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### The Tragedy of Hong Kong

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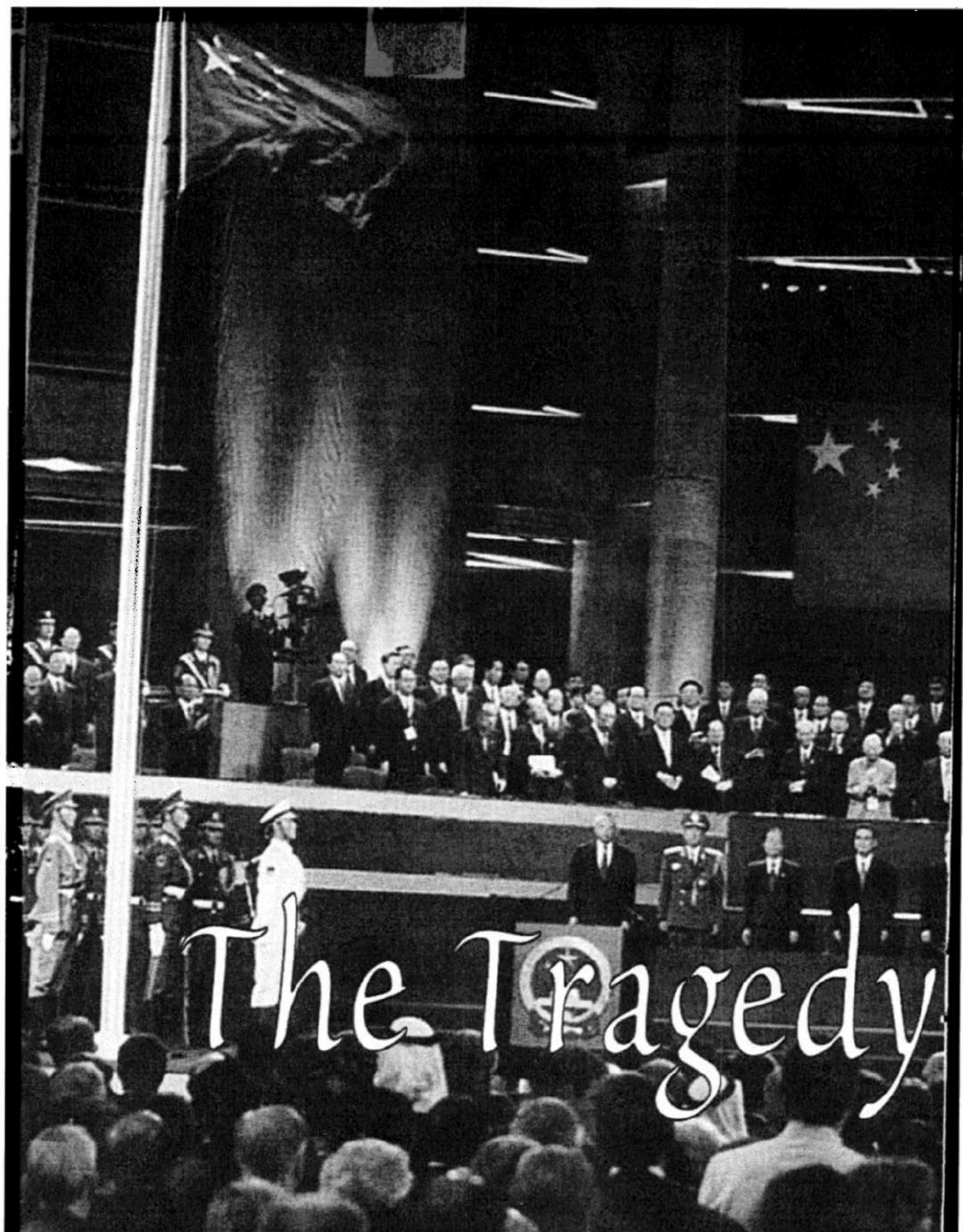
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While the world watched the fireworks and celebrations occurring in Hong Kong on July 1, 1997, a far sadder event was, in fact, unfolding. The people of Hong Kong, most of whom had originally fled from China—the country which was now taking over—have simply never experienced the basic human right of self-determination. Rule was shifting from a colonial power which had denied the people of Hong Kong their basic human rights for virtually all of its 155-year administration, to a country which, immediately upon assuming sovereignty, made it clear that democracy would remain but a dream.

# of Hong Kong

by Richard Klein

**A**lmost immediately after the British seized Hong Kong Island in 1842 as a response to China's refusal to allow the British to import opium into its country, Britain passed laws in its newly acquired colony to restrict the freedoms of the Chinese living there. Permits issued by the English governor were required for any meeting of Chinese people, curfews were passed which applied only to the Chinese, and those Chinese who were granted a "night pass" were required to carry lit lanterns so that they could be readily spotted by the British police. The police were authorized to shoot with intent to kill any Chinese person suspected of being out improperly and who refused to respond to police inquiry. The British were empowered by law to enter at any time, without a warrant, any house or boat which was "wholly or partly inhabited or manned by Chinese." Criminal ordinances provided for fines if a violation was committed by an English person, but "if the offender shall be a Chinaman," flogging was authorized as additional punishment. In fact, police court records reveal that there was proportionately more flogging in Hong Kong than in any country in the world. Death was occasionally the result of these "legally inflicted" beatings.

In many ways, British rule over Hong Kong was analogous to the system of apartheid in South Africa. Museums, for example, could be visited by the Chinese only in the mornings, after which time the museums would be cleaned and reopened for exclusively European attendance. The British regarded the Chinese as filthy and dishonest and made the Peak—the elevated, cool hilltop area with a panoramic view of the water, hills, and islands of the colony—their exclusively white residential area. The Europeans were transported by four Chinese coolies up to the Peak on sedan chairs which were covered to protect the passenger from the sun. When in 1888 an electric tram to the Peak became operational, the British became fearful that the Chinese might attempt to live there. So legislation was passed prohibiting Chinese from residency at the height above sea level at which the Peak began. When a loophole permitted a Eurasian to move to the Peak, the British governor defined a *Chinese* as "including a person of Chinese race on the side of one parent only." The British enacted similar legislation to ensure that, even on an island where only white people vacationed, the "semi-civilized" Chinese "race" would be prohibited from residing.

The British responded to challenges to their domination by using some of the same tactics that Communist China has utilized. When Chinese seafarers went on strike, the colonial government responded by declaring martial law, outlawing the union, paying informers, censoring newspaper coverage and mail, sentencing strikers to imprisonment with hard labor and flogging, and closing schools at which there was support expressed for the strike.

Whereas in some authoritarian regimes those in power overtly act in disregard of the law, the British—desiring to claim to be adhering to the "rule of law"—simply enacted legislation to deal with dissent and demonstrations. Since members of the Legislative Council were *appointed* by the

colonial government until 1991, the passage of any desired legislation presented no obstacle. The Expulsion of Undesirables Ordinance provided for the expulsion from Hong Kong of any person merely *suspected* "of being likely to cause a disturbance of the public tranquility." A Sedition Ordinance was used to close down newspapers which contained "writings likely to promote discontent or disaffection against the Government."

The solicitor general explained that free speech would not be tolerated if there was any representation made that the government or its officials were acting maliciously. Prison sentences of up to ten years were authorized for those violating the Inflammatory Speeches Ordinance; incarceration was also provided for those possessing inflammatory posters. Speech was deemed "inflammatory" if it was considered likely to cause disaffection with the administration of justice or to promote ill will between different races in Hong Kong. When the government believed it might be embarrassed by court proceedings, an ordinance was created empowering any judge to exclude the public from court.

The Emergency Regulations Law empowered the colonial government to declare immediately effective *any* regulation whatsoever considered to be in the public interest, and to suspend or amend any existing law. Battalions of troops would be brought into Hong Kong as needed to assist the regularly stationed British soldiers in dealing with unrest. At times, the objects of military and police responses were schools which were perceived to be anti-British. Schools were raided, headmasters, teachers, and students were arrested and charged with inflammatory speech. Military use of bayonets and sub-machine guns, reinforcing the more commonplace police use of tear gas and riot guns, was particularly prominent in government attacks against union offices and headquarters.

Laws identified with those of Communist China were, in fact, used by the British in Hong Kong. The Emergency Deportation and Detention Regulations empowered the government, whenever a conviction for any specific crime could not be obtained due to insufficient evidence, to simply detain an individual for a (renewable) one-year period. There was no requirement for this colonial administration—which so championed the need for China to follow the rule of law after July 1, 1997—to even show that there was reasonable cause for the detention or to inform the detainee why he or she was being detained.

How strong can freedoms be if people can't even "officially" speak their own language? An ordinance frankly entitled Regulation of Chinese prohibited the posting of any notice near any street if it were "in the Chinese language." A three-month jail sentence was authorized for any violator. All the laws, until a process of translation which was begun in earnest only several years ago, were written in English only, and the use of Chinese in any official capacity was prohibited. No member of the Legislative Council, even if Chinese, was permitted to speak in Chinese during a legislative session. There was no permanent Chinese interpreter present in civil courts, thus those Chinese desiring to bring suit in this monolingual legal system were often unable to do so. It was not until the 1974 Official Language Ordinance that Chinese was declared

along with English as an official language for government use. And not until August 1997—one month after the British left Hong Kong—did the first jury trial held entirely in Chinese occur. Freedom of religion? Under British rule, blasphemy—denying the truth of Christianity, the Holy Bible, the Book of Common Prayer, or the existence of God—was a misdemeanor. The marriage law, until the turn of the century, had allowed for civil marriages before the register general only if one of the partners was a Christian.

**I**t was in 1984 that Great Britain entered into the treaty with China that provided for Hong Kong's return to Chinese rule this past July. At that time, there were no popularly elected members of the legislature, and it was not until 1991 that Britain allowed a Bill of Rights to be enacted for Hong Kong, thereby leading to the repeal of much of the legislation discussed above. The last British-appointed governor of Hong Kong, Christopher Patten, constantly maligned China for moving to thwart what the British had deemed "democracy." (Even in the last year of British rule, only twenty of the sixty members of the legislature had been directly elected.) His criticism came after twenty-seven prior governors had refused to permit any democratic reforms or to hear any input from the Hong Kong Chinese concerning their future.

Britain's "last-minute" democratic reforms in anticipation of handing over Hong Kong caused great consternation in China. The traditional form of colonial rule—authoritarian control of government—was what China had envisioned, desired, and expected in Hong Kong; the democratic trappings were not part of the house China bought in 1984. In order to counter these reforms, China acted immediately upon resuming sovereignty.

First to go was the elected legislature—the first ever fully elected one in Hong Kong's history. It mattered not that the legislators had been elected in 1995 to *four-year* terms extending through 1999. The 1995 elections were a disaster for China: of the twenty directly elected seats, the pro-democracy parties had won sixteen; the major pro-Beijing party elected only two legislators, and the chair and vice-chair of that party were themselves defeated. In response, China declared that the legislature's term would end immediately upon its retaking control of Hong Kong. China formed a 400-person Selection Committee, which proceeded to name a new sixty-person Provisional Legislature to take office July 1, 1997. Several of the sixty had actually been candidates in 1995 who were

defeated by the voters. Despite widespread criticism within Hong Kong for China's clearly anti-democratic move, the newly appointed legislature took power at the same site as the official handover. Britain displayed its disapproval by having British Prime Minister Tony Blair leave the site before the swearing in transpired; U.S. Secretary of State Madeleine Albright did the same.

It's not that any legislature would really pose a threat to China. The Basic Law—the constitution written by China for the Hong Kong Special Administrative Region—clearly provides for the China-appointed chief executive to be in rather full control. Few expect the legislature to do anything but rubber-stamp bills presented to it by the chief executive. In fact, Article 74 of the Basic Law prohibits legislators from introducing any bill themselves which might impact upon public expenditures or government policy. Tung Chee-hwa, the Beijing-appointed chief executive, has repeatedly stated that the business of Hong Kong is *not* politics; it is the making of money.

It is those who have made money who have been appointed to the legislature. The wealthiest in Hong Kong have traditionally been unconcerned, intolerant, and even antagonistic toward democratic principles. The very low maximum tax rate of 15 percent has not only aided the accumulation of fortunes but failed to provide funding for welfare, health care, and social security. Democracy, in the eyes of some business tycoons, would mean increased taxes to provide

aid for the ill, disabled, unemployed, and elderly. Instability and uncertainty are dreaded by the Hong Kong business establishment, which fears investors might then be scared away. Subservience to British authoritarian control has been easily transferred to an acquiescence toward China, and, although it is a gross generalization, it is nevertheless the case that, the higher one's income is in Hong Kong, the more likely one is to adopt the view that nonconfrontation and complete acceptance of China's rule is both required and desirable.

Fortunes in Hong Kong are tied to China. Years of joint ventures between Hong Kong tycoons and China have taught that only if you play ball according to China's rules do you thrive. Hong Kong companies are a vital source of investment in China, employing over five million Chinese in the neighboring Guangdong province alone. For years now, "Hong Kong" factories have actually been located in China so as to exploit the cheap and abundant Chinese labor. It is not just one way, however. The largest investors in Hong Kong are no longer the British, the Americans, or the Japanese. The People's Republic

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China, for its part, will certainly do what is required to aid its business allies in Hong Kong. A fascinating series of events began in late June 1997. For a century and a half of British rule, there had been minimal legislation to protect workers' rights. Rather, obstacles were imposed by the government to thwart the growth of large unions. There was no minimum wage or unemployment insurance. Then, in the *final two weeks* of British rule, among the last-minute reforms passed by the legislature were *seven* labor bills, one of which provided, for the first time, a statutory right to collective bargaining. Another bill gave protection against dismissal for union activities, and a third prohibited age discrimination.

It was expected that Hong Kong business associations would lobby against these proposed laws, and they did. But so did Tung Chee-hwa, who had yet to take office as chief executive. As soon as China's appointed provisional legislature took office, the laws were suspended. China, a country controlled by the Communist Party and founded on the principle of workers' supremacy, would not tolerate laws that might lessen the profits of the businesses in its newly acquired land. The China-controlled government in Hong Kong made it clear from the beginning where its sympathies lay—and it was not with the working class. The leftists in Hong Kong, ironically those historically most friendly to the communists in Beijing, have been ignored and totally absent from the group of advisers to the chief executive.

Both China and the business leaders in Hong Kong believe that economic and political freedoms are completely separable. To be sure, the Hong Kong elite have had unparalleled economic liberties; the colony has often been considered one of the world's purest laissez-faire economies. An interesting conflict has developed since the handover. Hong Kong businesses united to oppose what they perceived to be possible state intervention in the market economy when it was rumored that Tung advocated subsidies to bring high-tech companies into Hong Kong. Whereas the business leaders supported executive control of the government and the legislature, when it came to matters affecting the economy with possible direct impact on them, they wanted the state to keep its hands off.

**O**n the day Britain handed over Hong Kong, China wanted to make absolutely sure that everyone knew who was in control. Four thousand troops of the People's Liberation Army entered Hong Kong at daybreak, along with an arsenal of weapons which included armored personnel carriers complete with machine guns and grenade launchers. The troops were deployed in some of Hong Kong's busiest, densest areas, and the question asked by many in Hong Kong was: from whom are these troops supposed to protect us? The PLA has become more to the Chinese in Hong Kong than a symbol of the Tiananmen Square massacre; the army is a huge business

conglomerate controlling scores of companies and has a reputation of being even more corrupt than China as a whole.

By far the most controversial issue in Hong Kong these last months has been China's insistence on reinstating two laws which had previously existed under British rule but had



been repealed recently because they were found to be in conflict with the 1991 Bill of Rights. The Societies Ordinance requires all organizations, including political parties, to register with the government and thus to have their activities monitored. The memorandum presented by Tung rationalizing the need for the law explained that "we must take steps to prevent Hong Kong from being used for political activities against China." The question, of course, is: what will be considered "anti-China"? Will advocacy of human rights protections or demonstrations in support of greater democracy be so characterized? What about the annual commemoration ceremonies on June 4 in remembrance of Tiananmen? One specific provision precludes any registered group in Hong Kong from forming links with foreign organizations, such as (presumably) Amnesty International and Human Rights Watch.

Of even greater concern is the Public Order Ordinance. The sponsors of any demonstration of more than thirty people must apply to the commissioner of police for permission—deemed a "Notice of No Objection"—for the event. The government has broad, unguided discretion to determine when a proposed demonstration might challenge national security. *National security* has been defined as the "safeguarding of territorial integrity and the independence of the People's Republic of China." It has been clearly stated by the new Hong

Kong government that no protests in support of independence for Tibet or Taiwan would be permitted. Other factors to be considered when assessing an application for a Notice of No Objection are the projected number and "emotional level" of the participants.

The fact that, for most of its rule, the British had even harsher controls on protests than China wanted to institute, did not prevent Britain from issuing in its final days a twenty-three-page, point-by-point critique of China's new legislation. The document emphasized that "almost any public procession could be prohibited because it may cause inconvenience." Even London jumped in to play the new role of spokesperson for democracy and human rights for Hong Kong. The Foreign Office proclaimed that there was absolutely no justification for reducing civil liberties and, as though the popular will of the people in its colony had always determined British policy there, added: "It's patently not the case that the proposed amendments to civil legislation have the support of the Hong Kong community." The British protests, of course, went unheeded. China next proceeded to enact the legislation required in Article 23 of its Basic Law for Hong Kong: to prohibit "any act of treason, secession, sedition, or subversion against the Central People's Government." In light of this, it seems rather certain that the celebration which takes place every year in Hong Kong on Double Ten Day—the Nationalist Government in Taiwan's celebration of the 1911 founding of the Republic of China—will be considered "subversive."

**H**andover Day in Hong Kong—July 1, 1997—was in many ways surreal. History was distorted, truth was ignored, it rained much of the day, and the waiting for the evening fireworks display gave it all an Independence Day, carnival-like atmosphere. The night before, Britain's Prince Charles, in what was sort of a warning to China that it had better allow democracy to exist in Hong Kong, perhaps won the all-time prize for revisionism when he told four thousand honored guests, "Britain learned long ago that Hong Kong people know best what is good for Hong Kong." *Just how long ago did Britain realize this?* The same Britain not only refused to seek input from the Hong Kong people about the plan to give the colony over to China on that very day but had not even revealed to the Hong Kong residents that negotiations lasting two years about the future of the colony were taking place. Did Prince Charles not know that, for almost all of Britain's 155-year colonial rule, the Hong Kong people had no say whatsoever in the policies and laws by which they were governed?

Even the generally well-grounded British governor of Hong Kong lost touch when, thinking he was putting the fears of the people to rest, he told them not to worry because Britain would monitor events in the post-handover Hong Kong. Not only was Britain widely distrusted by the Hong Kong Chinese but Britain's claim to be the historical champion of

the rights of the Hong Kong people and its desire to continue in that role certainly were suspect. The governor's statement was received with utter incredulity.

Not that China did any better. Chief Executive Tung said in his inauguration speech that "for the first time in history, we, the people of Hong Kong, will be masters of our destiny." Did he mean to imply that control of Hong Kong will *not* lie in Beijing? Did he forget that the *elected* legislature had *that* very day been thrown out of office and replaced with one *selected* by the People's Republic of China? Did he not understand that being the master of one's destiny means that one chooses who is to govern, and that precludes being ruled by a chief executive chosen, appointed, and imposed on the Hong Kong people by Beijing?

China's treatment of the British on Handover Day was remarkably benign. There were few condemnations, little rhetoric, and almost a forgiving, thankful sentiment permeating the proceedings. Such generosity was not, however, present in Beijing, where President Jiang Zemin was exploiting the handover of Hong Kong to build unity and increase his following as the replacement of the recently deceased Deng Xiaoping. In Jiang's July 1 address to the huge crowds gathered in the Beijing Workers' Stadium, he referred to Britain's occupation of Hong Kong as "the epitome of humiliation China suffered in modern history" and said that "the vast land of China is a scene of jubilation." The *Atlas of Shame*, published in and distributed widely throughout China, presented a documentation of British abuses in Hong Kong.

There seemed little doubt among most in Hong Kong that China had achieved a major coup. It was politically correct, even for those most outspoken against and concerned about China's rule, to proclaim their satisfaction that the era of colonial administration was over and their sense of pride that at least Chinese people will be governing Hong Kong. The leaders of the democratic opposition to Tung and his policies did not attempt to protest at the site of the handover celebrations nor to be disruptive elsewhere. The major controversy was whether the ousted legislators could speak to sympathizers in the early morning hours of July 1 from the balcony of the legislature or merely from a raised platform.

In the "Declaration of the Democratic Party," distributed to passers-by that day in the central business area, Party Chairman Martin Lee said: "The flame of democracy has been ignited and is burning in the hearts of our people. It will not be extinguished. Nay, it will only grow stronger." The only problem is, one wonders, just who is listening? It's clear that China has both the will and the tools to put out the fire which has been burning for such a tragically short time. ■

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