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# Opinion – 25 Years On: Reflecting on Hong Kong's Handover

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MARTIN DUFFY, JUL 2 2022

It is 25 years since sovereignty over Hong Kong was passed from the UK to the People's Republic of China. To be precise this occurred at midnight on 1 July 1997. That ceremony, architecturally ensconced in an impressive Commemoration Monument which now geopolitically dominates the skyline of the island, terminated a British colonial history of almost 160 unbroken years. Thus, with the handover, the island state metamorphosed into a special administrative region of China (SAR) for 50 years, during which (technically) it should have conserved economic and governing systems distinct from those of mainland China. In practice, central government in Beijing has become omniscient, especially after the passing of the Hong Kong national security law in 2020.

The 1997 hand-over formally and precipitously concluded the UK's 99-year lease for the New Territories. The 1984 Sino-British Joint Declaration prescribed how Hong Kong was to be transferred, with China agreeing to maintain existing structures of government under, "one country, two systems" for fifty years. Hong Kong was China's first special administrative region. Next was Macau after its transfer from Portugal in 1999. As someone who has worked intermittently on migration assignments in Hong Kong and the region for a couple of decades, I may be forgiven for offering a few historical time-lines which explain the complex and frustrating events which now cut completely against the will of the majority of the island's population.

In 1997 Hong Kong had 6.5 million people, and was by far the largest of remaining UK colonies. The handover ceremony attended by Lord Patton, the last British Governor, and HRH Charles, Prince of Wales is symbolically heralded to mark the effective end of the British Empire. With the crack-down on pro-democracy activism, Beijing's strangle-hold on Hong Kong's executive powers, the termination of a previously free press, and the increasing engagement of the PRC's tentacles in surveillance of every aspect of the Hong Konger's life, it has become apparent that the island is now fully part of a resurgent Chinese empire. It will not have escaped the vision of an observant local and international population, that Hong Kong is now exclusively part of the PRC. While the Red Army remain confined to barracks, a new style of policing across the island marks a radical departure with the style of law enforcement which had evolved in colonial administration. As the new Hong Kong police practice the goose-step for the Ceremonial Parade of independence on 1 July, it is hard to avoid negative comparisons with the repulsive choreography of Fascist demonstrations during previous world conflicts, or indeed not to conclude that the, "one country, two systems" promise now exists only in name.

Now like all international events, there are two sides of the narrative. The significant phrase, "return of Hong Kong to the motherland" (Chinese: 香港回归祖国) is nowadays preferred by Hong Kong and Chinese officials (although not by the vast majority of the island's residents.) On the other hand, the expression, "Handover of Hong Kong" is used by most of the English-speaking world. "Transfer of sovereignty over Hong Kong" (Chinese: 香港主权移交) was (prior to five years ago) generally the vocabulary of Hong Kong officials but that has now terminated. Beijing maintains that neither the Qing dynasty exercised sovereignty of Hong Kong after ceding it, nor the British therefore did, and hence the transfer of sovereignty to China from Britain is illogical. Beijing has now undertaken, "to fully recover the Hong Kong area" (Chinese: 全面恢复对香港行使主权) and, "to resume the exercise of sovereignty over Hong Kong" (Chinese: 恢复对香港行使主权) which is their interpretation of the Sino-British Joint Declaration. Some of this language is semantically problematical but what is not in doubt is that the British declared "(to) restore Hong Kong to the People's

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Republic of China" (Chinese: 中华人民共和国) which rather makes protestations about human rights abuses in the new Hong Kong to be otiose.

Now it is worth noting that formally Britain had acquired Hong Kong Island in 1842, the Kowloon Peninsula in 1860, and the lease of the New Territories in 1898 and thus portions of Hong Kong's territory through three treaties concluded with Qing China after the Opium Wars. These were respectively the 1842 Treaty of Nanking: Hong Kong Island ceded in perpetuity, the 1860 Convention of Peking: Kowloon Peninsula and Stonecutter's Island additionally ceded and the 1898 Convention for the Extension of Hong Kong Territory: the New Territories and outlying islands leased for 99 years until 1997.

Despite the finite nature of the New Territories lease, this portion became highly integrated with, the rest of Hong Kong. As the end of the lease approached, and by the time of serious negotiations over status in the 1980s, it was thought impractical to separate the ceded territories and return only the New Territories to China. In addition, with the scarcity of land and natural resources in Hong Kong Island and Kowloon, large-scale infrastructure investments had been made in the New Territories, many of them planned way beyond the deadline of 30 June 1997.

When the People's Republic of China (PRC) gained a UN seat as a result of the UN General Assembly Resolution 2758 in 1971, it began to act diplomatically on its previously lost sovereignty over both Hong Kong and Macau. The same year, on 8 November, UNGA removed Hong Kong and Macau from the official list of colonies. As Chairman Deng had outlined his plans to make the territory a special economic zone, which would retain its capitalist system under Chinese sovereignty, the then British Prime Minister Margaret Thatcher sought the PRC's agreement to a continued British presence in the territory. However, the PRC took a contrary position: not only did the PRC wish for the New Territories, on lease until 1997, to be placed under the PRC's jurisdiction, it also refused to recognise what they described as the onerous, "unfair and unequal treaties" under which Hong Kong Island and Kowloon had been ceded to Britain. Consequently, the PRC recognised only the British administration in Hong Kong, but not British sovereignty. While not perhaps fully appreciated at the time, the fatal outcome meant permanent loss of sovereignty over Hong Kong's area, whatever wording the former treaties had.

Indeed, formalising this loss, the Sino-British Joint Declaration was signed by Premier of the People's Republic of China Zhao Ziyang and PM Margaret Thatcher on 19 December 1984 in Beijing. The Declaration entered into force with the exchange of instruments of ratification on 27 May 1985 and was registered by the People's Republic of China and UK governments at the UN on 12 June 1985. In the Joint Declaration, the People's Republic of China Government stated that it had decided to resume the exercise of sovereignty over Hong Kong (including Hong Kong Island, Kowloon, and the New Territories) with effect from 1 July 1997 and the UK declared that it would restore Hong Kong to the PRC with effect from 1 July 1997. In the document, the People's Republic of China Government also declared its basic policies regarding Hong Kong.

In accordance with the, "One country, two systems" principle agreed between the UK and the People's Republic of China, the socialist system of the People's Republic of China would not be practised in the Hong Kong Special Administrative Region (HKSAR), and Hong Kong's previous capitalist system and way of life would remain unchanged for fifty years. Technically this would have left Hong Kong unchanged until 2047. On paper only, Hong Kong Basic Law ensured, among other things, that Hong Kong retained its legislative system, and people's rights and freedom for fifty years, as a special administrative region (SAR) of China. The central government in Beijing maintains control over Hong Kong's foreign affairs as well as the legal interpretation of the Basic Law. The latter has led democracy advocates and some Hong Kong residents to protest that the territory has yet to achieve universal suffrage as promised by the Basic Law, leading to riots in 2014. In 2019, demonstrations that started as a protest against an extradition law also demanded universal suffrage. In December 2021, Beijing released a document, "Hong Kong Democratic Progress Under the Framework of One Country, Two Systems", which stated that the central government will work with, "all social groups, sectors and stakeholders towards the ultimate goal of election by universal suffrage of the chief executive" and the LegCo while also noting that the Chinese constitution and the Basic Law together "empower the HKSAR to exercise a high degree of autonomy and confirm the central authorities' right to supervise the exercise of this autonomy." Again, empty promises which some might say were conveniently taken at face-value by the UK.

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After the Tiananmen Square protests of 1989, the Executive Councillors and the Legislative Councillors of Hong Kong unanimously approached the British Government to offer Hong Kongers right of abode. More than 10,000 Hong Kong residents rushed to get an application form for residency. Chris Patten as the last governor of Hong Kong introduced a package of electoral reforms in the Legislative Council. These reforms proposed to enlarge the electorate, thus making voting in the Legislative Council more democratic. This move posed significant changes because Hong Kong citizens would have the power to make decisions regarding their future. With a resurgent Beijing, what the majority of the people of Hong Kong have been left with is a prime international example of constructive ambiguity. British promises are unenforced and unenforceable while, twenty-five years later, far from genuinely constituting “one country, two systems”, Hong Kong is no longer in any sense a credible democracy. This leaves Beijing and London with entirely mutually exclusive perceptions of a fateful twenty-five-year anniversary.

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### **About the author:**

Martin Duffy has participated in more than two hundred international election and human rights assignments since beginning his career in Africa and Asia in the 1980s. He has served with a wide range of international organizations and has frequently been decorated for field service, among them UN (United Nations) Peacekeeping Citations and the Badge of Honour of the International Red Cross Movement. He has also held several academic positions in Ireland, UK, USA and elsewhere. He is a proponent of experiential learning. He holds awards from Dublin, Oxford, Harvard, and several other institutions including the Diploma in International Relations at the University of Cambridge.