

HONG KONG: THE MAKING OF A MODERN CITY-STATE

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1.0 INTRODUCTION

City-States are typically defined as “an independent political unit consisting of a city and surrounding countryside”.² They reached their peak in ancient Greece, although a number, like Florence, Venice and Genoa endured in Italy until the middle of the 19th century. Bremen and Hamburg also retained this status until they were absorbed into the modern German State.³

In the period since the end of World War II, in 1945, two City-States have thrived in East Asia; Singapore and Hong Kong. Both owe their modern beginnings to their choosing, by the British, as key ports servicing the trading and military needs of the 19th century, British Empire. The British, the leading imperial and maritime power of that era, were attracted by the safe anchorages offered by the deep waters surrounding both Singapore and Hong Kong.⁴

In this article I examine the creation and development of the modern City-State of Hong Kong.

Prior to the arrival of the British in 1841, Hong Kong was home to a series of scattered Chinese fishing and farming communities. For over 150 years, the British maintained Hong Kong as an enclave, plainly separated from Mainland China in many ways. In July, 1997, sovereignty over Hong Kong reverted from the UK to the People’s Republic of China (PRC). We are approaching the 10th anniversary of Beijing’s resumption of dominion over what is now the Hong Kong Special Administrative Region (HKSAR) of the PRC. Notwithstanding Hong Kong’s return to the “motherland”, the bustling city at the mouth of the Pearl River, remains a very separate enclave within China. Hong Kong, today,

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² See, <http://www.answers.com/topic/city-state>. (See, too: Glotz, G, *The Greek City and Its Institutions* (Knopf, New York, 1951 (reprinted 1969)); and Ehrenberg, V., *The Greek State* (2nded.) (Methuen, London, 1969 (reprinted 1972)).

³ <http://www.answers.com/topic/city-state>.

⁴ Moreover, they possessed the military might to assert their interest.

operates as a City-State within the most populous nation on Earth (and within the largest one party state the world has ever seen).

Hong Kong has had to grapple with all manner of challenges over the last 100 plus years, relying, for the greater part, primarily on its own local resources. By one count, these are minimal. The most striking natural resource is the large, deepwater harbour (which so attracted the British in the 1840s). Next, there is the geographical location. Nowadays, around 50% of the world's population resides within 4 hours flying time. Few other places hold a better claim to being at a "cross-roads" location. Hong Kong's most significant asset, though, has been its largely Chinese, local population.

My aim in this article is to explain why Hong Kong has been able to survive and thrive as a City-State over the course of its remarkable modern history. Directly below, I place the more recent political-economic developments in Hong Kong within a briefly outlined, historical context. In the course of the article, I also look at the constitutional documentation on which the political structure of this modern City-State has been based. Hong Kong's documented constitutional status has been important – and is particularly so today, following the reversion of sovereignty in 1997. A range of other factors need to be examined in some detail to demonstrate the context of Hong Kong's constitutional history, however. It is these factors, as the article explains, which have played the major role in shaping Hong Kong's experience as a City-State.

2.0 FROM FISHING VILLAGE TO FINANCIAL CENTRE

2.1 A New City-State Emerges

Prior to the British acquiring Hong Kong Island in 1842 under the Treaty of Nanking (now Nanjing)⁵ it was part of a far flung outpost within Imperial China and home to a number of small fishing communities.⁶ The Treaty of Nanking, along with almost all other "Treaties" signed by the Chinese under (mainly) European pressure particularly during the 19th century, were all regarded as "unequal" and therefore not recognized by China as proper Treaties.⁷

⁵ The romanized versions of Chinese place names vary in their spelling significantly. This is the result of historical practice. A range of different romanization systems having been used over many years. The older systems, the most common of which is the "Wade-Giles" system, have given us Nanking and Peking. The new system developed and introduced in Mainland China after 1949 is known as "Pinyin" and it has given us the alternatives of Nanjing and Beijing.

⁶ See, http://en.wikipedia.org/wiki/History_of_Hong_Kong.

⁷ See, Kimura, Ehito, *The New Unequal treaties*, The Bangkok Post, January 22, 1998, at http://www.geocities.com/rainforest/7813/0206_imf.htm. See, also, Wesley-Smith, Peter, *Unequal Treaty 1898-1997: China, Great Britain and Hong Kong's New Territories*

The British took possession of Hong Kong Island after what is known as the First Opium War (1837-1842). The British, as a result of their success in this war, were able to force Imperial China to open its doors to trade and, especially, to trade in opium. The British were able to provide the opium from India. They needed a new item of trade as there was much they wanted from China (porcelain, fabrics and so on). Opium is addictive, so, once its sale became established, demand increased. There was also, as one might expect, an ample supply of local merchants within China happy to profit from the trade. The established view is that the war was fought by the British to put a stop to Chinese attempts to curtail the British export of opium to China. At the height of this trade, opium was said to be the largest single article of commerce in the world.⁸

Hong Kong became a Crown Colony within the British Empire with a constitution provided in the Letters Patent⁹ (and Royal Instructions) issued through the Privy Council in London.¹⁰ This was the customary method the British used for providing constitutional underpinnings to colonies like Hong Kong.¹¹ Such colonies remained subject to the operation of the direct application of UK law in certain circumstances and their own law making powers were limited, normally, to laws having effect within the specific colony. Other larger, usually “white” dependencies within the British Empire, like the Australian colonies, were provided with Westminster enacted constitutions and full parliamentary systems of elected government.¹² The Letters Patent for Hong Kong, which were subject to a number of amendments, remained Hong Kong’s primary constitutional document until the change of sovereignty in 1997.¹³

The Second Opium War was fought by the British from 1858-1860 after further Chinese resistance to the trade. In 1860 the British took possession of the Kowloon Peninsula and Stonecutters Island, directly north of Hong Kong Island under the First Convention of Peking. As in the case of Hong Kong Island, the

(Oxford University Press, Hong Kong, 1983). Imperial Japan also invaded and increasingly colonized much of China over the period from 1895 – 1945. See, Oxford Paperback Encyclopedia (Oxford University Press, Oxford, 1998) 730.

⁸ Morris, Jan, Hong Kong: Epilogue to an Empire (Penguin, London, 1990) 22. For an alternative view of the role of the opium trade in triggering the war, see, *China and British Imperialism: Revenge is Sweet*, The Economist, September 4, 1993, 91-92.

⁹ See, Letters Patent, at: http://en.wikipedia.org/wiki/Letters_patent.

¹⁰ The history and important operational aspects of Hong Kong’s constitutional documentation under British rule are explained well in Ghai, Yash, Hong Kong’s New Constitutional Order (2nd ed.) (Hong Kong University Press, Hong Kong, 1999) Chapter 1. See, also, Hong Kong Basic Law, at: http://en.wikipedia.org/wiki/Basic_Law_of_Hong_Kong.

¹¹ See, Letters Patent, at: http://85.1911encyclopedia.org/L/LE/LETTERS_PATENT.htm. See, also, <http://www.parliament.uk/commons/lib/research/notes/snpc-3708.pdf>.

¹² For a typical example, see, Victoria (Australia) at: http://en.wikipedia.org/wiki/Victoria_%28Australia%29.

¹³ Hong Kong Basic Law, op. cit. note 10.

area was ceded, under this new Treaty, to the UK in perpetuity. The British now enjoyed much more complete control of Hong Kong's Victoria Harbour.

In 1894-1895, modernizing, highly militarized Japan inflicted another defeat on China. Japan took control of Taiwan at this time and various European powers (including the UK) moved in to obtain further concessions from China.¹⁴ In 1898, the British obtained a 99 year lease of the "New Territories" under the Second Convention of Peking. This added a large area north of the Kowloon Peninsula plus a number of nearby islands to the existing Crown Colony. The land area of Hong Kong was increased to just over 1,000 square kilometres – the same as its area today. The population at this time was around 250,000.¹⁵

In 1912, the decaying Qing dynasty finally collapsed and the Republic of China was established under its new President and pre-eminent "founding father" Sun Yat-sen. Overall, British Hong Kong continued to prosper though it endured difficult periods during the 1920s and 1930s.¹⁶ Over the same period, the Japanese extended their control and influence in Mainland China dramatically. Two days after the Japanese bombed Pearl Harbour on December 7, 1941, they attacked Hong Kong from their base in Guangdong Province directly to the north. They overran the colony with ruthless speed. By Christmas Day 1941 all of Hong Kong was in Japanese hands.

After the defeat of Japan in 1945, the Civil War in China, between Chiang Kai-Shek's Kuomintang (KMT) and the Chinese Communist Party (CCP) led by Mao Zedong resumed. By 1949, the defeated KMT had retreated to the island of Taiwan. The new People's Republic of China was proclaimed on October 1, 1949.

Although the People's Liberation Army (of the CCP) was on the border with Hong Kong by 1949, no attempt was made to invade. By 1950, China had entered the war on the Korean Peninsula on the side of North Korea. This made any near-term invasion of Hong Kong unlikely for several reasons. First, the limited resources of the new PRC were already stretched by the war in the north-east. Also, the British were, by now, well dug in, in Hong Kong. Next, the Korean War demonstrated, to Beijing, the advantage of having this British enclave in the south-west. Following the outbreak of the Korean War, the Western powers placed an embargo on the export of strategic goods to the PRC. China, was, nonetheless, able to obtain some important supplies through Hong Kong.¹⁷

Out of this experience grew a largely unspoken, mutual understanding between Beijing and London. The essence of this understanding was that, provided Hong

¹⁴ See, <http://www.factbites.com/topics/Treaty-of-Shimonoseki>.

¹⁵ Morris, op. cit. note 8, 35.

¹⁶ Miners, Norman, The Government and Politics of Hong Kong (5th ed.) (Oxford University Press, Hong Kong, 1991) 4.

¹⁷ Ibid., 4.

Kong did not become any sort of strategic threat to the PRC, the British presence there would be tolerated *pro tempore*. The key elements of this *modus vivendi*, according to Norman Miners, included: no significant moves towards democracy in Hong Kong; no effective Taiwanese (that is, KMT) presence in Hong Kong; and no impediments to China participating in and profiting from the Hong Kong economy.¹⁸

Under this arrangement, Hong Kong enjoyed a near continuous, significant growth in prosperity for a period of five decades following the end of World War II. In 1945, Hong Kong's per capita Gross Domestic Product (GDP) was, by some estimates, lower than that of India and Kenya.¹⁹ By 1992, Hong Kong's per capita GDP had overtaken that of the UK. By 2004, Hong Kong was ranked at 23 in a global, "highest GDP per head" table, ahead of Canada and Australia.²⁰ Wealth distribution in Hong Kong remains very uneven; significant poverty persists. But there is no denying that the City-State has materially transformed itself over the decades since 1945 from a war ravaged colony of less than 800,000²¹ to a leading international service centre with a population of some 7 million.²² Hong Kong is also the world's busiest container port.²³ And is the most popular tourist destination in Asia after the PRC.²⁴

Over the period from 1945-1997, Hong Kong experienced (or was caught up in to some degree) various regional crises including: the Korean War, the upheaval and famine of Mao's infamous "Great Leap Forward" (1958-1961)²⁵; Mao's even more ill-famed, "Great Proletarian Cultural Revolution" (1966-1976)²⁶; and the Vietnamese War. In all these and other cases, Hong Kong absorbed the impact, recovered and, usually with remarkable swiftness, returned to a path of strong growth.

2.2 The City-State Comes to Terms with a New Sovereign

On July 1, 1997, the PRC resumed full sovereignty over Hong Kong from the UK under the terms of the Sino-British Joint Declaration of 1984.²⁷ The mini-

¹⁸ Ibid, 6.

¹⁹ Bartholomew, James, *The Welfare State Made Britain Poor* – extract from book at: <http://www.moneyweek.com/article/593//the-welfare-state-made-britain-poor.html>.

²⁰ *Pocket World in Figures 2005* (The Economist – Profile Books, London, 2004), 28.

²¹ See, <http://www.demographia.com/db-hkhist.htm>.

²² See, http://www.info.gov.hk/yearbook/2003/english/chapter04/04_01.html.

²³ See, <http://www.edlb.gov.hk/edb/eng/resp/port.htm>.

²⁴ *Pocket World*, op. cit. note 20, 75.

²⁵ *Cambridge Paperback Encyclopedia* (3rd ed.) (Cambridge University Press, Cambridge, 1999), 365.

²⁶ Ibid., 228.

²⁷ Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, signed, December 19, 1984.

constitution of the HKSAR, the Basic Law²⁸ captures, in constitutional form, the essence of the “One Country – Two Systems” agreement²⁹ reached between London and Beijing on the return of Hong Kong to Chinese sovereignty in the Joint Declaration. Passed in 1990, the Basic Law came into effect on July 1, 1997. The Basic Law guarantees the HKSAR a high degree of separation and autonomy within the PRC. It provides, for example: a wide-ranging set of individual rights guarantees (based on the International Covenant on Civil and Political Rights); the continuation of Hong Kong’s Common Law legal system; complete currency, taxation and fiscal autonomy; and the preservation of Hong Kong’s status as a recognized, international actor.³⁰

On the day after the handover, the Asian Financial Crisis (AFC) began, when the Thai currency, the Baht, collapsed. Since Hong Kong became the HKSAR it has lived through eight comparatively difficult years. The AFC, combined with a range of other factors, triggered a huge collapse in the asset values in Hong Kong. These other factors included: (a) competency problems within the new HKSAR Government; (b) a currency (the Hong Kong Dollar) pegged to the United States Dollar via an adapted Currency Board system³¹; and (c) “bubble-economy” property values established during the final years of British rule.³²

As well as having to struggle with the impact of the AFC, the HKSAR Government has had to try and manage serious outbreaks of Bird Flu and Severe Acute Respiratory Syndrome (SARS)³³ a major debacle over proposed new anti-subversion laws,³⁴ and a range of other crises.³⁵ The HKSAR Government has struggled to cope with these challenges. It has, since 1997,

²⁸ The Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China. The Basic Law was adopted by China’s Parliament, the National People’s Congress and promulgated on April 4, 1990.

²⁹ Discussed further in Part 3.4, below.

³⁰ The leading commentary on the development and operational substance of the Basic Law is Ghai, op. cit. note 10. On Hong Kong’s autonomy as an international actor (without being a fully-sovereign international entity) see, Mushkat, Rhoda, One Country, Two International Personalities (Hong Kong University Press, Hong Kong, 1997).

³¹ A Currency Board fixes the exchange rate of Currency A (HKD in this case) to an “anchor”, much stronger Currency B (the USD in this case) at a fixed rate and promises to convert cash and equivalent holdings of Currency A to Currency B at any time at the fixed rate. See, further, <http://users.erols.com/kurrency/intro.htm>.

³² Cullen, Richard, Revenue Law in Hong Kong: The Future in, (Wacks, ed.) The New Legal Order in Hong Kong (Hong Kong University Press, Hong Kong, 1999) Chapter 12.

³³ For a good review of the SARS crisis in Hong Kong, see, Loh, Christine and Civic Exchange (eds.) At the Epicentre: Hong Kong and the SARS Outbreak (Hong Kong University Press, Hong Kong, 2003). See, also, Srivastava, D.K. and Cullen, Richard, SARS in the HKSAR: Some Important Legal Issues (2003) (July) Hong Kong Lawyer, 71.

³⁴ Article 23 of the HKSAR’s mini-Constitution, the Basic Law requires the HKSAR to enact laws on subversion and a range of other national security matters. Full coverage of Hong Kong’s seminal “Article 23 crisis” may be found at: <http://www.article23.org.hk/english/main.htm>.

³⁵ See, further, Loh, Christine and Cullen, Richard, Political Reform in Hong Kong (2005) 14, *Journal of Contemporary China*, 147.

frequently had to operate in emergency management mode, so that longer term policy development and implementation have both suffered.

The HKSAR Government is comprised entirely of Hong Kong people but it remains, according to Beijing's preference and under the terms of the Joint Declaration and the Basic Law, an entirely appointed (by Beijing) government. Many commentators feel that a significant factor underpinning this sub-optimal governance outcome has been the steadfast opposition amongst Hong Kong's wealthy elites and in Beijing to moving beyond the HKSAR's currently highly limited form of democratic participation to a system of full democracy. The Basic Law clearly allows for full democratic government in the HKSAR – especially from 2007 onwards – but it does not mandate such change.³⁶

Despite its “democratic deficit” and governance difficulties, there are clear signs that Hong Kong has recently entered into a period of strong economic recovery with GDP growth of close to 8% in 2004.³⁷ The resignation of the unpopular first leader of the HKSAR Government, Chief Executive, Mr C.H. Tung, in March, 2005 may also help ease the way towards a broadening of political participation.³⁸ This, in turn, could pave the way for some serious progress towards greater democratization by 2012, which is the year now ear-marked as the first possible realistic year for the popular election of the Chief Executive of the HKSAR Government and for genuinely democratic methods to apply in the choosing of all (or most) members of Hong Kong's unicameral legislature, the Legislative Council (LegCo).³⁹

³⁶ See, generally, Ghai, op. cit. note, 10. For a detailed analysis and discussion of the factors which held back the growth of democracy in Hong Kong under British rule and which continue to inhibit democratization in the HKSAR, see, Sing, Ming, Hong Kong's Tortuous Democratization (RoutledgeCurzon, London, 2004). Some of these factors have clearly been negative – including the opposition of Beijing and many members of the Hong Kong business elite to increased democracy. Some factors, though have been more “positive”, not least, the remarkable economic success story overseen by the non-democratic but comparatively effective and accountable, British, colonial-style, civil-service-based, government. There is now a significant literature on the governance experience of the HKSAR since 1997. One example which seeks to measure that performance over the more recent period is Loh and Cullen, *ibid*.

³⁷ See, <http://www.economist.com/countries/HongKong/profile.cfm?folder=Profile-Forecast>.

³⁸ *Ibid*.

³⁹ As noted above, the Basic Law anticipates - but does not mandate - serious democratic reform by 2007. This date has already been ruled out by Beijing, however. Beijing, at the request of its appointed HKSAR Government, has, using Article 158 of the Basic Law, pushed through an Interpretation of the Basic Law. Article 158 allows the Standing Committee of the National People's Congress (SCNPC) in Beijing to interpret provisions in the Basic Law which are not subject to litigation (to give a binding opinion) and to review certain decisions of Hong Kong's senior, judicial, tribunal, the Court of Final Appeal (CFA). Article 158 has now been used three times since July, 1997. The first Interpretation (in 1999) overturned a decision of the CFA which had interpreted certain Basic Law “right of abode” guarantees so as to allow many children born on the Mainland to one or more Hong Kong resident parents to move to the HKSAR. The second Interpretation (in 2004) stipulates that (notwithstanding the lack of supporting text in the Basic Law) no moves towards greater democratization in Hong Kong may proceed

3.0 CREATING MODERN HONG KONG

Much has been written about why Hong Kong has come to be what it is. Not surprisingly, various commentators stress the importance of a wide range of different factors. In this Part, I summarize a number of the key political, economic and socio-cultural factors which, in my view, help explain how Hong Kong has managed, particularly since 1945, to move from dire poverty to become a First World, City-State.⁴⁰

3.1 Political Factors

Hong Kong's unusual historical and current political circumstances have already been briefly described in Part 2. Despite the lack of democracy, however, Hong Kong was allowed, post World War II, to develop, under British rule, into the freest society in East Asia. The press and the media generally were able to flourish⁴¹ and the Rule of Law, implemented primarily through an independent judiciary, put down deep roots.⁴² Meanwhile the task of governing Hong Kong remained in the hands of a London appointed Governor working with a Civil Service notable for its very high level of political engagement.⁴³

without Beijing: (a) receiving a special report on the topic from the Chief Executive of the HKSAR; and (b) giving a "green light" to specified reforms. See, <http://hrw.org/english/docs/2004/04/07/china8409.htm>. (The fundamentals of this second Interpretation reminds one of a story (possibly apocryphal) related to Sydney and Beatrice Webb (the Fabian Socialists who together founded the London School of Economics) which highlights the advantages of entry-point gate-keeping. Beatrice was reportedly criticized for dominating her husband. She responded by explaining that Sydney made all the important decisions in their work. She just decided which decisions were important and which were not.) The third Interpretation (in 2005) found (once more, despite the clear wording in the Basic Law) that Mr Tung's replacement as Chief Executive (Mr Donald Tsang) would only serve out the remaining two years of Mr Tung's second term (until 2007) rather than a full five year term as Chief Executive. All of these Interpretations have been controversial. All, in effect, have "amended" the Basic Law – without need to resort to the more cumbersome formal amendment process established by Article 159 of the Basic Law. Excellent coverage is provided on this key HKSAR constitutional issue in Chan, Johannes, M.M., Fu, H.L., and Ghai, Yash, Hong Kong's Constitutional Debate: Conflict Over Interpretation (Hong Kong University Press, Hong Kong, 2000). See, also, Cullen, Richard, The Rule of Law in Hong Kong at: www.civic-exchange.org.

⁴⁰ This summary is a distillation of key relevant factors based on my own research and writing, since 1991.

⁴¹ Bonnin, Michel, *The Press in Hong Kong – Flourishing but Under Threat* (1995) 1 (September) *China Perspectives*, 48.

⁴² See, Ghai, Yash, *Praise is not enough* "South China Morning Post, March 22, 1998. See, also: Jones, Carol, *Politics Postponed* in (Jayasuriya (ed.)) Law, Capitalism and Power in Asia (Routledge, London, 1999); and Cullen, op. cit. note 39.

⁴³ An alternative meaning given for the term "bureaucracy" in the Chambers 21st Century Dictionary (Chamber, Edinburgh, 1996) is "a country governed by officials". Hong Kong was, and still largely is, a bureaucracy in this sense. For further discussion of the structure and operation of Hong Kong' system of government (with its, 18th century, George III, British ancestry) see, Loh and Cullen, op. cit. note 35.

Politically, Hong Kong remained fairly stable over the decades after World War II. Early on, after the Cultural Revolution began in the Mainland in 1966, Hong Kong was rocked by an unprecedented level of rioting and violent politics for several years.⁴⁴ This has been the exception to the rule, however.

For the majority of this period Hong Kong operated primarily as an “economic city” rather than as a “political city”. Certain small groups within the growing Middle Class had a keen interest in politics. And left-wing activists remained even after the Cultural Revolution driven tumult subsided. Hong Kong retained a small, core community of KMT - Taiwan sympathizers also. The British actively – and successfully - discouraged mass interest in greater politicization of Hong Kong, however.⁴⁵ This complied with the unwritten provisions in their “pact” with Beijing, which endured until the early 1990s.⁴⁶ It also suited Hong Kong’s Chinese and Non-Chinese business elites. They typically felt that the lack of electoral politics was good for trade and business. And they were, throughout this period, highly influential with the Government.⁴⁷

The ordinary mass of people genuinely remained largely apolitical. Elite views had some influence in this regard. But other factors were also important in explaining this comparative lack of interest in politics. The vast majority of the post-war population had migrated from – mostly fled – the PRC. Many of them saw Hong Kong as a staging post – their aim was to migrate (or at least see their children migrate) usually to a range of Western, English speaking countries. They saw themselves as “sojourners”.⁴⁸ Another important factor was the rapid economic growth in Hong Kong. Although people lived often in very difficult circumstances with many new migrants from the earlier post-war period having to live in hillside shanty-towns, they had entered an economy which was, year after year, growing at a prodigious rate. This reality offered hope. It created a more positive general mood than one would normally encounter in such a poverty ridden environment. It helped create an atmosphere where concentrating on family economic betterment rather than politics made good sense to many. The Government also pursued a policy, particularly after the riots of the 1960s, of

⁴⁴ Wong, Cheuk Yin, *The 1967 Leftist Riots and Regime Legitimacy in Hong Kong* at http://www.hku.hk/hkcsp/ccex/ehkcss01/issue3_ar_lawrence_wong.htm.

⁴⁵ Sing, op. cit. note 36, Chapters 3 and 4.

⁴⁶ The UK appointed a professional politician, Chris Patten, as the last Governor of Hong Kong in 1992. Patten attempted, ultimately with limited success, to introduce greater democratization over the period 1992-1997. Beijing reacted strongly and adversely to these political initiatives. Beijing replaced the 1995 LegCo with a Provisional LegCo which operated for a year after July 1, 1997. Despite these tensions, the handover ultimately proceeded fairly smoothly. See, further: Ghai, op. cit. note, 10 and Cullen, op. cit. note 32, 371-372.

⁴⁷ Littlewood, Michael, *Taxation Without Representation: The History of Hong Kong’s Troublingly Successful Tax System* (2002) 3 *British Tax Review*, 212.

⁴⁸ See, Wong, Richard Y.C., *Hong Kong One Year After Transition: Business Opportunities and Policy Challenges*, at <http://www.asiasociety.org/speeches/wong.html>.

consulting widely by providing institutional avenues for community leaders and others to express views on policy development and implementation.

If one had to pick a single initiative of the Government which did most: (a) to reinforce Hong Kong's adherence to the Rule of Law; (b) to buttress acceptance of benevolent-autocratic government; and (c) to enhance social stability, it would be the establishment of the Independent Commission Against Corruption (ICAC) in 1974. As the ICAC explains:

Hong Kong was in a state of rapid change in the sixties and seventies. The massive growth in population and the fast expansion of the manufacturing industry accelerated the pace of social and economic development. The Government, while maintaining social order and delivering the bare essentials in housing and other services, was unable to satisfy the insatiable needs of the exploding population. This provided a fertile environment for the unscrupulous. In order to earn a living and secure the services which they needed the public was forced to adopt the "backdoor route". "Tea money", "black money", "hell money" - whatever the phrase - became not only well-known to many Hong Kong people, but accepted with resignation as a necessary evil.⁴⁹

Within a year or so of the ICAC commencing operations, major inroads were made into the massive level of corruption prevailing. The Hong Kong Police Force (previously regarded as "the best police force money could buy") was brought to account with numbers of corrupt police going to jail. In particular, the ICAC was successful in extraditing and prosecuting Chief Superintendent Godber who was jailed for four years in 1975.⁵⁰ Ever since the ICAC broke the back of corruption in Hong Kong, the City-State has enjoyed an enviable reputation for being a "clean" city and a good place to do business. In 2004, Hong Kong ranked equal 14th (with Austria) in a world-wide Corruption Perceptions Index, ahead of, for example, the USA, France, Germany and Japan and just behind Canada and the UK.⁵¹

The confluence of the factors noted above produced: (a) a generally stable political climate; (b) government by an elite influenced civil service; and (c) poor prospects for the growth of party politics.⁵² The system was intrinsically unreceptive to the growth of popular lobbying groups seeking government assistance. The Government also helped deflect community disaffection and agitation by moving to address many key problems on its own initiative. As we will see below, it had the resources to do so. Thus, the Government instituted

⁴⁹ See, <http://www.icac.org.hk/eng/abou/index.html>. Hong Kong was strongly influenced, in its move to establish the ICAC, by the earlier, successful, experience of Singapore in drastically reducing corruption (see, Goodstadt, Leo F., *Uneasy Partners* (Hong Kong University Press, Hong Kong, 2005) 141.

⁵⁰ *Ibid.*

⁵¹ *Pocket World*, op. cit. note 20, 63.

⁵² Sing, op. cit. note 36, Chapters 7 and 8.

comprehensive programs (particularly from the 1970s) addressing: housing (building one of the world's most massive public housing systems within a single city); education; health; and infrastructure development.

The political landscape has changed dramatically over the last decade-plus. A fundamental turning point was the bloody and lethal breaking up of the Tiananmen Square protest movement by the PRC Government on June 4, 1989. It is clear that, since then, Hong Kong has become an increasingly "political city". This process of politicization gained especially strong momentum in 2003 when the HKSAR Government tried to ram through new anti-subversion laws even while the SARS epidemic remained a serious threat.⁵³

3.2 Economic Factors

The Revenue and Expenditure Regime

The British established Hong Kong as a "free port" which meant that goods could enter and leave free of any customs or similar duties.⁵⁴ This continues to be the case to day. Indeed, Hong Kong has long prided itself on its low and simple tax regime. A limited form of income tax was only, effectively, introduced after World War II and tax rates today remain amongst the lowest in the developed world.⁵⁵

Despite this low tax regime, Hong Kong has still managed to provide public housing on a massive scale, to finance excellent transport and communications systems and sound education and good health systems.⁵⁶ At the same time, it has managed to amass public reserves of over \$US120 billion.⁵⁷

The explanation for this apparent fiscal miracle has a number of facets. First, the Hong Kong Government has had access to a revenue source rarely available in the modern age to most governments: land. As noted earlier, Hong Kong is not large (at around 1,000 square kilometres). And, until relatively recently, one had to live and work within this small area if one wished to make a life based in Hong Kong.⁵⁸ From its inception, British Hong Kong did not allow (virtually) any sale of

⁵³ Cullen, Richard, *Democracy in Hong Kong* at

<http://www.iiavic.org.au/files/papers/Cullen.pdf>.

⁵⁴ See definition at: <http://www.answers.com/topic/free-port>.

⁵⁵ For a full description of the Hong Kong taxation system and a detailed analysis of some of its ongoing problems, see Cullen, op. cit. note 32.

⁵⁶ Cullen, *ibid.*, 386.

⁵⁷ *Economy*, The Economist, April 9, 2005, 90.

⁵⁸ Since the 1980s, Hong Kong entrepreneurs have been transferring their manufacturing and other businesses to the Mainland (and especially to the adjacent Province of Guangdong). Since the 1990s, individuals have begun to commute to Hong Kong from the now vast city of Shenzhen directly across the border. Shenzhen has seen its population grow from under 100,000 to 7 million plus in less than three decades. See, <http://pdf.sznews.com/szdaily/2001/0418/1.htm>.

freehold land.⁵⁹ All land was made available as leasehold land. Moreover, the practice grew of restricting the availability of land for development. This drove up the price of land – and revenue receipts.⁶⁰

The entire land management system has become self-reinforcing and arguably financially addictive (for the Government). Government land policy has fostered one of the highest densities of any major city in the world. Hong Kong has more skyscrapers, at over 7,400, than any other city on the planet, including New York.⁶¹ The majority of these are residential. This density has allowed the provision of first rate transport and communications systems with greater speed and lower cost than would otherwise have been the case. It has also, originally incidentally and now as a matter of policy, left the greater part of Hong Kong's total area either green, as park area, or subject to low density use.⁶²

Government policy has, predictably, driven up the price of land hugely which explains the fiscal-addiction problem. The Government, historically, could always, it seemed, rely on accessing any additional revenue it needed by leasing land long-term (as the sole supplier) into a market with ever rising prices. The Government also took a large fiscal bite from many secondary market transactions. Strict usage conditions are stipulated in each government lease. If a developer purchases an old building wishing to rebuild at say five times the height of the building to be replaced, the developer needs to obtain a variation to the purchased lease. To get this, the developer has to pay a substantial "land premium" to the Government. When one adds in the profits tax paid by developers and all the others involved in construction, transaction based stamp duties and salaries tax paid by those working in the sector, the HKSAR

⁵⁹ The Hong Kong Anglican Cathedral occupies freehold land. Landholders in the New Territories have also historically been allowed, by the Government, to enjoy certain special rights to leasehold land based on ancestral rights which derive from membership of long established communities in the New Territories.

⁶⁰ This heavy reliance on land transaction revenues in Hong Kong has, it would seem, been developed and introduced as a matter of practice. It has been found to work, so the practice has developed further. It has not been developed in accordance with some theoretical tax policy plan. The practice, nevertheless, bears some resemblance to the theories propagated by Henry George, the 19th century American economist and social reformer who long advocated the introduction of a single tax on the unimproved value of all land to replace all other taxes. See, <http://www.answers.com/topic/henry-george>. See, also, Smith, Julie P., *Taxing Popularity: The Story of Taxation in Australia* (Federalism Research Centre, Canberra, 1993) 18-24. A Henry George follower, Lizzie Magie, created the board game Monopoly in 1904 to demonstrate his theories (<http://www.answers.com/topic/henry-george>).

⁶¹ *Tall Buildings*, The Economist, April 9, 2005, 90.

⁶² This has not meant that the Government has especially good "green" credentials. On the contrary, successive Hong Kong Governments have displayed almost a mania for land reclamation from Victoria Harbour and beyond and for massive road and bridge building projects, for example. See, further, Loh, Christine, *Alternative Policy Address 2005-2006*, at, <http://www.civic-exchange.org/publications/2004/apa05e.pdf>.

Government continues to rely on land transaction related revenues for around 50% of its income.⁶³

An immediate problem thrown up by this system was how to house ordinary people affordably if residential flats are priced, per square foot, at New York or Tokyo levels. The Government's answer to this dilemma has been to build (generally well located but very basic and cramped) public housing on a massive scale. The land comes at zero nominal cost, as the Government owns all land. And revenues from land related transactions and activity have, historically, readily funded public housing expenditure. The completed flats have then been let at, normally, no more than 10% of a tenant's (usually, untaxed) income.⁶⁴ Around 50% of Hong Kong people still reside in public housing and the figure has, previously, been higher.

Property prices began to collapse by 1998 (after the AFC hit). By 2003, at the height of the SARS crisis, residential property prices had fallen by about 70% from their bubble-market peak. This, in turn had a devastating impact on the revenue flow to the HKSAR Government. The Government had to rely, for the first time in living memory on substantial deficit financing to meet recurrent expenditure.⁶⁵ Mass market residential property prices have recovered significantly since the low point in 2003 (up by some 30%-40%). Nevertheless, it is well recognized today that Hong Kong's narrow (land revenue related) tax base is a serious, systemic, fiscal flaw which needs to be remedied by the HKSAR Government.⁶⁶

The Hong Kong Government has also historically been able to control expenditure quite effectively. Cultural reasons (spelled out below) provide an important part of the explanation for this. Briefly, Hong Kong people have long relied heavily on family and related networks to cope with a multitude of life's exigencies. This has meant that the Government has been put under significantly less pressure to develop a "welfare state" of the complexity typically encountered in most other developed economies. The rate of public welfare spending has been increasing, however. Hong Kong's ageing population helps explain a significant part of this growth. Nonetheless, Hong Kong continues to spend the bulk of its public welfare dollars on direct health, education, welfare and housing infrastructure rather than on transfer payments from the public to individuals. It is in the area of transfer payments that welfare budgets in other

⁶³ Halkyard, Andrew, *The Hong Kong Tax Paradox*, (1998) 8 Revenue Law journal, 1.

⁶⁴ Around 60% of all wage and salary earners in Hong Kong pay zero income (salaries) tax.

⁶⁵ It looks like the latest economic upturn will see Hong Kong return to fiscal surpluses from 2005 (see, http://www.pwccn.com/home/eng/budget2005_commentary.html). Note, this deficit spending has been funded by dipping into Hong Kong's US\$120 billion reserves rather than through borrowing, reduce any adverse credit-rating impact significantly.

⁶⁶ See, for example, the proposals put forward by the British Chamber of Commerce in Hong Kong at <http://www.britcham.com/asp/ArticleDetail.asp?ArticleId=259>.

developed countries have seen the greatest growth and where they typically exceed direct public welfare spending significantly.⁶⁷

Another factor of some importance is the Hong Kong Jockey Club (HKJC) (formerly the Royal Hong Kong Jockey Club). The HKJC is a not-for-profit organization which has been granted a monopoly by the Government to run all legal gambling activities in Hong Kong. Gambling is very popular in Hong Kong. In 2003 the HKJC had a turnover of around US\$9 billion.⁶⁸ The HKJC typically contributes over 10% of HKSAR Government revenues in the form of betting duties and other taxes. Just as significant is the vast public spending program of the HKJC based on its operating surpluses. Hong Kong is dotted with hospitals, educational establishments and a substantial number of other public facilities all funded in full or in part by the HKJC. All of this expenditure has helped keep the Government's own spending under control.⁶⁹

Other Factors

As noted earlier, Hong Kong is located within around four hours flying time of some 50% of the world's population. In particular, it is adjacent to (and now, once more, part of) the world's most populace nation, China. China's economic growth since the death of Mao Zedong in 1976 has been stunning with an average growth rate of around 10% from 1980-2000.⁷⁰ When one considers that this has been achieved in a country with 1.3 billion people, the growth figures are ever more notable. Hong Kong has acted as an entrepot to China virtually since the British arrived. It continues to fulfil this role today to a significant extent, notwithstanding the prodigious growth of cities like Shanghai on the Mainland.⁷¹

Hong Kong's proximity to and affinity with China have presented many challenges and, indeed, threats such as the frightening spill-over effects of the Cultural Revolution in the late 1960s. That proximity and affinity have, however, also been crucial to Hong Kong's success. They have given Hong Kong a special role in relation to China and they have allowed Hong Kong to share more

⁶⁷ In 1997, less than 5% of public expenditure was devoted to transfer payments in Hong Kong, whilst 50% of public expenditure was on direct health, welfare, education and housing infrastructure. In the USA, at the same time, the comparable figures were around 33% and 22%, respectively. See, *It is already 1997 in Hong Kong*, The Economist, December 18, 1997, 27.

⁶⁸ <http://www.answers.com/topic/hong-kong-jockey-club>

⁶⁹ Since the handover, public expenditure has been on the increase with the new HKSAR Government spending more heavily than its British predecessor. The recession induced by the AFC hit the HKSAR in 1998, lowering revenues substantially. This combination of greater spending and lowered income led to calls for government spending to be restrained. See, further,

⁷⁰ http://www.pwccn.com/home/eng/budget2005_commentary.html.

⁷⁰ Srinivasan, T. N., *China and India: Growth and Poverty, 1980-2000* at

⁷⁰ <http://www2.gsb.columbia.edu/ipd/poverty/papers/Srinivasan>.

⁷¹ *Shanghai to Overtake Hong Kong in GDP After 15 Years* at

⁷¹ http://english.people.com.cn/english/200103/20/eng20010320_65457.html.

than any other city outside of the Mainland in the Chinese economic growth experience since 1980.

Overall, Hong Kong typically ranks in the top-ten of almost every global competitiveness ranking.⁷²

3.3 Social-Cultural Factors

Around 95% of the population of Hong Kong is Chinese.⁷³ The Chinese have created and maintained the largest, most enduring civilization on the planet. They have created a culture of immense depth and, despite its complexity, a culture which has displayed a set of clear hallmarks over many centuries. Chinese culture has been deeply influenced for over 2,000 years by the seminal writings of the venerated philosopher Confucius (551 – 479 BC)⁷⁴.

One noted Sinologist, Simon Leys, put it this way:

From a western point of view, China is simply the other pole of the human mind. All the other great cultures are either dead (Egypt, pre-Columbian American and so on), or too exclusively absorbed by the problem of surviving in extreme conditions (primitive cultures), or too close to us (Islamist cultures, India) to present a contrast as total, a revelation as complete, an “otherness” as challenging, an originality as illuminating as China. It is only when we contemplate China that we can become exactly aware of our own identity and that we begin to perceive which part of our heritage truly pertains to universal humanity, and which part merely reflects Indo-European idiosyncrasies.⁷⁵

A good way to proceed in this short review of Chinese cultural and social traits is to begin by considering children and child rearing. There has been a significant amount of research done on the raising of Chinese children. Much effort is put into the early socialization of children so that they fit within the family structure.⁷⁶ It is almost impossible to over estimate the fundamental significance of the family within Chinese culture. Professor Allison explained that significance in this way:

In the case of Kongzi [Confucius], filial piety and the place of the family in general receives a strong emphasis in the development of ethical values. This is re-emphasised in Mengzi [Mencius] and remains constant throughout the Chinese tradition. One has to genuinely search very hard to find any Western analogue to this emphasis upon family relations as the

⁷² See, for example, Pocket World, op. cit. note 20, 58-59.

⁷³ See, <http://www.cbc.ca/news/background/china/hongkong.html>.

⁷⁴ See, for a succinct discussion of Confucianism, Smith, H., The Religions of Man (Harper & Row, New York, 1964) Chapter 4. For discussion of the influence and impact of Confucian thinking on Chinese culture through until modern times, see, Wang, Gungwu, China and the Overseas Chinese (Times Academic Press, Singapore, 1991).

⁷⁵ Leys, Simon, The Burning Forest (Paladin, London, 1988) 42.

⁷⁶ Bond, Michael, Harris, Beyond the Chinese Face (Oxford University Press) Chapter 2.

originating source of ethical values. When one finds any Western counterpart, such as Hegel, the emphasis on the family only occurs because of Hegel's systematic need to fit everything together in one organic whole. For the Chinese mind, the value of the family is self evident. It is not simply an ingredient in an overall proof structure such that the entire world can be seen as fitting into an overall organic whole. What makes for this difference between East and West? If my general theory of at-homeness is correct, then, for the Chinese mind, the family represents a natural extension of oneself. There is no need to prove the priority of the family. It is accepted as a given fact.⁷⁷

The process of socialization of Chinese children typically involves much loving care but also: (a) early restrictions on movement; (b) early schooling commencement; and (c) a firm corrective regime.⁷⁸ The crucial socio-economic role of the family is as deeply embedded in Hong Kong as in other Chinese societies.⁷⁹ Another historical, abiding concern in Chinese societies is the maintenance of social order. The family rather than the State has been seen (and experienced) as the most important hedge against chaos.⁸⁰

The central role of the family and the need to fit into one's family structure comprises an actively practised, fundamental, belief system which has evolved over more than 2,000 years. It is fair to say that The Family is the "religion" of China.⁸¹ Coincidentally, at least, Chinese culture is also one which relies to a comparatively abbreviated degree on the consumption of alcohol as a social lubricant, resulting in a reduced incidence of alcohol induced, social disruption.⁸²

Various other important values proceed from the operating structure of the Chinese family. These include: a stress on self reliance and self help (within the family unit); the clearest understanding of the value of hard work; a powerful respect for and commitment to betterment through education; a focus on the acquisition of material wealth (within the family) as a hedge against bad fortune within the family (and out-breaks of social disorder); a clear understanding of the

⁷⁷ Allison R. E. in (Allison (ed.)) Understanding the Chinese Mind (Oxford University Press, Hong Kong, 1995) 19.

⁷⁸ Bond, op. cit. note 76, Chapter 2.

⁷⁹ Lau, Siu-kai, Society and Politics in Hong Kong (Chinese University Press, Hong Kong, 1991) Chapter 3.

⁸⁰ Han, Suyin, The Crippled Tree (Triad/Panther, London, 1984) 71.

⁸¹ Many Chinese, especially in Hong Kong, practise more conventional religions, mainly Taoism, Buddhism and, to a lesser degree, Christianity. In all cases, however, religious practice remains secondary, as a matter of fundamental importance to living life, to the family. In the case of the Judeo-Christian and Islamic worlds, the respective religions have absorbed various doctrines related to family as part of their fundamental structure. That is, they have made the family "sacred" by incorporating it within the larger (more fundamental) system of religious belief. Within Chinese culture, the family remains, as Allison has explained, pre-eminent and without need of religious sanction or justification.

⁸² See, *Beer Drinkers, Wine Drinkers, Alcoholic Drinks, Pocket World*, op. cit. note 20, 98. None of China, Taiwan, Hong Kong or Singapore even registers on any of these lists.

value of thrift,⁸³ and a reverence for age and wisdom (with a predictable male-centred focus). The bottom line across the majority of Chinese families is a potent - though not infrequently grumbling - commitment to and respect for one's family.⁸⁴

3.4 The Reversion of Sovereignty from the UK to China

On July 1, 1997, the Royal Yacht "Britannia" departed Hong Kong's Victoria Harbour following the formal reversion of sovereignty over Hong Kong to the PRC in accordance with provisions of the Joint Declaration.⁸⁵ More than 150 years of British rule came to an end. Hong Kong moved beyond the orbit of democratic Britain and took on, as its new sovereign, not only the world's most populous nation but the world's largest ever one party state. Beijing became Hong Kong's focus, Beijing, where the PRC Government had used battlefield weapons, including tanks, to break up, on June 4, 1989, a massive, long-running demonstration for political reform by thousands of its own citizens in and around Tiananmen Square.⁸⁶

In 1997, the memory of 1989 was still vivid. Nevertheless, Hong Kong and Beijing had, by then, settled down to the task of making the new sovereignty relationship work. The PRC's former "paramount leader", Deng Xiao-ping, was the primary architect of the political philosophy, entitled "One Country – Two Systems", underpinning the Joint Declaration and Hong Kong's reversion to China. One Country – Two Systems is meant, also, to provide the framework for

⁸³ The net national savings rate in Hong Kong is typically around 20% of gross national income (see, http://earthtrends.wri.org/pdf_library/country_profiles/Eco_cou_344.pdf). This compares with much lower savings rates (and generally higher indebtedness) in jurisdictions such as Australia, for example, where the comparable rate is 3% of gross national income (see, http://earthtrends.wri.org/pdf_library/country_profiles/Eco_cou_036.pdf.)

⁸⁴ For further discussion of such features see, Bond, op. cit. note 76, Chapters 6 and 8 and Lau, op. cit. note 79, 68-72. The review above provides a summary of factors which have had a marked influence on the way Chinese societies tend to organize themselves and engage with the world about them. The review is not meant to imply the Chinese social and cultural values are somehow saintly or blemish-free. Traditionally, Chinese culture is highly patriarchal with a wretched history of female oppression. This problem remains awfully real (see, Xinran, *The Good Women of China: Hidden Voices* (Vintage, Toronto, 2003)). Chinese culture also places great pressure on individuals to "fit" within family and other social structures. It is a culture which historically has frowned powerfully on the pursuit of individual goals or indulgence. As it happens, the Chinese family structure also appears to be a remarkable facilitator of gambling and other financial excesses. Within this sort of close-knit family structure it remains commonplace for family members caught by a gambling addiction or engaged in other money wasting pursuits to return, repeatedly, to various family members for "loans" – loans which are far too infrequently refused and far too frequently, never repaid.

⁸⁵ See, http://news.bbc.co.uk/onthisday/hi/witness/july/1/newsid_3020000/3020860.stm.

See, also, <http://www.royalyachtbritannia.co.uk/>.

⁸⁶ *Tiananmen Square*, *Cambridge Paperback Encyclopedia*, op. cit. note 25, 862.

Tiananmen Square, which covers 98 acres, is the largest public square in the world.

an eventual rapprochement between the PRC and the “renegade province” of Taiwan.⁸⁷ The former Portuguese colony of Macau reverted to Chinese sovereignty (after almost 450 years) under the same formula on December 20, 1999, when it became the Macau Special Administrative Region of the PRC.⁸⁸

The governance inadequacies of the post-1997, “home-grown”, Beijing selected, HKSAR Government have been outlined above. Despite Hong Kong’s post-1997 economic and political problems, popular attitudes within Hong Kong towards Beijing have largely remained neutral or positive. Immediately after the handover, popular attitudes towards Beijing improved markedly with 74% of opinion poll respondents expressing satisfaction with Beijing’s handling of the HKSAR in mid-1998. The satisfaction figures have eased since, but still remain positive.⁸⁹

Overall, Hong Kong residents are comfortable with – though watchful about – their new national identity. China’s economic growth provides both special opportunities for Hong Kong and a basis for increasing pride in China as a nation. Thus far, the HKSAR Government and its supporters have been the ones held most responsible for the bad times which have been encountered post-1997. Even the erosion of the Rule of Law arising from the, now, three resorts to the “interpretation” power in Article 158 of the Basic Law by the Standing Committee of the National People’s Congress in Beijing is seen as being driven by the HKSAR Government at least as much as by Beijing.⁹⁰

Despite real concerns in Hong Kong about the impediments to greater democratization fostered by Beijing since 1997, the HKSAR has rapidly adapted to identifying itself as a part of China. This is so, too, in the case of Macau. The approach by Beijing with respect to both Hong Kong and Macau, post-reversion, has remained largely “hands off”. Both enclaves (and particularly Hong Kong) remain wary. The sovereign power still seems many years away from managing a composed transition to some level of political pluralism. Meanwhile, Beijing and Taiwan remain caught within one of history’s more malevolent, love-hate relationships.⁹¹ The commitment to the PRC in Hong Kong and Macau seems,

⁸⁷ *Taiwan*, *ibid.*, 843.

⁸⁸ See, <http://www.cia.gov/cia/publications/factbook/geos/mc.html>. In Macau, the transition to becoming the MacauSAR has proved to be significantly more smooth than in the HKSAR. A number of factors help explain this. First, the Portuguese administration was widely seen as being significantly less competent than the British administration in Hong Kong – it was, thus, an “easier act to follow” (see, Lo Shiu Hing, Political Development in Macau (Chinese University Press, Hong Kong, 1993). Next, Macau chose, as Chief Executive, Edmund Ho, who has proved to be much more politically adept than Mr Tung. Macau is also much smaller than Hong Kong, with a population of less than 500,000 and its gambling dependent economy has flourished as never before in recent years (see, <http://www.infoslurp.com/information/Macau>).

⁸⁹ See, <http://www.hkbu.edu.hk/~hkt/5years/5years.pdf> (page 21ff).

⁹⁰ Article 158 vests a power of interpretation in the SCNPC – see discussion at note 39.

⁹¹ For a recent, detailed discussion of this difficult relationship, see, *Survey of Taiwan*, in *The Economist*, at: http://www.economist.com/displayStory.cfm?story_id=3535207.

now, to be at least as genuine and powerful as the watchfulness, however. The special ethnic and cultural bonds – and the respective prior histories – are key explanatory factors for this continuing, bi-polar orientation.

4.0 CONCLUSION

4.1 Hong Kong

Hong Kong has experienced many bruising episodes in the more than 160 years of its modern history. It has, over this period, coped with countless deadly typhoons, a serious outbreak of plague, and the spill-over of many political and economic convulsions originating in Mainland China. It has also lived through the horror of several years of brutal Japanese occupation.

The primary constitutional document underpinning British rule in Hong Kong, the Letters Patent, applied until the change of sovereignty on July 1, 1997, when the Basic Law came into effect. Hong Kong has, on the whole, been fairly well served by its constitutional instruments but it is other factors which, ultimately, have been more central in shaping Hong Kong's social, economic and political structures. The discussion in Part 3 has outlined a range of political, economic and social-cultural factors which help explain why Hong Kong has developed into such a successful, modern City-State.

The British deployed gunboat “diplomacy”, opium and a highly assertive colonial mindset in wresting Hong Kong from China. But the British also brought their particular brand of “macro-politics”. This stressed the role of an independent judiciary and a certain minimum level of government accountability. Initially the Rule of Law, under the British model, was primarily focussed on protecting the rights of the propertied class. But the fundamental rationale under-pinning this version of the Rule of Law was that non-one should be above the law, which ultimately made it difficult to contain its benefits from spreading to all levels of society. In Hong Kong, despite the lack of democratic government, the Rule of Law truly began to touch all Hong Kong people to some degree in the decades following World War II.⁹²

Within the remarkably stable, in all the circumstances, political environment, an economic system evolved in Hong Kong which strongly favoured private endeavour. Taxes were kept low, the Government regulated commerce lightly and, in particular, avoided participating directly or indirectly in most aspects of the market (major exceptions being the land and housing markets).⁹³ The

⁹² Cullen, op.cit. note 39.

⁹³ It is now widely argued that the Government's “hands-off” regulatory approach has been far too hands-off with respect to competition regulation. The lack of any competition law or real consumer protection provisions has left various cartels with freedom to collude

Government also, increasingly, turned its mind to producing and improving public health, education and infrastructure “goods”.

After World War II, thousands and eventually some millions of Mainland Chinese migrated to Hong Kong to escape deprivation - and starvation or persecution. These people brought little in the way of material possessions, usually. They did bring an immense capacity for hard work and a spirit of striving to overcome adversity, frequently evidenced by their very migration.

These “sojourners” also brought a widely shared set of strong, family centred, values which meshed with a collective experience of trying to rebuild their lives, frequently from scratch. The underpinning culture stressed hard work, self reliance (within the family) and education as crucial components in any struggle to overcome poverty.

As it happened, the principal source of Hong Kong’s chronic anxiousness – Mainland China – has also, long proved to be a source of exceptional opportunity. And this opportunity has been seized, in differing ways, by generations of Hong Kong Chinese. Initially, after World War II, China provided the entrepreneurs and the workers who fired-up, Hong Kong, the manufacturing centre. Today Hong Kong is primarily a sophisticated service hub focussed on the new economically powerful China – and the wider region.

The low-regulation, political-economic framework which evolved under British rule allowed the post-war Hong Kong success story to gather remarkable momentum, especially from the 1960s. The Chinese family structure, with its capacity to mobilize seed capital and to provide emergency funds, combined with nascent economic opportunities and a favourable regulatory framework to encourage all sorts of risk taking. The low tax environment helped, too, leaving most profits in the hands of business. An increasing number of small business people strove hard and met with success. Their example inspired still more.⁹⁴

A continuous theme in the story of Hong Kong is new migrants – some times very large numbers of migrants – setting to work, determined to better themselves. Today the urgent desire to move beyond mass, shanty-town living is no longer a driving force. New migrants from the Mainland (around 50,000 per year, usually) still tend to stand out, however, as willing to push themselves that much harder.

Hong Kong has, on the whole, adjusted well to the post-1997 era. Significant tensions remain and are bound to persist with respect to the pace of democratic development. Hong Kong people have, though, fairly readily accepted the new

⁹⁴ and manipulate a range of markets, from private housing to household supplies. See discussion at, <http://www.webb-site.com/articles/noncompete.htm>, for example. Wong, Y.C., Richard, *Hong Kong Growing as Part of China; A Historical Perspective*, at <http://www.asiasociety.org.speeches/wong.html>.

identity of their City-State as a part (albeit the richest part) of the PRC. The Basic Law has been notably tested – but it remains a largely respected, operative constitutional document. The passionate debate about democratization takes place within the context of Hong Kong being both separate but still a part of the PRC. There is no sign of any yearning for some level of greater independence. Apart from this being a quite unrealistic aspiration, people can readily see how Beijing has helped the Hong Kong economy on several occasions since 1997. In 1998, for example, Beijing played an important stabilizing role when it stood firmly behind the HKSAR Government during the AFC. Since then, the PRC has approved a major surge in Mainland tourists to Hong Kong as well as establishing a new Closer Economic Partnership Agreement (CEPA) with Hong Kong.⁹⁵

Hong Kong is in a period, once more, of major adjustment. The unskilled jobs which once gave employment to almost every employable person have been shrinking in number. Now the demand is for more highly trained persons in what is an increasingly sophisticated, service-based economy. Adjustments are occurring which are often difficult to manage. For example, the quality of development in the large education sector is uneven. Also, although the crash in property prices has lowered business and living costs, it has, as well, hugely harmed the asset-savings of many and damaged revenue flows to Government. Given the growing political consciousness of this well informed and well-educated population, people in Hong Kong are looking, more seriously than ever, for a much improved say in who governs them within their regional enclave. The perceived poor performance of the all appointed, HKSAR Government since 1997 has been a key driver of a durably increased level of civic awareness in Hong Kong. Political structure change is slow in coming. The people of Hong Kong want it, however.⁹⁶

A key to the success of City-States of old was the sense of collective purpose which bound them together. A quite similar sense of collective purpose, forged from overcoming the widest range of challenges, lies behind much of Hong Kong's success. That sense of collective consciousness remains operative, notwithstanding that we are talking about a very modern city with a population approaching that of London. Shared values stressing the importance of hard work, thrift and education pivot around what is, comparatively, an immensely powerful and durable respect for the role of the family. Many Chinese people find the typical family structure difficult and sometimes oppressive but they still put enormous effort into working within that structure. A critical reason for this is that, for all its problems, the family-based system they know delivers better than any other they can perceive. Perhaps the key lesson Hong Kong demonstrates is how fundamental the molecular Chinese family has been and is, as a social building block. And how so much else that is positive can proceed from this,

⁹⁵ For more details on CEPA, see, <http://www.tdctrade.com/cepa/>.

⁹⁶ See, http://www.hkbu.edu.hk/~hktpl/listening/listening_e.pdf.

given basic political stability, comparative law-based fairness and a serious level of economic opportunity.⁹⁷

Will Hong Kong sustain its striking record of achievement? It is clear that the fundamentals within Hong Kong which built this exemplary, modern City-State remain in place. Something else is still more clear, however; an enduring, Beijing backed, stand-off over major political reform in the HKSAR poses the single greatest, contemporary, medium-term threat to the continuation of the Hong Kong success story.

⁹⁷ Recent writing on Finland (population 5.2 million) which has sought to understand its durable, political and economic success has stressed similar factors and in particular, the Finnish concept of “talkoot” or “doing work together”. Finland’s success is regularly noted in a variety of competitive reviews, for example, the World Economic Forum in Davos, Switzerland, ranks Finland's the most competitive economy in the world and according to a global survey by Transparency International, Finland is perceived as the least corrupt country in the world. See, Kaiser, Robert G., *In Finland's Footsteps*, Washington Post, August 7, 2005, at: <http://www.washingtonpost.com/wp-dyn/content/article/2005/08/05/AR2005080502015.html>.