

# Hong Kong in a Chokehold

*One country, one system*

BY ELLEN BORK

As if the world needed further proof that Hong Kong is faring poorly under Chinese rule, the Hong Kong government last week signaled a change in the way it will handle Falun Gong. Banned as an “evil cult” in the People’s Republic of China, this eclectic spiritual movement has been mostly free to meet and march in Hong Kong. But Regina Ip, secretary for security in the Hong Kong government, warned Thursday that the group is “targeting the central government for attack” and therefore must now be watched closely by local authorities.

Secretary Ip’s move comes just two weeks after the resignation of Anson Chan, Hong Kong’s top civil servant. The only surprise is that Mrs. Chan lasted as long as she did. While no crusading democrat, she reliably spoke out in defense of Hong Kong’s autonomy, press freedom, and rule of law. She also had a gift for deftly deflating Beijing’s surrogates, who among other things spread rumors that Mrs. Chan was scheming to topple her boss, Hong Kong chief executive and Beijing apparatchik Tung Chee-hwa. If only that were true.

Now, Beijing’s proxies, like Regina Ip, are in the ascendancy. Mrs. Chan’s departure makes unmistakably

clear that under Chinese rule, not only is Hong Kong not autonomous, but its government is actually collaborating to extend Beijing’s control over more and more aspects of life in Hong Kong.

That, of course, was always Beijing’s intention in taking over the former British colony according to the terms of the Sino-British Joint Declaration, a treaty signed in 1984. For Western consumption, China offered guarantees of Hong Kong’s autonomy and freedom, including an independent judiciary, a free market, civil liberties, freedom of the press, and even a democratic legislature. But Chinese leader Deng Xiaoping’s well-worn aphorisms, “Hong Kong people ruling Hong Kong” and “one country, two systems,” meant very different things to the Chinese leadership and the rest of the world. “To a Westerner,” wrote Steve Tsang of Oxford University in 1996, “the idea of Hong Kong people administering Hong Kong within the framework of ‘one country, two systems’ may imply that after 1997 Hong Kong will be free to run its own domestic affairs with no interference from Beijing as long as PRC sovereignty

is acknowledged. Such an interpretation is totally unacceptable to Beijing.”

Deng’s views, however, were no secret. Under the Basic Law, the constitution drafted by a Beijing-controlled body, Hong Kong would be run by a chief executive designated by Beijing. “Those who can be entrusted to administer Hong Kong must be local residents who



*A Falun Gong billboard in downtown Hong Kong*

AP/Wide World Photos

*Ellen Bork is a fellow at the Project for the New American Century.*

love mother China and Hong Kong,” Deng directed. “Can popular elections ensure the selection of such people?” For Beijing, the obvious answer was “no,” and so Chinese leaders select the chief executive of “autonomous” Hong Kong.

Tung Chee-hwa, who has held the position since July 1, 1997, has not disappointed his masters. He readily casts aspersions on democratic values. “We are Chinese and we were brought up in Chinese traditions and values,” he told President Clinton in 1998 after the president emphasized Tung’s American ties, which include his children’s U.S. citizenship. (Tung himself, who lived in the United States for several years, sidesteps the question of his own U.S. citizenship.) When pressed on the pace of Hong Kong’s democratic expansion, he answers, “Slowly, slowly.”

Tung and his officials have actively participated in undermining the freedoms and institutions they are supposed to protect. A telling example of this came in June 1999, when the Hong Kong government asked Beijing effectively to overrule Hong Kong’s highest court in its first major constitutional decision under Chinese rule. The Court of Final Appeal had struck down a law restricting the rights of some mainland citizens to live in Hong Kong. In the process the court had articulated its power to invalidate laws adopted in Beijing if it found them inconsistent with Hong Kong’s Basic Law. Confrontation with Beijing was inevitable.

Over the next few months, a battle brewed. Beijing’s allies in Hong Kong attacked the court, and the Hong Kong government itself issued a fear-mongering projection of the number of immigrants who would flood Hong Kong if the ruling stood. A spokesman for the Chinese leadership called the court’s decision a “mistake” which needed to be “changed.” Finally, Beijing summoned Hong Kong’s secretary for justice, Elsie Leung, who emerged from a meeting with Chinese officials saying the judgment should be “rectified.”

The Hong Kong government asked the high court to “clarify” its ruling. Later, the government acknowledged that Secretary Leung had had private contacts with the chief justice regarding the government’s request. The court promptly caved in, issuing a statement reiterating its judgment but emphasizing the authority of the Standing Committee of the National People’s Congress in Beijing to interpret the Basic Law. Leung admonished the people of Hong Kong for their “arrogance,” saying, “We shouldn’t

as a matter of course believe the Hong Kong system is the best.”

All this legal wrangling was complicated, as it was no doubt intended to be. Beijing’s sympathizers like to point out that the Basic Law provides for interpretation by the Standing Committee of the National People’s Congress. Suffice it to say that nothing required Beijing to override the court—or the Hong Kong government to ask it to. More important, Beijing’s defenders fail to mention the fundamental illegitimacy of the Basic Law.

**T**he Basic Law was part of Beijing’s “united front” campaign, an effort to coopt Hong Kong’s professional and business elite by involving them in a series of appointed committees used to provide cover for Beijing as it went about undermining Hong Kong’s autonomy. The committee in charge of drafting the Basic Law had “enough Hong Kong members to make their

participation appear to be meaningful but not so many as to concede control,” Mark Roberti writes in *The Fall of Hong Kong*. Above all, the purpose of the Basic Law was to circumvent the Joint Declaration’s guarantees on democracy and judicial independence and to provide the basis for an anti-subversion law.

The Court of Final Appeal episode was a devastating example not just of Beijing’s willingness to hobble Hong Kong’s courts, but of Hong Kong officials’ willingness to collaborate. There are others. The

Tung administration is engaged in “negotiations” with mainland officials on formalizing procedures for exchanging criminal suspects. These negotiations apparently grew out of two incidents when Beijing arrested and prosecuted defendants for crimes committed in Hong Kong. In 1998, Beijing executed Cheung Tze-keung (a.k.a. the “Big Spender,” for his spectacular bets at Macao casinos), one of Hong Kong’s most notorious gang bosses, for crimes including the kidnappings of two of Hong Kong’s wealthiest men. The exact charges in Cheung’s trial, which the U.S. State Department called “speedy and closed,” were not revealed, and his Hong Kong lawyer was barred from the proceedings. A few months later, a mainland man was tried in southern China for the murders of five women in a Hong Kong apartment during an occult scam.

Very likely, Beijing chose these cases carefully. Neither defendant had public support in Hong Kong. Nevertheless, Hong Kong people were deeply disturbed not only at Beijing’s brazen interference in their judicial system, but

*Beijing has warned  
that the press  
will be judged  
on their  
“patriotism,” and that  
coverage of Taiwan  
in particular will be  
closely scrutinized.*



AP/Wide World Photos

Mrs. Anson Chan and Hong Kong chief executive Tung Chee-hwa

also at the complicity of Hong Kong officials, who neither requested the return of the defendants, nor sought guarantees for the fairness of the proceedings.

Tung and his team have been similarly obliging to Beijing on civil liberties. Even before taking office, Tung endorsed a Beijing-appointed committee's recommendations for stricter laws governing demonstrations and other exercises of civil liberties. "The key question here for the community to debate is what is more important to the community—social order, inconvenience caused to the public at large, or individual rights," Tung told a formal dinner in January 1997. The changes, Tung insisted, were merely "technical."

So far, it is true, as government officials say, that the laws have been little used. Last September, however, police arrested students for protests over the immigration issue. These arrests were particularly controversial because of their timing—months after the actual protests, and just prior to National Day celebrations on October 1, which suggested a bid to demonstrate loyalty to Beijing.

The charges against the students were ultimately dropped, after much criticism. It may be, however, that this episode is part of an emerging pattern that Beijing and the Hong Kong government have used effectively on a number of occasions: Identify an objective, launch an attack, withstand any opposition, and then finish the job. Margaret Ng, a pro-democracy legislator, has seen it many times: "There is a public outcry. The demand subsides. . . . This is a planned pause in the strategy."

The press is also handled this way. Even before the handover, China's deputy premier, Qian Qichen, warned the media not to spread "rumors or lies"

or publish "personal attacks on the Chinese leaders." Recently, the message has been sharpened. Beijing has warned that the media will be judged on their "patriotism," and that coverage of Taiwan in particular will be closely scrutinized. In 1999, the director of Radio Television Hong Kong was removed from her post following the station's broadcast of a brief commentary by Taiwan's unofficial representative as part of a regular Sunday morning program featuring prominent figures.

After Chen Shui-bian of the traditionally pro-independence Democratic Progressive Party

was elected president of Taiwan in March 2000, the mainland's top official in Hong Kong, Wang Feng-chao, warned, "The media should not treat speeches and views which advocate Taiwan's independence as normal news items, nor should they report them like normal cases of reporting the voices of different parties. Hong Kong's media have the responsibility to uphold the integrity and sovereignty of the country. This has nothing to do with press freedom."

Hong Kong's top law enforcement official, secretary for security Regina Ip, issued a ludicrous but troubling criticism of Hong Kong's journalists for their coverage of the student arrests. Speaking in Singapore, Mrs. Ip likened the media to Napoleon, the pig representing Stalin in George Orwell's *Animal Farm*, who is epitomized by the line "All animals are equal; but some animals are more equal than others." "On the one hand," Secretary Ip was quoted as saying, "the media pledge to safeguard human rights and freedoms. On the other hand, they have also monopolized the judicial processes of trial and prosecution. They even hand down their own verdicts."

Such attacks on government critics are becoming more frequent. Last summer, an aide to the chief executive pressured professors at two university polling projects to stop polls showing Tung's deep unpopularity. As this scandal unfolded, the *Asian Wall Street Journal* substantiated what had long been an open secret—that Tung had put pressure on big developers not to advertise their properties in *Apple Daily*, a pro-democracy newspaper run by Jimmy Lai.

As Tung came under attack, *Wen Wei Po*, a mainland-funded Hong Kong paper often considered an authoritative source of Beijing's positions, launched a "back Tung"

insert in its pages and charged that Tung's critics were conspiring to bring him down. On a radio broadcast, a Hong Kong deputy to the National People's Congress called Tung the "Great Helmsman," a reverential moniker for Mao, and accused student protesters of reviving the chaos of the Cultural Revolution. The deputy asked, "Will Hong Kong become another base for international communities to besiege China?"

Absurd as these charges sound, they reflect a dangerous new litmus test being applied in Hong Kong: "Here the politically correct thing would be patriotism—Beijing's version of patriotism," says Liu Kin-ming, general manager of *Apple Daily*. "If you don't subscribe to that, you don't love China, you don't love Hong Kong."

It was just this kind of pressure that Margaret Ng rejected during a legislative debate last May on a matter of nationalistic sensitivity—a motion opposing Taiwan's independence. While expressing her support for Taiwan's ultimate, peaceful reunification with China, Ng objected to the implications of the motion, which was introduced by the head of the largest pro-Beijing political party. The motion, she said, "suggests that reunification means that on political issues, we can no longer speak our own minds but must toe the line; that we are robbed even of silence, but are expected to take on the old mainland Communist culture of *biao tai* ["expressing the right attitude"]. We have to outdo each other in exhibiting our loyalty or 'patriotism' for fear that insufficient enthusiasm will be branded as treachery." Alone among the 60 members, Ng abstained from the motion, although a number of pro-democracy politicians absented themselves from the chamber for the vote.

It's impossible to conclude from the last few years' experience that developments in Hong Kong are anything other than disastrous. The many setbacks for institutional integrity include the abolition of the elected middle level of government and the packing of the lowest level of government, the elected district councils, with members appointed by the Tung administration. Nevertheless, the U.S. State Department last spring reported to Congress that Hong Kong "has continued to develop in a positive direction, with the Hong Kong government committed to advancing Hong Kong's unique way of life and the PRC Government generally respecting its commitments."

Pretending Hong Kong is in charge of its own affairs

allows the United States to avoid confronting Beijing. Under the Clinton administration's constructive engagement, confrontation was to be avoided at all costs. Bad outcomes were acceptable, even normal. "No matter how egregious the Chinese provocation," writes Peter Feaver, formerly of the Clinton National Security Council, "the United States always has a choice—confront or accommodate—and accommodation prolongs the game, leaving open the chance that the Chinese will moderate their behavior."

During the crucial years leading up to Great Britain's return of Hong Kong to Chinese rule, the Clinton administration hid behind the British. It refused to criticize violations of the Joint Declaration, an agreement between China and Great Britain, claiming it had no standing to do so. After the British left, Washington needed another pretext for inaction and settled on the fiction that Hong Kong truly was autonomous. Last year, the administration

aggressively used Martin Lee, Hong Kong's leading democratic politician, in its campaign to win passage of permanent normal trade relations for China. When I asked a Clinton official what Washington was going to do for Lee in return, the official was aghast and confused and told me the United States raises democratization with Tung at every opportunity and sees no evidence of Beijing's interference in Hong Kong.

In retrospect, it seems obvious that Washington never intended to stand up to Beijing over Hong Kong.

"Here's the deal," an anonymous U.S. official told the *New York Times* shortly before Hong Kong was returned to China. "After July 1 we pretend that Hong Kong isn't part of China, even though it is. And we still insist that Taiwan is still part of China, even though it isn't."

So, then, if the United States has given up on Hong Kong, what difference does it make? It matters plenty, and not just for the millions of Hong Kong people now ruled by a Communist party they or their parents fled. Hong Kong matters for what it says about U.S. policy toward China and its implications for the future of Taiwan.

China's "one country, two systems" formula was originally designed for Taiwan—instructively, at the moment of Taiwan's maximum danger. In 1979, when President Carter broke diplomatic relations with Taiwan, "hopes surged" in Beijing that the end of the U.S.-Taiwan defense pact "would arouse a sufficient sense

*So, then, if the United States has given up on Hong Kong, what difference does it make? It matters plenty, for the millions in Hong Kong who fled communism—and for Taiwan.*



AP/Wide World Photos

Hong Kong immigration protesters, escorted by police. Their banner reads "False judges."

of vulnerability within the Nationalist government to make it more susceptible to overtures from the mainland," writes Robert Cottrell in *The End of Hong Kong*. "If Taiwan would only bow to Beijing's sovereignty, then the Beijing government would promise to concede a very high degree of administrative autonomy to the Taipei authorities. The 'two systems,' Communism on the mainland and capitalism on Taiwan, could then co-exist within a single country."

Today, after eight years of the Clinton China policy, Taiwan is vulnerable once again. Indeed, the Clinton administration deliberately weakened Taiwan militarily and politically to make it more susceptible to Chinese pressure and thus more likely to negotiate reunification on China's terms.

For instance, Washington prodded Taiwan to enter into "interim agreements" with the mainland. The phrase "interim agreements" was coined by Kenneth Lieberthal, a Sinologist from the University of Michigan, before he joined Clinton's National Security Council in 1998.

Lieberthal proposed that an interim agreement "govern the cross-Strait situation for a period of five decades, at the end of which, on a date certain, formal talks toward political unification of the country [would] begin." The 50-year period matches the 50-year guarantee China gave Great Britain for the maintenance of Hong Kong's institutions and free market. Intent on establishing an entity to which the mainland and Taiwan would both belong, Lieberthal suggested coming up with a new name, "such as *da zhongguo* [greater China] to refer to the two parts of China together." The pressure from the Clinton administration, combined with its refusal to sell Taiwan major defense systems, soured relations between Taipei and Washington, further emboldening Beijing, which issued harsher and harsher threats across the Strait.

This is the situation the Bush administration has inherited. If the past tells us anything, American weakness in defense of Taiwan has only encouraged China to hold out promises of freedom and autonomy it has no intention of honoring. It is especially troubling that these empty promises have become the basis for U.S. policy.

In March, the Bush administration will for the first time submit a report to Congress under the U.S. Hong Kong Policy Act. It will be interesting to see whether the Bush administration takes its obligation to Congress more seriously than its predecessor. The United States has never made Hong Kong a major issue in its relationship with China. However, the U.S. Hong Kong Policy Act gives the president significant leverage, allowing him to decide whether to continue treating Hong Kong separately from China in matters ranging from textiles to technology transfer.

President Bush should make clear that if Hong Kong is to continue receiving the benefits of separate treatment under U.S. law, China must allow the people of Hong Kong to run their own affairs through democratic elections and an independent judiciary. By insisting on what "one country, two systems" should really mean, the new administration can help the people of Hong Kong achieve what they were promised—and, in the process, let Beijing know President Bush won't buy into a bad deal for Taiwan. ♦