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S U M M A R Y

Demonstrations in Hong Kong highlight the ongoing struggle between its citizens and Chinese leaders over the course of democratization there. The United States has substantial stakes in Hong Kong, which would be threatened by political crisis. U.S. investment and trade interests depend on preservation of the rule of law in Hong Kong, while Hong Kong also is a bellwether for the political evolution of Greater China, including Taiwan.

Recognizing the growing public demand for democratization, the communist leadership of Beijing is prepared to enter a dialogue with Hong Kong democrats. However, the democrats' leverage depends on their performance in September 12 legislative elections.

Some in the U.S. Congress want to show solidarity with Hong Kong democrats and toughness toward Beijing by removing beneficial economic treatment that Hong Kong receives. This would be a mistake; better options exist for Americans to help democratization in Hong Kong. ■

Getting to Democracy in Hong Kong

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Democratization in Hong Kong may seem as remote to most Americans as the city's distance from the United States. But since Britain handed over Hong Kong to China on July 1, 1997, the city has become a vital factor in China's political and strategic evolution and, by extension, U.S.-China relations.

The United States has substantial economic interests in Hong Kong. Approximately 1,100 U.S. firms operate in the city and have more than \$38.5 billion invested. Hong Kong is ranked second among the top ten countries or cities with which the United States has a trade surplus. To flourish, these interests must be protected and governed by fair and accountable political and legal systems.

U.S. economic interests grew when Hong Kong was a British colony without full democracy, but this does not mean that the absence of full democracy is harmless. Before 1997, Hong Kong was ultimately governed by a representative government in London, whereas today it is governed by an authoritarian government in Beijing

whose observance of the rule of law is still rudimentary.

Democratization in Hong Kong also can affect the political future of Greater China. If China allows Hong Kong to have full democracy soon, it would suggest an optimistic future for political reform in China, which, in turn, would help solve the thorniest issue in U.S.-China relations: the political future of Taiwan. Conversely, if Beijing fails to allow full democracy, the U.S. will inevitably expect a much thornier time with China, including over Taiwan.

The challenge for the U.S. is to find ways of assisting the people of Hong Kong in their struggle for democracy without jeopardizing social stability and prosperity.

Hong Kong's Democratic Movement

Hundreds of thousands of citizens marched through downtown Hong Kong on July 1, 2004, to demand early introduction of full democracy. Today, Hong Kong has limited democracy: only twenty-four of its sixty incumbent legislators are directly elected, and the current chief executive was selected



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by a committee of 800 pro-Beijing professionals and business executives. Most Hong Kong residents aspire to have the right to elect all legislators and the chief executive while remaining hopeful to maintain the stability and prosperity they have enjoyed for decades.

As during the first massive demonstration held in July 2003, the heavy turnout at the July 2004 demonstration surprised Beijing and the Hong Kong government it controls. The demonstration ended their illusion that economic frustrations rather than democratic aspirations had driven people to the streets. Surveys show that Hong Kong's people want democracy, and Beijing's nervous brandishing of sticks and dangling of carrots since the 2003 protest have not changed hearts or minds (see box, page 3). Beijing will have to be more forthcoming to avoid a rout of its favored candidates in the local legislative elections scheduled for September 12, 2004.

The July 1 demonstrations now serve as benchmarks of Hong Kong's aspirations and Beijing's capacity to manage these aspirations. Participants in 2003's demonstration protested poor governance in Hong Kong, such as the government's mishandling of the SARS outbreak and its advocacy of draconian antisubversion legislation. In demonstrators' chants and in subsequent public opinion polls, many demanded universal suffrage in time for both the election of the chief executive in 2007 and elections of all legislators in 2008, the earliest dates allowed under Hong Kong's Basic Law.

By "universal suffrage" (*pu xuan*), advocates of democracy in Hong Kong mean that all citizens of voting age should have the right to vote for the chief executive and all legislators. It would remain to be determined whether this right would be exercised through direct elections (*zhi xuan*) of the chief executive and all legislators or through indirect elections (*jian xuan*), whereby citizens would elect representatives who in turn would choose the officeholders. As the contest over democracy in Hong Kong proceeds, both Beijing and the Hong Kong democrats will have to clarify this issue.

No matter how universal suffrage will be implemented, the demand for it is clear. The intensity of the demand surprised and alarmed Chinese leaders enough to make them offer economic inducements to appease Hong Kong. They attempted to spark economic growth by allowing more Mainland Chinese to visit the city and granting Hong Kong businesses special trade benefits. Hong Kong's economy quickly revived, and the population's confidence in the central government in Beijing grew.

Yet economic improvements did not satiate the people's appetite for political representation. In district-level elections in November 2003, prodemocracy candidates won landslide victories. On New Year's Day, a larger-than-anticipated crowd—100,000 demonstrators—demanded universal suffrage.

At this point, Beijing switched to tough tactics and took two drastic measures. On April 6, 2004, China's national legislature interpreted the Basic Law to impose stringent conditions on any changes to the territory's election system (see box, page 6). On April 26 the legislature, claiming that Hong Kong still lacked the conditions for full democracy, decided that these changes could not include introduction of universal suffrage in the 2007 and 2008 elections. This move raised alarm over Hong Kong's autonomy, rule of law, and the implementation of the "one country, two systems" policy.

The events of the past year thus leave three questions unanswered. Why has Beijing shown so much resistance to Hong Kong people's quest for democracy? What challenges must Hong Kong democrats overcome to achieve early introduction of universal suffrage? How can the United States contribute to the city's democratization?

China's Fears

Chinese leaders fear that a democratic Hong Kong may liberate itself from their control; this leads to the additional fear that the example of electoral democracy in Hong Kong would mobilize citizens in Mainland China to challenge the Communist Party's role.

China's rural populace has not benefited from the economic boom occurring in the coastal cities. Were this rural population to become politically mobilized, the Communist Party would face a major crisis. Similarly, urban elites on the Mainland could see Hong Kong as a model for pursuing political freedoms.

Recent public comments by Chinese officials seem to hint at another fear: that democratization in Hong Kong would eventually lead to independence of the city. It remains unclear whether Beijing genuinely harbors such a fear or cynically uses the specter of independence to justify tough tactics to stop democratization. If it is the former, Beijing is mistaken. Before the handover of Hong Kong, people in the territory, for practical and sentimental reasons, did not consider independence an option. Their water, food, and many other resources come from China. Most of them have Mainland relatives with whom they keep in close contact. Although before the handover some scholars discussed whether international law would allow Hong Kong to exercise its right to self-determination and seek independence, the discussion was purely academic and never gained attention from the public.

After the handover, Hong Kong's reliance on Mainland China and the close relationship between the people of both places became even more evident. Hong Kong's current economic recovery depends largely on China's burgeoning market. Many Hong Kong natives choose to study, work, and live on the Mainland. Numerous polls show that, while most Hong Kong people take pride in being "Hongkongers," they increasingly identify themselves as "Chinese."

If Beijing treats the democratization of Hong Kong as a battle that must be won, it risks losing the "war"—the larger challenge of achieving global stature and reconciling Hong Kong and Taiwan with the Mainland. Beijing's harsh interpretation of the Basic Law and the April 26, 2004, decision ruling out universal suffrage in 2007 and 2008 carry significant costs. These actions have undermined public confidence in Hong Kong and

heightened international doubts about whether China actually intends a "peaceful rise," as the slogan claims.

These actions have also tarnished the image of "one country, two systems" so severely that Taiwanese have become more suspicious of Beijing's approach to peaceful reunification. Beijing's decision to take these steps nonetheless suggests that Chinese leaders consider the threat to stability in Hong Kong and Mainland China to be more immediately urgent than the threat of Taiwanese independence. This, despite the fact that proindependence Chen Shui-bian was re-elected president of Taiwan in March with 50.11 percent of the vote, compared to 39.3 percent in the 2000 election. Beijing seems to believe that it can take measures later to remedy any negative impact its antidemocratic moves in Hong Kong might have on the Taiwanese.

Perhaps blinded by fear, Chinese leaders have overreacted to the situation in Hong Kong. The April 26 decision is one example. Immediately after Beijing's imposition of stringent conditions on any changes to Hong Kong's electoral methods, polls taken in Hong Kong showed that support for full suffrage at the earliest possible date had plummeted to about 50 percent, down from 82 percent in July 2003. Hong Kong citizens seemed to recognize that Beijing would not tolerate the pace and depth of democratization they preferred, and were prepared to wait for full suffrage until 2012.

Had Beijing chosen to leave electoral reform to the city, popular realism and willingness to reach mutual accommodations

Survey Says

92% surveyed said they protested to seek early introduction of full democracy

55% surveyed said they wanted to voice concerns about the economy

Source: *Ming Pao*, July 8, 2004.

Survey of 610 participants in the July 1, 2004, demonstration.

with Beijing would have made it extremely unlikely that two-thirds of local legislators would have voted for a “universal suffrage by 2007” proposal. Most of Hong Kong’s sixty legislators are either steadfast pro-Beijing supporters or probusiness professionals who usually vote in favor of Beijing and the Hong Kong government unless the populace strongly opposes a given policy.

Even if Hong Kong’s citizens and legislature were to press for universal suffrage in 2007, Beijing would retain two legal means to block it. Universal suffrage has to be

coherence is seen in their collaborative decisions about who should run in which geographical constituencies in the September legislative elections in order to avoid competition among themselves that would hand victories to pro-Beijing opponents.

Given Beijing’s enormous fear of democratization in Hong Kong, democrats should understand that the harder they push for early introduction of universal suffrage, the more threatened Beijing will feel and the more readily it will play its trump card—the Basic Law. This law gives Beijing the ultimate

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approved by Chief Executive Tung Chee-hwa, who is Beijing’s man, and has to be finally approved by China’s national legislature, which rubber stamps the Communist leadership’s will. All of this suggests that Beijing has miscalculated.

The Challenge for Hong Kong’s Democrats

Democrats in Hong Kong come from a range of backgrounds, including independent barristers, activists of nongovernmental groups, and members of political parties, the most famous of which is the Democratic Party formerly led by Martin Lee, a distinguished barrister. Befitting their lawyerly or scholarly training, many democrats are moderates whose rational approach appeals to most citizens, especially the middle class. Prodemocracy barristers, for example, have gained public standing through their shrewd legal challenges to the antiradical legislation and the interpretation of the Basic Law. To be sure, a few democrats prefer more radical approaches—regular protests, for example—to voice their concerns over various governance issues.

Despite their differences, democrats are still united in their bottom-line goal. This

power to chart the democratic process in Hong Kong and forestall democrats’ hopes.

Theoretically, of course, democrats could trump Beijing with the threat of massive unrest and revolution, but public support for such a strategy is neither present nor foreseeable. Most people in Hong Kong are pragmatic, and they realize they have much to lose. They want to keep intact the city’s legal framework, prosperity, and stability. Although they have become more politically aware since the July 2003 demonstration, numerous polls show that what most of them want is communication with Beijing that explores win-win solutions.

All these considerations mean that the democrats’ strategy should be to dispel Beijing’s fear through dialogue. The democrats’ aim should be to design a blueprint for democratization that, if it were rejected, would expose Mainland leaders as so unreasonable and unfair that Hong Kong citizens and the international community would react with outrage.

In a welcome sign, Beijing has taken steps to approach the democrats, largely to avoid losses in the September elections. In late June, Vice President Zeng Qinghong, who is in charge of Hong Kong affairs, said that Beijing

had never had “conflicts” with democrats in Hong Kong, thereby implying that a door for dialogue was open. In mid-July, Beijing allowed a prominent prodemocracy advocate to visit China after a fifteen-year ban.

Because they know that universal suffrage in 2007–2008 is more than Chinese leaders can tolerate, democrats should relinquish this demand but require from Beijing commensurate concessions, namely, a promise that once universal suffrage is introduced, citizens will be allowed to exercise their right to vote for the chief executive and *all* legislators by direct elections (*zhi xuan*).

Beijing should also agree on a timetable indicating when, if not in 2007 and 2008, Hong Kong can introduce universal suffrage. The next elections for chief executive and legislators would be in 2012—why can these not be based on universal suffrage? Although Beijing’s leaders no doubt would like to avoid universal suffrage, they must be made to understand that a timetable, however sketchy, is needed to instill confidence in the Hong Kong populace. Democrats, acquiescing to the public’s strong demand, are unlikely to forgo such a request.

If agreement cannot be reached on a timetable now, democrats should at least demand a list of conditions that Hong Kong must satisfy before universal suffrage can be introduced. Chinese leaders often claim, without clear explanations, that Hong Kong lacks the condition for practicing full democracy. They should be pressed to define what this means. Democrats and Beijing should also agree to set up a transparent and independent mechanism to examine whether Hong Kong has met the stated conditions.

If Beijing rejects the democrats’ moderate aspirations, the people of Hong Kong likely will take to the streets in greater numbers every July 1. Chinese leaders who, like ordinary Chinese, emphasize “face” (*mianzi*) will want to avoid turning the annual celebration of reunification into an annual humiliation of their governance. If Beijing escalates the confrontation with Hong Kong democrats by



(AP Photo/Anat Givon)

The banner on the left reads “Return Power to the People,” a slogan that pro-Beijing forces in Hong Kong criticized as too radical.

obstructing Hong Kong citizens’ right to vote, the United States and other major states will feel compelled to condemn China’s violation of its own new constitutional provision guaranteeing respect for human rights, and global investors will adjust their assessments of risk in Hong Kong and China.

For democrats to gain this leverage vis-à-vis Beijing, they must demonstrate power at the polls on September 12, when half of the city’s sixty legislators will be elected directly and the other half selected by professional and business groups known as functional constituencies. If democrats gain a majority, Beijing will be more ready to make accommodations.

To this end, democrats must overcome two stiff challenges. First, they must motivate heavy turnout. Democrats estimate that they can win only five functional constituency seats, meaning that to control the legislature they must win twenty-six of the thirty directly elected seats. In their opinion, this outcome will be impossible unless 70 to 80 percent of the electorate votes. In previous elections, turnout rates were only about 45 percent.

Democrats must also avoid internal dissension. To divide and conquer the democratic movement, Beijing will likely bolster the standing of some candidates while it undermines others. Democrats will need extraordinary political skills to stay united.

The U.S. Role

Beijing's actions to hinder Hong Kong's democratic movement have rightly alarmed the international community. China appears to be renegeing on the obligations it accepted in the Sino-British Joint Declaration of 1984, a treaty that allows Hong Kong to have a high degree of autonomy after handover.

Critics of China such as Senator Sam Brownback (R-KS) suggest that President George W. Bush should exercise his power under the U.S.-Hong Kong Policy Act to suspend some of the special treatment that Hong Kong enjoys in a wide range of areas including export controls, customs, air services, and cultural and educational exchanges on the

Beijing's Interpretation of the Basic Law

In early April 2004, China's national legislature interpreted two provisions of the annexes to the Basic Law. These interpretations have major implications for democratization in Hong Kong:

- Paragraph 7 of Annex I concerns the electoral method of choosing Hong Kong's chief executive. It states that "if there is a need" to amend the method for the election of chief executives for the terms "subsequent to the year 2007," any amendment must be made with the endorsement of a two-thirds majority of Hong Kong's legislature and consent of the chief executive. The amendment must also be reported to the national legislature in Beijing "for approval."
- Part III of Annex II uses similar language concerning the choice of Hong Kong's legislators, except that any amendment to the electoral method must be reported to the national legislature "for the record."

Democrats in Hong Kong opined that "subsequent to the year 2007" includes year 2007, but some pro-Beijing figures in the city disagreed. The national legislature finally decided that the phrase does include 2007. Democrats welcomed this interpretation because it still allowed them to call for introduction of universal suffrage in 2007, when Hong Kong's next chief executive will be chosen.

But Beijing grabbed for itself a role in authorizing changes

in election procedures for Hong Kong's legislators that was greater than democrats thought warranted. Democrats believed that reporting "for the record" should not stop any legal amendment to electoral procedures from becoming effective immediately. Beijing rejected this interpretation, arguing that such an amendment is "legislation on the constitutional level," which cannot come into effect without approval from the national legislature.

Finally, there was the question who decides "if there is a need" for amendments. Democrats suggested that the absence of a subject in the phrase meant that an amendment to the method for electing the chief executive or legislators could be initiated in Hong Kong.

But the national legislature in Beijing interpreted the phrase "if there is a need" to mean that Hong Kong's chief executive must submit a report to the national legislature, and the national legislature shall decide whether there is a need. Beijing explained that, because the chief executive represents the entire city, his report "should represent the views of various circles, sectors, and strata in Hong Kong."

Responses to Beijing's interpretation of the Basic Law were mixed. Some legal experts found it necessary for clarifying the above ambiguities. Other experts, while they acknowledged Beijing's power to interpret the Basic Law, argued that the interpretation was unnecessary and put Hong Kong's high degree of autonomy at risk. ■

grounds that Hong Kong is “not sufficiently autonomous” to justify these advantages.

Such a step would be premature and self-defeating. Patience is warranted by the likelihood that Chinese leaders themselves have misjudged the actual situation in Hong Kong. If Beijing truly intended to breach its commitment to “one country, two systems,” it could have done so earlier. Instead, the first six and a half postreversion years saw overall success that was recognized by the international community, including the United States.

Direct U.S. intervention is likely to undermine Hong Kong’s confidence and prosperity and stiffen Beijing’s resistance to compromise in order to defy the United States. The people of Hong Kong need encouragement, but not the sort that would lead to punishment worse than the “crime” that has not yet occurred. Instead, the United States should wait to see whether a dialogue between Hong Kong democrats and Beijing can pave the way for productive negotiations.

Changes in U.S. policy toward Hong Kong could also breed anti-U.S. sentiments in the city and on the Mainland. For example, when Martin Lee testified before the U.S. Senate, about 40 percent of surveyed citizens in Hong Kong opposed his move and expressed anger that he sought external interference. The United States does not need any additional segments of the international community to feel disaffected by its leadership.

Most important, changes to U.S. policies would likely damage Washington’s overriding goals of promoting both political and legal reform in China. Beijing would likely respond by terminating scores of projects whose goals are to advance the rule of law. The U.S.-China human rights dialogue that Beijing discontinued after the United States sponsored a United Nations resolution condemning China’s human rights record would remain in limbo. These and other

consequences would be worth risking if the situation in Hong Kong were dire and changes in U.S. policy toward the city would alter China’s hand. But none of these premises is valid today.

Washington should, instead, express its concerns through low-profile diplomacy. The more vocally it opposes Beijing’s policy toward Hong Kong, the more firmly the Communist Party will believe that democrats in Hong Kong are in league with the United States to overthrow it. The United States should quietly remind China’s leadership that international criticism of the ban on universal suffrage in Hong Kong in 2007–2008 will likely intensify and in 2008 could overshadow Beijing’s Olympics, which China sees as a milestone in its history to gloriously mark the country’s rise.

Nongovernmental organizations in the United States can play a more active role. They can advise Hong Kong’s relatively inexperienced democrats and monitor the September 2004 elections to ensure that they are fair and free.

Hong Kong’s people deserve support, but changing the U.S. policy authorized under the U.S.-Hong Kong Policy Act would only hurt both Hong Kong and the United States. The U.S. government and nongovernmental organizations have better alternatives in their contributions to democratization in Hong Kong. When the stakes are high and the players are big, wise policy requires patience and steadfastness. ■

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CHINA'S WTO COMMITMENT ON INDEPENDENT JUDICIAL REVIEW: IMPACT ON LEGAL AND POLITICAL REFORM, Veron Hung, (*American Journal of Comparative Law*, vol. 52, no. 801, 2004).

RECENT DEVELOPMENTS IN HONG KONG, Veron Hung (Testimony for the Subcommittee on Asia and the Pacific, U.S. House of Representatives International Relations Committee, June 2004).

CHINA'S CONSTITUTIONAL AMENDMENT IS FLAWED, Veron Hung (*International Herald Tribune*, March 5, 2004).

HONG KONG 2003 (Hong Kong: Government of the Hong Kong Special Administrative Region, 2003), available at <http://www.isd.gov.hk/eng/yearbook03.htm>.

U.S.-HONG KONG POLICY ACT REPORTS (Washington, D.C.: U.S. State Department, 2003), available at <http://www.state.gov/p/eap/rls/rpt/19562.htm>.

IMPROVING HUMAN RIGHTS IN CHINA: SHOULD RE-EDUCATION THROUGH LABOR BE ABOLISHED?, Veron Hung (*Columbia Journal of Transnational Law*, vol. 41, no. 303, 2003).

WHY HK DEMOCRATS NEED A SENSE OF TIMING, Veron Hung (*Financial Times*, August 6, 2003).