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### Political Reform in Hong Kong Within Greater China

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# **POLITICAL REFORM IN HONG KONG WITHIN GREATER CHINA**

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# POLITICAL REFORM IN HONG KONG – WITHIN GREATER CHINA<sup>1</sup>

By

Richard Cullen<sup>2</sup>

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## 1.0 INTRODUCTION

Hong Kong recently passed its tenth anniversary as the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China (PRC). Ten years on the economy is thriving – but democratization is stalled. The HKSAR Government has promised to break the political reform logjam. How successful the Government will prove to be remains to be seen and when real reform will occur is, thus, still not finalized. A key reason, noted by many, is that the HKSAR Government answers, primarily, to Beijing – not to the people of Hong Kong. It is the PRC, they say, which still sets the parameters for any political reform in Hong Kong.

This is basically true – but this approach tends to regard the PRC as an entity that has somehow always been there. In fact, China has a very long history of which the PRC

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<sup>1</sup> This paper is based on an article published in Politika Annual Journal 2007 (Politics and Public Administration Association, Hong Kong University). I wish to express my thanks to Xu, Yan, a PhD student in the Faculty of Law at The University of Hong Kong and Professor Lim, Chin Leng, also of the Faculty of Law. Ms Xu's research and writing on China's historical political development has helped stimulate the reflections in this short article. Discussions with Professor Lim have helped round out my thinking. The views expressed – and any errors contained therein – are mine alone.

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forms only a short, recent part. It is, moreover, a history which, notwithstanding the revolutionary changes in 1912 and 1949 has significantly shaped the PRC. It is a history which continues to influence political events in Greater China in the 21<sup>st</sup> century.<sup>3</sup> It makes good sense, therefore, when discussing political reform in Hong Kong, to consider the longer term dimensions of China's political history.

## **2.0 THE “ABC” OF POLITICAL REFORM IN GREATER CHINA**

Several points stand out when one reflects on China's extended history. First, no other political entity, past or present, can compare to China in terms of size and durability. Next, this astonishing resilience has been achieved under a succession of authoritarian governments stretching back (from today) over several millennia. Democracy can point to many achievements but it cannot come close to matching a feat – across time - of this magnitude.

This is not an argument for authoritarianism – just a statement of fact. The reasons why China has developed and survived as it has are complex. A huge economy which has been able to pivot around agriculture, century after century, provides an important part of the explanation. But one key aspect of China's reliance on authoritarianism comes down to the collective historical understanding of the alternative. The past seems to demonstrate very firmly that China has faced a continuous, basic “A or B” choice. Choice A: stick with a centralized authoritarian government. Choice B: turn China into a playground for Warlords.

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<sup>3</sup> By Greater China I mean, the Mainland PRC, the HKSAR, the MacuaSAR and Taiwan.

Nowadays, it is common to speak about a third - or C – choice: democratic government. In fact, the C option most frequently argued is some sort of “fast-track” version of what we might call the D choice: evolved mature democracy. The D option is what we associate with the developed West.

In the period since the collapse of the Berlin Wall in 1989, the C option has been tried across many jurisdictions in East and South East Asia, throughout much of Eastern Europe, in numbers of African states and across Latin America. Perhaps the best recent examples of the C option working well (though less than “perfectly”) are South Korea and Taiwan and South Africa. It is, true, however, that there are many examples of the C option struggling badly – two grim instances, Russia and Nigeria, particularly stand out. It is thus not a surprise, within the PRC context, to see the argument made that adopting the C option is commonly a recipe for instability, greater lawlessness and even worse - which is exactly what, historically, made the B option so collectively loathed. In other words, both B *and* C lead to similar outcomes. Which leaves A as still the best option.

This argument ultimately, of course, relies on a common ploy. Compare what you favour with real life. Compare what you do not favour with some ideal (or equate it with a known evil). A variation on this approach, well honed by legal systems over the centuries, is to shift the onus of demonstrating who is right primarily to one party. If the onus is on democratic reformers to show that what they propose is best (or even perfect) this takes much of the heat off those who favour retaining the (authoritarian) status quo.

### 3.0 CHINA – HOW UNITARY IS THE UNITARY STATE

Especially since the creation of the HKSAR in 1997, followed by the MacuaSAR in 1999, a number of commentators have wondered if China may be turning into a *quasi-Federal State*.

The following definition is useful in considering the merits of this argument:

*A Federation is a political union comprising a number of partially self-governing States or Regions united by a Central (or Federal) Government. In a Federation, the self-governing status of the component States or Provinces is typically constitutionally entrenched and may not be altered by a unilateral decision of the Central Government.*<sup>4</sup>

In a Federation it is usual, too, to use a Supreme Court as a “constitutional umpire”. It is assumed that there will be disputes over time, in any Federal System, about which level of Government enjoys which powers, for example. Thus a Supreme Court or Constitutional Court will be needed to adjudicate and decide with finality where political power finally lies in such cases.<sup>5</sup> (At this point it is worth noting that it is *not* a necessary feature of Federalism that there be a Bill of Rights in the Constitution.<sup>6</sup>)

China, like the UK, has historically considered itself to be a Unitary State. And that is the view which prevails today in the PRC. A Unitary State is:

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<sup>4</sup> See: <http://en.wikipedia.org/wiki/Federation>

<sup>5</sup> The features noted in this brief overview of Federalism are all evident in Federal States such as Australia, Canada, Germany and the USA, for example.

<sup>6</sup> Australia still has no comprehensive Bill of Rights in the Constitution. For the first 100 years-plus of the existence of the Federal System in Canada, there was no Constitutional Bill of Rights.

*A State that is governed, under its Constitution as one single unit, with one constitutionally created legislature. The political power of Government in such States may well be transferred to lower levels, to regionally or locally elected assemblies, governors or mayors but the Central Government retains the principal right to recall such delegated power. In a Unitary State, any sub-governmental units can be created or abolished, and have their powers varied, by the Central Government.*<sup>7</sup>

The argument that the PRC is today – and particularly since 1997 – slowly evolving into so sort of early-stage, Federal System is not fanciful. But the better view is that, in essence, China remains a Unitary State.

China has, historically, maintained a rather special sort of Unitary State, however. Partly as a result of its vast size and partly as a product of political lessons learned over the centuries, Central Governments across many dynasties in the Imperial era tended to maintain a comparatively “light touch”. As Michael explains:

*Confucianism propagated a government by suasion. The Emperor’s wisdom would, so it was claimed, attract people near and far to his sway. In practice this concept resulted in a limitation of government functions, leaving many concerns regarded as government’s responsibility in modern nation-states to the free interrelationship and autonomous management of society. The comparatively small number of imperial officials testifies to this limitation of the State, so diametrically opposed to the twentieth-century totalitarian State to which some have mistakenly linked it.*<sup>8</sup>

The ultimate territorial unity of the Chinese State has always been a paramount concern across the very long periods of unified control. There has been far less concern, prior to the modern era, with unified “micro-management” of society, however.

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<sup>7</sup> See: [http://en.wikipedia.org/wiki/Unitary\\_state](http://en.wikipedia.org/wiki/Unitary_state)

<sup>8</sup> Michael, Franz, *China Through The Ages* (Westview Press, Boulder, 1986) 241.

I should make it clear that I am not arguing that we can look to China's past political history to discover long term examples of some sort of "Golden Age" of remarkably benign, political and social poise: great misery for millions of people is a continuing hallmark of the Imperial era. What is striking, still, is that, unlike in emerging and developed European civilizations, there was notably less centralized orchestration of the operation of the State. Also absent, was the immensely powerful marriage of religion and politics which dominated European history following the ascendancy of Christianity. The comparatively minimalist, macro-political-system, which China built, coupled with perhaps the most sophisticated "micro-political- system" ever seen, helps explain both the capacity of the historical Chinese State to grow to such dimensions and endure over such a remarkable time-frame.

I use the term, macro-political-structure, to indicate the primarily top-down or "wholesale" level of the political organization of a given State. I use the term, micro-political-structure, to identify the often self-organizing or "retail" level of political-economic-social structuring, in which citizens of a given State always engage, to some degree. At the negative extremity, this term encompasses criminal organizations operating within the State. But it also covers the mass of neutral or positive organizations and institutions which we nowadays often refer to as "civil society". Within China, historically and to this day, one finds the family at the pivot of the micro-political-system. The dominance and the extraordinary, wide-ranging efficiency of this basic social building block underpin the claim that China's historical micro-political-structure brooks few equals. Professor Allison explains the significance of the family 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 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.<sup>9</sup>*

A further part of the explanation for the nature of the Chinese Unitary State derives from the fact that both systems, macro and micro, drew, in a largely non-coerced manner, on the same Confucian, social-political ideology, thus building in a buffer against the sort of “class conflict” which ultimately helped drive so much European political change - change which, notably, was greatly accelerated by the conflict arising out of the most fundamental religious disputation (a process which we now call the “Reformation”). Confucianism, unlike Christianity, did not carry within it, the capacity to generate a sense of mass, elemental outrage.

The concept of what might be termed the minimalist Unitary State is a well captured in the observation, repeated over many generations, that “The mountains are high – and the Emperor is far away”. In such a State where Confucianism (as adapted across the centuries) provided the bedrock ideology, century after century, for political and social life equally, it transpired that the Unitary State became almost self-sustaining from the

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<sup>9</sup> Allison R. E. in (Allison (ed.)) Understanding the Chinese Mind (Oxford University Press, Hong Kong, 1995) 19.

“grass roots” up.<sup>10</sup> The continuous preoccupation with avoiding, above all, the chaos of Warlordism noted above was a further reinforcing factor.

Both the HKSAR and the MacuaSAR have been granted remarkable autonomy in terms of the powers they exercise. Indeed, they exercise greater autonomy from Beijing in terms of their economic and legal systems that one would ever find amongst Regional Governments within any classical Federal System, such as in Germany, the USA or Australia. The two SAR’s run totally independent tax systems. Each has its own currency, and almost entirely separate legal system. And they each are allowed to maintain a certain level of separate, international personality, for example.

Missing from the equation, however, are those benchmarks of a true Federal System, noted above:

- The self-governing status of the component Regions, States or Provinces is typically constitutionally entrenched and may not be altered by a unilateral decision of the Central Government.
- An independent Supreme Court will act as a “constitutional umpire” and will adjudicate, finally, about which level of Government enjoys which powers.

When one looks at the level of separateness and autonomy of the new SARs through the lens of Chinese history, a certain element of continuity is evident. Here, in the 21<sup>st</sup> century, we have these entities within China which enjoy exceptionally notable degrees of local autonomy – but combined with ultimate final control by the Central Government.

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<sup>10</sup> Ibid.

This insistence on the clear, formal retention of the concept of a Unitary State whilst allowing very substantial Regional Government autonomy - provided ultimate central authority is accepted - can be seen, in more recent historical times, in Spain. Briefly, in the post-Napoleonic era, certain regional-ethnic tensions in Spain became critically important, politically. The most notable conflicts developed between the Castilian majority centred on Madrid and the Basque Country and Catalonia (each having their own languages). Over the period from the 19<sup>th</sup> century through the period of the Franco Dictatorship (1939 - 1975) until the current, post-1975, modern democratic era, there has been a marked political tension between those favouring Federalism (as it was understood in Spain and those favouring the Unitary State. For many, Federalism came to stand for (too often) violent ethnic separatism whilst the Unitary State stood for overbearing control from Madrid. These political stresses continue in Spain – the avowedly violent Basque separatist movement remains active. The new 1978 Spanish Constitution, which consolidated the formal establishment of democracy in Spain addresses the problem by noting in its introduction that Spain is *not* a Federal but a Unitary State. It then goes on, however, to allow for very significant (varying according to region) autonomy for Regional Governments. For example, the Head of the Unitary State of Spain is the King, yet the Head of the Regional Government in Catalonia is allowed to style himself as a President.<sup>11</sup>

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<sup>11</sup> See further: Conversi, Daniele, “The Spanish Federalist Tradition and the 1978 Constitution” at: <http://easyweb.easynet.co.uk/conversi/Telos>.

## 4.0 CONCLUSION

### 4.1 The Current Realpolitik<sup>12</sup>

No one has addressed the challenge presented in Part 2, above, better than Churchill. "Democracy", he noted in 1947, "is the worst form of government, except for all those other forms that have been tried from time to time." In other words, the onus of establishing the fundamental value of democracy has been discharged, sadly, brutally but convincingly, by history. That said, Hong Kong cannot ignore the A versus B, accumulated legacy of Chinese political experience discussed above

Next, the concept of "One Country" embodied in the formula "One Country – Two Systems" (OCTS) has powerful historical underpinnings. OCTS may have been devised by the Chinese Communist Party (CCP) but, in doing so, the CCP was building on a deep understanding crafted over many centuries of China being a Unitary State. This is a concept which allows the possibility, however, of genuine and substantial local autonomy – providing the suzerainty of the Central Government is "venerated". That veneration must be sincere but it is clear that it need not be stifling.

It is within this rather frosty context that the best current arguments to further democratic reform in Hong Kong have to be crafted.

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<sup>12</sup> "Realpolitik" means "politics based on practical and material factors rather than on theoretical or ethical objectives." See: <http://www.merriam-webster.com/dictionary/realpolitik>.

## 4.2 Looking Further Forward

Will China become “democratic” in the Western understanding of that term? Perhaps, but not soon would be my own response. One reason this is so, however, is that the 21<sup>st</sup> century CCP is constantly debating and adapting, economically, socially – and politically.<sup>13</sup> Change is far from linear, but the CCP seems to have inherited certain political-genes from China’s Imperial past, especially those which help the State focus on survival and development by being politically pragmatic. Of course, this formula also embodies the concept of, above all, protecting the core, autocratic system. But in the current, post-Mao era, the CCP is, at the highest levels, also fundamentally focused, over the long term, on trying making China a better place to live for all PRC citizens.

This positive aspect of Central Government policy-firmness increases the space for steadily building greater two-way trust between the HKSAR and Beijing. In this way, better foundations for the acceptance of continuing substantial political reform within the HKSAR can be laid. This is not to suggest that the conditions for reform are set to change rapidly and positively. But it does look, still, that time favours reform rather than political stagnation.

One constant “reform-shadow” for the HKSAR is the relationship between the PRC and Taiwan. When the cross-straits political temperature is rising, political reform in the HKSAR becomes more problematic. The HKSAR, thus, would be better placed to press

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<sup>13</sup> See, for example, Lam, Willy, “China’s Debate over Vietnam’s Reforms” at: [http://www.jamestown.org/publications\\_details.php?volume\\_id=415&issue\\_id=3821&article\\_id=2371338](http://www.jamestown.org/publications_details.php?volume_id=415&issue_id=3821&article_id=2371338).

ahead with extensive political structure reforms if a less tense, more stable *Modus Vivendi* were to become established between Beijing and Taipei. The current President in Taiwan, Chen, Shui-bian, has to step down in 2008. There is a fair prospect that his replacement (from whichever main political party) may rely less on a Beijing-hostile stance as a fundamental, ongoing political survival tool. But we will have to wait and see: (A) if this happens; and (B) how much difference it makes, over time, to cross-straits relations.<sup>14</sup>

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<sup>14</sup> These observations draw on comments made by the commentator, Willy, Wo-Lap Lam, at the presentation: “Prospects for Reform in China After the 17<sup>th</sup> Party Congress – Plus an Analysis of Hu, Juntao’s New Team”, for the Contemporary Chinese Studies Program at the Centre for Asian Studies, The University of Hong Kong, on May 23, 2007 (see: <http://www.hku.hk/cas/seminars/23May2007.html>).