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Why Can't We Be Friends: The Significance of Sovereignty and China's "One Country, Two Systems"

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**Why Can't We Be Friends:
The Significance of Sovereignty and China's "One Country, Two Systems"**

Senior Project Submitted to
The Division of Social Studies
of Bard College

by
Harry Malinowski

Annandale-on-Hudson, New York
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Introduction

In 1949, the Chinese Nationalist Party/Kuomintang (KMT), fled to the island of Taiwan and established the Republic of China on Taiwan (ROC/Taiwan) after suffering a crushing defeat on mainland China at the hands of the Chinese Communist Party. In 1981, the Communist Party, having formed the People's Republic of China (PRC) in 1949, reached out to Taiwan with a proposal for reunification. "One country, two systems" was rejected by the Taiwanese then, and the government has continued to refuse unification under that model. Failing with one region, the PRC turned their attention to Hong Kong and Macau. For almost all the 20th century, Hong Kong and Macau had been under the control of the British and Portuguese Empires, and by the end of the century, the PRC were pursuing a policy of complete unification. The goal of the PRC was to return all land that was formerly under China's control back to China. The failure with Taiwan did not discourage the PRC from pursuing unification under the "one country, two systems" model, however. Instead, they took that idea and applied it to Hong Kong and Macau, with retrocession of the two territories occurring in 1997 and 1999.

In the years following unification, many scholars have examined the nature of "one country, two systems," and what it means. The model was representative of a new form of governance that the rest of the world was not familiar with. Though it vaguely resembled the colonial system of the past, with a semi-autonomous region being overseen by a larger power, the model was ultimately different. The model implemented in Hong Kong showed a system in which a territory was meant to function independently and be self-sufficient. Additionally, the Basic Law designed for Hong Kong allowed for the formation of a semi-

democratic system to govern the territory, completely different from the authoritarian political system of mainland China.

Many scholars have asked what this system is, what it has meant for Hong Kong, what it means for Taiwan, and more importantly, what it means for the broader international community. “One country, two systems” represents an idea of a hybrid/shared sovereignty, where the PRC is the “sole representative” of China in international organizations and the general global community, yet Hong Kong, as a global city and economic center, holds a separate seat in various international organizations and has its own currency, independent judiciary, and citizenship documents. What does hybrid sovereignty mean? How can a sovereign country function with shared sovereignty between more than one political institution in that country? Though the United States of America has multiple states, all ultimately subservient to the federal government, those states do not have seats in international organizations like Hong Kong does. How does this country function when one body is recognized as the sole legal representative, but is clearly not the sole international representative of that country? What does this mean for the future of regional disputes, like we have seen in the Korean Peninsula, or (and this is rather different) the Arab-Israeli conflict in the Middle East? If China’s model of unification works, then a system of shared sovereignty may be applicable to other conflicts that are still struggling to find an answer. All these questions, and many more come from discussions on the status quo between Hong Kong and China, but the most intriguing question to me concerns why Taiwan has never accepted the model, even as a beginning for negotiations, and how the model would work in Taiwan – could it ever work for Taiwan. Taiwan has developed very differently from Hong Kong, perhaps most importantly because of its

political independence in the post-World War II era and subsequent development of a strong democratic political system.

In exploring the model, and understanding “hybrid sovereignty,” we must first understand sovereignty itself. In his book *Sovereignty: Organized Hypocrisy*, Stephen D. Krasner, a professor of international relations at Stanford University and former Director of Policy Planning in the US Department of State, uses his opening chapter, “Sovereignty and Its Discontents,” to explain his framework for sovereignty. Krasner begins by explaining the general analytical views of sovereignty held by international relations scholars. He suggests that the argument is either that “sovereignty is being eroded by...globalization [or] that it is being sustained...”¹ He makes the point, however, that the term itself has been used in different ways by scholars from different fields. His chapter, “Problematic Sovereignty,” in the similarly titled book he edited, describes these different views. For some sociological-minded scholars, sovereignty is essentially a script facilitating outcomes. To international legal scholars, sovereignty applies to states in the sense that a sovereign state has its own jurisdiction and can enter into treaties promoting their self-defined interests. For the political science scholars, Krasner separates them into two distinct groups. One side he describes sovereignty as an analytical assumption “where states are assumed to be rational, unitary, and independent actors.”² In other words, these scholars view sovereignty as something inherent and assumed in the system. For the other political science scholars, “sovereignty is a set of normative principles into which statesmen are socialized, the most

¹ Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), 3.

² Stephen D. Krasner, “Problematic Sovereignty,” in *Problematic Sovereignty: Contested Rules and Political Possibilities*, ed. Stephen Krasner (New York: Columbia University Press, 2001), 1.

important of which is nonintervention in the internal affairs of other states.”³ All these forms of sovereignty generally have ties to the international community, and relationships between states [political institutions]. Krasner considers all the definitions he notes in creating his framework. He describes the various ways sovereignty has been used as a term as international legal sovereignty, Westphalian sovereignty, domestic sovereignty, and interdependence sovereignty.

International legal sovereignty largely concerns the international community, as it refers to “the practices associated with mutual recognition, usually between territorial entities that have formal juridical interdependence.”⁴ The formal recognition is often dependent on international organizations, like the United Nations. As Krasner notes, most governments seek international legal sovereignty because it provides access to international resources. With recognition comes the ability to form alliances, which can ensure security. Membership in special international organizations, like the World Trade Organization or World Bank can increase access to markets and provide financial resources. When domestic sovereignty is under attack, international recognition can provide a level of legitimacy to the government by signaling that those in power have access to international resources. This is the battle that is currently taking place in Venezuela, with the presidential conflict between President Maduro and President Guaido. When the election was contested, and Guaido elected by the National Assembly, Western countries came to his aid by recognizing him as the legitimate president.

³ Krasner, “Problematic Sovereignty,” 1.

⁴ Krasner, *Sovereignty*, 1.

The general concept of Westphalian sovereignty is that foreign authorities should be excluded from the affairs of a state. According to Krasner, states should not only be independent, but also autonomous. He concedes that governments are always constrained to an extent by the external environment, but they still have the freedom to decide things for their country. This is connected closely to domestic politics, as Westphalian sovereignty enables a government to “determine the character of its own domestic sovereignty, its own authoritative institutions.”⁵ In the case of neocolonialism and puppet states, Westphalian sovereignty does not exist, as the state cannot exercise its will independent from the controlling power. The last Iranian Shah was put in a position of threatened Westphalian sovereignty. He was put in power by US forces, and so the US occasionally “encouraged” the Shah to act in a way favorable to US interests. Though he did not always listen, the fact that the US had the ability to do this suggests the Iranian government, under the Shah, did not hold full Westphalian sovereignty.

“International legal sovereignty and Westphalian sovereignty involve issues of authority and legitimacy, but not control.”⁶ Domestic sovereignty, mentioned briefly in the previous paragraph, concerns control and authority within a region. Krasner notes that the oldest usages of “sovereignty” generally seem to refer to domestic sovereignty, which does not require legitimacy derived from international recognition (but can be supported by it). What Krasner is saying here, is that sovereignty has historically referred to a state’s control over a certain region. This control, as briefly mentioned regarding international legal sovereignty, can be supported by recognition from other states, which grants legitimacy in

⁵ Krasner, “Problematic Sovereignty,” 11.

⁶ Krasner, *Sovereignty*, 4.

the international community. Domestic sovereignty does not require legitimacy, as seen in the 19th century with the Confederate States of America, which had a government that enforced laws over much of its territory but lacked any official recognition from foreign governments. “Failed states” essentially refer to states where the government is incapable of regulating development within their borders and does not hold domestic sovereignty but could still hold international legal sovereignty. In the 1980s and 1990s, Somalia began to be described as a failed state, due to the inability of the central government to firmly establish their control of the small country with the beginning of the Somali Civil War.

Krasner’s mention of the scholars who believe that globalization is eroding sovereignty becomes especially relevant in discussion of interdependence sovereignty. This aspect of sovereignty concerns the ability of a state to regulate movements across their own borders. There have been various arguments that ultimately no state holds this form of sovereignty, due to the inability to fully control what can pass through the air or water. North Korea has often been cited as the one state with interdependence sovereignty, but with the novel coronavirus having infiltrated their borders, that is not a strong argument. Krasner generally refers to goods, capital, and individuals in his chapter, “Problematic Sovereignty,” though. On that regard, it is possible for a state to control this, though it may be incredibly difficult. Economic international organizations present the clearest challenge to interdependence sovereignty, though. People from countries in the European Union generally have the freedom to pass between each of these countries freely. Though trade is regulated, the people are ultimately not – at least not to the extent that the borders between the US and its northern and southern neighbors are. Economic

cooperation also has effects on the other forms of sovereignty, however. Both international legal sovereignty and domestic sovereignty can be affected by economic integration.

In an increasingly globalized world full of economic and political integration, the question of sovereignty becomes more and more relevant. How does the “one country, two systems” model influence our understanding of the significance and function of sovereignty? Using Krasner’s framework, this question can be explored in the two cases of Hong Kong and Taiwan. Hong Kong was the first territory where “one country, two systems” was implemented, and remains the best example of the result of forced economic and political integration between China and a territory it wishes to reclaim. Though Macau stands as another example of the model, it has not been subject to the same constant pro-democracy protests that Hong Kong has, and prior to its retrocession, there was no argument as to whose land it was. Portugal declared the colony to be Chinese land under Portuguese control. Hong Kong, however, has had a different relationship with China, in part due to its history with the United Kingdom, as well as Governor Patten’s attempts to democratize Hong Kong prior to retrocession. Though Macau is subject to its fair share of criticism, it does not have the same tumultuous relationship with China. Additionally, Macau, though a popular tourist destination, is not a global economic city as Hong Kong was and continues to be.

“One country, two systems” was originally designed with Taiwan in mind, in part because Taiwan would present the most difficulty in unification. The government on Taiwan was the legacy of a rival political party that had, in the eyes of the PRC, committed treason. After a few decades, martial law and one-party dictatorship gave way to democracy and the establishment of a liberal democratic political culture in Taiwan. This

formation of a successful multi-party democracy makes Taiwan a particularly interesting case regarding unification with an authoritarian communist superpower. The rapidly changing politics on the island have created an environment in which anything could happen in relation to China. With every new president, the two sides of the Taiwan Strait could move closer together or further apart. The Economic Cooperation Framework Agreement (ECFA), which led to closer economic ties, was signed by a KMT President, Ma Ying-jeou, but he was succeeded by DPP president Tsai Ing-wen, who has gone about diversifying Taiwan's foreign economic connections. Taiwan becomes an interesting case to examine the development of certain forms of sovereignty and the effect that has on the future of "one country, two systems."

Hong Kong and “One Country, Two Systems”

Shortly after the conclusion of World War II, the rivalry between the Chinese Nationalist organization, the Kuomintang (KMT), and the Communist party resumed after they successfully expelled the Japanese from the mainland. Within a matter of months, the Communists had succeeded in seizing a large majority of mainland China, establishing the People’s Republic of China (PRC). This forced the KMT to flee to the island of Taiwan, where they established the Republic of China (ROC, Taiwan). Initially, the Communists had planned on a military conquest of the island as part of their mission of unification of the country, and at the turn of the decade, it seemed likely that an attack was imminent. The United States (US), through President Truman, had even backed off on support of the KMT, and declared that the US considered Taiwan a part of China – the Communist China. This did not last very long, as once the Korean war started, the US quickly deployed troops to the Taiwan Strait to prevent an attack from either the PRC or the ROC. The situation in Korea had increased fears in the US that a larger campaign by the communists was being planned. Though the US’s main goal might have not been to save the Nationalists – merely stop the Communists – the end result was that the KMT survived and retained its seat in the United Nations (UN).⁷ The presence of US forces and the existence of a new mutual defense treaty between the ROC and the US did not stop the PRC from attempting to provoke the ROC. In the late 1950s, the PRC artillery began shelling ROC-controlled islands near Taiwan in an attempt to test the ROC’s willingness to hold their control over the islands.⁸

⁷ Richard Bush, *Untying the Knot: Making Peace in the Taiwan Strait* (Washington, DC: The Brookings Institution, 2005), 17-18.

⁸ Bush, *Untying the Knot*, 19.

The policies of conquest that both the ROC and PRC held were the status quo for over a decade. A change first began to appear in the 1970s, with the rise of the Nixon administration in the US. Though ultimately unsuccessful, it was President Nixon and Henry Kissinger who brought the idea of a peaceful resolution to the PRC. President Carter attempted to do the same as Nixon, in trying to convince the PRC of the importance of peace. President Carter made several concessions to the PRC, specifically cutting formal diplomatic ties with the ROC, in trying to convince them of the need to consider peaceful reconciliation.⁹

It was in this context that the PRC introduced the “one country, two systems” model to reunite the PRC and ROC. However, reunification under this model was first applied in practice in Hong Kong. This project is intended to explore the “one country, two systems” model in relation to the ROC and its views on reunification with the PRC. However, Hong Kong must be discussed first, as it was the first region where the model was implemented. Although the model was formulated and proposed for Taiwan in the late 1970s, and early 1980s, Taiwan rejected the proposal. Consequently, Hong Kong exists as the earliest, and perhaps most important, concrete example of the model, and stands as a parallel example of hybrid sovereignty.

Though Hong Kong was followed by the region of Macau shortly after, Macau is not necessarily an important example to consider, in part because the systems set up in each region are identical, having been based on the one country, two systems model. Additionally, the process to handover Macau began well before the formulation of the model, after Portugal declared the region “Chinese territory under Portuguese

⁹ Bush, *Untying the Knot*, 22.

administration,” in the mid-1970s.¹⁰ As a result, Hong Kong is the best example to use as the primary concrete example of the implementation of the model.

Formulating the Model

With the US’s recognition of the PRC, along with the seat in the UN, the PRC had the advantage, but at the end of the 1970s, the PRC abandoned their ideas of a military conquest to retake the island of Taiwan in favor of a “peaceful unification” policy. The PRC by then was unprepared to impose a military solution, and the new alliance with the US further cemented in Deng Xiaoping’s mind the idea that military conquest was no longer an option – to attempt a military invasion would have driven the US away from the PRC.¹¹ This new policy put a heavy emphasis on advertising the opening of economic connections between the two rival governments. This would be further developed in 1981 by a senior CCP official, Ye Jianying, who first spoke about the PRC’s reunification proposal of “one country, two systems” in his “Nine-Point Proposal.” His proposal, though brief, outlined the basic concepts that would be further developed, and eventually implemented in Hong Kong. On the terms of understanding the circumstances under which reunification could occur, Ye Jianying suggested the two sides meet to first discuss each side’s views on various matters, as well as come to arrangements on the facilitation of academic and cultural exchanges, as well as reuniting families and inviting tourists. Following that, Taiwan and the ROC would be reabsorbed by the PRC, but still exist with “a high degree of autonomy as a special administrative region.”¹² This level of autonomy would guarantee the PRC’s

¹⁰ SL Wong, R Cremer, *Entrepreneurs and Enterprises in Macau: A Study of Industrial Development* (Hong Kong: Hong Kong University Press, 1991), 175.

¹¹ Bush, *Untying the Knot*, 23.

¹² Ye Jianying, “Nine-Points Proposal,” interview with Xinhua News Agency, September 30, 1981, https://www.fmprc.gov.cn/mfa_eng/ljzg_665465/3568_665529/t17783.shtml.

central government would not interfere with local politics, and the people of Taiwan could even participate in the government of the PRC as a whole. The socio-economic system would remain unchanged – the capitalist economy in place would be allowed to remain in operation, and in the event that Taiwan had economic issues, the government of the PRC would subsidize them in respect to the situation at the time. The people of Taiwan, as well as people of any other nationality, would have the option to live on the mainland, and have the freedom to come and go as they please. The most shocking part of the Nine-Points proposal, though, was the PRC's willingness to permit Taiwan to not only keep ties with other countries (albeit in nongovernmental ways – the Nine-Points proposal specified economic and cultural relations), but also to keep armed forces.¹³

A few months after Ye Jianying revealed the PRC's plan for reunification, China's paramount leader, Deng Xiaoping, made statements clarifying many of Ye's points, as well as adding some new ideas. He made clear that the two systems "one country, two systems" referred to were the economic systems, socialism and capitalism. He also specified that under this principle, the "special administrative region" of Taiwan would not have complete autonomy – as that would mean two separate Chinas. Taiwan would still need to be subservient to the mainland PRC government, and the PRC government would need to be the sole international representative of all of China. "Complete autonomy means two Chinas, not one. Different systems may be practiced, but it must be the People's Republic of China alone that represents China internationally."¹⁴ Additionally, though Taiwan could retain its armed forces, that was conditional on if the armed forces posed a threat to PRC-

¹³ Ye, "Nine Points Proposal."

¹⁴ Deng Xiaoping, "An Idea for the Peaceful Reunification of the Chinese Mainland and Taiwan," in *Selected Works of Deng Xiaoping, Volume III* (Beijing: Foreign Languages Press, 1994), 40.

China. A major new idea Deng brought to the discussion was on the subject of judicial matters. Taiwan would have an independent judicial system that would have the power of final judgment in court.¹⁵

Though the “one country, two systems” principle may have initially been formulated for a reunification with Taiwan, Hong Kong was the first territory where the principle was implemented. Prior to the reforms in the 1990s and retrocession itself, Hong Kong was a non-democratic city-state under the control of the United Kingdom, which appointed a governor for the region. Following the end of World War II, Hong Kong experienced incredible growth, both in the economy as well as the population.¹⁶ Though the British government in Hong Kong had avoided a Communist invasion, by the 1960s government leaders knew that the PRC would eventually pose a threat and began analyzing how to handle the Hong Kong-PRC connection. The then-Governor Trench mapped out his understanding on the Hong Kong-PRC relationship, noting that the status quo could continue so long as China did not gain an economic advantage from Hong Kong, as well as long as Hong Kong continued to be useful to the West. Trench also noted the difficulty that the PRC would have in attempting to assimilate Hong Kong. He also considered the possible factors that could lead to a Chinese-takeover of the region. He speculated that if the British government in charge could not retain control over what happened in the colony – specifically in regard to protests or possible pro-democratic activists – then the UK would risk losing the city-state.

¹⁵ Bush, *Untying the Knot*, 38.

¹⁶ Roger Buckley, *Hong Kong: The Road to 1997* (Cambridge: Cambridge University Press, 1997), 54.

In 1982, during a talk with then-British Prime Minister Margaret Thatcher, Deng Xiaoping began to lay out the ideas that he intended to be the framework for which a Hong Kong basic law would be designed. In brief remarks, he made clear his goal for retrocession: the continued prosperity of Hong Kong.

In order to ensure the continued prosperity of the region, Deng said that the Beijing government would not interfere with Hong Kong, for the most part. Instead, Hong Kong would be allowed to continue with a capitalist economy and remain a free port. Moreover, in the government turnover from the British who had enforced colonial rule during their lease of the territory, a new democratic Hong Kong government would be created. Deng saw it important to have the Hong Kongese on the side of the PRC, in part due to the widespread concern that if prosperity in Hong Kong was not maintained, the push for modernization in mainland China would be set back.¹⁷

Two years later, only a few months away from the signing of the Sino-British Joint Declaration, Deng clarified and repeated some of his earlier comments on the retaking of Hong Kong. On the subject of the free economy, he reaffirmed the commitment to keeping Hong Kong a “free port,” able to engage in trade with international entities. In regard to the new, post-British, government, the Hong Kongese would elect their own government without intervention from the Beijing government. Despite these efforts at supporting an idea of a wholly “free” Hong Kong, Deng did make mention of the intent to station Chinese

¹⁷ Deng Xiaoping, “Our Basic Position on the Question of Hong Kong,” in *Selected Works of Deng Xiaoping, Volume III*, (Beijing: Foreign Languages Press, 1994), 24.

troops in Hong Kong, though he stated it would only be for the purpose of safeguarding national security and enforcing sovereignty over the territory.¹⁸

The economics of Hong Kong were not only important to Deng, though. The British similarly had concerns regarding Hong Kong's economy post-retrocession. Toward the end of the Chinese Civil War, industries began abandoning mainland China in favor of Hong Kong. Industry grew incredibly fast. In 1947 there were only 961 factories employing less than 50,000 people; but in 1959, there were 4,541 factories employing more than 3 times the 1947 numbers.¹⁹ Starting in the early 1950s, the UK pushed for more economic growth in the region and was among the first of the Western powers to recognize the PRC-China. Recognition enabled Hong Kong to continue commercial activities and trading with China's mainland provinces.²⁰ The economic growth connected to ties with the PRC led to the establishment of Hong Kong as an international financial center beginning in the early 1980s.²¹ Hong Kong became incredibly important to the UK as a commercial and financial center in the Far East for not just the UK, but the West as a whole. It was an additional market for British exports. Additionally, the Hong Kong connection gave "substance" to the UK's relations with PRC-China. The last point for why Hong Kong was so important to the UK, though, is perhaps the reason that truly pushed the UK to fight for continuing economic prosperity on their terms. The UK used Hong Kong as a communications, intelligence, and air services center to keep tabs on the countries in the Far East.²²

¹⁸ Deng Xiaoping, "One Country, Two Systems," in *Selected Works of Deng Xiaoping, Volume III*, (Beijing: Foreign Languages Press, 1994), 68.

¹⁹ Liu Shuyong, "Hong Kong: A Survey of Its Political and Economic Development over the Past 150 Years," in *The China Quarterly*, no. 151 (September 1997): 589.

²⁰ Liu, "Hong Kong," 588.

²¹ Liu, "Hong Kong," 589.

²² Margaret Thatcher Foundation, *Hong Kong (Future of Hong Kong) Part 1*, pt. 6, published September 12, 1982, <https://www.margaretthatcher.org/document/138542>, (Accessed October 27, 2019).

In the early negotiations, the British had attempted to negotiate a system in which the UK could continue to govern Hong Kong, while still handing Hong Kong back to the PRC. In early 1982, a note to Prime Minister Margaret Thatcher mentioned that the UK was vital to the economic prosperity of Hong Kong, and that the PRC did not have the confidence of the world on their side. “If [nixing the idea continuing the British administration] is in the minds of the Chinese, they have clearly misunderstood the basis of Hong Kong’s prosperity. Confidence in the Territory, particularly among investors, is likely only to be maintained if autonomy is guaranteed by the administration continuing on the same lines, ie through the British.”²³ “From the most negative viewpoint, a British pull-out would create enormous problems for us. Our political and economic interests in the Far East would suffer...”²⁴ They doubled-down on this logic in mid-1982 with the release of a study on the future of Hong Kong, where it was noted that “the Governor’s advice is that the colony as it now exists will collapse economically and then politically through lack of confidence and uncertainty.”²⁵ Through these documents, it becomes clear that the UK was also concerned about the future of the Hong Kong economy, and ultimately wanted to ensure the prosperity of the economy was maintained. They differed from the PRC in thinking that the reason for the prosperity was the confidence foreign investors had in the British government. To the British, they had a good reason for thinking this, as “without the continuity and predictability of administration, law and tax structures and the independent convertible currency guaranteed by British control Hong Kong would not have developed as a major

²³ Margaret Thatcher Foundation, *Hong Kong*, Part 1, pt. 4.

²⁴ Margaret Thatcher Foundation, *Hong Kong*, Part 1, pt. 5.

²⁵ Margaret Thatcher Foundation, *Hong Kong*, Part 1, pt. 3.

trading force and the world's third largest financial centre."²⁶ An interesting thing to note is that the British did not seem to want to keep control over Hong Kong forever. They note in the documents that they would only stay in place until confidence was established that the PRC was capable of keeping the economy strong.

Though the British thought of themselves as important in regard to the economic well-being of Hong Kong, they did not demonstrate control over the region. On the matters of currency and banking, a study that was commissioned on the future of Hong Kong noted that despite technically having certain powers over the executive and legislative matters, the Hong Kong government "runs its financial affairs quite independently of HMG [Her Majesty's Government]."²⁷ Though the UK's Treasury did have certain responsibilities regarding formal approval on the minting of a new coin or demonetization of a coin, neither the British Treasury, nor the Bank of England had any formal relationship or functions to carry out with the Hong Kong government.

The Sino-British Joint Declaration

The Sino-British Joint Declaration that followed at the end of 1984 laid out in writing what Deng had been saying since 1982 and was the starting point for the negotiations between China and the United Kingdom. The ideas of the democratic government that would be implemented and the continuance of the free economy and legal system were seemingly cemented with this declaration. The Hong Kong Special Administrative Region (HKSAR) would essentially be independent, save for the occasional

²⁶ Margaret Thatcher Foundation, *Hong Kong (Future of Hong Kong)*, Part 2, pt. 15, published September 12, 1982, <https://www.margaretthatcher.org/document/138543>, (Accessed October 27, 2019).

²⁷ Margaret Thatcher Foundation, *Hong Kong (Future of Hong Kong)*, Annex I, pt. 1, published September 12, 1982, <https://www.margaretthatcher.org/document/138553>, (Accessed October 28, 2019).

reminder from Beijing that HKSAR was subservient to them. On the terms of its legal system, HKSAR would be permitted to keep all of its current laws. The only exceptions would be those which would contradict the Basic Law. The only method for the laws to be amended would be through the HKSAR legislature. On the subject of the judicial system, the text went as far to say that with Hong Kong's high degree of autonomy, the region would have the power of "final adjudication."²⁸ The courts would have the ability to exercise judicial power independent from any interference. China's statement on this matter was not only to assure the citizens of Hong Kong that China would not interfere, but to also make a point that the British would not be allowed to do so either – this was a point rather important to the PRC at the time, who were concerned that the British would attempt to do something which would threaten the relationship between China and HKSAR. Despite this concern, the PRC was not going to order the expulsion of British officials from HKSAR. In the Joint Declaration, the PRC stated that they would allow the HKSAR to continue to employ all currently serving public servants, including British and other foreigners, and they could newly hire foreigners. The only positions foreigners would be forbidden to hold were as the heads of government departments.

China's Experiments with Capitalism

Following the ratification of the Sino-British Joint Declaration, Hong Kong's economy, along with its political system, began to enter a transitional period. Hong Kong started to move away from the idea a diverse economy based on manufacturing industries

²⁸ *The 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*, Government of the Hong Kong Special Administrative Region. <https://www.cmab.gov.hk/en/issues/joint3.htm> (Accessed October 12, 2019).

and external trade in favor of a system more akin to a service economy. The proportion of Hong Kong's GDP that came from manufacturing decreased by more than 50%.²⁹

The continuing prosperity of Hong Kong was incredibly important to Deng Xiaoping, and this comes across in China's expansion on the policies from the joint declaration. One of the words most frequently used was "maintain," which shows a clear indication that the Chinese government, or at least those drafting the declaration and eventually basic law, understood Hong Kong's system at that time to be the best system to continue under – or at least the one least likely to bring failure.

In Deng's initial expansion of Ye Jianying's Nine-Point proposal for Taiwan, it was made clear that his view of "one country, two systems" was that it was primarily an economic one – a view that carried into the Hong Kong proposal. There was a good reason for this, as Deng, since the beginning, had worked on economic modernization for China. He pursued economic modernization due to his beliefs on how to build and maintain a strong, robust economy; "he was convinced that a robust economy thrived on competition..."³⁰ Hong Kong was a region where such a robust economy existed. When it came to its importance to the Chinese economy, Hong Kong, as a capitalist free port, had long been a place where the Beijing government could "earn foreign currency, import technology, and gain information about the world."³¹ The free territory was incredibly important to the economy Deng was working to strengthen. In 1983, Hong Kong accounted for 28% of Chinese exports, 70% of the exports from Hong Kong to China were produced in other

²⁹ Liu, "Hong Kong," 589.

³⁰ Ezra Vogel, *Deng Xiaoping and the Transformation of China* (Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 2011), 423.

³¹ Vogel, *Deng Xiaoping*, 489.

countries, and China planned to increase exports and imports to/from Hong Kong over the following years. In all, China's earnings from Hong Kong at the time were nearly \$7 billion every year.³²

China had also begun testing market-oriented economic reforms with the establishment of Special Economic Zones (SEZs). In 1980, Shenzhen, Zhuhai, Shantou, and Xiamen were all designated as SEZs. Established far from Beijing to minimize political interference, the regions were "encouraged to pursue pragmatic and open economic policies that would serve as a test for innovative policies that, if proven successful, would be implemented more widely across the country."³³ These locations were strategically chosen because of their physical location – the coastal provinces of Guangdong and Fujian. These provinces had a history of contact with the outside world and were relatively close to Hong Kong and Taiwan. Shenzhen in particular was chosen due to it being located across a river from Hong Kong; the goal was that Shenzhen would provide an opportunity for China to learn how to model capitalist growth and develop modern technologies.³⁴ The opening of the SEZs led to unprecedented rates of economic growth in China, and the SEZs quickly developed markets in a variety of industries.³⁵

The huge success of the SEZs led to Beijing creating a variant of the SEZs, known as "economic and technological development zones" (ETDZs). ETDZs differed from the SEZs in being much smaller. The booming success of both the SEZs and ETDZs, as well as the other

³² Margaret Thatcher Foundation, "The economic value of Hong Kong to China" *Hong Kong*, published March 4, 1983, <https://www.margaretthatcher.org/document/138919> (Accessed October 22, 2019).

³³ Douglas Zeng, *China's Special Economic Zones and Industrial Clusters* (Lincoln Institute of Land Policy, 2012), 7.

³⁴ Zeng, *China's Special Economic Zones*, 7.

³⁵ Zeng, *China's Special Economic Zones*, 8.

varieties of SEZ³⁶, led to the central government granting more and more provinces and cities the status of SEZ. By 1990, there were six SEZs, and by 1992, over 40 ETDZs.³⁷ China was becoming familiar with how to manage a capitalist region and ensure strong economic growth. With these “zones,” China had effectively proven the UK’s fears wrong. Hong Kong would be able to maintain economic prosperity under PRC rule.

The idea, then, that Communist China was so willing to allow Hong Kong to remain a capitalist haven is not as shocking as it initially seems. Competition, a major component of capitalism, does not necessarily work with communism - up until reforms in the rural regions of China, collective farming was the way of life, and it was failing. As Deng had already been accused of taking the “capitalist road” years before, and considering that such a path was not favored by the CCP, Deng’s commitment to Hong Kong was a way for him to more properly test his ideas on what makes a strong economy, while still staying on the good side of the rest of the CCP and maintaining power.³⁸

Up until mid-1985, Deng continued to espouse the ideas of status quo in Hong Kong to the public and in private, never yielding from his belief in the ability to ensure economic prosperity in the region. In October 1984, Deng spoke with visitors from Hong Kong during the National Day celebrations. In these talks, he continuously spoke of his desire to guarantee a democratic government in the region and spoke of his trust that Beijing’s policies on Hong Kong would never change, noting “Some people are worried that China’s

³⁶ High-tech industrial development zones (HIDZs); Free Trade zones (FTZs), and export-processing zones (EPZs) are several of the most common variants.

³⁷ Zeng, *China’s Special Economic Zones*, 8.

³⁸ Vogel, *Deng Xiaoping*, 490.

policy may change once we are no longer around . . . But today I should like to assure you that China's policy will not change; nobody can change it, because it is right and effective and enjoys the support of the people.”³⁹ To put it simply, Deng believed in the power of the people, particularly in this regard – anyone who chose to stand against this policy would face heavy opposition. Following these 1985 speeches, though, Deng did not speak often on Hong Kong and retrocession until the 90s. It was in 1985 that work on the first draft of Hong Kong Basic Law had begun, building upon the framework established by the Sino-British joint declaration a year earlier. The text ordered that a “socialist system and policies will not be practiced in the HKSAR; instead capitalism shall prevail for 50 years.”⁴⁰

The Drafting of Basic Law

Involved in the creation of Hong Kong Basic Law was the Basic Law Drafting Committee (BLDC). After planning out the structure of the Basic Law, the BLDC established 5 special groups to focus on different topics in relation to the Basic Law: The Special Group Concerned with the Relationship between the Central Authorities and the Hong Kong Special Administrative Region; the Special Group Concerned with Fundamental Rights and Duties of Residents; the Special Group Concerned with the Political Structure; the Special Group concerned with the Economy; and the Special Group concerned with Education, Science, Technology, Culture, Sports, and Religion. Each of these committees were responsible for drafting different sections of the Basic Law, and after completing the first

³⁹ Deng Xiaoping, “Maintain Prosperity and Stability in Hong Kong,” in *Selected Works of Deng Xiaoping, Volume III*, (Beijing: Foreign Languages Press, 1994), 80.

⁴⁰ Yash Ghai, *Hong Kong's New Constitutional Order: The Resumption of Chinese Sovereignty and the Basic Law* (Hong Kong: Hong Kong University, 1997), 139.

draft, a General Working Group was established to revise and adjust the drafts.⁴¹ When it came to the BLDC and Basic Law itself, the PRC understood that the support of the Hong Kongese would be crucial to the legitimacy of the Basic Law. In the forming of the BLDC, the PRC sought to feature proper representation of the Hong Kongese but could not hold elections in Hong Kong, and in the end the PRC simply appointed Hong Kong representatives to the BLDC. They made no attempt to silence any voices, either. It was already relatively small committee – only 59 members total were in charge of creating the Hong Kong Basic Law, 23 of which were from Hong Kong – and on the committee sat not only pro-Beijing members, but also two pro-democracy members, Szeto Wah and Martin Lee.

Martin Lee wrote on his thoughts regarding what the Sino-British Joint Declaration had proposed, and he continued this writing as the BLDC began drafting the Basic Law. He was generally opposed to the concept of reunification – at least in the beginning. Instead, Lee promoted the idea of a confederation between Hong Kong and China.⁴² Though widely rejected, what Lee proposed was a clear representation of Hong Kong's pro-democracy movement. A confederation would have created a system in which Hong Kong would unite with China but would be more able to ensure continuance of its free economy, and proper implementation of liberal democracy in the territory. After the Tiananmen Square massacre in 1989, both Szeto Wah and Martin Lee resigned from the BLDC, along with a few other members of the liberal pro-democracy movement in Hong Kong. Szeto Wah

⁴¹ Ji Pengfei, "Explanations on "The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Draft)," March 28, 1990.

⁴² Joseph Cheng, "The Democracy Movement in Hong Kong," in *International Affairs* 65, no. 3 (Summer 1989): 460.

called for a general strike, and Martin Lee noted “This is the darkest hour of human civilization. I think they have gone completely mad.”⁴³

The representatives faced a difficult situation in having to appeal to the Hong Kongese, while also working on behalf of the PRC’s agenda, all without being seen as challenging the British government that still reigned. These representatives were asked to not only offer a point of view from one of the “two systems,” but to also be representative of the “one country.” With the announcement of the committee also came the clear message once more that the PRC’s, and by extension the BLDC’s, top priority was to maintain stability and prosperity. The PRC’s 23 Hong Kong appointments to the BLDC were almost all businessmen and industrialists in the territory.⁴⁴ The reason for specifically having businessmen in the BLDC was largely because the PRC was dedicated to maintaining Hong Kong’s attraction to foreign investors.⁴⁵ As I’ve mentioned previously, the UK believed that their presence was vital to this, but it seems the PRC had different ideas. They read the situation to mean that the confidence was not in the British control or influence, but rather in the businesses that already existed. In a sense, the British had already helped put in place the system that allowed the PRC to stand their ground in the negotiations over if the UK could continue to govern.

As the Hong Kong representatives needed to be in the position to consider points of view from both systems, their first order of business was to establish the Basic Law

⁴³ “How the world reacted to the Tiananmen Square bloodbath,” in *Executive Intelligence Review* 16, no. 25 (June 1989): 31.

⁴⁴ Hungdah Chiu, “The Draft Basic Law of Hong Kong: Analysis and Documents,” in *Maryland Series in Contemporary Asian Studies* (1988): 1.

⁴⁵ Chiu, “The Draft Basic Law,” 8.

Consultative Committee (BLCC). The function of this committee was to understand the will of the Hong Kong people – since the BLDC was meant to function according to the will of all Chinese people, including Hong Kong, they needed an organization inside the city that could accurately report on the sentiments expressed by the Hong Kongese. Despite the BLCC initially meaning to be independent and not subordinate to the BLDC, several of the Hong Kongese on the BLDC joined the BLCC and gave control to the BLDC.

Despite the creation of the BLCC and the presence of pro-democracy activists in their ranks, the Hong Kongese appointed to the BLDC did not seem to care very strongly towards the issues they would be discussing⁴⁶, and neither did the people of Hong Kong later on. By 1988, only half of the Hong Kongese had even picked up copies of the draft Basic Law, and even fewer had read it or could comment on the various articles in the draft.

The Basic Law of the Hong Kong Special Administrative Region

By 1990, the final draft of the Hong Kong basic law was published and adopted by the PRC's National People's Congress. The text of the final draft did not differ greatly from what had previously been outlined in the Sino-British Joint Declaration or by Deng Xiaoping and Ye Jianying. Though the HKSAR was considered an "inalienable part of the People's Republic of China," the HKSAR was allowed to exercise a high degree of autonomy, and have independent executive, legislative, and judicial power.⁴⁷ The first chapter, on the general principles, discussed many of the overarching ideas that were the basis of the

⁴⁶ Chiu, "The Draft Basic Law," 9.

⁴⁷ Hong Kong Basic Law Article 1, 2, Government of the Hong Kong Special Administrative Region, https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclaw_full_text_en.pdf (accessed November 11, 2019). (Hereafter referred to as BL).

HKSAR. On the subject of legislative powers, the legislature was required to be composed of permanent residents of Hong Kong, and the laws they passed would be valid, so long as they did not contradict the Basic Law. Furthermore, any previous laws in Hong Kong would be maintained, so long as they did not go against Basic Law.⁴⁸ The Basic Law formally declared the intent to continue the capitalist system and way of life for 50 years, including a note on protection of right to private property.⁴⁹ One additional provision in the first chapter of the Basic Law included the use of regional flag and emblem. Apart from the PRC's own national flag and national emblem, the HKSAR was given the right to use a regional flag and regional emblem.⁵⁰ This differed from the special regions already in existence, who were not granted the ability to have their own flag and emblem. The use of a regional flag and emblem set the HKSAR apart from any other economic region that the PRC had set up, seemingly to further the "high degree" of autonomy.

The 2nd chapter, on the relationship between the PRC's Central Government and the HKSAR, expanded on the first of the general principles – the principle that the HKSAR was an inalienable part of the PRC. Basic Law declared that the Central Government would be responsible for foreign affairs relation to the HKSAR (although the HKSAR was authorized to conduct "relevant external affairs" on its own), as well as the defense of the region (although the HKSAR was responsible for maintaining public order).⁵¹ Additionally, military forces would be stationed by the Central Government in the HKSAR, but they

⁴⁸ BL Art. 3, 8, 11.

⁴⁹ BL Art. 6.

⁵⁰ BL Art. 10.

⁵¹ BL Art. 13, 14.

would not interfere in local affairs (unless the HKSAR asked the Central Government for assistance in public order and disaster relief matters).⁵²

This chapter of the Basic Law also briefly expanded on the details of the executive, legislative, and judicial powers of the HKSAR, though each branch would continue to be developed more fully in later chapters. Though the general principles chapter stated that the HKSAR executive branch would have to be made of permanent residents, article 15 of the Basic Law stated that “The Central People’s Government shall appoint the Chief Executive and the principal officials of the executive authorities of the Hong Kong Special Administrative Region...”⁵³ On the subject of the laws, the legislation passed was required to be reported to the Standing Committee of the PRC’s National People’s Congress. If the Standing Committee deemed a law to not in conformity with Basic Law’s provisions on the responsibilities and relationship of the Central Government, then the law was to be returned and immediately invalidated.⁵⁴ Essentially, the Standing Committee had final say over the laws that could be passed. The courts were granted jurisdiction over all cases in the HKSAR, and were given completely independent power, able to make final decisions – where the legislature did not have full control in the end, the judicial branch was seemingly intended to have full control.⁵⁵

One of the key concerns in the discussion of the executive branch was that it would have to be filled with permanent residents. Article 24 of the Basic Law went into detail on

⁵² BL Art. 14.

⁵³ BL Art. 15.

⁵⁴ BL Art. 17.

⁵⁵ BL Art. 19.

the definition of a permanent resident, which included Chinese nationals born in Hong Kong before or after the establishment of the HKSAR; Chinese nationals who had lived in Hong Kong at least seven years before or after the creation of the HKSAR; and perhaps one that is a little shocking, people who are not Chinese, but legally entered Hong Kong and have lived there for at least seven years.⁵⁶ All of these permanent residents would have the right to vote, stand for election, basic freedoms of speech, press, association. Additionally, trade unions and striking was permitted by these articles.⁵⁷

The 4th chapter of the Basic Law laid out, in depth, the rules and powers regarding the political structure of the HKSAR. The Chief Executive of the HKSAR was designated as the head of the region and would represent it. The Chief Executive had to be a Chinese citizen at least 40 years old, who had lived in Hong Kong for at least 20 years, and could be chosen through one of two methods. The first was by direct election by the population of the HKSAR; the second method was that the Central Government would hold consultations locally and then appoint someone to the office. In practice, the Chief Executive holds a very similar role to the United States president. They placed democratic constraints on the office, as the Chief Executive could not serve more than two 5-year terms.⁵⁸ The Chief Executive had the power to sign and implement laws passed by the Legislative Council. The office could also appoint and remove judges and holders of public office. They had the power to conduct external affairs as much as the Central Government had allowed.⁵⁹ Along with these powers, the Chief Executive also had the power of a veto, which could be

⁵⁶ BL Art. 24.

⁵⁷ BL Art. 26, 27.

⁵⁸ BL Art. 43-46.

⁵⁹ BL Art. 48.

exercised more than once on the same bill or budget.⁶⁰ Similar to the US Presidential Cabinet, the Chief Executive of the HKSAR had an Executive Council which was filled with Hong Kong politicians that the Chief Executive appointed.⁶¹

The Legislative Council, like the office of the Chief Executive, had to be composed of Chinese citizens who are permanent residents of the HKSAR. A provision was made for permanent residents who were not Chinese to also be elected to the Legislative Council, provided that the proportion of non-Chinese members did not exceed 20 percent of the total number of legislators.⁶² The Legislative Council was granted the power to enact, amend, or repeal laws and budgets. Additionally, the Council would serve as a body for Hong Kong residents to voice complaints.⁶³

The Judicial branch was appointed by the Chief Executive and served to preside over and make decisions in both criminal and civil trials in the region. As mentioned above, the judiciary was granted the power of final adjudication, free from any interference.⁶⁴ The highest positions in the judicial system, the Chief Justice of the Court of Final Appeal, and the Chief Judge of the High Court of the HKSAR, had to be Chinese citizens who were permanent residents.⁶⁵ This was continuing the trend we see within the political structure of the importance of the permanent residents participating in their own government.

⁶⁰ BL Art. 49.

⁶¹ BL Art. 55, 56.

⁶² BL Art. 67.

⁶³ BL Art. 73.

⁶⁴ BL Art. 82, 85.

⁶⁵ BL Art 90.

The economic structure was to be kept the same as it had been under British control. The HKSAR was allowed to have wholly independent finances, and any revenue collected would not be handed over to the Central Government, nor would the Central Government levy taxes in the HKSAR.⁶⁶ Instead, the HKSAR would practice an independent taxation system, and would enact their own laws and policies regarding that. Hong Kong would be allowed to maintain its own currency, the Hong Kong dollar.⁶⁷ Hong Kong would be allowed to continue as a free port and maintain policies of free trade.⁶⁸ In an economic sense, Hong Kong was allowed to be almost entirely free from the PRC's control.

Patten's Reforms

In 1992, Chris Patten became the last governor of Hong Kong. From the beginning, Patten indicated that he saw it as his responsibility to stand for Hong Kong and enact legislation that would ensure the territory could survive in its retrocession future.⁶⁹ He was determined to see that Hong Kong's own interests would not be ignored during retrocession. During an annual address, Patten stated that he wanted to "broaden democracy through a coherent package that he was prepared vigorously to defend and argue for in Peking."⁷⁰ Though the draft Basic Law provided for the opportunity of democracy, Patten was concerned that not implementing policies to provide for a greater

⁶⁶ BL Art. 106.

⁶⁷ BL Art. 108-111.

⁶⁸ BL Art. 114, 115.

⁶⁹ Buckley, *Hong Kong*, 127.

⁷⁰ Buckley, *Hong Kong*, 129.

measure of democracy prior to retrocession would risk the people of Hong Kong falling prey to outsiders, and becoming pawns of greater forces⁷¹.

To carry out the plan, he began to devise a method to propose changes to the Legislative Council, to ensure that at least a partial representative government was installed before 1997. Patten's proposal would directly impact the 1995 elections, allowing for Hong Kong residents to vote for 20 of 60 Legislative Council seats. An additional 30 seats would then be left to be voted on by all working residents. Patten's proposal would further democratize the territory by lowering the voting age from 21 to 18 and requiring that lower level boards and municipal councils would be directly elected as opposed to being appointed, which had been the case up to this point. Furthermore, the remaining 10 seats of the Legislative Council would be filled with members elected by an Election Committee, which would be formed out of those serving in the lower level boards and councils.⁷² Essentially, Patten's proposal would allow for the people of Hong Kong to directly or indirectly all Legislative Council members in the 1995 elections, and it would "shift the balance of power from the Governor and his Executive Council to the fully representative Legislative Council."⁷³

This proposal was met with charges from Beijing that the British had betrayed the agreements from both sides to honor Basic Law and "were set on instituting democracy by stealth."⁷⁴ They denounced the plan and called it a violation of the Joint Declaration and the

⁷¹ Buckley, *Hong Kong*, 129.

⁷² Edward Xiaohui WU, "Reconceptualizing "One Country, Two Systems" in the Quest for Autonomy and Human Rights in Hong Kong under Chinese Sovereignty," JSD diss., (University of Toronto, 2001): 28.

⁷³ WU, "Reconceptualizing," 29.

⁷⁴ Buckley, *Hong Kong*, 130.

Basic Law. This reaction from the Chinese government was largely founded in a basic distrust of the British and lack of familiarity with the idea of democracy. Having been an entirely communist one-party state for several decades, the concept of democracy was foreign to the PRC, and combining that with the innate lack of trust they had in the British, due to past history, the immediate Chinese reaction to the British propositions on democracy was fear and anger. This had gone as far to the Chinese suspecting the British of a conspiracy to undermine Chinese sovereignty and “spread the virus of democracy to the mainland.”⁷⁵ The British government responded by claiming that Patten’s ideas fit into the framework based on the Joint Declaration, and that discussion with the PRC government was still on the table.⁷⁶ Indeed it still was, as China and the UK entered into negotiations over the electoral system for the upcoming 1995 election.⁷⁷

Though the immediate, and semi-sudden democratic reforms polarized the territory on the scope and pace of democratization, the results of the 1991 and 1995 elections indicated that the Hong Kongese were in full support of democracy. In fact, the Tiananmen Square massacre was a driving factor at the turn of the decade for pro-democracy forces. In 1991, out of 18 contested seats, the pro-democracy candidates won 16, while in 1995, groups and candidates in the pro-democracy movement saw greater support, and many pro-China candidates were defeated in the elections.⁷⁸

⁷⁵ WU, “Reconceptualizing,” 30.

⁷⁶ Buckley, *Hong Kong*, 131.

⁷⁷ WU, “Reconceptualizing,” 31.

⁷⁸ WU, “Reconceptualizing,” 33.

The talks were eventually unsuccessful, collapsing at the end of 1993, but Patten's proposals succeeded. The Hong Kong government went forth with Patten's original ideas, and in 1995 the new Legislative Council was formed in accordance with those ideas.⁷⁹ This greatly angered the Chinese government, which responded with a declaration that the fully-elected Legislative Council would be dissolved once the HKSAR was formed, and it would be replaced with a "provisional" legislature whose members would be hand-picked by Beijing.

China's Response to Reforms

In 1993, the PRC began to put in place the system that would dismantle the democratic reforms to the Hong Kong government. As a direct response to the dispute with the British, China appointed 57 members to a "Preliminary Working Committee" (PWC) for the HKSAR Preparatory Committee, ahead of the formal start date for the Preparatory Committee, which was scheduled to start work in 1996.⁸⁰ The PWC was created for the purpose of abolishing the democratic reforms, and the Basic Law did not have a provision for the establishment of the body. The groups that made up the PWC suggested to the PRC that an alternative political body to the Legislative Council should be created and could take over for a year until elections in line with China's interpretation of the Basic Law could be held in 1998. The National People's Congress Standing Committee of the PRC adopted the suggestion, and "resolved unanimously to dismantle Hong Kong's existing Legislative Council on 1 July 1997."⁸¹

⁷⁹ WU, "Reconceptualizing," 31.

⁸⁰ WU, "Reconceptualizing," 34.

⁸¹ WU, "Reconceptualizing," 35.

In January 1996 the 150-person HKSAR Preparatory Committee was established with the task to form the first HKSAR government. Among the responsibilities of such a task, the Preparatory Committee had to create a 400-person Selection Committee for the purpose of recommending a candidate for Chief Executive to the PRC's central government, as well as lay out a specific method for forming the "first" Legislative Council.⁸² Unlike the PWC, there were provisions in the Basic Law that defined the creation of the Preparatory Committee, which left no room to question the legitimacy of the organization. Despite the large majority of the Preparatory Committee being Hong Kongese (of the 150 total members, 56 were mainlanders, 94 were Hong Kongese), those who sat on the Committee were largely pro-China, or powerful business tycoons. Members of the democratic party, or the democracy movement, were completely cut out of the Committee.⁸³

A few months after the establishment of the Preparatory Committee, the organization voted to set up a provisional legislature made of appointed individuals, to replace the existing Legislative Council. Patten responded negatively to this, denouncing it as a violation of Basic Law, just as China had denounced his proposals in a similar way previously. Patten called that day a "black day for democracy."⁸⁴ The Preparatory Committee also established the Selection Committee, which (as expected) strongly favored pro-Beijing candidates with a business background. Thousands applied to join the 400-person Selection Committee, mostly elites from the various sectors of the Hong Kong society, but despite this, the majority of the population had little confidence in the

⁸² WU, "Reconceptualizing," 35.

⁸³ WU, "Reconceptualizing," 36.

⁸⁴ WU, "Reconceptualizing," 36.

Preparatory Committee as it failed to consult the Hong Kongese.⁸⁵ At the end of 1996, the Selection Committee chose the first Chief Executive of the HKSAR. Tung Chee-hwa, a shipping magnate, was a surprising choice, considering his background. Tung had been appointed to the Executive Council by Patten, and had experience working with not only mainland China, but Taiwan and the West as well.⁸⁶

Less than two weeks following the selection of the Chief Executive, the Selection Committee chose 60 people to serve on the provisional legislature. The decision to replace the popularly elected Legislative Council with an appointed one was met with intense controversy. Altering the composition of the Legislative Council raised many concerns about the legality and legitimacy of a provisional legislature, as neither Basic Law nor the Joint Declaration mentioned any interim body. In fact, the Annexes of the Basic Law text explicitly provide for specific methods to form the first HKSAR legislature, which should have rendered the existence of the Selection Committee null and void. Furthermore, though Deng Xiaoping saw “one country, two systems” as a primarily economic system, both the Joint Declaration and the Basic Law made provisions that promised self-rule to the Hong Kongese. As pro-democracy activists represented a majority of the Hong Kong public, their exclusion from the Preparatory and Selection Committees cast doubt on the meaning of “one country, two systems,” the promised “high degree of autonomy,” and the credibility of the PRC government. The Chinese were essentially reversing the earlier democratic

⁸⁵ WU, “Reconceptualizing,” 36.

⁸⁶ WU, “Reconceptualizing,” 37.

reforms, and according to many Western interpretations of Basic Law, they violated the “spirit” of Basic Law as well.⁸⁷

The Hong Kong Government

As Basic Law was being drafted, China continuously assured the UK and Hong Kong that Hong Kong’s existing systems would remain mostly unchanged for at least 50 years after retrocession. This promise was made, in part, to gain the confidence of the Hong Kongese in PRC rule, but it also served to reflect the PRC’s unwillingness to allow radical change in the existing systems either before or after the handover. The PRC, for the most part, favored the existing model in Hong Kong, where democracy did not reign prior to Patten’s reforms. The PRC preferred the system in which there were appointed leaders, loyal to a larger body (pre-retrocession, the British, post-retrocession, the PRC), but that still allowed a free capitalist economy.⁸⁸

When the handover occurred, the PRC did follow what was set out by the Basic Law, though what they set up was in line with their interpretation – a key thing to note in understanding whether the PRC violated Basic Law from the start. As a result, the government created was in line with the PRC’s favored idea of maintaining the colonial status quo. The Basic Law set up an executive-dominated government, with a weak legislature that had limited democratic representation. The Chief Executive is the head of the system, enjoying powerful executive powers, including power over the courts and representation of the region of the HKSAR. “Hong Kong people ruling Hong Kong” did not

⁸⁷ WU, “Reconceptualizing,” 38.

⁸⁸ WU, “Reconceptualizing,” 51.

mean full democratic self-rule to the PRC. Instead, their interpretation of that principle was in the policy that the Hong Kong SAR government would have to be composed of local inhabitants. The difference between the Chief Executive, though, and the Governor before them, was that the PRC would be selecting a Hong Kongese person loyal to them.

The Chief Executive, as outlined by the Basic Law, had overwhelming power over the legal process. They are responsible for implementing the Basic Law, along with any other laws the Legislative Council passes. The Chief Executive also is allowed to guide government policy and issue executive orders. They also have complete control over the judges of the courts, being allowed to appoint judges at all levels. These powers combined create a position of incredible strength. The laws and policies are subject to the whims and interpretations of the Chief Executive, who is only accountable to the PRC's central government, which placed them in power.⁸⁹

The Legislative Council is partially formed from a semi-democracy, with representatives voting on behalf of a constituency (often called "functional constituency"). Other seats in the council were initially chosen by a specially created election committee.⁹⁰ The main powers of the Legislative Council are to examine, repeal, enact, and amend laws and budgets, but the passing and implementation of laws is subject to the Chief Executive's agreement. The Chief Executive has the power to veto laws, and even dissolve the

⁸⁹ WU, "Reconceptualizing," 53.

⁹⁰ WU, "Reconceptualizing," 54.

Legislative Council once in their administration, should the two be unable to agree on a particular bill.⁹¹

In the final government created, and implemented, the people had little to no power. Though the PRC could argue on a technicality that the “functional constituency” and fact that the Chief Executive had to be from Hong Kong meant that “functionally” a partial democracy was in place, in reality the people have no power under the government. The Chief Executive is chosen by the PRC, instead of a direct democracy. The Legislative Council is formed mostly without democracy. The Judiciary is entirely under the control of the Chief Executive, who is in turn under the control of the PRC’s central government.

Through exploring the creation and details of this model, one concept becomes particularly noticeable – sovereignty. The implementation of “one country, two systems,” creates questions as to what the model means for sovereignty, for statehood, when the Basic Law appears to override multiple forms of sovereignty while Hong Kong in reality seems to hold some forms of sovereignty. In the West, a state is generally understood to be a region with defined borders with a government that governs that territory specifically, and with a few exceptions, state and nation are synonymous. The system that Hong Kong exists in, however, goes against these ideas. Hong Kong is a region with a government that governs that territory, yet it does not have statehood in the understanding of a country. It “governs” itself, but the only sense of international recognition comes from Hong Kong’s active role in the World Trade Organization (WTO) and the Asia-Pacific Economic Cooperation (APEC), as well as numerous other international organizations. It just does not

⁹¹ WU, “Reconceptualizing,” 59.

hold a seat in any organizations like the United Nations. So perhaps Hong Kong does have international legal sovereignty – if a modified form of it – but it is still not its own state. It has a “separate” political system, economic system, and judicial system from mainland China.

Hong Kong exists as essentially an economic portal for direct investment in the PRC. During the British Empire era Hong Kong established itself as a global city, and as the PRC gradually became an attractive market to foreign investors, Hong Kong was able to advertise itself as the free territory through which companies could directly invest in mainland China. The economic power Hong Kong gained from this protected it through its retrocession to the PRC. As the doorway between foreign corporations and China, Hong Kong successfully leveraged their economic importance in order to secure the safety of their partial international legal sovereignty, which was perceived by China as instrumental to maintaining the status quo and the best opportunities for continued economic growth. Though the international community may grant recognition to a state or region, in the case of Hong Kong, it was only with the permission of the PRC.

The economic significance of Hong Kong also heavily influenced the creation of the semi-representative government not fully under China’s control. Though ultimately the Hong Kongese have little to no influence over their government, a small part of the legislative body is directly elected, and the judicial system was kept separate from China. The recent Hong Kong protests were in direct response to a threat to that independent judiciary. As the extradition bill would have given the mainland the ability to suppress voices of political dissent in Hong Kong, protestors felt that the judicial system, which

needed to be independent and free for the purposes of the corporations based in the territory, was weakening and bending to the will of the PRC.

Earlier this year, Hong Kong indicated at least a partial presence of interdependent and domestic sovereignty when it cut off train lines, cross-border buses and ferries, and reduced flights all from mainland China in an effort to reduce the spread of the novel coronavirus.⁹² It governs itself, and enjoys international recognition and participation in international organizations, though not at the same level as recognized states, and was able to all but closed the border between itself and mainland China. Despite the apparent presence of some forms of sovereignty, though, this is a relatively modern development. As we will see in the next chapter, Hong Kong has developed these aspects of sovereignty in a vastly different way than what has occurred in Taiwan. This then raises the question of what does it even mean to have sovereignty under this model?

In examining the circumstances under which the one country, two systems model was created, we learn why it was accepted, and the effects this model has had on sovereignty in Hong Kong. By examining the initial presentation by Ye Jianying and Deng Xiaoping, the Joint Declaration from 1984, the Basic Law in 1991, and the final government installed by the PRC in 1997, we see the evolution of the model, and how it has changed from the vague Nine Points Ye Jianying proposed decades ago.

⁹² Steven Russolillo and Joyu Wang, "Hong Kong-China Travel to Be Reduced Significantly Due to Coronavirus," *Wall Street Journal*, January 28, 2020, <https://www.wsj.com/articles/hong-kong-china-travel-to-be-reduced-significantly-due-to-coronavirus-11580205806>.

Taiwan and the Battle for Sovereignty

With the formulation of the “one country, two systems” model, the PRC developed a proposal for reunification with Taiwan that was strangely generous and conciliatory. The model, which would have allowed Taiwan to essentially continue the status quo minus formal international relations, has been the PRC’s official policy on reunification for several decades. Despite both sides engaging in talks over cross-strait relations for decades, Taiwan does not accept this model. Hong Kong is the first region in which the model was fully developed and implemented. Since Hong Kong’s retrocession in 1997, the model has been seen to be compromised, both in ways beneficial and detrimental to the idea of the model. These complications, which revolve around the four dimensions of sovereignty, are of particular importance to Taiwan, which has existed as a separate government on its own territory for over half a century.

Taiwan’s history has been closely tied to ideas of democracy and international recognition. Despite the martial law dictatorship that ruled Taiwan for the first several decades of its existence, democracy has been central to the self-definition of the Taiwanese people, resulting in the democratic reforms in the late 20th century. With their battle for democracy and self-governance, domestic sovereignty has been one of the most significant aspects of sovereignty to the Taiwanese people, and the desire to protect that from foreign influence has led to a strong refusal of unification with China. International recognition has been a constant battle for the Taiwanese, with various countries switching recognition away from or toward Taiwan. With international recognition being considered a clear indicator of statehood, Taiwan’s commitment to the battle comes as no surprise, as they have fought to be considered the true Chinese state.

In examining what has been and continues to be vital to Taiwan, a focus on economics comes across as particularly important, distinct from domestic politics and international recognition while having implications for both. The battles between Taiwan and the PRC continue to rage on, but the dimension has switched toward a focus on economics. With the PRC adopting more capitalist policies with the opening of Special Economic Zones and Hong Kong's retrocession, and with Taiwan opening to mainland capital in the 1990s, the economies of the two sides of the Taiwan strait have become increasingly intertwined. As economics is a complex broad field, trade is the proxy by which we will analyze the extent and form of economic integration. In examining the trade relationship, we can explore the effects of Taiwanese fixed assets in the PRC, and the potential implications of them on this relationship. The effects of this entanglement have led to doubts of Taiwanese autonomy and whether they will be able to maintain Westphalian sovereignty, with the trend of economic integration creating an image of scales tipped in favor of the PRC.

Domestic Political Control

In order to explain the importance of domestic/westphalian sovereignty to the Taiwanese, we must first go back and understand how Taiwan's government has evolved since the Nationalist Party (KMT) was exiled to the island in 1949. Though the KMT and its leader, Chiang Kai-Shek, had seemingly been champions of similar liberal values to the United States, upon settling in Taiwan, the KMT enacted martial law, establishing Chiang as the dictator. From their arrival in 1949 until his death in 1975, "Chiang Kai-shek ruled

Taiwan with an iron hand..."⁹³ Every aspect of the government was controlled by a single party – the KMT, which was initially led entirely by exiled mainlanders, unwavering in their support of the party. The native Taiwanese were allowed to create a provincial government headed by a Taiwanese governor, though effectively the KMT had control over the entire territory.

Despite education at a Comintern-supported institution in Moscow, and further reeducation in Confucianism and Nationalism, Chiang Kai-Shek's son, Chiang Ching-kuo, was less restrictive than his father. For decades, any party in opposition to the KMT was illegal, but towards the end of his life, Chiang Ching-Kuo worked towards the liberalization and democratization of Taiwan.⁹⁴ The first major step in this transformation occurred in 1986, when Chiang allowed independence-oriented opposition groups to form the Democratic Progressive Party (DPP), which was allowed to take part in the first free parliamentary elections at the end of that year.

The "Communist rebellion," or so it was called by the ruling KMT, had caused multiple problems for the KMT's Republic of China government – particularly in the legislative bodies. Their constitutional court, the Council of Grand Justices, granted delegates elected to the Legislative Yuan lifelong terms in office. Over the decades that followed, there were over 300 cases in which the elected delegates died, and their seats were filled with the runners-up in the elections that had occurred on the mainland in 1947.⁹⁵ By the end of the 1980s, Taiwan had a "self-perpetuating" parliament consisting largely of elderly mainland Chinese. The elections in 1986 gave seats to the new young

⁹³ Willem Van Kemenade, *China, Hong Kong, Taiwan, Inc.* (New York: Vintage Books, 1998), 105.

⁹⁴ Van Kemenade, *China, Hong Kong, Taiwan, Inc.*, 105.

⁹⁵ Van Kemenade, *China, Hong Kong, Taiwan, Inc.*, 106.

members of the DPP, whose main objective was to force out the old KMT delegates. This led to disaster during the following parliamentary session, as “parliamentary procedures frequently deteriorated into violent clashes...”⁹⁶

Chiang Ching-kuo died in 1988, and was succeeded by Lee Teng-hui, who had been elected as vice president shortly before. Lee Teng-hui came from a wildly different background than the Chiang family or many of the older KMT members. Lee was born to a native Taiwanese farmer and received his education in Japan and the United States. He grew up with no attachment to the mainland, being a product of the Japanese occupation. Lee only began learning Mandarin after becoming an adult and made no attempt to hide that he spoke better Japanese than Mandarin.⁹⁷ In the early years of his administration, Lee worked within the rules and safety of the KMT’s old guard. In 1990, however, Lee began to change.

Playing to the KMT party, which was still in charge of the presidential elections, Lee campaigned on the idea that “Taiwan and the mainland would be reunified within six years...”⁹⁸ Lee’s mention of six years is notable, as that would “coincidentally” end up aligning with the next election. This campaign led Lee to victory in the party, though once again the age of the electors was noted.⁹⁹ Immediately after this election, Lee took a new direction, embarking on a journey towards a revolution of the KMT political structure. This new campaign pushed the structure in direction of a new state, as opposed to a government-in-exile. Despite objection from the DPP, Lee appointed the state’s senior

⁹⁶ Van Kemenade, *China, Hong Kong, Taiwan, Inc.*, 106.

⁹⁷ Van Kemenade, *China, Hong Kong, Taiwan, Inc.*, 107.

⁹⁸ Van Kemenade, *China, Hong Kong, Taiwan, Inc.*, 108.

⁹⁹ Many of the delegates had to be carried to the ballot box, and one of the electors ranted about voting for Chiang Kai-shek “as always.” Another delegate was 101 years old.

mainlander general as the premier. This was not to further cement the KMT's hold over Taiwan's politics, though. Lee's next move, which was supported by the Council of Grand Justices, called for all members of the National Assembly who had lifelong terms to resign before the end of 1991.¹⁰⁰ Lee followed this up by revoking all the "emergency legislation that had provide the constitutional basis for the existence of the 'Republic of China' in Taiwan."¹⁰¹ The purpose was to pave the way for a series of elections for new representative bodies which would not claim to cover all of China. The Taiwanese would now directly elect most members of the National Assembly, the Legislative Yuan, and the Control Yuan.

The first elections for a Legislative Yuan representing only Taiwan saw the KMT vote drop sharply, to roughly 53%, meanwhile the DPP's vote rose to 31%.¹⁰² With the increased power of the DPP, Lee Teng-hui fired the mainlander premier, and installed a Taiwanese-born politician. This action led to a schism in the KMT during the party congress in 1993. Younger members founded the New Party in opposition to Lee's new direction, concerned that he was leading them towards independence, instead of reunification. With these new reforms came a sensitive question – should the governor of the 'province of Taiwan' and the president be elected directly by the people? Originally, the governor was appointed by the president, and the president was approved by the National Assembly. This led to many crises, as the answer to that question could completely change what Taiwan was – if the president were directly elected, could they call themselves the president of the Republic of China? Would the Republic still exist if that happened? Despite

¹⁰⁰ The National Assembly is equivalent to the US' electoral college.

¹⁰¹ Van Kemenade, *China, Hong Kong, Taiwan, Inc.*, 109.

¹⁰² Van Kemenade, *China, Hong Kong, Taiwan, Inc.*, 110.

all the uncertainty surrounding this question, constitutional redrafting led to the decision to hold a direct gubernatorial election at the end of 1994, and a direct election for president in 1996.¹⁰³

After exploring the process and time it took for Taiwan to achieve democracy, it is understandable why the Taiwanese would feel the need to protect this democracy. Though the PRC's proposal to Taiwan would allow them to essentially operate independent from the Central government, Taiwan had no guarantee that would remain true. The British-Sino Joint Declaration had intended to give democratic rule to Hong Kong, and Basic Law attempted to embody that the best it could. Hong Kong's last governor even instituted democratic reforms in the few years leading up to retrocession. The reality of Hong Kong's politics, however, shows a government subservient to the PRC, and under extensive CCP control, rather than control by Hong Kong's people. Over the past three decades, democracy has become an integral part of the Taiwanese political structure, and who they are as a state and a people. Many in Taiwan fear that joining the PRC would mean potentially losing their democracy. Though Lee did believe that no government could truly ask its citizens to give up the economic, social, and political progress they had fought so hard to make happen, he did not think the PRC was necessarily above doing exactly that.¹⁰⁴ Despite the PRC's official proposal allowing Taiwan near full independence, the PRC continues to "insist that they had the right to use force to impose conditions for how Taiwan should be governed under their rule."¹⁰⁵

¹⁰³ Van Kemenade, *China, Hong Kong, Taiwan, Inc.*, 111.

¹⁰⁴ Lee Teng-hui, "China's Future," *National Review* (1996), 26.

¹⁰⁵ Lee, "China's Future," 27.

From the beginning, Lee Teng-hui believed in a separate Taiwanese state. He was not explicitly in support of declaring independence, nor was he against unification. He believed that Taiwan was “an independent, sovereign country,”¹⁰⁶ but also that “Taiwan and the mainland are indivisible parts of China’s territory...”¹⁰⁷ The era of Lee Teng-hui is where we truly begin to see a difference in conceptions of sovereignty, jurisdiction, and statehood. Prior to his administration, Taiwan had been rather clear on its perceptions of China and the two governing bodies fighting for control in it. That is, KMT leaders believed Taiwan, the Republic of China, was the sole legitimate government of all China, including the mainland. Lee worked to change this view, and in 1991 he was successful. With constitutional reform, the establishment of the National Unification Guidelines, and the end of the “Period of national mobilization for suppression of the communist rebellion,” Lee was able to shift the government toward a view recognizing “the fact that two equal political entities exist in two independent areas of one country.”¹⁰⁸ The wording conflicts slightly with his earlier statement in 1989 declaring Taiwan an independent state, but his view was clear. The Taiwanese and mainland governments were on equal standing, presiding over separate areas of a single country. Unlike the PRC, who regarded Taiwan as a “renegade province,” Lee believed “one China” meant the people, not the land.¹⁰⁹ In a sense, his perception of the Taiwan/China conflict was one where one country, two systems already existed – just not as the PRC had intended.

¹⁰⁶ J. Bruce Jacobs and I-hao Ben Liu, “Lee Teng-hui and the Idea of ‘Taiwan,’” *The China Quarterly* 190 (June 2007), 380.

¹⁰⁷ Jacobs and Liu, “Lee Teng-hui and the Idea of ‘Taiwan,’” 381.

¹⁰⁸ Jacobs and Liu, “Lee Teng-hui and the Idea of ‘Taiwan,’” 382.

¹⁰⁹ Lee Teng-hui, “Understanding Taiwan,” *Foreign Affairs* 78, no.6 (December 1999), 10.

Lee's idea of "one China" as the people was a recurring theme throughout his presidency and was an underlying idea in many of his reforms in the 1990s. Whereas the PRC emphasized an idea based on the existing country, and encouraged "love of the country and nation," Lee was focused on the idea of cultural regeneration.¹¹⁰ He favored a new Chinese culture in Taiwan, with a basis in both Chinese heritage, as well as the new Western democracy and economic freedoms that he had helped develop in Taiwan.¹¹¹ This new perception of China, and the people, along with the reforms he championed, led Lee to promote the concept of popular sovereignty. Though his 1996 Inaugural Address does not clearly define what popular sovereignty meant, the new era Lee describes comes in the aftermath of the successful implementation of democracy in Taiwan. He suggests that popular sovereignty occurs when a leader responds to the wishes of the people. "Whatever the people desire is always in my heart."¹¹² This line from his inaugural speech embodies the spirit of what popular sovereignty meant to Lee, and ultimately, it appears that that form of sovereignty, precious to democracies, was important to him as the guiding light in how Taiwan should move forward in policy.

In one writing, Lee articulated one of his main problems with the PRC's proposal that he thought was severely damaging to unification in the first place. Though not outright naming the model, Lee states that the "mainland authorities disingenuously argue that reunification has nothing to do with the differences in socioeconomic and political systems between the two sides."¹¹³ "One country, two systems" proposes a model in which the

¹¹⁰ Li Yixian, "On the characteristics, strong points, and shortcomings of education in Hong Kong: a mainland educator's view of education in Hong Kong," in *Education and Society in Hong Kong: Toward One Country and Two Systems*, ed. Gerard Postiglione (London: Routledge, 2017), 254.

¹¹¹ Lee Teng-hui, "Inaugural Address" (speech, President Lee's Inauguration, Taipei, May 20, 1996).

¹¹² Lee, "Inaugural Address."

¹¹³ Lee, "Understanding Taiwan," 13.

differences should not entirely matter, but Lee believes that that is not possible. The differences between communism and capitalism and between democracy and authoritarianism are relevant because the systems do not come across as entirely compatible.¹¹⁴

The concept of the “Taiwan Experience” was central to Lee’s understanding of Taiwan as a state, and on how he believed Taiwan should conduct its negotiations with the PRC. He described the “Taiwan Experience” as the state’s experience in implementing Sun Yat-sen’s Three Principles of the People: freedom, democracy, and equitable distribution of wealth.¹¹⁵ Lee concedes that Taiwan’s democracy is by no means perfect, and has flaws, but he sticks to his point that they are on the path towards further developing and implementing these principles. The Taiwan Experience and increasing democratization of Taiwan reformed their state to the point where Lee considered their traditional social values to be gone.¹¹⁶ In their place, Taiwan began to “believe that freedom, democracy, and prosperity have become [their] most valuable and powerful assets.”¹¹⁷

Lee’s characterization of the Taiwan experience also starts to suggest why Taiwan resists the model on the subject of international recognition. The model calls for Taiwan to allow the PRC to be the sole international representative of all of China. For a state dedicated to democracy and liberalism, being ruled and internationally represented by an authoritarian government is objectionable. Lee Teng-hui knew this, noting that in reality, “the authoritarian nature of the communist regime is the key factor in alienating the people

¹¹⁴ This is something that comes up again and again in the present day with respect to China’s rise and the US’s global dominance. If I remember correctly, realists tend to believe that eventually the two will clash as they cannot live together.

¹¹⁵ Lee Teng-hui, “The Taiwan Experience and China’s Future,” *World Affairs* 155, no.3 (Winter 1993), 132.

¹¹⁶ Lee, “Understanding Taiwan,” 14.

¹¹⁷ Lee Teng-hui, “Building a Democracy for Unification,” *World Affairs* 155, no.3 (Winter 1993), 130.

of Taiwan from the Chinese mainland.”¹¹⁸ He pointed out that rather than the government in Taipei moving Taiwan towards independence, it was actually the people themselves that pushed in that direction. Noting the 1995-96 Crisis as evidence, Lee stated that “every time the authorities in Beijing have tried to intimidate Taiwan with military force, the percentage of Taiwanese voters advocating independence has increased.”¹¹⁹

When the model, initially devised as Ye Jianying’s “Nine Points,” was presented in 1981, “Taiwan rejected the ‘Nine Points’ with ‘Three No’s’: no contact, no negotiations, and no compromise.”¹²⁰ These “Three No’s” were later developed further into the “Guidelines for National Unification (1991),” which allowed for reunification on the condition of “a consensus on democracy, freedom, and the equal distribution of wealth, which should be reached on the basis of peace, equality, and reciprocity after a reasonable period of exchange, cooperation, and consultation.”¹²¹ The PRC’s condition for “one country, two systems,” asked for the Taiwanese government to bow down to the PRC’s Central government. Taiwan was less than accepting of this but notes for the Guidelines mentioned a “one county, two governments,” so long as the separation was temporary and would lead into unification like Germany.

Following the retreat to Taiwan, the KMT worked to use Chinese nationalism to legitimize the dictatorship, but by the 1970s diplomatic isolation had worn away this nationalism. By the late 1980s, the people and politicians began calling for educational reform. From taking ideology out of the curriculum to instilling a Taiwanese consciousness

¹¹⁸ Lee, “Understanding Taiwan,” 13.

¹¹⁹ Lee, “Understanding Taiwan,” 13.

¹²⁰ Van Kemenade, *China, Hong Kong, Taiwan, Inc.*, 112.

¹²¹ Van Kemenade, *China, Hong Kong, Taiwan, Inc.*, 112.

in the younger citizens, the demand for reform received strong support from the DPP and even some parts of the KMT. The new educational curriculum moved away from promoting “Chinese” idealism, instead promoting the idea of the “Taiwanese” people. Early textbooks avoid using the words for “Chinese” in either a political or ethnic sense. The new course has seemingly been promoting a Taiwanese national identity, which threatens what the KMT has stood for, and has led to criticisms claiming that the new curriculum is “eroding Taiwan’s links with the Chinese mainland, developing a terminology to ‘de-sinicise’ Taiwan and using education to separate the people of Taiwan from Chinese consciousness.”¹²²

The education reforms coincided with change in both political structure and policy. As mentioned above, Taiwan’s policy began to shift with the introduction of the “Guidelines.” Both sides of the Cross-Strait conflict at the time endorsed models that promoted two different systems coexisting, but the shared idea is limited only to the wording. The PRC, as has previously been established, promoted a system which gave their Central government dominance. The temporary goal for Taiwan under the “Guidelines,” however, was for coexisting equal-standing governments. Under the PRC’s model and especially in a form similar to the Hong Kong implementation, Taiwan would not enjoy the levels of sovereignty a free state has. It would not have full independent control over the local government, and it would not be allowed to have independent foreign relations with other countries. Essentially, it would not be a state created and governed by the Taiwanese people. Taiwan’s unelaborated idea, however, pleases both the pro-unification KMT and the

¹²² Christopher Hughes and Robert Stone, “Nation-Building and Curriculum Reform in Hong Kong and Taiwan,” *The China Quarterly* 160, no. 4 (December 1999): 987.

pro-independence DPP. Though temporary, the state would theoretically be allowed complete freedom, as an independent state – but still tied to the Chinese nation.

Economic Sovereignty

“It can now be said that three theorems are currently working toward integrating the two sides of the Taiwan Strait.”¹²³ Chien-min Chao, a professor at Sun Yat-sen Graduate Institute, published an article in the early 2000s that outlined three existing and eventual connections that would exist between Taiwan and the mainland. The first focused on cultural integration, which based on Lee’s comments on “one China” could be argued to already exist on some level. Shared ancestry, language, and customs are some of the concepts on which this first theorem is based, and China and Taiwan continue to work toward increasing these cultural connections. The second theorem focused on an economic dimension. Based on the history of the European Union (EU) and its effects on member countries, scholars formed a hypothesis arguing that economic integration can and likely will “ramify and generate spillover effects.”¹²⁴ This is largely based in the idea that close economic cooperation could potentially erode sovereignty and influence political decisions – which is essentially the third theorem. As the third political-based theorem is heavily reliant on the success of the first two theorems, we must examine the effects of these theorems, particularly the economic dimension with the potential legal effects.

Taiwan and the mainland have had some form of an economic relationship over the past few decades, and during that time their economies have become increasingly intertwined. This has opened the door to a new perspective on sovereignty and governance

¹²³ Chien-min Chao, “Will Economic Integration Between Mainland China and Taiwan Lead to a Congenial Political Culture?” *Asian Survey* 43, no.2 (2003): 280.

¹²⁴ Chao, “Economic Integration,” 281.

that helps explain Taiwan's continuing refusal of the "one country, two systems" model and apparent avoidance of unification. Though some scholars have presented arguments that economic interdependence with China would give Taiwan political leverage and "may reduce the risks of hostility," or "make the Taiwanese economy more valuable to the mainland," there is reason to be skeptical of this optimistic view.¹²⁵

To start with, China has clearly expressed the importance of economic interaction in the goal of unification. In May 1979, China released the "Temporary Regulations Regarding Opening Trade with Taiwan", which noted that "Trade with Taiwan is a special form of trade in the transitional period before Taiwan returns to the motherland...to create conditions for unification of the motherland."¹²⁶ The PRC's promotion of economic exchange is in service of getting Taiwan to agree to the PRC's idea for unification, which is based on two ideas to force the Taiwanese government to agree. Functional and socio-cultural spillover are what the PRC is relying on to help them succeed, and they see economic cooperation as the path toward that goal.

The concept of economic exchange in this situation is closely related to the concept of dollar/checkbook diplomacy, though on a smaller scale. Checkbook diplomacy refers to the use of foreign aid and investment to gain favor, though China is not only acting directly through economics. Taiwanese companies, which are now beginning to fully enjoy the benefits of the Chinese market and workforce, are campaigning on the mainland's behalf

¹²⁵ Shiro Armstrong, "Taiwan's Asia Pacific economic strategies after the Economic Cooperation Framework Agreement," *Journal of the Asia Pacific Economy* 18, no. 1 (2012): 100.

¹²⁶ Cited in Denny Roy, "Cross-Strait Economic Relations: Opportunities Outweigh Risks," *Occasional Paper Series* (2004): 1.

for increasing trade liberalization. China appears to be relying on these companies and their own efforts to secure the economic upper hand in order to force Taiwan's compliance.

China's economic power in cross-strait relations did not come about overnight. For most of the first four decades of the ROC on Taiwan era, the Taiwanese government refused to loosen investment regulations regarding mainland China, severely restricting Taiwanese investment in China. Similarly, the PRC was initially not open to foreign direct investment, which they perceived as a reversion to the imperialist era they had fought so hard to escape. Instead, the PRC favored grants and guidance from the other communist heavyweight, the Soviet Union, until the Sino-Soviet split in 1960. The Reform Era's Special Economic Zones in the 1980s marked the opening of China to global capital.

Despite the strict regulations, though, by 1989 Taiwanese investments in China had reached 160 million USD and was quickly rising.¹²⁷ In an effort to regain a hold on the economic integration that was quickly moving forward without them, the Taiwanese government began to loosen regulations in 1990. With a relatively small investment market, China became a very attractive market to Taiwan, with geographical proximity and cultural/linguistic similarities being cited as primary motivations for the rush of investment towards the end of the 1990s. With the turn of the millennium, Taiwan began decreasing investment in many Southeast Asia countries in favor of the mainland and Hong Kong. For the first five years of the 2000s, Taiwan's investment in mainland China was 12 times larger than the combined investment in Southeast Asia countries like Singapore and Malaysia.¹²⁸ In 2001, Taiwan's investment in China accounted for 39% of all outward

¹²⁷ Min-Hua Chiang, "Cross-Strait Economic Integration in the Regional Political Economy," *International Journal of China Studies* 2, no. 3 (2011): 684.

¹²⁸ Chiang, "Cross-strait Economic Integration," 684.

investment, and by the end of the decade, that had increased to 84% of Taiwan's total outward investment.¹²⁹ Despite starting to open to investment in the mainland much later than many of the other foreign investors in China, Taiwan's giant investment enabled it to catch up with other investors in a very short time. In 2010, roughly 6.3% of all foreign direct investment (FDI) in China was from Taiwan, making it the second largest "foreign" investor, behind Hong Kong.¹³⁰ Most of Taiwan's investment has focused on the manufacturing sector, reflecting the common East-West economic connection which relies on China for manufacturing and a cheap workforce. For 20 years following the loosening of Taiwan's investment regulations, roughly 86% of their investment in China was solely in manufacturing.¹³¹

The economic relationship has multiple dimensions to it. With Hong Kong included, over 40% of Taiwan's total exports are to China.¹³² This has allowed Taiwan to maintain a large trade surplus, enabling it to finance imports from Japan and South Korea without a problem. Taiwanese-owned companies are often among the top exporting companies in China, three of which even being the leading exporting companies in 2009.¹³³ Meanwhile, Taiwan has slowed imports from China, with those imports accounting for less than 20% of Taiwan's total imports. This is not too concerning to China. Though important, Taiwan's economy is relatively small, and the island has a small population. Unlike China in relation to Taiwan, Taiwan is not an attractive market to Chinese businesses. To these

¹²⁹ Chiang, "Cross-strait Economic Integration," 685.

¹³⁰ Chiang, "Cross-strait Economic Integration," 685.

¹³¹ Chiang, "Cross-strait Economic Integration," 685.

¹³² Chiang, "Cross-strait Economic Integration," 688.

¹³³ Chiang, "Cross-strait Economic Integration," 690.

entrepreneurs, “inducing Taiwan’s financial capital into the mainland is therefore more essential than asking Taiwan to open up its market.”¹³⁴

Despite seemingly reaping more benefits from the economic arrangement than the mainland, Taiwan’s actions fall more in line with reacting, than acting. Previously it was mentioned that prior to more liberal investment policies, Taiwan’s investment in China was still growing. This was not due to entirely legal investment, and the liberalization was more so a passive response to make it legal. A similar situation occurred in the early 2010s with the signing of the Economic Cooperation Framework Agreement (ECFA). China’s work on the ECFA was to promote the cross-strait economic relationship, but Taiwan’s agreement to sign the ECFA was more of a passive reaction to an uncontrollable relationship that continues to get closer and closer economically. Taiwan’s president at the time, President Ma Ying-jeou, considered the ECFA as comparable to a Free Trade Agreement (FTA). Taiwan had been excluded from the growing number of FTAs because of China. This only got worse with China’s continuing negotiations with the Association of Southeast Asian Nations (ASEAN), which led to an FTA that took effect in 2011. Further negotiations between ASEAN and China, Japan, and South Korea to create ASEAN+3 was perceived as further hurting Taiwan’s economic significance.¹³⁵ The threat of marginalization has pushed Taiwan to seek an economic agreement with China, resulting in the ECFA.

While initially it appears that Taiwan is the one mostly benefiting from the economic relationship with China,¹³⁶ in reality, “China’s dependence on Taiwan’s

¹³⁴ Chiang, “Cross-strait Economic Integration,” 691.

¹³⁵ Chiang, “Cross-strait Economic Integration,” 693.

¹³⁶ Armstrong, “Taiwan’s Asia-Pacific economic strategies,” 100.

investment finally resulted in Taiwan's reliance on trade with China."¹³⁷ The strong economic link Taiwan and China have suggests that if there are any significant changes to China's economy, in terms of policy or global recession, there would be massive consequences for Taiwan. Furthermore, some scholars argue that this close economic connection makes Taiwan valuable to China.¹³⁸ In terms of imports, this is far from the truth. Most of the imports from Taiwan could easily be substituted by goods from countries like Japan and South Korea. The concern from these countries about the ECFA suggests that if there were any economic problems between China and Taiwan, China would have no problem switching its import sources. Though on paper the ECFA, along with China's other trade agreements, seems to place China in a disadvantaged position, the truth is that it strengthens China's existing trade relationships and increases its economic importance in the region making it far more valuable to Taiwan than Taiwan is to China. This reliance is further backed by the increasing number of Taiwanese fixed assets in the PRC, and the growing Taiwanese reliance on PRC manufacturing and labor.¹³⁹

The significance of this asymmetric trade relationship is found in understanding dollar and checkbook diplomacy. Instead of aid, general trade and investment becomes the influencing factor. In these forms of diplomacy, a nation's westphalian sovereignty is violated. When one nation can enact its will in a different nation, foreign influence has invaded. This is what China's position allows it to do, and has already done, though more indirectly. China has become so valuable to Taiwan, that should China cease trade, Taiwan's

¹³⁷ Chiang, "Cross-strait Economic Integration," 696.

¹³⁸ Armstrong, "Taiwan's Asia-Pacific economic strategies," 100.

¹³⁹ "China CN: Fixed Asset Investment: HK, Macau & Taiwan Funded," CEIC, accessed April 18, 2020, <https://www.ceicdata.com/en/china/fixed-asset-investment-enterprise-and-work-type-quarterly-and-annual/cn-fixed-asset-investment-hk-macau--taiwan-funded>.

economy would be damaged perhaps beyond repair. Already, with Taiwan's passive actions merely legalizing existing trade and agreeing to the ECFA, do we see how China's economic power has controlled Taiwanese policy. Taiwanese companies who operate in China have lobbied for increasing trade liberalization, which has lessened the power Taiwan has over its economy and policies.

The economic relationship post-ECFA has been relatively tumultuous, particularly in the past four years. The agreement was signed during the beginning years of Ma Ying-jeou's administration, and in the short time following the agreement, Taiwan's investment in China remained steadily high. In 2016, though, two significant things happened that have had a deep impact on Taiwan's continuing investment in China: the elections of Tsai Ing-wen and Donald Trump as the new Taiwanese and American presidents. When Tsai Ing-wen took office, she announced that her plan was to revitalize a stagnating economy through the promotion of a "New Southbound Policy" in order to elevate the scope and diversity of [the Taiwanese] external economy, and to bid farewell to our past overreliance on a single market."¹⁴⁰ Historically, Tsai has not been a supporter of Taiwanese-mainland China unification, so it comes as no surprise that the single market she is referring to in that speech is the Chinese market. The impact of US President Trump's election is less direct, but still significant. Though Tsai's policies have been a motivating factor for decreasing investment in China, "the growing trade dispute between the United States and China has accelerated the shift in Taiwanese investment away from China."¹⁴¹ In 2018,

¹⁴⁰ Tsai Ing-wen, "Full text of President Tsai's inaugural address," *Focus Taiwan*, May 20, 2016, <https://focustaiwan.tw/politics/201605200008>.

¹⁴¹ Min-Hua Chiang, "Changing economic trends in Taiwan," *East Asia Forum*, August 20, 2019, <https://www.eastasiaforum.org/2019/08/20/changing-economic-trends-in-taiwan/>.

China, including Hong Kong, accounted for 41.2% of all Taiwanese exports.¹⁴² In the first half of 2019, in a matter of months, China's share dropped over 3%.¹⁴³ While decreasing their reliance on the Chinese market, Taiwan focused on increasing investment in various countries, including the ASEAN countries and the United States, whose share of Taiwanese exports grew to match China's loss. President Trump's plan is to bring manufacturing back to the United States. If this happens, the impact on the China-centered economic system in Asia will radically change. If the US pulls out manufacturing from the PRC, then Taiwan will likely speed up their own departure from China.

The new "Southbound Policy" that President Tsai articulated focuses on 5 programs: industry innovation, medical cooperation, policy and youth forums, regional agriculture, and talent cultivation.¹⁴⁴ These programs are directed at other countries in the region, in an effort to reduce reliance on China. Aside from the general reliance on China, Tsai's reasoning for this new policy is likely based on her opposition to unification. As mentioned previously, China has made no attempt to hide the fact that they believe economic integration will lead to unification. In fact, they proudly announced economic integration as the beginning of that process. Tsai's new policy, which would directly combat economic integration with China, would move Taiwan away from the direction of unification, in a method that may be unlikely to be undone by a successor in the event that the opposing KMT party takes power again.

¹⁴² "Economy," Republic of China, 2019, https://www.taiwan.gov.tw/content_7.php.

¹⁴³ Min-Hua, "Changing economic trends."

¹⁴⁴ Hsin-Huang Michael Hsiao, Jeremy Huai-Che Chiang, and Alan Hao Yang, "Taipei recalibrates to Asia," *East Asia Forum*, December 8, 2018, <https://www.eastasiaforum.org/2018/12/08/taipei-recalibrates-to-asia/>.

International Recognition

Arguably one of the most important forms of sovereignty in the modern age is international legal sovereignty, and it is in the international realm on which the PRC and Taiwan actively wage war. Recognition and membership in international organizations has always been a central point to the cross-strait conflict. This is something that the PRC has in the past few decades come to realize and it has led them away from seriously considering a military solution. Instead they have favored the diplomatic approach, which has brought them success, so “Beijing continues to gain ground diplomatically and has managed to shrink Taiwan’s ‘international space.’”¹⁴⁵ Since the US began to work toward the normalization of relations with mainland China in the 1970s, the PRC has defeated Taiwan in multiple areas, most importantly the change in representatives to the United Nations in 1971. Though its effectiveness has been debated for as long as it existed, the United Nations was the first organization created in the aftermath of WWII, and it stands as a symbol of the world power dynamics that came from the defeat of the Axis Powers. The UN Security Council only has 5 permanent members, the countries which led and were the face of the Allied Powers during the war. These permanent members enjoy a variety of privileges not given to any other member, most notably the veto power. Their position on this body lends a certain amount of legitimacy and strength to a state (it must be approved by the other members).

It took the PRC a long time to get to this point, though. Despite the strides toward beating Taiwan in the international arena, the PRC generally kept Taiwan separated from

¹⁴⁵ Jianwei Wang, “Hu Jintao’s ‘New Thinking’ on Cross-Strait Relations,” *American Foreign Policy Interests* 29, no. 1 (2007): 23.

the rest of their foreign policy and defined the topic as an internal problem.¹⁴⁶ This has begun to change, and it all centers around the rise of China. The PRC has been growing stronger and stronger, both militarily and economically, as a country in the past couple of decades.¹⁴⁷ Zheng Bijian, a PRC advisor, articulated the Chinese elite's theory of China's peaceful rise, which states that China, on its path to becoming a world power, will take a pathway different from that of traditional world powers (violence). Critics of this theory claim that it is not possible, citing the PRC's seeming inability to completely rule out use of military force against Taiwan.¹⁴⁸ Former PRC President Hu Jintao has, however, worked against that very idea, suggesting that "peace and development should be the main theme of Cross-Strait relations, and the common goals of the people both in the mainland and Taiwan."¹⁴⁹ That the "Taiwan issue" has now been brought into the overall Chinese foreign policy indicates that the PRC leaders are more and more seeing the cross-strait conflict from an international perspective – not that they see it as a state vs. state conflict, simply that the PRC understands the importance of the international realm in this conflict. Chinese diplomats now discuss Taiwan policy freely with other countries, outside of requesting that the other country reiterates the "one China" policy.¹⁵⁰

Taiwan's battle for international recognition has been directly tied to the concept of checkbook diplomacy since the 1970s. and in this case recognition, with other countries, and having been excluded from the United Nations, Taiwan ensured the "the formation of

¹⁴⁶ Wang, "Hu Jintao's 'New Thinking,'" 23.

¹⁴⁷ The growing Chinese economy and recent news of the construction of Chinese aircraft carriers paints a picture of a China focusing not only on strengthening their economic influence, but also on developing power projection.

¹⁴⁸ Wang, "Hu Jintao's 'New Thinking,'" 24.

¹⁴⁹ Wang, "Hu Jintao's 'New Thinking,'" 24.

¹⁵⁰ Wang, "Hu Jintao's 'New Thinking,'" 25.

an international network with economic ties as the key link.”¹⁵¹ For decades Taiwan was able to survive off of this, and used this economic power to persuade their dwindling allies to help secure Taiwan’s place in international organizations – for example, Taiwan’s latest bid to join the United Nations was sponsored by one of the countries receiving economic aid from Taiwan.

Taiwan’s checkbook diplomacy has yet to result in success and an overtaking of the PRC as the dominant representative of “China,” though. During the Chen Shui-bian presidency, Taiwan lost nine allies (starting with 29), and had only gained 3.¹⁵² Chen’s successor, President Ma Ying-jeou, criticized this, and took a step back from the competition for allies, arguing that Taiwan could not afford it anymore.¹⁵³ His step back marked the start of a “diplomatic truce” during which neither Taiwan or the PRC pursued aid diplomacy policies. With President Tsai’s election in 2016, however, the PRC abandoned the truce, starting with the normalization of relations with the Gambia, which had previously supported Taiwan. Though many critics have been quick to argue that the PRC merely outbid Taiwan in many of these countries, an alternative view has suggested that Taiwan’s inability to win these countries was not due to an overall lack of economic power, but in fact a frugal policy that should have been more generous.

¹⁵¹ Lee Teng-hui, “President Lee Teng-hui Cornell Commencement Address,” (speech, The Spencer T. and Ann W. Olin Lecture delivered at Cornell University Alumni Reunion by Lee Teng-hui, Cornell University, June 9, 1995).

¹⁵² Since then, more countries have switched recognition to the PRC. In the past 4 years, 7 have switched, leaving only 14 countries, including the Vatican, recognizing Taiwan.

¹⁵³ Czeslaw Tubilewicz and Alain Guilloux, “Does size matter? Foreign aid in Taiwan’s diplomatic strategy, 2000-8,” *Australian Journal of International Affairs* 65, no. 3 (June 2011): 323.

Negotiating “One Country, Two Systems”

The PRC’s Taiwan policy has also found itself going in a new direction. Though the PRC ultimately desires unification between the mainland and Taiwan, the immediate priority is now to prevent any attempt by the Taiwanese leaders to seek independence. With the DPP becoming a more powerful player in Taiwanese politics, the PRC is seemingly becoming more and more concerned with the possibility that a DPP government may actively pursue independence. In this regard, though, the PRC does have the Taiwanese people on its side – those who do not desire full independence for fear of war. The Taiwanese do not entirely favor unification either, though. Now, the PRC has come to realize that the “one country, two systems” formula does not look like an attractive offer to the people of Taiwan. In 2005, the PRC’s National People’s Congress passed a new Antisecession Law for the precise purpose of stopping then-Taiwanese President Chen Shui-bian from moving in the direction of “de jure” independence (as opposed to “de facto” independence). This Antisecession Law was initially titled “Unification,” but supposedly out of consideration for Taiwan, and to indicate the PRC’s policy priority toward Taiwan, the title was changed.¹⁵⁴ Under Hu Jintao, the PRC also changed their wording of the “one China” principle to the more vague “1992 consensus.” Though essentially the same thing, the vaguer term allows more room for interpretation.¹⁵⁵ This change in wording has also had the effect of reconsidering the term “one China,” in favor of a “two China” policy. Though intentionally not explicit, the vague term of “1992 consensus” allows interpretation

¹⁵⁴ Wang, “Hu Jintao’s ‘New Thinking,’” 26.

¹⁵⁵ Wang, “Hu Jintao’s ‘New Thinking,’” 32.

of “two China,” to a certain extent. This could potentially have the effect of making the negotiating table more attractive to pro-independence politicians in Taiwan.

Taiwan under Chen Shui-bian was not as friendly in return. In early 2006, Chen announced that the National Unification Council and the National Unification Guidelines would be abolished. After immediate backlash from the PRC and the US (who directly intervened), Chen agreed to change his wording from abolished to ceased. Though functionally meaning the same thing, one word carried a much stronger connotation.¹⁵⁶

Talks between the two countries began in early 1992, but in a nongovernmental form. At the end of '91, the mainland had established the Association for Relations Across the Taiwan Strait (ARATS), and earlier that same year Taiwan established the Straits Exchange Foundation (SEF). The Taiwanese government, who held a “Three No’s” policy that prevented formal talks, created the SEF for the purpose of resolving issues the government themselves could not deal with. ARATS was designed to promote connections between the two sides, with the goal of peaceful reunification. With these purposes in mind, the two groups met in Beijing to discuss two topics in particular: cross strait use of notarized documents, and tracing/compensation for lost cross strait registered mail.¹⁵⁷

During these talks, the “One China” principle was brought into the discussion. The Deputy Director of the Office of Taiwan Affairs, Tang Shubei, was authorized to speak on five principles, most notably the 2nd principle, which stated “In dealing with affairs relating to contacts between the two sides, we should adhere to the one-China principle and oppose

¹⁵⁶ Wang, “Hu Jintao’s ‘New Thinking,’” 28.

¹⁵⁷ Xu Shiquan, “The 1992 Consensus: A Review and Assessment of Consultations Between the Association for Relations Across the Taiwan Strait and the Straits Exchange Foundation,” *American Foreign Policy Interests* 23, (2001): 122.

any form of ‘two Chinas’ or ‘one China, one Taiwan’”¹⁵⁸ The Taiwanese representatives were not pleased with the PRC’s “demand” that Taiwan accept a “one China principle.” The Lee Teng-hui administration prepared plans that aimed for a conclusion of “one China,” but subject to interpretation on each side. The PRC accepted this idea, but when it came time to sign the agreement for the plan, the Taiwan representatives recorded the date with the ROC Minguo Calendar. According to Taiwan, had the Beijing representatives accepted this, it would have accomplished “the negotiation goal ‘one China with respective interpretations.’”¹⁵⁹ With this, Taiwan placed the blame for the collapse of talks on the PRC, though it’s worth noting that the Taiwan representatives did not follow the idea of respective interpretations by using the ROC’s calendar. Had the PRC signed the agreement, and Taiwan notes this, it would’ve meant the PRC accepting that the “China” meant the “Republic of China.”

After the PRC negatively responded to this plan, Taiwan introduced a second negotiation plan. This plan was very similar to the first, and the SEF conveyed through a press release and letter to the ARATS that this plan would say that “both sides of the Taiwan Strait adhered to the ‘One China principle,’ but they differ from each other on the meaning of ‘one China.’ The CCP believes ‘one China’ is the ‘People’s Republic of China,’ while Taiwan believes ‘one China’ should mean the ROC...”¹⁶⁰ The PRC did not accept this model either, and countered with a proposal that both sides would strive to achieve unification, but that cross-strait negotiations would not discuss “one China.” Despite this

¹⁵⁸ Xu Shiquan, “The 1992 Consensus,” 123.

¹⁵⁹ Mainland Affairs Council, “Restoring the Historical Truth of the 1992 Hong Kong Talks,” <https://www.mac.gov.tw/en/cp.aspx?n=34591B13E0BCBF3E>.

¹⁶⁰ Mainland Affairs Council, “Restoring the Historical Truth.”

generous offer to leave the topic, Taiwan did not accept this proposal, and there have not been further negotiations on that subject since then.

In 1999, Taiwanese KMT President Lee Teng-Hui suggested a two-state theory, that cross-Strait relations were a “special state-to-state relationship.”¹⁶¹ Though a statement seemingly designed more for the upcoming presidential election, Lee’s theory has had lasting negative effects. The PRC interpreted the statement as an indication that Taiwan would push more for an independent state, as opposed to reunification. This only led to the PRC working to block that path to independence. The 1996 missile tests, which preceded Lee’s statement of two-states, was viewed by Chinese leaders as having discredited the DPP’s platform – important to them, as the DPP is the leading party in support of an independent Taiwan. Additionally, the PRC has worked to block Taiwan’s attempts at formal international recognition, their efforts being validated by a statement from the US, Taiwan’s biggest ally. In mid-1998, US President Clinton announced the US would “adhere to ‘three no’s” (no support for Taiwan independence, no support for one China/one Taiwan, and no support for Taiwan representation in international bodies where state membership is required) ...”¹⁶²

The two main parties in Taiwanese politics have held opposing views on the 1992 Consensus. The Consensus was reached between the PRC and the KMT government, and though the KMT is no longer the dominant party in the Taiwanese government, they have maintained the same stance. The DPP, however, have promoted a far different idea, more in line with Lee Teng-hui’s two-states theory, much to the dismay of the PRC, who had hoped

¹⁶¹ National Intelligence Council, *China-Taiwan: Prospects of Cross-Strait Relations*,” 1.

¹⁶² National Intelligence Council, “China-Taiwan,” 4.

a pro one-China candidate would win. Though the Taiwanese government's stance on this has been fairly relaxed (Lee Teng-Hui backed away from the theory when it received international criticism, and Chen Shui-bian, though campaigning on Taiwan's independence, did not follow through with the policies he claimed to support), the DPP government has still maintained a refusal to accept One China or the model the PRC continues to advocate for. The most recent rejection occurred only a few months ago, when Taiwan's President Tsai Ing-wen rejected the idea that the model could be used to reunify the island with the mainland, noting that "such an arrangement had set Hong Kong 'on the edge of disorder'."¹⁶³

Since the inauguration of Tsai Ing-wen, China's continuing goal has been to pressure the Taiwanese president into accepting the PRC's interpretation of the 1992. In response to the pressure, though, President Tsai has not conceded, in fact rather the opposite, "Tsai Ing-wen has adopted tougher rhetoric against Beijing..."¹⁶⁴ Bonnie Glaser's testimony before the US-China Economic and Security Review Commission in late 2019 mentioned a few of the most important developments in cross-strait relations over that year. Specifically, on the subject of the 1992 Consensus, in January 2019 Xi Jinping delivered a speech dedicated to Taiwan policy. He noted that "cross strait reunification is the inevitable requirement of the great rejuvenation of the Chinese nation in the new era" and that both sides should begin talks "aimed at creating a version of one country, two systems for Taiwan."¹⁶⁵

President Tsai's response to this speech followed up on what she had already been

¹⁶³ Yimou Lee, "Taiwan leader rejects China's 'one country, two systems' offer," *Reuters*, October 9, 2019, <https://www.reuters.com/article/us-taiwan-anniversary-president/taiwan-leader-rejects-chinas-one-country-two-systems-offer-idUSKBN1WP0A4>.

¹⁶⁴ Bonnie S. Glaser, "US-China Relations in 2019" Statement before the US-China Economic and Security Review Commission.

¹⁶⁵ Glaser, "US-China Relations in 2019."

expressing. She claimed that “Xi Jinping’s speech proved that the ‘1992 Consensus’ was tied to ‘one country, two systems,’ which was unacceptable to the people of Taiwan.”¹⁶⁶

Though the KMT has historically been the party in support of “one China,” the recent 2020 presidential and legislative elections have left the future of the party in the air.

Younger party members have spoken out, claiming that perhaps the 1992 Consensus that the KMT has supported as the basis for cross-strait negotiations is outdated. Taipei City councilor Yu Shu-hui and legislator Hsu Yu-jen have been a few of the more vocal KMT politicians speaking out. According to Yu Shu-hui, “part of the problem with the ‘1992 consensus,’ is that many Taiwanese today do not know how the ‘1992 consensus’ came about, and it has now been ‘distorted’ into being equated with China’s ‘one country, two systems’ model and used to ‘smear’ people.”¹⁶⁷ Hsu Yu-jen’s echoed Yu’s sentiment, noting that “The 1992 consensus has collapsed..”¹⁶⁸

In 2013, the DPP held a series of discussions, one of which focused on the 1992 Consensus. In an attempt to advance the Taiwanese political attitude on Consensus, both DPP and KMT speakers were present, notably Su Chi from the KMT and Chiou I-jen from the DPP. Su Chi’s presence was of particular interest, as he had previously (and reiterated this in his opening remarks at the 2013 discussions) stated that he “invented the term in April 2000, just before the DPP came to power...”¹⁶⁹ Su said he had intended for the vagueness of the consensus to persuade the PRC and new Taiwanese governments to

¹⁶⁶ Glaser, “US-China Relations in 2019.”

¹⁶⁷ Fang Cheng-hsiang, Chiang Yi-ching, Hsiao Po-yang, and Elizabeth Hsu, “Young KMT members urge party to review position on China policy,” *Focus Taiwan*, January 13, 2020, <https://focustaiwan.tw/cross-strait/202001130017>.

¹⁶⁸ Fang Cheng-hsiang, et al., “Young KMT members urge party.”

¹⁶⁹ *Taiwan News*, “DPP discusses ‘1992 Consensus’ between Taiwan and China,” July 25, 2013, <https://www.taiwannews.com.tw/en/news/2264881>.

continue talking. The DPP has never refused to acknowledge the fact that there were meetings between the two sides in 1992. Former Taiwan Premier Frank Hsieh noted that “There were agreements reached in that [1992] meeting and we should respect some of the spirit of these agreements because they are historical facts.”¹⁷⁰ Instead, the DPP and other critics have rejected the “1992 Consensus” on the grounds that PRC leaders have never acknowledged the second part of the “consensus” – that each side could interpret what “one China” meant.¹⁷¹

Taiwan has evidently had a difficult relationship with the forms of sovereignty described in Stephen Krasner’s model, which has had interesting implications for the meaning of “one country, two systems” in the present day. Taiwan has achieved success in the realms of domestic sovereignty with their advancements in democracy. The Taiwanese government, though filled with debates between the KMT and DPP, is unquestionably in power over the Taiwanese island. Mainland China, despite their displeasure with the fact, has conceded that they do not currently control the region (though they have not given up their right to it).

In contrast, Taiwan’s battle for international recognition has been an undeniable loss. Though over the years a country will occasionally revert to recognition of the ROC on Taiwan, most countries either recognize the PRC as the one representative of all China, or they do not recognize either side at all. The effect of the PRC being the sole representative of China in the United Nations and broader international community has placed it in positions of power enabling it to prevent Taiwan from engaging with the global community

¹⁷⁰ Kelven Huang, Sophia Yeh, and Elaine Hou, “DPP recognizes 1992 meeting, not ‘1992 consensus’: Frank Hsieh,” May 4, 2016, <https://focustaiwan.tw/cross-strait/201605040017>.

¹⁷¹ *Taiwan News*, “DPP discusses 1992 Consensus.”

in most international organizations. Despite continuous applications, some supported by member nations, the United Nations has refused to grant Taiwan representation, even under the name Taiwan. In the few organizations they have been permitted to participate in, like the World Health Organization, they have existed under the name Chinese Taipei, and fewer organizations acknowledge Taiwan on the lists of their member countries.

Economic control is where the ideas of sovereignty get muddled, and an idea of a hybrid, or shared sovereignty comes into play. We have observed that in Taiwan political decisions appear to follow economic trends. First with the initial opening of Taiwan to PRC investment in the 1990s, followed by the signing of the ECFA in 2010, we begin to see an image of a Taiwan with little power over its own economy. The Taiwanese politicians are essentially reacting as opposed to being proactive. Only within the past few years, beginning with the start of Taiwan President Tsai's administration in 2016 and helped along by the start of the China-United States trade war in 2018, have we begun to see Taiwan taking back control by advocating for Taiwanese companies to leave China. Though some companies have begun to do so, the large number of fixed assets in China means that it will take a long time for a dedicated company to abandon the Chinese market and workforce. If the next Taiwanese president is KMT, or otherwise more sympathetic to the calls for unification, though, then some of the work Tsai has put into diversifying the economy could be undone. Though the economic connections with Southeast Asian countries may never be fully undone, should China prove to again be a better location to operate a company, many of the companies working to leave may decide to remain or go back.

There are also further concerns regarding the status of Taiwanese companies centered in mainland China, though, which could potentially have the effect of Tsai's efforts being backed by a successor from an opposing party. Unlike Taiwan, who is merely reacting to the markets and investment, China has a clear hand in their own economic development with the development of the Special Economic Zones. The placement of Taiwanese companies in China could potentially be very dangerous for Taiwan, as in the event that Taiwan disagrees with China too much, too quickly, China could freeze or seize the fixed assets of a large amount of the Taiwanese companies and investors located in mainland China. The effect of this danger and Taiwan's existing passive relationship with their economy is that ultimately the self-determination that has been championed in Taiwan and the strong government they claim to have may not have as strong foundations as they would like.

China claims that "one country, two systems" would allow for Taiwan to continue to exist by itself, free from interference. With the two separate economic systems, not attempting to merge the two societies on that level makes sense. On a theoretical, abstract basis, this model seems unproblematic for Taiwan. The problems present themselves when one considers the context in which this model could be implemented, and the substance of ongoing China-Taiwan relations. From China's use of economic power in gaining international recognition to the 1996 Taiwan Strait Crisis, when China appeared to be attempting to influence the Taiwanese elections, to the present day when China's economic power allows it to potentially cause devastation to the Taiwanese economy, China holds the upper hand in any negotiations that may take place. Depending on what the future holds for continued Chinese/Taiwanese economic cooperation, this upper hand may end up

allowing them to force unification on their terms, the “one country, two systems” proposal.

Considering the implementation in Hong Kong, this may not be favorable to Taiwan.

Conclusion

How has sovereignty played out in Taiwan and Hong Kong, and how has that affected the implementation of “one country, two systems?” Furthermore, and perhaps more importantly, what does the implementation and rejection of this model tell us about sovereignty itself? What does this model mean for the future of sovereignty, or the “hybrid” sovereignty that has been outlined in the previous chapters in Hong Kong and Taiwan? Those are the driving ideas behind this paper, and even at its conclusion, looking back on the two case studies, it is difficult to come to a simple answer to that question. The concept of sovereignty plays an important role in analyzing the current implementation of the model as well as the region the model was initially developed for. Sovereignty is a difficult concept to understand and explain, so it comes as no surprise that in Stephen Krasner’s exploration of sovereignty he came to the conclusion that ultimately, scholars in different fields have all been working under different aspects of sovereignty: domestic, Westphalian, interdependence, and international legal sovereignty. Krasner notes that all these forms of sovereignty are relevant to states and are intertwined and occasionally dependent on one another. Some states trade one aspect for another. This is often the case in international organizations with supranational powers. In exchange for membership in the international organization, which grants a state international legal sovereignty, a state may cede Westphalian sovereignty, and allow foreign interference, to an extent.

The concept of “one country, two systems” is tied to ceding Westphalian and usually some degree of international legal sovereignty. The actual implementation in Hong Kong, however, has led to a slightly different situation. In the first chapter, I explored the development and implementation of the “one country, two systems” model, from Ye

Jianying's initial proposal for Taiwan to the reforms of the last British governor, Chris Patten. Hong Kong existed initially under British control, and its retrocession in 1997 immediately handed over supreme control to the PRC. Though there is local governance, from the past British governors to the current Chief Executives, the territory was and still is ultimately subject to the whims of the supreme body. In the past, it was the United Kingdom, and in the present day it is China's State Council. Debates continue over whether China is "foreign" to Hong Kong, but the model indicates at least partial independence, and the recent protestors in Hong Kong, as they identify less and less as Chinese, would likely be inclined to agree that Hong Kong has no Westphalian sovereignty, and that that may have actually caused domestic sovereignty to have eroded.

Hong Kong's relationship to international organizations, however, suggests a failure of the "one country, two systems" model to maintain the "one country" idea. Aside from the Special Economic Zones, Hong Kong ended up as the PRC's gateway to the international markets. A condition of maintaining the capitalist policies in the territory was that Hong Kong needed to stay a member in certain international organizations. The World Trade Organization, and the Asia-Pacific Economic Cooperation are two examples of this. In fact, if you check the World Trade Organization's list of member countries, China and Hong Kong are separately listed.

Krasner noted that Hong Kong must be granted "quasi-autonomy"¹⁷² despite it being formally part of China. This quasi-autonomy was practically guaranteed for Hong Kong in the "one country, two systems" model. In the days of planning Hong Kong's retrocession,

¹⁷² Stephen D. Krasner, "Problematic Sovereignty," in *Problematic Sovereignty*, ed. Stephen Krasner (New York: Columbia University Press, 2001), 3.

China was still figuring out Special Economic Zones. Hong Kong was already a global city, and China knew Hong Kong could not be brought into the fold the way the PRC controlled the rest of their territory. To protect Hong Kong's economy, China believed in maintaining the status quo. The only difference was in who ran the government. Essentially, Hong Kong's embeddedness in the international economy at the time, and still today, is the reason for its quasi-autonomy. Hong Kong's international status also raises the question of if the Hong Kongese could leverage that degree of international recognition in order to preserve their independent judicial system, and potentially some level of representative government. Corporations use Hong Kong as a base for investing in China, because directly settling in China could be risky. An independent judiciary and a nonauthoritarian government in Hong Kong are meaningful to corporations who desire to invest in a country without risking asset seizure or other consequences that may come with an authoritarian government. In an increasingly globalized world, international legal sovereignty becomes more and more important. Without validation from the international community, treaties, economic agreements, etc...., a state can have all other forms of sovereignty but still not be considered a country. This is, in fact, where a broader connection can be made to Taiwan.

As the second chapter shows, Taiwan undeniably has domestic sovereignty over the Taiwan island and other claimed areas not strongly contested by the mainland, even though historically this was not the case. The KMT, upon exile to the island, still claimed that they held sovereignty over all of China but could simply not enforce it. As time went on, and Taiwan lost its United Nations seat and recognition from most countries in the world, politics changed in Taiwan. Lee Teng-hui's reforms in the 1990s helped with establishing a more solid claim of domestic sovereignty, when he revoked the emergency

legislation which had provided the constitutional basis for the Republic of China on Taiwan. New parliamentary elections could take place, and the representative bodies no longer claimed to represent all of China.

However, Deng Xiaoping always said that “one country, two systems” was an economic model, not a political one. Though it is hard to separate liberal economies from liberal governments, the treatment of Hong Kong proves Deng’s idea true. After decades of Taiwan refusing to accept the PRC’s proposal, or abandoning negotiations for reunification, the PRC went full steam ahead into advancing the economic connection between the two sides of the Taiwan Strait. Since Deng’s reforms, China’s economy has rapidly developed, quickly catching up to the largest economies in the world. Though China initially needed Hong Kong, the further establishment and development of more Special Economic Zones has enabled China to surpass Hong Kong. Hong Kong still exists as a channel for foreign direct investment, and Chinese companies use the region as a launchpad to global expansion, but Hong Kong now represents an incredibly small share of China’s overall economy. Hong Kong does still operate as a portal for direct investment, and many multinational corporations that operate in China are based in Hong Kong, but with Hong Kong reliant on the mainland for food, fresh water, and other essentials, the scales tip in favor of China.

Economic integration appears to be what China intends for Taiwan, to an extent. In recent years China has pushed for more economic cooperation, leading to the signing of the ECFA in 2010. This agreement, combined with China’s efforts to prevent Taiwan’s economic diversification, could eventually make Taiwan incredibly dependent on the Chinese economy. China has also worked on integrating with Taiwan on a more regional

level, though, working on both an economic and cultural front. The Taiwan Strait separates Taiwan Island from the mainland Fujian province, and since the Chinese Civil War, the province has been split between the mainland and Taiwan. The mainland holds most of the region, including the mainland region, and several islands. Taiwan, on the other hand, only holds a few islands they claim to be part of the Fujian province. The mainland has established multiple economic and technological development zones in Fujian with the goal of courting the Taiwanese, drawing them in and establishing firmer economic relations. Additionally, Shanghai has established itself as a haven on the mainland for the Taiwanese. The official Shanghai census claims that Taiwanese people represent roughly $\frac{1}{4}$ of all people from outside mainland China living in the city (though unofficial estimates claim much higher numbers).¹⁷³ By presenting these regions as places for Taiwan to connect with China, the mainland is reinforcing and further developing the existing relationships.

By maintaining capitalist policies, Taiwan could operate similarly to Hong Kong, and Taiwan's recent work to diversify their economy could serve to cement them in that position. Hong Kong is embedded in the South China economy, and Taiwan could follow. The current economic relationship between China and Taiwan has been described as similar to the economic relationship between countries in the European Union (EU). Germany is by far the most economically significant country in the EU, and when it came to the Greek economic crisis, Germany's proposal truly only served to reinforce their place at the top by supporting the implementation of harsh conditions on Greece as a result of it being unable to live up to its obligations to the organization. Were this to happen in the

¹⁷³ Shanghai Statistics Bureau, "2010 Status and Characteristics of Shanghai foreign workers," Shanghai sixth national census data analysis, archived, <https://web.archive.org/web/20150920212411/http://www.stats-sh.gov.cn/fxbg/201112/237137.html>.

China-Taiwan sphere, China could force Taiwan into agreements that it has no choice but to follow, which could further erode any form of sovereignty they struggle to hold on to. This could be Taiwan's future as China moves toward an informal "one country, two systems" with the heavier emphasis on economic integration.

Where Taiwan differs greatly from Hong Kong, however, is the manner in which Taiwan-China economic relations have grown, and what may be holding them back. In the 1990s, Taiwan experienced growth in two areas. From the start of the decade, they began opening to Chinese capital, starting the process which has led Taiwan to where they are today. The other area was in politics. Though the 1990s saw the first direct elections, with the Legislative Yuan and Executive Yuan in 1991 and 1992, followed by the presidential election in 1996, calls for democracy and a break from the KMT ideology had persisted for years, with the DPP's founding in 1986. For three decades now, the people of Taiwan have enjoyed a successful democracy, with a functioning multi-party system. An entire generation of people have grown up in Taiwan knowing nothing but democracy and a democratic political culture. As we have seen in Hong Kong, the Hong Kongese do not have full control over their government. Ultimately, it seems, the PRC wields more power than the Basic Law suggested they would. Under "one country, two systems," the liberal democracy present in Taiwan would likely be put under heavy constraints. This is where the model would likely fail, due to how domestic sovereignty has evolved in Taiwan and how democracy has spread into the base consciousness of the Taiwanese people.

Though the PRC is the clear economic heavyweight in the relationship with Taiwan, the democratic political culture that has existed for decades could make it more difficult for the PRC to take control under the "one country, two systems" model. Though the

Taiwanese government has in the past only reacted to trends, like the opening to Chinese investment in the 1990s, or only acted as a last resort, as they did with the signing of the ECFA, negotiations for the implementation of a model which would allow for the erosion of democracy in their region could push it too far. The generation which has grown up knowing only democracy is now entering politics. Across the party system, from new DPP members to new KMT members, Taiwan is reconsidering unification, and the idea of a “one China.” Though the PRC’s economic gravity may be too much for Taiwan to completely resist unification over the long term, their ties to democracy and freedom would likely prevent a system like Hong Kong from being implemented in Taiwan.

Taiwan seems to be well aware of this, too. Though President Tsai’s efforts to diversify Taiwan’s economy may only serve to further push them in the direction of becoming “the next Hong Kong,” it could easily serve to save them from that fate by reducing the economic weight of the PRC in the Taiwanese economy. If Tsai, and whoever her successors are, continue on this path, and increase reliance on the various countries of the South China Sea, the PRC will not be able to exercise economic power in service of forcing the model.

Hong Kong did not have a democratic political culture during unification, and still today they do not entirely. Though there are pro-democracy protests, like the Umbrella Movement in 2014, and the newer pro-independent judiciary protests which began in 2019, the lack of democracy in Hong Kong’s history prevented any proper development of a system which would have better protected its citizens in a post-retrocession time. Before the PRC, there was the British Empire, and before the British Empire, it was the Qing Empire. The only moment when democracy seemed hopeful was in the last years of the

administration of the last Hong Kong governor. Despite Patten's best efforts, though, the PRC was able to prevent democracy from being properly established, which allowed for a smoother transition of power and implementation of "one country, two systems."

Sovereignty tends to define states in the international community, particularly domestic sovereignty and international legal sovereignty. The problem with defining states in this way, however, is when other groups, not identified as states or not able to become states, also hold these forms of sovereignty. In Hong Kong, the "one country, two systems" model preserved the powerful economy that the region had enjoyed under British control. The effect of this economic control allowed Hong Kong to maintain a degree of international recognition and a partial representative government. The economic power provided leverage for a region which could have otherwise lost all aspects of sovereignty. Taiwan's rejection of "one country, two systems" was, in part, likely based on the fear of not having that leverage. Though Taiwan's economy is by no means small or insignificant, Taiwan's lack of recognition in the international world, the fact that their economy is deeply entangled with China's economy, and China's informal ban on other countries trading with Taiwan have hurt Taiwan's chances to flex any of their economic power. In a broader sense, the strong economy can enable the smaller party to resist, on some level, the integrated sovereignty. When the smaller party is incapable of leveraging this economic power, "one country, two systems," and potentially other forms of integration, may lead to forced hybrid/integrated sovereignty. The significance of the implementation of "one country, two systems" in Hong Kong, as well as the rejection of it by Taiwan, is that it tells us that we should reconsider the way we view and analyze sovereignty, and particularly the way we factor it into analyzing if a state is a state. In a world where unrecognized states

and special economic zones have defining features of states recognized in the global community, sovereignty can no longer stand as one of those defining features, which also leads us to question what, if not these aspects of sovereignty, defines a state.

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