6月

7月

8月

9月

10月

11月

12月

2017年1月

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3月

4月

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9

PROSPERITY AND FREEDOM:

HONG KONG'S DILEMMA

Antony Dapiran

Hong Kong — 'exuberant like a bamboo or a pine tree'
Source: Wikimedia Commons

'FELLOW COMPATRIOTS, dear friends, time flies fast! It has been twenty years since Hong Kong's return to the motherland. According to China's tradition, a man enters adulthood at the age of twenty. So today, we are celebrating the coming of age of the Hong Kong Special Administrative Region, which has grown exuberant like a bamboo or a pine tree.'¹

British Hong Kong: Victoria Harbour in 1988, showing the Bank of China Building under construction

Source: Wikipedia

On 1 July 2017, when Chinese President Xi Jinping spoke on what he called the ‘solemn and joyous occasion’ of the twentieth anniversary of Hong Kong’s return to Chinese sovereignty at a ceremony in Hong Kong’s Convention and Exhibition Centre — the site of the handover ceremony twenty years earlier — he struck a triumphalist tone. ‘The practice of “One Country, Two Systems” in Hong Kong is a success story recognised by all’, Xi declared.

Yet he was addressing a Hong Kong that is deeply divided. Politely applauded by an audience of Hong Kong government officials and pro-Beijing loyalists inside the convention centre, Xi did not hear the shouts of protesters clamouring behind police barricades several blocks away. Xi’s visit had been carefully choreographed by the Hong Kong government, with streets blockaded and protesters screened off, to ensure that no signs of dissent fell within Xi’s field of vision during his three-day visit. In preparation, the government had deployed police to remove all traces of the usually colourful array of street banners promoting pro-democracy or anti-China political causes, to avoid any inadvertent ‘embarrassment’ (although exactly who would be embarrassed was not clear).

Standing Still

The economy and living standards in Hong Kong have remained near stagnant since the handover. Average monthly wages have only inched ahead over twenty years, from HK\$11,113 in 1997 to HK\$15,451 at the end of 2016 — an annual growth rate of around 1.8 per cent, while the consumer price index, after a period of deflation from 1999 to 2003, grew by around four per cent per year in subsequent years. (By comparison, average Australian wages more than doubled over the same period, with an average annual inflation rate of 2.6 per cent.) Inequality, meanwhile, has continued to grow, with the wealth gap hitting a record high in Hong Kong in 2016. The Gini coefficient — which measures wealth distribution on a scale from zero, representing perfect equality, to one, representing maximum inequality — reached 0.539 that year, making it the world's second most unequal city after only New York in a series of global metropolitan cities surveyed by the Hong Kong Census and Statistics Department.² (By comparison, the department noted that Australia had a Gini coefficient of 0.33 in 2015.)

At the same time, property prices have spiralled, recently reaching levels last seen in the 1997 property market bubble (which burst in the Asian financial crisis and, with property values falling by as much as two-thirds, hammered the territory's economy and left it with six years of deflation). Hong Kong housing is now the world's most unaffordable, with the average apartment costing 18.1 times gross annual median income. This is despite the government introducing various market-cooling measures such as imposing double stamp duty on non-local (primarily mainland) buyers. In order to build properties that entry-level buyers can afford, developers are building apartments as small as twelve square metres, not much larger than the seven-and-a-half square metre prison cells at Stanley Prison, where former chief executive Donald Tsang found himself earlier this year after being sentenced to twenty months' imprisonment for misconduct in public office. (In April, Tsang was released on bail pending an appeal, set

Donald Tsang

Source: Wikimedia Commons

down for 25 April 2018, while additional bribery charges have been put on hold by prosecutors after two consecutive trials returned hung juries.)

‘Development,’ Xi declared in his July speech, ‘is crucial for Hong Kong’s survival, and it holds the golden key to resolving various issues in Hong Kong.’ This must have seemed to Xi and his colleagues as stating a doctrinal truth. It was Deng Xiaoping, after all, who on his famous Southern Tour of 1992 coined the slogan ‘Development is the fundamental principle’ 发展才是硬道理, and the CCP

has found the formula effective on the mainland for maintaining power and containing political dissent. However, Xi’s statement conveyed just how deeply the official line from Beijing misunderstands Hong Kong in purporting that — just like people in the rest of China — if only Hong Kong people were wealthier, they would be happier. It would help, to be sure.

By the end of 2017, Hong Kong was displaying all of the signs of economic and social inequality that have, arguably, spurred political instability in the rest of the world, feeding phenomena such as Brexit and Trumpism. This was highlighted by the following two headlines appearing within days of each other in the *South China Morning Post* in November: ‘Hang Seng smashes through 30,000 barrier for first time in a decade as energy, financial stocks rally’³ and ‘Poverty in Hong Kong hits record high, with 1 in 5 people considered poor’.⁴

Of the city’s 7.35 million residents, in 2016, 1.35 million were living below the official poverty line — defined as HK\$4,000 (around AU\$678) income per month for a single person, being half the median monthly household income — according to the Hong Kong Poverty Situation report.

The Mainland Steps in

Despite having a population of around 0.5 per cent that of the mainland, Hong Kong's GDP was sixteen per cent of the mainland's twenty years ago. Today it is less than three per cent. As a result, mainland economic influence in Hong Kong has grown significantly in recent years. Mainland real estate developers won the majority of Hong Kong government land auctions in 2016 and 2017, willing to pay prices that make even seasoned Hong Kong developers blanch. Early in 2017, two Chinese companies paid a record HK\$16.9 billion for a waterfront residential site in Ap Lei Chau on the south side of Hong Kong Island, outbidding local property tycoons including Li Ka-shing and the Kwok brothers. International and local Hong Kong firms seeking prime office space in the Central district are finding themselves priced out of the market by mainland companies seeking to plant a flag in the city.

Mainland financial institutions and corporations have taken up half of Central real estate in 2017, according to real estate firm JLL Research, with international financial institutions, hedge funds, and law firms being pushed out to more remote, cheaper, districts. Mainland financial institutions are making use of their new Hong Kong bases to take leading roles in syndicates underwriting listings on the Hong Kong Stock Exchange and lending to corporate borrowers, partly by accepting pricing or terms that Western banks consider uncommercial, whether this is in a bid to 'buy' market share or because they are motivated by other non-business considerations.

Today, there is almost no business in Hong Kong that is left untouched by the mainland in some way, whether a mainland entity is a counter-party, shareholder, or financier. Increasing mainland involvement in the economy has led to rising demand for Mandarin language skills and professionals who have a cultural familiarity with the mainland. This has squeezed out not only the traditionally dominant English-speaking Western 'expats' but also local Hong Kong graduates. As a result, mainland Chinese have

become the 'new expats', as they take an increasing share of the jobs in investment banks, accountancy and law firms, and other related professional service industries that have built up around Hong Kong's financial services and trading hub economy: in 2016, trade and logistics represented twenty-two per cent of Hong Kong's GDP, financial services 17.6 per cent, and professional services and other producer services 12.3 per cent, according to the Hong Kong Trade Development Council. Visitors from the mainland also dominate Hong Kong's tourism industry, with seventy-six per cent of total visitors coming from the mainland in 2016.

It is not just social inequality or diminished prosperity that is dividing Hong Kong. Hong Kong's people are struggling to assert an identity apart from — even while being a part of — the rest of China. That struggle finds its expression in literature, filmmaking, and art as well as ongoing protest movements in Hong Kong. It is increasingly undermined by Beijing's actions to assert its control over the territory as well as its insistence that Hong Kong's identity must be subordinate to the mainland: that is to say, the 'one country' must take precedence over the 'two systems'. This was notable from the recent Nineteenth Party Congress, at which 'Upholding the principle of "One Country, Two Systems" and promoting national reunification' was one of the fourteen 'fundamental principles' that form part of 'Xi Jinping's Thought on Socialism with Chinese Characteristics for a New Era' 习近平新时代中国特色社会主义思想. The integration of Hong Kong (together with Taiwan) into the Chinese state is well and truly on the agenda of the central leadership.

The shift in tone in the Xi era can be seen when comparing the resolution relating to Hong Kong from this year's Party Congress with that from the Eighteenth Party Congress held in 2012, under then-president Hu Jintao 胡锦涛. Both versions referred to 'faithfully implementing' the One Country, Two Systems policy and maintaining a 'high degree of autonomy'. But the 2012 version also speaks of the need to 'respect the differences of the two systems'. In 2017, that respect was gone, replaced with a new demand for unity, that Hong Kong people 'share both the historic

responsibility of national rejuvenation and the pride of a strong and prosperous China.’ This was accompanied by the sternly worded warning: ‘We will never allow anyone, any organisation, or any political party, at any time or in any form, to separate any part of Chinese territory from China’. It signalled Beijing’s intention to tighten its control over Hong Kong to prevent any kind of activities it sees as undermining national unity or Party rule.

Lawfare

The latest efforts by Beijing to bring Hong Kong to heel have come in the form of ‘lawfare’ — using Hong Kong’s legal system to manage or silence political opponents and/or to achieve political objectives. The authorities can thus pay lip service to Hong Kong’s rule of law, universally recognised as an important core value of Hong Kong, while using that same legal system to control dissent.

The lawfare campaign began in 2014, when the Hong Kong government allowed minibus and taxi companies to obtain injunctions that were the legal basis for the authorities’ clearing of the Umbrella Movement’s occupation of the streets. In permitting the civil court process to be used to resolve a political and public order issue, the government was engaging in rule *by* law (as opposed to rule *of* law) — a tactic frequently ascribed to the mainland but now also arguably equally applicable to Hong Kong. (See the *China Story Yearbook 2016: Control*, Chapter 2 ‘Control by Law’, pp.43–57.)

The lawfare campaign continued with the political screening of candidates for the Legislative Council election in 2016, which resulted in several candidates from ‘localist’ parties being barred from running. When two successfully elected candidates from the Umbrella Movement-inspired Youngspiration 青年新政 party deliberately misread their oaths during the official swearing-in ceremony, the National People’s Congress (NPC)

Youngspiration volunteers

Photo: inmediahk, Flickr

intervened, re-interpreting the Basic Law and retroactively prescribing the manner in which officials were to swear their oaths. As a result, the pair were disqualified.⁵

In 2017, the Hong Kong government took further action in the courts to disqualify four additional legislators for oath-swearing infractions. The courts, citing the NPC, stated they had no choice but to concur. Thus six duly-elected legislators were removed from office by the government on the basis of a piece of retroactive law-making by Beijing, all done under the cover of the ‘need to uphold Hong Kong’s rule of law’. These disqualified legislators are now being asked to repay all salaries and allowances paid to them during the time they were ‘illegally’ occupying their seats, amounting to millions of Hong Kong dollars and will likely leave them facing personal bankruptcy.

In August 2017, the government took the next step in its lawfare campaign. A lower court in August of 2016 had sentenced the ‘Umbrella Three’ (Joshua Wong Chi-fung 黃之鋒, the international face of Hong Kong’s youth-led democracy movement, together with his fellow student leaders Alex Chow Yong-kang 周永康, and Nathan Law Kwun-chung 羅冠聰), to between 80 and 120 hours of community service (and a suspended three-week prison sentence, in the case of Chow) for their role in leading

an ‘unlawful assembly’ during the Umbrella Movement protests of September 2014. Although they completed their sentences, the Hong Kong government backed by Beijing appealed their sentence, calling for tougher punishment. This sent a clear message to the people of Hong Kong that dissent will not be tolerated. On appeal, the Umbrella Three were sentenced to between six and eight months in prison. As a convenient by-product of their receiving jail sentences in excess of six months, they would be banned from running for public office for five years. With Legislative Council elections operating on fixed four-year terms, this would effectively knock them out of the formal political process until 2024, by which point, Beijing no doubt hopes, they will be forgotten, or at least that their influence will be significantly diminished. Following a further appeal, the Court of Final Appeal overturned their sentences in February 2018; however, Hong Kong’s highest court at the same time endorsed the lower court’s sentencing guidelines, which call for an immediate custodial sentence for unlawful protests involving violence.

If the government thought that imprisoning the young activists might take them out of the public eye, this was quickly shown to be misguided. Instead, media commentators, including the *Wall Street Journal* editorial board, and organisations including Human Rights Watch began referring to the Umbrella Three as ‘political prisoners’. In response, Hong Kong Chief Executive Carrie Lam Cheng Yuet-ngor 林鄭月娥 argued that the cases ‘are not political persecutions or persecutions on the basis of expression of views’ and insisted that there was ‘absolutely no political interference, both [sic] in the prosecution, in the review of sentence and in the judgments and rulings’.⁶ Her words rang hollow. The Umbrella Three were jailed for conducting a political protest, and it was a political appointee — Secretary for Justice, Rimsy Yuen Kwok-keung 袁國強 — who decided to prosecute and later appeal their sentences, reportedly against the advice of Department of Justice career civil servants and senior public prosecutors. It is impossible to argue that the decision was made purely in the interests of the administration of justice.

Jail, bankruptcy, ruined career prospects — the Hong Kong government is trying to make the cost of dissent intolerably high. It wants Hong Kong's politically active youth in particular to think twice about the cost of standing up for their beliefs.

The most recent step in the lawfare campaign, unfolding as 2017 drew to a close, was the application to Hong Kong of the new PRC National Anthem Law 中华人民共和国国歌法, which mandates solemn and dignified behaviour when the national anthem is played, and criminalises acts insulting, disrespecting, or parodying the anthem. This was no doubt prompted in part by Hong Kong soccer fans' repeatedly booing and jeering the national anthem at football matches, despite official warnings. This PRC law became one of the few mainland laws to be added to Annex III of Hong Kong's Basic Law, which applies specified mainland laws to Hong Kong's otherwise separate legal jurisdiction. The Hong Kong government has said it will introduce appropriate local legislation to implement the law, including setting out criminal punishments. In the mainland, disrespecting the anthem carries a penalty of up to three years in jail.

The Thin Red Line

In his Hong Kong speech, President Xi lay down a 'red line' that he said must not be crossed: 'Any attempt to endanger national sovereignty and security ... or use Hong Kong to carry out infiltration and sabotage activities against the mainland is an act that crosses the red line and is absolutely impermissible'.

At the beginning of the academic year in September, students on Hong Kong's campuses set about testing Xi's red line, putting up posters advocating Hong Kong independence. This provoked a predictably strong response from officials, who declared that even expressing the sentiment was 'illegal'. The fact is that there are currently no Hong Kong laws outlawing seditious or subversive speech, although it is widely anticipated that Carrie

Lam and her government will attempt to introduce a new iteration of the so-called ‘Article 23’ anti-subversion law during her term of office. That may be a test of the community’s sentiment and resolve: a similar attempt in 2003 brought half a million people onto the streets and led to the withdrawal of the law and the resignation of then-chief executive Tung Chee-hwa 董建華. But the reality is that there is no popular support in the broader Hong Kong community for independence, or even self-determination, and even its advocates will admit when pressed that their real intention is to provoke debate and push Beijing to respect the high degree of autonomy Hong Kong was promised for fifty years after the handover, a promise that is now being broken.

The question for Hong Kong is where will Xi’s ‘red line’ be drawn? Beijing will not tolerate Hong Kong being used as a base to subvert the Party-state or its interests. The abduction and detention of Hong Kong publishers and booksellers involved in printing and distributing books that undermine Party leaders and question their policies make it clear that exercising freedom of expression can cross the line. The National Anthem Law demonstrates that fomenting disrespect for mainland institutions and symbols such as the anthem crosses the line. The sentences handed down to the Umbrella Three suggest that taking to the streets to defy openly Beijing’s policies on Hong Kong also crosses the line. However, keep inching away and the point could be reached where criticising the Hong Kong government itself could be considered intolerably ‘endangering national sovereignty and security’. At that point, the rights and freedoms granted to Hong Kongers by the Basic Law would be significantly undermined.

Tung Chee-hwa
Source: Wikimedia Commons

Pro-Beijing, anti-colonial riots of 1967
Photo: Roger W, Flickr

Those rights and freedoms, and the 'high degree of autonomy' that Hong Kong is said to enjoy under the One Country, Two Systems 一国两制 formula, must be seen through that lens. The question is whether the rights and freedoms under-

write Hong Kong's prosperity, as Britain believed when it negotiated the Sino-British Joint Declaration of 1984, and Hong Kong's pro-democracy activists still contend, or whether those rights and freedoms can and should be sacrificed in order to have 'stability' alongside 'prosperity', as Beijing and its supporters would have it. It would not be the first time that Hong Kong's rulers have sought to appeal to interlinked 'stability and prosperity' to quell domestic unrest: the British did the same after the pro-Beijing, anti-colonial riots of 1967. It is ironic that the 1967 generation that is now in charge is turning the same arguments on their political opponents.

The nub of the question is this: would Hong Kongers prefer to feel a little more prosperous, or a little more free? It is a question that has been debated more broadly at least since Francis Fukuyama wondered in 1989 whether we had reached the 'end of history', and whether the universalisation of Western liberal democracy was the final form of government.⁷ Fukuyama suggested that the collapse of Eastern European communism was an indication that people would always opt for the freedom of democracy. The economic success of China's form of authoritarian capitalism, referred to as the 'Beijing consensus' or the 'China model',⁸ has in recent years been mooted as a riposte to that, probably premature, conclusion. Yet questions remain as to whether the model is sustainable in the face of

a growing middle-class population. Would they be happy with the limited freedom offered to them under the China model, or will they inevitably be lead towards Fukuyama's 'end of history' in demanding liberal democracy? Hong Kong is living out this global theoretical battle in real time.

As President Xi concluded his remarks in July, he issued a call for unity:

People of all ethnic groups across the country are engaged in a joint endeavour to... fulfil the Chinese Dream of national renewal. Ensuring the continued success of the practice of 'one country, two systems' in Hong Kong is part and parcel of the Chinese Dream.

To Xi, Hong Kong's role is simply as part of his signature policy of pursuing the Chinese Dream of national rejuvenation 中华民族伟大复兴的中国梦. He fails to realise that, while Hong Kong and the rest of China may share a common bed, many Hong Kong people are dreaming a different dream.

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