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## China Takes Charge In Hong Kong: Will Personal Liberty And Territorial Autonomy Survive?

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Hong Kong remains the freest economy on earth, and enjoys the kind of growth one would expect as a result. Its people also exercise the most political and civil liberties of any territory controlled by the People's Republic of China. But the freedom to challenge the PRC's authority there is shrinking as Beijing targets dissident legislators.

Hong Kong has been *sui generis*, a Chinese territory both free and secure, since Great Britain seized it as a colony in 1898. But when the 99-year lease headed toward expiration, London and Beijing negotiated Hong Kong's return.

Great Britain could have played a high-risk game of international chicken with the still weak Chinese government, which had only recently escaped the Cultural Revolution and begun to reform its economy, and held a referendum on Hong Kong's future. But the PRC was unlikely to respect such a result; conflict almost certainly would have resulted sooner or later. So the Thatcher government agreed to the colony's return, as a Special Administrative Region.

Beijing agreed that Hong Kong would retain its relative autonomy, preserve the liberty of its inhabitants, and eventually provide for election of its Chief Executive through universal suffrage. In short, the former colony would continue to look more like its former ruler, Great Britain, than its new master, the PRC.

Observers wondered how long Beijing would stay out of Hong Kong's internal affairs. Nervous residents with money sought an escape hatch, gaining citizenship abroad when possible as insurance. Yet even China critics in Hong Kong generally admitted that the communist regime had kept its bargain. Britain probably intervened more in the press than did the PRC, one journalist told me a couple years ago.

However, the good times appear to be coming to an end. Chinese President Xi Jinping, once thought to be a reformer, has proved to be a tough authoritarian at home, campaigning against liberal freedoms. His diminishing patience in dealing with obstreperous critics is evident in Hong Kong as well.

Two years ago Beijing announced its election plan: nominees would be chosen by a panel controlled by the PRC. Residents could vote, but only for candidates approved by Beijing. Call it democracy with Chinese characteristics.

This sparked the "Umbrella Revolution," as demonstrators, mostly young, took over a roadway for weeks. Their demand for genuine elections was never realistic—the PRC's leaders are

committed to ruthless party rule and will never allow people to choose differently, even in an autonomous SAR like Hong Kong. The protests lasted for 79 days, but eventually were dispersed, avoiding the possibility of Chinese military intervention, ala Tiananmen Square in 1989, feared by some.

Then the PRC kidnapped or lured into captivity five dissident Hong Kong publishers who produced books banned in China. They all ended up in the PRC under mysterious circumstances, confessing to various dubious offenses. Four returned to Hong Kong, most publicly repentant for their past conduct; only one revealed what had happened to him. Another remains missing.

Obviously Beijing does not like criticism and demonstrated that it will not allow Hong Kong's borders to prevent it from imposing its will. What are the limits, residents now must nervously ask?

The issue of Hong Kong's relationship to China exploded again with Legislative Council, or Legco, elections in September. Several independence-minded candidates won. Yau Wai-ching and Sixtus "Baggio" Leung, leaders in the 2014 protests, refused to state the oath as prescribed by China, adding the "Hong Kong nation"; one also used an obscenity in referring to the PRC. The Legco rejected their oaths, but gave them an opportunity for a redo (though the controversy sparked unseemly brawling by contending lawmakers).

However, Hong Kong's government filed suit to block them from taking office. Then the PRC's National People's Congress announced strict new guidelines for oath-taking which also would bar the two. In effect, the NPC required a pledge of loyalty to Beijing. Even a properly recited oath could be rejected if judged to be "insincere."

Although the territory's Basic Law, or quasi-constitution, allows the NPC to offer its interpretation, the body never has done so in a matter before Hong Kong's courts (in four other instances it was asked for its opinion). The judge subsequently backed rejection of the two candidates' attempts to retake the oath; his decision was upheld on appeal.

Traditionally Hong Kong courts have been independent, but suspicions abound that the jurists considered politics as well as law. The NPC's Li Fei said Beijing would show "no leniency" toward those advocating independence: "Breaking 'one-country two-systems' is violating the law, not voicing a political view." Indeed, he added, Beijing "is determined to firmly confront the pro-independence forces without any ambiguity." Li left no doubt as to his feelings: "All traitors and those who sell out their countries will come to no good end."

Zhang Xiaoming, head of Beijing's liaison office, was similarly uncompromising: "Pro-independence speeches and behavior have seriously breached the bottom line of the 'one country, two systems' principle, the country's constitution, the relevant Hong Kong laws, as well as harming the country's unity and sovereignty." As a result, said Zhang, the PRC "would absolutely not allow pro-independence advocates [to] become lawmakers."

So much for separate decision-making in Hong Kong. Warned University of Hong Kong law professor Johannes Chan: "This is the most brutal form of intervention with a judicial interpretation." He explained that the NPC was not supposed to make Hong Kong law. "Apart

from the fatal blow to the judicial system,” he asked: “how could anyone have confidence in one country, two systems” any longer?

Now the territory faces an even sterner test. Although Zhang admitted that “it could be complicated to disqualify lawmakers who had finished their oaths,” the Hong Kong government, presumably at the PRC’s behest, now is seeking to oust another four legislators whose oaths had been accepted by the Legco.

All used the correct words, but protested in other ways, such as reading the oath very slowly or while holding a yellow umbrella, the symbol of the 2014 demonstrations, or adding their own comments before or after taking their oaths. One of those challenged, 23-year-old Nathan Law, charged that the case was part of Chief Executive Leung Chun-ying’s “reelection campaign to prove his loyalty to the Chinese Communist Party.” Others in Hong Kong shared Law’s suspicions, since Leung is expected to run again next year in a process dominated by Beijing.

But it’s not clear that the attempted purge will stop here. Last month Chinese officials warned that another 11 pro-democracy legislators could be ousted under the new standards. Whether Hong Kong will challenge them, and the territory’s supposedly independent courts will uphold the government, are yet to be seen. But Beijing obviously is less willing to accept Hong Kong’s autonomy.

The PRC’s attack on Hong Kong’s independent decision-making has restarted public protests, though they remain smaller than those of two years ago. Many people criticize what they view as juvenile behavior by the newly elected legislators, but fear Beijing may be prepared to intervene on more than simply who serves in the Legco. Last month the Chinese government announced that it would punish pro-independence activities “according to law,” whatever that means. Chief Executive Leung promised to implement the new diktat.

Potential for civil unrest is rising. Residents of the city, especially the young who have never known life in China, feel increasingly apart from the mainland. A recent poll found that nearly four of ten young people favored independence.

Despite its assurances adopted as part of the 1984 Basic Law negotiated with Great Britain, little other than Beijing’s self-restraint assures enforcement of the promise to respect the city’s autonomy for 50 years. And the PRC appears less willing to exercise such restraint. Beijing-friendly Legco member Regina Ip said “there is a sense among Chinese officials that the authority of the central government has been kept at bay,” that they “have been oppressed by the Hong Kong people and haven’t been able to assert their authority as outlined in the Basic Law.” Once the PRC government starts asserting itself, it isn’t likely to stop.

China long pointed to Hong Kong’s relative autonomy in attempting to attract Taiwan into a dependent relationship. However, with the Taiwanese people identifying ever less with the mainland and electing their own independence-minded government, persuasion by the PRC is unlikely to have much effect. Thus, Beijing may see less need for gentleness in handling Hong Kong.

At the same time, the rule of law and protection of individual liberties provide the latter with an important competitive advantage in competing for global business. However, while Hong Kong

remains an important financial center, the mainland has advanced dramatically over the last three decades. A couple decades ago Hong Kong accounted for a quarter of China's GDP. The figure now is three percent.

With cities such as Guangzhou, Shanghai, and Shenzhen becoming major, even world-class business locations, the PRC no longer needs rely so heavily on Hong Kong. And with people in the latter growing more, shall we say, "disagreeable," the Chinese leadership may attempt to redirect business, investment, and trade elsewhere. In time it might be prepared to sacrifice Hong Kong's economic strength for political ends.

There's little the rest of the world can do in response to rising Chinese interference in the territory's internal affairs. The U.S.-China Economic and Security Review Commission recently warned about Beijing's misbehavior, causing the Chinese Foreign Ministry to respond that "Hong Kong's matters are purely China's internal affairs. We strongly object to any foreign institutions criticizing and intervening in Hong Kong's matters in any way."

Legislation has been introduced in Congress to penalize the PRC for intervening in Hong Kong's affairs, but no government of a major power will yield its sovereignty to the demands of a foreign nation. In fact, those who have spoken to Chinese President Xi Jinping about the matter say he is unusually passionate in criticizing Hong Kong's independence movement.

If China could be browbeaten into compliance, Congress would have freed the mainland long ago. Efforts to intervene are complicated by the fact that Washington wants many things from the PRC: help on North Korea, a new investment agreement, concessions on trade, restraint in the South China Sea, and more. In practice, human rights in Hong Kong will never top the list.

Ultimately, the question for Hong Kong's residents is how to best fight to protect their basic liberties. While the objective of independence is eminently reasonable, it also seems utterly unobtainable. Unfortunately, protests to that effect risk encouraging a crackdown that would threaten far more than this particular protest movement. Gratuitously provoking Beijing almost certainly is counter-productive.

However, active assertion of civil and political liberties also is required for their preservation. Hong Kong legislator Claudia Mo predicted that "Hong Kong will become even more vibrant on the political front. You could easily see Umbrella Movement, Part 2." Beijing officials need to realize that they would pay a price for further limiting freedoms in Hong Kong. However, protestors need to exercise wisdom in picking their battles.

Hong Kong remains an important test of China's future plans. Will Beijing maintain this alternative system, despite what it sees as offensive provocations, as promised? Or will it decide to sacrifice its word as well as the liberties which help make the city so successful?

The role of the people of Hong Kong will be critical. By needlessly provoking Beijing's ire, independence-minded legislative candidates have triggered an assault on the city's autonomy that is only likely to grow. In the future activists must exercise prudence as well as courage as they battle to protect the city's civil and political freedoms.

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