A Five-year Struggle to keep the Hong Kong Political Through-train on Track

Introduction

Anyone who lived in Hong Kong prior to 1997 will know that the Hong Kong "through-train" refers to the original intention of both Britain and China for the Legislative Council elected in 1995 to continue through the 1997 restoration to Chinese sovereignty and onwards to 1999.

There was a condition in the Basic Law to the successful journey on the through-train. That condition is found in Annex III of that constitution for Hong Kong. The Decision adopted at the Third Session of the Seventh National People's Congress on 4th April 1990 reads:

"If the composition of the last Hong Kong Legislative Council before the establishment of the Hong Kong Special Administrative Region is in conformity with the relevant provisions of this Decision and the Basic Law of the Hong Kong Special Administrative Region, those of its members who uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and pledge allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, and who meet the requirements set forth in the Basic Law of the Region may, upon confirmation by the Preparatory Committee, become members of the first Legislative Council of the Region."

This condition was very clear and was well understood by all concerned. Nevertheless, the Basic Law was fractured in several places, making the through-train concept impossible. I shall mention here only the most blatant breaches of the Basic Law:

* Article 158 of the Basic Law states:

  "The power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress".
Indeed, any country has the right to interpret its laws and cannot be subject to dictatorship by any foreign power or individual. Yet Governor Patten, without any consultation with China, took upon himself the right to interpret China's Basic Law for Hong Kong, and in this act of defiance, all British political parties agreed to support him. They are all therefore equally guilty of interference in the rights of the Chinese Government. Credit must be given to the few individuals in the House of Commons, the House of Lords, and retired members of the British Foreign Office, who courageously, and under severe criticism, upheld Britain's honour by pointing out these breaches of faith by their country.

* Another blatant breach of the Basic Law was in the composition of the Selection Committee. According to the Basic Law, this Committee to select ten seats in the Legislative Council was to be composed of four sectors, a proposal that came from the British Foreign Minister Douglas Hurd in early 1990 and was included by China in the Basic Law in April of that year. The Selection Committee was to be composed of Hong Kong citizens including

- 25% chosen from the business sector;
- 25% from among various professions;
- 25% chosen by labour and other grassroots organisations; and
- 25% from among former political and public figures.

The total number in this Selection Committee was to be 400 persons. (See Annex 111 of the Basic Law).

Governor Patten totally ignored this section of the Basic Law but made a pretence of observing the Law by preserving the ten elected seats and setting up his own idea of a Selection Committee, namely, about 300 District Board Members. He was fully aware that the District Board Members would share out the seats among their political parties, which indeed proved to be the case.

* Although the Basic Law did not spell out in detail the nature of the nine new functional constituency seats in the composition of the first Legislative Council, the nature of functional constituencies was well understood, having first been introduced by the colonial government in 1985. Governor Patten made use of this lack of detail by changing the functional constituency elections into the second direct election system in which every worker had a second vote besides his geographical constituency vote. As
workers always far outnumber directors or proprietors, it was obvious that Patten's plan was to destroy the original purpose of introducing expertise into the Council and replacing it with labour organisations. In the event his plan scarcely succeeded in some constituencies, though the concept of functional constituencies was breached by the colonial government that had introduced it. By giving double votes to 70% of the population, Governor Patten was able to claim a large increase in the number of voters. Indeed if anything the number was decreased, since over two-thirds were double votes.

* Article 55 of the Basic Law was also breached by the British side. This Article requires the Executive Council to be appointed from among principal officials, members of the Legislative Council and public figures, as had always been the custom under the colonial government. Patten breached this Article by ousting the officials and the Legislative Councillors, and chose a fully appointed Executive Council, mainly composed of members who would support his political views, following which he took the role of a dictator.

* One of the main bones of contention was Patten's breach of Article 39. This Article promises that the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong would remain in force and be implemented through the laws of the Hong Kong Special Administrative Region. The colonial government trampled on the second part of this article by introducing the Hong Kong Bill of Rights to override the Basic Law and all other laws. This was an explosive move because it left the courts being challenged on serious cases by well-paid lawyers able to find loopholes in the law for their wealthy clients, including expatriates challenging the cancellation of their special privileges as colonials. Some judges complained of the predicament in which they found themselves, having to search the covenants in order to judge crimes to which the previous laws no longer applied. The colonial government proceeded to bring in more and more "rights" which seemed likely to affect law and order and set more criminals free. All the disciplined services as well as the Independent Commission Against Corruption found themselves in the ingenuous position of having to let criminals go free because
of court delays, or by granting bail to likely escapees from the law.

Demón Chris Patten has deservedly had to face the brunt of China's criticism because of his pugnacity and his total ignorance of Chinese customs and etiquette. However, the British Government appointed him not only as a reward for his services to the Tory Party, but also to confront China at every step of the way towards transfer of sovereignty.

One might ask at this point why the very capable Governor, now Lord Wilson, was not given the final Governorship, since he was familiar with Chinese ways and culture, and knew when to stand his ground and when to give way or compromise. Patten knew nothing of diplomacy. Moreover, he controlled the press and the television stations to some extent. The true picture never reached the British press. The media were called in to witness every action of the Governor, whether it was handing out lucky packets of money to the elderly (who would have appreciated more concrete forms of welfare such as housing), or buying a pair of shoes. This led to the false publicity that he was immensely popular. Politicians know how to claim popularity that they do not merit. Patten well deserved the antagonism that those who see behind the façade can understand.

He broke every rule of the governorship by taking political sides and passing his opinions on every issue without first consulting his Executive Council (not that consultation would have made any difference as he listened to no one who did not agree with him).

The colonial Government under Patten united with the small band of anti-China locals in spreading tales of gloom and doom throughout the western world. The media came in their thousands at the end of June to witness the "fun" of Hong Kong's collapse and the arrest of all the dissidents. None of that happened. The handover went without a hitch, and the hectoring of a handful of dissenting voices was easily drowned out by a police rendering of a Beethoven symphony, while the "dreaded" People's Liberation Army were greeted with dancing and singing as they entered the territory.

Unfazed, the dissenting voices are still looking for a cause on which to continue their prophecy of doom. Having rigged the 1995 elections to gain a few seats, they are now accusing China of arranging a rigged election to oust them in 1998. Yet the world was told that they would all be in prison. Will the world swallow their tale of woe this time around? Those who wish us ill will no doubt do so.