

# Article 23: Moving from ‘Two Systems’ to ‘One Country’?

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## Introduction

In the summer of 2003, the Legislative Council of the Hong Kong Special Administrative Region (HKSAR) moved to introduce a set of new internal security laws that would have marked the most dramatic change in the territory since Beijing assumed sovereignty in 1997. These potentially intrusive new laws, known as the Article 23 measures, outlaw such acts as “subversion,” “sedition,” “treason,” “secession,” and “theft of state secrets” and sparked fiery opposition and widespread concern both locally and abroad. The *Far Eastern Economic Review* (*FEER*) asserted that with the implementation of Article 23, “the common-law foundation that made Hong Kong great is for the first time being intertwined with the more unpredictable and heavy-handed rule by legal decree introduced 53 years ago by the Chinese Communist Party.”<sup>1</sup>

The “one country, two systems” formulation, as laid out in the 1984 Sino-British Joint Declaration and enshrined in the SAR’s Basic Law, guarantees Hong Kong a high degree of autonomy from Beijing and the preservation of Hong Kong’s capitalist system for at least fifty years after the handover. Academics, lawyers, politicians, journalists, and even businessmen feared that Article 23 would have been a portent of China’s move away from maintaining “two systems” and

toward pursuing greater integration of Hong Kong into “one country,” as suggested by the *FEER*.

What exactly does the Article 23 controversy tell us about China’s policy toward Hong Kong beyond the widespread speculation and hype? This article seeks to examine the official PRC rhetoric regarding the Article 23 measures in order to decipher whether this new development indicates that the broad framework with which China deals with Hong Kong is changing fundamentally, or whether the Article 23 issue is merely an instance of China continuing to follow its original policy toward the territory but taking piecemeal steps to adapt to changing circumstances. After examining China’s historical policy toward Hong Kong and the current party line as illustrated by PRC-owned newspapers circulated in Hong Kong, I argue that, in fact, China’s fundamental policy toward the HKSAR has not changed. Rather, China is merely continuing its long-held pragmatic approach in dealing with Hong Kong by acting within the framework of its existing policy and adapting to new developments in a changing global environment.

## The Basis of China’s Policy toward Hong Kong

In 1842, following the Chinese defeat in

<sup>1</sup> Philip Segal, “Business: The Biggest Victim,” *Far Eastern Economic Review*, December 19, 2002, 30.

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the Opium War, the Treaty of Nanjing ceded the island of Hong Kong to British sovereignty in perpetuity. In 1860, as a result of the Convention of Peking, which marked the end of the Anglo-Chinese war, the tip of the Kowloon Peninsula was also ceded to British control indefinitely. This new agreement saw the colony's land increase by another three square miles. In 1898, the British, fearing that they would lose out in the European scramble for concessions during the Sino-Japanese war, signed a lease with the Chinese that gave them the entire Peninsula of Kowloon for ninety-nine years. This lease, which was signed for the newly acquired land known as the New Territories, expired on June 30, 1997.

Hong Kong Island was the very first segment of soil the Chinese had ever ceded to the "foreign devils," and it paved the way for other foreign powers to carve niches along China's coast. China never forgot or forgave the humiliation. Thus, when Deng Xiaoping met with British Prime Minister Margaret Thatcher in 1982 to discuss the future of Hong Kong, he stated:

On the question of sovereignty, China has no room for maneuver. To be frank, the question is not open to discussion. The time is ripe for making it unequivocally clear that China will recover Hong Kong in 1997. That is to say, China will recover not only the New Territories but also Hong Kong Island and Kowloon.<sup>2</sup>

For many older generation Chinese leaders like Deng, the issue of Hong Kong was an emotional one. These leaders, who had built up a strong sense of nationalism through their revolutionary experiences, considered British

rule over Hong Kong a remnant of Chinese humiliation under imperialism. The younger leaders of the PRC shared the nationalistic sentiments held by their elders as they formulated their opinions of Hong Kong based on communist views of modern Chinese history. Thus, China's policy toward Hong Kong was foremost based on a historical need to regain some of the national dignity it had lost under Western imperialism.

On top of the historical and nationalistic basis for China's policy toward Hong Kong, there was also a pragmatic aspect informing China's policy direction. The leaders in Beijing recognized that Hong Kong would be a useful asset in their drive for economic development and modernization. When Deng initiated the era of reform in the late 1970s and early 1980s, he was well aware that Hong Kong had the knowledge, expertise, and resources China needed to realize its ambitious economic reforms. With their business and technological know-how, their management skills, and their advanced telecommunications and transportation infrastructure, the people of Hong Kong had a large portion of the knowledge and resources China could draw upon to realize its goals as laid out in the Four Modernizations campaign.<sup>3</sup>

By the 1980s, Hong Kong had shown itself to be an international economic powerhouse. Not only had Hong Kong gained a reputation for being the prime location for foreign investment in Asia, with an annual per capita GDP of US\$8,719 in 1980, compared to China's GDP per capita of US\$972 that same year, Hong Kong itself could serve as a massive source of investment capital.<sup>4</sup> In fact, within the first

<sup>2</sup>Deng Xiaoping, "Our Basic Position of the Question of Hong Kong (September 24, 1982)," in The Bureau for the Compilation and Translation of Works of Marx, Engels, Lenin, and Stalin Under the Central Committee of the Communist Party of China, trans., *Deng Xiaoping on the Question of Hong Kong* (Beijing: Foreign Languages Press, 1993), 1.

<sup>3</sup> Steve Tsang, *Hong Kong: An Appointment with China* (London: I.B. Tauris, 1997), 134.

<sup>4</sup> Center for Economic and Policy Research, "Per Capita GDP Growth, 1960-2000," <[http://www.cepr.net/IMF/Emperor\\_Table\\_1.htm](http://www.cepr.net/IMF/Emperor_Table_1.htm)>.

decade of the opening of the Chinese economy, Hong Kong had become China's most important source of external investment and its largest trading partner.<sup>5</sup> In the 1980s, it became apparent to Beijing that in order to continue with its program of economic development, it needed Hong Kong to serve both as a source of capital investment and as an *entrepôt* to channel foreign trade and investment into the mainland. Thus, China had a pragmatic economic interest *vis-à-vis* the territory.

From a broader global perspective, the Hong Kong question was also perceived as an important factor in shaping Beijing's international reputation. The People's Republic of China was all too aware that allowing Hong Kong to collapse would greatly undermine its global reputation, not to mention the loss of face that would occur if, in managing Hong Kong, they failed where the British had excelled. How China handled the Hong Kong issue would also have direct bearing on its prospects for reunifying with Taiwan. China's handling of the Hong Kong question thus became an issue of great geopolitical importance as the nation began trying to integrate itself into the international community in the early 1980s.

### China's Policy toward Hong Kong

In order to incorporate the historical, economic, and geopolitical interests that China's had with respect to Hong Kong, the leaders in Beijing, most notably Deng Xiaoping and Liao Chengzhi, decided on two

tenets in formulating their Hong Kong policy: exercising maximum flexibility in practical matters to maintain prosperity and stability, while keeping complete rigidity over the core issue of sovereignty.<sup>6</sup> The result arrived in the form of the concept of "one country, two systems."

Originally envisaged as a way to resolve the Taiwan issue, the "one country, two systems" concept had been in the making since the 1978 Third Plenary Session of the Communist Party's Central Committee.<sup>7</sup> The core of the "one country, two systems" proposal entailed China assuming sovereignty over Hong Kong in 1997, while guaranteeing that the current capitalist system and way of life in the territory would remain unchanged for fifty years after 1997.<sup>8</sup> In order to facilitate this, China was prepared to grant Hong Kong a high degree of autonomy.

The British were initially reluctant to accept this formulation because they had initiated the dialogue with China over the Hong Kong issue in the hopes of retaining sovereignty past the 1997 deadline. When it became clear that the Chinese were immovable over the issue of sovereignty and were more than willing to use military force to reclaim Hong Kong if necessary, the British had to concede that the "one country, two systems" formulation encompassed the best possible terms under which Hong Kong could return to Chinese control.

In September 1984, the intensive Chinese-British negotiations, which had

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<sup>5</sup> Tsang, 134

<sup>6</sup> *Ibid.*, 132.

<sup>7</sup> Deng Xiaoping, "We Shall Be Paying Close Attention to Developments in Hong Kong during the Transition Period (July 31, 1984)," in The Bureau for the Compilation and Translation of Works of Marx, Engels, Lenin, and Stalin Under the Central Committee of the Communist Party of China, trans., *Deng Xiaoping on the Question of Hong Kong* (Beijing: Foreign Languages Press, 1993), 12.

<sup>8</sup> *Ibid.*

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proceeded “with the common aim of maintaining the stability and prosperity of Hong Kong,” came to an end when Premier Zhao Ziyang and Prime Minister Margaret Thatcher signed the 1984 Sino-British Joint Declaration (JD).<sup>9</sup> The Declaration was the cornerstone of a set of Sino-British understandings that were then enshrined into Hong Kong law with the creation of Hong Kong’s mini-constitution, the Basic Law of the HKSAR.<sup>10</sup>

Because of its insistence on maintaining complete sovereignty over Hong Kong, the PRC saw the Basic Law as a subsidiary of its own constitution and thus deemed the drafting of the law to be an enterprise that Beijing could monopolize. However, in order to quell fears in the territory, China followed along its policy of flexibility, allowing forty percent of the fifty-nine-member Basic Law Drafting Committee to be made up of local Hong Kong residents who had first been carefully selected and approved by the PRC’s top leaders.

The Basic Law Drafting Committee worked off of the two basic premises and objectives of the “one country, two systems” formulation: to preserve the existing capitalist system and way of life in Hong Kong for at least fifty years and to guarantee a high degree of autonomy. For the leaders in Beijing however, the real issue was how to make the Basic Law serve their interests best.<sup>11</sup> Luckily for the people of Hong Kong, it remained in the interest of Beijing to produce a document that would be satisfactory

to both the territory and the international community in order to preserve Hong Kong’s prosperity. If the Basic Law went against the promises laid out in the JD by imposing greater central control, investors and Hong Kong residents would immediately lose confidence, which could potentially result in a mass exodus of both skilled labor and capital. This would have left Hong Kong as more of a burden to the mainland than an asset. As Deng told Margaret Thatcher in December 1984:

If we had wanted to achieve reunification by imposing socialism on Hong Kong, not all three parties [the Chinese, the British and the people of Hong Kong] would have accepted it. And reluctant acquiescence by

some parties would only have led to turmoil. Even if there had been no armed conflict, Hong Kong would have become a bleak city with a host of problems, and that is not something we would have wanted.<sup>12</sup>

In the end, despite public rhetoric, “one country, two systems” was ultimately designed, and the Basic Law

drafted, to serve the interest of the PRC as defined by the CCP – not to serve the interests of the people of Hong Kong. As Wang Gungwu and John Wong write in their introduction to their book, *Hong Kong in China*, “one country, two systems” is “an ingenious tool to meet the historic necessity of taking over Hong Kong in 1997 while retaining the utility of Hong Kong to keep

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<sup>9</sup> Michael Yahuda, *Hong Kong: China’s Challenge* (London: Routledge, 1996), 65.

<sup>10</sup> Tsang, 200.

<sup>11</sup> *Ibid.*, 145.

<sup>12</sup> Deng Xiaoping, “China Will Always Keep its Promise (December 19, 1984),” in The Bureau for the Compilation and Translation of Works of Marx, Engels, Lenin and Stalin Under the Central Committee of the Communist Party of China, trans., *Deng Xiaoping on the Question of Hong Kong* (Beijing: Foreign Languages Press, 1993), 42.

pace with the modernization efforts of China...the essence of one country, two systems is pragmatic.”<sup>13</sup>

As such, the end result was a Basic Law that was sufficiently vague to allow China a great deal of flexibility and freedom to be more or less stringent in exercising control over Hong Kong, depending on changing circumstances and the evolving external environment. As Deng instructed in his speech at a meeting with the members of the Drafting Committee in April 1987, “the law should not be weighed down with too much detail.”<sup>14</sup> Thus, in preserving the interests of the PRC as defined by the CCP, the leaders in Beijing have used, and will continue to use, the flexibility of the Basic Law and the “one country, two systems” formulation to achieve their ultimate goals of staunchly maintaining sovereignty while preserving prosperity and stability.

Since Hong Kong’s retrocession to Chinese control, the operation of the “one country, two systems” formulation has been closely monitored by both the international community and the people of Hong Kong. Analysts have carefully followed the developments in Hong Kong to see whether the leaders in Beijing have in fact been keeping to the “one country, two systems” formulation or whether they have been shifting their policy direction to exercising greater control over the region. The Article 23 legislation, because it strikes most deeply at the core of the “one country, two systems” distinction, involves an issue that has been the most telling indicator of China’s current policy stance toward Hong Kong since Beijing resumed control over the territory seven years ago.

### Article 23 of the Basic Law

Article 23 of the Basic Law states:

The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People’s Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.<sup>15</sup>

As a national security measure, Article 23 aims to protect the whole nation: that is, the PRC and the SAR. However, as a law enacted in Hong Kong, it aims to ensure that activities in the territory do not jeopardize the interests and security of the mainland.

Observers have questioned the true motivation behind the Article 23 legislation. The main point of contention lies in the ambiguities found in the wording of the proposed legislation, which could be broadly interpreted to outlaw a host of seemingly innocuous activities. About forty percent of local journalists have signed a petition against the laws for infringing on press freedom, arguing that overly broad definitions of sedition and theft of state secrets threaten the normal activities of news reporting.<sup>16</sup> The Hong Kong Bar Association also has claimed that the laws are unnecessary and a violation of international civil rights. Human rights groups likewise have been concerned about what Article 23 portends for local branches of

<sup>13</sup> Wang Gungwu and John Wong, *Hong Kong in China: The Challenges of Transition* (Singapore: Times Academic Press, 1999), 25.

<sup>14</sup> Deng Xiaoping, “Speech at a Meeting with the Members of the Committee for Drafting the Basic Law of the Hong Kong Special Administrative Region (April 16, 1987),” in *The Bureau for the Compilation and Translation of Works of Marx, Engels, Lenin, and Stalin Under the Central Committee of the Communist Party of China*, trans., *Deng Xiaoping on the Question of Hong Kong* (Beijing: Foreign Languages Press, 1993), 55.

<sup>15</sup> Hong Kong Special Administrative Region of the People’s Republic of China Basic Law Promotion Steering Committee, “The Basic Law of the HKSAR,” <[http://www.info.gov.hk/basic\\_law/fulltext/main.htm](http://www.info.gov.hk/basic_law/fulltext/main.htm)>.

<sup>16</sup> “Hong Kong Under Threat,” *The Wall Street Journal*, December 16, 2002.

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groups, such as the Falun Gong, that are outlawed in the PRC.<sup>17</sup> Even the typically politically apathetic business community has voiced concern that these new laws could lead to a restriction of the flow of information necessary to the proper functioning of business in the territory. These worries, in addition to the severe penalty of life imprisonment that accompanies these crimes, have led the local and international community to demand that the proposed Article 23 laws be more clearly defined and explicated.<sup>18</sup>

Although the Basic Law came into effect on July 1, 1997, steps to act on the national security measures stipulated in Article 23 were not taken until the fall of 2002. On September 24, 2002, the government released a proposal to implement new security laws in accordance with Article 23. On December 24, the government ended a three-month consultation period on the implementation of the new legislation. On February 26, 2003 the National Security (Legislative Provisions) Bill was introduced into the Legislative Council. With the Hong Kong administration hoping to wrap up the process of enacting the proposal into law by July 2003, local and international observers accused the government of rushing this set of controversial laws in order to please Beijing.

Despite strong opposition, on June 24, the Bills Committee of the Legislative Council, with its strong pro-Beijing majority, supported the government's proposal to resume the second reading of the bill on July 9, 2003. On July 1, 2003, more than 500,000 people took to the streets in Hong Kong to demonstrate

against the enactment of the Article 23 measures. This marked the largest popular protest to have occurred in China since the 1989 Tiananmen demonstrations. Despite this massive display of public dissatisfaction, Chief Executive Tung Chee-hwa announced on July 5 that the bill would go ahead as scheduled but with three new amendments. However, on July 6, James Tien, chairman of the Liberal Party, resigned from the Executive Council, taking with him eight pro-government votes. The following day, knowing that the loss of support from the Liberal Party would mean that the National Security Bill would not pass through the Legislative Council, Tung postponed the second reading of the bill. Finally, in a move

that stunned local and international observers, the Chief Executive postponed the legislation on September 5 indefinitely with no timetable set for its reintroduction.

Although Hong Kong legislators first introduced the legislation, the impetus to

act on the Article 23 measures has widely been believed to be provided by Beijing.<sup>19</sup> Because the laws mostly address issues that are of concern primarily to the mainland and not to the SAR, the assumption that these latest developments originated from Beijing is not unfounded. Adding further credence to this assumption is the fact that Hong Kong's Secretary for Security, Regina Ip, who spearheaded the government drive to enact the Article 23 laws, was appointed to her position directly by the Central People's Government and has strong relations with the leaders of the CCP.<sup>20</sup>

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<sup>17</sup> “Except when China doesn't like it,” *The Economist*, April 20, 2002.

<sup>18</sup> “Hong Kong Under Threat.”

<sup>19</sup> “Except when China doesn't like it.”

<sup>20</sup> HKSAR Government Information Center, “The Honourable Mrs Regina IP Lau Suk-ye,”

[http://www.info.gov.hk/info/cv\\_sfors\\_e.htm](http://www.info.gov.hk/info/cv_sfors_e.htm) (accessed April 1, 2002). Ip resigned from the cabinet in July 2003.

### Content Analysis of Article 23 News Coverage

The views expressed in the *Ta Kung Pao* (*TKP*) and the *Wen Wei Po* (*WWP*) newspapers can be used as an indicator of the official party line. Because these two Hong Kong-based newspapers are PRC-owned, they receive guidance from the CCP's Propaganda Department and are subject to editorial review by Beijing. Thus, an analysis of the news coverage of these two mainland-controlled newspapers may help us understand China's motivations with regard to the national security laws.

An examination of the coverage of the Article 23 controversy found in *TKP* and *WWP* leading up to the protests of July 1, 2003 indicates that China's handling of the Article 23 legislation has largely followed the two premises of its HKSAR policy: exercising complete sovereign control over Hong Kong while doing whatever it needs to do to retain confidence in the region so as to ensure continued stability and prosperity. By moving to implement Article 23, Beijing is foremost showing that Hong Kong is a part of "one country" and therefore cannot be a place where challenges to the PRC's sovereignty are tolerated. At the same time, the timing of the legislation and the efforts to promote the image of Hong Kong as acting on its own to enact these measures all point to Beijing's desire to project a sense of flexibility so as to retain confidence, stability, and prosperity in the region.

Evidence that, in implementing Article 23, Beijing is foremost intent on ascertaining its ultimate sovereignty over Hong Kong can be seen in the extensive reporting on Hong Kong's duty to enact Article 23, as well as the

emphasis on characterizing Hong Kong and China as "one country." For example, Qiao Xiaoyang, vice chairman of the Legislative Affairs Commission of the National People's Congress (NPC), clearly articulated this concern in his article in the *WWP*: "To safeguard the state's *sovereignty* and *unity* [emphasis added], under Article 23 of the Basic Law, the HKSAR is *obligated* to enact laws on its own to prohibit any act [that endangers national security]."<sup>21</sup> Also, as written in the December 16, 2002 editorial of the *TKP*, "The legislation of Article 23 is the *constitutional responsibility* [emphasis added] of the government of the special administrative region as well as the *civil responsibility* of the vast number of *Chinese citizens* in Hong Kong."<sup>22</sup>

Following along the lines of emphasizing Hong Kong and China as one unit, the *TKP* and *WWP* also tied support for Article 23 with Chinese nationalism: any criticism aimed at the proposal, the two newspapers have claimed, is being unpatriotic and excessively aligning with the West. In an editorial about a rally in support of Article 23, a *TKP* journalist wrote:

Why would the Hong Kong people not support and love such a motherland, and what reason is there for them to refuse to carry out their obligations and responsibility as citizens of this country by not enacting the law to protect state security? [ . . . ] Being a part of the Chinese people, it is actually the greatest happiness and honor of the Hong Kong people to have the opportunity to enact Article 23 and to shoulder the responsibility of protecting state security.<sup>23</sup>

<sup>21</sup> Qiao Xiaoyang, "The Basic Law is the Guardian Angel Watching Over the Principle of 'One Country, Two Systems,'" *Wen Wei Po*, September 27, 2002, trans. in World News Connection (WNC) April 15, 2003, document FBIS-CHI-2002-0927.

<sup>22</sup> "The Legislation of Article 23 Will Take Public Opinion into Consideration," *Ta Kung Pao*, December 16 2002, trans. in WNC April 15, 2003, document FBIS-CHI-2002-1216.

<sup>23</sup> "The Winter Enthusiasm in Support of Legislation Warms the People's Heart," *Ta Kung Pao*, December 23, 2002, trans. in WNC April 15 2003, document FBIS-CHI-2002-1223.

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In dealing with criticisms of Article 23, both papers vilified prominent critics of the proposed legislation, especially Martin Lee, the leader of Hong Kong's Democratic Party, Bishop Joseph Zen Ze-kiun of Hong Kong's Catholic Diocese, and Anson Chan, the former Chief Secretary of the HKSAR. In an editorial reporting on Lee's visit to Washington, *TKP* reporter Kuan Chao described Lee's reaction to President Bush raising the Article 23 issue at a meeting with Jiang Zemin:

Look! Martin Lee's reaction is just like a gray-haired female attendant waiting in the empress's palace who has been out of favor with the emperor for a long time and is occasionally recognized by the emperor when she is among a crowd of people. One careless glance of the emperor is enough to make the poor slave burst into tears of gratitude . . . Martin Lee was like that – lying completely prostrate at the feet of the foreigners.<sup>24</sup>

Similarly, because of Bishop Zen's repeated public criticism of Article 23, the *TKP* called him "anti-China in his bones" and accused him of uttering remarks "which are aimed at opposing China and bringing disorder to Hong Kong."<sup>25</sup>

In linking nationalism to the Article 23 legislation, the newspaper coverage indicates Beijing is concerned, above all, with the sense of unity and solidarity of the Chinese people, regardless of mainland or Hong Kong resident status. This solidarity of the Hong Kong people with the PRC – under the banner of nationalism – carries the message that Hong Kong is an inextricable part of the country and

a territory over which the PRC holds ultimate sovereign control.

The Article 23 issue has also exposed Beijing's view that, in order for the PRC to exercise complete sovereign authority over Hong Kong, the people of Hong Kong must respect the integrity and maintenance of "one country." Views favorable to Taiwan independence have, for instance, been classified as challenges to the sovereignty of the PRC that cannot be tolerated in the HKSAR. In an article published by the *TKP*, Tsang Hin-chi, a member of the Standing Committee of the National People's Congress, stated:

The media in Hong Kong should not interview "Taiwan independence activists." Under "one country, two systems," Hong Kong should put emphasis on "one country" and not "two systems." It should take on the responsibility of realizing the great cause of reunification of the nation. It should not give publicity to any people who engage in separatist activities . . . The media should not interview people who are in favor of Taiwan independence. The media should be very careful even if they provide news coverage on that score or else they should not provide any coverage.<sup>26</sup>

Altogether, Beijing has conceived Article 23 as a means to protect national security by preventing activities that may threaten the sovereignty and stability of the PRC from being carried out in the HKSAR. As a *TKP* editorial stated, "The legislation of Article 23

<sup>24</sup> Kuan Chao "The 'Evil Spirit' Indeed Exists," *Ta Kung Pao*, October 28, 2002, trans. in WNC April 15, 2003, document FBIS-CHI-2002-1028.

<sup>25</sup> Li Shaowen "Tsang Hin-chi Accuses Joseph Zen Ze-kiun of Uttering 'Out-Of-Place' Remarks," *Ta Kung Pao*, October 12, 2002, trans. in WNC April 15, 2003, document FBIS-CHI-2002-1012.

<sup>26</sup> "Chinese Officials Say Article 23 of HK Basic Law not to Affect Freedom of Speech," *Ta Kung Pao*, September 17, 2002, trans. in WNC April 15, 2003, document FBIS-CHI-2002-0917.

ensures national security and prevents Hong Kong from being used as a base for separatist and subversion activities.”<sup>27</sup>

To some local and international observers, Article 23 seems to indicate increased censorship and decreased freedoms in Hong Kong and, thus, a shift in China’s policy toward the SAR. However, rather than being a dramatic departure from previous policies, Article 23 ultimately aims to protect the sovereignty and stability of the PRC, two longstanding concerns that have always been a top priority of China’s Hong Kong policy. Given the PRC’s ultimate preoccupation with sovereignty due to its historic experience as a victim of imperialism, not tolerating activities that could threaten its sovereignty is very much in keeping with China’s longstanding policies. As detailed above, for pragmatic reasons Beijing will be flexible in allowing the “two systems” to coexist so long as the overriding principle of sovereignty is not jeopardized. Deng stated in April 1987:

“ALTOGETHER, BEIJING HAS CONCEIVED ARTICLE 23 AS A MEANS TO PROTECT NATIONAL SECURITY BY PREVENTING ACTIVITIES THAT MAY THREATEN THE SOVEREIGNTY AND STABILITY OF THE PRC FROM BEING CARRIED OUT IN THE HKSAR.”

It is the policy of the Central Government that the interest of Hong Kong should not be harmed, and we also hope that nothing will happen in Hong Kong itself that will harm its interest or the interests for the country as a whole . . . After 1997 we shall still allow Hong Kong people to criticize the Chinese Communist Party and China, but what if they should turn their words into action, trying to convert Hong Kong into a base

of opposition to the mainland under the pretext of “democracy?” Then we would have no choice but to intervene.<sup>28</sup>

Thus, Article 23 aims to ensure that freedoms enjoyed in the “two systems” do not threaten the overall interest of maintaining “one country.”

Some may argue that the push for the Article 23 legislation represents a change in Beijing policy because the CCP leaders could have chosen to take this step soon after the 1997 handover, while it in fact did not do so. This argument, however, overlooks the fact that Beijing had always intended to follow through with Article 23 and that it did not push for the legislation not because it was

unwilling, but because of its assessment of the international climate after the handover. Indeed, during the first five years of China’s rule over Hong Kong, top officials in Beijing deemed this set of laws too sensitive to further act on. Careful not to make any moves that might harm confidence in the region and cause panic at the

outset of resuming sovereignty, CCP leaders had allowed a strategic delay in acting on Article 23. As Qian Qichen, Vice Premier of the State Council, stated in an interview with Hong Kong’s Asia Television network, “During the five years of the first-term government, the article was not implemented because successful implementation required ripe conditions to ensure that the people had come to a similar understanding.”<sup>29</sup>

<sup>27</sup> “The Legislation of Article 23 Will Take Public Opinion into Consideration.”

<sup>28</sup> Deng Xiaoping, “Speech at a Meeting with the Members of the Committee for Drafting the Basic Law of the Hong Kong Special Administrative Region (April 16, 1987),” in *The Bureau for the Compilation and Translation of Works of Marx, Engels, Lenin, and Stalin Under the Central Committee of the Communist Party of China*, trans., *Deng Xiaoping on the Question of Hong Kong* (Beijing: Foreign Languages Press, 1993), 58.

<sup>29</sup> “Qian Qichen: Only Those with Something Devilish to Hide Fear the [Anti-Subversion] Legislation,” *Wen Wei Po*, October 26, 2002, trans. in WNC April 15, 2003, document FBIS-CHI-2002-1026.

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Subsequently, conditions during the fall of 2002 were considered optimal for introducing these laws because of the global post-September 11 climate. In particular, there were extensive references in newspaper coverage to the need to protect “national security” in light of the global war on terrorism. This suggests that the leaders in Beijing found the international political environment to be more conducive to implementing the controversial laws for “national security,” which was of course Article 23’s intent. An editorial dealing with Article 23, entitled “Stability is of Critical Importance to Hong Kong’s Economy,” opened with reference to the terrorist bombings on the Indonesian island of Bali.<sup>30</sup> In an article featured in the *WWP*, Xu Shimin, a member of the Chinese People’s Political Consultative Conference Standing Committee, wrote, “The current international situation is turbulent with terrorists doing damage everywhere and big, hegemonic powers going on a rampage . . . In order to build up our own national defense and safeguard our national security, we should never allow the HKSAR to become an unfortified ‘anti-Chinese’ base.”<sup>31</sup>

The coverage in *WWP* and *TKP* in late 2002 also stressed the universality of such national security laws in an era of threatening instability. In a special series entitled “All Countries Have Legislation to Punish the Seven Crimes [referring to treason, secession, sedition, subversion, theft of state secrets, activities of foreign political bodies, and

establishing ties with foreign political bodies],” Article 23 was compared in detail to existing laws in the US, Germany, Great Britain, Switzerland, France, Spain, and Italy.<sup>32</sup> At a time when even the United States was willing to sacrifice a degree of individual freedom for national security, the top Chinese officials clearly sensed the opportunity to qualify certain liberties enjoyed by the Hong Kong people in the name of protecting national security.

Thus, Beijing was simply waiting for an appropriate time to implement Article 23. Its existence in the Basic Law indicates that Beijing had always intended to implement this set of laws in the HKSAR. Indeed, Article 23 was added to the Basic Law following the huge outpouring of support in Hong Kong for the 1989 Tiananmen student democracy protests. Thus, as early as 1989, the mainland authorities had already shown their intention to prevent Hong Kong from becoming a source of dissent and a base for subversives.<sup>33</sup>

The fact that Beijing waited for five years after the handover to act on these laws merely underlines the willingness of the PRC’s top leaders to be flexible in the timing and manner of implementing their policy directives in order to maintain ultimate sovereignty over Hong Kong.

Beyond articulating China’s longstanding concerns on national unity and integrity with respect to the territory, the *TKP* and *WWP* coverage also demonstrated an active effort on the part of mainland officials to project the

“ **BEIJING WAS SIMPLY WAITING FOR AN APPROPRIATE TIME TO IMPLEMENT ARTICLE 23. ITS EXISTENCE IN THE BASIC LAW INDICATES THAT BEIJING HAD ALWAYS INTENDED TO IMPLEMENT THIS SET OF LAWS IN THE HKSAR.** ”

<sup>30</sup> “Stability is of Critical Importance to Hong Kong’s Economy,” *Wen Wei Po*, October 16, 2002, trans. in WNC April 15, 2003, document FBIS-CHI-2002-1016.

<sup>31</sup> Xu Shimin, “Legislation of Article 23 belongs to China’s Sovereignty,” *Wen Wei Po*, November 26, 2002, trans. in WNC April 15, 2003, document FBIS-CHI-2002-1204.

<sup>32</sup> *Wen Wei Po*, September 16, 2002.

<sup>33</sup> Michael Yahuda, “Hong Kong’s Future: Sino-British Negotiations, Perceptions, Organization, and Political Culture,” *International Affairs*, vol. 69, no. 2 (April 1993), 245-266.

image of Hong Kong enacting the Article 23 measures on its own. In particular, several articles and editorials in both the *TKP* and the *WWP* quoted mainland officials stating that the drafting and implementation of the Article 23 laws were tasks left to the HKSAR government to deal with. For instance, in an article reporting on the statements made by Gao Siren, the director of the Central Liaison Office in Hong Kong, a *TKP* reporter wrote, "When asked if the SAR government will issue a white bill, Gao noted that it is up to the SAR government to decide."<sup>34</sup> Similarly, the *WWP* published an article with the subsection headline, "Zou Zhekai: Respect the SAR to Enact laws on Its Own."<sup>35</sup> Zou, the deputy director of the Central Liaison Office in Hong Kong, was reported to have said that "we should respect the SAR because it is prescribed in the Basic Law that the SAR Government should enact the related laws on its own"<sup>36</sup> Qian Qichen was also reported in the *WWP* to have said:

In my view, there was not any pressure [on the SAR over enacting Article 23]. Article 23 is the twenty-third article of the Basic Law to being implemented at this time; and the people have already approved the Basic Law . . . It should be made known that no pressure of any kind was applied and the process has been very open and fair.<sup>37</sup>

The emphasis on having mainland officials declare Hong Kong as independently enacting the Article 23 legislation can be interpreted as Beijing's continuing desire to

have an apparently autonomous Hong Kong, so as to retain public confidence in the region. The implementation of the Article 23 laws is being presented as legitimately fitting into the framework of China's "one country, two systems" policy. As Vice Chairman of the NPC Legislative Affairs Committee Qiao Xiaoyang asserted in an article published by the *WWP*, the HKSAR needs to pass laws on its own against treason and subversion because the Criminal Law of the PRC, which already bans and punishes these acts, does not apply in Hong Kong by virtue of the separation of the "two systems."<sup>38</sup> Thus, he asserted, Hong Kong officials acting on their own to implement the Article 23 measures provides proof of the success of "one country, two systems."

By trying to show themselves as not dictating policymaking in Hong Kong, the leaders in Beijing indicate that they want to appear to be abiding by the mandates of "one country, two systems." Altogether then, although China has emphasized the paramount importance of embracing "one country" through Article 23 legislation, its top leaders are still seriously seeking to project a sense that Hong Kong possesses significant autonomy so as to maintain stability and confidence in the region.

### Conclusion

Contrary to the continued international media hype over the Article 23 controversy, which proposes that Beijing has radically altered its policy toward the former British colony, an analysis of the two PRC-owned Hong Kong newspapers suggests that the

<sup>34</sup> Chan Hsiao-yu, "Gao Siren Expresses Hope for Greater Concern About Economic Issues and People's Livelihood," *Ta Kung Pao*, December 18, 2002, trans. in WNC 15 April 2003, document FBIS-CHI-2002-1218.

<sup>35</sup> Zhuan Haiyuan and Liu Weizhong, "Gao Siren Thinks Article 23 Legislation Will Be Relaxed," *Wen Wei Po*, September 25, 2002, trans. in WNC April 15, 2003, document FBIS-CHI-2002-0925.

<sup>36</sup> *Ibid.*

<sup>37</sup> "Only Those with Something Devilish to Hide Fear the [Anti-Subversion] Legislation."

<sup>38</sup> "The Basic Law is the Guardian Angel Watching Over the Principle of 'One Country, Two Systems.'"

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basis of China's Hong Kong policy has not changed. Beijing has shown this through its stress on the "one country" aspect of the "one country, two systems" formulation and its simultaneous insistence that Hong Kong does have significant autonomy.

China's Hong Kong policy has consistently been centered on pragmatism. On the one hand, Beijing has endeavored to retain sovereignty above all else, and it had always planned to have laws to protect against sovereignty-threatening activity in Hong Kong. This was fundamental to the post-handover structure of the territory. The CCP

leaders have never wanted to allow elements that held views contrary to the official line to use Hong Kong as a soapbox from which to voice their dissidence. On the other hand, CCP leaders have also sought to portray Hong Kong as a genuinely autonomous region in order to lend credibility to its policy of "one country, two systems" and to accommodate international expectations. Beijing's approach in pushing for Article 23 and insisting that Hong Kong's government is taking this on its own is, thus, very much in line with the core and longstanding principles of China's policy toward Hong Kong.