

POLITICAL REFORM IN HONG KONG:

A COMMENTARY

by Peter Barry

With the Hong Kong government's publication of a Green Paper The 1987 Review of Developments in Representative Government at the end of May, (nearly ten years to the day before China is to regain sovereignty over the territory), discussion of political reform in Hong Kong began in earnest. The Paper consists of 170 paragraphs under the following seven chapter headings: Introduction, Historical Background, the District Boards and the Municipal Councils, The Legislative Council, The Practical Aspects of Elections and Final Summary. Although the Paper itself mentions a variety of possibilities regarding future political structures in Hong Kong, outside discussion has zeroed in on the question of direct elections of a certain number of members to the Legislative Council in 1988. A survey office has been set up to collect public opinion on the paper, and Hong Kong people have until September 30, 1987 this year to submit their views.

Arguments for and against direct elections in 1988 have centered on the question of whether or not such an action "converges" with the Basic Law, which is now in the process of being drafted and is scheduled to be finalized in 1990. Representing an opposing point of view on general elections is Mr. Li Hou, deputy director of the Chinese government's Hong Kong and Macao Affairs Office and secretary general of the Basic Law Drafting Committee, who, in the middle of June, was quoted in Outlook Weekly (an official mainland publication) as saying that if elections were held in 1988, they would naturally not "converge" with the Basic Law. He was also quoted as saying that such elections would not be in accordance with the spirit of the Sino-British Joint Declaration on the Future of Hong Kong, which was signed by both governments in December of 1984. The New China News Agency reported Mr. Li's remarks a few days before the publication of Outlook Weekly, leading to an immediate uproar in the Hong Kong press.

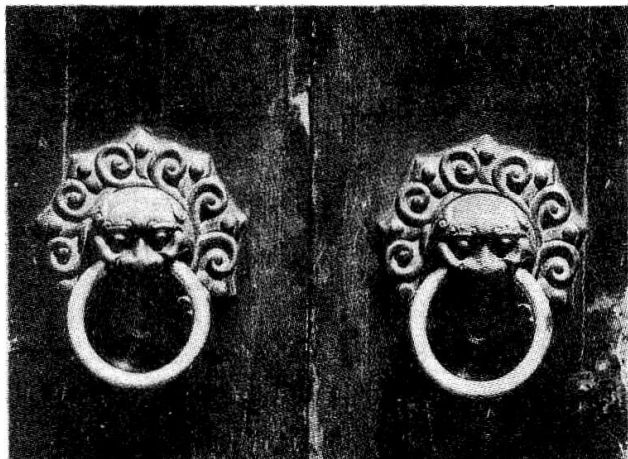
After a whirlwind visit to Hong Kong by Chinese Foreign Minister Wu Xueqian on the weekend of June 20, Li Hou made a public retraction of part of his original statement. He denied saying that elections in 1988 would be against the spirit of the Joint Declaration. He does not like to use this kind of terminology, he added. That direct elections in 1988 are not in strict accordance with the letter of the Joint Declaration would perhaps have been a more accurate statement of his views, for although the Joint Declaration does contain the line: "The legislature of the Hong Kong Special Administrative Region shall be constituted by elections," it does not state what kind of elections (direct, indirect, by an electoral college or by consensus), nor does it give a date when such elections will begin to be held.

This was not the first time that a high Chinese official had spoken out against the political reforms taking place in Hong Kong. On November 21, 1985, Mr. Xu Jiatusun, director of the Hong Kong branch of the New China News Agency, at a press conference called by him, held up a copy of the Joint Declaration and said that some parties were not carrying out their work in accordance with it. He warned that drastic changes in representative government in Hong Kong could present problems of incompatibility with the final version of the Basic Law, which was then only in its initial drafting stage. Mr. Xu's statement was no doubt prompted by certain changes which had already taken place in Hong Kong political structures including the first election of 24 members from "functional" and "geographical" constituencies to the Legislative Council in September, 1985.

Others who have spoken on the need for "convergence" of political reform and the Basic Law over the last few years are Ji Pengfei, who is chairman of the Basic Law Drafting Committee, Lu Ping, Secretary-general of the same committee, and, most important of all, Deng Xiaoping himself. On April 17, 1987, in a conversation with the Basic Law drafters in Beijing, Mr. Deng wondered outloud whether direct elections would necessarily produce people who would be patriotic towards both China and Hong Kong to rule over Hong Kong. His statement, framed in the form of a question, apparently does not proscribe direct elections completely in the future. Regarding political changes in Hong Kong, Mr. Deng praised the April 9th inaugural speech of Sir David Wilson, the new governor of Hong Kong, in which Sir David said that such changes should be "prudent and gradual."

Chinese spokesmen seem to demonstrate a fear of being taken advantage of when they express doubts about the current political reform being in accordance with the terms of the Joint Declaration. This is

perhaps understandable given China's negative experience in the 19th century with problems of interpreting the terms of the "unequal treaties" with the foreign imperialist powers. Nevertheless, the Hong Kong government apparently feels that current reforms do not violate the terms of the Declaration. It states clearly in paragraph two of its Green Paper that it "takes into account the terms of the Sino-British Joint Declaration on the question of Hong Kong."



What terms of the Joint Declaration do the Hong Kong government, and for that matter all promoters of direct elections, have in mind when they talk about political reforms being in conformity with it? In addition to the line quoted above (The legislature of the HKSAR will be constituted by elections), they must have in mind the following phrases from paragraph three of the Joint

Declaration: "The Government of the People's Republic of China declares that the basic policies of the PRC regarding Hong Kong are as follows: The HKSAR will enjoy a high degree of autonomy, except in foreign and defense affairs which are the responsibilities of the Central People's Government...The laws currently in force in Hong Kong will remain basically unchanged...The Government of the HKSAR will be composed of local inhabitants...The current social and economic systems in Hong Kong will remain unchanged, and so will the life-style."

The above policies are to be enshrined in a Basic Law, according to the Joint Declaration: "The above-stated basic policies of the People's Republic of China regarding Hong Kong, and the elaboration of them in Annex I to this Joint Declaration, will be stipulated in a Basic Law of the HKSAR of the People's Republic of China by the National People's Congress of the PRC, and they will remain unchanged for 50 years." Annex I further states: "The National People's Congress of the PRC shall enact and promulgate a Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter referred to as the Basic Law) in accordance with the Constitution of the PRC, stipulating that after the establishment of the HKSAR the socialist system and socialist policies shall not be practiced in the HKSAR and that Hong Kong's previous capitalist system and life-style shall remain unchanged for 50 years."

Paragraph four deals succinctly with Britain's role during the transitional period, i.e. between the time of the signing of the Declaration and 30 June 1997: "The Government of the United Kingdom will be responsible for the administration of Hong Kong with the object of maintaining and preserving its economic prosperity and social stability." Apparently, the Chinese side felt this meant that no changes were to take place in Hong Kong's political structures between December 19, 1984 when the Joint Declaration was signed and sometime in 1990 when the Basic Law would be promulgated. However, from its side, the Hong Kong government sees the latest Green Paper proposals as part of an on-going process of developing representative government, which in the "historical background" section of the Green Paper, it dates back to before 1970.

Prior to 1970, the Green Paper points out, a formal system of consultation began between the government and rural committees, such as the Heung Yee Kuk in the New Territories and the Urban Council in the urban areas. This was expanded to include the formation of a Legislative Council of 25 appointed members in 1970, whose membership was increased to 44 in 1980. Following the publication of a White Paper in 1981 district boards were set up in the eighteen administrative regions of Hong Kong, Kowloon and the New Territories. The stated purpose of the district boards was to provide "wider involvement of Hong Kong people in administration." By 1985, the number of elected members to the district boards had doubled, so that today, of the 426 members of the present 19 district boards, 237 are directly elected, 132 appointed and 57 are ex-officio. The first election of members to the Legislative Council took place in September 1985, and 12 members representing nine so-called "functional constituencies" were elected. A further 12 members to represent "geographical constituencies" were selected by an electoral college made up of all the district board members and the members of the Urban and Regional Councils. Today the Legislative Council consists of 10 official members, 22 appointed members and 24 elected members, or a total of 56 members altogether.

Paragraph 107 of the current Green Paper spells out the options for 1988: (i) that direct elections to the Legislative Council are not desirable; (ii) that in principle some element of direct elections is desirable, but that they should not be introduced in 1988; (iii) that a directly elected element should be introduced in 1988, in addition to the existing categories of members, through either a single territory-wide constituency or a number of geographically-based constituencies; (iv) that there should be an element of directly elected members in 1988 as in option (iii), but that they should replace those members elected by the geographical constituencies of the electoral college.

It is my considered opinion that all of the parties concerned - the governments of China, Great Britain, and Hong Kong, and the inhabitants of Hong Kong both Chinese and expatriate alike - are in agreement on one vital point: the need and desire to preserve the stability and prosperity of Hong Kong. However I also believe, contrary to the view expressed by those opposed to direct elections, that to have direct elections would do more to promote that stability and prosperity than not to have them. I think everyone would also agree that in addition to the financial investment of a rich minority, Hong Kong's present stability and prosperity is due in large measure to the energy and initiative of the ordinary Hong Kong people. However, if confidence in Hong Kong's future erodes, many of the skilled professional people needed to maintain the present level of stability and prosperity will emigrate, and the initiative of those who remain behind will be stifled. Hong Kong's stability and prosperity would then be undermined. To offset such an eventuality, direct elections to a legislature which would "enjoy a high degree of autonomy" could bolster the people's confidence in the future, thereby safeguarding Hong Kong's stability and prosperity.

The unfortunate reality is that confidence in the future has already begun to erode. One reason for this, I think, is that Hong Kong people feel that in all the deliberations which have either taken place so far or that are currently taking place, their opinions have not been sought nor has their voice been heard. They feel that everything is being arranged for them without any input from themselves. Their lives and futures are not in their own but someone else's hands. The Joint Declaration itself was formulated without their input, and the Basic Law is also being drafted virtually without their input. At one point in the early 80's, when China and Britain were still hammering out the contents of the Joint Declaration, a reporter asked Governor Youde as he was leaving Kaitak airport for a Joint Declaration session in Beijing: "Who represents the people of Hong Kong?" "I do," the Governor replied. But once in Beijing Governor Youde was publically corrected by the Chinese authorities who told him that he only represents Britain, and that the agreement over Hong Kong was to be settled by the two governments alone. The views of the Hong Kong people had no bearing on the deliberations.

For the drafting of the Basic Law, a Basic Law Drafting Committee comprising 59 persons was nominated by the Chinese authorities and approved by the National People's Congress in June of 1985. Of the 59 members, 23 are from Hong Kong and the rest are from mainland China. Their task is to draft the "mini-constitution" which will have the force of law in Hong Kong after 1997. In November 1985, a parallel body of

180, mostly Hong Kong residents, called the Basic Law Consultative Committee, was set up for the purpose of gathering the opinions of the Hong Kong people regarding the contents of the Basic Law. These opinions, they were told, would be passed on to the Basic Law drafters.

However, it seems that the ideal has not worked out in practice. The members of the consultative committee complain that the drafters do not consult them. Of course, there is also the problem of apathy among the consultors themselves: many are guilty of absenteeism. Consultors also complain of not being able to obtain copies of relevant portions of Basic Law drafts about which they are to be consulted. On the level of the Drafting Committee, it seems to this writer that of the 23 Hong Kong members only two or three speak up during the meetings on behalf of possible concerns of the Hong Kong people. The others seem to accept without comment the proposals made to them by the Beijing members of the committee, and they give every indication of merely rubber-stamping Beijing's proposals. It seems that the views of the Hong Kong people regarding the contents of the Basic Law are neither sought out nor listened to. While it might not seem necessary from a legal point of view for the Basic Law drafters to consult all levels of Hong Kong society on the content of the Basic Law, from a human point of view they ought to do so, if only to bolster Hong Kong people's confidence in the future. The lively discussion sparked off by the Green Paper is perhaps an indication that the voice of the Hong Kong people has been restrained for too long. Now at last they have an opportunity to express their opinions publically.

It is not a question of sovereignty. For the most part Hong Kong's people agree that sovereignty over Hong Kong should revert to China. However, it must be admitted that some apprehension exists about the political style of the ruling Party in China, which tends to act by decree on what the Party feels the people need. Sometimes it is difficult to separate what is good for the people from what is good for the Party. Perhaps the separation of government and Party power advocated in a speech by Deng Xiaoping in 1980, and reprinted in the July 1, 1987 issue of People's Daily on the 66th anniversary of the founding of the Chinese Communist Party is relevant here. The implementation of this could relieve the congestion caused by such bottlenecks as government bureaucratism, and thereby allay some of the fears of the Hong Kong people.

Nor should China have any doubts about the patriotism of the Hong Kong people. They love their motherland, and want to see her develop into a strong and modern nation alongside the other nations of the

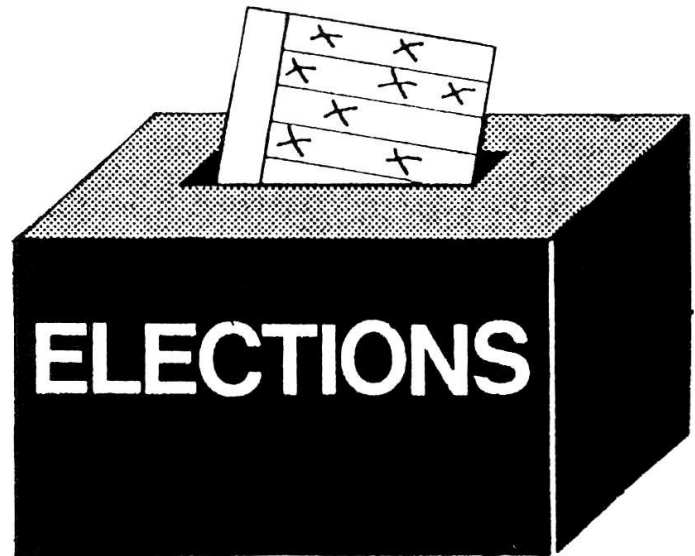
world. One has only to observe the millions of Hong Kong citizens crossing the border every year laden with gifts for their friends and relatives to realize this. This is in addition to the monthly remittances sent through mainland banks, often at great personal sacrifice, to family members in China numerous times throughout the year.

As for the question of direct elections itself, many authoritative sources could be cited in support of such a practice. For instance, the "Universal Declaration of Human

Rights," issued by the United Nations on December 10, 1948, says this: "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives," and "The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures." (Article 21)

The Church, too, has expressed its support for this basic right of man - a right that has its origin in the dignity of human nature - to participate in government by selecting those who are to govern him. I cite just one passage from the Pastoral Constitution on the Church in the Modern World issued by Vatican Council II in December, 1965:

It is in full accord with human nature that juridical-political structures should, with ever better success and without any discrimination, afford all their citizens the chance to participate freely and actively in establishing the constitutional bases of a political community, governing the state, determining the scope and purpose of various institutions, and choosing leaders. Hence let all citizens be mindful of their simultaneous right and duty to vote freely in the interest of advancing the common good. (para.75)



In light of the arguments and authorities cited above this writer feels that the direct election of a certain proportion of members to the Legislative Council in 1988 (pro-election advocates speak in terms of 20-25%) is both reasonable and desirable. It is in accordance with the "high degree of autonomy" to be enjoyed by the Hong Kong Special Administrative Region mentioned in the Joint Declaration, and in line with phrases used by the Chinese authorities themselves when they describe the future Hong Kong reality as "one country, two systems" and "Hong Kong people ruling Hong Kong." 1988 is a better time to begin than 1991 (after the formulation of the Basic Law in 1990) because it provides more time before the 1997 changeover for the local people to become accustomed to the democratic process.

What has to be kept in mind in the whole discussion of political reforms is the uniqueness of Hong Kong's situation. The transfer of sovereignty which will take place in 1997 is really unique in world history. To my knowledge, it is unprecedented. In previous transfers of sovereignty, the colonial power handed over the reins of government to an independent locally elected leadership. But in Hong Kong's case, the territory reverts to the sovereignty of a previous owner; the territory itself does not become independent. What makes the situation even more singular is that the new "owners" represent a socialist political and economic system, while Hong Kong is to retain its capitalist one. Chairman Deng Xiaoping expressed his recognition of the uniqueness of the situation when he told the Basic Law drafters last April, "In brief, the 'one country, two systems' policy is something new to us, and new events may occur from time to time which are beyond our present projections."

Unique situations demand unique responses. Adjustments have to be made by all sides, or else the fragile reality described in the terms "the stability and prosperity" of Hong Kong will come apart at the seams. The encounter between different systems was experienced in the early days of Christianity in reference to traditional Judaism. Perhaps the words Jesus used at that time might be appropriated to stress the need for extreme care in our present situation. "No one patches up an old coat with a piece of new cloth, for the new patch will shrink and make an even bigger hole in the coat. Nor does anyone pour new wine into used wineskins, for the skins will burst, the wine will pour out, and the skins will be ruined. Instead new wine is poured into fresh wineskins, and both will keep in good condition." (Matt. 9:16-17)