

## **Seven Years After Hong Kong's Handover: An Analysis**

- The credibility of the Hong Kong SAR government was impaired by the Chinese Communists' intervention in the SAR's affairs.
- The "interpretation of the Basic Law by the National People's Congress (NPC)" stifled the political reform process and suppressed democracy, bringing about great concerns from the international community.
- The Chinese Communists became less credible to the people of Hong Kong, who had been increasingly doubtful of the "one country, two systems" policy.
- There was slight economic recovery but unemployment rate remained high. The effects of the Mainland's measures for boosting Hong Kong's economy remained to be seen.
- Relationship between the Mainland and Hong Kong grew even closer and mutual influence increased.
- Communication between Taiwan and Hong Kong was incorporated into official mechanisms, but there was need for more interactions and exchanges.
- There were 157 reported disputes, which tested the Mainland's promise of "keeping Hong Kong unchanged for 50 years."

### **I Overview**

It was the seventh anniversary of Hong Kong's handover this July, and there were much greater changes in the seventh year than in the first six years. In the first six years, the Chinese Communists had exercised restraint and did not openly intervene in Hong Kong's affairs, so as to promote its "one country, two systems" policy within the international community. During the seventh year, however, the Chinese Communists forcibly intervened in Hong Kong's affairs. Although the Chinese Communists tightened up its control, the Hong Kong people kept making appeal for democracy. Consequently, there was increasing dissatisfaction with the governance of the Hong Kong SAR government and the Chinese Communists.

The Hong Kong government had ignored the Hong Kong people's concerns of the violations of human rights and freedom, and forcibly pressed for the legislation of Article 23 of the Basic Law,

resulting in demonstration by 500,000 marchers. As the people's resentment peaked, Hong Kong's pro-democratic forces capitalized on the situation to consolidate power and won the District Council election against the pro-Chinese Communist political parties; the pro-democratic forces likewise promoted the holding of general elections. Due to this wave of pursuing democracy, the Chinese Communists feared that the Hong Kong situation might become out of control. To prevent Hong Kong's democratic movement from adversely affecting provinces and cities in the Mainland, and since the result of Taiwan's presidential election showed that Taiwan's self-identity awareness had gained strength, the Chinese Communists felt threatened and were compelled to drop its policy of not openly intervening in the HK SAR's affairs. Since July 1st of last year, the Chinese Communists have actively intervened in HK SAR's affairs. In addition to the continued promotion of measures to boost Hong Kong's economy, the Chinese Communists also adopted reconciliatory strategy such as increased communications with people from all walks of life in Hong Kong. At the same time, ideas of patriotism were being used in ideological struggle. The interpretation of the Basic Law by the NPC sets limits in the scope and schedule of Hong Kong's political reform. It suppressed democracy, and stifled human rights and freedom of speech, freedom of the press, and freedom of assembly, and rights of procession. This had thus been a cause of great concern of the international community.

Although the Chinese Communists had applied stricter policies toward Hong Kong, the Hong Kong people's appeal for democracy was not tapered. Public surveys showed that the people's faith in the "one country, two systems" policy had declined every time the Chinese Communists openly intervened in HK SAR affairs. As a result, the Hong Kong people's trust in the Chinese Communist rule likewise dwindled. For this reason, the July 1st demonstration march and the Legislative Council election in September are indicators as to whether the Chinese Communists will be able to suppress the Hong Kong people's appeal for democracy, or will otherwise be provocative to the people's resolve toward democracy.

There were crucial developments in trade and personnel exchanges between the Mainland and Hong Kong last year. The signing of the CEPA and the removal of travel restrictions fostered relations between the Mainland and Hong Kong. Although it will be difficult for Hong Kong to preserve its own identity as a consequence, the removal of travel restrictions might help bring democratic ideals to the Mainland. This is something worth observing.

Since Hong Kong's handover, trade and personnel exchanges between Taiwan and Hong Kong have been frequent. The people of Hong Kong experienced Taiwan's democratic development via visits to Taiwan. The people of Taiwan also support the Hong Kong people's appeal for more democracy. Although communication between Taiwan and Hong Kong has already been incorporated into official mechanisms, more mutual interactions and exchanges are still needed. In

the future, the government on Taiwan will promote more interactions and mutual understanding between Taiwan and Hong Kong, and improve its services toward people living in Hong Kong as well.

## **II Respective Analysis**

### **(1) Hong Kong people's dissatisfaction with HKSAR government's administrative capability was climbing up.**

Former Chinese Communist Premier Ju Rongji criticized Tung Chee-hwa's administrative team for "convening but not deciding, and deciding but not acting," which aptly explained why Tung's team remained unpopular despite its many big infrastructure plans. Another explanation is that the bureaucratic culture developed during the British governance of Hong Kong was incompatible. During Tung's second term, he implemented the "Accountability System for Principal Officials" to reform Hong Kong's bureaucratic system in the hope of bringing about positive results.

However, surveys conducted by the University of Hong Kong showed that the people of Hong Kong were not satisfied with the "Accountability System for Principal Officials;" it only increased their discontent. Tung's popularity rating was 65.8 points before Hong Kong's handover. When the Chief Executive began implementing his policies, his popularity rating dropped below 60 points. At times, even the pro-Chinese Communists groups blamed the Hong Kong SAR government for its incompetence, which forced the "Central Government" to act on the issues, and thus leading to more associated thoughts on the breach of the "one country, two systems" policy. There were likewise frequent recommendations for Tung to resign or to become a "titular Chief Executive."

The low satisfaction ratings on Chief Executive Tung and the Hong Kong government was not only associated with the capability of the Hong Kong government, but also with the manner the Hong Kong government handled its relationship with the Mainland. A survey by the Chinese University of Hong Kong showed that 48 percent of the respondents believed Chief Executive Tung put the interest of the Chinese Communists before that of Hong Kong, and 60 percent believed that Chief Executive Tung was more responsive to the "Central Government" than to the HK SAR government. In the recent disputes on political reform, Tung and high-ranking officials of the Hong Kong government claimed that they should follow the instructions of the "Central Government," which substantiated the public's speculations. With the way the Hong Kong government is handling the Mainland-Hong Kong relationship (and their definition of the "one country" and "two systems" policy), not only would the integrity of the Hong Kong administration be undermined, but Chinese

Communist intervention in the HK SAR's affairs after the July 1st activity would also increase.

**(2) The intervention of Chinese Communist has become increasingly obvious. The people of Hong Kong have become more doubtful of the “one country, two systems” policy.**

The power shown by the people of Hong Kong for pursuing democracy shook the Chinese Communists. It made them realize that their agencies in Hong Kong and the Hong Kong government miscalculated the situation, and they had to reevaluate and change their policy toward Hong Kong. It is obvious upon examination that, since July last year, the Chinese Communists' measures were geared toward easing the dissatisfaction of the people of Hong Kong and tightly controlling the Hong Kong situation. For instance, to ease dissatisfactions, the Chinese Communists implemented economy-boosting measures in succession. They expanded the scope of their meeting with people from different sectors of Hong Kong society, selectively met with people from Hong Kong's pro-democratic forces, and mobilized the promotional mechanism to generate a supportive atmosphere. To strictly control the situation in Hong Kong, the Chinese Communists suppressed the pro-democratic forces by taking advantage of adjustments in departments and personnel involving in Hong Kong affairs, promoting their “patriotism in governing Hong Kong” ideal, suppressing people in the pro-democratic forces, and subsidizing researches as well as establishing organizations to enforce researches on Hong Kong. They used the interpretation of the Basic Law by the NPC to set limits on the course and schedule of political reform in Hong Kong, and responded to concern from the international community by saying that it was intervention in domestic affairs.

According to long-term surveys of the public opinion research project by the University of Hong Kong, the Hong Kong people's trust toward the regime of Beijing has gradually increased since the Hong Kong handover and has surpassed their trust toward the Hong Kong SAR government. The surveys, however, found that whenever the Chinese Communists openly intervened in the SAR's affairs, the Hong Kong people's faith in the “one country, two systems” policy plummeted and their trust in the Chinese Communist rule declined. For instance, the people's trust toward Beijing was 32.4 percent at the start of the handover, this increased to a high of 48.7 percent in 2002 when Beijing kept itself away from the SAR's affairs. Following the legislation of Article 23 of the Basic Law, however, the rating dropped to 37.6 percent in 2003. After the legislation was shelved, it climbed back to 45.7 percent. Because of stricter policies by the Chinese Communists recently, the rating fell to 40.4 percent. Hence, this year's July 1st march and the Legislative Council election in September are indicators as to whether the Chinese Communists will be able to suppress the Hong Kong people's appeal for democracy, or the Chinese Communists

would otherwise stimulate the people's quest for democracy.

**(3) The people of Hong Kong showed their resolve in appeal for democracy.**

The Hong Kong people's resolve for democracy did not diminish when faced with the reconciliatory and suppressive strategies of the Chinese Communists. In addition to the 500,000-strong street march to appeal for the abolishment of the legislation of Article 23 of the Basic Law, the people supported the candidates of the pro-democratic forces, leading to landslide wins against the pro-Chinese Communist forces during the District Council election. At the same time, 100,000 people marched on the street to demand for right to general election on New Year's Day. On April 11th, 20,000 people participated in the march protesting the interpretation of the Basic Law by the NPC. On May 30th, 5,600 people joined the June 4th memorial march. On June 4th, 82,000 people held a candle light vigil in the evening. All of these set new high in the number of people participating in activities similar to those of June 4th memorial activities since the Hong Kong handover.

In contrast to the Hong Kong people's resolve for democracy, Hong Kong's pro-democratic forces are at a crossroad for integration of different political lines and election conflicts. Following the series of interpretations of the Basic Law by the NPC, some people in the pro-democratic forces said they refused to participate in the so-called "false consultation" again. Some believed, however, that the boycott would marginalize their party. Differences in political direction presented a challenge to the pro-democratic forces on "whether to opt for harmony by tolerating the contradictory within the system or to show resistance and force the Chinese Communists to implement reform from outside the system."

Furthermore, the pro-democratic forces, while recalling the experience in the joint campaign during last year's District Council election, hope to obtain an even greater victory in this year's election in the Legislative Council. Nevertheless, political resources in the Legislative Council are different from those in the District Councils, and the significance of the political positions is not the same. Different political parties or groups have their own agendas and determination, thus creating problems of coordination. This is one of the important factors that would determine future conflicts or integration within the pro-democratic forces, and a pivotal juncture for the democratic development in Hong Kong.

#### **(4) There was slight economic recovery, but unemployment rate remained high.**

Hong Kong's economy has not regained its past glory since the Southeast Asian financial crisis; the people's confidence in the economic future has begun to waver. Since 2002, Hong Kong's economy has shown slight recovery, but the unemployment rate remained high. Moreover, the financial deficit of the Hong Kong SAR government was a looming problem in the SAR's economic growth.

Hong Kong's economic outlook was bleak due to the SARS epidemic in the second quarter of last year. Since the impact of the epidemic did not worsen, Hong Kong's economy gradually stabilized and grew after the third quarter. According to Hong Kong SAR government statistics, Hong Kong's economic growth rate last year was 3.2 percent. Compared to the 1.9 percent in 2002, there was apparent economic growth. Unemployment rate in 2002 was 7.3 percent. It rose to 7.9 percent last year, but recently, unemployment rate dropped to 7.1 percent. All these show that the unemployment problem cannot be ignored.

Last year was also crucial in developing closer economic relations between Hong Kong and the Mainland. Major developments were the signing of the CEPA; "personal tours" to Hong Kong made possible for people living in Guangdong, Beijing, and Shanghai, and the Hong Kong banks being able to provide personal renminbi deposits. Some opinions maintained, however, that these measures were the Mainland's way of "using economy to prop up Hong Kong," so as to appease the people's resentment toward the Hong Kong government's unsatisfactory performance since last year's July 1st demonstration and stabilized political situation in Hong Kong. Whether the relevant economic measures are positive in increasing Hong Kong's competitiveness and transforming the SAR's economic structure remains to be seen.

#### **(5) Independence of the judiciary was under question time and again.**

An independent and fair judiciary system is the foundation of Hong Kong's economic stability and prosperity. Since the handover, however, there have been successive controversial cases that challenge the fairness and authority of Hong Kong's judiciary, thus undermining public confidence in the judiciary. Most disturbing was that the Mainland factor was involved in many cases. Although there was no evidence showing that the Chinese Communists were giving instructions or that Hong Kong judiciary officials were speculating the Chinese Communists' wishes, several international organizations had pointed out that the political intervention had affected the SAR's judicial spirit and driven down appraisal on the quality of Hong Kong's business environment and rule of law.

In many cases, the Mainland factor affected the certainty and fairness of the law. For instance, the Sally Aw case (public opinion held that the concerned party was not prosecuted because it had good relation with the Chinese authorities); Xinhua News Agency Hong Kong branch office violated the Personal Data (Privacy) Ordinance (the news agency was also not prosecuted; the Hong Kong government used usual practice as an excuse not to elaborate); the interpretation of the Basic Law by the NPC, which overturned the decision of Hong Kong's Court of Final Appeal in relation to the right of abode of children of unmarried parents born in the Mainland whose father or mother is a Hong Kong resident; categorizing the Xinhua News Agency Hong Kong Branch as a national organization, thus exempting it from a number of Hong Kong laws; charging Falun Gong members, who were holding a sit-in protest in front of the Central Government's Liaison Office Building, for "blocking the streets;" Mainland policemen had transgressed into the Hong Kong territory for law enforcement; and the Hong Kong government had to consult Beijing before the legislation of Article 23 of the Basic Law. All these undermined the prestige of the independence of Hong Kong's judiciary and cast doubt on judicial independence.

On the other hand, through closer trade ties between the Mainland and Hong Kong, the Hong Kong government actively negotiated with the Mainland for the mutual recognition of legal services on both areas. Because judicial relationship between the two sides had become closer, it is worth observing as to whether Hong Kong will provide positive guidance to the Mainland's judiciary or make itself Mainland-oriented.

#### **(6) Development of human rights and freedom was restrained.**

After the handover, Hong Kong media were able to publicly criticize the Chinese Communists and the Hong Kong government, and the public could protest against the actions of the Chinese Communists or Hong Kong government through assembly and procession; but things were changing. Owners of Hong Kong media companies were appointed members of the Political Consultative Committee in succession, and capital from Mainland China continued to acquire shares of Hong Kong media companies. These put a lash on the media reports, especially the reports on political dissidents and Falun Gong activities, as well as political news on Taiwan, Xinjiang, and Tibet, where the issue of "self-censorship" surfaced. For instance, South China Morning Post dismissed its China editor for refusal to follow instruction, the RTHK political commentary show "Headline News" got "warning" from the Hong Kong SAR government for criticizing Chief Executive Tung's policy address, Metro Radio's managing editor Paul Cheung was dismissed for his protests against the top management's handling of negative reports on the SAR government, and the planned

interview with R.O.C. Vice President by RTHK was criticized by pro-PRC organizations and subsequently aborted.

Freedom of speech, of the press, of assembly, and of procession in Hong Kong were assailed in the past year. The Chinese Communist officials created the “patriotism” theory to question the pro-democratic forces’ appeal for democracy as a way to gain “Hong Kong’s independence.” Consequently, the pro-democratic forces were seriously criticized, and their actions were believed to impair the Mainland-Hong Kong relationship. Legislator Emily Lau, who supported Taiwan for choosing its own destiny, had been under attacks (her office had been the target of malicious attacks since August last year). Recently, members of the pro-democratic forces were even chased and attacked on the streets. Moreover, the public was concerned that program hosts of broadcasting stations resigned continuously for being threatened.

Allen Lee said that a Chinese Communist official contacted him asking about the well-being of his family, which caused him to worry about his family’s safety. He resigned as TV program host and his job in the Hong Kong Deputies to the NPC. Former convenor of the Social Cohesion Group of the Central Policy Unit of the Hong Kong government, Kuan Hsin-chi (Director of the Department of Government and Public Administration, Chinese University of Hong Kong), opined that “the series of events shows that an organized and planned strategy is being deployed to deal with the media.” The event also prodded 400 university professors and researchers to jointly declare that freedom of speech in Hong Kong was in peril, and to appeal the Hong Kong government to face up to the crisis. The U.N. Human Rights Defenders is now investigating the case. International media have also continued to report on relevant cases in the belief that “the political tension in Hong Kong is extremely high and Beijing’s intervention is unprecedented.” At the same time, the pro-democratic forces were unable to find any insurance company willing to insure their activities. Hence, there was difficulty in renting places and obtaining permits for their activities.

**(7) The international community was concerned with democracy in Hong Kong and the Mainland’s use of Hong Kong as a diplomatic tool.**

In accordance with the Basic Law, Hong Kong will continue to be able to develop its foreign relations independently after the handover. At present, Hong Kong has a total of 20 consul offices abroad, and there are 114 foreign consul offices in Hong Kong. The number of countries or areas having agreed to grant visa-free access to HKSAR passport holders has increased to 128.



The U.K., U.S.A., E.U., and international risk assessment organizations still regularly publish reports on Hong Kong's situation. Whether the Chinese Communists can restrain itself from intervening in the SAR's affairs, Hong Kong's judiciary independence, and democratic development in Hong Kong are focal points of their concerns. The U.S. issued more than 20 official statements or criticisms concerning the legislation of Article 23 of the Basic Law and the Chinese Communists' behavior toward Hong Kong's political reform. It even indicated that the Sino-U.S. relations would be affected if Hong Kong's democratic development fell back. The U.K. also issued many statements urging the Chinese Communists to abide by the "Sino-British Joint Declaration" and advance universal suffrage in Hong Kong.

The Mainland has likewise used Hong Kong as a diplomatic tool. Based on Articles 13 and 14 of the Basic Law, the Central People's Government shall be responsible for the foreign affairs and the defense of the Hong Kong SAR. The Mainland has thus used Hong Kong as a pawn to assail Taiwan's diplomatic relations. For instance, during the 1997 handover, the Mainland threatened to close Hong Kong embassies of countries friendly to Taiwan or lower diplomatic levels of such embassies.

Furthermore, it refused a papal visit to Hong Kong because the Vatican had diplomatic relations with Taiwan. The Chinese Communists also took advantage of its responsibility to defend Hong Kong to use it as a pawn in military diplomacy. When the diplomatic relationship between the Mainland and certain countries turned sour, it would not allow the warships of these countries to visit or undergo repairs in Hong Kong. In using Hong Kong as a channel for military diplomacy, the Mainland had caused the U.S. to be concerned as to whether the Mainland would obtain restricted weapons via Hong Kong. The U.S. Congress suggested such possibility in its report. Recently, the U.S. congressmen even proposed amendments to the U.S.-Hong Kong Policy Act whenever necessary to change the Hong Kong's status as a free zone independent of the Mainland, stop special treatment of Hong Kong, prevent disclosure of military weapons and secrets, and force the Chinese Communists to seriously consider the issues on democracy in Hong Kong.

#### **(8) Relationship between the Mainland and Hong Kong grew closer and mutual influences increased.**

Since the handover, personnel exchanges, trade cooperation, connections in infrastructure facilities, social development between Hong Kong and the Mainland, and mutual interactions between officials on both sides have become more frequent. The Mainland even arranged for Hong Kong civil servants to study in the Mainland to better understand the "national situation." Based on

statistics of the Census and Statistics Department of the Hong Kong SAR government, close to 240,000 Hong Kong residents worked in the Mainland in the past year, accounting for more than 7 percent of employed people in Hong Kong. After July 1st this year, approximately 150 million people from 32 cities in the Mainland can travel to Hong Kong and Macao on “individual visits” (as of May 31st this year, there were already two million visitors to Hong Kong on “individual visits”). According to the Hong Kong Tourism Board, since the launching of the Individual Visit Scheme in March this year, “individual visit” tourists have brought in a revenue of nine billion Hong Kong dollars.

Closer ties between the Mainland and Hong Kong also bring new problems to Hong Kong society. Last year, the total number of criminal cases in Hong Kong was a new record high, the highest since the 1997 handover. Hong Kong Police Commissioner Lee Ming-kwai admitted that Mainland tourists to Hong Kong were one of the factors contributing to the increase. Hong Kong government statistics showed that the number of Mainland tourists to Hong Kong last year was 8.42 million, and 2,123 were caught as criminals. The statistics were up 14.1 percent as compared to 2002. Sonny Lo, an associate professor in the Department of Politics and Public Administration at the University of Hong Kong, was worried that as the Mainland and Hong Kong became closer, the number of cross-border organized crimes would continue to increase.

The Mainland, however, might also be affected by closer ties between the two areas. Since the launching of the Individual Visit Scheme on July 28th last year, tourists on “individual visits” to Hong Kong could be seen joining the District Council election activities last November, the street parade on New Year’s Day, and the 411 march (in protest of the interpretation of the Basic Law by the NPC). These tourists admired the Hong Kong people’s free expressions. They would relate such freedom upon their return to the Mainland, and gradually initiate the Mainland people’s appeal for democracy. The impact would be similar to that of the Mainland’s policy of sending students abroad.

**(9) Communication between Taiwan and Hong Kong were incorporated into official mechanisms, but there was need for more official interactions and exchanges.**

Since the handover, civilian exchanges between Taiwan and Hong Kong people have been frequent, but the development of official relations have been slow. The number of people traveling from Taiwan to Hong Kong in the last five years numbered an average of 1.97 million each year (the second largest number of tourists to Hong Kong). Since 1997, the number of people traveling to Taiwan from Hong Kong has also increased at an annual average of 300,000 persons in recent years (lower last year due to the SARS epidemic). The Taiwan-Hong Kong airline routes are one of the

busiest routes in the world (approximately 6.99 million passengers in the year before last and only 5.33 million passengers last year due to the SARS epidemic). The number of Taiwan travelers transferring flights to the Mainland via Hong Kong also increased from 820,000 in 1997 to 1.21 million in 2002. Taiwan has likewise actively promoted judicial assistance and cooperation with Hong Kong hoping to jointly fight against crimes.

In 2003, for instance, bilateral trade between Taiwan and Hong Kong totaled US\$30 billion. Hong Kong is Taiwan's third largest trading partner and Taiwan is Hong Kong's fourth largest trading partner. Cross-Strait trades through Hong Kong totaled more than US\$13.9 billion. In addition, 13 Taiwan banks have established branches in Hong Kong and 15 Taiwan companies are listed in the Hong Kong stock market. Taiwan manufacturers participate in more than 30 business exhibitions in Hong Kong each year.

To promote better understanding of Taiwan's experience of liberalization, democratization, and globalization to the people of Hong Kong, the MAC invites people from Hong Kong to visit Taiwan (approximately more than 2,000 persons each year) to enable them to have a first-hand experience of Taiwan's progress in a diversified society and open economy, and to undergo interactions and exchanges with relevant personalities and groups in Taiwan. The MAC also hosted the Double Ten celebration party on October 9th, 2003, and invited people and groups from Hong Kong and Macao, Hong Kong and Macao student representatives in Taiwan, and local representatives among the more than 500 guests. The event was generally approved and supported by the participants. It fostered our friendship with the people of Hong Kong and Macao and the people of Taiwan living in Hong Kong, enhanced exchanges between Taiwan and Hong Kong, and promoted positive interactions.

In late June 2002, the Hong Kong SAR government announced that Paul Ip, Special Adviser to the Chief Executive, would no longer handle communications with Taiwan's representative office in Hong Kong in relation to Taiwan-Hong Kong affairs. The task was transferred to the Constitutional Affairs Bureau on July 1st, 2002, but interactions for both sides have not been easy. In addition to intervention by the Mainland, Hong Kong SAR government insisted on following Qian Qichen's seven principles in the processes. Sometimes, the position of the Hong Kong SAR government toward Taiwan had been more conservative than that of the Chinese Communists, which was another major reason for difficulties on both sides. Early this year, the Chinese Communists triggered the "Be Patriotic, Love Hong Kong" controversy that prompted the pro-Chinese Communists groups to attack people who are friendly to Taiwan. It caused some people of Hong Kong to keep a fence-sitting attitude toward their Taiwan connections. As a result, civilian exchanges were also affected.