party (自由黨), in a high-profile manner and praised them for their contributions to Hong Kong. This was unprecedented and may be interpreted as political intervention in support of the pro-Beijing political parties, as the Chinese authorities had been refusing any contact with the territory's pro-democracy camp since the Tiananmen Incident. Further, the DAB visited the Guangdong and Shanghai authorities roughly at the same time; and with the help of the latter, it can claim to serve Hong Kong by reflecting the community's views and demands to the provincial governments, a service which obviously could not be delivered by the pro-democracy camp.

Once the firewall has been broken, the involvement has become deeper and broader in scale. The most conspicuous has been the grassroots service network of the DAB and other pro-Beijing groups, which have been able to visit elderly people as well as needy families with monthly gifts of rice, noodles, edible oil, etc. and offer other benefits like weekend outings with seafood lunches, moon cakes for Mid-Autumn Festival, etc. These networks have facilitated these groups to establish strong support bases able to deliver votes in elections.

It has also been observed by journalists that the pro-Beijing United Front has established thousands of civic groups with substantial

mobilization power. The pro-Beijing camp in recent years can easily mobilize hundreds of thousands of supporters in rallies articulating support for its political causes and opposing those of the pro-democracy camp; it can easily collect hundreds of thousands of signatures in petitions too. Some of these groups do not hesitate to disrupt the political activities of the pro-democracy movement leading to mildly violent conflicts.

With the backing of a powerful machinery, the pro-Beijing United Front has been able to infiltrate almost every pro-democracy group. Most pro-democracy activists believe that their emails and phones have been hacked or trapped; in recent years, they normally leave their mobile phones outside the meeting rooms when participating in political discussions. At the same time, the HKSAR government has been exercising its appointment powers to reward its supporters with positions in the official system of advisory committees. Without the voices of the opposition, government officials have an easier task, but the entire system of advisory committees has lost its value and legitimacy.

The weaknesses of the Donald Tsang (曾蔭權) and C. Y. Leung administrations and the divisions within the pro-Beijing camp have led the Central Liaison Office to intervene. When the C. Y. Leung administration fails to lobby for a majority support in the Legislative Council to endorse its policy proposals, it has to rely on the Central Liaison Office to do the lobbying. When the pro-Beijing legislators made a serious tactical mistake in voting on the political reform bill on June 18, 2015, they immediately went to explain to the Central Liaison Office; they then apologized to the public while ignoring the C. Y. Leung administration.⁸ Leading Central Liaison Office officials publicly acknowledged that lobbying the Legislative Council had become its normal work. Journalists in the territory also understand that the Central Liaison Office co-ordinates the election campaigns on behalf of the pro-

Beijing camp. All these cast doubt on the maintenance of Hong Kong's high degree of autonomy within the "one country, two systems" framework.

Confrontation between the Chinese authorities and the pro-democracy movement finally arrived with the political reform deliberations and the Occupation Campaign in 2013-14. The Chinese authorities in 2007 had promised to consider universal suffrage for the Chief Executive election in 2017 and further democratization of the Legislative Council electoral system afterwards. The pro-democracy movement therefore initiated consultations and presented its proposals in early 2013, while Benny Tai (戴耀廷) and others planned for an Occupy Central campaign modelled after the Occupy Wall Street campaign in the United States. The Chinese authorities agreed to grant universal suffrage but would like to maintain tight control over the nomination process within the Nomination Committee dominated by the Establishment; in other words, Hong Kong people may choose the Chief Executive from a list of candidates endorsed by the Chinese authorities.

The Chinese authorities basically refused to negotiate, and the Occupation Campaign started in late September 2014. The confrontation hardened the Chinese leadership's position on Hong Kong. In the first place, it realized that conciliatory promises of "gradual progress in democratization" and "democratic elections when conditions are ripe" would no longer work; Hong Kong people have to be taught to accept the parameters of the "one country, two systems" model as defined by the Chinese authorities. At the same time, the pro-Beijing United Front has been spreading the argument that the Hong Kong economy is now highly dependent on that of the Mainland and not the other way round. The implicit message is that Hong Kong's bargaining power has been in decline and it should not make excessive demands.

Chinese leaders and the HKSAR government now appeal to the Hong Kong community to concentrate on the economy and make good use of the opportunities offered by Beijing's "one belt, one road" schemes. They blame the pro-democracy movement for delaying the administration's policy programmes through its obstruction tactics, but actually the executive branch of the government has ample powers, and the Establishment controls a comfortable majority in the legislature through an undemocratic electoral system. The pro-democracy camp remains in the minority despite capturing 55%-60% of the popular vote in the Legislative Council elections.

In the aftermath of the Occupation Campaign, support for the pro-democracy movement has been maintained and in fact slightly improved despite the setbacks in political reforms and its internal divisions, as reflected by the results of the District Council elections in November 2015, the Legislative Council elections in September 2016 and the Chief Executive Election Committee elections in December 2016. The support for the pro-democracy candidates and the high voter turnout rates reflected that Hong Kong people value the opportunities to articulate their demands and maintain some form of checks and balances.

The alleged abductions of booksellers to Mainland China in 2016 and the similar abduction case of Xiao Jianhua (肖建华) in early 2017 eroded the confidence of Hong Kong people in the firewall provided by the "one country, two systems" model. In the eyes of Hong Kong people, intense power struggles in Beijing may well prompt Chinese leaders to ignore the autonomy granted to the special administrative region. Hong Kong may increasingly become just another coastal city in Mainland China; this worry supports the sentiments against the mainlandization of Hong Kong.

Naturally, advocacy for independence or even an official referendum on the territory's future is a political taboo attracting a

severe crackdown as perceived by the Chinese leadership. The activists concerned now face many court cases and judicial attempts have been made to remove the pro-independence legislators. The crackdown has blunted the development of the radical groups, but dissatisfaction among the young people continue to accumulate.

No constructive dialogue now exists between the Establishment and the entire spectrum of the pro-democracy movement; this means that the political polarization will remain. It is difficult to ensure effective government and the administration hesitates to initiate major policy programmes. The result is the decline of Hong Kong's international competitiveness. It appears that Beijing is rolling to renew contact with the moderates of the pro-democracy camp without making any substantial concessions; this is not acceptable from the latter's point of view.

3. The Pro-democracy Movement

The pro-democracy movement began to feel the pressure in the early years of the HKSAR. The internal determination and willpower to maintain solidarity before the return to the motherland gradually weakened. There was also considerable frustration with the absence of the prospects for progress before 2007, according to the timetable for political reforms set by Beijing. Even the political parties in the pro-democracy camp did not believe that democratization was an issue with much political appeal.

The Democratic Party (民主黨), the party with the most seats in the legislature until September 2004, and its allies could make very little impact on the government's policy-making process. As the C. H. Tung administration enjoyed the backing of a safe majority in the legislature, it did not have to lobby for the approval of the pro-democracy groups

which were treated as the opposition. In fact, there had been little meaningful consultation between the pro-democracy groups and the government.

The sense of political impotence on the part of the pro-democracy groups was exacerbated by Hong Kong people's strengthening trust in China. Attacking the Chinese authorities' infringements of the community's freedoms and human rights had become less attractive to voters than before. The most important concerns of Hong Kong people were obviously the economy and unemployment, and the pro-democracy groups were not perceived to have much to offer.⁹

Under such circumstances, the "young Turks" of the Democratic Party felt frustrated and attempted to challenge the leadership in December 1998. It appeared that intra-party differences were concentrated in three issues: a) the party's relationship with the Chinese authorities and the HKSAR government; b) whether the party should attempt to aggregate class interests or to articulate more distinctively labour interests; and c) whether the party should try to effect change by working within the legislature, or resort to mass movements outside the political establishment.¹⁰

The "young Turks" and the non-mainstream factions were opposed to efforts to improve relations with the Chinese authorities by means such as presenting candidates to compete for seats in China's National People's Congress. They were not interested in a better relationship with the HKSAR government and publicly called for the resignation of C. H. Tung. Regarding the party's policy platform, they warned the party leadership against opportunism in attempting to represent the interests of all classes. In turn, they were accused of trying to turn the party into a labour party and adopting a populist approach. Above all else, the "young Turks" and the non-mainstream factions appealed for a return to a radical position which might contribute to a sharp image with a strong

appeal to a significant minority of the electorate, though this move might alienate the moderate majority in the community. Emily Lau (劉慧卿) adopted this approach successfully, and she had been followed by “Long Hair” Leung Kwok-hung (“長毛” 梁國雄). At the other end of the pro-democracy political spectrum, the Hong Kong Association for Democracy and People’s Livelihood (ADPL, 香港民主民生協進會) avoids controversial political issues and concentrates on district work in Sham Shui Po (深水埗). These different political orientations make the maintenance of solidarity within the pro-democracy camp more problematic.

The above cleavages basically remain till now, though they have been further exacerbated, and the general approach of the pro-democracy movement has been shifting towards radicalism because successive HKSAR administrations have been refusing to maintain a dialogue with the movement and its relationship with the government has become one of contradictions between enemies.

The decline of the Democratic Party prompted the emergence of a similar moderate mainstream pro-democracy party, the Civil Party (公民黨), which was formally established in 2006. The League of Social Democrats (LSD, 社會民主連線), representing the radical wing of the pro-democracy movement, declared its inauguration in October 2005. This radical wing went through a process of splitting in the early years of this decade, People Power (人民力量) was formed in 2011 and Civic Passion (熱血公民) was formed in 2012. Meanwhile, the Labour Party (工黨) was established in 2011.

The frustration of remaining in the opposition without prospects of breakthroughs continued to exacerbate the divisions within the pro-democracy movement, and this was compounded by the electoral system. Election to the Legislative Council is based on a multi-seat, single-vote system, similar to that in Japan and Taiwan in the previous

century before their respective reforms. Take the case of New Territories East and New Territories West which both return nine seats, and assuming a normal voter turnout rate of 50%, this means that a candidate commanding the support of 5% of the electorate would be quite certain of winning a seat to the Legislative Council. This system encourages the splitting of political groups and discourages co-operation among them.

The pro-democracy political parties have encountered difficulties too in their relationship with grassroots community organizations which emerged and developed in the late 1960s and 1970s and had been supporting pro-democracy political groups. The pro-democracy political parties certainly could help to raise issues of importance to grassroots community organizations in the legislature or with senior government officials, thus exerting pressure on the administration to provide solutions. But their high profile and eagerness for publicity often resulted in failures to compromise and in delays in achieving settlements. Many grassroots community organizations worried that they might be taken for a ride, and they often preferred to act without the involvement of political parties. After all, grassroots community organizations were issue-oriented; they wanted concrete solutions to their problems. As a result, pro-democracy political parties often have difficulties in securing the support of grassroots community organizations which want to maintain a distance from the political parties and uphold their autonomy.

The emergence of the localism groups during and after the Occupation Campaign in 2014 has been a significant development in the pro-democracy movement. Young people's general frustration with their socio-economic conditions and their anger with the undemocratic and repressive C. Y. Leung administration have prompted them to advocate for the independence of Hong Kong. To some extent, it is a kind of youthful defiance rather than a serious independence movement. The

groups involved have not developed credible political discourses, nor have they offered any action plans and timetables. Hong Kong people are fully aware that independence is not a realistic option, yet in the September 2016 Legislative Council elections, these localism groups secured 18% of the popular votes in the record high turnout (58% turnout rate).¹¹

In 2016, almost every student union in the tertiary institutions in the territory adopted a localism position, and many young people now declare that they are not Chinese. The change of sentiments had taken place very rapidly, as public opinion surveys indicated that Hong Kong people's identification with the Chinese nation and their trust in the Chinese leadership had reached a peak in 2008, the year of the Beijing Olympics.

The rapid increase of tourists from Mainland China amounting to 47.2 million in 2014 and 45.8 million in 2015 caused considerable resentment among the local population, especially due to the former's behaviours and shopping patterns. The deterioration in the human rights conditions in China including the harsh suppression of human rights lawyers, autonomous trade unions and underground churches also alarmed Hong Kong people. Above all else, the increasing interferences from Beijing in Hong Kong affairs and the rejection of political reforms by the Chinese leadership in 2013-14 put the Chinese authorities in bad light in the eyes of the local community which now fears that its core values and lifestyles have been threatened. Hence some critics have called the Chief Executive C. Y. Leung "the father of Hong Kong independence".

During the Occupation Campaign in 2014, the student activists seized the leadership and organization of the campaign from the original initiators, namely, Benny Tai, Chan Kin-man (陳健民) and Chu Yiu-ming (朱耀明). Differences emerged between the activists and the

leaders of the pro-democracy political parties. In general, the former felt that the latter were too conservative, and they believed that the time had come for them to assume leadership. While some of these “umbrella groups” openly articulated support for Hong Kong independence, others like Demosistō (香港眾志, the political party emerging from the student group Scholarism / 學民思潮) adopted a more moderate stand calling for an official referendum on the future of Hong Kong.

In the September 2016 Legislative Council elections, Democracy Groundwork (小麗民主教室), Land Justice League (土地正義聯盟), Demosistō, Civic Passion and Youngspiration (青年新政) all won seats, demonstrating the appeal of their cause, and the supporters of the pro-democracy movement’s preferences for new faces.¹² In these elections, the mainstream pro-democracy parties all faced the challenge of inter-generational leadership changes; the Democratic Party and the Civic Party which had prepared well achieved satisfactory results in the elections, while the Labour Party and the Hong Kong Association for Democracy and People’s Livelihood which had neglected the challenge suffered badly.

While the espousal of the causes of Hong Kong independence and localism serves to distinguish the mainstream pro-democracy groups and the newly-emerging young radical groups, their differences in style, the lack of trust between them and the accumulated frictions have made it difficult for them to co-operate. They seem to enjoy the support of different constituencies: the mainstream groups receive support from liberals who are often forty years of age and above, well-educated with middle-class status; while the radical groups attract the support of the younger generations. The former uphold the principle of non-violent political campaigns, and they share a concern for the developments in China. The latter are sometimes tempted to engage in confrontations with the police, and believe that Hong Kong should maintain a separate

identity as well as a certain distance from China.

After the September 2016 Legislative Council elections, the two Youngspiration legislators displayed controversial gestures in their oath-taking ceremony, resulting in the C. Y. Leung administration adopting the judicial review procedure in an attempt to deprive them of their legislator status. This was followed by an interpretation of Article 104 of the Basic Law by the Standing Committee of the National People's Congress in Beijing. The C. Y. Leung administration also adopted the same judicial review process to try to disqualify four other legislators who had refused to follow the routine in their respective oath-taking ceremonies. At the time of writing, the court cases are still in process, though it appears likely that the two Youngspiration legislators will lose their seats.

The oath-taking behaviour of the Youngspiration legislators aroused considerable resentment among the Hong Kong public, and their weaknesses in subsequent protest activities also disappointed their own supporters. Meanwhile, the C. Y. Leung administration has adopted a tough line against the radical localism groups whose leaders have been bogged down by court cases; even the banks refuse to allow these groups to open bank accounts. In early 2017, it appears that the localism groups have lost some of their appeals, and their future development becomes uncertain. However, the crackdown has not reduced the frustration and anger among the young people, whose political identification and participation patterns mean that the deep polarization in the society has been far from healed.

While the pro-Establishment candidates in the Chief Executive election in 2017 all indicated recognition of the problem of political and social polarization, they still talked about Article 23 legislation and offered no promises of political reforms. Understandably these issues are to be decided by the Chinese leadership, and unless it is willing to alter

its Hong Kong policy, no resolution is in sight. Obviously given the political climate in Beijing, Xi Jinping appears to be in no mood to engage in a constructive dialogue with the pro-democracy camp on democratization and political reforms.

4. Conclusion

The Chinese leadership probably had intended to maintain the “one country, two systems” model in Hong Kong. Its desire to secure a high level of control to avoid risks, however, proved to be a stronger motivation. The demand to introduce Article 23 legislation triggered the first severe test. The perception of the danger of losing control as demonstrated by the massive protest rally on July 1, 2003 led to strong intervention through the cultivation of networks and a machinery to guarantee that the Chinese authorities would not be challenged.

While the maintenance of stability has largely succeeded, the hearts of Hong Kong people have not returned, as admitted by the Chinese leadership. Successive Chief Executives selected by Chinese leaders failed to deliver and the HKSAR government, in contrast to the British administration, could not claim to achieve legitimacy by performance. After all, times have changed. Young people cannot be persuaded to accept an authoritarian regime; they even refuse to accept the elderly leaders of the pro-democracy camp.

Confrontation was inevitable as the Chinese leadership has no plan to grant Hong Kong genuine democracy. When the chips were down, Beijing demanded Hong Kong to accept its baseline, hence the existing political impasse. Given the fact that the status quo in Hong Kong is quite tolerable and that Hong Kong people are generally pragmatic, stability is not expected to deteriorate in any significant way, though sporadic small-scale riots may well be unavoidable. In view of the

absence of any achievable concrete political objectives, it is difficult to launch another mass campaign like the Occupation Campaign.

Under such circumstances, exit re-emerges as an option (Hirschman, 1970). Recent public opinion surveys indicate that over 40% of young people would like to emigrate. It does not imply that they want to depart immediately, but it means that they are ready to go if opportunities arise. More than one million people in Hong Kong already have foreign passports or permanent resident status overseas secured in the 1980s and 1990s. While the commitment weakens, Chinese leaders probably believe that professionals leaving Hong Kong can be replaced by talents from Mainland China without much difficulty.

Notes

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Incident (2011), *A new stage of development for an emerging superpower* (2012) and *The second Chief Executive of Hong Kong SAR: Evaluating the Tsang years 2005-2012* (2013), and his latest authored books are *China's Japan policy: Adjusting to new challenges* (2015) and *China's foreign policy: Challenges and prospects* (2016). He was chairman of the Hong Kong Observers (1980-1982) and convener of Power for Democracy (2002-2004). He has been a Justice of Peace since 1992 and was the founding president of the Asian Studies Association of Hong Kong (2005-2007). During 2006-2008, he served as the secretary-general of the Civic Party. He was involved in the launch of the New School of Democracy and served as convenor of the Alliance for True Democracy in Hong Kong. <Email: rccrcr@cityu.edu.hk, josephcheng6@gmail.com>

1. Census and Statistics Department, Hong Kong Special Administrative Region. *Hong Kong Annual Digest of Statistics 2016*, p. xi.
2. *Ibid.*, p. x.
3. See Chen Li Ailun (2017) and Research Group of “The Analysis and Prospect of the Economy in Macao” (2017).
4. See Ohmae (2006).
5. See the final policy address delivered by the Chief Executive C. Y. Leung on January 18, 2017 and the media commentaries on the following day.
6. Census and Statistics Department, Hong Kong, *op. cit.*, p. x.
7. Article 23 of the Basic Law (Hong Kong's constitution) states: “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 political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.” This article was written into the draft Basic Law after the massive protest rallies in Hong Kong during the Tiananmen Incident in 1989; obviously, the Chinese

authorities were concerned with a repetition of such activities.

The C. H. Tung administration was wise enough not to initiate the controversial legislative process in his first term. In response to the open prompting of the Chinese authorities, a paper addressing the implementation of Article 23 of the Basic Law was finally unveiled for public consultation in September 2002. As expected, the proposal stirred fears of a crackdown on human rights groups and the Falungong (法輪功). The pro-democracy camp in the territory also perceived the proposal a threat to civil liberties. See *South China Morning Post* (an English-language newspaper in Hong Kong), September 25, 2002.

It appears that the Chinese authorities are eager to complete the legislative process in the near future, and it again emerged as a controversy in the Chief Executive election campaign in early 2017.

8. See the major newspapers in Hong Kong on June 19-20, 2015.
9. The results of an opinion survey among young people (16-25 years of age) released in late June 1998 indicated that 61.6% of the respondents considered the economy to be the priority of the elected legislature, and 36% of the respondents considered employment to be the most pressing issue. Moreover, about 70% of the respondents did not trust the legislators. See *Ming Pao* (a Hong Kong Chinese newspaper), June 29, 1998. In another series of public opinion polls conducted by university academics, 46.6% of the respondents identified employment as the most serious social problem that should receive top priority in 1999; and 35.7% of the respondents did the same in 2001. (See Zheng and Wong (2003: 80).
10. See Choy (1998).
11. See all major newspapers in Hong Kong in the two days after the Legislative Council elections on September 4, 2016.
12. *Ibid.* Another group, Hong Kong Indigenous (本土民主前線), had its political star Edward Leung Tin-kei (梁天琦) disqualified and unable to take part in the elections.

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Human Rights Development in the First 20 Years of the Hong Kong Special Administrative Region

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Abstract

Have human rights been improved since the establishment of the Hong Kong Special Administrative Region (HKSAR)? Perspectives will be drawn from comments of the United Nations (UN), public perception, application of UN human rights conventions, enactment of human rights laws and landmark judgments by the Court of Final Appeal (CFA). Major human rights improvements were achieved before the 1997 handover whereas little progress has been made thereafter. Human rights deterioration after 1997 was signified by the first interpretation of the Basic Law by the Standing Committee of the National People's Congress (NPCSC) in June 1999. Anti-national security law movement in 2003 and the Umbrella Movement in 2014 substantially changed the political landscape as well as the human rights environment. The Central People's Government (CPG) has been tightening control on HKSAR's autonomy, resulting in lowering the degree of autonomy and less protection of human rights.

Keywords: *human rights, law, HKSAR, United Nations, democratic development*

1. Introduction

On 13th May 2017, Elsie Leung (梁愛詩), the Deputy Director of the Basic Law Committee of the HKSAR and former Secretary for Justice (1997-2005) said the human rights situation has improved after the handover, signified by the setting up of the Women's Commission and the Independent Police Complaints Council (IPCC). The HKSAR Government has remained effective, corruption-free, and fair.¹ Has the human rights situation been improved since the establishment of the HKSAR? Elsie Leung's observations provide a very good starting point for discussion.

2. UN Comments and Recommendations

2.1. Women's Commission

In May 2000, the then Chief Secretary for Administration Anson Chan (陳方安生) announced the setting up of a Women's Commission (婦女事務委員會). It was established in January 2001, the month she announced to resign from the government. As a matter of fact, before the establishment of the Women's Commission, there is no central mechanism "tasked to take a strategic overview over women's issues, develop a long-term vision and strategy for the development and advancement of women, and advise the Government on policies and initiatives which are of concern to women." "The Commission also plays an important role in assisting the Government in implementing the Convention on the Elimination of All Forms of Discrimination against Women and the Beijing Platform for Action."²

In 2001, the UN Committee on Economic, Social and Cultural Rights (CESCR) welcomed the establishment of the Women's Commission.³

However, it is far from satisfactory, and does not qualify as a human rights institution and is well below international standards:

The Committee [CESCR] is concerned that the Women's Commission may not have appropriate resources and powers to ensure that a gender perspective is integrated into the formulation of policy.⁴

Besides, it is not a statutory body but an advisory body under the Labour and Welfare Bureau. It is therefore not a high-level mechanism. It is not truly independent as all its members are appointed by the Chief Executive. UN CESCR thus recommended as follows:

The Committee urges the HKSAR to provide the Women's Commission with sufficient powers and resources to improve the status of women in Hong Kong and to integrate gender in its policy-making and to ensure wider participation of women in all spheres of public life.⁵

2.2. Independent Police Complaint Council (IPCC)

Before 2009, the Independent Police Complaint Council (IPCC) was an advisory body responsible for monitoring and reviewing investigations by the Complaints Against Police Office (CAPO) into public complaints against police force.⁶ The IPCC Ordinance, Cap. 604 came into force in June 2009. It cannot be denied that the IPCC in becoming a statutory body is a human rights improvement. However, the restrictions on its power and effectiveness are unfortunately rigidly entrenched in this new law. Ronny Wong Fook-hum, the former IPCC Chairperson described

the system as having “all the odds stacked against the complainant”. He warned that such a statutory basis to IPCC would actually make IPCC “an instrument being used to protect the police”. (Chong *et al.*, 2009: 45)

With reference to the IPCC, serious concerns were made by the UN human rights treaty bodies. The UN Human Rights Committee (HRC) stated that:

While noting that the statutory framework has reinforced the role of the Independent Police Complaint Council (IPCC), the Committee remains concerned that investigations of police misconduct are still carried out by the police themselves through the Complaints Against Police Office (CAPO) and that IPCC has only advisory and oversight functions to monitor and review the activities of the CAPO and that the members of IPCC are appointed by the Chief Executive (arts. 2 and 7).⁷

The UN HRC made the following recommendation:

Hong Kong, China, should take necessary measures to establish a fully independent mechanism mandated to conduct independent, proper and effective investigation into complaints about the inappropriate use of force or other abuse of power by the police and empowered to formulate binding decisions in respect of investigations conducted and findings regarding such complaints.⁸

Similar observations were made by the UN Committee against Torture (CAT) in paragraph 8 of its Concluding Observations on the HKSAR report dated 3 Feb 2016:

Recalling its previous recommendation (see CAT/C/HKG/CO/4, para. 12), the Committee remains concerned that investigations of police

complaints continue to be conducted by the Complaints Against Police Office, which is a separate division of the police force. It is also concerned that the Independent Police Complaints Council remains an advisory and oversight body of the investigations of the Complaints Office, with no power to conduct investigations on its own. The Committee regrets the failure of Hong Kong, China to provide complete statistical data with regard to the number of complaints of torture or ill-treatment (including police abuse) received by the Complaints Office in the reporting period, as well as on the outcome of those complaints. It also remains concerned at the lack of an independent and effective mechanism for lodging complaints without fear of reprisals within the detention facilities under the police department, the immigration department or the correctional services department (arts. 12 and 13).

The UN CAT made a rather comprehensive recommendation to the HKSAR in its 2016 Concluding Observations, paragraph 9:

The Committee reiterates its previous recommendation that Hong Kong, China consider establishing a fully independent mechanism mandated to receive and investigate complaints against all officials and ensure that there is no institutional or hierarchical relationship between the investigators of that particular body and the suspected perpetrators of the acts that form the basis of a complaint. The Committee also urges Hong Kong, China to:

(a) Ensure that the Prosecutor's office is duly informed of all the allegations of torture or ill-treatment received by that particular body and launch investigations on its own initiative whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed;

- (b) Guarantee that alleged perpetrators of torture and ill-treatment are immediately suspended from duty for the duration of the investigation, subject to the observance of the principle of presumption of innocence;
- (c) Establish confidential complaints mechanisms in all places of detention to facilitate the submission of complaints by victims of torture and ill-treatment to the investigating body, including for obtaining medical evidence in support of their allegations, and to ensure in practice that complainants are protected against any reprisals as a consequence of their complaint or any evidence given;
- (d) Ensure that the suspected perpetrators are duly prosecuted, tried and, if found guilty, punished in a manner that is commensurate with the gravity of their acts.”

From the above UN comments, it shows that Ms Leung may not have provided good examples to illustrate human rights improvement after the handover. Perhaps, these were the two best examples she could think of at the time. If this was the case, it implies that human rights development has made little improvement only.

3. Public Perception of Rights

3.1. Social Indicators

Has the condition of human rights improved after 1997? Public opinion provides an important aspect. The Public Opinion Programme of the University of Hong Kong (HKU) is the most prestigious studies in the opinion poll arena. Sadly, human rights is not one of the items in the questionnaire. Indeed, many rights-related concepts have been continuously asked throughout these twenty years.

Table 1 Public Perception of Rights: Social Indicators

Degree of:	Date of survey	
	7-12/1997	1-6/2017
Freedom	7.65	6.90
Fairness	6.42	5.66
Civilization	7.52	6.83
Corruption-free Practices	7.02	6.17
Equality	6.52	6.09
Democracy	6.70	6.02

Note: 10 indicates absolute freedom, 0 indicates absolute lack of freedom, 5 indicates half-half.

With respect to social indicators, Table 1 shows that rankings of all selected items closely related to human rights have dropped when comparing the figures of 1997 and 2017. It implies that human rights were perceived to be deteriorated.

With 10 indicating absolute freedom, 0 indicating absolute lack of freedom and 5 indicating half-half, among the 11 freedom indicators, only 2 items' ratings in 2017 are higher than those of 1997, as shown in Table 2.

Table 2 HKU POP: Freedom Indicators

	Date of survey	
	7-12/1997	1-6/2017
Freedom of Speech	7.14	6.59
Freedom of Press	7.15	6.37
Freedom of Publication	7.21	6.22
Freedom of Procession and Demonstration	6.22	6.51
Freedom of Association	6.49	6.46
Freedom to Strike	6.10	6.48
Freedom to Enter or Leave Hong Kong	8.17	7.85
Freedom to Engage in Academic Research	8.02	6.91
Freedom to Engage in Artistic and Literary Creation	7.81	6.99
Freedom of Religious Belief	8.61	8.49

Source: <https://www.hkupop.hku.hk/chinese/popexpress/freeind/index.html>

3.2. Freedom Indicators

With respect to the freedom of procession and demonstration, informants considered there was more freedom in 2017 than in 1997, which may be due to protests becoming more frequent and larger in scale. In particular,

there were two big demonstrations in 2003, with over 500,000 people protested at the street level (Civil Human Rights Front, 2004: 26), and in 2014, with 1.2 million people participated in occupation areas (The Chinese University of Hong Kong, 2014: 2), which gave an impression that Hong Kong people enjoy more freedom of procession and demonstration after 1997. However, the UN treaty bodies pointed to the contrary.

3.3. UN's Comments on Certain Freedoms

On 15th November 1999, the UN HRC Concluding Observations advised a review of the Public Order Ordinance, Cap. 245:

With regard to freedom of assembly, the Committee is aware that there are very frequent public demonstrations in HKSAR and takes note of the delegation's statement that permission to hold demonstrations is never denied. Nevertheless, the Committee is concerned that the Public Order Ordinance could be applied to restrict unduly enjoyment of the rights guaranteed in article 21 of the Covenant.

The HKSAR should review this Ordinance and bring its terms into compliance with article 21 of the Covenant.⁹

In the 2013 UN HRC Concluding Observations, the HRC reiterated its concerns over the Public Order Ordinance:

The Committee is concerned about (a) the application in practice of certain terms contained in the Public Order Ordinance, inter alia, “disorder in public places” or “unlawful assembly”, which may facilitate excessive restriction to the Covenant rights, (b) the

increasing number of arrests of, and prosecutions against, demonstrators, and (c) the use of camera and video-recording by police during demonstrations (arts. 17 and 21).

Hong Kong, China, should ensure that the implementation of the Public Order Ordinance is in conformity with the Covenant. It should also establish clear guidelines for police and for records for the use of video-recording devices and make such guidelines accessible to the public.¹⁰

The Committee expresses concern about reports of excessive use of force by members of the police force, not compatible with the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials, in particular by the inappropriate use of pepper spray to break up demonstrations to restore order, notably with regard to demonstrations surrounding the annual Hong Kong march on 1 July 2011, the visits of Vice-Premier and President of China, respectively in August 2011 and July 2012 (arts. 7, 19 and 21).

Hong Kong, China, should increase its efforts to provide training to the police with regard to the principle of proportionality when using force, taking due account of the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials.¹¹

In the 2014 UN CAT Concluding Observations, CAT expressed concerns over excessive use of force when containing demonstrations of the Umbrella Movement:

The Committee is concerned at consistent reports of excessive use of tear gas, batons and sprays against protesters during the 79-day protest of the so-called “umbrella” or “occupy” movement in 2014. It is also

concerned at consistent reports that police resorted to violence against more than 1300 people, and around 500 were subsequently admitted to hospitals. The Committee expresses concern at allegations of threats of sexual violence and assaults by the police to demonstrators while they were following the instructions of leaving the scene. Furthermore, it notes with concern of various instances of violence perpetrated by counter-demonstrators. As regards the complaints received by the Complaints Against Police Office during the protest and their investigation, the Committee is concerned that, out of 527 complaints made by a total of 2078 complainants, only 172 complaints were considered “reportable”. Of those 172 reportable complaints, the Complaints Office submitted investigation reports to the Independent Police Complaints Council for 151 cases, which were considered unsubstantiated by the Complaints Office.

The Complaints Council endorsed the findings of the Complaints Office in 104 cases. The Committee is also concerned at the lack of information with regard to the outcome of the 47 complaints not endorsed by the Complaints Council (arts. 12, 13 and 16).¹²

Hong Kong, China should:

- (a) Conduct an independent investigation into the allegations of excessive use of force by the police and anti-demonstrators during the so-called “umbrella” or “occupy” movement protest in 2014;
- (b) Duly prosecute alleged perpetrators, including those officers who were complicit in those acts or allowed them to occur, and ensure that those found guilty are convicted and adequate penalties applied;
- (c) Provide full redress to the victims, including fair and adequate compensation;

- (d) Publicize the police general orders and related guidelines on the use of force and make sure that they are in compliance with international standards;
- (e) Strengthen ongoing training for all law enforcement officers on the absolute prohibition of torture and on international standards on the use of force, as well as on their liability in the event of excessive use of force.¹³

Informants considered there was more freedom to strike in 2017 than in 1997 which may be due to two big strikes after 1997: 2007 rebar workers went on strike (lasted for 36 days)¹⁴ and 2013 dock workers went on strike at the Hongkong International Terminals (HIT, 香港國際貨櫃碼頭) (lasted for 40 days)¹⁵. Both strikes reached an amicable settlement that gave the public an impression that the freedom to strike flourished. Further, Hutchison Whampoa (和記黃埔) Limited's subsidiary failed to apply for a court order for the removal of temporary structures outside the Cheung Kong Center (長江集團中心) building. In light of section 46 of the Trade Unions Ordinance (Cap 332) that protected peaceful picketing, the High Court declined to grant injunction to remove all temporary structures outside the building (*Turbo Top Limited v Lee Cheuk Yan*, HCA 694/2013, 6 May 2013, paragraphs 1, 3, 6, 48 and 74). This can be seen as a victory of unionists in the strike.

In the 2001 UN CESCR Concluding Observations, it was concluded that:

The Committee is concerned that the Public Order Ordinance may be used to restrict trade union activities, such as peaceful campaigns to promote labour rights, which are protected by article 8(c) of the Covenant.¹⁶

The Committee recommends that the Public Order Ordinance be reviewed with a view to amending its provision to ensure freedom of trade union activities as provided for under article 8(c) of the Covenant.¹⁷

Indeed, the above public perceptions will probably not be shared by social activists and human rights bodies too. On 13th June 2014, the UN CESCR Concluding Observations (paragraph 44) stated that:

The Committee notes with concern that, despite the recognition of the right to strike, trade unionists dismissed for participating in a strike cannot be reinstated, and can only claim for compensation. The Committee regrets that Hong Kong, China, has not adopted legislation on collective bargaining (art. 8).

The Committee strongly recommends that, in line with its obligations under article 8 of the Covenant, Hong Kong, China, take all necessary measures to amend the Employment Ordinance to allow the reinstatement of trade unionists arbitrarily dismissed for participating in trade-union activities. The Committee also recommends that Hong Kong, China, accelerate the process of adopting legislation on collective bargaining.

4. UN Human Rights Conventions Applied to HKSAR

Before the handover, six core international human rights conventions, including the International Covenant on Civil and Political Rights, 1966 (ICCPR), and the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR), have been applied to Hong Kong. This laid a solid foundation of human rights protection. After 1997, only one

core international human rights convention was applied to the HKSAR, namely, the Convention on the Rights of Persons with Disabilities, 2006 (CRPD). The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990 (ICMW), and the International Convention for the Protection of All Persons from Enforced Disappearance, 2006 (CPED), were not even signed for the HKSAR.¹⁸ Table 3 shows UN human rights core instruments applied to Mainland China and the HKSAR.

Table 3 UN Conventions Applied to PRC and HKSAR

Convention	Applied to Hong Kong	Applied to Mainland China
ICERD	1969.3.7	1981.12.29
ICESCR	1976.5.2	2001.3.27 (signed 1997.10.27)
ICCPR	1976.5.20	Not applied to Mainland China (signed on 1998.10.5)
CEDAW	1996.10.14	1980.11.4 (signed on 1980.7.17)
CAT	1992.12	1988.10.4 (signed on 1986.12.12)
CRC	1994.9.7	1992.3.2 (signed on 1990.8.29)
CRPD	2008.8.31	2008.8.1 (signed on 2007.3.30)
ICRMW	Not applied to Hong Kong	Not applied to Mainland China
CPED	Not applied to Hong Kong	Not applied to Mainland China

In 1979, the United Kingdom (UK) signed for Hong Kong as the port of first asylum. On 8th January 1998, the HKSAR announced the abolishing of the port of first asylum policy for Vietnamese arriving in Hong Kong illegally.¹⁹ On 15th September 2009, the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination (CERD) recommended the ratification of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (paragraph 29):

While noting the planned legislative framework for torture claimants in Hong Kong SAR, the Committee is concerned that the State party has not adopted a refugee law as such, including a screening procedure for asylum claims. (art. 5 (b))

The Committee recommends the adoption of a law on refugees, with a view to establishing a comprehensive procedure for the screening of individual asylum claims. It furthermore recommends that the rights of asylum-seekers to information, interpretation, legal assistance and judicial remedies be guaranteed. The Committee also encourages the renewed consideration of the ratification of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

The 1951 Convention and its 1967 Protocol were applied to Mainland China and Macau but the HKSAR has no intention to accept the UN's recommendation. There are 16 human rights treaties being applied to HKSAR.²⁰ Only two of them were applied after 1997. They are CRPD and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OP-CRC-AC). These two were adopted in UN in 2006 and 2000 respectively and were also applied to Mainland China. There are nine Optional Protocols

of these core human rights Conventions. Only two of them were adopted in UN before 1997. Only the above OP-CRC-AC was applied to HKSAR after 1997.

5. Major Human Rights Laws Enacted in HKSAR

Most human rights laws were enacted in Hong Kong before the handover, in particular in early and mid-1990s. Table 4 shows major human rights laws which were legislated before 1997 while Table 5 lists the same thereafter.

Table 4 Major Human Rights Legislations Enacted before the Handover

1974	Independent Commission Against Corruption Ordinance, Cap. 204
1988	The Ombudsman Ordinance, Cap. 397
1991	Hong Kong Bill of Rights Ordinance, Cap. 383
1995	Sex Discrimination Ordinance, Cap. 480 Personal Data (Privacy) Ordinance, Cap. 486 Disability Discrimination Ordinance, Cap. 487
1996	Legal Aid Services Council Ordinance, Cap. 489
1997	Employee's Rights to Representation, Consultation & Collective Bargaining, Cap. 530 (Repealed) Family Status Discrimination Ordinance, Cap. 527 Protection of the Harbour Ordinance, Cap. 531

Table 5 Major Human Rights Legislations Enacted after the Handover

2006	Interception of Communications & Surveillance Ordinance, Cap. 589
2008	Race Discrimination Ordinance, Cap. 602
2009	Independent Police Complaints Council Ordinance, Cap. 604
2010	Minimum Wage Ordinance, Cap. 608
2013	Competition Ordinance, Cap. 619

Among the statutes listed in Table 4 and Table 5, the most important legislation is the Hong Kong Bill of Rights Ordinance (HKBORO). Its section 8 incorporated most articles of the ICCPR that empowers it with legal binding effect. The ICCPR also enjoys constitutional status as it was entrenched by constitutional instruments before the handover by the Letters Patent (Article VII (5)) and thereafter by the Basic Law (article 39). Before 1997, sections 3 and 4 of the HKBORO required all Hong Kong laws (both pre-existing and subsequent legislations) to be interpreted with consistency with ICCPR. However, these two sections were repealed by the Provisional Legislature in 1997.

In light of this revised legislation, the HKSAR courts continue to strike down legislation which is inconsistent with the HKBORO. The landmark Court of Final Appeal (CFA) judgment in *Ng Ka Ling v Director of Immigration* (FACV 14/1998, 29th January 1999, paragraphs 132 and 142) illustrated this legal point. The Immigration (Amendment) (No 3) Ordinance enacted on 10th July 1997 was deemed to have come

into operation on 1st July 1997. Article 15 of ICCPR provided that “[n]o one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence”. (cf. article 12 of Part II of HKBORO). The CFA held that section 1(2) of Immigration (Amendment) (No 3) Ordinance was unconstitutional. Though the NPCSC interpreted the Basic Law to reject the judgment, the NPCSC interpretation does not overrule the decision of CFA in respect of the retrospective issue.

After 1997, most enactments of the human rights statutes cannot be seen as a proactive measure for the advancement of human rights. For instance, the Interception of Communications & Surveillance Ordinance was drafted as a result of the High Court Order (*Leung Kwok Hung v Chief Executive of HKSAR*, HCAL 107/2005, 10th February, 2006).

The government decided to legislate on the Race Discrimination Ordinance as a result of the strong criticism of UN treaty bodies and continuous local campaigns. In 2001, UN CESCR Concluding Observations (paragraph 30) stated that:

It is the Committee’s view that the HKSAR’s failure to prohibit race discrimination in the private sector constitutes a breach of its obligations under article 2 of the Covenant. The Committee calls upon the HKSAR to extend its prohibition of race discrimination into the private sector.

The background of the IPCC Ordinance is that various UN treaty bodies and NGOs (Chong *et al.*, 2008: 35) criticised the IPCC. Besides, massive leakage of many complainants’ personal data by the IPCC in 2006²¹ revealed that appointed lay members of the IPCC did not enjoy any immunity in performing their functions. Hence, section 41 of IPCC Ordinance was made to protect IPCC members from civil proceedings if

they performed their functions under the IPCC Ordinance in good faith.

In order to fight for statutory minimum wage, Leung Kwok Hung (梁國雄) started a judicial review but failed (*Leung Kwok Hung v Chief Executive in Council*, CACV 197/2007, 8th May 2007, paragraph 23). The judgment stated that there was no evidence to show that the government would never use the Trade Boards Ordinance, Cap.63 to establish minimum wage. As a result of strong campaign, in particular by the Hong Kong Confederation of Trade Unions, the Legislative Council passed the Minimum Wage Ordinance in 2010.

The background of the enactment of the Competition Ordinance is that there has always been a strong demand in society to restrict strong monopoly of big enterprises. Since the 2000s, there has been much criticism of collusion between the government and the businessmen (官商勾結) and this became the theme of the big demonstration on 1st July 2005.²² To conclude, the above legislations were made upon a pressing social and even urgent need instead of any action plan on human rights.

The following legislations for human rights protection should be in place. There should be domestic laws to implement all human rights instruments applicable to the HKSAR. Such human rights laws should bind all private individuals (not the government and public authorities only), confer cause of action, provide effective remedy and be enforceable by an independent human rights institution (with a broad mandate and in accordance with the Paris Principles) and an independent and competent tribunal. A comprehensive anti-discrimination law, including prohibition of discrimination on the basis of gender identity, sexual orientation, age, nationality and residence status, should be legislated. The government should draft the bill to protect freedom of information, archives and academic freedom.

6. Some Landmark CFA Judgments

In common law jurisdictions, case law is very crucial in protecting human rights. The CFA delivered various landmark judgments which have tremendous impact on human rights development. On the whole, the CFA has been seen to be a rights defender and tries hard to be in line with human rights protection in other common law jurisdictions.

Table 6 Some Landmark CFA Judgments after 1997

Case name	Case number	Judgment date	Subject matter	Rights
1 <i>Ng Ka Ling v. Director of Immigration</i>	FACV 14/1998	29/1/1999	Claim permanent resident status	Right of abode, independent judicial power, prospective overruling
2 <i>Chan Kam Nga v. Director of Immigration</i>	FACV 13/1998	29/1/1999	Claim permanent resident status	Right of abode, unity of family
3 <i>HKSAR v Ng Kung Siu</i>	FACC 4/1999	15/12/1999	Defiling of national flag	Freedom of expression
4 <i>Albert Cheng v Paul Tse Wai Chun</i>	FACV 12/2000	13/11/2000	Defamation	Freedom of speech
5 <i>Secretary for Justice v Chan Wah</i>	FACV 13/2000	22/12/2000	Village representative election	Participation in public life, sex equality
6 <i>Director of Immigration v Chong Fung Yuen</i>	FACV 26/2000	20/7/2001	Claim permanent resident status	Right of abode

Table 6 (Continued)

Case name	Case number	Judgment date	Subject matter	Rights
7 <i>Yeung May Wan v HKSAR</i>	FACV 19/2004	5/5/2005	Obstruction in public place	Freedom of demonstration, freedom of the person
8 <i>Leung Kwok Hung v HKSAR</i>	FACC 1/2005	8/7/2005	Unauthorised assembly	Freedom of peaceful assembly
9 <i>Koo Sze Yiu v HKSAR</i>	FACV 12/2006	12/7/2006	Covert surveillance	Communication privacy
10 <i>Secretary for Justice v Yau Yuk Lung</i>	FACC 12/2006	17/7/2006	Homosexual buggery otherwise in private	Sexual orientation equality
11 <i>HKSAR v Hung Chan Wa</i>	FACC 1/2006	31/8/2006	Trafficking dangerous drugs	Presumption of innocence, right to fair trial
12 <i>Lam Siu Po v Commissioner of Police</i>	FACV 9/2008	26/3/2009	Disciplinary procedure	Fair trial, right to legal representation
13 <i>Democratic Republic of Congo v FGH Associates LLC</i>	FACV 5/2010	8/6/2011	State immunity	Judicial independence, continuance of common law
14 <i>Fok Chun Wa v Hospital Authority</i>	FACV 10/2011	2/4/2012	Subsidized obstetric service in public hospital	Equality before the law

Table 6 (Continued)

Case name	Case number	Judgment date	Subject matter	Rights
15 <i>Ubamaka v Secretary for Security</i>	FACV 15/2011	21/12/2012	Drug trafficking, deportation	Absolute prohibition against torture, cruel, inhuman or degrading treatment
16 <i>W v Registrar of Marriages</i>	FACV 4/2012	13/5/2013	Definition of sex of a post-operative male-to-female transsexual	Right to marry
17 <i>Vallejos v Commissioner of Registration</i>	FACV 19/2012	16/7/2013	Foreign domestic helper claim permanent resident status	Right of abode
18 <i>Kong Yuming v Director of Social Welfare</i>	FACV 2/2013	17/12/2013	Comprehensive Social Security Scheme	Right to social welfare
19 <i>T v Commissioner of Police</i>	FACV 3/2014	10/9/2014	Public entertainment licence	Freedom of assembly & expression
20 <i>GA v Director of Immigration</i>	FACV 7/2013	18/2/2014	Refugees, torture claimants	No right to work, ICESCR not confer individual rights

7. Significant Democratic Development

Since 1843, all Hong Kong Governors were appointed by the United Kingdom. In 1996, the Chief Executive (CE) were elected by 400 Selection Committee members under the NPC's decision on the method for the formation of the first government. Thereafter, the CE was elected by the Election Committee members under article 45 and annex 1 of the Basic Law. It cannot be denied that it is an improvement of human rights in respect of political participation with the increasing number of voters. Though many criticised that the franchise of the election remains too narrow, it is better than appointment in any event.

Though the NPCSC allowed the HKSAR to have universal suffrage for the CE election in 2017, the law was unable to pass in the Legislature in June 2015 as the democrats were dissatisfied that the Nomination Committee could screen out candidates whom the Central Authorities disliked. Table 7 shows the appointment of Governors under the colonial regime and election of CE under the HKSAR regime.

Significant democratisation process started in 1982 after the British realised that the Chinese government would take back Hong Kong. In 1982, District Board, a district organization which was by nature a consultative body, instead of an organ of political power, was established with 27 percent of members returned by direct elections. In 1983, the Urban Council largely extended its franchise and resulted in many political leaders entering the establishment by direct elections.

In 1985, part (24 members) of the Legislative Council (LegCo / 立法局, and 立法會 after 1997) were returned by elections, other than geographical direct elections. In 1986, Regional Council was set up and direct elections were held in the New Territories. In 1991, 18 Legislative Councilors were returned by its first geographical direct elections. In 1995, 20 Legislative Council members (one third of all seats) were constituted by geographical direct elections.

Table 7 Appointment of Governors and Election of CE

1843-1992	All Governors were appointed by UK
1996	CE was elected by 400 Selection Committee members
2002	CE was elected by 800 Election Committee members
2005	CE was elected by 800 Election Committee members
2007	CE was elected by 800 Election Committee members
2012	CE was elected by 1,200 Election Committee members
2016	CE was elected by 1,200 Election Committee members

Table 8 Democratic Development under the Colonial Regime

Year	LegCo & district organizations' elections
1982	First District Board elections
1983	Urban Council election with extended franchise
1985	First LegCo elections
1986	Setting up & election of the Regional Council
1991	First LegCo direct elections (direct election 18/60)
1994	Removing of all appointed seats in District Board
1995	LegCo elections (direct election 20/60), removing all appointed seats

Table 8 shows the democratic development under the colonial regime while Table 9 informs the same under the HKSAR regime under article 68 and annex II of the Basic Law.

Table 9 Democratic Development under the HKSAR Regime

Year	LegCo & district organizations' elections
1996	Provisional Legislature (elected by 400 Selection Committee members)
1998	LegCo elections (direct election 20/60)
2000	LegCo elections (direct election 24/60) Dismantling of 2 Municipal Councils Resuming of appointed seats in District Council after its election in 1999
2004	LegCo elections (direct election 30/60)
2008	LegCo elections (direct election 30/60)
2012	LegCo elections (direct election 35/70)
2016	LegCo elections (direct election 35/70) Removing of all appointed seats in District Council after its election in 2015

The above tables show that there was a “great leap forward” in the democratic movement, when comparing with most of the colonial times and even under the HKSAR regime. There were in fact some progress of the democratic development in the composition of the legislature.

However, the establishment of the Provisional Legislature and dismantling of the Urban Council and Regional Council were obvious setbacks to democratic development. In brief, the HKSAR permanent residents cannot fully enjoy the right of political participation under article 25 of the ICCPR. To date, no timetable is made to achieve the ultimate aim of universal suffrage of CE and all members of LegCo under articles 45 and 68 of the Basic Law respectively.

8. Major Human Rights Events after 1997

8.1. 1997-98 Emphasis on Smooth Transition

From 1997 to 1999, the HKSAR emphasised the smooth transition and people did not feel any drastic policy change. On 26th June 1999, the NPCSC interpreted the Basic Law that was not referred by the CFA. Instead, it was requested by the CE Tung Chee Hwa (董建華) after the government lost two lawsuits (*Ng Ka Ling* and *Chan Kam Nga*) on the issue of the right of abode. The referral for interpretation was not in accordance with the procedures set out in article 158(3) of the Basic Law. Indeed, the Administration defended that the CE, as the head of the HKSAR, has the implied authority to make such a request. The first interpretation of the Basic Law is a serious blow to the autonomy, judicial independence and the right to fair hearing of HKSAR.

In 1999, UN HRC stated in its Concluding Observations:

The Committee is seriously concerned at the implications for the independence of the judiciary of the request by the Chief Executive of HKSAR for a reinterpretation of article 24 (2)(3) of the Basic Law by the Standing Committee of the National People's Congress (NPC) (under article 158 of the Basic Law) following upon the decision of the Court of Final Appeal (CFA) in the *Ng Ka Ling* and *Chan Kam*

Nga cases, which placed a particular interpretation on article 24 (2)(3). The Committee has noted the statement of the HKSAR that it would not seek another such interpretation except in highly exceptional circumstances. Nevertheless, the Committee remains concerned that a request by the executive branch of government for an interpretation under article 158 (1) of the Basic Law could be used in circumstances that undermine the right to a fair trial under article 14.²³

8.2. Commencement of Obvious Social Control since 2000

The deterioration of governance did not start from the consultation of article 23 legislation in 2002. Indeed, the source of public discontent can be traced back to various problematic decisions and policies made by the CPG and the HKSAR Government. In January 2000, the Xinhua News Agency / 新華通訊社 (Hong Kong branch) was renamed as the Liaison Office of the CPG in the HKSAR (中央人民政府駐香港特別行政區聯絡辦公室, abbreviation as the Liaison Office, 中聯辦). The Liaison Office became active in making public comments about the sovereignty issue as the candidate of Democratic Progressive Party won the presidential elections in Taiwan. Besides, an iconic fence enclosing the Central Government Offices in 2000 was a symbolic measure of the government to keep its distance from the Hong Kong people.

In 2000, the Administration initiated various reforms together with some incidents that shook the foundation of its governance. As for the people's livelihood, the Mass Transit Railway became a listed company in January. In 2001, the UN CESCR was concerned that homemakers, persons with disabilities, and older persons, were excluded from the Mandatory Provident Fund (MPF) Scheme.²⁴ Two public housing blocks in Shatin (沙田) had to be demolished due to construction corruption. The Chair of the Housing Authority was forced to resign in June. There

were big protests by various sectors in that month. Teachers opposed language tests (Language Proficiency Assessment for Teachers). Social workers opposed the lump sum grant reform. Civil servants opposed pay cuts. Medical doctors opposed medical reforms. Small property owners took to the streets to protest because their properties became negative assets (負資產). The economic downfall stirred up much grievance in the society. Three Thousand people protested on 1st July 2000 to voice their anger.²⁵ The MPF Scheme entered into force in December that year.²⁶

In July 2000, the CE was accused of interfering in the academic freedom of a HKU scholar Robert Chung (鍾庭耀) and an inquiry by HKU was held. After the inquiry, Vice-Chancellor Cheng Yiu Chung (鄭耀宗) resigned.²⁷ In August, university students and activists who fought for the right of abode were arrested for unauthorised assembly under section 17A of the Public Order Ordinance. This is the first arrest after the handover under this section. Due to rigorous protest by civil society, the HKSAR decided not to prosecute.

8.3. Undermining Autonomy after the Withdrawal of the National Security Bill

In September 2002, the government announced a consultation paper to implement article 23 of the Basic Law. Civil society responded by large-scale protest with 60,000 people in December. In March 2003, the outbreak of severe acute respiratory syndrome (SARS) in Hong Kong posed a serious threat not only to the health of Hong Kong people, but also a big blow to its economy and the government's popularity.

On 1st July 2003, more than 500,000 people protested against the draconic National Security Bill and the Administration was forced to suspend the legislative progress. The Financial Secretary, Secretary for Security and Secretary for Health resigned in July after the big

demonstration. In September, the government formally withdrew the Bill.

In 2004, the civil society's demand for full democracy in the HKSAR was strong and the response of NPCSC was the second interpretation of the Basic Law to tighten the control of political reform of the HKSAR. In 2005, CE Tung Chee Hwa stepped down when his popularity remained very low since mid-2003. The NPCSC made its third interpretation to clarify that his successor could fill his remaining term instead of a full term under article 46 of the Basic Law: the term of CE of HKSAR "shall be five years". A comparison of three interpretations of the Basic Law by the NPCSC shows that the NPCSC had less hesitation to do so. In 1999, the government alleged that the impact of the judgments would open the floodgate to allow 1.67 million mainlanders migrating to the HKSAR. Hong Kong society could not accommodate their needs so the CE asked for interpretation of the Basic Law by the NPCSC. In 2004, the interpretation of the Basic Law was out of the Central Government's initiative to cool down the rigorous campaign for full democracy. While the third interpretation of the Basic Law by the NPCSC was to clarify the term of the CE only, whether the remaining term of two and a half years or a full term of five years.

In December 2007, the NPCSC decided to permit universal suffrage of CE in 2017 and LegCo in 2022. In August, the police removed the protesters who opposed the demolition of Queen's Pier (皇后碼頭). This campaign marked the trend of heritage conservation and the strong link of the Hong Kong identity to the general public, and in particular, the young people. In December 2009 and January 2010, there were large-scale demonstrations outside the then LegCo building against the funding of Express Rail construction.

In May 2010, some democrats launched five districts' LegCo members' resignation for a *de facto* referendum for universal suffrage. In

June, the LegCo passed a political reform package with only little progress of democratic development. Till now, there is still controversy over whether the reform is really progressive towards full democracy.

In 2011, the NPCSC made its 4th interpretation of the Basic Law with little dispute as it was referred by the CFA under article 158(3) of the Basic Law. In July 2012, CY Leung (梁振英) came to power as the third CE. In September 2012, there was a widespread campaign, especially among secondary school students, to protest against national education. Tens of thousands of people gathered outside the Central Government Offices and the government suspended the plan of compulsory subject of national education shortly before the LegCo elections.

8.4. Fading out of the “Two Systems” since 2014

In June 2014, the State Council announced a White Paper on “One Country, Two Systems” (一國兩制) that emphasized the power of the Central authorities. On 31st August, the NPCSC decided that the CE candidates must have the majority vote of the Nomination Committee members before the public can cast their vote. In late September, the Hong Kong Federation of Students organized a class boycott and a protest outside Central Government Offices. As a result of the firing of 87 canisters of tear gas by the police at peaceful protesters on 28th September, a 79-day Occupy or Umbrella Movement was started. The public perception of police impartiality has been seriously damaged. Hong Kong society has become more divided and polarised through varied political stands. The action ended on 11th December and failed to persuade the NPCSC to withdraw its 831 Decision. On 18th June 2015, the LegCo failed to pass the political reform package based on the 831 Decision.

In January 2016, a Causeway Bay bookshop (銅鑼灣書店)

incident caused a public outcry. There was an accusation that a Mainland law enforcement agency arrested Hong Kong residents in Hong Kong which would be a blatant violation of the Basic Law if proven. On 8th January 2016, the European Union issued a statement to show its concern:

As Hong Kong Chief Executive C Y Leung has stated, it would be a violation of the Basic Law if, as media allege, mainland law enforcement agencies had been operating in Hong Kong. This would be inconsistent with the ‘one country two systems’ principle.

Respect for freedom of expression underpins all free societies. The relevant authorities in Thailand, China and Hong Kong should investigate and clarify the circumstances of the disappearances in conformity with the rule of law.

In February 2016, the UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein also expressed concern over the recent cases of disappearances of booksellers from Hong Kong.²⁸

In February 2016, there was a riot during the Lunar New Year known as the Fishball Revolution (魚蛋革命). Some participants chanted slogans for Hong Kong independence. More young people supported the independence of Hong Kong after the failure of Umbrella Movement to remove the 831 Decision.

In summer 2016, six LegCo candidates were disqualified as they could not pass a new administrative requirement in respect of Confirmation Letter. The returning officer can disqualify candidates whom he believes do not genuinely uphold the Basic Law and allegiance to the HKSAR under article 104 of the Basic Law.

On 12th October 2016, Sixtus Leung Chung Hang (梁頌恆) and Regine Yau Wai Ching (游蕙禎), who won the LegCo elections in

September, took their LegCo oaths. They used the term “Hong Kong nation” at the outset of the oath-taking, mispronounced the word “China” as “Geen-na” or “Sheen-na” (“支那”), and unfolded and displayed a blue banner bearing the words “HONG KONG IS NOT CHINA”. The CE commenced legal proceedings to disqualify their LegCo members’ status as they contravened the requirements under article 104 of the Basic Law (*CE v. Sixtus Leung Chung Hang and Yau Wai Ching*, HCAL 185/2016, 15th November 2016, paragraphs 1, 4, 5 and 10). On 7th November 2016, four days after the court hearing, the NPCSC made its 5th interpretation of the Basic Law on article 104. On 15th November 2016, the Court delivered its judgment. Two LegCo members were disqualified by the High Court and their appeal was dismissed by the Court of Appeal (CACV 224/2016, 30th November 2016, paragraphs 1, 8 and 88).

9. Concluding Remarks

9.1. Human Rights Trend: Obvious Improvement Shortly before 1997 and Little Progress after 1997

Human rights development having steadily improved in 1970s has sped up since 1980s and accelerated in 1990s shortly before the handover. Though there are scattered human rights improvements after 1997, on the whole, there has been a continuous deterioration of human rights, in particular after the Central authorities have tightened the autonomy since 2003.

Before 1997, one of the most important factors of human rights development was the Sino-British relationship. After 1997, rights enjoyed by Hong Kong people, to a large extent, are affected by the degree of autonomy allowed by the Central authorities.

Table 10 Major Human Rights Events after 1997

1997	The Handover of Hong Kong from UK to PRC
1999	NPCSC 1st interpretation of Basic Law on the right of abode
2000	Academic freedom (Robert Chung) incident; Public Order Ordinance incident
2003	1 July protest & HKSAR withdrew article 23 Bill
2004	NPCSC 2nd interpretation of Basic Law on political reform
2005	NPCSC 3rd interpretation of Basic Law on CE term
2007	NPCSC decided CE & LegCo might have universal suffrage in 2017 & 2020
2008	Campaign against demolition of Queen's Pier
2010	Protest against Express Rail; Five districts' resignation; LegCo passed political reform package
2011	NPCSC 4th interpretation of Basic Law on state immunity
2012	Protest against national education subject
2014	State Council White Paper on "One Country, Two Systems"; NPCSC 831 Decision; Occupy/Umbrella Movement
2016	Causeway Bay bookshop incident; Fishball Revolution; 6 LegCo candidates disqualified due to Confirmation Letter; NPCSC 5th interpretation of Basic Law on taking oath; 2 LegCo members were disqualified due to violating Basic law article 104

Three years have most significant far-reaching impact on human rights development: 1989, 2003 and 2014. After the crackdown of 1989 democratic patriotic movement in the Mainland, the Hong Kong government proposed the Hong Kong Bill of Rights Bill which was enacted in 1991. Since 2000, various reforms and measures were launched to tighten social control. The withdrawal of national security law in 2003 marked a setback of the trend of the undermining of autonomy. After CY Leung became CE in 2012, human rights conditions have worsened. Shortly after the State Council White Paper on “One Country, Two Systems” and NPCSC’s 831 Decision in June and August 2014 respectively, the Umbrella Movement broke out in late September. Unprecedented serious deterioration of human rights has commenced. Very serious human rights violation incidents involved the missing booksellers of the Causeway Bay bookshop, the disqualification of six LegCo candidates by the new Confirmation Letter procedure and two LegCo members being disqualified under article 104 of the Basic Law.

Rights awareness of Hong Kong people were raised during the above three movements. Democracy, human rights and autonomy have been enhanced in 1989, 2003 and 2014 respectively. Unfortunately, the response of the Central authorities towards the strong demand on rights is narrowing the scope of autonomy as well as the tightening of social control.

“Fast forward” can be used to describe the speed of human rights development shortly before the handover. By contrast, little human rights progress after 1997 can be described as “slow motion”. Since 2014, “fast rewind” can illustrate the human rights deterioration.

9.2. Dilemma of One Country and Two Systems

There has always been tension between the socialist “One Country” and the capitalist “Two Systems”. As commented by Rimsky Yuen

(袁國強), Secretary for Justice, as the “One Country, Two Systems” is a new concept, it is understandable, normal and foreseeable to incur some conflicts in implementing the same.²⁹

Table 11 Different Emphases on Some Issues from the Perspectives of “One Country” and “Two Systems”

“One Country” emphasis	“Two Systems” emphasis
Socialism	Capitalism
Unity	Diversity
Assimilation	Pluralism
Collectivism	Individualism
Rule by law	Rule of law
Hostile to democratic movement which is a conspiracy of the West	Democracy is international human rights standard and normal phenomenon
Social control	Active civil society
National identity	Regional identity
National education	Civic education
Patriotic education	Fear of indoctrination
Expect the CE to be accountable to the CPG	Expect the CE to defend autonomy

With decreasing importance of Hong Kong to the Mainland's politics and economy, Hong Kong has less bargaining power and enjoys less autonomy after the handover. The successful implementation of the "One Country, Two Systems" depends, to a large extent, on the Central authorities exercising self-restraint not to intervene in the HKSAR.

The Central authorities have anticipated that the problem can be solved by the shortening of the differences between the economic strength of the two systems. It seems that the tensions remain serious even if the gap in the per capita Gross Domestic Product (GDP) becomes smaller and smaller. However, the difference with respect to rights enjoyed by the Mainland and Hong Kong people is still big. The way to narrow the gap should not be by lowering or reducing the rights of Hong Kong people. Instead, the proper response should be better protection of the rights of the Mainland people.

9.3. Three Main Challenges to the Human Rights Development

Though a high degree of autonomy is promised under the Basic Law, the degree of autonomy has been steadily reduced after the handover, in particular since 2003 and 2014. More control by the Central authorities resulted in more confrontation and less trust between Beijing and Hong Kong. Will more autonomy for Hong Kong result in more respect for "One Country"? Will enhancing autonomy enable the two systems to co-exist more peacefully and the "One Country, Two Systems" to be implemented more smoothly and successfully?

The second challenge is posed by increasing exclusion and polarisation in Hong Kong society in respect of political, social and economic aspects. The gap between the rich and the poor becomes wider. Less social mobility becomes the source of social discontent. More hatred, hostility and violence have become evident in recent years,

especially since 2014. Is the better protection of civil, political, economic, social and cultural rights the best strategy to overcome this problem?

The third challenge is the weakened checks and balances in the political system after 2003 with more emphasis on executive-led governance. Less transparency of governance and more corruption incidents by senior and even top government officials have been exposed in recent years. Is genuine full democracy with transparency and accountability in governance as soon as possible the best solution?

9.4. Positive Aspects of Human Rights Development

Despite the challenge ahead, the strong Rule of Law tradition and culture in Hong Kong is the cornerstone of human rights protection. An active civil society and vigorous media prevent a sudden and drastic depreciation of rights. Besides, Hong Kong is an international city with strong overseas connections that have also enabled better protection of rights. Further, with several big movements in 1989, 2003 and 2014, rights awareness and political participation of Hong Kong people have been raised and enhanced.

Notes

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Author's acknowledgement: Special thanks must go to my wife Debbie Tsui for her timeless editing work and research assistance.

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Localism in Hong Kong: Its Origins, Development and Prospect

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Abstract

The paper firstly aims to analyse the changing political landscape after the Legislative Council election in September 2017. Secondly, the social political context in which localism emerged is delineated. An analysis of the rise of the politics of democratization and identities in the post-Handover Hong Kong is provided. The policies of “One Country, Two Systems” (1C2S), initiated by the People’s Republic of China (PRC) to resolve the sovereignty issue of 1997 are discussed. It is argued that in the implementation of the 1C2S since the Handover in 1997, the Chinese party/state has shifted from non-interventionism to pervasive integration, which violates its pledges of “fifty years unchanged”. The Basic Law is arbitrarily interpreted to suit political expediency. Its Leninist absorption of Hong Kong into Chinese authoritarianism has directly triggered the rise of localism in the younger generation. The paper also explores the two theoretical discourses of the “independence” and “self-determination” narratives in contemporary Hong Kong and finally the prospect of the “independence” movement is examined.

Keywords: “One Country, Two systems” (1C2S), localism/nativism, universal suffrage, democratization, identities, nation-building movement, Occupy Central, Umbrella Movement

1. Introduction

In October 2016, Beijing’s National People’s Congress Standing Committee (NPCSC) abruptly launched its 5th interpretation of the Basic Law (香港基本法). The interpretation states that the swearing-in ceremony of the newly elected Legislative Council (LegCo, 立法會) members must be “respectful” and “sincere”. The CY Leung (梁振英) administration was swift to launch a judicial review on the validity of the oath-taking ceremonies by the two new localist lawmakers Sixtus “Baggio” Leung Chung-hang (梁頌恆) and Regine Yau Wai-ching (游蕙禎), members of a prominent localist group Youngspiration (青年新政). In November, the High Court ruled that the two members’ behavior amounted to a rejection of the oath-taking and they subsequently lost their LegCo seats. However, The government did not stop there, but followed up by launching another judicial review against four other localist/pan-democratic lawmakers including the famous “long hair” Leung Kwok-hung (「長毛」梁國雄).¹ On 14 July, the High Court handed the verdict that all four lawmakers were disqualified because “the oath is unlawful if it is altered in form, substance or manner, or with extra words.” All six legislators vowed to appeal.

The loss of a total six seats obviously deals a heavy blow to the localist/pan-democratic camp. Not only do the pan-democrats fail to keep a sufficient strong voice in the LegCo, they could not even preserve the veto power in the chamber constituted by legislators returned by geographical constituencies, as required by the Basic Law in any of the

bills proposed by legislators.² In recent years, as localism has spread more widely, Beijing's concerns over the issue has deepened. The move of the interpretation by the NPCSC was, therefore, perceived as a determination by Beijing to stamp out the increasingly influential nativistic movement and keep the young radicals off from the constitutional structure.

2. Legislative Council Election in September 2016

The Legislative Council (LegCo) election in September 2016 was a landmark development in Hong Kong's political landscape. The Council has a total of 70 seats since the 2012 election, with half of it elected by functional constituencies (indirect elections), and half by geographical constituencies (direct elections). Among the 35 seats by the functional constituencies, 5 seats are called "super seats", which means that a legislator has to be nominated by 10 District Councillors and then elected by the Hong Kong territory-wide eligible electorate. With 2.2 million registered voters (out of a population of 7.34 million), the turnout rate reached 58.3 %, a record high level and 5 points higher than the previous LegCo election in 2012. The general public exhibited such enthusiasm that there were long lines queuing up in the polling stations waiting to cast the votes, a phenomenon not seen in Hong Kong for a long time.

In the aftermath of the Umbrella Movement (UM) in 2014, Hong Kong society seems to embrace two contradictory social and political climates. On the one hand, general social atmosphere seems to be bleak and gloomy, which is understandable for the 79- day long UM nominally falls short of its most important political goal: lifting of the 8.31 restrictions on the election of the Chief Executive (CE) in 2017 imposed by China's National People's Congress (NPC) on 31 August 2014. On

the other hand, mostly formed or organized by the younger generation, such as Hong Kong Indigenous (本土民主前線), Youngspiration (青年新政), Civic Passion (熱血公民), Demosistō (香港眾志, formerly Scholarism / 學民思潮), Proletariat Political Institute (普羅政治學苑), Land Justice League (土地正義聯盟), and People Power (人民力量), etc., the localist or nativistic groups proliferated. More importantly, in fact, the District Council elections in November 2015 saw the resurgence of the localist/self-determinist ideas and active participation of the so-called “Umbrella soldiers” (傘兵).³ Among more than fifty participants in the elections, only nine were elected,⁴ but they revived the optimism of the young people and directly contributed to the spreading of the ideas of “independence” of Hong Kong among the electorate. And more importantly some localist groups such as Youngspiration and Hong Kong Indigenous, e.g. Edward Leung Tin-kei (梁天琦), even devised a strategy of “violence” in advancing their political ideas.⁵

The outcome of the LegCo election in September 2016 was beyond the expectations of most of the pan-democrats as well as the general public. Since the handover of Hong Kong to China in 1997, the political landscape has been long characterized by the existence of two camps: pro-Beijing/pro-establishment (建制派) and pan-democracy (泛民主派) camp. As the central government in Beijing and the local Liaison Office intervened more, the pro-establishment camp has become increasingly more dominant. As such, the strategy of the pan-democrats in the LegCo has been to maintain two kinds of “veto power”: one third of the votes in the LegCo to block any constitutional or political reform plan and a majority of votes in the geographical constituencies to block the passing of the bills proposed by members, as stipulated by the Basic Law. It was widely expected that the pan-democrats would lose these two “veto power”, resulting in the amendment of the rules of procedures

by the pro-establishment camp and practically ending the game of filibustering used by the pan-democrats to block unpopular bills.

However, instead, the voting results show that the third political force: that of the localist/self-determinist was emerging.⁶ The conventional dichotomy of politics was broken. In terms of seats, the pro-establishment parties, such as Democratic Alliance for the Betterment and Progress of Hong Kong (民主建港協進聯盟), New People's Party (新民黨), Hong Kong Federation of Trade Unions (香港工會聯合會) and Liberal Party (自由黨), etc., grapped 40 seats, a clear majority. The conventional pan-democratic parties such as the Democratic Party (民主黨), Civic Party (公民黨), Labour Party (工黨) and League of Social Democrats (社會民主連線), etc. obtained 21 seats. Significantly, the localist parties were able to get 8 seats. The total number of seats for the localist/self-determinist and pan-democratic camp was 29. Thus, the pan-democratic camp was able to preserve the veto power (24 seats) to block any constitutional change plan initiated by the government. In the geographical constituencies, the result was 19 versus 16 against the pro-establishment camp. Consequently, the localist/pan-democratic camp were able to maintain the two "veto power" (Kaeding, 2017).

However, the 5th interpretation by the NPCSC changed the political ecology completely. With the disqualification of six LegCo members, 5 of whom from the geographical constituencies and only 1 from the functional constituencies, the number of directly elected pan-democratic legislators would be reduced from 19 to 14 and the "veto power" in the geographical constituencies would be subsequently gone. Even if the by-elections of vacant seats are to be held, it is questionable if the pan-democratic camp could get back all the seats they were stripped off. The consequences of the NPCSC's interpretation on the oath-taking ceremony are disastrous for the pan-democratic/localist camp and it

shows the determination of Beijing to stamp out the localist waves, as repeated in the speeches by Xi Jinping (习近平) in Hong Kong during the occasions of celebrating the twentieth anniversary of the Handover on 1 July 2017. It must be born in mind that the waves of localism do not come from nowhere. As I would argue in the following sections of the paper, the localist sentiments already existed in the 1970s and 1980s but the June 4 crackdown planted the seeds of fear upon the minds of Hong Kongers. After 1997 and in the new millennium, localist sentiments were crystallized in the social movements associated with heritage protection and environment conservation projects, etc. The events that would finally bust the slogan of Hong Kong “independence” were the ascendance of CY Leung and the tough policies he initiated, and the imposition of the three restrictions on the CE election in 2017 by the NPC. Since Carrie Lam (林鄭月娥) became the Chief Executive, the momentum of the “independence” has lost steam; however, whether the tides of current can be turned by Beijing or the new administration remains to be seen. It is time to put the evolution of localism into proper context.

3. The Context: Hong Kong-Mainland China Relationships

When China announced the formula of 1C2S to resolve the issue of 1997 sovereignty in the midst of Sino-British negotiation, it was accepted by all sides. The agreement by the governments of PRC and Britain resulted in the Sino-British Joint Declaration concluded in 1984, and it took five years for the NPC to draft the Basic Law – mini constitution for the post-1997 Hong Kong.

The articles of the Basic Law, in fact, reflect all the features of the existing system of Hong Kong at that time but its essence could be summarized as “One Country, Two Systems, Hong Kongers ruling Hong

Kong, High Autonomy”, which China pledged to keep for “fifty years unchanged” (*Basic Law*, first chapter: General Principles).⁷ However, the key issue that remained unresolved is the issue of political system, namely the elections of the Chief Executive (CE) and the legislature after the Handover.

The Sino-British Declaration was vague on the election of the top leader. It says that the leader could be selected either by election or consultation (*Sino-British Joint Declaration*, para. 3.4), which opens the door to deception and manipulation by the Chinese Communist Party (CCP) officials in future.⁸ Nonetheless, the Basic Law was more specific on the democratization of the legislature. It says that the Legislative Council (LegCo) members and the CE will be ultimately elected by universal suffrage (*Basic Law*, Article 45). The first CE, however, was elected by a small Election Committee of 400 in 1997, but with the electorate to be progressively enlarged, would ultimately be elected by “universal suffrage”. The democratization process would be incremental.

The Basic Law further outlines the gradual democratization process both for the CE and for the legislature within the 10 years of time frame after the Handover (*Basic Law*, Annex 1 and 2). In the past 20 years, four indirect elections of the CE have been held: Tung Chee-hwa (董建華, 1997-2002; 2002-2005); Donald Tsang (曾蔭權, 2005-2007; 2007-2012), Leung Chun-ying (2012-2017), and Carrie Lam (1 July 2017 – present).

Three periods could be delineated in assessing the relationships between Hong Kong and Mainland China (Central) since 1997: first period, non-interventionist (1997-2003); second period, increasing interventionism (2004-2011); third period, comprehensive intervention (2012 – present). The first and second periods were characterized by politics of democratization, and the third period by politics of identities.

In the first period, the PRC kept its promise. Besides changing the flag and replacing the Governor with the CE, almost the entire team of senior officials (at the Secretary level) remained intact except that the post of Attorney General was replaced by the new Secretary of Justice. However, there were two big changes in this period: the introduction of the Accountability System of the Principal Officials in 2002 (Fong, 2014) and the 1st interpretation of the Basic Law by the NPCSC in 1999 in which the Court of Final Appeal no longer becomes final. Its impact was huge because it marked the beginning of political intervention through the legal channel (Ghai, 2000: 189-230). The 1 July 2003 rallies/marches in opposition to the enactment of the Article 23 marked the end of the first period and the beginning of the second period of increasing interventionism.

4. From Politics of Democratization to Politics of Identities

The most dramatic intervention in this stage by Beijing was the 2nd interpretation of the Basic Law on the constitutional development of Hong Kong in 2004, which was exclusively concerned with the electoral methods of the CE and legislature in 2007 and 2008.⁹ In the original Basic Law, the constitutional change of the electoral methods requires only three steps, namely, the submission of the relevant bills to the LegCo and 2/3 majority consent of the LegCo members and the approval of the NPC (*Basic Law*, Annex 1). This 2nd interpretation of the Basic Law, however, brings the Central government into the center stage, three steps becoming five steps: namely, first, the CE submits a report, which outlines the necessity of the constitutional development, to the NPC (or Standing Committee) for approval; second, the Hong Kong Special Administrative Region (HKSAR) government submits the relevant bills to the LegCo; third, 2/3 majority is required; fourth, the consent of the

CE; fifth, the ordinance is submitted to the NPCSC for approval. (Wong, 2014)

In 2005, the NPCSC again intervened to interpret the Basic Law for the third time regarding the term of the CE.¹⁰ In this period, it was also widely speculated, even though it has never been proven beyond doubt, that the Central Liaison Office in Hong Kong was heavily involved in lobbying activities in the District Council elections. On the one hand, increasingly larger number of pro-establishment councilors were appointed by the government to the District Councils, and on the other hand, fraudulent methods were employed – such as mainlanders came to HK and registered in address that were not intended as homes in an attempt to “sow seeds” of the eligible voters¹¹. The outcome of the elections in 2011 was that a drastic reduction of the seats for the pro-democracy councilors and the Democratic Alliance for the Betterment and Progress of Hong Kong (the disguised underground party of the CCP and the largest political party in Hong Kong) grabbed the largest number of seats. Since then the pro-government parties have been dominating grassroots/district politics. Most significant of all was the high visibilities in the mass media of the Liaison Office officials, in particular its director Zhang Xiaoming (張曉明), who is a symbol of the authorities from Beijing.

The third phase of the development began with the election of CY Leung as the CE in 2012. The compromise reached in 2010 between Beijing and Hong Kong’s pro-democracy legislators enabled the elections of the CE and the LegCo to advance one step forward in 2012, from an Election Committee of 800 members expanding to 1200 members, though obviously it was still a small-circle election. The number of LegCo seats increased from 60 to 70, with 5 additional seats allotted to geographical constituency and 5 new seats to functional constituency.¹²

By a motion passed by the NPCSC, Hong Kong “may” have “universal suffrage” election of the CE in 2017 and the LegCo elected by “universal suffrage” too by 2020. As such, the Hong Kong community expected that in 2017 Hong Kong could directly elect the CE and then followed by the direct election of all LegCo members. However, it turned out the Beijing’s idea of “universal suffrage” is different that of the Hong Kong public.

As discussed previously, the Basic Law schedules only the time table of ten years for democratization after the Handover. The pan-democracy camp and Beijing failed to reach a consensus on the elections of the CE in 2007 and LegCo in 2008, therefore old methods would prevail. However, the elections of the CE and the LegCo members in 2012 were with new methods because the pro-democracy camp stroke a compromise with Beijing on the new constitutional development in 2010. Leung was elected by 1200 members instead of 800 and the LegCo membership was expanded to 70 instead of 60.

On the electoral method to be introduced in 2017 to elect the CE, this time Beijing seemed to have no patience in negotiating a solution with the Hong Kong community as a whole in general, and the pan-democratic camp in particular. Beijing wanted to dominate the whole process. At the outset, the State Council in Beijing published a White Paper in June 2014 named *The Implementation of “One Country, Two Systems” in the HKSAR*, which practically abolished the Basic Law as the supreme constitutional document for Hong Kong but taking it, instead, as the fundamental policy paper that becomes the cornerstone of the 1C2S (Information Office of State Council of the PRC, 2014). This is certainly a blatant violation of the pledge made before. The White Paper claims that the PRC is a unitary state and the Central government in Beijing has “comprehensive governing power” over Hong Kong (*ibid.*: 7), that “all power in Hong Kong are derived from the Central

government”, and that “no residual power” exists in Hong Kong (*ibid.*: 31). It also demands that the concept of 1C2S be understood and implemented in a “comprehensive and correct way” (*ibid.*: 32). Clearly an important policy shift after the Handover, Beijing is tightening the concept of 1C2S. As expected, the White Paper was heavily criticized by the Hong Kong public, particularly the legal professionals. The White Paper has violated the spirit of Hong Kong’s legal system and 1C2S, and arbitrarily inserted the Chinese Constitution into Hong Kong’s legal system. In retrospect, the publication of the White Paper was a prelude to further intervention in the constitutional development of Hong Kong.

Since the early 1980s, the Hong Kong community has been consensual in that Hong Kong should have full democracy after the Handover as quickly as possible. The main stumbling block, however, was Beijing. In relation to the public consultation of the new electoral method of the CE in 2017, there has been wide consensus amidst society that the election must comply with the “international standard” prescribed by the United Nations Charter of Human Rights that all eligible citizens could have the rights of voting for the top leadership post. The public have long considered the small circle of 800 or 1200 member Election Committee was archaic and undemocratic and needed to be overhauled and functional constituency in the LegCo should be abolished. However, on the other hand, the Basic Law stipulated that the candidate(s) must be nominated by a Nomination Committee “elected by a broadly representatives of the public” (*Basic Law*, Annex I), a process that should be genuinely implemented.

In the meantime, during the consultation period, more than a dozen electoral reform proposals were proposed by non-partisan scholars, political parties, social groups, and professional bodies, etc. However, these proposals were all ignored by the NPCSC which, on 31 August 2014, set up three restrictions on the universal suffrage for CE election

in Hong Kong in 2017, namely 1) the candidate must be supported by 1/2 of the members of the Nomination Committee; 2) the structure of the nomination should model upon that of the Election Committee which elects the CE and the ratio of the four categories of membership and size (1200) of the Nomination Committee remained unchanged; 3) the number of final candidates would be 2-3 people. The public were furious at the restrictions and vehemently protested to Mainland authorities. Even the moderate factions were disappointed. Aside from the procedural matters, most significantly, the NPC imposed an ideological bottom line: that the elected CE must be a “patriot”, who must “love motherland and Hong Kong”.¹³

5. The Umbrella (Occupy Central) Movement

The Umbrella movement (UM) was initially called the Occupy Central with Love and Peace movement (OCM, 讓愛與和平佔領中環 / 和平佔中), which becomes the largest civil disobedience movement in the history of Hong Kong in terms of size of participants and length of time. It was started by Benny Tai (戴耀廷), a law professor of the University of Hong Kong, and Kin-man Chan (陳健民), a sociology professor of the Chinese University of Hong Kong, and Yiu-ming Chu (朱耀明), a pastor. The idea of launching a civil disobedience movement was raised first in January 2013 in a newspaper article by Tai as a strategy of bargaining to strive for full democracy with Beijing. After months of deliberation and planning, the three organizers planned to stage a sit-in of about 10,000 people on the streets of the Central (中環), Hong Kong’s financial district, in order to paralyze the area on 1 October 2014, the national day of the PRC. By adopting a strategy of civil disobedience and non-violence, the participants would offer no resistance if police arrest them. Because of their activism, the three

organizers received death threats from anonymous public.¹⁴

On 22 September 2014, in protest against the three restrictions on the universal suffrage for the election of the CE, the Hong Kong Federation of Students (香港專上學生聯會), the conglomerate body of Hong Kong's university students, decided to launch a class strike in all local public-funded universities, with the aim of asserting universal rights of participation and contestation of the public life, and opposing the NPC's election restrictions. In other words, students wanted a free and fair election of the CE (as well as Legislative Council in 2016) and they framed their demand in the slogan "I want a true universal suffrage" (「我要真普選」) (Au, 2014: 69-91).

On 25 September 2015¹⁵, the last day of class strike, a few hundred students who were staging sit-in nearby began to end their class strike and they marched towards the Central Government Office (CGO) building. Suddenly some students, headed by Joshua Wong (黃之鋒), convener of Scholarism, trespassed the fence outside the area (which the students called Civic Square / 公民廣場) in front of the CGO and they refused to leave on 26 September 2015. Next morning, after the forced clearance of the area by police, thousands of citizens rushed to support the students in Admiralty (金鐘), the protest area. Some students including Joshua Wong were arrested. About 50,000 protesters encircled the CGO and Benny Tai and Kin-man Chan came to support the students. In the morning of 28 September at about 1.30 a.m., Benny Tai, urged by the protestors, and 3 days before his scheduled date, declared the OCM started. The news spread and thousands of citizens came to Admiralty to show support. The area was so crowded that people began to spill over to the street (Harcourt Road / 夏慤道, the main road connecting the East and West part of Hong Kong Island). The police strengthened their force and attacked the protesters with pepper spray and threw 87 tear gas canisters to disperse the protestors. The tear gas

did not deter the protestors, who had practically taken over Admiralty and who had only umbrellas to protect themselves from the police's tear gas.

Thus, the OCM was transformed into UM. The UM had not restricted itself to Admiralty but swiftly spread to Causeway Bay (銅鑼灣, another part of Hong Kong Island) and Mong Kok (旺角, the most crowded area of the Kowloon Peninsula / 九龍半島) in days. The UM lasted for 79 days. Luckily, despite frequent scuffles between police and protestors, the UM ended without serious bloodshed.

For years, before and after 1997, Hong Kong police has been relatively mild in dealing with protestors and respected as effective and professional throughout Asian countries but this time the police exhibited unprecedented violence.¹⁶

The movement was conspicuous in its defiance of the Beijing authorities, a strong will to be in command of Hong Kong's own destiny and strong sense of Hong Kong identities shown by the participants, in particular the youngsters. Despite the size of the movement, Beijing did not back down, but neither did the younger generation. On the surface, they seemed to have achieved none of the goals but the UM certainly galvanized forces that empower the younger generation who were determined to master their own future. In fact, "mastering our own destiny" is one of the most popular slogans during the OCM.

A whole generation of youngsters seems to be emerging and they are deeply rooted in the core values of Hong Kong. Here is a new generation which is entirely different from the previous generations. Looking at the demography of Hong Kong, the population changes generally followed the shifting political situation in Mainland China. Most Hong Kongers came from the mainland, as refugees, in particular after 1949 when the CCP established a Marxist-Leninist one-party dictatorship. In the three decades of Maoism (1949-1979), the PRC was

plagued by internal factional struggles and political purges. Millions died of starvation. The refugees came to Hong Kong to search for a piece of land where they could live and work peacefully and hopefully through hard works, they could raise their living standard. In fact, many of them took Hong Kong as a temporary shelter and their ultimate end destinations were the developed industrialized countries, e.g. United States of America (USA), Canada and Australia. They lived in a “borrowed time, borrowed place” (Hughes, 1976).

Governor Crawford Murray MacLehose (1971-1982) in 1971 heralded in a new era in Hong Kong. He implemented a series of progressive social and economic policies that enabled Hong Kong to become one of the four “Asian Tigers” by the end of the 1970s – one of the most advanced economies in Asia. The outstanding socioeconomic achievements paved the way for the emergence of what now called “localism” – the people’s strong sense of a Hong Kong identity and consciousness – how they identify with the place where they live and were born (Kong, 2015: 185-190). It was not surprised that, being frustrated with the PRC’s implementation of 1C2S, the young protestors hoisted British colonial flag in the 1 July rallies and marches in 2011, for the first time, as a gesture of nostalgia for the past when the British ruled over Hong Kong.¹⁷

The Chinese Party/state socialist regime evolved in another developmental path. The regime was a total disaster in Mao Zedong (毛澤東)’s three decades of rule. More than 30 million people died of starvation in the late 1950s. Furthermore, more than 200 million people were persecuted and victimized and millions of people died of factional fighting and persecution during the Cultural Revolution.

Even after the reform and opening up era has set in, China’s authoritarian political system remained unchanged. It has imprisoned hundreds of dissidents, including the Nobel Peace Prize laureate

Liu Xiaobo (劉曉波) who died of cancer in July 2017. The rampant corruption was appalling and its cronyism have degraded the land and more than 70% of the rivers have been poisoned. Its so-called “socialism with Chinese characteristics”, in fact, is a bracket ideology that embodies the worst features of market economy and Chinese authoritarianism. In contrast to the Chinese crony statism, Hong Kong was its exact opposites, a vibrant international city where east meets west, with the rule of law and also a strong civil society, a free city though with only partial democracy. That is why the concept of 1C2S was created by Deng Xiaoping to enable these two contradictory systems to co-exist.

Hong Kong’s developmental model is based on the model of liberal democracy: societal pluralism, rule of law, separation of powers, emphasis on human rights, the growth of civil society, etc. On the contrary, China adopts a totalitarian model in the Maoist era and an authoritarian model in the reform era: monopoly of political power by an oligarchy of party elite, state-dominated market economy, a large machinery of coercive apparatus, hegemonic state ideology, judiciary as a tool for the oppression of dissidents, etc.

In hindsight, however, the crucial event that divides the two societies is the 4 June 1989 massacre in Beijing. It may be seen as the defining moment in Hong Kong for the rise of localism. Bordering Mainland China, Hong Kong people then watched the brutal slaughtering of the students and common folks by tanks and military armoured vehicles. Two one-million-people marches were launched in Hong Kong (on 21 May and 28 May 1989) to protest vociferously against the PRC government. The massacre was in full display before the eyes of Hong Kong people through television broadcast. Hong Kongers have never been able to forget and forgive what transpired in and around the Tiananmen Square (天安門廣場) that night. Since then

candle virgil night has been held on 4 June every year in the Victoria Park, Hong Kong, in commemoration of the victims of the 1989 massacre.

I would argue that the June 4 1989 massacre is the defining moment for the birth of Hong Kong localism: that Hong Kongers began to be aware of the significant differences in values between Hong Kong and Mainland systems. They saw how brutal the Chinese regime could be and strong sense of alienation pushed them away from their “motherland”.

In tandem with Hong Kong’s socioeconomic development, infant localist sentiments were already manifested in some form in the Cantonese pop songs and martial arts films in the 1970s.¹⁸ In the 1980s, localist sentiments were further uplifted by the outcome of Sino-British negotiation in which the PRC formulated its lenient policies towards Hong Kong with China’s own promise of high autonomy for Hong Kong and “Hong Kong people ruling Hong Kong” (港人治港). Riding on the wave of formation/proliferation of local political parties, localism grew (Li, 2013: 13-16, 208-213). The dominant voice in the Hong Kong political scene then was “democratization against communism (authoritarianism)” (「民主抗共」). Then came the June 4 massacre – and the first identity crisis for Hong Kongers.

Hong Kongers have always considered themselves ethnically Chinese; even now, as localism grows, most of them would consider themselves ethnic Chinese. However, the pro-independence youngsters do not think so. Localism now reaches to the extreme that not only these younger Hong Kongers negate their Chinese national identity (associated with the state PRC) but also their ethnic Chinese identity. More importantly, the younger Hong Kongers, aside from the sociopolitical values, consider Hong Kong to possess unique character and civility that contrast with that of the Mainland Chinese or regime. As a colony of the

United Kingdom (UK), Hong Kong society had always been influenced by Anglo-American (modern) values and systems. However, at present, the PRC takes USA as the greatest threat to its regime security. Young Hong Kongers see increasingly the incompatibilities of the “two systems” (Chan, 2013: 247-250, 254-259).

In spite of Hong Kong’s status as a British colony for 155 years, very small percentage of the residents in Hong Kong choose to accept themselves as British, though many of them may have British passports. The bulk of the population choose “Hong Kong local identity” or “Chinese Hong Konger identity”. The rise of localism could be seen from the percentage of Hong Konger identity in the surveys shown in Table 1.

As shown in the table, those accepting their identities as “Chinese” never exceeded 40%, and the fact that they exceeded 30% for three years could be explained by the economic and medical assistance sent by Beijing during the SARS-affected years. Since CY Leung became the CE, the ratio declined to 10 plus %, the record low percentage. Most of the years since the Handover, the combined number of those identifying themselves as Hong Kongers and Hong Konger in China exceeded 60%, with the percentage reaching a new high in recent years.

From the second half of 1997 to the first half of 2008, the percentage of those claiming to be Hong Kongers and Chinese Hong Kongers decreased gradually, and those claiming to be Chinese and Hong Kong Chinese increased to a new high, at times almost to half. However, it is apparent that 2008 – the year of the Olympics held in Beijing – was the landmark year and thereafter the percentage declined. The relatively high acceptance of the Chinese identity in these periods was due to, on the one hand, the absence of intervention on the part of Beijing, such as the successful withdrawal of the Article 23 and, on the other hand, the increasing vibrant activities of civil society.

Table 1 The survey on the question: You would identify yourself as a Hongkonger / Chinese in Hong Kong / Hong Konger in China / Chinese (per poll)

調查日期	樣本人數	次樣本人數
Date of survey	Total Sample	Sub-sample
15-18/6/2015	1003	678
10-16/12/2014	1016	660
6-12/6/2014	1026	660
9-12/12/2013	1015	628
10-13/6/2013	1055	677
14-17/12/2012	1019	687
13-20/6/2012	1001	560
12-20/12/2011	1016	541
21-22/6/2011	520	520
13-16/12/2010	1013	1013
9-13/6/2010	1004	1004
8-11/12/2009	1007	1007
8-13/6/2009	1002	1002
9-12/12/2008	1016	1016
11-13/6/2008	1012	1012
11-14/12/2007	1011	1011
8-12/6/2007	1016	1016
6-12/12/2006*	1011	1011
13-15/6/2006*	1018	1018
9-14/12/2005	1017	1017
6-8/6/2005	1029	1029
6-9/12/2004	1007	1007
7-11/6/2004	1027	1027
10-14/12/2003	1059	1059

調查日期	樣本人數	次樣本人數
Date of survey	Total Sample	Sub-sample
13-18/6/2003	1043	1043
1-4/3/2003	1035	1035
13-18/12/2002	1026	1026
2-5/9/2002	1017	1017
4-5/6/2002	1067	1067
12-13/3/2002	1024	1024
7-9/12/2001	1052	1052
13-21/9/2001	1025	1025
1-5/6/2001	1053	1053
22/3-2/4/2001	1014	1014
4-12/12/2000	1040	1040
21-25/9/2000	1087	1087
7-8/6/2000	1074	1074
6-7/4/2000	570	570
1-2/2/2000	566	566
13-15/12/1999	529	529
26-27/10/1999	535	535
6/8/1999	596	596
8/6/1999	538	538
15/4/1999	527	527
8-9/2/1999	513	513
21/12/1998	544	544
29/9/1998	517	517
14/8/1998	526	526
22-24/6/1998	1042	1042
3-4/6/1998	544	544
8-9/12/1997	500	500

調查日期	樣本人數	次樣本人數
Date of survey	Total Sample	Sub-sample
28-29/10/1997	536	536
23-24/9/1997	512	512
26-27/8/1997	532	532

Table 1 (continued)

調查日期	香港人	中國的香港	香港的中國人	中國人
Date of survey	Hongkonger	Hongkonger in China	Chinese in Hong Kong	Chinese
15-18/6/2015	36.3%	27.4%	13.1%	22.1%
10-16/12/2014	42.3%	24.3%	15.0%	17.8%
6-12/6/2014	40.2%	27.1%	11.6%	19.5%
9-12/12/2013	34.8%	27.6%	15.0%	21.8%
10-13/6/2013	38.2%	24.3%	12.0%	23.0%
14-17/12/2012	27.2%	33.1%	16.1%	21.3%
13-20/6/2012	45.6%	22.8%	11.5%	18.3%
12-20/12/2011	37.7%	25.3%	17.8%	16.6%
21-22/6/2011	43.8%	21.3%	10.3%	23.5%
13-16/12/2010	35.5%	27.6%	13.8%	21.1%
9-13/6/2010	25.3%	31.3%	14.8%	27.8%
8-11/12/2009	37.6%	23.9%	13.1%	24.2%
8-13/6/2009	24.7%	32.0%	13.3%	29.3%
9-12/12/2008	21.8%	29.6%	13.0%	34.4%
11-13/6/2008	18.1%	29.2%	13.3%	38.6%
11-14/12/2007	23.5%	31.5%	16.0%	27.2%
8-12/6/2007	23.4%	31.8%	16.7%	26.4%
6-12/12/2006*	22.4%	24.3%	20.1%	31.8%

調查日期	香港人	中國的香港人	香港的中國人	中國人
Date of survey	Hongkonger	Hongkonger in China	Chinese in Hong Kong	Chinese
13-15/6/2006*	24.8%	25.1%	14.9%	34.6%
9-14/12/2005	24.8%	26.5%	16.9%	30.7%
6-8/6/2005	24.0%	21.2%	14.7%	36.4%
6-9/12/2004	25.9%	23.1%	16.2%	31.6%
7-11/6/2004	28.0%	21.2%	14.3%	33.0%
10-14/12/2003	24.9%	23.4%	15.6%	32.5%
13-18/6/2003	36.7%	19.2%	11.9%	29.0%
1-4/3/2003	28.5%	22.3%	15.0%	32.3%
13-18/12/2002	31.1%	21.3%	14.3%	29.7%
2-5/9/2002	28.9%	22.0%	15.0%	32.5%
4-5/6/2002	32.2%	18.1%	13.0%	32.5%
12-13/3/2002	27.5%	23.3%	17.9%	28.3%
7-9/12/2001	31.9%	20.5%	10.4%	31.5%
13-21/9/2001	26.1%	27.9%	17.6%	25.8%
1-5/6/2001	36.1%	18.3%	13.3%	28.4%
22/3-2/4/2001	31.4%	21.7%	16.0%	28.2%
4-12/12/2000	35.6%	19.1%	13.8%	25.2%
21-25/9/2000	37.0%	26.8%	14.5%	17.4%
7-8/6/2000	35.5%	22.9%	14.0%	22.8%
6-7/4/2000	38.7%	21.4%	14.2%	20.4%
1-2/2/2000	38.3%	23.2%	19.5%	13.8%
13-15/12/1999	39.0%	20.9%	17.2%	19.9%
26-27/10/1999	31.2%	23.7%	16.2%	25.5%
6/8/1999	30.3%	23.3%	17.5%	25.3%
8/6/1999	39.9%	25.0%	11.2%	17.0%
15/4/1999	43.4%	20.0%	13.1%	18.0%
8-9/2/1999	41.0%	20.9%	15.3%	17.6%

調查日期	香港人	中國的香港人	香港的中國人	中國人
Date of survey	Hongkonger	Hongkonger in China	Chinese in Hong Kong	Chinese
21/12/1998	40.7%	22.3%	15.1%	17.2%
29/9/1998	39.4%	22.9%	15.5%	20.6%
14/8/1998	29.7%	25.2%	19.6%	22.0%
22-24/6/1998	30.2%	18.0%	16.1%	31.6%
3-4/6/1998	34.2%	18.6%	18.7%	24.8%
8-9/12/1997	35.8%	22.9%	18.9%	18.2%
28-29/10/1997	36.6%	22.6%	20.1%	17.5%
23-24/9/1997	36.2%	24.2%	20.3%	17.5%
26-27/8/1997	34.9%	24.8%	20.1%	18.6%

Table 1 (continued)

調查日期	混合身分	其他 (請列明)	唔知 / 難講
Date of survey	Mixed Identity	Other	Don't know / hard to say
15-18/6/2015	40.5%	0.3%	0.8%
10-16/12/2014	39.3%	0.6%	0.0%
6-12/6/2014	38.7%	0.2%	1.3%
9-12/12/2013	42.6%	0.8%	0.1%
10-13/6/2013	36.3%	1.1%	1.6%
14-17/12/2012	49.2%	0.6%	1.7%
13-20/6/2012	34.3%	1.1%	0.7%
12-20/12/2011	43.1%	0.6%	2.1%
21-22/6/2011	31.7%	0.4%	0.6%
13-16/12/2010	41.4%	0.4%	1.5%
9-13/6/2010	46.0%	0.4%	0.5%
8-11/12/2009	37.0%	0.2%	1.0%

調查日期	混合身分	其他 (請列明)	唔知 / 難講
Date of survey	Mixed Identity	Other	Don't know / hard to say
8-13/6/2009	45.3%	0.2%	0.4%
9-12/12/2008	42.6%	0.5%	0.7%
11-13/6/2008	42.5%	0.1%	0.7%
11-14/12/2007	47.5%	0.7%	1.1%
8-12/6/2007	48.5%	0.3%	1.4%
6-12/12/2006*	44.4%	0.6%	0.7%
13-15/6/2006*	40.0%	0.3%	0.3%
9-14/12/2005	43.4%	0.0%	1.1%
6-8/6/2005	35.9%	0.5%	3.3%
6-9/12/2004	39.3%	0.4%	2.8%
7-11/6/2004	35.5%	0.4%	3.1%
10-14/12/2003	39.0%	0.3%	3.3%
13-18/6/2003	31.1%	0.7%	2.5%
1-4/3/2003	37.3%	0.3%	1.6%
13-18/12/2002	35.6%	0.6%	3.0%
2-5/9/2002	37.0%	0.4%	1.2%
4-5/6/2002	31.1%	0.4%	3.9%
12-13/3/2002	41.2%	0.0%	3.0%
7-9/12/2001	30.9%	0.3%	5.4%
13-21/9/2001	45.5%	0.4%	2.1%
1-5/6/2001	31.6%	0.0%	3.8%
22/3-2/4/2001	37.7%	0.4%	2.3%
4-12/12/2000	32.9%	0.9%	5.5%
21-25/9/2000	41.3%	0.4%	3.9%
7-8/6/2000	36.9%	0.7%	4.1%
6-7/4/2000	35.6%	0.2%	5.1%
1-2/2/2000	42.7%	0.5%	4.6%

調查日期	混合身分	其他 (請列明)	唔知 / 難講
Date of survey	Mixed Identity	Other	Don't know / hard to say
13-15/12/1999	38.1%	0.2%	2.8%
26-27/10/1999	39.9%	0.7%	2.6%
6/8/1999	40.8%	0.3%	3.2%
8/6/1999	36.2%	0.6%	6.3%
15/4/1999	33.1%	0.4%	5.1%
8-9/2/1999	36.2%	1.2%	3.9%
21/12/1998	37.4%	0.6%	4.2%
29/9/1998	38.4%	0.4%	1.2%
14/8/1998	44.8%	0.2%	3.2%
22-24/6/1998	34.1%	0.4%	3.8%
3-4/6/1998	37.3%	0.2%	3.4%
8-9/12/1997	41.8%	0.2%	3.9%
28-29/10/1997	42.7%	0.2%	3.0%
23-24/9/1997	44.5%	0.2%	1.6%
26-27/8/1997	44.9%	0.4%	1.3%

Source: The University of Hong Kong, public polling <<http://hkupop.hku.hk/english/popexpress/ethnic/eidentity/poll/datatables.html>> (accessed on 16 June 2015).

More stunningly, in a survey conducted by the undergraduate publication (*Undergrad* / 學苑) by the University of Hong Kong Student Union, on the item of political nationalism (on the political system that Hong Kong should adopt), 68% accepted “One Country, Two Systems” but 15% accepted “Hong Kong should become independent”. On the question of referendum on whether Hong Kong should become independent, 37% said that Hong Kong should become independent even if Beijing rejects the result; 42% would accept if

Beijing accepts the result (*Undergrad*, HKUSU, 2014: 78). Besides, 48% accepted as “localists” and 15% as “pan-Chinese nationalists”. (*Undergrad*, HKUSU, 2014: 20-21). In a more recent survey about the ethnicity of Hong Kongers, 48% admitted themselves as Hong Kongers, and among those aged between 18 and 29, 65% claimed themselves as Hong Kongers. More stunning is that only 3% of this group of young Hong Kongers admitted that they are Chinese.¹⁹

After 2003, civil society became more vibrant and developed to have organized social movements that were associated with the development and wakening of localism or nativism: e.g. 2004-2006, environmental groups protesting the demolition of the Lee Tung Street (利東街) in Wan Chai (灣仔); 2003, against Article 23; 2003, protecting Victoria Harbour movement; 2006, against demolition of Star Ferry Pier (天星碼頭); 2007, protecting Queen Mary Pier; 2008/9, against High Speed Railway; 2012, anti-National Education curriculum campaign; 2013/14, against Northeastern Territories movement; early 2015, against anti-parallel traders (反水貨客示威) in areas such as Sheung Shui (上水), Fanling (粉嶺), Yuen Long (元朗), etc. At the same time, they were nostalgic about the colonial past: hoisting of the British flag. The so-called post-80s generation has played an increasingly prominent role in the local social movements. As one scholar remarked, “Post-80s are young people who doubt the rationality of the existing institutional design ... They are not satisfied with the existing political order and demand the government to tackle issues such as rising property prices, the gap between rich and poor, cultural heritage and road map of democracy development.” (Lau, 2014: 386)

However, after the successful hosting of the Olympics in 2008, China began to tighten its grip on dissenting voices internally. In May 2008, strong earthquake shook Sichuan Province and thousands of high and primary school students died because of collapsed school buildings

and this attracted large amount of donation from the Hong Kong public. Bribery and embezzlements of officials dealing with the building construction materials were revealed but the investigators probing into these cases were prosecuted and found guilty of subversion of the State and were imprisoned by the PRC (Li, 2013: 214-215). Furthermore, in 2010, it was found that poisoned milk product endangered thousands of lives of children and corruption was involved through the collusion of businessmen and officials again. Zhao Lianhai (趙連海), a Beijing resident whose child suffered the same fate tried to organize groups to investigate the case but he was arrested and imprisoned. He was finally released due to the intervention of the Hong Kong NPC deputies. Another case was that of Li Wangyang (李旺陽) who was imprisoned for his pro-democracy activities during the June 4 crackdown. In May 2012, he was released after 22 years in jail. The next day, he received interview by a journalist from Cable TV Hong Kong (香港有線電視) and was broadcast. However, the next day he was found dead in suspicious conditions. The official source proclaimed the cause of his death as “suicide”. The imprisonment of the Nobel Peace Prize laureate Liu Xiaobo in fact stunned the world in 2010. These cases angered the Hong Kong public and yet they felt desperate and frustrated because they were powerless to stop such cases of injustice. The death of Liu in July 2017 and the PRC’s subsequent arrangement of his funeral certainly alienated the Hong Kong public from the regime. The PRC was perceived to be a completely corrupted and arrogant party/state without any sense of justice. The negative images of the PRC have contributed to the alienation of the great bulk of the young population and the severing of their identities from being “Chinese”. Among them, the “independence” views of Hong Kong emerged (Li, 2013: 52-77), e.g. Hong Kong Indigenous, Youngspiration, etc. that advocate total independence of Hong Kong (*Undergrad*, HKUSU, 2014).

6. Theoretical Discourse: Independence vs Self-Determination

The Chinese official view of the present status of Hong Kong is as an inalienable part of China, that 1C2S has been implemented successfully and that the Basic Law should be correctly understood and implemented.²⁰ Official view aside, there are two prevalent theoretical discourses on the political status of Hong Kong, one “self-determination” and the other “independence”, both criticized by the PRC officials as the “independence” school of thought. The “self-determination” approach champions the view that the concept of the 1C2S should be defined as clearly as possible and the genuine implementation of the 1C2S faithfully should be able to guarantee the real high autonomy of Hong Kong. The Chinese official narrative is a distortion of the Basic Law. The CCP Party/state would not and should not meddle with the internal affairs of Hong Kong. Hong Kong has a lot of competitive edge in the global competition, as evidenced by the fact that Hong Kong was one of the “Little Asian Tigers” from early 1970s to mid-1990s. Even now, Hong Kong is still one of the world’s financial centres and hubs, which provides important bargaining powers in handling mutual relationship. The relations between 1C and 2S is that the two systems are really equal and one-sided integration by Mainland of Hong Kong will in fact kill the goose that lays the golden egg and harm both sides. Hong Kong and Mainland are reciprocally benefited. By using the simplified Chinese characters, the CCP has destroyed totally Chinese traditional culture. China has become a nation of deception. Moral degradation pervades the society. With the high arena of autonomy, Hong Kong should have independent financial, fiscal, social and education policies, which should enable Hong Kong to develop a new kind of Chinese culture, social values and norms which have been intoxicated by the Party/state’s crony statism. Left alone,

Hong Kong should be able to develop a self-sufficient political/economic/social entity (e.g., see: Chin, 2015: 166-174, 196-200, 228-254). In fact, this view accepts that a “Federal Republic of China” could be established (*ibid.*: 224).

The “independence” narrative, however, wants to have total separation from Mainland China. They want complete independence and the Basic Law to be abolished and Hong Kong to have its own constitution. Ethnically, Hong Kongers are part of Chinese but this does not mean that Hong Kong could not become an independent country. Singapore is a good example. As a sovereign nation-state, Singapore has 85% of ethnic Chinese. The importance of the 155-year rule by the British could hardly be understated, which has transformed the colony and shaped a new “Hong Kong nation” which may be historically linked to China ethnically and culturally, but has developed a new distinctive culture of its own under the British rule. To safeguard and preserve these values and norms, political independence is a guarantee. Modern Chinese authoritarianism, in fact, is a mixed product of the collusion of Marxism/Leninism and traditional despotic feudalism. This narrative is attempting to construct a history of a distinctive Hong Kong “nation” (Tsui, 2015).

However, what both schools lack in discussion is a strategy of disentanglement by Hong Kong from the Chinese mainland, since the economic and social integration between the two places have been going on for so long and they have now almost become inseparable. Hong Kong comes to be so dependent on mainland China that probably its survival would be at stake if it were to be separated from China. Most significant of all, will the PRC politically tolerate such separation? With Chinese media repeatedly express critically towards the “independence” views, could the CCP party/state simply stand and watch the drama unfold? Certainly not. On 30 July 2015, the PLA for the first time

conducted a military exercise fighting against the separatists/terrorists in the urban area and invited more than 500 guests to watch the drill, including the Vice-Chancellor Joseph Jao-Yiu Sung (沈祖堯) of the Chinese University of Hong Kong.²¹ Recently, on the occasion of the twentieth anniversary of the Handover, the visit by *Liaoning* (遼寧艦), China's only aircraft carrier, to Hong Kong and Xi Jinping's inspecting the Hong Kong garrison of the People's Liberation Army at the biggest military parade in Hong Kong since the Handover both aim to show the Hong Kongers the presence of strong military force. I believe that China has no hesitation in cracking down on the separatist movement in Hong Kong if they become uncontrollable.

7. The Prospect

Amidst the struggles fighting for the realization of "universal suffrage" in Hong Kong, the politics of democratization unavoidably become tainted with a touch of the politics of identities. Theoretically, it is easy to define the concept of nation-state which is composed of four elements: land, people (nation), government and sovereignty. National identity can be defined as collective consciousness or psychological state of mind which shows affinities with the land where the residents live or were born. It could be created, shaped and reinforced objectively by a variety of factors, such as culture (pattern of living), religion, language, history, geographical location, social norms and mores, etc. Nowadays, it is difficult to find nation-states with only one homogenous nation. However, empirically, whether a nation could evolve into an independent nation-state depends on many factors, particularly political situations/conditions, and very often geopolitics. For example, Jews spread all over Europe until the state of Israel was founded in the Middle East after the World War II. Scotland has joined the United Kingdom for

more than two centuries but the Scottish still want to become an independent nation-state.²² Tibet is a distinctive nation and the Tibetan ethnicity is different from the Han nation in coastal China but Tibet is denied independence by the PRC. On the contrary, a nation-state could become a “melting pot” of many nations, notably USA. Australian and British governments have also been implementing “policies of multiculturalism”.

I would argue that, in an interconnected world, the establishment of an independent nation-state or the success of the nation-building movements depends not so much on adequate theoretical exposition of the components concerned but rather on the political power involved. It is power manoeuvring of the various parties that would ultimately pave the way for the emergence of an independent nation-state.

Take Taiwan as an example. It is an outlying island outside southern China. The more than 150 km wide Taiwan Strait (臺灣海峽) separates the island of Taiwan from continental China. In the 17th, 18th and 19th centuries, the island was repeatedly occupied by the Portuguese, Spanish and Japanese. In 1894, the Qing (清朝) government ceded the island to Japan after its defeat by Japan which colonized the island for 50 years until the end of the World War II in 1945, when Japan surrendered the island to China (Republic of China under Kuomintang / 國民黨). The Taiwanese people were happy to be back to China. However, the independence movement began to emerge in 1947, when the 2.28 (28 February) massacre was committed by the Kuomintang (KMT) army in Taiwan on Taiwanese elites and public.²³ Since then the movement has never subsided and in the past three decades, because of the democratization of the political system, the views of “independence” were articulated openly and even gained popularity. During the tenure of President Chen Shui-bian (陳水扁, 2000-2008) from the Democratic Progressive Party (DPP, 民主進步黨 / 民進黨), in fact, an

“independence” line of policies was pursued but it was fiercely opposed by the PRC. It is still part of the political platform of the DPP, formerly opposition but currently the majority ruling party in Taiwan.²⁴ Is it possible to establish a “Republic of Taiwan”? The textbook four components of a nation-state are all available. If not for the strong objections of the PRC, given Taiwan’s large population (24 million), land area (more than 34, 000 sq. km), democratic politics, legitimate government and standing armed forces, it could have evolved into an independent nation-state. Similar argument can be made for Tibet as well.

The CCP has labelled Hong Kong’s “independence” movement as one of the four independence movements in contemporary China, the others being the Tibetan, Taiwanese and Xinjiang independence movements. Evidently, Hong Kong’s movement is in essence different from the other three independence movements.²⁵ In terms of geographical size, Hong Kong is the smallest among the four areas, though in terms of demography Hong Kong is the second – with 7.5 million of population, it is second to Taiwan with a population at 23 million. Comparatively Tibet and Xinjiang have small populations. More significantly, there are differences in terms of the ethnicity of the people. While the Hong Kongers and Taiwanese mainly belong to the Han (漢) ethnic groups, living in the central/eastern coastal provinces, Tibet and Xinjiang are ethnically distinct. With regard to foreign influence, the four areas have different degrees of involvement with foreign countries. The exiled Tibetan government led by the 14th Dalai Lama, Tenzin Gyatso, was supported by most of the Western countries, and Xinjiang’s independence movement has links with radical Islamic movement in Central Asia. Hong Kong and Taiwan were once colonies of the United Kingdom and Japan but now maintain little contact with the former colonial masters; nevertheless, culturally the two former colonies

inherited most of the latter's civic value systems. It would not be wide of the mark to say that the two places have spiritual affinity with the former masters. As one of the global financial centers, Hong Kong has the deepest foreign contact among the four places. The USA, the only superpower in the world, supports the existing systems in Hong Kong and Taiwan, while having relatively little influence in Tibet and Xinjiang.

The weakness of Hong Kong's so-called "independence" movement is obvious. It lacks organized power and, furthermore, it does not have strong social basis. Organizationally, it is doubtful if it can even be called a movement; rather it represents scattered voices expressed in the academic venue and articulated by a number of social groups with "independence" leanings, and shared by the younger generation. The lack of theoretical narratives is not important when compared to the lack of strong social basis. After all, 95% of the population in Hong Kong are Han Chinese. Since the Handover, more than 1 million mainlanders have moved into Hong Kong (formal daily quota for immigrants from the mainland is 150), excluding informal immigration with different visas and direct entry to Hong Kong by the personnel sent by Beijing. There are also traditional "leftist" (pro-Maoist/pro-PRC) supporters and they account for about 40% of the whole population, which are the "iron votes" of the pro-government legislators. The "leftist" traditional roots were too strong with Mainland China.

More significantly, it is doubtful how many conventional pan-democracy political parties will support the "independence" views. Many pro-democracy parties were attacked by younger proponents of independence as "pan-ethnic Chinese chauvinism". On the other hand, Beijing will do everything possible to counterattack the trend. The 5th interpretation of the Basic Law is one of the measures. Hong Kong government could legislate legitimately, as required by the Basic Law,

the national security laws which include anti-secession and treason laws and could subsequently outlaw all “secession” activities. The lack of international institutional support is another weakness. Officially, both the USA and UK governments support the policy of 1C2S, therefore it is hardly possible to intervene in Hong Kong’s internal affairs institutionally. Although there are still a number of non-governmental organizations (NGOs) operating in Hong Kong and Hong Kong’s links with international organizations are still strong, considering the close connections economically such as the imports of foodstuffs from the mainland, the water and electricity supply from Guangdong Province etc., it is unrealistic to support the option of “independence”. The prospect for success of the “independence” movement is dire. However, I firmly believe that liberal values have been embedded in the structure of the Hong Kong society. The CCP Party/state might wish to reshape Hong Kong but, in essence, Hong Kong will be different from China’s other cities in terms of civic sense, openness of mindset, degrees of social and economic freedom, and vibrancy of the civil society.

Notes

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1. The other three lawmakers were Nathan Law Kwun-chung (羅冠聰), Lau Siu-lai (劉小麗) and Edward Yiu Chung-yim (姚松炎). Edward Yiu was elected in the functional constituency, while the other three elected in the geographical constituencies.
2. The Basic Law stipulates that for the bills proposed by legislators in order to become laws, the bills need to be passed by a majority of votes in both chambers: chamber of members elected by functional constituencies (indirect elections) and chamber of members elected by geographical constituencies (direct elections). After the LegCo election in September 2016, the pan-democratic/localist camp has a majority of 19 versus 16 in the chamber of direct elections. For the bills proposed by the government, a majority of votes for the whole LegCo is required.
3. A term to describe young people who were involved in the UM and who organized various “post-UM” organizations. The civic activism displayed by these organizations energized social climate and galvanized other groups to participate in the District Council elections in November 2015.
4. 《亞洲週刊》 [Asia weekly], 6th December 2016, pp. 22-28.
5. Edward Leung, who was a philosophy student in the University of Hong Kong, was going to play a prominent role in the Mongkok riots in early 2016 and later he was charged with “rioting” by the police. He repented after he was charged and admitted he made mistakes, ever since he disappeared from the public scene.
6. For the details of the election outcome, see <http://www.elections.gov.hk/legco2016/eng/rs_gc.html?1500851696209>.
7. To ensure his sincerity, Deng Xiaoping (鄧小平) once said in public that if “fifty years were not sufficient, it could be additional fifty years ...” and “We want to create several Hong Kongs in mainland” etc.

8. The document said that “The Chief Executive will be appointed by the Central government on the basis of elections or consultations to be held locally”.
9. The late Lu Ping (魯平), former director of Hong Kong and Macau Affairs Office of the State Council (國務院港澳事務辦公室), once said that the development of the electoral system in Hong Kong would be purely an internal matter for the HKSAR government in the early 1990s, when Britain and the PRC were negotiating the electoral arrangement in post-handover HK. Historical development has proved that Beijing government lied at that time.
10. Tung Chee-hwa resigned in the second term with two years left and was succeeded by Donald Tsang. It was argued in legal professional whether the remaining two years of Tung’s second term is a full term or not. The NPCSC interpretation is that the two years should be counted as a full term. Consequently, Donald Tsang served seven years until 2012.
11. *Apple Daily* (蘋果日報), 21st November 2011; *Ming Pao* (明報), 24th November 2011. *Apple Daily* reported that in the district of Mei Foo (美孚), in one unit, there were 7 families and 13 voters. *Ming Pao* reported that the registered voter in fact did not live in the district registered as residence.
12. This functional constituency, in fact, is partially a kind of direct elections”, for the members were nominated by the District Councilors who were returned directly by the eligible voters territory-wide.
13. *Apple Daily*, 1 September 2014.
14. *Apple Daily*, 31 July 2014.
15. For the full display of the events of the 79 days, see: Au Ka-lun (2014). *Under the umbrella* (in Chinese). Hong Kong: Enrich Publishing Ltd. For comments and feelings of the participants, see: Lam Man-wing (2015). *The 79 days that disappeared*. Hong Kong: Isiaash Publisher.

16. The unprecedented violence was exhibited by the police in one of the placards during the demonstration, which says that “if you don’t disperse, we’ll open fire”. The police did plan to fire; somehow they did not because, according to insiders’ story, Xi Jinping, General Secretary of the CCP, gave the HKSAR government the bottom line, “no concessions, no bloodshed”.
17. I have talked to three young social activists who unanimously reckoned that the first time that the “dragon lion flag” was hoisted in public was in the 1 July 2011 street marches. The “dragon lion flag” was not exactly like British colonial flag, with little changes and it was first designed by a group called Hong Kong Autonomy Movement (香港自治運動).
18. Some would argue that localism could be dated back to the end of the 19th century (Kong, 2015: 173-174); see also Tsui (2015: 133-134).
19. <<https://www.hkpop.hku.hk/english/popexpress/ethnic/>> (accessed on 10 July 2017).
20. Xi Jinping’s recent speeches in Hong Kong in the occasion of the twentieth anniversary of unification of Hong Kong with Mainland (《亞洲週刊》 [Asia weekly], 16 July 2017, pp.24-30).
21. *Ming Pao*, 31/30 July 2015.
22. On 18 September 2014, Scottish residents cast vote in a referendum on whether Scotland would be independent. The result was that 55.3% voted no, 44.7% said yes.
23. The massacre nearly eliminated the entire elite of more than 20,000 people. The 2.28 events were rehabilitated by the Taiwanese government in the mid-1990s and the KMT apologized to the Taiwanese people, but the wounds never healed.
24. A detailed history of Taiwan Independence movement is provided by Chen (2015).
25. *Ming Pao*, 30 September 2015.

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**Social Construction of National Reality:
Chinese Consciousness versus
Hong Kong Consciousness**

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Abstract

The struggle to break away from the parent state and claim for independence often results in political unrest, terrorist activities and even ethnic cleansing. In East Asia, the hostilities between people from Hong Kong and mainland China also intensify rapidly in recent years. The late 2000s and early 2010s witness a surge in anti-Mainlander sentiment in Hong Kong and a call for self-determination, resulting in a series of political upheavals. In literatures, irredentist and secessionist advocates generally defend themselves in terms of common blood, race and culture. None of them regards the issue from human agency theory. This paper has two objectives. Firstly, based largely on the works of Max Weber, W.I. Thomas, Alfred Schutz and Peter Berger, this paper constructs a theoretical framework, namely, the social construction of national reality, which allows us to explain the origin of national identity

and the reason for people to call for autonomy or secession. It will argue that collective consciousness originates from everyday life experience taken for granted during socialization. Individuals make sense of the external world. Experiences taken for granted become the actor's stock of knowledge. A common scheme of knowledge shared by the community serves to differentiate in-group (nationals) and out-group (foreigners). Collective consciousness thus defines national identity and hence a nation. Unless people (both in-group and out-group) interact with and learn from each other, different stocks of knowledge taken for granted will create conflict. This theory is applied to explain growing Sinophobia in Hong Kong. The confrontation between traditional Chinese consciousness and emerging Hong Kong consciousness undermines the peaceful coexistence among Hongkongers and Mainlanders, unless both parties redefine their stock of knowledge via dynamic learning. The paper concludes that in order to reduce the conflicts in the regions, understanding the origins of collective consciousness and national identity can help formulate an appropriate policy to resolve growing tensions between Hong Kong and mainland China.

Keywords: *social construction of reality, mainland China, Hong Kong, national identity, collective consciousness, secessionist movement, autonomy*

1. Introduction

In Hong Kong, recent opinion polls show that Hong Kong identity has been surging while Chinese identity has been fading among Hong Kong residents, particularly among the youth¹. Tensions between people from Hong Kong and mainland China develop rapidly in recent years since

the handover of Hong Kong's sovereignty to China in 1997. Growing anti-Mainlander sentiment surges since the late 2000s and early 2010s. In particular, on 5 February 2011, mainland tourists were verbally abused by a Hong Kong tour guide. There were attacks on parallel traders in border communities such as Sheung Shui (上水) and Tuen Mun (屯門) since 2012. The supporters of the Hong Kong soccer team jeered when the Chinese national anthem was playing in the matches between Hong Kong and Bhutan, Hong Kong and the Maldives respectively.

We would ask why some people in Hong Kong want to detach themselves from mainland China and call for an autonomous territory, and why Sinophobia² is growing rapidly in Hong Kong. These issues are extremely important. Understanding the nature of the issues does not only help us avoid conflict and violence, but also can maintain global peace. Unfortunately, the nature of the issues has not been properly addressed. This paper has two objectives. It first constructs a theory, namely, the social construction of national reality, which allows us to explain the origin of national identity and the reason for people to struggle for independence. It then applies the theory to growing Sinophobia in Hong Kong. This paper starts with a review of various arguments against secessionist movements (Section 2), followed by a theory of social construction of national reality (Section 3). The theory will be applied to the tensions between Hong Kong and mainland China (Sections 4-5). This paper argues that upheavals in Hong Kong are originated in the conflict of two kinds of identity, namely traditional Chinese consciousness and emerging Hong Kong consciousness. Summary will be presented in Section 6.

2. A Review of Arguments against Secessionist Movements

In this section, we review some arguments commonly used by unificationists to reject autonomy and secessionist movements. In particular, many arguments adopted by unificationists in the debates are rather weak.

2.1. Historical Determinism

One argument against autonomous or secessionist movement is historical determinism (Rigger, 1997). According to this argument, “what was once part of a nation, however briefly, is always part of that nation”.³ Hence, secessionist campaign leading to a breakup of a country should be condemned. This argument builds on the premise that the past is always right and the world will never change. This history-as-destiny perspective obviously cannot stand on its own. By this argument, perhaps Germany should be part of Austria or Hungary, and Yugoslavia part of Turkey.⁴ A well-known Chinese saying is illuminating on this issue: “the empire will fall apart if staying together for too long; and it will re-unite once again if it separates for too long”.

2.2. Common Blood, Race and Ancestry

Irredentist advocates argue that people with common blood, ancestry and race should stay together as one nation and not be separated. Hence, by this primordial argument, those diaspora descendants who are temporarily settling away from their motherland should be reunified with the homeland once again in future. This argument occupies a significant place in China. Being proud to be “the descendants of the dragon”, Chinese people are told not to let their nation down. It is a betrayal of their ancestors if Chinese people forget their origin and do something disgraceful to their ancestries. Sentiment is one thing.

However, using common blood, race and ancestry as a base for preventing a nation to break up is another. We find that a nation can be composed of people with different bloodlines, races and ancestries. On the contrary, people with the same bloodline, race and ancestry can belong to different nationalities. Before 1776, both the Americans and the British were regarded as Anglo-Saxon. Yet, the American colonists of the 18th century successfully broke away from the British Empire where many of them had originated (Rigger, 1997: 307-318).

2.3. Common Culture and Religion

This argument is very similar to the previous one just mentioned. People are conscious of what have been in common in cultural environment. Those with same cultural identity form a nation. Primordial ties such as kinship and religion are bonds that join and differentiate population groups (Geertz, 1963; Connor, 1978, 1993). Primordial identity is a non-rational, emotional and imagined phenomenon. If it is shared in a community, the concept of a nation will be germinated (Gellner, 1983: 55). We do not reject the significance of culture and religion in putting people together as one nation. However, we argue that common culture and religion are only a necessary but not sufficient condition to keep people together as one nation. For example, Singapore, Japan and Korea have their cultures rooted in China but they are now individual nations.

2.4. National Sentiments

Interestingly enough, one argument put forward by many Chinese irredentists is that any secessionist activity will “hurt the feelings of the people”. The logic of this argument is straightforward. The land has to be ours because we want it so badly.⁵ Any movement attempting to break up the territory is unacceptable. This national sentiment is

exceptionally strong among Chinese people. While this argument seems ridiculous, it does have its phenomenological foundation. We shall argue that if people take something for granted, and if such thing is taken away, then it will have a devastating result. The longer the history of a nation is, the stronger is the national sentiment.

Admittedly, some factors mentioned above may be partially justified in opposing secessionist movement on one hand or in explaining the birth of a new nation on the other hand. Yet, none of them views the issue from human agency theory, in particular, Weber-Thomas-Berger's social construction theory. We shall argue that a new nation is constructed largely on collective consciousness developed in people's minds. Common culture, religion, race and ancestry help cultivate such consciousness. In other words, the community defines its national identity according to social reality derived from their everyday life experiences. This national identity, originating in collective consciousness, defines a nation.

3. Towards a Theory of Social Construction of National Reality⁶

This paper formulates a theory of social construction of national reality based largely on the contributions from Max Weber, Alfred Schutz, William I. Thomas and Peter Berger. This theory is used to explain the origin of national consciousness and identity, hence the rise of a nation. We shall argue that national identity, the product of a mind construct, comes from knowledge taken for granted which is accumulated from everyday life experience during socialization.

Starting from the contributions of Max Weber (1946) and Alfred Schutz (1976), it is argued that each human action has a meaning attached to it (Weick, 1969, 1995). Furthermore, actors do not live alone but experience with the existence of other people. In other words, they

make sense out of the social world (Weick, 1969). Sensemaking implies interpretation (Weber, 1964; Goffman, 1969). In Weigert's words (1981: 74), "interpretation is a process of perceiving the other and his or her interaction within symbolic frameworks so that we can make some sense out of what the other is doing ... If we cannot make any sense out of the other's interaction, it may be that there is no sense in it, or worse, it may be that there is no sense in me". Simply put, action is intersubjective. Human agents identify similarities and distinguish themselves by the presence of the "significant others". There is no "I" without the existence of "you". Walker (1993: 174) rightly points out that "knowing the other outside, it is possible to affirm identities inside. Knowing identities inside, it is possible to imagine the absences outside". "I" is then expanded into a "we" relationship in a common environment (Schutz, 1976: 32). Human agents categorize "we" as in-group and "they" as out-group (Tajfel and Turner, 1979). This is the foundation of collective consciousness, the origin of national identity.

People act, experience and learn in their everyday lives. Everyday life experiences accumulate into a stock of knowledge for people to interpret the outside world. The stock of knowledge is gained during a process of socialization. At the beginning, a child interprets and experiences from family members. Primary social world implies familial identity. Children accept their parents without question. They take what their parents have told them and learnt from their parents. As children grow up and go to school, they learn and interact with schoolmates and teachers. They gradually experience and accept the outside world. Hence, "secondary socialization" (Berger and Luckmann, 1966) occurs. School life is not as intimate as familial relationship but more complicated and influential. After finishing school, adults enter the workforce. They spend most of their time at work. Working people socialize with their colleagues. In general, as people grow up in the same

environment, they socialize and share a common pool of knowledge. Their actions and interpretations are then socially constructed.⁷

Furthermore, the world of daily life is given to people in a “taken-for-granted way” (Schutz and Luckmann, 1989: 2). In other words, “the reality of everyday life is taken for granted as reality” (Berger and Luckmann, 1966: 37). It does not require verification. It is simply there, as self-evident and compelling fact⁸. This is the theory of social construction of reality first given by William I. Thomas and later extended by Thomas Luckmann, Peter Berger and Brigitte Berger. As early as 1928, Thomas (1923: 571-572) gave a motto on human action: “If men define situations as real, they are real in their consequences”. What people “know” and believe to be true or false is always related to their social situations. Knowledge has social effects which may have little to do with whether that knowledge is “true” or “false” in any absolute sense. Knowing the world is just like “knowing” yourself by your image in a mirror. Thus, “things are what the acting people think they are” (Kirkner, 1979: 137).

Human society is “an association of consciously purposive individuals” (Knight 1956: 124-125). Put it differently, collective consciousness is the community’s “coherent sense of common self” (Wheelis, 1958: 19). It is the origin of national identity. In other words, national identity is the perception of the difference between “we” (in-group) and “they” (out-group). A nation is the consequence of people’s subjective construction of reality. It arises out of a unified identity perceived by its people. Experience taken for granted collectively as reality is thus the fundamental source of legitimacy and power. A nation arises because people in the community share a common stock of knowledge. They accept other “they” in the community as “we”. National identity is a foundation of an independent state. In line with the concept of sovereign state given by Biersteker and Weber (1996: 11),

this paper argues that a nation is socially constructed, reproduced, reconstructed, and deconstructed. A nation, as an identity or institution, constantly undergoes change and transformation.

People within a nation share a common stock of knowledge which has its own origin and meaning. To be sure, the stock of knowledge is neither static nor homogeneous. Rather, it is “incoherent, only partially clear and not free from contradiction” (Schutz, 1976: 80). It is continuously constructed and transformed. If people of same culture, race, religion and ancestry live in two separate regions, then each group of settlers will adapt and enact to the new environments. Hence, new interpretation, experience and stock of knowledge will come into being in these two regions. Over time, a divergent pool of knowledge (or heterogeneous knowledge) will emerge in the two regions. In other words, in-group and out-group differentiation will arise. The two groups with different stocks of knowledge, when confronted, can result in conflict.⁹

Conflicting knowledge leads to either discrimination or cooperation. In case of discrimination, unless mutual interaction is constructive, people will be biased by favoring in-group toward themselves and keeping out out-group. The gap between “us” and “them” is widened. Conflicting schemes of knowledge intensify misunderstanding and prejudice (Nye, 1987). Aggressive strategies such as intervention and military action are likely adopted.

National identity is socially constructed. In the following, we shall apply the theory of social construction of identity to understand Hong Kong-mainland conflict. In order to do this, we need to understand the origins of two types of social consciousness or identity, namely Chinese consciousness and Hong Kong consciousness.

4. Hong Kong versus Mainland China

4.1. China: The Great Han Mentality and Chinese Consciousness

Chinese consciousness exhibits the Great Han mentality which evolved from history and civilization over 5,000 years ago. Ever since Qin Shi-Huang (秦始皇) became the first emperor of unified China in 221 BC, Chinese people have been educated since birth as “the descendants of the dragon” or “the children of Yellow River”. Chinese identity means searching glorious past and striving for international status (Zhang, 2004).

It is argued that Chinese consciousness and the Great Han mentality originate in Confucianism which emphasizes on elements such as humaneness (*ren* / 仁), righteousness (*yi* / 義), loyalty (*zhong* / 忠) and filial piety (*xiao* / 孝). Confucianism was given sole respect by Emperor Han Wu-Ti (漢武帝) in the Han Dynasty. Confucianism preaches five interpersonal relationships, namely “sovereign and minister”, “father and son”, “husband and wife”, “the old and the young” and, last but not least, between friends. The latter one is subordinate to the former one (superior). The violation of the five relationships is a sin as well as capital crime. Amongst the five relationships, the relationship between sovereign and minister comes the first. Chinese people have been taught to be loyal to their emperor. The ultimate loyalty can be seen in the statement that “if the emperor wants his servant to die, the servant has to die, even though the servant involves no wrongdoing”. In Chinese legends, national heroes such as Qu Yuan (屈原), Wen Tianxiang (文天祥) and Yue Fei (岳飛),¹⁰ are praised as righteous, noble, loyal and patriotic. These legends are mentioned in Chinese literature and history courses in school curriculum.

As a result of socialization, Chinese people are taught to protect the homeland when it is invaded. It is a responsibility for each Chinese to preserve China's territorial integrity and unite the nation under one empire. This spirit is taken for granted as right for a good Chinese citizen. If a nation collapses, each individual has the responsibility. It is a shame if one betrays one's motherland. Traitors are described as a disgrace and shame in history. Ever since the establishment of the People's Republic of China (PRC), China has taken its national pride¹¹. Nationalism has been widely accepted in the society due to humiliation experienced during late Ch'ing Dynasty. During the Cultural Revolution, nationalism was pushed to the peak. Chinese leaders are expected to preserve territorial integrity. If they do not defend "the sacred territory", their reputations will be tarnished in history. The mainland government insists that Taiwan, Tibet and Diaoyu Islands are integral and inseparable parts of China. It condemns any secessionist movements in the regions.

4.2. Hong Kong: From Chinese Consciousness to Hong Kong Consciousness

Hong Kong was ceded to Britain in 1842. After more than 150 years of British colonial rule, Hong Kong was handed over to the Chinese sovereignty in 1997. During the colonial period, people in Hong Kong lived in a pluralistic society. Hong Kong identity was said to be cultivated in a hybrid, complex and even ambivalent way (e.g. Wang, 1996; Lau, 1997; Mathews, 1997; Ma and Fung, 2007; Mak and Chan, 2013; Law, 2015a). This paper classifies the dynamic change in consciousness and identity of Hong Kong Chinese since 1949 into (1) the changing national identity in Hong Kong, and (2) the emergence of localism and Hong Kong consciousness.

4.2.1. The changing national identity among Hong Kong Chinese: From the Republic of China to the People's Republic of China

A. Republic of China (ROC) as national identity and anti-communism mentality

Hong Kong in the Ch'ing Dynasty was a fishing village, with the inhabitants of Chinese origin. Hence, Hong Kong was traditionally a community with Chinese consciousness. When Chiang Kai-shek (蔣介石)'s Kuomintang (國民黨, KMT) lost the Civil War and retreated to Taiwan, the KMT government continued to claim that the Republic of China (ROC) was the only legitimate government in China. After Mao's Communist Party (CCP) took over China in 1949, many Chinese in mainland China were afraid of communist rule and fled to Hong Kong. Migrants from China sojourned in Hong Kong as transient settlers. Hong Kong was regarded as a "borrowed place, borrowed time" (Hughes, 1968). Most Chinese settlers in Hong Kong at that time still hanged on to the ROC and took the KMT as their government, though they regarded their birthplace in mainland China as their hometown, with strong familial and social ties there. They supported the ROC and KMT's *Three Principles of the People* (三民主義). At that time, to most Hong Kong Chinese, Mao Zedong's communist government was illegitimate and they foresaw that the KMT would recover its sovereignty over mainland China one day. Under the influences of their parents, Hong Kong postwar baby boomers in the 1950s (Lui, 2007) continued to take the ROC as their nation. Thus, national identity of most Chinese people in Hong Kong in that period was associated with the ROC in Taiwan. National identity associated with the ROC was evidently seen in the Double Ten Festival (雙十節) in Hong Kong, the National Day of the ROC and KMT. It is reported that during the 1950s

and 1960s, many residents living in Hong Kong low-cost government housing estate, especially the Shek Kip Mei (石硤尾) area, hung the ROC flags outside their building corridors on the National Day of the ROC (Weng, 1997: 68; see also <http://weshare.hk/oceandeep3000/articles/756889> for pictures). Under the influences of the ROC and Shanghai immigrants¹², culture and entertainments in Hong Kong at that time took Mandarin as mainstream. Mandarin movies and popular songs were most welcomed in Hong Kong while Cantonese movies and songs were regarded as inferior and vulgar by Hong Kong people.

B. People's Republic of China (PRC) as national identity and anti-imperialism/anti-colonialism

The baby boomers born in Hong Kong after 1949 became the young generation in the 1970s. These teenagers, at rebellious age, searched for their self-identity. After the establishment of the PRC in 1949, China struggled with the USSR to be the hegemon in the communist world and gained popularity in world affairs. In particular, Mao's ideology of "serving the people" appealed to Chinese teenagers in Hong Kong. Many young Chinese in Hong Kong grew up with senses of Marxist anti-imperialism and anti-colonialism. They accepted Marxist ideology. They regarded American imperialism as exploitation and British colonial rule as injustice. They turned to communist China as their role model. These young people called for a movement of "knowing our motherland". Many university students in Hong Kong visited mainland China to learn communist ideology and its style of living.

Furthermore, after communist China's first nuclear weapons test was successfully launched in 1964, Chinese worldwide were full of national pride. Moreover, in 1971, the PRC replaced the ROC as a charter member in the United Nations. Richard Nixon, the President of the United States, visited Beijing in 1972 and recognized the PRC as the

only legitimate government in China. Since then, the ROC was isolated from the international community and many people in Taiwan, led by the Democratic Progressive Party, attempted to break away from mainland China. For people in Taiwan, Hong Kong had nothing related to Taiwan. As a result, the ROC moved further away from Hong Kong while Hong Kong people moved closer to mainland China. National identity of Hong Kong Chinese gradually turned away from the ROC toward the PRC. Taking the PRC as their national identity, many Chinese in Hong Kong participated in *Baodiao* Movement, i.e. “Defending the Diaoyu Islands Movement” (保衛釣魚台運動). Apart from *Baodiao* Movement, Chinese consciousness was also seen in another social movement, namely “the campaign for Chinese to be an official language in Hong Kong”.

C. The Campaign for Chinese To Be an Official Language

In Hong Kong, more than 90 per cent of residents were Chinese. However, English was the only official language. Chinese language was discriminated. A group of university students in Hong Kong organized a campaign to fight for Chinese to be an official language (1968-1971). The Campaign was said to be the first peaceful social movement in post-war Hong Kong (Law, 2015b). The Hong Kong Government announced Chinese as the official language in 1974. This campaign has three implications. Firstly, it is a reflection of Chinese consciousness and identity. Secondly, it is a form of anti-colonialism, and thirdly, it is a social movement to fight for equality and justice in the society.

In summary, in the early 1970s, the ROC’s influence on Hong Kong Chinese national identity diminished while the PRC Chinese consciousness continued to gain ground.

4.2.2. The evolution of Hong Kong core values, localism, and the emergence of Hong Kong consciousness

In this section, we shall introduce the development of Hong Kong core values, localism and the rise of Hong Kong consciousness. We roughly classify the development into two stages, the 1950s-1960s and 1970s-1980s.

Stage 1: Collective common fate in the 1950-60s

Accepting the ROC as national identity in the early days, Chinese in Hong Kong in the 1950s and 1960s, be they native or migrants from the mainland, slowly settled in the colony, though life was harsh for them. They adapted to British rule and accepted Western capitalism. Many of them lived as squatters by the hillside and made families in Hong Kong. Furthermore, postwar baby boomers in Hong Kong began to feel the city as their home. Political science scholars such as Bauer (1906/1996) and Anderson (1991) argue that national identity arises out of people sharing common life experiences. During 1949-1971, Chinese in Hong Kong went through very difficult time including Shek Kip Mei fire (1953), Typhoon Mary (1960), Typhoon Wanda (1962), riots (1956, 1966 and 1967), cholera outbreak (1961), severe drought (1963 and 1967), and Sau Mau Ping (秀茂坪) landslide (1972). Going through the same difficult time, these people regarded themselves as the same group. They began to be aware that they would join together to fight against social injustice brought about by British rule. This can be evidenced in the social protest in 1966, the first case of self-initiative social movement in Hong Kong. On 4 April 1966, So Sau-Chung (蘇守忠), a 27-year-old young man, began a one-man hunger strike at the Star Ferry Terminal in Central District (中環天星碼頭) to protest against the ferry company's

raising the fare of the ride by 10 cents. His slogan, “Join hunger strike to block fare increase” (「絕食反加價」) quickly drew a crowd of supporters. His arrest on the following day prompted thousands to take to the streets in Kowloon in violent protest. It sparked one of the biggest disturbances in Hong Kong history. Before So’s case, protests against social injustice were unheard of in Hong Kong. The incident led to the death of one person and 26 injured. Fifty years later, So Sau-Chung remarked that his actions had awakened many young people in Hong Kong and to some extent, inspired social movements in the 1970s (Cheung, 3rd April 2016). In summary, Hong Kong, the borrowed place, became a permanent place for Chinese in Hong Kong. Collective everyday life experience had profound influence on them in terms of local consciousness.

Stage 2: The making of unique Hong Kong in the “miracle age” (1970s-1980s)

The making of Hong Kong’s uniqueness can be said to be due to three main factors: The Lion Rock spirit, the rise of the popularity of Hong Kong pop culture and entertainment industries and the birth of Hong Kong core values.

A. The Lion Rock Spirit in 1970s:

Hong Kong rose as the Asian powerhouse in 1970s and 1980s. Hong Kong economic success was often regarded as a result of so-called “Lion Rock Spirit” (獅子山下精神), which meant that Hong Kong people could overcome hardship by endurance and solidarity. Hong Kong people were proud of “Lion Rock Spirit” that they could make decent living through hardworking.¹³ In the 1970s, Hong Kong was an entrepôt by laissez-faire policy whereas China was a closed centrally-planned

economy. Hong Kong adopted Western capitalism as a contrast to communism in China. As a result, Hong Kong became a safe haven from the political instabilities in China. The gap between Hong Kong and mainland China widened in economic, political, social and cultural dimensions (Mathews, 1997; Ma, 1999). It was especially apparent in the 1980s when Hong Kong was praised as East Asian “Miracle” and China was an underdeveloped country. Hong Kong people felt a sense of pride in their achievement with “superior Hong Kong mentality”. They felt that they were different from mainland Chinese. Hong Kong and China began to be perceived as belonging to different worlds (Mathews *et al.*, 2008: 33).

B. The rise of the popularity of Hong Kong Kung Fu fictions, movies and Cantopop (1970s-1980s):

The 1970s-1980s saw a rising popularity of Hong-Kong-made action movies, Kung Fu fictions, Cantopop, TV drama, among the Chinese community and, to some extent Westerners, around the globe. In particular, Kung Fu fictions written by Jin Yong (金庸) and Gu Long (古龍) and others had been translated into many languages and gained international fame. Their stories were adapted as television dramas and movies over and over in mainland China, Hong Kong and Taiwan. In Hong Kong pop music industry, as mentioned, in the 1950s, Cantopop was regarded as inferior and vulgar. However, this attitude changed in the 1970s. The first popular Cantopop, namely *The Yuanfen of a Wedding that Cries and Laughs* (“啼笑姻緣”), was launched with huge success in 1974 and became a classic, followed by Sam Hui (許冠傑), the Wynners (溫拿) and others. Cantopop, reflecting everyday life hardship of Hong Kong people, became “the voice of Hong Kong” (McIntyre *et al.*, 2002). Cantopop attained popularity even in mainland China and Taiwan, where Cantonese was not used as mother tongue. In

Hong Kong movie industry, local producers and directors produced a series of action movies, Kung Fu movies, gang movies and avant garde films.¹⁴ These films were so unique and successful that they were welcome in the international market.

As a whole, Chinese artists in Hong Kong were influenced by Western technology and used vernacular Cantonese to show common everyday lives of Hong Kong people. They imagined a society in “a process of crystallisation of a distinctly Hong Kong life-style and identity in popular cultural products” (Choi, 1990: 172).

C. The birth of Hong Kong core values: social justice, anti-corruption and the rule of law:

Through a number of social movements, Hong Kong people gradually consolidated their social values and identity which were later known as “Hong Kong core values”. In particular, anti-corruption campaign and fighting for social justice were highlighted in the “Arrest Godber” event in 1973. The Tiananmen Square Incident of 1989 in China served as a catalyst of the rise of localism in Hong Kong.

“Arrest Godber”: In 1973, Peter Fitzroy Godber, the Chief Superintendent of the Royal Hong Kong Police, accused of corruption, succeeded in sneaking out of Hong Kong, heading home to Britain. The news about his escape caused uproar among the public. People in Hong Kong took to the streets, chanting slogans of “Fight against corruption, arrest Godber”. To ease the unrest, the Government formed an independent commission to look into Godber’s escape and reviewed anti-corruption work at that time. Consequently, Godber was arrested in England on 29 April 1974 and extradited to Hong Kong on 7 January 1975. He was convicted of corruption and sentenced to four years in prison plus confiscation of HK\$25,000. His conviction and other

corruption activities in Hong Kong in the 1970s led to the creation of the Independent Commission Against Corruption in 1974 (ICAC, 1974-75). More importantly, the Godber case showed that the British government respected the rule of law and that Hong Kong people cherished a corruption-free society.

The Tiananmen Square Incident of 1989: From April-June 1989, people from across mainland China gathered in Beijing's Tiananmen Square to mourn the death of the liberal Communist Party leader Hu Yaobang (胡耀邦) and share their frustrations about the slow pace of promised reform. The gathering turned into peaceful protests which spread across the provinces of China as demonstrators, mainly students, began to call for an end to official corruption and for political and economic reforms. The students demanded democracy, greater accountability, freedom of the press, and freedom of speech. It was estimated that one million people joined the protests in Beijing to express their support for the students on hunger strike and to demand reform. The protest ended up in brutal suppression by the government army. The death toll is still unknown (Amnesty International UK, 3 June 2015).

The Tiananmen incident served as a turning point to Hong Kong people's perception of mainland China. Facing the brutal suppression by the one-party dictatorship, Hong Kong people demanded democracy, being corruption-free, social justice and liberty for their society. For those older generation in Hong Kong with Chinese consciousness, they called for ending one-party dictatorship, building democratic China and releasing dissidents. The commemoration marked "not a rejection of the Chinese nation but an embrace of the nation: their emotions were fuelled by their desire for an alternative, better Chinese nation than that proffered by the Chinese state" (Mathews *et al.*, 2008: 47). However, the

younger generation in Hong Kong distrusted the Beijing government. They looked for a more radical alternative, namely, separating themselves from the mainland. In other words, they looked for autonomy and self-determination. For them, the Tiananmen incident was an internal affair of mainland China.

Hong Kong people gradually distinguished themselves from mainland Chinese. They felt the urge to desinicize themselves. Norms associated with pro-PRC consciousness were rejected. Though traditional Chinese style of living was maintained, local values overrode the greater Chinese mentality. Hence, Hong Kong consciousness was regarded by Matthews (1997) as “Chineseness plus”. In summary, from the 1970s-1990s, Chinese in Hong Kong fought for social justice, against corruption, and were concern about social equality. This laid the foundation of what we called the core values of Hong Kong – the base for Hong Kong consciousness.

5. Conflict of Knowledge: Mainlandization versus Localization after 1997

China has become the world’s second largest economy. Pro-Beijing Chinese praised the omnipotent one-party state on economic, cultural and scientific development. They urged that China would be as powerful as imperial China in the past. The Beijing government had the responsibility to revive Chinese consciousness, maintain national unity and territorial integrity at all costs. Hong Kong was considered as a lost grandchild. China was the grandfather of the same family and welcomed Hong Kong’s kids for reunion. The central government attempted to embrace Hong Kong Chinese kids into the big Chinese family by mainlandization. For the Beijing government, China was the motherland

of Hong Kong people. The reunification of Hong Kong with China was a matter of national unity. According to the Confucian value of filial piety, grandchildren should respect and obey the senior members of the family. Hongkongers should be grateful for what the Chinese leadership offered to Hong Kong. Hong Kong was a Chinese “family business” which extended to a “national business” and brought it home with “our business” (Flowerdew and Leong, 2007: 281). Pro-Beijing Chinese expected Hongkongers to follow the Chinese leadership unquestionably. Those who sought Western values or foreign pledge to help were regarded as unpatriotic and should be condemned.

The Chinese government worked with the Hong Kong government “to mold itself in the mainland’s image” (*The Wall Street Journal*, 2016).¹⁵ It attempted to mainlandize Hong Kong by all means, including relaxing visa requirement for Mainlanders to visit Hong Kong, implicitly encouraging Putonghua (普通話) and simplified Chinese characters, and introducing Chinese history and patriotism in schools.

As the younger generation of Hong Kong built up their local consciousness from their everyday life experiences, they identified themselves as “we” and mainland Chinese as “they”. They rejected mainlandization and took Hong Kong identity as granted. When the Hong Kong government proposed national education in 2012, localists criticized it as pro-Beijing resinicization with “brainwashing” nationalistic education. They believed that mainlandization eroded the core values of Hong Kong, including freedom of speech, freedom of assembly and the rule of law. If they did not defend Hong Kong’s autonomy, Hong Kong would eventually become a “Chinese” city. Hong Kong-Guangzhou High-speed Rail symbolized the integration of Hong Kong and China. Hence, localists strove to protect the Hong Kong border and protested against its construction. As Hong Kong was an international city, localists accepted and shared common global values.

When the communist regimes collapsed in many countries in 1989, Hongkongers began to relearn universal values and adopt them into Hong Kong consciousness. Margaret Ng (吳靄儀), a renowned Hong Kong barrister, notes: “We are Chinese without being only Chinese. We can accept western civilisation without identifying with the west. We observe universal values without losing our own cultural identity”.¹⁶ (*The Guardian*, 23 March 2012). In 2014, a new “Lion Rock Spirit”¹⁷ emerged. In contrast with dictatorship in China, localists fought for democracy, liberty and human rights and endured universal values. The confrontation between mainlandization and localism was unavoidable, ending up in a street protest called “Umbrella Movement 2014” for around two months.

6. Summary

Based on the contributions of Max Weber, W.I. Thomas, Alfred Schutz and Peter Berger, this paper has constructed a theoretical framework, namely, the social construction of national reality, which allows us to explain the origin of national identity and the reason for people to call for autonomy or secession. This paper has argued that collective consciousness originates from everyday life experience taken for granted during socialization. Individuals make sense of the external world. Experiences taken for granted become the actor’s stock of knowledge. A common scheme of knowledge shared by the community serves to differentiate in-group (nationals) and out-group (foreigners). Collective consciousness thus defines national identity and hence the rise of a nation. Unless people (both in-group and out-group) interact with and learn from each other, different stocks of knowledge taken for granted will create conflict. We have applied this new theory to explain the growing Sinophobia and the call for autonomy in Hong Kong. This

paper has argued that the confrontation between traditional Chinese consciousness and emerging Hong Kong consciousness undermines the peaceful coexistence between Hongkongers and Mainlanders, unless both parties redefine their stocks of knowledge via dynamic learning. The paper concludes that in order to reduce the conflicts in the regions, understanding the origins of collective consciousness and national identity can help formulate an appropriate policy to resolve growing tensions between Hong Kong and mainland China.

Acknowledgment

An early version of this paper was delivered at the international conference on “Hong Kong & Macao SAR Youth: Identity, Citizenship Education and Civic Participation 2016”, organized by the Centre for Governance and Citizenship, Education University of Hong Kong, 17 December, 2016. We thank the conference participants for their useful comments.

Notes

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1. Public Opinion Programme, HKU. <<https://www.hkupop.hku.hk/english/popexpress/ethnic/>>, retrieved on 16 November 2016.
2. The term Sinophobia (or Chinophobia) refers to anti-Mainlander sentiment.
3. Of course, it has to be clarified on what foundation we define a territory as “part of a nation in history”. A territory in historical sense can be defined by geography, dynasty, race or an entity encompassing politics, culture and economics.
4. See Chris Wen-Chao Li’s reaction to BBC’s *Talking Point*: “Election 2000: What future for Taiwan”, 24 March 2000.
5. Badly enough, in its extreme emotionalism, Chris Li argues that “negotiating with these people will be difficult because it is like negotiating with a psychotic who does not have basic human values and who does not share your view of what is reasonable and what is not” (See

- note 4 for reference).
6. This section is adopted from Yu and Kwan (2008).
 7. As will be argued below, individuals' actions, if socially constructed under the same environment, will give rise to collective consciousness.
 8. According to Overgaard and Zahavi (2009: 97), "the life-world is the world we ordinarily take for granted, the pre-scientific, experientially given world that we are familiar with and never call into question".
 9. Other approaches argue that power, interests and resources are the sources of conflict.
 10. For the Chinese legends in details, see Yu and Kwan (2008: 48).
 11. Chairman Mao Zedong (毛澤東) addressed to the people at the Tiananmen Square that "the Chinese people have stood up!" during the establishment of the People's Republic of China on September 21, 1949.
 12. Wong (1988) argues that Shanghai immigrants contributed to Hong Kong's post-war economic growth.
 13. Lion Rock is a famous mountain in Hong Kong. It is a landmark in Hong Kong. "Lion Rock Spirit" came from a government-made television dramas called *Below the Lion Rock* (「獅子山下」) which was released in 1973. The story described Hong Kong people living under the same roof of Lion Rock during the 1970s.
 14. Movie stars such as Bruce Lee (李小龍), Jackie Chan (成龍), Chow Yun Fat (周潤發), Joey Wong (王祖賢) and Donnie Yen Chi Tan (甄子丹) were representative figures, to name a few.
 15. "An era in Hong Kong is ending, thanks to China's tight embrace" (by Ned Levin and Chester Yung), *The Wall Street Journal*, 23 September 2016. <<https://www.wsj.com/articles/an-era-in-hong-kong-is-ending-thanks-to-chinas-tight-embrace-1474647072>> (retrieved on 26 September 2016).
 16. "Hong Kong suffers identity crisis as China's influence grows: Residents fear for cultural values, with mainlanders bringing different outlook on freedom, the rule of law – and spitting" (by Vaudine England), *The*

Guardian (UK), 23 March 2012. <<https://www.theguardian.com/world/2012/mar/23/china-hong-kong-identity-crisis>> (retrieved on 8 September 2016).

17. The old Lion Rock Spirit describes how people in Hong Kong in the 1970s worked hard for themselves and the common good. The new Lion Rock Spirit demands more than just a better life. It looks for democracy, liberty, social justice and equality.

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Catholic Church-State Relations in the Hong Kong Special Administrative Region: A Review of 20 Years

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Abstract

The Catholic Church and the Hong Kong British Government formed warm relations when the Church became the contractor of the government to provide education and social and medical service. The British did not provide democracy to Hong Kong but allowed ample freedom including religious freedom which the Hong Kong Catholics would like to protect in the post-colonial period under the Communist Party rule. For religious freedom, right after Hong Kong became the Special Administrative Region (HKSAR), the Hong Kong Catholic Church under the prophetic and vocal leadership of Bishop Joseph Zen, became very active in political participation. Zen's leadership was short-lived (1996-2009) and the soft-spoken Bishop John Tong replaced him with a different approach of consolidating the church without antagonising the government with social issues.

Keywords: *Hong Kong Catholic Church, Church-state relations, political participation, Mainlandization, Vatican policy towards China*

1. Introduction: The Catholic Church and the Hong Kong British Government

The Catholic Church in Hong Kong under the British rule since the British occupation of Hong Kong in 1841 had enjoyed a harmonious church-state relationship with the local government. After the Second World War both the Catholic and Protestant churches assisted the British to provide educational, medical and social services to the influx of Chinese refugees from the Mainland to Hong Kong due to the political change in the Mainland to Communist rule. The Christian Churches were selected to provide services especially in education to children of refugees for political considerations (Sweeting, 1993: 201). The British in London, with the experience of Communist infiltration in Malaysia and Singapore during this period, invited Christian Churches which are immune from atheist Communism to provide the service with relief goods to the poverty-stricken refugees from the 50s to 70s.

The warm church-state relations between the colonial government and the Catholic Church was reflected in the “contractor relationship” for long years in providing educational, medical and social services according to government’s plan and policy apart from preventing the infiltration of Communism into Hong Kong from the 1970s until 1997 (Leung and Chan, 2004. The British traditionally did not had much respect for the Catholic Church in Hong Kong which had been administered by the Italian missionaries – the Pontifical Foreign Missions Institute – because of the Italian defeat in the WWII; however, the Catholic missionaries like the Irish Jesuits and the Irish Columban missionaries as well as the American Maryknoll Sisters and priests did provide the best kind of primary and secondary school education, medical service and social welfare. Also the cooperation of the Catholic Church with the Hong Kong British government by standing away from

the pro-China group in the 1967 Riot which was a spillover of the Red Guard (紅衛兵) hooliganism. The Christian stance indirectly helped the British Hong Kong government to resume law and order with quick speed by immediate suppression of the riot. Due to the cultural heritage of the British which is embedded with Christianity, the church and state should not have any basic ideological conflict if the Church did not poke its nose into the British colonial policy. The evangelization efforts of these Catholic missionaries were demonstrated that in 2000 there were more than 76% of government high officials who were graduated from Christian high schools¹. In reality, the Hong Kong government did not directly support Christian mission endeavor but indirectly the government gave opportunity for the building of church schools and social centres in refugee-filled area. Then these educational institutes were allowed for worship on Sundays while churches were attached and parishes were developed.

The harmonious church-state relations between the Catholic Church and Hong Kong government turned to a new page of distrust, distancing from each other, and even to the stage of conflict due to change of the political landscape of Hong Kong after 1st July 1997 when Hong Kong returned to Chinese rule becoming the Hong Kong Special Administrative Region (HKSAR).

2. Basic Problems Lying between Catholic Church and the HKSAR Government

The root problems between the Catholic Church and the HKSAR government should go back to the dispute relationship between Catholic Church and Chinese Communist government with ideological incompatibility. Firstly, it rests on the philosophical incompatibility between the atheist Marxist-Leninism plus Maoist Thought, and

religious idealism embedded in Catholicism. Secondly, the heavily institutional structure of Catholic hierarchy challenged the Chinese Communist Party (CCP) of Bolshevik tradition in which institutional control has been an important means for the success of the Communist revolution (Selznick, 1960). Thirdly, there is conflict of authority between the Catholic Church and the CCP in the question of sovereign right and national security of the Peoples' Republic of China (PRC) concerning the Chinese Catholics within the Chinese boundary (Leung, 1992; Leung and Wang, 2016). The leaders in Zhongnanhai (中南海) once remarked that the Pope and Dalai Lama were the two hard nuts difficult to crack.

Although Hong Kong since 1841 has been under the British rule and its Catholics has been excluded from the religious persecution under Maoist rule in China, yet geographical affinity between Hong Kong and the Mainland allowed Hong Kong people to obtain first-hand information on the political purges and religious persecutions of the Mainland in the Maoist era and development of the open-door policy of post-Maoist era since 1979. The fear that the religious persecution would be repeated in Hong Kong has posed another problem for Hong Kong Catholics to accept Communist rule after 1997. In the post-Maoist era since 1979, the Hong Kong Catholics have been taking up the role of bridging endeavor to cement the gap between Catholics in the Mainland and the church in the free world while offering them with provisions for the revival of religious activities. This Catholic strategy of "bridging endeavor" came from the Pope and oversea Chinese Catholics especially the Hong Kong Catholics who implemented this policy enthusiastically. However, the policy of revival of church life in China does not coincide with the CCP's religious policy in the post-Maoist era to eliminate the development of any religion (Leung, 2000a).

3. Hong Kong Catholics' Political Participation in the Political Transitional Period (1984-1997)

The Sino-British negotiations on the future of Hong Kong in 1984 resulted in agreeing to return Hong Kong to Chinese rule on 1st July 1997. The return of Hong Kong to Chinese rule changed the landscape of the Catholic Church-government relations in Hong Kong. The return Hong Kong to Chinese rule becoming the Hong Kong Special Administrative region (HKSAR) prompted the British to begin a policy of democratization in Hong Kong by introducing representative government as a means to protect Hong Kong citizens from totalitarian governance from Beijing. Hong Kong middle class and professionals first stood up for democratization when they felt that their rights and interest might be jeopardized by the totalitarian Communist rule (So and Kwiko, 1990). Hong Kong's leading Catholic laity are mostly from the middle class and among the professionals, because they graduated from the prestigious Catholic high schools. With the Chinese government's track record of persecuting religion including Catholicism in China², Hong Kong Catholics have another reason for political participation – in the name of protecting religious freedom. They believe that under the rule of the Chinese government religious freedom can only be protected with the assurance of greater autonomy of Hong Kong through greater political participation in a democratic system after the takeover (Leung and Chan, 2000). This explains why the Hong Kong Catholics' political participation did not appear during the English colonial period but has emerged in the post-1997 era. This is because while the British government in Hong Kong did not grant the Hong Kong people democracy it did grant all sorts of freedom to them including religious freedom within the framework of respecting human rights.

In fact, the Catholic Church had its own preparation for the post-1997 Hong Kong Church to face the coming of the Chinese rule. First of all, in the transitional period (1984-1997), out of fear of the drastic change in church-state relations post-1997, Hong Kong Catholic Bishop John Wu (胡振中) announced his pastoral policy for the future. Wu's pastoral exhortation – "March into the Bright future" – suggested a multi-front strategy comprising seven strategies to respond to the political change in Hong Kong beyond 1997. One of these was to have more participation in socio-political affairs with Christian principles (Cardinal John B. Wu, 1989). It spelt out guidelines for the Catholic presence in Hong Kong's political arena after 1997. The ongoing dispute between the Chinese Catholics and the Communist Chinese regime was due to the clash of teaching authority between the CCP and the Catholic Church. This continuous dispute provided incentives to Hong Kong Catholics to defend religious freedom through political participation. The Catholics believed that democratization resulted from socio-political autonomy as promised by the "one country, two systems" policy would be desirable to protect them from religious persecution in the long run.

The choice of the Hong Kong Catholic leaders beyond 1997 also reflected that the Vatican had its consideration on its relations with China. It needed church leaders to have knowledge on China to lead the Hong Kong Catholics. Cardinal John Wu, the prelate of Hong Kong Catholics, reached the age of 75 in 1995. According to the regulation of the Vatican, any local bishop reached the age of 75 should submit his resignation giving the chance for Vatican to evaluate the real situation as regards whether to continue his service or to replace him with a new hand. In the case of Hong Kong, at the ninth hour of the transition period on October 1996, the Vatican announced that Frs. Joseph Zen Ze-kiun (陳日君) and John Tong Hon (湯漢) to be the coadjutor bishop and auxiliary bishop respectively.³ The coadjutor means to be the successor

of Cardinal Wu as the prelate of diocese of Hong Kong. Both Zen and Tong had no pastoral experience in Hong Kong, but both of them were old hands in dealing with China affairs. John Tong was the founding director of the Holy Spirit Study Centre, a research centre founded in 1980 at the desire of the Vatican to study the Catholic Church in China. Since the establishment of the Centre, Tong has been leading this Centre until today. Thus, Tong is the most informed person in the Catholic Church about China. Zen was born in Shanghai (上海) in 1932. He received this theological education in Italy and in 1961 was ordained in Rome. From 1989 to 1996 he had spent at least six months per year in teaching philosophy and theology in Catholic seminaries in China. Being a resident of Shanghai, Zen had a fuller picture and existential experience on the Catholic Church in the Mainland through his grassroots contacts of seminarians and Catholic laity in China who were his students as well as his Shanghai relatives and friends.

Before 1997, when the British Hong Kong government prepared its political transition, various committees were set up to assure the continuity of governance in the post-1997 HKSAR period. A Selection Committee was established to select the Provisional LegCo (Legislative Council of the HKSAR, 香港特別行政區立法會) members after the 1st July 1997. Hong Kong Catholics together with democrats viewed that the election was not democratic and did not send Catholic candidates to represent the Catholic diocese, but to endorse any Catholics who would like to join the selection of the Selection Committee as private persons. This trend was the beginning of the tradition of Hong Kong Catholic diocese in the Chief Executive elections until today through a small group of Election Committee with less than 3000 members in which the majority are pro-China people since the commencement of the HKSAR bureaucratic system.

4. The Political Environment of HKSAR

In HKSAR, from the beginning of its Chinese takeover, the process of Mainlandization has been going on over the last 20 years (1997-2017). According to Sonny Lo, a political scientist, mainlandization of Hong Kong has a special flavor in which it is a policy of the Hong Kong government to make Hong Kong politically more dependent on Beijing, economically more reliant on the Mainland's support, socially more patriotic towards China, and legally more reliant on the interpretation of the Basic Law as laid down by the PRC National People's Congress (Lo, 2007).⁴ Rey Chow (周蕾) remarked that Hong Kong's re-unification with China was never a "natural return" but a forced return with China all the time coercing Hong Kong into submission (Chow, 1992). With the policy of Mainlandization the erosion of the "one country, two systems" ("一國兩制") and "Hong Kong people rule Hong Kong" ("港人治港") is significant in the last twenty years.⁵ Viewed from today's political life of Hong Kong, democratization has hardly made any progress, yet political participation of various types has been exposed even as leaders in Beijing refused to allow political reform leading to universal suffrage as promised by the Basic Law. However, new trends of political participation by various social, political and even religious groups has sprung up in HKSAR (Cheng (ed.), 2014). The Catholics' political participation has its role to play in the change in political dynamics of HKSAR in the last twenty years.

5. Catholics in HKSAR

Hong Kong Catholics had a splendid record in political participation in the first few years of the establishment of the HKSAR, under the leadership of Bishop Joseph Zen Zekun until his retirement in 2009.

Zen's first conflict with the government was on the policy of "the right of abode" which did not allow the overstaying Mainland-born Chinese children in Hong Kong to have the right to stay in Hong Kong and receive education.⁶ A pastoral letter issued in the name of Cardinal Wu but penned by Zen criticized the stance of the government as selfishness which restricted the reunion of families whose children were born in China. Zen's argument is very convincing as it is based on humanitarian considerations. He remarked that "a large number of adults of Hong Kong residents came from the mainland in the 1950s and 1960s; at that time Hong Kong opened the door to welcome them." Zen put the HKSAR government and those supporters of the policy of restriction to shame by remarking that: "Now you are getting rich. How can you refuse others who seek to move to Hong Kong as you did a few decades ago?"⁷

In 2002, the HKSAR government proposed the legislation of Art. 23 of Basic Law during Tung Chee-hwa (董建華)'s reign. It means passing Hong Kong's own law to prohibit acts of secession, subversion, treason, theft of state secrets, sedition, foreign political organization conducting political activities in HKSAR, and local political organization establishing links with foreign political groups. Many in Hong Kong regarded it as a controversial law. Legal professionals, mass media, academicians and democrats objected to the legislation because in the name of national security, the Chinese standard on human rights and freedom would be introduced, and subsequently the "one country two systems" would be undermined. In the objection to the legislation Article 23 of Basic law, Zen played a more significant and prophetic role to back up the agitators who were in the front line. His objection to the legislation of Art. 23 was based on two reasons. First, the erosion of "one country, two systems" which was a firewall to block the infiltration of Chinese influence, the Mainlandization; and secondly, the erosion of

human rights including religious freedom. He inspired the law professional and the opposition groups with the simple Catholic principles of social teaching which empathizes social justice, fraternity, charity and peace (Montemayor (ed.), 1989: 1-45). Zen remarked that as far as law is concerned, according to Thomastic principle law is for the wellbeing of people, but not for political purposes.⁸ With his support the opposition against the legislation had developed to such a degree that it attracted half a million Hong Kong citizens to rally on the street. Eventually the HKSAR government had to withdraw the proposal.

The SAR government's first Mainlandization policy was to reduce Christian influence (Brown, 2001). The launching of the policy of using mother tongues as teaching language was the first step to reduce Western influence in education. However, the policy was not so successful (Leung, 2000b). Most prestigious Catholic schools in Hong Kong used English in instruction, and these schools run by Catholic missionaries like the Jesuits priests, La Salle Brothers and Maryknoll Sisters who are from international religious congregations had education experience with the prevalence of globalization. They found the government policy to be a contradiction to the future development of HKSAR, and they just ignored it. Simultaneously parents still flocked to their schools for English education of their children⁹. After ten years it proved that they were right, and the Education Department of HKSAR had to abandon the policy quietly.

The second policy on education came from the desire of government stemming from the same Mainlandization policy of distancing Christian Churches in providing education. The real conflict between the Catholic Church and the HKSAR government was over the School-Based Management (SBM) which advocated openness, accountability and democracy in all Hong Kong schools. Catholic educators together with those of other Christian denominations regarded

SBM as a direct challenge to Christian values. Under the SBM system 60% of school managers and members of school governance councils were to be represented by teachers, parents, alumni, or segments of the community. There were too few Catholic professionals to fill the majority of management positions in the school run by Catholic Church. The problem was intensified by the fact that 90% of the teaching staff were laity and among them 72% were non-Catholics (Brown, 2001).

Given the change of the management system, the priority of Catholic education can be easily undermined. Zen opposed this policy strongly because he regarded that government eventually would introduce compulsory teaching requirement that might be contradictory to the tenets of Christianity such as support of abortion with this EBM policy. Zen, on behalf of the Hong Kong diocese requested the government to have a judicial review of this policy. At the end, the Hong Kong Court of Final Appeal finding was against the appellant, the Catholic Church.

Apart from openly opposing the HKSAR government policy on the legislation of Art. 23 in the Basic Law, Zen also criticized the government's many other policies when he found that those policies were not for the benefit of the Hong Kong people but just to please Beijing. Zen's stance is grounded on the Catholic social teaching of the Catholic Church. He spent two years working with a group to translate the Pontifical Council for Justice and Peace's monumental work titled *Compendium of Social Doctrine of the Church* (教會社會訓導彙編) into Chinese. And the book was published by the Catholic Truth Society of Hong Kong (香港公教真理學會) and sold at very low price so that the Chinese Catholics around the world could be acquainted with the social teaching of the Catholic Church.

Given that Zen was active in criticizing the HKSAR government mostly on the human right issues, he was hailed as the fourth of the

Asian prophets who implemented the social teaching of the Vatican II by disregarding the danger of antagonizing the civil authority. The first prophet was Cardinal Jaime Sin (辛海綿) of Manila who helped oust the corrupt president Ferdinand Marcos of the Philippines in the 1970s. The second one was Cardinal Stephen Kim Sou-hwan (김수환 / 金壽煥) of Seoul who led the Korean Catholics to support the democratic movement in South Korea in the 1970s. The third was the Vietnamese cardinal Paul Joseph Phạm Đình Tụng who protected the Vietnamese Catholic Church from the persecution of the ruling Vietnamese Communist Party. The fourth Asian prophet is Cardinal Joseph Zen Ze-kun of Hong Kong as an advocate of human rights (Leung, 2014).

Zen antagonized Beijing not only on religious-political issues in Hong Kong SAR, but also due to his criticism of Beijing's treatment of the Catholic Church in the Mainland, and his support for the underground sector of Chinese Catholics, as well his engagement in the bridging endeavour which was unbearable to the political leaders in Zhongnanhai. Zen stood out as the most strident and high-profile critic of the government.

Apart from the Catholic bridging endeavour, Bishop Zen (later Cardinal Zen), also crossed the Chinese government in defending the rights of the Catholic Church on the issue of ordaining five Chinese bishops without the consent of the Holy See in January 2000, and with his defense of the Vatican's position on the canonization of 102 saints in China on 1 October 2000.¹⁰

In 2003 when the objection to the legislation of Art. 23 was in full swing, it was reported that Beijing suggested to the Vatican to remove Zen from Hong Kong in exchange for the reopening the suspended Sino-Vatican negotiation. Without the spiritual pillar of the objection, in the mind of Beijing leaders, the HKSAR campaign against the legislation of

Art.23 might be much weakened heading towards vanishing. In fact the Vatican did not oblige with the request of Beijing. On the contrary the Pope gave the red hat of a cardinal to Zen in 2006 to support his endeavor in employing militant approach in church-state relations to stand by the side of the non-governmental sector of the Chinese Catholics who were persecuted by the government but loved by the Vatican because of their loyalty to the Church.

However, Zen's leadership as the bishop of Hong Kong was short-lived. It lasted only from 2002 to 2009. He was "granted" the permission from the Vatican to resign from the position of the bishop of Hong Kong at the age of 75.

Within the same period of time Bishop Paul Shan Kuo-hsi (單國璽) of Hualien, Taiwan (臺灣花蓮) in 1998 submitted his resignation at the age of 75. However, the Vatican not only did not allow his resignation but also granted him the red cap of a cardinal elevating him to be the Prince of the Church and the top leader of the seven dioceses of the whole island of Taiwan. The Vatican's move was due to the pastoral and political need of the Taiwan Church at that juncture to uplift the Catholic life there when the decrease of Catholic population was significant, e.g. in 2008 there were 290 thousand Catholics, but in 2015 the number had gone down to 230 thousand.¹¹ The difference of Vatican's dealing with Joseph Zen in Hong Kong and Paul Shan in Taiwan can be explained from Vatican's political consideration of its paradigm shift in policy on China and Taiwan.

The issue of "granting of permission to resign" could be taken as Zen's relationship with the Vatican which had experienced a paradigm shift in its relationship with China. While Zen's elevation to the Cardinalate was an appreciation of the Vatican on Zen's effort towards China through his militant approach in supporting the underground/non-officially sanctioned sector of the Catholic Church in China, and his

strong stance to protect human rights in socio-political issues in Hong Kong, the request for Zen's resignation from the position of the bishop of Hong Kong had also come from the Vatican when some of its European officials did not support Zen's militant approach towards China. The Vatican European officials' understanding of Communism was mostly based on Menshevik branch of Communism, and they failed to consider the political behavior of Bolshevik Communism which prevailed in China and Soviet Union.¹² The officials in the Vatican found that Zen's militant orientation was never favorable for Sino-Vatican reconciliation. They removed Zen, who was regarded as the archenemy by Beijing's political leaders, in order not to jeopardize its relations with China when the Vatican wished to take a more reconciliatory approach towards China in the Sino-Vatican negotiation.

The Hong Kong Catholic Church's political participation in the post-Zen era turned a new page in the history of Catholics' socio-political involvement. Bishop John Tong took up the Catholic leadership of Hong Kong after Zen stepped down in 2009. After 3 years Bishop Tong was elevated into the Cardinalate in 2012. It reflected the importance of the Hong Kong diocese in the eye of the Vatican.

Although on many occasions, Tong claimed that there is no difference between his policy in the Church with that of Zen, the soft-spoken Tong gave people a different image compared to that of the outspoken Zen who always led the Catholics to rally on the street, and heavily criticized government policies. No one had seen Cardinal Tong joining any public protest on the street.

Cardinal Zen has a charismatic character in speaking the truth. That is why he was honoured as the fourth prophet in Asia after the Vatican II. However, the truth is never welcomed by everyone. Not only in China he became the *persona non grata* but also in the Vatican those who supported the Menshevik approach of Communism isolated him from

the Vatican's policy-making circle (Zen, 2016), while in the free world he strongly criticized the Vatican on its reconciliatory policy towards China as a betrayal of Christ.¹³ Although in the eyes of the HKSAR government he was a headache, he was very much supported by democrats in Hong Kong. A few non-practising Catholic lawyers and intellectuals in the struggle of objecting to the legislation of Art. 23 returned to the Church just because they were inspired by Zen's courage in the implementation of Christian teaching through the protection of human rights.

6. HKSAR Catholics' Political Participation under Cardinal Tong's Leadership

The appearance of Cardinal Zen was once regarded as a bright comet in the dark sky showing the way the Catholics in Hong Kong should go in order to follow the Catholic social teaching. When Cardinal Tong took up the leadership to lead the Hong Kong Catholics, he did not follow in Zen's footsteps by continuously taking up the prophetic role to antagonize the Beijing or HKSAR government, mainly because of his personality which was not of the confrontational type. However, he tried to lead the Hong Kong Catholics to track on the path which had been shown by Zen during the period of Zen's office from 1996 to 2009 with the strategy of internalization and consolidation of the social teaching of the Church and strengthen the Hong Kong Church with deeper spirituality.

7. The Occupy Central with Love and Peace (OCLP) Movement

The OCLP movement in September 2014 was not initiated by a political party, but by two intellectuals plus a church leader who are democrats who opposed Beijing's decision on 31 August 2014 to reject universal

suffrage in the 2017 election of the Chief Executive. The three members who initiated the OCLP was inspired by the traditional civil disobedience and applied it with non-violent means as manifested by Chan Kin-man (陳健民), one of the 3 founding members (Chan, 2015). The OCLP lasted for nearly 3 months from the end of September to December 2014. The OCLP had embedded a certain degree of Christian values. First of all, the three founders were Christians – Professor Benny Tai (戴耀廷), Rev. Pastor Chu Yiu-ming (朱耀明) and Professor Chan Kin-man. The Catholic Church made significant contribution with the participation of Cardinal Zen and the Italian missionary Fr. Franco Mella (甘浩望 , with the Pontifical Institute for Foreign Missions (PIME)), although the issue took place when Zen was no longer the bishop of Hong Kong. Among all the tents in the occupation area, there was an area for prayer and consultation for the spiritual needs of participants. A reporter of *The Wall Street Journal* observed that the Hong Kong Church played a quiet but important role in the city's protest by offering food and shelter to demonstrators while some organizers and supporters citing Christian value as inspiration in their struggle.¹⁴

Cardinal Zen at the age of 82 joined the protestors by sleeping on the street overnight as an iconic figure to Catholic participation. After the OCLP he accompanied the three founders of the OCLP when they had to report to the police station on their “crime” against the public order. He was the oldest one in the whole College of Cardinals in the Vatican to join the protest by sleeping on the street, and the news was reported widely by the *Vatican Insider* and was known throughout the whole Catholic world.¹⁵ Fr. Franco Mella accompanied the protestors by placing himself in the prayer area for long hours to comfort the protestors who needed spiritual support amidst the social movement.

8. The Internalization of Catholic Socio-political Participation under the Cardinal Tong Administration

In the diocese of Hong Kong, the Commission of Justice and Peace was a local unit of the Pontifical Commission of Justice and Peace established after the Vatican II with its headquarters at the Vatican. The Hong Kong branch of Social Justice and Peace cooperated with Zen very closely in the social movements. This commission became very outspoken with the backup of Zen and had cooperated with other interest groups to advocate the same objective in social movements such as the objection to the legislation of art. 23. After Zen's retirement from the diocese of Hong Kong, Cardinal Tong appointed Fr. Stephen Chan Moon Hung (陳滿鴻), a religious sociologist, as its spiritual director. There was no comparison between Cardinal Zen and Fr. Chan in terms of eloquence and social status. In important issues the Hong Kong people found no Catholic voice in the mass media, because in Zen's era, the *Apple Daily* (蘋果日報) always had special coverage on Zen's socio-political participation.¹⁶ The coverage of Fr. Chan in *Apple Daily* had been much reduced for reason of eloquence and personality. However, in the Chinese Catholic weekly, *Kung Kao Po* (公教報), there is always a special column reserved for the Commission of Justice and Peace to express its opinions on socio-political issues, not only by Fr. Chan but also by other members of the Commission. This phenomenon reflected that the Catholics' socio-political participation has been reduced to the Catholic circles only. On important political issues, for example, Cardinal Tong did not join the democrats requesting universal suffrage of the Chief Executive when everyone in Hong Kong noticed that Beijing had played a decisive role in the selection of the in-coming Chief Executive, the successor to Leung Chun-ying (梁振英). Cardinal Tong on congratulating Carrie Lam (林鄭月娥) on her election on 26th March 2017 to be the new in-coming Chief Executive, presented the

wish of the Catholic diocese in the context of the Church's social teaching for the prevalence of democracy, the well-being of the majority, social unity, and religious freedom under her governance.¹⁷ From the Catholic news items and reporting in *Kung Kao Po*, it appears that the Hong Kong Catholic Church has shifted its paradigm from its external activities involving itself in socio-political issues to the internalization and consolidation of Christian faith and social teaching through prayers and studies especially in terms of the digging up of the Church history in Hong Kong and the nearby areas, and strengthening the Church management and spiritual formation. For example, the Catholic Studies Centre put a great effort in researching the history of Catholics in Swatow¹⁸, as well as to revitalize the country church in Sai Kung (西貢) which is the first Catholic Church in Hong Kong as means to re-activate the spirit of evangelization as those missionaries came to Hong Kong hundred years ago.¹⁹ It planned to blend tourism in that area with the historical site of the first Catholic mission church, as an endeavour to make it a pilgrimage site like that of the Camino de Santiago (the Way of St. James) network of ancient pilgrim routes across Europe which come together in north-west Spain. By doing this it aims at contributing spiritual elements to the secular business of tourism.²⁰

The diocese puts more resources into spiritual formation by setting up more retreat houses in the urban and rural area. For example, the Trappist Monks on Lantau Island (大嶼山) renovated their traditional guest house for better service in retreat²¹. The Precious Blood Sisters in Fanling (粉嶺), the Canossian Sisters in Mount Davis (摩星嶺) and the St. Paul Sisters in Sheung Shui (上水) have renovated or extended their retreat and spiritual formation services.

The institutionalization of the HKSAR Catholic Church was reflected in its endeavor to revise the Pastoral Directory which stipulates the regulations, rules and directory of pastoral service on parish level

and individual levels. In fact in 1982 during the time of Cardinal Wu's administration, a Pastoral Directory was issued. However after 35 years (1982-2017) a revision is necessary. The first issuing of the Pastoral Directory was internally circulated among clergy and religious community engaging in the pastoral work. Now the revised issue was publicly announced in *Kung Kao Po* (7th May 2017) inviting the Catholic laity to public lectures on various dates on various topics, such as the introduction on the diocesan administration, its personnel and financial management, on the sacraments of Baptism, confirmation and Eucharist, and on the pastoral care of the sick and funeral arrangement. Special invitations were given to those volunteer workers in the parish on various areas.²² In the Holy Spirit Seminary College, there was a new certificate programme established on church administration (教會職務文憑課程) by offering special training for those lay workers in youth pastoral work, hospital pastoral service, hospice service, and Christian community development projects.²³ In fact the services in these areas have a good performance for the need of the modern society of Hong Kong. This study programme aims at institutionalizing and consolidating these services.

The institutionalization might be a response to the need of globalization as Hong Kong is an international metropolis. However, it might turn the Church into a civil organization if the prophetic voice is silent.

Cardinal Zen from time to time accepted to give talks on special themes such as encountering the Truth, while calling upon his audience to protect the Hong Kong values. He was even invited to Macau to give a talk on the Sino-Vatican relations with good attendance²⁴. However his talks were not on the whole diocesan level at an institutional level, and the news coverage was much thinner than before.²⁵ The Commission of Justice and Peace offers activities without a radical approach. For

example, it only offered a low-key celebration with a Holy Mass to commemorate the iconic martyr for social justice in South America, Archbishop Óscar Romero, to be beatified by the Vatican. No large-scale conference was called by inviting radical speakers on the antagonism of Romero and its implication to Hong Kong.

The Catholic Church's prophetic role in any society is like the "salt" in a cuisine which needs proper amount of salt to make the food tasty. Too much salt would make the food uneatable because of too salty. However, without the prophetic view, the Church would no longer play a significant role in the society, and the Church is not the "salt" any more but has deteriorated into a lump of sand. Is the Catholic Church in HKSAR heading to this direction?

9. Conclusion

In short, the Catholics' socio-political participation in Hong Kong has a long history of ups and downs. It depends on the timing, leadership, and political environment not only in Hong Kong but also in Beijing. However, one cannot ignore the influence of the Vatican on the Hong Kong Catholics' political participation. The leadership of Cardinal Zen and Cardinal Tong has a big demarcation on Catholic participation in socio-political affairs. Zen can be regarded as a comet in the dark sky showing the way that the Hong Kong Catholics should follow in the context of Catholic social teaching. In the era of Cardinal Tong's leadership the phenomenon of internal development or internal strengthening of the Catholic Church is very significant. Would it be a strategy to implement Zen's advocacy of Catholic social teaching in a subtle way according to the Chinese saying "strong water runs deep"? Or might the strategy of institutionalization turn the Catholic Church into a civil organization without a prophetic view?

Notes

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1. This was the result of a research by this author in the year of 2000 in Hong Kong.
 2. Archbishop Dominic Deng Yiming (Dominic Tang Yee-ming, 鄧以明) of Guangzhou (Canton, 廣州) after a solitude imprisonment for 22 years was released in 1980. His own memoir, *How unfathomable is God's will*, revealed how he lived his life behind bars.
 3. *Sunday Examiner* (Hong Kong), 25th October 1996; *Kung Kao Po* (公教報) (Hong Kong), 25th October 1996.
 4. On the reliance on the Chinese interpretation of the Basic law, see Wong (2014).
 5. As early as 2004, the crisis of Mainlandization was prominent. See: Wong (ed.) (2004).
 6. Wong Yiu-chung (王耀宗) had a detailed discussion on the verdict of this issue which is leaning toward the wish of PRC. See: Wong (2014).
 7. "Cardinal Wu's Pastoral Letter: 'God is Love' in 1999". In: Leung and Chan (2004), pp.175-177.

8. This was expressed by Cardinal Zen when he was interviewed by the author in 2004, Hong Kong.
9. The author obtained the information from one of the religious sisters from USA who had been working many years in education of Hong Kong. The interview was conducted in October 2006, Macau.
10. For Zen's defense of the Vatican position in the canonization, see: Zen (2000).
11. The figures were given by the Archbishop's office of Taipei with the request of the author in September 2016.
12. This is the impression that this author obtained when she contacted one of the European Catholic Church leaders in discussing with him the questions of the Communism in a Catholic institution in Macau (澳門). The discussion was held in September 2007.
13. "Hong Kong Cardinal says any deal between the Vatican and China would be 'betraying Christ'" (by Kevin Lui), *Time*, 28th November 2016. <<http://time.com/4583089/hong-kong-cardinal-joseph-zen-vatican-betrayal-christ-deal-beijing-china/>>
14. "Hong Kong democracy protests carry a Christian mission for some" (by Ned Levin), *The Wall street Journal*, 3rd October 2014 <<https://www.wsj.com/articles/hong-kong-democracy-protests-carry-a-christian-mission-for-some-1412255663>> (accessed on 20th January 2017).
15. "Cardinal Zen joins Occupy Central protests: The Bishop Emeritus has taken to the streets to defend freedom, while his successor John Tong has appealed to both sides to engage in dialogue", *Vatican Insider*, 29th September 2014 <<http://www.lastampa.it/2014/09/29/vaticaninsider/eng/world-news/cardinal-zen-joins-occupy-central-protests-Thc0e4byEkfJwRBJEh8oXO/pagina.html>> (accessed on 20th January 2017).
16. The owner of the *Apple Daily* Jimmy Lai Chee-Ying (黎智英) is a democrat who has financial support for Zen and other democrats. He was converted to Catholicism because he was impressed by Zen.

17. “湯樞機致林鄭賀函提四點期望：談民主公益社會團結宗教自由”
[Cardinal Tong’s letter to Carrie Lam brings up for hopes: about democracy and public well-being, social solidarity and religious freedom], 公教報 (*Kung Kao Po*), 2nd April 2017, p. 1.
18. The Catholic Studies Centre put out an announcement regarding the commencement of a history project on Chaozhou (潮州) and Swatow (汕頭) – 「潮汕天主教會」研究小組 (*Kung Kao Po*, 2nd April 2017, p. 10). G. Criveller has a long article on Fr. Galbiati to commemorate the missionary of Hong Kong on his political writing (*Kung Kao Po*, 9th April 2017, 23rd April 2017).
19. 「復修及活化西貢小堂計劃」集思會 (*Kung Kao Po*, 6th April 2017, p. 3).
20. 湯漢樞機「活化西貢小堂集思會」講詞 (*Kung Kao Po*, 7th May 2017, p. 12).
21. The Trappist Monks put out an announcement in the Catholic newspaper informing the public that from April to September 2017 there will be internal renovation of their retreat house (*Kung Kao Po*, 23rd April 2017, p. 4).
22. The diocesan office made a special announcement of this event on a prominent page of *Kung Kao Po*, 7th May 2017, p. 3.
23. The Holy Spirit Seminary had the announcement of this programme “教會職務文憑課程” in *Kung Kao Po*, 7th May 2017, p. 19.
24. 「中梵關係的前景研究會」(澳門觀察報 (*Observatório de Macau*), 5th March 2017, p. 1).
25. 「明愛辦聖多瑪斯節講座 陳日君樞機籲維護真理」(*Kung Kao Po*, 26th March 2017, p. 2).

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Contextual Analysis of Hong Kong Education Policy in 20 Years: The Intention of Making Future Citizens in Political Conflicts

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Abstract

Originally, the capitalist society in Hong Kong under communism is exceptional, but the “one country, two systems” formula was a makeshift stratagem by the Communist Chinese government. The twenty years of history witnessed the tension of ruling and policy implementation. Education policy in political conflicts is, of course, the other arena in the Hong Kong context which reveals competitions, controversies and struggles among the cultural hegemonic engineering. This paper can contribute to enigmatic understanding and interpretation of generating educational reform and implementing education policy in this twenty-year history of the Hong Kong Special Administrative Region.

Keywords: *conflicts, policy, contextual, struggle and ideology*

1. Introduction: Statement of the Problem

Starting from the resumption of sovereignty, the Hong Kong Special Administrative Region was established in July 1997. There are many characteristics of state sovereignty in an authoritarian regime and particular understanding and explanation about education in this scenario should be interestingly catered for. This article will examine the processes that have been developed to maintain the education policy transformed in Hong Kong since the handing over of sovereignty. HKSAR having been established for twenty years, Hong Kong is exceptionally challenging in these social, economic and political transformations, particularly in terms of political conflicts. Under this revolutionary change, education plays a role which is special and difficult to understand. This paper uses historical context in investigating and analyzing what changes are adopted in educational policies, and how these policies are implemented.

2. Education Policy and Political Conflicts

Education policy represents the principles and government policy-making in the educational sphere as well as the collection of laws and rules that govern the operation of education systems. It can directly affect the education people engage in at all ages. The Hong Kong government holds the constitutional right on education policy by the Basic Law and it is commonplace in the public administration literature. Major education reforms are underway around the world instrumentally in response to demands to make lifelong learning opportunities available to all. Making education accountable was ambivalent and paradoxical. But the key factor of education reform added in the Hong Kong context was the transfer of sovereignty from Britain to China. There were inevitable political conflicts. Citizens desire democracy and civil

liberties but the communist state exert more forces in controlling the people's freedom in Hong Kong. Democratization is important but its development is being constrained.

After the establishment of the Hong Kong Special Administrative Region, the government was trying to come to terms with new information technologies, new social and economic situations, and political changes with a fast-changing globalized economy and competition. Education reform found itself at the nexus of a major political struggle in Hong Kong. Education policy is the arena between those who see it only for its instrumental and formal outcomes and those who believe in its potential for human nurturing and emancipation. The question of whether national policy has influenced education unquestionably must be answered "yes". Hong Kong is no exception under "One Country, Two Systems" policy. The typical example was that the then President Hu Jintao (胡锦涛) put the emphasis on the importance of Hong Kong national education for the young people in a speech to banquet guests on the eve of the ten years' handover anniversary in Hong Kong.

Education policy analysis provides an opportunity to reflect on, learn from and look into this rich local and international experience. These are analyzed in terms of the circumstances and differences between policy making and the historical context, the government's legitimacy and the changing political situation. There are major limitations on the implementation of and influences in the development of these education policies that arise as a result of the "legitimacy deficit", which refers to the situation whereby the Special Administrative Region's government does not possess a strong mandate from the citizens to govern. Whilst the government can control a majority of seats in the legislature, this is done through a series of functional constituencies (Morris, 2004: 115). The Chief Executive is not directly

elected by universal suffrage. The political reform package by the government was voted in June 2015 which indicated that democratization in Hong Kong was halted.

3. Political, Economic and Social Context of the Twenty Years of HKSAR

Sovereignty problem in Hong Kong lasted for a long time and it transited via the Sino-British cooperation controversy. On the day of sovereignty being returned to Mainland China, the weather was very bad, with thunderstorms and heavy rains. The British army “exit show” performance turned out to be a mess. The unsuccessful transition of the Legislative Councilors did not catch many people’s attention. The Provisional Legislative Council that served as the temporary legislature is said to be a set, necessary law to be bound so that HKSAR’s social order could still be maintained according to the old operational model. But with the emergence of Thailand's Financial Crisis on 2 July 1997, for some periods of time it negatively attacked places in Asia. Finally, it attacked Hong Kong in December. The situation came as a sudden. The HKSAR was just established for a few months’ time (since July 1997) and the government had not experienced such kind of financial crisis before. The continuous economic decline had a far-reaching impact. As arranged by the Basic Law, the political democratization of the Legislative Council means that each voter can directly cast their ballot to their preferred person; this is being referred as “direct election”. The number of seats, in percentage, increased from 33% in 1998 to 50% in 2004. At this initial stage of HKSAR there were no appeals for political democratization. It also reduced the possibility of political conflicts.

But, with the bad economic situation, some social problems emerged. Many people lost all their savings in this financial crisis. A

decrease in property prices means that mortgage was even lower than the market value. These people became holders of negative assets. This led to a change in Hong Kong's overall economic structure: (1) the rich people could secure their asset positions; (2) the middle-class people had a decline in their social status because of the shrinking economic situation; (3) people in the lower social class suffered the most and they are the group who are highly vulnerable facing sharp decline of salary and job protection. The original orderly combination of "high, middle and low social class" immediately changed into contradiction, and conflicts ensued. The middle class was very much depressed, and the problem became worse. Educational reform served as the only effective method in responding to the unemployment problem. The truth is, practically, it could not solve the problem by this social engineering process. It just wrongly gave out a hope to the public and was unachievable. People in the educational sector, plus the parents, were passively asked to come out to take part in this societal construction work, being desirable but not attainable.

At the end of 2002 the government forced the promoting of the National Security Law legislation of the article 23 of Basic Law, hence endangered basic human rights. Political struggle started to emerge accordingly. The most unfortunate thing was the atypical pneumonia, or referred to as "severe acute respiratory syndrome" (SARS). It spread over Hong Kong very fast, creating pressure under such political oppression. There was an outbreak of large-scale protest demonstrations on 1 July 2003. A total of 500,000 protestors requested the Chief Executive and related government officials to step down. The Central People's Government then made adjustments to Hong Kong policies. First, it responded to the public's request that a few officials stepped down. Secondly, it did not force to legislate the National Security Law. Finally, even though the economic situation had improved, the first

Chief Executive Tung Chee-hwa (董建華) did not complete his term of office and resigned.

In 2005, Donald Tsang Yam-kuen (曾蔭權) was elected and appointed to be the second Chief Executive. This reflected that senior-ranking officials during the British administration can undertake SAR governance. His first political task was the promotion of the constitutional reform package. Unfortunately, this was not successful. But the important discussion was about the heavy development of the economy. The political atmosphere did not immediately change because of the lack of democracy in Hong Kong. Instead, some members in the Democratic Party obtained important governmental appointments. The societal opposition was alleviated. Public surveys showed people's support towards the government sharply increased, while students' surveys showed their recognition of their Chinese national identity also increased. Some deep-rooted problems at an initial stage of SAR establishment were lessened. However, with the unsuccessful legislation of the National Security Law, the Central People's Government is prejudiced towards problems in Hong Kong. Social policies at different levels needed readjustment, the desire for social control became bigger, and some policies were seen. At the commemorative cocktail of the 10th anniversary of SAR establishment dated 30 June 2007, the Chinese President Hu Jintao directly requested the Chief Executive Donald Tsang to run a good national education for the young people. This is an important example. But finally, such national education is stereotyped to be "the worst", "brainwashing" education controlling the minds of teenagers and students.

The later social movements were said to awake the new generations, but the format and scales were not large. Basically, the government was able to maintain its governance. But the situation in China is different – because of Beijing Olympics 2008 and Expo 2010 Shanghai China,

many people were motivated from heart in hoping to construct a better society, such as the 2008 Beijing Olympic slogan “One World, One Dream” aiming to unite people together towards supporting the government. The fact is, the country’s regime is very ungrateful to the general public hence it does not gain support from them. The advocator of Charter 08 (零八憲章), Liu Xiaobo (劉曉波) was prosecuted and sentenced. Zhao Lianhai (趙連海) exposed the Chinese milk scandal and helped victims to fight for their rights; finally he was prosecuted and charged. Li Wangyang (李旺陽) was interviewed by the Hong Kong mass media with reference to the June Fourth Incident and later he committed suicide in an “unusual” way. All these slowly show a tyrannical regime. It is no longer related to democratic openness, and revolution. These are also related to problems of Hong Kong’s democratic political system and politics. While the government was promoting the “Guangzhou-Shenzhen-Hong Kong Express Rail Link Hong Kong Section” (廣深港高速鐵路香港段) plan, it triggered contemporarily Hong Kong teenagers’ awareness. In January 2010 the Legislative Council forced the passing of the implementation of the relevant railway construction. This created an inspiring introspection of the teenagers. The institutional irrationality and inequality were clearly seen. These youngsters are well-equipped to be the new blood of future democratic movements.

The biggest social movements took place when Leung Chun-ying (梁振英) was elected as the HKSAR Chief Executive. In his inauguration dated 1 July 2012, the number of protestors and demonstrators increased again, estimated to reach 200,000. The protestors believe that he is dishonest and should step down from the Chief Executive post. A few days later, a group of parents discovered that some contents in the to-be-implemented national education textbooks were seriously biased. They then organized a group named

“Civil Alliance Against the National Education” (民間反對國民教育科大聯盟). Later it evolved into a range of large-scale “anti-brainwashing national education” social movement. There were 30 organizations that protested in a march with more than 90,000 protestors on 29 July 2012, including many parents with their children. On 7 September, up to 120,000 attendees continued their occupation of the government headquarters area and the government announced shelving the subject indefinitely.

The Central People’s Government gave out a promise that universal suffrage could be implemented in the year 2017. But it was anticipated, or people already knew that this “democratic system” would not come true. In 2010, the “Five geographical constituencies’ referendum” intensified the means of democratic movement. The 2014 Occupy movement is a recent democratic movement in Hong Kong, and has a far-reaching impact until now. Many youngsters widely took part in it. They expressed their appeal against the uncivilized and undemocratic political system. On 31 August 2014 the Standing Committee of the National People’s Congress set restrictions on the nomination of the Chief Executive candidates, and this provides insights that the election campaign is unauthentic. It is not accepted by the Democratic Party. Finally, in the Legislative Council’s motions, the government proposed a political reform package. But it was deemed to be decided in the negative and was not passed.

Hong Kong’s democratic development has thus stagnated. For Hong Kong’s political situation, the formation of the Chief Executive is done in a “small-circle election”. It is undemocratic in the sense that only 1200 members in the Election Committee are eligible to vote. In the district council elections and legislative council elections, there were government pro-China camp supports in resource control. The Democratic Party obtained more votes and successfully got more seats in

the elections. But the legislature itself is not democratic. People representing democratic power in the legislature are still the minority. People in the lowest social class are the weakest; they are unable to express their voices in society and are always suppressed. The same situation applies to the local educational system.

Therefore, the historical and political contexts are the prominent and inevitable influence on the nature and implementation of education. This paper seeks an explanation of the reasons for observing its legitimacy deficit while ensuring that it creates the conditions and influence for social and political disruption.

4. Method of Study: Analysis and Understanding of Education in Historical Context and Political Conflicts

The reflected explanation in a historical research is to understand from the perspective of Hong Kong's historical transformation and change. This research aims to illustrate during the past 20 years of HKSAR, with the emergence of political problems and conflicts in a historical context: What is the educational policy? Why it is needed to implement the related educational policy? It also illustrates that it is via Hong Kong's historical development and transformational political context that people have a better understanding of its educational policy. In other words, it explains how stakes are formed between education and Hong Kong's historical change of political conflicts.

5. Content of Study: Understanding Education Policy in Hong Kong Context

The context is so political that we classify the period by the terms of governance with three Chief Executives. They are: Tung Chee-hwa (July 1997 – March 2005), Donald Tsang Yam-kuen (March 2005 – June

2012) and Leung Chun-ying (July 2012 – June 2017). They governed Hong Kong for 20 years from July 1997 to June 2017.

5.1. Education Reform under the Tung Chee-hwa's Rule

With the establishment of the Special Administrative Regions of Hong Kong and Macau, the territories have since served as the showcases for “one country, two systems” to Taiwan. These two areas should formally enjoy high degree of autonomy but the function of demonstrating “one country, two systems” to Taiwan is no longer applicable. The first Chief Executive of Hong Kong, Tung Chee-hwa, targeted to establish strong and decisive governance. He reflected in his first Policy Address as interventionist. On 1 July 1997, his message related to education for young people in his speech delivered at the ceremony to celebrate the establishment of the Hong Kong Special Administrative Region was:

We will continue to encourage diversity in our society, but we must also reaffirm and respect the fine traditional Chinese values, including filial piety, love for the family, modesty and integrity, and the desire for continuous improvement. We value plurality, but discourage open confrontation; we strive for liberty but not at the expense of the rule of law; we respect minority views but also shoulder collective responsibilities.

(Tung, 1997)

It was patriarchal. The newly established Hong Kong Special Administrative Region was told to reform education after the sovereignty transfer. One important factor that could trigger this reform was the Asian Melt Down, as the economic situation of Hong Kong suddenly turned bad. Moreover, it was the era of knowledge expanding at such an unprecedented rate and values being challenged deeply.

Nevertheless, the hidden agenda of education reform should be the reorientation of education and the destruction of colonial education. Therefore, the government repeatedly told the people:

In this changing world of the 21st Century, our younger generation needs to be equipped with a broad-based knowledge, high adaptability, independent thinking and the ability for life-long learning.

(Progress report on education reform (4), 2006, p. 3)

In 2000, the Education Commission recommended reforming the education system, with the objective of constructing a system conducive to life-long learning and all-round development. It was obvious that the keys were the promotion of traditional Chinese, the appreciation of collectivism, the avoidance of confrontation, a focus merely on the obligations and responsibilities of individuals toward China and the community, moral correctness and stress on societal values. The Hong Kong government repeatedly expressed that education systems and measures must progress in tandem to sustain the development of Hong Kong in order to meet the challenges posed by these unprecedented changes. It was in this context that the Education Commission, after extensive consultation, submitted to the Government the *Reform Proposals for the Education System in Hong Kong* in September 2000. The proposals were accepted by Tung Chee-hwa in his Policy Address in October 2000, which kicked off the reform of the education system in Hong Kong. The Education Reform was said to be student-focused. Aims of education for the Twenty-first Century were stated as:

To enable every person to attain all-round development in the domains of ethics, intellect, physique, social skills and aesthetics according to his/her own attributes so that he/she is capable of life-

long learning, critical and exploratory thinking, innovating and adapting to change; filled with self-confidence and a team spirit; willing to put forward continuing effort for the prosperity, progress, freedom and democracy of their society, and contribute to the future well-being of the nation and the world at large.

(Reform Proposals for the Education System in Hong Kong,
2000, p. 4)

Knowledge of our old society would not be able to cater for the challenges of an ever-advancing knowledge-based information society and the dramatically changing environment. Education in Hong Kong had to help students develop a global outlook, equip them with a repertoire of skills and the attitudes to respect knowledge and to learn how to learn.

Later, the other issue of “The Overall Aims of the School Curriculum” stated that:

The school curriculum should provide all students with essential life-long learning experiences for whole-person development in the domains of ethics, intellect, physical development, social skills and aesthetics, according to individual potential, so that all students can become active, responsible and contributing members of society, the nation and the world.

(Learning to learn – The way forward in curriculum development,
November 2000, p. 2.)

It proposed some guiding principles in planning a new curriculum framework for nine-year universal education, which aims to provide schools with a structure for outlining and developing different curriculum modes. It was also hope that the teaching contents can be

flexibly rearranged, modified or replaced with this framework in response to the needs of society and to suit different needs of students (Cheng, 2009: 69).

As a matter of fact, the most effectual section of education reform was not related to teaching subjects or knowledge. This period was characterized by a concern for developing and implementing educational reform policies designed to improve the quality of schooling (Morris, 2004: 113). The mechanism of educational assurance was introduced into the education system in Hong Kong. It was at the institutional level that schools should be under investigation. The government-inspected schools was designed to focus on matters of bureaucratic and administrative compliance with regulation (*ibid.*). Many work forces in schools were put into preparing school organization, management and inspection to the extent that teaching was ignored or marginalized. This management process was quite harmful for education in Hong Kong.

Education in Hong Kong had four major concerns which were generated by the Secretary of Education and Manpower Bureau, Fanny Law (羅范椒芬). The four major concerns were “Civic Education, Project Learning, Learning to Learn and Application of Information Technology in Education”. Hence, education was said to be re-orientated and re-organized. People started to feel such education reforms being done merely by “slogonization” – no more real policy being helpful for student learning. The process of re-making education was in progress but the public’s concern for education reform was decelerated.

To strengthen the sense of national identity among students, it was imperative to enhance students’ interests and concerns for the development of modern China through involvement in different learning experiences and life-wide learning (Curriculum Development Council, 2002: 3). Unfortunately, the Hong Kong government seems to be committed to hegemony of anti-democratism and ideology of counter-

civil rights, and the curriculum policy has emphasized culture and nation-building in the context of the history of anti-colonialism and anti-foreignism. Hence, the adopted political values for students are submissiveness and civic responsibilities toward the Chinese government, commitments to China and loyalty to Chinese nation. This should not be what education should do for students.

However, resistance has emerged against State-directed political socialization. The issue of national security law made the matter worse. People demonstrated against the bill in December 2002. During the first half year of 2003, the people were discontented with the anti-subversion bill, declined economic circumstances, mishandling of the SARS epidemic and poor leadership of governance. Protests resulted in a massive demonstration on 1 July 2003 and more than 500,000 people took to the streets. Hereafter, the day becomes the annual platform for demanding democracy and calling for civil liberties and social justice. Students mobilized themselves and organized to participate in the demonstrations. The governance of Tung Chee-hwa was so problematic that he resigned two years before his term expired. Tung struggled to deal with a number of recessions and lost the confidence of residents in Hong Kong and leaders in Beijing over his handling of the territory during that time.

5.2. Restructure of Education System in the Donald Tsang Administration

Donald Tsang served as the acting Chief Executive of Hong Kong after Tung Chee-hwa resigned in March 2005 as he was a popular civil servant educated at Harvard University who received a knighthood for his service during British colonial rule. Professor Arthur K.C. Li (李國章) still acted as Secretary for Education and Manpower Bureau. The review of education reform was conducted and it was expressed that

these reforms could be seen in the context of keeping pace with the progress of a knowledge-based economy in Hong Kong in the 21st Century.

With the concerted efforts of all parties concerned, all items of the Education Reform have gradually been implemented and were progressing in the right direction. The Education Reform has reached a new milestone. “The New Academic Structure for Senior Secondary Education and Higher Education – Action Plan for Investing in the Future of Hong Kong” was issued in May 2005. To allow the school sector ample of time for preparatory work, it was postponed from the original implementation in 2008 to putting on the practice of the new education system in 2009. The existing British system (3+2+2+3) was arranged to change to the new senior secondary school system (3+3+4). Reforming the academic structure entailed wide-ranging changes and transformations which had far-reaching implications for the community of Hong Kong. Success in implementation required the attainment of the crucial conditions including the development of a new senior secondary school curriculum, “a new public examination and assessment mechanism, smooth interface with university programmes and articulation with different pathways for further studies, vocational training and employment”, according to Arthur Li, Secretary for Education and Manpower, in his introductory message for 2005 Action Plan (Education and Manpower Bureau, 2005). The academic structure was endorsed by the recommendation of the Education Commission to adopt a 3-year senior secondary and 4-year undergraduate academic system.

It was acknowledged that reducing one public examination would create more time for productive studying and learning. The new academic structure generated a great deal of public interest and discussion which was widely publicized and reported in the media. All

students were provided with three more years to study which originally were not completely provided. It made 9-year compulsory education change to 12-year universal education for all in 2009 Hong Kong. The characteristics in the circumstances, leading to unprecedented worldwide changes, were expressed as globalization, the explosive growth of knowledge, the event of information technology and the development of a knowledge-based economy (Education and Manpower Bureau, 2005: 6). Hong Kong students must develop their adaptability, creativity, independent thinking and life-long learning capabilities (*ibid.*: 6). In addition to have three other compulsory subjects, Chinese Language, English Language and Mathematics, Liberal Studies was adopted as a new core and compulsory subject to be taught in the New Senior Secondary school education.

It was recognized that Liberal Studies would enable students to make explicit connections across knowledge and concepts from different disciplines and enable them to examine issues from multiple perspectives. The subject would help students to become independent thinkers and life-long learners by adopting and applying an issue-enquiry approach to learning, studying and teaching (*ibid.*: 34). It can also play a unique role in the new senior secondary school curriculum by helping and nurturing students to connect concepts and knowledge across different disciplines, to look at things from more than one single perspective and to study issues not merely covered by any single discipline (*ibid.*: 36).

Liberal Studies aims to provide students a broadened knowledge base and enhances their social awareness through the study, exploration and investigation by inquiry of a wide range of issues. The curriculum selected focus on themes of significance to students which were designed to enable students to make good connections across different fields of knowledge and to broaden their horizons (Curriculum

Development Council and Hong Kong Examinations and Assessment Authority, 2007: 1). The aims of Liberal Studies are to help students become independent thinkers and enable them to develop multiple perspectives on perennial and contemporary issues in different contexts (*ibid.*: 5). The learning outcome of students by learning Liberal Studies can be that students should be facilitated to evaluate different aspects of life in Hong Kong with respect to the rights and responsibilities of individuals, social groups and the government and to demonstrate an appreciation for the values of their own and other cultures, and for universal values, and be committed to becoming responsible and conscientious citizens (*ibid.*: 5-6).

Hu Jintao, being the then President of the People's Republic of China, visited Hong Kong, gave a speech and stressed the importance of national education to students of Hong Kong on the eve of the tenth anniversary of the establishment of HKSAR (on 30 June 2007). The Chief Executive, Donald Tsang, responded to this with his 2007 Policy Address in October that included a section especially titled "National Education":

The decade following Hong Kong's return to the motherland has seen a growing sense of national identity in our community. To prepare ourselves for the next decade, we must have a better understanding of our country's development and a stronger sense of our national and cultural identity. The government made every effort to promote national education and the objective was to foster among young people a sense of affinity with China and heighten their sense of national pride and identity. Education gave more weight to the elements of national education in the existing primary and secondary curricula and the new senior secondary curriculum framework to help students acquire a clearer understanding of China and a stronger sense

of national identity. The Government encouraged more schools to form flag guard teams and to stage more national flag-raising ceremonies, and subsidize more Mainland study trips and exchange programmes for youths. They rallied the efforts of various sectors to bring about synergy in enhancing the overall effectiveness of national education.

(Tsang, 2007)

In addition, the Revised Moral and Civic Education Curriculum Framework was determined and published in April 2008. Basically, it was passed off as a governmental and administrative process which did not require consultation. Schools and teachers were merely instructed to adopt this revised curriculum via notices or at conferences.

Furthermore, the Central Policy Unit formed a team of its Strategic Development Committee called the Task Group on national education in September 2007 after the state chairman's visit to Hong Kong. The meeting agreed that there were many elements of national education that had been included in the basic education areas. They also projected forward to anticipate that the new senior secondary curriculum would include many elements related to national education. For example, the planned Liberal Studies curriculum included contents about China's Reform and Opening Up, about Chinese culture and modern life, the rule of law, and socio-political participation and identity.

After the successful propagation of Chinese national spirit during the 2008 Beijing Olympic Games, the people of Hong Kong who identified themselves as Chinese reached a historic high. It was a satisfactory level from the perspective of the Chinese authorities. But the situation experienced a turnover within a short time in 2009. The governance of Hong Kong consisted in a limited democratic regime, linking towards a conservative stance. Hong Kong was constantly being

exposed to political challenges from all fronts. The Tsang Administration tended to be inclined to stay away from Hong Kong's controversy. As a matter of fact, various political, economic and social problems in Hong Kong often remained unresolved.

During the later stage of the Tsang Administration, there was the rise of young people as protesters who participated in various social movements. The typical examples were the Star Ferry Pier (天星碼頭) issue in 2007, the anti-high speed rail campaign (反高鐵運動) in 2009 and the Five Constituencies Referendum (五區公投) in 2010. Hong Kong core values are social justice, poverty alleviation and democracy. The political radicalization revealed the basic conflict among China, Hong Kong and citizens. The typical example was the participation of the candlelight vigil in Victoria Park on 4 June 2009. Several days before the night of 4 June, Donald Tsang gave an answer about the participation not being by most people of Hong Kong. Suddenly, participants drastically increased from 48,000 in 2008 to 150,000 in 2009. The number of attendants reached an exceptional high tide on the twentieth anniversary of the June 4 incident. Social movements became much more politicized and radicalized. The post-80s generation gave the new forces of Hong Kong's social mobilization. The subsequent prominent social movement occurred in December when the student activists mobilized to protest the Guangzhou-Hong Kong Express Rail Link.

As the Hong Kong government planned to adopt more national education for the youth in Hong Kong, the post-80s generation were the new political activists as the youth played a leading role in these social movements. Political and social activism and radicalism prevailed in Hong Kong. The post-80s generation actively participated in various social movements and demonstrations. The protests of young political activists were not a response by the young generations to the worse-off

socio-economic situations. The sense of political participation is related to the higher level of education attended. They are infused with new values that do not certainly materialize. It was observable that the young protesters organized and mobilized skillfully through the social-networking websites. It will not be that any mental or hegemonic engineering process can change the situation. The standard of the youth's political participation in Hong Kong was rare even by world standards. Five post-80s university students formed Tertiary 2012 (大專2012) to participate in the Five Constituencies Referendum and to help to make elections happened. They did so not for their own interest, but for the civil society of Hong Kong. It revealed their spirit of devotion. There were values not "educatable" in formal school curriculum.

5.3. Education Implementation in the Leung Chun-ying Administration's Turmoil

Just as Leung Chun-ying assumed office, he met with the educational problem related to the implementation of National Education. The introduction of National Education to the schooling curriculum was quite obvious for making it a compulsory subject and enhancing this patriotic and nationalistic project for future citizens. In fact, the introduction of Moral and National Education (MNE, 德育及國民教育) was a political action ordered by the central government of the People's Republic of China.

Scholarism (學民思潮) was a non-political-affiliated group founded by secondary students on 29 May 2011. They pointed out that the introduction of Moral and National Education was "brainwashing". Their first initiated demonstration merely attracted 300 participants. There were 200,000 protesters demonstrating when Leung took his office of the first day on 1 July 2012. After the march on that day, members of Scholarism protested outside the Central Government

Liaison Office. Their action was to be against the implementation of what they labelled as the brainwashing subject (National Education), but there were merely about one thousand protesters. The demonstration could not give any effective impact. However, after the 1 July march in 2012, they insisted on marching to and protesting outside the Central Government Liaison Office. These students were protesting against the Central Government's interference in the school curriculum of Hong Kong and introducing the brainwashing curriculum for the pupils of Hong Kong.

Later, a group of parents found the "China Model National Conditions Teaching Manual" (《中國模式國情專題教學手冊》), published by the National Education Services Centre under government funding, to be biased towards the Communist Party of China. The "Civil Alliance Against the National Education" was established immediately by 15 organizations, including Scholarism, Parents' Concern Group, Professional Teachers' Union, Hong Kong Federation of Students, Alliance Youth, Civil Human Rights Front and others. Scholarism continued protests for one month during the school summer holidays by various means, such as march and long march, demonstration, petition, sit-in, gathering and protest. The Civil Alliance Against National Education went on to occupy the government headquarters at the end of the summer holidays.

The government shelved the curriculum and gave the conclusion that schools had freedom and determined to exercise their discretion in how to handle National Education-related matters, including whether to develop National Education subject, whether to implement National Education as an independent or compulsory subject and whether to plan the implementation modes and schedule. The social movement against National Education gave a prominent demonstration of what later happened as the social disobedience of the Occupy Central.

The Chief Executive indicated in the 2013 Policy Address that “it is time to consolidate our education policies, and avoid drastic changes to give stakeholders some respite. Our future priority will be to ensure the quality of our education by further improving relevant measures in accordance with existing policies.” (Leung, 2013: 53) However, starting from the implementation of the new senior secondary academic structure in 2009, the society of Hong Kong has become more politicized. As the students studied Liberal Studies and the subject contained political contents, the political scenario of Hong Kong has finally showed that education made students more active in participating in politics. Pedagogy of Liberal Studies requires students to be critical and have multi-perspectives in learning, thinking and analyzing issues, and students were to be blamed for being politically active and radicalized. After Leung Chun-ying began his term of office as Chief Executive in July 2012, the society of Hong Kong has been politicized to its extreme. Before his term of office, social actions could merely cause more dispute. After his term began, mass participations were common in various social movements and radicalized actions. The society of Hong Kong was so politicized that education was also politicized as well. On one hand, patriotism and nationalism made political contents in schooling. On the other hand, the new initiated compulsory school subject of the new senior secondary curriculum, Liberal Studies, was considered too political.

The Occupy Movement was remarkable and outstanding. The peaceful protest was characterized as civil disobedience. The leaders of the movement were none of prestige or political leaders. They were newly produced student leaders as civil society just matched their social actions. Moreover, a large number of students were involved in the social movement for Hong Kong democracy. The conflicts could not come to a conclusion of democratization and the government still

considered education as being the evil extreme and the main culprit of the social unrest.

Education in Hong Kong is rhetoric. The government intends to escape from true problems. After the Occupy Movement, the political context changed very much. The authorities blamed education as the criminal ringleader of student activism. The authorities plan to re-organize education in Hong Kong. They proposed new initiatives for Hong Kong education. Education is chameleon-like and now is the common intention and expectation to tame teachers' activism and students' radicalism. They adopted the new policy of education contents. The implementation of the new policy does not go through direct reform of curriculum of education. The recent projects for students are made up by three contents which are STEM, moral education and cultural history education.

The 2015 Policy Address by Leung Chun-ying suggested to promote the STEM education. STEM is an acronym that refers to the academic disciplines of Science, Technology, Engineering and Mathematics collectively. These are not new. It is merely ideological and scientific. As this moment, the promotion of STEM education aligns with the worldwide education trend of equipping students to meet the changes and challenges in our society and around the world with rapid economic, scientific and technological developments. The Education Bureau has invested a lot of money for the implementation of STEM recently to enhance the training of teachers, thereby allowing students to fully unleash their potential in innovation (Leung, 2015).

The STEM education report was released on 5 December 2016 and promoted in Hong Kong. There are five final recommendations updating the curricula of the Science, Technology & Mathematics Education Key Learning Areas: (1) strengthening the provision of quality learning experiences to students through support to schools on whole-school

curriculum planning and collaboration with organizations; (2) offering learning and teaching resource materials to schools; (3) enhancing professional capacity, knowledge transfer and cross-fertilization among schools and teachers; (4) synchronizing contributions from different community key players; and (5) adopting actions to continuously review the development of STEM education.

They express that STEM are important for the future investment but they cannot predict the actual future. A good example, for more details regarding the cancellation of Major in Mathematics/Physics and Major in Astronomy, is just given by Mathew Evans, Dean of Science of Hong Kong University in his reply to a student representative (14 March 2017):

... the Faculty has decided to close the majors of Astronomy and Maths/Physics to new entrants from 2018/19. The reason for this is simply that students are not choosing to enrol on these majors. The number of graduating students in each of the last five years has been 1, 6, 3, 5, 4 in Astronomy and 1, 6, 1, 6, 4 in Maths/Physics. Students have simply voted with their feet. The Faculty cannot afford to mount majors or courses that have small numbers of students, we have an obligation to use the funds provided to us efficiently and teaching niche programmes is I am afraid too inefficient and results in a waste of academic time that is better spent in increasing the quality of education for larger numbers of students.¹

That is to say that, even though the University of Hong Kong is the most prominent university in Asia, its scientific subjects were not easily sustainable. Some science majors should be stopped to enroll students. The major concerns of recent education settings are hegemonic, to downgrade the subject contents which contain ethical values or are civil

rights-related, such as democratic and political education, social equality and justice (rule of law). The advocated teaching contents are scientism, patriotism, nationalism and cultural traditionalism.

The 2015 Policy Address by Leung Chun-ying also suggested that the curriculum content of Chinese History and World History would be renewed. The objectives were to reinforce students' interest in and understanding of Chinese culture and history. However, the instrumental function of education is remarkable in Hong Kong. The education system is highly competitive as the places provided by the universities in Hong Kong are so limited. The Hong Kong government maintains direct control of the nature of the curriculum and the system of public examination (Morris, 2004: 112). Teachers and students have no choice and they should work hard in an attempt to secure success in the public examination (*ibid.*). Students prepare for such external and de-contextualized public examinations which are reinforced by the fact that students would be taking their examinations in English language. Schools are judged by reference to and held accountable merely for the examination results of their students (*ibid.*). As schools compete both to recruit "good pupils" and to prepare those pupils to perform well in the public examinations, there is a strong tendency to drop or reduce the time devoted to those school subjects that are viewed as of low status (cited in Morris, 2004: 113). STEM education, Chinese History and Moral Education are not preference.

6. Discussion and Conclusion

Starting from the twenty-first century, Hong Kong has been unable to recover its competitive advantage in export-oriented manufacturing industries. The Asian Financial Crisis accelerated these competitions and declines. The government of Hong Kong Special Administrative Region

has been facing an acute problem vis-à-vis legitimacy. The re-colonial regime suffers from a substantial legitimacy and welfare deficit in Hong Kong. It could not benefit easily from expanding the distribution of public goods as these have already been provided on a mass level and resources are no longer plentiful. They could not improve key areas of social policy. The result is a greater potential for conflicts.

Going through economic restructuring, the Hong Kong government has doubts about the nature of its role, with attention quickly directing to education. The fundamental goal of education is to socialize students in prevailing regime values and to prepare for the manpower needs of the economy. But, the transition of sovereignty created a series of symbolic acts which targeted the shift away from a focus on the depoliticized and decontextualized education. This was associated with a transforming knowledge which focused on uncertainties, issues and controversies. Most governments are inherently conservative as far as education is concerned. The government implemented numerous initiatives to change every key aspect of school system in the first ten years of the Hong Kong Special Administrative Region (Cheng, 2009: 66).

The Special Administrative Region's government can consider itself as responsible for the initiation of educational policies, the formulation of strategies, the promotion of educational plans and programmes, and the identification of prioritized values and attitudes in the education system. However, subsequent educational policy changes were often made with fake consultation or relatively little consultation with those who were charged with implementing them. It is questionable that the targets were achieved under authoritarian governance and amid social unrest in this twenty-year period.

Hong Kong is an international trading and financial metropolis. The extent of modernization is accepted well in the areas of education, civilization, communication, transportation, trading and stock market,

etc. Hong Kong is considered as an advanced territory – an international trading and financial metropolis. The aims of education for the twenty-first century had been expressed to enable and nurture students to attain all-round development in the domain of ethics, intellect, physique, social skills and aesthetics according well to their values and attitudes. Students could be equipped with life-long learning, creative and critical thinking, as well as innovative and exploratory attitudes, and they should be investigating and adapting to change, filled with self-confidence and collective team spirit, willing to put forward successive effort for the public good, prosperity, progress, freedom and democracy of the society, and contributing to the future well-being of China and the world at large (*Reform proposals for the education system in Hong Kong*, 2000, p. 4). However, students tend to compare the past experiences of colonization and decolonialization of education and the present nationalization, re-colonialization and the dominating globalization of the lifeworld. A series of actions were carried out to strengthen the Chinese elements in education. They represented a transforming tendency that avoided knowledge which focused on issues, controversies and uncertainties.

Originally, the education reforms in Hong Kong should share most key features of these international trends and could be considered as part of the international movement of education changes and developments in response to the challenges of globalization and international competitiveness in the new century (Cheng, 2009: 75). However, it should not be assumed or believed that education reform of the post-handover Hong Kong was being done for public vision and goodness. The initiation and process of education reform in the Tung Chee-hwa administration was actually a process of re-organization, re-orientation and re-transformation of Hong Kong educational settings. Since the education system reform was issued in 2005 it had been so questionable.

The new senior secondary curriculum was introduced and students would be provided free education for 12 years from primary 1 to secondary 6. Actually, the reformed education system abolished the British system and adopted the American or Chinese education system only.

Making Liberal Studies a new compulsory subject, schools and classrooms do change with the introduction and promotion of the subject. However, the extent and direction of expected change was not consistent with the intentions of policy initiatives. It did not seek the agreement on values between policymakers and implementers in how a particular programme would proceed and what its objectives would be. The programme of Liberal Studies would represent changes in target group behaviour but would be difficult to achieve without the consent and active participation of those who would bring about the change.

Education policies are sometimes considered and justified not as expected desirable ends in themselves, but as a means towards a more applicable, instrumental, productive and prosperous future. The promotion and implementation of Liberal Studies as a compulsory subject in the new senior secondary school curriculum obviously could not achieve its means and ends. Nowadays, the related authorities considered Liberal Studies as a school subject which advocated students' political participation. Liberal Studies was blamed as to relate with political radicalization of students' activism and radicalism. Interesting enough, for the learning outcome expressed in the Curriculum and Assessment Guide by the end of learning Liberal Studies, it was expressed that students should be able to demonstrate an appreciation for the values of their own and other cultures, and for universal values, and be committed to becoming responsible and conscientious citizens (Curriculum Development Council and Hong Kong Examinations and

Assessment Authority, 2007: 5-6). However, it is so unreasonable to easily come a conclusion that education could be successfully applied for nurturing students' self-determination.

In view of this context and the development strategy proposed, it was to be expected that the younger generation would be able and empowered to recognize their roles and responsibilities. As consequences, the spontaneous actions of students, citizens and residents of Hong Kong were particularly inspiring during these twenty years. These include the Hong Kong Secondary Students' Union's mobilization of students to participate in the 1 July 2003 protest, the post-80s generation's Anti-High Speed Rail Movement in 2010, Scholarism's initiation of the Anti-National Education Movement in 2012 and the Hong Kong Federation of Students' participation in the Occupy Movement in 2014 which all represented remarkable social activities which were, of course, worthy of note.

Recently, the Hong Kong Special Administrative Region's government adopted formal and informal education to depoliticize and instil the spirit of nationalism in students to minimize the potential challenge of the youth to its political legitimacy and to maintain its cultural hegemony. Depoliticization is the process distantiation of being persuaded, inculcated and instructed from acquisition of political knowledge or political participation, like what had been done by the British colonial government in the 1970s Hong Kong. In fact, reform measures tended to get into bureaucratic activities that merely kept participants busy but amounted to little real change in education. The barrier to implementation of educational reforms was a long-standing culture, a mixture of inertia and cynicism (Morris and Scott, 2003: 78). Nevertheless, the authorities always expect to do so by educational change to re-mould new generations. By the end of three terms of the Chief Executives' governance, the people including the pupils had

witnessed one after another dysfunctional leader. They are jackals of the same tribe. One thing is certain: Hong Kong will witness one after another social movement for our future.

Notes

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**“Expressing my attitude and doing something
impossible to make it happen ...”
– Listening to the Voices of Hong Kong’s
Umbrella Movement Protesters⁺**

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Abstract

In autumn 2014 around 1.3 million mostly young citizens of Hong Kong occupied three districts of the city for 79 days. This movement became famous as the Umbrella Movement. Initially, the Umbrella Movement was almost exclusively perceived as a pro-democracy occupation because the democratization of the city’s polity was its core demand. However, over time the perception shifted and the movement was increasingly portrayed as part of a growing demand for more autonomy from mainland China. This rising “localism” is often associated with anti-Chinese sentiments including racism. This article aims to demonstrate that the Umbrella Movement’s call for democracy is indeed part of a broader agenda for more self-determination. This agenda, however, is not necessarily racist. Instead, the Umbrella Movement was a very plural one. The Umbrella Movement’s agenda does, however, comprise not only questions of democratization but also three additional

dimensions, namely socio-economic, identity-political and institutional issues. The article aims to present the plurality of the Umbrella Movement by referring to and quoting a multitude of interviews with protesters which are intended to give the occupiers a “voice” in all their diversity. Finally, the article aims to conclude on the achievements of the movement in all four dimensions and outlines possible future directions.

Keywords: *Umbrella Movement, democracy, self-determination, localism*

1. Introduction

It is the evening of 26 September 2014 in Hong Kong’s Admiralty (金鐘) district. A few thousand secondary school and university students strike because they demand a real democratization of Hong Kong’s elections for the city’s Chief Executive who serves as president or mayor of the city. At 10 pm the gathering is officially finished, but some half an hour later, a seventeen-year old boy re-enters the stage. His name is Joshua Wong (黃之鋒); he is the leader of a student protest organization called *Scholarism* (學民思潮). To the surprise of Hong Kong’s officials, police, the media and many protesters, Wong calls on the crowd not to leave but to re-take Civic Square located in front of the city’s parliament, the Legislative Council.

Civic Square is a symbolic place in Hong Kong. Once built as a public space in front of the Legislative Council that is open to all citizens, Civic Square was closed in July 2014 following protests against infrastructural projects in Hong Kong’s north, the New Territories. The square used to be a symbol of free speech in Hong Kong but the government decided without consulting the Legislative Council to build a 3-meter fence around it.¹ Although Civic Square was partly re-opened from 6 am to 11 pm in early September 2014, Joshua Wong’s

call to reclaim it is a symbol for the movement's desire for democracy and civil liberties of the Hong Kong people.²

About 3,000 students – most of them around the same age as Joshua Wong himself – spend this night in front of the Legislative Council and some hundred students climb the fences and retake Civic Square. The security forces react with a heavy-handed intervention using pepper spray and later on tear gas as well.³ One protester suffers a heart attack but the police deny the medics to enter Civic Square in the first place. Many other protesters suffer injuries including Joshua Wong who gets arrested at around 11 pm.⁴ He and many others are sent to hospital.

Local media reports about the police's actions and the news go viral on Facebook and other social media. As a result of that tens of thousands of young people – students, trainees and young workers – hit the streets in support of the protesters at Civic Square. They use their umbrellas to protect themselves against the police's pepper spray which gave the movement its name.

On 29 September the riot police withdraws and the situation calms down.⁵ But the streets of three districts in Hong Kong remain occupied by the young protesters for the next two and a half months (Ng, 2016).

This was the beginning of the Umbrella Movement that turned into the largest and most important demonstration for democracy on Chinese soil ever since the crackdown at Beijing's Tiananmen Square in 1989.

For many of them the Umbrella Movement was not their first protest. Hong Kong is a contentious city with many demonstrations (Lee *et al.*, 2013). In the last years leading up to the Umbrella Movement, the city's youth was especially concerned about an education reform package that aimed to introduce a “national education” plan trying to enhance Hong Kong students' patriotic feelings towards the People's Republic of China (PRC). The most prominent means to achieve this goal was that students were prescribed to show emotions and cry when

the Chinese flag is raised and also the appraisal of the communist and nationalist ideology (Chan, 2014).

Thousands of students demonstrated against the government's plan to introduce the "national education" reform. Joshua Wong was one of them founding Scholarism. The movement succeeded and in 2012 the government of the Hong Kong Special Administrative Region (HKSAR) withdrew its plans.

At first glance, both protests – the Umbrella Movement in 2014 and the anti-national education protest in 2012 – seem to be very different. In 2012, the demonstrators rejected an educational bill and two years later they aimed at true democracy. However, both protests are closely interrelated. Talking to the supporters and activists of the Umbrella Movement elucidates that this movement called for true electoral democracy but aimed at more: self-determination. When I refer to the term self-determination I do not refer to it as a legal concept of international law. In other words, I do not equate "self-determination" with the call for independence and a separate Hong Kong sovereign entity. Instead, I refer to it as a desire to determine Hong Kong's future with more autonomy from China which leads some but only parts of the movement to call for independence.

This broader desire for more autonomy and self-determination was missed by most press reports and academic writings which shaped the image of the Umbrella Movement during the protests and shortly after (Chan, 2015; Wong, 2015; Cheng, 2016). Later on reports increased in number which focused on radical anti-Chinese actions as well as rhetoric thereby shifting the focus onto Hong Kong's changing identity politics (Kwan, 2016; Bridges, 2016; Rühlig, 2015a; Chan, 2014; Chen and Szeto, 2015). This is accompanied by some analysis that has pointed out the socio-economic foundation of these developments. This includes not only the alliance between the Chinese Communist Party in Beijing and

Hong Kong's local capitalist elite but Chinese risk capital being invested in Hong Kong (Hui and Lau, 2015; Dirlik, 2016; Ip, 2015; Ma, 2015). In addition, the clash of different value systems between Mainland Chinese immigrants and native Hong Kong citizens has become subject of analysis (Wong *et al.*, 2016; Lui, 2015; Rajadhyaksha, 2015).

In this paper, in turn, I aim to provide a better understanding of the plurality of the movement in two respects. First, I try to contextualize the Umbrella Movement activists' desire in the broader agenda for self-determination which ties in with the literature on Hong Kong's changing identity and the role of the political economy. Second, I aim to give a first impression of the plurality of voices and perspectives within the Umbrella Movement. I do so by mainly relying on interviews with protesters from very different factions of the movement interviewed during three field trips in 2015 and 2016. In this sense, this paper is an attempt to give a voice to the Umbrella Movement and complement existing reports from activists (Cheng, 2016; Ng, 2016; Chung, 2015) as well as to provide some understanding of the protest culture (Rühlig, 2016).

I do neither claim that the perception of the Umbrella Movement as a pro-democracy protest is wrong nor that identity politics and economic grievances are not an issue. To the contrary, my interview quotations reveal their relevance and demonstrate that we better understand them as part of a broader agenda for self-determination which plays out in four dimensions: democratic self-determination and the reform of the Chief Executive elections; social and economic self-determination; self-determination in terms of Hong Kong's unique identity; and institutional and political self-determination aiming at a far-reaching autonomy of the city if not independence.

This paper is largely built upon field research in Hong Kong in 2015 and 2016 including in-depth interviews with activists, journalists,

politicians, members of think tanks and social scientists. While cannot claim representativeness, it is intended to demonstrate a great variety of perspectives and unfold a spectrum of the Umbrella Movement. Selectively, these interviews are contextualized with media reports and the existing social scientific literature. In order to reason my account of the Umbrella Movement as a protest desiring Hong Kong's self-determination, I present some background on Hong Kong's electoral law and the development of the movement in paragraph 2. I then turn to my core argument characterizing the Umbrella Movement in terms of self-determination reasoning my account by presenting the movement's claims in four dimensions of self-determination (electoral democracy; social issues; identity; institutional self-determination). I take into account the diversity of the movement containing moderates, radicals and many protesters holding hybrid perspectives in-between these two camps. While different protesters' claims in the four dimensions of self-determination vary, all of them aim at some form of self-determination (paragraph 3). While it is widely believed that the Umbrella Movement has been an outright failure, I argue in paragraph 4 that the results are mixed if we assess the achievements in all four dimensions of self-determination. Valuating the results and predicting the foreseeable future, I argue that the movement was partly successful in terms of electoral democracy and social issues. It failed with regards to institutional self-determination while questions of identity remain completely open to this day.

2. Background

There is not much that the Umbrella Movement activists and the HKSAR government agree upon. But the fact that the selection method of Hong Kong's Chief Executive is in need of reform is not only the goal

of thousands of pro-democracy activists but is also in accordance with §45 of the city's mini-constitution, the Basic Law, which defines universal suffrage as the ultimate goal:

The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

(HKSAR Government, 1997: §45)

Ever since the PRC's Standing Committee of the National People's Congress (SCNPC) decided in 2007 "that the election of the fifth Chief Executive of the Hong Kong Special Administrative Region in the year 2017 may be implemented by the method of universal suffrage" (HKSAR Government, 2013: 44) pro-democratic activists hoped that a reform of Hong Kong's polity would be made in the not too-distant future. Indeed, Hong Kong's Chief Executive CY Leung (梁振英) started a reform process in October 2013 announcing that the reform process would contain two rounds of public consultations. However, only two months later, the government published a "Consultation Paper" which was intended to provide a basis for public consultation but indicated that the scope of reforms would be limited (HKSAR Government, 2013). In order to assess the reform proposal I shortly summarize the method of selecting the Chief Executive prior to the reform.

The last selection of Hong Kong's Chief Executive took place in 2012 and was carried out by an "Election Committee" which consists of 1,200 members. These members are not voted upon by all 3.5 million registered voters of Hong Kong which has 7 million inhabitants but by only about 250,000 voters being members of four "functional constituencies", namely political, commercial, professions and a fourth

one containing labor, social services, arts and religion. Each of these four functional constituencies is represented by 300 members in the Election Committee (Chen, 2012). It is beyond the scope of this paper to go into the details. But three important consequences of this procedure that characterize the Election Committee need to be mentioned.

Firstly, only 7% of Hong Kong's registered voters possess voting rights for the Election Committee leaving 93% of them without representation during the election process of the city's Chief Executive. Hence, the selection of the Chief Executive can be hardly called democratic.

Secondly, even these 7% of the citizens are not equally represented in the Election Committee: While all four functional constituencies possess 300 representatives within the Election Committee providing all four of them with 25% of the vote in the Committee, the numbers of voters in the four constituencies vary greatly. The 300 representatives of the political sector are elected by only 700 voters constituting less than 0.3% of all citizens possessing the right to vote for the Election Committee. In contrast to this, 204,399 from the professions sector constituting almost 82% of voters electing the Election Committee equally select only 300 representatives for the Election Committee. The commercial sector has 26,828 and the labor/social services and religions sector 17,572 registered voters respectively each selecting another 300 representatives though representing only 10.75% and 7% of the total number of citizens possessing the right to select the Election Committee members.

Thirdly, these selection mechanisms are to the systematic advantage of pro-Beijing officials (mainly in the political sector) and businesses with close ties to the mainland which largely depend on the Chinese Communist Party (CCP) and the central government in Beijing. In other words, the described selection mechanism allows Beijing to control the

Election Committee and who becomes Hong Kong's Chief Executive.

The electoral reform process started in the latter half of 2013 and was set up to fundamentally change the process of selecting Hong Kong's Chief Executive and introduce general elections carried out by universal suffrage. However, the HKSAR government made it clear that a Nomination Committee would decide who could run as candidate in the general elections. Though not officially stated it was widely believed that the existing Election Committee should function in the future as Nomination Committee. This belief rests upon the 31 August decision of the SCNPC that reads as follows:

The provisions for the number of members, composition and formation method of the nominating committee shall be made in accordance with the number of members, composition and formation method of the Election Committee.⁶

In other words, while not selecting the Chief Executive itself anymore the Election Committee would choose candidates that are able to run in the general elections granting decisive competences to the Beijing-controlled committee.

Advocators of democracy in Hong Kong call this a “fake democracy” since they predict that the Nomination Committee would not allow any opposition candidate to run in the general elections fearing that the next Chief Executive would not be affiliated with the CCP and the Beijing central government. Instead of granting these far-reaching competences to the Nomination Committee, pro-democratic activists who supported the Umbrella Movement in autumn 2014 favor civil nomination. The process of civil nomination requires every candidate to collect a given number of signatures from registered Hong Kong voters to run for the post as Chief Executive. Hence, civil nomination would

not grant Beijing control over who is running for Hong Kong's Chief Executive; consequently the CCP and its allies in the HKSAR reject the proposal. They argue that civil nomination does not conform to the Basic Law which explicitly states that the nomination has to be done "by a broadly representative nominating committee" (HKSAR Government 1997: §45). Civil nomination was never seriously considered by the HKSAR government and was not mentioned in the final report released after the first round of public consultations on 29 July 2014.⁷ Attempts of moderate pro-democratic actors to propose compromise solutions have failed.

Even more importantly than the HKSAR government's report, the SCNPC published a decision on 31 August 2014 which made clear that the central government was not willing to accept anybody as Chief Executive who does not *love the country [China] and Hong Kong* and that the Chief Executive remains accountable to the CCP-led central government.⁸ This was in line with previous statements by Beijing leaders stating that the Chief Executive cannot oppose the central government.⁹ The SCNPC's decision emphasized two important implications for the reform process in Hong Kong.

Firstly, the democratization of the selection of Hong Kong's Chief Executive was limited to the pre-condition that only pro-Beijing candidates could run for the post in general elections. This questions not only the democratic nature of such elections but clarifies that Beijing is not ready to limit its control over the city.

Secondly, the government in Beijing interprets the "one country, two systems" principle very differently from the pro-democratic actors in Hong Kong. Ever since its handover from British colonial rule to be under the sovereignty of the PRC in 1997, Hong Kong is governed under the principle of "one country, two systems" which stipulates that Hong Kong remains under the authority and sovereignty of the PRC but retains

a high degree of autonomy (HKSAR Government, 1984). Only issues related to foreign affairs and security are subject to the jurisdiction of the central government in China. However, the Basic Law does not specify what “foreign affairs” and “security” entail and especially what China considers to be a matter of “national security” that has changed over the years.¹⁰ To clarify its interpretation of “one country, two systems” the PRC government published a White Paper in June 2014 which made clear once more that it is China and not the local political actors which will determine the Special Administrative Region’s future (State Council of the People’s Republic of China, 2014).

Hence, from the outset the struggle for democratizing Hong Kong’s polity in general and the nomination procedure of the Chief Executive elections in particular directly addresses the question of how autonomous Hong Kong should be.

In reaction to the reform process that – in the eyes of pro-democracy actors – offers only “fake democracy” and reinforces Beijing’s control over the city, an associate professor at the Department of Law at the Hong Kong University (HKU), Benny Tai Yiu-ting (戴耀廷), published in January 2013 an article entitled “Civil Disobedience’s Deadliest Weapon” (公民抗命的最大殺傷力武器) in the *Hong Kong Economic Journal* (信報財經新聞) calling for an occupation of Hong Kong’s Central (中環) district in order to shut down the city.¹¹ The article went viral in Hong Kong and with the help of a minister of Chai Wan Baptist Church (柴灣浸信會), Reverend Chu Yiu-ming (朱耀明), who is also the chairman of the Hong Kong Democracy Development Network, and Chan Kin-man (陳健民), an associate professor of sociology at the Chinese University of Hong Kong, Tai announced the foundation of the *Occupy Central with Love and Peace* (OCLP) movement (March 2013). Up until autumn 2014, these three people, often referred to as the “Occupy Trio” (佔中三子), successfully built up OCLP organizing

several events, gatherings and meetings discussing the democratization of Hong Kong's polity and preparing the occupation of the city's business district, Central, on China's national day, 1 October 2014. At the core of these preparations were three "deliberation days" when every citizen of Hong Kong was invited to propose and discuss different ways of democratizing the Chief Executive selection. The results of the third deliberation day were three different proposals¹² which were sent to an unofficial referendum that took place 20-29 June 2014 with 800,000 out of the 3.5 million registered voters casting their ballot¹³. The final result showed support for a three-chain proposal offering candidates three ways to be nominated for the elections which should be held by universal suffrage: firstly, nomination by the Nomination Committee after the democratization of its composition; secondly, party nomination allowing the political parties in Hong Kong's Legislative Council to nominate; thirdly, civil nomination which provides the citizens a direct opportunity to nominate their candidate(s).¹⁴

Although the referendum showed a high turnout, the government did not fulfill the demand of OCLP to implement its result. Therefore, the Occupy movement decided to hit the streets on 1 October 2014 as planned and occupy the streets. The leadership of OCLP hoped that 10,000 people would join to occupy Central district completely peacefully as an act of civil disobedience and expected to get arrested after only a few days if not hours. Although Hong Kong was occupied for several months by up to 1.2 million occupiers (estimations vary)¹⁵, the protests turned out to be very different from what OCLP had expected. At least four significant differences can be identified.

Firstly, the occupation started already a few days prior to 1 October 2014 and was mainly carried out not by OCLP but two student organizations, Scholarism and the Hong Kong Federation of Students (HKFS) (see introduction)¹⁶.

Secondly, the local public's outcry over police violence turned the whole movement from an organized one led by the "Occupy Trio" into a spontaneous protest which was largely shaped by Hong Kong's youth. Social media reports about police violence massively helped to mobilize spontaneously the city's young people who had never taken part in the deliberation days or participated in one of OCLP's trainings in civil disobedience.¹⁷

Thirdly, the protest tactics varied not fundamentally but markedly: while both the students and OCLP lobbied for and carried out peaceful protests, the students rejected OCLP's appeal to wait until getting arrested by the police. The continued call for their original strategy made many students reject the leadership of OCLP. A moderate student activist who had been sympathetic to OCLP initially told me, for example:

*At first, when Benny Tai proposed Occupy Central, I was supportive and I really think that civil disobedience can make a difference. But when you are in the movement, you don't think the same way because the use of violence is all out of charge. When I was pepper sprayed, I couldn't control my consciousness, I was full of hatred, full of aggressive minds. No way. I think 90% of students think the same way as I do.*¹⁸

Fourth and finally, the "Umbrella Movement" never occupied Central as it was planned by OCLP but three other districts of Hong Kong¹⁹: Admiralty, Mong Kok (旺角) and Causeway Bay (銅鑼灣). Admiralty bordering the business district of Central consists of public administration buildings, consulates, luxury shops and restaurants as well as financial businesses. Protesters in Admiralty gathered in front of government buildings and the Legislative Council and blocked main roads for the traffic on Hong Kong Island connecting Wan Chai (灣仔)

and Causeway Bay in the east with Central and Sheung Wan (上環) in the west. Protests at Admiralty gained the most attention from international media and counted the most occupants. It was the most organized and well-structured protests coordinated by the Hong Kong Federation of Students, Scholarism as well as to a lesser extent OCLP and other civil society organizations.

In contrast to Admiralty, Mong Kok is a working class district on the Kowloon (九龍) Peninsula with many low-priced shops and traditional cookshops. People living here are much poorer and the neighborhood is dirtier. Protests attracted occupants with more radical perspectives compared to Admiralty which included the call for grassroots democracy within the protest movement itself. Mong Kok developed into the most unique protest area and protest leaders never gained control over Mong Kok which was mainly grassroots-driven.²⁰ In Mong Kok, the movement occupied two major roads of the Kowloon Peninsula including Nathan Road (彌敦道) which caused enormous obstacles to the traffic in Kowloon.

The protest site in Causeway Bay is geographically not too far away from Admiralty. On the one hand, Causeway Bay is a business district with many high-price shopping opportunities and full of shopping malls. One would not assume to find much support for the protesters here. On the other hand, there is some tradition for political protest in Causeway Bay and every day people distribute political leaflets in the streets. The protesters at Causeway Bay were less outspoken than their counterparts in Mong Kok and Admiralty and gained the least attention. Instead, my interviewees characterized it as a place of classes, seminars and discussions.²¹

The plurality as well as the differences of these three protest sites point to an important characteristic of the movement: its diversity (Chung, 2015). While most of the protesters came out “individually” in

reaction to the media and social media coverage of the occupation and police violence, the diversity of the movement was also represented by the organizations which supported the movement. This included moderate civil society organizations such as OCLP, the Hong Kong Alliance in Support of Patriotic Democratic Movements of China or the People's Human Rights Front, think tanks of the pan-democratic political establishment (e.g. Hong Kong 2020) as well as pan-democratic parties both moderate (e.g. Democratic Party, Civic Party) and more radical ones (League of Social Democrats, People Power). Furthermore, radical civil society organizations joined the movement as well such as Civic Passion (熱血公民). And finally, the student organizations HKFS and Scholarism were of crucial importance. Although it is beyond the scope of this paper to describe all these actors in more detail, what is crucial is the fact that the demonstrators came from very different backgrounds and held very different political visions.

Overall the protests of the Umbrella Movement remained peaceful and very well ordered. Violent clashes erupted only sporadically²² with the police (though human rights organizations reported human rights violations by Hong Kong's police)²³ and on a minor scale mainly in Mong Kok with counter-demonstrators supporting the HKSAR and central Chinese governments. It has been reported that some of these counter-demonstrators have been paid by the PRC (Liu, 2014) but this should not mislead one to overlook that Hong Kong remained a divided city with only little bit more than half of it being in support of the pro-democratic reform agenda²⁴.

The young protesters demanded talks on political reform with the HKSAR government and negotiations were scheduled several times but only one official meeting broadcasted live in local TV took place.²⁵

Over time, it became clear that the HKSAR and central Chinese governments' tactic was to sit out the occupation and tried to avoid both

political reform as well as violent crackdown of the movement. Indeed, tensions over goals and tactics arose within the activists and the fact that nothing changed exhausted many young occupiers. Moreover, the support of the general public in Hong Kong decreased due to the fact that the occupation caused some though limited inconveniences for the everyday life. This led the “Occupy Trio” who had joined the movement in the first days to decide to withdraw their support on 3 December handing themselves into the police but they were set free without being charged.²⁶

On 25 November 2014, the police cleared the Mong Kok protest area with some but not excessive resistance by the demonstrators. Admiralty and Causeway Bay were cleared on 11 December and 15 December 2014 respectively without violence ending 2.5 months of the Umbrella Movement occupying important parts of Hong Kong.²⁷

3. Aiming at Self-determination: The Goals of the Umbrella Movement

In autumn 2014, the world watched Hong Kong. Students had occupied the streets and demanded a fair and democratic election of the city’s Chief Executive. But we better understand the movement when we perceive it in terms of the occupiers’ desire for self-determination in a broader sense.

Obviously, self-determination and democracy are closely interrelated. Hence, neither do I deny that the demonstrators’ call for electoral democracy was honest and earnest nor do I argue that the Umbrella Movement was not a pro-democratic one. However, by placing the term *self-determination* at the core I want to widen the perspective of the readers to other than electoral demands of the demonstrators and point out the overall framework of these desires.

One might argue that democracy is essentially about self-determination. I agree. Democracy in its literal sense is about the rule of the people themselves.²⁸ In almost the same manner, this is the essence of collective self-determination. Both concepts share the idea that power is executed by the subjects of rule effectively overcoming the division of the rulers and the ruled. However, there is one marked difference in the evolution of the terms “democracy” and “self-determination”: While the former refers to a specific form of rule domestically, self-determination as a *political* concept²⁹ rose in prominence as a by-product of nationalism highlighting the collective self-determination of people externally. Literally, democracy and collective self-determination are closely interlinked but both carry a different politic-historical connotation.

Although I agree that the Umbrella Movement was a pro-democratic one I place the term “self-determination” at the center of my considerations because of two reasons. Firstly, I claim that a central concern of the Umbrella Movement has been Hong Kong’s relationship to China addressing questions of what collective self-determination means. This touches upon the formation of the nation, national solidarity and the constitution of a collective that rightly claims its right to self-determination. Hence, the Umbrella Movement was not only about the city’s domestic polity but addressed issues of collective self-determination in a broader sense. Secondly, the dominant discourse both within the movement itself and in the local and international media, narrows “democracy” in Hong Kong down to the electoral reform of selecting the Chief Executive neglecting other aspects of democracy. In order to terminologically distinguish my perspective from this narrow focus, I prefer to place the term *self-determination* at the core of my argument.

When I refer to the Umbrella Movement aiming at self-determination, I do not equate this with the call for independence. Instead, I include a full range of demands for more autonomy to the agenda for self-determination. Clearly, many of such calls are compatible with the “one country, two systems” framework and the Basic Law but demand a different interpretation of them.

The Umbrella Movement’s aim for self-determination was not limited to electoral democracy. Instead, I clearly identify four dimensions of self-determination that the movement was aiming at. These four dimensions are electoral democracy, social welfare, identity and institutions.

All of these four dimensions carry their own core questions: How democratic should Hong Kong be in order to guarantee enough self-determination of its citizens? What is the best way to social security and a free and self-determined life of Hong Kong’s poor people? What describes Hong Kong’s identity best (Hong Kong Chinese, autonomous Hong Kong identity, or anti-Chinese Hong Kong identity)? Which political institutions serve Hong Kong’s interests best?

The answers to these questions within the movement are very different. They all revolve around the question what exactly “one country, two systems” means in these four fields or whether Hong Kong should strive for complete independence. This does not mean that all demonstrators agree on these issues. Instead, the diversity of the movement (see paragraph 2) resulted in different demands in all four dimensions which all call for more self-determination though to different degrees. I differentiate between moderates and radicals (as do many of the demonstrators as well).

In the following, I shortly summarize the spectrum of opinions and demands voiced by the Umbrella Movement in each of the four dimensions before I turn to them in more detail in the following sub-

paragraphs.

With regard to electoral democracy (referring within the Umbrella Movement only to the selection method of the Chief Executive), the debate within the movement focused on the question of the candidates' nomination. Moderates aimed at changes in the composition of the Nomination Committee, for example by broadening the scope of committee members to include directly elected representatives from District Councils and/or the Legislative Council into it. Others opt for a greater say of different political parties and/or organizations which requires pro-democratic and pro-Beijing forces to find compromise candidates.³⁰ This would turn Hong Kong into some sort of a concordance democracy. Radicals instead insist on the possibility of civil nomination without Chinese interference. While both moderates and radicals perceive civil nomination without any interference of the PRC as the best way, moderates are willing to compromise while radicals follow an all-or-none approach.

In terms of economic and social welfare issues, moderates aim to fight poverty, housing shortages and high rental fees by all means if necessary alongside China. This includes that they accept increased economic cooperation and the influx of Chinese tourists if they serve the Hong Kong economy and help to reduce poverty. Others instead emphasize more the self-expression of Hong Kong's poor people as a part of grassroots democratic self-determination of the Hong Kong people. Consequently, Chinese interferences are perceived with more skepticism and local solutions that place the needs of the poor people first are preferred. Finally, radicals even call for economic independence from China because they believe that the close ties with the mainland undermine the social welfare institutions of Hong Kong.

As of identity, moderates perceive themselves as "Hong Kong-Chinese" that merges Chinese cultural traditions with the international

and the multicultural legacy of Hong Kong which is still somehow shaped by British colonial rule. The claim to be “Hong Kong-Chinese” represents something unique and distinguishable from the mainland Chinese identity though not neglecting Chinese influences. Others view themselves solely as “Hong Kongers” with a strong sense of localism. Mainland Chinese influences though not completely rejected are perceived with some skepticism either because China is only a minor source of Hong Kong’s own identity or because the PRC is seen as not preserving the “true” Chinese traditional culture anymore (e.g. because they have simplified the Chinese characters and do not write the “language of Confucius” anymore). Finally, radicals clearly reject any Chinese influences on the local Hong Kong identity. This does not mean that they deny Chinese impacts on Hong Kong’s past. However, their local Hong Kong identity is constructed in contrast to the mainland Chinese one and is sometimes even infiltrated by anti-Chinese racist opinions.

Politically, all this bears the question of adequate institutions. Moderates defend the status quo of “one country, two systems” emphasizing the “two systems” part of the principle. China’s increased emphasis of the “one country” norm, e.g. within the White Paper issued in June 2014, worries them. For this group, Hong Kong is and should remain part of China. In their eyes, Hong Kong’s example could trigger political reform in the PRC as a whole. This is where others disagree aiming at a higher degree of autonomy like in a federalist state searching for local institutional solutions without setting any prototype for other localities. While the PRC may prefer this perspective over the first one, it is more radical insofar as it does not relate the city of Hong Kong to the Chinese motherland. More autonomy compared to the existing “one country, two systems” principle is demanded which would make Hong Kong highly autonomous from the central government. Radicals, finally,

go a step further calling for complete independence of Hong Kong as a city state with its own full sovereignty.

The graphic in Figure 1 summarizes the different factions' perspectives on the four mentioned dimensions.

Figure 1 Spectrum of Opinions and Demands Voiced by the Umbrella Movement

<i>Moderates</i>		<i>Radicals</i>
<i>Electoral democracy</i>		
Changes of the Nomination Committee's composition.	Increased influence of political parties leading to some form of concordance democracy.	Civil nomination only; no Chinese interference.
<i>Economy and social welfare</i>		
Fight against poverty and housing shortages alongside China (including Chinese tourism).	Self-expression of Hong Kong's poor people as a step towards self-determination; economic and social issues to be decided locally.	Economic and social independence from China.
<i>Identity</i>		
Hong Kong-Chinese identity: local Hong Kong and Chinese traditions merge into one identity.	Hong Kong identity: strong sense of localism. Increasing Chinese influence is perceived with skepticism.	Anti-Chinese identity: Clear rejection of any Chinese influence. Possibly even racist.
<i>Institutions</i>		
Defense of the status quo emphasizing the "two systems". Hong Kong may set an example for the PRC.	Increased autonomy of Hong Kong: Hong Kong-China relations like in a federalist state with different local conditions and institutions.	Hong Kong city state: Hong Kong's secession to be an independent and sovereign state.

Note that the three positions in all the four dimensions are ideal types on a continuum; hybrid positions are not only plenty but most

widespread. Advocates of a radical or moderate position in one dimension do not need to be on the radical or moderate side in another one respectively. However, an activist who aims at an independent and sovereign Hong Kong most likely is not satisfied with minor changes in the Nomination Committee when it comes to questions of democratization. Similarly, a moderate who wants to fight poverty together with China cannot hold completely anti-Chinese racist perspectives. However, mixtures of middle positions within one field are often perfectly well compatible with completely moderate or radical positions in another dimension. This demonstrates that all four dimensions are interrelated. Especially the identity dimension seems to be decisive for the positions held in the other dimensions.

Apart from all this diversity, what unites the Umbrella Movement is the call for a (more) autonomous Hong Kong. What this exactly means is, however, contested. Interestingly, over the course of the demonstrations a radicalization was clearly identifiable.³¹ However, while the radical demands increasingly dominated the public debate, their actual support remained limited as can be seen not only in results of the Legislative Council Elections in September 2016 but also with only low numbers of protesters showing up when radical groups call for protests (like the protest in front of the Chinese Liaison Office in the evening of 1 July 2016).

In the following sub-paragraphs I present the Umbrella Movement's positions in the four dimensions, namely electoral democracy, economy and social self-determination, Hong Kong's identity, and institutional demands, in more detail.

3.1. Electoral Democracy

The most well-known and most clearly pronounced demand of the Umbrella Movement was the democratization of Hong Kong's political

system in general and the nomination process of the Chief Executive elections in particular.

During the electoral reform period of 2013-2015, *civil nomination* emerged as the main controversial issue. The Beijing government and the pro-Beijing actors in Hong Kong reject civil nomination with reference to §45 of the Basic Law. The whole pro-democratic camp, instead, embraces civil nomination as the best method of nominating candidates for the elections of the Chief Executive. However, moderates and radicals among the pro-democrats disagree on how essential civil nomination is and whether any other methods of nomination could be acceptable as a compromise with Beijing. A senior member of the moderate Hong Kong Alliance in Support of Patriotic Democratic Movements of China told me in an interview:

The major discussion was always whether to include civil nomination or not. Civil nomination is all about the fact that a certain amount of voters can propose a candidate running for the Chief Executive elections. All the radicals thought this is the best. We also think it is the best. But the moderates know that it is impossible under China and the Basic Law.

Even up to this day, there are discussions within the movement whether we should demand only things that conform to the Basic Law or object the Basic Law itself and ask for more. We want freedom and democracy.

When it comes to civil nomination, we want it too but since it is impossible we preferred to vote for a proposal that is possibly acceptable to Beijing and does not violate the Basic Law. This can still be a good democracy. But the radicals wanted nothing but the best.³²

Hence, within the pro-democratic camp radicals demanded that civil nomination should be the only way of nomination to run for the post as Chief Executive. While there is hardly any compromise thinkable between Beijing's interpretation and insistence of the Basic Law with the radical protesters' call for civil nomination, moderates have tried to search for common ground.

Although these differences sound rather limited, the frictions between radicals and moderates within the movement are deep. The question whether the pro-democratic camps should be willing to compromise on electoral democracy is a crucial one which seriously divides the movement. While radicals accuse the moderates of betraying the people of Hong Kong, moderates lament that radicals make no compromise and improvements get impossible with their hard-line stance. Interestingly though, the movement was largely successful in temporarily neglecting these differences during the Occupation itself. This was not a sign of compromise or agreement within the movement. Instead, concrete proposals and plans of how to implement the demand for "true (electoral) democracy" were not extensively debated anymore.³³ Instead, every faction of the movement continued to aim at its goals without discussing it at length anymore. Hence, the existing differences remained within the movement and consequently the controversies reemerged soon after the end of the Umbrella Movement. During the preparatory stage especially at OCLP's deliberation days the different positions had already been obvious. While campaigning during OCLP's deliberation days and in the context of the referendum, the differences were very clear.

The two leading student organizations, Scholarism and the HKFS, introduced a proposal which allowed only civil nomination. In order to run for the post as Chief Executive, every candidate has to gain support

by 1% of the 3.5 million registered voters in Hong Kong. A very similar proposal was tabled by the radical pan-democratic party “People Power”.

A less radical proposal was introduced by the Alliance for True Democracy allowing for three alternative “tracks” of nomination: nomination by the Nomination Committee; party nomination; and civil nomination. This proposal finally succeeded in the unofficial referendum carried out by OCLP (see above).

While all these three proposals contain civil nomination, others did not. The moderate think tank “Hong Kong 2020”, for example, suggested to firstly enlarge the Nomination Committee, uphold the four functional constituencies but democratize especially the political sector including direct elections of some of its representatives and introduce a threshold of only 10% that every candidate has to secure within the Nomination Committee in order to run for the post as Chief Executive.³⁴ The “Hong Kong 2020” proposal explicitly tried to conform to the Basic Law and democratize the existing system supported by Beijing.

Another example is a proposal put forward by several scholars who suggested a nomination procedure of two stages. In a first stage of civil nomination, every candidate had to secure approximately 3% of the voters’ support. All candidates would have to secure 10% of the votes within the Nomination Committee in a second round providing all members of the Committee only with one vote.³⁵

Finally to name one more suggestion, Eric Lam Lap Chi (林立志) proposed that the Nomination Committee should be composed according to the same proportion of the political parties’ success in the geographical constituency during the Legislative Council General Elections in 2016. Any political party representative nominated by no less than one-eighth and no more than one-sixth of the Nominating Committee members would qualify as candidate running for the post as

Chief Executive according to this proposal which placed all its hope for democratization upon political parties.³⁶

These are only six out of fifteen official proposals voted upon during the third deliberation day of OCLP. Other compromise suggestions emerged after the end of the Umbrella Movement.³⁷

Apart from these different proposals, all pro-democratic forces in Hong Kong are united in their call for a nomination procedure which ensures that the candidates running for the post as Chief Executive cannot be hand-picked by China. All agree that civil nomination would be the best way of nomination but are divided on whether to compromise or not since it is highly unlikely that Beijing will accept this demand. In other words, while radicals call for complete non-interference of the PRC into the nomination process, moderates seek ways to limit China's influence and protect as much local autonomy as possible. Both, moderates and radicals, aim to preserve or even increase Hong Kong's degree of self-determination. Pro-Beijing forces, instead, argued that §45 of the Basic Law ruled out the possibility of civil nomination at all and ensured that all candidates serve the country which is best ruled by the CCP.

3.2. Economic and Social Self-determination

At the core of the public's attention were the well-educated middle-class students protesting at Admiralty for political and not economic reasons (Yang and Liu, 2015). This perspective, however, overlooks two aspects of the movement. Firstly, poor people did participate as well though most of them in Mong Kok and not Admiralty. Secondly, both the well-educated middle-class as well as poor protesters were partly driven by economic and social concerns too.

Although polls show that the city's poor were less supportive of OCLP as an organization and democratization of Hong Kong's polity,

other surveys representing the protesters on the streets (Yuen and Cheng, 2015) confirm that especially in Mong Kok many non-academic, poor working-class demonstrators could be found. This also corresponds to the subjective impressions of all my interviewees.³⁸ The protests in Mong Kok offered the marginalized the opportunity to speak out and provided a platform for the everyday challenges of Hong Kong's poor. However, while the protests in Mong Kok provided a voice for the social concerns of the unheard, it has not resulted in clear-cut social demands raised by the Umbrella Movement because the protests in Mong Kok remained largely leaderless and the low degree of organization at this protest site prevented the emergence of an explicit social agenda raised by the Umbrella Movement.³⁹

The agenda of the Umbrella Movement remained shaped by its demand for democracy. This rather abstract goal is distant to the poor people's lives which are characterized by poverty, hardships and basic everyday needs. Consequently, many poor people of Hong Kong remained somewhat skeptical of the Admiralty protests, its intellectual leaders and demands. Hence, the Umbrella Movement as a whole did not succeed to win the poor people's general support. The protests in Mong Kok preserved a high degree of uniqueness focusing on social affairs though many middle-class protesters in Admiralty were partly motivated by fears of social decline as a result of intensified competitive pressure. However, the middle-class protesters were only partly successful in uniting with the unsatisfied lower classes occupying Mong Kok. This is somehow surprising for two reasons. Firstly, prior to the protests the HKSAR government had largely failed to address the social concerns of the citizens. The government's mindset is well captured by one of the rare interviews of CY Leung during the protests when he told the press discussing possible consequences of democratization:

You look at the meaning of the words ‘broadly representative,’ it’s not numeric representation. You have to take care of all the sectors in Hong Kong as much as you can, and if it’s entirely a numbers game and numeric representation, then obviously you would be talking to half of the people in Hong Kong who earn less than \$1,800 a month. Then you would end up with that kind of politics and policies.’⁴⁰

In other words, CY Leung argued against democratic accountability of the Chief Executive to the people of Hong Kong because this would end up in policies that address the social concerns of the city’s poor. This statement not only demonstrates CY Leung’s lack of democratic sense of serving the people but also that he ignores the immense social problems of Hong Kong.

Secondly, the social concerns voiced in Mong Kok correspond to the direful living conditions of many Hong Kong citizens both from the lower and well-educated middle classes:

The most obvious challenge is housing (Wong *et al.*, 2004). Incredibly high rental fees leave thousands of people in very small and dirty rooms and shared apartments. Given these huge problems, it is no wonder that a moderate student activist called in an interview the housing problem “*one of the factors that caused many people to go to the streets*” and protest.⁴¹ This, however, is not even the worst: around 130,000 people in Hong Kong live in small cages. The owners of apartments pile up several cages upon each other and rent them out for approximately 500-600 Euro in Mong Kok.⁴² These cages often do not provide enough space for a grown person to sleep outstretched.⁴³ The incredibly high rental fees correspond to a lowering of the actual wages in Hong Kong (Lai *et al.*, 2013: 21). Apart from that, 320,000 migrant domestic workers live in Hong Kong under terrible living and working

conditions making up almost 5% of the city's population (Rühlig, 2015b).

While poverty generally affects all generations in Hong Kong, poverty among the elderly is of particular importance politically. In part, this is the result of the privatization of Hong Kong's welfare state in the last decades (Lee and Haque, 2006; Lee, 2012; Lee and Haque, 2008). Most importantly for the Umbrella Movement, poverty among the elderly also massively affects the young generation. According to a poll of the Hong Kong Transition Project at the Baptist University of the city, 23% of the young people regularly support their parents with up to 20% of their income while another 17% even spend between 20-60% to help them (Hong Kong Transition Project, 2013: 34). Most of the young people helping their parents are members of the middle class. Consequently, poverty among the elderly has significant effects on the young middle-class' income and prospects. Young people in Hong Kong who support their parents financially show higher degrees of dissatisfaction with both the HKSAR and the central government in Beijing (Hong Kong Transition Project, 2013: 71, 80, 85) and should be more likely to demonstrate and support the Umbrella Movement.

This situation has resulted in social claims raised by both moderates as well as radicals within the Umbrella Movement. Crucial in the context of this paper, all these demands call for Hong Kong's social self-determination though to different degrees. Not rejecting to cooperate with China in order to address social issues in the city, moderates claim that mainland influences have caused the existing problems. One example is the claim of a moderate young lecturer working at the Chinese University of Hong Kong:

The fear of the future matters a lot for the movement in Hong Kong especially with regard to rents. Hong Kong has been rated at the top

of the property prices; it is really crazy. Most of my friends worry about it.

*These problems have been discussed a lot on TV during the demonstrations. Compared to six or seven years ago the economy used to be more stable and the property prices weren't that high; the size of protest wasn't that great either. **But five years ago when the control mechanisms for Chinese money coming in became more relaxed, a lot of speculation grew regarding whether this money has brought up the prices of property increasing the costs of living.***⁴⁴

Furthermore, many moderates, mostly young, well-educated members of the middle class, fear the increasing competition with mainlanders for both jobs and educational positions. On a more aggregate level, the enormous economic growth of many mainland cities, especially the economic success of China's financial hub Shanghai, questions the role of Hong Kong as an Asian economic and financial powerhouse.

More radical Umbrella Movement activists do not limit their criticism to the influence of Chinese state intervention and competition but to the mainland people as well. One example is the accusation of mainlanders smuggling basic needs like milk powder and drugs from Hong Kong to the mainland:

*At the border is a lot of illegal trading of milk powder and drugs as well as daily necessities. This is very disrespectful to the people living [close to the border] in the northern district of Hong Kong. [...] This is an extremely remote area but with ten pharmacies on one road. There are many mainland people almost as many as in Mong Kok. It was unthinkable a few years ago. But now it is reality.*⁴⁵

Although not *all* mainlanders are criticized, activists do not only limit their accusations to illegal smugglers but to tourists as well. Many in Hong Kong believe that mainland tourists come to the city in order to buy food because of the better quality in Hong Kong compared to the mainland. Most importantly, they believe that all this has resulted in an increase in prices of basic everyday needs for the local population. These beliefs have caused radical activists to even attack tourists from the mainland, mostly in Mong Kok which is a popular tourist hot spot where many mainland tourists like to shop (Ip, 2015).⁴⁶

This goes along with the radicals rejecting any impact and influx from the mainland to Hong Kong. One major criticism is the “one-way permit” which allows 150 mainland citizens every day to settle permanently in the city. Radical critics argue that mainly poor mainlanders make use of the “one-way permit” exploiting and seriously harming Hong Kong’s social security system:

*These “new Hong Kongers” rob our resources. They say that they come to the city for the reunion of their families because some have relatives here. But this is not the case. [...] Since they are poor they don’t need to pay taxes but enjoy the welfare system of Hong Kong paid by Hong Kong’s taxpayers. [...] Many of them are not working; they are lazy and wait only for the government to give them money every month. [...] The Hong Kong government cannot defend us because China decides on all these issues.*⁴⁷

In sum, social issues played a very important role for the Umbrella Movement. Though moderates and radicals hold different views on whether and to what extent the PRC has generated social and economic challenges for the city, all seem to agree that China and mainlanders are causing social problems. Consequently, all hope for more economic and

social self-determination while the degrees to which activists are willing to cooperate with the PRC vary: moderates hope for help while radicals call for economic and social independence from the mainland.

3.3. *Hong Kong's Identity*

The Umbrella Movement's call for self-determination in the previously mentioned two dimensions goes along with the desire to preserve the city's unique culture, identity and characteristics in terms of its political and judicial system. This is a reaction to the general trend of a "mainlandization" in the city: statistical analysis demonstrates an overall though volatile trend changing the identities of the citizens of Hong Kong towards feeling more "Chinese" (Hong Kong Transition Project, 2013: 20; 2014: 16). This goes along with my interviewees' subjective perception of a creeping "mainlandization".⁴⁸

However, the overall trend contrasts with the fact that mainly young citizens hold a particular "Hong Kong identity". Hence, while older generations in particular turn more and more "Chinese", young people share a high sense of a "local Hong Kong identity". Significantly, the Umbrella Movement was shaped and dominated by young people forming the great majority of protesters.⁴⁹ In an interview an expert on civil society and protests told me:

I think after 1997 and especially increasingly after the Umbrella Movement, a heightened sense of "localism" is visible, especially among the younger generation. In fact, the question about political identity has been asked in many opinion polls. I think the majority of people, especially the ones who were born and have grown up in Hong Kong, do not consider themselves Chinese but Hong Kongese or Hong Kong-Chinese. [...] I think that Beijing's very heavy-handed measure and its increasing interventionism as well as the loss of the

*fight for democracy have actually pushed the people – especially the younger generation and the better educated – towards some form of localism. They say: “We don’t want to have anything to do with this country, we don’t identify anymore with this country.”*⁵⁰

Overall, Hong Kong’s identity is complex but two main components are central. Firstly, Hong Kong people hold a high sense of fundamental human rights – especially the right to freedom of expression and speech, freedom of press, and the freedom of assembly and demonstrations – which were introduced (though not always respected) by the British. Many activists of the Umbrella Movement fear that a further “mainlandization” of Hong Kong would endanger this characteristic legacy of the city.⁵¹ This fear applies also to the city’s judiciary independence and to the effective public bureaucracy which is believed to be largely clean of corruption.⁵²

Secondly, Hong Kong’s identity is based on the city’s language, Cantonese, in contrast to Mandarin. Cantonese is not just a southern Chinese dialect; being very different from Mandarin it is also written in traditional characters instead of the simplified Mandarin characters. This leads some Hong Kong activists to argue that Cantonese preserves the old Chinese culture much better than the mainland’s Mandarin. This is often accompanied by the accusation that mainlanders have lost a sense of the Chinese heritage during the Cultural Revolution. Hence, Hong Kong’s identity merges both the protection of fundamental human rights and democracy as well as the preservation of China’s old traditional culture.⁵³

Although the Umbrella Movement as a whole holds the belief in a distinct and unique Hong Kong identity, differences with regard to its relation with the mainland is clearly visible between moderates and radicals.

Moderates feel that they are both Chinese and Hong Kongese. However, being Chinese is not equal to being a Hong Kong person and both parts – the Chinese and the Hong Kong one – need to be mentioned. Both components are compatible and interrelated but do not merge into one and the same:

*I think I am Chinese too because I can be Chinese and a Hong Konger.*⁵⁴

A middle position agrees that the Hong Kong identity is related to China but is explicitly critical of the mainland distinguishing Hong Kong from the rest of the PRC. While it does not reject Chinese influences on Hong Kong's identity it is skeptical towards the PRC and its citizens. This leads them to question whether Hong Kong would benefit from a democratization of China:

*A few years ago, the situation was very different. We thought that if China is going to democratize, Hong Kong will profit from it as well. Therefore, Hong Kong supported the Chinese fighters and China's democratization. But now the people doubt whether changes in China will benefit Hong Kong as well. Why? In recent years the atmosphere among the mainland and the Hong Kong people became very tense. Therefore, many Hong Kong people believe that the democratization of China would provide the mainlanders with even more possibilities to voice their hatred against the city and would question Hong Kong's future and semi-autonomy.*⁵⁵

However, the concerns over identity are most clearly visible when it comes to educational reform and language issues. Currently, new

teaching materials have become the subject of controversy in Hong Kong.⁵⁶ Even more importantly, two other protest movements directly engage with educational issues, namely the protest against the “national education” reform in 2012 that had to be withdrawn by the government after student protests and the plan to establish Mandarin as the medium of instruction in Hong Kong’s primary schools. On an individual level, many protesters of the Umbrella Movement support these two protest movements as well. A moderate student activist told me about the protests on “national education”:

This issue is extremely important. In 2012, the Hong Kong government tried to introduce the national education program. But the people were very reactive to this because they rejected the idea that students have to minister the rise of the national flag and that the students should express their emotions in their face. The government wanted them to feel very touched; therefore they released a guideline for students about how to behave and show their emotions. Many parents and students found it very hard to follow. [...] This is when I started my “protest career” too ...⁵⁷

In 2012, the student protests were successful and the “national education” reform was withdrawn. In the foreseeable future, the introduction of Mandarin as a medium of instruction in Hong Kong’s primary schools is expected to cause massive protests and might become the major “battlefield” in the city. Many Umbrella Movement activists care about the issue and fear that Mandarin might replace Cantonese in the whole city when it turns into the medium of instruction in schools. They worry about the cultural identity of their city which is closely related to Cantonese.⁵⁸

Finally, radicals not only agree to these skeptical perceptions of mainland Chinese influences but hold a purely Hong Kong identity which defines itself in contrast to China.⁵⁹ This leads a small though significant portion of activists to voice racist anti-Chinese sentiments:

*The Hong Kong people worked very hard to build up this wonderful city and we need now to be the guard to preserve it. We should guard the core values, the rule of law and the language etc. We should be proud of Hong Kong. But there are many mainlanders who use the single way permit. China sends 150 people from the mainland every day to Hong Kong. I have to use a rude word here: they pollute the Hong Kong population. [...] A friend of mine lives in the north and told me that the mainlanders carrying their suitcases do not apologize when they step on somebody's feet because they are not respecting our rules and values.*⁶⁰

While such racist perspectives voiced by a radical secondary school student who is still very young most likely do not represent the views of the majority of protesters, all protest factions seem to agree that the local Hong Kong identity is very important and that the city should be protected from too much Chinese interference into the local affairs. This is apparent especially with regard to educational and language issues. Also the emergence of nativist political parties signals the existence of this racist faction within the movement.⁶¹

Hence, the protest in its totality was to some extent an anti-CCP protest and in part also an anti-Chinese protest more generally. This includes daily discrimination of mainlanders living in Hong Kong.⁶² Different factions of the movement, though, hold different identities which reject the mainland to different degrees.

3.4. Hong Kong's Polity

The nativist or localist identity has also caused a number of calls for political and institutional autonomy from China. While some activists limit their demands to the implementation of the “one country, two systems” principle with an emphasis of the “two systems” part, others are in favor of complete independence.

All wings of the movement share dissatisfaction with the HKSAR government not serving the city's interests. Additionally, radicals argue that the Chinese government lacks legitimacy in general ever since 1949 when the People's Republic was founded. All this leads them to draw the most far-reaching conclusions openly favoring Hong Kong's independence from China:

Only after the 1960s, the mainland started to send a lot of cheap agricultural products to Hong Kong and then all the farms disappeared because of the low prices. All this is very sad. Now the food, the vegetables and the water are imported from the mainland. But we could rely on ourselves on these issues. [...] China wants us to depend on the mainland. Therefore they stopped plans to purify sea water into drinking water. China exports now a lot to Hong Kong to damage the local economy. This is the reason we fight for independence.⁶³

This opinion gained momentum in the public debate due to a book written by Chin Wan, a scholar from Lingnan University of Hong Kong. The book entitled “Hong Kong City State”⁶⁴ is well-known and available in all bookshops in the city (Chin, 2015).

Others do not voice such a clear vision for Hong Kong's future but make it clear that they perceive China as a colonizer which clearly implies that they do not accept the legitimacy of China's claim to sovereignty over the city either:

*China is like Britain, it is a colonizer; the only difference is Britain was definitely a kinder and a more civilized colonizer than China is today.*⁶⁵

Finally, moderates are unsatisfied with the HKSAR government as well and claim that the HKSAR government has turned into a sole information passer for Beijing instead of striving for Hong Kong's benefits, its autonomous rights guaranteed in the Basic Law and democratic self-determination.⁶⁶ However, moderates argue that the call for secession is unrealistic and worthless to be discussed. This does not imply a clear rejection of the idea of Hong Kong sovereignty:

*I think everything else is a phantasy. Right now, the people of Hong Kong are not ready of independence. Basically, independence is too imaginative to reach. I think for the moment I am happy to see Hong Kong developing under Chinese sovereignty with a very high degree of autonomy with most of the affairs being controlled by the people of Hong Kong rather than seeing our own jurisdiction being influenced by the Chinese government.*⁶⁷

In sum, while all supporters of the Umbrella Movement seem to agree that a higher degree of autonomy and self-determination in institutional terms is desirable, radicals call for independence while moderates emphasize the serious and precise implementation of the “one country, two systems” principle.

4. Assessment and Prediction

For most protesters, the Umbrella Movement has failed. In their eyes, the occupiers left the streets without concessions from the government

and the general public's sympathy for the movement faded because the protests lasted too long.⁶⁸ Moreover, many activists believe that the protests demonstrated the marginality of their bargaining leverage because the final decisions are not made in Hong Kong but in Beijing.

Although it is true that the government refused to make any concessions⁶⁹ the results of the Umbrella Movement are much more mixed and ambivalent as to call them a failure. I argue that this holds true in two regards. Firstly, one needs to consider the development in all four dimensions of self-determination that the protesters have aimed at. Secondly, even in the area of electoral reform where the demonstrators believe they failed, the outcome of the Umbrella Movement is better than one might believe in the first place.

4.1. A Democratic Future for Hong Kong?

Neither upon the end of the Umbrella Movement in December 2014 nor until the final voting of the Legislative Council on the reform bill on 18 June 2015 was a compromise reached.⁷⁰ For coming into effect the bill would have needed a two-thirds majority in the Legislative Council. However, since pan-democratic legislators possess a blocking minority the reform package failed as expected prior to the voting.⁷¹ The final result even turned into a disaster for the pro-Beijing parties because out of confusion many of the pro-Beijing lawmakers left the plenary prior to the voting hoping that the quorum needed for a legally valid decision would be missed and the ballot repeated.⁷² However, due to a lack of coordination the quorum was met and the reform bill did not only miss a two-thirds majority as expected but a bare majority with 8 in favor of Beijing's reform proposal and 28 against it.⁷³ The Umbrella Movement's core request, namely to prevent the bill and with it "fake democracy", was achieved months after the occupiers had left the streets.

While most protesters did not celebrate this as their victory some recognize that at least the unity of the pan-democratic members of parliament can be perceived as a result of the Umbrella Movement because many feared to lose their voters' support if they "betrayed" the Umbrella Movement:

*I think it is a victory in the history of China because a local government has rejected a major bill proposed by the central government. This is a success in Chinese history but not for me. [...] The students suffered a lot during the revolution: they got pepper sprayed and beaten up. The [pan-democratic] legislators just could not vote in favor of the bill now. It is impossible. At least we can force our lawmakers to do something.*⁷⁴

There are three reasons why many demonstrators do not see the result in the Legislative Council as their success. Firstly, the voting took place months after the end of the Umbrella Movement. They left the streets without an immediate result which has caused their feeling of failure (Ng, 2016). Secondly, most protesters do not feel closely associated with the pan-democratic parties. Hence, what the parties achieve in "high politics" is not recognized as a result of the Umbrella Movement. Thirdly, while the government's bill was prevented, the existing law stays in place: the next Chief Executive is voted upon by the Election Committee. Hence, while "fake democracy" was prevented, the protesters did not receive "true democracy" but the previous non-democratic procedure stays in place:

Of course, the voting in the Legislative Council was a pleasure for the opposition. However, after a few days they realized that they did not

*achieve anything. They refused the electoral reform and Beijing's proposal has failed once and for all. This is no concrete step towards the democratization of Hong Kong.*⁷⁵

The crucial question now is whether there will be another reform process in the not too distant future. One scenario would be that the Beijing and the HKSAR governments do not offer any other reform package to the pro-democratic camp (Hui, 2014). At first glance this might be realistic since both want to prevent real democracy in Hong Kong.⁷⁶ Furthermore, this would be consistent with what they said prior to the Legislative Council voting.⁷⁷

However, there are four reasons that make me consider this scenario rather unlikely.

Firstly, the Hong Kong people have voiced their protest over and over again (Cheng, 2011). The PRC obviously tried to avoid a crackdown of the movement. But it should be fully aware that the next protest is only a matter of time. Hence, Beijing is well-advised if it prepares a new reform proposal to reach compromise with the Hong Kong people, especially its youth.

Secondly, China has repeatedly promised a process of democratization. By starting the last reform process it has acknowledged the need of change. Given the obvious dissatisfaction of the Hong Kong citizens with the status quo it is unlikely that the PRC can completely retract from the recognition of the need for political reform. In late July 2016, a leading CCP official on Hong Kong and Macau affairs for the first time announced further political reform though he did not indicate any timetable or what kind of reforms the CCP intended to offer. Furthermore, the Basic Law clearly states that the election of the Chief Executive by universal suffrage is the ultimate goal. Though not setting any timetable, Beijing would harm the future of the city if it breaks the

Basic Law because trust in Hong Kong's effective rule of law has always remained a locational advantage.⁷⁸

Thirdly, not only pan-democrats but also the pro-Beijing parties are rather fragmented. As a result, CY Leung received only 689 out of the 1,200 votes in the last Chief Executive elections in 2012. In 2017, the pro-democratic camp has gained a record number of seats (326) within the Election Committee. Since the pro-Beijing camp nominated with Carrie Lam (林鄭月娥) and John Tsang (曾俊華) two candidates with realistic chances to become Chief Executive, the pro-democratic votes, constituting more than a quarter of the total committee, had become relevant. Indeed, John Tsang actively lobbied for the pro-democratic votes and offered a “more local” political agenda. Already before, CY Leung announced that he would not seek reelection. It is very likely that the Chinese central government signaled to him that he was too controversial in Hong Kong to get Beijing's continued support. All this shows the increased political leverage of the pro-democratic forces in Hong Kong.

Fourthly, there is still enough room for compromise. A number of partly rather complex compromise proposals have been tabled prior and after the Umbrella Movement. Although they have not been successful in the past, their existence has clearly mapped out space for compromise. Additionally, there will be new suggestions in the future. One possible compromise may be found in a concordance democratic approach which sets up a framework that requires both pro-Beijing and pan-democratic parties to agree upon a list of candidates running for the post as Chief Executive in general elections held by universal suffrage (Ng *et al.*, 2015). The democratization and enlargement of the Nomination Committee would be another option to solve the crisis of reform (see above).

Hence, by contributing to the rejection of Beijing's reform proposal and highlighting the Hong Kong people's demand for democratization, the Umbrella Movement might have indeed achieved a partial success in the medium term with regard to electoral democratic reform.

However, the Umbrella Movement's call for civil nomination is very unlikely to be met. Hence, moderates have much more to expect from the coming reforms. It is very likely that the radicals will remain unsatisfied. Furthermore, if moderates compromise with Beijing on electoral reform, the political forces supporting the Umbrella Movement might split seriously weakening the pro-democratic camp in the long run.

4.2. Social Justice for Hong Kong?

Since the Umbrella Movement has not formulated any explicit goal with regard to social issues and welfare policies, it is difficult to exactly find out what the movement might have achieved or will achieve in the near future. However, there is good reason to believe that the Umbrella Movement has caused a heightened awareness among the city's political elite for the concerns and challenges of the young, the poor and the middle classes fearing socioeconomic decline:

The students have spoken about the concerns of many people who used to have no voice in Hong Kong politics, especially with regard to social issues. All of a sudden, these issues were debated much more among the city's public and that has not changed ever since.

The perception of Hong Kong's challenges has changed among many but not all politicians. This holds true for both the pro-Beijing and pan-democratic lawmakers.

After the electoral reform had failed, the Chief Executive announced that this was regrettable but now the government has to and will focus

*on social and economic issues. One might argue that this is populist and that he tried to weaken the opposition with this announcement. However, nobody can deny that the city faces many social and economic challenges which a government has to address. The opposition agrees to this as well and admits that it has a certain responsibility given its blocking minority too. After the voting in the Legislative Council, I talked to an opposition leader and she told me: "If the Chief Executive will claim successes on economic and social issues for the government, we will agree. Most important is that we start to seriously address these problems." I think we will see cooperation between the government and the opposition on these issues and I am very optimistic that this will lead to positive results for Hong Kong.*⁷⁹

Hence, the Umbrella Movement most likely had a significant impact on future social policies in Hong Kong. However, there is only hope but no certainty for fundamental policy change because while the central government seems to support a changed welfare policy, it is closely allied with Hong Kong's capitalist business elite which has a strong interest in a weak welfare state.⁸⁰ Beijing has shown flexibility both in China and in Hong Kong when it comes to economic reforms in the past. When Hong Kong suffered from the Asian Financial Crisis and the outbreak of severe acute respiratory syndrome (SARS), a demonstration of 500,000 people shocked Beijing in 2003.⁸¹ It reacted by increasing economic ties between Hong Kong and the mainland that favored mainly the city's economy. However, while Beijing's last attempt was successful economically, many supporters of the Umbrella Movement reject an increasing economic dependence on the PRC. Hence, if China's economic engagement becomes too obvious, the central government may risk further anti-Chinese protests.

In essence, while there is at least hope to see social concerns addressed in the coming years, Hong Kong's economic and social dependence on China will rise. While the first is a success of the Umbrella Movement, the latter contradicts what many demonstrators are hoping for.

4.3. Hong Kong's Identity – Chinese or Not?

Throughout the Umbrella protests, Hong Kong has remained a divided city. This holds true for the identity issue as well. The protesters' sense of localism has been strengthened but there is no reason to believe that supporters of the pro-Beijing camp have changed their affiliation. All in all, the Umbrella Movement has both boosted the young people's sense of localism and at the same time polarized the city as a whole.⁸²

Since mostly young people support the Umbrella Movement and hold a "local" identity, the CCP's goal to establish a patriotic Chinese identity seems even more unlikely to achieve than ever before. The "mainlandization" of the city will go on because economic ties with the PRC increase and more and more people from the mainland move to Hong Kong. However, this "mainlandization" seems to cause a polarization of the city and since Hong Kong will remain unique for quite some time to come, the full cultural and ideational integration of the city into the PRC is not foreseeable (yet). This situation leaves the people of Hong Kong in a dilemma:

Culturally, the citizens of Hong Kong don't want to admit that China is superior because we still have some kind of embedded cultural gap between Hong Kong and China. We think that some of China's behavior is not as civilized as Hong Kong's. When you realize that China becomes more and more popular, you try to set up barriers and

impede this trend. This is one reason why nativism is getting more popular these days.

But we realize that we can't push away China economically anymore because China brings a lot of opportunities to us. Hong Kong is somehow trapped in this mindset now. We rely too much on China. More and more nativist scholars argue that Hong Kong has traditionally been a port. We should make use of these strategic advantages to connect with different parts of the world rather than embracing China. I am not saying we should not embrace China but apart from that we could encounter other countries as well. Sadly, Hong Kong lost this momentum after the hand-over.⁸³

All in all, the city's economic dependence contrasts with its cultural desire for self-determination and autonomy. More conflicts including protests are very likely to emerge in the near future. The question whether Mandarin should replace Cantonese as the medium of instruction in primary schools will become the next battlefield between young protesters with Scholarism at its core and the HKSAR and central governments. Beyond the language issue many incidents are now framed in terms of the divide between the mainland and Hong Kong (e.g. the appointment of new professors in Hong Kong's universities).⁸⁴

The Umbrella Movement is over but part of its legacy is the further polarization of the city and an increased awareness of localism that will lead to more protests in the coming years. In this respect, the Umbrella Movement is rather the continuation of a struggle for Hong Kong's identity which includes both progressive movements which engage with the city's past and do not define themselves as anti-Chinese and those who aim at only distinguishing themselves from the mainlanders (Chan, 2015; Chen and Szeto, 2015; Hui and Lau, 2015; Ip, 2015). How the city develops in terms of its collective identity and cultural distinctiveness

remains completely open. The Umbrella Movement has demonstrated the frictions but has pointed out neither any solutions nor how Beijing will handle the issue in the future.

4.4. Hong Kong – Politically Autonomous?

Institutionally, the Umbrella Movement has not achieved anything and it is very unlikely to succeed in the foreseeable future. The central government in Beijing fears that providing Hong Kong with more autonomous rights could encourage other unsatisfied people in other regions of the People's Republic to intensify their efforts. Hence, China is not only concerned about the city but of setting an example for conflicts with minorities in Tibet and Xinjiang or even local protests in other provinces, most importantly the demonstrations in the southern province of Guangdong.⁸⁵

Consequently, the central leadership in Beijing is concerned about the situation in Hong Kong and its possible impacts on the rest of the country. Not only is secession of the city unthinkable but also more autonomous rights would contradict the governance style of the CCP. Back in 2003 when 500,000 people hit the streets, China reacted with a double strategy. Firstly, it provided economic assistance to Hong Kong in order to help it overcome its economic difficulties, for example by easing the influx of mainland tourists who have visited Hong Kong ever since in order to shop⁸⁶ or concluding the free trade agreement CEPA (Closer Economic Partnership Arrangement) which is widely perceived as mostly serving the economic interests of Hong Kong instead of the mainland (Antkiewicz and Whalley, 2011). This has driven Hong Kong closer to the mainland and demonstrates the great economic potential of cooperation for Hong Kong (Jacques, 2014), but many young Hong Kong Umbrella Movement activists reject it.

Secondly, China tightened its control over the city basically reinterpreting the “one country, two systems” principle.⁸⁷ It would be a major surprise if the PRC would react with a loosening of control over Hong Kong after the Umbrella Movement. On the contrary, a loss of political autonomy will most likely be the result of the Umbrella Movement because Beijing’s concerns have grown.

All in all, with regard to the political autonomy of the city, the Umbrella Movement has been an outright failure. As long as the CCP stays in power and the PRC is not in serious troubles, independence of Hong Kong is beyond reach. Moreover, the anti-Chinese protests in the city have made more autonomy under the “one country, two systems” principle less likely.

In sum, the Umbrella Movement has not been a complete failure measured by the results and developments that are most likely about to emerge in the near future. Compromise on electoral reform is possible and may satisfy the moderates of the Umbrella Movement. A heightened awareness of social issues might lead the HKSAR and central governments to address the issues. However, this may result in an increased economic dependence on the mainland which is rejected by many protesters. In terms of the city’s identity, the Umbrella Movement has neither failed nor been successful but has polarized Hong Kong. Only in terms of political autonomy, the Umbrella Movement has resulted in a complete failure since it has made an increase of Hong Kong’s autonomy less likely.

4.5. The Future of the Umbrella Movement

The Umbrella Movement has been the most important pro-democracy demonstration on Chinese soil ever since the crackdown of Tiananmen in June 1989. In all these years, no major protests against the central government and demand for changing the political system have been

seen in the mainland. The CCP's violent crackdown of the student protests in 1989 is only one reason for the absence of protests in the mainland: scientific analysis has demonstrated that the people in the PRC are rather satisfied with their government (Gilley, 2006). Will China succeed in appeasing the city of Hong Kong like it did in the last 25 years with the whole country?

Probably not. Hong Kong's political and societal systems are more open and China will not be able to carry out repressive means as it did in the mainland. But more importantly, the city of Hong Kong is in relative decline. In contrast to the PRC which has witnessed not only a rise of its international importance but also an unprecedented increase of prosperity and the people's welfare, Hong Kong will most likely not experience such a "golden era" in the next decade (Lagerkvist and Rühlig, 2016).

Hong Kong remains culturally, economically, politically and socially very different from the rest of the PRC. This is, however, also a reason to worry because given limited knowledge of the local situation in Hong Kong both policy-makers and their advisors may take decisions in Beijing on questionable grounds.⁸⁸ The local HKSAR government, in turn, largely depends on the decisions made in Beijing. Hence, it is questionable whether the CCP's decisions on Hong Kong meet the conditions on the ground as adequately as they have in the mainland throughout the last two and a half decades.

Hong Kong's challenges are not solved. While frustration is visible throughout the Umbrella Movement protesters now, more demonstrators are very likely to emerge in the future. This might not be a matter of months but a few years. The Umbrella Movement protesters are young and they will hit the streets again. One moderate student activist who claims to be very frustrated about the movement's failure told me for example:

I would definitely join a new protest movement. Expressing my attitude and doing something impossible to make it possible is important. Moreover, I think that the Hong Kong people don't really deserve democracy yet. I think if you want democracy you really have to deserve it by means of ideological struggles and revolution.⁸⁹

Apart from the perception of failure, many in the city believe that the Umbrella Movement has been a “formative” event for the city's youth (Dapiran, 2014). A foreign journalist living in Hong Kong for many years told me:

It gave me a lot of respect for Hong Kong's young people. I think a lot of people underestimated them. They can be very passive and interested in shopping and video games and then they don't do anything else. Not for the small group of activists but for the average young person, they really changed everyone's attitude about who they are and what they are interested in and that gave them a bit of an identity as well. It feels very Hong Kong now. [...] They are born after the British left Hong Kong, they don't feel Chinese, and they didn't know who they are. Until the Umbrella Movement, they did not care too much about it. Now they started to feel that they are Hong Kong.⁹⁰

Furthermore, the young protesters have experienced their potential of mobilization and that they are not alone being unsatisfied with the situation of Hong Kong.

However, the movement has laid open a generational gap. While the majority of Hong Kong's older generation did not support the movement, most young people did (Lagerkvist and Rühlig, 2016). This resulted in major distrust between the generations, often dividing families.⁹¹

The movement is highly diverse and contains many different factions and organizations which agree on neither protest tactics nor goals. Furthermore, the pan-democratic parties and well-established pro-democratic civil society organizations have existed for many years, known each other personally very well but are disunited over the last decade.

Surprisingly, though, the Legislative Council elections in September 2016 as well as the coordination for the Chief Executive elections in 2017 demonstrate a remarkable degree of cooperation among the different factions of the pro-democracy movement regardless of all rhetorical distancing and divisions.⁹² Most striking was the successful coordination of votes in the Legislative Council elections on the basis of online deliberation facilitated by Benny Tai.⁹³

At the same time, the Umbrella Movement lacked a clear structure and leadership. Pan-democratic lawmakers as well as the “Occupy Trio” including Benny Tai had only very little influence on students and are not perceived as representing the movement. More important were the student leaders themselves, most prominently Joshua Wong and Alex Chow (周永康). However, both are not unchallenged leaders either: Joshua Wong’s organization Scholarism faces the accusation of not being democratic internally.⁹⁴ The Hong Kong Federation of Students, headed during the Umbrella Movement by Alex Chow, is about to fall apart.⁹⁵ The lack of widely accepted leadership has been a problem during the movement and it will continue to be in the future. The first Umbrella Movement activists have become politicians and were elected into Hong Kong’s parliament in September 2016 (e.g. Demosistō’s Nathan Law⁹⁶). It remains to be seen whether they can sustain political support of the electorate.

Clearly, with the recent gain of influence of the pro-democratic forces with the Legislative Council elections and the Chief Executive Election Committee, the movement faces a new challenge. As long as they were completely marginalized they agreed upon what they aimed to prevent from happening. The more political leeway they have the more they need to agree upon how to positively shape Hong Kong and how much to compromise with moderate pro-Beijing forces. Therefore, as remarkable as the current unity is, it remains endangered.

Finally, Hong Kong's economic dependence on China is rising. In this situation, the economic elite of the city is most likely to continue its support for the pro-Beijing forces which seriously limits any prospects for major reform in Hong Kong.⁹⁷

From the perspective of Beijing, the short-term handling of the protests was rather successful. The HKSAR and central governments avoided a violent crackdown similar to 1989 but waited without offering compromise until the protesters got frustrated and exhausted of staying on the streets. However, the challenges have not been solved and Beijing is well-advised to offer compromises especially with regard to electoral reform and the nomination of the city's Chief Executive. This would address parts of the protests' root causes and satisfy moderates at least partly.

Apart from these Hong Kong-related considerations, the future of the city largely depends on domestic developments in the whole of China. The PRC is most likely to face economic problems in the coming years questioning the output legitimacy of CCP-rule. There are clear signs that the administration of Xi Jinping (习近平) will make use of nationalism to replace output legitimacy to an increasing extent compared to previous decades (Lam, 2015). Nationalist rhetoric and emphasis of the "one China" principle could include a tougher stance towards all regions which seem to challenge CCP rule or even the unity

of the country including Tibet, Xinjiang and Hong Kong. Consequently, Hong Kong's future may be influenced by developments in these other regions as well. Furthermore, Xi Jinping's leadership style, portraying himself as a strong and uncompromising leader (*ibid.*), as well as the skeptical societal perception of Hong Kong in the mainland may worsen the city's hopes for a more self-determined future:

What is honestly worrisome is the lack of trust on the people's level. We know from international relations that the governments of China and the United States don't trust each other a lot. But at the lower level, the Chinese and the American people treat each other very friendly. We may see a lot of arguments among ordinary citizens as well, especially online. But if Chinese travel to the United States they are warmly welcomed and Americans going to China will receive the great Chinese hospitality. This is completely different with the mainland and Hong Kong. Even the ordinary people distrust each other.⁹⁸

Notes

- ⁺ This paper is based on a previous version published with the Swedish Institute of International Affairs.
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 79. Author’s interview with a leading European diplomat, Hong Kong, 17 July 2015 (translation: T.R.).
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Chinese-style Democracy as a Political Project for Meaning-Construction: Old Wine in a New Bottle?

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Abstract

Drawn from the textual data in the online and printed media from mainland China and Hong Kong, this article aims to identify and feature how Chinese-style democracy is constructed by engaging in discourse analysis, arguing that China-style democracy is not a political experiment aiming to critically reflect upon the weaknesses of democracy in conceptual and procedural aspects, and not a creative project focusing on how the Chinese experiences can refresh and reframe the conventional wisdom. Instead, it is a meaning-construction project surrounding the following themes explored: (1) negative Western democracy versus positive Chinese-style democracy in terms of efficiency, (2) Western democracy as the symbol of political failure, such as street politics, domestic struggles, chaos, (3) positivity of Chinese-style democracy with China's rise brought by reform and opening-up since 1978, and (4) perverting the language of Western democracy to construct Chinese-style democracy, such as rule of law, human rights.

Specialty, uniqueness and adaption, in the main, are the common ground during the process of meaning reconstruction, with the intention to conduct the political performance for an undemocratic, illiberal and autocratic regime.

Keywords: *Chinese-style democracy, Western democracy, stability, efficiency, street politics, discourse analysis*

1. Introduction

In reflecting upon Hong Kong's return to China over the past two decades, one of the paramount topics is about how democracy, as a concept, as an institution, as a political process, as an ideology and as a practice, is approached, actualized and then practiced in Hong Kong. Democracy became a major battlefield between China and Hong Kong in formulating and articulating Hong Kong's future in the late 1980s before the promulgation of the Basic Law in 1990. In this context, democracy was simply understood in terms of direct election for the Legislature and for the Chief Executive under the administration of the Hong Kong Special Administrative Region government, according to the Basic Law, and then as an instrument to resist the Communist influence and infiltration after 1997.

This article aims to identify and interpret how democracy is arbitrarily redefined and embedded in Chinese style, this means that democracy, according to the domestic contexts in China, is reframed, altered and reinterpreted in the dimension of language; in other words, it is a political project of meaning reconstruction. Second, a rhetoric approach is adopted in various ways so that the power of redefining and reinterpreting democracy can be operated accumulatively and sustainably.

Inspired by Neimeyer (2001), meaning reconstruction is proposed and featured as follows: (1) the deliberate alternation of the assumptions and presumptions in order to meet the definite requirements of the agent, (2) uniqueness and exceptionality as two core assertions in justifying the process of alternation, (3) the making of duality: between the old and the new, the traditional and the modern, the conservative and the progressive, and (4) inconsistencies and contradictions can be detached between the original and the revised definitions, with the possible aims to make confusion between both versions, to shape and even distort the original one. This meaning reconstruction project is salient to the regime, as it is a deliberate plan to alter the cognition of the concept that the people are supposed to acknowledge and understand. For example, when democracy is translated in Chinese as *minzhu*, *min* (民) is understood as people and *zhu* (主) as superiority and ruling, including leadership and governing. Therefore, *min* is the key aspect to be interpreted in a dominant manner, noting that who is and can represent *min*, and then who can exercise legitimately its rule. Following the subsequent interpretations, another related statement that remarks “*renmin dangjia zuozhu*” (人民當家作主 – people are the master of the family and ruler of their own) is another vivid description to see how democracy in the Chinese context is actualized. It can be understood why the Chinese Communist Party (CCP), as the one single ruling party of the People’s Republic of China (PRC), reiterates that it represents the people, and then the government was named to be “Central People’s Government” (CPG) since its establishment in 1949.

In approaching this issue, discourse analysis is adopted in this article instead of engaging in an institutional and empirical study, with the reasons below. First, Chinese-style democracy, as mentioned above, is a cultural and political project introduced and enforced by the Chinese authorities in order to justify its governance and political practices in a

sustainable and constructive manner, rather than a comprehensive and incremental project for institutionalization. Second, non-Chinese-style democracy, labeled to be Western democracy is made and then labeled to be negative, problematic and even destructive so that it is reasonable to be criticized, rejected and even refused. Third, this political-cultural meaning reconstruction is not aimed to discover and even derive the possible alternatives to enhance democracy in a creative, dynamic, sophisticated and vivid way, and to reflect analytically and critically upon the weaknesses and insufficiencies of the democratic practices at the current institutional and procedural levels. Instead, democracy is served to be a decorative tool being manipulated, distorted and even misinterpreted intentionally in order to wrap the illiberal, autocratic and undemocratic rule.

This article deploys the articles drawn from the media in Mainland China and the West sharing the common theme, with objectives to explore the possible approaches, languages and discourse in introducing, reporting and examining Chinese-style democracy and to explore the similarities and differences in framing the ideas, in responding to the possible challenges arising from its discursive production and to discern the untold and hidden aspects when unfolding this universal concept.

2. Reviewing Chinese-style Democracy from an Institutional Perspective

Before engaging further in exploring the cultural meanings of Chinese-style democracy, a critical review is made hereby in order to highlight the key arguments and interpretations arising from the empirical research, then pointing out some of the observations and reflections arising from those discussions. Tsai Wen-Hsuan (2011) adopts four elements, namely (1) the root concept: an appropriate definition, (2) the concept ladder: possessing abstract and specific attributes, (3) the

overarching concept: adding the more abstract meaning or context, and (4) the subtypes: certain components and specific models made for the concept, to study how Chinese-style democracy is accumulatively and consistently articulated. By reviewing what he has argued, Chinese-style democracy is, to a certain extent, a succession of “socialism with Chinese characteristics”. In other words, such Chinese characteristics dominate the definition, values and practices of democracy. In this connection, “Development of Socialist Democracy” is introduced, noting that democracy should be in line with socialism and development and these two concepts, to a certain extent, are contradictory in terms of nature, as development is a hallmark of capitalism. In the discursive context, “development”, by definition, refers to economic development. Second, it is debatable whether it can be connected to Marxist concepts of class, historical concepts, or Chinese history or culture, given the fact that no logical and empirical substantiations are made in connection with these aspects and the concept may be shaped in a fragmented and scattered fashion which can provide ample space for official hegemony as a result. Third, while it is understandable that the concept is produced in the light of legitimatizing hybrid regime, consisting of the autocratic core and democratic outlook through political processes such as elections, under the presence of selective and constrained liberties and pseudo-competition during the course, such democratic practices are indeed being manipulated, distorted and perhaps misled in different ways in order to legitimize and maintain its rule, not to make power sharing, civic engagement, fair and open competition, and pluralism possible.

Chinese-style democracy can also be understood as a concept aiming to explain the adoption of democratization process under the Chinese model. Jung Nam Lee (2010: 87) examines from a historical perspective and argues that it is “not an attempt to seek a new model of

democracy that can replace the Western model of democracy or the existing model of the people's democracy, but rather a change to the CCP-led governance structure that addresses socioeconomic changes that have occurred in the wake of reforms". However, the holding of a negative view of Western democracy characterized by separation of powers, a multiparty system and free elections of top leaders, thus resists the possibility of power sharing, accountability and power transfer through an institutionalized channel (Lee, 2010: 92). In this dimension, it is interesting to see whether Chinese-style democracy is the synonym of power centralization and administrative efficiency without altering the current power structure and distribution.

Sonny Shiu-Hing Lo (2017) deploys this concept and then examines the 2017 Hong Kong Chief Executive election. Again, using the institutional approach, he actually features Chinese-style democracy in the following manner: (1) a group of elites selecting the Chief Executive, (2) stemming of political power from the central authorities and leadership, (3) democratic centralism in intra-party operation, (4) the inclusion of factional politics, with the presence of pro-democratic and pro-Beijing factions during the electoral process, and (5) political rights of individuals being conferred by the Chinese side, (6) top-down mode of authoritarisation. As a conclusion, he argues that:

The third hallmark of the election was the expression of Chinese-style democracy. It was an election with clear Chinese characteristics: rights conferred by Beijing on the 1,200 members of the Election Committee to select their Chief Executive; a limited degree of pluralism in which candidates were allowed to participate in televised debates; a selective interpretation of public opinion surveys by pro-Beijing press on how ordinary citizens perceived and supported the Beijing-favoured candidate; and the institutionalised nature of how

the PRC Premier endorsed and appointed Lam (Cheng Yuet-ngor Carrie) as the next Chief Executive. All of these were significant features of Beijing's idea of democracy, with considerable implications for both Hong Kong and China in the long run.

(Lo, 2017: 116)

Based on his argumentation, democracy is only a form, an illusion, and even an instrument in order to fulfil the totalistic and autocratic practice in undergoing political process. In this connection, one interesting observation is that autocracy is the de facto and core aspect in practice whereas democracy is utilized and manipulated deliberately in order to redecorate autocracy by deploying the selective and demonstrative form of democratic practices, especially election and voting. By reviewing Lo's features, there are in a de facto sense no obvious differences between Chinese-style democracy and autocracy.

Of course, Chinese-style democracy can also be further decorated in the stunning manner by adding positive and gorgeous language. Mainland Chinese scholars Zongchao Peng, Ben Ma and Taoxiong Liu (2017) publishes a book entitled *Chinese cooperative-harmonious democracy*, which can be regarded to be the substantiation of this concept that is aimed to buttress the soft power in redefining democracy with Chinese characteristics. This book reiterates the argument that the current regime is intended to develop its own way and style in undertaking democracy without copying the Western model, as the following paragraph indicates:

Therefore, we believe that to see true ideological emancipation, the direction of China's democracy development is neither a simple continuation of the existing traditional socialist democracy (a democratic model with more emphasis on the development of

collective right and the concentration of power) nor a mechanical copy of the Western liberal democracy (a democratic model focusing more on individual freedom and decentralization), but a “cooperative-harmonious democracy” characterized by its own history, culture and social conditions. The focus of the model is to leverage Chinese intellectual heritage, such as “harmony and cooperation” thought, and “people-oriented” thought with the existing collective rights for development, to enhance the institutional advantage by keeping moderate concentration of powers, and to take into account a moderate expansion of personal freedom and rights as well as public power control mechanism in order to achieve the organic unity between the individual and the collective, democracy and centralism; by employing principles of modern cooperative game theory in relevant system design, to promote a maximized integration of interests, to resolve conflicts, to eliminate confrontation, and to achieve cooperation and harmonious development among social parties, even in the event of possible conflict. Its core value is not only to maximize the citizens’ freedom and rights, but also to realize the best collective interests through the centralized and institutionalized authority, so as to achieve harmonious coexistence between the individual rights and the collective rights as well as between major political parties.

(Peng, Ma and Liu, 2017)

Reviewing from a discursive perspective, the above remark highlights three features: (1) cooperative-harmonious democracy has been deliberately articulated in an idealistic manner in managing the problems arising from democracy, (2) relationships between cooperation and harmony and people’s thought amid democracy need to be delineated and connected concretely in deriving the theory; however, there is no

answer regarding how this can be operated under the suppression, dominance and hegemony of the Chinese authorities, and (3) the above description looks like a collection of all attractive and persuasive words, and then upholding the assertion that Chinese-style democracy is the flawless version of democracy.

By summing up the above review, they share in common regarding China-style democracy, including the institutional articulation within the authoritarian, dominant and repressive polity under the party-state dominance and the selection of democratic gestures to create an idealistic imagination. However, if democracy is not aimed virtually to undergo any changes of disengagement, maladministration, unaccountability and authoritarianism in the eyes of the authorities, then the only possible purpose is to create the imposed meanings for democracy according to its own political needs, and such meanings and interpretations, to a certain extent, can be inconsistent with and even contradictory to the nature of democracy. In the following section, discourse analysis will be conducted by deploying the texts drawn from Chinese and global media narrating and discussing Chinese-style democracy, focusing on how meanings are generated, circulated and interpreted.

Theme 1: Western-style versus Chinese-style democracy

In framing Chinese-style democracy, one common method used is to divide democracy according to the desired outcomes: positive and negative. As *Bloomberg News* quotes the Chinese official Xinhua News Agency:¹

Western style democracy used to be a recognized power in history to drive social development. But now it has reached its limits ... China doesn't have a better Communist system than it used to have, but the

global economic and political turmoil has undermined public confidence in western democracy.

(*Bloomberg News*, 23rd January 2017)²

The identical assertion has been made by state media in mentioning both Chinese- and Western-style democracy:³

The country's rapid development was projected as its ambition to compete with the Western world to prove that "China-style autocracy" is superior to "Western democracy". Such an ineradicable bias leads the skeptics to amplify some problems in China's development.

(*China Daily*, 5th February 2009)⁴

Next, the deliberate selection of negative language to describe Western democracy is followed, which is the vivid way to visualize how undesirable that it can be:⁵

[The outgoing head of China's legislature Wu Bangguo] said the party's leadership over the congress' legislative work was a fundamental requirement in keeping with China's rejection of the Western political concept of separation of powers. And he said the body upheld the uniqueness of China's system and "resolutely resisted the influence of all kinds of erroneous thought and theories."

(*Fox News*, 8th March 2013)⁶

China must beware the "trap" of Western-style democracy, the ruling Communist Party's flagship newspaper [*People's Daily*] said yesterday, five days after the 25th anniversary of the Tiananmen Square crackdown.

(*The Australian*, 10th June 2014)⁷

The flagship newspaper of the Communist Party of China [*People's Daily*] carried a signed article yesterday, calling on people to guard against "the trap of Western-style democracy".

(*The Herald*, 10th June 2014)⁸

Blindly copying Western-style democracy can only bring disaster, an influential mainland Communist Party journal [求是 / *Qiushi*] wrote in its latest edition, following more than a week of Hong Kong's pro-democracy protests.

(*South China Morning Post*, 7th October 2014)⁹

China's state media used Donald Trump's inauguration as U.S. president to warn about the perils of democracy ... Democracy has reached its limits, and deterioration is the inevitable future of capitalism, according to the People's Daily, the flagship paper of China's Communist Party. It devoted an entire page on Sunday to critiquing Western democracies, quoting former Chairman Mao Zedong's 1949 poem asking people to "range far your eyes over long vistas" and saying the ultimate defeat of capitalism would enable Communism to emerge victorious.

(*Bloomberg News*, 23rd January 2017)¹⁰

In contextualizing Western-style democracy mentioned above, perils, trap, disaster, limit, craze, deterioration, ultimate defeat and erroneous thought and theories are deployed. In positioning such keywords, all are indeed sharing the common premises: (1) Western-style democracy is the major source of the political troubles, chaos and disorder that the current leadership and authorities should prevent and resist, (2) the Western governments, such as the United States and

United Kingdom, practicing democracy seem to be acceptant and tolerant of such problematic and inferior conditions making disorder and instabilities possible, and (3) Western-style democracy lacks the determinative and constructive mentality to improve, leading to its decline. On the contrary, the Chinese-style democracy, based on the undesirable practice of the West, has shown its merits in terms of practices which will be discussed below, despite the fact that such practices are mentioned under party propaganda controlled by the state. The division of the Western- and Chinese-style democracy is one of the important aspects in meaning-making, with the objective of imposing an absolute judgment of being good and bad, right and wrong, beautiful and ugly, superior and inferior as well as virtuous and evil (Rashidi and Souzandehfar, 2010). Of course, it is only the first step toward this project; delineation and substantiation of such division is followed sustainably in order to deepen and internalize such perception.

Theme 2: Western-style democracy as the symbol of political failure

The deployment of rhetorical approach to describe how bad Western-style democracy is seems to be so dramatic in creating textual impact. To buttress such impact, disorder, chaos, inefficiencies, corruption, dominance are chosen and stressed intentionally, as the following extracts demonstrate:¹¹

“Copying Western-style democracy would probably lead to disaster” and “street politics usually leads to domestic turmoil and even civil war”, according to the article by Mi Bohua [in the *People’s Daily* on 9th June 2014] ... For the United States and other Western countries, anything that accords with their interests and accepts their manipulation is democracy, while those that do not fit the norm are not, said the article ... Some countries in western Asia and northern

Africa have fallen into the craze for Western-style democracy, which has led to irretrievable secession and endless domestic struggles instead of happiness and stability, it said. Countries in western Asia and northern Africa, Ukraine and Thailand, which have experienced street protests and even armed conflicts, have been led astray to the wrong path of Western-style democracy, that is, “street politics”, according to the article. In most of the cases, the United States and some Western forces have been involved in the street politics in these countries, either on stage or behind the scenes, it said. These cases show that copying Western-style democracy with no respect for the actual situations and cultural differences of a certain country will mostly be unsuccessful ... “In many circumstances, the so-called ‘value of democracy’ has become a big stick for certain countries to practise hegemony and new interventionism,” it said.

*(The Herald, 10th June 2014)*¹²

If one examines how “democracy” is working in other nations across the globe then one can see its applications are by no means 100 per cent democratic as far as their respective electorates are concerned. The recent presidential election in the US, for example, has resulted in Donald Trump becoming president-elect by amassing 306 Electoral College votes, which is more than Hillary Clinton’s 232 votes. However, if one defines democracy as “one person, one vote” then Clinton’s popular vote of 64 million would have a 1.7 per cent margin over Trump’s 62 million - but in this case she is the loser. It demonstrates that universal suffrage is being practiced but in the end being defeated by a not-so-perfect voting process. If this can happen in a recognised democratic superpower like the US, what chances are there for “greater democracy and better government” for other countries like Egypt, Iraq, Afghanistan, Libya and Syria - nations with

totally diverse backgrounds to the ideal democratic state that the US intends to promote?

(*The Straits Times*, 2nd December 2016)¹³

Earlier this week, Hong Kong's first chief executive, Tung Chee-hwa, warned that a competitive election could trigger conflict between various groups, races or religion and lead to confrontation between the rich and the poor. He said clashes are inevitable in the absence of a shared conviction and sense of national identity. "We have no intention to deny the importance of democracy, but when we take competitive elections as a key part of, or even the only measurement for, democracy, the judgment itself will undoubtedly be an erroneous one." Tung told a forum organised by his Our Hong Kong Foundation.

(*EJ Insight*, 21st December 2016)¹⁴

In China's political system, the NPC is the supreme organ of state power. The central government, the Supreme People's Court and the Supreme People's Procuratorate answer to the NPC and are supervised by it. In the West, the parliament stands equally with the administration and justice arms, and the three balance and checks [sic] each another. This vertical design has the advantages of uniting different forces in governance and avoiding internal frictions ... There is certainly no need for China to copy the Western system, a move which will only lead to chaos and failure, as the experiences of certain countries have shown.

(Xinhua, 3rd March 2017)¹⁵

What distinguishes socialist democracy with Chinese characteristics from the West's largely money politics and power-for-money deals is its solid foundation of public opinion, which highlights the people's

interests and aspirations ... While many countries stagnate in state governance, China grows and stays stable. The answer lies in the people's congress system, multi-party cooperation and political consultation under the leadership of the CPC. It is quite different from the Western system of multiple bickering parties holding office in turn. It is fundamentally different from other systems under which candidates are often skilled in winning elections but have not enough practical experiences in governance. Just as the Economist reported, "Direct democracy is fine for things that do not matter, such as the Eurovision song contest. But it is no way to run a country."

(Xinhua, 10th March 2017)¹⁶

Unlike Western democracies, which seem increasingly obsessed with showmanship and short-term elections, China's leadership has a long-term target and is more inclined to plan for the next generation and beyond. Once the Chinese leadership makes a blueprint, it sees it through.

(*China Daily*, 17th March 2017)¹⁷

By synthesizing the above textual data which share the similarities in regard to Western-style democracy, they are indeed designing a consistent story by deploying the rhetorical approach, including: (1) the terrible outcomes and worse situations being designated for and connected with the practice of Western-style democracy, (2) the linguistic exhaustion of negative terms related to domestic unrest and instabilities, notably "chaos", "failure", "street politics", "domestic turmoil", "civil war", "irretrievable secession and endless domestic struggles", "armed conflicts", "led astray to the wrong path", (3) political process subjected also to devaluation and even distortion in such ways as "(anything) accords with their interests", "manipulation (of

democracy)", "the United States and some Western forces ... either on stage or behind the scenes", "hegemony", "interventionism", "money politics", "power-for-money deals", "multiple bickering parties", "winning elections but have not enough practical experiences in governance", "short-term election", "showmanship", "(democracy/ election) as one person one vote", "trigger conflict between various groups", "internal frictions", (4) using the metaphors, such as using the Eurovision song contest as election, and (5) the deliberate selection of such "democratic" countries or regions mentioned above, namely Thailand, Ukraine, Afghanistan, Libya, Syria, and Hong Kong, pointing out that political failure is prevalent because of following the Western-style democracy in order to substantiate its claims, even though accuracy and authenticity are not attended in constructing meanings.

The selective distortion of the Western-style democracy, to a certain extent, can be attributed to the mentality of totalistic dominance, a term borrowed from Wael B. Hallaq (2009: 446) referring to a status of which "the conquest of the mind and the conquest of the body" are possible. Adopting the contemporary Chinese context, such a conquest can be operationalized in the way of deliberate selection of a dominant aspect, then serving as a monopolistic version of world view. In responding to the alternative and critical views, specialty and uniqueness will be employed to achieve self-rationalization. When falling into logical and empirical fallacy, antagonism and rebuttal will be made. Of course, the positivity of the subject is made as well concurrently so that its negativity can be highlighted and profound. Overall, the entire rhetorical process is self-proclaimed and self-imagined with hostility and rejection.

Theme 3: Positivity of Chinese-style democracy with China's rise

While criticizing the Western-style democracy based on the established foundation of rejection and hostility mentioned above, it is equally

salient to show appreciation for the achievements, influence and contribution. Based on the following texts, textual and numeral data are deployed to substantiate what they assert:¹⁸

Compared with their Western counterparts, Chinese media, however, have mainly focused on positive coverage of other countries in the hope of gaining valuable experiences or lessons for China. Since the reform and opening up, Chinese leaders have reaffirmed on many occasions that the country is committed to absorbing and learning any useful experiences from other countries, including those from capitalists.

(*China Daily*, 5th February 2009)¹⁹

The most important criteria to assess whether political development accords with the Chinese people's fundamental interests is development and stability, said the article [by Mi Bohua in *People's Daily* on 9th June 2014].

(*The Herald*, 10th June 2014)²⁰

In most of these countries' street politics, whether openly or behind the scenes, American and Western forces have been involved. If we remain on guard against the trap of Western-style democracy, persist in reform and opening up, and continue on the path of political development with Chinese characteristics, no one can stop China's peaceful rise.

(*The Australian*, 10th June 2014, quoting a commentary in the *People's Daily* signed by senior editor Mi Bohua on 9th June 2014)²¹

[Hong Kong SAR's first chief executive] Tung [Chee-hwa] also criticised western-style democracy and efforts to promote Chinese-style consultative democracy. Under the current regime, top leaders foster public consensus via a system of consultative conferences. Tung said the Chinese government achieved more than other emerging economies that follow the western democracy model such as India.

(*EJ Insight*, 21st December 2016)²²

China's state media used Donald Trump's inauguration as U.S. president ... touting the relative stability of the Communist system as President Xi Jinping heads toward a twice-a-decade reshuffle of senior leadership posts.

(*Bloomberg News*, 23rd January 2017)²³

Unlike multi-party systems in the West, there are no majority party or minority parties in the NPC. The NPC upholds the leadership of the Communist Party of China (CPC). The proposition of the CPC becomes the will of the state upon the approval of the NPC. China's success story over the past decades has demonstrated that the system of people's congresses conforms to the conditions in China. In fact, the NPC has been a key part of that story.

(Xinhua, 3rd March 2017)²⁴

The system of people's congresses is designed to include people from various backgrounds and cover a good cross-section of society. Compared with legislators in the West who make politics their career and usually have a staff and campaign team, NPC deputies are part-time and many of them are ordinary citizens. A deputy to the NPC can

be the country's president or a farmer, a celebrated tycoon or a migrant worker, a lawyer or an official.

(Xinhua, 3rd March 2017)²⁵

In China, democracy means “the people are the masters of the country” ... People's democracy is the lifeblood of socialism, and the people as masters of the country is the essence and core of socialist democracy. President Xi Jinping has stressed ... The composition of NPC deputies and advisors to the Chinese People's Political Consultative Conference (CPPCC) National Committee offers an illustration. Of the nearly 3,000 deputies to the 12th NPC, about 13 percent are workers and farmers, up 5.18 percentage points from that of the 11th NPC. The number of professionals also rose by 1.2 percentage points. Of the more than 2,000 political advisors to the 12th CPPCC National Committee, 39.9 percent are Communist Party of China (CPC) members and 60.1 percent are non-Communist members, and all 56 ethnic groups have their representative members ... In China, public matters are often settled through consultation involving all parties. Finding the best way to coordinate the aspirations and demands of the whole of society is the true meaning of people's democracy. This has been evident in Xi's schedule at the ongoing annual two sessions. Actually, other Chinese leaders have also listened to the opinions of legislators and political advisors in a face-to-face manner ... As Xi has noted, “democracy is not a decoration, but a means of solving problems.”

(Xinhua, 10th March 2017)²⁶

Macao's experience also demonstrates that only by aligning democratic development with the resumption of sovereign rule by the motherland can we avoid escalating the inherent conflict between two

systems (capitalism and socialism) and provide systematic assurance for economic development and improving people's livelihoods.

(*China Daily*, 10th May 2017)²⁷

The above texts derive the following methods to vindicate empirically their claims: (1) positive outcomes arising from Chinese-style democracy: (economic) development, improving people's livelihoods, stability, people are the masters of the country, public consensus, opening-up, peaceful rise, solving problem, representativeness, and (2) means and mechanism to achieve the above outcomes: consultative conferences, consultation involving all parties, people's congresses, leadership of the CCP, accords with the Chinese people (and fundamental interests), listening to the opinions of legislators and political advisors in a face-to-face manner, inclusion of people from various backgrounds covering a good cross-section of society, absorbing and learning any useful experiences from capitalists (maybe the capitalist states in context). By simply connecting (1) and (2), it is at ease to associate with the desirable and idealistic scenarios. Instrumentalism and outcome-based mentality are prevailed in supporting its current governance. The above extracts are articulated in a full swing with regard to the achievements of Chinese-style democracy, fully averting attention from the dark side of its autocratic rule – such perennial aspects as the promotion of personal cult, repression of political dissidents like Liu Xiaobo, suppression of freedom of thought and expression, and power abuse and corruption are not touched. Of course, means and mechanisms mentioned above can be decorative and performative in order to buttress the textual impacts in promoting Chinese-style democracy.

Theme 4: Perverting the language of Western-style democracy to construct Chinese-style democracy

From a historical perspective, the selective copying of the West seems to be consistent in modern and contemporary Chinese history from “The Chinese learning for fundamental principles and the Western learning for practical uses” (中學為體，西學為用) in late Qing era (晚清, 1840-1912), “sinification of Marxism” advocated by Mao Zedong (毛澤東) during the Yan’an (延安) period of the Communist China (1937-45), to “socialism with Chinese characteristics” since the 1980s. Despite having the different concepts in ideological construction, they share in common in regard to how two divergent ideas are connected arbitrarily to rationalize the values and actions. In this context, it is not surprising that there is a formula, of which one Western concept plus one Chinese concept put together to form a “new” concept as mentioned above. Additionally, one Western concept is redefined in the divergent and perhaps the opposite way in order to intentionally claim its uniqueness and speciality. The notable examples are “human rights” and “rule of law”. The former is defined as “right of substance” (*shengcun quan* / 生存權) and the former is as “rule by law” (*yifai zhiguo* / 依法治國). Such rhetorical approach is aimed to pretend the people believing that the same thing is existing in reality; however, it is only the name without substance. The following extracts are the typical examples demonstrating how such an illusion is produced:²⁸

Since the founding of the People’s Republic of China and its adoption of the reform and opening-up initiative in particular, the socialist democratic politics and rule of law have been continuously nurtured by Chinese people of all ethnic groups under the leadership of the Communist Party of China (CPC) ... The continuous development of

the socialist Constitutional system with Chinese characteristics is attributed to the compatibility between the nature and purpose of the ruling CPC and its ruling methods with the principles of democracy, human rights and rule of law contained in the country's Constitution. It is known that the CPC comes from the people and serves the people. All of its powers originate from and also work for the general public. The Party is always attached to the interest of the people at any time. This demonstrates the Party's quintessential core of democracy. Since its founding, the fundamental purpose of the ruling Party has been to serve the people whole-heartedly, with the interests of working class and ordinary people in its mind. It holds no special interests for itself. Such an unwavering aim has been compatible with the value of human rights ... With its actions in the past decades, the Party has fully proved itself to be the consistent protector and staunchest promoter of human rights for Chinese people. In the new historical period, the CPC has realized a transition from the previous rule of people and rule of policy to the rule of law. Administering according to laws has become the basic form of the Party's governance of the whole nation. President Hu Jintao and other top Party officials have stressed on many occasions the authority of the Constitution and other laws and have taken the lead in studying some of the country's important legal articles. It has become a common consensus among the whole Party to learn laws, abide by laws and work in accordance with laws. The agreement between the CPC's ruling ideology and the principle of the rule of law has greatly advanced the theory of the China-style socialist Constitution and its application.

(*China Daily*, 9th February 2009)²⁹

Rather than creating policy conundrums or delays -- as is often the case with parliaments in some Western nations when the ruling party or coalition does not hold a majority -- the people's congress system lends support to and supervises the government to achieve effective governance and rule of law ... With nearly 3,000 deputies, the NPC is different from the legislatures in Western political systems.

(Xinhua, 3rd March 2017)³⁰

He [Xi Jinping] emphasizes the rule of law and checks on power, as seen in his decision to create a national supervision commission.

Lawmakers are also compiling a civil code to better protect people's rights.

(*China Daily*, 17th March 2017)³¹

Human rights, based on the above texts, are not about the enjoyment and protection of civil and political rights, but come from the ruling party as it comes from the people and serves the people. The rhetorical paradox is founded as “party = people (*renmin* / 人民) = human (*ren* / 人)”, then “power comes from party = power comes from people”. Therefore, when the party rules and serves the people, the party exercises human rights. In addition, rule of law is defined in the Communist context as (1) the party utilizes laws and regulations to rule the country which coincides with the definition of law according to Legalism (*fajia* / 法家) advocated by Han Feizi (韩非子), (2) the studying and learning of laws according to party and leaders' line, and (3) the supervision of state by an unrepresentative and unaccountable legislative and supervisory body in order to create an impression that “the government is supervised” from an institutional perspective. Above all, the combination of the Western concept and the Chinese substance turns out to be effective to claim that China can be comparable to, and

even more competent than the Western democratic countries as the Chinese authorities have performed excellently, thereby producing the false consciousness.

3. Discussion and Conclusion: Constructing the New, or Old Wine in a New Bottle?

It should be reminded that by studying through discourse analysis, the main focus is not to verify or validate empirically the political discourse constructed and circulated by the Chinese authorities, but to explore and interpret the premises, features and possible impacts brought by state apparatus in creating and producing knowledge for political purposes, including the foundation of legitimacy, the maintenance of hegemony, and normalization and internalization of false consciousness. In interpretive methodology, the ambiguity and plasticity of meaning-making and of the systems of symbols, including language, used to express and communicate meaning to oneself and to others are understood as creating the possibility for multiple interpretations of acts, events, settings, and so forth (Schwartz-Shea and Yanow, 2012). Specialty, uniqueness and adaption are the common ground during the process of distorting, confusing and misleading the audience in this project of meaning reconstruction.

As discussed above, however, this project runs short of copying, rather than creating, the meanings anew to the existing concepts borrowed from the West that the previous historical experiences have been repeated. In other words, as mentioned in the introductory section, it is not a political experiment conducted by the Chinese authorities for reflecting upon and even improving democracy in terms of procedural practice. It is definitely not an attempt to provide the possible alternatives for the future of democracy based on the Chinese experience. As a result, the new meanings with institutional substances

come out. This project, in the main, is the political performance conducted by an undemocratic, illiberal and autocratic regime mainly relying upon economic achievements made by the reform and opening-up since 1978 to demonstrate its greatness and might. Therefore, promoting Chinese-style democracy is not based on the procedural, institutional and political experiences gained and accumulated in order to contribute to democracy, but on the might of the state and pro-Beijing media inside and outside of the mainland to undertake a political spinning, producing the image of China as a country of progress, development, richness, prospect and openness.

Notes

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Enforcing the Right to Family Life in Hong Kong Courts: The Case of Dependant Policy

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Abstract

Despite the Hong Kong courts' seemingly robust protection of fundamental rights and civil liberties, enforcing family rights remains extremely difficult. While the right to family life is safeguarded by both domestic and international human right instruments, applicants in judicial review cases are usually not able to rely on it to challenge the decisions made by the immigration authority. This paper examines the challenges in enforcing the right to family life in Hong Kong's Dependant Policy with a particular focus on the Hong Kong Court of Appeal's recent decision in *BI v Director of Immigration*. The immigration reservation, entered into by the United Kingdom when ratifying the International Covenant on Civil and Political Rights, has become a justification for a restrictive immigration regime even after the transfer of sovereignty. The Hong Kong courts also repeatedly accord wide discretion to immigration authority. The courts' reluctance to scrutinize socio-economic policies reveals one of the key weaknesses in

enforcing fundamental rights in Hong Kong by the way of judicial review.

Keywords: *human rights, Hong Kong legal system, right to family life, international covenant on civil and political rights, administrative law, dependant policy*

1. Introduction

A wide range of civil liberties and rights are contained in the Hong Kong Basic Law and the Hong Kong Bill of Rights Ordinance (Cap. 383) (“HKBORO”). The Hong Kong courts have taken up the “unenviable task of safeguarding” these civil liberties (Yap, 2007: 499). In *W v Register of Marriage*, Chief Justice Ma affirmed that Hong Kong Courts have the obligation to enforce and interpret the Basic Law¹. The courts’ effectiveness in enforcing fundamental rights is well recognized. The Hong Kong Court of Final Appeal, for example, has been described as “the only political organ that has succeeded in continually resisting Beijing in the constitutional history of the People’s Republic of China” (Ip, 2014: 825).

Given Hong Kong’s common law heritage, the courts frequently refer to international human rights instruments and case law from foreign jurisdictions when interpreting the Basic Law and the Hong Kong Bill of Rights. The reliance on comparative law ensures that the decisions of the courts can “reflect adherence to the rule of law in accordance with internationally adopted judicial standards” (Mason, 2007: 303). In *R v Sin Yau Ming*, Silke VP affirmed that case law from common law jurisdictions with “a constitutionally entrenched Bill of Rights” and the decision of the European Court of Human Rights can offer guidance to the Hong Kong courts when constructing the Hong Kong Bill of Rights².

And yet, despite the courts' seemingly robust protection of fundamental rights and frequent reference to international human rights jurisprudence, enforcing certain fundamental rights remain difficult³. This is especially true when the legislature or executive has formulated socio-economic policies that potentially interfere with certain human rights. The courts are reluctant to "adjudicate on the merits or demerits" of government policies⁴. In *Fok Chun Wa v Hospital Authority*, the Court of Final Appeal confirmed that "more leeway" will be given to the legislature and the executive when examining legislation or executive decision that does not involve "disregard for core-values"⁵.

Such position has rendered the enforcement of the right to family life impossible. While family rights are protected by both domestic and international instruments, the long-standing position of the Hong Kong Immigration Department is that "very restrictive and stringent immigration policies" will be adopted. The city's "physical and social-economic constraints" such as "small geographical size" and "large population" hinder its capacity to accommodate new immigrants⁶. The Hong Kong courts have repeatedly affirmed such position, stating that they will only exercise supervisory jurisdiction when reviewing the decision of the Director of Immigration ("the Director"). While applicants of numerous judicial review cases have relied on the right to family life to challenge the Director's decisions, the courts rarely enforce such right.

This essay examines the challenges in enforcing the right to family life in Hong Kong's Dependant Policy with a particular focus on the Court of Appeal's recent decision in *BI v Director of Immigration*⁷. The ruling on *BI* is not only a classic illustration of the court's insistence to adopt a narrow and restrictive approach when reviewing public policies, but also showcases the difficulties to rely on the Bill of Rights Ordinance and international treaties in immigration matters. The courts'

reluctance to scrutinize socio-economic policies reveals one of the key weaknesses in enforcing fundamental rights in Hong Kong by way of judicial review. The Court of Appeal's refusal to apply related cases in foreign common law jurisdictions also indicates that the Hong Kong Courts are willing to depart from international human rights jurisprudence.

This essay will be divided into the following sections. Section 2 outlines a brief history of judicial review cases regarding rights to family life. Section 3 introduces the background of *BI v Director of Immigration* and the Dependant Policy, and provides an overview on the important aspects of the Court of Appeal's judgement. Section 4 evaluates the implications of the *BI* judgement.

2. Right to Family Life: History, Restriction and Enforcement

Before looking into the Court of Appeal's ruling in *BI*, it is necessary to first examine the overall context for enforcing family rights in judicial review cases in Hong Kong. The Basic Law, the Hong Kong Bill of Rights Ordinance (Cap. 383) ("BORO"), International Covenant on Economic, Social and Cultural Rights ("ICESCR") and Convention on the Rights of the Child ("CRC") all contain different languages to safeguard different aspects of the right to family life.

Article 37 of the Basic Law protects Hong Kong residents' rights to "raise a family freely". Article 19 of the Bill of Rights Ordinance recognizes family as "the natural and fundamental group unit of society" and hence is entitled to State protection. It also protects the rights of citizens to "found a family". Article 20 offers additional protection to children in accordance to their status as minors. Article 10 (1) of the ICESCR emphasizes that family deserves the "widest possible protection and assistance".

The Convention on the Rights of the Child has the most extensive provision on a child's right to live with his or her family. Article 9 (1) states that a child shall not be separated from his or her parents without the determination of competent authority that such separation is "necessary for the best interest of the child". Article 10 (1) specifically requires the State Parties to adopt a "positive, humane and expeditious" approach when dealing with application by a child or the parents to "enter or leave a State Party for the purpose of family reunification". Article 10(2) sets an even higher standard, stating that State Parties "shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country".

Given the seemingly wide protection on the right to family life in both domestic and international instruments, it is perhaps quite unusual that the applicants are usually not able to rely on the right to family life in judicial review cases. There are five major hurdles that prevent the applicants from relying on the right in immigration cases:

1. The immigration reservations in place in the Bill of Right Ordinance and Convention on the Rights of the Child.
2. The inability for applicants without the right to remain in Hong Kong to rely on the Basic Law regarding family rights.
3. The inability of applicants who are Hong Kong residents to rely on the above-mentioned instruments to contest a decision made against their relatives by the Director.
4. The Courts' tendency to review the Director's decision in accordance with Hong Kong's need for strict immigration control.
5. The unincorporated status of ICESCR and CRC.

2.1. *The Effect of Immigration Reservation*

The immigration reservation entered into by the United Kingdom when ratifying International Covenant on Civil and Political Rights (“ICCPR”) is expressed in section 11 of the Hong Kong Bill of Rights Ordinance which states that:

“As regards persons **not having the right to enter and remain in Hong Kong**, this **Ordinance does not affect any immigration legislation** governing **entry into, stay in and departure** from Hong Kong, or the application of any such legislation.” (emphasis added)

2.1.1. *Persons without the rights to enter or remain in Hong Kong*

Some of the early judicial challenges involving right to family life were lodged right after the Bill of Right Ordinance was enacted in 1991. In *R v Director of Immigration Ex parte Wong King-lung*⁸, applicants sought to invoke the right to family life and right of the child under the BORO to challenge against a deportation order made by the Director. The High Court had to determine if the s.11 reservation excludes persons without the rights to enter and to remain in Hong Kong and their family members with right of abode from relying on family rights. Jones J stated that the legislative intention is the key to determine the construction of the s.11 reservation. As the language of s.11 is “clear and unambiguous”⁹ and the reservation made by the UK government does not contravene the “objective and the intention of ICCPR”¹⁰, the intent of s.11 is to effectively exclude the application of BORO when concerning the “entry, stay and removal” of persons without right of abode under the Immigration Ordinance¹¹.

The reservation was given similar construction in *Hai Ho-tak v Attorney General*¹². While Mortimer JA admitted that the deportation of

a 6.5-year-old child from his family and the removal of a mother from a family of five children may constitute “a seriously arguable infringement” on article 14 and article 19 rights¹³, he, nevertheless, stated that “it is clear beyond argument” that s. 11 amounts to a blanket refusal for applicants without the right to enter or to remain in Hong Kong to rely on the right to family life in BORO¹⁴. Nazareth JA, using similar logic of Jones J in *Wong King-lung*, stated that s.11 should be given its “ordinary or literal meaning” as the language if the reservation is not “ambiguous or obscure”¹⁵.

2.1.2 Family members with right to remain

Not only does the s.11 reservation affects persons without the right of abode in Hong Kong, it also prevents family member with the right of abode or right to reside from relying on the BORO to challenge immigration decisions. In *Wong King-lung*, Jones J simply stated that s.11 make no reference as to the right of family members, who are Hong Kong residents, to apply relevant provisions of the BORO when challenging decisions “under the Immigration Ordinance” which concern the “entry, stay and removal of persons who do not have the right of abode in Hong Kong”¹⁶.

The court gave a more detailed explanation in *Hai Ho-tak* as to why family members are barred from enforcing their relevant rights under BORO. Mortimer JA pointed out that “a strange if not absurd” result will occur if family members are able to enforce those rights to challenge immigration decisions¹⁷. He argued that as the person who is “most affected” by the Director’s decision is unable to invoke his or her rights under BORO, it would be absurd if those who are “closely but less affected” by the same decision are able to rely on similar rights¹⁸. Nazareth JA further pointed out that the gist of s.11 is that BORO cannot “affect the application” of immigration legislation that governs “the entry

into, stay in and departure from Hong Kong of a person who does not have the right to enter and remain in Hong Kong” regardless of the immigration status of the person who seeks to invoke relevant BROR rights¹⁹. The family member’s own family rights are still being safeguarded by BORO individually. The enforcement of such rights, however, will not affect the Director’s decision under the Immigration Ordinance regarding person without right to enter or to remain²⁰.

Hai Ho-Tai is still regarded as the authoritative case regarding the effect of the s.11 reservation on family member’s reliance on BORO rights in immigration decisions. In *Chan Mei Yee v Director of Immigration*²¹, Cheung J refused the proposition to limit the application of s.11 reservation to cases that “do not involve family members”²². He pointed out that such construction is not acceptable given “wide” wordings of the reservation²³. He emphasized that he is bound by *Hai Ho-Tai* when evaluating different approaches to enforce rights in international covenants²⁴.

2.1.3. A blanket exclusion of family rights in all immigration cases

In *Comilang Milagros Tecson v Commissioner of Registration & Ors*²⁵, Lam J upheld the construction of s.11 in *Hai Ho-Tak*, stating that the same principle “is also applicable in respect of other manifestation of the immigration reservation”²⁶. In other words, while *Hai Ho-Tak* concerns challenge against a deportation order, the effect of s.11 reservation will be the same in other immigration cases, such as a challenge against the Director’s refusal to change the immigration state for a person without the right of abode. He further pointed out that the right to family life is not absolute in immigration cases. If the rights to family life is allowed to trump other considerations, immigration control will be compromised²⁷.

It is also worth noting that the s. 11 reservation not only affects the applicants' reliance on BORO rights only, but also prevents them from invoking the rights protected by the Basic Law. In *Santosh Thew v Director of Immigration*²⁸, Stock J held that the provisions in the Basic Law, in this case article 37, "cannot be looked at in a vacuum"²⁹. The enforcement of article 37 should be considered in light of article 39 which specifically stated that only provisions of ICCPR "as applied in Hong Kong" shall remain in force³⁰. Drawing on *SJ v Oriental Press Group*³¹, he stated that rights guaranteed by the Basic Law can be subjected to restriction³². The immigration reservation made by the United Kingdom when ratifying the ICCPR should be considered as a restriction of rights that is "prescribed by law" under article 39³³. The immigration reservation constitutes a restriction on the enforcement of article 37 rights. Stock J, however, did not deal with the question of whether the Immigration reservation constituted a blanket exclusion of article 37 rights in immigration cases.

2.2. The Basic Law in Immigration Cases: Reliance and Construction of Article 37

As mentioned above, Stock J's ruling in *Santosh Thew* prevented even residents from relying on article 37 in immigration cases. As for non-residents, article 41 of the Basic Law states that non-Hong Kong residents can only enjoy the rights guaranteed in Chapter III of the Basic Law "in accordance of with law". While some fundamental rights, such as freedom from torture, will be available to all persons in Hong Kong, other rights must be subjected to a "purposeful construction" in light of the context of the Basic Law as a whole before extending to non-Hong Kong residents³⁴. Persons without right of abode in Hong Kong will not be able to rely on article 37 given that family rights are not absolute³⁵.

The court conducted a more specific examination on the content and the enforcement of article 37 in *Gurung Deu Kumari & anor v Director of Immigration*³⁶. Cheung J considered that even an “over-stayer who was previously permitted to enter and remain in Hong Kong” is included in article 41 and therefore can “indirectly invoke” article 37 rights “in accordance with law”³⁷. There is a distinction between applicants who have successfully sought immigration clearance previously and those who do not have the right to enter or to remain in the city. Therefore, Cheung J suggested that even if the applicants’ right to remain in the city has already expired, they are not affected by the s11 immigration reservation. The difficulty to enforce article 37, however, goes far beyond the immigration status of the applicant, the courts also adopted a restrictive approach when constructing article 37.

Cheung J stated that although the applicants, despite being a foreigner, may be able to rely on article 37, it should be interpreted narrowly. Cheung J pointed out that the Chinese version of article 37 of the Basic Law has more restrictive wordings³⁸. The Chinese version of article 37 provides:

“香港居民的婚姻自由和自願生育的權利受法律保護”³⁹

Similar to the English version, the first part of the article talks about Hong Kong residents’ freedom of marriage (婚姻自由). The second part of the Chinese article contains the term “自願生育的權利” which correlates with the term “to raise a family freely” in the English version; Cheung J concluded that the term “自願生育的權利” has a more restrictive meaning as it refers to “the right to procreate and to foster children voluntarily”⁴⁰. Cheung J noted that the purpose of article 37 is to exempt Hong Kong residents from the One Child Policy adopted by the People’s Republic of China. The term “right to procreate and to

foster children voluntarily” is to be contrasted with “the duty to practice family planning” required by article 45 of the Constitution of the People’s Republic of China⁴¹.

He further concluded that the English version “sits comfortably well” with the wordings of the Chinese version⁴². Hence, the proper construction of article 37 has nothing to do with taking care of one’s parents or spouse. Article 37 does not even concern the “formation or maintenance of a family comprising a parent and a child”⁴³. He indicated that such family right is protect by BORO but by not article 37 of the Basic Law⁴⁴.

In *Li Nim Han*, Lam J adopted Cheung J’s approach in *Gurung Deu Kumari*. He concluded that the Chinese version of article 37 “has nothing to do with spousal relationship” or the “right of the child to paternal support”⁴⁵. Refusing to interpret article 37 with a boarder scope, he pointed out that the implied immigration reservation in article 39 support the current narrow interpretation of article 37⁴⁶. Lam J also classified Article 37 as “more specific and limited in scope”⁴⁷ than article 8 of the European Convention on Human Rights.

2.3. Tiger without Teeth: Enforcement of ICESCR in Immigration Cases

Unlike ICCPR and CRC, the United Kingdom did not enter into similar immigration reservations for Hong Kong during ratification. There are two major difficulties when enforcing ICESCR rights: (1) its unincorporated status; (2) its so-called “promotional nature”.

As Hong Kong adopts the dualist legal system, any international covenant must be incorporated by domestic legislation before they can be enforced. As noted in the discussion below, the courts have repeatedly ruled that ICESCR has not been incorporated into a piece of domestic legislation. Instead, different provisions contained in the ICESCR have

been incorporated into various relevant ordinances separately. The lack of a centralized domestic legislation regarding ICESCR has made the reliance on the Covenant challenging. The applicants could not simply rely on the provisions in ICESCR, but often have to argue that the provisions they relied on has been incorporated into a specific ordinance.

Cheung J first affirmed the promotional nature of ICESCR in *Chan Mei Yee*. Drawing on various academic sources, he highlighted the progressive nature of the Covenant with reference to article 2 of the ICESCR which required State Parties to achieve the “full realization” of the ICESCR rights “progressively”, subjected to the “maximum” of the State Parties’ available resources⁴⁸. It is worth noting that he also considered ICESCR capable of being a framework for the government to formulate its decisions or discretions⁴⁹. He, however, stressed that he was bound by *Hai Ho-Tak* in which Godfrey JA ruled that the Director is “entitled to formulated lawful decision” to uphold strict immigration control even if there is no immigration reservation in BORO. The applicants, therefore, were not able to establish a legitimate expectation regarding family rights based on HKSAR’s ICESCR obligations⁵⁰.

Relying on the decision in *Chan Mei Yee*, Hartmann J further pointed out that the Hong Kong government, based on the informed opinion of the Director, is unable to “guarantee the rights protected by the Covenant” when it comes to immigration matters in *Chan To Foon & Anor v Director of Immigration*⁵¹. He added that ICESCR will only be considered as an aspiration about what can be achieved in the future. ICESCR may only be given “due consideration” by public decision makers in immigration matters when “the social imperatives permit”⁵². ICESCR, therefore, cannot be relied on by applicants in immigration matters.

2.4. Immigration Reservation and the CRC

Similarly, the applicants are unable to rely on the Convention on the Rights of the Child in immigration because of its unincorporated status and the immigration reservation in place. The reservations made by the People's Republic of China when ratifying the CRC is also binding to Hong Kong. The immigration reservation allows the Hong Kong government to continue to enforce legislation that governs the "entry into, stay in and departure from" Hong Kong for "those who do not have the right [to enter or remain in Hong Kong]"⁵³. Based on this reservation, Lam J refused to allow the applicants in *Comilang* to rely on CRC⁵⁴.

2.5. The Wide Discretion of the Director

The central difficulty for enforcing the right to family life is that the courts adopted a restrictive approach when reviewing the Director's decision. Following the long line of authorities, the courts have recognized the need for the Director to adopt highly restrictive immigration control policies. The courts almost always accept the Director's submission that Hong Kong's "unique circumstances" call for restrictive policies despite the lack of concrete evidence provided by the Director. The courts are cautious as they worry that their decision may have an immense impact on the city's population strategy⁵⁵. In the words of Lam J, the courts must resist the temptation to "grant relief on an individual basis"⁵⁶. Unlike the Director, the courts consider themselves ill-equipped to assess the impact of any changes in immigration policies. As mentioned in the above section, the courts tend to interpret the legal instruments narrowly when it comes to immigration matters.

The courts also accepted that the Director has no duty to consider humanitarian grounds in his decision making. More importantly, the

Director's refusal to regard humanitarian considerations is not usually subjected to judicial review. Such position was based on Li CJ's ruling in *Lau Kong Yung & Others v Director of Immigration*⁵⁷ in which he affirmed that section 13 of the Immigration Ordinance (Cap. 311) "imposes no statutory duty of any kind upon the Director"⁵⁸ except to operate an immigration control system in accordance with the Ordinance. The Director has the authority to take humanitarian considerations into account, but he can exercise this discretion as he sees fit. To be precise, Li CJ was dealing with a challenge against the Director's deportation orders when he concluded that humanitarian grounds were not mandatory considerations required by law. It is also worth noting that Li CJ specifically pointed out that the applicants in *Lau Kong Yung* did not seek to challenge the Director's refusal to consider humanitarian grounds⁵⁹.

3. Background of *BI v Director of Immigration*

The Court of Appeal's decision in *BI v Director of Immigration* is constructed in accordance with the above-mentioned authorities. The appeal was bought by the Director after the Court of First Instance quashed two decisions refusing to grant dependant visa to the applicants in *BI v Director of Immigration*⁶⁰ and *BH v Director of Immigration*⁶¹. The 1st applicants of two cases, *BI* and *BH*, are non-Chinese nationals who have been convicted of "breach of condition of stay" and other immigration offences⁶². Both lodged their claims under Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") and their claims were subsequently rejected. Both married a Hong Kong permanent resident or a person with the right to land and reside in Hong Kong⁶³. The director rejected both of their DV applications as they failed the "no record" requirement⁶⁴. The judges in

the lower court adopt two different approaches in reviewing the Director's decisions. While Zervos J in *BI* (CFI) concluded that the applicants' family circumstances should be treated reasonably, Chow J in *BH* (CFI) maintained that the Director has no duty to take the applicants' family circumstances into account. Chow J quashed the rejection due to the wordings of paragraph 5 of the Guidebook. The appeal mainly concerns with the proper construction of the Dependant Policy. The two main issues are:

- (1) Whether or not the Director has the public law duty to take the applicant's right to family life into account when formulating his decision in DV applications.
- (2) Whether or not the "no record" requirement under the policy is an eligibility criterion in which a failure to comply with the requirement will amount to a rejection of the application.

3.1. The Dependant Policy

The Director's Dependant Policy is outlined in *The Guidebook for Entry for Residence as Dependants in Hong Kong* ("the Guidebook"). Paragraph 3 and 4 outlined the types of dependants who can apply for dependant visa to join their sponsor to stay in Hong Kong. If the applicant fits into the categories in paragraph 3 or 4, they can submit an application to the Director⁶⁵. Paragraph 5 stated that their application "**may be favorably considered** if":

- (1) There is reasonable proof of a **genuine relationship** between the applicant and the sponsor ("genuine relationship" requirement).
- (2) There is **no known record to the detriment** of the applicant ("no record" requirement).

- (3) The sponsor is able to **support the dependant's living at a standard well above the subsistence level** and provide him/her with suitable accommodation in the HKSAR (financial requirement) (emphasis added).

3.2. *The Court of Appeal's Ruling*

The Court of Appeal upheld that the 3 requirements stated in paragraph 5 of the *Guidebook* are eligibility criteria that the applicants must fulfill in DV application. As the factors listed in paragraph 5 are connected to the eligibility criteria listed in paragraph 3, they must also be essential if the paragraph 3 criteria are to be considered as essential⁶⁶. The court pointed out that as the “genuine relationship” requirement and the financial requirement have been considered as essential requirements by the courts, an “internal inconsistency” will arise if the “no record” requirement is not considered as essential⁶⁷. The judges also rejected the applicants’ reliance on the phrase “may be favorably considered” in paragraph 5. The term is “an enabling term” that “trigger” the Director to consider the application once all the criteria are met⁶⁸.

The Court stressed that the “starting point” to construct the Dependant Policy should be the Hong Kong’s need for strict immigration control policies⁶⁹. The Dependant Policy is never a policy for general family reunion for spouse and children of Hong Kong residents⁷⁰. The Court accepted the Director’s submission that there is currently “no establish guideline and policy” for family reunion. The core of the Dependant Policy is not family ties or marriage, but dependency. To be successful in the application, the applicant must be “genuinely dependent on” the sponsor’s “maintenance, support and other requirement”⁷¹. The court pointed to the various restrictions found in paragraph 2-4 of the *Guidebook*, such as the exclusion of Mainland Chinese residents and the exclusion of family members other than

spouse, dependent children and parents over 60 years old, to illustrate that the policy does not intent to facilitate general family reunion. The court also refused to review the *Legislative Council Brief: "Immigration Policy on Entry of Dependants"* ("LegCo Brief") submitted by the applicants⁷². The applicants originally sought to rely on the LegCo Brief to argue that the legislative intent of the policy includes family reunion.

Given the courts' restrictive attitude towards the right to family life, the applicants in *BI* did not rely heavily on the above-mentioned domestic and international instruments. The applicants' main ground of argument is that the Director is bounded by the common law right to family life which cannot be restricted by s11 immigration reservation⁷³. Drawing from Sedley LJ's dictum in *R (Aguilar Quila) v Secretary of State for the Home Department*⁷⁴, the applicant argued that the right to family life, "in the eyes of the common law", should enable spouses to "live together" and that the state will need strong reasons before exiling a spouse's right to marry and "embark on family life"⁷⁵. The court rejected the submission stating the common law in Hong Kong has not enabled the "right not to be exiled" from family life to override immigration control policies⁷⁶. The common law position regarding the right to family life in Hong Kong is reflected by the long line of authorities that limited its application and the existence of the immigration reservation⁷⁷.

The applicants also argued that "family ties" should be the primary consideration in the Dependant Policy. It is a matter for the court, instead of the Director, to determine relevant and irrelevant considerations. The court, therefore, should be able to direct the Director to take humanitarian considerations into account when expectational circumstances require the Director to differ from his general policy⁷⁸. The court, once again, relied on *Lau Kong Yung* to conclude that the court is unable to intervene with the Director's decision based on a

failure to give weight to relevant considerations. The court also stated that it is “unlikely” that the Director ignored relevant considerations if he has taken humanitarian considerations into account⁷⁹. There is nothing in Hong Kong law that requires the Director to place the right to family life above other political or socio-economic considerations. In rejecting Zervos J’s ruling in Court of First Instance, the court stressed that judges should not put themselves “into the shoes of the Director” and conduct balancing exercise themselves⁸⁰.

4. The Implications of the *BI* Judgement

The *BI* ruling can be viewed as an extension of the long line of cases in which the courts had restricted the enforcement of family rights. While the construction of the Dependant Policy in *BI* will certainly influence future cases that challenge the policy, *BI* provides an illustration on how the Director’s policies will be scrutinized. The court’s reluctance to incorporate family rights safeguarded by domestic and international instruments into the Director’s policies reflects its long-standing recognition of Hong Kong’s need for strict immigration control. As the court classified family rights under humanitarian considerations, *BI* also clarifies the role of the courts in reviewing the Director’s determination of humanitarian considerations. In the following section, the implications of *BI* on the enforcement of family rights will be evaluated with reference to the Court of First Instance’s later rulings concerning the Dependant Policy.

4.1. Constructing the Dependant Policy to Enable Strict Immigration Control

The ruling is an indication the court will adopt a construction that flavors the implementation of strict immigration control policies when there are

ambiguities in the provisions. A closer look at the court's reasoning will reveal that the nature of Hong Kong's immigration regime is the key factor for the Court to construct the "no record" requirement as an eligibility criterion.

4.1.1. Two completing narratives

The wording of paragraph 5 of the *Guidebook* is the main reason for Zervos J and Chow J in the lower court to characterize the factors stated in paragraph 5 as "eligibility considerations" instead of "eligibility criteria". Zervos J, for example, noted that the opening statement of paragraph 5 "does not eliminate the possibility" that the Director can approve the application even if the three listed factors are not satisfied. While he considered the three factors as important considerations, he stressed that the wording of paragraph 5 does not require all of the three factors to be satisfied for the application to be granted and it does not imply that the application must fail if one of the three factors is not met⁸¹. Chow J agreed with Zervos J's construction in *BH* (CFI) and concluded that the "no record" requirement is an "important, but not conclusive" consideration for the Director to formulate his decision⁸². He pointed out that based on the existing policy stated in the *Guidebook*, a failure to satisfy the "no record" requirement cannot be treated "as the end of the application"⁸³. Zervos J and Chow J's construction on the nature of the paragraph 5 factors allows the applicants to potentially rely on their right to family life to succeed in their applications even when they are not able to satisfy some of the paragraph 5 factors.

As mentioned in the above section, the Court of Appeal rejected such construction based on case law and the relevant context of restrictive immigration control policy. The court ruled that as the "genuine relationship" requirement "harked back" to the three eligibility criteria, the requirement itself must also be eligibility criterion. In

Gurung Deu Kumari v Director of Immigration, it could be argued that Chueng J highlighted the differences between the eligibility criteria listed in paragraph 3 and the factors listed in paragraph 5⁸⁴. If the relationship between the applicant and sponsor do not fall within the relationships stated with paragraph 3, the factors listed in paragraph 5 will not be engaged at all⁸⁵. By connecting paragraph 5 factors with categories in paragraph 3, the Court of Appeal in *BI* moved away from Cheung J's classification and declared that the two groups are of the same nature.

The Court of Appeal cited *Qamar Zaman v Director of Immigration*⁸⁶ to prove that the "genuine relationship" requirement was an eligibility criterion; the judges also relied on *Santosh Thewe* and *Qamar Zaman* to illustrate that the financial requirement is an eligibility criterion⁸⁷. These authorities had not stated in clear terms that the paragraph 5 factors are eligibility criteria. There are reasonable alternative interpretations of these cases which support the notion that the court in the past had not decided the nature of the paragraph 5 factors. No challenge was made by the applicant regarding the "genuine relationship" requirement in *Qamar Zaman*⁸⁸. The nature of the financial requirement is not the subject of *Santosh Thewe* at all. The applicant seeks to argue that the inclusion of the financial requirement under the Dependant Policy is "irrational" and an "unreasonable fetter on the discretion" of the Director⁸⁹. Stock J rejected the applicant by simply stated that the financial requirement is not unreasonable "in the context of dependency"⁹⁰. The purpose of the above discussion is not to advocate any particular way to interpret the cases but to illustrate that how need for strict immigration control policies shapes the interpretation of case law.

4.1.2. *Implications of the Court of Appeal's construction*

The Court of Appeal's interpretation has two major implications: (1) the enforcement of the family rights is seriously limited; (2) the requirements under the policy will be given a broad construction which may indirectly increase the threshold for a successful application.

The Court of Appeal's construction of the policy does not require the Director to take the applicant's family circumstances into account. The Director has the discretion to decide if he wants to take such consideration into account only when the applicant has failed one or more of the paragraph 5 requirements under the policy. The approach adopted by the lower court, on the other hand, allows the possibility for family rights to become one of the considerations alongside the more important paragraph 5 requirements. This illustrates that even when the drafting of the policy has left ambiguity that can be interpreted in favor of enforcing the right to family life, the need for immigration control will always require the court to adopt a narrow interpretation and limit the enforcement of such right.

The courts' broad construction of the "no record" requirement in the later cases is a sharp contrast to its narrow construction of family rights under the policy. The Court of Appeal's approach in *BI* ensured that the paragraph 5 requirements of the Dependant Policy will have a broad construction and may even extend beyond their original scope. This is reflected in the later cases of *LK & Ors v Director of Immigration*⁹¹ and *H v Director of Immigration*⁹². It is established in these two cases that the DV applicant can fail the "no record" requirement without a criminal conviction. In *LK*, one of the applicants failed the "no record" requirement even when the Immigration Department has decided not to prosecute his suspected offence due to his ongoing torture claim⁹³.

Rejecting the applicant's argument that there cannot be any "record" without a conviction, Au J stated that the "no record" requirement is "imposed in the context of Hong Kong's security concern under the overall strict immigration control"⁹⁴. The Director is entitled to review all forms of the records, not limited to criminal conviction, that may reveal security concerns. Au J further pointed out that it cannot be the proper construction of the policy that the "no record" requirement cannot be used as a ground of refusal if the Director has record that the applicant seek to come to Hong Kong to conduct, for example, terrorist activities and had not yet been convicted⁹⁵. Au J's ruling suggested that the "no record" requirement should be given a broad construction. The "no record" requirement does not only concern the conviction of serious crime, but also potential security concerns⁹⁶. In *LK*, the potential security concerns included a suspected immigration offence of a torture claimant who has not yet been prosecuted⁹⁷.

Au J's view was endorsed by Chow J in *H*. The 1st applicant raised three grounds to argue that he had not breached the "no record" requirement: (1) absence of criminal conviction; (2) the Director's uncertainty as to prosecution; (3) possibility of the magistrate to recognize the exceptional circumstances of the applicant and conclude that a conviction will not be "to his detriment"⁹⁸. Drawing from *LK*, Chow J rejected the above submission and considered the Director's decision as "lawful and rational"⁹⁹. He further pointed out that it is upon the Director to determine what record is determinantal to the applicant. The role of the court is, once again, to exercise supervisory jurisdiction¹⁰⁰.

The Director's wide discretion in constructing the Dependant Policy was affirmed in *BI*, *LK* and *H*. *BI* also affirmed that the Director firmly holds the discretion to regard family circumstances. The major justification for the court to set up such a high threshold to enforce

family rights under the policy is the court's recognition of adopting strict immigration control in Hong Kong due to its unique circumstances.

4.2. Possibility to Review the Director's Determination on Humanitarian Considerations

As demonstrated in the previous section, Li CJ's dictum in *Lau Kong Yung* that the Director is not required by law to take humanitarian considerations into account when formulating his decision was considered as the authoritative position in immigration cases. The dictum of Li CJ has extended to all the immigration policies. The Court of Appeal in *BI* also reviewed the *Lau Kong Yung* dictum and reviewed the scope in which the court can review humanitarian considerations.

On rejecting the applicant's submission that the court should be the one to determine the existence of exceptional circumstances in DV applications, the court insist that it is bound by *Lau Kong Yung*¹⁰¹. Therefore, if the Director has not taken any humanitarian considerations into account, the court cannot intervene on the ground that the Director failed to give weight to relevant considerations. Unlike the previously mentioned cases which directly apply the *Lau Kong Yung* dictum, the Court of Appeal went into a relatively detailed analysis on the application and the limitation of the dictum.

The court concluded that *Lau Kong Yung* does not aid the court when the director has taken humanitarian considerations into account¹⁰². The court pointed out that the applicants in *Lau Kong Yung* were unable to rely on humanitarian considerations because of the Interpretation by the National People's Congress Standing Committee¹⁰³. Li CJ did not definitively conclude that the Director's consideration on humanitarian circumstances cannot be reviewed, he simply stated that their reliance could not be successful given the special circumstances of the case. The Court of Appeal in *BI* concluded that the court could review the

Director's decision when he takes humanitarian considerations into account and that there is unfairness in his determination¹⁰⁴. The court based its conclusion heavily on the Court of Final Appeal decision of *C v Director of Immigration*¹⁰⁵. In *C*, Tang PJ stressed that the Director's wide power must be exercised "in accordance with the law"¹⁰⁶. The legislature, while entrusting the Director with wide discretion, also presumed that the Director will exercise the power fairly "in all the circumstances"¹⁰⁷. The Court of Appeal also highlighted Sir Anthony Mason NPJ's discussion in *C* on the limitations of reviewing administrative decisions based on procedural fairness¹⁰⁸. The court suggested that even when the Director's consideration of humanitarian grounds is subjected to review, such review on fairness will be a limited one.

The court recognized that the Director, when reviewing the application of *BI* and *BH*, did consider the "family circumstances" of the applicants¹⁰⁹. The court concluded that the Director did not reject the application outright when the applicants failed the "no record" requirement. Instead, the Director went on to examine the existence of exceptional circumstances, including the family connection with spouse and children, that could justify treating the applicant differently from the existing policy¹¹⁰. Only the Director can decide the weighting of different considerations and to determine if special treatment should be granted¹¹¹. The key legal question, as a result, becomes: Is it fair for the Director, when reviewing the family circumstances of the applicants, simply conclude that there is no exceptional circumstances for special treatment that will be given without any explanation? Given the importance of the right to family life, *Zervos J* in the lower court suggested that a higher standard should be adopted. In *BI* (CFI), he criticized the Director for giving only "superficial regard" to the family circumstances of the applicants¹¹². Rejecting *Zervos J*'s determination,

the Court of Appeal ruled that given the need for restrictive immigration control, the Director's assessment could not be regarded as "superficial, inappropriate or improper"¹¹³. The court also ruled that the Director's refusal to give detail explanation regarding humanitarian consideration is not *Wednesbury* unreasonable¹¹⁴.

The Court of Appeal's stand on reviewing humanitarian considerations was followed by the lower court in later challenges. In *Dembele Salifou & Ors v Director of Immigration*¹¹⁵, Au J relied heavily on *BI*, stating that the Director has considered all factors including family circumstances when making the determination¹¹⁶. He also argued that an adverse decision itself cannot imply that the Director has ignored the family circumstances of the applicants¹¹⁷. Au J highlighted two observations from the Director: (1) the 1st applicant will not have difficulty returning to his home country; (2) the 1st applicant is also a Malian passport holder which enables him to visit Hong Kong for 14 days without a visa¹¹⁸. He concluded that given the above the two factors, the Director's rejection is not *Wednesbury* unreasonable. Au J also suggested that *Wednesbury* unreasonableness should be the standard for reviewing the Director's consideration of humanitarian circumstances. While the Court of Appeal in *BI* did not impose a blanket rejection on reviewing the Director's consideration of humanitarian circumstances, such review will have a high threshold¹¹⁹.

Although the Director's consideration of humanitarian circumstances is available for a limited review, the Court of Appeal in *BI* did not abolish the *Lau Kong Yung* dictum. The Court of Appeal in *BI* considered Tang PJ's approach in *C* as a cautious endorsement of the *Lau Kong Yung* dictum in the context of family reunion¹²⁰. Tang PJ in *C* stated that the case should be differentiated from *Lau Kong Yung* as refugee claimants may face "much more serious consequences". He suggested that the main effect of the challenged legal provision in *Lau*

Kong Yung is to prevent persons, including children “with one or more Hong Kong parents” from “rejoining their family in Hong Kong”. Hence, the family reunion consideration has “less scope of a basis” to challenge against a removal order¹²¹. Therefore, the Court of Appeal in *BI* considered itself to be bound by the *Lau Kong Yung* dictum in cases where the applicants seek to rely on the right to family life. The general doctrine for reviewing humanitarian consideration after *BI* could be summarized as follows:

- (1) If the Director did not consider humanitarian circumstances in his decision making, he is under no public law duty to do so and his refusal to consider such grounds could not be reviewed, unless the decision could lead to serious consequences (e.g. refolement of refugees).
- (2) If the Director had taken humanitarian considerations into account, it will be subjected to judicial review on unfairness or *Wednesbury* unreasonableness.

4.3. Enforcing the Right to Family Life under a Restrictive Context

The most predictable impact of *BI* is that the courts will refuse to enforce family rights safeguarded by the common law, domestic and international instruments under the Dependant Policy. The court in *BI* was concerned that the recognition of such right under the common law could “fetter the wide discretion” of the Director to maintain immigration control in which the court concluded is “essential for the sustainability of Hong Kong”¹²². Hence, “interests in family life” of the applicant or his or her family members cannot override the wide discretion of the Director¹²³. The Court of Appeal’s decision is hardly surprising given the long line of authorities as discussed in Section 2 that restricted the enforcement of family rights.

The applicants in *BI* and in later challenges were, perhaps, aware of the difficulty to directly enforce such right and had adjusted their strategy accordingly. The applicants in later cases sought to provide extra evidence to prove that family reunion is the purpose of the Dependant Policy. If family reunion is one of the purposes of the policy, the Director will have legal duty to take the applicant's family rights into account "as a matter of relevance". The applicants combined asserted family rights with other grounds of judicial reviews¹²⁴. If the purpose of the Dependant Policy is family reunion, the Director's refusal to consider the family rights of the applicants will be *Wednesbury* unreasonable. Similarly, any requirements that hindered family reunion will also be *Wednesbury* unreasonable as it obstruct the intent of the policy¹²⁵. The advantage for adopting such approach is that by constructing the Dependant Policy that favors family reunion, some hurdles to enforcing family rights, such as the s11 immigration reservation, can be avoided. The applicants can argue that it is the intent of the policy to take their family connection into account.

The Court of Appeal in *BI*, however, has declared that family reunion is not the purpose of the Dependant Policy. The court also emphasized that the primary determination of the Dependant Policy is dependency instead of family reunion. The policy was characterized as "one of the specific immigration policies formulated by the Director under the umbrella of strict immigration control policy overall"¹²⁶. The court also based their determination on the policy generally excluding all Mainland Chinese residents or former Mainland Chinese residents residing in Macau. The court argued that if the Dependant Policy is indeed a general family reunion policy, such groups will be "arguably the largest and indeed most natural group of potential applicants"¹²⁷.

Drawing from the *Guidebook*, the purpose of the Dependant Policy is to allow an applicant who is genuinely dependent on the sponsor's financial support to apply for permission to stay without the risk of being a burden to Hong Kong¹²⁸. While it may be a "happy consequence"¹²⁹ when family reunion is enabled under the policy, this is not the primary purpose of the policy.

The position of the court in *BI* regarding the purpose of the policy is followed by the Court of First Instance in later cases. In *Dembele*, Au J considered himself bound by the decision of *BI* despite the additional evidence submitted by the applicants to illustrate that the purpose of the Dependant Policy is to facilitate family reunion. He pointed out that the construction of the policy is a matter of law and that it is important for the courts to adopt "a single meaning"¹³⁰ regarding the language of the policy. The applicant's asserted rights were rejected by the court.

With reference to the long line of cases discussed in Section 2, nearly all of the family rights available to the applicants and their family members were denied by the courts. The Court of Appeal's decision in *BI* had prevented the applicants from relying on the common law when protection from other instruments are not available. Given the court's construction of the Dependant Policy in *BI*, there is little room for the policy to accommodate the applicants' family rights.

5. Conclusion

One of the central themes emerged from the above discussion and repeatedly affirmed by courts is the Director's wide discretion to impose strict immigration control policies in Hong Kong. The restrictive immigration regime requires the courts to adopt a narrow interpretation of the domestic and international instruments to limit the enforcement of family rights and construct ambiguously worded policies such that

family circumstances will not become a mandatory consideration. The Director's submission regarding the "special circumstances" of Hong Kong is almost automatically accepted by the courts. While it is firmly established that the courts will observe the principle of "margin of appreciation" when reviewing socio-economic policies and usually refrain from "adjudicating the merits or demerits" of government policies to respect the will of legislature¹³¹, it is also up to the decision makers to provide evidence to prove that their policies do not impose restriction on rights that is "manifestly without reasonable foundation"¹³². The need for strict immigration control may be applicable when constructing certain types of immigration policies but it may not be necessarily applicable to others. Different judicial challenges may have a different impact on the immigration regime of Hong Kong. It should be upon the Director to provide evidence in order to illustrate the impact of a particular challenge if he wishes to argue that a less restrictive approach in constructing immigration policy will destroy the social fabric of the city. The danger for the court to only exercise supervisory jurisdiction is that the Director's determination on humanitarian considerations will be difficult to challenge. Cheung J in *Chan Mei Yee* expressed similar concerns:

"In the present case, the Director said that he had taken humanitarian consideration into account. If so, I have to say that **I am disturbed by the Director's statement** that he was of the view that Ms Chan's case **"does not have sufficiently strong humanitarian grounds or other reasons to justify special treatment"**. This case affects a six-year old child with epilepsy who obviously needs a mother to be with her and not merely a nanny as suggested by the Director. While the Director clearly is duty bound to ensure the immigration policy in Hong Kong is conducted in an appropriate manner, this is **obviously a case** in

which the Director **could have exercised the discretion differently without causing the slightest harm to the established policy.**¹³³
(emphasis added)

Given the high threshold established by the *BI* judgement, it will be very difficult for the applicants in the future to rely on their family rights to challenge the Dependant Policy. It is perhaps reasonable to suggest that work should be done in the other two branches of government to initiate a reform that calls for a Dependant Policy that is more accommodating to the applicants' right to family life. However, it is important to remember that judicial review in Hong Kong has its unique advantage when compared to advocacy work targeting other branches. Judicial review has become "a vital method, guarded by a robust judiciary, for people to address untenable policies" (Daly, 2010: 413) due to the lack of democratic legitimacy of the Hong Kong government. By resorting to judicial review, it is hoped that "the hidden and non-transparent policies will be exposed to some scrutiny" (*ibid.*: 415). The courts' reluctance to examine the constitutionality of socio-economic policies has created a limbo for enforcing certain rights protected by domestic and international instruments. While the role of Hong Kong courts in safeguarding the fundamental rights cannot be understated, such reluctance undermines the courts' effectiveness in scrutinizing the constitutionality of legislations and executive actions.

Notes

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1. (2013) 3 HKLRD 90 at p. 136, para. 121.
2. (1992) 1 HKCLR 127, para. 50.
3. Yap (2007), for example, observed that the Hong Kong Courts generally adopt a “conservative” approach when reviewing “alleged human rights violations” that have “law and order implications”. The courts are willing to accord a wide margin of appreciation to the Legislature and Executive “in maintaining pace and stability”. See note 1 above, p. 450, p. 464.
4. *Fok Chun Wa v Hospital Authority* (2012) 15 HKCFAR 437, para. 66 per Ma CJ.
5. *Ibid.*, para. 77.
6. See for example *Comilang Milagros Tecson v. Commissioner of Registration & Ors* (2012) (unreported) HCAL 28/2011.
7. (2016) 2 HKLRD 520.
8. (1993) 3 HKPLR 253.
9. *Ibid.*, p. 276.
10. *Ibid.*, p. 276.
11. *Ibid.*, p. 277.
12. (1994) 2 HKLR 202.
13. *Ibid.*, p. 207.

14. *Ibid.*, p. 209.
15. *Ibid.*, p. 209.
16. See note 8 above, p. 277.
17. See note 12 above, p. 207.
18. *Ibid.*, p. 207.
19. *Ibid.*, p. 209.
20. *Ibid.*, p. 209.
21. (2000) HKEC 788.
22. *Ibid.*, para. 38.
23. *Ibid.*, para. 38.
24. *Ibid.*, para. 46.
25. (2012) (unreported) HCAL 28/2011.
26. *Ibid.*, para. 41.
27. *Ibid.*, para. 42.
28. (2000) 1 HKLRD 717.
29. *Ibid.*, p. 721-722.
30. *Ibid.*, p. 722.
31. (1999) 2 HKLRD 123.
32. *Ibid.*, p. 721.
33. *Ibid.*, p. 721.
34. *Kong Yunming v Director of Social Welfare* (2013) 16 HKCFAR 163 per Bokhary NPJ.
35. *Li Nim Han v Director of Immigration* (2012) 2 HKC, para. 14-15 per Lam J.
36. (2010) 6 HKC 137.
37. *Ibid.*, p. 148.
38. *Ibid.*, p. 150.
39. Roughly translated as: “The freedom of marriage and the freedom to procreate voluntarily of Hong Kong residents are protected by law”.
40. *Ibid.*, p. 150.

41. *Ibid.*, p. 151.
42. *Ibid.*, p. 151.
43. *Ibid.*, p. 151.
44. *Ibid.*, p. 151.
45. See note 35 above, p. 309, para. 34.
46. *Ibid.*, p. 311, para. 38.
47. *Ibid.*, p. 308, para. 24-25.
48. See note 17 above, para. 43.
49. *Ibid.*, para. 46.
50. *Ibid.*, para. 46.
51. (2001) HKCU 320, para. 28.
52. *Ibid.*, p. 29.
53. See note 35 above, para. 34.
54. *Ibid.*, para. 99.
55. See for example *ibid.*, para. 30.
56. *Ibid.*, para. 31.
57. (1999) 2 HKCEAR 300.
58. *Ibid.*, p. 330.
59. *Ibid.*, p. 330.
60. (2014) HKEC 2054.
61. (2015) 4 HKC 107.
62. See note 7 above, p. 529.
63. *Ibid.*, p. 534.
64. *Ibid.*, p. 529-534.
65. See note 28 above, p. 143.
66. See note 7 above, p. 545.
67. *Ibid.*, p. 547.
68. *Ibid.*, p. 549.
69. *Ibid.*, p. 545.
70. *Ibid.*, p. 542.

71. *Ibid.*, p. 542.
72. *Ibid.*, p. 545.
73. *Ibid.*, p. 554.
74. (2011) 3 ALL ER 81.
75. See note 7 above 554.
76. *Ibid.*, p. 555.
77. *Ibid.*, p. 556.
78. *Ibid.*, p. 555.
79. *Ibid.*, p. 557.
80. *Ibid.*, p. 557.
81. See note 60 above, para. 64.
82. See note 61 above, para. 45.
83. *Ibid.*, para. 46.
84. This interpretation was adopted by Zervos J in *BI* (CFI).
85. See note 36 above, para. 18.
86. (2003) (unreported) HCAL 145/2002.
87. See note 7 above, para. 78-79.
88. Hartmann J stated that it was “necessary” for the sponsor to demonstrate a “genuine relationship of dependency existed”. As the case did not concern that requirement, he made no reference to the requirement later in his judgement. It is questionable if Hartmann J’s brief statement has implied that he considered the requirement as an eligibility criterion given that the applicant did not rely on the Guidebook. Hartmann J did not, and there was no need for him to, determine the nature of the “genuine relationship” requirement in *Qamar Zaman*. Yet the Court of Appeal in *BI* considered Hartmann J’s simplistic statement as the authoritative position of the court that the “genuine relationship” requirement is an eligibility criterion.
89. See note 28 above, p. 720.
90. *Ibid.*, p. 723. At no point in the judgement did Stock J stated that the application must fail if the financial requirement cannot be satisfied, he

merely pointed out that the existence of a financial requirement, either as an important consideration or eligibility criterion, is reasonable in the Dependant Policy.

91. (2016) HKCU 1874.
92. (2016) (unreported) HCAL 172/2015.
93. See note 91 above, para. 144.
94. *Ibid.*, para. 146.
95. *Ibid.*, para. 146.
96. *Ibid.*, para. 146.
97. *Ibid.*, para. 144.
98. See note 92 above, para. 46.
99. *Ibid.*, para. 49.
100. *Ibid.*, para. 49.
101. See note 7 above, p. 556.
102. *Ibid.*, p. 557.
103. *Ibid.*, p. 557.
104. *Ibid.*, p. 557.
105. *Ibid.*, p. 556-557; (2013) 16 HKCFR 280.
106. *Ibid.*, p. 295.
107. *Ibid.*, p. 295.
108. See note 7 above, p. 557.
109. *Ibid.*, p. 560, p. 562.
110. *Ibid.*, p. 560, p. 562.
111. *Ibid.*, p. 561.
112. See note 60 above, para 79.
113. See note 7 above, p. 561.
114. *Ibid.*, p. 561.
115. (2016) (unreported) (HCAL 44/2014).
116. *Ibid.*, para. 83.
117. *Ibid.*, para. 83.

118. *Ibid.*, para. 91.
119. *Ibid.*, para. 94.
120. See note 7 above, p. 556.
121. See note 105 above, p. 298.
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123. *Ibid.*, p. 555.
124. See note 115 above, para. 22.
125. *Ibid.*, para. 23.
126. See note 7 above, p. 543.
127. *Ibid.*, p. 544.
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130. See note 115 above, para. 36.
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Appendix A: Abbreviations of Law Reports cited

Hong Kong Cases

Full name	Abbreviation
Hong Kong Court of Final Appeal Reports	HKCFAR
Hong Kong Cases	HKC
Hong Kong Cases Unreported	HKCU
Hong Kong Court of First Instance	HKCFI
Hong Kong Electronic Cases	HKEC
Hong Kong Law Reports and Digest	HKLRD
Hong Kong Public Law Reports	HKPLR

Other Cases

Full Name	Abbreviation
All England Law Reports	ALL ER
Commonwealth Law Reports	CLR

**Hopes against Hobbes: On Authoritarianism,
Regime Legitimation and Soft Power
with a Review of Richard C. Bush's
*Hong Kong in the Shadow of China:
Living with the Leviathan* (2016)**

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Abstract

Richard C. Bush's *Hong Kong in the shadow of China: Living with the Leviathan* (2016) represents an important study on post-“Handover” Hong Kong focusing on the making of the 2014 Occupy Campaign and Umbrella Movement and the impact on the coming development in politics, governance and economy of Hong Kong, taking into consideration China's Hong Kong policy and the response of the Hong Kong people as well as the perspectives of Taiwan and the United States. This article, while reviewing the book, also provides a detailed analysis of the wider implications of the issues the author of the book has raised as regards Hong Kong – as China's policy approach towards Hong Kong and by extension Taiwan and the struggle of the Hong Kong people, as well as the Taiwan people, to protect the political freedom and democratic rights they aspire to maintain (in the case of Hong Kong) and

that they have fought hard to secure (in Taiwan) have impacts that reach far beyond Hong Kong and Taiwan in the light of the PRC's current relentless global projection, riding on the wave of her economic miracle, of her hard and so-called "soft" power in a through an intricate nexus of her domestic and foreign policies that not only serves to strengthen domestic governance and enhance international influence but also involves extraterritorial actions to maintain CCP's one-party authoritarianism.

Keywords: *Hong Kong, China, Chinese Communist Party dictatorship, soft power, Innenpolitik-Aussenpolitik nexus, Leviathan, dissent, dissidents, Liu Xiaobo, Taiwan, Confucius Institutes*

1. Introduction

While the separation of Hong Kong and Taiwan from Mainland China during the decline of the Ch'ing Empire represented a product of the era of colonisation filled with humiliation by foreigners, within the overall progress of world civilisation, it also led to these two regions attaining freedom and prosperity [away from the repressive empire on the Mainland] bestowed by modern civilisation. In sharp contrast [...] the [Mainland] Chinese after being freed from the torment by colonial powers, instead of attaining liberation and freedom, have since been subjected to even more comprehensive and more brutal totalitarian subjugation [...] While the Chinese Communist Party's dictatorial government has undergone an unequivocal great leap in its hi-tech operation, its political system and mode of governance still remain in the medieval era, hitherto having not given up the medieval myth of a greater empire-building. Internally, towards minority nationalities, it denies them freedom of autonomy. Externally, towards Taiwan, it

rejects making a promise of not using military force for unification; towards Hong Kong, it resorts to dictatorial coercive means of intervention in Hong Kong's "One Country, Two System" autonomous governance, resulting in insurmountable barriers to Hong Kong's political democratisation. One of the important principles underlying the post-WWII modern civilisation is the self-determination of a region's inhabitants. Under this principle, the achievement of any unification to resolve conflict is not determined by military coercion by a powerful party, but by the voluntary choice of the minority groups [...] If unification could imply coercion and subjugation, there might as well be no unification.

– Liu Xiaobo (28th December 1955 – 13th July 2017)¹, 2010 Nobel Peace Prize laureate and repeatedly jailed Chinese dissident and democracy advocate, granted medical parole on 26th June 2017 and sent into closely guarded hospitalisation only seventeen days before his death

Every once in a while, you come across a book that is both timely and manages to provide the reader valuable insights into various specific aspects of an issue while at the same time gives a critical and holistic understanding of an overall situation. Published in October 2016, less than nine months before the 20th anniversary of Hong Kong's "Handover", Richard C. Bush's *Hong Kong in the shadow of China: Living with the Leviathan* (Washington, D.C.: Brookings Institution Press, 400 pp. + xvi) is such a book. The book's contents are divided into twelve chapters, followed by a conclusion (Chapter 13). After a short preamble on the tumultuous events of 2014 which obviously act as an overarching framework for the urgency of issues discussed in the book, a useful historical background from the formative years of

Hong Kong up to 1997 begins the book and set the stage for rest of the volume which at times alludes to a Greek chorus like in an ancient amphitheatre (most avidly in Chapter 5, “Debating Universal Suffrage Before Occupy: Round 1”, as the author describes the citizens of Hong Kong as in a political drama of three acts that began in 2013 and ended in the fall of 2014 *dénouement* in the form of the Umbrella Movement) and issues dire warnings over a possible future of Hong Kong careening down a treacherous slope in a life-mimicking-theatre situation as if drawn directly from a Greek tragedy. Like an ominous foreshadowing in a mystery novel, a tragedy has begun unfolding as the contest over how to select Hong Kong’s future leader has already turned into “a story that ends, rather tragically, with no election reform and a reversion to existing undemocratic mechanisms”, as Bush observes in Chapter 1 (“The Hong Kong Hybrid”) that introduces the first of his three perspectives.

2. Shocking Events

The author of this book, Richard Bush, with a Ph.D. degree specialising in China from Columbia University, United States, is a senior fellow at the Brookings Institution and the director of its Center for East Asia Policy Studies. He holds the Chen-Fu and Cecilia Yen Koo Chair in Taiwan Studies as well as a joint appointment as senior fellow at the Brookings John L. Thornton China Center. Bush rightly points out at the beginning part of the book that for anyone whose impression of Hong Kong was formed before 1989 – more exactly before the March to June 1989 student-led demonstrations on Tiananmen Square that ended with the horrific State violence in the 3-4 June night of massacre of defiant citizens in the streets of Beijing – the Occupy Campaign and Umbrella Movement that came in the autumn of 2014 was so unexpected and

shockingly unbelievable. The same can of course be said of the 3-month demonstrations on Tiananmen Square and the death-defiant stance of the Beijing residents during that fateful night of 3rd-4th June 1989 themselves.

While early in the germination period of classical Chinese philosophy two and a half millennia ago the founder of contemplative Taoism (道家), Lao Tzu (老子, c. 571-471 BC), had already commented, “民不畏死，奈何以死懼之？” [The people do not fear at all to die; / What's gained therefore by threat'ning them with death?] (*Tao Te Ching* / 《道德經》, Chapter 74), who would have foreseen the death-defying action of the supposedly docile subjects conditioned by more than 3 decades of personality-shattering brutal political campaigns of the Chinese Communist Party (CCP) during the 3 months of June 1989 in Beijing, or the incredible sudden political awareness of the Hong Kong people during the same period that has been maintained hitherto? In both cases, such actions by a long politically docile (in China) or apathetic (in Hong Kong) people can be seen as a “civil society in self-defense” as described by Professor Ma Ngok of the Chinese University of Hong Kong, referred to by Bush in Chapter 4, “Hong Kong’s Liberal Oligarchy”, that in other, post-Tiananmen times is reflected in the almost a hundred thousand cases a year of the so-called “mass incidents” in China and the approximately twenty protests per day in Hong Kong (7529 in 2012, see Chapter 4) as issues, as sources of grievances, proliferated. Similar to those which are social issue-focussed, unprecedented political, pro-democracy demonstrations (whether Tiananmen 1989 or Umbrella Movement 2014) also reflect Ma Ngok’s “civil society in self-defense”, in a recognised linkage between democracy and governance as analysed by Bush in Chapter 7, “Democracy and Good Governance”, in which he attempts to reconcile the differences between democracy advocates and democracy skeptics

by focusing on four interrelated distinctions: (1) between democracy and governance; (2) between the formal institutions of democracy and the concept of feedback; (3) between legitimacy based on political process and legitimacy based on performance; (4) between political development and decay.

3. Democracy's Loss of Confidence: Four Salient Trends

With regard to the first dichotomy just mentioned above, Bush lists in good sequence various views from Samuel Huntington's stress on the creation of capable, autonomous, and clean institutions as prerequisites for political development and responsible government prior to the expansion of political participation, for instance, through democratic institutions, to Francis Fukuyama's recent argument that the best sequence in which the building blocks of a developed system is implemented is one in which the creation of rule of law comes before or is accompanied by state building, and then only followed by democracy. Such views clearly reflect an overall loss of confidence in seeing liberal democracy as the best, viable political system resulted from events globally in recent decades, as identified by Larry Diamond – cited by Bush also in Chapter 7 – in the form of four salient trends that throw doubt on the robustness of worldwide democracy: (1) growing number of democratic breakdown including coups d'état and undermining of electoral freedom and fairness; (2) bad governance resulting in corruption and abuse of power leading to weakening in rule of law and democratic freedoms; (3) resurgence of authoritarian regimes; (4) decline of democratic efficacy and self-confidence. Here, it is indeed interesting to note that the sequencing as argued by both Samuel P. Huntington and Francis Fukuyama is exactly what has been argued by the Chinese Communist Party (CCP)² in justifying its continued

dictatorship in political governance, in rejecting consideration of a change to multiparty electoral democracy. Huntington expressed his pessimism with democracy in his 1991 book *The Third Wave*, believing that democracy is only sustainable in countries with a substantial Western influence. As Bruce Gilley observes in “Democratic triumph, scholarly pessimism” (2010a), the written works on democracy since the 1990s have reflected a growing sense of insecurity among scholars who believe that history runs in cycles, and that democracy will run its course with the world finding itself returned to an authoritarian existence.

3.1. Uncertainty in Democratic Efficacy

It is also interesting to see the uncertainty in democratic efficacy leading to legitimacy based on performance trumping legitimacy based on political process, the distinction between which having been highlighted by Bush in this same chapter as mentioned earlier, or Pippa Norris’s bureaucratic autocracies (where state capacity is high but democracy is low) trumping her three other regime varieties – bureaucratic democracy (the best-case scenario where both variables are high), patronage democracy (where state capacity is low but democracy is high) and patronage autocracies (where both variables are low), as also referred to in Bush’s Chapter 7. Such phenomenon is also seen in the works of various researchers who found higher external efficacy for authoritarian countries like the one-party state of China than for multiparty liberal democratic countries like Taiwan. While internal efficacy refers to a citizen’s belief that s/he can understand and thus participate in politics, another type of political efficacy – external efficacy – refers to citizens’ belief that the government will respond to their demands. Yingnan Joseph Zhou and Ray Ou-Yang in their recent article, “Explaining high external efficacy in authoritarian countries: a comparison of China and Taiwan” (2017)³, explains this phenomenon in terms of institutional

differences between these two types of regimes – voters in democracies with real competitive multiparty elections who did not see their preferred candidates elected are predisposed to critical assessment of government responsiveness; elections incentivise democratic leaders to over-respond to certain groups *vis-à-vis* others; authoritarian leaders in countries without genuine democratic elections that confer them political legitimacy are compelled to cement performance-legitimacy by increasing responsiveness while democratic leaders with solid and clear electoral legitimacy may not deem it necessary to entertain particularistic demands made through unconventional channels like street protests. Or as Francis Fukuyama explains:

[...] the quality of Chinese government is higher than in Russia, Iran, or the other authoritarian regimes with which it is often lumped – precisely because Chinese rulers feel some degree of accountability towards their population. That accountability is not, of course, procedural; the authority of the Chinese Communist party is limited neither by a rule of law nor by democratic elections. But while its leaders limit public criticism, they do try to stay on top of popular discontents, and shift policy in response.⁴

Such perspective, as Arif Dirlik (2012: 283) explains, sees authoritarianism as making possible

[...] the rapid and efficient mobilization of resources not possible in a democratic society, exemplified by India, another so-called ‘developing economy’. The party-state may be repressive in other ways, but it is a force for innovation and efficiency economically.

To illustrate such argument typical of a “convert from neoliberalism to the Chinese model”, Dirlik quotes Fukuyama:

The most important strength of the Chinese political system is its ability to make large, complex decisions quickly, and to make them relatively well, at least in economic policy. This is most evident in the area of infrastructure, where China has put into place airports, dams, high-speed rail, water and electricity systems to feed its growing industrial base. Contrast this with [democratic] India, where every new investment is subject to blockage by trade unions, lobby groups, peasant associations and courts.⁵

Dirlik finds this to be in line with Arundhati Roy's argument (2011) on India:

Roy's passionate condemnation of the government–corporate alliance against the interests of the rural population, especially the indigenous people, should give pause to facile contrasts between democratic India and dictatorial China. Equally important is the fact that Maoist activity has been the most effective among the indigenous people, the adivasis.⁶

3.2. Optimism Remains

The above observations notwithstanding, as Bush observes in Chapter 7, democracy “has been the focus of Western political thought since Aristotle and is now the presumptive standard to which all countries are expected to aspire” and even into the constitution of the People's Republic of China are liberal freedoms written and in the PRC's State propaganda is the rule of law upheld. “Absent Hong Kong's unique political context,” notes Bush, “the odds are very strong that it would make a successful transition to full democracy” for Hong Kong “shares all the attributes of other places that have made that transition and

consolidated a liberal and competitive order.” Bush further brings in, in addition to its normative advantage, democracy’s measure of historical determinism, more or less in line with the arguments of the modernisation theory.

3.3. Taiwan and the Modernisation Theory

Out of all the models which have been identified to explain different country’s political trajectories, e.g. of China’s and Taiwan’s distinctive paths of political development, the modernisation theory is arguably the most hotly debated in contemporary academic literature. This theory is an endogenous model which postulates a link between the “economic development complex” (i.e. factors related to economic development, such as industrialisation, urbanisation, education, and wealth) and democracy (Lipset, 1959). The simplest and earliest version of it argues that the more a(n authoritarian) country modernises, the more a “state of mind” favourable to liberalisation is promoted within her, and thus, the higher her chances are of democratising. This theory has frequently come under heavy attack due to its multiple issues with Western-centrism as well as oversimplification of the process of social and political change, but time and time again, it invariably persists in making comebacks into the academic spotlight, albeit in modified forms. The theory’s inescapable attraction is that, despite its inability to function as the one-size-fits-all explanation for how countries work which earlier modernisation theorists had anticipated that it would, it does still serve as the key to understanding the development of a large number of politically and economically significant countries. Taiwan is one such state whose development functions as a perfect textbook validation of the modernisation theory, for she has proven to be one of the most successful later industrialisers in the history of the twentieth century as well as a “best-case” democracy (Rigger, 2004).

3.4. China and the Modernisation Theory

While Taiwan's political and economic trajectory sits easily within the contours of the modernisation theory, China's case is much less clear-cut. While the modernisation factor may be used to explain the fall of KMT authoritarianism, on the flip side, it can also provide equally compelling evidence for explaining the CCP's continued dominance, for China's economic growth has been identified in both academic and popular discussion as a main factor in consolidating the CCP's "performance legitimacy". The CCP has faced many challenges ever since it began its reign of power; the disillusionment of the populace with the regime due to the Great Chinese Famine, for example, as well as the anger and turmoil which came about as a result of the 1989 Beijing massacre mark the big milestones in the CCP's struggles for legitimacy. In recent years, the threats to their authority have grown much less dramatic, though no less insidious – much academic discussion has centred around how popular discontent caused by contemporary issues like burgeoning corruption, environmental destruction and deepening economic inequalities are threatening the party's power. Despite all this, however, most academic measurements have found that the CCP enjoyed consistently high legitimacy levels. Gilley's 2006 legitimacy index, for example, ranks China as the top 13th out of 72 states in terms of legitimacy scores, right upon the heels of Taiwan in the 12th place and beating out countries like Switzerland, New Zealand and South Korea (Gilley, 2006).

4. China's Measure of Legitimacy

The CCP, however, appears to utilise methods for measuring legitimacy which are dissimilar to those used by academics such as Bruce Gilley, as

they focus more upon the formation of nodes of legitimacy crisis (Gilley, 2010b). By the standards of their measurements, the CCP's legitimacy is, contrary to academic opinion, relatively low and brittle. Due to problems such as the high potential for preference falsification and the impossibility of measuring a nation's revolutionary threshold, however, it is unfortunately somewhat difficult to judge whose interpretation is more relevant for predicting China's future trajectory. (For further analysis upon the aforementioned concepts, one may refer to Timur Kuran's 1991 article, "Now out of Never: The element of surprise in the East European Revolution of 1989".)

4.1. The Irony of Public Trust

At a time when a trend of declining public trust is found throughout the world, especially in the wake of the recent financial crisis, Chinese confidence in the CCP is still one of the highest to be found relative to other countries, as can be derived from analyzing the Edelman's Trust measurements (2012 *Edelman Trust Barometer*). It comes as quite the ironic revelation that this high legitimacy is widely attributed to the CCP's purported success at bringing modernisation to the country. Since the failure of Mao Zedong's communist ideology in serving as a valid source of legitimacy, the CCP has pragmatically turned to focus on economic performance to justify its rule.

Note that the positive link between modernisation and authoritarianism does not exclusively apply to the case of China; before Taiwan's shift to democracy, her leaders had also taken steps to use modernisation to maintain their power in those changing times. In 1969, then-President Chiang Kai-shek (蔣介石) had appointed his son, then-Vice-Premier Chiang Ching-kuo (蔣經國), to the seat of chairman in the important economic planning agency of the Council for International Economic Cooperation and Development (CIECD). This move was

apparently meant to identify Chiang Ching-kuo with Taiwan's "economic miracle", for with this appointment, Chiang Ching-kuo would preside over "the Governor of the Central Bank, the ministers of Finance, Economic Affairs, Communications, and others concerned with fiscal affair" (Plummer, 1970: 20). Furthermore, after Chiang Ching-kuo assumed the throne in the wake of his father's demise, his governmental reforms, while beneficial to the economy and transition to democracy, had the added advantage of maintaining popular support for the Kuomintang (國民黨, KMT)⁷, as the party was, in this fashion, associated with the favourable changes sweeping over the country. However, for Taiwan, modernisation eventually weakened the KMT's authoritarianism more than it strengthened it, and so less attention has been paid to these details.

4.2. Redefinition of Public Interest

Such redefinition of the public interest has proven to be a masterful move especially in the case of China; as one may note from, for example, the data gathered by the 2007 World Values Survey, a high level of economic growth is by far the most important national goal as considered by the Chinese populace, and so the development of China into the economically dominant country that she is today has been viewed with much pride and nationalistic sentiment. Thus, actions which would challenge the government's authoritarian grip, such as the fight for political freedom, must take a back seat, as they are considered highly likely to destabilise the economy as well. Such a stance is reflected in the works of academics such as Samuel Huntington and Joan Nelson (p. 23, as cited in Przeworski and Limongi, 1997), who argue that "political participation must be held down, at least temporarily, in order to promote economic development." The modernisation theory thus makes a highly convincing case for explaining Taiwan's

democratisation and is not completely incompatible with the realities of China's current authoritarianism.

The question now is: what do we make of China's so-called economic success?

5. China and Hong Kong's "Liberal Oligarchy"

On the side of Hong Kong, Bush in his Chapter 4, "Hong Kong's Liberal Oligarchy: Economic and Political Inequality", examines the social implication of what he terms as a peculiarly Hong Kong-style hybrid regime of a "liberal oligarchy" which is different from most other hybrid regimes, e.g. Singapore or Russia with nominally competitive but in practice not objectively free and fair elections, constrained political freedoms and emasculated judicial independence. Hong Kong's "liberal oligarchy", as Bush calls the regime type, on the other hand represents a liberal system "in which human rights and freedoms are generally protected, with rule of law and an independent judiciary as the ultimate bulwark" but oligarchic with both economic and political powers being concentrated in the hands of a relatively small elite, and "limited role for free and fair elections in picking all the territory's principal leaders, which could provide a check on the concentration of economic power" (see Chapter 3, "Hong Kong's Liberal Oligarchy: Civil and Political Rights").

5.1. The Marx-Engels Perspective

Bush provides an interesting conclusion in Chapter 4 from a presumed Marx-Engels perspective: a system created by the British imperial government has been sustained and institutionalised by the "Communist" Party of China – a system that, as Bush sees it, would meet Karl Marx and Friedrich Engels's "definition of 'the executive of

the modern [capitalist] state” – the State in a capitalist system that “had little or no autonomy of its own but was no more and no less than ‘a committee for managing the common affairs of the whole bourgeoisie.’” Or it could be a *faute de mieux* deal much akin to Karl Marx’s description of the Bonapartist regime in *Der 18te Brumaire des Louis Napoleon* (*The Eighteenth Brumaire of Louis-Napoléon Bonaparte*) (1852) – his classic analysis of Bonapartism as a basis of State autonomy that rests mainly in the sharing of common interests between the State and the dominant group.

5.2. Bonapartism

While corporatism, or State corporatism, might not be a grand theory that could adequately explain the new, emerging developmental paradigm in post-1989 China’s astounding transition, it may yet prove to be helpful in understanding the inevitable transforming political landscape which, as Unger and Chan (2001) argued, could be moving in a “societal corporatist” direction in incremental shifts instead of the introduction of any form of political democracy, and as Unger and Chan further observed, the exclusion from these corporatist structures of the peasants and most of the non-State-sector workers whose grievances would thus be devoid of such mechanisms for articulation does not auger well for social and political stability. Some aspects of State corporatism may indeed recall the classic analysis of Bonapartism as a basis of State autonomy. Being propelled into a leading position by a balance of class forces, combined with the inability of the subordinate classes to exercise control over their supposed representatives in the State apparatus, the government – or here the Party-State – uses the leverage gained to preserve both the status quo and the interests of the dominant class. The dominant class (or the bourgeoisie, as in Karl Marx’s 1852 original description of the Bonapartist regime in *Der 18te Brumaire des Louis*

Napoleon), in turn, is willing to abdicate to a certain extent its opportunity to rule in exchange for other kinds of protection by the ensuing strong State (Stepan, 1985).⁸ Therefore it is important to recognise that the State, or a Party-State, is neither necessarily a neutral nor a passive actor. It may be perceived as an autonomous body that possesses its own interests and objectives independent from the rest of the populace. It can be a potentially disinterested party that engages in mediation and crisis management. However, it can also negotiate to achieve goals based on narrower interests. The State can use its influence to establish, entrench or expand its power (Enloe, 1980). In a way, while the 1989 events and tragedy can be seen as a culmination of the unstable development of an early stage of State corporatism since reform began partly due to the liberalism of the Hu Yaobang-Zhao Ziyang (胡耀邦 – 趙紫陽) administration, the tragedy can also be observed to be the catalyst of the subsequent authoritarian corporatist evolution and reaffirmation of the path of economic reform, after Deng's "southern tour" (*nanxun* / 南巡), and economic success as realisation of the root causes of the tragedy had served to spur the CCP into attempting to reinvent itself as a strong, benevolent and enlightened ruler, or as Thomas Hobbes referred to in his 1651 treatise, "the generation of that great Leviathan", the Leviathan as referred to in the title of Bush's book.

This "liberal oligarchy" is a system that, in line with Marx and Engels's thought, would produce "popular alienation and social conflict" as Hong Kong is increasingly witnessing, fuelled by "frustrations over the concentration of power" as many citizens are increasingly seeing the absence of electoral democracy as a "potent explanation for decline of social and economic opportunity". Social protests in calling for true electoral democracy, with a free rein to select key officials, such as the Occupation Campaign and Umbrella Movement of 2014 are still possible in Hong Kong, unlike in any other parts of China, because the

1984 Sino-British Joint Declaration and the Basic Law have guaranteed that the pillars of a liberal order – genuine upholding of civil and political rights and judiciary independence in maintaining the rule of law, all being absent in any other parts of China – would remain in Hong Kong which, as Bush notes, represents “a decision Beijing likely came to regret, because after reversion, the city’s residents regularly took advantage of the political opportunities that the system provided” (see Chapter 2, “Negotiating Hong Kong’s Political System”) to challenge and protest against the CCP central government not only over its covert or overt intervention in Hong Kong’s governance but also its human rights abuses on the mainland across the Hong Kong border.

5.3. China’s Leninist Corporatism

Nevertheless, such oligarchic capitalist concentration of economic and political power is what Beijing prefers to see, for it fits well into China’s present mode of capitalist-corporatist structure, despite the fact that CCP still professes to be a Marxist-Leninist party. As Arif Dirlik and Roxann Prazniak see it, China’s present politico-economic and development model represents a part of the neo-liberal global capitalism:

[...] the most widespread causes of discontent – forceful expropriation of agricultural land, widespread dislocation of the population, severe exploitation of labour, social and spatial inequalities, corruption from the top to the bottom of the political structure, urban and rural pollution – are all entangled in the development policies that the PRC has pursued since the 1980s in its quest of “wealth and power” within the context of a neo-liberal global capitalism [...] The conversion of land into capital, the creation of a floating labour force available for this process, and the sale of cheap labour power to fuel an export-

oriented economy are all aspects of capital accumulation within a globalized capitalist economy.

(Dirlik and Prazniak, 2012: 295)

It is in this context that much of the CCP regime's repressive policies can be accounted for by "how successful and rapid incorporation in global capitalism has come to shape the dynamics of the system and the behaviour of its various agents despite increasingly ineffective efforts on the part of the regime to shield society from the consequences of its own policies" (*ibid.*). Indeed, China's post-June Fourth State corporatism, or referred to by some observers as "Leninist corporatism" (see, e.g., Hutton, 2006: 8, 98, 144-148), could provide a closer resemblance to Francisco Franco's *Nuevo Estado* (New State), and the "harmonious society" vision declared in recent years does recall Franco's vision of social cohesion and harmonious relationship between employers and workers via corporatism that would promote a close collaboration between them under the direction of the State and his corporatist policies to regulate the economy by controlling the conditions of work, wages, prices, production and exchange. This is not new, as

Daniel Chirot, using Romania as a case study, has argued that Communist one-party systems are one variant of corporatist states. The Communist state created vertical functional institutions and placed them under central control, with the express purpose of pre-empting any horizontal coalescing of class interests. Workers in a Communist party-state were not allowed to establish horizontal linkages freely. Their functional interests were to be channelled through the official trade union. In this schema, the differential interests within each corporate group were not recognized; enterprise managers and workers were assumed to have similar interests [...] In

the generic Leninist ‘transmission belt’ imagery, in its ideal state of operation the union provided a two-way conduit between the Party center and the workers [...] but because the state was so powerful the top-down transmission of Party directives regularly suppressed the bottom-up transmissions relating to workers’ interests.

(Chan, 2008: 70-71)⁹

5.4. *The Smell of Fascism*

Regarding the Franquist *Nuevo Estado* parallel, with economic success and increased military might overshadowing its Asian neighbours, especially its destined nemesis, Japan, in what can be called this century’s turning of the tables, rising nationalism has been fed with a heavy dose of vainglory in the PRC. This may explain why the present authoritarian capitalist model of Chinese development does smell Fascist. After all, CCP’s governance model, given its domestic repression and its foreign policy behaviour especially in the East and South China Seas, does share the core characteristics of “classic Fascism” (as in Benito Mussolini’s Italy and Adolf Hitler’s Germany) as defined by the late Bertram Myron Gross, American social scientist and Professor of Political Science at Hunter College of the City University of New York, in his provocative book *Friendly fascism: The new face of power in America* (1980): 1) “a tight Government-Big Business oligarchy with charismatic dictator or figurehead, and expansionist, scapegoating, and nationalistic ideologies”; 2) “liquidation or minimalisation of multiparty conflict and open subversion, with little use of democratic machinery and human rights”; 3) “negative sanctions through ruthless, widespread, and high-cost terror; direct action against selected scapegoats”; 4) “ceaseless propaganda, backed up by spies and informers, to consolidate elite support and mobilize masses”; 5) “widespread benefits through more jobs, stabilized prices, domestic

spoils, foreign booty, and upward mobility for the most faithful”. (Gross, 1980: 170)

Table 1 Characteristics of “Classic Fascism” (Gross, 1980)

Characteristics of “Classic Fascism”
1. A tight Government-Big Business oligarchy with charismatic dictator or figurehead, and expansionist, scapegoating, and nationalistic ideologies.
2. Liquidation or minimalization of multiparty conflict and open subversion, with little use of democratic machinery and human rights.
3. Negative sanctions through ruthless, widespread, and high-cost terror; direct action against selected scapegoats.
4. Ceaseless propaganda, backed up by spies and informers, to consolidate elite support and mobilize masses.
5. Widespread benefits through more jobs, stabilized prices, domestic spoils, foreign booty, and upward mobility for the most faithful.
6. Anxiety relief through participatory spectacles, mass action, and genuine bloodletting.
7. Internal viability based on sustained, frantic, and eventually self-destructive expansion.

Source: Gross (1980: 170).¹⁰

5.5. “Dictator’s Learning Curve”

Gross’s last two characteristics of “classic Fascism” (i.e. anxiety relief through participatory spectacles, mass action, and genuine bloodletting; and internal viability based on sustained, frantic, and eventually self-destructive expansion) will not find a parallel in today’s PRC, and this is not surprising as time has changed, and open bloodletting is no longer how modern dictators work, in contrast to the despots of the yesteryears,

notes William Dobson in *The dictator's learning curve* (2012), “in the more ambiguous spectrum that exists between democracy and authoritarianism. Most strive to win their people’s support by making them content, but failing that, they are happy to keep their critics off balance through fear and selective forms of intimidation.” (Dobson, 2012, ppb 2013: 6)

5.6. *The Right to Leave*

Talking about the Russian situation, William Dobson (2012)’s source noted that unlike the former Soviet citizens who had few legal protections, for today’s Russian citizens the Russian constitution “guarantees the same set of freedoms and rights as any Western constitution [but] actually only one right is really observed – the right to travel abroad, to leave.” The effect of this is that “many people who might have opposed the regime simply left”, notes Dobson – “while the dictatorship of the Soviet system required closed borders, the authoritarianism of Putin’s Russia aims to sustain itself with open borders and passports.” (Dobson, 2012, ppb 2013: 7) Exiling political activists who are too well-known in the West to be too damaging for the authoritarian State in continuing to persecute them has always been a good option. Earlier example of Chinese dissidents so exiled during the post-Mao era included Wang Dan (王丹) and Wei Jingsheng (魏京生) through the usual procedure of giving them a severe jail sentence and then granting them medical parole, or in the case of the late Fang Lizhi (方勵之) who sought refuge in the US embassy during the June 1989 crackdown and was allowed later to leave for America. Similarly, the blind *weiquan* (維權 , “rights-defending”) lawyer Chen Guangcheng (陳光誠) also sought refuge in the US embassy after his escape from house arrest with the help of He Peirong (何培蓉 , “PearlHer” / 珍珠) and other *weiquan* activists and was later allowed to leave for America.

There are rumours in the past that negotiation had been going on regarding possible similar solution for Liu Xiaobo which Liu allegedly rejected.¹¹

In an interview by the *Sunday Telegraph* (UK) published on 18th May 2014 as that year's 25th anniversary of the Beijing massacre was approaching, retired businessman and former triad boss Chan Tat-ching (陳達鉦, "Brother Six" / 六哥), mastermind of the legendary Operation Siskin (or "Operation Yellowbird" / 黃雀行動) that successfully spirited hundreds of dissidents in danger out of China in the wake of the June Fourth massacre of 1989, recalled how he went personally to Beijing in the 1990s to negotiate for the release of two of his operatives involved in the Operation Siskin who were arrested by the Chinese police and sentenced to 6 years' imprisonment, after the Hong Kong Alliance in Support of Patriotic Democratic Movements in China (the Alliance / 香港市民支援愛國民主運動聯合會 / 支聯會) failed to rescue them within half a year as Chan requested them to do. Interestingly, as the plucky mastermind of the Operation Siskin related to *Sunday Telegraph* in the interview, at that time he told the Chinese authorities that they should in fact thank him for bringing out of China those people who gave them such headache, and in response, the Chinese authorities told him that they would release his people if he stopped the Siskin rescue operation.¹²

5.7. Subtler Forms of Coercion

"Today's dictators understand that in a globalized world the more brutal forms of intimidation – mass arrests, firing squads, and violent crackdowns – are best replaced with more subtle forms of coercion", notes Dobson, "Rather than forcibly arrest members of a human rights group, today's most effective despots deploy tax collectors or health inspectors to shut down dissident groups. Laws are written broadly, then

used like a scalpel to target the groups the government deems a threat.” Or like that Venezuela activist’s joke cited by Dobson that (the late) President Hugo Chávez ruled through the motto “For my friends, everything, for my enemies, the law.” (*ibid.*: 5) However, imprisonment can work as well like firing squads – for the almost nine thousand political prisoners¹³, endless years of incarceration, torture, and high prospect of dying from “accident” (like Peng Ming / 彭明 and environmentalist Lei Yang / 雷洋 last year) and from “undetected” or “late detected” illness (like Liu Xiaobo this year, Tibetan lama Tenzin Delek Rinpoche in 2015, human rights activist Cao Shunli / 曹順利 in 2014).¹⁴ In the light of such brutality, the Chinese Communist Party dictatorship could not even be in the league of Dobson’s “Learning Curve” dictators. For Chinese prisoners of conscience who are already subjected to physical abuse, malnutrition and denial of health care clearly represents a way to further intimidate and punish them and to tell others outside the prison what type of fate awaits them if they continue their activities like Liu Xiaobo did and not toe the Party line like Mo Yan (莫言), the State-celebrated Nobel Literature prize laureate, has always been doing.

5.8. The Nazi Parallel

Not only that what the Communist Party dictatorship is doing has rendered the PRC a close parallel to classic Fascism, a close comparison has recently repeatedly been drawn, much to the chagrin of the CCP, between the death of Liu Xiaobo and the death of Carl von Ossietzky (who like Liu, also a committed pacifist) whom Adolf Hitler threw into a Nazi concentration camp and died in 1938 (see Table 2). They are the only two Nobel Peace Prize laureates who were awarded the prize while being imprisoned and who then died in custody. Liu was granted medical parole on 26th June 2017, apparently to spare the authorities the

Table 2 The Fate of China's Liu Xiaobo and Nazi Germany's Carl von Ossietzky: A Parallel

<i>Nobel Peace Prize laureate</i>	Liu Xiaobo	Carl von Ossietzky
<i>Time & place</i>	21st-Century China under Communist Party dictatorship	Adolf Hitler's 1930s Nazi Germany
<i>Year of award & circumstances</i>	Awarded Nobel Peace Prize in 2010 while in Chinese prison	Awarded Nobel Peace Prize in 1935 while in Nazi concentration camp
<i>Authorities' response 1</i>	Chinese Communist Party government would not let Liu Xiaobo's wife Liu Xia go to collect the award on his behalf and instead placed her under permanent house arrest	Hitler would not allow a member of Carl von Ossietzky's family to collect the award on his behalf
<i>Authorities' response 2</i>	Mention of Liu Xiaobo's 2010 Nobel Peace Prize (like the 1989 June Fourth massacre) is banned in China	Mention of Carl von Ossietzky's 1935 Nobel Peace Prize was banned in Nazi Germany
<i>Authorities' response 3</i>	Chinese government protested Liu Xiaobo's award (but it celebrated when State writer Mo Yan was awarded Nobel Literature Prize two years later)	Nazi government protested von Ossietzky's award and issued a government decree that forbade German citizens from accepting future Nobel Prizes
<i>Authorities' response 4</i>	Also as a response to Liu Xiaobo's Nobel award, a "Confucius Peace Prize" was launched	Nazi government also responded to von Ossietzky's Nobel award by setting up its own "German National Arts and Science Prize"
<i>Circumstances of death</i>	Liu Xiaobo was granted medical parole only in the terminal stage of his illness and sent into closely guarded hospitalisation, only seventeen days before his death on 13th July 2017	Carl von Ossietzky died in hospital on 4th May 1938 while still in police custody

Sources: "Liu Xiaobo: The man China couldn't erase" (by Carrie Gracie), *BBC News*, 13th July 2017 <<http://www.bbc.com/news/world-asia-china-40585327>>; "人權不比鮭魚？劉曉波死後，挪威的輿論反應", 轉角國際, 14th July 2017 <https://global.udn.com/global_vision/story/8662/2583005>.

bad publicity of having him die in jail, and sent into closely guarded hospitalisation only seventeen days before his death. Carl von Ossietzky was sent in May 1936 to a hospital under Gestapo surveillance and died on 4th May 1938 in hospital, while still in police custody, from tuberculosis as well as illness resulted from of the abuse he suffered in concentration camp.

6. Who Says the Leviathan Is But a Mythical Beast?¹⁵ – Hong Kong People’s Fear for the Future

As Bush notes in Chapter 1, “The Hong Kong Hybrid”, during British colonial era of rapid economic growth, the Hong Kong people seemed to have “a single-minded focus or obsession: making money and securing a decent standard of living [...] the general idea of popular elections for the territory’s leaders was probably far from most people’s minds and the details even further”. The Hong Kong people then happily left political governance to the British colonial masters and were happily making money in an “‘economic city’ with a solely economic reason for existing”. Why has this hedonistic outlook undergone such a sea change once the prospect of “returning to the embrace of the Motherland” set in? Again, as Bush cites John Darwin, a specialist on British colonial history, in this first chapter, “Hong Kong’s political history makes nonsense of the decolonizing process as it is usually imagined” as it had undergone no significant change and would “never travel the colonial *cursum honorum* from crown colony rule to representative and then responsible government”. So why has the Hong Kong people been fighting the Beijing government now to demand the right of complete freedom to elect the city’s top leader whereas this is something they never voiced during the British colonial era?

The answer probably lies in the title of this book, *Hong Kong in the shadow of China: Living with the Leviathan*, or more specifically, where the title ends.

6.1. The Great Unification and the Leviathan

From imperial experiences, the Great Unification (*dayitong* / 大一統) with a strong central government (imperial court in the old days) has always been seen in Chinese lores as what would make China great; a fragmented China with a weak central government (e.g., a weak Ch'ing court, or during the early Republican period rife with warlordism) is considered the cause of “Hundred Years of National Humiliation” (*bainian guochi* / 百年國恥). In fact, when Liu Xiaobo was arrested for organising the signing of Charter 08 (*Lingba Xianzhang* / 零八憲章), the latter included an Item 18 “A Federated Republic”¹⁶ for which Liu was ostensibly charged – for coupled with the shopworn conspiracy theories is the federal taboo, in which federalisation is inevitably seen as a prelude to disintegration, though how far that threat is genuinely believed remains dubious as liberal democracy could be the ultimate fear since democratisation tends to go hand-in-hand with federalisation.

Unitarism can be distinguished from federalism in the fact that a unitary system has only one effective and determinate level of government, namely the central government by whom the territorial or local administrative subunits of government are determined and to whom they are subordinate, with the relationship being one of a *revocable* delegation of power to the territorial units by the central authority, as Thomas Hobbes said in *Leviathan* (1651), “The only way to erect such a common power, as may be able to defend them from the invasion of foreigners, and the injuries of one another [...] is, to confer all their power and strength upon one man, or upon one assembly of men, that may reduce all their wills, by plurality of voices, unto one will

[...] This is the generation of that great Leviathan [...]” – in order to avert the ominous path to the state of *bellum omnium contra omnes* that would vindicate Thomas Hobbes’s portentous judgement in *Leviathan*, “The condition of man [...] is a condition of war of everyone against everyone.” This “state of nature” – the war of all against all, Hobbes argued in *Leviathan*, could only be averted by a strong central government. And with the Leninist legacy of the ruling Chinese Communist Party, this Hobbesian Leviathan, this dominating, powerful central State, becomes a fully justified dictatorship.

6.2. The Leninist Leviathan

As Lenin was sometimes said to have stood Marx on his head (in an analogy to Marx’s claim that he had stood Hegel on his head), Lenin’s main ideological contrast *vis-à-vis* Marx in the former’s support of the idea of a dictatorship (in contrast to Marx’s view of the state as a feature of class society to be used by a politically conscious working class to bring about the transfer of power from the bourgeoisie and then be abolished) has clearly remained the ideological mainstay from the Maoist era to the present post-economic reform era of the CCP:

Now we are repeating what was approved by the Central EC two years ago ... Namely, that the Soviet Socialist Democracy is in no way inconsistent with the rule and dictatorship of one person; that the will of a class is at best realised by a Dictator who sometimes will accomplish more by himself and is frequently more needed.

(Lenin (Владимир Ленин)’s “On Economic Reconstruction”
speech on 31st March 1920, in
V.I. Lenin: Collected Works, Vol. 17, p. 89.
First Russian Edition)¹⁷

Or dictatorship of a Party which would not in any way tolerate any real or potential challenge to its monopoly of political power through demand for multi-party competitive elections that it labels as a foreign ploy to bring about a “colour revolution” or “peaceful evolution” to destabilise China, to “hurt the feelings of the Chinese people”.

6.3. Beyond the Threat of Creeping “Mainlandisation”: The Existential Fear

Far above the post-1997 threat of creeping “Mainlandisation”, it is the very nature and deeds of this brutal, ruthlessly dictatorial Leviathan that never fail to give the Hong Kong people the chill, the morbid fear of the future, fear for the fate of their next generation. While the Hong Kong people might just watch, though not without trepidations, as spectators from a safe distance the madness that descended on mainland China during Mao’s brutal political campaigns including the Great Proletarian Cultural Revolution (無產階級文化大革命), the atmosphere changed when the “return to the Motherland” became imminent. Whatever reassurance the Hong Kong people felt during the more liberal reform years of Hu Yaobang and Zhao Ziyang was squandered when the Communist Party resorted to a massacre in Beijing on that fateful night of 3rd-4th June 1989 to settle the Tiananmen crisis and the subsequent large-scale arrests, imprisonment and even execution of dissidents. Whatever reassurance that had since returned with continued open-door policy and economic boom was squandered again with the mysterious death of Li Wangyang (李旺陽) towards the end of the Hu Jintao-Wen Jiabao (胡錦濤－溫家寶) administration, the intensification of political repression under the subsequent Xi Jinping-Li Keqiang (習近平－李克強) administration, and finally the outrageous disappearance of the Causeway Bay Five (see Bush’s Chapter 6, “Electoral Reform After Occupy: Round 2”) that brought closer home

for the Hong Kong people the dreaded future directly under the CCP dictatorship.

6.4. The Causeway Bay Five Disappearances

As Bush's Chapter 6 shows by devoting a section to "The Lee Bo Case" (section title), although Lee Bo is not the most important among the five from Mighty Current/Causeway Bay who mysteriously disappeared, his case has managed to turn the disappearances into a *cause célèbre* because he definitely did in fact go missing in Hong Kong (see Figure 1) which raised the dreaded spectre of the CCP regime having finally crossed the line drawn by the "one country, two systems" agreement and made cross-border arrests of Hong Kong-based dissidents. However, even more chilling is probably the fact that on 13th November 2015, Thailand's military junta government put China's exiled dissident cartoonist Jiang Yefei (姜野飛), dissident and human rights activist Dong Guangping (董廣平) together with Mighty Current co-owner and Causeway Bay Books shareholder Gui Minhui on a plane chartered by the Chinese government and deported them to China. For the vast Hong Kong people who are seeing the daily erosion of civil liberties and political freedoms after the Handover to the "motherland" in 1997, the Thai military junta government's complicity with the Chinese authorities in kidnapping Gui Minhui to mainland China is particularly ominous. When Gui Minhui, the China-born Swedish national and co-owner of the Mighty Current publishing company and shareholder of the Causeway Bay Books (owned by Mighty Current since 2014), known for selling books critical of the Chinese government including those published by Mighty Current, failed to return from a holiday in Thailand's beach resort town of Pattaya in October 2015, he was the fourth person linked to the company who had disappeared in that same month.

Figure 1 Mighty Current and Causeway Bay Disappearances



- (1) 14th October 2015 – Mighty Current publishing company (巨流出版社)'s general manager Lui Por (呂波) logged in for the last time onto the computer of Causeway Bay Books (銅鑼灣書店, owned by Mighty Current since 2014) before his disappearance (and some sources later reported him being arrested in Shenzhen / 深圳, Guangdong Province, China, on 15th October).
- (2) 15th or 22nd October 2015 – Mighty Current publishing company's business manager Cheung Chi-ping (張志平) went missing in Dongguan (東莞), Guangdong Province, China.
- (3) 17th October 2015 – Gui Minhai (桂民海), co-owner of the Mighty Current publishing company and shareholder of the Causeway Bay Books, went missing while vacationing in Pattaya, Thailand.
- (4) 23rd October 2015 – Causeway Bay Books' manager Lam Wing-kei (林榮基) was last seen in Hong Kong before his disappearance and his wife filed a missing persons report with the Hong Kong police on 5th November (but some sources later reported he being arrested in Shenzhen on 24th October).
- (5) 30th December 2015 – Causeway Bay Books' shareholder Lee Bo (李波, Paul Lee) went missing in Hong Kong.

6.5. Cross-border Arrests

Such cross-border “soft-power” silencing of dissidents backed by PRC’s present ability to offer lucrative opportunities through market, trade and investment has reached worrying proportions. The exiled dissident Chinese cartoonist, Jiang Yefei, who fled to Thailand in 2008 after being imprisoned and tortured by the Chinese authorities for criticising their handling of the deadly 2008 earthquake in Sichuan, was arrested by police in Thailand for illegal immigration on 28th October 2015 and put on a plane chartered by the Chinese government back to China on 13th November, despite the fact that the Office of the United Nations High Commissioner for Refugees (UNHCR) had recognised his refugee status and Canada had offered to take both him and his family in. Besides Jiang Yefei, as mentioned earlier, deported by the Thai government back to China together with him on the plane on 13th November were Dong Guangping, a dissident and human rights activist who had refugee status, and Gui Minhai, the previously mentioned publisher of books critical of the Chinese government who was born in China but had acquired Swedish nationality and worked at a publishing house in Hong Kong.

6.6. The ASEAN Deportations

The Thai government’s policy choice to please the Chinese government by helping the latter to export its domestic repression across its borders has been long recognised. In July 2015, Thailand deported nearly 100 members of Muslim Uyghur illegal migrants who were wanted by China back to the PRC, drawing condemnation from the United States and human rights groups and sparking protests in Turkey, home to a large Uyghur diaspora. The New York-based Human Rights Watch said the Uyghurs faced “grim” maltreatment back in China, and Sophie Richardson, China director for HRW stated that “Thailand should make

it clear it won't further violate international law by immediately announcing a moratorium on additional deportations of Turkic people to China."¹⁸ Thailand is not the only member of the Association of Southeast Asian Nations (ASEAN) to do so, though, nor is she the first.

In 2011, Malaysia detained 16 Uyghur illegal immigrants and deported 11 back to China, while the other five managed to register with the UN refugee agency UNHCR and were released into its custody. HRW said a Uyghur forcibly returned to China by Malaysia in 2011 was sentenced to six years in prison on charges of separatism, the same charge invoked to sentence the economist and ethnic Uyghur rights advocate Professor Ilham Tohti to life imprisonment in 2014. Then on 31st December 2012 Malaysia deported six more Uyghurs back to China. HRW said the men registered with UNHCR in Kuala Lumpur while in detention and were to have their claims reviewed when they were deported, and the UNHCR said in a statement that it had sought the men's release into its custody while their claims were being assessed and regretted that they were deported despite its intervention. HRW said the forced return of these Uyghurs to the PRC was a grave violation of international laws and Muslim minority Uyghurs repatriated to China from elsewhere in the past have expressed fear of torture, long jail terms or the death penalty.¹⁹ Cambodia, another ASEAN member country, also forcibly deported back to China 20 Uyghur asylum-seekers, nineteen of whom had fled to Cambodia from Xinjiang in the wake of the July 2009 riots in the city of Urumqi, fearing persecution by the Chinese authorities. UNHCR was in the process of reviewing their applications for refugee status when Cambodia succumbed to pressure from the Chinese government to deport the 20 individuals, including two children. The Cambodian government's action to deport them back to China attracted international condemnation as fears mount that these individuals would suffer severe human rights violations upon their

return.²⁰ Elsewhere more recently, as Amnesty International reported in early August 2017, more than 20 Uighur students studying in Egypt were forcibly deported by the Egyptian authorities back to China, while about 200 more remained at risk of being forcibly deported back to China “where they would be at real risk of serious human rights violations”²¹, an action that has been condemned by some non-governmental organisations as being related to China’s recent billion-dollar concessional loan to Egypt.²²

6.7. Transborder Surveillance and Extraterritorial Suppression of Dissent

Even if these exiled dissidents have been able to find relatively safe havens overseas, extraterritorial suppression of dissent can still go on. A blatant example of such extraterritorial attack on dissent is reflected in the exiled blind Chinese civil rights activist Chen Guangcheng’s accusation that he was being forced to leave New York University for “as early as last August and September, the Chinese Communists had already begun to apply great, unrelenting pressure on New York University, so much so that after we [i.e. Chen and his wife and son] had been in the United States just three to four months, NYU was already starting to discuss our departure with us.”²³ Despite N.Y.U.’s denial of the allegation and its law school’s claim that the fellowship as that given to Chen was always to be for one year, it is probably difficult not to link that turn of events to the then newly opened New York University Shanghai (NYU Shanghai), the first university jointly operated by China and the U.S., and part of a major initiative the NYU law school calls its Global Network University.²⁴

This brings to mind an episode related by Tiananmen student leader Wang Dan, whose name tops China’s Most Wanted list for the 21 Tiananmen Square Protest leaders and who was arrested and imprisoned

in 1989 immediately after the massacre and arrested and jailed again in 1995 for his continued political activism and released and exiled to the United States in 1998. In Dr Wang Dan's²⁵ memoir *Cong Liusi dao liuwang* [from June Fourth to exile] (2012)²⁶ he says that there were objections from some quarters among the academics during the approval process for him to teach at Taiwan's National Cheng Kung University in 2011 presumably for fear of adverse effect on the university's academic collaboration with China, leading him to caution about the inclination of "Hongkongisation" in Taiwan (in the form of "not to make the Mainland unhappy" kind of self-constraint taking root) and its impact on Taiwan's political development (Wang, 2012: 395-396).²⁷

Parallel to such covert operations to put dissidents overseas under tight Chinese surveillance is the escalating influence the Chinese government is exerting on free academic enquiry overseas, leading to self-censorship of academics critical about China's human rights violations and brutal repression of dissent. To be able to engage in free academic enquiry, and to live the life of an intellectual with dignity, "one had to make the presumption of freedom. And a further presumption: that one's work would be treated as having been created with integrity." (Rushdie, 2012, ppb 2013: 117) It is precisely such presumptions on the part of the world's academia that has been increasingly eaten away in the relentless drive of extraterritorial academic co-optation through huge deployment of funding, propaganda and manpower in the name of academic and educational exchange (including the Confucius Institutes / 孔子學院) to move academics to shy away from speaking openly about human rights violations in China proper and in the frontier regions under CCP's military occupation, CCP's political authoritarianism and suppression of civil liberties and political rights; in short, anything deemed by Beijing as "sensitive subjects".

Unbelievable as it is, the latest most remarkable episode of such successful co-optation has to be, threatened with the shutting down of the entire CUP site in China, Cambridge University Press's recent bowing to pressure from Beijing to remove 315 articles and book reviews on its China site from the *China Quarterly* (CQ) dating from recent months all the way back to the formative years of the journal in the 1960s, most of which relating to topics deemed sensitive to the Chinese Communist Party such as the Cultural Revolution, Tiananmen Square, Tibet, Xinjiang, Hong Kong, and Taiwan, as revealed in an undated screenshot of an email to the *China Quarterly*'s editorial board from the journal's editor that came to light on Friday, 18th August 2017.²⁸ James Leibold at Australia's La Trobe University, scholar on China and Xinjiang, called CUP's decision "shameful"²⁹, and Georgetown University professor James Millward wrote in an open letter that CUP's action represented "a craven, shameful and destructive concession" to the Chinese government's "growing censorship regime" (Millward, 2017)³⁰. After a weekend of intense international backlash from academics and activists including a petition signed by hundreds of academics and facing boycott of its publications, CUP reversed its decision and informed the *China Quarterly* editor that the articles would be restored.³¹ As Dr Tim Pringle, editor of the *China Quarterly*, succinctly put it, the incident indicated "a deeper underlying issue around the contradiction between academic freedom and the allure of the Chinese market".³²

6.8. Voltaire Would Not Be Safe Today ...

Despite William Dobson's reference to modern dictatorship's open borders mentioned earlier, even though being safe from State persecution beyond China's shores, for exiled dissidents to coordinate a resistance movement through influencing China's students overseas and

expatriates is not a simple task given CCP's tight surveillance of the country's citizens sojourning overseas through covert operation network and allegedly an extension of the country's so-called "soft power".

In recent years Australian media reported that the Chinese government had set up large covert informant networks inside Australia's leading universities to put the Chinese academic staff and students under surveillance in order to protect Beijing's "core interests". According to an article by John Garnaut, the Asia Pacific editor for *Fairfax Media*, published in *The Sidney Morning Herald*, China is establishing an extensive secret network of informants in Australia's major universities, including the University of Sidney and the University of Melbourne which have over 90,000 students from China, who now have the opportunity to be exposed to ideas and activities which are prohibited in China.³³ The Chinese government is allegedly using the China student associations in Australia for collecting intelligence and promoting political activities, according to the article, with function in parallel to the other intelligence networks operated by the Chinese diplomatic mission. Among the lecturers and Chinese-born students interviewed "who have suffered repercussions because of comments they made in Australian classrooms which were reported through Chinese intelligence channels"³⁴, the article highlighted the case of a Chinese senior lecturer at a high-ranking Australian university who was interrogated four times by the Chinese intelligence agency regarding his comments made at a seminar about democracy at the University of New South Wales. The article also gave another case of a Chinese student in Australia who met with the Dalai Lama, leader of the Tibetan government-in-exile. The Chinese intelligence got to know about this through its informant network, according to the report, and the student's parents back in China were subsequently asked by security officials to restrain their child's behaviour.

According to a former Chinese diplomat Chen Yonglin (陳用林) who has defected to Australia, the Chinese government is also using students to infiltrate dissident organisations, especially those related to Tibet and Falungong (法輪功).³⁵ The Chinese Consulate-General in Sidney vehemently denied all these allegations. Chen Yonglin, the former First Secretary of the Chinese Consulate-General in Sidney who defected in 2005 for Australian political asylum, stated that his main job during the four years and two months at the Consulate-General was to keep watch on the dissidents. He also pointed out that Chinese spies in Australia, who numbered over a thousand, were involved in kidnapping targeted dissidents back to China.³⁶ This reminds us of Voltaire's words and experience as related in Salman Rushdie's 2012 memoir *Joseph Anton*: "Voltaire had once said that it was a good idea for a writer to live near an international frontier so that, if he angered powerful men, he could skip across the border and be safe", and indeed "Voltaire himself left France for England after he gave offense to an aristocrat, the Chevalier de Rohan, and remained in exile for seven years." (Rushdie, 2012: 15) Alas, as the author of *Joseph Anton*, the fugitive writer who was the thirteenth on *The Times*'s 2008 list of the fifty greatest British writers since 1945 proceeded to remind us from his own bitter experience: "But to live in a different country from one's persecutors was no longer to be safe. Now there was extraterritorial action. In other words, they came after you." (*ibid.*: 15-16) The said Australian media report just acts to confirm the well-known fact that China's nationals overseas are under close surveillance for detection of any activities which could be considered as anti-CCP.

6.9. A Hong Kong Disillusioned

As for Hong Kong, since the time when the June 1989 Beijing massacre "shattered the illusions of Hong Kong residents that the [post-Mao] CCP

was a humane regime, and called into question the widespread assumption that Beijing would take a benign approach to Hong Kong after reversion” (as Bush comments in his Chapter 2, “Negotiating Hong Kong’s Political System”), the chilling examples of how PRC now continues to treat its dissidents and political prisoners, the unending stream of tragedies from Cao Shunli to Peng Ming, from Li Wangyang to Liu Xiaobo, and a future prospect that they never had to considered when they were under British rule has been made more real when China again breached the “one country, two systems” agreement to snatch Lee Bo from Hong Kong soil, and when China could even with the complicity of a client government in Bangkok snatch Gui Minhai from streets of Pattaya.

7. Impact on Taiwanese Perception

There is a Chinese proverb from the pre-Ch’in dynasty (先秦 , before 221 BC) classic *Tso-chuan* (左傳 , composed probably during the latter half of the 4th century BC, during the Warring States era / 戰國時代): *ch’un wang ch’ih han* (唇亡齒寒 , literally “if there be no lips the teeth feel cold”, i.e. sharing a common fate; neither can survive without the other; one’s demise is the premonition of the other’s doom). It is indeed in this vein that Bush begins his Chapter 11, “Hong Kong and Taiwan”, with the statement: “What happens in Hong Kong has implications not only for Hong Kong and the future of China but also for Taiwan and the United States”. For the U.S., as Bush will deal with in more details in the subsequent Chapter 12, “United States Policy toward Hong Kong”, U.S. position on Hong Kong and the latter’s pro-democracy struggles is contingent upon what America sees as the implication for the possible future political change in China and Sino-U.S. relations as well as the coming world order under the shadow of superpower relations.

Nevertheless, the fact that during Hong Kong's Occupation protests, as Bush notes in Chapter 12, "Washington probably took the strongest position of any foreign government, mainly through statements that boiled down to support for a truly competitive election" would actually serve to further raise "fears in the Chinese regime, which inferred from the sympathy felt by many in Hong Kong for the plight of the demonstrators and the assistance that some protest leaders received from the territory, that Hong Kong's political system might be used as a platform to subvert the Communist regime", as Bush has already cautioned in Chapter 1, "The Hong Kong Hybrid".

7.1. "If There Be No Lips ..."

As for Taiwan, as Bush says in Chapter 11, "Hong Kong and Taiwan", it was Beijing's original "hope that a successful transition in Hong Kong would create a positive demonstration effect for Taiwan and gradually reduce the latter's recalcitrance". That probably explains why Beijing is restrained or feeling the need to be restrained in its handling of Hong Kong – though the Hong Kong High Court's stripping four opposition lawmakers, "Long Hair" Leung Kwok-hung (「長毛」梁國雄), Nathan Law Kwun-chung (羅冠聰), Lau Siu-lai (劉小麗) and Edward Yiu Chung-yim (姚松炎), of their seats in the legislature, for improper oath-taking, coincidentally a day following the death of Liu Xiaobo, did not help to improve Beijing's image in the eyes of the pro-democracy Hong Kong or Taiwan people.

This is definitely not alarmist talk – just witness the sudden Sunflower Student Movement (太陽花學運) that was sweeping Taipei through March-April 2014, led by hundreds of thousands of student protesters enraged by President Ma Ying-jeou (馬英九)'s "Politburo-esque maneuver"³⁷ to enact a trade pact with China to open up the island state's service industries without fulfilling the promise to allow a clause-

by-clause review before implementation. The ultimate source of the protest movement is the increasing wariness felt by Taiwan's younger generation of, besides and more than the economic impacts of effective merging the two economies though the trade pact, the foreboding sense of China's incremental political control over Taiwan and the "Hongkongisation" of Taiwan's hard-won democracy.

7.2. "Hongkongisation" of Taiwan or "Taiwanisation" of Hong Kong?

It is interesting to note that Hong Kong's Umbrella Movement that came six months later did draw some inspiration and borrow some political tactics from Taiwan's Sunflower Movement, as Bush points out in his Chapter 11, "Hong Kong and Taiwan", in a "demonstration effect from Taiwan to Hong Kong" which Professor Sonny Shiu-hing Lo (盧兆興) of the Hong Kong Institute of Education³⁸ calls the "Taiwanisation of Hong Kong politics":

The "Taiwanisation" of Hong Kong politics can be seen in the way local pro-democracy campaigners are pushing for change. The Taiwanese have a strong sense of their own identity. In recent years, the SAR has also witnessed the growth of a very strong Hong Kong identity, in some extreme cases leading to calls for secession or even independence by a minority of vocal Hongkongers [...] Younger Hongkongers, like their counterparts in Taiwan, are increasingly distrustful of political parties. Taiwan's students demonstrated their political autonomy during the Sunflower movement. Similarly, the Hong Kong student movement spearheaded the Occupy protests.

(Lo, 2015)³⁹

Besides that "Hong Kong's young activists have been taking inspiration from the Taiwanese democracy movement", with the Sunflower

students' movement six months earlier helping to shape Hong Kong's Occupy campaign, Lo also points out that "Taiwan's rowdy electoral campaign styles, punctuated with violence, are emerging in Hong Kong", and finally concludes that while "Beijing may well seek to use the Hong Kong model of democratisation to appeal to Taiwan for political dialogue, Taiwanese-style politics has already penetrated Hong Kong, elevating the Taiwan factor in shaping Beijing's policy towards Hong Kong and its political development, now and in the years to come." (*ibid.*)

8. The Butterflies and the Bear: Which Way Does Soft Power Go?

If we see the series of events and developments in Hong Kong since the June Fourth 1989 Beijing massacre in relations to China and Taiwan, despite the intensive work of the powerful and resourceful Beijing's United Front Work (統戰) in Hong Kong through, as Wai-man Lam and Kay Chi-yan Lam (2013) describe, "the soft tactics of integration, cooptation and collaboration, as well as the hard tactics of containment and denunciation" that all seek to "ultimately consolidate China's hegemony in the local society" (Lam and Lam, 2013: 306), it is difficult to see any success in China's exercise of her so-called "soft power" (a "factor of growing significance in the competition in overall national strength" – as described by former president Hu Jintao in a 2007 speech to the national congress of the CCP in declaring an openly stated strategy to enhance culture as a part of soft power). On the contrary, Taiwan, through the "Taiwanisation" of Hong Kong politics, have made impressive soft-power inroads into Hong Kong based on its vibrant liberal democratic culture as a "best-case democracy" (Rigger, 2004) in the Greater China area. In a dialogue session at the closing dinner of the 11th World Chinese Entrepreneurs Convention in October 2011,

Singapore's leader and founding father the late Lee Kuan Yew (李光耀 , 16th September 1923 – 23rd March 2015) said not without a tone of disdain, “I don't see either Hong Kong or Taiwan influencing the path of China. China is 1.3 billion people. It has a destiny of its own, a certain momentum of its own [...] A small island – in the case of Hong Kong six, seven million, and in the case of Taiwan twenty something million – cannot change 1.3 billion Chinese.”⁴⁰

8.1. The Butterflies Flap Their Wings

Lee had his point. However, to resolutely say that Hong Kong and Taiwan would not be able to have any influence on the future path of China's political, social and economic development could be debatable. While political demonstration effect of Taiwan's vibrant, best-case, liberal democracy mentioned above is on Hong Kong, just an atypical small region of the otherwise extremely repressive China, and while it is true that such demonstration effects of freedom and liberal democracy or even momentous protest actions as in Rangoon in 1988 and Beijing in 1989, though having a tremendous moral and psychological impact or even arousing major national and international attention, as Professor Gene Sharp reminds us, they are by themselves “unlikely to bring down a dictatorship, for they remain largely symbolic and do not alter the power position of the dictatorship” (Sharp, 2010: 61)⁴¹, yet despite all the dismal projections and series of heart-rending disappointments since 1989, probably it would be mildly encouraging to note that a key element in this causation is the perspective of time frame. “The air does not cease to have weight, although we no longer feel that weight”, says Émile Durkheim (1895)⁴². Under brutal repression, simmering ripple effects that was set off by Taiwan's successful transition from Kuomintang dictatorship to liberal multi-party competitive electoral democracy and by the Hong Kong people's valiant struggle to protect

their freedom and democratic rights, that culminated in the Occupy Campaign and Umbrella Movement in the autumn of 2014, take time to break through the surface to eventuation through an often slow, meandering process of fermentation or even metamorphosis while brewing social forces bringing along subliminal emergent changes⁴³ (as depicted in Figure 2) continue to threaten to subvert the stability of well laid-out projectable changes⁴⁴ envisaged by the ruling regime; hence patience is called for.

Figure 2 China's Sociopolitical and Socioeconomic Transformation Pre- and Post-June Fourth, 1989: Projectable and Overt and Subliminal/Latent Emergent Changes



While there might not be enough ripples to momentarily change the tide of events for a country as huge as China, as Lee Kuan Yew felt, and a ruling party as entrenched as CCP, one may recall the theoretical example given by the “butterfly effect” of the late American mathematician and meteorologist Professor Edward Norton Lorenz, who was professor emeritus at the Massachusetts Institute of Technology (MIT) and a pioneer of the chaos theory, in which the formation of a hurricane is being contingent on whether or not a butterfly somewhere far away had flapped its wings a couple of weeks earlier. Recent years’ positive developments in democratic reform in Burma came more than two decades after the “8888” (8th August 1988) Rangoon massacre. Taiwan’s full conversion to liberal democracy came only about half a century after the 228 (28th February 1947) massacre. The painful memory of the June 1989 Beijing massacre is but just around three decades old. The brutal reign of the Soviet Communists lasted just seven decades, compared to its predecessor, the three-century long Romanov dynasty. The rule of the CCP has just been over six decades, a speck in the millennia-long history of Chinese dynasties, mostly each lasting a few centuries.

8.2. “Poking the Bear”

To judge the success and failure of social action or the ultimate impact of rippling demonstration effects however small and insignificant the source could look like at the moment, a right perspective on time is pertinent, as the literary world’s most well-known fugitive from dogmatic terror illustrates on the resiliency of art: “The poet Ovid was exiled by Caesar Augustus to a little hellhole on the Black Sea called Tornis. He spent the rest of his days begging to be allowed to return to Rome, but permission was never granted. So Ovid’s life was blighted; but the poetry of Ovid outlasted the Roman Empire. The poet

Mandelstam died in one of Stalin's labor camps, but the poetry of Mandelstam outlived the Soviet Union. The poet Lorca was killed by the Falangist thugs of Spain's Generalissimo Franco, but the poetry of Lorca outlived Franco's tyrannical regime."⁴⁵ Such time consideration and call for patience was clearly in her mind when President Tsai Ing-wen (蔡英文) of Taiwan (Republic of China), who was included in the decision-makers category of U.S.-based *Foreign Policy* magazine's *100 Leading Global Thinkers of 2016* for "for poking the bear", i.e, for not kowtowing to the CCP dictatorship of Mainland China, and instead telling the latter to "face up to the reality that the Republic of China [i.e. Taiwan] exists and that the people of Taiwan have an unshakable faith in the democratic system"⁴⁶, said in her condolences for Liu Xiaobo that she sent on Twitter in both Chinese and English right after Liu's death, which ended with a reference to his 2010 *Nobel Lecture in Absentia*, "I have no enemies: My final statement"⁴⁷:

We hope that the Chinese authorities can show confidence in engaging in political reform so that the Chinese can enjoy the God-given rights of freedom and democracy. This will be a turning point in cross-strait relations. The Chinese dream is not supposed to be about military might. It should be about taking ideas like those from Liu Xiaobo into consideration. Only through democracy, in which every Chinese person has freedom and respect, can China truly become a proud and important county. If the Chinese Dream is democracy, then Taiwan will provide any assistance necessary to achieve this objective. I believe that this is what he would have wanted. Liu Xiaobo had no enemies, because democracy has no enemies.⁴⁸

9. Chinese “Soft Power” Overhyped

In the latest ranking (2016/2017) of countries by soft power according to the British magazine *Monocle*, it seems that China, ranked 20th (one place up from 2015/2016), would still have some way to go to compete with the liberal democracies that are above her, including Japan and South Korea in the East Asian region (see Table 2). According to this latest investigation by *Monocle* on soft power based on government standard, diplomatic facilities, cultural exports, educational capability, business environment, etc., topping the list in 2016/2017 is the United States (which has moved up superseding Germany that topped the list in 2015/2016), followed by Germany, Japan, United Kingdom, France, Australia, Canada, Sweden, Switzerland and Denmark among the top ten.⁴⁹

That the recent claim of China’s increasing “soft power” is much overhyped was also reflected in, for instance, the comments of Professor Qiao Mu (喬木) of the Beijing Foreign Studies University (北京外國語大學) in 2013 on that year’s Country Ratings Poll of 25 countries and the European Union conducted by GlobeScan, an international polling firm, and the Programme on International Policy Attitudes at the University of Maryland for the BBC’s World Service which shows global views of China’s influence having deteriorated sharply to reach their lowest level since the poll began in 2005, with positive views falling eight points to 42 per cent and negative views rising eight points to 39 per cent. Perceptions of China are seen plunging markedly not only within the EU, expectedly worst in Japan (with only 5 per cent holding positive views against 64 per cent holding negative views), but also in China’s regional neighbours which are not her traditional enemies, e.g., Australia (swinging around dramatically from the previous survey’s 61 per cent positive and 29 per cent negative to this survey’s 36 per cent

Table 2 *Monocle* Soft Power Survey 2016/2017 (2015/2016 ranking in brackets)

Ranking	Country
1	United States of America (2)
2	Germany (1)
3	Japan (4)
4	United Kingdom of Great Britain and Northern Ireland (3)
5	France (5)
6	Australia (6)
7	Canada (10)
8	Sweden (7)
9	Switzerland (8)
10	Denmark (9)
11	Italy (12)
12	Spain (11)
13	New Zealand (13)
14	Netherlands (14)
15	Portugal (19)
16	Norway (16)
17	Republic of Korea (15)
18	Finland (18)
19	Brazil (22)
20	People's Republic of China (21)
21	Austria (17)
22	Belgium (20)
23	Singapore (23)
24	India (–)
25	Poland (24)

Notes: Turkey which was ranked 25th by the 2015/2016 survey is no longer among the 25 by 2016/2017. India which was not among the 25 ranked by the 2015/2016 survey is ranked 24th by 2016/2017.

Source: “Soft Power Survey 2016/17”, *Monocle*, 2017 <<https://monocle.com/film/affairs/soft-power-survey-2016-17/>>; “Soft Power Survey 2015/16”, *Monocle*, 2016 <<https://monocle.com/film/affairs/soft-power-survey-2015-16/>>.

positive and 55 per cent negative).⁵⁰ Admitting that “the rating had put China in an ‘embarrassing’ position, compared to the nation’s rising economic power and the national image it sought to project”, sighed Professor Qiao Mu, “It seems China is getting rich fast but its influence ranking is dropping dramatically [...] China is drawing more attention globally, for its increasing foreign aid and participation in international affairs, but now it turns out that the values and the political system China holds are not accepted by the world.”⁵¹

9.1. “Soft Power” and Innenpolitik-Aussenpolitik Nexus

The reservations above notwithstanding, if we consider the impressive outreach of China’s economic power as the main driver of its “soft power”, it should still be noted, in an ominous application of *Innenpolitik-Außenpolitik* nexus, not only that such influence makes the global economy a friendly place for Chinese commerce, but the much touted Chinese “soft power” derived therefrom has been put to excellent use to extract complicity from foreign governments in assisting the PRC’s domestic oppression on political freedom and civil liberties to reach beyond the country’s borders. Despite the euphoric accolades enthusiastically heaped upon China’s supposedly rising “soft power”, the only clear nature revealed regarding this Chinese “soft power” so far has either been spurious or iniquitous. Spurious in giving the impression that traditional Chinese culture is supposed to spread across the globe by the strong China, not least through the so-called “Confucius Institutes” – a monstrosity of propagandic misnomer and misinformation; iniquitous, both in terms of extending domestic oppression on political freedom and civil liberties, muzzling of free speech and free media and trampling on human rights across her borders, and exporting her Leninist corporatist model to the despotic regimes and neo-authoritarian rulers of flawed democracies in the developing world which now find alliance or

potential alliance with this biggest dictatorship on the planet a balancing safeguard against Western sanctions over their trampling on human rights and helping them keep their heads above water.

9.2. The “Soft Power” Conundrum

One of course can argue that the fact that China could offered herself to these developing world’s autocratic regimes as a standard bearer signifies soft power, but choosing the preference and perspective of the autocratic regimes over those people whom they trample under their boots, of those kleptocracies over those of the very people they victimise, by itself is enough to discredit such definition of soft power. While Samuel Huntington does remind us that soft power “is power only when it rests on a foundation of hard power” (Huntington, 1996: 92), and Joseph S. Nye does say that “soft power can be wielded for bad purposes as well as good” and thus should not be “embraced as the ethical alternative [to hard power]” (Nye, 2015: 6), some definition problems still exist when an increasing number of developing countries’ authoritarian kleptocrats are getting Chinese money (hard power) to bail themselves out and to secure votes and are then in turn acting as China’s local mouthpiece to promote the authoritarian “China model” among the people through accepting China’s ideological inroads (including the Confucius Institutes) that serves to sell to the world the justification of China’s internal political oppression.

9.3. From Weiwen to Guo’an

As Juan Pablo Cardenal and Heriberto Araújo summarise in the report of their field survey in over 25 countries across the globe on China’s expanding influence among the developing countries that for the overriding political and economic interest of the Party-State, whenever

China sees an opportunity, she invariably “chooses to act as an accomplice in these excesses rather than acting as a guardian of the law”, and following from that, it is “not just the fact that China has become the great champion and favourite business partner of the world’s most repressive regimes (Burma, North Korea, Iran, Sudan, Cuba), or that its state-owned companies often enjoy *carte blanche* in their dealings as a result of the dizzying effect of the all-powerful Chinese state. What is just as important is the infiltration and acceptance of Chinese standards and values – which are highly ambiguous when it comes to good business practices or labour, social or environmental issues – throughout Beijing’s sphere of influence” (Cardenal and Araújo, 2011, tr. 2013, 2014: 262).

In this regard, extending domestic repression across China’s borders is an obvious and inevitable policy shift in line with the apparent change in *modus operandi*, ever since the cases related to Hong Kong’s “Umbrella Movement” – the November 2014 trial of Xie Wenfei (謝文飛) and Wang Mo (王默), supporters of the Hong Kong “Umbrella Movement” who were arrested with several others on charges of “inciting subversion of state power” (煽動顛覆國家政權罪) – by the Xi Jinping administration from a “*weiwen*” or “stabilisation” (維穩模式) strategy whereby the local authorities decided their own course of action, to one of “*guo’an*” or “national security” (國安模式) whereby the central government began to centralise coordination of the whole country’s security measures,⁵² the latter also in taking advantage of the current global War on Terrorism. The switch from “*weiwen*” to “*guo’an*” obviously reflected the concern of the CCP when a National Security Commission (NSC) was formally established in January 2014, with President Xi Jinping as chairman, and Premier Li Keqiang and Zhang Dejiang (張德江, president of the National People’s Congress) as vice-chairmen, to better integrate the handling of internal and external

threats, which was followed by a series of steps over 2014 that included also the May release of PRC's first *National Security Blue Book* that, as Bush notes in his Chapter 5, "Debating Universal Suffrage Before Occupy: Round 1", warned that China was threatened by the "export of Western democracy". Hong Kong was apparently mentioned in an article of the *People's Daily* published on the same day of the *Blue Book* release, according to Bush (Chapter 5) that described NSC's four functions including coordinating the response to specific threats involving international actors. As Xi Jinping called on the Politburo for "a resolute strike on secession, infiltration and sabotage by hostile forces within and outside China" (see Bush, Chapter 5), reflecting Bush's description earlier in the chapter that the Chinese statecraft as having "been shaped by something of a siege mentality" and a "tight linkage between external and internal security in Chinese thinking". Hence, an intricate combination of *Innenpolitik* and *Außenpolitik* is imperative, with the latter inclusive of PRC's so-called "soft power", in creating more "friendly" or client states who would support or even collaborate (though CCP's extraterritorial actions) with PRC in the latter's suppression of domestic dissent and buying off critics in the foreign academia.

9.4. "Soft Power" Dysfunctional

In Chapter 9, "What Hong Kong Can Do to Improve Governance and Competitiveness", Bush doubts the accusation that the young people are to be blamed for causing Hong Kong's political troubles, and notes that political disaffection actually extends to all demographics among the pro-democracy Hong Kongers although he does accept that "those under thirty are the most alienated from the political system and have the strongest Hong Kong-first identity". He cited Singapore scholars Yew Chiew Ping and Kwong Kin-ming's survey findings pointing to the

Table 3 The Politics of Patriotism (Joel Westheimer, 2006)

	Authoritarian Patriotism	Democratic Patriotism
Ideology	Belief that one's country is inherently superior to others.	Belief that a nation's ideals are worthy of admiration and respect.
	Primary allegiance to land, birthright, legal citizenship, and government's cause.	Primary allegiance to set of principles that underlie democracy.
	Nonquestioning loyalty.	Questioning, critical, deliberative.
	Follow leaders reflexively, support them unconditionally.	Care for the people of society based on particular principles (e.g., liberty, justice).
	Blind to shortcomings and social discord within nation.	Outspoken in condemnation of shortcomings, especially within nation.
	Conformist; dissent seen as dangerous and destabilising.	Respectful, even encouraging, of dissent.
Slogans	My country, right or wrong.	Dissent is patriotic.
	America: love it or leave it.	You have the right to NOT remain silent.
Historical Example	McCarthy Era House Un-American Activities Committee (HUAC) proceedings, which reinforced the idea that dissenting views are anti-American and unpatriotic.	The fiercely patriotic testimony of Paul Robeson, Pete Seeger, and others before HUAC, admonishing the committee for straying from American principles of democracy and justice.
Contemporary Example	Equating opposition to the war in Iraq with "hatred" of America or support for terrorism.	Reinforcing American principles of equality, justice, tolerance, and civil liberties, especially during national times of crisis.

Source: Westheimer (2006: 610).

fact that “Beijing has inadvertently contributed to the rise of Hong Kong identity and a concomitant decline of the Chinese identity” through its “fatally flawed” top-down effort to transplant patriotic sentiments and sense of national identity⁵³, and University of Hong Kong scholars Elaine Chan and Joseph Chan’s argument that the Hong Kong people’s patriotism is underlain by liberal democratic values⁵⁴ – a socio-psychological legacy of a century under British rule.

9.5. Dissent as the Highest Form of Patriotism

That “dissent is patriotic” (see Table 3) as a principle of democratic patriotism as in Westheimer’s formulation, being opposed to authoritarian patriotism’s demanding allegiance to the government’s cause and therefore opposing dissent, harkens back to the quotation “dissent is the highest form of patriotism”. This is often attributed to Thomas Jefferson, though no evidence has been found according to Anna Berkes in her *Thomas Jefferson encyclopedia* entry of “Dissent is the highest form of patriotism (Quotation)” that found the earliest usage of the phrase, which was used repeatedly during the Vietnam-War era, in a 1961 publication, *The use of force in international affairs*⁵⁵: “If what your country is doing seems to you practically and morally wrong, is dissent the highest form of patriotism?”⁵⁶

Unwillingness on the part of Beijing to take into consideration such socio-psychological makeup of the Hong Kong people as the legacy of long British rule and the Taiwanese who have fought hard and shed blood to gain today’s political freedom and civil liberties thus spells the failure of its “soft power” offensive to win the hearts and minds of people in Hong Kong and Taiwan. As Salman Rushdie says in *Joseph Anton*, “We have the freedoms we fight for, and we lose those we don’t defend.” (Rushdie, 2012, ppb 2013: 528) The right to dissent as the highest form of patriotism is something the Hong Kongers and the

Taiwanese have learned through hard lessons, through blood and sweat, and that marks their democratic patriotism apart from the authoritarian patriotism promoted by the CCP Party-State in Beijing that sees political dissent as highly dangerous and destabilising and persecution of dissidents, even to death in the cases such as Cao Shunli, Li Wangyang and Liu Xiaobo, as justifiable in the name of maintaining stability and prosperity. This not only applies in the context of Hong Kong and Taiwan, but has wider implications for China's so-called "soft power" drive in the global arena.

9.6. Soft Power for Good and for Bad

Soft power "is not a choice between hard realism and idealism but simply another form of power which can be used to get desired outcomes", said Joseph S. Nye in his foreword to the 2015 Portland report *The Soft Power 30: A global ranking of soft power* (p. 6) in which China was ranked last, at the 30th. Thus soft power should not be "misappropriated to cover all courses of action outside military force and, as such, [...] embraced as the ethical alternative [because] soft power can be wielded for bad purposes as well as good, as Hitler, Stalin, and Mao each demonstrated." (*ibid.*)

The Portland index of soft power, first introduced in 2015, is compiled by Portland, a London-based PR firm together with, earlier, ComRes (CommunicateResearch Ltd), which ran opinion polls on international attitudes to different countries, and later, the USC Center on Public Diplomacy (CPD), a partnership between the Annenberg School for Communication and Journalism and the School of International Relations at the University of Southern California. Countries for the Portland index were said to be chosen to provide a representative sample of the world's major powers from every geo-political region through a selection process that includes the

Table 4 Portland's *Soft Power 30*: 2017 Results (2015 ranking in brackets)

Ranking	Country
1	France (4)
2	United Kingdom of Great Britain and Northern Ireland (1)
3	United States of America (3)
4	Germany (2)
5	Canada (5)
6	Japan (8)
7	Switzerland (7)
8	Australia (6)
9	Sweden (9)
10	Netherlands (10)
11	Denmark (11)
12	Norway (18)
13	Italy (12)
14	Austria (13)
15	Spain (14)
16	Belgium (17)
17	Finland (15)
18	New Zealand (16)
19	Ireland (19)
20	Singapore (21)
21	Republic of Korea (20)
22	Portugal (22)
23	Greece (25)
24	Poland (24)
25	People's Republic of China (30)
26	Russian Federation (–)
27	Czech Republic (27)
28	Hungary (–)
29	Brazil (23)
30	Turkey (28)

Notes: Israel and Mexico which were ranked 26th and 29th respectively in 2015 when the Portland index was first introduced are no longer among the 30 by 2017. The Russian Federation and Hungary which were not among the 30 in 2015 are ranked 26th and 28th by 2017.

Source: *The Soft Power 30: A global ranking of soft power 2017*. London: Portland PR Limited and Los Angeles, CA: USC Center on Public Diplomacy (CPD), 2017, pp. 40-41. / *The Soft Power 30: A global ranking of soft power* (2015). London: Portland PR Limited (and Cobham, Surrey: ComRes (CommunicateResearch Ltd)), 2015, p. 25.

major OECD countries, the emerging BRIC nations and some smaller countries that are considered to have achieved an outsized level of influence. The 2017 ranking of 30 countries is shown in Table 4.

9.7. Chinese Soft Power's Feet of Clay

Similar to the *Monocle* index, the Portland index of soft power seems to show China advancing impressively, moving up fast from the 30th place in 2015 (when the Portland index was first introduced) to 25th in 2017. The change is smaller in the case of China in the *Monocle* index, climbing only marginally from the 21st place in the 2015/2016 survey to the 20th by 2016/2017. The Portland report attributes China's rise in its ranking to the country's driving the global agenda forward with leading the establishment of the Asian Infrastructure Investment Bank in addition to the opening of more than 500 Confucius Institutes across the world and extensive international branding campaigns, and even more impressively, the country's rising cultural appeal – being now tied with Italy for the largest number of UNESCO World Heritage Sites, thus leading to significant improvement in the polling data. However, the Portland report's conclusions have been called into question by some soft power experts. Yuen-yuen Ang, a political scientist at the University of Michigan, described the Portland index's understanding of soft power as “superficial”, as according to her, soft power “is not simply likeability or a nice image” but being able to impose a country's standards upon everyone else “as the global best standards”.⁵⁷ Seen from this perspective, China's global outreach whether in economic (foreign direct investments with highly criticised business practices including collusion with local corrupt autocrats, flaunting local labour rights and environmental concerns) or political terms (the demonstration effect of the authoritarian “China model” of governance for developing countries’

authoritarian or illiberal democratic regimes – Pippa Norris’s bureaucratic autocracies, patronage democracy and patronage autocracies as referred to also in Bush’s Chapter 7, “Democracy and Good Governance” – which find alliance with the world’s biggest dictatorship useful against Western sanctions over their trampling on human rights and helpful in their regimes’ survival against local pro-democracy forces) would not qualify as soft power successes.

This throws doubt on the Portland report’s placing China within the top ten countries under the “(global) engagement” sub-index (see Table 5) among the *Soft Power 30*, as this sub-index aims, according to the report, “to measure a country’s diplomatic resources, global footprint, and contribution to the international community” (2015: 21; 2017: 30). The Portland report’s placing PRC within the top ten countries under the “culture” sub-index (see Table 5) among the *Soft Power 30* is also questionable. While the Portland report says “When a country’s culture promotes universal values that other nations can readily identify with, it makes them naturally attractive to others” (2015: 21; 2017: 30) and hence its inclusion of a “culture” sub-index, it is ironical that “universal values” happen to constitute one of the seven dangerous Western notions warned of in a confidential internal document known as “Document No. 9” first published in July 2012⁵⁸: (1) (Western) constitutionalism/constitutional democracy (with the independence of the judiciary), (2) universal values (of freedom, democracy and human rights), (3) civil society (and civil rights), (4) (pro-market) economic neo-liberalism, (5) independent mass media (“Western news values”, i.e. press freedom), (6) historical nihilism (i.e. criticisms of CCP’s past mistakes),⁵⁹ and (7) questioning the “Reform and Open” policy (with its connection to the “power elite bourgeois class”). The first six notions (as highlighted in Bush’s Chapter 5, “Debating Universal Suffrage Before Occupy: Round 1”) that were inveighed against in Document No. 9 are those that

Table 5 Derivation of Soft Power Resources: 2017 Ranking of Top 10 Countries across Six Sub-indices of Portland Index (2015 ranking in brackets)

	Culture	Digital	Education
1	USA (1)	USA (1)	USA (1)
2	UK (2)	UK (2)	UK (2)
3	France (3)	Germany (7)	Canada (3)
4	Germany (4)	France (3)	Australia
5	Australia (5)	South Korea (6)	Germany (5)
6	Spain (6)	Canada (8)	Denmark (–)
7	Italy (8)	Sweden (–)	South Korea (9)
8	China (9)	Austria (–)	France (6)
9	Canada (7)	Singapore (10)	Netherlands (7)
10	Japan (–)	Russian Federation (–)	Belgium (–)

	Engagement	Enterprise	Government
1	France (1)	Singapore (2)	Norway (2)
2	UK (2)	Switzerland (1)	Switzerland (1)
3	Germany (3)	South Korea (6)	Sweden (3)
4	USA (4)	Ireland (–)	Finland (8)
5	Japan (9)	Japan (3)	Netherlands (4)
6	Spain (8)	Denmark (7)	Denmark (5)
7	Italy (5)	Sweden (4)	Germany (6)
8	Russian Federation (–)	USA (9)	New Zealand (10)
9	Netherlands (7)	Australia (–)	Canada (–)
10	China (10)	New Zealand (–)	Ireland (–)

Note: (–) Country not among top 10 for a sub-index in 2015.

Source: *The Soft Power 30: A global ranking of soft power 2017*. London: Portland PR Limited and Los Angeles, CA: USC Center on Public Diplomacy (CPD), p. 53. / *The Soft Power 30: A global ranking of soft power* (2015). London: Portland PR Limited (and Cobham: ComRes), p. 29.

the Party saw as ideas then circulating in China that represented a direct challenge to its rule, as “Document Number 9 warned that ‘failure in the ideological sphere can result in major disorder’ and called on leaders at all levels to face the threat posed by Western political ideas”, reflecting the worries conveyed in a unpublished speech of Xi Jinping in December 2012 that “wavering ‘ideals and convictions’ of the Soviet Communist leaders” had led to the collapse of the Union of Soviet Socialist Republics (USSR), and in a four-part video on the decline and fall of the Soviet Union disseminated in 2013 that “elaborated on Xi’s theme of the danger of following a Soviet path” (see Bush’s Chapter 5). Coverage of these dangerous “Western” values, principles or ideas in classrooms is strictly forbidden. They were also banned from the official media. Placed in the context of Bush’s book, as the author correctly observes, the “irony of Document Number 9 was that at least some of these ‘threatening’ ideas were entrenched realities in the Hong Kong SAR”. The perils of the “7 speak-nots” (*qi bujiang* / 七不講) lie in⁶⁰:

- The core objective of promoting “universal values” is to get rid of the leadership position of the Chinese Communist Party.
- The suggestion of “civil society” is to establish new political forces outside the CCP’s grassroots organisations.
- The idea of “neo-liberalism” is to oppose the State’s macro-economic adjustment and control policy.
- To promote “Western news values” is to oppose party mouthpieces on which the CCP has always been insisting, to get free from the Party’s leadership of the mass media, and to practice “*glasnost*” that the Soviet Union followed during the perestroika period, in order to cause disorder to the Party and society through disconcerting public opinion.
- “Historical nihilism” aims to highlight the historical problems under the Party’s leadership in order to negate facts that have already been

widely accepted by the people, and to derogate drastically and attack Mao Zedong and Mao thought, in order to totally negate the historical function of the CCP during Mao's time, with the eventual purpose of weakening or even overthrowing the legitimacy of the Party's leadership.

- Various views that aim to distort the "Reform and Open" policy point to the emergence of a "power elite bourgeois class" and State capitalism, and consider China's reform as not thorough while economic reform can only be perfect through political reform.

In addition, there was another 16-item "Suggestions" internal document that was issued on 4th May 2013⁶¹ which probably contained the earlier form and source of the "7 speak-nots" of Document No. 9, which clearly reveals the urgency of the need for tightening of thought control by including new topics that were previously not considered off-limits. The question here is: with the rejection of all these including the "universal values" which the Portland report itself refers to, what type of "soft power" is that when the report talks about the PRC? On the other hand, the notoriety of the dubious Confucius Institutes, which the Portland report refers to as an example of PRC's soft power success, is already well documented.

9.8. Confucius Institutes' Dubious Mission

In mid-June 2014 the American Association of University Professors (AAUP), a 47,000-member association which was founded in 1915 to guard academic freedom, accused the Confucius Institutes which "function as an arm of the Chinese state" of flouting basic rules of academic freedom and integrity, and called for the agreements between Confucius Institutes and close to 100 universities in the United States to be either cancelled or renegotiated to ensure that the value of free speech

would be safeguarded. Otherwise, in its strong-worded statement, the authoritative AAUP urged universities in the United States to “cease their involvement” with the Confucius Institutes as most “agreements establishing Confucius Institutes feature nondisclosure clauses and unacceptable concessions to the political aims and practices of the government of China”, while the academic activities “are under the supervision of Hanban, a Chinese state agency which is chaired by a member of the Politburo and the vice-premier of the People’s Republic of China”.⁶² “Specifically,” said the AAUP statement, “North American universities permit Confucius Institutes to advance a state agenda in the recruitment and control of academic staff, in the choice of curriculum, and in the restriction of debate.”⁶³

Similarly, the Canadian Association of University Teachers (CAUT) has earlier urged all Canadian universities to sever all ties with the Confucius Institutes as these on-campus institutions were playing “too close a role in the development of university curricula” and bringing about a “fundamental violation of academic freedom”. “Simply put,” said CAUT executive director James Turk in a 17th December 2013 statement, “Confucius Institutes are owned and operated by an authoritarian government and beholden to its politics.”⁶⁴

The University of Manitoba had earlier declined offers for a Confucius Institute “because of worries about the potential whitewashing of controversial subjects such as Taiwan or the Tiananmen Square massacre”, and another Canadian university, McMaster University, announced plans in February 2013 to “shut down its Confucius Institute due to concerns, raised in an Ontario Human Rights tribunal case, that the school required instructors to swear not to be members of Falun Gong”.⁶⁵

9.9. “Trojan Horses with Chinese Characteristics”

In a testimony paper aptly titled “Confucius Institutes: Trojan horses with Chinese characteristics” presented to the Subcommittee on Oversight and Investigations of the Committee on Foreign Affairs of the United States House of Representatives on 28th March 2012⁶⁶, American social scientist Steven Westley Mosher representing the Population Research Institute pointed out that the Confucius Institutes’ “seemingly benign purpose leaves out a number of purposes both salient and sinister, namely, sanitizing China’s image abroad, enhancing its ‘soft power’ globally, and creating a new generation of China watchers who [are] well-disposed towards the Communist dictatorship.” At the outset of his testimony, Mosher – who in 1979 was the first American social scientist to visit mainland China and the first research student from the United States to conduct anthropological research in post-Cultural Revolution rural China, and whose expulsion from Stanford University’s Ph.D. programme in the mid-1980s became a *cause célèbre* in the academic world – gave his personal “experience in how the Chinese Party-State deals with its overseas academic critics”:

Following my expose of human rights abuses in China’s one-child policy in the early eighties, the PRC, acting through the Chinese Academy of Social Sciences, put tremendous pressure on my university, Stanford University, to deny me the Ph.D. Beijing went so far as to threaten to abrogate its scholarly exchange program with the U.S. unless I was, in its words, “severely punished” for speaking out. In other words, I know from personal experience how ruthless the CCP can be when it comes to pursuing its own interests and how sycophantic, not to say craven, some academic administrators can be.

Even for those who are disposed to see in this a person with an axe to grind, it would not be easy to dismiss the facts that Mosher, currently the president of the Population Research Institute, presented:

While the Confucius Institutes are sometimes compared to France's Alliance Française and Germany's Goethe-Institut, this is misleading. Unlike the latter, Confucius Institutes are neither independent from their government, nor are [sic] do they occupy their own premises. Instead, they are located within established universities and colleges around the world, and are directed and funded by the so-called Office of Chinese Language Council International (Hanban), located in Beijing, which answers in turn to the Ministry of Education of the People's Republic of China and, chiefly, to the United Front Work Department of the Chinese Communist Party. In fact, the Chairman of the Confucius Institute is none other than Liu Yandong, who served as the head of the United Front Work Department from 2002 to 2007.

9.10. Chinese “Soft Power” and the United Front Work

On the United Front Work Department, as well as the “democratic parties” (*minzhu dangpai* / 民主黨派), Mosher went on to explain:

The purpose of the United Front Work Department, it should be noted, is subversion, cooption and control. During the Communist revolution, it subverted and coopted a number of other political parties, such as the Chinese Socialist Party, into serving the interests of the Communist Party. After the establishment of the PRC, it continued to control these parties, which were allowed to exist on sufferance, albeit as hollow shells, to create the illusion of “democracy” in China. That it has *de facto* control over the Hanban

suggests, more strongly than anything else, what one of the chief purposes of the Confucius Institutes are, namely, to subvert, coopt, and ultimately control Western academic discourse on matters pertaining to China.

Also in this regard, in their paper “China’s United Front Work in civil society: The case of Hong Kong” (2013), Wai-man Lam and Kay Chi-yan Lam of the University of Hong Kong pointed out that

To strengthen its rule, China has actively promoted patriotism in the form of “China can say no” and rejection of foreign intervention. In addition, it has attempted to develop a set of standards different from the West, so that it would not be evaluated on the same ground as in liberal democracies. Series of attempts have been made to deny the relevance of certain Western concepts, notably human rights and democracy.

(Lam and Lam, 2013: 304)

Such concern over educational institutions serving willingly as vehicles for State-guided propaganda of a regime paranoiacally suspicious of free critical inquiry beyond its control could indeed be grave in view of their potential influence on the outlook and orientation of the human agency. Herein also lies the danger of the current fashionable glorification of the “Beijing Consensus” (*à la* Joshua Cooper Ramo, 2004) or a “China Model”, the increasing influence and acceptance of which is tantamount to a subliminal universal acceptance of an authoritarian, repressive political model of development where economic advancement takes unquestionable precedence over liberal democracy, free political choice, free speech and human dignity.

9.11. Subliminal Political Brainwashing

As seen above, the currently fashionable so-called “soft power” (à la Joseph S. Nye, Jr, 1990, 2004) projection of China includes such politico-cultural outposts like these over 360 Confucius Institutes and over 500 Confucius classrooms (孔子教室) worldwide, but language teaching and learning is never purely about language, for it inevitably embodies the inculcation of not only cultural values but subliminal political brainwashing through textbooks (including what is omitted in them) and “cultural immersion programmes”, as Steven Mosher’s testimony reminded us: “It is naïve to think that teachers trained in the PRC will limit themselves to teaching language and cultural programs, while avoiding such controversial subjects as China’s military buildup, its abysmal human rights record, and its disdain for democracy. Such subjects invariably come up in the classroom, and Beijing’s trained cadre of ‘ language teachers’ will know exactly how to allay the concerns of their young and impressionable charges.”

9.12. Cultural Deception

Yu Ying-shih (余英時) is an Emeritus Professor of East Asian Studies and History at Princeton University who has taught at three Ivy League universities (Princeton, Harvard, and Yale) and the University of Michigan and had been the president of New Asia College, Hong Kong, and vice-chancellor of the Chinese University of Hong Kong. He was named on 15th November 2006 the third recipient of the John W. Kluge Prize for lifetime achievement in the study of humanity. Professor Yu has always advocated, in the face of the conventional generalisation on Confucianism, that liberal Confucian values unshackled by imperial ideology of the dynasties are not incompatible with democracy. He had been a vocal critic of the authoritarian Taiwanese government on the

Kaohsiung/Formosa Incident (高雄 / 美麗島事件, 1979) and provided strong, vocal and concrete support for China's democracy movement following the 1989 Beijing massacre. The Princeton China Initiative (普林斯頓中國學社), fruit of Yu and his wife's indefatigable efforts, became an unforgettable post station and asylum for many exiled intellectuals and student leader following the Beijing massacre. As revealed in an interview, the 19-year-old son of Yu's female cousin was killed near the Chang'an Jie⁶⁷ (長安街, literally "Street of Eternal Peace"), the main theatre of the June Fourth massacre that spanned across Beijing when People's Liberation Army (PLA) troops fired into the crowds blocking their advance towards Tiananmen Square during that fateful night of 3rd-4th June 1989.

On 22nd March 2012, Yu Ying-shih was interviewed at Princeton by writer Bei Ming (北明), programme host of Radio Free Asia, for his opinions on the Confucius Institutes.⁶⁸ Regarding why a regime which has not been known to be attaching primary importance to humanistic culture or education (witness the first thirty years' political campaigns and strengthening of Marxist-Leninist-Maoist hybrid ideology during the CCP's over six-decade reign and the second thirty years' rugged materialism under economic reform) is now backing the global dissemination of the Chinese language with national strength, Yu saw the motivation as twofold. The first is for commercial convenience especially in the initial stage of the Confucius Institute initiative, since the ancient Chinese teacher and philosopher Confucius⁶⁹ is well-known to the outside world and the name of Marxist-Leninism was getting inconvenient, and hence exploiting the name of Confucius would create an illusion that the CCP has changed and is now identifying with something quintessentially Chinese. The deception is reflected in the fact that Confucian studies organisations like the International Confucian Association (國際儒學聯合會 / 國際儒聯) etc. are all civil or semi-

civil organisations and no CCP leaders even including former premier Wen Jiabao who had tried so hard to cultivate for himself the image of a traditional humanistic Chinese patriarch had ever dared to openly praise Confucius or promote Confucianism, and that a colossal statue of Confucius which appeared in January 2011 on Tiananmen Square was removed in hardly three months after intense backlash from inside the CCP. Hence, exploiting the name of Confucius to popularise the Chinese (Mandarin) language has nothing to do with ideology.

9.13. CIs and the United Front Work

Besides the economic, commercial reason, there is also a political dimension of the Confucius Institute initiative – that of the United Front Work. While there have even been accusations from Western governments and scholars alleging Confucius Institutes being involved in espionage, the more apparent victim of the Confucius Institutes is academic freedom, according to Yu. Huge fundings have been used for political purposes, as foreign universities including those in the United States, United Kingdom, Sweden, etc. are being “bought up” as the Confucius Institutes make inroads into these higher education institutions. Such fundings have been used to, through unwritten conditions, dissuade the beneficiary universities from employing or inviting academics who are considered “anti-PRC”. This has led to an atmosphere of intimidation preventing academics from voicing anti-CCP opinions, especially among those who are yet to receive long-term tenure.

9.14. Reopening the “Confucian Shop”

While considering the political motive of Confucius Institutes to have already overtaken the commercial, Yu did not agree with certain worries on the part of some Western, Indian and Japanese media circles that

along with Chinese language teaching, certain ideology, presumably Marxism-Leninism-Maoism, is being imparted. Yu felt that this is totally impossible as there should be absolutely no such intention on the part of the Chinese authorities as even the CCP government itself no longer believes in the Marxist-Leninist-Maoist ideology and has hardly ever brought it up. The only concrete thing the CCP government now believes in is its absolute political power – the Chinese Communist Party’s continued unchallenged one-party rule (*yidang zhuanzheng* / 一黨專政) – that is intricately linked to huge pecuniary interests of the élites from the party leaders’ families to the PLA. This is the bottom line that cannot be abandoned. This is what China wants countries all over the world to accept: CCP’s *yidang zhuanzheng* is Chinese democracy, or “socialist democracy with Chinese characteristics”; and CCP’s *yidang zhuanzheng* is closely related to Chinese traditions, to Confucius.

What is intrinsically the most attractive part of Confucius for the CCP when it is promoting the name of the sage? It has to be Confucius’ teaching of not to defy one’s superiors and start a rebellion – that emphasis on reverence and obedience based on the feudal social order of human relationship and filial piety. On the contrary, the Confucian insistence on the critique of political power and the contingent nature of political mandate, as well as the emphasis on the voice of the people in governance and the importance of public discourse and individual responsibility for social action have to be conveniently ignored or given a warped reinterpretation. What the CCP has been selectively promoting is the era-specific imperial dynasty-serving decadent feudalistic component of Confucianism – the same kind of ancient holy laws being promoted by religious fundamentalists as heavenly mandated and hence infallible. These constituted the “Confucian shop” (*Kongjiadian* / 孔家店) that the May Fourth Movement (*Wusi Yundong* / 五四運動, 1919) had aimed to destroy. “The CCP is reopening the

Kongjiadian because its *Majiadian* (馬家店, “Marxist shop”) has failed miserably,” quipped Professor Yu.

9.15. *Buying off Academic Opinions*

In terms of management, unlike the British Council, the Goethe-Institut or formerly the United States Information Agency, the currently over 360 Confucius Institutes and over 500 Confucius classrooms are aggressively infiltrating universities all over the world and directly represent China’s United Front Work backed by huge funding to make political inroads into the core of the foreign, especially Western, universities in an effort to alter the international, Western in particular, views on the CCP regime. Funding from the CCP regime through the Confucius Institutes is increasingly controlling the direction of Western research on contemporary China. As such external fundings mean a lot to cash-trapped universities, especially State universities, in times of economic recession and education budget cuts, they work to create campus environments more and more untenable for academics with anti-CCP regime viewpoints and lead to the muzzling of the harsh critics of the PRC who are now in fear of not getting long-term tenures due to their open criticism of the CCP regime.

In other words, the United Front Work through the Confucius Institutes is implanting a perception that the CCP’s one-party rule is most suitable for China. The CCP is not asking anybody to accept the Marxist-Leninist ideology which it is not even mentioning, observed Yu, but there is only one main thing one has to accept: there is only the rule of the Communist Party of China, and that is the only true order of things, right and proper, perfectly justified, and this is in line with Chinese historical traditions and perfectly in conformity with the teachings of Confucianism. The June 1989 Beijing massacre might not be right, but the CCP through its “soft power” (which this paper would

argue, monetary “hard power” of funding in disguise as “soft power”) is asking everyone to accept that the bloody crackdown was inevitable for the good of China.

9.16. CI’s “Kiss of Death”

On the other hand, Yu is critical of the view from some quarters that regardless of the ulterior motive of the CCP’s exploitation of the name of Confucius, it would always be a positive development for China to promote the name of Confucius at the expense of the Marxist-Leninist ideology. Instead, to Yu, by exploiting the name of Confucius, the CCP is giving Confucianism a “kiss of death” – the same negative impact as bestowed by its warped, shameless reinterpretation to justify its own absolute political control upon a list of terms ranging from “People’s” to “democracy” to “human rights”.

In other words, the CCP’s brazen usurpation of the name of Confucius for the Party’s own rebirth could lead to the destruction of Confucianism and the second death of Confucius. What the May Fourth Movement wanted to destroy in 1919 was neither Confucianism nor the name of Confucius, for whom the reformist leaders like Hu Shih (胡適) and Ch’en Tu-hsiu (陳獨秀) had great respect, but the repressive Confucian “religion” (*Kongjiao* / 孔教), also derisively dubbed Confucian “shop” (*Kongjiadian*) – the use of Confucius’ name as a political instrument of the ruling class for the absolute subjugation of the masses through the indoctrination of unquestioning obedience, of the “three cardinal guides and five constant virtues”⁷⁰ of the era-specific, dogmatic, repressive “Confucian” ethical code of *mingjiao* (名教, or *lijiao* / 禮教) under the disguise of the quintessential Confucianism (*rujiao* / 儒教). The Confucius Institute initiative represents the CCP’s reopening of the *Kongjiadian*, not to be taken by deception to be considered as efforts to revitalise Confucianism.

9.17. Neither Educational, nor Cultural, nor Ideological

In summary, Yu reminds us that the Confucius Institutes have nothing to do with education or culture. They have never been aimed to promote education or culture, not even any ideology. Hence they also have nothing to do with ideology. On the contrary, they have everything to do with economic interest (through hard, economic power) and with the United Front Work of the CCP (through coercive, political power). The Confucius Institutes do not constitute, though widely mistaken to be, a cultural phenomenon, but political behaviour, pure and simple. Confucius Institutes are the old “Confucian shops” (*Kongjiadian*) with a new name. The CCP has managed to set up hundreds of such outlets overseas, and they are selling well. In short, as this paper would argue, the Confucius Institutes have nothing to do with “soft power” but a subterfuge that has everything to do with cold, hard authoritarian State power.

After all, propaganda may be part of soft power, but soft power “is more than propaganda, at least in the sense of disguising or misleading” (Dirlik, 2014: 314) and the PRC’s deployment of the idea has reduced “soft power” to propaganda (*ibid.*). Ultimately, all these efforts to make inroads into foreign governments, academia and societies at large – including those that are ostensibly cultural or educational – would amount to State-orchestrated (United Front Work especially in the context of Hong Kong and Taiwan) hard, brute power in disguise as soft.

10. Conclusion

Richard C. Bush’s *Hong Kong in the shadow of China: Living with the Leviathan* (2016) is one of those books that only occasionally appears that not only impresses with both comprehensive and detailed coverage of its subject matter, injected with outstanding insights, informed

opinions, and original understanding and explications but above all, written with a touchingly humanistic perspective as well. Right at the beginning the author of the book deviates from normal practices and acknowledges first of all his debt not to people and institutions, which would follow, but to a place: Hong Kong, and his love and care for Hong Kong and her people, his deep concern for their problems – whether their struggle for political freedom and democracy or socioeconomic inequalities exacerbated by mode of governance – and worries for their future can be felt from page to page throughout the book. It is a book that never fails to inform and never fails to inspire. It is for this reason that what started out as a simple review of the book has here turned into a longer and more detailed analysis of the wider implications of the issues the author of the book has raised as regards Hong Kong – as China’s policy approach towards Hong Kong and by extension Taiwan and the struggle of the Hong Kong people, as well as the Taiwan people, to protect the political freedom and democratic rights they aspire to maintain (in the case of Hong Kong) and that they have fought hard to secure (in Taiwan) have impacts, in some ways teleological, that go far beyond Hong Kong and Taiwan in the light of the PRC’s current relentless global projection, riding on the wave of her economic miracle, of her hard and soft power (in the case of the latter, as this article has argued, is no more than a subterfuge, a ruse, to clothe hard power in a soft power mantle).

The PRC’s advance in influencing world and domestic perceptions of the CCP regime takes a complex mix of strategies. Renowned political scientist the late Sterling Professor Emeritus of Political Science at Yale University Robert Alan Dahl used six main “influence terms” to explain the varieties of power: *rational persuasion*, *manipulative persuasion*, *inducement*, *power*, *coercion* and *physical force* (Dahl and Stinebrickner, 2002; Stinebrickner, 2015; Dahl, 1999).

CCP's foreign and domestic policies lay everything out as if all are done with nice *rational persuasion*, telling the truth and explaining why the world should support China's peaceful rise which will always contribute to a win-win conclusion, and why her citizens should support the only party – an “advanced, selfless and united ruling group” (“進步、無私與團結的執政集團” according to the teaching manual of Hong Kong government's controversial 2012 MNE proposal)⁷¹ – that has always been in power since 1949 and will always be.

Richard Bush, in the beginning chapters, first frames Hong Kong's current political quagmire against the ominous looming silhouette of the gargantuan Leviathan to the north (Chapter 1, “The Hong Kong Hybrid”), and then moves on to narrate the pre-Handover negotiation of Hong Kong's political future where ironically the two parties negotiating were both outside of Hong Kong and where we are told that “London's working assumption was that if it demanded too much, Beijing would carry out its repeated threat to unilaterally impose its own plan for Hong Kong's political system” and furthermore, “Britain also had to balance its goals for Hong Kong against its other interests concerning China” (Chapter 2, “Negotiating Hong Kong's Political System”). Thus was sowed the seeds of Hong Kong's tragedy today by forces beyond the control of the Hong Kong people, whose fate helplessly lied in the hands of the two powers who, as the author tells us, “played a public and private game”. If nice *rational persuasion* would not work, in the toolkit of the CCP regime is a tactic a notch lower, that of *manipulative persuasion*. This paper has shown that Hong Kong is just a small patch of playing ground amidst the larger environment where CCP is playing out its “China Dream”. In a broader context, for the PRC, even having recovered her human face to some extent from the legacy of the inhuman Maoist excesses, nice *rational persuasion* has never worked and *manipulative persuasion* has always been the main tool the CCP regime

employs to convince other world powers, the West, the world bodies, and the international financial, educational, and other institutions to forfeit their ethical, moral, and political principles, to turn a blind eye to her human-rights abuses, in order to reap the potential benefits promised in exchange for cooperation.

The importance the CCP leaders see in extending influence beyond the domestic soil (on the mainland, but also Hong Kong after the Handover) to the international arena is also explained in the book's Chapter 5 ("Debating Universal Suffrage Before Occupy: Round 1") where Bush describes the Chinese statecraft as having "been shaped by something of a siege mentality", and there "remains a 'tight linkage between external and internal security in Chinese thinking.'" Backed by hard economic might, enhancing influence especially in the developing world, as the paper has argued, not only strengthens China's geopolitical clout amidst superpower rivalry, but also helps to facilitate the extraterritorial suppression of dissent with the collusion of her "friendly" or client states like the kidnapping of Gui Minhai in Pattaya and repatriation of Uighur refugees as referred to earlier in this paper.

The other chapters in the book range from a discussion of a political hybrid that Bush calls Hong Kong's "liberal oligarchy" and its role in the continuing of the Hong Kong society's socioeconomic inequalities (Chapter 3, "Hong Kong's Liberal Oligarchy: Civil and Political Rights"; Chapter 4, "Hong Kong's Liberal Oligarchy: Economic and Political Inequality"), to a detailed analysis of the aftermath of the Occupy Campaign and Umbrella Movement and the implications for Hong Kong politics and governance where "the changes were not necessarily for the better" (Chapter 6, "Electoral Reform After Occupy: Round 2"), insights into the issues of democracy, governance and legitimacy in the context of Hong Kong (Chapter 7, "Democracy and Good Governance") and a detailed examination of the Hong Kong

economy (Chapter 8, “Hong Kong’s Economy”) and its future prospects in terms of governance and competitiveness where comparison is made between Hong Kong and the city state of Singapore from which it differs in various ways including Hong Kong’s political economy being “built on rent-seeking” which according to Bush “is at the heart of the system’s oligarchic character” (Chapter 9, “What Hong Kong Can Do to Improve Governance and Competitiveness”). Most significantly, the author notes, the “Chinese government was happy to accommodate a political economy based on rent-seeking because it felt comfortable vesting power in the Hong Kong people who gained the most rents.”

However, as the author also points out here, “economic growth that does not benefit the broad majority of citizens leads to more than ‘political bickering’ [which has been blamed as to undermine good governance and investor confidence], and to significant public protest against the concentration of power that Hong Kong’s political system has fostered.” Such is the dilemma that both the Hong Kong people and their overlord in Beijing are facing. The more uncompromising Beijing is in its rejection of the Hong Kong people’s demand to freely vote for any Chief Executive without obstruction from the central government, the more resentment and distrust it will engender among the Hong Kong people, given PRC’s dismal and worsening human rights record, and more protests in various forms will occur, and more repressive measures and intervention there will be from the centre through overt or covert actions and pressures as well as “the soft tactics of integration, cooptation and collaboration, as well as the hard tactics of containment and denunciation” (Lam and Lam, 2013: 306) of Beijing’s United Front Work in Hong Kong which in Dahl’s “influence terms” represent veering from the softer *rational persuasion* and *manipulative persuasion* to carrots-and-sticks *inducement* and gliding further downwards to resort to the exercise of naked *power*, *coercion* and *physical force*. This vicious

cycle of coercion-resistance-more coercion-greater resistance is one where no one from both sides could find a way out, as the author laments in concluding Chapter 10 (“China, Hong Kong, and the Future of One Country, Two Systems”) that, referring to the hardline comments on the recent years’ rise of political radicalism in Hong Kong by the dean of Beijing’s Tsinghua University Law School who is also “a major articulator” of China’s central government policy concerning Hong Kong, “placing all the blame for Hong Kong’s troubles on the Hong Kong SAR and [...] unwillingness to acknowledge that Beijing’s own policies may have empowered the very radicals [accused of] ill will toward the state suggest that creativity on the part of the Central People’s Government is unlikely to be revealed anytime soon.” Again, as this paper has been pointing out, the implications of such policy orientation of the PRC extend far beyond Hong Kong to impact upon Taiwan and cross-strait relations (Chapter 11, “Hong Kong and Taiwan”) and the foreign policy of the United States (Chapter 12, “United States Policy toward Hong Kong”).

Similar policy approaches on the part of China can also clearly be seen impacting upon many developing countries. For the developing world leaders who are struggling with poverty, political insecurity, and with their own political glass houses to guard, the lower means of *inducement*, among Dahl’s “influence terms”, is that which is applied to secure their support and cooperation, via rewards in terms of aid, investment and trade, or punishments in the form of withdrawing or withholding these opportunities. For the overseas Chinese community leaders and business class, the same means of bribery or vote-buying is employed to secure their support, allegiance and loyalty.

Bush in his final chapter, Chapter 13, “Conclusion: The Future and Value of the Hong Kong Hybrid”, brings in the issue of reputation: “What China does regarding North Korea, the Senkaku Islands, the

Spratly Islands, Taiwan, Tibet, and Hong Kong, too, will help define for China's neighbors and for the world what kind of great power China is becoming, and so alter their assumptions about corresponding policy. Hong Kong is certainly not the most important issue on this list, but it is on the list." Herein lies the unique importance of this latest book on Hong Kong and her struggle for democracy, and on the impact and implications of the Occupy Campaign and Umbrella Movement, with remarkable coverage and in-depth analysis of China's intricate *Innenpolitik-Außenpolitik* nexus today. With Hong Kong as the central reference point, the *Innenpolitik* of this overshadowing Leviathan, as this article has devoted ample space to show, continues to instil fear among the Hong Kong people for their future as intensifying domestic repression which was most recently symbolised by the tragic death of Liu Xiaobo, and just before that that of Tenzin Delek Rinpoche, Li Wangyang, Cao Shunli, Peng Ming and Lei Yang, all while in custody or under State surveillance. On the other hand, its *Außenpolitik* focuses not only on the projection of an image of revival, power and glory – in both economic and military terms – to feed the nationalist craving for self-pride among its domestic audience for the purpose of regime legitimation and in the case of Hong Kong for instilling a sense of patriotic esteem for the "Motherland" after "reversion" (the term Bush uses in the book), but also on facilitating extraterritorial suppression of dissent and buying off foreign critics through the exercise of what the CCP regime itself considers "soft power", including via the Confucius Institutes, a dubious "soft power" outfit whose real role to which this article has also devoted substantial length in elucidation.

As this article's wider coverage and explication of the causes and implications of the CCP central State's strategic and operational policies, domestic and foreign, that radiate from its Hong Kong policy and its interaction with the Hong Kong people's sociopolitical action show, it is

indeed opportune and of remarkable importance not only to the people of Hong Kong who are still fresh from the Occupy Campaign of 2014, but also to the Mainland Chinese citizens as well as the global community, that an unusually comprehensive yet in-depth contribution had arrived to fill a void in the related literature with this publication in October 2016, just slightly more than half a year towards the twentieth anniversary of Hong Kong's "Handover" (or "reversion"), of Richard C. Bush's *Hong Kong in the shadow of China: Living with the Leviathan* (Washington, D.C.: Brookings Institution Press, 400 pp. + xvi).

Notes

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nexus and China's rise in the global system" (article, *CCPS*, 2016), "The writing on the wall: National and global implications of the ruling Chinese Communist Party's domestic and foreign policies" (article, *CCPS*, 2016), "From Dungans to xinyimin: China, Chinese migration and the changing sociopolitical fabric of Central Asian republics" (article, *CCPS*, 2015), "Nationalism, historical consciousness and regional stability: Rising China as a regional power and its new assertiveness in the South China Sea" (book chapter, Palgrave Macmillan, 2014), "中國—東南亞關係：中國能源安全政策的區域安全戰略分析" [China-ASEAN relations: analysis on regional security strategy of China's energy security policy] (book chapter, Wu-Nan, 2014), "Literacy and education in contemporary China: Daunting challenges amidst rapid economic development" (article, *The Copenhagen Journal of Asian Studies/CJAS*, 2014), "The long shadow of Tiananmen: Political economy of State-civil societal relations in the People's Republic of China twenty-five years on" (article, *IJCS*, 2014), "Poverty reduction, welfare provision and social security challenges in China in the context of fiscal reform and the 12th Five-Year Plan" (book chapter, Routledge, 2014), "Taiwan and Mainland China: Impacts of economic progress and international environment on political trajectory in comparative perspective" (article, *IJCS*, 2013), "Evolving agencies amid rapid social change: Political leadership and State-civil society relations in China" (book chapter, Palgrave Macmillan, 2013), *Norms and institutions in the shaping of identity and governance: Mainland China and Taiwan in the regional environment* (edited special issue, *CCPS*, 2017, 521 pp. + xviii), *From Handover to Occupy Campaign: Democracy, identity and the Umbrella Movement of Hong Kong* (edited *Focus* issue, *CCPS*, 2016, 350 pp. + xviii), *China amidst competing dynamics in the Asia-Pacific: National identity, economic integration and political governance* (edited special issue, *CCPS*, 2016, 633 pp. + xv), *Crossing the Chinese frontier: Nation, community, identity and mobility* (edited special issue, *CCPS*,

2015, 410 pp. + xv), *China – State, public policy and society* (guest edited special issue, *CJAS*, 2014, 140 pp.), *June Fourth at 25: The quarter-century legacy of Tiananmen* (edited special issue, *IJCS*, 2014, 367 pp. + xv), *Taiwan: Democracy, cross-Strait relations and regional security* (edited *Focus* issue, *IJCS*, 2014, 195 pp. + x) and *China: Developmental model, State-civil societal interplay and foreign relations* (edited monograph, 745 pp. + xxi, ICS, 2013). His latest research projects include the Equitable Society Research Cluster UMRG Programme on Public Administration and Governance (2016-2017, principal investigator), Malaysian Ministry of Higher Education/University of Malaya High-Impact Research (HIR) Grant project “The China Model: Implications of the contemporary rise of China” (2013-2016, principal investigator) at the Department of Administrative Studies and Politics, Faculty of Economics and Administration, University of Malaya, and Suntory Foundation/University of Tokyo international research grant project “Beyond ‘China threat theory’: Dialogue with China experts on the rise of China” (2014-2015, Malaysian component). <Email: yeohkk@um.edu.my, emileyeo@gmail.com; website: <http://emileyeo5.wix.com/emileyeoh>>

1. Liu Xiaobo (劉曉波) (20th December 2005). 如果統一就是奴役 [if unification is subjugation]. In: Liu Xiaobo (劉曉波) (2011). 追尋自由——劉曉波文選 (*Strive for freedom: Selected writings of Liu Xiaobo*), with an introduction by Yu Ying-shih (余英時). Washington, D.C.: The Laogai Research Foundation (勞改基金會), pp. 251-259 (see pp. 253-254, my translation). Leading intellectual dissident activist from the 1989 Tiananmen demonstrations and hunger strikes to Charter 08 – for which he was sentenced to 11 years of imprisonment – Dr Liu Xiaobo was awarded the Nobel Peace Prize on 8th October 2010 but was unable to receive it as he was serving his 11-year sentence. He received his Ph.D. from the Beijing Normal University in 1988 with his thesis “*Shenmei yu ren de ziyou*” (審美與人的自由) [aesthetics and human freedom].

2. Or officially the “Communist Party of China” (CPC, 中國共產黨).
3. Yingnan Joseph Zhou and Ray Ou-Yang (2017). Explaining high external efficacy in authoritarian countries: A comparison of China and Taiwan. *Democratization*, Vol. 24, No. 2, pp. 283-304.
4. Francis Fukuyama, quoted in “The end of the end of history” (by M.S.), *The Economist*, 18th January 2011 (cited in Dirlik, 2012: 283).
5. Francis Fukuyama, quoted in “The end of the end of history” (by M.S.), *The Economist*, 18th January 2011 (cited in Dirlik, 2012: 283).
6. See Dirlik (2012: 296), Note 15.
7. Or officially the “Kuomintang of China” (中國國民黨).
8. In the context of modern multiethnic societies, particularly those with an economy dominated by the minority, members of the demographically/politically dominant group are often willing to grant greater autonomy to a State (and its élite managers), which implements preferential policies in their favour.
9. Anita Chan was referring to Chirot (1980: 367-69).
10. “Classic fascism versus ‘friendly’ fascism”, *Third World Traveler*. http://www.thirdworldtraveler.com/Fascism/Classic_Friendly_Fascism.htm
11. Such rumours, while highly convincing, were as usual unconfirmed, just like the alleged negotiations conducted in recent years by the State with the Mothers of Tiananmen on terms of compensation for death of their children in the 1989 massacre.
12. ODN, 20th May 2014. (東方日報 / *Oriental Daily News* / ODN is a Malaysian daily in Chinese.)
13. Presently eight thousand seven hundred and sixty-five, according to *Political Prisoner Database* of the U.S. Congressional-Executive Commission on China. (Peter Mellgard, “This visualization shows China’s jailed, murdered and missing political prisoners”, *The WorldPost* (a partnership of *HuffPost* and the Berggruen Institute), 17th March 2017

- (updated 19th March 2017). <http://www.huffingtonpost.com/entry/political-prisoners-china-database_us_589a1d83e4b09bd304be3300>)
14. “Ailing dissident’s case fits a pattern in Chinese prisons, critics say” (by Javier C. Hernández), *The New York Times*, 10th July 2017 <<https://www.nytimes.com/2017/07/10/world/asia/liu-xiaobo-medical-care-dissidents.html>>; “Questions raised about Liu Xiaobo’s prison medical treatment” (by Didi Tang and Mark Schiefelbein / The Associated Press), *Times Colonist* (Canada), 27th June 2017 <<http://www.timescolonist.com/questions-raised-about-liu-xiaobo-s-prison-medical-treatment-1.20787511>>.
 15. In another context, after failing to find what Geoffrey Brennan and James Buchanan suggested in their “Neo-Hobbesian” Leviathan models of public finance – which “see government as a revenue-maximizing Leviathan, but depart from the strict Hobbesian perspective” by assuming that the Leviathan can be partially constrained by a constitution (Engineer, 1990: 419) – that Leviathan will have much more scope for action in a relatively centralized public sector, Wallace Oates thus concluded in his 1985 seminal paper “Searching for Leviathan” when he metaphorically threw up his hands in despair: “Perhaps, after all, Leviathan is a mythical beast.” (Oates, 1985: 756).
 16. Such suggestions for China, which vary in arrangement details, include a prominent confederation proposal of a “中華聯邦共和國” (“Federal Republic of China”), a “Third Republic” – the first republic being 中華民國 (Republic of China) and the second, 中華人民共和國 (People’s Republic of China) – proposed by Yan Jiaqi (嚴家其) (1992) encompassing the “loose republics” of Taiwan, Hong Kong, Macau, Tibet, Inner Mongolia and Xinjiang (in an arrangement like that of the European Union) and “close republics” consisting of the rest of present-day China (in an arrangement akin to the US’s). Yan obviously had in mind some sort of coexistence of federal and confederal systems within a single country.

17. Richard Montague (2001). Marx and Lenin's views contrasted. *Socialist Standard*, No. 1169, December 2001. <<http://www.worldsocialism.org/spgb/socialist-standard/2000s/2001/no-1169-december-2001/marx-and-lenins-views-contrasted>> (The *Socialist Standard* is a monthly socialist newspaper published without interruption since 1904 by the Socialist Party of Great Britain.)
18. "Thailand deports 100 Muslim Uighurs to China", *The Wall Street Journal*, 9th July 2015 <<https://www.wsj.com/articles/thailand-deports-100-muslim-uighurs-to-china-1436451320>>; "Thailand says rejected China request to deport all Uighurs – decision draws criticism from the U.N. and sets off protests in Turkey", *Borneo Post online*, 11th July 2015 <<http://www.theborneopost.com/2015/07/11/thailand-says-rejected-china-request-to-deport-all-uighurs/>>.
19. "Malaysia accused over deporting Uighur asylum seekers to China", *The Guardian* (UK), 5th February 2013. <<http://www.theguardian.com/world/2013/feb/05/malaysia-uighur-asylum-seekers-china>>
20. "China urged to release Uighur activist allegedly tortured in prison", Amnesty International UK / Blogs, 21st December 2010. <<https://www.amnesty.org.uk/blogs/countdown-china/china-urged-release-uighur-activist-allegedly-tortured-prison>>
21. "Urgent Action Update: More Uighur students at risk of forcible return (Egypt: Ua 168.17)", Amnesty International, 1st August 2017. <<https://www.amnestyusa.org/urgent-actions/urgent-action-update-more-uighur-students-at-risk-of-forcible-return-egypt-ua-168-17/>>
22. *ODN*, 20th August 2017.
23. Quoted in "N.Y.U., China, and Chen Guangcheng", Letter from China – Dispatches from Evan Osnos, *The New Yorker*, 17th June 2013.
24. *Ibid.*

25. Wang Dan received his Ph.D. in 2008 from Harvard University with his thesis “A comparative study of State violence in Mainland China and Taiwan in the 1950s”.
26. Wang Dan (王丹) (2012). *Wang Dan huiyi lu: Cong Liusi dao liuwang* (王丹回憶錄：從六四到流亡) [Wang Dan’s memoir: from June Fourth to exile]. 台北：時報文化出版企業股份有限公司 (Taipei: China Times Publishing Company).
27. Regarding Wang Dan’s accusation, see also his *Facebook* posting on 13th January 2012: “現在我已經離開成大 [i.e. 國立成功大學]，有些話終於可以說了：大家可能很奇怪，為什麼我在成大一年，都沒有開課，而只是與學生社團合辦“中國沙龍”。原因就是：儘管成大的校方領導熱誠歡迎我，儘管很多成大的同學，包括陸生很期待上我的課，但是有一些成大的老師卻強力反對，而說不出口的理由就是擔心影響到與對岸的交流！！結果就是我在成大一年，卻沒有開成課。如此荒唐的事情如果不是發生在我身上，我恐怕不會相信。但是各位台灣的朋友，這就是事實。這個事實就是：中共的陰影，已經籠罩在台灣的上空了！！中共並沒有進來台灣，台灣已經有人開始恐懼和自律了！！你們還感覺不到，是因為你們還沒有被影響到。而我，已經感受到了這個影響。這就是我說“民主的失去是不知不覺的”的原因。各位台灣的朋友，明天，當你們投票的時候，請你們問問自己：你們希望台灣進入一個請誰來教書，都要考慮中共的臉色的時代嗎？！！” <https://zh-cn.facebook.com/permalink.php?story_fbid=10150484826348027&id=105759983026>
28. “Beijing’s long arm: Forced to comply or shut down, Cambridge University Press’s China Quarterly removes 300 articles in China” (by Echo Huang and Isabella Steger), *Quartz* (qz.com), 18th August 2017 <<https://qz.com/1056938/cambridge-university-press-china-quarterly-complies-with-censorship-removes-300-articles-on-topics-like-tiananmen-and-tibet-in-china/>>; “Cambridge University Press removes journal articles under Chinese pressure” (by Holly Else), *Times Higher Education (THE)*, 18th

- August 2017 <<https://www.timeshighereducation.com/news/cup-removes-journal-articles-after-chinese-pressure>>; “Cambridge University Press removes academic articles on Chinese site” (by Ian Johnson), *The New York Times*, 18th August 2017 <<https://www.nytimes.com/2017/08/18/world/asia/cambridge-university-press-academic-freedom.html?mcubz=1>>; “Remove or shutdown: Cambridge University Press blocks access to 315 “China Quarterly” articles from within China” (filed by Gary Price), *INFOdocket (LibraryJournal) News*, 18th August 2017 <<http://www.infodocket.com/2017/08/18/reports-cambridge-university-presss-china-quarterly-removes-300-articles-in-china/>>.
29. According to the global digital business news publication *Quartz* – see: “Beijing’s long arm: Forced to comply or shut down, Cambridge University Press’s China Quarterly removes 300 articles in China” (by Echo Huang and Isabella Steger), *Quartz* (qz.com), 18th August 2017. <<https://qz.com/1056938/cambridge-university-press-china-quarterly-complies-with-censorship-removes-300-articles-on-topics-like-tiananmen-and-tibet-in-china/>>
30. “World’s oldest publisher reverses ‘shameful’ China censorship” (by Charles Riley and Jethro Mullen), *CNN*, 21st August 2017. <<http://money.cnn.com/2017/08/21/media/china-cambridge-university-press-censorship-reversal/index.html>>
31. “Cambridge University Press reverses China censorship move”, *BBC News*, 21st August 2017 <<http://www.bbc.com/news/business-40998129>>; “After criticism, publisher reverses decision to bow to China’s censors” (by Chris Buckley), *The New York Times*, 21st August 2017 <<https://www.nytimes.com/2017/08/21/world/asia/china-quarterly-cambridge-university-press-censorship-publisher-reverses-decision-to-bow-to-chinas-censors.html?mcubz=1>>.
32. “Cambridge University Press reverses China censorship move”, *BBC News*, 21st August 2017. <<http://www.bbc.com/news/business-40998129>>

33. ODN, 23rd April 2014.
34. “Chinese spies at Sydney University” (by John Garnaut), *The Sydney Morning Herald*, 21st April 2014. <<http://www.smh.com.au/national/chinese-spies-at-sydney-university-20140420-36ywk.html>>
35. *Ibid.*
36. *Ibid.*
37. “Ma seems to have forgotten he’s running a democracy, not a Communist Party precinct”, commented William Pesek in “Is China losing Taiwan?”, *BloombergView*, 31st March 2014 <<http://origin-www.bloombergtview.com/articles/2014-03-31/is-china-losing-taiwan>>.
38. Now the Education University of Hong Kong (香港教育大學).
39. Sonny Lo (2015). The ‘Taiwanisation’ of Hong Kong politics. *South China Morning Post* (Insight & Opinion), 25th March, 2015. <<http://www.scmp.com/comment/insight-opinion/article/1746962/taiwanisation-hong-kong-politics>>
40. Dialogue session with Lee Kuan Yew at closing dinner of 11th World Chinese Entrepreneurs Convention (Part 3 of 4). *Singapore Now. The Straits Times RazorTV* (www.razortv.com.sg). <https://www.youtube.com/watch?v=k4az_3aVhL0>
41. Gene Sharp (2010). *From dictatorship to democracy: A conceptual framework for liberation*, 4th U.S. edition. Boston, Massachusetts: The Albert Einstein Institution (originally published in Bangkok in 1993 by the Committee for the Restoration of Democracy in Burma; 1st U.S. edition, 2002), pp. 7-8. Multiple-time nominee for the Nobel Peace Prize, Gene Sharp is the Professor Emeritus of Political Science at the University of Massachusetts Dartmouth. Sharp received his Ph.D. in political theory from Oxford University in 1968.
42. Émile Durkheim, *The rules of sociological method* (originally published in 1895, English translation 1938), edited with introduction by Steven Lukes, New York: The Free Press, 1982, p. 53.

43. Based on Reeler's threefold theory of social change (Reeler, 2007).
44. See note above.
45. Salman Rushdie, *Joseph Anton* (2012, ppb 2013: 628).
46. FP Staff (2016). The leading global thinkers of 2016: As the pillars of societies faltered, these individuals bore the weight of progress on their own shoulders. *Foreign Policy*, 16th December 2016. <<http://foreignpolicy.com/slideshow/the-leading-global-thinkers-of-2016/>> / Tsai Ing-wen (President/Taiwan): For poking the bear. *FP global thinkers 2016 – the decision-makers*. <<https://gt.foreignpolicy.com/2016/profile/tsai-ing-wen>>.
47. Liu Xiaobo (2010). I have no enemies: My final statement (*Nobel Lecture in Absentia*, December 10, 2010). Statement of December 23, 2009. Read by Liv Ullmann. Translation by Human Rights in China (HRIC). Based on a translation by J. Latourelle. *Nobelprize.org – The Official Web Site of the Nobel Prize*. <https://www.nobelprize.org/nobel_prizes/peace/laureates/2010/xiaobo-lecture.html> / Liu Xiaobo (劉曉波) (2011). *Wo meiyou diren: Liu Xiaobo wenji 2* (我没有敵人：劉曉波文集之二) [I have no enemies: collected works of Liu Xiaobo 2]. Taipei: 捷幼出版社。
48. “Taiwan's president vows to help China achieve democracy: Tsai Ing-wen expresses condolences for the death of Liu Xiaobo and encourages Chinese people to pursue democracy” (by Charlotte Gao), *The Diplomat*, 14th July 2017. <<http://thediplomat.com/2017/07/taiwans-president-vows-to-help-china-achieve-democracy/>>
49. “Soft Power Survey 2016/17”, *Monocle*, 2017 <<https://monocle.com/film/affairs/soft-power-survey-2016-17/>>
50. “China's image takes a battering as majority of nations brand it a ‘negative influence’” (by Laura Zhou), *South China Morning Post* (Hong Kong), 24th May 2013. <<http://www.scmp.com/print/news/china/article/1244498/china-takes-battering-poll-perceptions-25-nations-and-eu>>
GlobeScan's 2014 Country Ratings Poll further confirmed this: “The UK is the country whose perceived influence in the world has most improved

- from 2005 to the present [...] Conversely, China's perceived influence has worsened the most over the same decade", though views of China "have stabilised in 2014 after the sudden deterioration that occurred in 2013." ("BBC World Service Poll" (2014 Country Rating Poll BBC GlobeScan), Embargo 23:01 GMT 3 June 2014 <http://www.globescan.com/images/images/pressreleases/bbc2014_country_ratings/2014_country_rating_poll_bbc_globescan.pdf>)
51. "China's image takes a battering as majority of nations brand it a 'negative influence'" (by Laura Zhou), *South China Morning Post* (Hong Kong), 24th May 2013. <<http://www.scmp.com/print/news/china/article/1244498/china-takes-battering-poll-perceptions-25-nations-and-eu>>
 52. "Sweeping the house clean – clean of labor NGOs". Translation by "Solidarity with Chinese Workers" from 《出門見人，回家掃地，掃掉一地勞工 NGO》by Zhao Sile (趙思樂), published on 東網, 5th December 2015. <<http://chuangcn.org/2015/12/sweeping-the-house-clean-of-labor-ngos/>>
 53. Yew Chiew Ping and Kwong Kin-ming (2014). Hong Kong identity on the rise. *Asian Survey*, Vol. 54, November-December 2014, pp. 1088-1112 (p. 1110 cited in Bush, 2016).
 54. Elaine Chan and Joseph Chan (2014). Liberal Patriotism in Hong Kong. *Journal of Contemporary China*, Vol. 23, March 2014, pp. 952-972.
 55. Working Party on the Use of Force in International Affairs (1961). *The use of force in international affairs*. Philadelphia, Pa.: Friends Peace Committee, p. 6.
 56. <https://www.monticello.org/site/blog-and-community/posts/dissent-highest-form-patriotism> / <https://www.monticello.org/site/jefferson/dissent-highest-form-patriotism-quotation>
 57. "China climbs on soft power index while Trump pulls US down, but the gap's still yuuuuge: An annual index shows China's influence around the world is on the rise, while the US, thanks to 'America First', is losing

- ground” (by Coco Liu), *South China Morning Post* (Hong Kong), 18th July 2017. <<http://www.scmp.com/week-asia/article/2103133/china-climbs-soft-power-index-while-trump-pulls-us-down-gaps-still-yuuuuge>>
58. First published in July 2012, 《關於當前意識形態領域情況的通報》 (“Communiqué on the Current State of the Ideological Sphere” is a confidential internal document widely circulated in 2013 within the CCP but not available to the public. In July 2013 this secret document was allegedly leaked to an overseas Chinese news site by 71-year-old dissident journalist Gao Yu (高瑜), who was in turn sentenced to a seven-year imprisonment for “leaking state secrets”.
59. “網上廣泛流傳的中共「七不講」文件，要求高校教師不能講普世價值、新聞自由、公民社會、公民權利、黨的歷史錯誤、權貴資產階級和司法獨立。” (see “習近平新政：七不講後又有十六條” [Xi Jinping’s “New Deal”: After “7 Can’t-Says” there are also the “16 Items”], *BBC 中文網*, 28th May 2013. <http://www.bbc.com/zhongwen/trad/china/2013/05/130528_china_thought_control_youth.shtml?print=1>).
60. “習近平新政：七不講後又有十六條” [Xi Jinping’s “New Deal”: After “7 Can’t-Says” there are also the “16 Items”], *BBC 中文網*, 28th May 2013. <http://www.bbc.com/zhongwen/trad/china/2013/05/130528_china_thought_control_youth.shtml?print=1> (宣揚“普世價值”的核心目的是排除黨的領導；“公民社會”主張是要在基層黨組織外建立新的政治勢力；“新自由主義”理念反對國家進行宏觀調控；提倡“西方新聞觀念”，是反對黨一貫堅持的“喉舌論”，要擺脫黨對媒體領導，搞蘇聯當年改革時推行的“公開化”，用搞亂輿論來搞亂黨、搞亂社會；“歷史虛無主義”的要害是針對黨領導下的歷史問題，否認人們已普遍接受的事實，極力貶損和攻擊毛澤東及毛澤東思想，全盤否定毛澤東時期中國共產黨的歷史作用，目的是削弱甚至推翻黨的領導的合法性；歪曲改革開放的種種說法則認為，改革中出現了官僚資產階級、國家資本主義，認為中國改革不徹底，只有進行政治改革才能完善經濟改革等等。)

61. 《關於加強和改進高校青年教師思想政治工作的若干意見》(簡稱「意見」) [regarding some suggestions on the political work to strengthen and improve the thought of younger lecturers in higher education institutions]. (See “習近平新政：七不講後又有十六條” [Xi Jinping’s “New Deal”: After “7 Can’t-Says” there are also the “16 Items”], *BBC 中文網*, 28th May 2013. <http://www.bbc.com/zhongwen/trad/china/2013/05/130528_china_thought_control_youth.shtml?print=1>)
62. “US professors urge Western universities to end ties to China’s Confucius Institutes” (by Peter Foster), *The Telegraph* (UK), 18th June 2014 <<http://www.telegraph.co.uk/news/worldnews/asia/china/10907971/US-professors-urge-Western-universities-to-end-ties-to-Chinas-Confucius-Institutes.html>>. “Hanban” (漢辦) refers to the Office of Chinese Language Council International (國家漢語國際推廣領導小組辦公室 / 國家漢辦).
63. *Ibid.*
64. “Canadian teachers urge universities to close on-campus cultural schools funded by Chinese government” (by Tristin Hopper), *National Post* (Canada), 1st January 2014. <<http://news.nationalpost.com/2014/01/01/confucius-institutes/>>
65. *Ibid.*
66. Mosher, Steven W. (2012). *Confucius Institutes: Trojan horses with Chinese characteristics*. Testimony presented to the Subcommittee on Oversight and Investigations of the Committee on Foreign Affairs of the United States House of Representatives, 28th March 2012. (Source: Population Research Institute, <http://pop.org> <<http://pop.org/content/confucius-institutes-trojan-horses-chinese-characteristics>>)
67. Chang’an Avenue / Chang’an Jie (長安街, literally “Street of Eternal Peace”) was the main theatre of the June Fourth massacre that spanned across Beijing when People’s Liberation Army (PLA) troops fired into the crowds blocking their advance towards Tiananmen Square during

that fateful night of 3rd-4th June 1989. Massacre along Chang'an Avenue/Boulevard (with heaviest casualty on the night of 3th-4th June 1989 but as a whole lasted from about 10 p.m. of 3rd June to the midnight of 5th June) mainly occurred along the route of PLA advance at the Wanshou Lu (萬壽路) junction, Muxidi (木樨地) intersection, Fuxingmen (復興門, Fuxing, i.e. "revival", Gate) outside Yanjing Hotel (燕京飯店) and Minzu Hotel (民族飯店), and Xidan Bei Dajie (西單北大街, Xidan North Street) junction along West Chang'an Avenue at Xinhuaamen (新華門, Xinhua, i.e. "new China", Gate) and Nan Chang Jie (南長街) junction onto Tiananmen Square (天安門廣場) from the western side and from the eastern side of the Chang'an Avenue near Hongmiao (紅廟) to Jianguomen (建國門, Jianguo, i.e. "nation founding/building", Gate), along East Chang'an Avenue near Beijing Hotel (北京飯店) and Nanchizi Dajie (南池子大街, South Chizi Street) junction onto Tiananmen Square (*Yazhou Zhoukan* (亞洲週刊) (1989). 驚天動地的一百日 [a hundred days that shook heaven and earth]. Hong Kong, p. 80). In addition, massacre also occurred along Qianmen Dajie (前門大街, Qianmen, i.e. "front gate", Street – PLA's southern approach to Tiananmen that night), at Chongwenmen (崇文門, Chongwen, i.e. "culture/civilisation revering", Gate), between Jianguomen and Chaoyangmen (朝陽門, Chaoyang, i.e. "sun facing", Gate), the approach to the university district and around Peking University (北京大學), Yiheyuan (頤和園, Summer Palace imperial garden) and Tsinghua University (清華大學) (*ibid.*). Outside Beijing, similar massacre at that time mainly occurred in Chengdu (成都), the capital city of Sichuan Province.

68. 「孔子學院及其影響 —— 專訪余英時」[Confucius Institutes: a special interview of Yu Ying-shih], 《縱覽中國》[China overview], 8th April 2012.
69. Or K'ung Tzu / Kong Zi (孔子).

70. *San gang wu chang* (三綱五常) as specified in the feudal ethical code: the three cardinal guides of “ruler guiding subject, father guiding son, and husband guiding wife”, and the five constant virtues of “benevolence, righteousness, propriety, wisdom and fidelity”.
71. “進步、無私與團結的執政集團”, according to teaching material “China Model National Conditions Teaching Manual” (《中國模式國情專題教學手冊》) of the Moral and National Education (MNE, 德育及國民教育) school curriculum proposal which the Hong Kong Professional Teachers’ Union has accused as being a brainwashing political action.

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Research Note

Human Rights Are Human Rights: Asian Values, Chinese Characteristics and Universal Values

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1. Preface – Human Rights: Chinese Emperor’s New Clothes

In April 2015 investigative journalist Gao Yu (高瑜) was convicted of “leaking state secrets” for allegedly sending Document Number 9 by e-mail to *Mingjing News* (明鏡新聞) in the United States of America and was sentenced to seven years in prison. The so-called “state secrets” Document Number 9 was actually issued in May 2013 by the Chinese Communist Party and not by any government sector. The fact discloses that China’s ruling party and state cannot be separated clearly. Document Number 9, titled “Communiqué on the Current State of the Ideological Sphere” (《關於當前意識形態領域情況的通報》) lists seven threats to the legitimacy of the Chinese Communist Party. These seven threats or “don’t mention” (七不講) which were prohibited for university professors and lecturers to be raised with students are: universal values, press freedom, civil society, civic rights, historical mistakes by the Communist Party, elite cronyism, and an independent judiciary (Ho, 2015).

The Chinese Communist Party is apparently hostile to universal values, especial press freedom, civil society, civic rights and independent judiciary, although the Information Office of the State Council of the People's Republic of China just issued a white paper *Progress in China's human rights in 2014* on June 8. Gao Yu told a truth to the world that the Chinese emperor does not wear any new clothes – that is the reason why the Chinese emperor was so angry and wanted to put her in jail.

2. Asian Values and Chinese Characteristics

In 1993 Asian states' ministers met in Bangkok to discuss human rights problems comprehensively for the second World Conference of Human Rights held for the post-Cold War time in Vienna. The Asian Human Rights Conference adopted the *Bangkok Declaration*, reaffirming their governments' commitment to the principles of the *United Nations Charter* and the *Universal Declaration of Human Rights*. They stated their view of the interdependence and indivisibility of human rights and stressed the need for universality, objectivity, and non-selectivity of human rights. At the same time, they emphasized the principles of sovereignty and non-interference, calling for greater emphasis on economic, social, and cultural rights. However, the *Bangkok Declaration* tries to advance a new perspective of human rights, which is called "Asian values", and offers an alternative vision of national development.

Unfortunately the advocates of Asian values are some authoritarian regimes' leaders. They are Malaysia's Mahathir bin Mohamad, Singapore's Lee Kuan Yew (李光耀), Indonesia's Muhammad Suharto and China's Jiang Zemin (江泽民). They defamed universal values, indicted the Western world for using these concepts as excuse to operate and interfere in the Third World. They argued and endeavored to

differentiate Asian values of human rights from Western universal values. They claimed that Asian values are based on communitarianism, and by contrast, Western universal values are based on individualism or egocentrism (Tseng, 1999). Following the discourse, “socialism with Chinese characteristics” is the Chinese edition of “Asian values” and deemed suitable for China’s national condition.

But is it true that universal values are based on individualism or egocentrism under Western cultural tradition or imperialist and new colonialist political conspiracy?

3. Recalling History as Proof

In fact, the *Universal Declaration of Human Rights* is shared with Chinese jurisprudence. The Republic of China (中華民國) is a founding member of the United Nations and was appointed to join the *Universal Declaration of Human Rights* drafting committee. Chang Peng Chun (張彭春) was China’s representative and served as vice-chairman of the original UN Commission on Human Rights. Chang Peng Chun and Lebanese philosopher-diplomat Charles Malik were delegated the shared ideals of universal human rights, and both of them were the philosophical leaders of the deliberations. Chang argued that the modern world should pay heed to Chinese philosophers such as Confucius (孔子) and Mencius (孟子) not because they were Chinese, but because their ideas had universal validity.

Mencius said, “The ability possessed by men without having been acquired by learning is intuitive ability, and the knowledge possessed by them without the exercise of thought is their intuitive knowledge.” He believed that every man has intuitive ability and intuitive knowledge. For the latter, he said elsewhere, “All men have a mind which cannot bear to see the sufferings of others.” He proved the existence of

commiserating mind by an illustration: if men suddenly see a child about to fall into a well, they will without exception experience a feeling of alarm and distress. Chang Peng Chun persuaded the drafting committee to accept the concept of man's innate goodness, intuitive knowledge or commiserating mind – that is why the Article 1 of the *Universal Declaration of Human Rights* provides that all human beings are endowed with conscience.

Western world believes that man is a rational animal. Ancient Greek philosopher Aristotle discovered in his *Nicomachean Ethics* that the human species has an ability to reason, a capacity for reasoning. Originally the drafting committee defined the characteristic of humanity as its rationality, but China's delegate Chang Peng Chun disagreed, because rationality is usually connected with economic rationality, which means interests calculating without value enhancing. If people were only concerned about rationality, there would be a risk of neglecting morality in the state's activities. China's delegate Chang Peng Chun tried to propose a philosophical source of Confucian communitarianism for the *Declaration* – the vision is as that from the standing point of human beings' intuitive conscience: "Children carried in the arms all know to love their parents, and when they are grown a little, they all know to love their elder brothers; filial affection for parents is the working of benevolence, respect for elders is the working of righteousness. There is no other reason for those feelings – they belong to all under heaven." Every feeling is endowed by heaven, as every creature is made by God, then it is concluded that all within the four seas will be brothers. Subsequently the Article 1 of the *Universal Declaration of Human Rights* provides that all human beings should act towards one another in a spirit of brotherhood. That is to say, various rights would appear more selfish if they were not preceded by the reference to a spirit of brotherhood. The spirit of brotherhood requires

people to be kind and considerate in their treatment of others – that is Confucian idea of benevolence (Twiss, 2011: 111-112).

4. Modern Interpretation of Confucian Communitarianism

We should realize that Confucianism is a kind of communitarianism – its view of the world is built on family relationship, and by extending the family relationship to social relationship and the relationship between citizen, civil society and state, so it seems that the world is a big family, with different members of the family having their respective specific roles, and different social roles having different determined social norms. Confucianism emphasizes the rectification of names, which means that to identify people's position in social relationship network is to identify everyone's rights and duties. So Confucius said, "Let the king be a king, the minister a minister, the father a father and the son a son." If anyone disobeys the norm of his social role, he is immoral and illegitimate, and would be condemned and isolated by his social relation network. For that, Mencius said, "He who outrages the benevolence proper to his nature, is called a robber; he who outrages righteousness, is called a ruffian. The robber and ruffian we call a mere fellow. I have heard of the cutting off of the fellow Zhou, but I have not heard of putting a sovereign to death, in his case." Even to sovereign, king, prince, if they disobey their obligation, they are only an ordinary fellow, who has no privilege to be free from being punished. Hence, Confucianism takes human beings as the essential, and opposes blindly obeying any ethic or political authority.

Confucius said, "A gentleman gets along with others, but does not necessarily agree with them." That is Confucian tolerance and value relativism. Regarding Confucian communitarianism, human beings' diversity should be respected in a harmonic way. As the Article 18 of the

Declaration provides: “Everyone has duties to the community in which alone the free and full development of his personality is possible. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”

No one by his moral subjectivity must subdue any authority. At the same time, no one can claim he is absolute authority. Just like the thought of Voltaire: “I disapprove of what you say, but I will defend to the death your right to say it.” So Mencius said, “It is impossible that any one should become ruler of the people to whom they have not yielded the subjection of the heart.” Confucianism wishes world harmony without oppression.

Traditional Confucianism prevailed in feudal agricultural time; certainly traditional Confucianism had no contemporary ideas of human rights, but it does not mean that Confucianism is totally opposed to human rights. However, Confucian communitarianism has become a philosophical base of contemporary international legal system of human rights, so logically modern universal concept of human rights must include the spirit of eastern Confucian communitarianism. The question is how the contemporary international legal system of human rights is to express the spirit of Confucian communitarianism correctly and reasonably.

In my opinion, there are three suitable ways to express the Confucian communitarian spirit in universal human rights system:

1. Regarding intuitive conscience, everyone is subject for moral and value judgment, so men are created free and equal to be the subject of personality and human rights. The status should be protected and

safeguarded by the state.

2. Everyone has the right to choose his own value judgment for his legal interests or public goodness; the right is along with social responsibility. Who can judge the idea or thinking? Only people's reason and conscience.
3. The practice of modern communitarianism is to support the ideal of "human rights outmatching sovereignty". This is because modern sovereign and king has no absolute authority on values and interests. All the oppressed and discriminated are our brothers; the United Nations and international society have the responsibility to prevent oppression and discrimination by improving the human rights condition.

5. Rule of Law: Safeguarding Mechanism of Human Rights

Protecting natural human rights is the most important reason for people to form a social contract for state-building. Therefore, according to people's request through constitutional text, the state should promise to guarantee the total fulfilment of human rights. State's legal system is the tool for protecting people from the state's unfair and unreasonable interference. So, if it is necessary, the propositional restriction on human rights is only allowed by the legal reservation principle, which means that only the people own reserved initiative or legal power to agree on the necessary and limited state restriction on human rights through legislative procedure. The purpose and method of the state restriction on human rights will and should be recorded in law, and solely in law. That is why the subsection 2 of the section 29 of the *Universal Declaration of Human Rights* provides that: "In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the

rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society”.

In China, the draft *Constitution of the Republic of China* of 1936 did not actually realize the difference of meaning between “by law” and “by constitution” for guarantee of human rights, thus its wording of all human rights are “guaranteed by law”. It will bring many threats to human rights. Because law is easily amended by the majority of parliament, but human rights issue is unrelated to majority and voting. Human rights are rooted in equal and inalienable personality of all members of the human family. Therefore, when the Constituent National Assembly of the Republic of China formulated the *Constitution* in 1946, the words “guaranteed by law” were thoroughly deleted, and the legal reservation principle was embodied in the Article 23: “All these rights and freedoms may be restricted by statute laws”, that is, the power to restrict individual freedom is solely entrusted to the legislature based on constitutional requirements (Chen, 2000: 111). In other words, the function of the rule of law is for protecting people’s human rights and restricting state’s act.

There is no strict legal reservation principle in modern Mainland China. Article 9 of the *Legislation Law of the People’s Republic of China* authorizes the National People’s Congress and the Standing Committee thereof to have the power to make a decision to enable the State Council to enact administrative regulations on the sphere where only national law may be enacted in respect of matters relating to human rights. But that is not the most serious problem. The fundamental problem is the constitutional basic principle of the leadership of the Communist Party of China. The organized system of the Communist Party of China is based on democratic centralism. Democratic centralism stresses that all decisions of higher bodies shall be absolutely binding on lower bodies and on all party members. Up to now, the Communist Party

of China has not implemented out-and-out inner-party democracy, for the reason that party member has no free will to participate in the election of party representatives and leaders at all levels and has to subdue the superior indication of voting. So democratic centralism in China is equal to an oligarchy with only democratic formality, which is the so-called “socialist democracy with Chinese characteristics”. Because of the leadership of the Communist Party of China, all the state organs are controlled by the Communist Party of China. The Communist Party of China leads and controls the National People’s Congress, and then the National People’s Congress leads and controls executive power and the judiciary. Party is equal to state, state is party. There is no distinction between the Communist Party of China and the state of the People’s Republic of China. Due to the judiciary being controlled by the Communist Party of China, and all of the committees on political and legal affairs of the Communist Party of China allow Communist Party officials at every level to decide politically sensitive cases in advance and out of court, it is impossible for the judiciary to confront the will and act of the party-state. If people’s human rights are interfered by the party-state, no independent judiciary can afford ultimate protection of human rights. The rule of law needs to be distinguished from the rule by law where the law and institutions are used to protect the interests of the powerful party-state. May we conclude that the rule of law with Chinese characteristics is more like the rule by law in practice? (Tibetan Centre for Human Rights and Democracy, 2015: 29)

6. Epilogue

The Buddha said, “All creatures are equal.” The spirit is along with Confucian communitarianism and universal values in international system of human rights. Chinese Communist Party insists that its

leadership is the constitutional principle of China, and the combination of the universal principle with China's national conditions will safeguard Chinese people's human rights. But how does it own the absolute authority in judgment of China's national conditions? The answer is not found in logical reasoning but arbitrary violence of the powerful.

Note

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Contemporary Chinese Political Economy and Strategic Relations: An International Journal

Volume 3 Number 1 April/May 2017 (Special Issue) ISSN 2410-9681

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