



Oral evidence: [The UK's relations with Hong Kong: 30 years after the Joint Declaration](#), HC 649

Thursday 18 December 2014

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Members present: Sir Richard Ottaway (Chair); Mr John Baron; Mike Gapes; Sandra Osborne;

Questions 191-239

Examination of Witnesses

Witness Emily Lau, Leader of the Democratic Party in the Legislative Council of Hong Kong, gave evidence.

[This evidence was taken by video conference]

Q191 Chair: Good morning. Thank you very much indeed for coming along. I only regret that we are not there and able to speak to you in person.

Emily Lau: Yes, so do I.

Q192 Chair: Emily, you are aware that this is on the record and being recorded?

Emily Lau: Yes, I am.

Q193 Chair: On the behalf of the Committee, can I thank you very much indeed for coming today? We consider this to be an important inquiry and it would be unthinkable to do it without having a conversation with you. To start with a general question, what are your views about the direction in which Hong Kong is going? Do you think “one country, two systems” is working and is sustainable?

Emily Lau: Mr Chairman and members of the Committee, thank you for giving me the opportunity to talk to you, although I was expecting to see you all in Hong Kong. I was stunned by the Chinese Government’s reaction.

Anyway, it is important that Parliament and the UK Government take a close interest, because the UK signed the Joint Declaration 30 years ago. I am not telling you anything new, but I think that I speak for the vast majority of the Hong Kong people when I say that most of them feel that Britain never cared too much for us. Ever since the handover, Britain did not pay us much attention at all. Even before the handover, one famous expression that was often quoted—I don’t know whether it was said by some former Prime Minister—was: “The future of Hong Kong is now behind us.” I think that many people feel that Britain has always been

very eager to make money, because you are a commercial nation; you want to trade. Some would say that you do not mind selling us down the river so long as you can get rich and prosper.

The thing is, I have never had any good feelings about it. I will just remind you of the question I put to Maggie Thatcher when I was a journalist, two days after the signing of the Joint Declaration in December 1984. I was working for the *Far Eastern Economic Review* as their Hong Kong correspondent, and I said, “Prime Minister two days ago you signed an agreement with China promising to deliver over 5 million people into the hands of a communist dictatorship. Is that morally defensible, or is it really true that in international politics the highest form of morality is one’s own national interest?” Of course, she was prepared for the question and said, “What do you mean? Britain has done her best for you. We have done everything we could and everyone in Hong Kong is happy with the agreement. Everyone is happy, and you may be a solitary exception.” If you remember George Orwell’s “1984”, you will probably recall that “solitary exception” was the definition of insanity.

In order to prove Maggie wrong, I got myself elected with a whopping majority in 1991, which was the only time that the Brits and the Chinese agreed to allow Hong Kong to have elections to the Legislative Council, in a very limited way—18 out of 60 seats. So I am no longer a solitary exception, and I speak for the vast majority of Hong Kong people who feel that they have been let down by the British. It is not that we wanted you to go to war with China over Hong Kong, as with the Falkland Islands. I was in the UK at the time, and I remember you people and Sir Anthony Kershaw saying, “We have to defend the Falkland Islanders because they are kith and kin.”

Hong Kong is different. Hong Kong’s situation is unique. No, we never asked Britain to go to war. You do not need the Atlantic Conveyor and others to go to war with China, but we are saying that you should have given us democracy. When you had talks with China in the late ’70s and early ’80s, they should have been tripartite negotiations, like the negotiations over the Falkland Islands. You never gave us representative Government—there was no one to represent Hong Kong, only the British and the Chinese Governments engaged in secret negotiations that ended up with the Sino-British Joint Declaration.

Then, when you decided to hand Hong Kong back to China, more than 3 million people out of the 5 million-odd were British citizens, but Parliament passed a series of laws, including those in the early 1980s, to downgrade us to British dependent territory citizens, and then later to BNOs—British nationals overseas. I will tell you what Hong Kong people say that stands for: Britain says no.

Q194 Chair: How do you feel that the “one country, two systems” is working?

Emily Lau: I do not think that it is working very well. I do not know whether you have seen the White Paper that was published by Beijing on 10 June this year.

Chair: We have seen it.

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Emily Lau: It is on the practice of the “one country, two systems” policy in the Hong Kong SAR. There are many parts that upset and anger Hong Kong people a lot, such as on page 9 where it says that the central Government exercises “overall jurisdiction” over Hong Kong. People say, “Wow. Where does this leave our high degree of autonomy, this overall jurisdiction?”

If you then turn to page 46 about the judiciary, which is very close to our heart, an independent judiciary, independent legal system and the rule of law is a very precious British legacy. We have never had democracy—we still don’t—but we have the rule of law. People are equal before the law and the judiciary is very independent, as is the legal profession. We are very proud of that. But what did China say in the White Paper? China lumped the judges together with all the administrators of Hong Kong—the executive authorities—and said that judges must be patriotic and must love the country and have this basic political requirement. It then says that they are part of the political elites who run Hong Kong. This is crazy. The judges are not part of the executive authorities; the Chinese got that wrong.

Furthermore, many of the pro-Beijing politicians here knew nothing about this White Paper until a few hours before it was published. They actually blushed when they saw these mistakes. “One country, two systems” is under tremendous stress and people are very worried. I do not know when we will have democracy.

Q195 Chair: Thank you. Have you had a chance to meet the protesters? What is your opinion of what they are up to and their campaign?

Emily Lau: Are you talking about the umbrella movement?

Chair: Yes.

Emily Lau: Yes, of course. I am one of the protesters, and I was arrested last Friday. I was actually arrested twice.

Q196 Chair: I should rephrase that. You mentioned the umbrella movement; I meant the student protesters. What is your view of them?

Emily Lau: The student protesters are there together with all the other protesters of different ages, so it is difficult. I do not think that it would be wise to separate them. Of course, it is true to say that many of the protesters are young people—that is why the whole thing is so captivating—but they are all together. Of course I have met the student protesters. I had a meeting with them yesterday. We are all in it together, in the movement.

Q197 Chair: I am just trying to establish if you align yourself completely with their position.

Emily Lau: Not completely. I support peaceful and non-violent demonstration. If there are protesters, young or old, who advocate confronting the police, trying to jostle with them or trying to break up property, I do not support them. We refuse to take part in such actions, but we are still together, fighting together, and we hope that one day democracy will prevail.

Chair: I think that your position is completely understandable.

Q198 Mike Gapes: It is very good to see you again. Many years ago, I came to Hong Kong with the Foreign Affairs Committee in the 1990s. Now that the umbrella protests and street protests have been effectively ended, what does that mean for the political reform process? Where is that likely to go?

Emily Lau: You are, I am sure, familiar with the decision that the National People's Congress Standing Committee made on 31 August. That was the origin of the protests, because people feel there is no way a democratic electoral system will come out of the structure provided by the NPCSC. That is why the people were so angry; they were angry because China—Beijing itself—had promised us that we could have direct election of the CE in 2017.

Beijing has said many times that the NPCSC decision will not be changed. They have also said that, maybe early next month, they would start the second round of consultation to see how they can implement the decision, but my party and other pro-democracy parties have said that we will boycott the second round of public consultation, because we don't think it will lead to anything meaningful.

Even if you read your Foreign Secretary's report to Parliament in July, which sums up the first six months, he—Mr William Hague—refers to the fact that there should be "genuine choice" for the voters. We all know what genuine choice means.

Q199 Mike Gapes: If you are boycotting this process, does that mean that you don't believe it is possible there will be any compromise or any improvements on the current proposal, or do you think that the tactic of boycotting might lead to something better than participating might?

Emily Lau: Well, one way or the other, something good could come out of it¹. The test is very simple. They say Beijing's decision is only a framework, and they will fill in the details. If they are able, by filling in the details, to show the whole world that they can still come up with an electoral system that gives voters genuine choice, I think my party would be happy to have a very good look at it. Some of them are saying, "Hey, don't say no so soon, because that is possible." I don't think it is possible, given the structure, but if it is, they should come out with it; nobody is saying that they shouldn't.

Q200 Mike Gapes: I understand that the final package proposed from Beijing will require approval by a two-thirds majority of LegCo. Do you think that is likely? What is the implication if LegCo says no?

Emily Lau: I don't think they will get a two-thirds majority. The two-thirds majority is provided for in the Basic Law. If they don't get it, that means the package is voted down, and the electoral system will remain unchanged. That means a Committee of 1,200 will elect the Chief Executive, as they did in March 2012.

¹ Note by witness: I intended to say "one way or the other, nothing good could come out of it".

Q201 Mike Gapes: Isn't that worse than even a modest reform, from your point of view?

Emily Lau: Well, you have to remember that this is about a promise by Beijing to Hong Kong that we can elect the Chief Executive by universal suffrage in 2017. Now, of course, they insist this is universal suffrage, because it is one person, one vote. Forget about the fact that people are not free to nominate—you are not free to stand, you are not free to nominate—because you are free to vote. I don't think that is universal suffrage. For us to support it would mean that we were supporting a big lie and telling the people, "Hey, this is genuine democracy," when it is not. How can we, hand on heart, tell such a lie?

Mike Gapes: Thank you very much.

Q202 Sandra Osborne: Hello. My name is Sandra Osborne. I am a Scottish MP. In its last six-monthly report, the Foreign and Commonwealth Office said that the rights and freedoms protected in the Joint Declaration have been upheld. What do you feel about that?

Emily Lau: I don't think so. First, we don't have political freedom—the right to elect our Government. One other very important freedom is the freedom of the press. I speak as a former journalist. I note that yesterday you talked to Mr Fenby. I used to work in the same organisation as him—the *South China Morning Post*. I also worked for the BBC in London—I worked for "Newsnight". If you look at the journalistic scene here, you will see that many journalists—they are poorly paid, but very dedicated—are under tremendous pressure from their employers, and the Chinese and Hong Kong Governments, so there is very heavy self-censorship. The Government uses all kind of means to put pressure on the media, such as excluding them from certain Government briefings and putting obstacles in their way to prevent them from covering Government activities. Some of them are not allowed to go to mainland China to cover Hong Kong events that are happening across the boundary. I, of course, speak as someone who has been banned by the Chinese Government from travelling to mainland China for more than 20 years.

Our Legislative Council has 70 members, and at least seven have been banned for more than 20 years. We can go to the UK or anywhere else, but we cannot go to mainland China and, on some occasions, we are even banned from going to Macau. So freedom of travel and press freedom are under tremendous pressure. The reports compiled by the Hong Kong Journalists Association will give you a good catalogue of the things that happen.

There was a debate on protecting press freedom in the Council earlier this year after the senior editor of *Ming Pao* was not hacked to death but severely attacked. I moved an amendment listing at least 12 or 15 incidents of vicious attacks on journalists in the past five or 10 years. The majority of those attacks took place after Mr CY Leung became Chief Executive in June 2012. Most of them were never detected, so I said, "What message are we sending out to the community? Go ahead—hit them and kill them. Nobody will come after you." That is a terrible, vicious signal.

Thank God we still have brave men and women who want to work in journalism for such low pay, long hours and heavy pressure. When they go to mainland China, some of

them get beaten up, and the Hong Kong Government and their employers do not stand up for them. It is a very sorry saga.

Q203 Sandra Osborne: We had a very interesting conversation with the journalists. You said that the UK has as moral obligation to ensure the effective implementation of “one country, two systems”. You have already told us your views about the past negotiations and the UK’s role, which you see as disappointing. What do you think the UK can realistically do now to ensure that “one country, two systems” is more effectively implemented?

Emily Lau: I think you should look at the Joint Declaration, and see what Britain’s responsibility is. A question was asked in the Legislative Council yesterday about the effectiveness of the Joint Declaration and whether it is null and void. The Minister who answered the question—the Secretary for Constitutional and Mainland Affairs, Mr Raymond Tam—said that the provisions of the Joint Declaration have been fully implemented, and its purpose and objectives have been fully fulfilled. He said that the UK has no sovereignty, jurisdiction or right of supervision over Hong Kong, and that there is no such thing as a moral obligation.

But my question is this. You signed an agreement, which was an agreement between Britain and China. China is now saying, “No more”, and many papers in Hong Kong are today saying, “The Joint Declaration is history. It has no role to play.” My question is, is it possible to have a breach of the Joint Declaration, like a breach of any agreement? They promised us 50 years of freedom—a free, capitalist lifestyle for 50 years after ’97—but what if, in two years’ time, Beijing suddenly said, “Okay, now it is one country, one system. You have our socialist lifestyle”? Would that be regarded as a breach? If it is a breach—I am sure it is not the only possible breach of the Joint Declaration—should Parliament and the UK Government do something?

Chair: We are.

Sandra Osborne: That is why we are having this inquiry.

Q204 Mr Baron: Mrs Lau, some of us—indeed, many of us—are concerned about the UK Government’s, perhaps, lack of robustness with regard to what is happening in Hong Kong. The fact that this Committee has been refused entry is almost unknown, and the FCO’s response illustrates our wider concerns. The strongest terminology we could get out of the FCO was that what had happened was “regrettable”—that was said to the Chinese Ambassador, who formerly served in North Korea, so hearing that from the FCO must have left him shaking in his boots.

Can I put a question to you, as someone who has not been allowed to travel to the mainland for 20 years, because of your pro-democracy credentials in Hong Kong? The FCO has asserted that the White Paper did not mark a substantial shift in China’s policy towards Hong Kong. You have quite categorically said that the UK should be condemned for believing that. For our records, why have you said that? More importantly, perhaps, what do you think the UK Government should now do, given that there are those in the Foreign and Commonwealth

Office who believe that the room for manoeuvre—the levers of influence—is somewhat limited?

Emily Lau: I think the White Paper and the things the Chinese Government have been up to have sent shivers down the spines of many Hong Kong people, who feel that their aspirations for democracy and human rights are not being met and are, in fact, being threatened. When we march, some people take out the colonial flag, which, of course, upset Beijing no end. On one occasion, I was told that the colonial flag was so popular that the printer had to work overtime to produce many copies so that the people can carry them when they march. People say, “Why do they carry that flag?” I think people are just reminding themselves of something that may be better—I use the word “may”.

That shows grave dissatisfaction with the current situation. Colonial rule, of course, was no good—I never supported it—but after the change of sovereignty, we are no longer a colony, and with the promises in the Joint Declaration and the Basic Law, the people, rightly, look to better days, when we will actually progress towards democratic government, and our rights and freedoms will be fully protected. But now, as I told you, press freedom is not protected, and the freedom of assembly, the freedom to march and so on are also being threatened. So people just think that things are not going in the right direction.

But the UK Government and the Hong Kong British consulate have been very quiet. As I told you at the very beginning of this session, many Hong Kong people and, in fact, many people in the international community—I travel quite widely—often tell me that the Brits are mainly concerned about making money and looking after their own commercial and, maybe, political and diplomatic interests, and really have little time for tiny little Hong Kong.

Maybe we should not just blame the FCO. I don’t know if you ask yourselves what Parliament—the House of Commons or the House of Lords—has done or said about giving Hong Kong support. Some people will say, “Oh well, I won’t do that, because China will accuse us of interfering in Chinese affairs.” But I think Britain has a right to comment, because you are a signatory to the Joint Declaration. Furthermore, human rights issues transcend national boundaries. We should all speak out when there are atrocities and when human rights violations happen anywhere in the world. But, sadly, many of your allies have spoken to me and said, “Why should we speak out if the Brits are so quiet?” I don’t think I am telling you something you have never heard.

I would not accept that it is just certain people at the FCO dictating such a policy; it is a policy which probably is quite widely shared, or at least connived at, by Members of Parliament. Now that you people have been banned, it seems you are doing nothing. The US Congress passes laws at the drop of a hat if there is a consensus. If people ban them, what do they do? They pass a law to ban them back. I don’t see you people doing anything. Some say, “Okay, if they ban you, at least you should ban the NPC delegates from China.” Do you never consider that?

Q205 Mr Baron: I am sure that has been considered, but can I assure you that this Committee’s role is to scrutinise particularly the FCO, but also, by implication, the Government, and we are very much concerned about what is happening in Hong Kong. This

is one reason we are conducting this inquiry. We will not be afraid to be critical if that is the consensus view of the Committee.

Can I bring you back, though, to some of our questions? There is a view that Britain's position on this issue is somewhat weakened by the fact that we never introduced democracy when we were in control prior to the handover and, therefore, that it is a little cheeky of us to then insist that the Chinese do so. I don't think that is what you are saying. You are saying that there are joint signatories to a treaty, in effect, and that both sides should honour them. But what would you say to our critics and those within the FCO who sometimes come out with that line?

Emily Lau: I think that you are, of course, in a very weak position—hence my question to Maggie Thatcher in December 1984. When people say that to me, I say that the fact that we didn't have democracy then doesn't mean that we shouldn't have it now. In the case of the UK, first you have to come out and act—apologise, be contrite and say that it was wrong for the previous Parliament and Government not to implement democratic elections in Hong Kong. In fact, I moved a Bill in the Council in 1994 for a fully elected Council, which was defeated by one vote. Chris Patten was very instrumental in making sure that my Bill was defeated. He proposed a drop of democracy, which was quite pathetic. You have to come out and say, “We were wrong. Britain was wrong in the past.” We can now see that the Hong Kong people—many of them and many young people—would like to have democratic elections. What is more, it is something that has been promised by Beijing. No one is foisting something on Beijing. We just hope that they would carry out that promise.

As for universal suffrage, there is an international definition and it does not only include one person having the right to vote. The right to stand for election and the right to be nominated as a candidate should also be free and fair. These are fair comments that you people can make, but you seem to be so shy. I notice that William Hague hit the right word when he said, “genuine choice”. But Prime Minister Cameron said, “proper choice” and “real choice”. Somehow, those words—“genuine choice”—cannot come out of his lips. I don't know why. I hope that the FAC can, in a very straightforward manner, come out and say what needs to be said.

Q206 Mr Baron: Thank you for that. There is a concern that you are right about us allowing trade considerations to influence our view of things here, and that is perhaps why we are a little too quiet about these issues. Could I ask you, Ms Lau, to summarise where you think the Joint Declaration has been breached so that we could point to a country? If we were suggesting to the FCO where they should be speaking out, where would you highlight? What are the key issues as far as you are concerned? Perhaps after that, you could explain what you think Britain now, looking forward, should be doing about it. Should we be thumping the table about this, and do you think it would have any effect?

Emily Lau: I think not, because the Joint Declaration does not have such specific things on election. But it does say that you would guarantee our free lifestyle and the rule of law. If you talk to people here—the lawyers, the other political activists and the students—they will tell you that all the freedoms we cherish are under tremendous stress. Maybe it is not the point to say that the JD has been breached, but that it is going down the wrong

direction and that we are very, very worried. Even in such a situation, I think that the UK Government can comment on the developments and the fear and concern of the Hong Kong people that, if such things continue to develop in that direction, it may lead to a breach one day. That would be very serious. If they now say that the Joint Declaration is null and void and just part of history, I don't think that that should be accepted.

You people should comment on the disturbing developments and have a position. Even though you care about trade—I hope you will not get me wrong; I am all in favour of people trading with China and Hong Kong. I would love for the whole world to come and invest in Hong Kong. I think you can do everything, not just say, “Oh, if I talk loudly about Hong Kong, then we will not trade.” No, you can, but of course China will say, “If you do that, I will not trade with you.” The Chinese Premier, Mr Li Keqiang, was in the UK recently. I do not know how many millions of pounds of contracts he brought with him. Sometimes you have to pay a price.

I was in Norway two months ago—tiny little Norway. They gave the Nobel peace prize to the Chinese dissident, Liu Xiaobo, a few years ago, and China has been punishing them ever since. When I arrived in Norway, China announced a ban on the sale of salmon. I met the Foreign Office people there and they looked a bit unhappy. So there are ways that China will use to punish you. For everything you do, there are consequences, my dear friends, and if you are so unwilling to take any of the consequences, you will take something on your conscience.

Q207 Mr Baron: I don't know how closely you follow proceedings in the House of Commons, but we have already raised this issue as a Committee on the Floor of the House of Commons. Many of us have expressed concern not only about what China is doing, but more specifically about the lack of response by the FCO. This Committee is looking at this issue now, so I am afraid you will have to wait to see how we conclude our investigation into this matter, but I can assure you this Committee has in the past been very outspoken in its criticisms and we will continue to be so if we think it merits it.

I have one final question, if I may. There is a view also that by banging the table—I am putting this view to you; it does not mean we necessarily agree with it, but we have to look at both sides in coming to, hopefully, a balanced report—we may be making life more difficult for the protestors in Hong Kong, because what we do not want is China acting in an irrational way. Do you think there is any chance of that?

Emily Lau: Any chance of China acting in an irrational way?

Q208 Mr Baron: If Britain were to suddenly bang the table very loudly and make a fuss on the international stage and say, “Look, this is an international treaty that has basically been broken by the Chinese, and we have a moral obligation to bring this to light as the co-signatory”, what effect would that have in Hong Kong itself? Would there be a backlash within Hong Kong?

Emily Lau: Well, not among the Hong Kong people, but perhaps a backlash against the British Government. If you have to do certain things, you have to do them, but are you so

frightened that you say, “If I do this, China will do that”? You may act the same way with Syria, Russia and ISIS. Are you telling me that, because of a possible backlash, you would refrain from taking action that you think should be taken? Is that what you are telling me?

Mr Baron: No. Can I put your mind at rest? I cannot speak for everybody on the Committee, but I certainly am not concerned about the backlash. Thank you for your time and thank you for your bravery in standing up for democracy in Hong Kong.

Q209 Mike Gapes: Can I take you back to your remarks about the position being taken by the British Government? Part of our purpose in holding our inquiry is to examine and scrutinise the role of our own Government and its representatives. What contact do you have with the UK Government representatives in Hong Kong? Have you recently had discussions with them about what has been happening in recent months?

Emily Lau: I would not say that I have frequent contact with them, but every now and then either the Consul General or sometimes her staff will meet with me. A few weeks ago, there was a visitor from the Foreign Office, so the Consul General invited seven or eight legislators from different political parties to have dinner in her residence. I have told the consulate people time and time again that I think their six-monthly report to Parliament is very weak and is not really stating things as they are. They do not have to criticise; all they need to do is quote the people in the community who are making accusations or criticisms, but their reports are very tame. I often encouraged MPs, who in those days were still allowed to come to Hong Kong, to have debates in Parliament, but they never did. That is why I told you at the beginning that we have a feeling that Members of Parliament and the UK Government just could not care less.

Q210 Mike Gapes: When you raised your criticisms with the representatives in our consulate and the representatives of the British Government officials, what response did you get?

Emily Lau: Not much response. They just noted my view. They would not argue with me. *[Laughter.]*

Mike Gapes: Okay.

Emily Lau: Many people do argue with me; you would not believe it.

Mike Gapes: Thank you very much.

Chair: On that cheerful note, we thank you very much indeed for your time. You have given us a different perspective on the whole thing, and it is really appreciated. On behalf of the Committee, a big thank you.

Mike Gapes: Hope to see you in Hong Kong.

Emily Lau: Okay, or in London.

Examination of Witness

Oral evidence: The UK's relations with Hong Kong: 30 years after the Joint Declaration, HC

Witness: **Alan Leong**, Leader of the Civic Party in the Legislative Council of Hong Kong, gave evidence.

[This evidence was taken by video conference]

Q211 Chair: Alan, thank you very much indeed for coming along today. It is really appreciated. I am only sorry that we are not there in person and that we are not looking at you across the table at the moment.

Alan Leong: It is not your fault.

Chair: Exactly not. Alan, are you aware that this is being recorded and that this is an on-the-record conversation?

Alan Leong: I do not expect otherwise.

Q212 Chair: Very good. Thank you.

The British Foreign Office, as you know, does a report every six months on the bilateral relationship and the situation in Hong Kong. It says consistently that “one country, two systems” is working well, and that the rights and freedoms protected in the Joint Declaration are being upheld. Do you agree with that assessment?

Alan Leong: Not entirely. You see, when the concept of “one country, two systems” was first floated in Hong Kong in the late 1980s and when we got to read the Basic Law when it was promulgated on 4 April 1990, we all expected that Hong Kong would enjoy a high degree of autonomy and that, except in foreign affairs and matters of defence, we would have our own say in what would happen and what should happen. Now, at least after the White Paper—do you know what I am referring to?

Chair: Yes.

Alan Leong: The White Paper published by the State Council, or the Central People’s Government, a few months ago. We learned for the first time that, in fact, what we always believed to be our autonomy was subject to the Central People’s Government’s approval. Unless they approve of what we are going to have, we basically would have nothing. Of course, you must have been briefed about the strong reaction in Hong Kong to the reference in the White Paper to judicial officers being part of the Government, in the sense that the judiciary would be expected to co-operate with the Executive. That, of course, worried us a lot because it would suggest that the independence of the judiciary and the rule of law might be jeopardised if that concept is to be pursued.

The same man who was behind the White Paper—Mr Zhang Rongshun—spoke just a few days ago, over the weekend, in Shenzhen about Hong Kong people needing to be re-educated on our understanding of the “one country, two systems” concept and also how the Basic Law ought to have worked. It seems that the Central People’s Government and the Communist party now want to redefine “one country, two systems” in the way that they would like it. This is what really makes Hong Kong people very anxious.

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Q213 Chair: Thank you; that is very helpful. I understand that you are the vice-chairman of the Independent Police Complaints Council. Are you happy with the way that the Hong Kong police handled the recent protests?

Alan Leong: A point of clarification first: I am not the incumbent, serving vice-chairman. I was vice-chairman until, I think, 2007—about six or seven years ago. Of course, as a legislator, I have been keeping a keen watch on this watchdog called IPCC. In fact, the piece of legislation that now makes the IPCC a statutory body was passed by the legislature while I was a Legislative Councillor. I have a good understanding of the working of the IPCC and maybe you would allow me, in that capacity or with that background, to answer your question.

The IPCC, since its inception in the mid-'90s, depends for its effectiveness on public confidence in that body. Since its inception, the IPCC has been chaired by a Queen's counsel or a senior counsel after the reversion of sovereignty to China. But the most recent appointee as chairman of IPCC is a member of a provincial—not the Chinese People's Political Consultative Conference. He is not on a national level. This chap who is appointed chairman of IPCC is a provincial-level representative of this consultative body. By definition, and also in appearance, he is a Central People's Government man—a pro-establishment man. He is not a senior counsel; he is a solicitor.

During the recent Occupy Central campaign, there was a lot of infighting among IPCC members. A few of the IPCC committee members are legislators of the pan-democratic camp—I think there are at least a couple of them. The pro-establishment IPCC members pointed an accusing finger at the IPCC members with a pan-democratic background and said that they ought not to be allowed to deliberate on the complaint files that had anything to do with the umbrella movement or the Occupy Central campaign.

Like many other statutory and consultative bodies, after the reversion of sovereignty to China there was a change in its constitution. Whenever a vacancy comes up for reappointment, you would expect people who are considered to belong to the pro-establishment, pro-Beijing camp to be appointed, if not in entirety then in numbers that would overwhelm the appointees who are more liberal or are generally accepted to belong to the more liberal faction of civil society. I think many in Hong Kong would agree with that general observation.

Chair: Thank you.

Q214 Mike Gapes: We have had several sessions of evidence already in this inquiry. One view that has been expressed to us is that the pan-democratic parties are somewhat distanced from the recent umbrella movement and the student protests. Is that an accurate view?

Alan Leong: You must know that the umbrella movement started with a student boycott of classes in secondary schools and mainly in universities. On 28 September, 87 tear gas shells were fired at the demonstrating crowd. The whole movement was, if you like, a self-motivated movement without a leader. It was not planned by an activist group or a political party. Given that it was a spontaneous mass people's movement that had its genesis

in the student boycott, naturally the student bodies that led the class boycott were leading the movement, at least for the first half of it.

When we were into the fifth or sixth week of the movement—after the occupation had been there for five or six weeks—we were able to form a five-way platform. The five included the pan-democrats, the two student bodies—Scholarism and the Hong Kong Federation of Students—the Occupy Central trio and, lastly, the fifth way, so to speak: civil society, NGOs and activists. This platform was never meant to be a decision-making body, but we met every now and then so that we would know what the other parties and other stakeholders in this platform planned to do. I think that describes what happened during the occupation.

The students, according to many of the polls done during the occupation, were treated by the occupiers as having led the movement, and they were the two bodies that the occupiers would be most prepared to listen to. As for the pan-democrats, since our involvement after the fifth to sixth week of the occupation, we were able to maintain a good working relationship with the students. When the occupation in Harcourt Road was cleared last Thursday, it was done in a very peaceful and orderly manner without any violence. I would argue that that result was procured by the joint efforts of this platform, because the students were more prepared to listen to some of our ideas, and eventually we were able at least to bring the Occupy movement to a relatively more respectable ending.

Q215 Mike Gapes: Thank you. I take it from what you have said that you personally have been involved in these discussions, and that you have met some of the demonstrators and student leaders.

Alan Leong: Yes. In fact, the pan-democrats were represented by me on this platform. At the peak of the movement, we met two to three times in a single day. That is why I have a personal knowledge and understanding of how this platform works.

Q216 Mike Gapes: Thank you. That is very helpful. I understand that the legislative package for electoral reform proposed for Beijing, which is due to be produced in the next few weeks, would ultimately require a two-thirds majority to be passed by LegCo. We were told earlier by Emily Lau that the democratic groups are going to boycott this process and not take part. If that is the case, when these proposals come forward, would you expect them to be an improvement on what you fear, and if they are put forward, do you think that LegCo would be likely to vote with a two-thirds majority for those proposals? If that does not happen, what are the implications?

Alan Leong: First of all, I have to explain to you why the 31 August resolution of the National People's Congress Standing Committee was so unacceptable to the pan-democrats. In a nutshell, that resolution amounted to telling Hong Kong people that they would not be able to have a real choice. When that resolution of the NPCSC is put into practice, it will mean that the only political party that can nominate candidates for election to the office of Chief Executive will be the Chinese Community party, and no other.

That is what makes Hong Kong very worried. We knew from the word go that we were a small part of an authoritarian regime, because my country practices what is called the unitary power system. At the top is the National People's Congress. We knew that from the word go, but we sought consolation from the Sino-British Joint Declaration, which was subsequently given effect by the Basic Law, and all the promises enshrined in the Basic Law. The White Paper, together with the 31 August resolutions of the NPC Standing Committee, nakedly told Hong Kong people that what we had believed for a quarter of a century would no longer hold true: "You will not enjoy the high degree of autonomy that you always believed and trusted you would be able to", and so on.

That explains why we are so against the 31 August resolution of the NPC Standing Committee and the White Paper that preceded it. To come back to answer Mike's question, the pan-dDemocrats had already signed a pledge a few months ago in black and white saying that we must look at any electoral model designed with the restraints of the NPC Standing Committee's decision or resolution of 31 August. We are standing by that pledge. If the Hong Kong SAR Government insists on designing an electoral model for the 2017 Chief Executive election without moving an iota from the NPCSC resolutions, we will have no reason to support it.

Theoretically, after the vetoing of the electoral model moved by the SAR Government, the Central People's Government could start once again from step one in the five-step process, with a Chief Executive's report to the NPCSC. It could then make another new resolution. Of course, I am not very optimistic about that happening.

The result of our vetoing the 2017 electoral package could be that Hong Kong would be more and more ungovernable. I would argue that Hong Kong is already ungovernable with CY Leung at the helm. If the 2017 electoral model does not give us any hope that there could be meaningful changes that would give us some hope that we would have a say in our Government and who is governing us, I can see that Hong Kong will definitely become not governable.

I am not the only person who takes this view. In fact, quite a number of very senior and seasoned politicians from the pro-establishment camp also openly hold this view. One of them is, of course, the President of the Legislative Council, the Honourable Jasper Tsang. He said, many times now, that if we could not have any form of Government that is truly accountable to the people, come 2017, Hong Kong will become ungovernable.

I do not know whether I have missed any part of your question—

Q217 Mike Gapes: No, that is very clear. What you are saying is that if the LegCo did not pass this with a two-thirds majority, which is what you would expect to be the situation, then Beijing either has to go back to the beginning or there is an ungovernable situation. I think that is a summary of what you have just said, yes?

Alan Leong: Yes.

Mr Baron: Alan, good afternoon.

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Alan Leong: Hi.

Q218 Mr Baron: Hi. The Committee is looking specifically into the UK's response, or the Foreign and Commonwealth Office's response, and one aspect of this is whether it has been robust enough in response to developments in Hong Kong and the pro-democracy movement. What is your assessment of that? Has the FCO in particular, or the UK Government in general, been robust enough? Could it have done more? If so, what? What could have achieved the greatest effect on the ground?

Alan Leong: What I do not think the British Government could do is to help us to get what we want—namely, true democracy. It is really up to us to fight for that. I am a little bit worried—in fact, quite anxious—when I heard the House of Commons debate just a couple of weeks ago. I think it was a couple of weeks ago—am I right?

Mike Gapes: Yes, 2 December.

Alan Leong: Yes, 2 December. I can't remember who was saying this, but I heard a gentleman say that he was spoken to by a Chinese official to the effect that the Sino-British Joint Declaration had come to an end and the Joint Declaration's effect had been spent come 1 July 1997. That worries me.

Q219 Chair: That is correct. That is what happened and it was part of the conversation where the Chinese deputy ambassador to the UK came to see me to tell me that we wouldn't be allowed into the country. It was the same conversation.

Alan Leong: Oh, I see. So you were the gentleman that I heard.

Chair: I was, and I reported that conversation to the House when I opened the debate on 2 December.

Alan Leong: I see. Sorry, I wasn't able to recognise you.

Chair: That is understandable.

Alan Leong: The picture did not come through very clearly.

Anyway, that worries me a little bit. Maybe it is an understatement to say, "a little bit". In fact, it worries me a lot. I do not think that the British should accept that as the position. The Joint Declaration has an annex consisting of, if I remember correctly, 14 heads. It is not just about universal suffrage and the election of the Chief Executive. How can China suggest that, come 1 July 1997, this document, which is supposed to be the governing document that would last until 2047, suddenly came to an end?

First, what the British really ought to do is to challenge this position taken by the Chinese Government. What the British should and could do is keep a keen watch on developments in Hong Kong. People are saying that universal suffrage could really live with functional constituencies. Then I suppose that the British, as a people who have practised democracy for so long, should at least be able to share their experience with Hong Kong and

the Chinese Government and take a clear position that functional constituencies cannot possibly live with the usually accepted definition of universal suffrage. That is what you can do.

Also, the six-monthly statements should reflect more accurately on what happened during the past six months and give a clearer and unequivocal view of what you had observed, instead of dodging the issue and beating about the bush. As I see it, the British have a duty that other countries do not because you are a signatory to the Joint Declaration. The Joint Declaration certainly has not been spent yet. There are still many tens of years to run until 2047. Those are the things I can think of that the British could do.

Chair: Alan, thank you. I am afraid that we have run out of time, and I know that you are a busy man. We really appreciate that, and we are full of admiration for the way that you are standing up for your rights, for human rights and for democracy. We wish you well. We will be publishing our report early next year, and you have made a valuable contribution. Thank you very much.

Alan Leong: Thank you very much. It was my pleasure.

Examination of Witness

Witness: **Dr Tim Summers**, Chatham House, gave evidence.

[This evidence was taken by video conference]

Dr Tim Summers: Good afternoon. Good morning.

Chair: Good morning—afternoon. I'm sorry that we are not sitting across the table from you and that we are having to do this by video link.

Dr Tim Summers: Well, it's a shame, but it's good to do it this way, too.

Q220 Chair: Absolutely. You are our last witness, and this process has actually been quite effective over the last three days. Anyway, thank you for coming along.

Tim, are you aware that this session is on the record and that we are recording it?

Dr Tim Summers: I am, yes.

Q221 Chair: Great. Out of curiosity, are you the sole representative of Chatham House out in Hong Kong?

Dr Tim Summers: Yes, I am. I am the only person who works for Chatham House here. There are others in other cities around the world, in one capacity or another, but I am the only person here. There is no formal office here, if you like. I am here as an individual—a stringer, if you want to put it in those terms.

Q222 Chair: Got it. Thank you. You wrote a piece, which was published in July this year, arguing that the White Paper from China did not mark a shift in policy. Clearly, one or two

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people disagreed with that. Do you still stand by that position? If so, could you set out the force of your arguments?

Dr Tim Summers: Yes, I do stand by that position. That was my judgment when I first read the White Paper the day after it came out in June. I did not publish anything until a little later, but that is my position.

The White Paper sets out a number of things, including the basic tenets of “one country, two systems”, as envisaged in the Joint Declaration and the Basic law. It also sets out other things that are not reflective of the JD and the BL—areas where the central Government says it has helped support Hong Kong since the handover and so on.

As I said in my original note, the controversial bit was really the last section, which was an attempt to address different understandings and interpretations that have arisen in Hong Kong over the years. I think that is what provoked the response and the reaction. But I don’t think there is any fundamental change in policy or approach.

I know you had a follow-up submission from Martin Lee and Anson Chan, responding to the points I raised. Obviously, I read that carefully, and I don’t think the points they raise constitute very strong arguments for suggesting the White Paper is a change of policy. To start with, they said that the fact that the central Government had issued a paper should, in itself, be seen as a change of policy, but I don’t see why the sovereign power should not issue a paper which contains no change in policy. So I don’t find that argument very strong.

There are, indeed, only a small number of references to the Joint Declaration in the White Paper—that is correct. It is fair to say that, over the years, the Chinese side has fairly consistently emphasised the Basic Law over the Joint Declaration. That is the local implementing legislation for the agreement that was entered into, or the commitments that they made in the Joint Declaration. Again, I don’t think that is really a change of policy.

There are some other points, which I touched on in my original note, about the references to overall and comprehensive jurisdiction. They are simple statements about the political reality of China, which is a unitary state, not a federation. The idea that there are reserved powers, or whatever, in Hong Kong does not fit in with the Chinese constitutions. They may not be nice messages for some people in Hong Kong to hear, but I don’t think they reflect any fundamental change in policy.

In an annexe to my evidence to you, I covered points about judicial independence and patriotism. I won’t dwell on them here because you can read my views, but you might want to note that the issues of translation that I raised in my original piece on the White Paper in July are not limited to the points that I made. There are one or two others as well. I have highlighted some of them in the annexe to you on issues concerning patriotism.

Q223 Chair: Thank you. You have been talking about the White Paper. Can we broaden it out to the Joint Declaration? In your submission to us, you said that the Hong Kong people have been effective thus far in pushing back against a perceived undermining of “one

country, two systems”. From that, I presume you feel that there has been an attempt to undermine “one country, two systems”. That would seem to be consistent with the evidence we have been getting, which suggests that, although there been no overt breach of the Joint Declaration, there has been a more subtle erosion of it. Is that what you meant by undermining “one country, two systems”?

Dr Tim Summers: Not quite. Perhaps I should just add, on the White Paper, that the key issue is implementation, rather than whatever the White Paper says. Your second question moves us nicely on to that. I deliberately talked about perceived erosion. I cited two cases in the evidence. One was Basic Law 23 legislation. The other one, which is perhaps more pertinent, is the national and moral education, which was originally proposed in 2007, but really came to the forefront of people’s minds in 2012. Pressure from students and parents in particular pushed the Government to shelve it. That could be perceived—it certainly was by many people in Hong Kong—as something that would push the limits of Hong Kong’s autonomy in the best case, and perhaps undermine its autonomy in the worst case. The point about that example is that the push-back was successful. In that case, the Government shelved their legislation.

I would not subscribe to the view that there has been subtle erosion. I would say two things in response to that. First, if we look at the system that was set up under the Joint Declaration, at a system level the record has been very strong indeed. All the things that were spelled out in the Joint Declaration—the financial and legal systems, the customs administration and so on—have been run autonomously in Hong Kong. Hong Kong, in those respects, is still hugely different from other cities in China. In my view, having lived in another major city in China, Hong Kong clearly is not moving in the direction of becoming just another city in China.

The more difficult judgment to make—I allude a bit to this in my evidence—is about whether there has been erosion under the table and behind closed doors. To some extent, those judgments are difficult to make because, by their very nature, we don’t have a lot of evidence to work on. I feel that Hong Kong is quite a leaky place, in terms of things coming out if people have been trying to push the boundaries. The lack of real, concrete examples should lead us to quite a positive judgment in that regard. The wise judgment, if you like, is to reserve judgment and see how events continue to unfold.

Q224 Mike Gapes: Can I throw a question to you that comes out of the evidence we have had from other people—from some of the Occupy protesters—and that also came out elsewhere? Is there, in essence, in this issue a cultural question of people with a Cantonese linguistic cultural background fearing that there is something coming in from the non-Cantonese mainland linguistic culture—a kind of cultural imperialism that is coming from the mainland, which makes people less Hong Kong/Cantonese in the way that society is run?

Dr Tim Summers: That’s a very interesting line of inquiry. The way that I would characterise it is that one of the things we have seen since 1997, which most people didn’t expect, is a strengthening of Hong Kong identity. I probably think of it more as an issue of identity politics than culture, although of course culture is part of identity, and identity politics. It is a Hong Kong identity that is not solely about Cantonese, because there are

Cantonese elsewhere in China and so on, but it is partly about the Cantonese language and the way that that is used. You read something like the *Apple Daily* newspaper, and the written version of Cantonese that it uses is unintelligible to many people in mainland China, so there is a linguistic element to this.

However, it is also identity in a more political sense: a sense that Hong Kong is different, that it has this different history, this separate system. There is a lot of corruption on the mainland, for example; people don't want their city to move in that direction. They value, if you like, the strengths and the benefits of Hong Kong that have taken a lot of hard work to achieve, and I think they've been pretty successfully maintained over the years since the handover.

There is this Hong Kong identity and therefore a great sensitivity to any perceived action that might dilute that, weaken that or challenge that, and over the last 10 years, because we have just simply seen more and more mainland Chinese coming here shopping, as tourists and so on, it has an impact on people's sense of security in their own community. Maybe that is similar to some other migration stories in other cities around the world. I think there is an important element there in the identity question.

Q225 Sandra Osborne: Can I ask you about the protests, now that they have essentially ended? Where do you think the political process for reform will go from here?

Dr Tim Summers: I think it is going to be very difficult. I think one consequence of the events of the last three months has been to polarise opinion in Hong Kong. I think Hong Kong politics was already moving in a polarised direction before the summer. I think that's got worse since—well, one can date that to various dates in the summer. Let's say that since the summer it has got worse.

That makes achieving consensus more difficult. You know the technicalities of what needs to happen, which is a two-thirds majority in the Legislative Council in order to see any change pushed through; otherwise, we are back to the 2012 status quo ante. It's very difficult to see how that's going to happen just at the moment. Positions are very hard. I think Beijing has made it clear that it's not going to engage in any fundamental compromises, that the decision of 31 August is there and what happens has to be based around that framework. On the other side, I don't see any real indications at the moment from what are called the pan-democrat group of legislators of inclination to compromise either, so there is a very real chance that we'll end up with a stalemate and therefore that we will not see any change in Hong Kong's constitutional position on the selection of the Chief Executive in particular, and that would be a real shame. A lot of hard work is needed from everybody to push the moderates and push the centre ground, and to try to work out ways in which consensus can be put together over the coming months.

Q226 Sandra Osborne: And what about the students and young people? How do you think they'll react if they feel that they've got no hope?

Dr Tim Summers: Questions like that are very difficult to answer, because there really is a diversity of views, even among students and young people. Some people,

obviously, have joined the protests consistently, and others have gone maybe once or twice for a couple of days. Others have been opposed.

To generalise, I think the majority of the student body is supportive of the umbrella movement, but views among the students and the youth are also diverse and divergent. Some of the public leaders of the student movement take a very hard line on this. Whether they will compromise or not, I don't know, but the key question is what constraints their positions and activism would put on the politicians and legislators. Over the last few months, again, we have seen the legislators a little quieter than we might have hoped. The debate has really been led from the streets, and that is making political compromise more difficult, in my view.

Q227 Sandra Osborne: Interesting. More generally, how do you think China interprets its sovereignty over Hong Kong and the role that the UK should play in Hong Kong today?

Dr Tim Summers: China's interpretation of sovereignty is in line with what is set out in the Basic Law and in more detail in the White Paper. The White Paper gives us a little more detail on Beijing's thinking in one or two areas than we have had for some time. The bottom line, ever since Deng Xiaoping and Margaret Thatcher met in 1982, has been Chinese sovereignty over Hong Kong. That is the bottom line for the party and the central Government, and I do not think it has shifted. If that bottom line is guaranteed, then I think their objectives are and always have been to work as much as possible for prosperity and stability in Hong Kong. If you like, that was the foundation of the Joint Declaration agreement: sovereignty is transferred. Then the two sides agreed to work in the run-up to 1997 to ensure a smooth transition of sovereignty.

What they think about the UK's role has, obviously, been the subject of many public comments in recent weeks. In a sense, I don't have any insights that go beyond what people have said publicly. I think their view, which has come out, is that the UK's main obligations were fulfilled with the handover of Hong Kong in 1997. I suppose one could argue that the maintenance of the Joint Liaison Group for 2.5 years after that was what was set out. They do not see the UK as having legal or moral obligations subsequent to that.

Q228 Sandra Osborne: So what do you think barring our Committee from going to Hong Kong says about their attitude to the UK and UK-China relations?

Dr Tim Summers: My interpretation is that their main concern was that if you were to visit at this point in time, with a very tense political atmosphere—and perhaps people still on the streets, although they are not this week, as it turns out—that would provide support, boost the Occupy movement and strengthen the people who have been opposed to the NPC decision. I think that was their fear and their concern, and my reading is that that is what lay behind their decision to say, “You are not welcome in Hong Kong”.

Chair: In truth, it has been made quite clear that we are not welcome at any time, not just while the protests are going on. Indeed, they do not even recognise this inquiry; they call it a “so-called” inquiry.

Q229 Mr Baron: Good afternoon. Before we come to the UK's response to the present unrest, can I come back to one of the answers that you have given? Basically, your position is that the Chinese authorities have honoured the Joint Declaration so far, yet here in stark contrast we have protests on the street. The Joint Declaration basically guaranteed, in many respects, 50 years of the present freedoms that Hong Kongers enjoy, but clearly they do not feel that is being honoured. How would you push back on that? Where, more specifically, would you say we were wrong, or they were wrong, in their concerns?

Dr Tim Summers: My position on the Joint Declaration is that I do not see any evidence that the Joint Declaration has been breached. The specific issue at hand, the method of selecting the Chief Executive, is not inconsistent with the Joint Declaration. Like one or two other witnesses who have spoken to you, I am sceptical about the ICCPR Article 25 arguments. I think they are a little tenuous, and difficult, anyway, for the UK to position itself behind. I am also sceptical about the autonomy argument that is out there—that somehow, by making the decision at the end of August, Hong Kong's autonomy has been undermined, because the democratic element should be something for Hong Kong to decide.

When it comes to the Chief Executive, the Basic Law makes it pretty clear that any changes to the procedure have to be approved by the National People's Congress, so I do not see much in there, and the quotes from Lu Ping from 1993 that you may have seen bandied around were referring to LegCo, not the Chief Executive. I think they are a red herring. I do not see any breach of the Joint Declaration.

The second half of your question is the more interesting one. Why have people been on the streets? I suppose people felt that the decision in August was much harsher than it needed to be, and the approximate reason, reading the NPC decision—for those who read it—was that people thought that having a 50% threshold for nominations, for example, was very high. This brought home to people that the sort of electoral arrangement for the Chief Executive that was envisaged was not one where everything would be left in the hands of Hong Kong people.

Underlying that, we have a number of contributing factors: the unpopularity of the Hong Kong Government; some social and economic issues; and perhaps identity politics and a feeling that Hong Kong might increasingly be swamped by people from China. I do not think that the Joint Declaration itself was a very strong motivation for most people to go on the streets. A very strong narrative developed very fast that Beijing had not honoured its promises, and had broken the promises in the Basic Law. When you actually read the Basic Law, it is pretty hard to agree with that judgement, but it was a good rallying cry for the people to come on to the streets.

Mr Baron: Thank you.

Q230 Mike Gapes: Can I take you to the UK Government's response to what has been happening? As you are aware, the sixth-monthly report published by the Foreign and Commonwealth Office has never identified a breach of the Joint Declaration. They consider that the rights and freedoms, which are protected in it, are being upheld. Is it your view that the FCO's assessment is a correct one?

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Dr Tim Summers: At that level of analysis, yes, I think it is. As I have said, I do not see any breaches, or any evidence of breaches, of the Joint Declaration. I think that what we have seen over the last few months is a really striking example of the freedoms that the people in Hong Kong enjoy. People have been able to protest, sit on the streets for two months and discuss whatever they want to discuss about Hong Kong politics and the election of the Chief Executive. It is a very vibrant society and a vibrant debate. It is a polarised one, but it is one that everybody has been talking about in Hong Kong over the last two months. I do not see any major infringement of freedoms there, so I think that that judgment is broadly correct.

Q231 Mike Gapes: The FCO say that “one country, two systems” continues to work well. Is that your view?

Dr Tim Summers: Let’s start with a little bit of a historical answer to this. I think that “one country, two systems” has worked well; it certainly worked well for the first 17 years after the handover—much, much better than most people expected, to be honest, in 1997. I think that “one country, two systems” is being seriously challenged at the moment. I would not go as far as to say that it has stopped working well or stopped working, but it is being challenged.

We have seen clearly, over the last few months, different interpretations of what “one country, two systems” means within Hong Kong and between Hong Kong and the central Government. In a sense, the White Paper stimulated people to reflect on what they thought “one country, two systems” meant. What degree of autonomy does Hong Kong enjoy? Some people have said, including in evidence to you, that people were promised that they could be masters of their own house after 1997. Others will say, “Actually, look at the Joint Declaration. It says, ‘high degree of autonomy’. It doesn’t say, ‘full autonomy’.”

Those differences in interpretation have really come to the fore over the last few months. The question is: what happens next? With those differences out there, you can see a scenario where they lead to more political fracturing in Hong Kong. If the central Government were to decide to respond to that by trying to push very hard in more of a one-country direction, we may well see a threat to “one country, two systems”. At the moment, there is a good chance that that will not happen, but this is a crucial time for “one country, two systems”.

Q232 Mike Gapes: You are talking about it in the sense of the rule of law issues, freedom of speech, the media and so on. Is there not another argument—that the China of ’97 or before has transformed into a different economic system and that, although it is not the same as the Hong Kong system, it is actually being eroded in that sense? Is that not true?

Dr Tim Summers: I suppose. Deng Xiaoping said a number of times in the 1980s—on four occasions, I think—that after 50 years, the whole thing would continue and the wisdom would be there. One of the assumptions was that, by 2047, we would perhaps have seen integration in the sense that you are describing—that China would develop to the point where the difference between the systems was really neither here nor there.

The transformation of China has been very substantial over the last 20 years. I still think there is a big system difference between Hong Kong and the rest of China, partly based on my own experience living in China. If you look at the legal system, the way that the police operate, the judiciary, Government administration effectiveness, the health service, education, the media and almost anything—all those elements that were guaranteed very successfully in the Joint Declaration operate differently, and noticeably differently, in Hong Kong and the mainland.

Maybe there is more convergence in the economics sphere. China is now more of a capitalist system than it was in 1984, when the JD was signed. I see some convergence in that sense but, at the moment, I think the differences are still quite notable. That is why I feel very confident saying that “one country, two systems” is doing well. Living here and living in China, you really feel the difference between those two systems.

Q233 Mike Gapes: And will we still feel those differences all the way up to 2047 or is there this process of erosion that the pan-democrats, Occupy and the umbrella movement fear? Is it likely that the 50 years will not be sustained and that there will, in fact, be a Hong Kong move towards the Chinese model, rather than the other way, much sooner than 2047?

Dr Tim Summers: Well, it’s possible—I just don’t see any evidence of that at the moment, and 2047 is a long way off, particularly in Chinese historical terms. But even if we go out five or 10 years, I just don’t see evidence of the Hong Kong system moving noticeably in that direction. But a lot depends on how people in Hong Kong and Beijing respond. There is agency; there is the ability for people to do things that will change that picture. It is a question about the future, and it is difficult to answer, but, at the moment, I don’t see any evidence that that is going to happen.

Mike Gapes: Thank you.

Q234 Mr Baron: Tim, good afternoon again. Part of our inquiry, as I suggested earlier, is looking into whether the UK Government has been robust enough in its response to the recent protests and so on. What is your take on its response?

Dr Tim Summers: I think the UK Government should not become too actively involved in local debates where possible—I think that is a good principle to follow. These issues are primarily for the people of Hong Kong to debate and decide.

Where I do think the UK Government should speak up, and has the right to speak up, is when issues relate specifically to the Joint Declaration. They have never said the JD has been breached, but they have said at various points in the past that it hasn’t been breached in a couple of areas. Around 2008, there were issues over civil service reform and austerity measures, and the consulate came out with a statement saying that it did not think the JD provision on terms and conditions for civil servants had been breached by the changes the Government were proposing at that time.

The assumption in your question is that the UK Government has not been robust enough. Well, maybe if the UK Government spoke up, it might not actually speak more

robustly; it might speak more loudly, but perhaps in a way that reflects what you mean by less robust. In other words, the UK Government might have said quite clearly over the last months that the proposals put forward by the Hong Kong Government and the central Government are consistent with the Joint Declaration. That statement has sort of filtered out in ministerial comments in Parliament, but rather sotto voce. That is something the UK Government maybe should have taken a clearer view on. That, of course, would not have been welcome to the pan-democrats and the protestors, because it would have been contrary to their position. So the UK Government, if it speaks out more, may well end up speaking on sides of the debate which those calling for it to speak up do not envisage it would take.

Q235 Mr Baron: Tim, I take your point. I think it's fair to say, though, that the majority, although not all, of the witnesses to this inquiry so far believe that the UK Government should have been, or should be, more robust in speaking up for democratic reforms. We have had a minority who have said otherwise and who have been worried about the consequences on the ground. What do you think would be the effect of more vocal support for democratic reform? Would it have any effect at all? If the Government was going to be more robust, how should it approach that? Perhaps more specifically, would that have a detrimental effect on the protestors in Hong Kong?

Dr Tim Summers: The first thing I would say is that, just because the majority of witnesses feel that there should be more robust statements in support of the demonstrators, that does not mean it is in the UK's interests to make such statements. There has been a lot of talk about the UK's legal and moral commitments. Personally, I would prefer to think of its commitments as political commitments—I think that is what Robin Cook made in 1998. As the first Foreign Secretary to visit Hong Kong, he made a political commitment to follow the implementation of the Joint Declaration. That is slightly different from a moral or a legal commitment.

But there has not been a lot of discussion that I have seen about what UK interests in this are or might be. Would UK interests be served by supporting demonstrators, pan-democrats or others—it doesn't matter who—whose line is inconsistent with the Basic Law? The Basic Law is not a document that the UK negotiated, of course, but one that came out of the Joint Declaration. We need to be clear about that. Effectively, in the management of the handover up to 1997, the UK Government accepted the Basic Law as being a good statement of China's policies after the handover.

Q236 Mr Baron: Can I press you on that slightly, Tim? I can understand where you are coming from. You have, if I may say so, a Foreign Office background, and one can see why you are focusing on the political aspect of this, but basically what you are saying is that you would take issue with those who argue that Britain has a moral obligation to ensure that our side of that treaty—it was a treaty—is being upheld. Is that what you are suggesting to us?

Dr Tim Summers: When you say our side of the treaty, you mean—

Mr Baron: It was a treaty signed by two parties and we accept our position. Our leverage was not as strong as it perhaps should have been, but that is history. When you have two parties signing a treaty, there is, some believe, an obligation on both sides to ensure that that

treaty is upheld. You are talking purely in political terms and I can understand that, but do we not have a moral obligation to ensure that, as far as possible, and without being naive about this, those obligations are upheld by the co-signatory? Would you not agree? If not, why not?

Dr Tim Summers: The UK certainly does have a right to comment on the way that those commitments have been implemented. As you know, the JD Article 3 spells out China's commitments for the period after 1997. I think if the UK Government feel that those commitments have not been upheld, they certainly have the right to speak out—maybe they should speak out. I do not want to get too hung up on the word “moral” but they should speak out, particularly if there is some egregious breach of those terms. I totally agree with that.

What the UK can't do, though, because we do not have the leverage to do it, is to make sure that those commitments are upheld. One can speak out—that is why I looked at it more in terms of politics. It is more of a political statement then; you are speaking out because you feel that this provision, this commitment has not been upheld. As I say, I do not want to get too hung up on the semantics of it. The UK is doing the right thing in continuing to follow the implementation of the Joint Declaration and to publish six-monthly reports to Parliament.

Q237 Mr Baron: I think your line of argument, if I may paraphrase—I agree that we do not want to get hung up on semantics—is that as far as you are concerned, because you do not consider that there has been a breach, you have no problem with the Government's response thus far.

Dr Tim Summers: I have no problem with the Government saying that there has been no breach because I don't consider there is a breach—that is certainly true. Actually, I think the Government should and could have been clearer earlier about what their position was on some of these things, including, for example, the White Paper. The six-monthly report for the first half of this year really sat on the fence on the White Paper and I don't think they needed to sit on the fence on that. The Government could and should have come to a view. On the question of compatibility of the current arrangements with the Joint Declaration, the Government could have come out with a clearer and earlier statement on those questions.

I am certainly not wanting to, if you like, give blanket approval to the way the Government have reacted. I guess the politics are the issue, and the concern not to speak out in a way that might be criticised by pro-democracy protestors, hence the fence-sitting.

Q238 Chair: I have to confess I am wrestling slightly with the difference between a moral statement and a political statement. A political statement can be moral; can a moral statement be political?

Mike Gapes: Yes.

Chair: In that case, what is the difference?

Mike Gapes: It depends who makes it.

Dr Tim Summers: There are necessary and sufficient conditions. Just because a moral statement can be political and a political one can be moral does not mean that they are the same.

As I said, I do not want to get too hung up on the semantics. In terms of characterising this, it strikes me that the debate has been about the UK's legal and moral commitments and less about the politics. There has been less of an analysis of what UK interests are in this.

Perhaps I could put another argument out there. Maybe one could even argue that there is a moral obligation on the UK to take positions that are clearly consistent with what is set out in the JD and the Basic Law. Those were documents that, in the first case, we signed and, in the second case, assented to. I am being slightly provocative in putting that argument out there. The conclusion of that would be that the obligation was to support developments as long as they were in line with those two documents.

Q239 Chair: Tim, we welcome provocative arguments, so don't worry about that. Time is up for us. Thank you very much. I gather we messed you around with the timing, so apologies for that. It has been really helpful to have a slightly different angle on the debate, so you have made an invaluable contribution. Thank you very much indeed.

Dr Tim Summers: That's a pleasure. I was trying to give slightly different angles throughout the summer. I hope that is helpful.

Chair: Good luck.