

**THE PROMISE OF DEMOCRATIZATION IN HONG KONG  
SURVEY REPORT  
NDI PRE-ELECTION REPORT #1**

*June 10, 1997*

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**Executive Summary**

On July 1, 1997, Hong Kong will become a part of the People's Republic of China after 155 years of British colonial rule. This transition raises a series of concerns about the future of democracy in Hong Kong, including the prospect of Beijing-sponsored revisions to the electoral system that might diminish representation of democrats in the legislature and limit the participation of pro-democracy political parties and civic groups in the electoral process.

In March 1997, NDI sent a four-person survey mission to Hong Kong to assess the current political environment. NDI met with a broad range of political actors, including Legislative Council members, political party representatives, election officials and other senior government officials, representatives of domestic and international NGOs, members of the domestic and international media, academics and representatives of the U.S. government. This report of the NDI survey mission assesses the current political and legal situation in Hong Kong in light of the imminent transfer of sovereignty. It addresses several of the most frequently discussed issues, especially those that have implications for potential programs to support democracy or for U.S. policy toward Hong Kong.

It is important to understand that Hong Kong is neither a sovereign entity nor a democracy. Hong Kong has only had a fully elected legislature since 1995 and even that legislature has only 20 of 60 seats elected directly under universal suffrage. The territory has never elected, even indirectly, a government, and most of the political reforms that have allowed a political culture to develop and that Hong Kong democrats seek to protect came about only in the 1990s, well after the Sino-British Joint Declaration of 1984. Hong Kong is going from a situation in which its economy has thrived into a future that is uncertain. Unfortunately, there are reasons to be concerned.

Elections are expected within one year of the reversion to Chinese sovereignty. These elections will be the first since the Legislative Council (LegCo) elections in 1995. Because the British and the Chinese governments were unable to come to an agreement on a "through train," the LegCo will not serve its full four-year term through 1999. Instead, LegCo will be disbanded and replaced on July 1 by the Beijing-selected Provisional Legislative Council (PLC).

Along with other threats to civil liberties, the establishment of the PLC has alarmed Hong Kong's democratic community. The Basic Law clearly establishes that LegCo is to be constituted by election and makes no provision for a provisional or appointed legislature. While the Chinese government has promised that Hong Kong will hold elections for a new LegCo to replace the PLC within one year of reversion, it has also made clear that it finds the electoral system used in the 1995 elections unacceptable.

Nevertheless, the Chinese government and future Chief Executive Tung Chee-hwa appear to be sensitive to outside opinion and to pressure from within Hong Kong. The Chinese government may now recognize, for example, given the extent of the local and international outcry that the Provisional Legislature was a mistake. Tung's office has responded, at least in part, to criticisms of proposed ordinances that raise civil liberties concerns. There have been other mildly encouraging signs among the discouraging ones: Tung has, for instance, essentially retained the senior civil service and has named a well-respected chief justice to the territory's highest court.

As the future reality of Hong Kong emerges from the give and take of local politics and international diplomacy, it is important for all those concerned about democracy and civil rights in Hong Kong to monitor and actively engage the future Hong Kong government and Beijing. This means that political organizing inside Hong Kong will be important, as political parties and pressure groups organize themselves to respond to issues of concern or to develop new strategies for promoting their interests. Among other things, both local and international advocates of democracy must support early elections within a democratic framework and should do everything they can to limit the activities and scope of the Provisional Legislature. International and local actors must also work to protect and expand political organizations.

Political organizing is especially important because the threats to democracy in Hong Kong, while extremely serious, may not be entirely overt. Chinese interference with Hong Kong democrats and human rights advocates may not be heavy handed. But it must be countered nevertheless, and a successful democratization strategy for the territory will require political sophistication and sustained attention to the situation over an extended period of time.

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## **I. Survey Mission**

NDI sent a four-person survey mission to Hong Kong from March 5 to

10, 1997 to assess the current political climate and possibilities for NDI programming in the territory. The team included Tom Andrews, former Member of the U.S. Congress and current National Program Director for Citizen Action; Sue Wood, former head of New Zealand's National Party; Eric Bjornlund, NDI Regional Director for Asia; and Sophie Richardson, NDI Program Officer. During its mission, the team met with Legislative Council members, party leaders, Election Commission members, representatives of the Hong Kong colonial government, representatives of the U.S. Government, pro-democracy and human rights NGOs, academics and members of the Hong Kong media.

This document is intended to assess the current political and legal situation in Hong Kong in light of the imminent transfer of sovereignty. It addresses several of the most frequently discussed issues, especially those that have implications for potential NDI programs or, for that matter, for U.S. Policy toward Hong Kong.

**II. General Reactions to Hong Kong on the Eve of Reversion** The team made a few general observations about Hong Kong that provide a backdrop to much of its analysis.

As Hong Kong approaches reversion to Chinese control on July 1, 1997, the atmosphere seems to be business as usual. Economic activity continues to be strong, the stock market and property values are at record highs, and other economic indicators continue to be positive. There has been no capital flight or mass emigration. While there is anxiety in some quarters about the extent of certain political freedoms after reversion, the NDI team detected no general fear, and certainly no sense of panic.

Hong Kong is neither a sovereign entity nor a democracy. With respect to sovereignty, Hong Kong is emphatically a colony, and to visit in the waning days of British control is almost to go back to an earlier era of British colonialism. Team members felt as if they had experienced the last gasp of British colonialism, even to the point of witnessing the final visit of the QE2, as she put in to pick up British civil servants taking advantage of their right to return to Britain by sea. With respect to democratization, it is important to keep in mind that Hong Kong only has had an elected legislature since 1995; that even that legislature has only 20 of 60 seats elected directly under universal suffrage; that the territory has never elected, even indirectly, a government; and that most of the political reforms Hong Kong democrats seek to protect came about only in the 1990s, well after the Sino-British Joint Declaration of 1984. Hong Kong is not an independent democracy coming under the thumb of the Chinese; it is a free-market, politically open colony, which has in the past few years benefited from certain political reforms. It is going from a situation in which its population and economy have thrived into a future that is uncertain. Unfortunately, there are reasons to be concerned.

It was striking to the team the extent to which political discussions in Hong Kong seem to center on fine points of international law. Hong Kong democrats make a number of strong arguments about China's international legal obligations to Hong Kong. At the same time, China argues that the actions of the British have not fully complied with prior understandings about not making substantial changes to the status quo in Hong Kong, at least not without Chinese agreement. While these legal points are of extraordinary importance, Hong Kong democrats may find it effective to address a broader range of issues

when appealing for political support.

The team noted as well the extraordinary emphasis on appeals to forces outside the territory: the British colonial administration and the British government, the government of the People's Republic of China, and the influential states and actors of the international community, including, especially, the United States. Accordingly, the team was most impressed by those Hong Kong democratic leaders who are developing and implementing political strategies that look inward, that is, that focus on Hong Kong itself. While many extremely important issues will be addressed at the international diplomatic level over the next few years, there is much political development work to be done at the territorial and local levels. The team's impressions were that ultimately the best hope for the future of democracy and rule of law in Hong Kong will emerge from the give and take of local politics and local governance, between the Hong Kong people and the Hong Kong government and between Hong Kong and China.

### **III. Background on the Transition: Basic Principles in the Joint Declaration and Basic Law**

On July 1, 1997 the British territory of Hong Kong will revert to Chinese sovereignty, in accordance with the Sino-British Joint Declaration signed in 1984. The Chinese government has officially stated that it will follow a policy of "one-country, two-systems" in governing the Hong Kong Special Administrative Region and has formally agreed that the Hong Kong regional government will retain political autonomy in all areas except defense and foreign relations. As the date of Hong Kong reversion approaches, however, Beijing has taken several steps that, critics believe, threaten to jeopardize this autonomy.

Under the Deng Xiaoping government, Beijing announced the "one-country, two-systems" policy, which would permit the existence of a different social or economic system in a small, defined part of China. Initially crafted to facilitate reunification with Taiwan, this policy became the basis for reconciling Hong Kong's free-market system and civil liberties with the Chinese economic and political framework. The Chinese government now hopes the reversion of Hong Kong will provide a model for integrating the economy and society of Taiwan into mainland China.

The Joint Declaration allowed for Britain to continue governance of Hong Kong through July 1, 1997 and specified that Hong Kong's capitalist economy and society would continue unchanged for 50 years after reversion. The Joint Declaration also allowed the Chinese government to draw up a constitution before reversion that would govern the territory after that date. Britain has interpreted the Joint Declaration to allow it to freely govern Hong Kong right up until the date of reversion, without interference from Beijing. The Chinese government, however, has contended that because the agreement permitted it to draw up a constitution during the remaining period of British rule, the colonial government should not have the authority to unilaterally make changes that would contradict Chinese guidelines for future governance. These two different interpretations of the Joint Declaration have proven to be in serious conflict. Since the signing of the Joint Declaration, Britain and China have repeatedly disagreed over which government should have the authority to make long-term political and economic decisions.

In April 1990, the Chinese government issued the Basic Law of the

Hong Kong Special Administrative Region. This document serves as the constitution that will govern Hong Kong after July 1. The Basic Law provides that the LegCo shall be "constituted by election" (Article 68) and provides for direct election of one-third of LegCo in the first legislative elections. The proportion of directly elected members on the Council would increase until 2007, and the Basic Law establishes that the "ultimate aim is the election of all members by universal suffrage." Similarly, the Basic Law establishes the "ultimate aim" of selecting the Chief Executive "by universal suffrage . . . in accordance with democratic procedures" (Article 45), but Beijing essentially retains control of the selection process for the Chief Executive until at least 2007. The Basic Law also establishes a court of final appeal for the Territory (Articles 81 and 82), but leaves interpretation of the Basic Law itself to the Standing Committee of the National People's Congress. The Chinese government retains full control over "acts of state such as defense and foreign affairs." (Article 19)

#### **IV. Elections: Patten's Reforms and The Failure of the "Through Train"**

The colonial government drew up plans to revamp the Hong Kong election system soon after signing the Joint Declaration. The first plan entailed a gradual increase in the number of directly elected members to LegCo (which at the time consisted entirely of appointed members) through 1997, when the people of Hong Kong would choose all 60 members of the Council in direct elections. In the British estimation, the Joint Declaration allowed such a change in the electoral system. The Chinese government objected vehemently to this proposal, contending that the colonial government could not create a new election law because it potentially contradicted the as yet unwritten Chinese constitution governing Hong Kong. Direct elections thus did not occur in Hong Kong until 1991, after China promulgated the Basic Law governing the territory after reversion. In 1991, 18 geographical seats were elected in a "double seat, double vote system," where two representatives were elected from each district and each voter cast two ballots.

Christopher Patten became Hong Kong's final British governor in 1992. He introduced political reforms that would more fully enfranchise the Hong Kong electorate and increase political power at the local level. The Chinese government objected to Patten's proposed electoral reforms, and Foreign Minister Qian Qichen accused Patten of trying to extend Britain's political influence beyond the date of reversion. Throughout 1993, the British and Chinese engaged in 17 rounds of negotiations over Patten's election reform proposals before the British colonial government gave up in frustration and declared its intention to move ahead unilaterally with the proposed reforms. The impasse destroyed the efforts of both Patten and many LegCo members to obtain Beijing's approval for a "through train," which would have allowed members elected in 1995 to serve their full four-year terms until 1999. Patten's aggressive democratization agenda -- although clearly desirable and, if anything, long overdue -- infuriated the Chinese leadership and arguably contributed to the derailment of the "through train" for LegCo.

After the failure of the through train negotiations the Hong Kong legislature approved in February 1994 Patten's proposal to create 18 district boards, responsible for managing affairs and allocating funds within their district, that would consist primarily of directly elected members. In June 1994, over Beijing's strong and public opposition, the LegCo adopted Patten's election reforms by a 32-to-24 margin. The Council defeated two alternative proposals concerning electoral

reform: the Liberal Party's proposal to reduce the number of directly elected seats, and independent LegCo member Emily Lau's proposal to open up all 60 Council seats to direct election.

Accordingly, September 1995 marked the first time that all members of LegCo were directly or indirectly elected. Of the 60 members of the current Legislative Council, 20 were directly elected to represent geographic constituencies and 10 others were chosen by an election committee of 283 locally elected officials. The other 30 were elected by so-called functional constituencies: 21 to represent the existing narrow functional constituencies (three of these 18 functional constituencies sent two representatives to LegCo) and nine to represent new, much broader functional constituencies. Thirty-five percent of Hong Kong's eligible voters participated in this election.

Twelve members of the Democratic Party (DP) won Council seats in the direct elections, the most of all Hong Kong parties. The DP won an additional five seats through functional constituency elections and the election committee returned another two DP members, giving the party a total of 19 members and a plurality in LegCo. Several smaller pro-democracy parties sent a total of six members to LegCo. A number of independents, most notably Margaret Ng, Christine Loh and Emily Lau, are also identified as part of the democratic camp.

#### *The Establishment of the Preparatory Committee and Provisional Legislature*

Beijing did not recognize the 1994 Hong Kong electoral law that governed the 1995 legislative elections and has never recognized the validity or results of these elections. The Chinese government thus decided to dissolve the directly elected legislature upon reversion.

In December 1995, China established a 150-person Preparatory Committee, chaired by the Chinese foreign minister, to oversee the transition to Chinese sovereignty, including the selection of a legislative body to replace LegCo upon reversion. Although the Preparatory Committee included 94 Hong Kong residents, Democratic Party LegCo members criticized the Committee's "unrepresentative composition."

The Preparatory Committee in turn established a 400-member Selection Committee, which in December 1996 chose the new Chief Executive, prominent shipping magnate Tung Chee-hwa, and the 60 self-nominated members of the Provisional Legislature (PLC). Only 34 of the current LegCo members sought appointment to the Provisional Legislature and all but one received appointment. Ten individuals who had failed to win election to LegCo the year before were also appointed. All of the Democratic Party members of the Council chose to boycott the appointed council and have protested the entire process as unnecessary, illegal and undemocratic. This difficult decision, which DP members made in a group vote, meant certain disenfranchisement after reversion. Some of the party's supporters disagreed, contending that the DP was forgoing an opportunity to participate in Hong Kong government after reversion.

Many democracy advocates have challenged the legality of the Provisional Legislature. The Basic Law clearly establishes that the Legislative Council is to be constituted by election and makes no provision for any provisional or appointed legislature. Because the Provisional Legislature will not come into existence until the establishment of the Hong Kong Special Administrative Region

(HKSAR) on July 1, it has thus been forced to hold meetings in Shenzhen, directly across the border from Hong Kong. Several pro-democracy figures told the NDI team that they plan to challenge in court the legitimacy of legislation passed by the PLC on the grounds that the legislature itself is illegal and thus lacks the authority to enact legislation.

#### *First HKSAR Legislative Council Elections*

The Chinese have promised that Hong Kong will hold elections for a new Legislative Council to replace the PLC within a year of reversion, but they have made clear that they find the electoral system used in the 1995 elections unacceptable. The Basic Law establishes that 20 of the seats in this election will be elected by geographical constituencies, 30 by functional constituencies and 10 by an election committee. It also sets out certain other parameters. At the same time, however, many important details remain to be worked out, including the size and nature of geographical constituencies, the number of representatives to be elected from within given constituencies, the definition of functional constituencies, and the composition of the election committee.

The Preparatory Committee has established a subcommittee, chaired by a prominent Hong Kong political scientist, the American-educated Professor Lau Siu-kai. This subcommittee is responsible for making recommendations regarding the new election system to the HKSAR government. In late May, Lau's subcommittee publicly suggested that either a proportional or single-vote, multi-seat system be used in next year's legislative elections. Professor Lau has indicated hostility toward the democratic camp, but has also asserted that his committee's recommendations will not be subject to amendment by the PLC. The Provisional Legislature has also been discussing the new election law in their Shenzhen meetings and has solicited the written input of Hong Kong residents.

In addition to rewriting the law governing the process by which LegCo is elected, the Preparatory Committee has announced its intention to amend or repeal the Boundary and Election Commission Ordinance. This means that it the PLC will likely enact a new law governing the composition and powers of the election commission as well. The Boundary and Election Commission (BEC) is one of three government institutions responsible for elections, along with the Registration and Electoral Office (REO) and the Independent Commission Against Corruption (ICAC). It is not yet certain whether these agencies will continue to exist after reversion or what responsibilities they may have.

In their meeting with NDI, senior election officials from the Constitutional Affairs Bureau and the Registration-Election Office expressed confidence that future elections for LegCo representatives and the Chief Executive would be held in a timely and democratic manner. Many officials stated their expectation that the PLC would be dissolved and new elections held within 12 months of reversion, and the government bureaucracy as well as democratic activists urged the international community to insist on that length of time.

The Hong Kong election officials argued that the 35 percent turnout was respectable, given the context in which the elections took place, including the fact that people were electing, in effect, a watchdog body rather than a government. They thought Hong Kong voters had a good understanding of election mechanics, and they dismissed the

idea that the complicated registration process also held down turnout. They suggested that NDI could be helpful by providing information on comparative electoral systems.

Democratic LegCo members believe that the Chinese Government will manipulate the electoral system to prevent them from doing well in the elections. They argued that revisions to the election law will be widely viewed as an attempt to rig the system in favor of pro-Beijing candidates. Several suggested that the election law was providing the PLC with a reason to exist: although the Basic Law clearly gives the responsibility to revise these laws to the Preparatory Committee, the laws cannot be debated or enacted without a legislature. All stressed the need for an electoral system that allows all candidates to compete fairly.

#### **V. Political Parties and Other Political Organizations**

Hong Kong's political parties did not come into existence until the early 1990s, and while they continue to involve a only small number of activists, parties have become important actors in a short time. Some analysts from the diplomatic community thought the parties had responded to a difficult political situation and transformed themselves into much more professional bodies. At the same time, the parties lack identities beyond their leaders and tend to define themselves in terms of their relationships with Beijing and their feelings about business.

The Democratic Party and other pro-democracy LegCo members and activists share common goals and work loosely together. Even though the democratic camp has proven to be the most popular political grouping in Hong Kong, it includes only about 600 activists. The democratic camp comprises, among others, the DP and independent LegCo members Emily Lau, Christine Loh and Margaret Ng.

The DP is now chaired by Martin Lee, Hong Kong's most vocal and visible democracy advocate. While meeting with the team, Lee explained that the DP's primary interest was to have "the people of Hong Kong unite to support democracy" in a system that is -- and will be -- inherently flawed and undemocratic. He ascribed low voter turnout in 1995 to voter cynicism and difficult registration systems. When asked what NDI could do to assist the democratic process, Lee requested high-level delegations be sent to meet with various political actors. These delegations would continue to emphasize the need for democracy and transparency in the Hong Kong government and to focus international attention on whether the Chinese government is upholding its agreement to preserve Hong Kong's political autonomy. Lee indicated that the DP would try to remain intact after July and run candidates in future elections.

Although independents hold almost half the LegCo seats, they are not unified by any common ideology or platform. Many independents represent functional rather than geographic constituencies, and this tends to define their individual interests. Margaret Ng described party membership as a means of raising funds for campaigns rather than as a mechanism for advancing political issues. Ng represents the functional constituency for lawyers and is thus primarily interested in legal issues. Christine Loh launched a new political party, the Citizen's Rights Party, in early May. This party will focus on local issues, such as the environment, education and basic services. Emily Lau has organized an advocacy group called The Frontier, which is concerned with specific civil liberties laws. These include the right to free speech,

association and press, and the right to directly elect all officials through universal suffrage.

The Democratic Alliance for the Betterment of Hong Kong (DAB) is viewed as very close to Beijing. Tsang Yok-sing, who described himself as a "communist," is the DAB's chairman, and he was careful to point out to the NDI team that while DAB members proudly consider themselves Chinese, the party does not always agree with Beijing. Mr. Tsang explained that ". . . many in our party have suffered from China's bad choices." The DAB, which has approximately 4,000 members, was organized in the aftermath of Tiananmen Square. Tsang felt that Beijing's behavior had shocked and disappointed many in Hong Kong, and the founders of the DAB thought it important to rebuild bridges with the Beijing leadership rather than let relations falter. The DAB endorses the "one country, two systems" policy, but also feels that the growth of a free market in China will force a certain degree of political change in Beijing. The DAB was the only party to identify itself as "Chinese."

The Liberal Party (LP) is chaired by Allen Lee, and it too is viewed as pro-business and pro-Beijing. The LP is confident that Beijing "knows what Hong Kong wants." Lee explained that Hong Kong's future would be determined by political stability in Beijing, and that no one can predict that. Lee also suggested that, given the Democratic Party's alleged antipathy to China, its members should boycott all future elections as well as the PLC and permanently remove themselves from politics. Lee stated that "half of Hong Kong fears communists" and, with or without the Democrats, would not allow any significant political or economic changes to take place. The LP squarely places blame for the breakdown in Sino-British negotiations on Governor Patten, who, Lee claims, misunderstands China. When asked about Hong Kong's electoral system, Lee expressed frustration that several LP candidates had lost by a relatively small number of votes and argued, without a hint of irony, for a different system that would make it easier for them to get elected. He also argued that direct elections for all seats was not a good idea.

## **VI. Civil Liberties and Rule of Law**

In the reaction to the Chinese government's violent suppression of the 1989 Tiananmen protest movement, concern that such political repression could occur in Hong Kong after reversion grew, both in the territory and in Britain. On April 4, 1990, the day that Beijing voted on the Basic Law, LegCo publicly called for the colonial government to enact a bill of rights for Hong Kong and to amend the electoral system to increase democratic representation in the territory's government. While the British colonial government had long resisted a Bill of Rights as unnecessary, after Tiananmen the government moved quickly to enact a Bill of Rights. The Bill, adopted by the LegCo in 1991, incorporated the provisions of the International Covenant on Civil and Political Rights (ICCPR) and made them the law of Hong Kong.

After enactment of the Bill of Rights, the British colonial government reviewed the statute books and determined that a large number of existing laws were inconsistent with the Bill of Rights. Accordingly, the government repealed or revised those laws. The Chinese government has argued that these changes violate the principle of the Joint Declaration that Hong Kong's legal situation was to remain essentially unchanged.

In January 1996, the Preparatory Committee announced plans to

repeal or amend a number of laws and articles written after enactment of the Bill of Rights. It later scaled back the number of laws it intended to change, evidently in response to criticism of its initial proposal. Recently, Chief Executive Tung's office issued a consultation paper articulating the NPC's proposed amendments to the Public Order Ordinance and the Societies Ordinance. Included among proposed changes were the reinstatement of police authority to regulate public demonstrations and government authority to regulate the registration of societies, and limitations on the associations that political organizations could have with organizations abroad.

The Chinese government has also proposed to revise the Bill of Rights ordinance to remove the clauses that, Beijing argues, imply the bill would supersede the Basic Law. Beijing claims that the Bill of Rights Ordinance, because it would overrule laws inconsistent with its provisions, purports to be higher law than the Basic Law itself and is thus unconstitutional. Moreover, Beijing points out, the Basic Law already .

These changes arguably do not give Hong Kong's new authorities any greater power to interfere with the civil liberties of the territory's residents than had the British authorities before legal amendments in the 1990s. But signals suggesting that China is cutting back on existing protections for human rights understandably provide serious cause for concern and suggest an official attitude that is hostile to civil liberties. Together with the creation of an illegitimate Provisional Legislature and official statements suggesting lack of understanding of freedom of speech concerns (see below), these arguably technical changes to the laws affecting civil liberties may well be a harbinger of future problems.

The nature and extent of Chinese interference in the freedoms of Hong Kong will only become clear over time. While China ultimately will be able to do what it wants in the territory, Chinese authorities will have to act through Hong Kong institutions. It is the Hong Kong SAR government and police that have the power to enforce Hong Kong laws and Hong Kong courts that will apply and interpret those laws. This is why the independence and professionalism of the judiciary and other governmental institutions is so critically important and bears careful scrutiny over time.

#### *Media Freedom and the Problem of "Self-censorship"*

The team heard significant concerns about erosions in the freedom of the press and freedom of speech. Many observers believed that "self-censorship" was increasingly apparent and serious.

Several prominent journalists felt the most serious problem facing the Hong Kong media was the mindset of media company owners. These individuals seem to focus on short-term business concerns and pay little heed to concerns about professionalism and journalistic independence. They are allowing controversial stories to be kept out of the papers and are encouraging, in the words of one observer, "difficult issues to be made simple." One analyst felt that journalists are already acquiescing to pressures from editors and from Beijing. He worried that pro-democracy figures will simply disappear from the media; after July they will simply cease to be covered. Several people cited the case of Jimmy Lai, who owns the Apple Daily, a newspaper known for criticizing Beijing. Lai was excoriated in the Chinese press, and his other business interests have been affected substantially.

Many Hong Kong newspaper owners fear incurring the wrath of Beijing and the potential effects on other business interests.

The Hong Kong Journalists' Association (HKJA) cited several problems. The HKJA representatives that team members met with likewise felt that editors are now burying more controversial stories in the back pages of newspapers, or simply not publishing them. They also noted a problem of "whitewashing" stories, pointing out that Tiananmen Square is now referred to in Hong Kong papers as "an incident" or "a protest" as opposed to "a massacre." The journalists felt this problem will only worsen over the coming years.

The HKJA representatives also expressed serious concern about statements made by senior Chinese officials purporting to distinguish reporting from "advocacy." Lu Ping, Director of China's Hong Kong and Macao Affairs Office, for example, stated in a public interview that the Hong Kong media would be able to cover stories about Taiwan or Tibet but could not "advocate" on their behalf. Chinese Foreign Minister Qian Qichen has indicated that journalists would not be free to criticize leaders in Beijing, stating that they will not be allowed to "spread rumors and lies" about Chinese officials. Requests for clarification on this subject have been ignored, and journalists are left to wonder if what they are writing will be found offensive. The HKJA has requested meetings with Chief Executive-designate Tung, but has yet to see him.

The team also raised questions about the long-term commitment of the foreign press and the quality of its coverage. The HKJA representatives feared that the world would lose interest in Hong Kong after July and that ties to the Hong Kong media would erode. They felt it was possible that if Beijing perceived foreign coverage to be too negative, certain journalists would not be allowed entry into Hong Kong. One observer felt international coverage was coming under the same influence as the local press and that articles were getting progressively less critical. Another observer, however, felt that international media coverage of Hong Kong missed some of the complexity of the situation and was perhaps overly alarmist.

#### *Issues Related to Article 23 of the Basic Law*

One major concern about working in Hong Kong is that Article 23 of the Basic Law prohibits Hong Kong political organizations from having "ties" with external political organizations. Article 23 also forbids Hong Kong residents from subverting the Chinese government. This provision was Beijing's response to the support, particularly financial support, that Hong Kong residents lent to participants in the 1989 Tiananmen protest movement.

Last month, Tung's office proposed amendments to the Societies Ordinance that would give teeth to Article 23, defining its limitations in more concrete terms. A political organization is defined as any group that "directly participates in political activities relating to government institutions and comments on public affairs as their main objective." An external group includes international organizations, foreign political parties and foreign governments or their instrumentalities. Groups from Taiwan are also considered external but those from mainland China are not. "Ties" constitute "soliciting or accepting financial assistance, directly or indirectly," a society's management being "controlled, directed, dictated, influenced or participated" by external groups or "collaboration" to determine a society's policies.

The Article 23 issue came up in virtually all of the team's discussions, although reactions and levels of concern varied. Certain democrats thought that it was too early to tell how the provisions would be interpreted, but suggested it would be wise to strengthen Hong Kong's ties with the international academic community, which would presumably be less controversial. Others suggested they could not even discuss the Article with the NDI delegation for fear of repercussions. There were a number of interpretations of the Article's impact on relations between political organizations in Hong Kong and abroad. One LegCo member suggested it would bar any "affiliation" between Hong Kong groups and groups abroad; another argued it merely would ban foreign funding. One political party official seemed to think Article 23 was not worth much concern at all.

Journalists' understandings of the Article similarly varied. One journalist thought that Article 23 was already consistent with established law and therefore anticipated no changes in terms of Hong Kong's political links. Another did not seem concerned that Article 23 might be applied to his organization. But the Hong Kong Journalists' Association expressed concern about how the Article would be interpreted.

A representative of Human Rights Watch/Asia explained that it would wait and see the legislation proposed to implement the dictates of Article 23 before making any public statement. HRW/Asia has, like the DP, registered as a corporation. The Hong Kong Human Rights Monitor, which is a grantee of the National Endowment for Democracy, felt that the Article's interpretation would require several court cases before the parameters become clear.

Several academics told the NDI team that a strict interpretation of the Article would have very negative implications for academic exchanges. They predicted that in such an environment, Hong Kong academics who continued to associate with foreign colleagues could be denied tenure, promotions or opportunities to serve as consultants for private businesses -- a very subtle means of stifling dissent.

## **VII. Some Other Reflections**

### *July 1, 1997: a Transformation to a Center for Subversives?*

While there is not widespread panic in light of Hong Kong's imminent reversion to Chinese sovereignty, there is uncertainty and concern about Hong Kong's post-July future.

One message was that Beijing wants to prevent Hong Kong becoming a "political city," one of subversive influences that could easily permeate the border with China. Beijing's fear of this is not entirely unfounded, as the colony has long served as a refuge for those fleeing China. This trend began with the fall of the Qing dynasty in the early 20th century, continued through the chaos of China's civil war in the late 1930s and early 1940s, resumed during the 10 years of China's Cultural Revolution (1966-1976, a period during which a large area of the New Territories became an actual refugee camp), and surged again after the Tiananmen Square demonstrations in 1989.

History does not suggest that a majority of those who came to Hong Kong during these waves continued to be or became overtly political. With the exceptions of small Kuomintang contingents in the 1940s

and a handful of intellectual or student dissidents during and after the 1989 Tiananmen protest movement, quite the reverse seems to be true: most of Hong Kong's vocal critics of Beijing are Hong Kong natives who are not immediately connected to any of these events. The team's general assessment was that Hong Kong residents' general political satisfaction is based on a strong economy and the quality of basic services.

Will Beijing's attempts to curtail civil liberties -- the right to free speech and the right to organize demonstrations, for example -- provoke this population? Will broader interpretation and stricter enforcement of treason and subversion laws become a catalyst? It is almost impossible to guess at what, if anything, will incite Hong Kong residents to a degree that Beijing will find intolerable. The proposed restrictions on various liberties have primarily been decried by a small but visible group of pro-democracy politicians and organizations. One public opinion poll taken in February 1997 showed 85 percent of the respondents saying they were only slightly worried about personal freedoms after July 1.

Beijing's continued efforts at reinstating restrictive laws, then, appear to be disproportionate. The PRC seems convinced that Hong Kong is -- or could easily become -- "a hotbed of political dissent" that could subsequently spread into the mainland. Pro-democracy activists in Hong Kong feel the population should continue to be as political or apolitical as it chooses and that any sign of scrapping rights and freedoms will only provoke people to react in precisely the way Beijing does not want them to.

#### *The Fate of the Golden Goose*

Throughout its time in Hong Kong, the NDI team was reminded of American political strategist James Carville's mantra for the 1992 Clinton campaign: "It's the economy, stupid." Hong Kong currently has US\$65 billion in reserves, and no one wants to jeopardize that wealth. Political confidence is not usually measured by public opinion polls but by the Hang Seng stock index, which has continued to hit record highs.

Most people agreed that Beijing would be foolish to harm Hong Kong's unparalleled economic strength, but this has brought to the fore many questions about why the colony has been so prosperous. Those who felt Hong Kong had made its fortune on sheer hard work and cheap, skilled labor were considerably less concerned about potential losses of civil liberties. Some of these people felt Hong Kong residents would accept a Singapore or Shenzhen-style government and political environment. Those who see Hong Kong's economy as dependent on free access to and other markets are worried about future stability. Hong Kong's economy continues to become more technology-oriented, and as its attraction as a center for cheap, skilled labor is dramatically diminished as compared to that of its new sovereign, it will become even more dependent upon free access to information. A senior advisor to Governor Patten expressed the widespread feeling that "Hong Kong cannot be lobotomized and still be expected to lead the global economy."

China's recent economic boom has not exclusively been a result of a suddenly freed market. Much of the wealth is largely a result of a vast labor pool and a poor regulatory structure. Beijing does not have much experience accommodating or nurturing a truly free market economy, and thus, it is wary of one of the world's most free markets

and its inherent qualities. Many are concerned that Beijing will fail to understand what is needed to protect Hong Kong's economic success.

#### *Maintaining Pressure for Democracy and Civil Rights*

NDI team members came away with the impression that the Chinese government may be sensitive to outside opinion and to pressure from within Hong Kong. Several people suggested, for example, that it seemed to now recognize -- given the extent of the local and international outcry -- that the Provisional Legislature was a mistake. Chinese Foreign Minister Qian, for example, in a 1996 press interview said of the Provisional Legislature's establishment "we have cooked our meal and now we must eat it." There have been other mildly encouraging signs among the discouraging ones: Tung has, for instance, essentially maintained the senior civil service in place and appointed a well-respected local judge, Andrew Li, to the position of chief justice in the HKSAR's highest court.

As the future reality of Hong Kong emerges from the give and take of local politics and international diplomacy, it is important for all those concerned about democracy and civil rights in Hong Kong to monitor and actively engage the HKSAR government and Beijing. This means that political organizing inside Hong Kong will be important, as political parties and pressure groups organize themselves to respond to issues of concern or to develop new strategies for promoting their interests. Among other things, both local and international advocates of democracy must support early elections under fair rules and should do everything they can to limit the activities and scope of the Provisional Legislature. International and local actors must also work to protect and expand political organizations.

Political organizing is especially important because the threats to democracy in Hong Kong, while extremely serious, are not likely to be entirely overt. Chinese interference with Hong Kong democrats and human rights advocates may not be especially heavy handed. But it must be countered nevertheless, and a successful democratization strategy for the territory will require political sophistication and sustained attention to the situation over an extended period of time.

#### **VIII. Possible Program Options for NDI**

Virtually all democratic activists and party leaders urged NDI to support democracy in Hong Kong by maintaining its interest and mobilizing others in the international community, and some also came up with or reacted favorably to specific program ideas. NDI has considered a range of potential program ideas including working on monitoring the development of the 1998 election system, grassroots organizing with local NGOs and political parties, and working with local elected officials.

It may well be difficult for NDI to have much opportunity for input on the new election law. After an hour long meeting, election officials warmed to the idea of NDI's technical assistance, but were unsure of the means of affecting a process taking place, at least before July 1, in Shenzhen. Several party representatives and LegCo representatives encouraged NDI to send monitors on election day and particularly supported the idea of monitoring the development and implementation of the law and the campaign period.

Additional suggestions from LegCo representatives included organizing a roundtable discussion of academics and practitioners to

talk about international electoral standards and comparative election systems or the role of women in local politics, and developing a program to work with local elected officials. One senior Hong Kong official also endorsed strengthening the territory's political and academic ties to the international community.

From these discussions, NDI has distilled the following program ideas:

1. *Monitoring the Development of an Election Framework.* NDI is now organizing an ongoing program to monitor the development of an election framework for the legislative council elections expected in the first half of 1998, including one or more pre-election missions in the second half of 1997 to assess whether the proposed election framework is consistent with international norms. NDI also expects to organize a seminar that would draw on experiences from other countries. Since the Basic Law provides for additional revisions of the election framework for future elections, this issue will continue to be important in the future. A program that monitors the development of an election framework will also help inform the strategy of pro-democracy activists with respect to election issues.

2. *Working with Local Elected Officials.* Working with existing democratic political organizations, NDI could also convene one or more workshops with elected District Board representatives in an effort to improve their political organizations and organizing skills. Such programs could help local officials to better address the concerns of their constituencies and to more effectively monitor the impact of government policy on their constituents. As local elected officials and political organizations gain political sophistication and confidence, they become more effective at developing and articulating policies that empower the public and provide alternative, democratic centers of political power.

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