

# Chapter 1

## The Hong Kong Special Administrative Region: An Unfinished Transition

Hong Kong was the focus of the world on 30 June 1997. This was the date Britain ended its 156 years ruling in Hong Kong. The handover ceremony was started at about 11:15 p.m. when the British team, led by Prince Charles, and the Chinese team, led by President Jiang Zemin, entered the Grand Hall of the Hong Kong Convention and Exhibition Center Extension. In a ceremony that lasted for about 30 minutes and before 4,000 guests, Britain returned Hong Kong to China.

Prince Charles, representing Britain, stated that: “Hong Kong has shown the world how dynamism and stability can be defining characteristics of a successful society. These have together created a great economy which is the envy of the world. Hong Kong has shown the world how East and West can live and work together.”<sup>1</sup> Seconds after midnight, after the Union Jack and the Hong Kong flag were lowered, the flags of China and the Hong Kong Special Administrative Region (HKSAR) were hoisted. Ruth Mathewson describes the scene as follows: “British soldiers watched the defiant energy of their flags dissipate as they slid from the wind zone in a forlorn pool of fabric. The last strains of God Save the Queen died with the ascension of the Chinese and Hong Kong colours, the flags taking on vibrant life as they reached full height.”<sup>2</sup> After this historical moment, President Jiang made the following remarks: “The return of Hong Kong to the motherland after going through a century of vicissitudes indicates that from now on, the Hong Kong compatriots have become true masters of this Chinese land and that

---

<sup>1</sup>. Ruth Mathewson, “The Dawn of a New Era,” *South China Morning Post*, 1 July 1997. Internet edition.

<sup>2</sup>. Ibid.

Hong Kong has now entered a new era of development.”<sup>3</sup> Similarly, Hong Kong’s Chief Executive, Mr. Tung Chee-hwa, declared that Hong Kong is now entering a new era, and democracy is the hallmark of this new era.<sup>4</sup>

What kind of city does Britain return to China on 1 July 1997? Does Britain really hand over a politically democratic and economically affluent Hong Kong to China? Before we answer these questions, let us examine some facts about Hong Kong when it was reverted to China.

Hong Kong is a small territory next to the very southern tip of China.<sup>5</sup> Its climate is subtropical, tending toward the temperate for nearly half the year. Hong Kong possesses one natural asset--a fine and sheltered anchorage. Being strategically located on the trade routes of the Far East, Hong Kong was a natural choice for British merchants who originally lived in Canton (the capital of China’s Guangdong province, located close to Hong Kong) but wanted to live under their own flag and be free from “threats” from the Chinese. In June 1840 Britain sent an expeditionary force to Hong Kong Island to back up the British who had settled there since the summer of 1839. The arrival of the British force began the First Opium War (1840-1842), and subsequently, Hong Kong’s colonial history. The defeated Qing dynasty (which ruled China then) agreed to cede the Hong Kong Island to Britain in 1842.<sup>6</sup> When the People’s Republic of China was established in 1949, many Chinese fled to Hong Kong to avoid being ruled by a communist regime. Among these Chinese were wealthy capitalists who brought with them the capital and

---

<sup>3</sup>. Ibid..

<sup>4</sup>. Tung Chee Hwa. *A Future of Excellence and Prosperity for All: Speech by the Chief Executive the Honourable Tung Chee Hwa at the Ceremony to Celebrate the Establishment of the Hong Kong Special Administrative Region of the People’s Republic of China*. Hong Kong: The Printing Department, 1 July 1997, p. 19.

<sup>5</sup>. Hong Kong’s area is about 1095 square km., slightly less than six times the size of the United States’ Washington, D.C..

<sup>6</sup>. Qing dynasty’s defeat in the Second Opium War (1856-58) forced it to cede the Kowloon peninsula to Britain in 1860. In 1898 the Qing government gave in to Britain’s pressure and leased the New Territories and 235 islands to Britain for 99 years. Because the New Territories is a large piece of land (about 794 square km.) it was obvious that China would take control of the entire colony when the lease expired on 1 July 1997. The uncertainty over Hong Kong’s future after 1997 compelled Britain to talk over the issue with China. After two years of negotiation, on 19 December 1984, the two countries signed the Joint Declaration, which gives China sovereignty over Hong Kong on 1 July 1997.

technology that fueled Hong Kong's economic growth in the post-World War II years.

Hong Kong is now ranked the seventh largest trading entity in the world.<sup>7</sup> It operates the busiest container port in the world in terms of throughput, and the busiest airport in the volume of international cargo handled. It is also the world's fourth-ranking banking center in terms of external banking transactions, and the fifth-largest foreign exchange market by turnover. Its stock market is Asia's second-largest in terms of market capitalization.

Although 95 per cent of Hong Kong's population is Chinese, Hong Kong is a highly westernized and diversified society. People can get information about the outside world from many different channels. The mass media in Hong Kong include 50 daily newspapers, 693 periodicals, two commercial television companies, a cable television station, a regional satellite television service, a government radio-television station, and two commercial radio stations.<sup>8</sup> Hong Kong's film and broadcasting industries are also well established; more than 100 films and 5,000 hours of original television programmes are produced every year. In this context, it is to no one's surprise that western movies, music, fashion, and lifestyle are all well received by many Hong Kong people.

At this point, we can say for sure that Britain had handed over an economically affluent and culturally westernized Hong Kong to China. However, can we also conclude that Hong Kong has a democratic political system by Western standards at the time it was returned to China? The answer to this question is "no." Despite efforts to democratize Hong Kong since 1985, Hong Kong's democratization process was far from complete when it became a special administrative region of China. Most of the Hong Kong people worry whether their way of life and their freedoms will be respected when China takes over Hong Kong. Such worry did not end with the completion of the handover ceremony. On the first day after the handover, about 5,000 people marched on the rain-soaked streets, calling for democracy in Hong Kong and the rest of China.

---

<sup>7</sup>. *Hong Kong--A New Era: A Review of 1997*. Hong Kong: The Printing Department, 1998, p.42. Hong Kong's major exports include clothing; electrical machinery, apparatus and appliance; office machines and automatic data processing machines; photographic apparatus, equipment and supplies and optical goods; and textiles. In 1997, the Mainland of China, the USA and the United Kingdom were Hong Kong's largest markets, absorbing 30.2 per cent, 26.1 per cent and 5.1 per cent of Hong Kong's total exports, respectively (p.91).

<sup>8</sup>. *Ibid.*, p.304.

Many said they joined the protest because they wanted to show their stance on democracy and human rights would be unchanged.<sup>9</sup>

In short, the handover ceremony marks the end of the transition of sovereignty from Britain to China. But it also begins the second phase of Hong Kong's transition--the transition of Hong Kong's political system from a colonial administration to a democratically constructed HKSAR government as the Basic Law<sup>10</sup> promises. Pledges made by the Chinese and the HKSAR governments such as "we shall uphold the principle of one country, two systems," and "Hong Kong will be ruled by Hong Kong people with a high degree of autonomy," are rhetorical remarks.

This dissertation is about how the HKSAR can realize the principle of "one country, two systems," the guiding principle behind China's Hong Kong policies. The success or failure of this principle is very important to Hong Kong. Whether the HKSAR can become a "stable, equitable, free, democratic, [and] compassionate" society<sup>11</sup> depends very much on how well this principle is being implemented. Before we go into details of this study, a discussion of China's basic policies regarding Hong Kong is in order.

### **China's Basic Policies Regarding Hong Kong**

As a special administrative region,<sup>12</sup> Hong Kong is allowed to keep its way of life unchanged and all its existing systems intact for at least 50 years after 1997. In other words, the Chinese socialist system and policies will not be practiced in Hong Kong. The principle behind this arrangement is "one country, two systems." In essence, the principle assumes that capitalist

---

<sup>9</sup>. Quinton Chan and Elsie Yu, "Thousands turn out for democracy," *South China Morning Post*, 2 July 1997. Internet edition.

<sup>10</sup>. Full name of the Basic Law is "*The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.*"

<sup>11</sup>. This vision of Hong Kong was envisioned by the Chief Executive in his speech (Tung, *op.cit.*, p.19).

<sup>12</sup>. Unlike China's existing autonomous regions (such as Tibet), the HKSAR enjoys a greater degree of autonomy in governing itself. The legal foundation of the HKSAR is based on Article 31 of China's Constitution. Article 31 states that: "The state may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress in the light of the specific conditions."

and socialist systems can coexist peacefully within one country. To observe the principle, China will not promulgate its Constitution in the HKSAR. Instead, a constitutional document, the Basic Law, was specifically drafted for and promulgated in Hong Kong after 30 June 1997.<sup>13</sup> This arrangement was stipulated in the Joint Declaration signed in Beijing (China's capital) on 19 December 1984, by prime ministers Margaret Thatcher and Zhao Ziyang.<sup>14</sup>

China's basic policies regarding the HKSAR are listed in Annex I of the Joint Declaration that established them. The spirit of these policies is "Hong Kong people ruling Hong Kong with a high degree of autonomy." It is easy to understand what "Hong Kong people ruling Hong Kong" means. However, the same cannot be said about the notion of "a high degree of autonomy." We will come back to this subject later. It is suffice to say here that "a high degree of autonomy" does not refer to foreign and defense affairs which are the responsibilities of the Central People's Government. Hong Kong will be vested with executive, legislative and judicial powers, including that of final adjudication.

Simply put, the notion of "Hong Kong people ruling Hong Kong" means no Chinese state agencies, provinces, autonomous regions, or municipality authorities may interfere in the affairs which Hong Kong can administer on its own (Basic Law, Art. 22). It also means that the Chief Executive and principal government officials in both the executive and judiciary branches should be Chinese citizens who are permanent residents of Hong Kong without right of abode in any foreign countries. Nonetheless, to respect Hong Kong's colonial past, and to enhance its status as an advanced international financial center, foreigners are allowed to occupy up to 20 per cent of the total seats of the Legislative Council (LegCo), the HKSAR's legislature. The first HKSAR LegCo is composed of twenty seats directly elected by geographical constituencies, thirty seats

---

<sup>13</sup>. Though the Basic Law is often referred to as a "mini-constitution" in Hong Kong, not everyone agrees that it is a constitutional law in itself. As Ronald C. Keith points out, it is almost universal and formally asserted in the Chinese legal literature that "the Basic Law is not in and of itself a constitutional law. . . . Within the categorization of PRC law, however, basic law is still inferior to constitutional law" (Ronald C. Keith. *China's Struggle for the Rule of Law*. New York, NY: St. Martin's Press, Inc., 1994, p.186). However, it is beyond doubt that the Basic Law serves the purposes of a constitutional document to the HKSAR.

<sup>14</sup>. Full name of the Joint Declaration is "*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.*"

returned by functional constituencies,<sup>15</sup> and ten seats elected by the Election Committee.<sup>16</sup> In the first HKSAR LegCo, twelve functional constituencies seats are specifically designated for individuals who are permanent residents of the HKSAR but not of Chinese nationality or have right of abode in foreign countries.<sup>17</sup>

Moreover, considering Hong Kong's common law tradition and the fact that many of its current judges are not of Chinese nationality or have right of abode in foreign countries, Hong Kong's judgeships are opened for foreigners except the posts of the Chief Justice of the Court of Final Appeal and the Chief Judge of the High Court (comprised of the Court of Appeal and the Court of First Instance). These two posts must be filled by Chinese citizens who are permanent residents of Hong Kong without right of abode in other countries. In addition, foreigners are also allowed to serve as advisors to the government or serve in senior civil servant positions other than the 23 principal officials and their deputies, who must be Hong Kong Chinese without right of abode in any foreign countries.

In sum, the principle of "one country, two systems" allows Hong Kong to keep its distinctive systems. In fact, it is in China's interest to make the principle work for three major reasons.

First, economic links between Hong Kong and China have increased strongly since China adopted an economic open-door policy in 1978. Economic figures in 1997 shown that China is

---

<sup>15</sup>. To increase the LegCo's representativeness, twelve functional constituencies were established and opened for indirect election in 1985. Functional constituency was organized on the basis of occupation. In some functional constituencies, voters are individuals who are members of a profession or organization. In the others, companies or trade unions have the right to vote and so each organization must nominate an authorized representative to cast a ballot on its behalf (Norman J. Miners. *The Government and Politics of Hong Kong*. 5th edition, Hong Kong: Oxford University Press, 1995, p.117).

<sup>16</sup>. The following four sectors (each returns 200 members) form the Election Committee: Industrial, commercial and financial; the professions; labour, social services, religious and other sectors; and members of the LegCo, representatives of district-based organizations, Hong Kong deputies to the National People's Congress, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference.

<sup>17</sup>. The twelve functional constituencies reserved for foreigners are: legal; accountancy; engineering; architectural, survey and planning; real estate and construction; tourism; commercial (first); industrial (first); finance; financial service; import and export; and the insurance functional constituencies (*Legislative Council Ordinance*, Art. 37(3)).

both the largest market for and source of Hong Kong's re-exports. Reciprocally, Hong Kong was China's second largest trading partner in 1997, accounting for 16 per cent of China's total trade.<sup>18</sup> Moreover, Hong Kong is the largest source of external direct investment in China. By the end of 1997, the cumulative value of Hong Kong's realized direct investment in China reached about US\$121 billion, accounting for about 55 per cent of the total external investment in China.<sup>19</sup> In addition, as an international trading and financial center, Hong Kong provides a great deal of services and well-qualified human resources to China's economic modernization. In short, Hong Kong has the economic edge over other major Chinese cities and this is not likely to be changed in the near future.

Second, Hong Kong can be a model of "one country, two systems" to Taiwan. In fact, the principle was first proposed in 1981 as a basis for the peaceful reunification of China and Taiwan. However, Taiwan had rejected the idea of "one country, two systems" on the ground that it is a gimmick of the Chinese government's propaganda campaign to lure Taiwan to reunify with China. Obviously, if the principle fails in Hong Kong, it will harm China's effort to reunify with Taiwan on a peaceful basis.

Third, a successful implementation of the principle will be a credit to China's foreign relations. Though foreign affairs are the responsibility of the Central People's Government, to preserve Hong Kong's international personality the Basic Law allows Hong Kong to use the name "Hong Kong, China" to "maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields" (Art. 151). Current international agreements Hong Kong reaches with foreign states, and international organizations that Hong Kong joins, are based on an understanding that Hong Kong will be allowed to operate differently from China under the principle of "one country, two systems." Naturally, any failure in the implementation of that principle will cause tensions between China and the international community presented

---

<sup>18</sup>. "Hong Kong--A New Era," *op.cit.*, p.48.

<sup>19</sup>. *Ibid.*, p.49.

in Hong Kong. Overall, as Deng Xiaoping, China's then paramount leader, said: "It is in China's vital interest to keep Hong Kong prosperous and stable."<sup>20</sup>

Up to this point, one might wonder exactly what is the meaning of "one country, two systems." A careful reading of the principle will uncover aspects that have not been extensively treated before.

## **The Principle of "One Country, Two Systems"**

### **Origin of the Principle**

The idea of allowing a different set of systems to exist side by side with the communist system can be traced back to 1981. On 30 September 1981, Ye Jianying, then Chairman of the Standing Committee of the National People's Congress, announced nine principles to lure Taiwan to reunify with China peacefully. In summary, the nine principles promised Taiwan that "after the country is reunified, Taiwan can enjoy a high degree of autonomy as a special administrative region and can retain its armed forces."<sup>21</sup> Also, "Taiwan's current socio-economic system will remain unchanged, as will its way of life and its economic and cultural relations with foreign countries."<sup>22</sup>

During the Sino-British talks on the question of Hong Kong (which lasted from 1982-1984), China applied the principle to Hong Kong. As Deng Xiaoping puts it, "within the People's Republic of China, the mainland with its one billion people will maintain the socialist system, while Hong Kong and Taiwan continue under the capitalist system."<sup>23</sup> From Deng's later elaboration of this principle, it is clear that China adopts a very pragmatic approach to the issue of Hong Kong's future. In his meeting with then British Foreign Secretary, Sir Geoffrey Howe, Deng said: "But in view of the history of Hong Kong and Taiwan and of their present conditions, if the continuation of the capitalist system there is not guaranteed, prosperity and stability cannot

---

<sup>20</sup>. Deng Xiaoping. *Deng Xiaoping on the Question of Hong Kong*. Hong Kong: New Horizon Press, 1993, p. 44.

<sup>21</sup>. Ibid., note 18, pp.74-75.

<sup>22</sup>. Ibid..

<sup>23</sup>. Ibid., p.7.

be maintained, and peaceful reunification of the motherland will be out of the question.”<sup>24</sup> In brief, China does not see the principle as an expedient measure to resume its sovereignty over Hong Kong. Rather, the principle is being adopted as a state policy on peaceful unification with Taiwan.

#### **Four Aspects of the Principle**

We begin with the concepts of “one country” and “two systems.” Clearly, “one country” means China. The Chinese government has always seen Hong Kong as an integral part of China. Therefore, the process of decolonization, the usual step a departing British colonial government would take, is not applicable to Hong Kong. Thus, instead of becoming an independent country, Hong Kong became a special administrative region of China when the British colonial government left Hong Kong. Unlike the concept of “one country,” meanings of “two systems” are far from clear. It is not enough to understand “two systems” simply as the communist and capitalist systems. The concept of “two systems” connotes at least four aspects: separate political systems, separate economic systems, separate judicial systems, and separate cultural systems. Each distinction will be examined in turn.

##### ***Two separate political systems***

The prime concern at the very beginning of the Sino-British negotiations on Hong Kong’s future was “will China’s socialist system and policies be implemented in Hong Kong?” It is clear to everyone in Hong Kong that an adoption of China’s socialist system will mean the end of Hong Kong’s economic prosperity and its way of life. To ease the minds of the Hong Kong people, China announced that under the principle of “one country, two systems,” Hong Kong’s capitalist system and its way of life would remain unchanged after its reversion to China. In this sense, “two systems” means two separate political systems.

According to the Joint Declaration and the Basic Law, the process of democratization previously undertaken in Hong Kong is to be continued after 1 July 1997. However, the pace of Hong Kong’s political development is another question. The Chinese government believes that it is in Hong Kong’s best interest to avoid radical changes in its political system. The bottom line

---

<sup>24</sup>. Ibid., p.12.

of the Chinese government is that Hong Kong should not try to influence political developments in mainland China. The Hong Kong people's support to the student movement during the Tiananmen Square Incident in the months of April to June 1989 alarmed the Chinese government with respect to possible spillover effects of Hong Kong's democratization into China.

The Tiananmen Square Incident was triggered by the death on 15 April 1989 of Hu Yaobang, the popular former Secretary-General of the Communist Party of China. Chinese students and later citizens from all walks of life (mainly from Beijing) demanded a faster pace of reforms in the country's political structure, and a real check on the epidemic-like spread of corruption in government. The Chinese government first tolerated students' rallies and protests. Students across the country came to join their fellow Beijing students. In response to the Chinese government's rejection to conduct dialog with their representatives, students on Tiananmen Square launched a hunger strike. Fearing that the situation might become out of control and seeing the public was in sympathy with student demands, the Chinese government finally defined the student movement as counter-revolutionary which was aimed at overthrowing the communist regime. It was subsequently suppressed by force on 4 June 1989.

The Hong Kong people enthusiastically supported the students throughout the movement. Moreover, some notable student leaders fled to America and other European countries through channels set up by some Hong Kong citizens. These events all contributed to China's becoming wary of Hong Kong as a potential base for subversion against China. Consequently, China inserted a new clause into the Basic Law which requires the HKSAR government to enact laws to "prohibit any act of treason, secession, sedition, subversion against the Central People's Government" (Art. 23). Since then, China repeatedly emphasized that Hong Kong and China should have a mutual respect for each other's different political systems. The catch-phrase for such an idea, as President Jiang Zemin once proclaimed, is "the well water should not interfere with the river water." The message from China (the river water) to Hong Kong (the well water) is clear: "Mind your own business. Do not interfere with China's domestic politics."

All in all, if Hong Kong does not become a base for subversion against China, it will be allowed to develop its political system on the path of democratization. However, if things get out of control in Hong Kong, China will not hesitate to intervene. Deng Xiaoping once clearly stated

that “if there are disturbances in Hong Kong, the Central Government will intervene.”<sup>25</sup>

### ***Two separate economic and financial systems***

Economically, Hong Kong has much more room for manoeuvring. Hong Kong’s newspapers often describe Hong Kong as a goose that lays golden eggs. This description illustrates the importance of Hong Kong’s economic vitality to China. A prosperous Hong Kong will be a great contributing force to China’s economic reforms. As Michael Yahuda points out, Hong Kong “not only provides China with the facility for myriad economic exchanges with the outside world, but it is also a major center of learning where China’s key international trade and investment organizations acquire expertise and invaluable experience in dealing with the many facets of the international economy.”<sup>26</sup> Thus, maintaining Hong Kong’s economic prosperity became one of the fundamental goals that China wants to achieve during Hong Kong’s 13-year long transition period (from 1984 to 1997).

Consequently, as Yun-Wing Sung has noted, Hong Kong’s economic freedoms are specified in both the Joint Declaration and the Basic Law to a degree of detail unparalleled by any constitution in the world.<sup>27</sup> The Basic Law guarantees that Hong Kong’s economic, financial, taxation, and monetary systems will be independent from the systems of mainland China (Art. 106-110). Hong Kong will also maintain its status of a free port and a separate custom territory (Art. 114 and 116). Furthermore, Hong Kong is granted the authority to join international organizations on its own under the name “Hong Kong, China” (Art. 116). For instance, Hong Kong is a member of the World Trade Organization, although China’s application to become a member of it has not yet been approved.

### ***Two separate judicial systems and legal traditions***

The rule of law and the independence of the judiciary are often cited as beneficent legacies of the British colonial government. The last governor of Hong Kong, Chris Patten, once

---

<sup>25</sup>. Ibid., p.18.

<sup>26</sup>. Michael Yahuda. *Hong Kong: China’s Challenge*. New York, NY: Routledge, 1996, p.25.

<sup>27</sup>. Yun-Wing Sung, “The Hong Kong Economy Through the 1997 Barrier,” *Asian Survey* 37(8) (August 1997):705-719, 705.

argued that many Chinese came to Hong Kong because “they could enjoy here the peace and safety guaranteed by the rule of law. . . that vital protection against arbitrary government.”<sup>28</sup> As the concepts of rule of law and independence of the judiciary are foreign to China,<sup>29</sup> it is understandable that the people of Hong Kong are anxious about China’s resumption of sovereignty over Hong Kong. To reduce their anxiety, China pledges that Hong Kong’s judicial system and its common law tradition will remain unchanged. China’s judicial system and its civil law tradition will not be practiced in Hong Kong. Moreover, national laws, except those listed in Annex III of the Basic Law, will not be applied in Hong Kong.<sup>30</sup> On the other hand, laws previously in force in Hong Kong, unless contravening the Basic Law, will be maintained.

### ***Two separate cultural mentalities***

Although about 95 percent of Hong Kong’s population is ethnic Chinese, Hong Kong has a very different cultural mentality from China. Hong Kong’s colonial legacy is clearly marked on its westernized cultural life. It is true that many features of the Chinese culture can easily be found in Hong Kong. Also, a majority of the Hong Kong people still respects teachings of the Chinese culture. However, the ideas of individualism, respect of people’s civil liberties, and belief in the supremacy of a free market mechanism have taken roots in Hong Kong.

To most of the Hong Kong people, as C. K. Lau points out, China is a country “so close and yet so far away.” Lau argues that: “Even though Hong Kong was essentially a Chinese

---

<sup>28</sup>. Chris Patten. *Hong Kong: Transition*. Hong Kong: The Government Printer, 1996, para. 33.

<sup>29</sup>. Ronald C. Keith’s study (*op.cit.*) on China’s struggle for the rule of law shows that discussion on this subject has increased since China’s economic reform began in 1979. Even after the Tiananmen Square Incident, such discussion continues to exist. With the growing interaction of Chinese and Western legal ideas, and the furtherance of China’s economic reform, Keith suggests that the prospect of rule of law in China is not as pessimistic as many people had commonly perceived.

<sup>30</sup>. The six national laws to be applied in Hong Kong are: (1) Resolution on the Capital, Calendar, National Anthem and National Flag of the People’s Republic of China, (2) Resolution on the National Day of the People’s Republic of China, (3) Order on the National Emblem of the People’s Republic of China Proclaimed by the Central People’s Government, (4) Declaration of the Government of the People’s Republic of China on the Territorial Sea, (5) Nationality Law of the People’s Republic of China, and (6) Regulations of the People’s Republic of China Concerning Diplomatic Privileges and Immunities.

society, the British-style education they received did not nurture any Chinese national feelings.”<sup>31</sup> Lau refers to the Hong Kong Chinese as a “special breed of Chinese.” For example, a survey done in early 1997 found that “57.1 per cent of Hong Kong Chinese showed an inclination for a Hong Kong identity.”<sup>32</sup> This figure belies the fact that “[w]hile many have family roots on the Chinese mainland, they and their Hong Kong-born children have acquired a mentality which is radically different from that of their compatriots on the other side of the Shenzhen River, through living in a polity characterized by a legal, administrative, and educational system that is English.”<sup>33</sup>

Though there is a great difference between Hong Kong’s and China’s cultural mentality, Hong Kong’s popular culture is well received in China. Moreover, many mainland Chinese regard Hong Kong’s newspapers as more trustworthy than the mainland press, which is still under the government’s heavy control. Naturally, the Chinese government has kept a watchful eye on the “negative affects” of Hong Kong’s westernized cultural mentality on the Chinese people. China of course wants to minimize the influence of Hong Kong’s cultural mentality on the mainland Chinese. She may, however, have less success in this area than she does in controlling the pace of Hong Kong’s political development.

It should be clear by now that the concept of “two systems” means more than capitalist and socialist systems. The differences in Hong Kong and China’s legal systems, legal traditions, and cultural mentalities are areas that we should also take into consideration if we want to understand fully what the concept means. A thorough understanding of the principle of “one country, two systems” is crucial to its successful implementation.

To protect “two systems” within “one country,” as will be argued later in this study, we must assure that the instruments of governance and administration are, as we head into Hong Kong’s new era, properly grounded in principles of accountability, open government, and rule

---

<sup>31</sup>. C. K. Lau. *Hong Kong’s Colonial Legacy: A Hong Kong Chinese’s View of the British Heritage*. Hong Kong: The Chinese University Press, 1997, p. 3.

<sup>32</sup>. Ibid., p.1.

<sup>33</sup>. Michael H. Bond, “Between the Yin and Yang: The Identity of the Hong Kong Chinese,” *Chinese University Bulletin*, Supplement 31, cited in C. K. Lau, *op.cit.*, p.2.

of law. These principles, we assert, can help sustain the concept of “two systems.”

### **The Concept of Autonomy and the Principle of “One Country, Two Systems”**

As Roger Scruton points out, “[b]y granting or recognizing a power to make laws to local bodies (e.g. councils, regional assemblies), a state confers or recognizes regional autonomy.”<sup>34</sup> The term autonomy mentioned throughout this dissertation is referring to regional autonomy, not autonomy of a sovereign state.<sup>35</sup> The concept of autonomy, as Hurst Hannum and Richard B. Lillich point out, refers to “independence of action on the internal or domestic level, as foreign affairs and defense normally are in the hands of the central or national government, but occasionally power to conclude international agreements concerning cultural or economic matters may also reside with the autonomous entity.”<sup>36</sup> This understanding of autonomy fits well with the situation of Hong Kong.

The Basic Law does guarantee Hong Kong a high degree of autonomy in managing its own affairs, and also grants Hong Kong the power to conclude international agreements regarding cultural and economic matters. The concept of autonomy is useful here because it provides the yardstick against which one can evaluate how well the principle of “one country, two systems” is being implemented in Hong Kong. In other words, when Hong Kong is governing itself within its areas of competence autonomously, we can conclude that the principle really works. It is the argument here that the Central People’s Government is obliged by the Joint Declaration and the Basic Law to respect Hong Kong’s high degree of autonomy in governing itself. Thus, it will allow Hong Kong to construct an open and responsible government although

---

<sup>34</sup>. Roger Scruton. *A Dictionary of Political Thought*. London, UK: The Macmillan Press, Ltd., 1982, p.33.

<sup>35</sup>. China had repeatedly stressed that it is up to the Central People’s Government to decide how much autonomy Hong Kong can enjoy. For example, Zhang Youyu, the then Deputy Chairman of the National People’s Congress Legal Committee, asserts that: “Hong Kong will enjoy a high level of autonomy, but only by virtue of the exceptional status conferred on it by the PRC Constitution and not by any inherent power it possesses” (Zhang Youyu, “The Reasons for and Basic Principles in Formulating the Hong Kong Special Administrative Region Basic Law, and Its Essential Contents and Mode of Express,” *Journal of Chinese Law* 2 (Spring 1988):5-19, 7). In other words, unlike a federal state such as the United States where member states possess reserved powers, local administrative regions in China, a unitary state, do not have any reserved powers.

<sup>36</sup>. Hurst Hannum and Richard B. Lillich, “The Concept of Autonomy in International Law,” *American Journal of International Law* 74 (October 1980):858-889, 860.

such kind of government differs from the one China currently possesses.

Specifically, an autonomous entity, as Hurst Hannum and Richard B. Lillich observe, should have a locally-elected body with some independent legislative power; be granted the right to choose its chief executive, possibly subject to approval or confirmation by the principal government; and have an independent local judiciary with jurisdiction over purely local matters.<sup>37</sup>

The Basic Law grants Hong Kong these basic characteristics of an autonomous government. When one compares Hong Kong with China's autonomous regions,<sup>38</sup> such as Tibet, Xinjiang and Inner Mongolia, it is clear that Hong Kong has been blessed with a high degree of autonomy.

The biggest difference between these autonomous regions and the HKSAR is that socialist systems and policies are practiced in the former but not in the latter. As Yash Ghai notices, policies and activities of these autonomous regions must be conducted within the general framework of national laws. In Ghai's words, "[f]undamentally, the broad framework within which the system operates denies true autonomy of choice of policy, for the organs of self-government are bound by the key principles of the Chinese state system--socialism, democratic dictatorship and centralism, subordination to institutions at the next higher level, within the overarching domination of the CCP."<sup>39</sup>

Having argued that Hong Kong possesses more governmental autonomy than other administrative entities in China, we are now in the position to assert that the concept of autonomy is applicable to the case of Hong Kong. At this juncture, we should ask, "How should Hong Kong defend its autonomy?" The short answer to this question is that Hong Kong should put in place a political structure to ensure that: (1) its government will stand for the interest of Hong

---

<sup>37</sup>. Ibid., pp.886-887.

<sup>38</sup>. Autonomous regions are established for China's national minorities. As Wang Ke-wen points out, in the autonomous regions the minorities enjoy full Chinese citizenship as well as government protection of their language and customs. In general, central policies and programs have been implemented more flexibly, and at a slower pace, in these areas than elsewhere in China. Moreover, most of the local cadres in these areas are chosen from the relevant minorities (Wang Ke-wen, "Autonomous Regions of National Minorities," in *Modern China: An Encyclopedia of History, Culture, and Nationalism*, ed. Wang Ke-wen (New York, NY: Garland Publishing, Inc., 1998), pp.19-20.).

<sup>39</sup>. Yash Ghai. *Hong Kong's New Constitutional Order: The Resumption of Chinese Sovereignty and the Basic Law*. Hong Kong: Hong Kong University Press, 1997, pp.116-117.

Kong when there are disputes between the HKSAR and the Central People's Government, and (2) its government will not give in to special interest within or without the HKSAR in the process of government.

### **Nature of the Study**

As mentioned earlier, Hong Kong's political transition does not end with the completion of the handover ceremony held on 30 June 1997. According to Yash Ghai, Hong Kong's political transition is phased in over a period of time.<sup>40</sup> He notices that this political transition "is reflected most clearly in the provisions for the elections of the Chief Executive and the Legislature. For both types of election the provisions currently in force are included in annexes to the Basic Law. They are put in annexes because they are intended to be temporary."<sup>41</sup> Currently, debates are taking place in Hong Kong on means to realize the principle of "one country, two systems" and methods to secure Hong Kong's own political, economic, legal and cultural systems. Naturally, opinions differ greatly on these issues. Now is the time to foster and participate in debate over them. This study is an attempt to contribute to ongoing dialog on Hong Kong's governing relationships. As will be seen, institutional changes will be proposed to make the principle work in Hong Kong. The ultimate goal of all these proposed changes is the perpetuation of and improvement in Hong Kong's distinctive systems.

### **Areas of Concern to be Examined**

Although, as explained, I have several proposals to put forth, I do not intend to lay out in full the system of government that the HKSAR should adopt to implement the principle of "one country, two systems." Instead, I will attempt to uncover areas to which Hong Kong people should pay attention. These areas are three. The first concerns the proper focus of the current debates on Hong Kong's political transition. The second is about amending certain provisions of the Basic Law. The third relates to new developments in Hong Kong's political culture and its relationship with proposals made in this study.

---

<sup>40</sup>. Yash Ghai, "Elections and the Evolution of Government in the HKSAR," April 1998, an unpublished essay, p.1.

<sup>41</sup>. Ibid.

### ***Proper focus of the debates***

Both the Joint Declaration and the Basic Law state that the HKSAR's current systems and way of life will remain unchanged. Furthermore, the people of Hong Kong will be allowed to rule themselves with a high degree of autonomy. How should we secure these promises? Many Hong Kong people believe that a well developed, representative government is an effective bulwark against intervention from China. Such kind of belief is of course sensible. However, merely focusing on democratizing Hong Kong's legislature is inadequate for the purposes of establishing a responsible and open government. In an executive-led polity such as Hong Kong, debates on its system of government should proceed more broadly. We should be concerned not only with introducing direct election into the LegCo, but also look at the executive-legislative relationship and relationships between the government and its citizens.

Thus, the proper focus of the debates should be on institutional mechanisms and changes that can: (1) help Hong Kong people hold their government accountable to them, and (2) create the balance between the executive and legislative branches so that they can truly work together effectively and also responsibly to the people of Hong Kong. Details of proposals to achieve these two goals will be presented in Chapter 5.

### ***The Basic Law and the preservation of Hong Kong's autonomy***

The Basic Law is of the highest standing in Hong Kong. Not only is the Hong Kong government required to abide by the Basic Law, so are departments of the Central People's Government, provinces, autonomous regions, or municipalities directly under the Central People's Government (Art. 22). Hong Kong people saw the Basic Law as the best guarantee of their way of life. Therefore, the notion of amending it has become a taboo subject for some Hong Kong people. However, in light of the political development since the creation of the HKSAR, there is a need to review certain provisions of the Basic Law. The purpose of such review is to uncover areas of controversy that need to be addressed and debated so as to resolve them.

### ***Hong Kong's political culture and proposals made in this study***

The third area is about the compatibility between Hong Kong's political culture and proposals made in this study. An often heard remark on Hong Kong's political culture is that it is a rather passive and apathetic one. This might be an apt description of Hong Kong before the

1980s. However, since the Sino-British negotiations on Hong Kong's future began in 1982, the Hong Kong people's awareness of politics has been greatly aroused. As Steve Tsang observes, "[t]he signing of the Sino-British Agreement over the future of Hong Kong was seen there as marking the beginning of a period of transition, leading to the Chinese take-over in 1997. Increasingly, political participation replaced apathy."<sup>42</sup> Tsang's observation is supported by the recent LegCo election. Surveys conducted by newspapers in Hong Kong right after the May 24, 1998 LegCo election showed that most of the people who cast their ballots did so to fulfil their civic duty. For example, a survey done by the *Apple Daily* (a major newspapers in Hong Kong with a high volume of circulation) after the election shown that 41.2% said they voted on May 24 because it is their duty to do so.<sup>43</sup> In short, whether Hong Kong's new political culture is compatible with proposals made in this study will be analyzed in Chapter 6.

### **Previewing the Proposals**

Though it is in China's best interest to make the principle work, no one really knows the best way to implement it. This dissertation argues that an open and responsible governmental system is the most suitable system of government for Hong Kong people to monitor the implementation of the principle. The great problem of modern government, as James W. Ceaser puts it, is "ensuring the existence of a unitary force needed to act for the nation in extraordinary circumstances while providing the means for taming and even humbling that force under normal conditions."<sup>44</sup> Hong Kong is not immune to this problem. Indeed, in Hong Kong, this problem is compounded by the fact that "a unitary force" exists not only in extraordinary circumstances but also under normal conditions. Hong Kong is a so-called "executive-led" polity in which nearly all governing powers are vested in the executive branch. One can easily imagine how

---

<sup>42</sup>. Steve Tsang, ed. *Government and Politics*. Hong Kong: Hong Kong University Press, 1995, p. 259.

<sup>43</sup>. "High Legislative Council Turnout Rate Reflects the Common Aspiration of the People" *Apple Daily*, June 1, 1998, p.A4 (in Chinese). Though this survey is not a Hong Kong-wide survey (the sample size is 378 people who voted on May 24), with other similar survey results, it nonetheless provides support to the saying that the Hong Kong people are more active in politics than before.

<sup>44</sup>. James W. Ceaser, "In Defense of Separation of Powers," in *Separation of Powers--Does It Still Work?*, eds. Robert A. Goldwin and Art Kaufman (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1986), pp. 168-193, p. 171.

dangerous such a government will be to people's civil rights if there are no institutional mechanisms to check its omnipotent powers.

Institutional arrangements proposed in this study will help change the nature of the Hong Kong government from "benevolent authoritarian" to one that respects its people and acts responsibly. Below is a brief account of proposals made in this study.

### ***Choosing the Chief Executive by a one-man-one-vote direct election***

The Basic Law requires Hong Kong's Chief Executive to be both accountable to the central government and to Hong Kong. Potential conflict exists in such a requirement. Since the Chief Executive represents Hong Kong, not the central government, he or she should stand up for Hong Kong's interest. To more readily assure this, this dissertation will argue, the Chief Executive should be elected by a one-man, one-vote direct election.

Before I turn to a rationale for directly electing the Chief Executive, one general remark is in order. As mentioned earlier, Hong Kong's government has traditionally had too much power. One will thus wonder how are we going to keep the government tamed if it has the moral legitimacy granted to it by an election. It is true that direct election will give the Chief Executive and his or her government the legitimacy that no prior government in Hong Kong has ever had. However, an electoral mechanism will also empower the people of Hong Kong to hold the Chief Executive and the government responsible for their actions. Considering that no mechanisms are now available to the public if they wanted to vote out the government, giving the people a tool to do so, even if that tool would simultaneously strengthen the already powerful government, is a step worth taking.

Therefore this dissertation contends that the Chief Executive should be selected by popular election if not before the year 2007, then definitely after that year.<sup>45</sup> Advantages of this new method of selection are two: First, this is a mechanism for the people to hold the Chief Executive accountable to them. If the Chief Executive fails to win the approval of the people, then they can vote him or her out. Second, a Chief Executive who won the office through a direct election can say he or she truly represents the people of Hong Kong. An election thus adds moral

---

<sup>45</sup> . Hong Kong people will have the chance to amend the method of selecting their Chief Executive by the year 2007.

force to the Chief Executive's position in cases whereas there are differences between the central government and Hong Kong, and he or she has to stand by the position of the Hong Kong people.

### ***Introducing a system of ministerial responsibility into Hong Kong***

A system of ministerial responsibility should be introduced into Hong Kong. This system will grant the Chief Executive the authority to appoint individuals, be they from the civil service establishment, the legislature, or the private sector, to head government ministries and major government departments. The reasons for this system are fourfold.

First, as an officer who will be selected by the Hong Kong people, the Chief Executive should have the authority to appoint individuals that best represent his or her ideas of governing Hong Kong. Confining selection to mostly career civil servants, now the practice, is not justifiable. It is a common practice for elected heads to appoint people in whom they have confidence to the senior positions of the government. As William Plowden observes, elected heads are likely to feel that lifetime career bureaucrats' values take "too much account both of the status quo, of established policies, and of their own long-term professional interests."<sup>46</sup> Put differently, appointing individuals whom they trust to key government positions is a usual way for elected heads to counterbalance the influence of career bureaucrats.

Second, from the perspective of public administration, it is desirable to separate Hong Kong's principal officials from the career civil service establishment. By doing so, we will be able to reduce the power of the civil service, particularly the senior career civil servants. A system of ministerial responsibility will entrust the policy-making powers with the Chief Executive's political appointees, not the senior career civil servants. Such a system will also increase the civil service's responsiveness to the policy agenda of an incoming government. Presently, senior civil servants are charged with the duties of formulating, selling and defending government policies, which in turn, have made them seeing themselves as the principal representative of the public. Subsequently, Hong Kong's civil service understands the notion of bureaucratic responsiveness as "responding to the public directly" instead of through the elected officials. Now, Hong Kong

---

<sup>46</sup>. William Plowden, "Providing Countervailing Analysis and Advice in a Career-Dominated Bureaucratic System: The British Experience, 1916-1988," in *Executive Leadership in Anglo-American Systems*, eds. Colin Campbell S.J. and Margaret Jane Wysznomirski (Pittsburgh, PA: University of Pittsburgh Press, 1991), pp.219-247, p.219.

has emerged a group of elected officials, most notably, the Chief Executive (though he or she is not elected directly by the people right now). To adjust to this new political context, the civil service needs to stop regarding itself as the primary representative of the public. Instead, the civil service should recognize that the Chief Executive and the group of elected officials now are the principal representatives of the public. A system of ministerial responsibility can help generate this new sense of bureaucratic responsiveness.

Third, with the introduction of a system of ministerial responsibility, it will be easier for the public to hold individual ministers responsible for policy failures and/or administrative malpractice. Currently, it is difficult for the public to hold the senior civil servants responsible for policy failures since policy decisions are formally made by the Chief Executive-in-Council, not the senior civil servants.<sup>47</sup> As the Executive Council's (ExCo) meetings are not open to the public and its proceedings are confidential, there is no way for the public to tell which policy secretary is responsible for the adoption, rejection, success or failure of a policy.

Finally, this system can help resolve problems caused by the lack of a unified government, and clarifying the relationship between senior civil servants and the non-government members of the ExCo. As above-mentioned, the ExCo acts like a cabinet to the Chief Executive. However, the responsibility of formulating public policy has traditionally been entrusted with senior career civil servants. This is still the case today. Nonetheless, before the handover, the Chief Executive, Mr. Tung Chee-hwa, has appointed three ExCo members to head teams which include senior civil servants as members to study policy issues relating to housing, education, and social welfare. When Hong Kong was a colony, that was not the usual practice. Before July 1997, "individual non-official members do not hold personal responsibility for given subjects or portfolios. That is a matter for the government."<sup>48</sup> Therefore, this new practice draws attention to the nature of working relationships between the ExCo and senior civil servants.

Non-official members of the ExCo only serve as advisors to the Chief Executive. There

---

<sup>47</sup>. Chief-Executive-in-Council means the Chief Executive has consulted the Executive Council, an institution that plays a role similar to a cabinet in a parliamentary system, and got its consent before making a decision.

<sup>48</sup>. *Hong Kong 1997: A Review of 1996*. Hong Kong: Government Printer, 1997, p.5.

are no hierarchical relationships between them and senior civil servants. If the current practice implies a reduction in senior civil servants' authority and responsibility, it will certainly create tensions in the working relationships between the ExCo and senior civil servants. In fact, there were already numerous newspapers reports regarding the tensions and conflicts between these two groups of individuals. Though no one can verify those reports, conflicts between them are inevitable if their hierarchical relationship is left without clarification. Above all, when both the senior civil servants and the ExCo members speak about a policy issue, and there is no hierarchical relationship between them, it will be very confusing to the public which voice of the two reflects the government's position. This problem can be resolved through a system of ministerial responsibility.

Under the new system, the ExCo will truly act as the Chief Executive's cabinet. Members of the ExCo, as ministers in charge of government ministries or departments, are hierarchically above the senior bureaucrats. Thus, they can legitimately issue policy directives to the senior civil servants without causing tensions as they do now, and they, not the senior civil servants, will speak for the government. In short, the ministerial system will help clarifying the relationship between senior civil servants and the ExCo members, and enabling the government to speak with one voice.

### ***Introducing freedom of information legislation into Hong Kong***

Inherited from the British administrative culture is an exaggerated regard for secrecy in the government's operations. The official secrets act now in place severely restricts the people's right to government information. It is difficult to hold the government accountable for what it does without the custom of open government. The current rule is for government departments to enact "a code of access" to government information voluntarily. In brief, the public's right to government information is not legally protected.

To legally protect the public's right to government information, there is a need to introduce a freedom of information (FOI) legislation into Hong Kong. Of course such legislation does not mean that all government information should be made accessible to the public. For example, the public should not have easy access to national security, foreign affairs, and sensitive financial and economic information. Granted that some information should be restricted to the

public, a freedom of information statute can nevertheless be a powerful tool for the people to monitor their government. In short, as Robert Hazell points out, “government departments are huge and complex organizations which need many different lines of accountability to pin them down; FOI provides one more mechanism of accountability. . . . It is a further small check on the efficiency, fairness and integrity of governments.”<sup>49</sup>

### ***Strengthening the operation of the Legislative Council***

In an executive-led polity like Hong Kong, there is no doubt that the balance of powers tips in the executive’s favor. There may be serious conflicts between executive and legislative branches should the present imbalance in the powers between them be left unchanged. An effective tool to correct the imbalance is “the private member’s bill.” This mechanism empowers legislators to introduce legislation other than those introduced by the government. In other words, the private member’s bill, as a tool, helps the legislators to break the executive branch’s monopoly on legislation initiation. Nonetheless, prior to the establishment of the HKSAR, legislators were prohibited to introduce private members’ bills if they involve increased public expenditure.

After 1 July 1997, this power is further limited by the Basic Law. Article 74 of the Basic Law stipulates that: “Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government policies are introduced.” In a survey of private members’ bills tabled in the 1991-95 and 1995-97 LegCo terms, Christine Tam observes that only 8 out of the 37 successfully tabled bills would have survived the new restrictions without the need to seek government’s prior consent.<sup>50</sup>

Naturally, bills not related to the political structure or the operation of the government

---

<sup>49</sup>. Robert Hazell, “Freedom of Information in Australia, Canada and New Zealand,” *Public Administration* 67 (Summer, 1989):189-210, 209.

<sup>50</sup>. Christine Tam, “The Study of Legislative Council Members’ Bills in Hong Kong,” an unpublished essay, January 1998, p.17.

matter little to the governance of Hong Kong. Obviously, legislators' power to check the government is greatly limited by this stipulation. To strengthen the LegCo's capacity to monitor the government, this article should be amended to only prohibit members from introducing bills that will increase public expenditure. Bills that do not involve increased public expenditure, be they related to political structure or government operation, should be allowed to be debated and voted in the LegCo.

The provision related to the LegCo's voting procedure should also be amended. Presently, the passage of a government bill requires "a simply majority vote of the members of the Legislative Council present" (Annex II, section II). But, the passage of "motions, bills or amendments to government bills introduced by individual members of the Legislative Council shall require a simple majority vote of each of the two groups of members present: members returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee" (Annex II, section II). Since members from functional constituencies and Election Committee are generally more conservative than members from geographical constituencies, it would be very difficult for the majority of these two groups of legislators to agree on legislation introduced by members from the other group. Hence, practically, this provision serves no purposes other than limiting legislators' ability to make a real impact on government policies. Again, it should be amended so that the LegCo's two voting procedures can be collapsed into one, that is, for the passage of any bill, it should only require a simple majority vote of the members of the LegCo present.

Another approach to correct the imbalance is to strengthen the LegCo's committee and staff support systems. I will develop proposals to do so in Chapter 5.

Overall, the Basic Law grants a high degree of autonomy to Hong Kong. The core issue here is to ensure that provisions of the Basic Law will be enforced and respected by both the Hong Kong and Chinese governments. This dissertation assumes that an open and responsible governmental system provides such an assurance to Hong Kong people. First, an open government will allow Hong Kong people access to their government. Second, because of that openness, the Hong Kong government will be held responsible for whatever it does in running Hong Kong. Therefore, the chances for the Hong Kong government to give in to China's

unreasonable requests and/or any particular interest group's demands will be minimized.

At this juncture, a few words about the research approach that this study follows is in order.

### **Research Approach**

This dissertation is based on qualitative research. Qualitative research, as Anselm Strauss and Juliet Corbin point out, "is any kind of research that produces findings not arrived at by means of statistical procedures or other means of quantification."<sup>51</sup> A more detailed definition is provided by Norman K. Denzin and Yvonna S. Lincoln: "Qualitative research is multimethod in focus, involving an interpretive, naturalistic approach to its subject matter. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of the meanings people bring to them."<sup>52</sup>

Several methods of qualitative inquiry were used in this study. These include in-depth interviews, analyzing relevant government documents, academic studies, and mass media commentaries, and the author's personal observation of the case. Unstructured in-depth interviews were conducted with politicians from different political parties and some academic students of Hong Kong politics. The method of unstructured interviews is employed because this study is not aimed "at capturing precise data of a codable nature in order to explain behavior within preestablished categories."<sup>53</sup> Instead, the goal of the interviews is to "understand the complex behavior of members of society without imposing any a priori categorization that may limit the field of inquiry."<sup>54</sup>

By interviewing the politicians, I got a sense of how the players in Hong Kong's politics think about: (1) the present political situation, (2) what kinds of problems that the current

---

<sup>51</sup>. Anselm Strauss and Juliet Corbin. *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*. Newbury Park, CA: Sage Publications, 1990, p.17.

<sup>52</sup>. Norman K Denzin and Yvonna S Lincoln, eds. *Handbook of Qualitative Research*. Thousand Oaks, CA: Sage Publications, 1994, p.2.

<sup>53</sup>. Andrea Fontana and James H. Frey, "Interviewing: The Art of Science," in Denzin and Lincoln, *op.cit.*, pp.361-376, p.366.

<sup>54</sup>. *Ibid.*

political situation is likely to generate, and (3) whether or not proposals suggested in this study are remedies for the problems. The sole criterion for selecting interviewees is to be as inclusive as possible. Letters requesting interviews were sent to representative politicians from each political party, such as presidents or spokespersons of the parties. Moreover, letters requesting interviews were also sent to keen observers of Hong Kong's politics who are now teaching at various universities in Hong Kong. Interviews were conducted with seven politicians from Hong Kong's major political parties in December 1997. Each interview lasted an average of one hour. Four interviews were conducted with scholars from the University of Hong Kong and the City University of Hong Kong in December 1997 and May 1998. Again, each interview lasted at an average of one hour. These interviews yielded information on how political scientists and public administrationists see the case of Hong Kong and the proposals suggested in this dissertation.

The second method that I used in this study is documentary study. I analyzed government documents, academic studies (including books, research reports, and journal articles), and commentaries published in major local newspapers that are related to issues being examined in this study. Government documents that this dissertation reviewed included: (1) *Hong Kong* (a yearbook published by the government); (2) the *Hong Kong Hansard*, the official record of LegCo proceedings; (3) annual policy addresses of the Governor/Chief Executive; (4) ordinances such as the Legislative Council Bill; and (5) Green and White Papers related to issues examined in this study.<sup>55</sup> In short, these documents are analyzed to shed light on questions examined in this dissertation and to serve as a double check on data that I gathered from interviews.

Finally, a supplement to the first two research methods is personal observation of the situation. I have visited Hong Kong several times to collect data for this study. I also spent three months in Hong Kong to closely observe events related to the first HKSAR LegCo election. Observation is often overlooked as a useful research method for qualitative study like this dissertation. In Patricia A. Adler and Peter Adler's words, observation "produces especially great rigor *when combined with other methods* . . . researchers' observations of their settings and

---

<sup>55</sup>. Green Paper is a document published by the government in which ideas about a particular public issue are presented to the people for public discussion before any official decisions on the public issue are made. A White Paper is an official report that states the policy of the government on a particular subject.

subjects can be considered hard evidence. These are especially valuable as an alternate source of data for enhancing cross-checking or triangulation against information gathered through other means.”<sup>56</sup>

### **Organization of the Dissertation**

After exploring the conceptual foundations for studying the relations among open and responsible government, high degree of governmental autonomy, political culture and the realization of the principle of “one country, two systems” in Chapter 2, the rest of the dissertation will discuss the origin of Hong Kong’s present problems, debates on Hong Kong’s political developments, and proposals to address problems Hong Kong faces in implementing the principle of “one country, two systems.”

Details about Hong Kong’s political developments from 1980 to 1997 are presented in Chapter 3. The HKSAR’s current political environment and descriptions of debates that have been taking place with respect to governance arrangements for the HKSAR are the focus of Chapter 4. In Chapter 5, proposals aimed at constructing an open and responsible government in the HKSAR are examined. Finally, Chapter 6 concludes the dissertation by summarizing the previous discussion, and addressing the question on whether Hong Kong’s political culture is compatible with an open and responsible governmental system.

---

<sup>56</sup>. Patricia A. Adler and Peter Adler, “Observational Techniques,” in Denzin and Lincoln, *op.cit.*, pp.377-392, p.382, italics in original.