

Developing the rule of law

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LORD HOWE served as Chancellor of the Exchequer (1979-83), as Foreign and Commonwealth Secretary (1983-89), and finally as Deputy Prime Minister and leader of the House of Commons (1989-90). He entered the House of Lords in July 1992. Educated at Winchester and Cambridge, he served as Chairman of the International Monetary Fund Interim Committee (1982-83) and attended eleven World Economic Summits (1979-89). He is president of the Great Britain-China Centre and sits on the FIRST Award judging panel.

More than sixty years have passed since I was first asked to declare in public my reaction to the birth – more accurately the re-birth – of modern China. In January 1950, I was one of a group of Cambridge students campaigning in the Conservative cause. “Do you, or do you not”, came the unexpected question from a baffled elector, “agree with the Labour Foreign Secretary’s decision (Ernest Bevin) to recognise China’s new Communist Government?”

Without hesitation, came this meticulous law student’s reply: “To withhold recognition from a government, which is in effective control of a large part of China, would have been legally indefensible.”

And, as a matter of fact, historically uncomfortable as well – given that 250 years had passed since China’s Emperor, Qian Long and our own King George III had established (in spite of Lord Macartney’s refusal to kowtow) mutually respectful relations between our two countries. And all this at a time when China, even then, already accounted for a third of global GDP. Small wonder that China’s Mission in London has been located in the same striking building for many years – longer than that of almost any other country. And cultural, diplomatic and economic links between us have grown steadily from strength to strength

I first became aware of the economic opportunities, when serving as Minister of Trade in the government of Prime Minister Edward Heath (probably the greatest ever of Britain’s many friends of China) and thus met (in 1973) my opposite number, the first Chinese Trade Minister to visit London since the end of World War II. The scale of success in subsequent years is well illustrated by the fact that Britain has become the number one destination for Chinese investment in Europe; and the largest European investor in China

Five years later I was invited, as Shadow Chancellor of the Exchequer, to make my first visit to the People’s Republic. The country was only just emerging from the Cultural Revolution. The universal scapegoats were the Gang of Four – and the re-emerging Deng Xiaoping was just getting well into his stride. Certainly it is Deng’s market-driven policies, which can take the credit for the sustained economic growth – averaging more than 9 per cent a year – over the next three decades and beyond.

Deng Xiaoping’s vision extended, of course, well

beyond economic policy – and, from Britain’s point of view most importantly – to the future of Hong Kong. This was a classic example – in the Chinese phrase – of “problems left over from history”. The very existence, on Chinese soil, of this unique, once British-colonial, territory reflected a more-than-century-old conflict between Britain and China. But, much more than might have been expected, the “legal” documents were in much less conflict-based form than could have been the case.

For the crucially important “Lease”, which Britain had imposed upon China, defined Britain’s “Title” in much less fundamental terms than might have happened. Only to 8 per cent of the Territory (Hong Kong Island itself) did Britain claim a “freehold” title. For the remaining 92 per cent (the New Territories), our claim – under texts which we ourselves had drafted – extended only for a 99-year Lease, due to expire in 1997.

But the success of Hong Kong depended upon the unity of both parts of the Territory – a fact which Deng Xiaoping (thankfully) understood, as completely as we did. And just as clearly as he understood the difference between the two economic systems, he came increasingly to appreciate (the more so as we explained the details) the institutional and legal differences as well. This fundamental insight on his part led directly to his classic four-word formula, “One country, two systems”, which enabled the achievement of the Joint Declaration agreed between our two countries, during Margaret Thatcher’s premiership in December 1984. Alongside the market-based economic structure, may be seen commitments to the rule of law, including respect for human rights, independence of the judiciary, and accountability of the executive to a legislative council (LegCo). And in due course – on a date yet to be determined, but clearly foreshadowed – direct election of LegCo itself.

And that, of course, is the background against which economic, social and cultural as well as political exchanges now take place regularly between our two countries. Over 30 years have now passed since the re-establishment of a functioning legal system in China. During that time there has been a proliferation of laws, a strengthening of legal institutions and a commitment to a law-based order. The Chinese Constitution has incorporated the principle of government acting in accordance with law as well

as respect for human rights. Even so there remains much ground for China to cover to achieve a robust and independent rule of law. The Great Britain China Centre – a small, flexible and expert organisation, with over thirty-five years of experience of engaging with the Chinese, is committed to working with Chinese partners to help in the achievement of that aim.

An example of this partnership is the Judicial Studies Training Programme (JSP), a unique collaboration between the UK and the Supreme People's Court, to provide training for Chinese judges – specifically to further their understanding of advanced specialist areas of law and legal culture. More than sixty judges from 34 courts across China have already benefited from this. The GBCC has also worked, again for example, with the Higher People's Court of Hunan on a judicial management reform project – partnership between UK expertise and over one hundred judges, including senior judges from China's Supreme People's Court.

China is thought to have, in total numbers, the world's highest number of executions (numbers are not published). This is another context in which GBCC has also been working with Chinese partners, with the overall objective of reducing the use, and the scope, of the death penalty. This work includes training for Chinese judges at the local level on the application of international human rights conventions. A proposal from the Legal Affairs Committee of the National People's Congress to abolish the death penalty in 13 (out of the current 68) crimes has been published for public consultation and is likely to be passed in December.

On a wider front, GBCC has been working to promote understanding on issues of common interest and build relationships between our own rising politicians and their opposite numbers in the Chinese Communist Party. Participants in the most recent Ditchley conference of this kind were pleased (but not perhaps surprised) to see no less than five of their recent contacts becoming members of David Cameron's Coalition Government.

The last, and certainly not the least important, link between our two countries, which deserves to be noted, is the English language itself. The most recent demonstration of this must be the publication in September, in Beijing as well as here in London (at the Great Britain China Centre), of the Oxford University Press Chinese/English Dictionary. This hugely impressive volume is the work, over six years by sixty specialist scholars, of such high quality, that China's present ambassador in London, HE Liu Xiaoming, in his welcoming speech, was proud to quote the estimate that one in three people in China (or 400 million people) are now learning English. On this basis, it is predicted that in a few years, the English learning population in China will exceed the combined total population of all native English speaking countries.

And one equally encouraging illustration of that, which itself deserves to be acclaimed, is that China's last Ambassador in London, HE Madame Fu Ying, who is now China's Vice-Minister of Foreign Affairs, completed her education at the University of Kent in Canterbury. E

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Photograph courtesy of Hong Kong ETO, London

Hong Kong's return to Chinese sovereignty preserved the territory's distinct legal system under Deng Xiaoping's 'One country, two systems' formula